

**RESOLUTION OF FINDINGS AND CONCLUSIONS
PLANNING BOARD OF THE
BOROUGH OF WOODBURY HEIGHTS
2023-10**

WHEREAS Summit Wellness, LLC has applied to the Planning Board of the Borough of Woodbury Heights for conditional use approval and preliminary and final site plan approval to establish a class 5 cannabis retail facility; and

WHEREAS, the property in question is located on the corner of Mantua Pike and Alliance Street, Block 40.05, Lot 11 in a Highway Commercial (HC) zone; and

WHEREAS, the Borough of Woodbury Heights Planning Board has had an opportunity to review the application for conditional use and preliminary and final site plan approval and a hearing having been held thereon and proper notices having been served on all surrounding property owners as required by Statute; and

WHEREAS, the Borough of Woodbury Heights Planning Board has made the following factual findings:

1. Heather Kumer, Esquire appeared on behalf of the applicant. The applicant wishes to establish a class 5 cannabis retail facility in an existing vacant 3,802 square foot bank building situated on approximately .6 acres of land on the corner of Mantua Pike and Alliance Street. The property is in the Highway Commercial zone where the proposed use is permitted as a conditional use. The application indicates that all conditional use requirements have been satisfied. The only variance necessary is a bulk variance from a Borough Ordinance that requires all parking to be set back 10 feet from the street line with landscaping. The applicant also requires a waiver from the type of parking lot striping requirements and the size of the proposed loading space.

2. The applicant presented the testimony of Kalpesh Shah, the principal and managing member of the applicant LLC. He testified that he has experience in establishing and operating cannabis facilities in the State of Maryland. He also provided testimony regarding the day-to-day operations of the facility, as well as satisfaction of conditional use requirements. The applicant also presented the testimony of Professional Planner and Architect, John S. Descano who provided testimony regarding the site plan and the modifications that have been made to the site based upon the review letters provided by the Planning Board Professionals. In addition, the applicant provided the testimony of

Professional Planner, Tanya Marione who provided testimony regarding the satisfaction of the positive and negative criteria for the bulk variance and waivers, as well as satisfaction of conditional use requirements. One member of the public appeared who is the owner of a business located across Alliance Street from this site. He raised concerns regarding enforcement of overflow parking and consumption of cannabis in public areas.

3. The initial application submitted on April 3, 2023 included a survey, site plan, security plan, waste disposal procedure, traffic impact study, statement of conformance, map indicating facilities within 1,000 feet of the site and a statement of principal points. The submission resulted in a review letter of April 20, 2023 prepared by Planning Board Engineer, Mark R. Brunermer and a review letter of April 25, 2023 prepared by Planning Board Professional Planner, Tiffany Morrissey.

4. The applicant submitted site plan revisions of April 20, 2023 and May 12, 2023, revisions of the security plan, traffic impact study and waste disposal procedure, as well as a May 24, 2023 email with specific responses to the professional review letters, as well as the submission of additional requested information. Revised review letters based upon the additional submissions were submitted by Ms. Morrissey dated May 31, 2023 and Mr. Brunermer dated June 1, 2023.

5. The applicant clarified that there will be no deliveries of cannabis which would require a Class 6 facility license with deliveries to customers. The applicant also clarified that there will be no drive-through service. Hours of operation shall be from 9:00 a.m. to 10:00 p.m. daily. All signs will comply with Borough Ordinance. One of the two access driveways on Alliance Street will be eliminated. There will be one access on Mantua Pike which will be for entrance only and one access on Alliance Street which will be for entrance and exit. Four additional parking spaces will be added. The existing parking lot will be repaired as needed, resealed and restriped. Deliveries to the site will be by van only, no trucks. The walk-up teller window will be eliminated and the area utilized for the trash enclosure. Cannabis products will be stored in the basement vault, with the first floor vault, which was previously utilized by the bank, to be utilized during the day when product is provided to customers. The ATM machine will be removed. There will be approximately 15 employees spread over two daily shifts. A security plan was presented which includes various measures and levels of security. A certified security guard will be on site during all hours the facility is open. The guard will monitor the interior, as well as the exterior to prevent consumption on site. Deliveries will be approximately two times per day, Monday through Friday with each delivery lasting 10-15 minutes.

6. Based upon the testimony presented the Board finds that the applicant has satisfied all conditional use requirements and that the proposed use is therefore a permitted use in the Highway Commercial Zone. The Board also finds that the applicant has

satisfied the positive and negative criteria necessary to grant a variance from the Borough Ordinance requiring all parking to be set-back 10 feet from the street line with landscaping to be provided. The condition is preexisting on a site with an existing building and parking lot. There will be an addition of 4 parking spaces requiring the same variance. However, a presently vacant building and lot will now be improved and utilized and will include the 20 parking spaces required by Ordinance. The requirement that parking lot striping be hairpin may be waived as recommended by the Planning Board Engineer as no super market carts are expected. A waiver to allow a 12 x 18-foot parking space to serve as a loading area where 10 x 60 feet required is justified as the applicant testified that the only vehicles making deliveries will be vans.

7. The application submitted by the applicants substantially complies with the requirements of the Borough of Woodbury Heights Ordinance. The request by the applicants can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough of Woodbury Heights Ordinance.

8. Because of the nature and configuration of the applicant's land, failure to grant the variance will work a peculiar and exceptional practical difficulty on the applicant.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Woodbury Heights that the application of Summit Wellness, LLC for conditional use approval and preliminary and final site plan approval to establish a class 5 cannabis retail facility is hereby granted subject to the following conditions:

1. The applicant shall obtain any other applicable governmental approvals which the applicant is required to obtain from any Federal, State, County or Local Governmental Agency or body.

2. All outstanding escrow and inspection fees shall be paid in full prior to the issuance of any permits or certificate of occupancy.

3. The proper state licensing for the facility will be maintained at all times and the facility shall comply with all licensing and state law requirements applicable to the facility. This approval does not include drive-through service for customers. One lane of the drive-through and canopy will be removed. If the applicant wishes to establish drive-through in the future they will be required to return to the Board for an amended site plan approval which will address circulation, along with any other issues which may be necessary. If the applicant has not obtained approval for drive-through prior to opening, the

drive-through window will be bricked. The applicant may seek an extension from the Board for good cause.

4. Deliveries to the site shall be by van only.

5. A variance is granted from the requirement that all parking be set-back 10 feet from the street line with landscaping. However, the applicant shall in cooperation with the Planning Board Engineer attempt to provide landscaping along Route 45 to shield headlights.

6. A waiver is granted from the requirement that parking lot striping be hairpin. A waiver is also granted to allow a 12 x 18-foot loading area where 10 x 60 is required.

7. All signage will comply with Borough Ordinance. The proposed wall sign will be attached to a new larger dormer which will be part of the building and not a roof sign.

8. The walk-up teller window will be eliminated and the area utilized for a trash enclosure. The exterior of the enclosure shall match the exterior of the building.

9. The ATM machine shall be removed.

10. Hours of operation shall be 9:00 a.m. to 10:00 p.m. daily with a certified security officer present at all times the facility is open. The Planning Board prefers that the security officer not be armed, but will defer to a recommendation from the Police Department.

11. The applicant will install signage prohibiting on-site consumption.

12. Odors shall not be detectable on adjacent properties or within public rights-of-way. The facility will be subject to annual monitoring for odor by the Borough with the cost to be borne by the applicant.

13. The site will continue to be governed by the New Jersey Noise Control Act.

14. The safety and security plan shall be approved by the Police Department.

15. All cannabis waste shall be rendered unusable prior to disposal and

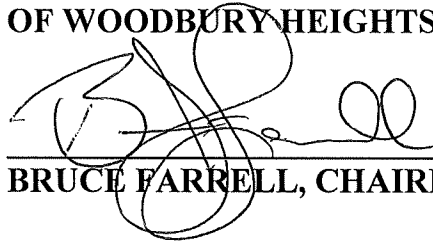
shall remain in a secure waste receptacle until disposal.

16. The trash enclosure shall be reviewed and approved by the Fire Official and Construction Official.

17. The applicant shall satisfy all comments set forth in the review letter of May 31, 2023 prepared by Planning Board Planner, Tiffany A. Morrissey and review letter of June 1, 2023 prepared by Planning Board Engineer, Mark R. Brunermer which have not already been addressed herein.

Adopted at a regular meeting of the Borough of Woodbury Heights Planning Board on July 10, 2023.

**PLANNING BOARD OF THE BOROUGH
OF WOODBURY HEIGHTS**



A handwritten signature in black ink, appearing to read 'Bruce Farrell', written over a horizontal line.

BRUCE FARRELL, CHAIRMAN

ATTEST:



A handwritten signature in black ink, appearing to read 'Shannon Elton', written over a horizontal line.

SHANNON ELTON, SECRETARY