

**NEW BUFFALO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING/PUBLIC HEARING
January 9, 2024 6:30 PM
17425 RED ARROW HIGHWAY,
NEW BUFFALO, MI 49117
Minutes**

The meeting was called to order at 6:30 p.m.

1. ROLL CALL & PLEDGE OF ALLEGIANCE

Present: Arvanitis, Lauricella, Nesci, Wagner

Absent: Armstrong, Iazzetto, Schmidt

Pledge of Allegiance

2. PUBLIC COMMENT – GENERAL NON-HEARING RELATED – None

3. PUBLIC HEARINGS

PUBLIC HEARING – # 2024-01-01

Arvanitis moved, Nesci seconded, to open the public hearing on the proposed SLU at 19839 US 12, New Buffalo, MI at 6:32 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Native Leaf, LLC regarding its Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 19839 US 12, New Buffalo, MI 49117 parcel 11-13-0019-0015-00-1.

COMMENTS BY APPLICANT

Architect Arthur Bates spoke on behalf of applicant. This provisioning center will be a single-story building with a basement. All customer use areas will be on the first floor and the basement will be used for storage and mechanical. He stated that 5-6 employees will be utilized during the largest shift. Operating hours will be 9:00 a.m. to 9:00 p.m. and there will be no deliveries between 8:00 p.m. and 7:00 a.m. No consumption will take place on the premises. Applicant is working with EGLE on extending the sewer to the building. Gas, water, and utilities are already in place. Applicant is seeking a permit from the State for the driveway due to limitations as a result of setbacks.

COMMENTS BY PLANNING COMMISSION

The commission inquired about materials utilized for stormwater storage and Architect Bates confirmed that asphalt will be used since pervious brick can be problematic in sandy soil. The commission also inquired about the number of parking spaces and entrances/exits since overflow traffic is a concern. Bates confirmed that there will be 13 parking spaces and that the State will only allow one entrance/exit. Finally, the commission noted that there is an abandoned house within 150 feet of the proposed provisioning center. Bates reported that the house will be demolished and the property will become a provisioning center.

COMMENTS BY ZONING ADMINISTRATOR

Zoning Administrator Estelle Brinkman stated that the sewer extension to serve this site from the existing manhole to the new manhole must be an 8" sewer meeting 10 State of Michigan Standards and permitted through EGLE and dedicated to the Township. Also, the building service should be

connected downstream of the manhole. Plans, specification and a permit application will need to be submitted to the Township and GRSD Sewer Authority for review and approval after any special use permit and site plans have been approved. The review of the construction documents and permit application will outline the specific requirements for construction, observation, testing, record documentation, acceptance, etc.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – None

Arvanitis moved, Nesci seconded, to close the public hearing on the proposed SLU at 19839 US 12, New Buffalo, MI at 6:40 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2024-01-02

Arvanitis moved, Nesci seconded, to open the public hearing on the proposed SLU at 19563 US 12, New Buffalo, MI at 6:40 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Bobeck Real Estate Company (Highway Horticulture) regarding its Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 19563 US 12, New Buffalo, MI 49117 parcel 11-13-0019-0014-00-5.

COMMENTS BY APPLICANT

Applicant appeared personally and stated that he is an experienced operator with multiple locations in the State of Michigan. He further stated that he is working on permits with MDOT and EGLE.

COMMENTS BY ZONING ADMINISTRATOR

Zoning Administrator Estelle Brinkman reported that EGLE permitting will be required due to the presence of wetland in the areas of the property to be disturbed by construction. A variance will be required for parking within the front yard in an Industrial Zone and parking in excess of 130%. A variance will also be required for the proposed parking landscaping, specifically the tree island at the end of each row and additional island as required for excess parking.

COMMENTS BY PLANNING COMMISSION

The commission inquired if the items noted by Zoning Administrator Brinkman were outstanding, which was confirmed by Brinkman. The commission also inquired about mitigating damage to the wetlands on the property. Applicant stated that he is in constant contact with EGLE on this issue.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – Ryan Metz inquired where he can obtain more details on the project and he was directed to contact Zoning Administrator Brinkman.

Arvanitis moved, Nesci seconded, to close the public hearing on the proposed SLU at 19563 US 12, New Buffalo, MI at 6:45 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2024-01-03

Wagner moved, Arvanitis seconded, to open the public hearing on the proposed SLU at 13964 Grand Ave, New Buffalo, MI at 6:45 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Mitten State Engineering LLC (JMS 75 LLC) regarding its Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 13964 Grand Ave, New Buffalo, MI 49117 parcel 11-13-3100-0023-01-4.

COMMENTS BY APPLICANT

The Engineer for the project appeared on behalf of applicant. He stated that applicant will utilize the existing building, but parking will be moved due to existing encroachment issues. One ADA spot will be created by the building and the other 12 spots will be moved across the street. Applicant has a written agreement with the landowner across the street regarding parking. There will be one, one-way driveway that utilizes the easement behind the building. The existing French drain will be maintained for stormwater and the pervious area will be decreased. Underwater basins will be across the street.

COMMENTS BY PLANNING COMMISSION

The commission inquired if the public will be able to use the parking lot behind the building, which was confirmed. The commission also inquired about why parking would be created across the street from the building. The Engineer stated this is due to constraints as a result of the parcel's "c" shape.

COMMENTS BY ZONING ADMINISTRATOR

Zoning Administrator Estelle Brinkman stated that the agreement for off-site parking must be recorded with the Berrien County Register of Deeds office.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – None

Arvanitis moved, Nesci seconded, to close the public hearing on the proposed SLU at 19563 US 12, New Buffalo, MI at 6:52 p.m.

Verbal vote: CARRIED

4. BUSINESS SECTION

a. Public Hearing Consideration

It should be noted that all of today's public hearings have been individually reviewed by each Commissioner by the standards outlined in the New Buffalo Township Zoning Ordinance Article 6.3 Site Plan Standards for Approval and 8.2 Standards for Special Land Use Approval.

The Special Land Use applications have been reviewed under the following standards from the New Buffalo Township Zoning Ordinance Article 6.3 Site Plan Standards for Approval:

A. Adequacy of Information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.

B. Site Design Characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining land uses, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by these regulations. Where boundary concerns are present, the Zoning Administrator may require a staked survey.

C. Appearance. Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

D. Compliance with district requirements. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Dimensional Requirements, Section 2.2, unless otherwise provided in these regulations.

E. Emergency vehicle access. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

F. Ingress and egress. Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.

G. Pedestrian circulation. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.

H. Vehicular and pedestrian circulation layout. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing streets or pedestrian ways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. In order to ensure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.

I. Drainage. Grading and drainage shall comply with the Berrien County Drain Commission and all other applicable state and federal requirements.

J. Soil erosion and sedimentation. The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with Berrien County Erosion Control Standards. Article 6 Site Plan Review New Buffalo Township Zoning Ordinance 126

K. Exterior lighting. Exterior lighting shall be designed so that it is deflected away from adjoining properties, visual glare is minimized, and so that it does not impede vision of drivers along adjacent streets, as specified in this ordinance.

L. Public services. Adequate services and utilities, including water, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.

M. Screening. Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be screened by walls or landscaping of adequate height as specified in this ordinance.

N. Danger from hazards. The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township. Sites that include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent

spills and discharges of polluting materials to the surface of the ground, groundwater, and public sewer system.

O. Health and safety concerns. Any use in any zoning district shall comply with applicable Federal, state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and toxic and hazardous materials.

P. Sequence of development. All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient, and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

8.2 STANDARDS FOR SPECIAL LAND USE APPROVAL:

Each application shall be reviewed on an individual basis for conformity and compliance with the standards of this Ordinance, including those for site plan review and a finding that the special land use will meet all of the specific standards below:

A. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.

B. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, and including, but not limited to streets, police and fire protection, drainage structures and refuse disposal. Adequate water and sanitation facilities must be available.

C. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.

D. The use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.

E. The site plan proposed for such use demonstrates compliance with the applicable specific design standards for the special land use as contained in Article 5.

F. The use is consistent with the New Buffalo Township Master Plan.

Special Land Use Case Number 2024-01-01; Native Leaf, LLC

Findings of Fact:

Yes The New Buffalo Township Zoning Administrator has received copy of all applicable applications required to obtain operating licenses and approval from LARA/CRA along with copy of any pre-approval letters.

Yes The New Buffalo Township Engineering firm Wightman & Associates has conducted a site plan review in compliance with the above stated standards and submitted its findings to the Township.

Yes The Zoning Administrator has reviewed the Special Land Use application; Wightman & Associates site plan review findings; and applicant provided corrections/modifications as request, and found the application to be in compliance with New Buffalo Township Ordinances.

Yes The Planning Commission has reviewed the application and site plan for compliance with the standards of the New Buffalo Township Zoning Ordinance detailed in Articles 6.3 and 8.2.

Arvanitis moved, Wagner seconded to recommend approval for Special Land Use for Case Number 2024-01-01 submitted by Native Leaf, LLC to operate an Adult-Use Marihuana Retail Establishment at 19839 US 12, New Buffalo, MI being 11-13-0019-0015-00-1 with the following conditions: the sewer extension to serve this site from the existing manhole to the new manhole must be an 8" sewer meeting 10 State of Michigan Standards and permitted through EGLE and dedicated to the Township; building service should be connected downstream of the manhole; plans, specification and a permit application will need to be submitted to the Township and GRSD Sewer Authority for review and approval after any special use permit and site plans have been approved; and the review of the construction documents and permit application will outline the specific requirements for construction, observation, testing, record documentation, acceptance, etc.

Roll Call Vote:

Armstrong	<u>Absent</u>
Arvanitis	<u>Yes</u>
Iazzetto	<u>Absent</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Absent</u>
Wagner	<u>Yes</u>

**Special Land Use Case Number 2024-01-02; Bobeck Real Estate Company
(Highway Horticulture)**

Findings of Fact:

Yes The New Buffalo Township Zoning Administrator has received copy of all applicable applications required to obtain operating licenses and approval from LARA/CRA along with copy of any pre-approval letters.

Yes The New Buffalo Township Engineering firm Wightman & Associates has conducted a site plan review in compliance with the above stated standards and submitted its findings to the Township.

Yes The Zoning Administrator has reviewed the Special Land Use application; Wightman & Associates site plan review findings; and applicant provided corrections/modifications as request, and found the application to be in compliance with New Buffalo Township Ordinances.

Yes The Planning Commission has reviewed the application and site plan for compliance with the standards of the New Buffalo Township Zoning Ordinance detailed in Articles 6.3 and 8.2.

Nesci moved, Arvanitis seconded to recommend approval for Special Land Use for Case Number 2024-01-02 submitted by Bobeck Real Estate Company (Highway Horticulture) to operate an Adult-Use Marihuana Retail Establishment at 19563 US 12, New Buffalo, MI being 11-13-0019-0014-00-5 with the

following conditions: an EGLE permit is obtained due to the presence of wetland in the areas of the property to be disturbed by construction; variances for parking are obtained for parking within the front yard in an Industrial Zone and parking in excess of 130%; and a variance is obtained for parking landscaping, specifically the tree island at the end of each row and additional island as required for excess parking.

Roll Call Vote:

Armstrong	<u>Absent</u>
Arvanitis	<u>Yes</u>
Iazzetto	<u>Absent</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Absent</u>
Wagner	<u>Yes</u>

Special Land Use Case Number 2024-01-03; Mitten State Engineering LLC (JMS 75 LLC)

Findings of Fact:

Yes The New Buffalo Township Zoning Administrator has received copy of all applicable applications required to obtain operating licenses and approval from LARA/CRA along with copy of any pre-approval letters.

Yes The New Buffalo Township Engineering firm Wightman & Associates has conducted a site plan review in compliance with the above stated standards and submitted its findings to the Township.

Yes The Zoning Administrator has reviewed the Special Land Use application; Wightman & Associates site plan review findings; and applicant provided corrections/modifications as request, and found the application to be in compliance with New Buffalo Township Ordinances.

Yes The Planning Commission has reviewed the application and site plan for compliance with the standards of the New Buffalo Township Zoning Ordinance detailed in Articles 6.3 and 8.2.

Arvanitis moved, Wagner seconded, to recommend approval for Special Land Use for Case Number 2024-01-03 submitted by Mitten State Engineering LLC (JMS 75 LLC) to operate an Adult-Use Marihuana Retail Establishment at 13964 Grand Ave, New Buffalo, MI being 11-13-3100-0023-01-4 with the following conditions: the agreement for off-site parking must be recorded with the Berrien County Register of Deeds office.

Roll Call Vote:

Armstrong	<u>Absent</u>
Arvanitis	<u>Yes</u>
Iazzetto	<u>Absent</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Absent</u>
Wagner	<u>Yes</u>

b. Excused Absences (if any)

Arvanitis moved, Nesci seconded, to approve absences for Armstrong, Iazzetto, and Schmidt at the present meeting.

Motion CARRIED

c. Approve Minutes

Nesci moved, Wagner seconded, to approve the minutes from the December 5, 2023 Regular PC meeting.

Motion CARRIED

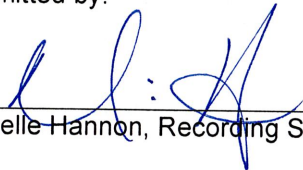
5. CORRESPONDENCE – None

6. ADJOURNMENT

Arvanitis moved, Wagner seconded, to adjourn at 7:00 p.m.

Motion CARRIED

Submitted by:



Michelle Hannon, Recording Secretary