

**NEW BUFFALO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING/PUBLIC HEARING
November 7, 2023 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: Armstrong, Arvanitis, Iazzetto, Lauricella, Levine, Nesci

Absent: Schmidt

Pledge of Allegiance

2. PUBLIC COMMENT (GENERAL NON-HEARING RELATED) - None

3. PUBLIC HEARINGS

PUBLIC HEARING – # 2023-11-01

Arvanitis moved, Iazzetto seconded, to open the public hearing on the proposed SLU at 10227 US 12, New Buffalo, MI at 6:30 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of J Elias Management (Puff) regarding Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 10227 US 12, New Buffalo, MI 49117 parcel 11-13-0001-0005-00-3.

COMMENTS BY APPLICANT. Applicant appeared, along with his representative to discuss the application. Operating hours will be 9:00 a.m. to 9:00 p.m. and 24/7 security monitoring will be implemented. Applicant will also be seeking a variance to allow for more parking.

COMMENTS FROM PLANNING COMMISSION – The commission confirmed applicant's understanding that the property is not currently connected to municipal water or sewer. Applicant stated that he is currently working well and sewer consultants, as well as the Berrien County Health Department. He will connect the property to municipal water and sewer when it is available.

COMMENTS FROM ZONING ADMINISTRATOR – Estelle Brinkman reported that a variance will need to be obtained to increase parking.

PUBLIC HEARING WRITTEN CORRESPONDENCE - None

PUBLIC COMMENT - None

Arvanitis move, Nesci seconded, to close the public hearing on the proposed SLU at 10227 US 12, New Buffalo, MI at 6:34 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-11-02

Armstrong moved, Arvanitis seconded, to open the public hearing on the proposed SLU at 19189 US 12, New Buffalo, MI at 6:35 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Accelerate Green Inc. (High Society) regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19189 US 12, New Buffalo, MI 49117 parcel 11-13-2700-0028-01-9.

COMMENTS BY APPLICANT - A representative appeared on behalf of applicant to discuss the details of the project, which will include an HVAC system with negative pressure and carbon filters to control odor. The parcel currently has multiple driveways, which will be consolidated into one entrance to control traffic. The hotel will be demolished and the pool will be removed. The parcel currently has municipal water and a sanitary pump station.

COMMENTS BY PLANNING COMMISSION – The commission inquired about the cabins on the property. The cabins will be kept for use as short-term rentals or lodging for employees. Applicant will remove some of the current parking to allow room for accessory use.

COMMENTS BY ZONING ADMINISTRATOR – Estelle Brinkman stated that the foundation of the existing hotel will need to be removed and brought back to grade. Also, the cabins will need to be registered as rentals through the Township and pass fire code inspection every three years.

PUBLIC HEARING WRITTEN CORRESPONDENCE - None

PUBLIC COMMENT – Comments on this application were heard from the following:

- Renny Burian of Strawberry Street spoke in opposition;
- Jason Whelan, Owner of Mix & Mingle, inquired if this application would affect the application for the abutting property;
- Lisa Johnson of Evergreen Drive inquired how many marihuana establishments have been approved;
- Bart Goldberg of Shore Drive inquired if applications can be disapproved if they meet conditions; and
- Ben Ruschmeyer of White Pine inquired about the application process.

Nesci moved, Armstrong seconded, to close the public hearing on the proposed SLU at 19189 US 12, New Buffalo, MI at 6:50 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-11-03

Iazzetto moved, Arvanitis seconded, to open the public hearing on the proposed SLU at 19189 US 12, New Buffalo, MI at 6:51 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Mint New Buffalo LLC regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 18300 US 12, New Buffalo, MI 49117 parcel 11-13-0009-0004-00-2.

COMMENTS BY APPLICANT – Applicant appeared to answer questions. If approved, this will be his sixth location in the State of Michigan.

COMMENTS BY PLANNING COMMISSION – The commission clarified that applicant would only occupy two floors of the current building and that he will not be growing marihuana indoors. The commission also confirmed that the HVAC system will utilize filters to control odor.

COMMENTS BY ZONING ADMINISTRATOR - None

PUBLIC HEARING WRITTEN CORRESPONDENCE – Correspondence in opposition was received from Greg Posenelli of Shore Drive.

PUBLIC COMMENT – Comments on this application were heard from the following:

- John Humphrey, Mayor of New Buffalo, discussed the City of New Buffalo's zoning;
- Cynthia Marquor of Eagle Street spoke in opposition; and
- Mary Robinson of Ridge Road spoke in opposition.

Arvanitis move, Levine seconded, to close the public hearing on the proposed SLU at 18300 US 12, New Buffalo, MI, at 7:00 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-11-04

Arvanitis moved, Levine seconded, to open the public hearing on the proposed SLU at 19015 US 12, New Buffalo, MI at 7:00 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Weber Family Ventures, LLC regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19015 US 12, New Buffalo, MI 49117 parcel 11-13-0017-0010-01-1.

COMMENTS BY APPLICANT – Applicant appeared and stated that "scrubbers" will be used to control odor and that the air will be recirculated every ten minutes. Operating hours will be 9:00 a.m. to 9:00 p.m. 24/7 security monitoring will be utilized and a security guard will be onsite during operating hours. Applicant further stated that lighting will be installed in the parking lot.

COMMENTS BY PLANNING COMMISSION – The commission inquired about the partial demolition. Applicant stated that the existing business will be moved to the pole barn on the property and all renovations will be internal. Applicant stated further that a signed Waiver has been submitted from the residential property within 150 feet of the subject property.

COMMENTS BY ZONING ADMINISTRATOR – Estelle Brinkman reported that a Marihuana Establishment Waiver was obtained and has been recorded with the Berrien County Register of Deeds. In addition, parking is primarily on Parcel B and will require a written, recordable agreement for continued future use by Parcel A.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – Comments on this application were heard from the following:

- Lisa Johnson of Evergreen Drive inquired about shortening operating hours in the offseason; and
- Janice Richards of Dogwood Drive spoke in opposition.

Nesci moved, Iazzetto seconded, to close the public hearing on the proposed SLU at 19015 US 12, New Buffalo, MI, at 7:07 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-11-05

Iazzetto moved, Levine seconded, to open the public hearing on the proposed SLU at Harbor Country Dr. (Exit 1), New Buffalo, MI at 7:08 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Simple AG New Buffalo LLC (Supergood) regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at Harbor Country Dr. (vacant parcels), New Buffalo, MI 49117 parcel 11-13-0015-0007-10-3 and 11-13-0015-0007-11-1.

COMMENTS BY APPLICANT – The applicant appeared, along with his representative, and confirmed that they are in the process of obtaining the necessary permits from the Drain Commission and EGLE. They further stated that the property has municipal water.

COMMENTS BY PLANNING COMMISSION – The commission inquired if environmental studies were conducted. EGLE reviewed the site and the wetlands areas on the property will be left unimpacted. Discussion was held on how the parcels will be split.

COMMENTS BY ZONING ADMINISTRATOR – Estelle Brinkman stated that she will need to review EGLE's documentation and permit regarding the wetlands areas before building permits can be issued.

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – Lisa Johnson of Evergreen Drive inquired where the property is located.

Arvanitis moved, Nesci seconded, to close the public hearing on the proposed SLU at Harbor Country Dr. (Exit 1), New Buffalo, MI, at 7:13 p.m.

Verbal vote: CARRIED

PUBLIC HEARING – # 2023-11-06

Iazzetto moved, Levine seconded, to open the public hearing on the proposed SLU at 19215 US 12, New Buffalo, MI at 7:14 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Michigan Pure Green, LLC regarding Petition for Special Land Use to operate an Adult-Use Marihuana Retail Establishment at 19215 US 12, New Buffalo, MI 49117 parcel 11-13-0017-0013-00-2.

COMMENTS BY APPLICANT – Applicant appeared and stated that he has a good relationship with the six communities where he has existing marihuana retail establishments. Applicant stated further that carbon filters will be utilized in the HVAC system to control odor and a security system will be put in place.

COMMENTS BY PLANNING COMMISSION – The commission clarified that applicant will be utilizing the existing building.

COMMENTS BY ZONING ADMINISTRATOR – None

PUBLIC HEARING WRITTEN CORRESPONDENCE – None

PUBLIC COMMENT – None

Arvanitis moved, Nesci seconded, to close the public hearing on the proposed SLU at 19215 US 12, New Buffalo, MI, at 7:18 p.m.

Verbal vote: CARRIED

Arvanitis moved, Iazzetto seconded, to open the Business Section at 7:18 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 Commission 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 2023-11-01; J Elias Management Inc. (Puff)

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 as submitted for Special Land Use for Case Number 2023-11-01 submitted by J Elias Management Inc. (Puff) to operate an Adult-Use Marihuana Retail Establishment at 10227 US 12, New Buffalo, MI being 11-13-0001-0005-00-3.

Roll Call Vote:

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

**Special Land Use Case Number 2023-11-02; Accelerate Green, Inc
(High Society)**

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, Armstrong seconded, to recommend approval for Special Land Use for Case Number 2023-11-02 submitted by Accelerate Green, Inc. (High Society) to operate an Adult-Use Marihuana Retail Establishment at 19189 US 12, New Buffalo, MI being 11-13-2700-0028-01-9 with the following conditions: the lot is split so that there is no possibility of onsite consumption; the existing foundation is removed and returned to grade; and the rentals must follow the Township's permitting process.

Roll Call Vote:

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

Special Land Use Case Number 2023-11-03; Mint New Buffalo 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, Armstrong seconded, to recommend denial of Special Land Use for Case Number 2023-11-03 submitted by Mint New Buffalo LLC to operate an Adult-Use Marihuana Retail Establishment at 18300 US 12, New Buffalo, MI being 11-13-0009-0004-00-2 because the property abuts an R1 zoning district in the City of New Buffalo.

Roll Call Vote:

Armstrong Yes

Arvanitis Yes
Iazzetto Yes
Lauricella Yes
Levine Yes
Nesci Yes
Schmidt Absent

Special Land Use Case Number 2023-11-04; Weber Family Ventures, 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.

Armstrong moved, Nesci seconded, to recommend approval for Special Land Use for Case Number 2023-11-04 submitted by Weber Family Ventures, LLC to operate an Adult-Use Marihuana Retail Establishment at 19015 US 12, New Buffalo, MI being 11-13-0017-0010-01-9 with the following conditions: submission of a written, recordable agreement for parking on Parcel A.

Roll Call Vote:

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

**Special Land Use Case Number 2023-11-05; Simple AG New Buffalo LLC
(Supergood)**

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, Iazzetto seconded, to recommend approval for Special Land Use for Case Number 2023-11-05 submitted by Simple AG New Buffalo LLC (Supergood) to operate an Adult-Use Marijuana Retail Establishment at Harbor Country Drive (Exit 1), New Buffalo, MI being 11-13-0015-0007-11-1 and 11-13-0015-0007-11-1 with the following conditions: the necessary EGLE permit is obtained and any required environmental review is completed.

Roll Call Vote:

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

Special Land Use Case Number 2023-11-06; Michigan Pure Green

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.

Armstrong moved, Levine seconded, to recommend approval as submitted for Special Land Use for Case Number 2023-11-06 submitted by Michigan Pure Green to operate an Adult-Use Marihuana Retail Establishment at 19215.

Roll Call Vote:

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

b. Excused Absences (if any)

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

Motion CARRIED

c. Approve Minutes

Iazzetto moved, Armstrong seconded, to approve the minutes from the October 3, 2023 Regular PC meeting

Motion CARRIED

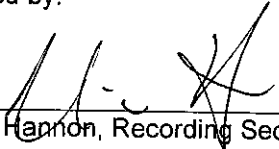
5. **CORRESPONDENCE** – None

6. **ADJOURNMENT**

Arvanitis moved, Nesci seconded, to adjourn at 7:52 p.m.

Motion CARRIED

Submitted by:



Michelle Harmon, Recording Secretary