

October 20, 2021

The regular meeting of the Newton Planning Board was held at the Town Hall on October 20, 2021. Chairman LeFrois called the meeting to order at 6:58 pm. Chairman LeFrois stated that proper notice had been given for this meeting in accordance with the “Open Public Meetings Act.”

Chairman LeFrois led the Salute to the flag.

ROLL CALL

Mr. Flaherty – absent	Mayor Dickson - present
Mr. Marion – present	Mr. Schlaffer – absent
Mr. Wink – present	Ms. Vrahnos – present
Mr. Ragsdale – present	Mr. Schick – present
Mr. LeFrois – present	Ms. LeFrois – present
Ms. Hall-Romer – present	Mr. Ricciardo – present
Mr. Russo – present	

Professionals present

Thomas Molica, Board attorney – present	David Simmons, Board Engineer - present
Jessica Caldwell, Board Planner – present	Kerry Brown, Board Secretary – present

MINUTES

September 22, 2021

Mr. Marion made a motion to approve the September 22, 2021 minutes. Mr. Wink seconded the motion.

AYE: Mr. Marion, Mr. Wink, Mr. Ragsdale, Mr. LeFrois, Mr. Dickson, Ms. Vrahnos, Mr. Schick, Ms. LeFrois

Minutes were approved on majority voice vote.

HISTORIC RESOLUTIONS

A. HPC 6-2021 123 Spring Street LLC

123 Spring Street Block 8.04, Lot 18

Ms. Vrahnos made a motion to approve Historic Resolution. Mr. Marion seconded the motion.

AYE: Mr. Wink, Ms. Hall-Romer, Mr. LeFrois, Mr. Schick, Mrs. LeFrois, Mr. Marion, Mr. Dickson, Mr. Russo, Mr. Ragsdale, Mr. Ricciardo

Historic Resolution Approved.

B. HPC 7-2020 Sparta Real Estate and Management

196 Spring Street Block 8.09, Lot 7

Mr. Ricciardo made a motion to approve Historic Resolution. Mr. Marion seconded the motion.

AYE: Mr. Ricciardo, Mr. Marion, Mr. Wink, Ms. Hall-Romer, Mr. LeFrois, Mr. Schick, Mrs. LeFrois, Ms. Vrahnos, Mr. Dickson. Mr. Russo, Mr. Ragsdale.

Historic Resolution Approved.

C. HPC 8-2021 Emerger Group LLC

173 Spring Street Block 8.04, Lot 9

Mr. Marion made a motion to approve Historic Resolution. Ms. Vrahnos seconded the motion.

AYE: Mr. Marion, Ms. Vrahnos, Mr. Wink, Ms. Hall-Romer, Mr. LeFrois, Mr. Schick, Mrs. LeFrois, Mr. Dickson, Mr. Russo, Mr. Ragsdale, Mr. Ricciardo.

Historic Resolution Approved.

D. HPC 9-2021 Emerger Group LLC

169 Spring Street Block 8.04, Lot 10

Ms. Vrahnos made a motion to approve Historic Resolution. Mr. Marion seconded the motion.

AYE: Ms. Vrahnos, Mr. Marion, Mr. Wink, Ms. Hall-Romer, Mr. LeFrois, Mr. Schick, Mrs. LeFrois, Mr. Dickson, Mr. Russo, Mr. Ragsdale, Mr. Ricciardo.

Historic Resolution Approved.

RESOLUTIONS

Newton Christian Reformed Church PB-7-2021

23 Thompson Street Block 7.03, Lot 1

Mr. Marion mad a motion to approve the Resolution. Mr. Wink seconded the motion.

AYE: Mr. Marion, Mr. Wink, Mr. Ragsdale, Mr. LeFrois, Mr. Dickson, Ms. Vrahnos, Mr. Schick, Mrs. LeFrois.

Resolution Approved.

OLD BUSINESS

There was no old business discussed

NEW BUSINESS

Above Grid Solar Carport 2020 LLC PB-8-2021

175 High Street Block 1.01 Lots 3, 4, and 15, Zoning District SD-1 Hospital Zone
Site Plan to install solar carports in various parking lots at Newton Medical Center.

*Mr. Dickson recused himself from this application due to potential conflict

Kenneth Pape, Esq. of Heilbrunn Pape attorney for the Applicant
Mr. Jeffrey Szabo, Professional Engineer of Partner Engineering and Science, Inc.
Mr. Philip A. Smith P.E. of Philip A. Smith PE Inc.
Ms. Allison Coffin PP, AICP of James w. Higgins Associates

Mr. Kenneth Pape stated that the applicant is seeking site plan approval to build eight carports with solar arrays in the parking lots of the Newton Medical Center and need a Use Variance. The Ordinance does not contemplate carports as an accessory use. Any use not listed needs Variance relief.

There was a brief discussion regarding, potential inclusion of Lot 18. It was determined that Lot 18 is not being used in any capacity by the applicant in this proposal and therefore will not be included as part of the application or as part of the properties that the tax assessor has generated its 200 ft. adjacent owner list from.

SWORN IN: Mr. Philip A. Smith P.E. Project Manager

Mr. Smith testified that the applicant has an agreement with Atlantic Health the AHS Hospital Corp. of which Newton Medical Center is a part of that group. The applicant will construct to own and operate the solar carport facility. The hospital will benefit from reduced electrical bills.

Mr. Smith Introduced Exhibit A1 an aerial map exhibit sheet 1 of 1 dated 10/6/2021.

Mr. Smith testified the solar carport consists of eight solar arrays, three on the southwest side, two in front of the main entrance to the hospital and three on the northeast side. The solar arrays total approximately 2,300 solar panels and approximately 56,000 sq. ft. in area. The solar panels will generate one megawatt of power. The panels will be supported by columns with foundations 25-30 ft. the columns will be 15 ft. in depth to support it. It's designed to allow vehicles underneath facilities. There will be a minimum of 11 ft. clearance, except in the northwest corner for trucks and emergency vehicles it will be a minimum of 14 ft. clearance. The applicant will coordinate with emergency services to make sure that is enough clearance.

Mr. Smith testified that the intention is to provide and support the electrical demand of Newton Medical Center. The benefit of solar is clean energy. It's renewable and helps with the carbon footprint. Solar panels have a 25 year life span. The panels generate direct current. There are inverters on the individual solar arrays which convert the direct current to alternating current. That alternating current ultimately goes in to a meter chamber where it goes directly into the utilities grid system. Electricity isn't used to directly power the hospital but goes into the grid system and used like a bank of electricity which off-sets the electricity that the hospital draws from the grid system. The hospital is not selling electricity to the utility company, it is a non-profit. The funds saved will be used to further the medical facilities within the hospital and what they provide to the public.

Mr. Smith testified that there are 26 Inverters, each having their own disconnect. The applicant will meet with the Town's emergency services and the hospital's emergency services to show them how the facilities work in case of electrical fire. Emergency services will have a training session prior to receiving final operational certificate from the municipality. The Contract will be required to have that training session with the Town's and the hospital's emergency people.

Mr. Smith testified that the system is designed to take 90% of the hospital's demand. The hospital does not want a system that generates more than the hospital will utilize. The hospital also required that the public benefit as well, which is why the panels are in the formation of carports. There are 23 Electrical Vehicle chargers throughout, that can charge 2 vehicles each, totaling 46 vehicles. The hospital has not determined if the charging stations will be for electrical vehicles only or if other people will be able to park there. The hospital wants to monitor parking and need prior to restricting access to electrical vehicles only. Stations will only be open in areas where the building is still open and operational in hopes to limit any public nuisance. The hospital anticipates charging a nominal fee, 0.50 hookup fee, and 0.75 /hr., with ability to use a credit card right at the station.

There was brief discussion on time of construction and who is responsible for maintenance. Total construction is anticipated to only take a few months and is to potentially start this winter. The applicant, Above Grid Solar Carport 2020 LLC will be responsible for maintenance and operation of solar facilities.

SWORN IN: Jeffrey Szabo of Partner Engineering and Science.

Mr. Szabo testified that the proposal is for solar carports to be located specifically within the paid parking area. There are going to be eight carports which were identified on the site plan as A1, A2A, A2B, B1, B2, C1, C2, and C3. The carports will be supported by steel embedded in circular footings measuring approximately 3 ft. in diameter. The intent of the canopies is a center supported stand. In addition to the canopies there are going to be charging stations that will be mounted to the columns so that everything is meant to be above ground and away from pedestrians and cars traveling underneath. There will be converters mounted as well that will convey current to a pad located immediately behind the hospital. The pad is intended to accommodate switch gear and a transformer. Once the VC is converted to AC and the AC transforms down to the appropriate levels it will be an aerial crossing across the driveway and then tying in to a connection with the existing utility network that surrounds the site.

The concrete pad is approximately 10x20 ft. to accommodate the switch gear and transformers.

Mr. Szabo testified in consideration of drainage a valley has been created within the top of the canopy, beneath the valley is an opening designed to capture any run-off water from the top of the canopies and not discharge them to grade. It will then catch into a gutter to downspouts. The downspouts will be housed and go through the concrete support. The downspouts will tie into a manifold, each column will have its own downspouts, it will be a parallel manifold that runs alongside the parking that will tie into a nearby underground drainage facility.

There was a brief discussion on the creation of new storm water. Mr. Szabo stated that this project is not increasing storm water run-off, but an impervious asphalt cover is now being replaced by a canopy. The benefit to this serves to improve the water quality for the site in general.

Mr. Szabo testified that there will be no change in parking counts. The plan proposed under mount lighting. The ground beneath the canopies will be lit by directional LED lighting. This would provide lighting in conformance with the municipal requirements for minimum lighting levels for security. There are current light poles that need to be moved to the nearest possible location which will take place post construction all to meet or exceed the Town's standards.

Mr. Szabo testified to landscaping, specifically two trees that are currently located in a position that prevent installing the canopies. Mr. Szabo stated the trees have been identified in the plans and will be replaced with trees that are acceptable in species and caliber to the Town's professionals who will determine the appropriate location for them.

Mr. Szabo testified that the applicant has met with the Town's professionals and have no problems complying with the Town's requirements.

Application opened to the public. No one from the public was present. Public portion closed.

SWORN IN: Brian Cuff, Architect and Chief Operating Officer of Parasol Structures.

Mr. Cuff introduced Exhibit A2, Newton Health Medical Center coversheet dated September 7, 2021 and testified that the benefits of the solar carports is that they are solar powered, it's shelter from rain and snow, and it's a visible way to commit to solar so customers really like it. The checkmark shape creates the roof, gutter (the valley) for water drainage. In the Northeast, one of the fundamental concerns with carports is snow. The checkmark functions to retain snow in the upper surface of the canopy until it melts. Snow will melt and then travel to the ground via the normal meta-system. Finishes on the canopies will be painted with a two coat system on the column and cross beam and on the decking material it will be a coil coated material similar to what is on a commercial metal wall panel system.

There was a brief discussion on design. Mr. Cuff stated the structures are typically done in neutral colors, the panels are generally silver framed anodized aluminum panels and the surface of the panel is a dark black. Mr. Cuff stated that they are following IBC 2015, and following local amendments or case studies if they exist as part of the process. In New Jersey snow is about 30 lbs. per sq. ft., plus or minus a few pounds so they are following the building code. The materials for the columns and cross beams are American Steel, generally 90% recycled materials. The upper canopy is framed with cold rolled steel, gauge metal or coil metals, often times sourced overseas but fabricated in U.S. Parts are sourced and replacement parts are easily available. Solar panels would likely be Turkish panels, converters may be German. There are no provisions for birds, no nets are being used, usually no bird problems.

Mr. Cuff testified that one of the advantages to carports is generally replacing high bay, high pole, street lights or parking lot lights with lights that are much closer to the surface of the lot. It generally gives a better distribution of the light with carports or at least in the area the carports are located. This will be LED light fixtures that are better quality.

There was a brief discussion about lighting in the event of power failure. Mr. Cuff testified the inverters will operate when they sense grid power, if the inverter doesn't sense grid power the inverter will shut down. In an emergency of a power outage the solar system won't work. Mr. Cuff stated the lighting in the canopies is separate from the solar system and if lights are currently tied to the generator, the carport lights would as well.

Application opened to the public. No one from the public was present. Public portion closed.

SWORN IN: Allison Coffin, PP, AICP of James w. Higgins Associates

Ms. Coffin testified that she met with applicants and professionals numerous times and has reviewed the zoning ordinance, the master plan, visited the site, and read the Town's professional reports. The lot is fully developed with Newton Medical Center and the applicant is proposing to install eight carports that are topped with solar generation panels over portions of the existing parking field. The hospital itself is a permitted use in the zone but the carports are not a permitted accessory use, therefore D1 Variance is requested. Solar energy is a permitted use in the zone when it's atop a roof as opposed to atop carports. It is Ms. Coffin's professional opinion that special reasons exist for the granting of the requested variance and the granting of the variance would not impair the intent and purpose of the master plan and zoning ordinance nor would it result in substantial detriment to the health, safety, and general welfare of the public. The principle use on the site is a hospital, the accessory solar carports as proposed are a solar energy facility, both of which are specifically identified within the municipal land use law as inherently beneficial uses. With regard to granting a use variance for an inherently beneficial use, the Supreme Court in the Sica case, set forth a four prong test. The first prong is to identify the magnitude of the interest at stake. In this instance the magnitude of the public interest is significant. The creation of solar energy facilities to support the hospital is an inherently beneficial use supporting an inherently beneficial use. Solar energy is of such significance to the public interest that it's not only identified within the municipal land use law under the definition of inherently beneficial use it's also a purpose of the municipal land use law. Purpose "N" which is to promote utilization of renewable energy resources and advances another purpose, "J" which is to promote the conservation of energy resources. In addition to promoting renewable energy resources the installation of solar carports over existing parking and impervious surfaces has several other benefits. First recovering and shading a significant portion of existing unshaded parking in a manner which not only reduces the heat absorption of the asphalt by providing shade but also generates renewable energy. Second, another benefit is the extension of the usable life of the asphalt which reduces the need to repair and replace it. Next the carport structures improve water quality of run-off by capturing rain water before it can become contaminated by materials on the ground, and last it provides coverage for

vehicles that park in the lot which is a benefit to the public visiting the site and employees on site in both inclement weather and in high heat weather.

Ms. Coffin stated the second prong of the Sica test is to identify any detrimental effects. The carport structures as proposed are not enclosed so they're not going to have a significant impact on light, air, and open space. The carports are located primarily over existing asphalt with minor impact possible on parking islands, therefore no significant impact on the site's impervious coverage and storm water systems. Rather, there is an improvement in water quality. The carport structures themselves create no nuisance. They will not generate noise, odors, traffic or pollution. It is Ms. Coffin's opinion that there are no significant detrimental effects.

Ms. Coffin stated the next part of the Sica test is mitigation. Had there been detrimental effects there would have been steps identified to mitigate them but in this instance there was no detriment resulting from the structure so there was no mitigation needed. The last part of the Sica test is to balance the public interest against the potential detriment to the public to determine if even after the imposition of any conditions to mitigate any harm, would there still be a significant harm that outweighs the public's detriment. Ms. Coffin's opinion was that there is no detriment that would result from the variance relief so the detriment does not significantly outweigh the benefits. Approval of the subject variance would not impair the intent and purpose of the master plan and zoning ordinance. The ordinance does not anticipate and permit solar power generation. It does anticipate and permit solar power generation in this zone just not in the type of structure the applicant is proposing. The application advances the master plan general goal of promoting the utilization of renewable energy resources, and also advances the master plan environmental goal of promoting the use of alternative energy. For those reasons it is Ms. Coffin's opinion that special reasons exist for the granting of the variance. That it can be granted without detriment to the health, safety, and general welfare of the public and that granting of the variance would result in an improvement on the site that is consistent with the intent of the master plan and development ordinance.

Application opened to the public. No one from the public was present. Public portion closed.

Mr. Simmons reviewed his report dated October 12, 2021, on page 3 of the report item 3D, the applicant's consultants described the kind of foundation system being used. They have to finish designing based on the soil. The foundation will come up about 24-30 inches above the top of paving to keep public from tapping in to column or foundation. Storm water management, in the northeasterly end of property there is no drainage to tie into. The applicant is going to look in to possibly relocating the grates to be in a position where it doesn't interfere with the parking spaces causing icing problems in the winter. Lighting plan, Mr. Simmons recommended having a condition to not place the relocated lighting in the line of sight, when trying to see vehicles coming up the driveway. Warning signs if any will need to be by code, warning of electrical equipment or OSHA type signs. Mr. Simmons requested the board's resolution reflect the ability to do that for installation.

There was a brief discussion on taxes. Mr. Pape stated that the property is tax exempt. The board may want to insert a condition that the applicant must abide by what the requirement may be.

Mr. Simmons requested that the applicant submit an, as built plan, so that all the infrastructure of the hospital is noted in the appropriate records.

Ms. Caldwell reviewed her report dated October 12, 2021. The application is in the SD-1 Zone, the hospital use is permitted. Also, the solar use proposed is permitted. The carports weren't envisioned as the type of use that would be in the SD-1 District so they were not permitted which did create the variance as discussed. The applicant did propose tree replacement on the site as required by the ordinance and they proposed to work that out with the Town Engineer. They also proposed to retain the existing number of parking spaces and did not generate any additional variances with the application which Ms. Caldwell agreed with. The applicant did propose the 36 electrical vehicle charging stations which as will be seen in the future there is now state law requiring electric vehicle charging stations with these site plans. Ms. Caldwell agreed with the testimony from the Planner that it is an inherently beneficial use.

Application opened to the public. No one from the public was present. Public portion closed.

Mr. Molica crafted a motion to grant preliminary and final major site plan approval together with variance relief pursuant to Sec 70 D9(1) of the municipal land use law, so that the applicant can construct its proposed carport and solar facility as testified to at length, and also as set forth in detail in all of the plans filed in support of the application, including the site plans and the architectural renderings. Specific conditions of approval would attach to any approval the board may grant. Specifically, the applicant has confirmed that they will comply with all of the comments set forth in the Board Engineer's report and the Board Planner's report, noting specifically with regard to the Engineer's report item made on page 4 and inquiry regarding taxation should be addressed by the applicant. The applicant has agreed to comply with any and all applicable laws, regulations, and statutes. The applicant will also obtain any and all other governmental approvals required for the application. Further site meeting necessary regarding tree placement, if the applicant and Mr. Simmons do not agree on any item to be addressed in Mr. Simmons' report the board will be the Arbitrator of any dispute.

There was a brief discussion of F.A.A. approval regarding the helipad. Mr. Cuff stated that they are in contact with and are in compliance with the F.A.A.

Mr. Marion made a motion to approve the application as outlined by Mr. Molica. Ms. Vrahnos seconded the motion.

AYE: Mr. Marion, Ms. Vrahnos, Mr. Wink, Ms. Hall-Romer, Mr. Schick, Mrs. LeFrois, Mr. Russo, Mr. Ragsdale, Mr. Ricciardo, Mr. LeFrois

AHS INVESTMENT CORPORATION PB-9-2021

181 High Street Block 1.01 Lot 17, Zoning District SD-1 Hospital Zone

Minor Site Plan to install 3 new signs; 2 new façade signs, a directional sign, and a free standing grounded mounted sign.

*Mr. Dickson recused himself from this application due to potential conflict

Mr. Willard Bergman Jr., Esq. of Siegel & Bergman, LLC attorney for the applicant
Peter Chandler, Professional Engineer of Suburban Consulting Engineers

Mr. Bergman stated the applicant is seeking to install three signs at Atlantic Urgent Care Center.

SWORN IN: Peter Chandler, Civil Engineer of Suburban Consulting Engineers

Mr. Chandler testified the proposal is to upgrade existing signage to the facility. There's no building construction occurring. The site is Newton Urgent Care, located in front of the hospital property. The location of the signs is indicated on the site plan. The site layout plan is sheet 2 of 3 of the set that was submitted to the Town. The applicant is proposing to replace the existing monument sign in the front yard with a new sign that will be illuminated and two building mounted signs. One will be on the wall facing High Street which will be illuminated as well and a second sign on the south wall facing the parking lot that will not be illuminated. Mr. Chandler testified that the monument sign is in compliance with the setback for the public right of way.

Application opened to the public. No one from the public was present. Public portion closed.

SWORN IN: Bruce Dillon, Finance Manager of Atlantic Health

Mr. Dillon testified the nature of the services is an Urgent Care Center with walk-in patients to be treated for various health conditions such as sprains, cuts, bruises, colds. The facility has x-ray, EKG, and lab on site, and on average seeing about 50 patients a day. The facility was established in early 2016. Atlantic Health acquired the facility in May of 2020 and rebranded it to Newton Urgent Care. The location is open 365 days a year and open from 9:00 a.m. to 8:30 p.m. Mr. Dillon stated that there are currently 2 signs on the property that are 3x4 signs that are flat pieces of plywood with just a spot light on each one. Those two would be removed and would put up a new monument in the middle of the property and the plan is that the sign would be illuminated from dusk until dawn. There are 2 other signs being put on the building, one on the front of the building that would be lit up at the same time, and one on the parking lot side that would not be illuminated. There is an open/closed sign in the window and that would remain.

Application opened to the public. No one from the public was present. Public portion closed.

SWORN IN: Rajeev Krishna, Engineer of Signs By Tomorrow

Mr. Bergman introduced Exhibit A1, handout showing the location of the property and the 3 signs. Nothing appeared differently than what is contained in the application. First page is dated May 13, 2021 titled Site Plan.

Mr. Krishna testified that there are two signs in front of the property. They will be eliminating both those signs and replacing them. One is a monument sign that is 37 square feet. It will be lit and is very similar to the sign that was approved and just installed at the main hospital. The sign is shown on the second page of the handout. The specifications are the same that were used on the sign for the main hospital, 100 grade lumens per foot and American made LED. It will be a double sided sign and is going to be set back as required by the right-of-way. The second sign being proposed is on page 3 and will be installed on the front of the building. The sign meets code and ordinance. It's an illuminated sign of 8 sq. ft., it has the same construction as the sign on the ground. The last sign is a non-illuminated sign and will be installed on the façade facing the parking lot. That sign also meets code and ordinance. It is going to be a flat sign with no illumination. The monument sign is professional and functional. It does not stand out in the area. The plan is to do some landscaping at the bottom of the monument sign so it blends in with the environment. It matches the pillars of the Atlantic Health System, and is an upgrade from what is there now.

There was a brief discussion on the location of the sign being close to the road and possible sight problems. Mr. Chandler stated on page 3 of 3 of the site plan that was submitted titled, Site Triangle Plan, indicates that the lines of sight of someone entering and exiting the parking lot would not be affected. The lines of sight are noted on the plans by the red lines, one to the south and one to the north and the proposed signs are located in yellow and are well outside of those lines. The sight triangles were developed and laid out based upon the sign criteria.

Application opened to the public. No one from the public was present. Public portion closed.

Ms. Caldwell did not have any comments.

Mr. Simmons reviewed his report dated October 11, 2021 based on the TRC meeting with the applicant, they have addressed the comments. As a condition of the report, number 6, construction details will be needed for the foundation for the monument sign to be reviewed by the Town's construction official. Newton has ordered sewer utility to mark out existing utilities just to make sure there is no conflict. Mr. Simmons recommended an, as built plan of the monument sign once completed.

Mr. Bergman stated that the applicant will comply with all conditions in Mr. Simmons report.

Mr. Molica stated that the applicant will need to comply with number 6 of Mr. Simmons report of construction details as well as obtaining other governmental approvals and noting where the utilities are and supplying the as built for the monument sign. Those conditions would attach to any motion a board member would want to make granting the applicant preliminary and final site plan approval.

Mr. Russo made a motion to approve the application as outlined by Mr. Molica. Mr. Marion seconded the motion.

AYE: Mr. Russo, Mr. Marion, Mr. Wink, Ms Hall-Romer, Mr. Schick, Mrs. LeFrois, Ms. Vrahnos, Mr. Ragsdale, Mr. Ricciardo, Mr. LeFrois

Application approved.

NEWTON AGRICULTURE PB-10-2021

75 Mill Street Block 5.05, Lot 1 Zoning District: T-4, Neighborhood Services Zone

Minor site plan approval and conditional use approval to convert existing warehouse into cannabis cultivation center.

William Haggerty, Esq. of Dolan and Dolan attorney for applicant

There was a brief discussion regarding D3 Variance and hours of operation. Mr. Haggerty stated that the applicant will adhere to the hours per the ordinance, there will be a security presence 24 hours a day, but the applicant will adhere to the hours of operation. Ms. Caldwell stated that a security presence would be considered hours of operation however, the board can interpret that. It sounds practical and reasonable; the idea is to not have people coming and going all-night that would impact the neighborhood.

Mr. Molica stated that Ordinance 2021-13 hours of operation are 9 a.m. to 9 p.m. Monday through Saturday and confirmed that the applicant is not seeking any D3 Variance and intends to comply with all three of the conditional use ordinances permitting application as a conditional use.

Mr. Haggerty stated that this is a cultivator facility, conditional use for seeking minor site plan approval and conditional use approval. This is to be in an existing commercial building. The applicant is not proposing to change anything except the interior. It is in the T-4 Zone, Neighborhood Service Zone which includes cannabis cultivator facilities as a conditional use. The facility is going to be operated on the second floor of the warehouse building, and occupy about 11,000 sq. ft. The facility would include four grow rooms, a drying/curing room, a work room, a mother room, a clone room, and a vault.

SWORN IN: Albert Jackson, Bachelor's Degree in Biochemistry

Mr. Jackson testified that this is a clone driven industry. Genetics are kept in the "mother" room. The mother is the plant that you are making a clone of. Each grow room will have 960 identical clones of one type of genetic. The clones are made in the mother room by taking clippings, putting them in rockwall and allowing them to grow roots.

Mr. Jackson stated staff would include 10 employees consisting of; an office manager, a building manager, maintenance person for the building, as well as 2 growers, 2 package preppers and general level associates. Mr. Jackson testified that the normal hours of operation will be 9:00 a.m. to 9:00 p.m. During the nightshift, there will be one security office who will monitor the security cameras. The reason for that is in case of a timer error there could be a significant loss of money in product. The employees will enter the building through the entrance of the freight elevator with scan card entry. A garage door will be built in front of the freight elevator and a stairwell will be added as well as a standard size, one door garage area to park an SUV or work truck. Employees will go through the elevator to then go through a "clean room" entrance to make sure no contaminants make it into the building. Employees will have an all-white uniform similar to that of the pharmaceutical industry.

Mr. Jackson testified to the process and operation of the facility. There is a 10 week grow cycle. Once a clone is taken out, a clone is a baby plant that is placed in to a grow room. The clone will grow for 2 weeks. Coconut fiber will be used as a growing medium, along with drip irrigation consisting of hoses and pumps. There will be 4 (four) 1,000-gallon tanks of water with a nutrient tank beside with a sump pump that will take all nutrients through a drip system into each room. Each room has its own drip system. Timing of growth will be staggered, with new product maturing every 5 weeks. Product takes 10 weeks before it can be harvested, then it needs to be dried and cured in a room with controlled humidity. Product needs to dry for 1-2 weeks after being harvested. Once dried it gets trimmed then separated by pound, put into turkey bags, and placed in the vault. Product gets weighed through every step and input in a computer program. Regarding waste generation, water will be caught and filtered through a reverse osmosis system to concentrate the residual nutrients. The residual nutrients will be stored to be picked up by trucks. CREAMM or CRC has not released how the disposal process is going to work yet but they have disclosed that once the residual nutrients are placed on the truck, Newton Agriculture will no longer be responsible. Mr. Jackson stated no waste will enter the sewer system after the nutrients are removed, the reverse osmosis system will take the water left over and then re-pump it back into the water reservoir.

Mr. Jackson testified that security cameras will be installed. A vendor security company will be paid to monitor the facility and that company will have a person on site every day. The security guards will help guide customers through the office and escort them back to the entrance.

There was a brief discussion on CREAMM (Cannabis Regulation Enforcement Assistance and Marketing Modernization Act) and CRC (Cannabis Regulatory Commission). Mr. Jackson stated these are the entities that control the standards for cultivating and distributing cannabis and who are responsible for developing regulations that must be adhered to and issuing of permits to operate. Mr. Jackson stated that they are only seeking a cultivation permit, and are seeking municipal approval prior to applying with the State.

Mr. Jackson testified the customers that they will have, are coming on behalf of a distribution company, and they are the only ones allowed to mitigate between the cultivation centers and the retail centers. They anticipate 1-2 sales per harvest or every 5 weeks. Estimated utility

usage will be 1,000 gallons of water every 10 weeks per room. Temperature will be between 60 and 70 degrees Fahrenheit. The building already has a dry sprinkler system installed and ready for fire safety. There are 2 stairways to add doors for fire escape. One is in the anti-room and the other is in the drying room. To prevent theft, there is only one entrance and exit to monitor, as well as cameras monitoring activity, and all product is weighed and kept in the vault which has limited access. Security measures aside from cameras and hired security personnel include a panic button in the office and anti-room which will notify police immediately. Ventilation will include activated charcoal filters. There will be 7 circulation filters for each grow room on the walls. Additionally there will be one filter that goes through the ducts into the ceiling. Changing the filters is recommended every 2 years but given how cost effective they are the applicant would change the filters after every harvest. There will be an incinerator that will be kept in the work room that would dispose of stems, molded product, or plant material with no value. The incinerator is self-contained, there is no chimney. It has a column that re-condenses all of the smoke down to ash and the ash is removed and put out with waste to be picked up by the same trucks that pick up the nutrient waste. Incinerator will be used once after each harvest. Additional waste would include packaging from supplies.

Mr. Jackson stated signage would entail a small sign outside the garage door labeled; Newton Agriculture, just to identify the business entrance. There will not be any street signs and will use the existing illumination for the sign and existing parking.

Mr. Simmons stated concerns with the application, the site is 100 year old building and the plan calls for four 1,000 gallon containers of water, there's a little over 4 tons in each container. The applicant supplied a factory cut for a generator, shown as a rooftop generator but did not show any shrouding or provide any information on how the sound would be mitigated. Also some information submitted on pooling tower type devices and unsure what the weight is, which all goes to an architect checking the loads and the age of the building and what reinforcement has to be made. The concern is more with the engineering aspect rather than the business aspect such as the structural integrity of the floor, the generator, the loading area.

Mr. Molica stated the application is incomplete, it was originally noticed for September 22, 2021, and was carried to October 20, 2021, and proposed to carry it again.

Mr. Bergman stated he had 5 points in the conditional use and would like to establish that the applicant has addressed those points subject to site plan approval. The applicant would have an architect provide a sealed drawing of what the proposed use would be on the second floor.

There was a brief discussion on rescheduling the application for TRC in November and carry the application to December 15, 2021.

SWORN IN: Kendall Millen, future member of LLC, Head of Distribution

Mr. Millen testified that he has reviewed CREAMM. The State has not started accepting applications and has not released the application requirements for recreational adult use

cannabis. The reason there is not currently an LLC and there is no site plan signed by an engineer is municipal approval is needed before being approved by the State. The LLC is not formed because it has to be registered as a Cannabis business under State guidelines which have not been released yet. The business then has to be registered as minority owned. Scott Paul is going to be the sole owner of the LLC in order to get application approval. Once approved for the license then additional members can be added as long as Scott Paul remains 51% owner. The CRC is giving information slowly but do not have a timeline. They have said they are only giving out 37 licenses throughout the entire State. Newton is the only municipality in Sussex County that did not opt out of the Cannabis program, the applicant thinks it's important to have the municipality backing the applicant in order to have a chance to be approved for one of the 37 licenses. Mr. Milled stated the applicant will bring in an architect and engineer prior to submitting an application to the State and that they are seeking approval of what they can do in the building prior to moving on with next steps in order to have chance at one of the licenses.

Mr. Russo stated that Newton is one of the towns that did the approval but also made it a conditional use rather than a permitted use. Mr. Russo clarified that the reason for the application is because it is a conditional use. If the applicant gets conditional approval the applicant still has to make an application to the governing body and get the "Town" to sign off on the application and take the conditional use from the Planning Board plus the governing body approval and that's what you submit as part of the license to the State.

Mr. Bergman stated that the applicant agrees to extend the hearing on the application to December 15, 2021.

Mr. Molica stated the notice for the application of Newton Agriculture seeking site plan and conditional use approval for its proposed cannabis cultivation facility is carried to December 15, 2021 no further notice required.

CORRESPONDENCE – None

PUBLIC PORTION

Chairman LeFrois opened to the public. At this time no one from the public came forward. Public portion of the meeting was closed.

EXECUTIVE SESSION

Chairman LeFrois stated that there were no items scheduled for executive session.

Motion to adjourn the meeting was made by Mr. Marion and seconded by Ms. Vrahnos. All in favor. The meeting was adjourned at 10:28 p.m.

Respectfully submitted,
Kerry Brown
Planning Board Secretary