

**NEW BUFFALO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING/PUBLIC HEARING
September 10, 2024 6:30 PM
17425 RED ARROW HIGHWAY,
NEW BUFFALO, MI 49117
Minutes**

The meeting was called to order by Chairperson Lauricella at 6:31 p.m.

1. ROLL CALL & PLEDGE OF ALLEGIANCE

Present: Armstrong, Arvanitis, Iazzetto, Lauricella, Nesci, Schmidt, Wagner

Absent:

Pledge of Allegiance

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

3. PUBLIC HEARINGS

PUBLIC HEARING – # 2024-09-01

Arvanitis moved, Wagner supported, opening the public hearing on the proposed SLU at 10788 Kruger Rd, New Buffalo, MI at 6:33 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Apple Blossom Resort, LLC regarding Petition for Special Land Use to operate an Outdoor Commercial Event Space at 10788 Kruger Rd, New Buffalo, MI 49117 parcel 11-13-0002-0006-13-0.

COMMENTS BY APPLICANT – Applicant Jorge Alvarez appeared and stated that he is the owner of the subject property. Apple Blossom Resort is comprised of four commercial parcels and he would like to add an event space.

COMMENTS BY PLANNING COMMISSION – The Commission asked if Apple Blossom Resort is a short-term rental (“STR”). Mr. Alvarez confirmed that it is an STR that has been in operation since 2015. While there are multiple buildings on the property, it is rented as one property rather than multiple rentals. The Commission inquired about the types of events he is planning for the event space. Mr. Alvarez stated that he hopes to host weddings and corporate events at the resort. A tent and portable bathrooms are currently utilized for events. The Commission asked how many people attend events at the resort. Mr. Alvarez reported that Apple Blossom can accommodate 50-150 guests for events. He also confirmed that events will have music, but the property only has two neighbors – one private residence and Oselka Construction. The Commission also inquired about parking. Mr. Alvarez confirmed that there is ample parking onsite for events with about 40 parking spots in front and about 50 parking spots in back. The Commission asked about the 9 bathrooms in the main house at the resort. Mr. Alvarez said that Apple Blossom has seven bedrooms that are all suites. He confirmed that the property has water and septic, but his septic tank is large enough to accommodate the nine bathrooms. When asked if it would accommodate

the development of an event space, Mr. Alvarez stated that the event space will be on a separate parcel and will require a separate septic system.

COMMENTS BY ZONING ADMINISTRATOR – Zoning Administrator Estelle Brinkman stated that Apple Blossom Resort is a permitted use within the C1 district. The addition of an outdoor commercial event space would be a compatible use with the current business.

PUBLIC HEARING WRITTEN CORRESPONDENCE – Correspondence was received from David Wolfe of Oselka Construction stating that the company has no objection to this application.

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – Susan Henshaw of 10832 Kruger Road wanted to know the maximum attendance allowed for a commercial event and stated that she is concerned about fireworks on the property. Mr. Alvarez stated that fireworks are not allowed at the resort.

Arvanitis moved, Nesci supported, closing the public hearing on the proposed SLU at 10788 Kruger Rd, New Buffalo, MI at 6:43 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2024-09-02

Iazzetto moved, Armstrong supported, opening the public hearing on the proposed SLU at 19554 M239, New Buffalo, MI at 6:45 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of NB Retail Inc. regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19554 M239, New Buffalo, MI 49117 parcel 11-13-0023-0008-03-8.

COMMENTS BY APPLICANT – Architect Cody Newman appeared on behalf of applicant. The proposed provisioning center will occupy the front portion of an existing 16,800 square foot building and the existing business will move operations to the back of the building. The parking lot will be improved to allow bike parking and curbs. New siding will also be installed on the exterior of the front of the building. Only prepackaged products will be sold. Carbon filters will be installed but no growing or consumption will occur onsite. All outdoor lighting will down-facing and the only waste will be from employee lunches. The building will also have 24/7-365 security with the exception of the bathrooms.

COMMENTS BY PLANNING COMMISSION – The Commission asked if a landscaping plan was submitted. Mr. Newman stated that the property is wooded and applicant wishes to keep as many trees as possible. He stated further that a small amount of landscaping would be installed in front of the building. The Commission stated that they would still like to see a landscaping plan. The Commission further inquired about the square footage that would be utilized by the applicant. Mr. Newman stated that the provisioning center will occupy approximately 4,500 square feet at the front of the existing building.

COMMENTS BY ZONING ADMINISTRATOR – None

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – None

Arvanitis moved, Schmidt supported, closing the public hearing on the proposed SLU at 19554 M239, New Buffalo, MI at 6:51 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2024-09-03

Iazzetto moved, Wagner supported, opening the public hearing on the proposed SLU at 10309 US 12, New Buffalo, MI at 6:51 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of New Buffalo Investments, LLC regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 10309 US 12, New Buffalo, MI 49117 split from parcel 11-13-0001-0016-00-5.

COMMENTS BY APPLICANT – Architect Arthur Bates appeared on behalf of applicant. This provisioning center will be a two-story, wood frame building with a flat roof and plaster on the outside of the building.

COMMENTS BY PLANNING COMMISSION – The Commission asked if elevation and drainage plans were submitted. Mr. Bates stated that they were included with the original submission but not with the resubmittal. The Commission inquired about the septic system and if a parking variance would be required. Mr. Bates said that a variance for the planned 65 parking spots has already been applied for and that this property will be part of the sewer extension at Exit 4. Mr. Bates stated further that retention is planned underneath the parking lot that will drain into the ditch, but the Berrien County Drain Commission is still reviewing the plans.

COMMENTS BY ZONING ADMINISTRATOR – Zoning Administrator Estelle Brinkman stated that a parking variance is required.

PUBLIC HEARING WRITTEN CORRESPONDENCE – Correspondence was received from Daniel Hatch in opposition to this application.

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH)

Daniel Hatch spoke in opposition to the application and also reviewed his correspondence to the Commission.

Schmidt moved, Iazzetto supported, closing the public hearing on the proposed SLU at 10309 US 12, New Buffalo, MI at 7:08 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2024-09-04

Arvanitis moved, Iazzetto supported, opening the public hearing on the proposed SLU at 13899 Grand Ave, New Buffalo, MI at 7:09 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Upper Shelf Farms LLC regarding Petition for Special Land Use to operate an Adult-Use Marijuana Retail Establishment at 13899 Grand Ave, New Buffalo, MI 49117 parcel 11-13-0019-0019-01-5.

COMMENTS BY APPLICANT – Owner, Nielson Davis, appeared along with Engineer Myron Barry and Attorney Sam Kilberg. Applicant plans to use the existing 6,000 square foot building and, while only part of the building is within the marijuana overlay, the entirety of the retail space within the building will be in the overlay. The portions outside of the overlay will be used as a warehouse. A landscaping plan was submitted and the existing trees will remain. Forty parking spots are planned, allowing for 22 spots for customers and the remainder of parking will be for employees. There will also be two parking spots reserved for handicapped customers and additional parking will be reserved for curbside pickup. The exterior of the building will get a coat of painted black, but there will no major changes to the exterior otherwise.

COMMENTS BY PLANNING COMMISSION – After reviewing the lighting plan, the Commission noted that all lights must be down-facing and shielded, which may make it necessary to add additional lighting to what is presented in the lighting plan. Mr. Barry stated that lighting plan would be adjusted. The Commission asked about the parking area. Mr. Davis stated the parking plans shows future plans because, while there is no processing now, Upper Shelf Farms would like to add vertical processing in the future. Zoning Administrator Estelle Brinkman noted that a moratorium is currently in place so processing in the future is not guaranteed. The Commission inquired about the building being over the lot line and the implications considering the marijuana overlay. Applicant stated that only the front of the building that is within the overlay will be utilized for the provisioning center. The Commission asked if that could be enforced and Zoning Administrator Estelle Brinkman reported that the details in the Special Land Use would be specific. She stated further that this is a preexisting, nonconforming structure that is not encroaching. Issues will only arise if applicant wants to increase the size of the building. Mr. Kilberg stated this application meets the standards for Special Land Use, that the building will be harmonious with the surrounding area, the appearance of the building will be improved, and that it will not be a detriment to neighbors.

COMMENTS BY ZONING ADMINISTRATOR – None

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – None

Iazzetto moved, Wagner supported, closing the public hearing on the proposed SLU at 13899 Grand Ave, New Buffalo, MI at 7:25 p.m.

Verbal vote: CARRIED

4. BUSINESS SECTION

a. **Public Hearing Consideration for Special Land Use**

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 2024-09-01; Apple Blossom Resort, LLC

Findings of Fact:

- Yes The Zoning Administrator has reviewed the Special Land Use application 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, Schmidt supported, recommending approval as submitted for Special Land Use for Case Number 2024-09-01 submitted by Apple Blossom Resort, LLC to operate an Outdoor Commercial Event Space at 10788 Kruger Rd, New Buffalo, MI being 11-13-0002-0006-13-0.

Roll Call Vote:

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

Special Land Use Case Number 2024-09-02; NB Retail Inc.

- 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.

lazzetto moved, Wagner supported, recommending approval as submitted for Special Land Use for Case Number 2024-09-02 submitted by NB Retail Inc. to operate an Adult-Use Marihuana Retail Establishment at 19554 M239, New Buffalo, MI being 11-13-0023-0008-03-8.

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Yes</u>
lazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

Special Land Use Case Number 2024-09-03; New Buffalo Investments, LLC

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, Nesci supported, tabling this decision pending litigation outcome.

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Yes</u>
lazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

Special Land Use Case Number 2024-09-04; Upper Shelf Farms LLC

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.

lazzetto moved, Wagner supported, recommending approval for Special Land Use for Case Number 2024-09-04 submitted by Upper Shelf Farms LLC to operate an Adult-Use Marihuana Retail Establishment at 13899 Grand Ave, New Buffalo, MI 49117 parcel 11-13-0019-0019-01-5 with the following conditions: approval of rendering for aesthetics, landscaping plan, lighting plan, and elevation plan.

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Yes</u>
lazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

b. Excused Absences (if any)

No absences to excuse for the present meeting.

c. Approve Minutes

Schmidt moved, Wagner supported, approving the minutes from the August 13, 2024 meeting.

Motion CARRIED

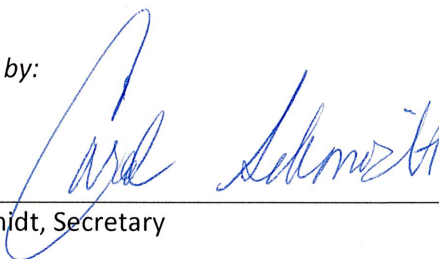
5. CORRESPONDENCE – None

6. ADJOURNMENT

Arvanitis moved, lazzetto supported, adjourning at 7:35 p.m.

Motion CARRIED

Submitted by:



Carol Schmidt, Secretary

Drafted by:



Michelle Hanon, Recording Secretary