

**CITY OF EGG HARBOR
MUNICIPAL LAND USE BOARD
September 20, 2022
7:00 P.M.**

The regular meeting of the Egg Harbor City Municipal Land Use Board was held on September 20, 2022. Those in attendance were Mayor Jiampetti, Council Representative Karl Timbers, Vice Chairman Todd Warker, Egg Harbor City Fire Department Representative John Garth, Regular Members; Dennis McKenna, Michael McKenna, Keith Mullineaux and Alternate #2 DaShaun Hare. (Not present were Regular Members; Chairman Jack Peterson, Gladys Torres, Alternate #1 Joseph Kuehner and the Mayors Representative Marie Johns).

Vice Chairman Warker called the meeting to order and made the following announcement.

This meeting was advertised pursuant to the NJ Open Public Meetings Act N.J.S.A. 1:4-6 Seq. Notices were sent to official publications for the Egg Harbor City Municipal Land Use Board; the Press of Atlantic City, the Egg Harbor News, the Atlantic Current and the Hammonton Gazette. A copy of the notice was posted on the bulletin board of the Egg Harbor City Municipal Building.

The Vice Chairman directed the Secretary to enter this public announcement into the minutes.

Pledge of Allegiance

Roll Call: Mayor Jiampetti present, Mr. Timbers present, Mr. Peterson absent, Mr. Warker present, Mr. Garth present, Mr. Mullineaux present Dennis McKenna present, Michael McKenna present, Mrs. Torres absent, Mrs. Johns absent, Mr. Hare present, Mr. Kuehner absent, Mr. McGowan present, Mr. Manos present and Secretary Donna Heffley present.

Approval of Resolution: Approval of Resolution 3 of 2022.
Estate of Beatrice and John Leek
Recommendation to City Council
To Vacate Portions of Zscocke Street, Harlem Avenue and Hamburg Avenue

Upon motion made by Mr. Mullineaux, seconded by Mr. McKenna
Mr. Manos noted the Board approved Resolution 3 of 2022 at last month's meeting and authorized the Board Chairman to sign the resolution.

Approval of Minutes: July 19, 2022

Upon motion made by Mr. Mr. Mullineaux, seconded by Mayor Jiampetti and carried the July 19, 2022 Land Use Board minutes were approved.

New Business: Informal Review – Felix Vasquez

Mr. Vasquez was sworn in by Leo Manos.
Mr. Vasquez was inquiring about a parcel that was subdivided years ago located at 649-659 Bremen Avenue, Block G-58, Lots 16, 17 and 18. He would like to construct three single family homes on these lots but is asking the Board if they would consider waiving the requirement to pave a section of Diesterweg Avenue.

Mr. McGowan addressed the Board on this matter and noted this was a parcel that was subdivided about 20 years ago. It came before the board and received approval. One of the conditions of approval was that the applicant would have to pave the street. This has not been financially liable for anyone due to the cost of paving the road. If the board favors the development over the street paving then this condition could be waived.

Mr. McKenna asked if the City has any plans to pave the road.

Mr. McGowan noted the City has no immediate plans to pave that road.

Mr. Warker inquired whether there would be any drainage issues without the road.

Mr. McGowan noted as long as it is graded correctly the water should drain properly. The City already maintains this road.

Mr. Vasquez noted even if he paved in front of his homes there will still be a portion of the road that will be undeveloped. Mr. Vasquez would like relief from paving the road.

After discussion and consideration, the Board agreed that it would be worthwhile for Mr. Vasquez to apply to the board with a formal application.

Mr. Manos noted the applicant should request a copy of the prior approval and refer to it specifically, what conditions were required and what modifications he is seeking.

New Business: #2022-03 LUB

Medleaf LLC
201 Philadelphia Avenue
Egg Harbor City, NJ 08215
Block 207, Lot(s) 12.01 and 1.01
Block 206, Lot 16

Mr. Manos noted there is an Interpretation issue that must be discussed and asked Mayor Jiampetti and Mr. Timbers to step down.

Mr. Manos noted this is an application for a cannabis retail facility. The new ordinance allows one facility in the RC zone as a conditional use. A conditional use is a use that is allowed if it meets certain conditions in the ordinance. Two of the conditions are clear first they are in the RC zone and second, they have a conditional state license and will need a final state license.

The board must determine if the typical bulk standards in the RC zone are separate standards which would require a C variance or are they specific conditions as to the retail facility. If they are specific conditions that would change the type of application and who can sit for this application.

Nicholas F. Talcavchia, Esquire with Cooper Levenson, P.A. was present representing the applicant Medleaf, LLC... Kuldip Vikani, owner and Nic Easley, consultant and partial owner were present. Licensed Planner and Engineer, Jason Sciuollo with Sciuollo Engineering Services in Atlantic City, N.J. was present as well.

Mr. Talcavchia gave a brief review of this application.

Mr. Sciuillo was sworn in by Mr. Manos

Mr. Sciuillo reviewed the ordinance and, in his opinion, this is a conditional use which would require the applicant to come before this board and go through the process. The ordinance did not specifically say that the land use controls meaning bulk standards would be made specific conditions. The interpretation the applicant is requesting is that they met the two conditions required and all other standards would require a C variance.

Mr. Talcvacchia noted the interpretation they are requesting is that the board find that other than the relief for additional licensing from the state in the RC zone that all the other standards are C variances and not D variances.

Mr. Manos and Mr. McGowan reviewed the Interpretation the Applicant is requesting.

Board Members and Professions discussed the process for future Cannabis applications and licensing.

Mr. Garth expressed his concerns about parking on Philadelphia Avenue for patrons and was concerned this retail store may take away parking for other businesses.

Mr. Warker inquired about the old bank drive thru. The applicant does not own the drive thru.

Mr. Manos framed the motion; a favorable interpretation would be that the Board interprets the ordinance provides the only 2 specific conditional use standards for this facility. Meaning they are in the RC zone and that they have a state license which the Applicant has both.

Upon motion made by Mr. Garth, seconded by Mr. Hare

Roll Call: Mr. Warker yes, Mr. Garth yes, Mr. Dennis McKenna yes, Mr. Michael McKenna yes, Mr. Mullineaux yes, Mr. Hare yes.

Mayor Jiampetti and Mr. Timbers returned.

Mr. Talcvacchia introduced Mr. Nic Easley, part owner in this facility (small percentage) he owns many cannabis facilities around the county and is extremely knowledgeable on this area. Mr. Easley from Denver Colorado was sworn in by Mr. Manos.

Mr. Easley described to the board his experience and gave a very detailed description of how this facility would be run.

Mr. Easley noted this is a prime location and this building is a great fit for this proposed facility. The applicant has purchased the building.

Mr. Easley discussed a very elaborate security system for these facilities.

Security measures and procedures for Deliveries were discussed.

Mr. Easley discussed hours of operation for this proposed facility. Hours of operation would be 9 a.m. to 9 p.m. seven days a week.

Mr. Easley described the procedures for customers to enter the facility.

There will be no consumption in the building or on site and there will be signs enforcing this. Everything is prepackaged (child safe) when it enters the building. No children will be allowed on site not even with a parent.

The facade of the building will stay the same. There will be new signage which will comply with City Ordinances.

Mr. Warker inquired about State Inspections. Mr. Easley discussed initial inspections and then about twice a year, randomly done inspections by the State. There will also be internal audits conducted.

Mr. Garth does not want to see long lines on Philadelphia Avenue waiting to go into this facility disrupting other businesses and asked if the line could be on the side street next to the facility which would be Arago Street.

Mr. Easley noted there will be three different lines one for new customers, one for returning customers and one for pick up. There will be a greeter outside to manage the lines in front and then the line will go down the side Arago property line. Purchases will be very organized and will run very efficiently.

Ryan McGowan reviewed his report. Attached here to make part of Ryan McGowan's report dated September 13, 2022.

Mr. Warker asked if the Applicant will have to return to the board again.

Mr. McGowan responded no, only if the board requires the applicant to do so for signage.

Mr. Talcavchia wanted it on record That the Board agreed to treat existing site conditions as existing non-conforming conditions.

Mr. Garth asked about lighting.

Mr. McGowan noted the lighting has already been approved for the building when it was a bank.

Board members asked questions concerning the windows, lighting, customer lines, parking, sidewalks, signage, ADA ramps.

Mr. Warker inquired about a parking study

Mr. McGowan addressed his concerns on this topic. Members continued to discuss parking options.

Mr. Easley noted in the beginning the business will have a big boom, then after the first year more facilities will be opened and it will lessen the business at this location.

Mayor Jiampetti discussed the parking lot on Philadelphia Avenue next to Cross Roads. This is a City owned lot used for events and Cross Roads uses it at night for additional parking and would prefer if this facility did not use this parking lot for customers. The applicant and board members discussed signage for parking at this facility

Board Members definitely would like to see queuing with few people in front of the facility and longer queues down Arago street with proper lighting provided.

Mr. McGowan will review the Applicants lighting plan, ADA cross walks and queuing.

Board Members, Professionals and the Applicant discussed parking on Philadelphia Avenue further.

Mr. Michael McKenna suggested the Applicant have signage on their property for their customers only.

Comments from Board Members:

Mr. Timbers asked when the Applicant applied for licensing and if they received a Resolution of Support. Mr. Easley noted they applied with the state in March, were announced in April and they received a Resolution of Support also in April.

The Applicants will meet with the Fire Department Officials as well as the Police Department to discuss security measures and fire access Knox box.

Public Comments: Nanette Galloway was present, 349 Buffalo Avenue in Egg Harbor City. Mrs. Galloway was sworn in by Mr. Manos.

Mrs. Galloway was concerned about signage for the property and wanted to make sure it would not be something that would attract children to this location

Mr. Easley noted signage would only be the name of the business with lighting. The main company name is Medleaf.

Mrs. Galloway inquired if there will be exterior changes made to the building and was concerned about the windows.

Mr. Easley noted the windows will be replaced with more efficient windows and the exterior caging will remain. Some painting will be done on the exterior but the nice brick colonial façade will stay the same.

Mrs. Galloway inquired if the Applicant will be required to submit a site plan to the Land Use Board.

Mr. McGowan noted that would not be necessary because they are not making any site changes.

Mr. Galloway inquired about ADA access for the front of the building.

Mr. Easley noted it is level with the sidewalk.

Mr. McGowan remarked a couple of years ago those changes were made.

Ms. Galloway is Chairperson of the Green Team and is concerned about Medleaf packaging and littering of the City sidewalks

Mr. Easley addressed her concerns and noted this is a big concern for their industry. He discussed their packaging which consists of US hemp-based plastics, they use ocean glass and ocean tops which costs about 3 cents more per package and is child safe compliant and 100 percent bio degradable.

Mayor Jampetti suggested having additional trash receptacles other than what is provided by the City by the facility. Mr. Easley will address this concern.

Mr. Warker inquired if someone will be monitoring the outside queues.

Mr. Easley noted there will be security guards outside as well as inside the Facility.

Mr. Manos framed the motion which is to grant a conditional use approval and that the application meets the two conditions; that they are in the RC zone and have the state licensing. Mr. Manos listed all of the conditions that will be listed in the Resolution that he will prepare.

Upon motion made by Dennis McKenna, seconded by Mr. Mullineaux

Roll Call: Mayor Jiampetti yes, Mr. Timbers yes, Mr. Warker yes, Mr. Garth yes, Dennis McKenna yes, Michael McKenna yes, Mr. Mullineaux yes and Mr. Hare yes.

Mr. Talcavchia agreed they can submit a lighting plan to Mr. McGowan for is review.

Questions and Comments from the Board: none

Old Business: none

Public Comments: Nanette Galloway had a few final questions concerning cannabis applications and State Licensing.

Mr. McGowan addressed these concerns.

Board Members and Professionals continued discussion on the ordinance concerning cannabis and how the ordinance could be made a clearer.

Mayor Jiampetti suggested that Mr. Manos contact Angela Costigan, the City Attorney to discuss the ordinance.

Mayor Jiampetti announced The Fall Family Festival will be held on October 15, 2022. The Economic Development Corporation has been working very hard to organize this event. Please come out and show your support.

Adjournment: Upon motion made by Vice Chairman Warker, seconded by Mr. Mullineaux and carried the meeting was adjourned.

Respectfully Submitted

Donna Heffley, Land Use Board Secretary *D.H.*

September 13, 2022

Donna Heffley, Board Secretary
Egg Harbor City Planning Board
500 London Avenue
Egg Harbor City, NJ 08215

**Re: Application No. 22-03 LUB
Med Leaf LLC
201 Philadelphia Avenue (Block 206, Lot 16; Block 207, Lots 1.01 & 12.01)
City of Egg Harbor, Atlantic County, New Jersey
Conditional Use Approval
RVE File No. 0107-P-140**

Dear Board Members:

Please review the following report prepared for the above-referenced application based on the materials received by our office.

I. Application Materials

1. **Land Use Board Application No. 22-03**, dated July 26, 2022.
2. **New Jersey Cannabis Regulatory Commission Conditional Approval Letter** dated July 26, 2022.
3. **Deed to Property**, dated July 20, 2022.
4. **Egg Harbor City – Fees and Deposits**.
5. **W-9** request for taxpayer identification number and certification.
6. **200 Foot Property Owners List** prepared by the City of Egg Harbor, dated July 25, 2022.
7. **Survey** prepared by P2 Land Surveying, Inc. dated June 9, 2022, and last revised to July 19, 2022.

This report consists of our review of the subject application for conformance with the Egg Harbor City Land Use Ordinance requirements and is limited to planning and engineering. Legal issues shall be deferred for review by the Board Solicitor. Our review is limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing.

Based upon our review we offer the following comments:

II. General

The following general information has been provided for this application.

Applicant/Owner:	Med Leaf LLC 8614 Kennedy Boulevard North Bergen, NJ 07047
Project Attorney:	Nicholas F. Talcvacchia, Esq 1125 Atlantic Avenue, 3 rd Floor Atlantic City, NJ 08401

Cannabis Expert: Sergio Barraza-Ingstrom
1001 Bannock Street
Denver, CO

Location: 201 Philadelphia Avenue (Block 206, Lot 16; Block 207, Lots 12.1 & 1.01)

Zoning: RC – Retail Commercial

The site is located in the Retail Commercial (RC) Zone. Retail stores are a permitted use in this zone.

Existing Use: The previous use on site was a bank. Currently, the site is abandoned.

Proposed Use: Class 5 adult-use cannabis retailer.

Proposal: The applicant is seeking conditional use approval for Med Leaf LLC located on 201 Philadelphia Avenue.

Area, Yard & Bulk Regulations – RC Zone District:

ITEM	REQUIRED	PROPOSED	CONFORMANCE
Use	Retail Commercial	Cannabis Retail	Conditional Use
Minimum Lot Size	9,000 SF	6,000 SF each 18,000 SF total	Does Not Conform
Minimum Lot Width	60 ft	40 ft each 120' Aggregate	Does Not Conform
Minimum Lot Depth	None	150	
Principal Building Setbacks			
Front	0	>0	Conforms
Side	0	0	Conforms
Rear	50		50
Building Height	4 Stories or 60 ft	<4 stories or 60'	Conforms
Maximum Coverage of Lot by Buildings	45%	>45% on single lot <45% aggregate	Does not Conform
Accessory Uses	Accessory Parking Lots	Accessory Parking Lots	Conforms

Zoning & Completeness

The applicant is requesting a conditional use approval for a Class 5 adult-use cannabis retailer in the Retail Commercial (RC) zone. The proposed use is a conditional use in the RC zone. Conditional uses are held to a higher standard than permitted uses and are only considered permitted uses when all of the zoning standards in the zone are met. Any deviation from the standards in the zone require a "d(3)" or conditional use variance. Given that the existing property configuration consists of multiple

properties which do not meet all of the applicable zone standards, the applicant will need a conditional use variance in order to permit the conditional use at this location.

It should be noted that only one cannabis retailer is permitted in the RC zone by the current City cannabis ordinance. The City has taken the position of supporting all applicants to the State cannabis licensing board and has pledged to provide the City's single RC zone license to the first company based in the zone to receive a state retail license. Given this, the applicant should understand that approval from this board does not guarantee that a retail facility will qualify for cannabis retail license from the State or City.

Technical Review

Our office has reviewed the submitted documentation regarding the proposed improvements. Given that the site is a fully developed existing site, a review of the technical design standards was not conducted. The proposed use is a reoccupation of an existing building and parking lots which most recently operated as a bank. The applicant should request a waiver of site plan review in accordance with §170-27.C. of the Egg Harbor City Code given that there are no proposed changes to the site. If the Board decides to deny the request for a site plan review waiver, additional documentation will have to be submitted by the applicant for review by the Board.

General Comments

1. The board may want to request a parking study. The previous bank use may be less trip intensive than the proposed retail cannabis.
2. The applicant should improve all non-compliant ADA ramps and update or provide crosswalks for access to the retail site from adjacent parking lots.
3. The applicant should provide information regarding any proposed signage.

Other Approvals

The applicant shall be required to obtain approvals and or permits from all other State and local agencies having jurisdiction over this project. This includes but is not necessarily limited to both State and Local cannabis retail licenses.

Recommendations

It is recommended that the issues presented in this letter are addressed prior to any approvals and/or waivers be granted by the Planning Board. We may have further comments pursuant to testimony presented at the public hearing or the receipt of revised plans.

Very truly yours,

REMINGTON & VERNICK ENGINEERS



Ryan A. McGowan, PE, PP, CME, CFM

CC: Egg Harbor City Land Use Board Members
Elias Manos, Esq., Planning Board Solicitor
Nicholas F. Talvacchia, Applicant's Attorney
201 EHC Management LLC, Applicant