



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS

**August 1, 2018**

## Decision

### City of Salem Board of Appeals

Petition of TERPENE JOURNEY, LLC, seeking a Special Permit per Sec. 6.10.4, of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment in a portion of the building at 376 HIGHLAND AVE (Map 3 Lot 63)(B-2 and ECOD)

A public hearing on the above Petition was opened on June 6, 2018 pursuant to M.G.L Ch. 40A, § 11 and continued to July 18, 2018. The hearing was closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy, Chris Drucas, Jimmy Tsitsinos, and Paul Viccica.

The Petitioner seeks a special permit per Sec. 6.10.4, of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment in a portion of the building

#### Statements of fact:

1. In the petition date-stamped April 24, 2018, the Petitioner requested a Special Permit per Sec. 6.10.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment in a portion of an existing building
2. As required by the state statute, the petitioner had held a community outreach meeting on May 7, 2018.
3. The applicant, Terpene Journey LLC, is a newly established business that is not currently licensed operator of marijuana facilities in the state of Massachusetts.
4. The property is located in the Business Highway (B-2) zoning district. The petitioner is proposing to locate a retail marijuana facility in a portion of an existing building, which currently is the location of Puleo's dairy. The petitioner is proposing to occupy approximately 1,880 square foot portion of the existing building. There are thirty-two (32) surface parking spaces proposed where twenty-seven (27) parking spaces are required.
5. The petitioner provided a landscape plan that meets the requirements of the Entrance Corridor Overlay District.
6. The hours of operation will be Monday-Saturday 10am to 8pm Sunday 12pm-8pm, which is consistent with those of package stores licensed under M.G.L. c. 138.
7. The petitioner will utilize a fraud detecting scanner to verify government issued identification for the retail marijuana facility. The petitioner also plans to install interior and exterior cameras, install perimeter lighting, have restricted access areas with coded RFID security badges, and live camera tie-in to the Salem Police Department among other security measures.

8. The petitioner met with the Salem Chief of Police and received a letter dated June 1, 2018 in confirm the receipt and review of the proposed security plan. The Salem Police Department requested that the petitioner provide an enhanced outdoor delivery system with an enhanced enclosed security feature to the rear of the building to provide for more secure deliveries. The site plans by Winter Street Architects, titled "Terpene Journey, LLC", dated April 20, 2018, show the rear secure delivery area.
9. No on-site consumption will take place on the premises. The Salem Police will be called in the case of illicit use on the property and the person will be banned from making purchases from the facility.
10. A transportation impact assessment was prepared by Vanasse & Associates dated April 2018 and subsequent supplemental information provided dated July 3, 2018. Access to the site is proposed through the existing entrance-only and exit-only driveways onto Highland Avenue and a new full access curb cut onto Savona Street south of the existing St. Jean's Credit Union driveway. Savona Street connects to Ravenna Drive. The project is expected to generate approximately 506 vehicle trips (253 entering and exiting) on an average weekday and approximately 520 vehicle trips on Saturdays. Highland Avenue accommodates approximately 34,000 vehicles per day and approximately 31,900 vehicles per day. While there will be an increase in the number of vehicle trips on this site, the additional vehicle trips from the proposed retailer during peak hours it is a minor increase that will not significantly impact traffic flow or level of service. Further, the trips generated from this use are less than many other potential by-right uses of the property.
11. At the June 6, 2018 meeting, the Board requested that the applicant provide traffic and circulation scenario information that excluded the newly proposed curbcut on Savona Avenue to see the anticipated traffic impacts and preferred routes to the location through the adjoining residential neighborhood.
12. As described in a letter dated July 3, 2018, prepared by Vanasse & Associates, the petitioner is seeking secondary access from Savona Street to the rear of the site. This access point is expected to operate similarly to the adjacent St. Jean's Credit Union, which also has access to Highland Avenue via Savona Street. Approximately 90 percent of the traffic entering and existing Savona Street is oriented to and from Highland Avenue. It is expected that this will also be the case with the proposed dispensary. Further, access to and from the site is improved with the connection to Savona Street and decreases the impact to the neighborhood due to the utilization of the traffic signal on Highland Avenue and Ravenna Avenue and utilization of the rear property entrance for North bound traffic entering the site.
13. At the public hearing, seventy-two (72) members of the public spoke in opposition to and none (0) in support of the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings:

The Board finds that the applicant has demonstrated that the following specific criteria for retail marijuana establishments will be met and is in accordance with Section 6.10.4 of the Salem Zoning Ordinance:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations including, but not limited to M.G.L. c.94G, Section 12 General Marijuana Establishment Operations.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public.

General Special Permit findings:

1. There are social, economic, and community needs served by the proposal. The retail establishment will be extensively regulated by the Cannabis Control Commission, which was created to regulate the industry as approved by a popular vote in 2016. Pursuant to the popular vote, the proposed establishment will meet community needs expressed by such vote and Massachusetts General Laws c.94G.
2. Traffic flow and safety, including parking and loading are adequate. The petitioner provided a traffic impact statement dated April 2018 and subsequent revisions dated July 3, 2018 in addition to security information that demonstrated adequate traffic flow and safety, including parking and loading.
3. Utilities and other public services are adequate as there are no significant changes to the level of use proposed.
4. There will be no negative impacts to the natural environment, including drainage. The building already exists and all of the work will be inside the building.
5. The proposed additional use will operate completely inside of the building subject to state regulations and the Salem Ordinance regarding signage, odor, security, and operations. The B-2 Zoning District allows for this use and is consistent with the commercial character of the neighborhood.
6. The potential fiscal impact, including impact on City tax base and employment is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor, (Peter A. Copelas, Mike Duffy, Chris Drucas, Jimmy Tsitsinos, Paul Viccica) and none (0) opposed to approve a Special Permit per Sec. 6.10.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment in a portion of existing shopping plaza subject to the following terms, conditions and safeguards:

Standard Conditions:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.

2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection shall be obtained.
7. A Certificate of Occupancy shall be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. The applicant shall not operate until the issuance and submission of a copy of the issued state license by the Commonwealth and all other state and local requirements are met.
2. A community host agreement shall be executed with the City within six (6) months of issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.
3. The applicant shall be issued a state license within six (6) months of the issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.
4. No consumption shall be allowed on site.

  
Peter A. Copelas, Chair  
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

*Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.*