



NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

RE: 222 SARGENT DRIVE.
MBLU: 228 1304 00800
Owner: New Haven Food Terminal, Inc; **Applicant:** INSA CT Retail II, LLC; **Agent:** Carolyn Kone

Special Permit
Permit a Cannabis Retailer in the BE Zone.

REPORT: 1632-11
ACTION: Approval with conditions

Companion application: 1632-05 222 Sargent Drive. Site Plan Review for conversion of a theater to a cannabis retailer in the BE zone.

Previous CPC Actions:

March 21, 2012
1462-14 222 SARGENT Drive.
Site Plan Review including CSPR for Minor Expansion & Access Ramp for Long Wharf Theater. Applicant: The CT Players Association aka Long Wharf Theater

September 21, 2011
1456-08 222 SARGENT Drive.
Use Variance & CSPR for 950 SF building expansion & access ramp for existing nonconforming theater in a BE zone. Applicant: Jameson Gilpatrick

Submission:

Received June 2, 2023: Cover letter, DATA form, SPECIAL PERMIT form, Narrative attached. Site Plan. Floor Plan. Traffic Assessment. Traffic Impact Study. Signage Plan \$350 fee.

BACKGROUND

Per the City of New Haven zoning regulations Sections 42.6 and 64, INSA CT Retail II, LLC has applied for a Special Permit to permit an Adult-use Cannabis Retail Facility in an existing building at 222 Sargent Drive. The space was previous a theater (Long Wharf Theater) which closed in 2022. The proposal is to convert the space to a Cannabis Retailer, selling adult-use (recreational) cannabis. This will involve an interior fit out of the space. No site changes are proposed. The applicant has applied concurrently for Site Plan Review for a change of use of over 5,000 SF. The site is in the Coastal Management Area but is exempt from Coastal Site Plan Review per NHZO Section 55(f)(7).

Current site conditions:

222 Sargent Drive is part of a larger 65,200 SF multi-tenant commercial/warehouse/business building, known as the South Terminal Building. The South Terminal Building is located on a 20,335-acre site owned by New Haven Food Terminal, Inc. The site houses various businesses including meat packing, wholesale, a gas station, banking, a restaurant, retail, warehousing, and offices in several freestanding buildings including a second large linear building known as the North Terminal Building. A 459-space surface parking lot occupies the remainder of the site. The site is composed of three tax parcels and includes the following addresses: Sargent Drive, 200 Sargent Drive (where the proposed cannabis retailer would be located), 400 Sargent Drive, 3 Long Wharf Drive, 175 Hallock Street, and 250 Sargent Drive. The applicant proposes to lease a ~10,800 SF space within 200 Sargent Drive, which encompasses less than 1% of the site.

Proposed Activity:

The applicant proposes an adaptive reuse of a portion of the South Terminal Building to convert to a Cannabis Retail facility. The applicant proposes to renovate approximately 6,282 SF of the leased premises. Interior fit-out of the space is the only proposed activity, no exterior or site modifications are planned.

Planning Considerations

This application represents the third that the City Plan Commission has received for a Special Permit to permit an adult-use Cannabis establishment. On July 1, 2021 the State of Connecticut adopted the Responsible and Equitable Regulation of Adult-Use Cannabis Act (RERACA). On August 1, 2022 the New Haven Board of Alders adopted Ordinance OR-2022-0003 and amended Section 42 of the Zoning Code to reflect 42.6-Cannabis Establishments, with a favorable recommendation from the City Plan Commission (CPC Report #1603-06) (amended June 5, 2023 to permit cannabis uses in the BE zone). During legislative process to adopt the cannabis regulations, the Board of Alders intentionally ensured that cannabis uses would be permitted in the Long Wharf Area, recognizing compatibility with the goals and vision of the Long Wharf Responsible Growth Plan. The State and City regulations created measures to ensure that cannabis uses are well-regulated, environmentally responsible, and economically sustainable, while protecting and preserving peace, order, property, health, and safety of residents.

There is currently a moratorium on development applications within the Long Wharf Area, as the city works on rezoning the area to support the goals of the adopted Long Wharf Responsible Growth Plan. However, changes of use from one permitted use to another (including uses permitted by Special Exception and Special Permit) involving interior fit out of existing buildings are permitted. Further when the Board of Alders adopted a Moratorium Ordinance for the Long Wharf area in September 2022, it included as a “Categorical Exclusion” “operation of a Cannabis Establishment within a preexisting structure.”

During review, Planning Staff paid special attention to identifying any potential sensitive receptors in the area, as well as consulting with the Transportation, Traffic, and Parking Department. Based on this review, Staff have concluded that the facility meets the Special Permit criteria. Given that there are few precedents for the implementation of similar ordinances, City Plan will communicate with the Zoning Enforcement Officer and other City enforcement personnel to ensure all conditions of approval are met, and to monitor unanticipated nuisances or hazards. Planning Staff also emphasize the importance of considering public testimony provided on the proposal.

PUBLIC HEARING

A public hearing was held on July 19, 2023. A transcript of the hearing, CPC meeting #1633, is available from the City Plan Department.

One item of written testimony was received, in support of the application.

Topics raised in public testimony included:

- Support for the application
- Historic status of the former Long Wharf Theater
- Equity joint venture ownership structure
- Concerns about loitering and smoking on site

SPECIAL PERMIT

Section 64 of the New Haven Zoning Ordinance states:

Statement of purpose. The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or

regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Special Permit Criteria	Comments
a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.	<i>The applicant has demonstrated that all relevant ordinance requirements have been met.</i>
b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.	<i>The applicant has demonstrated that all relevant ordinance requirements have been met.</i>

<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p><i>Vision 2025 expressly states that the "land use approach [in the Long Wharf area] must rely heavily on adaptive reuse of vacant buildings such as portions of the New Haven Food Terminal" and that Sargent Drive is "well positioned to be a light industrial/commercial mixed-use corridor". p. IV-28. Vision 2025 similarly writes, "[t]he Commission recommends adaptive reuse of existing vacant buildings on Sargent Drive, to the extent possible." p. VI-16. The Application's proposed reuse of the now vacant Long Wharf Theatre's Main Stage complies fully with these goals of Vision 2025. The Application also complies with the 2018 Long Wharf Responsible Growth Plan (the "Long Wharf Plan"), which was adopted by the Board of Alders as part of Vision 2025. Although, the Long Wharf Plan assumed that Long Wharf Theatre would remain operational, the Application is consistent with the goals of the Long Wharf Plan to "promote] equitable development, by increasing access and mobility to and within the district, and to maximize social equity for all ethnic and age groups." p. 3. The Applicant includes a social equity partner which promotes this goal. In addition, the proposed use will create jobs in the Long Wharf area, which is also a goal of the Long Wharf Plan (p. 3), The Long Wharf Plan additionally states that it aims to accommodate a wide range of variables for the Food Terminal and to redevelop the Food Terminal with a mix of uses, including a variety of retail uses to create a Market District (pp. 36, 82). This goal is furthered by the retail use proposed in the Application. Finally, when the Board of Alders adopted a Moratorium Ordinance for the Long Wharf area in September 2022, it included as a "Categorical Exclusion" "operation of a Cannabis Establishment within a preexisting structure." This action indicated a legislative intent that the use proposed in the Application is appropriate for the Site. The Long Wharf Responsible Growth Plan, adopted as part of the City's 2025 Comprehensive Plan, includes this site within the "Market District," envisioned as a walkable urban district focused around a main street, a market hall, and market square. Cannabis retail is an appropriate use within this area.</i></p>
<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p><i>No exterior modifications proposed, therefore there will be no impact on natural features.</i></p>

<p>e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p><i>No smoking is permitted on the premises: "Smoking, ingestion, or use of Cannabis, shall be prohibited in all Indoor Public Places, as defined in RERACA, S.B. 1201, Conn.Pub.Act 21-, where smoking or consumption of tobacco or tobacco products is prohibited by state law...." Therefore, it is not anticipated that odors or fumes would impact adjacent properties. See Cannabis-Specific Special Permit criteria for more information. No other hazardous conditions are anticipated.</i></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>222 Sargent Drive is listed in the New Haven Modern Historic Resource Inventory (listing #843). As no exterior modifications are proposed, no historic impact is anticipated.</i></p>
<p>g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.</p>	<p><i>No exterior modifications proposed. The applicant states that: "The operational and physical characteristics of the use proposed by the Application are compatible with the surrounding area and the neighborhood in which it is proposed. Further, no exterior modifications to the Building or the Site are proposed in the Application."</i></p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p><i>The applicant states in their narrative that, "The use and site design shall not have a detrimental effect on the property values in the surrounding area. Like its prior use as the Long Wharf Theatre, Applicant's use may draw additional foot traffic to adjacent businesses of the Leased Premises as well as attract additional businesses as tenants to the Food Terminal. As the City Plan Commission can see from Insa's other retail locations, Applicant's ownership takes pride in maintaining its premises. Further, given that the Site houses a wide variety of commercial and industrial uses, adding a Cannabis retail establishment is not expected to impact property values in the surrounding area. Finally, there will be no change to the site design."</i></p> <p><i>Planning Staff note that there is limited research available at this time on the impact of cannabis dispensaries on residential property values, however the proposed location is not adjacent to an existing residential area.</i></p>

<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p><i>The Applicant has provided a Traffic Assessment memo and a Traffic Impact Study at the request of City Staff. The study concludes that, " the proposed development will not noticeably affect traffic operations in the surrounding roadway network. ". The study also concludes that "the existing driveways meet applicable sight distance requirements that will allow safe access to and from the Site." The Transportation, Traffic, and Parking Department reviewed the study and agreed with this conclusion.</i></p> <p><i>The site is located on a major road with easy access to I-95. Traffic impact on local residential roads is not anticipated.</i></p>
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In evaluating an application for Special Permit under this section 42.6, the City Plan Commission shall take into consideration, a. all criteria for evaluating a Special Permit under section 64(e); and the following criteria:

Special Permit Criteria	Comments
<p>The health safety and welfare of the public, in general, and the neighborhood in particular</p>	<p><i>The Applicant is required to adhere to all of the applicable regulations which were designed to ensure that the use will protect the safety and welfare of the public and the neighborhood.</i></p> <p><i>It is critical to hear from residents of the surrounding area and other members of the public about any concerns they may have.</i></p>
<p>Proximity to sensitive receptors including but not limited to schools, parks, playgrounds, and community gardens</p>	<p><i>The public entrance to the proposed use is 1,050' from the Long Wharf Park, which is separated by I-95 from the Park. The public entrance is 2,610' from the Metropolitan Business Academy School and 3,465' from the Riverside Academy school and the playground across the street. There are no community gardens proximate to the Retail Premises. Although the Village Suites La Quinta Hotel has recently been permitted to provide housing, it is located approximately 700' from the proposed Cannabis retail facility and is separated from the proposed facility by several driveways and buildings.</i></p> <p><i>It is important to hear from residents of the surrounding area and other members of the public if there are additional potential sensitive receptors that they have identified.</i></p>
<p>The location, the size the nature and the intensity of the proposed Cannabis Establishment and the operations involved in or conducted in connection with it;</p>	<p><i>The proposed Cannabis retail establishment is located in the 20.335 acre New Haven Food Terminal, home to various businesses, retail, warehouse, commercial, and office uses. The Applicant has leased 10,800 square feet and intends to renovate approximately 6,282 square feet to operate a Cannabis Retailer. Applicant's premises are less than 1.6% of the total tax parcel and 1% of the New Haven Food Terminal</i></p>

	<p><i>Site in which it is located. No cooking or creation of food products will take place. All items sold are prepackaged and hermetically sealed, and State law prohibits opening the items on site. No cultivation will take place at this facility.</i></p>
<p>Provisions for odor control, security, noise and lighting as may be appropriate as well as other externalities which may create a nuisance</p>	<p><i>The Applicant has provided the following description of odor and security control:</i></p> <p><i>“Odor: As a Cannabis Retailer, the risk of odor escaping is remote. Products are delivered sealed and pre-packaged, and there are no plants or processes conducted on site. Applicant’s facility is designed to minimize odors using a number of devices including carbon air filters, wall and ceiling mounted fans, and air filtration units. Every day the Manager or his or her designee will evaluate on-site odors and operations for potential release of offensive odors. If questionable or offensive odors are detected, the Manager shall investigate the problem, assess, and address any issues, ensuring the filtration systems are operating properly.</i></p> <p><i>Smoking is not permitted at Applicant’s facility.</i></p> <p><i>Security:</i></p> <p><i>The Applicant shall ensure that all security, video monitoring, detection, and access and control methods will follow Connecticut laws and regulations. Applicant shall have a Director of Security as its safety officer responsible for ensuring the safety of its employees, purchasers, and the general public and acting as the primary point of contact between the Applicant and law enforcement agencies.</i></p> <p><i>Access to areas of the facility designated as “Limited Access” will be restricted with traceable keycards. The Applicant will issue a visitor identification badge to any outside vendors, contractors, or visitors as required by applicable regulations before they are granted access to any Limited Access Area.</i></p> <p><i>The Applicant’s alarm system controls all building access control points and is the main alarm reporting system. The system reports to a constantly monitored central station. The facility’s security system includes a perimeter alarm on all building entry and exit points and perimeter windows, glass break detectors, and motion detection.</i></p> <p><i>The Applicants’ fire alarm system consists of smoke detection as well as heat sensors.</i></p> <p><i>The Applicant’s video surveillance system provides complete video coverage of all limited access areas, areas that contain or may contain Cannabis products,</i></p>

	<p><i>all points of entry and exit, and the parking lot servicing the Applicant's facility. Infrared illumination is used in all low light areas. Recording of all areas is continuous and includes a timestamp that is accurate to current date and time of all video footage and has the ability to immediately create screen shots of footage. Records will be retained as required by applicable regulations.</i></p> <p><i>The vendors used for the installation of the security systems will be established companies with extensive knowledge and experience in the installation of large commercial alarm, video, and access systems. All security equipment will be maintained in good working order and shall be inspected and tested at regular intervals.</i></p> <p><i>All exterior areas of the Retail Premises are well lit and free of obstructions to enable proper surveillance. There are 13 lighting fixtures on the exterior of the Leased Premises. See FG101. (No changes to the exterior lighting on the Site are proposed). Exterior areas will be monitored to ensure that there is no loitering by any individuals permitted around the Retail Premises. Ample lighting will always be maintained within the Retail Premises.</i></p> <p><i>Product will be stored overnight in a 626 sf vault in compliance with State law.</i></p> <p><i>There is no noise emanating from the Retail Premises."</i></p>
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D. Standards. The following additional standards apply to Cannabis Establishment uses:

- No Cannabis Establishment use shall be permitted to locate, relocate, move and/or operate within any premises where the outside entrance of such premises is within 500' from the property line of any public, parochial, or private elementary or secondary school.
- The following Cannabis Establishment uses shall not be permitted to locate, relocate, move and/or operate within any premises where the outside entrance of such premises is within 1,500 feet of another Cannabis Establishment: Dispensary Facility, Retailer, Hybrid Retailer or Tobacco/Cannabis Bar. The distance shall be measured from the main public entrance of the proposed site, establishment and/or premises to the nearest property line encountered. However, where a Cannabis Establishment is located within a structure of more than 50,000 square feet, the point of measurement shall be the main public entrance of such location, premises, or site.
- Where Special Permit is required, the applicant shall submit a preliminary Development Concept Plan of the proposed development showing all proposed and existing buildings and uses on the lot, proposed grow spaces, retail floor areas, storage areas, yard setbacks, the proposed location and design of all signage, driveways, parking lots, number of parking spaces, screening, landscaping, open space.
- All Cannabis Establishment uses shall occur within a fully-enclosed structure.

- Cannabis Establishments are prohibited in all residence districts, as well as the, “IM”, “Park”, “Cemetery” and “Airport” Zoning Districts.
- Cannabis Establishments are prohibited in the following districts which shall be considered overlay districts to the New Haven Zoning Ordinance,
 - a. River Street Municipal Development Plan
 - b. Port District
 - c. Hill to Downtown Plan

CONDITIONS OF APPROVAL:

The conditions of approval of the Special Permit under §64 and §42.6 of the New Haven Zoning Ordinance for Hybrid Cannabis Retailers are as follows:

1. **Special Permit must be filed on the land records of the City of New Haven before issuance of building permits. A digital copy of the recorded site plan shall be provided to staff (.pdf).**
2. **Temporary Cannabis events, including but not limited to private marijuana vending events, cannabis trade shows or public cannabis events are prohibited unless authorized by state law.**
3. **Smoking, ingestion, or use of Cannabis, shall be prohibited in all Indoor Public Places, as defined in RERACA, S.B. 1201, Conn.Pub.Act 21-1, where smoking or consumption of tobacco or tobacco products is prohibited by state law, unless specifically permitted by this ordinance, or other ordinance of the City of New Haven.**
4. **All Cannabis Establishments shall comply with state law regarding concealed design standards.**

ADOPTED: July 19, 2023
Adam Marchand
Acting Chair

ATTEST: 
Laura E Brown
Executive Director, City Plan Department