



City of Stamford
Zoning Board

STAFF REPORT

TO: CITY OF STAMFORD ZONING BOARD
FROM: LINDSEY COHEN, ASSOCIATE PLANNER
SUBJECT: ZB #223-45 Special Permit
APPLICANT: AYR Wellness Inc. (“Ayr”)
DATE: April 5, 2024
MASTER PLAN: Master Plan Category 6 (Commercial Neighborhood Business)
ZONING: C-N (Neighborhood Business) and M-G (General Industrial)

REQUESTED ACTIONS:

223-45		Special Permit		Section 19.C.2 Hybrid Retail marijuana dispensary
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Introduction

The Applicant, AYR Wellness Inc. (“Ayr”), is requesting approval of a Special Permit to allow a Hybrid Retail facility that includes the sale of recreational marijuana for adult use (ages 21 and over) in addition to pharmaceutical sales in a 2,050 sf commercial space in an existing 10,477 square foot commercial building on a 23,522 sf parcel located at 417 Shippan Avenue.

Site & Surroundings The property 417 Shippan Avenue is located on the west side of Shippan Avenue, south of Park Street and north of Seaview Avenue. The eastern two-thirds of the site are located in the C-N zoning district and the western third of the site is located in the M-G zoning district. The site is surrounded by C-N and M-G zoning districts to the north and south, P zoning to the east and M-G zoning to the west. The site is within a shopping center and across the street from Cummings Park, in a commercial transition zone between general industrial uses to the west and residential uses beyond the park to the east. The commercial space where the hybrid retailer is proposed is formerly a Bank of America and has a drive-through lane with service window.



The Applicant is not proposing any changes to the existing building. The commercial unit will be fit out to accommodate the proposed Hybrid Retail use and enhanced security features. The building currently maintains a total of 40 parking spaces and is located within a shopping center with adjacent parking spaces. There are no proposed changes to the parking area and the existing parking meets the current requirements. The building is currently non-conforming with respect to one side yard setback for that portion of the building in the C-N district where 6' is required on one side. The Applicant currently does not plan to utilize the drive-through lane and, as such, has not discussed its use with the City's Zoning Enforcement Officer (ZEO). If the Applicant determines they would like to utilize the drive-through, they will have to receive approval from the ZEO. The proposed hours of operation are unclear. 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.

Compliance with Zoning Regulations Section 5, "Use Regulations" for Adult-Use Cannabis:

In accordance with Section 5, "Use Regulations," of the Zoning Regulations, adult-use cannabis retailer means a place of business licensed by the State of Connecticut where adult-use cannabis may be sold at retail directly to qualifying customers. The regulations for adult-use cannabis retailer shall also apply to hybrid retail facilities where both medical and adult-use cannabis products are sold at retail directly to qualifying customers and/or patients. Such uses must comply with the requirements of the Zoning Regulations for adult-use cannabis and medical marijuana dispensary facility and meet the following additional standards:

- a. *In Stamford there shall be no more than one adult-use cannabis retailer for every 25,000 residents.*

Stamford has a population 136,188 people according to the latest U.S. Census Data population estimates dated July 1, 2022. A ratio of 1 adult-use cannabis retailer for every 25,000 residents equates to 5 adult-use cannabis retailers. There are currently three special permits approved for cannabis retailers leaving two special permit approvals available before hitting the maximum. This standard is met by the proposal.

- b. *Adult-use cannabis retailers 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 currently possesses a medical marijuana dispensary license. The applicant will be required to provide proof of a Hybrid Retailer license prior to a Building Permit.

- c. *No adult-use cannabis retailers shall be located within a 3,000 feet radius of any other Dispensary, or within 1,000 feet of public or non-public schools;*

The proposed dispensary is located approximately 2.25 miles (11,880 ft) away from the Hybrid Retail facility at 12 Research Drive (Fine Fettle) and approximately 3,900 ft from the Hybrid Retail facility located at 816 East Main Street (Curaleaf).

During their regularly scheduled meeting held on Tuesday, January 30, 2024, the Planning Board recommended approval of the proposed Special Permit request with the recommendation that the Zoning Board asks the Law Department to confirm that the programs and activities offered for children at Building One Community, Americares, the Knights of Columbus and Cumming Parks would not define these facilities as “schools” per the Zoning Regulations. Each of these uses is within 1,000 ft from the proposed facility. Building One Community is located in the same building as the proposed use at 417 Shippan Avenue. Americares provides a free health clinic at 401 Shippan Avenue in the same shopping center as the proposed use. The Knights of Columbus is located two lots south of the proposed use at 507 Shippan Avenue. The Zoning Board received the Law Department’s written determination by John R. Harness, Assistant Corporation Counsel, on Tuesday, March 5, 2024 via email. The determination concluded that the programs and activities offered for children at these facilities could meet the definition of “schools” as established in the Regulations, subject to a fact specific inquiry by the Board.

The Zoning Regulations defines School, Non-Public as: “Any Building, Structure and/or land principally and regularly used by teachers and students for instructional and educational purposes, at the nursery, primary and secondary levels only, which is not under the direct supervision and control of the Stamford Board of Education and which is licensed by the State of Connecticut, or which is administered by an accredited educational institution or a bona fide religious institution. “School, Non-Public” shall include land used for recreational purposes as an adjunct to the principal instructional or educational use and any dormitories connected with such schools, but excluding fraternities and sororities. “School, Non-Public” shall not include vocational or secretarial schools.”

The Zoning Regulations defines School, Public as: “Any Building, Structure and/or land principally and regularly used by teachers and students for instructional or educational purposes, which is under the direct supervision and control of the Stamford Board of Education.”

The Zoning Regulations defines School, Vocational or Secretarial or Language as: “Any Building, Structure and/or land principally and regularly used by teachers and students for instructional or educational purposes, at the post-secondary level (excluding colleges and

universities), which is licensed by the State of Connecticut or administered by an accredited educational institution or an accredited language school.”

While the proposal satisfies the distance requirement from other dispensaries, whether or not the proposal satisfies the distance requirement from a school is to be determined by the Zoning Board.

d. *Signage for adult-use cannabis retailers shall be more restrictive of either (1) the requirements of the State of Connecticut relating to signage for adult-use cannabis retailers or (2) the sign regulations for the respective zoning district as prescribed in Section 13 of the Zoning Regulations. In addition, the following limitations shall apply to hybrid retailers:*

- (1) There shall be no illumination of a sign advertising adult-use cannabis product at any time;*
- (2) There shall be no signage that advertises adult-use cannabis 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;*
- (3) There shall be no display of adult-use cannabis or paraphernalia within the dispensary which is clearly visible from the exterior of the dispensary;*
- (4) There shall be no signage on the exterior of the dispensary which advertises the price of its adult-use cannabis;*
- (5) 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; and*
- (6) 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.*

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.

The signage permitted for this use is significantly lower than the signage permitted in the C-N and M-G districts. 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 M-G district allows a maximum of 1 ½ sf of signage per linear foot of building on the front wall. An additional 60 sf of signage is permitted on both side and rear walls. One additional ground or wall sign not exceeding 16 sf in area and 10 ft in height is permitted and one

additional ground sign or pole sign not exceeding 50 sf in area, 10 ft in length and 21 ft in height.

- e. *Parking shall be provided according to Section 12 of the Zoning Regulations, following the parking standard for Retail Store.*

The total floor area dedicated to the Hybrid Retail use is 2,050 sf. Applying the retail use parking standard (4 parking spaces per 1,000 sf) to the entire 2,050 sf including any accessory spaces used for storage, the total parking requirement will be 8 parking spaces. The proposal includes a total of 40 parking spaces shared amongst all building tenants. It is unclear whether there will be 8 dedicated spaces available at all times for the dispensary. Since the Applicant would be changing from one retail use (Bank of America, former tenant of the space) to another retail use (hybrid dispensary), they are grandfathered under the existing parking conditions. This standard is met by this proposal.

Compliance with Zoning Regulations Section 19.C.2, “Standards and Conditions” for Special Permit uses:

Special Permits shall be granted by the Zoning Board only upon a finding that the proposed use or Structure or the proposed extension or alteration of an existing use or Structure is in accord with the public convenience and welfare after taking into account, where appropriate:

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 Applicant does not propose any changes to the size or scale of structures, drives or parking areas. The site for the Hybrid Retail dispensary is located along a major traffic artery of the Shippan neighborhood of Stamford that can handle any additional vehicular traffic that would result from the proposed use. The site is approximately 3,000 ft from the on and off ramps to I-95 and does not provide any easier access from neighboring towns than the Curaleaf site (816 East Main Street). The dispensary is located in a larger commercial building that is part of an even larger strip mall commercial area. The arrangement of structures, drives and parking areas is suitable for handling the traffic and parking demand for the use. The site is not directly proximate to existing dwellings.

The Applicant does not plan to use the existing drive-through lane at this time and, as such, has not opened an inquiry with the Zoning Enforcement Officer to determine if use by the dispensary would be allowed. The Applicant may in the future consider using the drive through in the future. The Transportation, Traffic and Parking Bureau do not support the drive through.

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 to address the potential for the use to have an adverse impact on the surrounding neighborhood. A dispensary use is not associated with noise, fumes or vibration. Lighting will be similar to that of other commercial businesses on the lot. However, there are four nearby uses that are particularly vulnerable to potential negative impact that could result from the presence of a dispensary. Those uses are: Building One Community, Americares health clinic, Knights of Columbus and Cummings Park. Per the Law Department, the Zoning Board may determine whether these uses can be considered schools according to the definition of schools in the Zoning Regulations and after understanding the services offered. The Zoning Regulations require 1,000 ft separation between dispensaries and schools because of the potential for such use to disturb health, safety or peaceful enjoyment of school property. If the Zoning Board determines that any one of the aforementioned users qualifies as a school, then the proposed site would not meet the 1,000 ft separation requirement and would also, therefore, not be in harmony with the intent of these Regulations.

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 use is grandfathered into the existing available parking. There is direct access to adjacent parking areas within the shopping center. There are no proposed changes to the off-street parking, loading or driveways that would cause a safety hazard or traffic nuisance. The Applicant currently does not plan to utilize the existing drive through window. If the Applicant plans to use the drive through window in the future, whether the project meets this criteria will have to be re-examined. Without using the drive through, this criteria is met.

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 commercial and parkland. The parkland is protected from future development by Zoning and Master Plan and therefore the dispensary would not impair it's development. The surrounding commercial uses, both retail and heavy commercial, would not be negatively impacted by the operation of this business. There is no residential nearby to be impacted.

SECURITY PLAN

Ayr has partnered with national cannabis security experts Dem360 to ensure security of the site and compliance with State and local regulations regarding security. A detailed security plan has

been submitted by the Applicant which includes access controls via electronic locks and access control systems. High-resolution security cameras will monitor all crucial areas 24/7. Cannabis products will be securely stored in safes and vaults that have restricted access and meet the state-mandated security requirements. Panic buttons will be placed throughout the building for emergency situations. Regular inventory audits will be conducted to ensure tracking and reporting.

Referral Comments

Planning Board

During their regularly scheduled meeting held on Tuesday, January 30, 2024, the Planning Board recommended approval of the proposed Special Permit request and found that the request is consistent with Master Plan Category 6 (Commercial – Neighborhood Business) with the recommendation that the Zoning Board asks the Law Department to confirm that the programs and activities offered for children at Building one Community, Americares, the Knights of Columbus and Cumming Parks would not define these facilities as “schools” per the Zoning Regulations. See discussion above.

Engineering Bureau

The Engineering Bureau by letter dated December 18, 2023, stated that the department does not object to the application moving forward and recommended that the Applicant ensure compliance with the Stormwater Drainage Manual.

Transportation, Traffic and Parking Bureau

In a letter dated February 25, 2024, Transportation, Traffic and Parking Bureau noted that it would like additional information with respect to the drive through lane and if it will be utilized. The Applicant received a response on March 21, 2024 stating the Applicant is not planning to use the drive through at this time but they may consider using it in the future. The Transportation, Traffic and Parking Bureau stated in an email on April 4, 2024 that they would not support use of a drive through in the future for this use at this site.

Fire Marshal

The Assistant Fire Marshal Chad Armstrong in an email dated January 15, 2024, noted that he had no objections with this project. Prior to building permit issuance, the Fire Marshal will review plans for fire and life safety code compliance.

Environmental Protection Board

In a letter dated December 6, 2023, the EPB staff stated that it has no objections to the proposed activity. The property is within the Coastal Management Area but is not within 100 ft of coastal waters, tidal wetlands, coastal bluffs, escarpments, beaches or dunes.