



**CITY OF WALLED LAKE
PLANNING COMMISSION
TUESDAY, JULY 9, 2019**

The Meeting was called to order at 7:30 p.m.

ROLL CALL: Hecht, Novak, O'Rourke, Owsinek, Palmer, Whitt, Wolfson

ABSENT:

OTHERS PRESENT: Recording Secretary Pesta, City Attorney Vanerian, Planning Consultant Ortega

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

PC 07-01-19 APPROVAL OF THE MAY 28, 2019 PLANNING COMMISSION MEETING MINUTES

Motion by Palmer, seconded by O'Rourke: **UNANIMOUSLY CARRIED:** To approve the May 28, 2019 Planning Commission minutes.

COMMUNICATION: None

AUDIENCE PARTICIPATION:

Jerry Anderson - 127 S Pontiac Trail – discussed one of the applicant's Nemer Haddad. He said Nemer has looked at a few possible projects within the city over the years and he is a good person and family guy. He gave his endorsement for Nemer and said when Mr. Haddad does his work he will do what it takes to make it right.

ATTORNEY'S REPORT:

City Attorney Vanerian explained the process for the site plan presentations for tonight's meeting. He explained there are three site plan proposals before the commission for medical marijuana provisioning center. He explained site plan approval is only one of several types of approvals a provisioning center needs to lawfully operate, in addition to receiving site plan approval for the facility, the applicant has to receive approval by the State of Michigan for both the pre-qualification of the applicant and also approval of the actual facility itself. Mr. Vanerian explained the applicants also need to receive approval for a local business license as well, which is a non-zoning requirement the city has under its local ordinances. Mr. Vanerian said site plan

approval in of itself does not mean the applicant can open up and start their business tomorrow. He said the city has adopted an ordinance that does allow for provisioning centers within the City of Walled Lake under the ordinance two provisioning centers are allowed in the C-2 zoning district and the applicant's tonight are here for the one provisioning license that is left in the C-2 zoning district. Mr. Vanerian stated at the May meeting the commission conditionally approved site plan for another applicant in the C-2 zoning district and that means the city has one left. He explained the commission can say yes to one of the applicant's or say no to none of the applicants.

Mr. Vanerian said under the city's ordinances site plan approval is conditional upon an applicant satisfying all applicable state and local requirements, granting site plan approval by ordinance means that it is conditional upon them getting the approvals they need through the State. Vanerian explained if the applicant was not able to get the State approval then that condition would fail and then their site plan would fail as well.

Mr. Vanerian explained the consultant planner's role in the review process of the site plan. Mr. Vanerian said under state law there are comprehensive regulations that apply to the applicants and facilities themselves and because of that the city does not have an extensive laundry list of its own local regulations because it is heavily regulated at the State level. Mr. Vanerian explained the State vets each applicant and reviews character and fitness, whether they have good financing, credit history, and lengthy list of requirements that apply to the facilities itself.

Mr. Vanerian recommended to allow all three applicants to present first. He said the commission can ask questions of each presentation. Mr. Vanerian said then the consultant planner will give his review of each application. City Attorney said after everyone has had an opportunity to present, the commission can have discussion on the presentations. He explained the priorities and how important they are. Mr. Vanerian stated the city has adopted a 3-tier priority system resolution. City Attorney explained the 3rd level priority is when an applicant is making improvements that are \$20,000 or more, like a new building, landscaping, or parking lot. He explained if the commission is comparing two 3rd level priority the higher dollar level of improvements would have the higher priority over the other 3rd priority level who has the lower dollar value. He explained the 2nd priority level is when one is proposing making new water or sewer connections and has paid the tap fee for the new connection. He said if one applicant is proposing to make new water or sewer connection but has not paid the tap fee then they do not meet that priority. Mr. Vanerian explained the 1st priority level would be an applicant who is proposing to make both a new water and sewer connection and has paid the required tap fees.

UNFINISHED BUSINESS: None

NEW BUSINESS:

1. PC 273 – 1987 E West Maple – Walled Gardens Site Plan

Nemer Haddad said he has been a resident and in the community since grade school. He said he has a vision to rebuild in the city. He said he has several properties within the city. He said he hired a retail hospitality architect to design his floor plan and new construction proposal.

Roman Slowaski said there are two properties that have been abandoned and overgrown and they plan to clean up the whole site and build new construction. Mr. Slowaski said they are outside the 500 feet of any school, daycare, or churches. Slowaski said he is removing all of the current buildings and western curb cut and plans to start from scratch. He explained the proposed site plan has a 2,800 square foot building. Mr. Slowaski said the zoning calls for 15 parking spaces and they will have 24 spaces with additional landscaping area. Mr. Slowaski said he wants to create a setting of a garden. Mr. Slowaski said he will improve the curb cut. He said there will be a site wall at the street front with a berm. Slowaski said he is continuing the sidewalk along the front. He said he is proposing to plant ginkgo along both property lines and 7-foot arborvitaes to screen the retention basin in the back. Mr. Slowaski said it will be a beautiful green backdrop. He said lighting is important and security is a major concern they will be providing pedestrian scale that meet all photometric requirement. Slowaski said they are proposing a retention pond that is designed for two 100-year storm events and accept drainage from the western properties. He said the site layout also shows all service delivery trucks and the fire truck. He discussed the utilities of adding fire suppression that require a new 6-inch water tap line. Mr. Slowaski said he did not know about paying the tap fee in advance but would have paid it and opined it was \$130,000 tap fee associated with the new line.

Mr. Roman said the two properties are being legally combined. Roman said they have one facility in the City of Ferndale and has state approval and is ready to open. Mr. Roman said the building is designed so you cannot see inside the building. Mr. Roman said the security is enhanced with 13 cameras around the entire building. Mr. Roman said there will be a receptionist who will allow people to come in and out of the building. Mr. Roman stated their provisioning center in Ferndale required cameras at the sink and is opening in a matter of days. Mr. Roman explained signage is simple with can lighting and pinned off letters that are aluminum. Roman said this is a unique opportunity to develop these two sites that are in rough condition and create a beautiful gateway into the city.

Commissioner Palmer said he was concerned about the entrance off of Maple and it looks like it is in a good location. He asked when a truck comes in will you have to back in. Roman said no.

Nemer Haddad added he has 4 state approvals and has provisioning centers in Traverse City, City of Owasso and Grand Rapids and he would like one in his hometown as well.

Planning Consultant Ortega summarized the two tax parcels together are about 0.89 acres and is in the C-2 zoning district. Mr. Ortega discussed the priorities from the city ordinance. Planning Consultant explained when it comes to priorities those who are doing both first and third level priority should have priority over someone who is just doing first level priority. Ortega explained there is an existing water and sewer tap but they are proposing a new single water tap for the fire suppressions system.

Commissioner O'Rourke asked if that is mandatory by the State to have a six-inch new tap line or is the applicant going over and above? Mr. Ortega said it is not State requirement but as a functional standpoint it does require a separate tap to have the fire suppression function properly. Mr. Ortega explained the applicant has met the vast majority of the criteria laid out in the ordinance. Mr. Ortega explained the applicant has to provide property owner consent and

verification and it was provided. Planning Consultant recommends that the security plans should be reviewed by the Police Chief. Ortega said the applicant has verified they have a 500-foot buffer from a school or another provisioning center. Mr. Ortega recommended once the two sites are combined that the applicant resubmit the proximity map to verify the buffer requirement. Mr. Ortega discussed the hours of operation for Sunday, the ordinance requires the operations to not begin until after 1 p.m. and the applicant states the hours will be from 1 p.m. to 7 p.m. Mr. Ortega said this use is permitted by right in the C-2 district. He explained parking by ordinance requires 22 spaces and they are proposing 24. He recommends that the two lots be combined into one parcel. Ortega said the applicants will be keeping the garbage in the facility. Mr. Ortega explained the revised site plan is in substantial compliance with all City zoning ordinance standards. Before a consideration of approval, City Administration must determine and verify the priority level of the complete medical marijuana facility application.

If the Planning Commission concludes that the applicant has satisfactorily met the zoning ordinance requirements, site plan approval should only be granted contingent upon the following:

1. Review and approval by the Police Chief of the proposed security plan;
2. Applicant combines both existing parcels into one parcel and the applicant providing a revised purchase agreement, legal description, topographical survey, and area/proximity map using the combined parcel boundaries;
3. Applicant submittal of a revised site plan for administrative review that includes:
 - a. Accurate required building setbacks identified on Sheet C3.0;
 - b. A planting schedule table that lists the quantity, species and size for all landscape material that will be installed on site in compliance with landscape standards of Section 21.35;
4. Acquisition and continued compliance with all required City licenses and permits; and
5. Acquisition and continued compliance with all required State approvals.

Commissioner O'Rourke clarified for priorities the applicants meet third level of over \$20,000 in construction and second level of a new water or sewer line and paid tap fee. Mr. Ortega explained on what was presented and turned in it appears those priorities are met.

2. PC 275 - 861 N Pontiac Trail – Attitude Wellness

Chris Enright – 628 E Parent Street - said he is here in behalf of Attitude Wellness and is proposing a provisioning center off of N. Pontiac Trail. He said Attitude Wellness was founded by Bob Barnes and his brother Don and the product will be developed by Kyle Slabotsky. Mr. Enright explained they will be demolishing the Quonset hut and developing 2-story new construction. Mr. Enright explained the property next door to their proposal, 825 N Pontiac Trail, if need be for overflow or other developments, they have that property at their use. Mr. Enright explained they share the property with Mr. Maher including the parking lot and driveway. Mr. Enright said currently there is sewer line connected to the Quonset hut however, there was previously a well but, when Mr. Maher began his construction, he brought water service from his building to the Quonset hut. Mr. Enright said the water meter is only on the new building once he obtains that property, the lease agreement by Attitude Wellness will be split and do a land

division they will be required to have their own water service and also proposing new sewer service and they have paid the tap fee required.

Mr. Enright said they are calling the product Lume which will be the retail brand. Enright said they already have a 40,000 square foot building that is already a licensed grow center in Everett Michigan. He explained there will be a simple sign on the building that will be illuminated, and he knows they need to reduce the sign size. Mr. Enright said all patients enter from the east side of the building and are buzzed in through a secure area and there will be a guard will always be there during hours of operations. Mr. Enright explained cameras will be installed. He explained the building is 4,500 square feet with brick veneer and the upstairs will not be used at this time. He said the parking has been adjusted to allow for curbing to protect the pedestrians. Mr. Enright said the rear will be lit as well as the parking lot.

Kyle Slabotsky addressed Commissioner Wolfson's questions about recreational usage. Mr. Slobotsky explained a current issue with medical is product shortage and Attitude Wellness will have their own grow facility and will be supplying their own business. Slobotsky said there is a shortage of supply in Michigan and they will be ready to address the recreational rules when that time comes.

Chairman Hecht asked about the sewer line and if he has to put in a new tap or is it existing.

Mr. Enright said the sewer is existing. Mr. Enright explained it is not a required replacement, but he is replacing it. He explained they are voluntarily replacing the sewer connection and putting a new water line tap in.

Abby Cooper, legal counsel for Jim Maher opined how they have met the first priority level of new water and sewer line and paid the fees. Ms. Cooper opined they meet the third priority of new construction with a minimum \$20,000 and their application has a cost estimate of \$1.3 million.

Commissioner O'Rourke asked about garbage enclosure and if they will be sharing it with Maher Restoration.

Mr. Enright said they are proposing to share it but the garbage will be locked and located in the back west side.

Planning Consultant Ortega said this site is located west of Pontiac trail. Mr. Ortega said this proposed would demolish the Quonset hut and be new construction. Mr. Ortega explained the applicant is proposing a new water line and replace the sewer line and also providing construction of more than \$20,000. Mr. Ortega explained type of facility and product the applicant will be providing. Mr. Ortega said the facility operation plan has been submitted along with waste disposal. Mr. Ortega said the applicant would need to resubmit the sign plan as it exceeds the current zoning ordinance. Mr. Ortega said they do have property owner consent. Ortega said the applicant turned in a security plan that needs to be reviewed by the Police Chief. Mr. Ortega said they meet the proximity requirement. Mr. Ortega said they meet the hours of operations on Sunday from 1p.m. to 7p.m. requirement. Mr. Ortega explained the building is

brick with effis elements and meet dimension requirements. Mr. Ortega said to the site on the west side, they are proposing a 6-foot buffer wall and they have received an easement from the property owner. Mr. Ortega said they are also proposing pear trees to buffer from the residents, but they need to make sure the easement is adequate in size. Mr. Ortega said parking meets the requirements for medical marijuana permitted use as well as their photometric plan. Mr. Ortega said the plans need to say where the curbs will be located and are in the appropriate area. Mr. Ortega said they are proposing to share a dumpster and it is allowed by ordinance. Mr. Ortega said the applicant has proposed a sign that is larger than the ordinance allows for so that needs to be resubmitted.

Planning Consultant said if the planning commission comes to the conclusion that the applicant has satisfactorily met the zoning ordinance requirements, site plan approval should only be granted contingent upon the following:

1. A security plan that has been reviewed and approved by the Police Chief;
2. Applicant submittal of an easement document recorded with Oakland County and clarification that the document actually allows for the planting of landscape material on the adjacent property;
3. Applicant submittal of a revised site plan for administrative review that includes:
 - a. Correctly labeling the ten parking spaces located on the north side of the proposed structure;
 - b. Labels indicating where curbs will be provided and a curb cross section detail.
 - c. The dimensions and area of a proposed sign that is in compliance with City Zoning Ordinance standards.
4. Acquisition and continued compliance with all required City licenses and permits; and
5. Acquisition and continued compliance with all required State approvals.
6. Along with any requirements requested from the consultant engineer.

Chairman Hecht asked what the applicant plans on doing with the other property and what are they doing with the second floor. He said the applicant must have an idea on what they plan on doing with it.

Mr. Enright explained in anticipation of parking and recreational rules coming out soon the plan is to be ready for the overflow. He said the plan is to turn it into additional parking and develop the front of it. The important part for him was keeping the same scale of the downtown frontage with the two stories like the Maher building next to them. He said there would be some offices upstairs and not utilized for retail at this point.

Mr. Ortega said to note for the applicant the property currently is zoned C-2 and does not see that surface parking as permitted principal use, we have separate parking district and that may have to be rezoned when the time comes.

3. PC 276 – 1224 E West Maple – Natures Medicine

Nick Galendez from cannabis legal group and representative for Natures Medicine. Mr. Galendez said the owner is Jigarkumar Patel who has been a pharmacist for over a decade and

licensed in six other states. Mr. Galendez said Mr. Patel has ventured into cannabis and is in multiple states: Maryland, Pennsylvania, Massachusetts, Arizona, and Connecticut. Mr. Galendez said they have a facility in Bingham Township already. He said Natures Medicine is in multiple states, with eight active stores. Mr. Galendez said the site is smaller it is 1,000 square feet and met the third priority level of over \$20,000 and the estimate of cost is \$200,000.

Jay Wheeler is the civil engineer and said the site is unique. Mr. Wheeler said there is a building already in existence there and is proposing an addition of 20x25. Mr. Wheeler said the zoning ordinance requires 8 parking space and they added 15 parking spaces along with additional sidewalk. Mr. Wheeler said they addressed the landscaping and are proposing to take down one tree and add 2 more trees with some bushes in the front. Mr. Wheeler said they are moving parking back further on the site and adding more spaces in the back and there will be no garbage enclosure on the site.

Eric Swazidwell – SDA Architects - said it is an existing structure deemed in good shape. He said repurposing the building and it is only 1,000 square feet with 500 square foot addition. Mr. Swazidwell said the floorplan was done with experts with a secure reception area with a waiting facility along with sale area. Mr. Swazidwell said they are going to redo the entire roof with the new addition going in. Swazidwell said they are going to upgrade the exterior and keep the colors neutral. Swazidwell said he cannot speak to the sign applicant but know the applicant is replacing an existing wall sign and there is a pylon sign and replace the covers on those.

The general manager spoke from Natures Medicine current location in Bay City in Bangor Township. She explained she is happy to work for them because they are upstanding and treat people like family and explained that they put the patients first.

Nick Galendez said they meet the third priority level of construction over \$20,000. He said they are not doing a water or sewer tap and there is not a way to create a new one.

Planning Consultant Ortega summarized that the building is located east side of E West Maple occupied by Studio Artiza. He said the applicant is proposing an addition and there is an existing sewer and water tap and will be doing improvements to the building in excess of \$20,000. He said they meet the third priority exceeding \$20,000. Planning Consultant discussed the products being sold and informed there would be patient consultation. Mr. Ortega said there is a waste disposal plan and they will not have garbage enclosure on the site. Mr. Ortega said the applicant said they would comply with the odor control requirements. He said the signage was not proposed currently but they can apply for a sign with a separate application. He said they meet the 500-foot buffer. Planning Consultant said the security plan should be reviewed by the Police Chief. He said the applicant will be operating on Sundays from 1 to 9 p.m. Mr. Ortega explained the building design is adequate with the existing structure, but this is in our downtown overlay district. He said they presented the colors tonight, but has not had time to review. He said the applicant is required 8 parking spaces and they are proposing 15 spaces. Mr. Ortega said in the packet are the original review letters from the consultants from May and the applicant did turn in revised plans on July 3rd but that did not give enough time for the consultants to consider additional information. Mr. Ortega said there is a letter from the applicant with their response to the issue the consultants addressed.

Discussion:

City Attorney Vanerian explained the priority levels for each applicant.

Chairman Hecht asked the difference between Walled Gardens and Attitude Wellness when it comes to priority levels.

City Attorney Vanerian clarified Attitude Wellness is replacing an existing sewer service so it may be a reach to say that replacing an existing sewer service would move them into a first level priority because the Quonset already had an existing sewer service to it. He explained it is good they are replacing the line because it will be new and improved but the existing building already had the service line. Mr. Vanerian explained the water service on what was presented, that is new the Quonset which was previously served by a well they will need a new water service, that would qualify the second tier of priority and the applicant has paid the tap fees. City Attorney said Attitude Wellness is proposing a new water service line and has paid the tap fee. Mr. Vanerian said the new line would be part of the third level priority in cost.

Chairman Hecht explained there seems to be similar scoring between Attitude Wellness and Walled Gardens. He clarified, Attitude Wellness however has paid the tap fee and improvement costs is higher. Mr. Vanerian said Walled Gardens has not paid the tap fees.

Commissioner Whitt asked who is the owner of each parcel? He asked if the property owners' are part of the project or are they leasing the property? He said that is important to the discussion.

AUDIENCE PARTICIPATION:

Roman Slowaski asked for clarification about tap fees being in escrow. Mr. Slowaski said his team was told they had to pay a nonrefundable tap fee of \$130,000 and if it comes down to that point there needs to be scrutiny. Mr. Slowaski said for building ownership there are typically in any type of development, conditional deals are created for securing parcels of property in a legal format that allow to proceed upon project site plan approval. Mr. Slowaski said he understands the importance on this type of project.

Commissioner Whitt said he needs to ask this question for the record "you just stated someone told you, you had to pay \$100,000 nonrefundable fee, you want to tell me who that is?"

Michael Clera said he is the attorney for Walled Gardens, and he explained the ordinance states tap fee must be paid not placed in escrow. He opined he read the ordinance as paying the tap fee not being able to put it in escrow.

Commissioner Whitt appreciates the clarification. He said he thought Roman said someone told him he had to pay \$130,000 nonrefundable tap, that is different than the interpretation. He said if someone told him that he needs to know who that is. He said he is the city manager and sits on

the board by virtue of his position and is not aware of anyone being told they had to put up a nonrefundable fee up. He said if you are alleging that occurred, I need to know who that is.

City Attorney Vanerian said what the resolution says in regard to priorities is that for first level priority all taps/connection fees required by ordinance must be paid prior to review of the application as it is a prerequisite to this first level of priority. Mr. Vanerian states for second level priority all taps/connection fees required by ordinance must be paid prior to review of the application as it is a prerequisite to this second level of priority. Mr. Vanerian states it is clear that in order to qualify in a first or second level priority you have to pay the tap fees.

Commissioner Whitt said we get calls on who owns property and who is involved with each other and lawsuits and who is fighting with who to get the property. Mr. Whitt said he believes one property is owned by Sushi, LLC which is currently a salon. Mr. Whitt said we need transparency and we would like to know.

Nemer Haddad said one parcel is owned by Mike and Lisa Loretta and the other piece is under contract through a real estate agent and he does not have the actual owners name, but it is under contract and secured. He said he is not afraid to invest in the City and it was a business decision to go under contract in January 2018. Haddad said he did not know the whole process coming into this.

Jim Maher said Pontiac Trail Business Center owns the property which he is the sole owner of. He said he has no partners. He said Attitude Wellness will be the operator in a long-term lease. He said he submitted a letter on July 2nd stating that they are not flippers. Mr. Maher said a lot of flipping has been going on across the state in this industry and he intends to stay, and they do not plan on flipping the business. Mr. Maher clarified the escrow question, he said he paid water taps in excess in about \$45,000 roughly and may have misspoken when they said escrow, the resolution says to pay so he paid the tap fee.

Nick Galendez said the building is owned by Sushi LLC, Susan Motley. He said there was a purchase agreement agreed executed with Nick and Norris who on behalf of an entity to be formed later if government approval and state approval are given then they will become owners of the property. Mr. Galendez intends to lease the property to Natures Medicine for long term basis and not selling it or turning it over. Mr. Galendez said if it were sold in the future it would be to the tenant applicant who would then resume it.

Chairman Hecht said taking the tap fees off the table the next priority is level three which requires construction cost of \$20,000 or more. Mr. Hecht said just looking at site plan improvements the construction cost for Attitude Wellness is greater.

Commissioner Whitt said if one were issued tonight it would be to Attitude Wellness sue to the construction, improvement, the look, and the local ownership. Mr. Whitt explained Mr. Maher's comment about flipping is happening all around the State, we can take his word he will be around for a while as he just built a brand-new building. Mr. Whitt said because the statute the city cannot take more money than what is allowed but a new building is going to bring in tax revenue. Mr. Whitt expressed Attitude Wellness has the best proposal.

Commissioner Wolfson confirmed that the application fees are nonrefundable, but the tap fees are refunded if approval is not given to an applicant.

Commissioner Whitt said if a tap is never put in then the tap fee is returned to the applicant. Mr. Whitt opined Walled Gardens expressed the reason they did not pay the tap fee was because they thought it was nonrefundable. Mr. Whitt said that did not come from him or staff. Mr. Whitt said one applicant did make the tap fee and knew it was a requirement and that was show of full commitment.

**PC 07-02-19 MOTION TO APPROVE PLANNING COMMISSION CASE 275
SITE PLAN 861 N. PONTIAC TRAIL ATTITUDE WELLNESS
SUBJECT TO CONDITIONS IN THE JUNE 18TH PLANNING
REVIEW LETTER AND BOSS ENGINEERING REVIEW LETTER
AND RECEIVING PROPER STATE APPROVALS**

Motion by O'Rourke, seconded by Wolfson: CARRIED: To approve planning commission case 275 site plan 861 N. Pontiac Trail Attitude Wellness subject to conditions in the June 18th planning review letter and Boss engineering review letter and receiving proper State approvals.

Roll Call Vote

Yes (6) Novak, O'Rourke, Owsinek, Whitt, Wolfson, Hecht
No (1) Palmer
Absent (0)
Abstain (0)

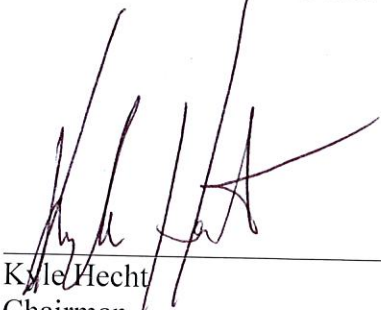
COMMISSIONERS COMMENTS: None

PC 07-03-19 ADJOURNMENT

Motion by Owsinek, seconded by O'Rourke: CARRIED UNANIMOUSLY: To adjourn the meeting at 10:02 p.m.



Chelsea Pesta
Deputy City Clerk



Kyle Hecht
Chairman