

TOWN OF MANCHESTER, VERMONT

DEVELOPMENT REVIEW BOARD

APPLICATION NUMBER: 2021-11-121.1

APPLICANT: Aunt Bonnie's Elevated

LANDOWNER: HB Realty Partners, LP

LOCATION: 97 Depot Street
Tax Map ID 32-52-26.00
Parcel ID 0099

HEARING DATE: September 7, 2022

**FINDINGS OF FACT
&
CONCLUSIONS OF LAW**

1. On August 9, 2022, Vallis Goodermote of Aunt Bonnie's Elevated (hereinafter the "Applicant"), submitted an application for conditional use review of a proposed integrated cannabis establishment at 97 Depot Street. The property falls in the Town Center (TC) Zoning District, as well as the Design Review Overlay (DRO).
2. Integrated cannabis establishments are allowable after conditional use review and approval by the DRB per the *Manchester Land Use & Development Ordinance* as effective June 1, 2022 (hereinafter the "Ordinance"). As such, the proposal is subject to site plan review and approval as well.
3. No changes to the existing site plan are proposed. The proposed use will occupy the same commercial space currently occupied by Aunt Bonnie's CBD, the proposed use essentially being an expansion of the CBD shop to include high THC cannabis sales and processing.
4. The Development Review Board (DRB) conducted a hearing on the application on September 7, 2022. Vallis Goodermote was present at the hearing and testified on behalf of the Applicant. Sylvia Jolivette also offered testimony during the hearing.
5. The Design Advisory Committee reviewed the site and design plan on August 31, 2022, and recommended approval of signage changes associated with the change in use provided some color changes were implemented.

SITE PLAN REVIEW

ZONING DISTRICT DIMENSIONAL REQUIREMENTS

TC Zoning District	Required	Street
✓ Minimum Lot Size*	15,000 sq. ft.	±109,335 sq. ft.
✓ Minimum Frontage	120 ft.	±262 ft.
✓ Maximum Lot Coverage*	75%	±59%
► Minimum Front Setback	15 ft.	±5 ft.
✓ Maximum Front Setback	30 ft.	±5 ft.
► Minimum Side Setback	10 ft.	0 ft.
✓ Minimum Rear Setback	20 ft.	>20 ft.
✓ Maximum Building Coverage*	40%	16%

*Combined with 135 Depot Street

- ✓ Zoning compliance.
- Existing nonconformity, unaffected by proposed use change.

Parking

6. The site plan includes an updated parking table that summarizes the baseline parking needs for the current and proposed uses of the buildings on the subject property and the adjacent Marble Mill property. Use and development of these two parcels were approved under a shared site plan when the Marble Mill was built in 2013.
7. Accordingly, the combined site includes buildings at 65 (Theory), 97 (Aunt Bonnie's), 103 (Coco Goose) and 135 Depot Street (The Marble Mill). Pursuant to Figure 9-3 of the Ordinance, the retail uses within these buildings have a baseline need of 97 parking spaces. The combined site provides 82 parking spaces, and a shared parking arrangement with the adjacent Friends of the Sun site provides 31 more, yielding a total of 113 parking spaces. The DRB concludes the site provides adequate parking for the retail uses.
8. No bike rack is shown on the site plan. Pursuant to Section 9.6.10 of the Ordinance, at least one bicycle parking space should be provided for the upper parking lot of 27 spaces serving the proposed cannabis establishment.

Signage & Exterior Lighting

9. Pursuant to Section 9.5.3 exterior lights, including sign lighting, must be shielded and downcasting, and LED fixtures shall not exceed 3000K color temperature. Section 9.5.3(9) of the Ordinance requires lighting to be extinguished by 10:00 p.m. or one hour after closing. Beyond that time, lights may be triggered for short periods by motion sensor. No change to the exterior lighting plan is proposed in conjunction with the change of use; however, with this change in use, the DRB concludes that exterior lighting should conform to these current standards.
10. The existing freestanding sign structure is proposed to be fitted with new panels for Coco Goose, Aunt Bonnie's and Theory. The new signage will provide uniform mounting and sizing, replacing existing temporary sign panels for Coco Goose (under separate permit)

and Aunt Bonnie's. As such, the Aunt Bonnie's signage will consist of two panels, one on each side of the sign structure, and each 17" x 50" or 5.9 sq. ft. in size (same as Coco Goose). The Applicant indicated at hearing and in meeting with the Design Advisory Committee that she would like to propose a black background with white text to distinguish her signage from the Theory signage.

11. A 42" x 30" wall sign is proposed for the west façade with red background, white lettering, and the Aunt Bonnie logo. The depth of this side of the building is about 30 ft., which allows for a 9 sq. ft. wall sign. The proposed sign is within this upper size allowance.
12. Three additional wall mounted signs are proposed, one on the east façade, one on the streetside south façade and one on the north façade over the main shop entrance. Each of these will consist of black acrylic letters mounted on the building. The proposed dimensions for the east side wall sign and the south side wall sign do not reflect the sign area calculation standard established by Section 10.3.5 of the Ordinance and illustrated in Figure 10-2 of the Ordinance. The size of each of these signs must reflect the full encompassing height and the full encompassing width of the letters. Based on the 30-foot façade lengths, these wall signs must be reduced in size and shall not exceed 9 sq. ft. measured as illustrated for channel letters in Figure 10-2. They appear to be about 11 sq. ft. as proposed.
13. Window signs are proposed for two windows on the south façade, a window on the east façade, and one logo decal on a storefront door on the north side of the building. The two window signs on the south façade were discussed extensively by the Design Advisory Committee relative to providing an inviting pedestrian oriented streetscape. Pursuant to that discussion the DAC recommended approval provided the background of these two signs was changed to white and the lettering to red. The DRB concurs with the DAC recommendation.

CONDITIONAL USE REVIEW

14. Pursuant to Section 4.17 of the Ordinance, integrated cannabis establishments are classified as retail cannabis sales and are subject to conditional use review in the TC district. The DRB may approve a conditional use after a public hearing and concluding that the use will not cause an adverse effect on any of the following five criteria indicated in bold italics below.

The capacity of existing or planned community facilities.

15. The addition of high THC cannabis product at this retail location is unlikely to cause any problems with community facilities.

The character of the area affected, as defined by the purposes of the zoning district within which the use is located, and policies and standards specifically stated in the town plan.

16. The addition of high THC product at this site is in keeping with newly adopted policy to allow retail cannabis sales in the Town Center (TC) zoning district. Pursuant to Section 4.3 of the Ordinance, the stated purposes of the TC district are as follows:
 - (1) Promote the long-term economic and social vitality of Manchester's town center;
 - (2) Support the town's visitor-based economy, as well as providing for the daily needs and services of the community;
 - (3) Provide economic development opportunities through retail, dining, service, office and other compatible commercial and light industrial uses;
 - (4) Encourage creation of housing within walking distance of employment, service and retail opportunities;
 - (5) Encourage mixed-use infill and redevelopment that increases the value of buildings and property;
 - (6) Ensure that new buildings are compatible with the architectural framework of Manchester's town core and preserve a human scale; and
 - (7) Promote a quality, urban streetscape and pedestrian-friendly environment.

The DRB concludes the proposed use contributes to the economic purposes outlined in numbers 1 through 3 above. It has no bearing on the creation of housing (#4) and does not involve new construction or infill development (#4 and 5). The addition of high THC cannabis product sales at this existing CBD business will have little effect on the urban, pedestrian-friendly streetscape (#7).

Traffic on roads and highways within the vicinity.

17. The addition of high THC cannabis product sales at this longstanding retail location on Depot Street will result in negligible traffic effects. Unlike in nearby Massachusetts towns a few years ago, the novelty of the first legal marijuana sales within the Town of Manchester will likely wear off quickly as other retail outlets are licensed by the Vermont Cannabis Control Board (CCB) and permitted in other nearby municipalities.

Other applicable provisions of ordinances, regulations, and bylaws of the town.

18. The DRB finds no other town regulations that apply to this change of use.

The utilization of renewable energy resources.

19. The DRB concludes the proposed use will not have any effect on the utilization of renewable energy resources in Manchester.

DECISION & ORDER

Based on the foregoing Findings of Fact, the Development Review Board hereby approves application 2021-11-121.1 as presented and discussed above subject to the following conditions:

1. This approval allows integrated cannabis establishment use of 97 Depot Street in addition to CBD product sales and processing. The integrated cannabis establishment use herein approved shall not commence until a certificate of compliance is secured from the Zoning Administrator and a license from the Vermont Cannabis Control Board is secured. A copy of the state license shall be submitted to the Planning & Zoning Department before a certificate of compliance is issued.
2. The wall mounted signs for the east and south facades shall be reduced in size and shall not exceed 9 sq. ft. as measured according to the illustration in Figure 10-2 of the Ordinance, and reflecting the full encompassing height and full encompassing width of all of the letters together.
3. The freestanding sign panels shall be black with white lettering.
4. The window signs on the south façade shall contain a white background with gray background dots and red text.
5. Prior to the issuance of a certificate of compliance, at least one bicycle parking space shall be provided on the site in compliance with Section 9.6.10 of the Ordinance.
6. All exterior lighting shall be shielded and downcasting. No exterior LED fixtures shall exceed 3000K color temperature, with 2700K preferred.
7. Exterior lighting shall be off by 10:00 p.m. or within one hour after the close of business on the site, except security or safety lighting triggered by motion sensors for brief periods of up to 10 minutes after hours.
8. All landscaping approved for the subject property shall be maintained in a healthy state. If any landscaping becomes damaged, diseased, or dies, it shall be replaced with equivalent landscaping in-kind.
9. All stormwater runoff either generated on or passing over the project site shall be treated, dissipated, and diverted in such a way as not to cause any adverse impacts upon adjoining properties, public rights of way, or waters of the state. If unforeseen problems arise, the Zoning Administrator shall maintain the authority to require the Applicant to construct appropriate devices to contain, control, and rectify such drainage or runoff problems, or may refer the application to the DRB for plan revision pertaining to erosion control or stormwater treatment.
10. Erosion control measures during periods of soil disturbance shall follow the Vermont Handbook for Erosion and Sedimentation Control on Construction Sites. Accordingly,

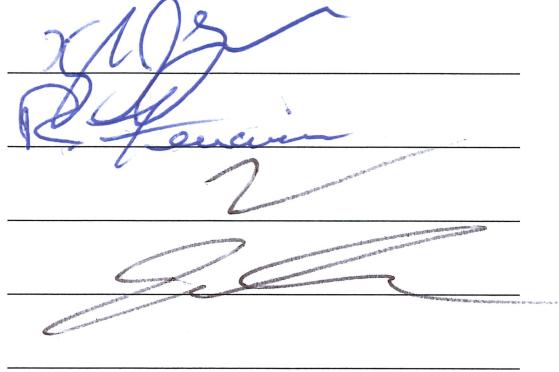
appropriate measures shall be employed to prevent eroded sediment from reaching neighboring properties, the town right of way, and waters of the state. All disturbed areas shall be seeded and mulched immediately following disturbance.

11. This approval is conditional upon receipt of any other required permits or licenses by local, state, and federal agencies. If changes to the site are required per other permits or licenses, then the Applicant must also apply for approval for these changes from the Manchester Development Review Board or Zoning Administrator as applicable. Any conditions of other permits or licenses shall be included as conditions of any subsequent zoning permit.
12. The use and development of the subject sites shall be conducted in accordance with these Findings of Fact, Conclusions of Law, and Decision & Order, with all other applicable local, state, and federal laws, and except as specifically modified in this decision, in accordance with the application and approved plans on file with the Town of Manchester Planning & Zoning Office.
13. Except as modified herein, all other conditions of permits granted for the subject property and the structures on it remain in full force and effect.
14. The Town of Manchester maintains continuing jurisdiction during the lifetime of this approval and subsequent permit, and may periodically require that the permit holder file an affidavit certifying that the project is being completed and continues to operate in accordance with the terms of this approval.
15. By acceptance of this approval, the Applicant agrees to allow representatives from the Town of Manchester access to the subject property to ensure compliance with the conditions of this approval.
16. By acceptance of this approval and its conditions without appeal, the Applicant confirms that this approval and its conditions shall be binding upon and enforceable against the Applicant and all assigns and successors in interest.
17. Failure to comply with any of the above conditions or any additional conditions which may be attached to any subsequent permit shall constitute a violation of this approval.
18. This approval becomes effective upon acceptance by the Applicant in the form set below. These Findings of Fact, Conclusions of Law, Decision & Order must be signed within 30 days of receipt or they become invalid and the subsequent permit null and void.

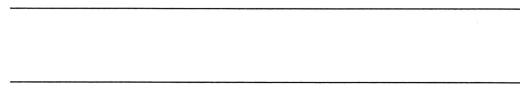
APPROVED BY THE DEVELOPMENT REVIEW BOARD

on September 28, 2022

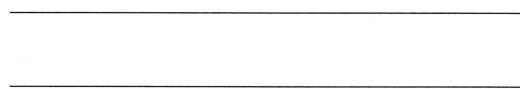
ASSENTING



DISSENTING



ABSTAINING



By this form and signature, I do hereby attest that I have read and understand these Manchester Development Review Board Findings of Fact, Conclusions of Law, Decision & Order and all applicable sections of the Manchester Land Use & Development Ordinance, and do hereby agree to abide by these Findings of Fact, Conclusions of Law, Decision & Order as written and approved.

on _____, 2022
For Aunt Bonnie's Elevated