

**NEW BUFFALO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING/PUBLIC HEARING
October 3, 2023, 6:30 PM
17425 RED ARROW HIGHWAY,
NEW BUFFALO, MI 49117
Minutes**

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

1. ROLL CALL & PLEDGE OF ALLEGIANCE

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

Absent: Levine

Pledge of Allegiance

2. PUBLIC COMMENT – None

3. PUBLIC HEARINGS

PUBLIC HEARING – # 2023-10-01

Arvanitis moved, Iazzetto seconded to open the public hearing on the proposed Petition for Zoning Amendment at 19425 M239, New Buffalo, MI at 6:34 p.m.

Verbal vote: CARRIED

The Planning Commission will hear comments on the request of Larry Hanna regarding Petition for Zoning Amendment to rezone a portion of the property located at 19425 M239, New Buffalo, MI 49117 parcel 11-13-0023-0001-11-4 from Agricultural Residential (AGR) to General Commercial (C-1).

COMMENTS BY APPLICANT

Larry Hanna and Architect Bill McCollum appeared in support of this Petition. Mr. Hanna stated that rezoning is necessary because the subject property is currently somewhat unbuildable currently due to easements for power lines. The Commission noted that the property abuts an AG-R parcel. Mr. Hanna responded that a trust owns the adjacent, 31-acre AG-R property, which will be split and rezoned. He stated further that he is under contract for a portion of the adjacent parcel.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH)

Beneficiaries of the trust which owns the adjacent AG-R property requested clarity on the project. Applicant clarified where building will take place and allowed the beneficiaries to have a closer look at the demonstratives presented to the Commission.

Arvanitis moved, Iazzetto seconded to close the public hearing on the proposed Petition for Zoning Amendment at 19425 M239, New Buffalo, MI at 6:44 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-10-02

Schmidt moved, Nesci seconded to open the public hearing on the proposed SLU at 19818 M239, New Buffalo, MI at 6:44 p.m.

Verbal vote: CARRIED

The Planning Commission will hear comments on the request of John McLeod regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19818 M239, New Buffalo, MI 49117 parcel 11-13-0019-0014-12-1.

COMMENTS BY ZONING ADMINISTRATOR

The Zoning Administrator confirmed that the Petition meets the criteria for special land use.

COMMENTS BY APPLICANT

Mr. McLeod appeared and offered to answer any questions.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – None

Arvanitis moves, Nesci seconds to close the public hearing on the proposed SLU at 19818 M239, New Buffalo, MI at 6:47 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – TABLED ITEM FROM September 5, 2023 - Special Land Use Case Number 2023-08-03

The Planning Commission will hear comments on the request of Brandon Dabish regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19325 US 12, New Buffalo, MI 49117 parcel 11-13-0019-0001-00-1.

COMMENTS BY ZONING ADMINISTRATOR

Property Line Adjustment has been filed and processed through the New Buffalo Township Assessor's Office. The Southern property line and portions of the Easterly property line have been combined with the adjacent properties creating the necessary buffer to the R2 zoning district.

COMMENTS BY APPLICANT

Mr. Dabish stated that the trailers and greenhouse will be removed to allow space for a 5,000 square foot state-of-the-art retail facility to be built. The existing house on the property will be utilized by the contractor during construction, then converted to office space. The Commission confirmed with Mr. Dabish that no one will reside in the house after construction is complete. The Commission also confirmed his understanding that retail operating hours are 9:00 a.m. to 9:00 p.m., with a little flexibility for completing deliveries.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – None

Arvanitis moved, Armstrong seconded to close the public hearing on the proposed SLU at 19325 US 12, New Buffalo, MI, at 6:52 p.m.

Verbal vote: CARRIED

Schmidt moved, Armstrong seconded to open the Business Section at 6:52 p.m.

Verbal vote: CARRIED

4. BUSINESS SECTION

a. Public Hearing Consideration

New Buffalo Township Zoning Ordinance, Amendments and Severability, Article 11.1.2 Standards. In considering an amendment to the Official Zoning Map (rezoning), the Planning Commission shall consider the following factors in making its findings and recommendations:

(1)

Consistency with the Master Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.

(2)

Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features.

(3)

Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure, and potential influence on property values.

(4)

Capacity of available utilities and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Berrien County with unplanned capital improvement costs or other unplanned public expenses.

(5)

Capability of the road system to safely and efficiently accommodate the expected traffic generated by uses permitted in the zoning district(s).

(6)

The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.

(7)

The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.

(8)

The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(9)

Other factors deemed appropriate by the Planning Commission and the Township Board.

Petition for Zoning Amendment – Case # 2023-10-01 – 19425 M239

Arvanitis_moved, Nesci seconded to recommend approval as submitted of Petition for Zoning Amendment for Case Number 2023-10-01 submitted by Larry Hanna for property located at 19425 M239, New Buffalo, MI being 11-13-0023-0001-11-4.

Roll Call Vote:

Armstrong Yes
Arvanitis Yes
lazzetto Yes
Lauricella Yes
Levine Absent
Nesci Yes
Schmidt Yes

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 2023-10-02; John McLeod

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, Schmidt seconded to recommend approval as submitted of Special Land Use for Case Number 2023-10-01 submitted by John McLeod of New Buffalo to operate an Adult-Use Marihuana Retail Establishment at 19818 M239, New Buffalo, MI being 11-13-0019-0014-02-1.

Roll Call Vote:

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

Special Land Use Case Number 2023-08-03; Brandon Dabish

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, Schmidt seconded to recommend approval as submitted of Special Land Use for Case Number 2023-08-03 submitted by Brandon Dabish to operate an Adult-Use Marihuana Retail Establishment at 19325 US 12, New Buffalo, MI 49117 parcel 11-13-0019-0001-00-1.

Roll Call Vote:

Armstrong Yes
Arvanitis Yes
lazzetto Yes
Lauricella Yes
Levine Absent
Nesci Yes
Schmidt Yes

b. Excused Absences (if any)

Arvanitis moved, Nesci seconded to disapprove absence for Levine at the present meeting.

Motion CARRIED

c. Approve Minutes

lazzetto moved, Armstrong seconded to approve the minutes from the September 5, 2023, Regular PC meeting.

Motion CARRIED

5. **CORRESPONDENCE** – None

6. **ADJOURNMENT**

Arvanitis moved, Schmidt seconded to adjourn at 7:08 p.m.

Motion CARRIED

Submitted by:



Carol Schmidt, Planning Commission Secretary

Prepared by:
Michelle Hannon, Deputy Clerk