

## NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

**RE:** 1041 STATE STREET, STATE STREET, AND MILL RIVER STREET.  
MBLUs: 182 0804 01400; 182 0804 01400; 182 0804 01500  
**Owner:** New Haven Apartment Partners LLC; **Applicant:** David Salinas, Let's Grow Hartford LLC; **Agent:** Benjamin Trachten

### **Special Permit**

Permit a cannabis retailer in the IL Zone and Coastal Management Area.

**REPORT:** 1633-10  
**ACTION:** Approval with Conditions

### **Previous CPC Actions:**

03-Nov-21

1594-02 1041 STATE Street.

Site Plan Review and Coastal Site Plan Review for the conversion of an existing 2.5 story commercial building (1041 State St) to townhouses and a new 6 story mixed use development on remainder of lot within the Light Industry (IL) Zone. Applicant: Post Road Residential INC, Post Road Realty LLC

21-Jul-21

1589-18 1041 STATE Street.

Variances to allow for residential use on the first floor in combination with residential use in the upper floors, an FAR of 4.6 where a maximum of 3.0 is permitted, a rear yard setback of 0ft where 25ft is required, to permit the location of an off-premise sign within 1,500ft of another off-premise sign, to allow for an off-premise sign to be located within 250 of a Park district, to allow for an off-premise sign to be located within 250ft of a Historic District, and to allow for a sign height of 35ft where 30ft is permitted, Special Exception to allow 33 off-street parking spaces where 37 is required and 0 off-street loading spaces where 2 is required. Zone: IL. Applicant: Post Road Residential

### **June 22, 2023 Submission:**

- SPECIAL PERMIT and DATA application forms
- Application narrative
- Site concept plan
- First floor plan
- Trip Generation memo
- Certification of abutters noticing, received July 6, 2023
- Photos of existing conditions

### **BACKGROUND**

Per the City of New Haven zoning regulations Sections 42.6 and 64, David Salinas of Let's Grow Hartford LLC has applied for a Special Permit to permit adult-use cannabis retail in an existing building at 1041 State Street with parking and loading on adjacent unnumbered parcels (State Street MBLU #182 0804 01400 and Mill River Street MBLU # 182 0804 01500). Should the Special Permit be granted, the applicant will return to the City Plan Commission for Site Plan Review and Coastal Site Plan Review, per the conditions of approval.

**Current site conditions:** 1041 State Street includes a vacant 2.5 story industrial building with an attached garage on 0.22 acres and the adjacent two lots of land are comprised of 0.13 & 0.06 acres. The existing building has approximately 9,167 gross square feet of gross floor area on two floors. The Mill River Street parcel is unpaved and the unnumbered State Street lot is paved and currently used for surface parking. The site is located in the East

Rock neighborhood in the Upper State Street commercial area, with State Street to the north, Mill River Street to the west, and I-91 to the south.

**Proposed Activity:** The applicant proposes interior fit-out of the existing building and site upgrades to convert the first floor to an Adult-use Cannabis retailer. Due to its location in the Coastal Management Area and the size of the first floor (>5,000 SF), Coastal Site Plan Review and Site Plan Review are required and at this time the applicant must show compliance with all applicable site requirements.

**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.

Ten letters of support for the application were received.

Topics raised in public testimony included:

- Support for the application
- Support for adaptive reuse of the building
- Positive impact of the project on the community
- Social impact mission of the business
- Appropriateness of the use for the upper State Street commercial corridor

**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 provided all required materials to demonstrate compliance with ordinance requirements.</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>Staff note that the proposed parking area may require reconfiguration at the Site Plan Review stage. The applicant is currently proposing parking spaces in excess of requirements, so the site plan can accommodate some reduction in parking if needed.</i>
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.	<i>Vision 2025, the Comprehensive Plan, call for neighborhood commercial mixed-use in this area. The proposed commercial use falls within this category and complies with plan goals.</i>

<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>The site currently has little to no vegetation and landscaping. The applicant proposes additional landscaping which will be finalized during Site Plan Review, which should improve the condition of the site.</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>Provisions for odor control, security, noise and lighting described in the section below should mitigate any potential for hazards or nuisances.</i></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>The site is located in the Upper State Street National Register Historic District and is listed in the New Haven Historic Resource Inventory (listing #2717). The building is described as "a raised, 2 story late 19<sup>th</sup> century brick factory building with a shallow gable roof and a cut stone foundation. Note the cut stone sills and the brick segmental arches of the building's window opening." No exterior changes to the main building are proposed.</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 changes to the main building are proposed. Site improvements including paving and landscaping should improve compatibility with the surrounding area.</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>Planning Staff note that there is limited research available at this time on the impact of cannabis dispensaries on residential property values. The applicant states that, "The proposed use within the existing site design will not have a detrimental effect on the property values in the surrounding area. Other operating cannabis retails through the state have been operational and have not seen any impact on property values. Furthermore studies largely show an increase in residential property values in states with legalized marijuana according to the national association of realtors."</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 submitted a traffic memo that concludes, "The proposed development is expected to generate 26 vehicle trips (13 entering, 13 exiting) during the weekday morning peak hour, 48 vehicle trips (24 entering, 24 exiting) during the weekday afternoon peak hour, and 72 vehicle trips (36 entering, 36 exiting) during the Saturday peak hour. These estimates are consistent with observed customer counts at three local dispensaries in Massachusetts, and comparable to many other commercial uses along the State Street corridor today. Furthermore, based on the observed nature of dispensaries that are currently operating in Massachusetts and Connecticut, it is anticipated that the dispensary will operate similar to any other neighborhood retail establishment, attracting a certain percentage of pass-by traffic from drivers that are already on the roadway. Therefore, a substantial increase in new trips to the network is not expected. Review of the three most recent years of available crash data did not indicate any abnormal crash patterns or frequencies. The proposed development is not expected to exacerbate existing crash patterns or negatively impact overall traffic safety of the study area."</i></p> <p><i>The City's Transportation, Traffic, and Parking Department review the Traffic Memo and agreed with the conclusions.</i></p>
--	---

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:

<b>Special Permit Criteria</b>	<b>Comments</b>
<p>The health safety and welfare of the public, in general, and the neighborhood in particular</p>	<p><i>NHZO Section 46.2, Cannabis Establishments, recognizes that "the social, environmental, economic, and land use impacts of commercial cannabis [retail] are no different whether in support of the medicinal or adult-use commercial marketplace."</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>Potential sensitive receptors include the Ralph Walker Ice Rink (~400 feet), the East Rock Park Blake Field (~500 feet), the Goatville Community Garden (~650 feet), and East Rock Community Magnet elementary school (~850 feet). The site is adjacent to multi-family residential to the west and north.</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 retail area occupies slightly less than half of the first-floor space (~2,500 SF). A separate loading area is proposed on Mill River Street.</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>3) Provisions will be made for odor control, security, noise and lighting as may be appropriate as well as other externalities which may create a nuisance, as follows:</i></p>

- a. The environmental system will be a recirculated system with charcoal filters within the HVAC system to mitigate any odors. There will be multiple modular air filters within the premises.*
- b. The security system will adhere to the DCP Drug Control mandated level. Let's Grow Hartford LLC will have both a wired and redundant wireless security system that includes entry contacts, motion sensors, heat sensors and lasers. No product is left out overnight anywhere in the retail store. The vault will adhere to the DCP requirements. There will be an adequate number of cameras recording the entirety of the interior and exterior of the building. All footage is required to be stored for 30 days in a tamper-proof environment.*
- c. All windows and doors will be secured for added protection.*
- d. There will be no noise emanating from the dispensary. Smoking is not permitted in the building.*
- e. Exterior lighting will be designed tastefully to create a safe environment but not a nuisance.*
- f. No food products will be prepared on site. All infused items will be prepared by licensed producers and available for purchase in DCP approved packaging.*
- g. A full time security guard will be on site during all hours of operation, set up and closing time.*

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, "BC", "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

**PLANNING CONSIDERATIONS**

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). 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. To date, one Special Permit for Hybrid Cannabis Retail has been approved and five additional applications were received, including this one.

During review, Planning Staff paid special attention to identifying potential sensitive receptors in the area, consulted with the Transportation, Traffic, and Parking Department who reviewed the Traffic Assessment, and gained clarification on State regulations applicable to the proposed facility. Details regarding the assessment of sensitive receptors can be found in the table above. The proposed facility is small and has access to ample parking. It should be noted that the site is adjacent to residential areas and a number of community amenity/recreation spaces. Based on our 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 consideration of any public testimony provided on the proposal.

**CONDITIONS OF APPROVAL:**

The conditions of approval of the Special Permit under §64 and §42.6 of the New Haven Zoning Ordinance for Adult-use Cannabis Retail are as follows:

- 1. Per NHZO Section 64(e)(2)(f), Features of historic significance shall not be significantly adversely affected by the granting of any special permit. No changes to the façade or other historic features shall be done outside of the scope of work detailed in the application.**
- 2. 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).**
- 3. 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.**
- 4. 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, unless specifically permitted by this ordinance, or other ordinance of the City of New Haven.**
- 5. All Cannabis Establishments shall comply with state law regarding concealed design standards.**
- 6. An application to the City Plan Commission for Coastal Site Plan Review and Site Plan Review, including demonstration of compliance with all applicable site requirements, is required.**

**ADOPTED:** July 19, 2023  
Adam Marchand  
Acting Chair

**ATTEST:**   
Laura E Brown  
Executive Director, City Plan Department