

## NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

**RE:**           **63 AMITY ROAD.**  
                  MBLU: 429 1173 01200  
                  **Owner:** Mastro Investments, LLC; **Applicant:** Nautilus Botanicals EJV2 LLC; **Agent:** Joseph Williams, Shipman and Goodwin, LLP

**Special Permit**

Permit a Hybrid Cannabis Retailer in the BA Zone.

**REPORT:**     **1633-08**  
**ACTION:**     **Approval with Conditions**

**Previous CPC Actions:**

21-Aug-02 1324-26 63-75 AMITY Road.  
SPR for new Multi-Use Commercial Structure. Applicant: Maestro Investments

**Submission:**

Received June 20, 2023

- Authorization Letter of Owner for Special Permit Application\_6.21.23
- Proposed Floor Plan (Color Coded) 6.20.23
- Proposed Floor Plan\_6.20.23
- Revised Survey\_6.15.23
- Security Plans
- Special Permit Application Form
- Statement of Use
- Traffic Study\_6.23.23
- Certification of abutters noticing, received July 11, 2023

**BACKGROUND**

Per the City of New Haven zoning regulations Sections 42.6 and 64, Nautilus Botanicals EJV2 LLC has applied for a Special Permit to operate a Hybrid Cannabis Retailer at 63 Amity Road on the first floor of an existing building.

On November 21, 2022, Nautilus Botanicals LLC was awarded a provisional cannabis cultivation license (License No. ACCE.0000005) pursuant to Section 21a-420(o) of the Connecticut "Responsible and Equitable Regulation of Adult-Use Cannabis Act" ("RERACA"). A cultivator licensed under Section 21a-420(o) may create two equity joint ventures in any licensed cannabis business other than cultivation. Licensees under Section 21a-420(o) therefore are entitled to open two retail cannabis dispensaries in Connecticut, subject to local approval, approval by the CT Social Equity Council, and final state licensure from the CT Department of Consumer Protection. Nautilus Botanicals LLC has formed an equity joint venture, Nautilus Botanicals EJV2 LLC, for the purpose of opening a retail hybrid cannabis dispensary in New Haven. A hybrid cannabis dispensary is a retail operation that sells both medical marijuana and adult-use recreational cannabis products.

**Current site conditions:** The site is currently occupied by a two-story commercial building and a paved surface parking lot. The site is in the Amity neighborhood with Amity Road to the west, Whalley Avenue to the east, and Route 15 to the north.

**Proposed Activity:** The applicant will lease a 1,617 SF space on the first floor. The space will be fitted out for use as a Hybrid Cannabis Retailer (retail of adult-use/recreational and medical cannabis). No exterior site work is proposed.

**PUBLIC HEARING**

A public hearing was held on July 19, 2023. A transcript of the hearing, CPC meeting 1633, is available from the City Plan Department.

One item of written testimony was received in support of the application and one in opposition.

Topics raised in public testimony included:

- Support for the application
- Small manageable size of the business
- Local ownership
- Lack of proximity to sensitive receptors
- Employment opportunities for New Haveners
- Community engagement conducted by the applicant
- Convenient highway access

**SPECIAL PERMIT**

Section 64 of the New Haven Zoning Ordinance states:

*Statement of purpose.* The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Special Permit Criteria	Comments
<p>a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.</p>	<p><i>The applicant has demonstrated that all relevant ordinance requirements have been met.</i></p>
<p>b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.</p>	<p><i>The applicant has demonstrated that all relevant ordinance requirements have been met.</i></p>
<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p><i>Vision 2025 calls for General Commercial Mixed-use in this area. Hybrid Cannabis Retail complies with this proposed use type.</i></p>

<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p><i>No exterior modifications proposed, therefore there will be no impact on natural features.</i></p>
<p>e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p><i>No smoking is permitted on the premises: "Smoking, ingestion, or use of Cannabis, shall be prohibited in all Indoor Public Places, as defined in RERACA, S.B. 1201, Conn.Pub.Act 21-, where smoking or consumption of tobacco or tobacco products is prohibited by state law...."</i>  <i>Therefore, it is not anticipated that odors or fumes would impact adjacent properties. See Cannabis-Specific Special Permit criteria for more information. No other hazardous conditions are anticipated.</i></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>No exterior modifications proposed and there are no historic structures on site.</i></p>
<p>g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.</p>	<p><i>No exterior modifications proposed, therefore there will be no impact on architectural features.</i></p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p><i>Planning Staff note that there is limited research available at this time on the impact of cannabis dispensaries on residential property values, however the proposed location is not directly adjacent to an existing residential area.</i></p>
<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p><i>The Applicant has provided a Traffic Assessment memo at the request of City Staff. The memo concludes that, "Based on the results of the capacity and queue analysis, it is our opinion that the increase in traffic because of the proposed project will have no measurable impact on the surrounding roadway system. As such, no traffic mitigation is necessary. With the proposed project, all individual movements at the study intersections are not expected to degrade in LOS, compared to Background (2024) Conditions." The Transportation, Traffic, and Parking Department reviewed the memo and agreed with this conclusion.</i></p> <p><i>The site is located on a State Road with easy access to Route 15. Traffic impact on local residential roads is not anticipated.</i></p>

In evaluating an application for Special Permit under this section 42.6, the City Plan Commission shall take into consideration, a. all criteria for evaluating a Special Permit under section 64(e); and the following criteria:

Special Permit Criteria	Comments
The health safety and welfare of the public, in general, and the neighborhood in particular	<p><i>NHZO Section 46.2, Cannabis Establishments, recognizes that “the social, environmental, economic, and land use impacts of commercial cannabis [retail] are no different whether in support of the medicinal or adult-use commercial marketplace.”</i></p> <p><i>It is critical to hear from residents of the surrounding area and other members of the public about any concerns they may have.</i></p>
Proximity to sensitive receptors including but not limited to schools, parks, playgrounds, and community gardens	<p><i>The closest elementary school to the Property is The Children’s House Montessori at 1666 Litchfield Turnpike in Woodbury, which is over 1,200 feet away. Within New Haven, the closest elementary school is West Rock STREAM Academy at 311 Valley Street, which is over 2,800 feet away. The New Haven Driving School is adjacent to 63 Amity Road to the south. The Pond Lily Nature Preserve is less than 300 feet from the site and the South Genesee field is located ~800 feet from the site.</i></p> <p><i>There are two other tenants in the building: Amity Music, a musical instrument store, and T-Nailroom, a nail salon.</i></p>
The location, the size the nature and the intensity of the proposed Cannabis Establishment and the operations involved in or conducted in connection with it;	<p><i>The proposed retailer is the smallest in square footage of all cannabis retail applications received to date. No activities beyond retail are proposed. The shop will be open seven days a week from 9am to 9pm or 10am to 8pm.</i></p>
Provisions for odor control, security, noise and lighting as may be appropriate as well as other externalities which may create a nuisance	<p><i>The applicant provided the following information on security: “We will hire a security guard, who will be stationed at the front entrance to check/scan IDs for age compliance and track purchases and any recalls, as well as to prevent theft/robberies. We will also place cameras and motion detectors in and around the facility for security purposes. Any windows will be reinforced and have tinted film that will allow those inside to see out but not vice versa. They will also be equipped with hefty 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. We plan to review our proposed plans with the fire marshal and building department when we file for a building permit. To facilitate the safest facility, we have separated our facility into four separate zones. The public zone is accessible to anyone and is where customers enter and check-in. The operations zone consists of the retail floor and product</i></p>

	<p><i>packaging/fulfillment areas. Then, there is the limited access zone, which consists of employee areas that can only be accessed by an employee RFID card. Finally, the restricted access zone consists of the secure vault as well as the IT closet. All of the restricted access areas will only be accessible by specific employees with specific RFID access cards, surveillance or security personnel, state regulators, and law enforcement agencies. From an access perspective, all doors in the facility, including entry and exit doors, will have access controls via keypad entry and require RFID cards. 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 station area below the counter and will not be visible to customers or thieves. Finally, alarmed keypads will be placed inside the entries to the check-in area and the secure vault. Security cameras and surveillance monitors will be placed throughout the facility so that everyone is aware of what is going on in the building at all times. All security footage will be backed up and stored for at least 90 days. As required by the state, all cannabis products will be stored in the secure vault, which will be surrounded by 8" thick concrete. It will have an alarmed keypad and panic button. All products will be stored in the vault, especially after hours. The vault can only be opened by the General Manager and has a timed lock.</i></p> <p><i>No new exterior lighting is proposed.</i></p> <p><i>Odor impacts are not anticipated as there is no smoking allowed on the premises and no manufacturing on site.</i></p>
--	--

D. Standards. The following additional standards apply to Cannabis Establishment uses:

- No Cannabis Establishment use shall be permitted to locate, relocate, move and/or operate within any premises where the outside entrance of such premises is within 500' from the property line of any public, parochial, or private elementary or secondary school.
- The following Cannabis Establishment uses shall not be permitted to locate, relocate, move and/or operate within any premises where the outside entrance of such premises is within 1,500 feet of another Cannabis Establishment: Dispensary Facility, Retailer, Hybrid Retailer or Tobacco/Cannabis Bar.  
The distance shall be measured from the main public entrance of the proposed site, establishment and/or premises to the nearest property line encountered. However, where a Cannabis Establishment is located within a structure of more than 50,000 square feet, the point of measurement shall be the main public entrance of such location, premises, or site.
- Where Special Permit is required, the applicant shall submit a preliminary Development Concept Plan of the proposed development showing all proposed and existing buildings and uses on the lot, proposed grow spaces, retail floor areas, storage areas, yard setbacks, the proposed location and design of all signage, driveways, parking lots, number of parking spaces, screening, landscaping, open space.
- All Cannabis Establishment uses shall occur within a fully-enclosed structure.
- Cannabis Establishments are prohibited in all residence districts, as well as the, "BC", "IM", "Park", "Cemetery" and "Airport" Zoning Districts.

- Cannabis Establishments are prohibited in the following districts which shall be considered overlay districts to the New Haven Zoning Ordinance,
- a. River Street Municipal Development Plan
  - b. Port District
  - c. Hill to Downtown Plan

### PLANNING CONSIDERATIONS

On July 1, 2021 the State of Connecticut adopted the Responsible and Equitable Regulation of Adult-Use Cannabis Act (RERACA). On August 1, 2022 the New Haven Board of Alders adopted Ordinance OR-2022-0003 and amended Section 42 of the Zoning Code to reflect 42.6-Cannabis Establishments, with a favorable recommendation from the City Plan Commission (CPC Report #1603-06). The State and City regulations created measures to ensure that cannabis uses are well-regulated, environmentally responsible, and economically sustainable, while protecting and preserving peace, order, property, health, and safety of residents. To date, one Special Permit for Hybrid Cannabis Retail has been approved and five additional applications were received, including this one. This application is the second the City of New Haven has received for Hybrid Retail.

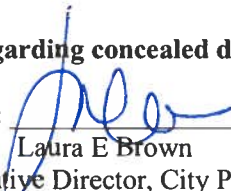
During review, Planning Staff paid special attention to identifying potential sensitive receptors in the area, and consulted with the Transportation, Traffic, and Parking Department on the submitted Traffic and gained clarifications on State regulations applicable to the proposed facility. Details regarding the assessment of sensitive receptors can be found in the table above. The proposed facility is small, located in a commercial area, and has access to ample parking. Based on our review, staff have concluded that the facility meets the Special Permit criteria. Given that there are few precedents for the implementation of similar ordinances, City Plan will communicate with the Zoning Enforcement Officer and other City enforcement personnel to ensure all conditions of approval are met, and to monitor unanticipated nuisances or hazards. Planning Staff also emphasize the importance of consideration of any public testimony provided on the proposal.

### CONDITIONS OF APPROVAL:

The conditions of approval of the Special Permit under §64 and §42.6 of the New Haven Zoning Ordinance for Hybrid Cannabis Retail are as follows:

1. **Special Permit must be filed on the land records of the City of New Haven before issuance of building permits. A digital copy of the recorded site plan shall be provided to staff (.pdf).**
2. **Temporary Cannabis events, including but not limited to private marijuana vending events, cannabis trade shows or public cannabis events are prohibited unless authorized by state law.**
3. **Smoking, ingestion, or use of Cannabis, shall be prohibited in all Indoor Public Places, as defined in RERACA, S.B. 1201, Conn.Pub.Act 21-, where smoking or consumption of tobacco or tobacco products is prohibited by state law, unless specifically permitted by this ordinance, or other ordinance of the City of New Haven.**
4. **All Cannabis Establishments shall comply with state law regarding concealed design standards.**

**ADOPTED:** July 19, 2023  
Adam Marchand  
Acting Chair

**ATTEST:**   
Laura E Brown  
Executive Director, City Plan Department