



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: October 20, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Alyssa Sandoval, Deputy Chief Planner for Current Planning

SUBJECT: **Petition #328-23**
Request to amend Special Permit #67-20 to allow a Medical Marijuana Treatment Center (formerly known as Registered Marijuana Dispensary or "RMD") at 1089 Washington Street, Ward 3, West Newton, on land known as Section 31 Block 09 Lot 07, containing approximately 25,122 sq. ft. of land in a district zoned BUSINESS2. Ref: Sec. 7.3.3, 6.10.3.D, 4.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



1089 Washington Street

Project Description

Background

The subject property consists of one parcel located at 1089 Washington Street improved with a one-story, building constructed in 1950. The building is currently the site of a marijuana retail establishment that was approved by Special Permit #67-80. To the west of the building is a dedicated 27-stall surface parking lot, which is bordered by fencing and landscaping and abuts Cross Street. The property and surrounding properties on Washington Street are zoned Business Use 2 (BU-2). The property also borders Multi-Residence 1 (MR-1) to the north of the site on Cross Street and Wiswall Street. The immediate neighborhood in West Newton comprises a mix of commercial businesses along Washington Street and multi and single-family residences in the interior blocks of Cross Street and Wiswall Street to the north. To the south of the site is Interstate-90 and a street buffer zone. The site is directly accessible by MBTA Bus 553 and 554 on Washington Street as well as within walking distance of the West Newton and Newtonville Commuter Rail stations.

Special Permit

Ascend, a retail marijuana establishment, was granted a special permit in 2020 and opened in December 2021. The petitioner is now seeking to locate a Marijuana Treatment Center (“MTC”), or the sale of medical marijuana. The City of Newton allows MTCs by special permit only if they meet minimum criteria. The petitioner requires special permit amendment to Special Permit #67-20 to allow the MTC use where a special permit has already been issued for the marijuana retail use.

Analysis

Planning is unconcerned with the added use of an MTC because the previously approved retail marijuana establishment is already operating at this location with no known issues and the addition of the MTC will not require exterior physical or major operational changes. The addition of the medical use is unlikely to add to any negative impacts to the neighborhood related to the business establishment and will add an option for patients seeking medical treatments using these products. The business has complied with the conditions of the retail establishment under Special Permit #67-20 (except as noted below), allowing the retail marijuana establishment, including site improvements such as a new pedestrian crosswalk, fencing, bike shelter, and rain garden as well as providing initial police details and transportation demand management. If approved, the addition of the MTC use will require compliance with all conditions of the previously approved special permit.

Planning conducted a site visit on October 12, 2023, and found most of the installed landscaping to be in good condition when compared to the approved landscape plan (dated November 12, 2019, revised February 6, 2020). However, it appears many of the original plantings in the

landscaped area directly in the front of the store may have died and should be checked by the petitioner and reinstalled as soon as feasibly possible given the time of year to ensure success of the plantings. As noted in Condition #16 of SP #67-20, “all on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.” Planning has made the Petitioner aware of the lack of landscaping per the approved plan and recommends the Petitioner review the approved landscape plan and ensure that the installed landscaping in this location is consistent with the Special Permit approved plans.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	To amend Special Permit #67-20	
§6.10.3.D §4.4.1	To allow a medical marijuana treatment center	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A**.

II. Criteria for Consideration per §7.3.3:

- The site is an appropriate location for the medical marijuana treatment center. (§7.3.3.1)
- The proposed medical marijuana treatment center as developed will not adversely affect the neighborhood. (§7.3.3.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
- Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)

III. Criteria for Consideration per §6.10.3.H

- The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.H.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.H.1.b)

- The MTC/Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.H.1.c)
- The MTC/Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.H.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the MTC will not create a significant adverse impact on nearby uses. (§6.10.3.H.2.b)
- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.H.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.H.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.H.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.H.2.f)
- The MTC/marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.H.2.g)

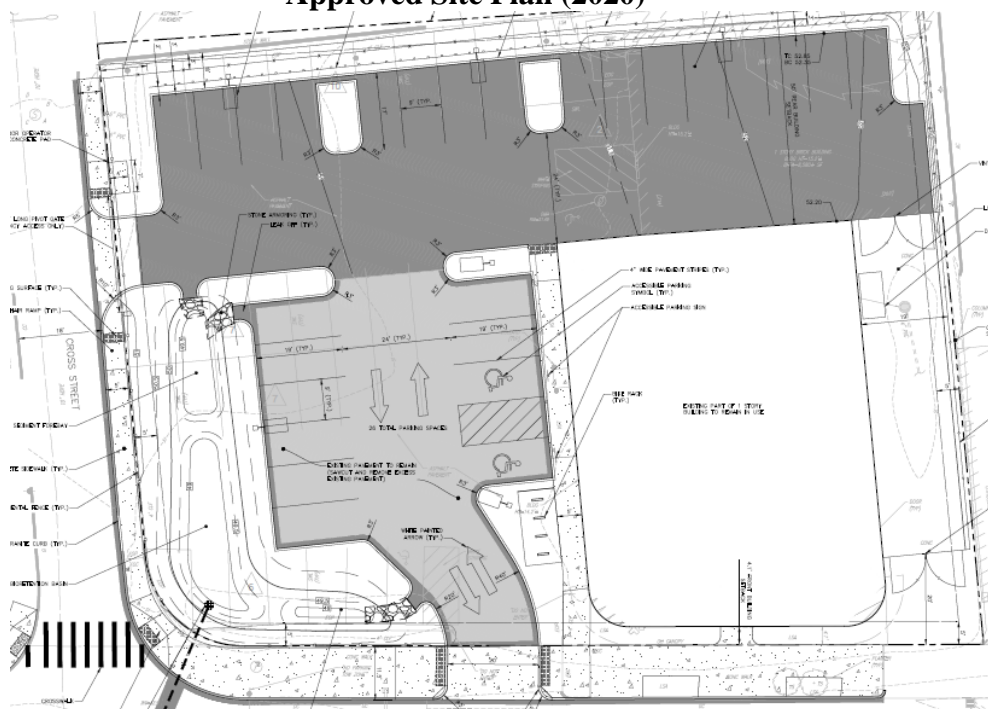
IV. Project Proposal and Site Characteristics

A. Site

The site consists of a 25,112 square foot lot improved with a one-story, 8,585 square foot commercial building constructed circa 1950. The site is relatively flat, improved with landscaping and fencing surrounding the surface parking area abutting Cross Street. The site has two points of access, a curb cut on Washington Street and gated entrance on Cross Street. Access to Cross Street is gated and appears to be unused with the main access provided from Washington Street. The Washington Street entrance on the west side of the building provides access to a drive aisle and a 27-stall surface parking facility west of the building. The site also features a gated driveway on Washington Street to the east of the building that leads to the rear portion of the building and parking area, which is used for secure deliveries. The site is bound by Cross Street to the west, a narrow two-way road.

Please see below for the approved site plan per #67-20. There are no changes proposed to the existing site.

Approved Site Plan (2020)



V. Project Description and Analysis

A. Land Use

The current use of the site is a Marijuana Retailer. If approved, the use would change to collocated uses of Medical Marijuana Treatment Center and Marijuana Retailer.

B. Medical Marijuana Treatment Center

A Medical Marijuana Treatment Center is allowed by special permit in the BU-2 zoning district per Section 6.10.3. A Medical Marijuana Treatment Center (MTC) is defined as an entity registered under 935 CMR 501.101, that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.

As mentioned previously, there is an existing marijuana retail establishment at this location. According to the petitioner, there will be no changes to the existing property with the addition of the medical use, and there will be no increase in the number of employees. Planning has reviewed the proposed use and is not concerned with the additional use of medical marijuana to the existing retail marijuana establishment.

C. Operations

There will be no change to the hours of operations or overall operations of the existing marijuana establishment. The only change to operations noted by the Petitioner is that there will be reprogramming of one point of sale to be dedicated to sales and consultations with patients. The petitioner has provided a revised floor plan as part of the [submitted materials](#) (see Exhibit B).

D. Parking and Circulation

No changes are proposed for the parking and circulation. Site improvements that were completed as part of the 2020 Special Permit appear to have improved parking and circulation on the site, notably the addition of a raingarden at the front of the site along Washington Street and other landscaping and screening improvements for parking facilities over five stalls.

E. Landscaping

There is a landscape plan governing this site approved under Special Permit #67-20. Planning conducted a site visit on October 12, 2023, and found most of the installed landscaping to be in good condition when compared to the approved plan. However, it appears many of the original plantings in the landscaped area at the front of the store may have died since installation and should be checked by the petitioner and reinstalled in a timely manner as weather/seasonal conditions allow. As noted in Condition #16 of Order #67-20, “all on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.”

Planning recommends that the Petitioner review the approved Landscape Plan and ensure that the installed landscaping in the front of store location is consistent with with the approved plan.

F. Signage

Additional signage is not proposed at this time.

VI. MINIMUM CRITERIA AND LIMITATIONS ON APPROVAL

A. Location

The Marijuana Use Ordinance requires that a MTC may not be located within a 500-foot radius of an existing private or public K-12 school. As such, the proposed MTC satisfies the criterion.

B. Registration

All MTCs must be properly registered with the Department of Public Health or the

CCC. The petitioner is in the process of seeking licensure from the CCC as a registered MTC. The petitioner is required to obtain licensure from the CCC before operation of the MTC.

C. Authorization

The special permit granted by the City Council authorizing the MTC is only valid to the registered entity. The MTC will maintain the same registered entity as the Special Permit.

D. Permanence

There will be no external changes to the building and the MTC will remain in the current commercial building.

E. Parking

An MTC is subject to the number of parking stalls required in Section 5.1. The proposed MTC complies with the number of parking stalls required in providing 27 parking stalls.

F. Signage

State Law and the Registered Marijuana Use Ordinance prohibit graphics, symbols, or images of marijuana or related paraphernalia from being displayed or clearly visible from the exterior of an MTC. The project will continue to comply with this requirement.

G. Hours of Operation

The petitioner will continue to comply with the conditions of Special Permit #67-20 and will only be open Monday through Saturday, 9 am to 9 pm, and on Sunday, 12 pm to 6 pm.

H. Distance from Other Marijuana Retailers/MTCs

The Registered Marijuana Use Ordinance prohibits MTCs and Marijuana Retailers from locating within a one-half mile radius of an existing or approved, MTC, RMD, or marijuana retailer. The closest Marijuana Retailer is located at 697 Washington Street, approximately .9 miles from the subject property.

I. Residential

An MTC or Marijuana Establishment may not be located in a residential building. The proposed MTC is in an existing commercial building with no residential.

J. Size

The Registered Marijuana Use Ordinance prohibits MTCs or marijuana retailers from occupying more than 5,000 square feet. The proposed MTC will be co-located in an

existing Marijuana Retail Establishment, which totals approximately 4,973 square feet.

K. Security Plan

The MTC/Marijuana Establishment shall have a state approved Security Plan, which was provided as part of the 2020 special permit.

L. Emergency Response Plan

The MTC/Marijuana Establishment shall have a state approved Emergency Response Plan, which was provided as part of the 2020 special permit.

M. Operation and Management Plan

The MTC/Marijuana Establishment shall have a state approved Emergency Response Plan, which was provided as part of the 2020 special permit.

N. Transparency

The City's Registered Marijuana Use ordinance requires that Marijuana Retailers "located on the ground level shall provide at least 25 percent transparency along the building's front façade at ground level, unless waived by the City Council." The intent of this requirement is to ensure the security requirements found in the State Law do not overburden the aesthetics of the structure in relationship to the adjacent structures. The Petitioner met the 25% ground level façade transparency requirement as part of the 2020 special permit.

O. Ventilation

The Petitioner notes that they will continue to use industry best practices to ventilate the marijuana retail establishment and the business will not include cultivation, it will not have active use of pesticides, insecticides, or other chemicals or products related to cultivation.

VII. INTERDEPARTMENTAL REVIEW

- A. Specific interdepartmental review is not required at this time.

VIII. PETITIONER'S RESPONSIBILITIES

The petitioner shall address issues brought up in this memo related to the landscaping maintenance and installation in the front of the store. Otherwise, this petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** DRAFT Council Order
- Attachment C:** Original Council Order #67-20



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 22, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: GREEN RE WEST NEWTON LLC
Ascend Mass LLC
Michael Ross, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Special Permit #67-20 to allow a Medical Marijuana Treatment Center

Petitioner: GREEN RE WEST NEWTON LLC	
Site: 1089 Washington Street	SBL: 31009 0007
Zoning: BU2	Lot Area: 25,122 square feet
Current use: Marijuana retail establishment	Proposed use: Marijuana retail establishment and Medical marijuana treatment center

BACKGROUND:

The property at 1089 Washington Street consists of a 25,122 square foot lot improved with a one-story building constructed in 1950 currently occupied by a marijuana retail establishment allowed by Special Permit #67-20. The petitioner is seeking to expand the operation to include a medical marijuana treatment center per section 6.10.3.B.10, requiring an amendment to the special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Michael Ross, attorney, dated 8/3/2023
- Special Permit #67-20
- Zoning Review Transmittal Letter, prepared by Michael Ross, attorney, dated 8/1/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner seeks to amend Special Permit #67-20 to expand the existing marijuana retail establishment to include a medical marijuana treatment center. This use requires a special permit from the City Council per sections 4.4.1 and 6.10.3.D of the Newton Zoning Ordinance. The petitioner states that the building will not be altered or extended and no additional employees are anticipated.
2. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	To amend Special Permit #67-20	
§6.10.3.D §4.4.1	To allow a medical marijuana treatment center	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #67-20 to allow a medical marijuana treatment center (MTC), as recommended by the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed medical marijuana treatment center (MTC) due to its location in the Business 2 zoning district and proximity to a mix of uses contained within West Newton. The MTC will provide products for medical use and this use will be added to the existing marijuana retail establishment that is already operating in this building as a commercial use. Because there are no exterior changes proposed, the addition of the MTC will fit in seamlessly at the existing location. (§7.3.3.C.1)
2. The amendment to Council Order #67-20 to allow an MTC will not adversely affect the surrounding neighborhood as there is an existing retail marijuana establishment that has been operating without adverse effect to the surrounding neighborhood. The addition of medical marijuana treatment will provide more options for medical treatments for area residents. (§7.3.3.C.2)
3. The amendment to Council Order #67-20 to allow an MTC will not create a nuisance or serious hazard to vehicles or pedestrians. There is no change proposed to the access, parking, and layout of the site, which is operating in a safe manner for vehicles and pedestrians (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

With regard to special permits concerning the Marijuana Establishment on site, pursuant to (§6.10.3.H.1.):

1. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling,

walking or using public transportation due to its location on Washington Street with transit service, and provision of bicycle racks for bicyclists and a crosswalk for pedestrians. (§6.10.3.H.1.a)

2. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.H.1.b)
3. The MTC in an existing Marijuana Establishment is designed to minimize any adverse impacts on abutters. (§6.10.3.H.1.c)
4. The MTC in an existing Marijuana Establishment has satisfied all of the conditions and requirements in this section. (§6.10.3.H.1.d)

Additional criteria for MTCs (§6.10.3.H.2.):

5. The lot location complies with Sec. 6.10.3.F.1. (§6.10.3.H.2.a)
6. Traffic generated by client trips, employee trips, and deliveries to and from the MTC will not create a significant adverse impact on nearby uses. (§6.10.3.H.2.b)
7. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior; the structure complies with the transparency requirement. (§6.10.3.H.2.c)
8. The building and site are accessible to persons with disabilities. (§6.10.3.H.2.d)
9. The lot is accessible to regional roadways and public transportation. (§6.10.3.H.2.e)
10. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.H.2.f)
11. The MTC's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.H.2.g)

PETITION NUMBER: #328-23

PETITIONER: Ascend Mass, LLC

LOCATION: 58 Cross Street/1089 Washington Street known as Section 31, Block 9, Lot 7

OWNER: GREEN RE WEST NEWTON LLC

ADDRESS OF OWNER: 901 Diplomat Parkway, Hollywood, FL 33019

TO BE USED FOR: Amendment to Special Permit #67-20 allowing a Medical Marijuana Treatment Center

RELIEF GRANTED: Special permit per §7.3.3 to amend Council Order #67-20 to allow a Medical Marijuana Treatment Center (§6.10.3.D; §4.4.1)

ZONING: Business Use 2 (BU2) district

Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #67-20 by allowing a Medical Marijuana Treatment Center (MTC). All other conditions of Council Order #67-20 remain in full force and effect.

1. Prior to operation of the MTC, the Petitioner shall record a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County and file a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

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Page: 1 of 9 04/15/2020 08:37 AM

58 Cross Street; 1089 Washington Street

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MAR 18 AM 11:15
CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

March 16, 2020

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow retail marijuana sales and waivers to the extent necessary for lighting requirements as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed Marijuana Retailer due to its location within the Business Use 2 zone. (§7.3.3.1)
2. The proposed Marijuana Retailer as developed and operated will not adversely affect the neighborhood given its proximity to the varied uses along the Washington Street Corridor and the Petitioner's proposals to manage traffic and parking. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the site's proximity to regional roadways such as the Massachusetts Turnpike and Washington Street. (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians due to the Petitioner's upgrades to the site, including new sidewalks along the site's frontage and in the interior of the site. (§7.3.3.4)
5. Literal compliance with the lighting requirements for parking facilities is impracticable in that such exceptions would be in the public interest as the site abuts residential properties and a waiver from the lighting requirements would result in a lesser impact on residential abutters. (§5.1.10, §5.1.13)

With regard to the special permit criteria for all marijuana uses and Marijuana Retailers, pursuant to §6.10.3.G:

6. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)

PROPERTY ADDRESS: 1089 WASHINGTON ST, NEWTON, MA
DEED REFERENCE: Book: 22508, PAGE: 376

Ashley Tan Esq.
199 Western Avenue #1
Cambridge, MA 02139

A True Copy
Attest
[Signature]
City of Newton, Mass.

7. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
8. The Marijuana Retailer is designed to minimize any adverse impacts on abutters with reduced lighting, fencing, landscaping and site design that prohibits access to Cross Street. (§6.10.3.G.1.c)
9. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
10. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses due to the appointment only system and operating conditions set forth in Conditions #2 through #7, and the implementation of a Transportation Demand Management Plan. (§6.10.3.G.2.b)
11. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
12. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
13. The lot is accessible to regional roadways and public transportation due to its location on Washington Street and proximity to the Massachusetts Turnpike, and current MBTA bus routes. (§6.10.3.G.2.e)
14. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
15. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Washington Street Corridor and presence of commercial uses nearby that operate during similar hours. (§6.10.3.G.2.g)

PETITION NUMBER: #67-20

PETITIONER: Ascend Mass, LLC

LOCATION: 58 Cross Street/1089 Washington Street, on land known as SBL 31, 09, 07, containing approximately 25,122 square feet of land

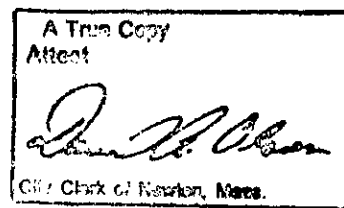
OWNER: 1089 Washington Street Limited Partnership

ADDRESS OF OWNER: 10 Newbury Street
Boston, MA 02116

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

PROPERTY ADDRESS: 1089 WASHINGTON ST, NEWTON, MA
DEED REFERENCE: BANC: 22708, PAGE: 376



EXPLANATORY NOTES: To allow retail marijuana sales and waivers to the extent necessary for lighting requirements (§7.3.3, §7.4, §6.10.3.D, §4.4.1, §5.1.10, §5.1.13)

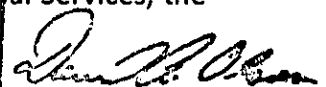
ZONING: Business Use 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
2. Existing Conditions Site Plan signed and stamped by Gerry Holdright, Professional Land Surveyor, dated March 26, 2019.
 - a. Proposed Site Plan, signed and stamped by Daniel F. Delany, Professional Engineer, prepared by Fuss and O'Neill, November 12, 2019, most recently revised February 6, 2020;
 - b. Details, consisting of six sheets, CD-501-CD-506, signed and stamped by Daniel F. Delany, Professional Engineer, prepared by Fuss and O'Neill, November 12, 2019, most recently revised February 6, 2020;
 - c. Site Landscape Plan, LP-101 signed and stamped by Daniel F. Delany, Professional Engineer, dated November 12, 2019, most recently revised February 6, 2020
 - d. Floor Plans and Front Elevations A01 and A02 signed and stamped by Keith Bettencourt, Registered Architect, dated August 2, 2019.
 - e. Proposed Site Lighting - Photometric, SL-101, prepared by Fuss and O'Neill, dated November 12, 2019 most recently revised February 6, 2020.
3. The Petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. Given that the Petitioner requires each customer to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of customers arriving to and leaving from the site, to avoid customer waiting outside the building for a customer service representative to be available, and to allow the Petitioner to anticipate customer volume.

The Petitioner may use reasonable flexibility to accommodate customers where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in customers' schedules affect the appointment schedule. The Petitioner shall also accommodate those customers who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that customer.

Six months after commencement of operations for the Marijuana Retailer authorized by this Order, the Petitioner may submit a letter to the Commissioner of Inspectional Services, the


 Daniel F. Delany
 City Clerk of Houston, Mass.

PROPERTY ADDRESS: 1069 WASHINGTON ST, NEWTON, MA
DEED REFERENCE: BOOK: 22308, PAGE: 276

Director of Planning and Development and the Clerk of the Council requesting to no longer require that all customers be served by appointments only. Such letter shall only be filed after the Petitioner has completed the following:

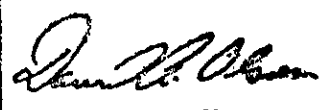
- a. Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety and site security.
- b. Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #9 below.

The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the Petitioner is able to maintain an orderly flow of patrons, accommodate all patrons waiting to see a customer service representative inside the building, and accommodate patron parking on site without the "appointment only" requirement. Prior to any decision on the Petitioner's waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a "consistency" ruling on a special permit is requested from the Commissioner of Inspectional Services.

PROPERTY ADDRESS: 1081 WASHINGTON ST, NEWTON, MA
DEED REFERENCE: BOOK 22508, PAGE: 376.

- 4. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
- 5. If the appointment only condition is removed and at any time the Director of Planning and Development, in conjunction with the Commissioner of Inspectional Services, Chief of Police, and Commissioner of Public Works, determines there is a public safety concern due to the lack of appointments, the Petitioner shall meet with the Director of Planning and Development to discuss and implement measures to address concerns, including resuming appointments during peak periods.
- 6. Should any line form following the possible conclusion of the appointment only requirement, lines must form only on the internal sidewalk and must not form on the Washington Street sidewalk for customers waiting.
- 7. There shall not be more than fifteen (15) staff members on site at any one time, not including delivery personnel.
- 8. Employees of the Marijuana Retailer shall not park on residential streets in the vicinity of the site. The Petitioner shall provide messaging to customers and employees that parking on residential streets is prohibited.
- 9. The Petitioner shall update the sidewalks along the Washington and Cross Streets frontage, install a crosswalk across Cross Street, and install rain gardens on site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
- 10. The Petitioner shall implement a Transportation Demand Management Plan to reduce vehicle trips to the site. The Plan shall include, but not be limited to:

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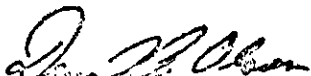


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- a. Displaying all transit schedules in a visible location at the dispensary;
- b. Providing pre-paid CharlieCard and/or Commuter Rail passes to any employee who can utilize the MBTA system to commute to work;
- c. Participating in the City of Newton Bikeshare program;
- d. Providing a secure, covered bicycle storage area on site;
- e. Providing incentives for employees to carpool with small bonuses or other programs;
- f. Establishing an on-site car-pool, rideshare program with guaranteed ride home; and
- g. Reimbursing employees who regularly walk to work the cost of a new pair of walking shoes each calendar year.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the Marijuana Retailer, the Petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the Petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The Petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

- 11. Security lighting shall be in accordance with the standards imposed by the Cannabis Control Commission. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition #1 above.
- 12. The Petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured, and the area surrounding the dumpster shall be kept free of debris.
- 13. The granting of this Special Permit/Site Plan Approval to allow a Marijuana Retailer to operate at this site applies only to the Petitioner and does not run with the land. When the Petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.
- 14. Snow shall not be stored on site.
- 15. Should the Petitioner seek to extend the operation of the Marijuana Retailer authorized by this Order, including but not limited to, increasing the number of employees or extending the hours of operation, it shall seek an amendment to this Order.
- 16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
- 17. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.

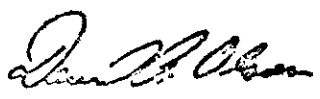
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- 18. The Petitioner shall maintain its registration with the Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the Petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning and Development Department. The Petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning and Development Department if its registration is not renewed or is revoked.
- 19. In order to provide information to the City regarding the operation of the Marijuana Retailer and the effectiveness of the mitigations and conditions imposed through this Council Order, the Petitioner shall monitor the Marijuana Retailer's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council: within six (6) months and again at twelve (12) months of commencing operations of the Marijuana Retailer, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the Marijuana Retailer and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development have concerns and/or find that the reports raise concerns regarding the security of the facility or public safety, including pedestrian or traffic safety, the Petitioner shall meet with the Director of Planning and Development to see if further mitigations on the operation of the Marijuana Retailer are warranted to address such public safety or security concerns.


- 20. The Petitioner, subject to review and approval by the Engineering Division of Public Works, shall install a trench drain across the driveway entrance of Cross Street that shall be tied into the rain garden at the southwest corner of the site. The trench drain and rain garden shall at all times be maintained by the Petitioner and/or property owner.
- 21. Prior to the issuance of a temporary certificate of occupancy, the Petitioner shall provide a final Operations and Maintenance (O&M) Plan for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the Petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M Plan shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
- 22. Prior to the issuance of any occupancy certificate, the Petitioner shall submit a Cannabis Control Commission approved security plan to the City of Newton Police Department for review and approval.
- 23. Prior to the issuance of any occupancy certificate, the Petitioner shall submit a Cannabis Control Commission approved emergency response plan to the City of Newton Fire Department for review and approval.
- 24. Prior to the issuance of any occupancy certificate, the Petitioner shall submit a Cannabis Control Commission approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.

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25. Prior to the issuance of a building permit, the Petitioner shall conduct a pre-construction closed-circuit television inspection of the City's drainpipe in concert with the proposed overflow connection from the rain garden and provide an electronic copy of such inspection to the Commissioner of Public Works.
26. Prior to the issuance of any occupancy certificate, the Petitioner shall conduct a post-construction closed-circuit television inspection of the City's drainpipe in concert with the proposed overflow connection from the rain garden and provide an electronic copy of such inspection to the Commissioner of Public Works.
27. Prior to the issuance of any building permit for the Project, the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The CMP shall be consistent and not in conflict with relevant conditions of this Special Permit/Site Plan Approval and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor or designee.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.

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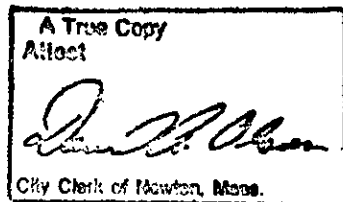
28. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the Petitioner has:

- a. Recorded a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County.
- b. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
- c. Received approval of the final engineering, utility, and drainage plans following submission for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
- d. Submitted a final Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer in accordance with Condition #27.
- e. Received approval from the Fire Department of the design and proposed operation of the Cross Street gate to ensure emergency access.
- f. Obtained a written statement from the Planning and Development Department that confirms the building permit plans are consistent with plans approved in Condition #1.
- g. Provided updated site and landscape plans that show additional bicycle parking, as well as covered bicycle parking.

29. No final inspection and/or any occupancy permit for the use or building covered by this Special Permit/Site Plan Approval shall be issued until the Petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
- b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
- c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Department of Public Works.
- d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance Plan for Stormwater Management in accordance with Condition #20.
- e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
- f. Received approval from the appropriate City Departments in accordance with Conditions #20 and #22 through #26 above.

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30. Notwithstanding the provisions of Condition #29 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules
Readings Waived and Approved
21 Yeas 2 Nays (Councilors Auchincloss and Gentile) 1 Recused (Councilor Humphrey)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on March 18, 2020. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on March 18, 2020 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council

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