



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 1

ORDERED:

ORDERED:

IN CITY COUNCIL

DECISION ON A SPECIAL PERMIT ARIES LABORATORIES LLC d/b/a INDO LABORATORIES.

CITY OF MARLBOROUGH CITY COUNCIL ORDER NO. 19-1007757C

DECISION ON AN APPLIATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Aries Laboratories LLC, d/b/a Indo Laboratories, (the "Applicant") to build and operate an Independent Marijuana Testing Laboratory at 257 Simarano Drive, Suite 100, Marlborough, Massachusetts, as provided in the Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Aries Laboratories LLC, d/b/a Indo Laboratories is a limited liability company organized, and existing under the laws of the Commonwealth of Massachusetts having a usual place of business at 257 Simarano Drive, Suite 100, Marlborough, MA 01752 (the "Applicant").
2. The Applicant is a lessee of the property located at 257 Simarano Drive, Suite 100, Marlborough, MA 01752, as shown on Marlborough Assessors Map 112 and Parcel 4 (the "Site"). The Site's owner is 257 Simarano LLC, with a business address of 336 Baker Avenue, Concord, MA 01742.
3. The Applicant, on or about August 2, 2019 filed with the City Clerk of the City of Marlborough, an Application To City Council for Issuance of Special Permit (the "Application") pursuant to Chapter 650 (Zoning Ordinance) of the Code of the City of Marlborough, specifically the provisions of Section 650-59 (Special Permit Procedures) and the provisions of Section 650-32, to permit the applicant to conduct a business with the purpose of operating a Independent Marijuana Testing Laboratory (the "Use").
4. The "Table of Uses" states that the intended use requires a Special Permit (SP)/ Zoning Relief issued by the Marlborough City Council.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 2

ORDERED:

5. The facility is located in the industrial (I) zoning district, Map 112, Parcel 4.
6. The Use will occupy an existing laboratory at the Site with an area of 10,565 +/- square feet.
7. The Special Permit application filed on August 2, 2019 consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit, (b) Special Permit-Summary Impact Statement for the proposed use of a Marijuana Independent Testing Laboratory, (c) Filing Fee check in the amount of \$250.00, (d) Plan Delivery Certification, (e) Tax Payment Certification, (f) Abutters List, (g) Facility Site Plan (the "Plan"), and (h) Planning Department Certification. Twelve sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer and the Conservation Officer, all in accordance with Chapter 650 Section 650-59 of the Zoning Code of the City of Marlborough.
8. Under the provisions of Massachusetts General Laws Chapter 40A, on August 2, 2019, Applicant filed with the City Clerk to be placed on the City Council Agenda for August 23, 2019
9. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A Sections 9 and 11, the City Council established September 23, 2019 as the date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News and mailed said notice to those entitled thereto, all in accordance with Massachusetts General Laws Chapter 40A.
10. All abutters certified by the Office of the Board of Assessors of Marlborough were sent official legal notification of the Public Hearing, via certified mail. Prior to the Public Hearing on September 23, 2019, the green/white certified mail slips were submitted to the City Clerk's office.
11. The Marlborough City Council held a public hearing on the Application on September 23, 2019 in accordance with the published notice, (the "Public Hearing"). The hearing was opened at the time provided for in the notice and following the completion of testimony the hearing was closed on said date.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 3

ORDERED:

12. The Applicant presented testimony at the Public Hearing detailing the business operational plans for facility, especially as it pertained to security, waste disposal, hiring practices, community and economic impact, and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the public hearing. There was no opposition from the members of the public.
13. The Site has 24-hour off-site monitoring of security cameras, as well as multi-tiered levels of security clearance within the building.
14. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs and Housing Committee ("Urban Affairs") regarding the facility, operations, security and waste disposal.
15. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
16. According to the Applicant, the facility has been inspected and received written confirmation by the Fire Chief that all safety and building codes are met.

BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS:

- A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit. The City Council finds that it may grant a Special Permit subject to such terms as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").
- B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or General Laws. c. 40A, et. seq. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 4

ORDERED:

- C. The Applicant provided to Urban Affairs written and oral documentation as to the handling of the waste materials. In summation, all marijuana samples will be rendered unusable for human consumption immediately upon sample intake. All waste product is weighed and recorded prior to being destroyed. The waste material will be rendered unusable in an alcohol solution inside of a 55-gallon container. Any material not used for testing will be immediately treated in the same manner. The waste container will be stored within facility inside of a secured and monitored waste room. When the waste container reaches capacity, a licensed waste hauler will be scheduled to retrieve and remove the container from inside the facility.
- D. The applicant commits to work with city officials and the Marlborough Police Department to address any and all reasonable security concerns. Surveillance cameras shall be capable of twenty-four-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises.
- E. The City Council finds that the use of the Site for the purposes of a marijuana independent testing laboratory is an appropriate use and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The proposed business will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.
- F. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:
 1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.
 2. Traffic flow and safety, including parking and loadings:

Finding: The Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.
 3. Adequacy of utilities and other public services:

Finding: The Site provides adequate utilities and public services for the Use.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 5

ORDERED:

4. Neighborhood character and social structures:

Finding: The use is consistent with the area in the vicinity of the Site.

5. Impacts on the natural environment:

Finding: The use will have no greater impact than the established uses in the area.

6. Potential fiscal impact, including impact on City services, tax base and employment:

Finding: The Use will enhance the development goals of the City and the region by providing additional jobs. It will result in a positive economic impact on the business community.

7. Hours of operation:

Finding: The hours of operation of the Use are generally similar to other laboratory uses.

8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:

Finding: The provision of contact information is specifically conditioned below.

9. Requiring payment of a community impact fee:

Finding: Notwithstanding any terms negotiated in a Host Community Agreement, no impact fee shall be assessed by the City Council.

10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 6

ORDERED:

11. Requiring regular inspections by City officials or their agents, and access of the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police who shall have the authority to disapprove the employment of any person(s) as a result of said background check:

Finding: All staff of Indo Labs comply with all Cannabis Control Commission hiring requirements including, but not limited to, any background and CORI check requirements. The requirements are specially conditioned below.

13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images in, on, around, or at the premises:

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: The Use shall not include retail sales of any kind.

15. The ability for the Business to:
 - i. provide a secure indoor waiting area for clients;
 - ii. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
 - iii. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals;
 - iv. adequately address issues of traffic demand, parking, and queuing especially at peak periods at the Business, and its impact on neighboring uses; and
 - v. provide opaque exterior windows;

Finding: The use is a laboratory. Further, security is specially conditioned below.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 7

ORDERED:

16. Signs and signage:

Finding: The signage shown on the Plans are appropriate for the Use.

17. Names of businesses, business logos and symbols, subject to state and federal law and regulation:

Finding: The name of the business, logos, and symbols associated with the Use, as provided in the Application and shown on the Plans, are appropriate for the Use.

G. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit to operate an Independent Marijuana Testing Laboratory, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by § 650-32.E of the Zoning Ordinance. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted reviewed and approved by the City Council as the Special Permit Granting Authority.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs, and other documentation provided by the Applicant as part of the Applications, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

ORDERED:

PAGE 8

5. Compliance with State Requirements. In accordance with § 650-18(47)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of an Independent Marijuana Testing Laboratory.
6. Security. The Applicant has and shall continue to comply with the City Council requirement that a written Security Plan be approved and signed by the City of Marlborough Police Chief or his designee. Any substantive changes to Security Plan will receive written approval from Police Chief or his designee. The Applicant, its successors and/or assigns, shall utilize surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images in, on, around, or at the premises.
7. Processing. There shall be no retail sales permitted at the site. All waste product shall be rendered unusable in an alcohol solution inside of a 55-gallon container. Any material not used for testing will be immediately treated in the same manner. The waste container will be stored within the facility inside of a secured and monitored waste room. When the waste container reaches capacity, a licensed waste hauler will be scheduled to retrieve and remove the container from inside the facility.
8. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.
9. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.
10. Job Applicants. The Applicant commits to considering local applicants for employment and independent contract purposes. A job applicant's residency will be one positive consideration among many considerations such as experience and educational background.
11. Inspections and Records. The Applicant, its successors and/or assigns, shall make the Use available for regular inspections by City officials or their agents, and shall provide City officials or their agents with access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission.



IN CITY COUNCIL

Marlborough, Mass., OCTOBER 28, 2019

PAGE 9

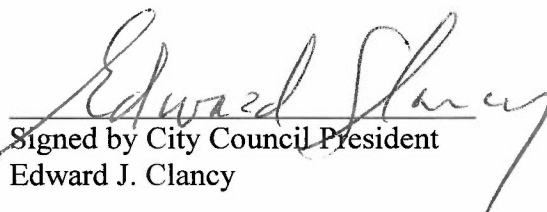
ORDERED:

12. Background Checks. The Applicant, its successors and/or assigns, shall require that all staff of undergo a criminal background check, as required by the Cannabis Control Commission hiring requirements.
13. Compliance with Health Regulations. Applicant will comply with all current marijuana regulations and any future changes proposed and implemented by the City of Marlborough Board of Health.
14. Signs and Signage. The Applicant shall not utilize signs or signage that mention, imply, or refer to in any way, shape, or form, involvement in the marijuana business.
15. Recording of Decision. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Solicitor's Office, the Building Department, and the City Council's Office.

Yea: 9 – Nay: 0 – Absent: 2

Yea: Delano, Doucette, Tunnera, Irish, Clancy, Landers, Juairé, Oram, & Robey.

Absent: Dumais, Ossing.


Signed by City Council President
Edward J. Clancy

ADOPTED
In City Council
19-1007757C