

TOWN OF NEWTON
PLANNING BOARD
April 17, 2019
MINUTES

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

SALUTE TO THE FLAG: Was recited.

OATH OF OFFICE:

None

ROLL CALL: Was taken

Attendance: Mr. Flaherty, Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Couce, Mrs. Le Frois, Mr. Flynn, Mr. Russo, Mr. Le Frois

Excused: None

Professionals present: David H. Soloway, Esq. of Vogel, Chait, Collins & Schneider
Jessica Caldwell, J. Caldwell & Associates
David Simmons, Harold E. Pellow and Associates

THE SUNSHINE STATEMENT: Was read.

2019 PROFESSIONAL APPOINTMENTS

Appointment of Conflict Planner, Matthew Morris, P.P., of Harold E. Pellow & Associates, Inc with respect to an application filed by KWest Properties, LLC, for Block 8.08, Lots 10 & 23.

A motion was made by Mr. Marion and seconded by Mr. Flaherty to approve Matthew Morris as the Conflict Planner for 2019.

Aye: Mr. Flaherty, Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Couce, Mrs. Le Frois, Mr. Flynn, Mr. Russo, Mr. Le Frois

The motion was carried.

CONSIDERATION OF MINUTES

March 20, 2019

A motion was made by Mr. Flaherty and seconded by Mr. Marion to approve the March 20, 2019 meeting minutes.

AYE: Mr. Flaherty, Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Couce, Mr. Russo

The motion was carried.

HISTORIC RESOLUTIONS

None

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RESOLUTIONS

None

OLD BUSINESS

None

OLD BUSINESS

Thorlabs (#PB-1-2019)

Block 18.02, Lots 2, 3, 19-23, 31 & 32

Affidavit of Hearing signed by Helen Le Frois, Greg Le Frois, and Dan Flynn.

The applicant is requesting site plan approval for a new light industrial/manufacturing three-story building and renovating the old Camp Iliff building, warehouse and office uses. This is a continuation from the March 20, 2019 meeting with no further notice required.

Peter Donnelly, Esq. of Donnelly, Minter & Kelly, LLC is representing the applicant.

Sworn in:

Norman Dotti, Russell Acoustics, LLC, Butler, NJ. He stated his educational background, work background, and professional license. His license is current.

The Board accepted his qualifications.

Mr. Donnelly questioned Mr. Dotti: Are you familiar with the application we are talking about tonight?

Mr. Dotti stated: Yes. I've reviewed it and I'm involved in the process.

Mr. Donnelly questioned: Before you get into the specifics of the application, you mentioned before that you are on the State Noise Control Council. Can you tell us what the standard is for noise that we are talking about tonight?

Mr. Dotti stated: The State noise regulation sets limits at the receiving property based on time of day and nature of the source and the receiver. In cases of commercial operation in to a residential received, the limit is 65 dBA in the daytime between 7 am and 10 pm. The night time is 50 dBA, from 10 pm to 7 am. Depending on the nature of the source, it may or may not be regulated. For example, motor vehicles on a public street are not regulated.

Mr. Donnelly prompted Mr. Dotti to explain his exhibits.

Mr. Dotti referred to Exhibit A-5 dated April 17, 2019 and stated: I'm making an assumption that the testing of the Genset will be done during daytime hours.

Mr. Donnelly stated: Thorlabs has agreed to do this during daytime hours that will be determined by the Board engineer.

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Mr. Dotti stated: It has to meet the 65 dBa limit when it is tested. How do we know to a reasonable degree of engineering certainty whether it's going to do that? The answer is we use engineering. There are acoustical engineering methods among other kinds. What we do is get data from the sources. With packaged Gensets there is good data. The manufacturers test these units. They go out and measure around the units at different positions around it and using different frequencies. First they have to pick the Gensets, and then I get the acoustics for those Gensets. The Gensets are enclosed with an acoustical enclosure. The acoustical data for the two proposed Gensets and then the calculations. Whenever you need calculations for anything that is more than a very simple operation we use a commercial computer program for the sound plan which implements an ISO standard (International Standards Organization) ISO 9613-2 which runs about 350 pages long. It discusses sound propagation for distance, elevation, terrain, reflections, surfaces, etc... That's what we use.

Mr. Dotti referred to Exhibit A-5 and continued: Exhibit A-5 shows the calculated sound levels for the 1250 kW Genset proposed for the main building. The Genset is represented by the hot pink rectangle. The building is represented by the cross-hatched green area. You have the elevation of the building in there. You'll notice the street has a grayish cross-hatching area. That is paved area. We did the calculations that look at it not only on the overall basis but we deal with the sound at different frequencies and we do the individual calculations by frequency. How sound propagates generally depends on frequency. As you will see in a moment certain things have significant effects on the sound at different frequencies. What we found was the projected sound levels with the Genset running under load were slightly above the permitted levels. What we have done is include a barrier that is 3' higher than the Genset going around the unit. It is represented by the green line around the Genset. I don't usually specify these specific products because there are many different products that will do what we want, but in this case I did. There is something called an ALL sound wall. It is a barrier wall. What's unique about this product is that on either side of the barrier, it looks like it is made up of 4x6's. But inside the cavity is a glass fiber that has roofs covering it from the other surface and that lets the sound into the absorber on the inside. So that's what is specifically called for here. When you put that structure around the Genset then the calculated sound level drops below 65 dBa.

Mr. Donnelly questioned: What is the abbreviation dBa?

Mr. Dotti stated: dBa is used by the State and the FAA to measure sound. It is the most commonly used sound measurement in the world. The dBa setting on a sound level meter gives the meter essentially the same frequency characteristics as the human ear. We do not hear sound equally loud with all frequencies. The dBa predicts how loud sounds are to people. That is why it's used so commonly. So the top dBa here is 65. This is used by the State.

Mr. Donnelly questioned: So this is meeting the State level?

Mr. Dotti stated: Yes.

Mr. Donnelly stated: Before we get to the acoustic study I want to mention that the 65 dBa standards have to be met during the daytime and the nighttime standards are stricter than the daytime.

Mr. Dotti stated: Yes. If they wanted to test it at midnight they would have to meet the 50 dBa limit. I can't imagine anyone doing that.

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Mr. Donnelly questioned: Please explain the bright orange circle on Exhibit A-5.

Mr. Dotti stated: The green rectangle around the Genset is the aforementioned sound wall barrier. Each 5 dBa span in this plot has a different color to it. The orange contour line is the 65 dBa calculated sound level. As you can see it is asymmetrical depending on building reflection, backside of the building, whether it is paved or there is grass. That all gets figured in to the calculations.

Mr. Donnelly questioned: So based on your calculations this generator with this enclosure will meet the NJ sound level criteria?

Mr. Dotti stated: Yes.

Mr. Donnelly prompted Mr. Dotti to explain what the post-construction acoustical study is.

Mr. Dotti stated: The study shows if I'm right or not. The State regulation is the standard. They have to meet it now when it first starts up, a year from now, and beyond. If someone thinks it is louder, they can call the County. The County is paid by the State to enforce the State noise regulations. They will test it and if they find a violation they will issue a notice of violation. So they have to meet it.

Mr. Donnelly questioned: If we don't meet it, will the generator be shut down?

Mr. Dotti stated: Yes. Unless they want to incur a \$2,000 a day fine.

Mr. Donnelly stated: So let's go back to the post construction study. You go out after the building is built and the generator has been running. Tell us what that entails.

Mr. Dotti stated: In this particular situation, what I would envision doing is standing across the street with the generator running and measuring what the sound level is. Now it gets interesting because you also have things like cars driving by and other sounds in the area. The State calls that neighborhood residual. Any generator in the municipality that is covered by the regulation is not responsible for the other sounds in the area. When cars drive by and planes fly overhead that gets subtracted off. So you would measure not when a car is driving by. We typically shut off the generator and measure the ambient noise level at the same location. The same settings so they can be turned off for the testing. We measure it with the Genset on and then we subtract it off. As it turns out, if the ambient is 10 or more decibels below the measurement we get with the Genset on then the ambient makes no contribution.

Mr. Donnelly questioned: Is this information summarizing the report?

Mr. Dotti stated: Yes.

Mr. Dotti referred to Exhibit A-6 dated 4/17/2019 and stated: This is for the 400 kW generator on the side of the other building; the smaller building. It does not have any barrier because there is a 65 dBa level within the site. I have data on everything from 100 kW up to 1250 kW from this particular vendor. The difference in sound levels is minor within that whole range.

Mr. Donnelly questioned: Just to clarify, the proposed generator is within the State guidelines?

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Mr. Dotti stated: Yes. Also, since I tested the 400 kW generators they have discussed doing the 300 kW which might be a decibel lower.

Mr. Soloway questioned: Can you please confirm if it is a 300 or 400 kW generator?

Mr. Mannino stated: Currently we are at the 300 kW level.

Mr. Dotti stated: The numbers are changing. You need to make a decision on this so I can calculate the appropriate numbers.

Mr. Soloway stated: So even though this represents the 400 kW generator, a 300 kW generator would also comply?

Mr. Dotti stated: Yes. The 65 dBa level; what does that mean? On the previous drawing, for somebody along the street, a car driving by would be louder. 65 dBa is the typical sound level of two people talking to each other at a normal sound level without intentionally raising their voice. In that scenario, the sound level that each one makes is about 65 dBa. Hopefully that puts it into perspective.

Mr. Couce questioned: In the traffic analysis that was presented one of the aspects that was not considered was the secondary effects of traffic on Diller Avenue. In the design of the building, there does not appear to be any absorbent material or barrier around the building that might offset the setback. There appears to be a lot of glass. Can you touch upon the reflected noise increase which is the direct noise with change of traffic?

Mr. Donnelly questioned: Are you familiar with the landscaping plan?

Mr. Dotti stated: Landscaping doesn't matter. It would take hundreds of feet of dense woods to make a difference. You are correct that the traffic on the street is not regulated. Any building, even a home, will reflect sound to some degree. It is extremely rare to put any surface treatment on the building. I have done it on some warehouse areas that are really close to homes. Coating a building with fuzzy stuff is generally not done and for good reason. Imagine a sound source such as a car or tractor trailer moving along the street. The sound that collects inside this house goes two ways, from the source to the receiver. That has a half-life associated with it. Remember that distance reduces sound levels. So this goes three times the distance. So just from a distance factor, the reflected sound of any sort of building calculation will be about 10 dBa levels. That's a long-winded engineer way of saying that reflections don't matter. Theoretically if it's a very narrow area with really tall buildings like the Canyon of Heroes it would, but this is nothing like that.

Mrs. Vrahnos questioned: When is the testing done?

Mr. Donnelly stated: I think it's weekly.

Mr. Soloway stated: The ordinance dictates once a week and typically sometimes applicants will actually give you a time they will do it. Typically in approving applications here it is during normal business hours so that people will be less disturbed.

Mr. Soloway questioned: Is it true that the generator is exempt from the sound levels if it's operating during an actual emergency?

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Mr. Dotti stated: Correct.

Mr. Soloway stated: So if the testing was only done during the day for purposes of compliance with the law it doesn't matter about the night time sound level because it would only be operated during an actual emergency.

Mr. Donnelly stated: To answer your question, Thorlabs has a generator at 56 Sparta Avenue and they test it during weekdays in the middle of the day.

Mr. Flaherty questioned: I would like to ask about the larger generator there and some of those numbers. It is 70 dBa there. That is an area that is extended out in an arc.

Mr. Dotti stated: The contour line here is at 70. In this area it is 70 or 65 band.

Mr. Flaherty questioned: Does that extend to the sidewalk on the other side or is that all within the Thorlabs property?

Mr. Dotti stated: I believe the 70 cuts into the sidewalk on the applicant's side of the street.

Mr. Flaherty questioned: Is there any State law on that?

Mr. Dotti stated: No. It is within the receiving property. This lends itself to some interesting things. People are an important part of the equation. You can't have a notice of violation without a complaint. In the case of nighttime the dBa is predicated on sleep disturbance. So depending on the property it may be at the property line or it may be at the base of the house. The source gets a little be sketchy. If you have a house that is so many feet setback from the property line it is really back there that matters because the reason for the nighttime limits is sleep disturbance not just the property line.

Mr. Le Frois questioned: So the 65 dBa contour line extends across Spring Street. The white rectangles across the street are houses. It looks like the limit of the 65 dBa is roughly on the property line. Is that correct?

Mr. Dotti stated: Yes.

Mr. Wink questioned: How far from the generator will the barrier wall be?

Mr. Dotti stated: That will be decided by the generator people. It is approximately 3'. The constraint is opening up doors to do maintenance on it.

Mr. Wink stated: I recall from the March 20th discussion that this area was very tight already with the dumpster and generator in that area. I'm concerned with how much more crowded that area will be and if you come out another 3' that could be a problem.

Mr. Mannino stated: The plan shows the generator and the enclosure and a 3' clearance around the generator. The clearance is within the enclosure. We have taken it into account and it meets the setbacks.

Mr. Dotti stated: The wall is around 4" thick.

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Mr. Wink questioned: Will there be any discussion on the acoustical effects of the HVAC system?

Mr. Dotti stated: The entire operation needs to meet the standard. I will be doing a similar test on the HVAC system, refrigeration and other types of sound sources on there. Generally speaking, HVAC equipment at these distances is not a problem. The choice of the equipment affects the sound levels. The parapets on the roof come into play. Picture the equipment on the roof and set back into it, then the edge of the roof even without a parapet wall is a barrier from an acoustical standpoint. We can also put barriers around equipment. These would be acoustical screens. When it's all said and done we will do the tests and make sure they meet the standard.

Portion opened to public.

1st Public: Ralph Porter, 12 Pine Street, Newton. He lives across from the building at 56 Sparta Avenue and is not concerned about the generator noise. He is concerned with noise from the loading docks.

Mr. Dotti stated: The modern loading dock with a dock seal should not be a noise problem. If the truck is backed in and locked in place and the dock seal goes around it, unless someone is beating on the side of the trailer, it shouldn't be a problem.

Mr. Porter stated: There are trucks dropping off loads all hours of the day and night. How will that be addressed?

Mr. Dotti stated: That would be covered by the regulations. If they choose to operate like that they would be subject to enforcement action. They shouldn't be doing that and that is an administrative thing. I've walked throughout the sites at night because things happen at night that don't happen during the day when the boss is around. So that is something they may have to work on.

Mr. Le Frois stated: Mr. Porter, I would say if that is happening you should make a phone call and make a complaint. The issue you are talking about is more an operational issue than a design issue.

Mr. Donnelly stated: This is the first we are hearing of this issue. We will bring it back to our people who run the loading docks as an operational issue.

2nd Public: Steve Kellmer, 21 Diller Avenue. There is going to be a 50' wall on Diller Avenue when that building goes up. How much of that noise is going to get trapped in a canyon on Diller from traffic and tractor trailer? Are you going to do an acoustical study on Diller?

Mr. Dotti stated: Absolutely not. From a regulatory standpoint and a design standpoint it doesn't matter what the noise is on Diller. It does not figure into it. The applicant is responsible for not putting out sound greater than a certain amount. We take that into account when we do the measurements. Hypothetically, if the sound out there during the day is 64 dBa, it doesn't mean that the applicant can only make one dBa to make it 65. When a tractor trailer goes by, 50' cruise condition, the tractor trailer is probably putting out 75 dBa.

Mr. Kellmer stated: They have to stop on Diller and it shakes my house.

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Mr. Dotti stated: My statement was the truck is 75 and a car is about 65. The building has no effect on that. The sound that reflects back from the building will be so far below the direct sound of the truck driving by that its presence will not be measurable on the houses.

3rd Public: MaryLou Hennigan, 17 Diller Avenue. Would like to know where the A/C will be located.

Mr. Mannino stated: We are still designing the roof area. They will be on the roof about 15 to 20' from the edge of the building and we are trying to make that more central to the building's footprint. But exactly where they will be located and how many we don't know yet.

Mrs. Hennigan questioned: Will they be screened?

Mr. Mannino stated: If it is necessary. We will do a post occupancy test to make sure we meet the requirements that we need to meet. We are aware of the requirements when ordering the equipment. The engineers are working on that now.

Mr. Dotti stated: The HVAC equipment has to meet the night time limit whereas the Genset has to meet the daytime limit. So it will be significantly lower. We are looking at that. When I do the analysis, picture this drawing with 10 HVAC sources. I'll have everything on. At night that is probably not what actually happens. I do my math with everything running and then if necessary provide screening for a particular piece of equipment. Then when it's all done I have to go out at night and take measurements and turn equipment on and off. The night time dBA standard is 50.

Mr. Donnelly questioned: You mentioned earlier that 65 dBA compares to two people having a normal conversation. Can you give us an idea of what 50 dBA is like?

Mr. Dotti stated: In an office area, not people talking, but a background sound. They used to say typewriters typing.

Mr. Mannino stated: So when designing, once we establish a layout and a manufacturer we will do these types of tests. It won't be a last minute decision. We are planning for this while we do our design.

Mr. Le Frois stated: I want to clarify the process. Even though certain aspects of the proposed construction aren't completely known right now, we are hearing testimony on what we know. Things that we aren't sure about we will absolutely put the requirement into the resolution that we will ultimately agree upon; we will have our professionals overseeing the design work. As Mr. Dotti mentioned, he will be part of the design as they decide which HVAC equipment to have up there. It goes through the tests; theoretical at first and then actual post construction tests. So even though they are not yet sure where the equipment will be, there will be provisions in the resolution that require it to meet all the applicable resolutions.

Mr. Dotti stated: If you imagine a piece of equipment on top of the roof, the elevation of the house is a factor in the calculations. If the house is down low it will be screened by the side of the building. If you have a higher house, the shielding is less. On the plan, the brown lines are elevation contours. So it is all predicated on a digital terrain model, a 3d surface, so you actually have the height elevations and terrain factored into our calculations.

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Mr. Flynn stated: Regarding screening, I wish the Redevelopment Plan had a requirement for screening mechanisms on the roof. I think it should be a standard in this Town because it looks much better when it is screened. I think the time to have the discussion on screening is now.

Mr. Soloway stated: In the last meeting the applicant agreed to screening to the satisfaction of Mr. Simmons.

Mr. Flynn stated: I would like it to be visually screened and not just partially. There are good and bad examples of screening.

4th Public: Ron Steinhardt, 2 Stuart Street. He would like to know what elevations are the dBa taken at.

Mr. Dotti stated: It's about 5' 8".

Mr. Steinhardt stated: Is there a way to model it to show it at higher elevations? My house is one of the highest.

Mr. Dotti stated: It's not 5' 8" above a theoretical flat plane. If your house is higher and that terrain is there, it's you standing in your front yard.

Mr. Steinhardt indicated his house on the plan and stated: The generator is really a direct line to my house. At that elevation it is 55 dBa.

Mr. Dotti stated: You can see the elevation lines in there. I would suggest taking that into account as is the elevation, not just the ground elevation, but the actual source of it. Your house is between 50 and 55 dBa.

No more public stepping forward. Portion closed.

Mr. Simmons referenced his report dated February 15, 2019 and stated: Regarding the fuel tanks, have you made a decision as to what size fuel tank will be used?

Mr. Mannino stated: I do not have that information yet.

Mr. Ragsdale questioned: Will the size of the tank affect the generator noise?

Mr. Dotti stated: It will not affect the sound it produces but it will affect the acoustical height of the source. So in the end, just as with all the other equipment, they will have to determine what will be put in. If I raise or lower it by a meter it is not going to change the sound a decibel.

Mr. Marion questioned: How high is the acoustic barrier around the generator?

Mr. Dotti stated: I expect it to be 3' higher than the top of the generator.

Mr. Marion questioned: And what is the total height?

Mr. Mannino stated: It is approximately 15'.

Mr. Marion questioned: Why can't it go on the other side of the building?

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Mr. Mannino stated: Our main electric service is coming in through this side of the building.

Mr. Marion questioned: Do you have any visuals on that?

Mr. Dotti described the generator enclosure.

Mr. Donnelly introduced the next witness, John Olivo. Mr. Olivo introduced himself, stated his credentials, his license is current.

The Board accepted his credentials.

Mr. Olivo referred to Exhibit A-7, a colorized rendering of the landscape plan and stated: Upon the site visit I noticed several trees, including an evasive species that are growing because nothing is happening there. In addition there is ragweed, rye grass, and that type. There are five different species of vegetation at curb distance. We are proposing 85 deciduous trees and 115 evergreen trees. Many of the evergreen trees were enlarged to a 10 to 12' installation size along Diller. In addition to the 10 to 12' trees, Ms. Caldwell suggested adding in the right-of-way some large shrubs and medium sized shrubs and perennials to layer along Diller. As well as London plane shade trees. It would become robust landscaping along Diller. Throughout the rest of the site, we worked around site structure elements. We think it is a robust comprehensive plan, not only in regards to deciduous trees but if you look at the other sheets in your packet, that are not on this rendering, they go through the several hundred shrubs and thousands of perennials being proposed in this plan. With that being said there are particular types of trees in the areas to the west of the Iliff building. You can see to the right of the screen we chose ones to enhance the buffer between Thorlabs activities and the existing activities. When I visited the site I did notice a substantial canopy in the existing residential properties. In addition to that there were also items in Mr. Simmons and Ms. Caldwell's reports that expressed concerns about that the structure that encloses the Genset, the dumpster, and the transformer. We reexamined that area and added 9 American Hollies at 6 to 8'.

Mr. Donnelly questioned: Are you familiar with the Redevelopment Plan for the area?

Mr. Olivo stated: Yes.

Mr. Donnelly questioned: Does your plan meet the requirements of the plan?

Mr. Olivo stated: It meets the intent of the Redevelopment Plan. However, with regards to compliance with the interior landscape I believe we need a waiver for both lots. Interior landscaping is required at 15%. We will have 9.4% on lot 2 and 4.5% on lot 31. With that said, I believe the applicant made up for that by planting all the perennials.

Mr. Le Frois questioned: How many trees currently exist that are going to be removed?

Mr. Olivo stated: There is nothing very large. They are about 6" caliper. Things that grow quickly like Mulberrys and Tree of Heaven which is a terrible tree and a biological hazard in terms of insects. In our plan we provide 50 different species of trees, shrubs, and perennials. We are enlivening the site biologically.

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Mr. Le Frois questioned: Is the perimeter fenced along the bottom of the site near the residences on Sparta Avenue?

Mr. Olivo stated: Along those properties there is limited space. We originally had a hedge row of a tough resilient evergreen. There was a request to add some more diversity so we added various holly's that are evergreen and easily trimmed and sculpt able.

Mr. Donnelly stated: To reiterate, the trees to the bottom right of the existing Iliff building are not here today?

Mr. Olivo stated: They are not here today.

Mr. Soloway stated: To confirm, your testimony was that the Redevelopment requirement for landscape is 15%. What are you providing?

Mr. Olivo stated: It is 9.4% for lot 2 and 4.5% for lot 31. There are also requirements for bike racks which we are providing. There is a requirement for a buffer strip. We require waivers for those two items. Lot 2 only has 2' 11" at the shortest distance and lot 31 is 6' at the shortest distance.

Mr. Le Frois questioned: Is there any permanent furniture that is being provided, such as tables or benches?

Mr. Olivo stated: On Sheet L300 you can see we will have tables for lunch and benches and planters for enjoyable spaces.

Mrs. Le Frois questioned: In 2017 NJ set forth guidelines encouraging developers to consider electric charging stations in their parking lots. Is this something that has been discussed?

Mr. Donnelly stated: That is something that can be discussed.

Mr. Regimbal stated: We have talked about putting in some stations. It is definitely on our radar.

Mr. Donnelly questioned Ms. Caldwell: Mr. Olivo indicated that we need waivers for the tree requirements. However, I believe he was referencing the general standards of the ordinance and not the Redevelopment Plan. Can you confirm?

Ms. Caldwell stated: Yes. Waivers are not necessary because the standards are different in the Redevelopment area. However, it is good to see it relatively. In this case we did understand that the interior of the parking lot was going to be more condensed. It meets all the other landscape requirements. No need for a waiver.

Mr. Le Frois stated: So the percent of landscaping actually provided is helpful and generally meets the intent of the Redevelopment Area?

Ms. Caldwell stated: Correct.

Portion opened to public.

1st Public: Ralph Porter, 12 Pine Street. The Master Plan calls for street scapes along the road to have 25' setbacks. Does this have to meet that?

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Ms. Caldwell stated: This is a different zone. We've already done street scaping along Spring and Diller with the sidewalk and the buffer. We did additional trees to finish that off in the right-of-way. Along Sparta Avenue it is up to the County. There is a sidewalk proposed.

Mr. Porter questioned: Is there any way you can add to the parking lot edge to match to be more attractive? It looks like you are going to the Rockaway Mall. Maybe some signage.

Mr. Olivo stated: We had to consider the site triangle for safety. I think you'll be happy with product once complete.

Mr. Mannino stated: We do have some low landscape walls as well.

2nd Public: Steve Kellmer, 21 Diller Avenue. Have you ever planted a row of evergreens for noise reduction?

Mr. Olivo stated: No. Visually it works, but acoustically it does not work.

Mr. Kellmer questioned: What types of trees will be planted on Diller Avenue?

Mr. Olivo stated: The evergreens closest to the façade will be 10 to 12' Norway spruce at the initial installation. Then we have a secondary layer of additional shrubs and a variety of perennials. Since we can plant into the right-of-way we can pad the landscape in that particular area. The occasion plan trees will hide the building. They will eventually grow to between 14 and 16'.

3rd Public: Mike Malone, 58 Trinity Street. How will the Lackawanna Rail Trail be handled? I don't see it on the maps. I don't see it marked out anywhere.

Mr. Donnelly stated: We have submitted plans for the rail trail.

Mr. Marion stated: It was included in last month's hearing. We talked about it going through the entire lot. This map doesn't show it but last month's does.

Mr. Olivo stated: There is a series of arrows here that indicate bicyclists.

Mr. Graham indicated where the rail trail is on the south side of the building.

Ms. Caldwell stated: It is actually between the third and fourth tree.

Mr. Olivo stated: We revised it based on the report we got from Mr. Simmons. There is bike storage there. Then you would have Quantum Leap and then to Spring Street. Essentially it is not a trail per say, but it is designed to take you to the next spot on the trail.

Mrs. Vrahnos stated: I take a bike path frequently and this is better than anything you have out there right now.

Mr. Graham stated: There is not a physical bike path. This is following along the property line. There is an easement designated here. There is no physical bike path around here. This will be constructed by whomever and it will be tied together.

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Mr. Soloway stated: The applicant agreed to the condition that they would mark the entrances and exit to the path through their property lines.

Mr. Graham stated: There is no current path through the DMV property. When that bike path is constructed through our property it will be done with our proposal that will have the path delineated through the property and to the edge of our property. It will exit our property onto lower Spring Street.

No more public stepping forward. Portion closed.

Mr. Simmons questioned Mr. Olivo: In the area by the generator, knowing that the enclosure is 15' high, is it possible to plant some trees in that area a little larger?

Mr. Olivo stated: I spoke with the applicant and he would agree to make them larger. Right now they are 6 to 8' tall, dense evergreens on the north facing side which performs well in low light conditions. We would be willing to upsize those to 10 to 12' instead.

Ms. Caldwell stated: I did have comments in respect to the streetscape but they were addressed.

Portion opened to the public.

1st Public Sworn in: Ralph Porter, 12 Pine. Concerned with Quantum Lane. Should they put a gate there? Will there be cut-through traffic? There is no area for pallets; can't stack outside. He likes the overall design.

Mr. Le Frois questioned: It's a parking lot and not intended to be a through street. If there is any cut-through traffic, is that illegal? Will the police enforce it?

Mr. Russo stated: It is private property and they can put up signage with that wording.

Mr. Soloway stated: There is a process where you can invite the State to enforce it on your property.

Mr. Russo stated: It's a waste of police officer's time to sit in a parking lot of a private entity because a car wants to beat the light at Rite Aid or Town and Country.

Mr. Le Frois stated: I understand, but it's not legal. I'm trying to address Mr. Porter's concern about cut-through traffic. We probably wouldn't ask the owner to put up a gate if it's not required by ordinance. If they decide they want a gate it's a different story. I would like to hear from Thorlabs on how they would handle people who would want to cut through.

Mr. Regimbal stated: We don't see that being a problem. But if that changed and we perceived it to become an issue we would address it. It needs a natural flow for the easements that burden the property.

2nd Public Sworn in: Steve Kellmer, 21 Diller Avenue. The design looks great. He has two concerns. One is when will the dumpster be emptied? Currently, every Wednesday morning at 5:15 there is one emptied across from my house. Can you limit the hours for dumpster emptying?

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Mr. Mannino stated: We will have operations discuss this with the trash company.

Mr. Kellmer continued: I'm also concerned with the intersection of Sparta Avenue, Spring Street, and Lower Spring Street. There is a tremendous amount of school foot traffic. Considering how many cars you are bringing in to that area, we may need more than crossing guards to protect our children.

3rd Public Sworn in: Tara Pankz, 14 Woodside Avenue. Concerned with traffic on Woodside Avenue. I wasn't here for the last meeting. Will there be large trucks coming down Woodside Avenue now?

Mr. Le Frois stated: There was testimony last month in the meeting minutes. Based on what I read there are going to be one or two tractor trailer deliveries per day; several box truck deliveries per day; and several UPS truck deliveries per day.

Mr. Wink stated: All coming off Sparta Avenue.

4th Public Sworn in: Marylou Hennigan, 17 Diller Avenue. Concerned with hours of construction and if it will be done on Sundays.

Mr. Le Frois stated: They will have to follow Newton's ordinance. Newton's ordinance does allow for construction on Sundays.

5th Public Sworn in: Ron Steinhardt, 2 Stuart Street. He moved into this Town about 20 years ago. If he'd known that a building like this would be built here he would have never moved here.

6th Public Sworn in: Louise Wilson, Princeton, NJ Future Planner.

Ms. Wilson stated: New Jersey Future is a nonprofit with a statewide mission focused on smart, sustainable growth. Our purpose in life is to foster vibrant cities and towns, protect natural lands and waterways, and fuel a strong economy. We are pro-growth, pro-environment, pro-business and pro-community. This project is exciting and we support it. My work at New Jersey Future is all about clean water and stormwater management best practices. Partnering with Rutgers, with expert private sector consultants and with local groups like Walkkill River Watershed Management Group, a colleague and I work with selected towns, including Newton, and also with developers and state agencies, to change thinking about stormwater management – fundamentally, to transition away from total reliance on detention systems and pipes, and instead make use of green stormwater infrastructure. This approach consists of practices that use or mimic the natural water cycle to capture, filter, absorb and sometimes re-use stormwater. I'm talking rain gardens, swales, downspout planters, tree trenches, porous pavement, green roofs, green walls, cisterns – things like that. When designed, constructed and maintained properly, green infrastructure works really really well. And in fact the State of New Jersey is in the process of changing its stormwater rules to require its use. Anyway, last December I was delighted to see a section in the Diller Avenue Redevelopment Plan strongly encouraging the inclusion of green infrastructure in site plans for the area. And then I was surprised to see no green stormwater infrastructure in the plan itself. I brought this up before the March meeting, and am grateful to Thorlabs and Dave Simmons for meeting with me and my Rutgers colleagues to talk about what might be possible. The good news is that the landscape plan and walkways present great opportunities to soak up and filter stormwater before it enters the underground

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system. Incorporating green infrastructure will contribute to the campus character, improve sustainability and resiliency of the site, benefit Thorlabs employees and the broader community – and could enable Thorlabs to shrink the size of the underground system and save money on construction and maintenance. I share these thoughts and suggestions hoping a really good project can be made even better. I have no desire to undermine or delay your approval, or to slow down the process in any way. Rather, I ask that you approve the project and at the same time, give the **permission** to revise the stormwater management plan – at its discretion and subject to the approval of the Town's engineer – to incorporate cost-effective green infrastructure. Lastly, I realize that the company is not pinching pennies, but I do want to note that New Jersey Future offers green infrastructure grants for private sector projects, and can reimburse the Town for any time that your professionals spend on this effort, and can reimburse the company for costs associated with revising design plans, construction specs and the like. Thank you for your consideration, and congratulations on a project that promises to be a real asset to the people and Town of Newton.

7th Public Sworn in: Margaret Baldini, 10 Barry Lane. Will the new entrance at Sparta Avenue have new lighting and who will pay for it?

Mr. Marion stated: We discussed last month. There will be new lights. I'm not sure who pays for it.

Mr. Le Frois questioned Mr. Simmons: How does that process work?

Mr. Simmons stated: The applicant is going to have to make an application to the County Planning Board for site plan approval and make an application to the County Engineer's office. The plans before the Board right now don't show the details of the traffic signal. But my understanding is that Mr. Dean is going to be working with Mr. Graham's office to provide the infrastructure for the signalized intersection. They will also need to make upgrades to the current signal. The developer pays for it.

No more public stepping forward. Portion closed.

Mr. Flynn stated: In regards to the screening around the building, I think that has been addressed as long as it is to the satisfaction of Mr. Simmons and Ms. Caldwell then I am satisfied with that. In regards to off-tract improvements, was there a discussion about the sidewalk along Sparta Avenue from the Camp Iliff building to the intersection of Sparta and Spring where the fence is falling down?

Mr. Graham stated: That is not actually part of this property and it is on the County road. So it will need to be discussed with the County.

Mr. Flynn stated: That is a very busy pedestrian thoroughfare. That sidewalk has been a problem for a long time and the fence is a mess. If there was to be an off-tract improvement, I would like to see that done in conjunction with the construction as far as the connectivity from the intersection to your site. Not the entire sidewalk but at least the damaged portions of it.

Mr. Graham stated: Part of it is ours and part of it is on the railroad building.

Mr. Regimbal stated: We need the County's cooperation with that. We have discussed it with the neighbors and we have common concerns. But we need the County to make it happen.

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8th Public Sworn in: Pastor Frank Leone, Diller Avenue. He's the neighbor. Has had conversations about the sidewalk in particular. We've been trying to engage the County for years to take responsibility. The wall is deteriorating; the fence is not as bad and has been painted, but the sidewalk is sinking because of the wall underneath it. We want clarification from the County because we feel it is actually part of the roadway. We really haven't gotten any answers. But we have addressed this with Thorlabs. The wall up to Halsted Middle School is deteriorating too.

Mr. Flynn stated: It sounds like it's more of a County issue.

Mr. Soloway crafted a motion adopting preliminary site plan approval. There are no variances or deviations. In addition to the standard conditions, revise the construction plans to incorporate the requirements of the County and Town Fire Officials; soil removal to conform with all ordinance requirements; no site lighting along Diller Avenue and Spring Street except for exit lights over the doors which will be directed downward to limit the visibility to residents; provide a pedestrian crosswalk on the site to the satisfaction of the Town Engineer; check with the Fire Officials as to the need of fire lanes and incorporate as needed; applicant should instruct tractor trailer trucks to access from Woodside Avenue or Sparta Avenue only, not lower Spring Street; only box trucks and UPS trucks are permitted access on lower Spring Street; if the applicant closes off existing sidewalks on Sparta Avenue during construction then the applicant will provide a temporary traffic officer to assist children going to and from the school; the applicant will investigate whether crosswalks should be put in on the Spring Street; applicant will discuss feasibility with the Town professionals about shifting the Spring Street access slightly to the south; in terms of Mr. Simmons's report of February 15, 2019 there are a lot of items. Starting with deeds for the rights-of-way referenced in item 3d to the satisfaction of the Town Engineer and Attorney; compliance with section 3h, submitting detailed plans for signal improvements; section 3i, retaining walls with no easements; compliance with all requirements of section 5a-f, to the satisfaction of Mr. Simmons; all of the recommendations in item 6 in regards to utilities and sanitary sewer shall be subject to Mr. Simmons; if there is any additional lighting it must be shown on the plans; submission of the items required by Mr. Simmons in section 14 regarding construction details, a - h, to his satisfaction; item 15 be addressed which is to correct the disturbed area noted on Sheet 23, Note 14; under item 16, all the other required approvals directed and required by the Town Council and the Developer's Agreement, that will be their call, and any bonding will be determined by the Town Council; as-built at the completion of the project; the applicant agreed to do a post construction noise study to confirm that the entire operation will conform to the NJ Noise Act regulations; they will explore the feasibility of moving the metal waste container with Mr. Simmons to his satisfaction.

Mr. Regimbal addressed the metal waste container and stated: I spoke with the manager of the Tool Works Division about the current condition of the collection, maintenance and disposal of the metal shavings. All of that occurs indoors. It's collected in 55 gallon drums. The disposal company comes inside to remove them offsite. There is no outside container.

Mr. Soloway continued: The HVAC and the screening will be on the roof and designed to be finalized to the satisfaction of Mr. Simmons; there will be no lighted signs proposed; the applicant shall consider in consultation with the Town Engineer whether there might be ways to shield the visibility of the building's interior lights at the rear of the building in the view of the residences along Diller Avenue, such as blinds or something of that nature.

Mr. Regimbal addressed this and stated: The blinds are definitely an option. The lights in the interior are on a sensor so they are off when there is no activity on the floor. The overtime work

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occurs on the first floor where there are limited windows so the likelihood of lights being on at night on the second and third floor is remote, but if so interior shades can be provided if that's an issue.

Mr. Soloway continued: In regards to HVAC, there is an agreement to put it on the lowest roof section of the Liff Building only; conditions also on the applicant's having to come to the Board and the Board having the right to revisit the temporary parking issue, part of the parking they are proposing for this facility to bring it into compliance with the ordinance standards is that the parking from the Punctuated Equilibrium site that the Board approved a few months ago, that is subject to return to the Board in a 3 year period because the approval the Board gave is for a parking lot and under the Redevelopment Plan parking is only permitted as a temporary use. Ultimately it will turn into accessory parking and will have to serve whatever goes on that lot, which means that the numbers might change and the Board has the right to revisit that because we wouldn't necessarily have the same number of parking spaces when that site is developed as you do six months from now. The applicant shall put in signage prohibiting trucks from exiting out of the Spring Street side of the property; signage to locate and identify the bike path to the Town Engineer's satisfaction which will include signs at the entrance and exit of the property with some kind of arrows on the ground.

Mr. Flaherty stated: In the March 20, 2019 minutes on page 9 at the top of the page, Mr. Graham indicated in the Town's Master Plan that there are areas where the vehicles and bikes will share the same space. He said this is not a high speed roadway, but a private driveway. He also indicated they have not proposed a speed limit, although they could post it less than 30 miles per hour. He also said they can provide signage if there is a specific name for the bike trail and that Mr. Simmons suggested they provide signage.

Mr. Soloway continued: Again, more detail from the post construction acoustical testing to ensure everything meets the noise requirements, specifically the generators, the HVAC and any other operational noise; increase the planting height of the trees in the area of the generator enclosure to 10 to 12'; make an effort to persuade the trash collector to not schedule pick-ups too early in the morning and wake up the whole neighborhood; applicant is encouraged at their discretion to input green infrastructure to the discretion of Mr. Simmons's; applicant is encouraged to encourage the County to repair the fence and wall.

Mr. Le Frois stated: Maybe a letter from the Town Council to the County would help to encourage this.

Mr. Donnelly stated: We know this is a complex application and we appreciate you taking two full nights to hear it. I know there are some conditions and your engineer had several pages for us. We would like the Board to know that Thorlabs tries to come forth with fully engineered plans and expert testimony; you've seen the engineering plans, the landscape plans, and the architectural plans. Although we've had a lot of discussions, we have not had any material changes. We are not going to be coming back with any new plans. I say this because we would like the Board to consider this as a preliminary and final approval. We know there are conditions. We know some of the conditions may be lengthy but they are not material to what you've seen. You've seen everything as we've come forth with fully engineered plans and you are not going to see anything materially different. So we would like, respectfully, for you to consider this as a preliminary and final approval because we really want to get this project moving as soon as possible and we think we've provided you with a full set of plans. So with that I leave you to your deliberations.

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Mr. Soloway stated: Different towns do it different ways. Typically this Board grants both. I will also say that this is a much more comprehensive project than most. But your Town usually does approve.

Mrs. Le Frois stated: I want to reiterate that this Council has the best professionals in the business with more expertise than anyone sitting on this Board and conditions are expanded upon conditions that Mr. Simmons has already set forth in his report. As this Planning Board has in the past, we've set precedent to grant preliminary and final approval. In addition to that, we have an applicant before us who is not new to developing in the Town. In the last application if they said they were going to do something, they did it. We have not had to go back and make requests and changes after the fact. So this applicant has a history with us that if they say they are going to do something, they do it. I support Mr. Donnelly's request. I would like to say that I believe that all of those conditions that are going to be as per the approval of the Engineer is not uncommon. And it is Mr. Simmons practice, in all my experience in the last decade with him, if there is something in question, he does come back and consult with the attorney, Town Planner, and employees if there are conditions he does not feel comfortable approving.

Mr. Simmons stated: Yes. I would note that one of the conditions Mr. Soloway read off the proposed resolution is the requirement for an as-built plan. When an applicant requests a certificate of occupancy at the completion of their project, they will provide an as-built plan and I can use that to check the conditions of the resolution with the original plans to ensure they comply with everything. My assumption is there is going to be a developer's agreement. If the Board is going to grant preliminary and final, I would suggest that there be provisions in there to add bonding so if the applicant gets a CO at that time I can come up with a list of bonding items. Those types of items could be bonded in place so the Town is covered that way.

Mr. Donnelly stated: Yes. We have no problems with that.

Mrs. Le Frois made a motion to approve the application for preliminary and final site plan with conditions as described by Mr. Soloway. Mr. Russo seconded the motion.

Aye: Mr. Flaherty, Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mrs. Le Frois, Mr. Flynn, Mr. Russo, Mr. Le Frois

Application approved.

NEW BUSINESS

**PERCC Group, LLC (#PB-4-2019) (Carried to May 15, 2019)
4 – 6 Pine Street
T-3 Zone**

The applicant is requesting a Certification of a Preexisting Nonconforming Use.

At the applicant's request, the application has been moved to the May 15th meeting of the Planning Board without further notice.

CORRESPONDENCE: - Reviewed

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Mr. Flynn thanked the Planning Board and the professionals on behalf of the Town Council for their input on Ordinance 2019-1.

Mrs. Le Frois thanked the new Planning Board members for completing their training in a timely manner.

EXECUTIVE SESSION - None

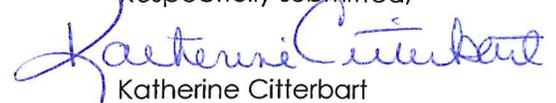
PUBLIC PORTION -

None

ADJOURNMENT

Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mrs. Vrahnos. The meeting was adjourned at 9:33 PM with a unanimous "aye" vote. The next meeting will be held on May 15, 2019 in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary