



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

Barney S. Heath
Director

Ruthanne Fuller
Mayor

PUBLIC HEARING MEMORANDUM

DATE: February 22, 2024

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
Cat Kemmett, Senior Planner

SUBJECT: **Petition #116-24**
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 #67-20. 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 and is 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 allowing for retail marijuana use and opened in December 2021. In 2023 the petitioner proposed to amend their special permit to allow a Marijuana Treatment Center (“MTC”), or the sale of medical marijuana, in the building. Based on feedback and issues raised at the public hearing on October 24, 2023, the Land Use Committee voted to hold the item and the petitioner withdrew their petition.

After engaging in further community outreach, the petitioner is now re-filing the petition to co-locate an MTC in the facility. The City of Newton allows MTCs by special permit only if they meet minimum criteria outlined in the zoning ordinance. The petitioner requires an amendment to Special Permit #67-20 to allow the MTC use on the site.

Analysis

Planning is unconcerned with the request to add an MTC at this location. A retail marijuana establishment is already operating on the site, and the addition of the MTC will not require physical alterations to the exterior of the building or major operational changes. Allowing an MTC at this location will add an option for patients seeking medical treatments using these products.

The petitioner has taken several steps to address issues raised at the October 2023 public hearing. These measures include landscaping improvements to bring the site into compliance with the conditions of the existing special permit, updating operation procedures, and increasing communication with neighbors to find ways to reduce issues related to customer queuing and parking in the adjacent neighborhood. These steps should help mitigate existing issues on the site, and the addition of the medical use is unlikely to add new negative impacts to the neighborhood related to the business.

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)

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.

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).

In response to concerns raised at the October 2023 public hearing, the petitioner has revised several of the rules in their Standard Operating Procedures to address neighborhood concerns. These changes include the following:

- Employees will be required to pick up and dispose of trash before, after, and during business hours.
- Any customer caught littering after an initial verbal warning will be refused service.

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.

Several members of the public raised concerns about customers of Ascend and delivery drivers increasing traffic and parking in the neighborhood. The petitioner has stated that they have made efforts to communicate with their employees and delivery drivers that parking and queuing should be limited to the property only and has reached out to neighboring property owners to work on ways to address any outstanding parking and traffic issues.

E. Landscaping

There is a landscape plan governing this site approved under Special Permit #67-20. Staff noted at the October 2023 public hearing that some of the original plantings in the landscaped area at the front of the store had died, and maintenance would be required to comply with their landscape plan.

Based on a narrative provided by the petitioner, they have since hired a landscaping company to remove the dead plantings and replace them with landscaping consistent with what was approved in Order #67-20. They have also installed an additional trash receptacle on the property to help reduce littering on the site.

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

This petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: DRAFT Council Order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A

(617) 796-1142
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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 Chair, Andrea Kelley:

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 land uses in West Newton. Because no exterior changes are proposed, the addition of the MTC use will fit in at the existing location with minimal changes to the site. (§7.3.3.C.1)
2. The amendment to Council Order #67-20 to allow an MTC will not adversely affect the surrounding neighborhood because it is similar in nature to the existing retail marijuana use on the site. The addition of medical marijuana treatment will provide more options for area residents in need of medical treatment, and the Standard Operating Procedures for the establishment will mitigate potential nuisances to the surrounding area. (§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 because no changes are proposed to the access, parking, and or 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: #116-24

PETITIONER: Ascend Mass, LLC

LOCATION: 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

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 (BU-2) 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.