



**Town of Provincetown
 Planning Board
 Town Hall
 Provincetown, MA 02657**

NOVEMBER 14, 2019

FINDINGS AND DECISION OF THE PLANNING BOARD

Applicant: The Green Harbor Dispensary, LLC
 Owner: Five Star Pet Services, LLC
 Deed Reference: Book 28103, Page 330
 Property Location: 79 Shank Painter Road, Provincetown, MA
 Assessor's Map ID: Map 7-3, Parcel 23-D
 Zoning District: General Commercial (GC)
 Lot Area: 16,375 +/- Square Feet

Summary:

The applicant, The Green Harbor Dispensary, LLC, requested a Special Permit under Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishment, Retail, of the Provincetown Zoning Bylaws to establish a retail marijuana business at the property located at 79 Shank Painter Road. Interior renovations are proposed. No changes are proposed to the previously approved site plan.

A public hearing was held on October 24, 2019 in the Judge Welsh Hearing Room of Town Hall, 260 Commercial Street, Provincetown, Massachusetts. The Planning Board members visited the site individually.

Planning Board members present were:
 Jason Potter, Chair
 Brandon Quesnell
 John Peters-Campbell
 Jeff Mulliken

A TRUE COPY ATTEST

 TOWN CLERK, PROVINCETOWN

The four members present satisfied the legal quorum (four members).

Decision: By vote of four in favor and none opposed, the Planning Board approved this application

General Findings:

1. The Property is located at 79 Shank Painter Road in the General Commercial (GC) Zoning District.
2. The lot consists of approximately 16,375 square feet and is occupied by an existing building containing one commercial condominium as well as residential condominiums.

3. Vehicle access is from Shank Painter Road. There are currently no sidewalks and one existing curb cut on Shank Painter.
4. The parcel is subject to a 2015 Special Permit which reduced the width of the curb cut and created four parking spaces in front of the building, four parking spaces in the rear, as well as other site improvements and landscaping.
5. During the public hearing, the Board heard from the applicant and its representatives, and the Town's consulting planner. There were no comments or letters from the public.
6. After the public hearing closed, the Board met during open session and made the following findings:

APPLICABLE LAW AND DECISION CRITERIA:

1. **Massachusetts General Laws Chapter 40A, Section 9 (Special Permits):**
Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards, and limitations on time or use.
2. **Section 5300 of the Provincetown Zoning Bylaws (Special Permits):**
Special Permit applications shall be heard and decided by the Board of Appeals except where otherwise noted in this By-law.
Section 5330: Special Permits...shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

Specific Findings:

1. The plan meets the requirements of Section 5330 Special Permits. The Planning Board determined that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.
2. During deliberations, concerns were raised about pedestrian access to the retail marijuana business because of the lack of crosswalks on Shank Painter Road in the vicinity of the property, as it is anticipated that this use will result in an increase in foot traffic to the site. The Board determined that the addition of a crosswalk would minimize that impact.

Based on the findings, the **Planning Board voted to grant a Special Permit** pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishment, Retail, of the Zoning Bylaws to operate a retail marijuana establishment at the property located at 79 Shank Painter Road, **with conditions as outlined below.**

WAIVERS: There were no waivers requested or granted.

CONDITIONS: The Planning Board voted to impose the following conditions:

1. To the extent the applicant employs a generator, routine testing and exercising of such generator shall occur between noon and 4pm on weekdays.
2. All queuing shall be managed on site. Queuing must occur inside the business and not on the building's exterior. The applicant shall implement an electronic queuing system, if appropriate and/or necessary.

3. Lighting shall provide adequate public safety while complying with the zoning bylaws. Furthermore, all lighting, shall be dark sky compliant. Existing lighting that does not meet these requirements shall be replaced as necessary. Prior to issuance of building permit, the applicant shall submit a detailed lighting plan showing the location of lighting for review and approval of town staff.
4. All promotional materials shall state that there is limited parking on site and shall provide directions to nearby public parking.
5. The applicant shall provide adequate bicycle racks for the use. Bicycle racks shall be "post and ring" or "inverted u" type. The applicant shall submit specifications and plans showing the location of rack(s) for review and approval by the Town Planner. To the extent the applicant cannot provide adequate bicycle parking, the applicant shall make a \$2000 donation to the bicycle fund.
6. Local delivery of retail product to customers and on-site consumption shall not be allowed without modification of this Special Permit.
7. In order to mitigate for the expected increase in pedestrian traffic to the site, the applicant shall work with town staff to coordinate the addition of a crosswalk at the appropriate location on Shank Painter Road to access the property. If requested by Town Staff, the applicant may be required to pay for the initial installation of the crosswalk (materials and labor), which will satisfy this condition. No ongoing maintenance of the crosswalk is required.
8. The applicant shall have one (1) disabled parking spot and exterior walkways and ramps shall conform to the Americans with Disabilities Act.
9. Deliveries to the property shall occur during non-business hours.
10. A review of traffic and safety associated with the operation of the retail marijuana establishment shall be scheduled with the project applicant and/or owner and appropriate town staff, and shall take place between 12 months and 14 months after receipt of a Certificate of Occupancy. A report shall be provided to the Planning Board by the Town Planner outlining any issues discussed and any recommended changes to address the issues. The Planning Board shall determine whether any agreed upon changes are within the scope of this approval or require the filing for an amendment to the approved Special Permit.

MOTIONS:

The Provincetown Planning Board approved the Applications for a Special Permit PLN 20-11 based on the findings and conditions as set forth above.

Motion: Jason Potter

Seconded: Brandon Quesnell

Vote: 4-0-0

SIGNED BY:



Jason Potter, Chair

DATE OF FILING:

DATE

A TRUE COPY ATTEST

 TOWN CLERK, PROVINCETOWN

A copy of this application, bearing the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Town Clerk's Office as well as the Department of Community Development.

The Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.

Important: Any appeal from the decision of the Planning Board can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

Town of Provincetown
Office of the Town Clerk



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Provincetown, Massachusetts 02657
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I, Ana Ruiz, Acting Assistant Town Clerk of the Town of Provincetown, hereby certify that this decision of the Planning Board of the Town of Provincetown was filed in this office on December 13, 2019 and no notice of appeal was received during the 20 days following receipt and filing of the decision.

Decision No. FY20-11

Applicant's Name The Green House Dispensary, LLC.

February 5, 2020
Date

Ana Ruiz
Provincetown Acting Assistant Town Clerk

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

