



# WESTPORT CONNECTICUT

PLANNING & ZONING

TOWN HALL, 110 MYRTLE AVENUE

WESTPORT, CONNECTICUT 06691

(203) 341-1030 • (203) 341-1079

(203) 454-6145 - fax

Hearings: April 19, 2018, May 3, 2018 & May 17, 2018.

Decision: June 14, 2018

June 28, 2018

Patricia Sullivan, Esq.  
Cohen & Wolf, PC  
P.O. Box 1821 115 Broad Street  
Bridgeport, CT 06601

**RE: 1460 Post Road East, Application # 18-021, Site Plan & Special Permit**

Dear Attorney Sullivan:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on June 14, 2018, it was moved by Mr. Stephens and seconded by Mr. Gratrix to adopt the following resolution.

## **RESOLUTION #18-021**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on June 14, 2018 and made the following findings:

### **Property Description**

1. The property at 1460 Post Road East has a gross lot area of 2.96 Acres and is situated on the south side of Post Road East located just west of the intersection of Maple Avenue South.
2. This property is a split zoned site with 63% of the site in the commercial General Business District (GBD) and 37% of the site in the Residence A (Res A) zone, with most of the residentially zoned portions of the lot having been developed with a parking lot.
3. The property supports an existing 39,645 square foot one-story building, that is currently occupied with two restaurants, a dentist office, an orthodontic office and a 14,100 square foot vacant retail storefront and a lower level that is occupied by a music school, a salon and the 4,475 square foot vacant space that was formerly a nail salon that the proposed Dispensary intends to occupy.
4. There is surface parking on all sides of the building for a total of 232 parking spaces on site which include three (3) handicapped parking spaces.

### **Zoning History**

5. The Planning and Zoning Commission adopted Text Amendment #735 on May 18, 2017 with an effective date of July 26, 2017 that:
  - o established zoning regulations for Medical Marijuana Dispensaries found in §32-25; and
  - o allowed for up to two (2) Dispensaries in Town; and
  - o restricted dispensary locations from locating within 1,000 feet of “protected uses” as listed in §32-25.3, Location; and
  - o include the following protected uses: “Schools, Day Care Centers, Public Parks and Recreation Areas, Public Buildings and Places of Worship”.
6. Text Amendment #735 also modified §5-2, Specific Terms, to include definitions for “Dispensary Facility”, “Public Building”, “Place of Worship”, “Public Park and

Recreation Area” and “Separation Distance”. Definitions for “School” and “Day Care Center or Nursery School” already existed in §5-2, and were not modified.

7. The 2017 Plan of Conservation and Development identifies the goal (pg. 73) to “*Guide business and economic development in Westport so that it is appropriate for the community, enhances community character, and minimizes any potential negative impacts while striving to increase the Grand List*”.

### **Proposal**

8. The applicant has requested Special Permit and Site Plan approval for a medical marijuana Dispensary Facility that is 4,475 square feet in floor area that would occupy the entire tenant space of the former nail salon, Coco Nail Salon.
9. The applicant first appeared before the Commission when they opened the Site Plan and Special Permit (#18-021) applications for a Dispensary Facility at 1460 Post Road East on April 19, 2018 and testimony was taken at this time.
10. The applicant stated during the hearing of April 19, 2018 that all Dispensary visits would be by appointment only and that they expect eight (8) new patients and between 30-50 existing patients a day, there would be between four (4) and eight (8) employees on site, and that the hours of operation would be Monday through Thursday from 9:30 AM to 8:00 PM, Friday 9:30 – 6:00 PM, Saturday from 9:00 AM to 2:30 PM and closed on Sunday.
11. The architectural floor plans dated May 11, 2018 show a waiting room with seating for 15 patients and caregivers, and three (3) patient consultation rooms with a dispensary counter.
12. In Development Plans prepared by Solli Engineering and dated May 11, 2018, the applicant has provided two (2) additional handicapped space near the entrance of the proposed dispensary, bringing the total number of handicapped parking spaces on site up to five (5) and to keep the total parking count at 232 parking spaces with eight (8) spaces dimensioned as compact parking spaces.
13. The delivery parking area has been designated around the corner from the entrance and to the rear of the building, in close proximity to the door that the deliveries will take place.
14. The Commission has considered conformance with the following regulations:
  - §5-2 Definitions, Dispensary Facility and definitions of all the protected uses (Schools, Day-Care Centers or Nursery Schools, Public Buildings, Places of Worship, Public Parks and Public Recreation Areas), §13 Residence A District, §24 General Business District (GBD), §32-25 Medical Marijuana Dispensaries, §43 and §44 Site Plan and Special Permit Standards and §34 Off-Street Parking and Loading.

### **Prior Reviews**

15. The Police Department Comments were received on April 5, 2018 and there were no comments on this proposal.
16. The Fire Department Comments were received on April 4, 2018 and there were no objections to this proposal.
17. The application was opened on April 19, 2018 and testimony was taken, it was continued to May 3, 2018 and testimony was taken, it was further continued to May 17, 2018 and testimony was taken and this item was closed.
18. Testimony was opened up to members of the public at the April 19, 2018, May 3, 2018, and May 17, 2018 meetings.

**NOW THEREFORE, BE IT RESOLVED** that **1460 Post Road East**, Application #18-021 by Bluepoint Wellness of Westport, LLC for property owned by Urstadt Biddle Properties Inc. for a Special Permit and Site Plan approval for a medical marijuana Dispensary Facility, for property located in a GBD/Res A zone, PID #H09019000 be GRANTED and subject to the following modifications below:

### **MODIFICATIONS**

1. The Special Permit solely authorizes use of the property located at 1460 Post Road East as a medical marijuana Dispensary Facility pursuant to Westport Zoning Regulations §32-25 and does not authorize use of said property for any purposes related to recreational marijuana, and said property shall not be used for any purposes related to recreational marijuana. Any legislation enacted by the Connecticut General Assembly legalizing the use, production, dispensing, or any other aspect of recreational marijuana shall have no effect upon the foregoing condition of approval and any use of the property related to such recreational purposes shall constitute a violation of the foregoing condition resulting in termination of the Special Permit.
2. The Dispensary Facility shall be used only for the sale of medical marijuana pursuant to §32-25 of the Town of Westport Zoning Regulations and Chapter 420f (§21a-408 et. seq.) of the Connecticut General Statutes and as agreed to by the applicant.
3. Conformance to Development Plans prepared by Solli Engineering prepared May 11, 2018.
4. Conformance to Architectural Floor Plans, prepared by KA Davignon, architect dated May 11, 2018.
5. A Zoning Permit shall be obtained prior to commencement of any work and prior to the issuance of a Zoning Permit:
  - a. The applicant shall provide Planning and Zoning staff pursuant to §32-25.2(a) of the Zoning Regulations of the Town of Westport, with a copy of a Dispensary Facility license issued under the authority of the State of Connecticut Commissioner of the Department of Consumer Protection; and
  - b. The applicant shall provide a copy of the Dispensary Facility Security Plan to the Town of Westport Chief of Police and provide proof of submission to Planning and Zoning staff. Said plan shall not be made available to the public or become part of the Planning and Zoning record file; and
  - c. The applicant shall provide proof of filing this resolution on the land records; and
  - d. The applicant shall provide proof of conformance to all site and location requirements and personnel limitations contained within the said State of Connecticut granting license as required per §32-25.2(b).
6. All work approved pursuant to this Special Permit and Site Plan shall be completed within 5 years of date of approval, by June 14, 2023.
7. Prior to the issuance of a Zoning Certificate of Compliance (ZCC) for the medical marijuana Dispensary Facility, the applicant shall submit a final "As-Built" survey.
8. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements of representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Planning and Zoning Commission.
9. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

10. ENFORCEMENT. Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

**Reasons:**

1. The proposed use has been found to be in conformance with the 2017 Plan of Conservation and Development and the Special Permit Standards (§44-6) and will:
  - a. be in conformance with the applicable zoning regulations of the Town of Westport; and
  - b. not prevent or inhibit the orderly growth and development of the area; and
  - c. not have a significant adverse effect on adjacent areas located within the close proximity to the use; and
  - d. not interfere with pedestrian circulation; and
  - e. not have a significant adverse effect on safety in the streets nor unreasonably increase traffic congestion in the area, nor interfere with the pattern of highway circulation; and
  - f. not have a significant adverse effect on historical, archeological and/or paleontological sites; and
  - g. not obstruct significant views which are important elements in maintaining the character of the Town or neighborhood for the purpose of promoting the general welfare and conserving the value of buildings; and
  - h. not have a significant adverse effect on storm drainage, sewage disposal or other municipal facilities; and
  - i. be in scale with and compatible with surrounding uses, buildings, streets and open spaces.

**VOTE:**

AYES	-4-	{Lebowitz, Walsh, Stephens, Gratrix}
NAYS	-2-	{Dobin, Cammeyer}
ABSTENTIONS	-1-	{Rutstein}

Very truly yours,



Paul Lebowitz, Chairman  
Planning & Zoning Commission

- cc: Assessor's Office  
 Fire Marshal  
 Police Chief  
 Town Attorney's Office  
 RTM P & Z Committee Chair  
 RTM Moderator  
 First Selectman  
 State Department of Consumer Protection