

PUBLIC HEARING

MONDAY, MAY 17, 2021

A Public Hearing was held Monday, May 17, 2021 at 7:00 pm via Zoom platform in accordance with the applicable Executive Orders heretofore issued by the New York State Governor Andrew Cuomo suspending certain provisions of the New York State Open meetings Law for consideration of a hardship waiver from the terms of Local Law #1 of 2021, which imposed a six-month moratorium prohibiting the review and approval of applications for development in I (Industrial), IP (Industrial Park) and LUI (Limited Use Industrial District) Zoning Districts. The PharmaCann property is located at 14 Hudson Crossing Drive and is designated on the Town Tax Map as Section 1, Block 1, Lot 26. PharmaCann seeks relief from the terms of Local Law #1 of 2021 to pursue an amended Site Plan Approval before the Planning Board allowing the construction that would increase PharmaCann's footprint of operations by approximately 47,000 square feet.

Those members present were: Supervisor Jankowski, Councilman James M. Lord, Councilman Richard M. Cocchiara and Councilman Gregory R. Willems.

Other Officials present were: Town Clerk Christine Durante and Town Attorney David A. Donovan.

Town Clerk Durante presented proof of publication and posting of the legal notice as it appeared in the May 11, 2021 edition of the Times Herald Record.

Supervisor Jankowski opened the public hearing at 7:01 p.m.

Supervisor Jankowski stated how the Public Hearing would be conducted, first he would have the Town Attorney briefly summarize how we got to this point, and then will have the representative of PharmaCann give a brief description of where they are and what they are trying to do.

Supervisor Jankowski also stated that originally there were going to be two public hearings tonight, but at the request of the applicant from Real Deal Management, Inc. that public hearing is adjourned.

MOTION offered by Supervisor Jankowski, seconded by Councilman Cocchiara, to adjourn the Public Hearing for Real Deal Management, Inc. until June 7, 2021 at 7:00 p.m. Motion carried with all voting in favor.

Town Attorney Donovan, summarized how we arrived at this point. He stated the Local Law adopted by the Town provided for a mechanism for a hardship waiver, the hardship waiver is where an applicant takes the application to the Town Board and pleads their case to ask for relief from the requirements in the moratorium. Spelled out in the local law is the criteria which needs to be evaluated by the Town Board. If it is granted, it allows the applicant to go back to the Planning Board. The Town Board has thirty days from close of the public hearing to render determination on the hardship waiver.

Mr. Frank attorney representing PharmaCann, Inc., stated he filed the hardship waiver application to the Town Clerk on April 8, 2021, with the consent from the property owner. The end goal is to eventually get to planning board for the expansion of the facility, which is described in their application. PharmaCann is owner of 80,00+/- acres facility located at 14 Hudson Crossing Drive, and is located in LUI (Limited Use Industrial) zone. PharmaCann is designated by New York State as an essential business and provider of medical cannabis.

Mr. Frank stated the first criteria and most important of which is PharmaCann will suffer unnecessary and extraordinary hardship if it is unable to proceed with its expansion at this time. As we noted in our submission, PharmaCann is the primary production facility that supplies medical cannabis to its affiliated dispensaries supplying medical products that many patients rely on as part of their treatments throughout the State of New York. As noted theirs a growing need for the product. The needs have increased, the production needs to increase. A delay under the moratorium will be quite problematic and have an adverse impact on public health itself. This hardship waiver is about a medical need.

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He stated they have received approval from New York State Department of Health on PharmaCann's status as an essential state medical cannabis licensee which warrants approval on the current expansion plans under State guidelines.

The second factor under the Town's Local Law they would like to address, is that there is no significant environmental harm or adverse impact surrounding natural resource areas, public health, comfort or safety concerns or have a negative impact upon the Town that would come from allowing the expansion. He stated this is an existing facility, which the expansion was contemplated from the beginning and approved. There is no other use intended for the property.

The last thing to address is the moratorium includes language in the legislative findings section that favors PharmaCann. Mr. Frank's understanding of the language is a facility such as PharmaCann is not the target of the moratorium. He feels other uses in the area of the Town are certainly worth taking a look at. He believes PharmaCann is unique from other potential hardship applicants in a way of its growing concern and that it is an existing facility. He believes PharmaCann has met its burden under all the criteria of the moratorium. He hopes the Town Board will consider this in a fair and equitable way.

Supervisor Jankowski, asked Mr. Frank to make sure he had all facts correct, that PharmaCann has no intention with their submission to the planning board or building department for any new roads to be built coming into the property?

Mr. Frank stated, that is correct.

Supervisor Jankowski, also stated his understanding is that PharmaCann had no plan to do anything different other than what is being done right now at the facility?

Mr. Frank stated that is also correct.

Supervisor Jankowski, inquired if there was a plan to make much of a change in the footprint on the site from what is there now?

Mr. Frank stated, not significantly – No.

Supervisor Jankowski, inquired about Mr. Franks comment on the water and sewer supply which comes through the Town of Montgomery and has to be settled through an inter-municipal agreement with Town of Hamptonburgh - not a significant change in that as well?

Mr. Frank stated, that is my understanding.

Supervisor Jankowski, inquired is timing a factor for PharmaCann?

Mr. Frank advised, he will let PharmaCann representative Jeremy Unruh speak regarding the timing.

Jeremy Unruh, representative of PharmaCann spoke on the market perspective end, he gave a brief description on the increase in medical providers who can supply the prescriptions for the medical cannabis. With the increase in demand they have also increased the supply where patients were only previously allowed a thirty day prescription, can now have a ninety day supply. With the demand being much higher, they will begin to see significant shortages if they are not able to begin expanding the facility to speed up with their production.

Councilman Lord inquired, in lieu of all the New York State recreational laws are you assuring my constituents that this is only for medical purposes?

Mr. Unruh stated no, we are a medical registered organization, and our products will be sold in our medical dispensaries, and of the array of eight medical dispensaries that we are authorized to have for the adult use law, three of those medical dispensaries will also be able to sell to adult use consumers. We will also be able to sell our products to other medical dispensaries as well as

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adult use dispensaries. Mr. Unruh stated, there really is not a difference between medical products and adult use products, it's just who selects those products. Right now we are licensed as a registered medical use organization and will continue to be licensed as that, but some of our products will serve as adult use market at some point in time.

Councilman Lord inquired, are your competitors that don't have a moratorium hanging over their head going to gain profit faster?

Mr. Unruh stated for sure.

Councilman Cocchiara inquired, his understanding is that there is a need for growth. Is the growth coming from this expansion on the medical side or a combination of medical and recreational?

Mr. Unruh stated in the immediate term its coming from the medical piece, and I predict that will be the case for the next eighteen to twenty-four months before the very first non-incumbent operator comes in and gets their doors open.

Town Attorney Donovan inquired the original approval in the environmental study evaluated 331,000 +/- sq. ft., How much have you built now? Is this a standalone building or an addition to existing structure?

Mr. Unruh stated it is a renovation and slight addition to our existing structure, and an indoor grow behind our current greenhouses.

Karen Eltz representative of PharmaCann stated Mr. Unruh was correct. The 47,000 sq. ft. referred to in Will Frank's letter is for the renovating of the two existing greenhouses as well as the headhouse or the manufacturing site that we have there today. The new indoor grow will be on the backend.

Town Attorney Donovan stated, if I have this clear, If this was built you will be about 50% of what was studied and approved.

Ms. Eltz stated, yes that is correct.

Councilman Cocchiara inquired, what he is understanding from this hardship is that by not doing the expansion, you are not able to recognize additional revenue and the revenue could come in at a faster rate than if you were to wait another six months. Is that a true statement?

Mr. Unruh stated, the reason we get up in the morning and open our doors, if you look at it that way, is to generate revenue. There's also the reason to serve patients, to make sure that their day is better today than it was yesterday. At the end of the day our motivation here is to make sure we can keep up with the medical demand. Will we make more money selling to more patients for medical cannabis - yes. Make no mistake we are a licensed business by the State of New York to produce medical cannabis for medical cannabis patients which is part of our mandate. My answer is yes, but I would phrase it in a different way.

Mr. Frank stated he was unsure of the Governors exact date of approval for the adult cannabis, but wanted to point out this application was prior to that approval or very close to it. This need came from pharmacist for medical needs.

Mr. Unruh stated the current facility went up early July of 2016, it has been five years and this building needs a renovation. The technology has changed and they need to make renovations to make it a more efficient State of the art facility like it was six years ago.

Councilman Lord inquired about the license PharmaCann currently has from the State of New York to grow medical cannabis, is there an additional license to grow cannabis for recreational use?

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Mr. Unruh stated yes. He gave a brief description on the State's process and how the State appoints a board to review the applications along with a fee and any other conditions they require for such license. He also advised the board has the ability to deny any application.

James Nester of Lagrange, N.Y. is with Smart Sheet Metal Workers Union Local 38, who represents over 700 union workers that live in the Hudson Valley and rely on projects like this to support their families. He and his workers fully support this project.

Resident Chris Miele, stated she supports this project and believes the impacts have already been dealt with, and that the other Town's such as Montgomery were aware of what was happening here. She believes this is a minor impact compare to what is going on elsewhere in the area. She stated the jobs that PharmaCann offers are not minimum wage or part time. She fully supports that, and also supports the union work that will be given. She is in favor of this project.

A resident of Newburgh who represents the Painter and Tapers Union stated he is in favor of this project.

Kaitlyn Perez, representative of Orange County Partnership stated they are in full support of this project and the economic development it will bring to the Town of Hamptonburgh.

Resident of Newburgh from Local A25 Union, stated he supports the hardship waiver for this project.

Morse Pitts, 301 Neelytown Road resident, he is a close neighbor of PharmaCann and stated that they are a good example of an appropriately placed business that does not have a negative impact on the community. He is definitely in favor of letting this project go ahead.

Councilman Lord made a statement thanking all the representatives of PharmaCann and their Council for a well-educated public hearing. I have learned a lot, and I think all who listened in did as well.

Councilman Cocchiara, concurred with Councilman Lord's comments.

William Frank also thanked the board and the public for their comments. We appreciate the board putting this together tonight and hope they can close the public hearing tonight in order to begin deliberations.

Town Attorney advised the Town Board of their options going forward.

Councilman Lord and Councilman Cocchiara, were not ready for a decision at this time. They would like more time to review everything before rendering a decision.

MOTION offered by Supervisor Jankowski, seconded by Councilman Cocchiara to close the public hearing at 7:48 p.m. Motion carried with all voting in favor.

Christine Durante, Town Clerk