



City of Stamford
Zoning Board

STAFF REPORT

TO: CITY OF STAMFORD ZONING BOARD
FROM: VINEETA MATHUR, PRINCIPAL PLANNER
SUBJECT: ZB #223-32 Special Permit
APPLICANT: Nautilus Botanical, EJVI LLC (“Nautilus”)
DATE: November 27, 2023
MASTER PLAN: Master Plan Category 7 (Commercial Arterial)
ZONING: C-N (Neighborhood Business)

REQUESTED ACTIONS:

223-32	Special Permit	Section 19.C.2 Hybrid Retail marijuana dispensary Section 12.K.4.e Exemption from sidewalk requirement
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Introduction

The Applicant Nautilus Botanicals LLC (“Nautilus”) is requesting approval of a Special Permit to allow a Hybrid Retail facility which includes the sale of recreational marijuana for adult use (ages 21 and over) in addition to pharmaceutical sales in an existing 2,077sf commercial building on a 6,926 sf parcel located at 1110 East Main Street. The Applicant also requests the approval of a Special Permit to exempt the proposal from the requirement to provide sidewalks. The applicant has a signed purchase agreement with the owner of the property.

Site & Surroundings The property 1110 East Main Street is located at the intersection of Standish Road and East Main Street. The site is located in the C-N zoning district and is surrounded by R-5 Zoning District to the north and C-N zoning to the south of East Main Street. The Fairlawn Condominiums are located towards the west and a variety of commercial uses are located to the south and east of the subject site.



The Applicant is proposing minor changes to the existing barn style structure to accommodate the proposed Hybrid Retail use. The applicant proposes to add 400 sf of floor area to the existing building, remove the canopy from the south side of the building and adjust the roofline of the building. The site currently has 4 legally non-conforming parking spaces, and the Applicant proposes to add two additional parking spaces on the south side of the building, one of which will be an accessible space. The building is currently non-conforming with respect to building height with 35' building height where a maximum of 25' is permitted. The existing non-conformity related to building coverage will be eliminated by the removal of the existing drive-through. The use is proposed to be open seven days a week from 9am to 9pm with shortened hours from 10am to 8pm on lighter traffic days. Previous approvals for such Hybrid Retail dispensaries include the following hours:

Monday-Saturday: 10:00 a.m. - 7:00 p.m.

Sunday: 11:00 a.m. - 5:00 p.m.

Staff recommends that the Zoning Board consider similar hours for new dispensaries.

223-15 Special Permit to allow a Hybrid Retail use

The Zoning Regulations for Marijuana Dispensaries were recently changed (Application 223-17 MOD) to define Hybrid-Retail use, however this application was filed under the old regulations at which time Adult-Use Cannabis was not defined in our Zoning Regulations. Public Act No. 21-1 entitled "An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis" (the "Act") was adopted in 2021 and allowed the retail sale of cannabis in Connecticut. To facilitate the implementation of the new regulations, the Act states that unless otherwise provided for by a municipality through its zoning regulations or ordinances, a cannabis establishment shall be zoned as if for any other similar use, other than a cannabis establishment, would be zoned. State regulations allow for legal sale of marijuana under strict controls such as amount of cannabis sold to a consumer at one time, strength of the formula, labeling, packaging and advertising.

Based on an opinion from the Law Department, it was determined that the most similar use in the Zoning Regulations to Hybrid Retail is Medical Marijuana Dispensary (MMD). The regulations for MMD in effect at the time had specific standards for location, parking and signage including the following:

a. Medical Marijuana Dispensaries must possess a current license from the State of Connecticut Department of Consumer Protection and comply with the Regulations of the State of Connecticut Department of Consumer Protection Concerning the Palliative Use of Marijuana, per the Connecticut General Statutes, Section 21a-408-1 to 21a-408-70, inclusive, as may be amended from time to time. Failure to maintain proper licenses shall be deemed an immediate violation of the City of Stamford Zoning Regulations;

The applicant will be required to provide proof of a Hybrid Retail license prior to a Building Permit. They currently possess a conditional license.

b. No Medical Marijuana Dispensaries shall be located within a 3,000 feet radius of any other Dispensary;

The Zoning Regulations requires a minimum of 3,000 ft separation between dispensaries. The proposed dispensary is located approximately 7,700 ft away from the Hybrid Retail facility at 12 Research Drive (Fine Fettle) and approximately 3,600 ft from the Hybrid Retail facility located at 816 East Main Street (Curaleaf).

(c) Signage standards limiting permitted signage

Signage for Dispensaries must comply with the following standards:

- 1) Signage on the Dispensary facility Building shall be limited to a single Sign no larger than sixteen inches in height by eighteen inches in width;*
- 2) In addition to a Sign on the facility Building, a Dispensary may install one (1) additional Ground Sign or Pole Sign, where such signs are permitted, not exceeding lesser of (i) what is permitted in the underlying zoning district, or (ii) ten (10) square feet in area and ten (10) feet in height when ground mounted;*
- 3) Dispensaries may use the words “medical marijuana dispensary facility” on the facility’s signage;*
- 4) There shall be no illumination of a Sign advertising a marijuana product at any time;*
- 5) There shall be no signage that advertises marijuana brand names or utilizes graphics related to marijuana or paraphernalia on the exterior of the Dispensary or the Building in which the Dispensary is located;*
- 6) There shall be no display of marijuana or paraphernalia within the Dispensary which is clearly visible from the exterior of the Dispensary; and*
- 7) There shall be no signage which advertises the price of its marijuana.*

The signage permitted for this use is significantly lower than the signage permitted in the C-N district. The C-N district allows 2 sf of signage per linear foot of building with no maximum size or maximum number for front wall signage. An additional 30 sf of signage is permitted on each side or rear wall. The permitted ground signage for other retail uses in the C-N district is also significantly larger (50 sf in size, 21 ft high). The Application does not show any proposed signage as part of their application. Future signage requests will be subject to review by Zoning Board staff.

(d) Parking is required pursuant to Section 12 using the standards for retail use.

The total floor area dedicated to the Hybrid Retail use is 2,077 sf. Applying the retail use parking standard (4 parking spaces per 1,000 sf) to the entire 2,077sf including any accessory spaces used for storage, the total parking requirement will be 9 parking spaces.

The proposal includes a total of 6 parking spaces, with 4 spaces allocated to the retail use of the building and 2 spaces allocated to storage within the building. The Applicant states that 1,174± sf

of the building will be used as retail and 1,111± square feet will be used as storage and uses this distribution to arrive at the parking requirement of 6 parking spaces

The Zoning Enforcement Officer reviewed the parking calculation provided by the Applicant.

In scenarios where the back of the house space of a retail establishment is only accessible to employees and not used by the public for the retail operation, the ZEO may interpret the space as eligible for a lower parking ratio compared to retail use. In this scenario he has applied the office parking standard of 3 parking spaces per 1,000 sf for the limited access ground floor and second floor area. Further, the ZEO does not agree with the use of ‘storage’ parking standard for the vault area on the first floor (195 sf), the break room, stairs and hallways on the second floor (247 sf), and secure storage on second floor (500 sf). Storage use requires 1 space per 2,000 sf (based on warehouse parking standards). These areas can be expected to be used on an on-going basis during the operation of the dispensary unlike an inactive storage area.

If the second story ‘secure storage’ is in fact inactive and the ‘storage’ standard is applied, it will still result in the requirement of 1 parking space which when added to the rest of the requirement will still result in a higher parking requirement than what the Applicant has submitted.

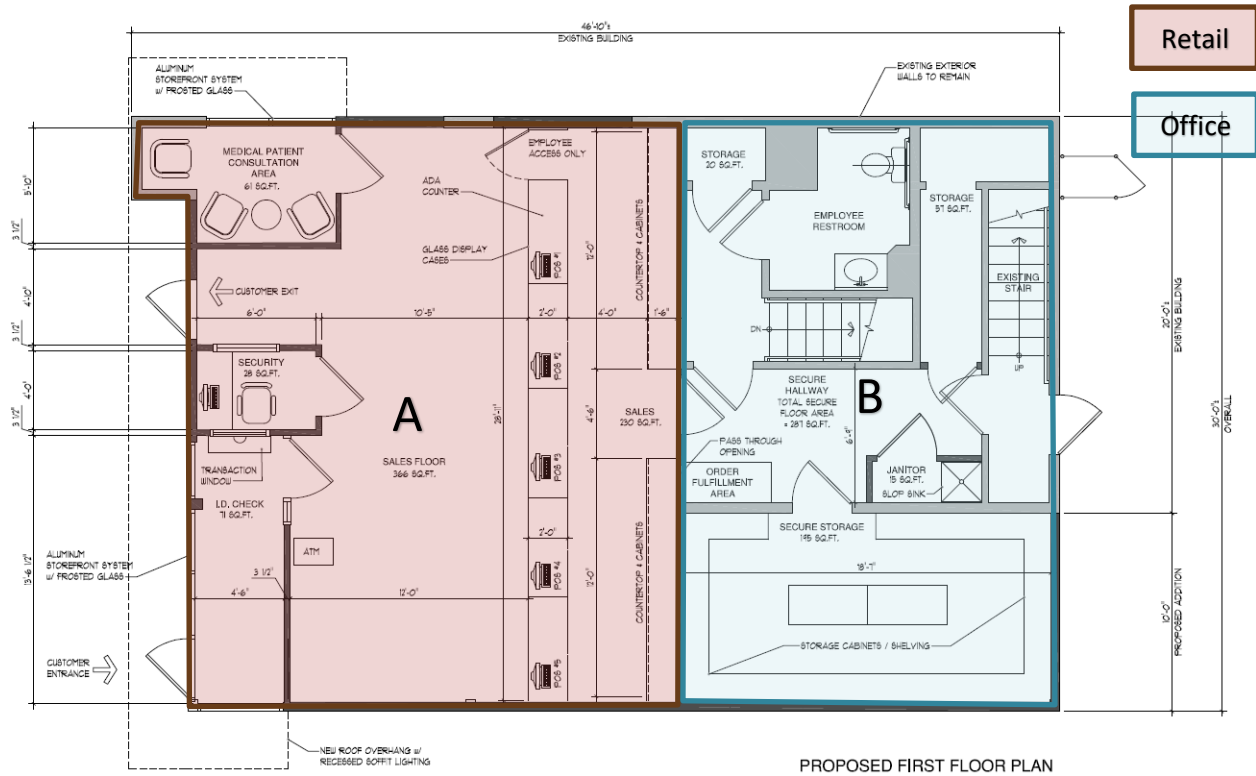
The building has been occupied by other commercial uses in the past but is not grandfathered for the retail parking. The previous uses include a veterinary cat office which was subject to the office parking standard (3 per 1000) which is lower than the retail parking requirement. The building was also previously used as a grocery store but the grocery store was limited in floor area to the first floor in order to ensure compliance with the parking requirement. In August 2020 a Zoning Permit was requested for a drive-through coffee shop however the request was later rejected given that application was found inadequate. The site has inadequate parking to be fully used for a retail use.

PARKING CALCULATION

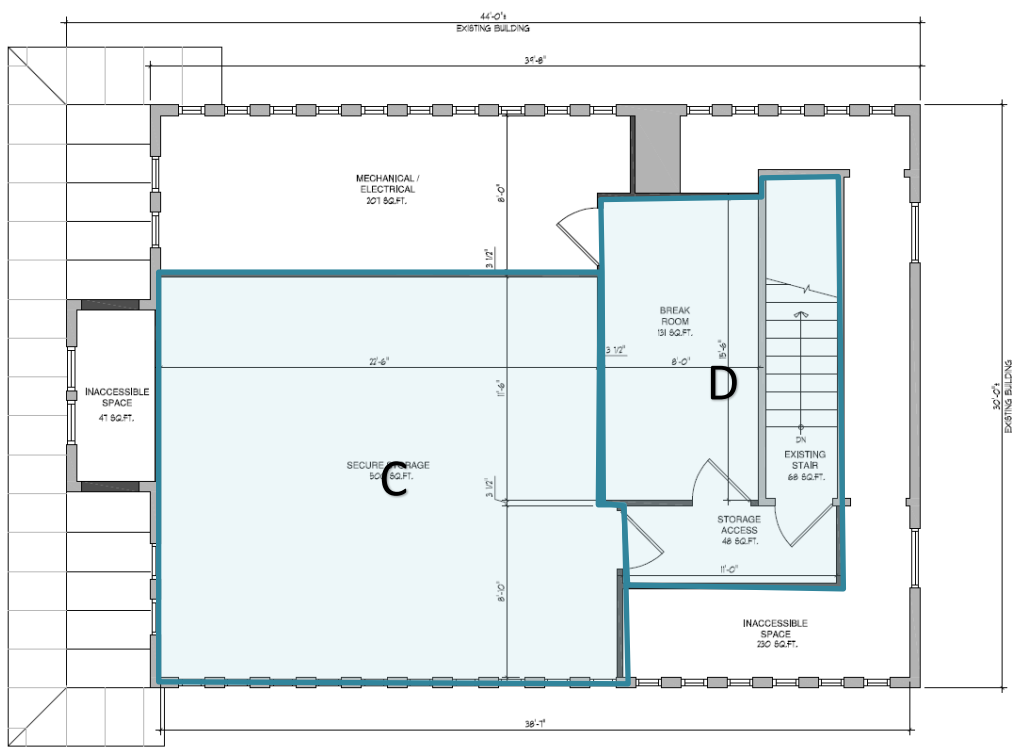
The re-classification of the floor area for parking purposes as determined by the Zoning Enforcement Officer is in the following table and in the floor plan use overlay shown on the following page:

Use	Floor Area	Parking Standard	Required parking spaces
Retail Store <i>Area A</i> - Including areas labeled sales floor, sales area, security check and consultation area	756 sf	4 parking spaces per 1,000 sf	4
First floor Office (B) <i>Area B</i> - Including areas labeled secure floor area (restrooms, stairs, hallway, closets) and secure storage (vault)	557 sf	3 parking space per 1,000 sf	4
Second Floor Office <i>Area C</i> - Including area labeled secure storage* <i>Area D</i> - Including areas labeled break room, storage access and stairs	747 sf		
Total office	1304 sf		
TOTAL PARKING REQUIREMENT			8 parking spaces

* Note – If the secure storage area on the second floor is used for storage and accessed once or twice a day then it could be classified as ‘storage’ for the purpose of parking calculation. Based on the standard for parking for storage space (1 per 2,000 sf), this area will still require 1 parking space and would thus not affect the overall parking requirement.



PROPOSED FIRST FLOOR PLAN



PROPOSED SECOND FLOOR PLAN



1069 East Main Street – Off-site parking location

Off-Site Supplemental Parking

In addition to the 6 on-site spaces, the Applicant also proposes to provide 10 additional parking spaces at 1069 East Main Street. A lease with the off-site location has been provided. The entrance to this parking location is located approximately 850’ from the subject site at 1110 East Main Street. The property at 1069 East Main Street is occupied by a 25,120 sf office building (floor area derived from Vision Stamford database). The two upper floors have 8,560 sf of floor area each (17,120 sf) and the ground floor (partially subgrade) has 8,000 sf of floor area. The parking requirement for office space of 3 spaces per 1,000 sf of the office use on the site requires approximately 75 parking spaces. Given that the parking lot measures approximately 10,000 sf or less, the site appears under-parked with respect to its parking requirement. Retail use can be more intense use than office because it has a higher parking requirement than an office use and may also have additional vehicle trips through the day compared to office use. Section 10.A of the Zoning Regulations prohibits a non-conforming use to be extended or expanded, or changed to a less restrictive use. The reservation of ten (10) parking spaces for a retail use in a non-conforming office parking lot will both intensify and expand the non-conformity of the existing parking lot at 1069 East Main Street.

Further, off-site parking is required to be provided within 500’ of the main entrance of the building per Section 12.D.1.b of the Zoning Regulations. The proposed off-site parking location does not meet the distance criteria for off-site parking. While the Zoning Regulations include a provision

for Shared Parking per Section 12.I for off-site parking, such a request and required shared parking analysis was not submitted as part of this application. Any shared parking request also requires a recommendation from TTP regarding the adequacy of the shared parking arrangement per the standards of Section 12.I.

Staff's comments regarding the Special Permit findings pursuant to Section 19.C.2 are below: findings.

(1). The location and nature of the proposed site including its size and configuration, the proposed size, scale and arrangement of structures, drives and parking areas and the proximity of existing dwellings and other structures.

The site for the Hybrid Retail dispensary is located along one of the major traffic arteries of Stamford within a short distance of the on and off ramps to I-95. As stated by the Applicant during the public hearing, the proposed use will attract customers from both within Stamford and neighboring towns in addition to use through the delivery service. It is therefore imperative that the site be sufficiently equipped to handle the traffic and parking demand for the use. The site is currently legally non-conforming with respect to the existing four (4) parking spaces in terms of parking space dimension for angled parking (Table 12.1) and distance from lot line (Table 12.5). The site as proposed does not meet the parking requirement and therefore does not meet this finding.

2. The nature and intensity of the proposed use in relation to its site and the surrounding area. Operations in connection with special permit uses shall not be injurious to the neighborhood, shall be in harmony with the general purpose and intent of these Regulations, and shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, artificial lighting or other potential disturbances to the health, safety or peaceful enjoyment of property than the public necessity demands.

The Applicant has submitted a thorough safety plan containing both mechanical and operational safety measures, therefore it is not expected for the use to have an adverse impact on the surrounding neighborhood. The use is not expected to have a noise, fumes or vibration related impact either. Staff recommends that the board consider restrictions to hours and exterior lighting to mitigate the impact of the existing parking area which is in close proximity to the property line. Further, the Zoning Board should consider prohibiting on-site consumption of cannabis to avoid any odor impact on neighboring properties.

3. The resulting traffic patterns, the adequacy of existing streets to accommodate the traffic associated with the proposed use, the adequacy of proposed off-street parking and loading, and the extent to which proposed driveways may cause a safety hazard, or traffic nuisance.

As stated in the discussion above, the site falls short of the parking requirement (Under-parked by three parking spaces if the entire floor area is considered retail and under-parked by two parking spaces if considered a blend of retail and office). Inadequate on-site parking may lead to reliance by the customers on on-street parking which is predominantly used by the residents of the surrounding neighborhood. All uses are required to meet their parking requirement on-site unless otherwise allowed by the Zoning Regulations or approved by the Zoning Board through a shared parking agreement. Staff believes that the proposal does not meet this finding.

4. The nature of the surrounding area and the extent to which the proposed use or feature might impair its present and future development.

The surrounding area is mostly residential. The Zoning Board should consider appropriate limitations on hours of operation and exterior lighting so as to not adversely affect the surrounding neighborhood. The proposed hours of seven days a week from 9am and 9pm are greater than those approved for other Hybrid Retail locations.

SECURITY PLAN

A detailed security plan has been submitted by the Applicant which includes access controls via keypad entry and required RFID cards. The Applicant proposes to place bollards or planters near the front of the store to prevent cars from driving through. A security officer, who will be stationed at the front entrance to scan IDs for age compliance and track purchases and any recalls. Cameras and motion detectors will be placed in and around the facility for security purposes. The windows will be reinforced and have tinted film that allows those inside to see out but not vice versa. They will also be equipped with window locks that are visible from the outside and with alarms that are monitored in the security room and at the off-site monitoring center. The security desk will be equipped with a siren, an intrusion alarm panel and a panic button. Panic buttons will be spaced throughout the POS area, below the counter and not visible to the public. Alarmed keypads will be placed inside the entries to the check-in area and the secure vault.

12.K.4.e Special Permit for exemption of the sidewalk requirement

Section 12.K.1 establishes a requirement for the construction of sidewalks for Renovations or alterations exceeding \$250,000 in cost, as determined by the Building Department. Given that sidewalks are present on both Standish Road and East Main Street the Applicant seeks a Special Permit to exempt the project from the requirement to construct new sidewalks. One of the followings is required to be met for this Special Permit:

A finding by the Zoning Board, pursuant to a Special Permit application, that:

(1) existing conditions do not allow for the construction of a sidewalk;

*(2) the provision of a sidewalk would not serve the goal of providing a pedestrian network;
or*

(3) provision of a sidewalk would create less safe conditions for pedestrians.

In the Statement of Findings, the Applicant asserts that given that the property already has sidewalk along its entire frontage, construction of new sidewalk will not serve the goal of providing a pedestrian network (Finding #3). Staff has no issues with this request.

Referral Comments

Planning Board

During their regularly scheduled meeting held on Tuesday, September 20, 2023, the Planning Board recommended approval of the proposed Special Permit request and found that the request is consistent with Master Plan Category 7 (Commercial – Arterial) with the recommendation that upon opening, a majority of sales be through online ordering.

Engineering Bureau

The Engineering Bureau by letter dated July 3, 2023, stated that the department does not object to the application moving forward and recommended that the Applicant ensure compliance with the Drainage Manual.

Transportation Traffic and Parking Bureau

In a letter dated October 16, 2023, Transportation Traffic and Parking Bureau noted that it had no concerns with the application as it relates to traffic and parking.

Fire Marshall

The Fire Marshall Walter Seely in an email dated July 5, 2023, noted that he had no concerns with this project.

Environmental Protection Board

In a letter dated August 9, 2023, the EPB staff stated that it has no objections to the proposed activity given that they are limited to interior of the building. Any site work will require a site development plan and compliance with Stamford's Drainage Manual.

Zoning Enforcement Officer

On November 8, 2023, the Zoning Enforcement Officer provided his parking analysis for the site. Based on the classification of the floor area between retail use (756 sf) and office use (1,304 sf) the total parking requirement for the site was determined as 8 parking spaces. The proposal includes 6 parking spaces; therefore the use is under-parked by 2 spaces.

Summary

The proposed use meets the location criteria for an adult use cannabis dispensary, however the site is inadequately parked which does not make the site suitable for the scale of the proposed use. Staff believes that the project provides three parking spaces less than what is required by the Zoning Regulations. Considering the analysis by the Zoning Enforcement Office, the proposed site will be two parking spaces short of the zoning requirement. Additionally the off-site parking proposed at 1069 East Main Street will intensify and expand the non-conformity of the existing use at that location and is therefore not a viable option to utilize to support the use at 1110 East Main Street. The proposed use does not meet findings #1 and #3 for the use Special Permit (Section 19.C.2) and will require further mitigation to potentially meet findings #2 and #4.