

Hardwick Development Review Board  
Conditional Use Review Request  
Applicant: The Clean Cannabis Company, LLC  
Landowner: Blair Commercial Properties, LLC  
*200 Blizzard Way, Hardwick*  
*Application #2022-041*  
August 17, 2022

To consider a Conditional Use Review request by The Clean Cannabis Company, LLC for a change of use of an existing Agriculturally Exempt Structure to Agricultural and Forest Processing (indoor cultivation) in the Rural Residential zoning district. Development would occur at 200 Blizzard Way in Hardwick, VT. The Agricultural and Forest Processing will be for commercial cultivation that is not covered by agricultural exemptions to zoning.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.6 Rural Residential District; 3.11 Performance Standards; Section 3.13 Parking and Loading Requirements; Section 4.11 Agricultural and Forest Processing; Section 5.2 Conditional Use Review; and Section 5.2 G4 Rural Residential District Standards.

**Warnings** were posted on Tuesday, July 26, 2022 at the Hardwick Memorial Building, at the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Gravel Construction Company, Inc. and Laurie Ann and Edmund Mason on Tuesday, July 26, 2022. It was also published in The News & Citizen on Thursday, July 28, 2022.

**Development Review Board members present:** Helm Nottermann; John Mandeville, Chair; Ruth Gaillard; and Kole.

**Development Review Board members absent:** Kate Brooke

**Others present:** Kristen Leahy, Zoning Administrator; Dana Gravel, neighboring landowner; Devin Dannat, applicant; and Derek Porter, applicant.

**During the course of the hearing and prior to the hearing the following exhibits were submitted:**

1. Letter from the State of Vermont's Cannabis Control Board dated 4/25/22.

**Summary of Discussion**

Chair John Mandeville began the hearing at 7:00 pm. He noted that the hearing was quasi-judicial, explained the hearing procedure, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing.

Mr. Mandeville invited the applicants to present their proposal. The Clean Cannabis Company, LLC is pre-qualified (see Exhibit #1) for a Tier 3 indoor cannabis cultivation license (from the State of Vermont). Devin Dannat and Derek Porter were the representatives present for The Clean Cannabis Company, LLC. Clean Cannabis is licensed to grow hemp and the existing 12,000 square feet structure is currently being utilized for indoor cultivation of hemp. No retail or dispensing is occurring on site.

The existing structure is located on a 6 acre parcel which is accessed by a ROW (Blizzard Way) through the Gravel property on Route 15 West. This is a dedicated R.O.W. and the six acres are located in the section of the gravel pit that is no longer being utilized for earth extraction.



Clean Cannabis has applied for a Tier 3 indoor cannabis cultivation license. The applicants are proposing to shift the growing production in the building from hemp to cannabis. No changes to equipment or to the building will be necessary to affect this transition.

The structure is connected to the electrical grid and receives power from the Hardwick Electric Department. A generator is on site to provide emergency back-up to the structure but is not utilized unless there is a power outage. HED upgraded the transmission lines to address the facility's anticipated power usage.

The location is in an exhausted gravel pit section. No residences are near the site.

Clean Cannabis will not be posting signs to attract visitors. Their security at the location is enhanced by remaining anonymous.

The indoor cultivation operation will have 6-8 employees. The building and the wastewater system were designed to accommodate 15 employees. A retail element was anticipated during the design phase but this aspect will not be created due to security concerns. There are approximately 20-25 parking spots located around the building.

Their security system exceeds the requirements from the State of Vermont. A fully integrated surveillance system is monitored 24/7. The surveillance system is intelligent and the security cameras are linked to motion detectors. This aspect should reduce the number of false alarms that summon police or fire. There is limited access to the building's location with a gate at the entrance with Route 15 West and a second gate at the property line.

The water and the wastewater systems are State of Vermont certified.

An existing berm around the gravel pit location reduces the light pollution from the existing pole mounted lights and shields the structure from visual identification.

The structure is air tight to prevent possible cross-pollination from the neighboring hemp fields. No pollutants, pesticides or chemicals will be introduced into the internal air space.

The hearing ended at 7:35 pm. Kole made the motion to enter into deliberative session after the hearing and Helm Nottermann seconded. All members were in favor.

#### **Findings of Fact:**

Based on the application and testimony, the Development Review Board makes the following findings:

**2.6 Rural Residential** – Agricultural and Forest Processing is listed as a Conditional Use in this district. The cultivation of an agricultural item is typically exempted from zoning. The applicants are seeking to change the use of an existing Agriculturally Exempt Structure to an indoor cannabis cultivation location. Cannabis is excluded from the Agricultural Zoning exemption. **The Agriculturally Exempt Structure exists and meets the setbacks of the district – Setback from Blizzard Way and Route 15 is over 60 feet and setbacks from the side and rear are over 50 feet.**

**3.11 Performance Standards** – review was made of the performance standards by the DRB.

1) Regularly occurring noise - **The design of the proposed development does not include the use of a generator. This potentially regularly occurring noise will not be incorporated into this operation as there is on-site power connection in place.**



- 2) Releases of heat, cold, moisture, mist, fog - **The design of the proposed development traps and evaporates all water generation within the structure.**
- 4) Glare, lumen, light or reflection – **The design of the proposed development includes existing external pole lights in the parking lot and lights at the doorways. The berm which surrounds the property reduces the escape of light pollution.**
- 8) Smoke, dust, noxious gases, or other forms of air pollution – **The design of the proposed development has filters in each space and only exchanges air with the outside for a short duration of time each day.**

**3.13 Parking & Loading Requirements** – the property is located in the Rural Residential district which requires “off-street loading space shall be provided for commercial, industrial or institutional uses...” Table 3.1 lists Agricultural and Forest Processing as Other – parking spaces are “as determined under site plan or conditional use review”. **Six to eight employees will be on site. There are 20-25 parking spaces already in place. No additional parking design was deemed to be necessary.**

**4.11 Agricultural and Forest Processing** – the following provisions must be met: (1) The processing facility shall be of a size and scale appropriate for the neighborhood in which it is proposed, (2) Where a processing facility uses or generates hazardous materials, the applicant shall demonstrate compliance with applicable state or federal regulations, (3) Wholesale sales of processed products are allowed as a part of any approval. Retail sales may be allowed as a part of conditional use approval. Sales of products in addition to those processed on the site will be limited to those clearly incidental, secondary and ancillary to those processed products or as declared and approved as a part of the conditional use permit. **Applicable provisions are met as the facility is only allowed to grow 5000 sq ft of the crop; cannabis is not considered to be a hazardous material; and retail is not currently allowed at this location.**

## **5.2 Conditional Use Review**

### **E) General Review Standards**

The proposed conditional use will/ will not result in an undue adverse effect on any of the following:

1. **The capacity of existing or planned community facilities and services.** The proposed use will not affect either capacity.
2. **Character of the area affected.** The conversion and building use matches the purpose of the Rural Residential district and the character of the surrounding area. Kate Brook Road is already the location of hemp processing and growing fields. The structure is located in an exhausted gravel pit.
3. **Traffic on roads and highways in the vicinity.** The circulation and traffic patterns on Blizzard Way and Route 15 West will not be impacted by the change of use. No increase in traffic will be created by the proposal. Shipping will not occur in large capacity amounts. The hemp and the cannabis operations will utilize similar amounts of traffic. Furthermore, the gravel pit no longer creates additional truck traffic.
4. **Bylaws in effect.** N/A
5. **The utilization of renewable energy resources.** Clean Cannabis is discussing solar in the future. They utilize LED lights and use radiant energy to cool. They worked with Efficiency Vermont to design the internal aspects of the project.

### **F) Specific Review Standards shall include:**

1. **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **All standards are met by the proposal.**

2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **The performance standards were reviewed. See Condition #2.**

3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Standards will be met by the proposed changes.**

4. **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **The ac condensers are located behind the structure. There is a locked gate on the start of the driveway and at the Route 15 intersection. A flower garden has been installed. Additional landscaping was not indicated as necessary.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **State approved wastewater and potable water systems are in place on the site. No additional plans were indicated as necessary.**

## **5.2 G4 Rural Residential and Compact Residential District Standards.**

A) Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the scenic and rural qualities of the site as experienced both on-site and from other vantage points in the town. **The proposed development will convert an existing structure in an exhausted gravel pit.**

B) Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these features to the extent feasible in order to minimize the loss of productive agricultural and forest land, and to avoid physical and visual impacts. **The proposed development will minimize the loss of productive agricultural and forest land as it is in a former gravel pit.**



### Decision and Conditions

Based upon these findings, the Development Review Board voted 4-0 to approve the Clean Cannabis Company, LLC conditional use application as presented and amended with the following conditions:

#### Conditions:

1. Any and all necessary state and federal permits must be in place before development can commence.
2. The Applicant will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. The applicant must adhere to the all licensing requirements from the State of Vermont, including no on premise retail sales.

Signed:

 \_\_\_\_\_, Chair  
John Mandeville, DRB Chair  
Administrator

 \_\_\_\_\_, acting clerk  
Kristen Leahy, Zoning

Date 8/23/22

Date 8/23/22

#### NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

## **Hardwick Unified Development Standards**

### **Section 3.11 Performance Standards**

(A) The following performance standards must be met and maintained for all Conditional Uses and Home Occupation uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No Conditional Uses or Home Occupation uses, under normal conditions, shall cause, create or result in:

(1) **regularly occurring noise**, which:

represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or

in excess of 65 decibels, or 70 decibels within the Industrial District.

(2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;

(3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);

(4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

(5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;

(6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.

(7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or

(8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

**CANNABIS CONTROL BOARD**89 Main Street Montpelier, VT 05602 | [ccb.vermont.gov](http://ccb.vermont.gov)

April 25, 2022

Derek Porter  
PO Box 149  
Wolcott, VT 5680

Dear The Clean Cannabis Company,

This letter is to certify that based on the information provided to the Board in your prequalification application, The Clean Cannabis Company (submission number 201) has been prequalified by the Vermont Cannabis Control Board for a Tier 3 Indoor Cultivator license.

Prequalification does not entitle the holder to a license, and it does not authorize the holder to operate a cannabis establishment. This prequalification is good for one year from the prequalification date.

If the full list of pre-qualified principals or controlling entities is not reflected in this letter, please email us at [CCB.Applications@vermont.gov](mailto:CCB.Applications@vermont.gov) for updated documentation.

If you apply for a cannabis establishment license within one year from the date of this letter, the fee for the license application will be reduced by the amount of the prequalification fee. If you submit your application for a cannabis establishment license after one year from the date of this letter, the full non-refundable application fee will be required.

Sincerely,

Brynn Hare

Executive Director, Cannabis Control Board

