



City of Somerville

# PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

## DECISION

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**PROPERTY ADDRESS:** 255 Elm Street  
**CASE NUMBER:** CZC20-000085  
**OWNER:** Misujo Realty LLC  
**OWNER ADDRESS:** 105 Cynthia Road, Newton, MA 02459  
**DECISION:** Approved (Use Special Permit)  
**DECISION DATE:** April 29, 2021

This decision summarizes the findings made by the Planning Board regarding the application for a Cannabis Retail Use Special Permit submitted for 255 Elm Street.

### LEGAL NOTICE

The Harvest Club proposes to establish a Cannabis Retail Sales use in the Commercial Core district which requires a Special Permit.

### RECORD OF PROCEEDINGS

On April 15, 2021 the Planning Board held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Michael Capuano, Amelia Aboff, Sam Dinning, Jahan Habib, and Rob Buchanan. The Applicant presented an overview of the proposal. The Board discussed whether to consider the proximity of other cannabis retail establishments when evaluating this location. The Board left written testimony open until April 23, 2021 and continued the public hearing.

On April 29, 2021 the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Michael Capuano, Amelia Aboff, Jahan Habib, and Rob Buchanan. The Board and Applicant discussed the design of the storefront windows; the Board expressed a preference for making the waiting area fully visible from the street and making the partition wall between the waiting area and sales floor opaque. Staff indicated that they were not aware of any state laws that would prevent this from being possible.

### CANNABIS RETAIL SALES SPECIAL PERMIT FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a special permit upon making findings considering, at least, each of the following:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds that the proposal will help to achieve the following goals from SomerVision, the comprehensive Master Plan of the City of Somerville:

- Promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs.
- Support a business-friendly environment to attract and retain a diverse mix of businesses that can start here, grow here and stay here.

*2. The intent of the zoning district where the property is located.*

The Board finds that the proposal is consistent with the intent of the CC4 zoning district which is, in part: “To create, maintain, and enhance areas appropriate for moderately-scaled single- and multi-use commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities.”

*3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.*

The location is within a Transit Area (it is within 400 feet of the Davis Square Red Line Station) and is not providing any motor vehicle parking. The establishment will be appointment-only, so no queuing on public ways is anticipated. Ten bicycle parking spaces are proposed within the building, five each for customers and employees. The Board finds that these bicycle parking spaces, along with the Transportation Demand Management strategies proposed by the Applicant in their TIS and recommended by Mobility in their memo are expected to prevent any negative impacts on traffic and circulation patterns in the neighborhood.

*4. Location, visibility, and design of the principal entrance.*

The Board finds that this location is highly visible to pedestrians on Elm Street, but the signage for the entrance is unobtrusive. The principal entrance opens into a waiting area, permitting the Applicant to comply with the storefront requirements either by providing a maintained display area or by providing an unobstructed view of the interior space. The Board finds that designing the waiting area to be visible from the street is preferable to having maintained displays in the storefront windows.

## **DECISION**

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Chair Capuano moved to approve the **Special Permit for Cannabis Retail Sales** with the conditions included in the staff memo and discussed at the hearing. Vice Chair Aboff seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

Perpetual

1. Approval is limited to The Harvest Club and is not transferable to any successor in interest.
2. This permit is valid subject to The Harvest Club having a fully executed and active Host Community Agreement with the City of Somerville.
3. Retail sales to walk-in customers are prohibited. Customer visits must be by appointment only.
4. Any change to the means of sales requires a new Transportation Impact Study (TIS). The scope of the TIAS must be approved by the Director of Mobility.
5. The Harvest Club shall implement the following Transportation Demand Management programs and services:
  - a. Provide employees 100% subsidized MBTA passes, or up to the federal maximum Qualified Transportation Fringe benefits per current U.S. Internal Revenue Code (\$270 per month in 2021), subject to annual increases.
  - b. Provide employees 100% subsidized bike share memberships, subject to annual rate increases.
  - c. Post information regarding non-vehicular services available in the area on their website and in materials available at the store.
  - d. Provide discounts or other incentives to customers who take non-vehicular or public transportation modes to the site.
  - e. Provide real time transit information consisting of a connected TransitScreen display (or equivalent service) in the building lobby or another area visible to customers displaying real time MBTA and bike share information.
6. The Harvest Club shall commit to annual monitoring and reporting of the appointment-only recreational cannabis operations model. The annual report shall include at least the following information:
  - a. A statistically valid travel surveys of employees and customers.
  - b. A status update on the implementation of all TDM measures.

Prior to Building Permit

7. This Decision must be recorded with the Middlesex County Registry of Deeds prior to applying for a Building Permit.
8. A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must submitted for the public record.
9. Subject to all MA state law and the Code of Massachusetts Regulations, storefront display windows must provide an unobstructed view by pedestrians into the waiting area of the Cannabis Retail Sales commercial space.
10. Product details and design specifications for a minimum of ten (10) short-term bicycle parking spaces within the building must be submitted to confirm compliance with Section 11.1 Bicycle Parking of the Somerville Zoning Ordinance.

Attest, by the Planning Board:

Michael Capuano, *Chair*

Amelia Aboff, *Vice Chair*  
Jahan Habib  
Rob Buchanan, *Alternate*



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Sarah Lewis  
Director of Planning & Zoning

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

**FOR VARIANCE(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

**FOR SPECIAL PERMIT(S) WITHIN**

\_\_\_\_\_ **there have been no appeals filed in the Office of the City Clerk, or**  
\_\_\_\_\_ **there has been an appeal filed.**

**FOR SITE PLAN APPROVAL(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_