



**SOUTH KINGSTOWN PLANNING DEPARTMENT**  
**PROJECT REVIEW MEMO**  
**Plant Based Compassionate Care, Inc.**  
**Advisory Development Plan Review**  
March 23, 2021

|               |   |                  |   |
|---------------|---|------------------|---|
| Project Type: | Advisory Development Plan Review  |                  |   |
| Review Stage: | N/A   |                  |   |
| Address:      | 71 Old Tower Hill Road  |                  |   |
| Plat:         | 57-2  | Lot:             | 20  |
| Parcel Size:  | ~1.07 acres   | Zoning District: | CH (Commercial Highway)   |
| Applicant:    | Plant Based Compassionate Care, Inc.<br>c/o Benjamin Herbst<br>151 Cascade Road<br>Stamford, CT | Owner:           | Brian McLaughlin<br>323 Manley Street<br>West Bridgewater, MA 02379 |

#### Property Characteristics

The property is approximately 1.07 acres in size located within the CH (Commercial Highway) Zoning District and is developed with two (2) existing structures containing four (4) separate commercial spaces (a 'strip mall' building fronting on Old Tower Hill Road including a sandwich shop, a nail salon, and a convenience store, and the currently vacant space located in the subject building). The remainder of the Site is improved with an asphalt parking lot with 51 parking spaces with access to the site from three (3) curb cuts, two (2) of which on Pershing Avenue and one (1) on Old Tower Hill Road. The property is served by public water and sewer, as well as electric and natural gas from National Grid. There are no wetlands, FEMA designated Flood Zones, or any other environmentally sensitive features on this nearly 100% impervious parcel.

#### Project Description

The applicant is proposing to retrofit the structure in the rear of the Site and make other site improvements for use as a medical marijuana compassion center. The proposed facility will be utilized for the retail sale of packaged/prepared products only and will not include any cultivation or manufacturing of products.

##### *Parking, Loading & Access*

The existing parking lot is being reutilized and improved to accommodate the proposed use. Additional landscaping is also being provided to comply with the landscaping regulations within the Subdivision and Land Development Regulations to extent practicable. The applicant asserts that "...Plant Based Compassionate Care, Inc. has no need for a delivery truck any larger than specified (van) and has control of the delivery times and schedule and there is currently an existing loading space that meets the requirements for the building on the same lot (shared)." As such no dedicated loading space is being proposed.

A Traffic Assessment was completed by Pare Corporation on January 25, 2021 which concludes the following:

*Based on the review of the information and the analyses performed, the following additional conclusions can be made regarding the proposed medical marijuana dispensary to be located at 91 Pershing Avenue in South Kingstown, Rhode Island.*

- *The projected traffic is anticipated to have no significant impacts to the traffic capacity on the roadways and intersections.*
- *With the speeds on the roadways and the sight distances measured at the significant intersections, the safety of the roadways and intersections are not anticipated to be impacted.*
- *The parking being provided is sufficient when compared to industry standards. Other measures are being proposed by the applicant which will also improve the parking needs. If there is a need for off-site employee parking, the applicant will find additional parking off-site for employees and shuttle them to and from the proposed facility.*
- *If traffic significantly exceeds the projected volumes when the site first opens due to its newness, the applicant is willing to take customers by appointment only to disburse the traffic flows until the newness of the site recedes.*
- *The applicant is committed to provide staff and police detail to help direct traffic to/from the site.*

*In summary, we are of the opinion that the proposed development will not have any significant impact to the capacity and safety of the roadway network.*

#### *Landscaping and Drainage*

Landscaping improvements include increasing the southern property line plant bed to 10' in order to maintain a full landscape screen. To do so the applicant is willing to remove a section of the existing parking lot along the existing south plant bed to increase the width to 10' where it is currently insufficient. If at any time during the lease of the property by the applicant, the existing evergreen plant screen is damaged or destroyed, the applicant will remove and replace any of the damaged plants to ensure they always maintain a full landscape screen.

#### *Security & Lighting*

In accordance with the *Security Protocols* write-up provided with the application, security will be checking customers in at the door and those customers will only be allowed access to the sales floor and public restrooms. The retail floor and restrooms will be separated by a security door to separate the limited access areas and 'back-room' operations. Employees and contractors will be required to wear identification badges. All cash and cannabis products during non-business hours will be stored in a highly secure vault room located in the basement with only managers having access. This vault room will remain locked at all times except when authorized managers require entry. Two full-time uniformed security personnel, with law enforcement experience and specifically trained in cannabis-centric business operations, will be on site during business hours. The premises will be outfitted with a commercial/industrial grade security system and will include digital video surveillance of the exterior points of entry and exit, including the parking lot, as well as interior areas where marijuana is stored, handled or dispensed (sales floor, vault, packaging area, and delivery area).

The exterior of the building and the parking lot will be illuminated with wall packs and flood lights designed to provide 2-foot candles (minimum) throughout the parking lot. The average foot candles with the proposed design is 2.52. In addition, the applicant asserts that it is important to not disrupt the abutting property. They performed a light calculation for the neighboring residential property, which yielded an average illuminance of 0 foot candles.

### Waivers Requested

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The applicant is requesting a waiver from Section 709 (Loading space requirements and dimensions) of the Zoning Ordinance which may require them to provide a dedicated off-street loading area if determined to be appropriate by the Planning Board.

The applicant is requesting a waiver from Article IV, Section G(2) of the Subdivision and Land Development Regulations requiring that a landscaped strip of land shall be constructed or maintained along the entire street frontage, except for any necessary driveways. The applicant asserts that the existing loading area cannot be screened from Pershing Avenue without impeding the entrance from Pershing Avenue and the use of the existing loading area.

### Regulatory Considerations

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#### *Zoning Ordinance – Article 3, Sec. 301: Schedule of Use Regulations Table*

Per Section 301 of the Zoning Ordinance, this project requires a Special Use Permit for a marijuana retail facility (Use Code 100). Since the Special Use Permit is required in addition to the Development Plan Review approval, the Planning Board is required to provide the Zoning Board with an advisory opinion in regard to the issuance of the Special Use Permit as part of the review of the Development Plan application.

| <i>Use Code</i> | <i>Use</i>                | <i>Allowance</i>       |
|-----------------|---------------------------|------------------------|
| 100             | Marijuana retail facility | S (Special Use Permit) |

#### *Zoning Ordinance – Article 5, Sec. 504.15: Marijuana-related uses.*

Marijuana retail facilities, and/or marijuana cultivation facilities may be allowed by special use permit in those zones specified in Section 301, subject to the following conditions:

- A. The application for a special use permit shall provide the legal name and address of the retail or cultivation facility, a copy of the articles of incorporation, and the name, address, and date of birth of each principal officer and board member of the facility. The application shall include the Development Plan approved pursuant to this section, as well as a vicinity map, which shall identify the distances between the proposed facility and the nearest edge of abutting zoning districts. The application shall also include a copy of the licensing application submitted pursuant to the State of Rhode Island "Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business Regulation," Regulation 230-RICR-800-05-1.
- B. The marijuana retail facility must not be located within:
  1. One thousand (1,000) feet from a pre-existing public or private school, or pre-school, or any licensed day-care center, not including higher education facilities; or
  2. Two thousand (2,000) feet from any other marijuana retail facility or marijuana cultivation facility.
- C. The distances specified in the immediately preceding section (B) shall be measured by a straight line from the nearest property line of the premises on which the proposed marijuana retail facility or marijuana cultivation facility is to be located to the nearest property line of any of the other designated uses set forth therein.
- D. Hours of operation for a marijuana retail facility or marijuana cultivation facility shall be limited to 8:00 a.m. to 8:00 p.m.
- E. The proposed facilities shall implement the appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and shall ensure that each location has an operational security/alarm system.

- F. Development Plan Review and approval shall be required prior to application for the Special Use Permit, and is to be conducted by the Planning Board. In addition to the Development Plan Review standards set forth in the Subdivision and Land Development Regulations, the Planning Board shall ensure compliance with the following conditions:
1. The requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area.
  2. The exterior appearance of the structure is consistent with the exterior appearance of existing structures within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.
  3. Lighting is provided to illuminate the marijuana retail facility or marijuana cultivation facility, its immediate surrounding area, any accessory uses including storage areas, the parking lot(s), its front façade, and any adjoining public sidewalk.
  4. Development Plan Review applications for all marijuana cultivation facilities shall include detailed plans of the facility's wastewater treatment system(s). Such plans shall be approved by the Department of Public Services prior to issuance of the Development Plan approval.
- G. All marijuana retail facilities and marijuana cultivation facilities shall fully comply with all other licensing requirements of the Town and the laws of the State of Rhode Island.

**Zoning Ordinance – Article 7, Sec. 711: Minimum off-street parking requirements**

With the ‘strip mall’ building having a building footprint of approximately 7,200 square feet, the existing uses for this building requires twenty-one (21) parking spaces. The proposed use will require an additional seven (7) parking spaces per the Zoning Ordinance. Along with the other commercial tenants on this property, the overall parking required by the Zoning Ordinance is 28 total parking spaces. The proposed parking configuration will provide for 51 total parking spaces in compliance with the Zoning Ordinance.

For reference, the parking requirements are presented for reference below:

| <i>Use</i> | <i>Parking Standard</i>   |
|------------|---|
| Retail     | 1 parking space for each 350 square feet of gross leasable floor area (GLFA) with a minimum of 3 spaces |

**Zoning Ordinance – Article 9, Sec. 907: Variances and special use permits**

Per Section 907.A.2 of the Zoning Ordinance, in granting a special use permit, the [Zoning] Board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. That the special use is specifically authorized by this Ordinance, and setting forth the exact subsection of this Ordinance containing the jurisdictional authorization;
- b. That the special use meets all of the criteria set forth in the subsection of this Ordinance authorizing such special use; and
- c. That the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan of the Town. In so doing, the Board shall consider, whether or not satisfactory provisions and arrangements have been or will be made concerning, but not limited to the following matters, where applicable:
  - (i) Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and

convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;

- (ii) Off-street parking and loading areas where required, with particular attention to the items in subsection A.1., above, and the noise, glare or odor effects of the special use permit on adjoining lots;
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above;
- (iv) Utilities, with reference to locations, availability and compatibility;
- (v) Screening and buffering with reference to type, dimensions and character;
- (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district;
- (vii) Required yards and other open space;
- (viii) General compatibility with lots in the same or abutting zoning districts.

***Subdivision & Land Development Regulations – Article IV, Sec. G: Landscaping – General Standards and Specifications***

As further outlined in Section G: Landscaping – General Standards and Specifications within Article IV of the Subdivision and Land Development Regulations, landscaping of the parking lot perimeter (minimum 10’ vegetated strip with at least one [1] tree plus three [3] low shrubs or groundcover plants for every thirty-five [35] linear feet of perimeter), interior landscaping of parking areas (5% of the total parking lot area), and building landscaping is required.

**Decision Deadline**

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Pursuant to the Zoning Ordinance and Subdivision and Land Development Regulations, there is no deadline for Planning Board decisions on Development Plan Review applications.

**Review to Date**

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**Technical Review Committee** – December 9, 2020 and February 10, 2021.

The following items and recommendations were discussed with the Technical Review Committee:

| Item/Issue Discussed                 | Recommendation   |
|--------------------------------------|--|
| <b>Traffic</b>                       | <ul style="list-style-type: none"> <li>• Expanded analysis on traffic number comparisons between prior applications and the subject application.</li> <li>• A resolution to resolve future conditions as a result of the use or utilization of the site as it relates to traffic and parking.</li> </ul> |
| <b>Operation</b>                     | <ul style="list-style-type: none"> <li>• Hours of operation as it relates to the retail sale of goods and services, potential future adjustment to that such as appointment only.</li> </ul>   |
| <b>Landscaping &amp; Sight Lines</b> | <ul style="list-style-type: none"> <li>• Discussion and resolution of landscaping and sight line conflicts.</li> <li>• Buffering as it relates to loading and screening.</li> </ul>  |
| <b>Lighting</b>                      | <ul style="list-style-type: none"> <li>• Lighting plan clarification to ensure lighting is neighborhood appropriate and dark sky compliant.</li> </ul>   |

### **Required Findings**

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In accordance with Article VIII.B(1) of the Subdivision and Land Development Regulations, the Planning Board shall have the authority to waive or modify one or more of the requirements contained in these regulations if the Planning Board finds that:

- a) The waivers or modifications are reasonable and within the general purposes and intents of these regulations; and,
- b) Literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

In accordance with Article IV.F(3) of the Subdivision & Land Development Regulations, prior to granting Development Plan Review approval the Planning Board shall find that:

- a) The granting of approval will not result in conditions inimical to the public health, safety, and welfare;
- b) The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
- c) The plans for such project comply with all the requirements of the Zoning Ordinance and the Subdivision & Land Development Regulations;
- d) The plans for such project are consistent with the Comprehensive Plan; and,
- e) Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval.

### **Draft Motion**

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The following motion with associated findings and conditions of approval is being offered for consideration by the Planning Board and should be amended accordingly if deemed appropriate or otherwise necessary.

“The South Kingstown Planning Board hereby grants advisory Development Plan approval for The Plant Based Compassionate Care, Inc. application, a proposed medical marijuana compassion center with associated parking and landscaping improvements on Assessor’s Plat 57-2, Lot 20, located at 71 Old Tower Hill Road, Plant Based Compassionate Care, Inc., *applicant*, Brian McLaughlin, *owner*. Development Plan approval for the Plant Based Compassionate Care, Inc. application is based upon plans entitled *Proposed Conditions Plan of Lot 20, Assessor Plat 57-2 in South Kingstown, RI*, dated November 9, 2020, completed by Hilbern Land Surveying, 225 B Shady Lea Road, North Kingstown, RI 02852.

This approval is based upon the following Findings of Fact and Conditions of Approval:

#### ***Findings of Fact***

- A. The granting of approval will not result in conditions inimical to the public health, safety, and welfare.
- B. With the required Conditions of Approval, the granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district.
- C. With the required Conditions of Approval, the plans for the project comply with all the requirements of the Zoning Ordinance and the Subdivision and Land Development Regulations.

- D. The plans for the project are consistent with the Comprehensive Community Plan.
- E. Any conditions or restrictions that are necessary to ensure that these findings have been met have been incorporated into this approval.

In addition to the Development Plan Review standards listed above, the Planning Board further finds that:

- F. The requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area.
- G. The exterior appearance of the structure is consistent with the exterior appearance of existing structures within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.
- H. Lighting is provided to illuminate the marijuana retail facility or marijuana cultivation facility, its immediate surrounding area, any accessory uses including storage areas, the parking lot(s), and its front façade.

***Findings of Fact – Waivers Requested***

In accordance with Article VIII, Section B(1) of the Subdivision and Land Development Regulations with regard to waivers, the Planning Board hereby grants the following waivers:

| <b><i>Section</i></b>  | <b><i>Waiver</i></b>   |
|--|--|
| Section 709, Zoning Ordinance  | Required off-street loading areas/spaces, as determined necessary by the Planning Board.     |
| Article IV, Section G(2), Subdivision & Land Development Regulations | Street landscaping of parking and/or loading areas to provide a visual buffer of such areas. |

In doing so, the Planning Board finds that:

- I. The waiver(s) or modification(s) is/are reasonable and within the general purposes and intents of these regulations; and that
- J. Literal enforcement of the regulations is impracticable and will exact undue hardship because of the peculiar conditions pertaining to the land in question; or waiver or modification of the regulations is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

***Conditions of Approval***

1. Approval is conditioned upon the applicant obtaining the required Special Use Permit for the medical marijuana compassion center (Use Code 100 – Marijuana retail facility) use from the Zoning Board of Review.
2. Development of the site shall be in strict conformance with the approved site plan, unless amended by these Conditions of Approval.
3. The applicant shall obtain all required local and State permits prior to commencing any site improvements and obtaining a Certificate of Use or Occupancy.
4. Any proposed signage must comply with the requirements established by Article 8 of the Town of South Kingstown Zoning Ordinance and all proposed lighting shall be dark sky compliant.
5. Prior to any request for a Certificate of Occupancy, a Rhode Island certified Professional Engineer shall inspect all of the site improvements and submit certification to the

Administrative Officer, the Department of Public Services, and the Building Official siting that construction substantially conforms to the approved plans.

6. Prior to any request for a Certificate of Occupancy, a RI licensed Landscape Architect shall inspect the installation of the landscape improvements and submit certification to the Administrative Officer of the Planning Board that the installation conforms to the approved plan and the planting standards of the South Kingstown Subdivision and Land Development Regulations.
7. The applicant shall guarantee all landscape materials depicted on the approved plan set for a period of one (1) year from the date of planting.
8. **And any other conditions deemed necessary by the Planning Board in consideration of this application..."**