

**Town of Sandisfield, Massachusetts**  
**Decision Granting Special Permit to SAMA Productions, LLC**

The Applicant (SAMA Productions, LLC) has applied to the Town of Sandisfield Select Board (Board) for a Special Permit to build and operate a Cannabis Cultivation Establishment on property known and numbered as Lot 18 South Main Street (Route 8), with greenhouses not to exceed a total cumulative size of 100,000 square feet in cultivation area, plus a processing building not to exceed 5,000 square feet in area.

Pursuant to Section 3.B.16 of the Sandisfield Zoning Bylaw, commercial greenhouses are a use allowed by special permit from the Board. The Town has not adopted zoning that specifically regulates marijuana establishments. Therefore, since the Town has not voted to prohibit such establishments in accordance with the provisions of G.L. c.94G, §3, such uses must be deemed permitted within the Town's single zoning district.

Pursuant to Section 10 of the Zoning Bylaw, the Board makes the following determinations:

1. The proposed use is in compliance with all provisions and requirements of this Bylaw and in harmony with its general intent and purpose;

The proposed use satisfies all dimensional and other requirements of the Zoning Bylaw. The project will be accessed via Route 8, a state highway. As conditioned, impacts of the project will be adequately mitigated in the Board's view.

2. Is essential or desirable to the public convenience or welfare at the proposed location;

The project represents a significant nonresidential investment in the Town and will result in additional tax revenue and job creation, as well as other benefits as detailed in the Host Community Agreement between the Applicant and the Town.

3. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;

The site of the proposed project does not abut any residences. It is located on a state highway and is abutted by conservation land. Proposed setbacks are sufficient to mitigate any impact on residences across Route 8 from the project site. Commercial greenhouses as proposed will not be an obtrusive or harmful presence in the area. As detailed below, additional conditions have been imposed that mitigate potential concerns regarding odor and noise.

4. Will not create undue traffic congestion or unduly impair pedestrian safety; and

The facility is projected to result in the approximate number of vehicle trips of one or two single-family homes. The addition of this small amount of traffic to a state highway,

which currently operates without any concern will clearly not lead to undue traffic congestion.

5. Will not overload any public water, drainage or sewer system or any other municipal facility to such extent that the proposed use or any existing use in the immediate area of the Town will be unduly subjected to hazards affecting the public health, safety or general welfare.

There is no public water or sewer in the vicinity of the subject property. As conditioned, the project will not have substantial negative impacts on any existing use in the immediate area. The conditions of this special permit require that all odors and noise be controlled and that there be no odor impacts at any surrounding property.

In addition to the Select Board's Special Permit Regulations, the Select Board shall find that the proposed use meets the specific requirements as described below, as conditions for issuing a Special Permit:

#### **I. General Conditions**

- A. Plans and Application Materials Incorporated Herein:** Except as specifically set forth herein, the plans and application materials submitted by the Applicant are hereby incorporated as part of this special permit, and any material divergence from such plans and materials shall require modification of this Special Permit.
- B. Compliance with Host Community Agreement:** The provisions of the Host Community Agreement ("HCA") between the Applicant and the Town, as amended, are hereby incorporated by reference as conditions of this Special Permit.
- C. Enforcement:** If the Town prevails in any action to enforce any provision of this Special Permit, the Applicant shall be required to pay the Town's costs of such action, including without limitation attorney and expert witness fees.
- D. Setbacks:** Setback distance shall be 75 feet from Route 8 and at least 35 feet from every other lot line, measured in a straight line as the shortest distance between the security fence surrounding the facility's buildings or any other structure and the nearest property line. Existing trees and vegetation within these setbacks shall be retained to the maximum extent practicable. The Applicant shall obtain the Board's approval prior to removal of any trees within these setbacks, except for trees within the layout of the proposed driveway and drainage infrastructure, as shown on the site plans accompanying the application.
- E. Odor, Noise and Toxins:** The Applicant shall install odor and noise control technology as detailed in its Application Materials, as necessary, in such a manner that no odor or undue noise from marijuana cultivation, its processing or the manufacturing of products can be detected by a person with an unimpaired and otherwise normal sense of smell, to be

determined by the Building Inspector or their designee, at any adjoining property. The Applicant shall properly maintain all odor and noise mitigation equipment to ensure maximum efficiency. For purposes of this condition, undue noise shall mean an increase in sound levels equal to or exceeding 5 dBA above ambient sound levels as measured at the property line of any residential property. No toxic discharges, whether detectable by smell or not, from the facility are permitted at any time. In the event of the Building Inspector receives a complaint regarding odor or the release of toxic materials, the Building Inspector will notify the Applicant of same. The Applicant shall identify the issue and respond within 5 working days with a plan to rectify the situation. Failure to comply with these conditions shall be grounds for revocation of this Special Permit.

- F. Security:** The Applicant shall submit a written security plan to the Sandisfield Police Department to demonstrate that there is limited burden on the Town public safety officials due to the proposed Establishment. The security plan shall include all security measures for the site and for transportation of Cannabis and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises from theft or other criminal activity. A letter from the Sandisfield Police Department to the Select Board acknowledging receipt and approval of such a security plan shall be submitted as part of the Special Permit application and/or Site Plan Review. For confidentiality and security reasons, these security measures will only be submitted to and reviewed by the Sandisfield Police Department, who may only consult with the Sandisfield Fire Department on pertinent items as needed.
- G. Hours:** The Applicant shall be open and/or operating only between the hours of 6:00 AM and 8:00 PM, unless otherwise approved by the Select Board.
- H.** The 5,000 square foot processing facility is deemed by the Board to be accessory to the cultivation of marijuana grown on site and is not intended to process marijuana grown off site as the primary use of the facility.
- I. Design Guidelines:**
- 1) **Screening.** The Establishment shall be screened year-round with dense native vegetation or security fencing from all adjoining properties and ways.
  - 2) **Vegetation Clearing.** The clearing of vegetation shall be limited to only that which is necessary for the construction, operation, maintenance, modification and/or removal of the Establishment, but in no case shall exceed 11 acres in total area. Clearing of any vegetation within 30 feet of the property line shall require approval of the Select Board, except with respect to clearing necessary for construction of the site access drive and drainage improvements.
  - 3) **Construction Site:** The “Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas” design guidelines shall be followed with respect to a Stabilized Construction Entrance and other relevant construction areas.
  - 4) **Lighting:** All lighting on the site shall be dark sky compliant. There shall be no light trespass beyond the property line.

- J. Inspections:** The Establishment may be inspected annually and/or in response to any reasonable complaint, by the Building Inspector, the Fire Chief, the Police Department, or their designee(s), to ensure compliance with this Special Permit. If such inspections are the result of a complaint or determination that there has been a violation of this special permit, the reasonable costs of such inspections shall be borne by the Applicant, including independent measurements of sound levels, subsonic vibrations and/or laboratory analysis of any effluents, odor emissions or other discharges into the environment.
- K. Technical Review:** The Board may engage professional and technical consultants, at the Applicant's expense, pursuant to M.G.L. Chapter 44 § 53G to assist the Select Board with its review of materials and to ensure compliance with this Special Permit.
- L.** Issuance of a valid license pursuant to M.G.L. c.94G or Certificate of Registration pursuant to M.G.L. c.94I is a condition of the Special Permit. Copies of all licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies shall be submitted to the Select Board.
- M. Renewable Energy Usage Required:** The Establishment shall directly offset 100% of its electricity consumption through the purchase of renewable energy in the form of a verified subscription in a Community Solar system, wind, or hydropower project, and/or renewable energy generated on site, or equivalent approved by the Sandisfield Building Inspector. The offset must be demonstrated by a sustainability plan approved by the Sandisfield Building Inspector. The Establishment must keep monthly records to verify its energy use and renewable energy credit purchases, which must be disclosed to Town officials upon request.
- N. Final Plans:** At least thirty days prior to commencement of construction, the Applicant shall submit a final plan set demonstrating compliance with all conditions hereof. If unforeseen situations arise, the Select Board may revise these conditions accordingly.

## **II. Operating Conditions**

- A.** The Applicant shall submit a copy of the Provisional License or Certificate of Registration from the Cannabis Control Commission with the Select Board and the Building Inspector prior to the issuance of a certificate of occupancy, or commencement of use, whichever occurs first.
- B.** Prior to the commencement of operations, the Applicant shall provide in writing to the Chief of Police and Town Manager the names, phone numbers and email addresses of all management staff, key-holders, and a minimum of two (2) contact persons to whom complaints or inquiries associated with the Establishment shall be directed. All such contact information shall be updated as needed to keep it current and accurate. The Town Manager shall provide this information to the Board of Health, Fire Department, Building Inspector and the Select Board. The owner or manager of an Establishment is required to respond by phone or email within twenty-four hours of being contacted by a duly authorized Town official concerning their Establishment. Such contact will be made to

the phone number or email address provided to the Town as the contact for the Establishment.

- C.** After commencing operations, the Applicant must:
- a) Report any incidents to the Police Department as required pursuant to 935 CMR 500.110(7) within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
  - b) Report to the Building Inspector any cease-and-desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Establishment within 48 hours of the Applicant's receipt.
  - c) Submit copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8). These shall be submitted to the SPGA within 5 business days of submission to the State. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
  - d) Document to the SPGA that each Establishment Agent has completed training regarding the proper handling of Cannabis prior to performing job functions. Such documentation must be provided to the Board within 5 business days of the completion of such training. Annually, the Applicant shall provide documentation to the SPGA that all Agents have received at least eight hours of ongoing training.
- D.** This Special Permit shall be limited to the original Applicant and shall expire on the earliest date of either:
- 1) the cessation of operation of the Establishment by the Special Permit holder; or
  - 2) any revocation, expiration or termination of an Applicant's license from the Cannabis Control Commission;
  - 3) any change in the Company's ownership, including without limitation a takeover, merger, sale of assets and equity, sale to another entity for which the original Applicant and/or the individuals defined as Controlling Persons do not maintain a controlling equity interest or other change in ownership, unless such change in ownership has previously been approved in writing by the Select Board, in its discretion, such approval not to be unreasonably withheld, or;
  - 4) A determination by the Board, after public hearing, that there have been repeated and documented violations of the conditions of this Special Permit. Upon such determination, the Board may decide to modify, suspend or revoke the Special Permit.
- E.** The Applicant shall annually file an affidavit with the Building Inspector demonstrating that it is in good standing with respect to its license from the Cannabis Control Commission and any other applicable State licenses.

- F. The Applicant shall notify the SPGA within 20 days of any projected or actual increase in the number of employees, amount of traffic, or extent of tree removal, grading, drainage or lighting beyond that specified in the Site Plan submitted as part of the Special Permit Application.
- G. The Applicant shall notify the SPGA and the Conservation Commission within 20 days of any increase over 10% in projected or actual peak daily water use, and of any projected or intended use of fertilizer, pesticide, rodenticide, herbicide or fungicide, whether organic or not, prior to use by the facility, beyond that specified in the Site Plan submitted as part of the Special Permit Application.
- H. The Applicant shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services.

### **III. Abandonment & Removal**

- A. Prior to construction, the Applicant shall provide a bond or cash deposit in the amount of \$10,000.00, in a form approved by the Select Board, for the purpose of securing the removal of fencing and the commercial greenhouses from the project site in the event of abandonment.
- B. The Applicant shall notify the Building Inspector and the SPGA in writing at least 48 hours prior to the intended cessation of operation of the Establishment for a period of 12 months or more, or of the revocation, expiration or termination of the permit holder's license from the Cannabis Control Commission.
- C. The facility shall be deemed abandoned if it ceases to operate for a period of twelve (12) months.
- D. After twelve (12) months of non-operation, the Building Inspector shall provide written notification to the Applicant that such Marijuana Establishment is presumed to be abandoned. The Applicant has thirty (30) days from the issuance of such notice to rebut the presumption of abandonment by submitting evidence to the Building Inspector that the Marijuana Establishment has been in operation during the relevant twelve (12) month or that good cause exists for the non-operation and that the facility has not in fact been abandoned.
- E. If the Applicant does not respond within the thirty (30) day period or does not submit evidence that, in the discretion of the Building Inspector, proves that the facility has been in operation for the relevant twelve (12) month period or that good cause exists for the non-operation and that the facility has not in fact been abandoned, then the facility shall

be deemed abandoned. The Building Inspector shall provide written notification of abandonment to the Applicant.

- F. The Applicant shall remove all traces of Cannabis and marijuana products from the Marijuana Establishment and, if requested by the Board, remove all greenhouses and fencing, or transfer it to another owner within one hundred eighty (180) days of the date of the written notification of abandonment or such further time as the Select Board may, in its sole discretion, approve. If the Applicant fails to remove all traces of Cannabis and marijuana products, and (if requested by the Board) all fencing and greenhouses within one-hundred eighty (180) days, the Town shall have the right, to the extent it is duly authorized by law, to enter onto the site and remove all traces of Cannabis and marijuana products, fencing and greenhouses, using the surety provided for such purpose.