



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

June 25, 2020

Findings and Decision of the Planning Board

Case Number: PLN 20-44
Applicant: BWell Holdings, Inc.
Owner: Pensco Trust Company, LLC Custodian c/o Robin Gibbs
Property Address: 220 Commercial Street, Unit 2
Assessor's ID: 11-3-36-002
Deed Reference: Book 32221, Page 1
Zoning District: Town Center Commercial (TCC)
Planning Board Members: Paul Graves
Jeffrey Mulliken
Brandon Quesnell
Monica Stubner
Ross Zachs

I. Introduction

The Project proposes to reconfigure the interior space of Building Two and add dark sky compliant security lighting in order to operate a marijuana production facility at 220 Commercial Street, Unit 2.

The Applicant is petitioning the Planning Board for a Special Permit under Article 2, Section 2440, Permitted Principal Uses, B15 Marijuana Establishments, Industrial order to operate a marijuana production facility within the Town Center Commercial zoning district.

II. Decision

The Planning Board hereby approves the granting of a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B15 Marijuana Establishments, Industrial.

III. General Findings

1. The Property is located at 220 Commercial Street, Unit 2 in Provincetown, Massachusetts, known by the Assessor's Office as Parcel ID: 11-3-36-002, and is recorded land in Book 32221, Page 1 at the Barnstable County Registry of Deeds.

2. The Property is located in the Town Center Commercial zoning district.
3. The Property does not contain onsite vehicular parking spaces.
4. In addition to on street parking, nearby public parking areas include the Grace Hall (400± ft.), Ryder Street (750± ft.), McMillan Pier (800± ft.), Wilson Street (1,200± ft.), and Fire Station (1,200± ft.) parking facilities.
5. The Property is 12,868± square feet in size and improved with two buildings: Building One is facing Commercial Street and includes commercial retail in Units 1 and 2, and residential uses in Unit 3; and Building Two is a separate, freestanding building providing space for Units 2 and 3, currently used for retail storage, and is located north of Building One.
6. The Property was issued a Special Permit by the Provincetown Planning Board for a retail marijuana establishment on September 12, 2019 (PLN 19-54) and recorded at the Barnstable County Registry of Deeds in Book 32398, Page 216.
7. The Property is not located within a radius of 100 feet of a school or daycare center where 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.
8. The proposed Project includes: reconfiguring the interior space of Building Two, which is an approximately 13 ft. by 43 ft. building (559± sq. ft.); adding dark sky compliant security lighting; and adding a generator in order to operate a production marijuana establishment within the Property.
9. Access to Building Two is via Commercial Street, a public way, through a gated common walkway located on the northeast side of Building One that leads to the side entrance for the Unit 2 retail space and the main entrance to Building Two.
10. One public hearing was held on May 14, 2010. Note that the hearing was held virtually in accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, March 23, 2020 Order imposing strict limitation on the number of people that may gather in one place, and Chapter 53 of the Acts of 2020. Robin B. Reid, Esq. represented the Applicant and presented the Project.
11. The Applicant has a Special Permit issued by the Provincetown Planning Board for a production marijuana establishment at 336 Commercial Street (PLN 19-54), which the Applicant intends to relinquish.
12. The Applicant provided a 15-page Standard Operating Procedure for BWell Holdings, Inc. that included security, compliance, auditing, and fire safety procedures.
13. The Applicant submitted exhibits showing the proposed Project that included a security floor plan for BWell Production and Retail prepared by Helix Security, and lighting manufacturer specification sheets for Ketra tunable lamps.
14. The Applicant submitted plans, exhibits, and a project narrative, and the Planning Board members had sufficient time to review the plans prior to the hearing. Plans included:
 - a. Plan entitled "Modified Master Site Plan: Black Dog Condominium Provincetown, MA" prepared by Felco, Inc. dated March 27, 2007 and certified by John McElwee, PLS No. 33602 in 1 sheet, reduced and not to scale (11x17), recorded at the Barnstable County Registry of Deeds, Plan Book 617, Plan Page 9.
 - b. Exhibit titled "Production Bldg" showing 220 Commercial Street Unit 2, Back Building, uncertified, reduced, not to scale and without graphic scale bar (11x17)

- c. Exhibit with hand sketched labels showing gates, fencing, proposed generator location, and path of product from storage to retail approx. 15 steps all behind gated entrance.
- d. Exhibit showing current lighting locations and proposed additional light locations.

IV. Applicable Law, Decision Criteria and Specific Findings:

1. Massachusetts General Laws Chapter 40A, Section 9 (Special Permits):

Zoning ordinances or by-laws may provide that certain classes of special permits shall be issued by one special permit granting authority and others by another special permit granting authority as provided in the ordinance or by-law. Such special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the city or town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

2. Site Plan Review under Article 2, Section 2440, Permitted Accessory Uses, B15 Marijuana Establishments, Industrial.

PB, a use authorized by Special Permit from the Planning Board.

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. Section 5330 of the Zoning Bylaw

Special Permits (other than those specified in Section 3420) 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.

The Planning Board hereby finds the following:

- a) That the Property is not located within a radius of 100 feet of a school or daycare center where 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.
- b) That Property was issued a Special Permit by the Provincetown Planning Board for a retail marijuana establishment on September 12, 2019 (PLN 19-54) and recorded at the Barnstable County Registry of Deeds in Book 32398, Page 216.
- c) That the project proposes dark sky compliant exterior security lighting using motion detection.
- d) As a result of the General and Specific Findings above (Section III and IV), the Board finds that the social, economic or other benefits of the Project for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

4. Waivers. No waivers were requested as part of the application.

V. Vote

PLN 20-44:

Motion by Jeffrey Mulliken to approve the granting of a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B15 Marijuana Establishments, Industrial, with the conditions noted herein. The Motion was seconded by Paul Graves. VOTE: By 5 in favor, 0 opposed, and 0 abstaining the Planning Board Approved this application.

VI. Conditions:

1. Proposed exterior lighting shall be mounted not more than 15 feet high and shall be dark sky compliant.

Signed By:

Planning Board

____/____/____
Date

Date of Filing with the Town Clerk: ____/____/____

A copy of the application in this matter, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Decision and shall require further review by this Board. Furthermore, the Decision issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in the Provincetown Zoning By-Law and G.L. ch. 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 ch. 40A, § 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

Note: or as such timeframes are suspended and extended pursuant to Section 17 of Chapter 53 of the Acts of 2020.