

PLN 19-54



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

SEPTEMBER 12, 2019

FINDINGS AND DECISION OF THE PLANNING BOARD

Applicant: Robin B. Reid, Esq., o/b/o BWell Holdings, Inc.
Owner: Cariad Realty Trust
Property Location: 220 Commercial Street, Unit 2
Assessor's Map and Parcel: 11-3-36-02.
Zoning District: TCC

PLN 19-54 Application by Robin B. Reid, Esq., o/b/o BWell Holdings, Inc., requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Provincetown Zoning By-Laws; to operate a retail marijuana establishment at the property located at 220 Commercial Street, Unit 2.

The public hearing was held on August 8, 2019 at Provincetown Town Hall, 260 Commercial St, Provincetown, MA.

There was one speaker in support at the public hearing; there were no letters in the file.

The Planning Board members present were Brandon Quesnell, Vice-Chair, Paul C. Graves, John Peters-Campbell, Ross Zachs, and Jeffrey Mulliken.

The five members present satisfied the legal quorum requirement.

Attorney Robin B. Reid, Esq., Karen Nash, principal of BWell Holdings, Inc., and Jack Hudson, of BWell Holdings, Inc., appeared to present the applications.

Decision: By votes of five in favor, none opposed, none abstaining, the Planning Board approved the application.

AT A TRUE COPY ATTEST
[Signature]
TOWN CLERK, PROVINCETOWN
PRECINCT OF
CAPE COD,
MASS.

322-111
220 COMMERCIAL STREET

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General Findings:

1. The property is located at 220 Commercial Street, Unit 2 in the Town Center Commercial District.
2. The present use of the property is retail.
3. The site is without parking.
4. There is proximate public parking at the MacMillan Wharf, Fishermen's Wharf, Riley's and Grace Hall lots.
5. The proposal was reviewed on the Special Permit criteria as listed in Section 5300 of the By-laws.
6. The proposal is in accordance with the Provincetown Zoning By-Laws.
7. The site has no particular unique natural, historic or scenic features.
8. The proposal protects public amenities and abutting properties from any detrimental impacts of the proposed use.
9. The proposal shall deliver significant tax and community benefits to the Town.
10. During the public hearing the Board heard from Town Staff, and from the applicant and its representatives. One resident spoke in support of the application at the public hearing, and there were no letters from residents.

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. **Provincetown Zoning By Laws Section 2400 Use Regulations**

§ 2410 Applications No building or structure shall be erected, and no premises shall be used except as set forth in the Use Regulations Schedule.

...

§ 2430 Symbols In the following Use Regulation Schedule symbols shall mean the following: YES, a permitted use; NO, an excluded or prohibited use; BA, a use authorized under Special Permit from the Board of Appeals as provided for in Section 5300 Special Permits; PB, a use authorized by Special Permit from the Planning Board.

§ 2440 Permitted Principal Uses

...
B14 Marijuana Establishments, Retail 19 [insert table: by PB in GC]
...

Footnote 19: The Planning Board shall be the Special Permit Granting Authority for Marijuana Establishments. Except no facility or business shall be permitted with a radius of 100 feet of a school or daycare center. The 100 foot distance is measured in a straight line from the nearest point of the parcel of the school or daycare center to the nearest point of the proposed parcel of the facility or business.
....

3. Provincetown Zoning By Laws Section 5300 Special Permits

...
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.

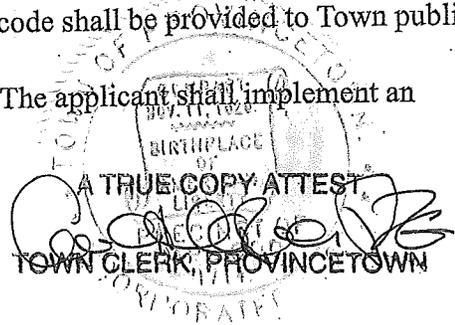
Specific Findings:

The proposal to operate a retail marijuana establishment at the property located at 220 Commercial Street, Unit 2, meets the requirements of Section 5330 of the Provincetown Zoning Bylaws, 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.

Based on the findings, the Planning Board voted to grant a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, with conditions as outlined below.

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

1. The applicant shall explore the possibility of using a battery pack for the security system power back-up. Routine testing of the generator, if necessary, shall occur between the hours of noon and 4PM on weekdays.
2. Prior to the issuance of a Certificate of Occupancy, the applicant shall arrange for the installation of a code-operated lock on the gate, on the east side of the property between Commercial Street and the back building. The lock code shall be provided to Town public safety officials at all times.
3. All queuing of customers shall be managed on-site. The applicant shall implement an electronic queuing system, if necessary.


 A TRUE COPY ATTEST
 TOWN CLERK, PROVINCETOWN

4. Doors and windows at the site shall provide adequate security for the use. Specifications shall be submitted for review and approval by Town staff, and shall be incorporated herein by reference.
5. Exterior lighting shall provide adequate security for the use. Exterior lighting shall be dark sky compliant. Exterior lighting on the back building shall be on motion detectors. Specifications shall be submitted for review and approval by Town staff, and shall be incorporated herein by reference.
6. Prior to the issuance of a Certificate of Occupancy, the applicant shall make a \$1,000 donation to the Provincetown Bicycle Commission.
7. The applicant shall support the aesthetic of the street scape, particularly with respect to its window treatments. Specifications shall be submitted for review and approval by Town staff, in accordance with the discussion at the public hearing, and shall be incorporated herein by reference.
8. Promotional materials, including the applicant's website, shall clearly state that there is no motor vehicle parking at the site, and shall provide directions to nearby public bicycle and motor vehicle parking.
9. There shall be no on-site consumption at, or local delivery from, the site without a modification to these Special Permits.
10. Prior to the issuance of a Certificate of Occupancy, the applicant shall evidence adequate site control to execute the project as provide herein.



MOTIONS:

The Provincetown Planning Board approved the Special Permit for Application PLN 19-54 with the conditions as set forth above based on the findings as set forth above.

Motion: Paul Graves Seconded: Ross Zachs Vote: 5-0-0

The Provincetown Planning Board found that the social, economic or other benefits of the proposal to operate a retail marijuana establishment at the property located at 220 Commercial Street, Unit 2, for the neighborhood or town outweighed any adverse effects such as hazard, congestion or environmental degradation.

Motion: Ross Zachs Seconded: Paul Graves Vote: 5-0-0

SIGNED BY:



Brandon Quesnell, Vice Chair

DATE OF FILING

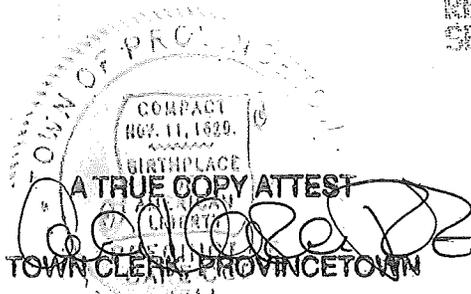
DATE

A copy of this decision, 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 days after the date of filing of the decision with the Town Clerk.

RECORD TOWN CLERK
SEP 17 2019 AM 11



TOWN CLERK, PROVINCETOWN

