

**MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
June 28, 2023 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on June 28, 2023 at 7:30 P.M. via virtual ZOOM videoconference.

Chairman Bagoff called the meeting to order at approximately 7:30 P.M. He announced that notification of the meeting was given to the Township Clerk and posted on the Township Bulletin Board, sent to the West Orange Chronicle and the Star Ledger, and posted on the Township's website calendar. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 P.M.

PLEDGE OF ALLEGIANCE

- *Chairman Bagoff* requested all persons stand for the Pledge of Allegiance.

ANNOUNCEMENTS

- The next Planning Board regular meeting will be held **Wednesday July 5, 2023** at **7:30 P.M.**

ROLL CALL

PRESENT: Dr. Robert Bagoff; Mr. William Wilkes; Mr. Ken Alper; Mayor Susan McCartney; Councilwoman Tammy Williams; Mr. Sal Jensen; Mr. Cardoza; Mr. Jerry Guarino; Mr. Peter Smeraldo; Mr. Klein

ABSENT: Mr. Christopher Morgan, Sr.

ALSO PRESENT: Diana P. McGovern, Esq., Planning Board Attorney;
Liz Leheny, Town Planner;
Mr. Zachary Jordan, Board Engineer;
Jamilet Baquerizo Vite, Acting Planning Board Secretary

SWEARING IN

- The Township Professionals *Ms. Liz Leheny, Township Planner and Mr. Zachary Jordan* were sworn in.

APPLICATIONS

- **PB-23-07 Pure Natural Vibes, LLC**

Block: 84.01; Lots: 60; Zone: B-2

470 Prospect Avenue

The applicant is proposing to locate a Licensed Cannabis Retailer in an existing three-story commercial building.

PRESENTATION

- Kenneth McPherson, attorney for the applicant, entered on the record and began his testimony by stating that the application is a conditional use with minor site plan approval.
- The property is located in the B2 zoning district where cannabis dispensary retailers are permitted as a conditional use. The applicant is proposing to locate a licensed cannabis retailer in an existing commercial building with approximately 2065 square feet of commercial space within suite 100.
- This is an existing commercial building with about 12 tenants prominently located on Prospect Ave. Physical changes proposed as part of the application include interior building renovations to the suite 100 commercial tenant space, approval of signage; no modifications are proposed to the site's layout besides possible restriping of the existing parking areas and driveway if deemed necessary by the board.
- The owner of the property has entered into a shared parking arrangement with the adjacent property owner to the north at 466 Prospect Avenue providing for the availability of 35 additional parking spaces for use by the commercial tenants of 470 Prospect Ave.
- Township council resolution 335-22 submitted as part of this application that represents a resolution of local support by the Township and recognizes that the property is properly located within the B2 zone and suitable for the operations of the class five cannabis retail dispensary.
- July 29th, 2022 the CRC issued a conditional award letter to the applicant for a class five cannabis retailer license. As mentioned, Cannabis retailers are a conditional use and the conditions are spelled out in the code at section 25-24.2A and there are seven conditions.
- Mr. Grygiel's review letter dated June 14th, 2023, which the applicant and its professionals are in receipt of, notes that applicant complies with the conditional use criteria. Also, for the record applicant is in receipt of the memorandum of the board's engineer Mr. John Hess dated June 26, 2023 and they will respond to those comments in that letter via testimony.
- Mr. McPherson described each of the conditions and stated that the applicant shall be required to have a local license. No licensed cannabis entity shall be within 100 feet from the property line of any property of any school building owned and operated by West Orange Board of Education, applicant complies that we submitted 200-foot property list with this application to that point. No licensed cannabis entity shall be housed in the vehicle or any movable or mobile structure; the applicant complies and in this case it's the existing suite 100 space within the existing building. No cannabis entity shall be allowed to operate as a home occupation. Any signage for licensed cannabis entities subject to planning board approval; applicant has submitted signage for approval of this application. Licensed cannabis entity shall meet the security measures set forth chapter 5-34 of the West Orange code; applicant complies, in this case, and has submitted a comprehensive security plan both as part of its application for local support, which was granted. The applicant has also submitted its security plan to the chief of police and the chief of police has confirmed that is satisfactory to his knowledge. Finally, cannabis consumption areas are prohibited and applicant will comply, since no consumption area is proposed.

- Mr. McPherson addressed Mr. Hess's letter dated June 26, 2023, specifically page three, where Mr. Hess is requesting a copy and/or delineation of existing or proposed deed restrictions or covenants. An e-mail was sent to Mr. Hess's office this evening with a copy to the planning board attorney providing a copy of the deed restrictions and easements for the property. There are none that affect this development. There are some utility easements and there is a private driveway easement that is very historic and is no longer in use that goes to the back of the Eagle Ridge Condo Association. There is a gate with no access to the road within Eagle Ridge but the applicant will submit that as a condition of approval.
- Another requirement from Mr. Hess is a list of required regulatory approvals or permits. This property is located on a County Road and the applicant applied for and was granted an exemption from site plan approval from the Essex County Planning Board on June 20, 2023. The applicant provided a copy of that to Mr. Hess this evening as well as to the board attorney and they will provide that as a condition of approval.
- Applicant is submitting that a local license itself is not a prerequisite to the development and signing off of the plans for this particular development, so just for the record they wanted to note that as well for the board's consideration.
- The applicants is also seeking a number of waivers, which are listed on page 3 under comments. Most of these waivers are related to a larger development or site plan, but in this case, this is mainly a material renovation of a relatively small amount of retail space for a micro dispensary, so we are seeking waivers for the record as reflected in Mr. Hess's report.
- The engineer, Mr. Chirag Thakkar, entered on the record and was sworn under oath; his credentials were accepted by the board.
- Mr. Thakkar started his testimony by giving a brief description of the site. The building is three stories and the footprints is about 8000 square feet. The access is off of a driveway that leads up to the rear of the site, which is where most of the parking spaces are located. The applicant is not proposing to expand the building; neither is any modification being done, no increase of utilities and no extra impervious being created. However, we are modifying the striping of the handicap spaces. The handicap spaces, as they exist, do not comply with the current code so as part of this application they are proposing to restripe them. Some of the handicap signage is also not compliant, but as part of this application the applicant will bring the plan to compliance.
- The engineer wanted to bring to the board's attention that in the CME letter there is a discrepancy between the application in the site plan, in terms of number of parking spaces. The site plan notes 38 parking spaces, the application notes 42 and the reason for the discrepancy is that the survey we had did not show the striping. As part of the condition of this approval they will make sure that the actual striping that exists is reflected on the plan. Forty-two parking spaces exist at the site and so, as a condition of approval, the striping would be added to the plan.
- Mr. Thakkar referred to the review memo from Mr. Hess and he started at item 4, which relates to the existing parking lot lighting. The comment stated that the applicant should address to the board that the parking lot lighting complies with the ordinance. There isn't any site plan modification being suggested or proposed.
- No parking changes and no expansion of the building. The only reason that we get triggered into the site plan is because we are making modifications to the striping for the handicap, which is non-compliant.
- The applicant is not the owner of the facility; they are only occupying a 2000 square feet suite within the building, so the applicant is requesting a waiver as to the compliance of the lighting in terms of the ordinance requirement.

BOARD QUESTIONS

- Chairman Bagoff asked if they would lose any parking spaces when re-stripping the handicap spaces. Mr. Thakkar said no they will not.
 - Mr. Klein asked if the applicant is not going to re-stripe the parking lot, will the landlord do it. Mr. McPherson said that the applicant had a discussion with the landlord and had agreed if the board deems it necessary that he'll agree to re-stripe the parking lot.
 - Mr. Klein asked if there is a lighting plan that shows what the foot candles are. Mr. Thakkar said that they do not have a lighting plan that shows the existing foot candles.
 - Mr. Klein asked how many spaces are allocated for the cannabis user. Mr. Thakkar said that the parking is not based on tenant, it's just a common parking lot for the building, but they will calculate and provide that information to the board. He also included that the West Orange ordinance states that the cannabis use does not require parking; it's subject to consideration of the board.
- Mr. Klein asked if there will be any traffic engineer testimony. Mr. McPherson said that traffic testimony is not a conditional use requirement and there was no request for any traffic testimony as part of the board planner or board engineer. Chairman Bagoff asked how many square feet will be open to the public. Mr. Thakkar said that 1178 square feet will be available.

PROFESSIONAL QUESTIONS

- Ms. Leheny asked for clarification which involves the two parking spaces that are sort of along the southern lot line and it looks like maybe only one was stripped. Mr. Thakkar said the parking spaces are stripe, there are two parking spaces close to the trash enclosure. They are not on the survey, but they do exist and he will add that to the plan as a condition of approval.
- Mr. Jordan wants the engineer's response in regards to item #15. Mr. Thakkar said is going to be addressed by the applicant as part of the agreement with 466 Prospect Ave. Mr. McPherson included that the additional parking spaces is 35 at 466 Prospect Avenue.
- Mr. Jordan asked if Mr. Thakkar could explain what is the square fenced area is on the South. Mr. Thakkar said that is the trash enclosure.

NO PUBLIC QUESTION

NO PUBLIC COMMENT PRESENTATION

- The architect, Mr. David Lawrence, entered on the record, and was sworn under oath and his credential were accepted by the board.
- Mr. Lawrence stated in his testimony that the project is located within the B2 zone in West Orange. It is in a building that is built up typically for office/commercial interior projects. The gross square footage of this space 2438 square feet in total, the space can have 30 occupants. There are more than the required amount of fire exits.
- The site is currently built out as a physical therapy/wellness business. The previous tenant has moved out and luckily the interior partitions can be removed because none of them are load bearing. The fire stair and the other demising walls are remaining. The one bathroom within the space and the adjacent chase wall is existing and is to remain.
- The design plan, as brought up earlier, the space that's open to the public is 1178 square feet as well as a 67 square foot entry vestibule for people to come in and present their IDs to the security guard or receptionist that's sitting at the check in window. The main floor primarily consists of an open space for people to wait in line.
- There are three points of sale and behind is a display case. There are also jewelry type display case boxes between the points of sale. On the back of house side there's an office for operational control, a safe basically for money storage, an IT closet, product storage (which will have a high security door), an employee break room and the aforementioned restroom.

- The reflected ceiling plan shows that the space currently has acoustical ceiling tiles and there will be acoustical ceiling tiles going into the new project with linear LED lighting that's integrated into the ceiling grid.
- There are no HVAC supplies or returns shown at the moment. He said that they will be located by the mechanical engineer and mechanical contractor during permit drawing phase as well as construction.
- The odor control requirement was not made clear to the applicant, and the way of thinking is that the products come in sealed plastic containers and there will never be any product out in the open or consumed on site. The product will be sold also in the containers in the same way that it's brought in, so theoretically there should not be any odor within this space. If it is a condition of the board that we will need to put in some kind of odor mitigation, that can be done by using charcoal filters either integrated into the HVAC system or as standalone filtration units.
- The space will be primarily luxury vinyl plank commercial grade as well as carpeting. Most of the walls will be consisting of general high quality Benjamin Moore paint and there will be a few accent walls with some trim and decorative things being applied to it.
- The security plan was not included during the presentation because the applicant did not want it to be released to the public, but as mentioned before, it was sent to the Sheriff's Office and he gave his approval.
- The only signage that's being applied for under this application is signage that will be applied to the exterior door that leads into the hallway that brings the user to the space.
- The architect will comply with the engineer's report, since the plans must be revised to include a written and graphic scale on each sheet.
- The building footprints between the site plan and the architectural plans has discrepancies. The reason for that was that the plans were not created in the same orientation and do not have North arrows on his drawings to show which way is north. He will add North arrow, so the orientation is clearer.

BOARD QUESTIONS

Mr. Smeraldo asked that since the building is existing and they're doing renovations, does anything fall under the retrofitting codes. Mr. Lawrence answer in the affirmative, but has not been totally worked through and he will work through those issues in the next phase of the project.

NO PROFESSIONAL QUESTIONS **NO PUBLIC QUESTIONS**

PRESENTATION

- The applicant and co-owner Nordia Gibbs entered on the record and she was sworn under oath.
- Ms. Gibbs stated that Pure Natural Vibes plans to operate in micro dispensary at 470 Prospect Avenue, suite 100 from the hours of 8:00 AM to 7:00 PM, seven days a week as permitted by current Township ordinance. If the permitted hours are changed in the ordinance their operation will comply.
- They can anticipate that majority of all orders to be placed online in advance and all sales transaction will occur inside the facility. At no point will any of the items be delivered outside their facility to any customers and no on-site consumption will be allowed.
- The standard processing time for an online order will take about 6 to 12 minutes on average from arrival time to departure. Their goal is to stagger the pickup times to avoid overflowing of parking. The parking agreement in place with the adjacent tenant at 66 Prospect Ave. is that since they operate after hours and they have events in the evenings, they have allowed the applicant to use their parking lot for overflow during their operating business hours in the event they need additional parking spaces for customers at that point in time.

- They can anticipate deliveries to be once or twice per week. The applicant confirms that the vehicles will be no larger than regular Amazon Sprint vans. The boxes will be the typical brown or white delivery boxes, so there is really no way to identify what the delivery looks like. Delivery time will be the normal business hours 9:00am to 5:00pm.
- The cannabis items are prepackaged by state law; they cannot open any of the packages because they are from the cultivator or the manufacturer straight through to the business. At no point they are opening any of the items that they receive, so we they don't anticipate any odor at all because the packages are sealed and cannot be open. As far as trash goes, they expect the bare minimum standard office trash.
- The trash removal there is already a contract with the property owner to have a private company remove the garbage, so it's not going to be on the Township to take the trash from the property.
- As a micro dispensary, the state requirements are that the applicant can have no more than 10 employees at a time, in which they anticipate about 5-6.
- There is a vestibule in the very beginning of the entrance door where there's a transaction window similar to a bank teller. The patron will enter through that door and will have to provide proof of ID which will be verified for authenticity and age and then they will be buzzed into the retail floor where they will be greeted by a budtender to assist them with their process.

BOARD QUESTIONS

- Council president Williams asked if there will be a second point of verification before the product is sold. Ms. Gibbs answered in the affirmative and said that there is a two-step process first before they get entry into the retail floor and a second verification process before any sales happens.
- Council president Williams asked if there are any sidewalks where the additional parking spaces are and how it will be managed if customers have to park off-site and traffic is coming through.. Ms. Gibbs said that it is an open parking lot and that there are sidewalks by the front by the door, but the entire lot is open and there are arrows for the cars to navigate the parking. He said that if there is an event that they do have additional cars and it's crowded, they would have someone outside to manage the cars.
- Mr. Alper asked where will the applicant anticipate the overflow of people before they can get inside. Ms. Gibbs said that there are two entrances to the building from the rear. They will have on-site security to help navigate the additional customers. However, being that they already operate online, 90% of their business will be solely pre-orders and they plan to stagger the pickup times so they don't have overcrowding.
- Mr. Klein asked if they have a certain amount weight wise that they can sell, since they are a micro dispensary. Ms. Gibbs said as per month they are only allowed a small window of inventory on hand, which is 1,000 pounds per month.
- Mr. Klein asked how many customers an hour can they accommodate with the three-point of sales. Ms. Gibbs said that they will be able to accommodate around 12 people per hour.
- Mr. Klein asked if they will have any carbon filters for odor control. Ms. Gibbs said that they will putting carbon filters in the HVAC system.

PROFESSIONAL QUESTIONS

- Mr. Jordan asked where will the security be located. Ms. Gibbs said that they will be at the entry vestibule and when finalizing the sale.
- Mr. Jordan asked if the applicant has considered installing an emergency generator. Ms. Gibbs replied no.

NO PUBLIC QUESTION **PUBLIC COMMENT***

PRESENTATION

- The co-owner Mr. Darnelle Gibbs entered on the record and he was sworn under oath.
- Mr. Gibbs started his testimony by stating that the security will be trained in crowd control to be able to manage any overflow of customers.
- He got introduced to CBD due to an injury during his Army service, which helped him relieve the pain.
- Mr. Gibbs is involved in an organization called New Jersey Cops for Kids organization since 2016. This organization is an effort to bridge the gap in unity and law enforcement, which started off with 24 children now they have approximately 150 children.
- Mr. Gibbs is also involved in a Food Drive Program that's been helping homeless and families in need. Especially during COVID-19, since his company was able to provide cleaning supplies.
- Mr. Gibbs will work closely in conjunction with the Township Police Department to ensure a safe operation in both the interior and exterior of the site.

BOARD QUESTIONS

- Mr. Klein asked how will the deliveries take place. Mr. Gibbs said that there is no pattern created and deliveries will be not having a preset time.
- Mr. Klein asked where will the delivery van will be parked. Mr. Gibbs said that in any of the regular parking spaces.
- Mr. Klein asked if they are allowed to have deliveries while customers are in the store. Mr. Gibbs said that it is allowed.
- Chairman Bagoff asked how do you verify that it is factually a valid driving driver's license or state issued ID. Mr. Gibbs said that they will be using a system that will swipe the magnetic stripe from back of the ID and it will read the information necessary that verifies if the ID is valid.
- Chairman Bagoff asked how many security guards will be available during business hours. Mr. Gibbs said that maximum of 2 security guards.
- Chairman Bagoff asked who will be checking identification, is the security guards or are they roving. Mr. Gibbs said that the bud tenders would be the individuals that be checking ID.

NO PROFESSIONAL QUESTIONS

NO PUBLIC QUESTION

PUBLIC COMMENT*

PRESENTATION

- The security expert Mr. Peter Milano entered on the record and was sworn under oath and his credentials were accepted by the board.
- Mr. Milano said that the security plan has been submitted to the West Orange Police Chief and the plans have been approved.
- Mr. Milano said that they will have a connection where the site must be under surveillance for 24 hours a day by the state. They will open up a VPN port static address and allow the state to eavesdrop using cameras.
- There will be video surveillance cameras; these cameras are NDAA and NDAA approved and are hack proof and they are specified by the federal government since they want to prevent any hacking on the cameras.
- The phone system will be recorded and will have caller's ID.
- The doors will open using a key card. It will also provide a profile of the usage of the doors and will record who comes in and who comes out using the employee credentials.

- They have converted the network video recorder to a very high level of recording. They are using 4-megapixel cameras that will record almost a year's worth of activities and it can go back to certain time and date. It will playback access of 15 seconds before and 15 seconds after.
- There will be fire alarms throughout the entire suite and burglar system which will be made by Honeywell. He said that it will be wireless and it will have a series of criminal protection and interior protection and they will be comprised of the door sensors. It will have infrared motion sensors and it will have shock detector.

BOARD QUESTIONS

- Chairman Bagoff asked how long do you save the information from the video cameras and the recordings. Mr. Milano said about a year and it is saved on site.
- Chairman Bagoff asked what happens if there's a blackout. Mr. Milano said that the burglar and fire alarms are also battery operated. But they also will have a UPS which is 2300 Volt and could last about 12 hours.
- Chairman Bagoff asked if there is a requirement to have off site back up. Mr. Milano is not sure of that requirement. But Council president Williams did specify that the ordinance requires that the facility maintains 30 days of video footage.
- Mr. Klein asked if they are placing a camera covering the second rear door. Mr. Milano said that they will be covering the perimeter.

PROFESSIONAL QUESTIONS

- Mr. Jordan asked if there will be cameras in the hallway. Mr. Milano said that they will have cameras in the interior including the hallway and throughout the whole footprint of the building. There will also be a wireless camera in the parking lot to pick up the rear entrance.
- Mr. Jordan asked how can the applicant ensure that two existing lighting in the rear and one existing lighting around the building is going to be enough lighting for security in the parking. Mr. Milano said that they'll be providing some additional LED lighting that going to be solar powered and mounted to the building.

NO PUBLIC QUESTION

PUBLIC COMMENT*

PRESENTATION

- The owner of the property Daniel Pedrosa entered on the record and he was sworn under oath.
- Mr. Pedrosa said that that the previous agreement expired before he bought the property. Mr. Pedrosa purchased the building on November of 2021 and recently was in touch with the owner of 466 Prospect Avenue and both signed a new agreement about a month ago where the tenants at 470 Prospect Avenue have access to their lot during the business hours from 8:00 to 7:00 during the week.
- Mr. Pedrosa can confirm that the parking lot is usually not a full capacity even though the building is 100% occupy.

NO BOARD QUESTIONS

NO PROFESSIONAL QUESTIONS

NO PUBLIC QUESTION

PUBLIC COMMENT*

CONDITIONS:

- The applicant will install odor mitigation system such as carbon filter
- The applicant shall confirm with the Township Engineer that the proposed space will meet retro fire code.
- In the event of power failure, they will close the facility and station security personnel.
- The applicant will provide additional lighting plan.
- The applicant will have cameras covering the entire exterior of the building and hallway.
- The applicant will make every effort to hire off-duty West Orange police officers to provide security.
- The applicant will comply with Item#14 from Mr. John Hess review memo regarding parking calculations and the other aspects.
- The applicant will provide survey to show all the stripped parking spaces as exist on site.

Motion: Chairman Bagoff

Second: Council president Williams

Alper:	Y	Morgan:	---
Bagoff:	Y	Smeraldo:	Y
Cardoza (Alt.2):	Y	Wilkes:	Y
Guarino:	Y	Williams:	Y
Jensen (Alt. 1):	----	Yes: ; Absent:	
Klein:	N		
Mayor Susan McCartney:	Y		

Meeting adjourned at 10:26PM

ADOPTED:

Jamilet Baquerizo Vite
Acting Planning Board Secretary