

DECISION
GRAFTON PLANNING BOARD
SPECIAL PERMIT (SP 2020-01) & SITE PLAN APPROVAL

Marijuana Establishment
135 Westboro Road
Resinate, Inc. (Applicant)
JKRP Holdings, LLC (Owner)

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Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Resinate, Inc. (hereinafter the APPLICANT) for Special Permit & Site Plan Approval for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer and Marijuana Transporter on property located at 135 Westboro Road (hereinafter the SITE) and shown on the Grafton Assessor's Map 13, Lot 02, and owned by JKRP Holdings, LLC (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds Book 61567, Page 342.

I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on January 10, 2020. Notice of the public hearing and the subject matter thereof was published in the Grafton News on January 23 and 30, 2020 and posted with the Town Clerk's Office on January 28, 2020. Abutters were notified by First Class Mail. The public hearing on the Application was opened on February 10, 2020 and continued, at the request of the applicant with concurrence of the Board to March 9, 2020 and March 23, 2020. During the public hearings, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on March 23, 2020.

At the hearings the following people presented the Application: Peter DeCaro, Chief Executive Officer of Resinate, Inc.; Norman G. Hill, P.E. with Land Planning, Inc.; and Matthew W. Skelly, P.E., PTOE with Fuss & O'Neill, Inc.

The following Board members were present at the public hearings: Chair David Robbins, Vice Chair Robert Hassinger, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

EXHIBIT 1. Original Application Submission, received January 2, 2020 to include the following:

- a. Application for a Special Permit, signed by Peter DeCaro (Applicant), dated December 18, 2019, date stamped by the Town Clerk on January 10, 2020 and date stamped received by the Planning Board on January 2, 2020, 1 page.
- b. Application for a Site Plan Approval, signed by Peter DeCaro (Applicant), dated December 18, 2019, date stamped by the Town Clerk on January 10, 2020 and date stamped received by the Planning Board on January 2, 2020, 1 page.

- c. Certificate of Good Standing, signed by Beth Schrottman, dated January 10, 2020 and date stamped received by the Planning Board on January 2, 2020, 1 page.
- d. Abutters Listing for 135 Westboro Road, Map 13, Lot 2, dated December 18, 2019, signed by Kenneth Michael O'Brien, MAA, Grafton Data Collector and date stamped received by the Planning Board on January 2, 2020, 1 page.
- e. Waiver Request Form, date stamped received by the Planning Board on January 2, 2020, 3 pages.
- f. Letter from Norman G. Hill, P.E., P.L.S., of Land Planning, Inc., to Joseph Laydon, Town Planner, regarding "Submission of application for Site Plan and Special Permit," dated December 26, 2019 and date stamped received by the Planning Board on January 2, 2020, 3 pages.
- g. "Project Description/Narrative", received by the Planning Board on January 2, 2020, 8 pages.

- EXHIBIT 2.** Plan: "Site Plan for Resinate" dated December 18, 2019, prepared by Land Planning, Inc., 1 sheet.
- EXHIBIT 3.** Report: "Traffic Impact for Cannabis Retail Use," received by the Planning Board on January 2, 2020, 2 pages.
- EXHIBIT 4.** "Addendum to Special Permit Application", received by the Planning Board on January 2, 2020, 12 pages.
- EXHIBIT 5.** Report: "Traffic Impact Statement", dated December 16, 2019, prepared by Land Planning, Inc., received by the Planning Board on January 2, 2020, 18 pages.
- EXHIBIT 6.** Letter from Elizabeth Chen, PhD, Bureau of Health Care Safety and Quality, to Peter Decaro, Resinate Inc., regarding "Approval to Change the Name of a Registered Marijuana Dispensary", dated October 26, 2018, received by the Planning Board on January 2, 2020.
- EXHIBIT 7.** Letter from Eric Sheehan, J.D., Bureau of Health Care Safety and Quality, to Peter Decaro, Resinate Inc., regarding "Provisional Certificate of Registration for a Registered Marijuana Dispensary", dated November 28, 2016, received by the Planning Board on January 2, 2020.
- EXHIBIT 8.** Commercial Lease, dated October 1, 2019, received by the Planning Board on January 2, 2020.
- EXHIBIT 9.** "CCC Application #MRN282399", dated November 11, 2019, received by the Planning Board on January 2, 2020.
- EXHIBIT 10.** "CCC Application #MRN282399", dated November 26, 2019, received by the Planning Board on January 2, 2020.
- EXHIBIT 11.** Public Hearing Notice, date stamped by the Town Clerk on January 28, 2020, 1 page.
- EXHIBIT 12.** Email from Normand Crepeau, Jr., Chief of Police, to Natalia Alward, Office Manager, regarding "135 Westboro Road, SP 2020-1", dated February 10, 2020.

- EXHIBIT 13.** Public Hearing Sign-In Sheet dated February 10, 2020, 1 page.
- EXHIBIT 14.** Public Hearing Continuance request form, signed by Norman Hill, dated February 10, 2020, received by the Planning Board on February 10, 2020, 1 page.
- EXHIBIT 15.** Email from Leah Cameron, Conservation Agent, to the Grafton Planning Board, regarding “135 Westboro Road – Resinate, Inc. - Marijuana Establishment”, dated February 11, 2020.
- EXHIBIT 16.** Email from Nancy Connors, Health Department, to the Grafton Planning Board, regarding “135 Westboro Road, SP 2020-01/PA, Resinate Inc.”, dated February 11, 2020.
- EXHIBIT 17.** Email from Katrina Koshivos, Zoning Board of Appeals, to the Grafton Planning Board, regarding “135 Westboro Road – Resinate, Inc. - Marijuana Establishment”, dated February 11, 2020.
- EXHIBIT 18.** Plan: “Site Plan for Resinate” dated December 18, 2019, revised March 6, 2020, prepared by Land Planning, Inc., 1 sheet.
- EXHIBIT 19.** Report: “Traffic Review Letter”, dated March 5, 2020, received by the Planning Board on March 6, 2020, prepared by Katherine Patch, EIT and Matthew Skelly, PE PTOE, of Fuss & O’Neill, 86 pages.
- EXHIBIT 20.** Public Hearing Sign-In Sheet, dated March 9, 2020, 1 page.
- EXHIBIT 21.** Public Hearing Continuance request form, signed by Norman Hill, dated March 9, 2020, received by the Planning Board on March 9, 2020, 1 page.
- EXHIBIT 22.** Photometric Report (Option 1): “135 Westboro Street Exterior”, dated March 9, 2020, prepared by Access Fixtures, 23 pages.
- EXHIBIT 23.** Photometric Report (Option 2): “135 Westboro Street Exterior”, dated March 9, 2020, prepared by Access Fixtures, 23 pages.
- EXHIBIT 24.** Email from Normand Crepeau, Jr., Chief of Police, to Christopher McGoldrick, Town Planner, regarding “135 Westboro – Letter of Comments”, dated March 16, 2020.
- EXHIBIT 25.** Email from Paul Cournoyer, Director of Public Works, to the Grafton Planning Department, regarding “135 Westboro Road”, dated February 14, 2020.

III. FINDINGS

At their meeting of March 23, 2020 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to make the following Findings:

- F1.)** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.

- F2.)** That determinations regarding the following findings are also predicated upon satisfactory completion of the work and site improvements shown on the Plans and maintenance of the Site in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- F3.)** That the 1.08-acre site is located in an Office / Light Industrial (OLI) zoning district. The site is not located within the Water Supply Protection Overlay District. The Applicant is seeking a Special Permit for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Retailer and Marijuana Transporter. Said uses are allowed with the issuance of a Special Permit in an OLI zone and is further subject to Site Plan Approval as required by the Zoning By-law.
- F4.)** The proposed scope of work involves the renovation of the existing 10,000 sq. ft. building for the retail cannabis dispensary, including transportation. Existing collocated businesses, including Wicked Twisted Pretzel and Pecorino's Wine and Cheese are proposed to remain. (see Exhibits #1, and #2).
- F5.)** The Town of Grafton Select Board signed a Host Community Agreement with Resinate to operate a Marijuana Establishment as taken by vote on May 7, 2019.
- F6.)** Testimony was received by the Applicant that a Community Outreach Meeting was held on October 16, 2019 and that their application to the Cannabis Control Commission was submitted on November 11, 2019 and November 26, 2019 (see Exhibits #9, and #10).
- F7.)** The proposed hours of operation for the retail operation will be 10 AM to 9 PM Monday through Sunday (see Exhibit #1).
- F8.)** The Zoning Bylaw, in Section 5.10.4.b states "The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m."
- F9.)** The Applicant requested four waivers as part of the application submission. A waiver was requested from Section 1.3.3.3.d pertaining to the submission of a complete site plan (see Exhibit #1e). A second waiver was requested from the submission of a Stormwater Management Hydrological Study (see Exhibit #1.e). A third waiver was requested from the submission of a fully compliant traffic study (see Exhibits #1.e and #3). The Applicant stated their request is due to their application proposing the renovation of the existing structure and that no changes are being made to the site that impact the footprint of the building. The Applicant requested a waiver from providing a Stormwater Management Hydrological Study due to not proposing additional impervious surface onsite. The Applicant requested a waiver from a fully compliant traffic study due to a submitted Traffic Impact Statement (see Exhibit #5).
- F10.)** That during the public hearing the Board and the Applicant discussed the access to the site, site circulation, fencing, and the loading area. The Applicant noted that they will be reviewing the

security plans with the Police Department, as many of the security provisions include internal systems that have not been finalized.

- F11.)** With regard to Section 1.5.5(a), the Board finds that based on Exhibits and Findings stated within this Decision, ingress and egress to the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, is adequate. The Board notes that project proposes the renovation of an existing building and that limited changes to the site are being proposed.
- F12.)** With regard to Section 1.5.5(b), the Board finds that based on the Exhibits and the Findings stated within this Decision, that off-street parking is adequate. The Board further finds with regard to Section 1.5.5(b) that the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties generally in the district are satisfactory. The Board notes that the site is located within an Office / Light Industrial (OLI) zone as are the abutting properties. Concerning odor associated with marijuana, the Applicant stated they are proposing retail/dispensary use and that all product will be packaged and sealed to prevent odor (see Exhibit #4).
- F13.)** With regard to Section 1.5.5(c), the Board finds that based on the Exhibits and the Findings stated within this Decision, that refuse collection or disposal and service areas are satisfactory. The Board notes that the Applicant addressed the refuse collection by noting that they will follow disposal requirements of the Cannabis Control Commission.
- F14.)** With regard to Section 1.5.5(d), the Board finds that based on the Exhibits and the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate. The Board notes that the project involves the internal renovation of the existing building and that no changes are being made to the footprint of the building. Furthermore, minimal changes are proposed to the parking area and existing vegetation will remain. No public comment was received on this matter.
- F15.)** With regard to Section 1.5.5(e), the Board finds and based upon on the Exhibits and the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. Existing signage is proposed to be used and will comply with the bylaw (see EXHIBIT #4). Existing exterior lighting is proposed to remain. Additional photometric plans have been provided (see EXHIBITS #22, and #23).
- F16.)** With regard to Section 1.5.5(f), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, the required yards and other open space requirements are adequate (see EXHIBIT #18).
- F17.)** With regard to Section 1.5.5(g), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, that the proposed use of the facility is generally compatible with adjacent properties and other properties in the Office / Light Industrial (OLI) zone. The site is located on Westboro Road which contains industrial, commercial, and professional uses with

similar intensity of use to the proposed Marijuana Establishment. No public comment was received regarding this condition for granting.

- F18.)** With regard to Section 1.5.5(h), the Board finds that based upon on the Exhibits and the Findings stated within this Decision and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, Grafton Water District, and all other applicable agencies, the proposed facility will not have any significant adverse impact on any public or private water supply.
- F19.)** With regard to Section 1.5.5(i), the Board finds that the site is not located within the Water Supply Protection Overlay District. The Board further finds that, based upon on the Exhibits and the Findings stated within this Decision, and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, Grafton Water District, and all other applicable agencies, there will not be any significant adverse impact upon municipal water supplies.
- F20.)** With regard to Section 1.5.5(j), the Board finds that important historic, cultural and scenic landscapes are protected. It was noted that the proposed use involves the renovation of an existing structure for use as a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Retailer and Marijuana Transporter and therefore does not impact any historic, cultural, or scenic resource. No public comment was received regarding this condition for granting.
- F21.)** With regard to Section 5.10.7.a, the Board finds that the proposed Marijuana Establishment has satisfied compliance with M.G.L. Chapter 94G and specifically, the Board finds that the proposed Marijuana Establishment is located greater than 500 feet from a school, daycare center, or any facility in which children commonly congregate.
- F22.)** That Section 5.10.8.a of the ZBL requires that the Applicant meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.
- F23.)** That Section 5.10.8.c of the ZBL requires the Applicant provide copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Grafton, in accordance with M.G.L. Chapter 94G and subsequent regulations, to the Building Commissioner prior to the issuance of a Certificate of Occupancy.
- F24.)** That Section 5.10.8.d of the ZBL requires that the facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- F25.)** That Section 5.10.8.e of the ZBL requires that the facility provide a secure waiting area.
- F26.)** That Section 5.10.8.f of the ZBL requires that the facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

- F27.)** That Section 5.10.8.g of the ZBL requires that the facility Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.
- F28.)** That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F29.)** That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board.
- F30.)** The Board finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Board finds that the Applicant submitted waiver requests from Sections 1.3.3 and 8.2 of the Grafton Zoning By-Law (see EXHIBIT #1).

IV. WAIVERS

W1) At their meeting of March 23, 2020, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to deny the Applicant’s request for waivers from the requirements of **Section 1.3.3.3(d)** of the ZBL with regard to the preparation of a site plan for the reasons stated within the Findings of this Decision. The Board noted that the Applicant had provided the a sufficient site plan (EXHIBIT #18), prior to the March 23, 2020 meeting, which effectively withdrew the waiver request.

W2) At their meeting of March 23, 2020, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to grant the Applicant’s request for waivers from the requirements of **Section 1.3.3.3(e)** of the ZBL with regard to the preparation of a Stormwater Management Hydrological Study for the reasons stated within the Findings of this Decision.

W3) At their meeting of March 23, 2020, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to grant the Applicant’s request for waivers from the requirements of **Section 1.3.3.3(f)** of the ZBL with regard to the preparation of Earthwork Calculations for the reasons stated within the Findings of this Decision.

W4) At their meeting of March 23, 2020, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to deny the Applicant’s request for a waiver from the requirements of **Section 8.2 – Traffic Study**. The Board noted that the Applicant had provided the traffic study (EXHIBIT #19), prior to the March 23, 2020 meeting, which effectively withdrew the waiver request.

V. DECISION

At their meeting of March 23, 2020 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood) voted 5-0 to **APPROVE** the Special Permit (SP 2020-01) & Site Plan Approval with the following conditions:

A. Standard Conditions

1. This Special Permit and Site Plan Approval specifically authorizes the construction associated with the renovation of the existing building at 135 Westboro Road for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Retailer and Marijuana Transporter as described within the referred EXHIBITS and FINDINGS of this Decision.
2. The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #A1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
3. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with this decision, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any directional such signage, which may be permitted in conformance with the Zoning By-law.
4. The Applicant shall submit a lighting plan denoting any changes in fixtures as proposed in Exhibits #22, and #23 for review and approval by the Board prior to installation, except lighting that is required by code and determined necessary by the Inspector of Buildings for emergency egress of the structure.
5. In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.

7. By recording this Special Permit and Site Plan Approval Decision in the WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

B. Conditions to be Met During Construction

1. Hours of construction and site work external to the building shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
2. All construction shall be performed in accordance with the approved Plans, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas during construction, and after completion, from the site and its associated improvements.

C. Conditions to be Met After Construction

1. The Applicant shall submit a copy of the Cannabis Control Commission's Provisional License and any supporting documents indicating approval to proceed for review for consistency with this decision. If the Board determines that the material submitted is inconsistent with the decision, the Applicant may be required to modify this decision pursuant to Condition A.2.
2. The Applicant shall submit a final security plan, including parking plan details, following approval of the Cannabis Control Commission and the Grafton Police Department, to the Planning Board for review for consistency with this decision. If the Board determines that the material submitted is inconsistent with the decision, the Applicant may be required to modify this decision pursuant to Condition A.2.
3. Hours of operation for the uses authorized by this Decision shall be limited as follows: for the retail sales shall be 10:00 AM to 8:00 PM Monday through Sunday, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 PM. and 8:00 AM (Finding 8). Hours of operation may be amended pursuant to Condition A.2.
4. No sign may be illuminated more than thirty (30) minutes after closing of any store or business in accordance with Section 4.4.2 of the Grafton Zoning By-Law.

VII. RECORD OF VOTE

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Christopher J. McGoldrick, Town Planner

3/26/2020

Date

- cc: Applicant / Owner
- Building Inspector
 - Assessors
 - Conservation Commission

To Whom It May Concern: This is to certify and verify that the twenty (20) days have elapsed since this decision was filed in the Town Clerk’s office and that no such appeals have been filed in the reference to the same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavalley, Town Clerk

Date