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Planning Board

Town of Salisbury
5 Beach Road
Salisbury, MA 01952

Planning Board:

Don Egan, *Chair*

John "Marty" Doggett, *Vice*

Lou Masiello

Gil Medeiros Clerk

Deborah Rider

John Schillizzi, Alternate

SPECIAL PERMIT APPROVAL

August 31, 2020

Town Clerk

Town of Salisbury
Salisbury, MA 01952

RE: Special Permit Approval

Owner: 187 Lafayette Road, LLC

Address of Owner: 4 Carlton Drive, Newburyport. MA. 01950

Applicant: Salisbury Cultivation and Product Manufacturing, LLC, d/b/a/ Root and Bloom

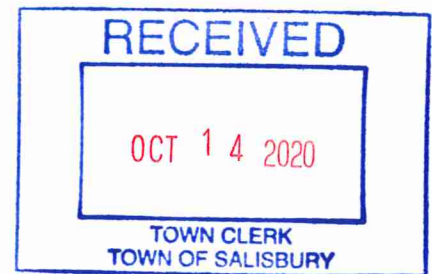
Address of Applicant: 23 Hale Street, Unit E. Newburyport. MA. 01950

Address of Project: 187 Lafayette Road, Salisbury, MA 01952

To the Town Clerk:

This is to certify, at a duly noticed public hearing of the Salisbury Planning Board in regards to a special permit, opening on July 22, 2020, continued to August 12, 2020 and closed on August 26, 2020, by a motion duly made and seconded, it was voted:

"We, the Salisbury Planning Board, as requested by Root & Bloom, under the provisions of General Laws Chapter 40A and the Recreational Marijuana Overlay District Bylaw and Article XVIII of the Zoning By-Laws of the Town of Salisbury, to consider a special permit and site plan approval upon the contemplated Recreational Marijuana Cultivation and Product Manufacturing Facility with parking for property addressed at 187 Lafayette Road (Assessors Map 19, Lot 296) as shown on plans ("The Plans") entitled:



Plan of Land"; prepared for Root & Bloom, LLC and stamped by Millennium Engineering, Inc. and dated May 18, 2020 do hereby vote:

I.

SPECIAL PERMIT APPROVAL

To grant a special permit and to approve the proposed special permit pursuant to the Recreational Marijuana Overlay District and Article XVIII of the Zoning By-Laws of the Town of Salisbury:

1. The Planning Board has determined that the application satisfies all the special permit conditions enumerated in §300-35 of the Zoning By-Laws of the Town of Salisbury. Specifically, the Planning Board found:
 - a. The requested use was listed in the "Recreational Marijuana Overlay District" of the Zoning By-Laws of the Town of Salisbury as requiring a special permit from the Planning Board.
 - b. The requested use was determined to be desirable to the public convenience and welfare.
 - c. The requested use demonstrated that it will not create undue traffic congestion or unduly impair pedestrian safety.
 - d. The requested use demonstrated that it will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - e. The special regulations found in the "Recreational Marijuana Overlay District" of the Zoning By-Laws of the Town of Salisbury were fulfilled.
 - f. The requested use demonstrated that it will not impair the integrity or character of the district or adjoining districts, nor is the requested use detrimental to the health or welfare of the neighborhood.
 - g. The requested use demonstrated that it will not, by its addition to the neighborhood, cause an excess of that particular use that is detrimental to the character of the neighborhood.

G. Medeiros **motioned** to close the public hearing for the property located at 187 Lafayette Road (Assessors Map 19 Lot 296).

M. Doggett **seconded**

Vote Passed: 5-0

L. Masiello **motioned** to approve the special permit application for property located at 187 Lafayette Road (Assessors Map 19 Lot 296 as shown on plans Salisbury, MA that requests approval for a Recreational Marijuana Cultivation and Production Manufacturing Facility with the same Standard and Special Standards as Site Plan Review.

G. Medeiros **seconded**

Vote on Special Permit:

Don Egan, Chairman, YES

John "Marty" Doggett, Vice Chair., YES

Lou Masiello, YES

Gil Medeiros, YES

Deborah Rider, YES

III.

MATERIALS

Hereinbelow but not limited to are the materials submitted to the Planning Board during the public hearing:

1. The Plan Sheets: Millennium Engineering Inc., dated May 18, 2020, and revised through July 3, 2020, and revised through July 13, 2020
2. Special Permit Application, Submitted June 23, 2020
3. Site Plan Application, Submitted June 23, 2020
4. Stormwater Management Report, Submitted May 18, 2020, revised through July 3, 2020
5. Traffic Assessment by Vanasse & Associates, Inc. Submitted May 21, 2020
6. Response to Peer Review Comments by Millennium Engineering, Inc., dated July 3, 2020
7. Site Plan Review by Joseph Serwatka, P.E. dated June 22, 2020 and July 16, 2020
8. Certified Abutters List, Town of Salisbury, dated May 18, 2020
9. Review Letter from Conservation Agent, email dated August 19, 2020

IV FINDINGS

1. The site plan contains a design that has provided the foundation for Planning Board to determine that the requirements, standards and guidelines of the Salisbury Planning Board Rules and Regulations and the general requirements and design and performance standards of Article XXIII of the Zoning By-Laws of the Town of Salisbury have been completed in a satisfactory manner.
2. Currently 187 Lafayette Road (Assessors Map 19 Lot 296), the proposed site, is a 103,675 SF lot that is located on the east side of Lafayette Road in the Lafayette-Main Commercial District Subdistrict B as well as the Recreational Marijuana Overlay District.
3. 187 Lafayette Road's natural features is comprised of upland vegetation.
4. The application proposes is to construct a 39,600 square foot, 2-story building to operate a Recreational Marijuana Cultivation and Product Manufacturing facility. To accommodate the proposed facility the application proposes to construct a new building to the required state standards. The site work proposed on 187 Lafayette Road includes limited signage, bollards along the side of the building with 3 handicap spaces, drainage, water, sewer (once available) and landscaping. The total number of parking spaces is 63.
5. The application's site plan demonstrates that it will be able to reduce traffic congestion and accommodate employee parking and delivery service by providing both pavement markings and signage to direct traffic flow.
6. The application demonstrates that it will not impair the integrity of the land nor the land and or abutting properties.
7. The Planning Board has been advised through town staff that the utilities with the addition of the Lafayette Sewer Project will be adequate to serve the project. If the applicant intends to open prior to having access to the sewer, the applicant with work with the Board of Health to meet the Title 5 requirement.
8. Pursuant to §300-156.6(b) of the Zoning By-Laws of the Town of Salisbury, all Town Departments and Boards received the application and had the opportunity to submit their written comments and recommendations regarding this Special Permit application and site plan to the Planning Board for their consideration.

V.

SPECIAL PERMIT CONDITIONS

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

1. This approval shall apply to any successor in interest or successor in control of the property subject to this approval and to any contractor or other person performing work.
2. Subject to G.L. c. 40A, §1 ¶ 7, this approval is not final until all administrative appeal periods from this approval have elapsed, or if such an appeal has been taken, until all proceedings have been completed.
3. After the administrative appeal period, this decision shall be recorded in the registry of deeds before the pre-construction meeting.
4. The work shall conform to the plans and conditions referenced in this approval.
5. If the applicant intends to remove any trees other than what is shown on the site plan, they will provide the planning department with a written plan which demonstrates that the maximum number of trees on the site will be preserved. Only trees that are dying, damaged or in the work area will be permitted to be removed. The plan must be accepted by the Planning Department prior to any work being performed. The applicant is encouraged to work with the planning department in the development of said plan.
6. The applicant is working on acquiring the parcel known as Map 19 Lot 292. No trees shall be removed from the parcel known as Map 19 Lot 297 and owned by Dean Ackerman unless determined to be a hazard by the Town of Salisbury. This will remain as a landscape buffer between the applicant and the abutters.
7. Bollards will be installed in front of handicap parking area and along the side of the building with windows. All parking space bollards must be securely fastened into the pavement so as to prevent them from dislodging from their designated locations.
8. Hours of operation will be between the hours of 6:00am to 7:00pm. However, a certain limited staffing and operations may occur after hours; but further provided that no pickups or deliveries of products or material will occur after these hours.
9. The Town Engineer consultant will inspect the site throughout construction at the expense of the applicant. The applicant shall coordinate all work with the engineer for scheduled inspections. Failure of the applicant to provide a Construction Sequencing Plan could result in extra site visits, all such visits will fall on the contractor.

10. All utilities on the site will be underground. If the plan is amended to install above-ground utilities, the applicant must submit a modification request to the Planning Board.
11. All signs will conform with Chapter 214, Signs, of the Town of Salisbury General Bylaws.
12. All lighting must meet dark-sky compliance standards – shielded directed downward to avoid light trespass. Shielding shall be installed and be subject to the approval prior to issuance of a Certificate of Compliance. If future lighting is installed on the site this will also comply with this standard.
13. All parking spaces depicted on the site plan must be newly painted and maintained.
14. The Applicant shall provide to the Building Inspector and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
15. The Special Permit is limited to the duration of the applicant's ownership or lease and use of the premises as a Marijuana Cultivation and Product Manufacturing Facility. The Special Permit may be transferred only with the approval of the Planning Board in the form of an amendment to the Special Permit.
16. The applicant shall submit an Operational and Maintenance Plan that includes operation and maintenance of the overall site and a separate plan for the operation and maintenance of the odor mitigation systems. These plans must be submitted to the planning department electronically along with one hard copy before the Building Permit is issued.
17. The DPW Director will review and comment on the attached Site Plan Review / Special Permit application. The applicant will work with the DPW Director to resolve her concerns.
18. The permit holder is required to permit inspections of the facility by the Building Inspector, Health Agent, the Planning Board, or their designated agents in the event of odor complaints precipitating the request.
19. If the Town of Salisbury Building Inspector, Health Agent or Planning Board deem additional inspections by independent consultants necessary, such inspections and associated reports shall be at the expense of the permit holder.
20. Cultivation and processing of marijuana and marijuana products shall be confined entirely to and shall occur solely within the Facility. The Facility shall be designed and ventilated so that odor from the marijuana and the processing thereof is not detectable by a person with an unimpaired and otherwise normal sense of smell at any adjoining property boundary or beyond.
21. The applicant shall be required at all times to fully comply with 935 CMR 500.120(11), i.e. the applicable subsection of the Cannabis Control Commission's regulations governing the Adult Use

of Marijuana, relative to and concerning air pollution control and, specifically, the prevention of odor from marijuana and marijuana processing.

22. The applicant shall not allow the facility to emit offensive, odorous, emissions that violate Salisbury Board of Health Regulations Section 5 5.001 adopted pursuant to MGL Chapter 111, Section 31C, including but not limited to those specified for odors. The applicant's approved plan to mitigate the possibility of offensive emissions specifies the use of negative pressure, filtration and subtractive odor control, each in conjunction with the others. As approved, this consists of a SecureAir Advanced Collector System, the Odor Armor 420nBenzaco based fogging system, the use of charcoal filtration and a negative pressure system throughout the facility configured as detailed on the approved plan. Any change to this mitigation plan is subject to the receipt of an approved special permit modification from the Planning Board.
23. Within 30 days of the commencement of operations, the applicant shall provide the Planning Department with a schedule detailing the growing cycle and processing schedule. The schedule shall indicate each stage of the process and the level of cannabis odors generally associated with each step of the growing and processing cycle. The schedule shall show specific dates and times to facilitate correlation with any reports of cannabis odors or to coordinate inspections.
24. The Applicant shall provide an independent assessment three months after the issuance of the Certificate of Occupancy for the facility. The assessment shall include an independent air quality report identifying the location of any potential odorous emissions from marijuana cultivation or processing which could be discharged to the ambient air. This report shall include a recommended action plan to remediate potential odorous emissions from marijuana cultivation or processing outside of the facility. This report shall be provided to the Planning Department within four months from the date of Certificate of Occupancy. The Applicant shall have 30 days to remediate any odorous emissions identified. Failure to comply with this condition shall be a considered a violation of this Special Permit and subject the applicant to the revocation of this permit.
25. The site shall not create a nuisance to abutters or to the surrounding area; generate outside discernible odors from the cultivation or processing of marijuana and marijuana products as above-described; create any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, obnoxious dust, vapors, offensive noise or vibration, flashes, glares, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
26. Violation of any of the conditions enumerated in this special permit will be considered grounds for revocation of this permit. The Planning board shall hold a duly noticed public hearing within 90 days of receipt of any reports of violations to consider said action.
27. Prior to the issuance of an occupancy permit, the Applicant must submit to the Planning Board documentation that shows the Cannabis Control Commission issuing a license to Applicant to operate a Recreational Marijuana Cultivation and Production Manufacturing Facility.

28. The Special Permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.
29. The Applicant shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Recreational Marijuana Establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission
30. The Applicant shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Recreational Marijuana Establishment with the Zoning Enforcement Officer and Planning Board within 48 hours of receipt by the Recreational Marijuana Establishment.

PRIOR TO ANY SITE WORK

31. The Applicant shall coordinate with the Planning Department a pre-construction meeting with the Town staff prior to the start of any construction to review these conditions and any final construction sequencing, details, and plans for this Project. Commencement of construction includes any site clearing or grading. The limit of work line for the particular area or phase being developed shall be demarcated at this time through the placement of temporary snow fence material and erosion control barriers. Periodic status reports (agreed upon at said pre-construction meeting) shall be submitted to the Town outlining the general status of the construction and major milestones completed.
32. The Applicant shall provide an updated Construction Sequencing Plan, subject to the approval of the Town Engineering Consultant or designee.
33. The Applicant shall meet with the Town of Salisbury Department of Public Works to ensure compliance with any requirements, including bonding and the assessor to discuss future sewer betterment.

PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

34. No building permit shall be issued until all required bonds are posted, finalized plans are submitted to the Planning Department and a pre-construction meeting has occurred.

35. All other requirements and permits shall be sought and received, including, but not limited to, utility connections. The Applicant shall bear the burden of ensuring all federal, state and local permitting has been sought and received. The "Applicant" refers to the person or entity holding the fee interest to the title to the site from time to time, which can include but is not limited to the Applicant, Developer and Owner.
36. The Applicant shall provide to the Planning Board the name, address and telephone number of the person immediately responsible for supervision of all work and maintaining compliance with the approval. This person shall serve as project manager until a Certificate of Completion is issued, or until another project manager is designated. Should the project manager change during the course of the project, the Planning Board shall be notified as soon as practical of this change.
37. The applicant shall inform all contractors and subcontractors of the conditions and provisions of this approval. This approval shall be included in all construction contracts and subcontracts dealing with the work.
38. The Applicant shall coordinate with the DPW Director all Town and public easements for water, drainage and sewer, if applicable.

DURING CONSTRUCTION

39. Hours of Construction shall be adhered to and said hours shall be posted in a conspicuous place at the entrance prior to any work on the site. These Hours are:

Hours of Construction Operations:

- I. Construction activity shall not take place on-site or in any building contained therein except during the following hours:

Mondays through Fridays: 7:00 AM to 5:00 PM,

Saturdays: 8:00 AM to 5:00 PM,

Sundays and Legal Holidays: none

40. Town staff or their designee shall have reasonable access to inspect the site to determine compliance with this Decision. All water, sewer and drainage facilities shall be subject to inspection by the Town, and all water and sewer facilities shall be constructed in accordance with Town specifications.
41. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, and proper storage and disposal methods.

42. Erosion and sedimentation control measures presented in the plan shall be adequate to retain all sediment within the site and away from wetlands, constructed wetlands, watercourses, and water bodies, both during and after construction.

PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY

43. The Applicant shall schedule a meeting with the Building Inspector and Town Planner at least 30 days before the request for a Certificate of Occupancy to review compliance with this Decision.

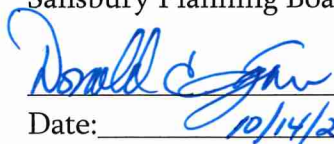
AFTER OCCUPANCY

44. The Applicant or future owner shall have the responsibility of keeping in compliance with this Special Permit as well as maintaining or replacing the access to Lafayette Road, parking areas, utilities, landscaping, stormwater system and appearances, signage and lighting as indicated in the plans in addition to all items in the Operation and Maintenance Plan.

MODIFICATION OF SPECIAL PERMIT

45. In the event that the Applicant intends to modify the approved special permit, the Applicant must submit to the Planning Board in accordance with MGL Chapter 40A.

Don Egan,
Salisbury Planning Board

, Chair
Date: 10/14/2020

cc: Applicant,
Building Inspector,
DPW Director
File

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and the work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within five years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.