



TOWN OF MILLIS

Robert Cantoreggi, *Chairman*
George Yered, *Clerk*
James McKay
Nicole Riley
Richard Nichols
Carlo Molinari, *Associate*

OFFICE OF THE PLANNING BOARD

900 Main Street • Millis, MA 02054

Phone: 508-376-7045

Fax: 508-376-7053

Camille Standley
Administrative Assistant
cstandley@millisma.net

March 25, 2019

The Planning Board has **approved, with conditions**, the application of the Ellen Realty Trust of 730 Main Street, Millis, Massachusetts for:

- 1) a **Special Permit** for site plan approval pursuant to Section V, Use Regulations, Paragraph E and Section XIII, Special Permit Conditions, paragraph C, Site Plan Review;
- 2) a **Special Permit** for a Recreational Marijuana Dispensary pursuant to Section V, Table 1, Use Regulations, Retail and Service Item no. 42 and Section XIII.V;

of the Millis Zoning By-laws of the Town of Millis, to utilize a previously approved, and currently under construction, one-story commercial building along with appurtenant driveway, parking, landscaping, utilities and stormwater management systems at 1525 Main Street as a recreational marijuana dispensary in addition to its previously approved use as a medical marijuana dispensary. The property is identified as Assessors' Parcels 49 and 52 on Assessors Map 21.

A copy of this decision was filed in the office of the Town Clerk of Millis on **March 25, 2019**.

Any person aggrieved by this decision of the Planning Board may appeal said decision pursuant to Massachusetts General Law Chapter 40A, Section 17, by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall be given to the Town Clerk so as to be received within twenty (20) days. A copy of said complaint shall be given to the Planning Board.

No variance or special permit, or any extension, modification or renewal thereof shall take effect until a copy of that decision bearing the certification of the Town Clerk that 20 days have elapsed and no appeal has been filed or that if such an appeal has been filed that it has been denied or dismissed, is recorded in the Registry of Deeds for the county or district in which the land is located and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's title certificate. The fee for recording or registering shall be paid by the owner or applicant.

To the Applicant: After 20 days have gone by from the above date, check with the Town Clerk's office and obtain a certified copy of the Board's decision. Be sure that the special permit/site plan is recorded at the Registry with your deed. The permit is not valid until it is recorded. A copy of the receipt from the Registry of Deeds must be filed with the Planning Board and Building Department when you apply for a building permit for the proposed construction.

Camille Standley
Camille Standley
Administrative Assistant

cc: Daniel Merrikin/Applicant (via email), Building Dept., BOH, Abutters, File
Decision cover ltr 1525 Main St. Recreational Marijuana 3-25-19.doc



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*Received March 25, 2019
@ 3:30pm
Kathleen Smith
Asst. Town Clerk*

March 25, 2019

DECISION OF THE MILLIS PLANNING BOARD ON THE SPECIAL PERMIT WITH SITE PLAN APPROVAL APPLICATION SUBMITTED BY THE ELLEN REALTY TRUST.

An application was filed with the Millis Town Clerk's office on January 30, 2019, by the Ellen Realty Trust of 730 Main Street, Millis, Massachusetts who requests;

- 1) a **Special Permit** for site plan approval pursuant to Section V, Use Regulations, Paragraph E and Section XIII, Special Permit Conditions, paragraph C, Site Plan Review;
- 2) a **Special Permit** for a Recreational Marijuana Dispensary pursuant to Section V, Table 1, Use Regulations, Retail and Service Item no. 42 and Section XIII.V;

of the Millis Zoning By-laws of the Town of Millis, to utilize a previously approved, and currently under construction, one-story commercial building along with appurtenant driveway, parking, landscaping, utilities and stormwater management systems at 1525 Main Street as a recreational marijuana dispensary in addition to its previously approved use as a medical marijuana dispensary.

The property which is the subject of this application is identified as Assessors' Parcels 49 and 52 on Assessors Map 21. Said property is owned by the Ellen Realty Trust, 730 Main Street, Millis, Massachusetts. The property is zoned Industrial Park Two (I-P2). The Applicant previously obtained a variety of dimensional and parking variances from the Zoning Board of Appeals and Site Plan Approval and a Special Permit from the Planning Board associated with the medical marijuana dispensary use.

In accordance with the provision of G. L. c. 40, Section 11, notice of hearing was published in The Milford Daily News on February 15, 2019 and February 22, 2019. Abutters to the property were properly notified of the public hearing by mail. A list of the abutters is on file in the Town Clerk's office, 900 Main Street, Millis, Massachusetts.

A public hearing in accordance with said notice was held on March 12, 2019. The public hearing was closed on March 12, 2019.

The Applicant was represented by Daniel Merrikin, P.E. of Legacy Engineering LLC. Because the site was just recently reviewed and approved for a medical marijuana dispensary and no changes to the site are proposed, the Planning Board did not engage a peer review consultant for this application.

The following submissions were received through the public hearing process:

- Correspondence to the Millis Planning Board from Daniel J. Merrikin, P.E., Legacy Engineering LLC, dated January 30, 2019, with attachments:
 - An application for Special Permit with site plan approval for Recreational Marijuana Establishment at 1525 Main St., Ellen Realty Trust, filed January 30, 2019
 - Certified Abutters List Dated January 28, 2019
 - Plans entitled, "1525 Main Street, Site Plan of Land in Millis, Massachusetts, May 10, 2017, Last Revision: January 12, 2018" (7 sheets), prepared by Merrikin Engineering, LLP
 - Zoning Board decision dated July 3, 2017
 - An Order of Conditions dated November 27, 2017
 - Floor plans prepared by UDA Architects and dated April 5, 2018.
 - A security summary for the proposed facility
 - Emergency response procedures for the proposed facility
 - Transportation procedures for the proposed facility
 - Inventory procedures for the proposed facility
 - Waste disposal procedures for the proposed facility
 - Dispensing procedures for the proposed facility
 - An acquisition policy for the proposed facility

- A drawing entitled "1525 Main Street Exhibit Plan of Land in Millis, MA" prepared by Legacy Engineering LLC and dated February 7, 2019.

FINDINGS

Regarding the requests for Special Permits, Section XII.Q of the Zoning By-Laws of the Town of Millis requires the following general conditions to be fulfilled prior to the granting of an application for a special permit:

(a) Special permits shall only be issued following public hearings held within 65 days after filing of an application with the Special Permit Granting Authority, a copy of which shall be given forthwith to the Town Clerk by the Applicant.

Finding: The application was filed with the office of the Town Clerk on January 30, 2019; and the initial public hearing was held on March 12, 2019. The Planning Board therefore finds that this requirement has been met.

(b) The use requested by the Applicant is listed in the Table 1 Use Regulations of the Millis Zoning By-laws as a special permit in the district for which application is made or is so designated elsewhere in the By-laws.

Finding: The proposed development of the site requires site plan approval and therefore requires a Special Permit. The proposed recreational marijuana establishment requires a Special Permit pursuant to Section V, Table 1, Use Regulations, Retail and Service Item no. 42. The Planning Board therefore finds that this requirement has been met.

(c) The requested use is essential or desirable to the public convenience or welfare.

Finding: The Board finds that the proposed use will provide a desirable public convenience by making recreational marijuana products and accessories available to the residents of the Town. The Board further finds that the increased commercial development is consistent with town planning goals. The Board therefore finds that the proposed development is desirable to the public convenience and welfare.

(d) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

Finding: The Applicant has demonstrated that parking will be provided with 27 spaces on-site, where the total parking required for the site is 14. The site is located directly on Main Street, a major thoroughfare. The applicant has further indicated that, if necessary, they will construct temporary parking facilities on adjacent properties to accommodate what may be an initial period of higher site visitation by the public. It is anticipated that any initial surge of site visitation will diminish over time as more such facilities are opened in the commonwealth, at which point any temporary parking facilities will be removed. The requested use will therefore not create undue traffic congestion, or unduly impair pedestrian movement and the Planning Board finds that this requirement has been met.

(e) The requested use will not overload any municipal services to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subject to hazards affecting health, safety, or the general welfare.

Finding: The site is serviced by existing municipal water and sewer systems, which are both adequate. The Applicant is constructing a previously approved stormwater management system which meets state and local requirements for stormwater mitigation and treatment. The requested use will not overload any municipal services to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subject to hazards affecting health, safety, or general welfare. The Planning Board therefore finds that this requirement has been met.

(f) Any special regulations for the use set forth in Section XI (Special Flood Hazard District), are fulfilled.

Finding: The applicant previously obtained a special permit under Section XI for the proposed work in the flood plain.

(g) The requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health, morals, or welfare.

Finding: The requested use of a recreational marijuana establishment is a use allowed by special permit in the I-P2 zoning district and is located on a site in an established commercial area, surrounded by existing commercial sites which meets the required 1,500 foot setback to residential zoning districts and other sensitive uses listed in the bylaw. The proposed use will be a dispensary for recreational marijuana products and accessories. This use will have no significant impacts on abutting properties, which are comprised of

existing commercial building, self-storage facilities and wetland areas. As such, the requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health, morals, or welfare of the citizens of Millis. The Planning Board therefore finds that this requirement has been met.

(h) A special permit granted under the provision of the Millis Zoning by-laws shall lapse within one year, and including such time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

Finding: The Applicant shall adhere to such requirements and the Planning Board therefore finds that this requirement has been met.

Section XIII.C.5 of the Zoning By-laws of the Town of Millis requires the following matters be evaluated prior to the granting of an application for Site Plan Review:

(a) Protection of adjoining premises against detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air.

Finding: The applicant is constructing previously approved stormwater management systems and exterior lighting for the site. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board therefore finds that this requirement has been met.

(b) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly.

Finding: The applicant previously obtained a variance to allow parking spaces to be 9 feet wide by 18 feet deep. All other parking requirements of the Zoning Bylaw are met and handicap spaces are provided in accordance with state regulations. The proposed driveway is adequate for the intended use and provides ample sight distances in both directions. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board therefore finds that this requirement has been met.

(c) Protection and enhancement of existing site features.

Finding: Portions of the work occurs within wetland jurisdictional areas and the applicant has provided compensatory wetland replication and flood storage areas in accordance with a Special Permit issued for work in the Flood Plain and an Order of Conditions issued under the Wetlands Protection Act and the Millis Wetlands Bylaw. There are no other unusual or unique site features. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board finds that this requirement has been met.

(d) Adequacy of the arrangement for parking and loading spaces in relation to the proposed use of the premises.

Finding: The applicant has obtained a variance to allow parking spaces to be 9 feet wide by 18 feet deep. All other parking requirements of the Zoning Bylaw are met and handicap spaces are provided in accordance with state regulations. Given the size of the building, loading spaces are not required or needed. The applicant has indicated an intention to construct temporary parking facilities on an adjacent parcel if site usage warrants. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board therefore finds that this requirement has been met.

(e) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site.

Finding: The site includes a dumpster for private refuse removal. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board finds that this requirement has been met.

(f) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the by-law.

Finding: The Board finds that the previously approved development is consistent with surrounding commercial land uses. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board finds that this requirement has been met.

(g) Protection of environmental features, particularly groundwater resources, on the site and in adjacent areas, adequate protection to prevent pollution of surface and groundwater, soil erosion, increase runoff, changes in groundwater recharge or elevation and flooding.

Finding: The applicant is constructing a previously approved stormwater management system which provides the collection, treatment and infiltration of stormwater runoff in accordance with state and local requirements. Construction-stage erosion controls have been implemented to prevent soil erosion during construction. Based on the plan submitted along with the imposition of conditions noted hereafter, the Planning Board therefore finds that this requirement has been met.

Section XIII.V of the Zoning By-laws of the Town of Millis requires the following matters be evaluated prior to the granting of an application for a Recreational Marijuana Establishment:

2.a Location:

Finding: The proposed dispensary is surrounded on all sides by existing commercial uses and wetlands areas. None of the uses identified in XIII.R.2.a(1) lie within 500 or 1,500 feet of the site (as applicable). The Board therefore finds that this requirement has been met.

It is further noted that the applicant has submitted copies of the various documents required by Section XIII.V.

DECISION

At a meeting held on March 12, 2019, acting upon a motion of Mr. James McKay and seconded by Mr. Richard Nichols, with Ms. Nicole Riley, Mr. George Yered, Mr. Richard Nichols, and Mr. James McKay voting in the affirmative, it was unanimously voted to grant to the Applicant, the Ellen Realty Trust, a **Special Permit** for site plan approval and a **Special Permit** for a Recreational Marijuana Establishment, for property located at 1525 Main Street, said location as described herein and on the plans. The site and the approved improvements are depicted on a seven-sheet plan set entitled "1525 Main Street Site Plan of Land in Millis, MA," dated May 10, 2017 with a final revision date of January 12, 2018, prepared by Merrikin Engineering, LLP. (hereinafter referred to as the "Approved Site Plan"). Site plan approval is subject to the following conditions:

1. All necessary approvals from other Town Boards and Commissions must be obtained by the Applicant. Proof of said approvals, where needed,

shall be forwarded to the Millis Planning Board. Approvals and/or permits shall reference the Approved Site Plan.

2. All provisions of the Millis Zoning By-laws shall be observed unless otherwise approved herein, authorized by variance from the Millis Zoning Board of Appeals, or authorized by a Determination pursuant to M.G.L. Chapter 40A, Section 6 that such pre-existing non-conforming uses may remain or be expanded and/or modified.
3. This special permit granted under the provisions of the Millis Zoning By-laws shall lapse within twenty-four (24) months from the filing of this decision with the Town Clerk, and including such time required to pursue or await the determination of an appeal from the grant thereof. If the Applicant, for good cause, needs to be granted an extension of up to one (1) year for completion of the project, such an extension will not be unreasonably withheld.
4. This permit is for the development of the site at 1525 Main Street, including the construction of a one-story, 3,400 s.f. commercial building along with appurtenant driveway, parking areas, utility systems, stormwater management systems and landscape and replication areas as shown on the Approved Site Plan. Any desired changes in use must be submitted the Board for review and determination as to whether an amendment or modification of the permit is required.
5. The Applicant shall identify the name, address and phone number of the contact person for construction management of the project. Said contact person shall be available 24 hours per day, seven days per week throughout construction. This information shall be provided to the dispatcher's office of the Millis Police and Fire Departments, the office of the Department of Public Works, and any other department deemed necessary by the Planning Board. In addition, this information should be posted in a prominent location on the required temporary construction fencing.
6. Prior to the start of construction, the Applicant shall conduct a pre-construction meeting with the Assistant Director of the Department of Public Works, the Planning Board's Engineer, and any other persons the Planning Board or its engineer deems appropriate.
7. No construction shall be started prior to 7:00 A.M. or continue beyond 6:00 P.M. No work will be permitted on the site on Sundays or on

holidays observed in Norfolk County, Massachusetts. A sign stating these construction activity hours shall be posted at the construction entrance.

8. There shall be no loading/unloading or stacking of construction equipment and materials or idling of delivery trucks during construction on Main Street.
9. Areas of disturbance, including stockpiling areas shall be protected by temporary fencing throughout construction.
10. Areas of disturbance shall be limited to the greatest extent practical. Disturbed areas that will not be built upon, paved or grassed within 14 days shall be temporarily stabilized with grass.
11. Installation of erosion control devices shall precede all other construction. Flooding of abutting properties during construction shall not be allowed.
12. A dumpster shall be maintained on-site throughout construction. All trash shall be collected daily and deposited in the dumpster. No trash shall be buried on-site.
13. If it is determined by the Board that construction related dust is excessive, remediation shall be implemented within 24 hours. Dust control shall be by water truck, calcium chloride shall not be allowed.
14. Upon completion of construction and the establishment of vegetation, sedimentation and debris shall be removed from all components of the stormwater recharge system, including but not limited to catch basins. Accumulates shall be properly disposed of off-site.
15. The Planning Board and any of its representatives shall be allowed to inspect the premises at any time.
16. An "as-built" plan shall be submitted for approval to the Planning Board prior to occupancy. Facility shall not be allowed to partial occupancy at any time without the approval of the Planning Board.
17. Dumpsters shall be emptied during times when the facility is closed to the public. The operator shall ensure that there is access to the dumpster for emptying as needed.

18. The facility may be open for public access between 8:00 am and 10:00 pm, Monday through Saturday and between 8:00 am and 9:00 pm on Sundays. Hours of operation for staff are not restricted.
19. Cultivation of recreational marijuana products is not permitted at this site, which is proposed as a dispensary for recreational marijuana products and accessories which are cultivated and made at other facilities.
20. The permit holder, or the Marijuana Establishment Agent, as defined by 935 CMR 500.002, shall file a copy of any Incident Report required under 935 CMR 500.000 with the Zoning Enforcement Officer and the Planning Board within 24 hours of creation by the Marijuana Establishment. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
21. The permit holder, or the Marijuana Establishment Agent, shall file a copy of any deficiency statement, plan of correction, limitation of sales, summary cease and desist order, cease and desist order, quarantine order, summary suspension order, notice of violation, notice of hearing, and notice of final action issued by the CCC, or any other adjudicatory agency, as applicable, regarding the Marijuana Establishment, with the Zoning Enforcement Officer and Planning Board within 48 hours of receipt by the Marijuana Establishment or Marijuana Establishment Agent.
22. The permit holder, or the Marijuana Establishment Agent, shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number, and electronic mail address of the Marijuana Establishment Agent in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder and the Marijuana Establishment Agent.
23. The special permit shall be limited to the original applicant and their tenant and is not transferrable. Unless otherwise approved by the Planning Board, this special permit for the Recreational Marijuana Establishment shall be limited to the operation of Commcan, Inc., 730 Main Street, Millis, MA 02054 at the proposed dispensary.
24. The special permit shall lapse if the permit holder ceases operation of the Marijuana Establishment for a period of thirty (30) days, or upon the expiration, termination or nonrenewal of the applicant's license issued by the CCC.

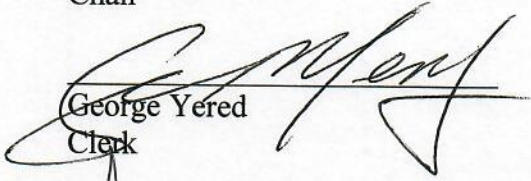
25. The permit holder, or the Marijuana Establishment Agent, shall annually provide the Zoning Enforcement Officer and the Planning Board with a copy of the renewed license issued by the CCC, as well as any modification of the existing license, as approved by the CCC.
26. The permit holder, or the Marijuana Establishment Agent, shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration, termination or nonrenewal of the license issued by the CCC.
27. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.
28. Final landscaping plan must be approved by the Planning Board. Should landscaping be damaged by snow plowing and/or road salt, such landscaping shall be replaced as soon as weather permits. Snow shall be stockpiled in areas designated on the plan.
29. All construction activities and future use of the site shall be in accordance with the provisions of the document submitted by the applicant entitled "Site Operations & Maintenance Plan" prepared by Merrikin Engineering, LLP, dated September 19, 2017, revised December 29, 2017, which includes the Long-Term O&M Plan for stormwater. The Long-Term O&M Plan will apply to the maintenance of the stormwater system and ongoing use of the property.
30. The property owner shall maintain on-site files including records of inspection, maintenance, and corrective actions for work performed in accordance with the operations and maintenance requirements prepared by the Applicant. Such files shall be available for inspection by the town.
31. Observation of the subsoil prior to the installation of the infiltration basin by a representative of the Town is required.
32. Any damage to the Main Street existing curbing or sidewalk shall be repaired to the satisfaction of the Millis Department of Public Works as soon as weather allows.
33. The Applicant shall be responsible for payment of professional outside consultant assistance that the Board deems necessary for inspection, etc., upon invoice from the Board.

34. Signage must meet the requirements/regulations set forth in the Zoning Bylaws. Signs must also be reviewed by the Building Inspector/Zoning Enforcement Officer. Any roadside signage shall be back lit (no internal lighting).
35. All parking spaces/lines shall be painted every three years or as needed.
36. Two planting containers shall be maintained on site with annual foliage.

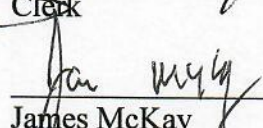
MILLIS PLANNING BOARD:

Robert Cantoreggi
Chair

___ Approve ___ Deny ___ Abstain


(George Yered
Clerk

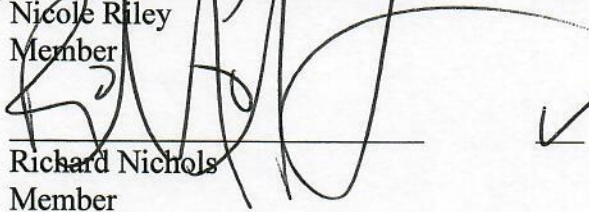
☒ Approve ___ Deny ___ Abstain


James McKay
Member

☒ Approve ___ Deny ___ Abstain


Nicole Riley
Member

☒ Approve ___ Deny ___ Abstain


Richard Nichols
Member

☒ Approve ___ Deny ___ Abstain

Carlo Molinari
Associate Member

___ Approve ___ Deny ___ Abstain

DATE VOTED:

3/12/19

DATED FILED WITH THE OFFICE OF THE TOWN CLERK:

3/25/19

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY (20) DAYS AFTER THE DATE THIS DECISION IS FILED IN THE OFFICE OF THE TOWN CLERK.