

Employees fit into heated cabs and drive the very narrow aisle to put away and retrieve products. This is a better environment for workers and much better for customers.

Chairperson Bebak requested more information and stated it is an issue having a 70' tall building in town. Mr. Schoenl stated Agile is building similar buildings throughout the country including Philadelphia, New Orleans, and Chicago. The base building that we are building when we get to a distribution warehouse, is a 70' tall building with very narrow aisles so that operators will sit in a cab and will not be exposed to the frozen environment. They will lock onto a wire in the aisle and be guided to and from the correct location by the computer system. Think of them as a specialized forklift that allows our teammates to work in the safest, most accurate and comfortable manner possible.

Mr. Frick stated he is familiar with warehouses and questioned the need for the building to be 70' tall. Mr. Schoenl stated there is no way to fit enough pallets on the proposed parcel of land and meet the demands of the customer base and without going to 70'.

Mr. Frick stated the setback looks acceptable but noted the applicant is taking a 100% permeable site and making it 95% impervious and questioned if the retention pond will be underground. Mr. Schoenl stated the intent is not to have underground retention ponds and they will need to complete final civil engineering to ensure adequate capacity of the retention ponds.

Mr. McCabe questioned if the applicants had any discussions with the fire district regarding the height of the building. Code Enforcement Officer Schieber stated the project was sent out for a coordinated SEQR review and there are numerous agencies that will be involved including Erie County Department of Planning, Erie County Sewer, noting the project is in EC Sewer District No. 1, NYSDOT, and the fire chief. No comments have been received from the parties. Mr. Shingle stated the building will have a sprinkler system.

Mr. McCabe questioned if there are other buildings in town that are as tall, noting there are hotels, and the Industrial Park has some large storage facilities. Mr. Schieber stated the hotels on Slade Avenue are approximately 70' tall. The fire district that services the hotels have a 110' arial ladder. Union Fire District, which serves half of the Industrial Park including the former Certo Brothers building and would serve the proposed building, has a 100' ladder truck. The site plan does appear to meet the fire code requirements relative to fire truck access and the building will have a sprinkler system.

Mr. Frick stated the building was marked as not being in the flood plain on the Short Environmental Assessment Form, but apparently a portion of the property is within the 100-year flood plain and questioned if the building itself will be located within the flood plain. Mr. Schoenl stated this is not the final design, but he believes the building itself will be outside. Mr. Frick stated this will be addressed during the final site plan approval process.

Mr. Hayes questioned the capacity of the building and how quick will inventory turnover be. Mr. Schoenl stated the building will house 20,000 pallets with turnover every 6 – 8 weeks. Mr. Hayes questioned what redundancies are in place in the event of a power outage. Mr. Schoenl stated portable generators would be brought to the property in the event of a long-term power outage and in modern buildings if you close the doors, and keep the lights off, the temperature increases less than one degree a day.

No comments were received from the public.

Chairperson Bebak stated the Town Board will perform the SEQR approval process while the Planning Board will oversee the site plan approval process and note screening in the front of the building will be required.

Mr. Schieber stated the next step for this project will be to seek a variance for the building height and the Planning Board will be responsible for the SEQR as this project will not go in front of the Town Board.

Motion by Bebak, seconded by Hayes, to table the item.

Ayes: All

Noes: None

Motion Carried

2023-03

A request from Devil's Lettuce, LLC for a special use permit for property located at 650 Orchard Park Road, being part of Lot No. 295, changing its classification from M-1 to M-1(S), for use as a NYS licensed cannabis dispensary.

James McGirr stated NYS has approved recreational cannabis and the application is to open a retail dispensary to the public; the hope is to be open by October or November 2023.

Chairperson Bebak stated the Town of West Seneca has a very strict code and not everything coincides with the NYS law. The Planning Board did review the applicants' submittals and would like to go through the application with the applicant.

Mr. Hayes questioned whether the NYS court injunction has been lifted. Mr. McGirr stated there is still ongoing litigation. Mr. Hayes questioned if the opening timeline is contingent upon litigation. Mr. McGirr stated opening is contingent upon litigation.

Chairperson Bebak stated what is needed is a special use permit and under the town code the following applies:

- Not within 500' of an existing cannabis dispensary – this is the first.
- Not within 500' of a school or community facility – Mr. McGirr stated this is where the slight variance from the state and town comes into play. NYS has approved the location and this package has been submitted and proves the location is within NYS regulations of 500'. The town regulation goes from property line to property line. Code Enforcement Officer Jeffrey Schieber stated section 2C states 500' from a school building and it appears the dimension from this property line to the school building is more than 500' and why this would be acceptable to NYS.
- May not abut residential properties.
- May not be in a historic district.
- What are the planned hours of operation – Mr. McGirr stated the hours of operation are Sunday from 12:00 PM – 8:00 PM; Tuesday – Thursday from 12:00 PM – 10:00 PM; Friday – Saturday from 12:00 PM – 12:00 AM.
- The town has very strict security requirements beginning with fencing and screening around the perimeter of the property with the height and type to be established by the Planning Board – Mr. McGirr stated there is a guard rail behind the building by the creek and fencing may infringe on the property lines on one side and the other is a vacant lot. Chairperson Bebak stated it was her belief this would be a security issue for the town. Mr. McGill stated this can be addressed, there is proper lighting.
- Installation of fully operational 4K security cameras with night vision and storage of up to 30 days – Mr. McGirr stated NYS requires 60 days; there will be six exterior cameras along the back, side, and front of the building. The camera locations are part of the NYS requirement with approximately 16 interior

cameras.

- An armed security guard must be present when open.
- Storage of cash and product when not open – Mr. McGirr stated NYS requires a safe room with a locked safe for valuables and inventory with a passcode to enter. The plans provided to the state show high impact board with steel mesh behind it; security cameras will be on the door and safe and will have limited access. Chairperson Bebak questioned how the product would be stored when closed. Mr. McGirr stated product would be kept in the safe room and there will not be inventory on the floor. Product would be ordered, and the order sent to the safe room, the cashier would pick up the product, and complete the sale. The safe room has a small window to allow the cashier to pick up the product. Chairperson Bebak questioned if there will be a separate cash room. Mr. McGirr stated there will be an armored car company to transport and a credit union to accept funds; cash will be transported via armored car. Mr. Schieber stated this item will be before the Town Board. Mr. Schieber and the West Seneca Chief of Police have met with Mr. McGirr; relative documents may be presented by the Chief of Police at future Town Board meetings.
- What will the signage entail – Mr. McGirr stated NYS allows for two signs. Chairperson Bebak noted the town code is different and this supersedes NYS law. Mr. McGirr stated he understood and noted he has provided drawings to the Planning Board; there are two illustrations for “Devil’s Lettuce” and “Dispensary”. Chairperson Bebak noted the town code permits one sign and this must be affixed to the building; no freestanding signs. The current freestanding Fed Ex sign is not allowed under the town code. There is to be no flashing, rotating or movement of the sign. Mr. McGirr stated this would be a lit LED sign with no color changes and basic white. Chairperson Bebak stated one of her issues is a big sign with “Devils Lettuce” could be viewed as offensive. Mr. McGirr stated he is open to the name of the on the sign. Chairperson Bebak stated “Devils Lettuce” is not an option. “Dispensary” is fine and more professional and what the town is looking for. Mr. Frick noted there is a section of code that pertains to paintings and murals on walls and questioned if there were any intention on painting the building. Mr. McGirr stated noting will be painted on the outside of the building; the paint color may be refreshed.
- Sufficient parking for customers and employees – Mr. McGirr stated he anticipates 6- 8 employees onsite at any given time. There will be approximately 12 – 15 total employees hired for various roles (i.e., sales, cash room). Security is not counted in this number as they will be an independent contractor. There are approximately 20 parking spots on site and currently, Mr. McGirr is working with neighboring business for overflow of parking. Communication is ongoing with Aldi/Big Lots for employee parking to free up 6- 8 spots for the public. Mr. Frick noted the current plan shows 12 parking spots that extend off the property line and into the NYSDOT and/or ECDOT right-of-way and questioned if authorization is needed from those entities to park. Mr. Schieber stated both agencies have been provided with this information as part of the coordinated SEQR review and specific comments/concerns have not been received yet. Information should be received by the time the applicant appears before the Town Board.
Mr. Hayes expressed concerns about employees crossing a 4-lane roadway in a heavily traveled area and questioned if this would be a safety issue. Mr. Schieber stated it was initially thought to explore the adjacent property owner, after conversations with the West Seneca Police Chief and applicant, the best options the adjacent medical building to the west who may not have the same operating hours. This will be addressed at the Town Board meeting. Mr. McGirr stated options are being explored and is hoping this is finalized before the Town Board meeting. Mr. Schieber stated there is the potential for a vehicle to drive through the store front and suggested a concrete barrier be in place.
Chairperson Bebak request clarification of the traffic flow. Mr. McGirr stated there will be personnel on the outside in the initial stages to help with traffic flow. The dispensary on Main Street has no parking and Transit Road has limited parking. Transit Road has not been as busy as Main Street and plans will be in place to address any issues.

Mr. Hayes questioned why the applicant decided to put the business in West Seneca as opposed to the existing store front in Tonawanda. Mr. McGirr stated the store front was too small, would not allow a safe room, and not a busy area. There is also a church within the boundaries of the state.

Chairperson Bebak requested clarification on why retail space is needed if now product is on the floor. Mr. McGirr stated there needs to be a big enough opening to allow people to come in and out. This building has an entrance that is a vestibule with two separate doors. Upon entering the building an area will be set up to obtain identification. There will be sealed and locked display cases with sample flowers, candies, and gummies from the distributor with descriptions. This building allows sufficient rooms and schematics have been presented to the board. You look at the cabinet and go to a pos system; this will go to the inventory room for packaging and to the sale slot where the sales associate completes the transaction.

Mr. Schieber noted, from the building to the school building is approximately 600'.

Mr. McCabe questioned if any mobile sales are anticipated. Mr. McGirr stated there will be no mobile sales eventually with the pos system an order will be able to be placed online for pickup and the customer will still be required to come into the building,

Mr. Schieber stated section 5C states all delivery options shall be listed and described as part of the special use permit. If this is something the applicant wishes to achieve it must be documented and in accordance with the rules. Mr. McGirr stated this may be down the road.

Mr. McCabe questioned when the deliveries of the product would be. Mr. McGirr stated this has not been coordinated yet.

Mr. Hayes questioned if any analysis of anticipated sales has been completed and if the applicant believes he would be able to compete with other sites including sales at Reservations. Mr. McGirr stated he would not be able to compete with Reservations, there is no sales tax, and they grow their own product. Mr. McGirr can only purchase from NYS approved growers. The prices are within par with the two other establishments. West Seneca was appealing as it was not close to a Reservation.

Mr. Holmes stated he was concerned with potential robberies of customers in the parking lot. Mr. McGirr stated there will be security cameras outside the building; the parking lot can be scanned throughout the day. Security will be inside but also watching cameras during business hours.

Susan Kims, 99 Covington Drive, stated she was not able to hear the speakers at the meeting.

Motion by Bebak, seconded by Frick, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Chairperson Bebak explained the Planning Board is only making a recommendation to the Town Board on the special use permit.

Motion by Bebak, seconded by McCabe, to recommend the following issues should be required by the Town Board: 1) the signage should specifically use only the word "dispensary" as opposed to the "Devils Lettuce"; 2) only one sign should be on the building; 3) parking be investigated further; 4) security concerns addressed; 5)

WEST SENECA COMMUNITY ROOM
1300 Union Road
West Seneca, NY 14224

WEST SENECA PLANNING BOARD
Minutes #2023-09
September 14, 2023

fencing and screening along the perimeter: a minimum requirement should be made of a 6' fence. If someone tries to access the site from the creek bed, there should be a good deterrent and provide screening; 6) bollards be installed on the front of the building.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by Hayes, to adjourn the meeting at 6:51 P.M.

Ayes: All

Noes: None

Motion Carried

AMY M. KOBLER
TOWN CLERK/PLANNING BOARD SECRETARY