

DRAFT for Jan. 7, 2021 PB Meeting – Updated 1/6

Date here

**Littleton Apothecary, LLC
Planning Board Land Use Decisions
160 Ayer Road, Unit 4, Littleton Mass.
Adult Use Marijuana Establishment
Marijuana Retail Establishment**

DECISIONS: TWO SPECIAL PERMITS AND SITE PLAN REVIEW pursuant to MGL Chapter 40A and the Code of the Town of Littleton Zoning. Special Permit Applications for Adult Use Marijuana Establishment (Marijuana Retail Establishment) and Aquifer and Water Resource District Use, along with Site Plan Review

PROPERTY LOCATION: Approximately 83,969.90 +/- sq. ft. of land (1.93 acres) with existing six unit commercial/industrial condominium single story structure at 160 Ayer Road, Assessors' Map R-9, Parcel 34.

DESCRIPTION: Marijuana Retail Establishment

APPLICANT: Littleton Apothecary, LLC
160 Ayer Road, Unit 4
Littleton, MA, 01460

OWNER: Athena Assets, LLC
160 Ayer Road, Unit 2
Littleton, MA, 01460

ENGINEER: GPR Engineering
39 Main Street, Suite 301
Ayer, MA 01432

DATES OF LEGAL NOTICE: Posted by Town Clerk on October 14, 2020
Published October 16 and October 23, 2020

DATES OF HEARINGS: November 5, and December 10, 2020

MEMBERS PRESENT: Mark Montanari, Anna Hueston, Gerald Portante, Jeffrey Yates

REFERENCE PLAN: Commercial Development Parking Plan "Site Plan" 160 Ayer Road, Littleton, MA 01460 dated 8/31/2020, last revised 11/30/2020 (1 sheet)

PUBLIC HEARING: The Littleton Planning Board held a duly noticed public hearing on November 5, 2020, which was continued to December 10, 2020, to consider an application for two Special Permits and Site Plan Review pursuant to MGL Chapter 40A and the Code of the Town of Littleton Zoning. Representatives present responded to questions posed by members of the Planning Board and Town Staff. There was no opposition expressed by abutters or other participants of the public.

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BACKGROUND:

Littleton Apothecary (the “Applicant”) will be leasing Unit 4 of the condominium complex located at 160 Ayer Road to operate a Marijuana Retail Establishment with all operations to be conducted within the interior of Unit 4. The Applicant represents that it holds rights to use the entirety of the parking area pursuant to recent condominium master plan revisions opening entire lot to all six units. The Applicant proposes minor interior fit-out of unit interior. Maximum hours of operation for operation of retail operations are from 10:00 AM to 10:00 PM, Sunday through Thursday and 10:00 AM to 11:00 PM Friday and Saturday. Applicant received its provisional license from the Cannabis Control Commission (“CCC”) on October 8, 2020. Exterior improvements include signs to identify location and the business, installation of security cameras in front/rear as required by Littleton Police and CCC, and parking and directional traffic signs. Lighting will be shielded to protect neighboring properties and will be adequate to illuminate the front and rear of facility for safety and security purposes.

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Special Permit for Adult Use Marijuana Establishment (Article XXVIII) for Marijuana Retail Establishment

The Applicant submitted to the Planning Board the materials listed below (collectively, the “Plans”), which, together with the testimony provided at the referenced public hearings, provide the information required by the applicable Sections 173-194 and 173-202 of the zoning bylaw, and are the basis of the Board’s determinations and decision:

1. Cover letter from Mensing Group
2. Special Permit Applications and Checklists
 - a. Basic Special Permit Application Form
 - b. Adult Use Marijuana Establishments Application Form and Checklist
 - c. Aquifer & Water Resources Districts Application Form and Checklist
 - d. Site Plan Checklist
3. Adult Use Marijuana Application Checklist included:
 - a. Design of interior (“floor plan”) approved by Building Department.
 - b. Name and Addresses of the owner of the Retail Establishment, Littleton Apothecary, LLC.
 - c. Copies of Articles of Organization and Single Member Operating Agreement
 - d. Copies of all licenses and permits issued to Littleton Apothecary by the Commonwealth or its agencies, with provisional license issued on October 20, 2020
 - e. Evidence of site control and right to use the site as a retail establishment.
 - f. Description of Quality Control
 - g. Description of requirements for storage and transportation of marijuana
 - h. Description of requirements for prevention of diversion of marijuana products
 - i. Description of Personnel Policies and Background Checks.
 - j. Description of Diversity Plan.
 - k. Description of Inventory Procedures.
4. Project Narrative prepared by Mensing Group
5. Site Development Plans: GPR SITE PLAN, Single Sheet, issued 8/31/2020, Last Revised 11/30/2020
6. Board of Selectmen Host Community Agreement dated May 4, 2020.
7. Letter from Police Dept. dated 8/13/2020 and Fire Dept. dated 9/8/2020 to Planning Board indicating approval of plans of operation
8. Building Elevations
9. Traffic Impact analysis
10. Review Letter from Building Commissioner dated 8/14/20

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11. Memo from Mensing Group (11/12/20) addressing and requesting reduction/elimination of 500-foot distancing between marijuana establishments.
12. Letter from Property owner, Athena Assets, LLC, (11/18/20) addressing status of parking and accommodations for Littleton Apothecary's use.
13. Letter from adjacent furniture company, Cherrystone Furniture (11/22/20) confirming understanding on parking status, its needs and proposed parking signage adjacent to its unit.

DETERMINATIONS and FINDINGS:

Following the public hearing on this proposal, the Planning Board made the following determinations regarding the Adult Use Marijuana Establishment application:

1. The proposed Retail Establishment is located within the Industrial B Zoning District and within Adult Use Marijuana Establishment Overlay District – Retail (Town overlay map dated 3/27/2018) and the retail use is allowed by special permit by the Planning Board.
2. The applicant met with the Planning Board at the September 10, 2020, meeting to provide an overview of its application and operations and upcoming application, as encouraged by the bylaw.
3. On separate occasions the applicant conducted tours of its proposed facility with the Building Commissioner, Deputy Fire Chief, Police Chief and Planning Board Members Gerald Portante and Anna Hueston.
4. The applicant submitted the documentation required under the bylaw and the Adult Use Marijuana Checklist. These documents are identified above.
5. The Retail Establishment is located adjacent to, and on the same property as, a recently permitted Marijuana Testing Laboratory operated by G7 Labs, LLC. Pursuant to 173-199B, the Board determines it appropriate to reduce the 500 foot minimum distance between marijuana establishments set forth in Section 173-199A so as to allow Littleton Apothecary to locate at this site. The site is suitable for a retail location given it is within the overlay district for retail establishments, meets all other distancing requirements under the bylaw, has a large parking area that can accommodate both uses, and there is a limited number of viable alternative retail locations within the overlay district. The Board finds the reduction in distancing is consistent with state guidance relative to local regulation and siting of adult use marijuana establishments.
6. The application is for the operation of a Marijuana Retail Establishment.
7. The retail establishment will be entirely within the existing building.
8. The Applicant has provided a detailed site security plan directly to the Littleton Police Department which has been approved by the Department.
9. The use of the existing site will require minor modifications to the interior of the premises.
10. Modifications to the site require Site Plan review and a Water Resource District Special Permit identified below.
11. All necessary Permits from any other Littleton Dept. shall be obtained along with a final license from the CCC prior to commencement of the use.
12. Pursuant to Section 173-32 of the Zoning Bylaw, this use requires one (1) parking space for every 150 square feet of leasable space. The Applicant is required to provide twenty-two (22) parking spaces to support this use. The site is a multi-unit condominium and the owner does not assign specific parking spaces to its tenants. Nonetheless, there are sixty-six (66) parking spaces at the property, and at the condominium's current occupancy (including Littleton Apothecary's retail use) the various uses in the building collectively require fifty-six (56) parking spaces under the Zoning Bylaw and sixty-six (66) spaces are provided on the Site Plan. The Planning Board finds that there is sufficient parking available at this site based on current occupancy and mix of uses. The Planning Board finds

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that the site currently allows the Applicant to provide the required twenty-two (22) parking spaces required by its leased floor area.

WATER RESOURCE DISTRICT SPECIAL PERMIT: 160 Ayer Road, Unit 4

The Applicant submitted to the Planning Board the materials listed below (collectively, the “Plans”), which, together with the testimony provided at the referenced public hearings, provide the information required by regulations for uses within the Aquifer and Water Resources District and are the basis of the Board’s determinations and decision:

1. Special permit application with attached checklist.
2. Confirmation that proposed uses checked.

DETERMINATIONS and FINDINGS:

Following the public hearing on this proposal, the Planning Board made the following determinations regarding the proposed use at the site regarding the Water Resource District application:

1. All activities and operations will occur only within the interior of unit 4.
2. Egress is adequate to accommodate police and fire protection;
3. Roads, water, and drainage are not impacted or adversely affected.
4. Visual compatibility is unchanged.
5. No current or expected threat to the environment given all activity within interior of building and waste removal to be stored and secured inside and removed as necessary.
6. No significant nuisance, hazard or congestion will be created;
7. There will be no substantial harm to the neighborhood or derogation from the intent of the Zoning Bylaws.

SITE PLAN REVIEW: 160 Ayer Road

REFERENCE PLAN: Commercial Development Parking Plan “Site Plan” 160 Ayer Road, Littleton, MA 01460 dated August 31, 2020, last revised November 30, 2020 (1 sheet)

DETERMINATIONS and FINDINGS:

The Planning Board made the following determinations regarding the proposed use at the site regarding the Site Plan application:

1. Internal circulation and egress are such that traffic safety is protected and site is located in an Industrial B zone on Ayer Road, with adequate parking, given the proposed directional signs outlined on the Site Plan and in the Conditions stated below.
2. Visibility of parking areas from public ways and adjoining properties is minimized, and lighting of the parking areas is existing and unchanged; necessary lighting for front/rear of facility to be minimized but meet requirements of police dept. and CCC.
3. Parking spaces for the entire condominium complex are satisfactory and are in “common-use” for all six units.
4. Adequate access to each structure for fire and service equipment is provided.
5. Utilities and drainage in the vicinity are unchanged.
6. Additional signage indicating “Do Not Enter” and “One Way Traffic” to be installed at the southeast end of the driveway located on the south side of the building and “No Parking” at the southerly corner of the building at 160 Ayer Road.

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DECISION:

At the meeting held December 10, 2020, Mr. Montanari made a motion, seconded by Mr. Portante, to approve the Special Permit for Adult Use Marijuana Establishment (Article XXVIII) for Marijuana Retail Establishment, Special Permit for use within Aquifer & Water Resource Protection District, and Site Plan Review with the following conditions, with final conditions to be finalized and approved at the meeting of January 7, 2021. At the meeting of January 7, 2021, the Planning Board voted 4 to 0 to approve the final conditions. The following

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conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any building permit issued hereunder. The Town of Littleton may elect to enforce compliance with this Special Permit using any and all powers available to it under the law. Revocation of this special permit would require notice to the Applicant and a Public Hearing and other applicable requirements of the law.

Conditions:

1. The validity of this permit is dependent on the Applicant recording this decision at the Middlesex Registry of Deeds. No building permit shall issue until the Applicant has filed with the Building Commissioner and Planning Board a copy of this decision setting forth the recording information of the decision.
2. The maximum hours of retail operation shall be Sunday through Thursday 10:00 AM to 10:00 PM and Friday and Saturday 10:00 AM to 11:00 PM.
3. All incidents shall be reported to the Building Commissioner and Planning Board as required by 935 CMR 500.110(9) within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
4. Any cease and desist order, quarantine order, suspension order, limiting order, notice of hearing or final action by the CCC, the Department of Public Health, the Division of Administrative Law Appeals, or any Littleton Department with applicable jurisdiction regarding the retail establishment shall be reported to the Building Commissioner and the SPGA within 48 hours of the Applicant's receipt.
5. This special permit shall expire at the date that is five (5) years from the date of issuance but may be renewed with approval of the Planning Board if Applicant requests such a renewal at least 120 days prior to expiration. Upon either the loss or non-renewal of the Applicant's final license issued by the CCC or if the Host Community Agreement with the Select Board is terminated or not renewed by the Select Board on or before its expiration date, then this special permit shall also expire.
6. This Special permit shall be limited to Littleton Apothecary, LLC, and shall expire on the date that Littleton Apothecary, LLC, ceases operation of the retail establishment.
7. Littleton Apothecary shall allow inspections required under the Adult Use Marijuana By-law and CCC regulations at 935 CMR 500.
8. Littleton Apothecary shall notify the Building Commissioner and the SPGA in writing within 48 hours of the cessation of operation of the retail establishment or the expiration or termination of the permit holder's final license issued by the CCC.
9. This special permit authorizes the operation of a marijuana retail establishment only.
10. Special permits shall lapse upon the expiration or termination of an Applicant's license from the CCC.
11. The Applicant shall comply with all terms of the Host Community Agreement between Littleton Apothecary, LLC, and the Town of Littleton Select Board.

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12. The Applicant shall submit a copy of the license from the Cannabis Control Commission with the SPGA and the Building Commissioner prior to the issuance of a building permit, certificate of occupancy, or commencement of use, whichever occurs first.
13. Copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8) shall be submitted to the SPGA within five business days of submission to the State. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
14. The Applicant shall provide documentation to the SPGA that each Marijuana Establishment Agent has completed training regarding the proper handling of marijuana prior to performing job functions. Such documentation must be provided to the Board within five business days of the completion of such training. Annually, the establishment shall provide documentation to the SPGA and the Select Board that all Marijuana Establishment Agents have received at least eight hours of on-going training.
15. The holder of a special permit shall annually file an affidavit with the Building Commissioner demonstrating that it is in good standing with respect to its license from the Cannabis Control Commission and any other applicable State licenses. This affidavit shall be filed on or before the annual anniversary of the issuance of this special permit.
16. The Applicant shall install signage intended to prevent vehicles from entering the driveway located on the southeast side of the building from the rear employee-only parking and loading area. The signs shall read "Do Not Enter" and "One Way Traffic"; and a "No Parking" sign shall be installed at the southerly corner of the building near the woods; all to and be installed in areas clearly visible to drivers but so as not to obstruct the driveway.
17. No parking of vehicles is allowed on any unpaved surface;
18. No use or storage of sodium de-icing chemicals shall be allowed on the site; and
19. Groundwater quality shall not be degraded below drinking water standards at the property lines due to activity conducted on this property.

The Board members voted, on both December 10, 2020, and January 7, 2021 as follows:

Mark Montanari	AYE
Anna Hueston	AYE
Gerald Portante	AYE
Jeffrey Yates	AYE
Delisa Laterzo	RECUSED

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Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, Massachusetts G.L., and shall be filed within 20 days after the date this decision is filed with Town Clerk.

Signed:

Date Filed with Town Clerk:

Jeffrey Yates
Planning Board Clerk

Town Clerk

TOWN CLERK CERTIFICATION:

To Whom It May Concern:

I, Diane Crory, Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Planning Board for this Special Permit and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

Date

Town Clerk Diane Crory
Littleton Mass.