

- ✓ Hours of operation will be 10 A.M. – 8 P.M. Monday through Friday and Noon – 6 P.M. Saturday and Sunday
- ✓ Security includes a 4K camera system covering the entire property with 30-days of footage maintained and a NYS licensed armed security guard
- ✓ One point of entry and exit
- ✓ Cash will be secured in a locked security box/banking envelope
- ✓ Believe the business will enhance to the existing plaza

Chairperson Bebak requested clarification on how cash is being secured and believes it must be in a safe. Mr. Piorkowski explained there will be a metal deposit box built into the wall like a safe. Chairperson Bebak questioned if the box is secured in place or portable. Mr. Piorkowski stated it is secure. Mr. Frick questioned if the walls can be compromised when the business is closed. Mr. Piorkowski stated that the wall is brick. One of the other property owners stated the walls will be secured in a manner to prevent break-ins from the outside and are working with an architect.

Chairperson Bebak requested what procedures will be followed, for example, storing product and cash in the vault. Mr. Piorkowski confirmed all product will be stored in the vault overnight and no cash will be left in the building.

Mr. McCabe questioned what material the vault will be made from. Mr. Piorkowski stated a commercial metal vault will be installed in a 10' x 10" room. Mr. McCabe questioned if the entire room will be a metal vault. Mr. Piorkowski confirmed this. Mr. McCabe questioned if the wall on the north side shared by the liquor store extends to the roof. Mr. Piorkowski confirmed this. Mr. McCabe questioned if the liquor store is comprised of two units. The other co-owner stated the liquor store was extended when another business left and the wall extends to the roof.

Mr. Frick stated the business was previously cited for selling illegal marijuana and questioned how that relates to the applicant. Mr. Piorkowski stated Urban Herb LLC has not been cited in any manner and has not transacted any business. A prior business operated in this space, Cloud and Leaf LLC, was cited and explained the business was licensed to sell CBD products and an employee was selling cannabis products without a license and has nothing to do with Ms. Atwal. Mr. Sherman stated he understands there is an ongoing investigation with the Office of Cannabis Management for this instance and the same attorney is representing them, and suggested tabling the item until the final investigation is released. Mr. Piorkowski confirmed he represents Cloud and Leaf LLC and stated he is unaware of any ongoing investigation, he received correspondence that there will be no criminal charges, the taxes and Department of Labor issues have been addressed. All charges for illegal cannabis sale were under a different owner and Ms. Atwal was not an owner of Cloud and Leaf LLC and any owners of Cloud and Leaf LLC are not participating in Urban Herb LLC.

Mr. Piorkowski stated the applicant has received the NYS license and the last step is town approval and requested the item not be tabled. Town Attorney Trapp questioned if Mr. Piorkowski's firm incorporated both companies. Mr. Piorkowski stated he was unsure if his firm incorporated Urban Herb LLC. Mr. Trapp stated the firm is listed on both companies and NYSOCM is examining the timing of the incorporation of Urban Herb LLC in relationship to when the investigation occurred through the West Seneca Police Department and the tax department are very close in proximity. Cloud and Leaf LLC is in trouble at the same time another corporation coming in at the same address with the same attorneys and it looks like the creation of another company to get around that there was a problem with the first. Mr. Piorkowski stated he appreciates the optics of the situation, but Cloud

and Leaf LLC never held a cannabis license. Mr. Trapp questioned if the individual that was selling cannabis illegally will be employed by Urban Herb LLC and if any of the people involved in the two companies are related. Mr. Piorkowski stated that individual will not be employed at Urban Herb LLC and the only relationship he is aware of was a discussion to transfer the business Cloud and Leaf LLC to Mr. Ladhar's ownership but is not aware that this was ever done. Mr. Trapp stated Mr. Ladhar is involved to a certain extent as shown by his involvement in answering questions at this meeting. Mr. Piorkowski stated he is a half-owner of the building and is able to speak to the structural aspects of the building but has no ownership in Urban Herb LLC. Mr. McCabe questioned who the other owner of the building is and if either owner is related to principle of Cloud and Leaf LLC. Mr. Piorkowski stated Ms. Atwal and he is not aware of any relationship and further confirmed there is no relationship between any party and Cloud and Leaf LLC.

Chairperson Bebak stated the town has required bollards be placed in front of the building to protect against smash and grabs and questioned if the applicant will do this. Mr. Piorkowski confirmed the applicant will install bollards. Chairperson Bebak stated that in her opinion additional measures should be taken to secure the building, noting it is located in the Union Road Corridor and questioned the applicant's plans. Mr. Piorkowski stated Mr. Ladhar has indicated that the architects welcome suggestions from the town. Code Enforcement Officer Schieber stated signage should be addressed and fencing at the discretion of the Planning Board, and any future plans to enhance the property must be presented to the Planning Board for approval. Chairperson Green stated the applicant will need to return to the Planning Board for renovation to the property. Mr. Schieber confirmed this as they are in a special overlay district. Mr. Piorkowski stated the applicant intends to be tasteful and reiterated it is her building. Mr. Frick questioned if this is the first step, a recommendation for a special permit, and the applicant will return to the Planning Board for approval for modifications to the building. Mr. Piorkowski confirmed this.

Mr. Trapp stated the provision under the town's cannabis code is to be certain all of the details including security are set for the Planning Board to be able to make a recommendation, and at this time all of this material is still with the architects. Mr. Piorkowski stated he understands all the items in the town's code have been addressed. Mr. McCabe stated the purpose of the Planning Board is to evaluate if the applicant's plans are adequate in terms of safety of the town. Chairperson Bebak referred to Section 59-9, Security, "Any cannabis use set forth above, regardless of its location, shall take all necessary security measures at any facility permitted by a special use permit." and stated security is a large concern. Signage is also a concern and would like to know the applicant's sign plans noting the town discourages the signs from looking like smoke shops including bright lights and moving signs. The Planning Board also needs the details for safety features including bollards in the front of the business and the exact type of safe among other things.

Mr. McCabe stated the unit is 20' x 40', or 800-sf, and in his opinion this is small for this type of operation and questioned if the business will need to expand. Mr. Piorkowski stated in his opinion the size is adequate and understands the applicant will need Planning Board approval for expansion.

Mr. Sherman thanked Mr. Piorkowski for the additional information but in light of Mr. Trapp's information from the NYSOCM, he recommends tabling the project pending an outcome of the investigation and all necessary security measures are presented to the Planning Board.

Michelle Herbst, 24 South Avenue, made the following comments:

- ✓ Opposed to the business
- ✓ Will impact her home and the neighborhood which have existed for decades

- ✓ Expressed concerns about safety
- ✓ Dispensary owners do not reside near the dispensaries
- ✓ Recurring questions about safety, guarantee of no access or consumption to minors, parking, traffic, and overall impact of the dispensary to the constituents in the area
- ✓ Inventory is a high value target for thieves
- ✓ Location is in an area of high traffic volume and large vehicles
- ✓ Would like the Planning Board members to imagine the dispensary was going into their own neighborhood

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

Ayes: All

Noes: None

Motion Carried

Motion by McCabe, seconded by Sherman, to table the request of Urban Herb LLC for special use permit approval for property located at 1850 Union Road for cannabis dispensary and changing its classification from C-2 to C-2(S) pending the receipt of a letter from New York State Office of Cannabis Management, NYSOCM, stating the conclusion and outcome of their investigation and receipt of more detailed plans as discussed.

Ayes: All

Noes: None

Motion Carried

Mr. Piorkowski listed the additional items as he understood them: signage, security of the walls, and description of the vault. Mr. Sherman stated the applicant should review the items listed under Town Code 59-9 and be prepared to address them. Mr. Piorkowski stated he did submit two letters and questioned what he may have overlooked. Mr. Sherman stated he would be satisfied if all items were addressed in Mr. Piorkowski's letters. Mr. McCabe referred to the rear exit and would like security details such as lighting. Chairperson Bebak confirmed measures to fortify the unit are requested. Mr. Frick reiterated the concerns with security. Mr. Sherman questioned if any weapons would be housed on the premises. Mr. Piorkowski stated there is no intention for this at this time.

SPR2024-006

A request of Jason McGirr, Sr. Devil's Lettuce Courier Service for special use permit approval for property located at 650 Orchard Park Road for cannabis delivery service.

Will Rossi of VR Law PLLC, attorney for the applicant, made the following comments:

- ✓ The business is a licensed cannabis dispensary and received the Planning Board's approval in April 2024
- ✓ NYSOCM has a specific set of rules and regulations for delivery and the applicant is requesting a special use permit for delivery at the location
- ✓ The business must continuously comply with the OCM including point of sale verification and when product is delivered, who is eligible to receive product, how much can be transported at one time, and noted the regulations are very detailed
- ✓ A point of sales system that tracks deliveries is required and the applicant plans to utilize a tracking device with a camera inside the delivery vehicle

Mr. Sherman questioned how the product will be paid for. Mr. Rossi stated cash is not allowed and payment must be made by credit card before it is delivered, and an invoice is delivered with the product. Mr. Sherman questioned how the business will hire and vet the drivers. Mr. Rossi stated there is a detailed plan that requires experience with law enforcement or a military veteran, minimum age of 21, and training on the products. Mr.

Sherman questioned how many deliveries can be made at one time and if multiple, how are the products secured in the vehicle. Mr. Rossi stated no more than \$20,000 worth of product can be in a vehicle at a time and product is secured in a safe box. Mr. Holmes stated the store requires an armed security guard and questioned if the driver must be NYS certified. Mr. Rossi stated there is no requirement that the driver must carry a weapon. Mr. McCabe stated the driver must be a licensed security guard. Mr. Rossi stated he does not believe the driver must be a licensed security guard, but this requirement would be included in the business' job description. Mr. McCabe clarified what the applicant's intention is for the drivers. Jackie Smith, General Manager of Devil's Lettuce, stated she has retired veterans that are interested in the position and feels they are capable of handling emergencies or safety issues in the field. The goal is safety and vehicles and drivers will not be conspicuous. A small safe will be bolted into the vehicle and the limit is \$20,000 of product in an enclosed vehicle and \$5,000 on a motorcycle or scooter noting that the business will use an enclosed vehicle. Mr. Holmes stated the amount is alarming and does not understand why a certified security guard is not required. Ms. Smith stated their intention is not to have that much product in the vehicle, they will start with one vehicle in the Hamburg and Orchard Park areas, and only anticipate larger quantities if they should be outside of a 25-mile radius. Mr. Sherman questioned if the vehicles will have cameras inside and GPS systems. Ms. Smith stated vehicles do have GPS systems that connect to phone apps and she uses the cannabis management software Proteus420 that tracks product and deliveries, drivers will also have a phone at all times, and anticipate using forward and back cameras. Mr. Holmes questioned if there is one lockbox or individual ones for each order. Ms. Smith stated that it can be considered and expect one order to be delivered at a time during the first 90-days. Mr. Holmes questioned the hours for delivery. Ms. Smith stated she expects deliveries to begin around 9:30 A.M. and end according to the daylight. Mr. Frick questioned how the business knows the product is delivered to the person who placed the order. Ms. Smith stated the individual will show their ID and the software incorporates a scanner. Chairperson Bebak questioned if they will confirm the person that ordered the product resides at the same address. Ms. Smith stated that the drivers will be trained to only deliver to the person that ordered the product. Mr. Holmes stated as an owner/operator of a mobile business he has found himself in situations that compel him to want to require the business to have two people making deliveries. Chairperson Bebak questioned Mr. Trapp about adding this requirement. Mr. Trapp stated the Planning Board can add this requirement. Mr. McCabe questioned the anticipated areas for deliveries, noting the business is very close to Lackawanna and Buffalo. Ms. Smith stated the are will be within a 15- 25-mile radius, the goal is to cater to hotels by the airport and anticipate expanding the area. Mr. McCabe questioned the maximum distance. Ms. Smith stated at this time she is uncertain about the success of deliveries, but NYS allows delivery within NYS and the permit allows the business to deliver anywhere and she would like to have this option. Mr. Sherman stated he does not support limiting the area of delivery but supports requiring two people in the delivery vehicle.

Michelle Herbst, 24 South Avenue, made the following comments:

- ✓ Is it illegal to use a credit card to purchase cannabis, essential a federally insured bank card – Mr. Rossi apologized for stating credit card, the transaction must be completed with a debit card or cash. Ms. Smith stated the business will be using the mobile cash app Zenco Payment. Chairperson Bebak confirmed this method is permitted under the NYS statute. Mr. Sherman questioned where the payments are deposited. Ms. Smith stated the business uses a credit union.

Motion by McCabe, seconded by Sailer, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

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

WEST SENECA PLANNING BOARD
Minutes #2024-10
October 10, 2024

Motion by Bebak, seconded by Sherman, to approve the request of Jason McGirr, Sr. Devil's Lettuce Courier Service for special use permit approval for property located at 650 Orchard Park Road for cannabis delivery service with the requirement that there be a driver and passenger on all deliveries and separate lockboxes to contain a maximum of \$5,000 of product per each.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by Sailer, to adjourn the meeting at 6:57 P.M.

Ayes: All

Noes: None

Motion Carried