

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

CUAP # 25-0023

SOUTHERN WAVES DISPENSARY

EIGHTH ELECTION DISTRICT

DATE HEARD: July 10, 2025

ORDERED BY:

**Mr. Brown, Mr. LaRocco, Mr. Payne
Dr. Valcke, and Ms. Weaver**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: August 28, 2025

Pleadings

Reuben F. Lilly, Jr. and Mary A. Lilly (“Applicants”) request a conditional use approval for Use Type 76A, Cannabis Dispensary.

Public Notification

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on June 20 and June 27, 2025. The file contains the certification of mailing to all adjoining landowners, including those located across a street, all properties within 200’ of the subject property, and contains proof physical postings were made on the property as required. The agenda was also posted on the County’s website on June 25, 2025. Therefore, the St. Mary’s County Board of Appeals (“the Board”) finds and concludes this matter has complied with all applicable notice requirements.

Public Hearings

A public hearing was conducted at 6:30 p.m. on July 10, 2025 in the Commissioners’ Meeting Room, located within the Chesapeake Building at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically.

The Property

The property is situate 22805 Three Notch Road, California, Maryland 20619 (hereinafter “the Property”). The Property consists of 29,186 s.f., more or less, is zoned Medium Intensity Mixed-Use District (“MXM”) and may be found at Tax Map 42, Grid 6, Parcel 19.

The Conditional Use & Variance Requested

The Applicants request conditional use approval pursuant to Chapter 25 of the St. Mary’s County Comprehensive Zoning Ordinance for Use Type 76A, Cannabis Dispensary.

The St. Mary's County Comprehensive Zoning Ordinance

Pursuant to Ordinance 2022-30, use Type 76A, Cannabis Dispensary is defined as:

*A person or entity licensed by the state as a dispensary as defined in COMAR 10.62.01.13 under a license issued by the Natalie LaPrade Medical Marijuana Commission as stated in the Health-General §§ 13-3201 to 13-3206, of the Annotated Code of Maryland.*¹

In addition to the general standards applicable to all conditional use applications within Chapter 25, conditional use standards specific to Use Type 76A may be found within Ordinance 2022-30.

Staff Report & Testimony

Stacy Clements, an Environmental Planner from the St. Mary's County Department of Land Use and Growth Management ("LUGM"), presented the staff presentation, which included the following:

- The subject property (hereinafter the "Property") area is 29,185 square feet in size, according to the Maryland Department of Assessments and Taxation. The Property is commercial property with the primary structure built in 2000.
- The Applicant is requesting Conditional Use approval for a 3,000 square foot Cannabis Dispensary (hereinafter the "Dispensary"), within the Medium Intensity Mixed-Use Zoning District. The Dispensary will be located within existing commercial structure with access from Three Notch Road. (Attachment 5)
- Section 50.4.76.a. of Ordinance No. 2022-30 (Attachment 6) defines Medical Cannabis Dispensary as a person or entity licensed by the state that acquires, possesses, transfers, sells, dispenses, or distributes products containing medical cannabis and related supplies

¹ Ordinance 2022-30 predates, by only a few months, the constitutional referendum that legalized recreational cannabis and subsequent statutory framework established by the General Assembly through the Cannabis Reform Act, Chapter 254 of the 2023 Acts of the General Assembly. Consequently, statutory references within the definition are outdated.

and products pursuant to COMAR 10.62.01 to 10.62.35. COMAR 10.62.01 to 10.62.35 have since been repealed effective July 22, 2024, and replaced on July 22, 2024 with COMAR 14.17.01.01 which defines a Dispensary as:

- (a) “Dispensary” means an entity licensed under Alcoholic Beverages and Cannabis Article, §36-401, Annotated Code of Maryland, that acquires, possesses, repackages, transports, sells, distributes, or dispenses cannabis or cannabis products, including tinctures, aerosols, oils, and ointments, related supplies, and educational materials for use by qualifying patients, caregivers, or consumers through a storefront or through a delivery service, based on license type. (b) “Dispensary” includes standard and micro license types.
- The St. Mary’s County Health Department, the St. Mary’s County Metropolitan Commission, Soil Conservation District, Maryland State Highway Administration, and the Fire Board, have either approved or have no objection to the site plan. The Department of Land Use and Growth Management approval is pending the outcome of this hearing.
- Pursuant to Section 25.9 of the Ordinance, “Limitations on Conditional Use Approval,” “Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall be valid for a period longer than one year unless a site plan is approved, a building permit is issued, construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is issued and use commenced within that period.”
- The following Attachments to the Staff Report were introduced:
 - Attachment 1: Conditional Use Standards Letter
 - Attachment 2: Location Map

Attachment 3: Land Use Map

Attachment 4: Zoning Map

Attachment 5: Site Plan

Attachment 6: Ordinance No. 2022-30

Attachment 7: Review Comments

Applicants' Testimony and Exhibits

Applicants were represented before the Board by Christopher T. Longmore, Esq., of Dugan, McKissick & Longmore LLC. He was joined by Joe Kadjeski of COA Barrett, Inc., Michael Lenhart, a traffic consultant, and several representatives of the business entity seeking to acquire the Property and establish the dispensary thereon,. Mr. Longmore shared a PowerPoint presentation that shared site plans, renderings of the proposed dispensary, and other pertinent information. The following, in particular, are highlighted from the testimony presented on behalf of the Applicants:

- The Property is already improved by an existing structure that was originally developed as a bank, and more recently used as a real estate brokerage;
- There will be “no added traffic impacts that would be different from other approved and prior uses” on the Property;
- The legal cannabis industry is highly regulated by the State of Maryland, and all activities at the proposed dispensary will have to meet the strictures of these regulations
- The existing ingress and egress “appropriately minimize traffic congestion”
- The project is located within the Lexington Park Development District, where the County “has focused on developing and has said, from a planning perspective, that’s where we want commercial uses.”

- Mr. Lenhart testified that the traffic and parking data he relied upon was from the Institute for Transportation Engineers Parking Generation Manual, and that its projections were based upon empirical data gathered from other, existing cannabis dispensaries.
- There will be no growing or processing activities at the Property.
- Mr. Gibbs and Mr. Johnson stated that they will rely heavily upon the drive through for sales and would only have a “very modest sized sales floor.”
- Mr. Gibbs and Mr. Johnson do not anticipate hiring on-site security personnel for the future dispensary.

Public Testimony

The following members of the public appeared to offer in-person testimony:

- *Sajjad Cheema, 44603 Sycamore Lane*
 - Ms. Cheema stated she recently moved to the area with her three children, and lives “a mile or two” away. She stated she was concerned about the dispensary and its potential impacts, and is against the proposed dispensary.
- *Rupesh Patel, 45860 Morning Court*
 - Mr. Patel owns the Donut Connection store adjacent to the Property. He opposes the requested conditional use approval. He said he would not object to a bank or a real estate brokerage, but that the proposed dispensary is a “different type of business.” He offered reasons why the proposed dispensary would have a negative impact on his business and the surrounding community, including negative effects from secondhand smoke.

- *Ali Tanveer, Pennsylvania*
 - Mr. Tanveer lives in Pennsylvania, but shared with the Board that he has family members who live locally and he came to speak on their behalf. He said his relatives are “extremely concerned about what’s going to be happening over there.” He said a nearby motel has numerous complaints viewable online about individuals smoking marijuana and loitering at its premises. He said there would be an “extremely negative impact on the entire neighborhood.” He also questioned the propriety of a drive through, and suggested consumers may smoke or imbibe cannabis products on their way home.
- *Maria J. Morgan, 22760 Taylor Lane*
 - Mrs. Morgan lives adjacent to the Property. She said the proposal for a dispensary made her very sad, and that the dispensary would negatively impact her property and her quality of life.
- *Sylvia Altman, 22760 Taylor Lane*
 - Ms. Altman expressed concern about impacts to the community and, in particular, to a preschool center that fell a few outside the required setback and to the school bus stop near the dispensary. She said there would be safety concerns as well, in part because of the nearby “railroad trail” and what already occurs on the trail and in part because of the nearby motel as well. She also pointed to how many nearby vape stores there were and questioned the need for a dispensary in addition.

In addition to in-person testimony, the following written comments were received:

- *Mary Babcock, 45972 Herring Court*
 - Ms. Babcock wrote in support of the conditional use request. She shared that she

had been a medical cannabis patient for many years, and currently had to travel to Solomons to reach a dispensary and that the second-nearest dispensary is 20 miles away in Mechanicsville. She wrote that proposed conditional use “would provide thousands of people with greater access to medical and recreational cannabis.”

- *Jonathan Plew*

- Mr. Plew identified himself as a member of the Town Creek community across the intersection of the location. He raised concerns related to a school bus stop across the road from the proposed location. He believed this would pose a safety risk and that school bus stops should be included within the setbacks applicable to schools.

Decision

County Requirements for Granting Conditional Uses

The St. Mary’s County Comprehensive Zoning Ordinance § 25.6 sets forth eight separate standards that must be met for a conditional use to be granted:

1. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use;
2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare;
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood;
4. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location

within the zoning district;

5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
6. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets;
7. The proposed conditional use is not contrary to the goals, objectives, and policies of the St. Mary's County, Maryland Comprehensive Plan ("Comprehensive Plan"); and
8. The conditional use, in all other respects, conforms to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in the Ordinance.

Id.

Moreover, Ordinance 2022-30 created nine discreet, individual standards specifically applicable to cannabis dispensaries, which must be satisfied as well. Upon review of the facts and circumstances, the Board concludes that the Applicants have met the general standards for granting a conditional use under CZO § 25.6 and the specific standards under Ordinance 2022-30. Several factors support this decision.

General Standards under CZO § 25.6

To the first standard, the proposed use is allowed in the Medium Intensity Mixed Use zoning district as a conditional use. Staff presented a report, and Applicants presented voluminous materials and testimony of their own, showing the proposed project comports with both the general and conditional standards prescribed by the Comprehensive Zoning Ordinance. Applicants also explained the various state regulations and legislation that dispensary will have to meet in addition.

To the second standard, the Board does not find the proposal will diminish the overall

general welfare of the public. The people of Maryland, by constitutional referendum, determined that adults should be entitled to the use of recreational marijuana if they so desire. The General Assembly have provided by legislation a framework for individuals to exercise that right. That framework requires local jurisdictions adopt “reasonable” land use regulations pertaining to cannabis operators licensed by the State and forbids jurisdictions from outright prohibiting them. If the proposal accords with whatever “reasonable” land use regulations there may be in place, the Board is bound to presume the project will advance the general public welfare unless unique site conditions or particular sensitivity within a given neighborhood can overpower that presumption. *See, e.g., People’s Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 88 (2008) (“[conditional uses are] a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislation has determined to be permissible absent any fact or circumstance negating the presumption”). As discussed further below, we find no particularly unique qualities in this matter.

The third standard requires the Board find that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for “the purposes already permitted,” and that it will not substantially diminish or impair property values within the neighborhood. The Board does not find other properties will be materially or substantially affected such that denial is warranted. Many of the objections advanced by the community were less about the particulars of the site than objections to having a dispensary in the community at all. Those concerns, for better or worse, were largely foreclosed when the people of Maryland ratified recreational cannabis’ legalization. Many, if not all, of the concerns that were made about the location – such as those voiced about the potential for increased crime or traffic accidents in the immediate area – were speculative and lacked factual grinding concrete enough to overcome the

presumption of compatibility.

To the fourth standard, this project does not appear to pose greater adverse impacts to adjacent properties or the general neighborhood as one would expect from any dispensary located in the MXM district. As explained in our discussion of the second standard, conditional uses are projects that, generally speaking, a legislative body has predetermined to be compatible with adjoining properties. It allows for case-by-case denials when a conditional use is proposed on a particularly challenging site or in neighborhoods with a heightened sensitivity to the proposed use. We do not find any such unique conditions about place or neighborhood before us in this matter.

To the fifth standard, the site plan addresses and ensures that adequate facilities will be provided. The site will be able to make full use of existing public utilities on site, which appear to staff to be sufficient to meet the demands of a dispensary. Mr. Lenhart adequately addressed potential traffic concerns in his remarks and findings.

Sixth, the existing point of ingress and egress shall be maintained, and no traffic above and beyond that generated by prior uses of the Property will be created as a result of this new conditional use.

Seventh, the Board finds the project to conform to the Comprehensive Plan. As noted by the standards letter submitted by Mr. Kadjeski in conjunction with this request, this project advances the commercial development and diversification of the County within an area designated for such growth and advancement. It will provide those adults who choose to exercise their right under the Maryland Constitution to consume cannabis a means to do so, and offer an alternative to other providers – the next nearest of which are either out of, or on the other side of, the County.

For the foregoing reasons, the Board finds the application for this conditional use has satisfied its required standards, and ought to be approved.

ORDER

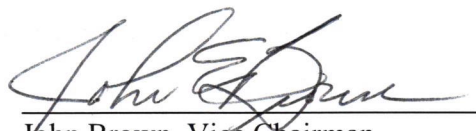
PURSUANT to the application of Reuben F. Lilly, Jr. and Mary A. Lilly, requesting a conditional use approval for Use Type 76A, Cannabis Dispensary; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is

ORDERED, by the St. Mary's County Board of Appeals, that the Applicants are granted a conditional use to allow Use Type 76A at the Property.

This Order does not constitute a building permit. In order for the Applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Date: August 28, 2025

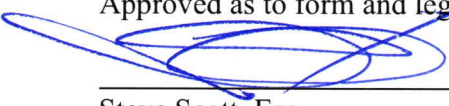

John Brown, Vice Chairman

Those voting to grant the conditional use:

Mr. Brown, Mr. LaRocco, Mr. Payne
Dr. Valcke, and Ms. Weaver

Those voting to deny the conditional use:

Approved as to form and legal sufficiency



Steve Scott, Esq.,
Attorney to the Board

NOTICE TO APPLICANT

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Petition for Judicial Review with the Circuit Court of St. Mary's County.

Further, St. Mary's County Comprehensive Zoning Ordinance § 25.9 provides, "Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall be valid for a period longer than one year unless a site plan is approved, a building permit is issued, construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is issued and use commenced within that period."

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order; otherwise, they will be discarded.