



Land Use Committee Report

City of Newton In City Council

Tuesday, June 5, 2018

Present: Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo

Also Present: Councilor Downs

City Staff Present: Associate City Solicitor Bob Waddick, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#290-18 **Special Permit Petition to extend non-conforming front setback at 12 Acorn Drive**
JENIFER AND ROBERT HEINSTEIN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to further extend the existing non-conforming front setback by enclosing the front entrance at 12 Acorn Drive, Ward 4, Auburndale, on land known as Section 44 Block 29 Lot 10, containing approximately 7,610 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Approved 8-0; Public Hearing Closed June 5, 2018**

Note: Petitioner Robert Heinstein presented the petition to increase the non-conforming front setback at 12 Acorn Drive. Mr. Heinstein provided an overview of the plan to rebuild the front steps and construct an open cover and full railings. Mr. Heinstein noted that the front steps currently extend into the front setback, but the new stairs will extend further in the front setback.

Senior Planner Neil Cronin provided an overview of the requested relief to increase the non-conforming front setback and criteria for consideration as shown on the attached presentation. Mr. Cronin noted that the front setback will be decreased from 27' to 22' and confirmed that an existing shed at the site, 4' from the property line will be moved to 5' from the property line to comply with setback requirements.

The Public Hearing was Opened.

Dorothy Bryson, 11 Acorn Drive, stated that the petitioners are wonderful and considerate neighbors. She noted that she is in support of the petition and urged Committee members to vote in favor of the petition.

With no other member of the public wishing to speak, Councilor Markiewicz motioned to close the public hearing. Committee members voted unanimously in favor of closing the public hearing. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members expressed no concerns relative to the petition. With a motion from Councilor Markiewicz, Committee members voted unanimously in favor of the motion to approve.

#291-18 **Special Permit Petition to allow detached accessory apartment at 1224 Boylston Street**
AMY McMAHON petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a detached accessory apartment in a 353 sq. ft. existing detached structure at 1224 Boylston Street, Ward 5, Newton Upper Falls, on land known as Section 51 Block 09 Lot 21 containing approximately 12,652 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 6.7.1.E.1 of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Approved 8-0; Public Hearing Closed June 5, 2018**

Note: Petitioner Amy McMahan presented the petition to allow a 353 sq. ft. detached accessory apartment in an existing structure at 1224 Boylston Street. Ms. McMahan noted that she has been at the site for 24 years and stated that permitting the accessory apartment will allow her to remain in the City. She hopes to upgrade the existing structure from an office/playhouse and create new unit.

Senior Planner Michael Gleba presented the requested relief to allow an accessory apartment in a detached accessory structure and the criteria for consideration as shown in the attached presentation. Mr. Gleba presented aerial photos, photos of the site, zoning and land use information.

The Public Hearing was opened. With no member of the public wishing to speak, Councilor Crossley motioned to close the public hearing. It was noted that a revised site plan was submitted to demonstrate the removal of a parking spot with access from Lucille Place. It was confirmed that the site has sufficient parking without the additional parking spot. Committee members reviewed the draft findings and conditions as shown in the attached presentation. Mr. Gleba noted that the revised site plan includes the previous open space calculation (with the parking space) and must be corrected. The Chair confirmed that the petitioner understands the conditions associated with accessory apartments. Committee members voted unanimously in favor of approval.

#292-18 **Special Permit Petition to exceed FAR at 39 Summit Street**
VANESSA LIPSCHITZ AND MATTHEW HELMING petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 455 sq. ft. two-story addition, creating an FAR of .58 where .39 exists and .45 is allowed at 39 Summit Street, Ward 1, Newton, on land known as Section 12 Block 22 Lot 24, containing approximately 5,439 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 7.3.3, 7.4, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2015.

Action: **Public Hearing Opened; Land Use Held to June 12, 2018**

Note: As the petitioner is out of town, they requested that the public hearing be continued to June 12, 2018. The Public Hearing was Opened. Seeing no member of the public wishing to speak, Committee members voted unanimously in favor of holding the item until June 12, 2018.

#215-18 Special Permit Petition to allow a rear-lot subdivision at 156 Otis Street

156 OTIS STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to create two lots, raze the existing single-family dwelling and construct single-family dwellings on each lot at 156 Otis Street, Ward 2, West Newton, on land known as Section 24, Block 13, Lot 14A, containing approximately 43,700 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.5, 3.1.10 and 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 8-0; Public Hearing Closed June 5, 2018

Note: Atty. Laurance Lee presented updates to the petition as presented on May 8, 2018. At the public hearing, the petitioner was asked to submit information concerning the relative heights of the proposed structures. In response to the concerns raised by members of the public and Committee members, the petitioner submitted cross sections and updated landscape plans. The revised landscape plan shows a berm between the two proposed lots, that works to break up the single driveway. Additionally, the easterly border was modified to reduce the appearance of a wall of trees. Architect Treff LaFleche, LDA Architects and Interiors, presented renderings of the proposed two houses (front lot and rear lot) from different views. He noted that the garage takes advantage of the lot's topography and is built at the lowest point. The petitioner's presentation is attached.

Senior Planner Michael Gleba stated that the Planning Department is appreciative of the incorporation of the landscaped strip to break up the driveway as well as the inclusion of additional tree species along the property line. Mr. Gleba presented a cross section of the proposed structures to demonstrate the relative heights. In response to questions from Committee members, Atty. Lee noted that the ridge height of the proposed structures is comparable to the adjacent structures. Additionally, Atty. Lee stated that the combined square footage of the proposed structures is several thousand square feet smaller than a project that could be built as a matter of height. He continued, noting that the last 1/3 of the property is subject to conservation protection in terms of the Order of Conditions and may not be built on.

A Committee member questioned if the drainage has been addressed as members of the public expressed concerns relative to flooding at the public hearing on May 8. Chief Planner Jennifer Caira confirmed that the Engineering Department has reviewed and approved of the design and stated that the City's drainage issues are being addressed by the Water Department. Committee members were supportive of the improvements. Seeing no member of the public wishing to speak, Councilor Auchincloss motioned to close the public hearing which carried unanimously. Committee members reviewed the draft findings and conditions. A Committee member questioned whether the petitioner is going to be blasting. It was confirmed that no blasting is anticipated. With a motion from Councilor Auchincloss to approve the petition, Committee members voted unanimously in favor.

#289-18 Special Permit Petition to amend Board Order #167-14 for Garden Remedies

GARDEN REMEDIES, INC/697 WASHINGTON STREET REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #167-14 to allow the retail sale of recreational marijuana and medical marijuana, to delete Condition #3 relative to customer appointments, to amend Condition #4 to allow up to 12 employees at one time, to amend Condition #5 to modify the hours of operation, to expand the premises to include

additional space, to allow waivers to perimeter screening requirements, to allow waivers to interior landscaping requirements, to allow waivers for parking facility requirements for; parking in the front setback, waivers to interior landscaping, waivers for interior planting area requirements, waivers to requirements for tree planting, waivers to requirements for bumper overhang area landscaping, waivers to requirements for 1-foot candle lighting, waivers for retaining walls over 4' in height and a waiver for 5 parking stalls to the extent necessary in Ward 2, Newton at 697 Washington Street (Section 23 Block 19 Lot 01B), 691 Washington Street (Section 23 Block 19 Lot 01A), 681 Washington Street (Section 23 Block 19 Lot 01) and 2 Court Street (Section 23 Block 19 Lot 23), containing approximately 16,669 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: 7.3.3, 7.4, 5.1.8.A.1, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10.A.1, 5.4.2.B of the City of Newton Rev Zoning Ord, 2015.

Action: **Land Use Held; Public Hearing Continued to June 26, 2018**

Note: Attorney Stephen Buchbinder represented the petitioners, Garden Remedies, Inc. and 695 Washington Street, Realty Trust. He presented an overview of the petition. Garden Remedies is seeking to expand its operations at 697 Washington Street to include the sale of adult-use for recreational marijuana, in addition to the continued sale of medical marijuana. 697 Realty Trust is the owner of the premises and is seeking a Special Permit to construct a parking lot for the use of Garden Remedies customers. At the recommendation of the Planning Department, the petitioners consolidated the requests into one petition for consideration. Present were representative of Garden Remedies, representatives of the Garden Remedies development team and of the Trust. Atty. Katherine Adams stated that after the legalization of medical marijuana in 2012, Garden Remedies opened for operation in 2016. Additionally, in 2016, Massachusetts voted to legalize marijuana for adult-use. The Cannabis Control Commission (CCC) regulates medical and adult-use facilities and will eventually be consolidated with the Department of Public Health. Garden Remedies has applied to the CCC for an adult-use license. Atty. Adams noted that the City Council voted to enact a temporary moratorium on adult use sales in order to afford the City an opportunity to develop appropriate guidelines. The City Council granted an exception from the temporary moratorium to Garden Remedies, as the company is in a class of medical marijuana operators which were granted a special protected status under the state regulatory scheme. It was noted that municipalities may not enact zoning which prevents these grandfathered companies from expanding into the adult use market.

Dr. Karen Munkacy is a Board Certified anesthesiologist with training in pain management. She worked in support of medical marijuana and after it was approved statewide, she applied for and was granted a license. The dispensary was opened in November 2016 and she has placed an emphasis is on the highest quality projects. She has spent a significant amount of time on educating patients how to safely use the product. She noted that there are over 500 patients in Newton. Dr. Munkacy continued, noting that allowing adult-use marijuana will allow individuals to purchase the product from a safe vendor that ensures there are no contaminants. Dr. Munkacy noted that stringent security measures will ensure that individuals of age are purchasing the marijuana. She stated that Garden Remedies has agreed to give the City three percent of the gross revenues of medical sales and has offered to make that retroactive to March 2018. The three percent of gross revenues of adult-use sales is in addition to the three percent local tax on adult-use sales. Medical sales will not be taxed at all. Garden Remedies has also proposed a

charitable contribution of \$2500 per year and has agreed to build a bus shelter on Washington Street near the facility.

Head of Security and former State Trooper Karen Hawks spoke in support of the removal of the production and distribution of marijuana from a dangerous, illicit market as well as prevention of the sale of marijuana to individuals under 21 years of age. Ms. Hawks emphasized the strict security measures at Garden Remedies and explained that the facility will only allow individuals over the age of 21 inside. IDs will be checked using an electronic age verification scanner and education is provided on responsible consumption.

Attorney Buchbinder stated that the existing retail space is small, which leaves no space for an office. The petitioner proposes to use additional space in the building as office space and a waiting room. As part of the request to amend the Special Permit, the petitioner proposes to eliminate the condition that requires the facility to operate as “appointment only”, as the process has proven to be a burden. Additionally, the petitioner is seeking to extend the hours of operation to 9:00 am – 9:00 pm and add Sunday hours from 12:00 pm – 6:00 pm (where currently there are none).

VHB Traffic Engineer Patrick Dunford, provided an overview of the traffic study. He stated that the recent construction at Washington Street/Harvard Street resulted in the installation of a full traffic signal. The traffic study accounts for future conditions including; Washington Place project, 28 Austin Street, Sunrise Assisted Living and a housing development on Adams Street. A key area of the study is parking. Mr. Dunford stated that the parking study accounts for 6 existing employees who will move from street parking to off-site locations or will access the site by utilizing public transportation or car services (Uber, Lyft). The petitioner has proposed to subsidize transit passes. Mr. Dunford noted that the new parking lot will have a minimum of 13 spaces to start. It is being designed to allow easy reconfiguration for an additional three parking spaces, if necessary. No new curb cut or driveway is proposed on Washington Street. It is anticipated that customers will use the intersection of Washington Street/Court Street. Mr. Dunford noted that the intersection now has signalized crosswalks and stated that national traffic data suggests that adult-use marijuana facilities are nominal generators.

Attorney Buchbinder noted that there has been a site visit with neighbors and the petitioner has agreed a request to install an 8’ fence and some plantings. He stated that the community meeting held in March had 50 individuals in attendance and noted that a presentation was also made to the Nonantum Neighborhood Association. It was noted that the Planning Department has recommended a look back provision at the end of 6 months – one year relative to the on-site parking spaces.

Chief Planner Jennifer Caira noted that the Planning Department would like to clarify that there is a request to continue the “appointment only” condition and maintain 6 employees until the parking facility is built. After the parking facility is built, the petitioner may have 12 employees. Ms. Caira noted that the Transportation Department is still reviewing the traffic study. The Public Hearing was Opened.

Public Comment

Adam Lunin, 24 Court Street, has concerns about the impact of a recreational marijuana facility being made available for Newton teenagers. He stated that he has had to ask customers to leave his property

multiple times within the past year. He has concerns about the impact of parking and noted that recent and proposed developments were not included. Mr. Lunin believes that the facility is too large for the neighborhood and will have an adverse effect.

Mark Goldstone, 82 Cabot Street, stated that he is not opposed to the use of medical marijuana or recreational marijuana, but believes that the location is not appropriate for recreational use. Mr. Goldstone questioned why Garden Remedies should be granted an exception and stated that they should wait until the moratorium is over. He noted that the petitioner intends to remove trees and landscaping which will expose 24 Court Street to noise, traffic and environmental impacts. He stated that the lighting has not been fully addressed.

Bob Kavanaugh, 69 Court Street, noted that the community meeting relative to the petition was held in Newton Highlands. Mr. Kavanaugh has concerns about the impact on traffic, sightlines and parking.

Alison Strausberg, 62 Edgefield Road, noted that she has seen the benefits first hand of medical marijuana. She is supportive of the adult-use at the site because she believes it will be medically beneficial to those without medical cards. She noted that the adult-use will generate additional tax revenue and urged Committee members to support the petition.

Eugenia Bell Zersky, 230 Walnut Street, supports the benefits of medical marijuana use. She stated that marijuana use has benefitted her and she is confident that it will be beneficial as an alternative medicine for individuals suffering from different ailments.

Robert Burke, Wyoming Road, is not in favor of the sale of marijuana. He stated that if the City does not opt-out, it will be inundated by people coming from out of town to purchase marijuana. Mr. Burke has concerns that the added burden will negatively impact traffic

Norman, 77 Court Street, noted that the City is spending a considerable amount of money to investigate rezoning Washington Street. He believes that the petition should be put on hold until the zoning for Washington Street has been determined.

Annie Raynes, 50 Court Street, believes that the proposed construction and entrance on Court Street will exacerbate traffic public safety issues. She stated that the green space in the vacant lot absorbs water and noted that she has concerns about added runoff from a new parking lot causing damage to abutting properties. Ms. Raynes has concerns about the newly undergrounded utilities as well.

Ginny Gardner, West Newton, believes that medical marijuana should be available to those in need, but noted that the proposed use is for adult-use. She noted that recreational marijuana will not be used strictly for medical purposes and reminded the Committee of various instances where drivers under the influence were in accidents with pedestrians who were killed. She stated that implementation of adult-use should be postponed until a time when a test is available for drivers under the influence.

Jeremiah, 114 West Street, received a medical card in 2009 to address chronic pain. He stated that the medical marijuana helps him sleep and reduces anxiety. He is supportive of the proposed adult use.

Ming, 16 Francis Street, has concerns that the name “Garden Remedies” will confuse children. He noted that based on the numbers, approximately 222 will be using the adult-use facility. He has concerns that the parking will be insufficient to address the parking demand.

Alaina Wright, 94 Ridge Avenue, noted that allowing adult-use marijuana will make marijuana more readily available to high school students. She noted that the use of marijuana prevents absorption of information and she believes that Newton should opt-out.

Amy Wayne, 1616 Centre Street, is against recreational marijuana. She noted that the traffic information may be skewed because abutting communities may be opt-out and they may not be able to purchase marijuana in their community, causing additional burdens on Newton. She has concerns that there are no tests to gauge whether those under the influence can properly maneuver a vehicle.

Jiarong Fang, 46 Court Street, has concerns about the recreational marijuana impacts. She noted that kids should not live in an environment with marijuana and questioned whether there are sufficient rules for marijuana use. She believes the adult-use will have a negative impact on children.

The Chair asked the Planning Department to review the traffic data submitted, a management plan, and diversion tactics. Committee members emphasized that the adult-use is very different than medicinal use and asked that the petitioner not emphasize the medicinal benefits. Committee members asked the petitioner to identify how all employees will park off-site or use car services. It was noted that while the state regulates the co-location of an adult-use facility, the Council may mitigate the impacts of the business through traffic calming, hours of operation and transportation management. Committee members noted that the added burden of a recreational marijuana facility should be evaluated and acknowledge some existing traffic constraints in the neighborhood. Committee members asked the petitioner to address security details at the next meeting. With a motion from Councilor Auchincloss to hold the item, Committee members voted unanimously to hold the item until June 26, 2018.

#288-18 Special Permit Petition to allow RMD at 24-26 Elliot Street

CYPRESS TREE MANAGEMENT, INC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a registered medical marijuana dispensary in a non-conforming structure, to waive minimum stall dimensions, to waive minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements, to waive requirements for interior planting, to waive requirement for interior tree planting, to waive requirements for bumper overhang area landscaping, to waive requirements for 1-foot candle lighting and to allow the RMD to be located within 500’ of a school at 24-26 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 25 Lot 01, containing approximately 25,320 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec 7.3.3, 7.4, 6.10.3, 6.10.3.D.1, 6.10.3.F.2, 4.1.3, 6.10.3.D.5, 7.8.1.C.1, 7.8.2.C.2, 5.1.12, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.9.A, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10.A.1 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Held; Public Hearing Continued to July 10, 2018

Note: Atty. Stephen Buchbinder represented Cypress Tree Management, Inc. to present the request for a Special Permit petition to open a medical marijuana dispensary. Atty. Buchbinder stated that it is the petitioner's intent to expand to adult-use in the future. The site, containing 25,230 sq. ft. can be accessed through Elliot Street or the shopping plaza and is located close to Route 9 and the MTA station. Parking is available at the front and rear of the site and it is the petitioner's intent to renovate and improve the site. Atty. Buchbinder stated that because there is a Spanish Immersion Montessori school for children aged 2-5 within 500' of the proposed dispensary, additional relief is necessary.

Todd Finard, Founding Principal of Cypress Tree Management, presented an overview of the intent of Cypress Tree Management; to create a wellness center and a friendly environment where customers can ask questions and feel comfortable. The center, an 8,000 sq. ft. building will have space for retail spaces that can be programmed with varying retail and experiential pop up shops. Mr. Finard stated that he believes the Elliot Street location, outside the village center is ideal.

Becky Dempsey, Director of Education and Wellness at Cypress Tree, indicated that she became a patient who uses medical marijuana to treat her Lupis. Ms. Dempsey stated that the prescription drugs she was previously prescribed had detrimental effects and noted that the use of cannabis has been helpful for treatment of chronic pain and can have limited psychoactivity. Ms. Dempsey stated that she believes in the benefit of medical marijuana and supporting wellness programs and emphasized that the Cypress Tree Management Team is committed to education and responsibility.

Patrick Dunford, Traffic Engineer, VHB, provided an overview of the traffic study. Mr. Dunford noted that the proposed development will replace the Green Tea Restaurant and the Fabu Salon. The traffic study, projects conditions at the site 7 years out. Mr. Dunford stated that the peak times are shown to be from 5:00 pm – 6:00 pm during the week and 12:00 pm – 1:00 pm during the weekends. He demonstrated details of the traffic study (shown on the attached presentation). Mr. Dunford reviewed the existing site deficiencies which include a significant amount of cut through traffic. He noted that the lot is in poor condition and includes some ineffective parking alignment. Currently, parking exists along the face of the building to the building edge. He stated that on Elliot Street, an existing curb cut will be closed. Mr. Dunford noted that improvements to the site will include the creation of a contiguous sidewalk, which will promote improved aesthetics and pedestrian safety. He confirmed that the petitioner is analyzing additional ways to reduce cut-through traffic and improve safety conditions. Mr. Dunford noted that while the site is ¼ mile from the MBTA station, the traffic study did not decrease traffic to account for customer use of the train. Mr. Dunford emphasized the notable improvement to parking and stated that the proposed traffic changes will not make a noticeable difference. In response to a request from the Planning Department to make the spaces more conforming, than the proposed 8-9' x 16', Atty. Buchbinder stated that larger stalls would not be beneficial on the site. He noted that there are employees to valet park cars. The petitioner hopes to reevaluate the need for valet parking after 60 days, as it may not be necessary during all hours of operation. Atty. Buchbinder added that the petitioner is working with Mr. Nehoshian to beautify the wall on his property. In response to a request to address security, Mr. Finard stated that the facility will have guards checking customers in to a secured vestibule and checking identification.

Senior Planner Neil Cronin presented the following two questions on behalf of the Planning Department

1. There is reduced lighting at the rear of the site, how will security be handled?
2. Will there be people loitering between the retail spaces at the front of the site?

Public Comment

Mike Vahey, 27-29 Elliot Street, stated that there are residences directly across the street from the proposed dispensary. He does not believe that the site is appropriate. Mr. Vahey noted that RMDs are comparable uses to KENO, adult businesses and are prohibited in adjacent zones. Mr. Vahey emphasized that the RMD use is not appropriate in the neighborhood which has residences as well as a school. He stated that residents hope to stay in the neighborhood, but the location of a dispensary could drive them out. Mr. Vahey has concerns about inaccuracies in the traffic study.

Paul Coletti, 34 Columbia Avenue, spoke in favor of the proposed use and argued that it is another type of retail. He stated that there are existing traffic problems and noted that the street needs to be redesigned. He noted that the City is the largest land owner in the area, exacerbating traffic problems in the area. He stated that before the City conditions petitioners on how to operate their businesses, they must maintain the City's properties.

Xian jin jon, A resident on , 1 block from Green Tea, Circuit Ave, stated that he is opposed to the proposed use. He stated that the traffic in the area is already congested and noted that there are two nursery schools in the area.

Owner 19-21 Elliot Street, stated that he is reliant on the rental income from the property at 19-21 Eliot Street. He has concerns about the safety of the tenants, the traffic impacts and the future recreational use. He stated that he has concerns about retaining tenants and the ability to rent the property.

Holly, 1 Francis Street, spoke on behalf of five mothers in the neighborhood. They are opposed to the marijuana use in the neighborhood and don't believe that its good for the children's health. She noted that the use will promote a bad image for the City.

Min, Francis Street, noted that the City is still reviewing the Zoning laws for marijuana stores. He noted that there is a municipality in California that doesn't allow marijuana dispensaries within 1000' of children's facilities, due to the potential health impacts. He emphasized that the proposed location is very close to bus stops and he has concerns about the effects of secondhand smoke.

So , 23 Elliot Street, noted that she moved to the City because of the safety and the good schools. She has concerns that her tenants will leave if the dispensary is opened. She also has concerns about the decreased safety due to the increased traffic and about the decreased property values.

Evan Michelle, 21 Elliot Street, is opposed to the proposed facility. He has concerns about the impact on traffic, substance abuse, impact on youth and security.

Tiffany Ting, 1022 Boylston Street, has concerns about the proposed dispensary. She has concerns about the proximity of residences and families. Ms. Ting stated that she has concerns about traffic and noted that traffic is already congested based on the proximity to the highway.

Ann waldox, a Clinical Psychologist, spoke in favor of the benefits of medical marijuana. She stated that she believes there is adequate parking and she believes the proposed location is appropriate.

Dianne sanborn, 48 Circuit Avenue, stated that she believes that the traffic study is inaccurate and noted that traffic at the intersection is congested. She stated that when the snow is piled, it blocks the entrance and making it very difficult to navigate the site. Ms. Sanborn noted that Circuit Ave is heavily used and she has concerns about the traffic on Circuit Avenue increasing. She believes this is an inappropriate location for the proposed use.

Ruthie Gud , 4 Francis Street, is opposed to the proposed dispensary. She has concerns about the enforcement/safety at the site and believes that customers may use marijuana in the adjacent neighborhoods.

Jo louise, 24 allen terrace, noted that there is a liquor store, without security, in close proximity to the residences in the neighborhood. She stated that she doesn't believe that property values will decrease and noted that the liquor stores should be held to the same regard as the proposed dispensary.

Greer Tan Swiston, 80 Orchard Avenue, is in support of the proposed dispensary. She stated that the developer has been working to collaborate with the community as well as evaluate the existing traffic conditions and provide solutions. She noted that it is evident that traffic is an issue throughout the City but believes that the City should work with developers to make improvements throughout the City. She does not believe it is fair to stigmatize the use of medical marijuana.

Chris Harris, 1006 Boylston Street, noted that the traffic is not accurately reflected in the traffic study. She stated that traffic is always backed up and she has concerns that the increase in traffic will decrease her quality of life.

Susanne , 1110 Boylston Street, does not believe this is a good location for a marijuana dispensary. She stated that there are too many residential abutters, a nursing home and a daycare. She believes that the City should provide education about medical marijuana.

Glen , 22 Columbia Avenue, stated that he is opposed to the proposed marijuana dispensary. He stated that there is no direct community benefit. He is supportive of medical marijuana but hopes that the City will carefully consider where to locate the dispensaries.

Committee member asked the petitioner to be prepared to address the following outstanding items at the public hearing to be continued to July 10. 2018.

- Impact on traffic and safety at the intersection/on Route 9/on Elliot Street
- Internal Security Measures

- The location of two parallel parking spaces along the easement and whether they will be removed for the location of a garden
- Can a “Don’t Block the Box” crosshatch be painted to extend across curb cuts and prevent traffic jams
- Whether the access to the Negoshian’s site be closed?

With a motion to hold, Committee members voted to hold the item until July 10, 2018. The Committee adjourned at 11:00 pm.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



PETITION #290-18
12 ACORN DRIVE

**SPECIAL PERMIT/SITE PLAN
APPROVAL TO INCREASE THE
NONCONFORMING FRONT
SETBACK**

JUNE 5, 2018



Requested Relief

- Special Permit per §7.8.2.C.2 of the NZO to:
- Further increase a nonconforming front setback (§3.1.3).

Criteria to Consider

- When reviewing this request, the Council should consider whether:
- The proposed increase in the nonconforming front setback will be substantially more detrimental than the existing nonconforming front setback is to the neighborhood (§3.1.3 and §7.8.2.C.2).

Aerial/GIS Map



Department of Planning and Development



PETITION #291-18

ADDRESS

SPECIAL PERMIT/SITE PLAN APPROVAL TO ALLOW A DETACHED ACCESSORY APARTMENT IN A 353 SQ. FT. EXISTING DETACHED STRUCTURE

JUNE 5, 2018



Requested Relief

Special permit per §7.3.3 to:

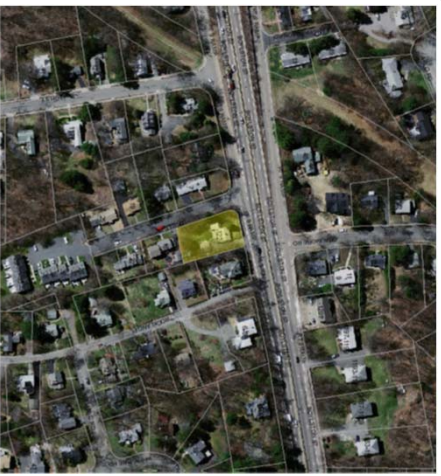
- allow the creation of an accessory apartment in a detached structure accessory to a single-family dwelling (§6.7.1.E.1)

Criteria to Consider

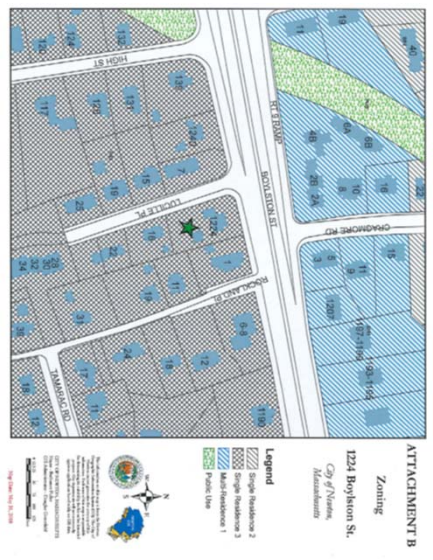
When reviewing the requested special permits the Council should consider whether:

- The site in a Single Residence 3 (SR3) district is an appropriate location for the proposed accessory apartment in an existing detached structure (§7.3.3.C.1);
- The proposed accessory apartment in an existing detached structure will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed accessory apartment in an existing detached structure will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

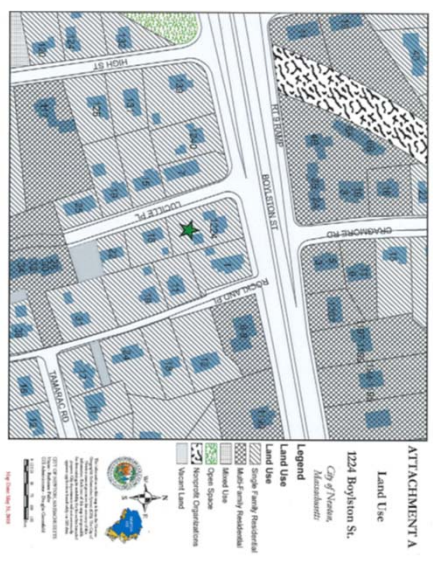
AERIAL/GIS MAP



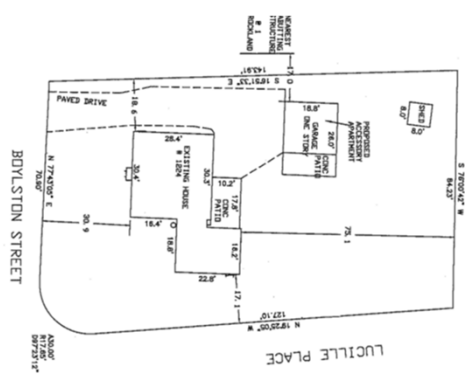
Zoning



Land Use



Site Plan



Photos



Photos



Photos



Photos



Photos



Proposed Findings

1. The site is an appropriate location for an accessory apartment within an existing accessory structure (§7.3.3.C.1);
2. The proposed accessory apartment within an existing accessory structure will not adversely affect the neighborhood as it will be set back from the adjacent public way and abutting properties (§7.3.3.C.2);
3. The proposed accessory apartment within an existing accessory structure will not be a nuisance or create a serious hazard to vehicles or 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);
5. The proposed accessory apartment within an existing accessory structure is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood (§6.7.1.E.3);
6. The proposed accessory apartment will help to diversify Newton's housing stock consistent with Newton's Comprehensive Plan.

Proposed Conditions

1. Plan Referencing Condition
(Corrected open space calculation)
2. Standard Building Permit Condition
3. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit
4. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year
5. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes
6. Standard Final Inspection/Certificate of Occupancy Condition

Proposed Conditions (con't)



156 Otis Street, Newton

Special Permit – Land Use Committee
Public Hearing of May 8, 2018

156 Otis Street, Newton Key Facts

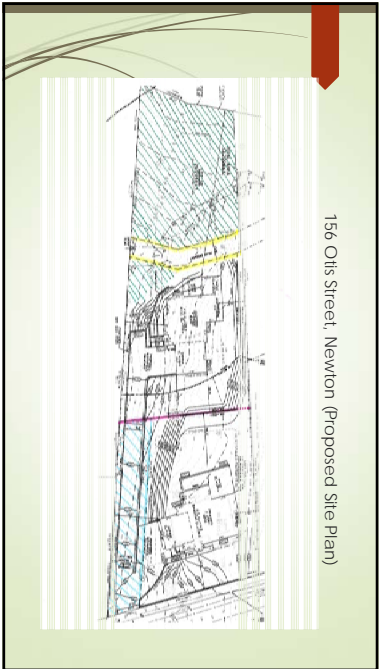
- SR2 zone
- Total Land Area = 43,700 SF. (min. 10,000 old/15,000 new)
- Proposed Front Lot = 18,456 SF; Rear Lot = 25,244 SF
- Frontage 145 feet on Otis Street; (min. 100 ft.)
- NHC decision May 1, 2015 - Existing house NOT significant
- Conservation Commission approval – Order of Conditions issued April 5, 2018.

156 Otis Street, Newton



Area Map

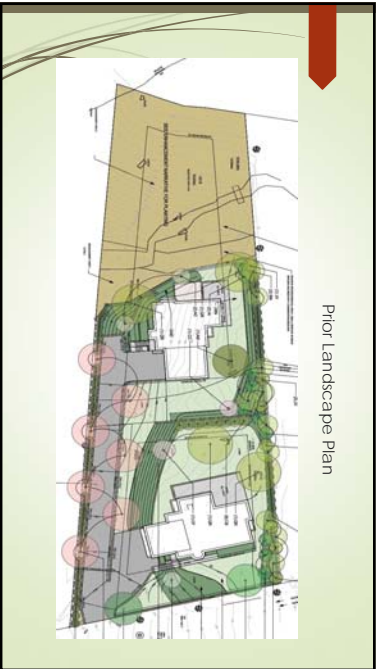




156 Otis Street, Newton (Proposed Site Plan)



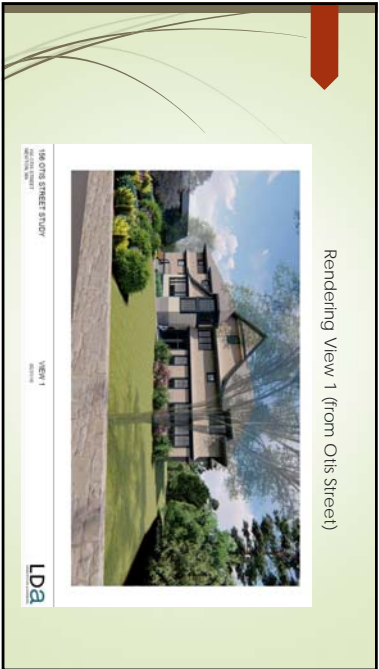
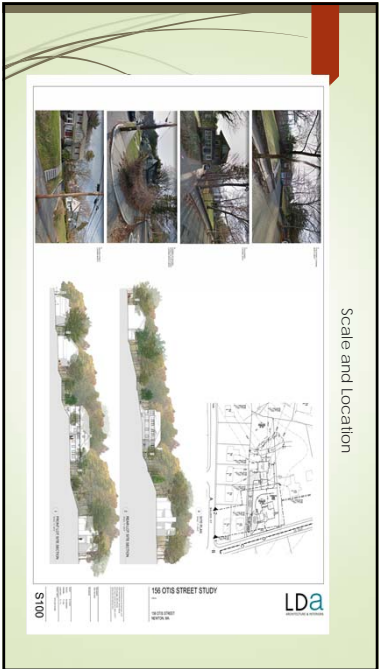
Conservation Commission Approved Plan



Prior Landscape Plan



Updated Landscape Plan





Department of Planning and Development



PETITION #215-18
156 OTIS STREET
SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW A REAR
LOT SUBDIVISION TO CREATE
TWO LOTS, RAZE THE EXISTING
SINGLE-FAMILY DWELLING AND
CONSTRUCT SINGLE-FAMILY
DWELLINGS ON EACH LOT



JUNE 5, 2018

Requested Relief

Special permit per §7.3.3 to:

- allow the subdivision of a rear lot (§3.2.12)
- allow a retaining wall of more than 4 feet within a setback (§5.4.2.B)

Criteria to Consider

When reviewing the requested special permits the Council should consider whether:

- the site is an appropriate location for the two proposed one-family dwellings with the proposed retaining walls in excess of four feet in height in a setback (§7.3.3.C.1);
- the project as proposed will not adversely affect the neighborhood, (§7.3.3.C.2);
- there would be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);

Criteria to Consider (cont.)

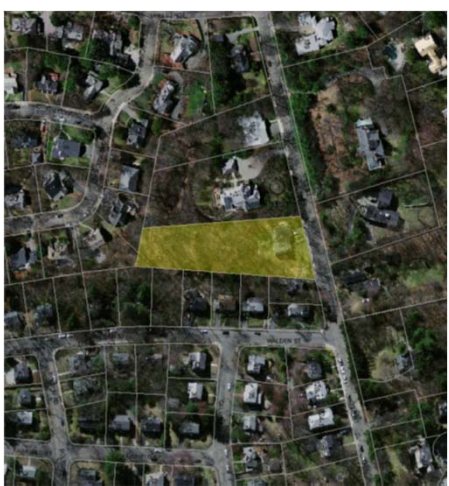
The City Council shall also consider the following **additional criteria for a rear lot development** in a residential zoning district:

- whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes (§7.3.4.B.1);
- the scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood (§7.3.4.B.2);
- topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes (§7.3.4.B.3);

Criteria to Consider (cont.)

- proposed landscape screening (§7.3.4.B.4);
- adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways (§7.3.4.B.5);
- whether any historic or conservation public benefit is provided or advanced by the proposed development (§7.3.4.B.6);
- siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes (§7.3.4.B.8); and
- impact of proposed lighting on the abutting properties (§7.3.4.B.9).

AERIAL/GIS MAP



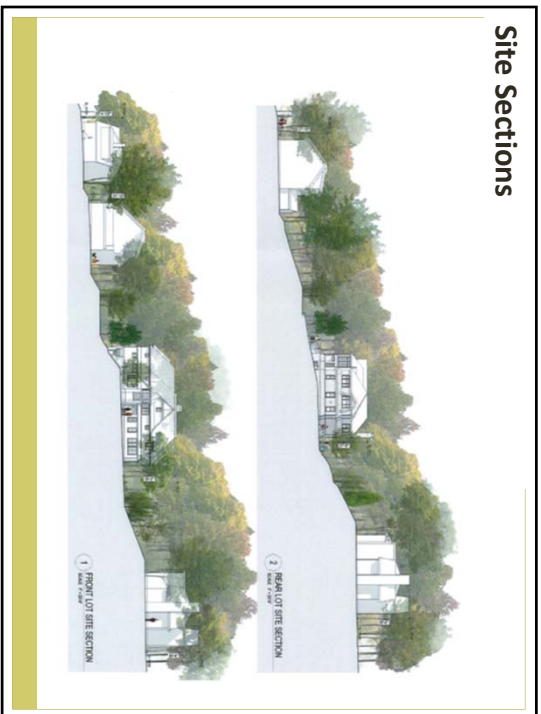
Zoning



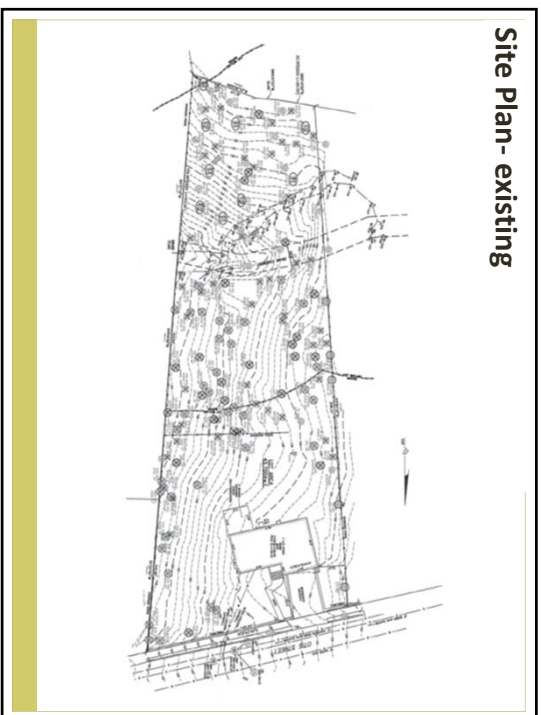
Land Use



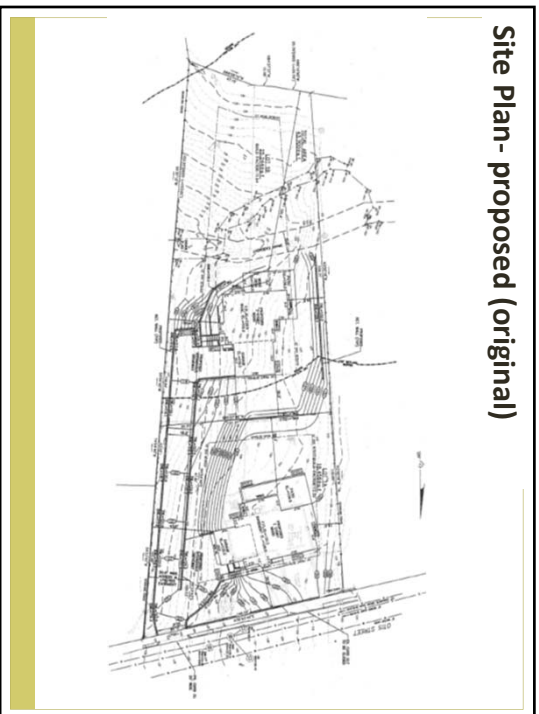
Site Sections



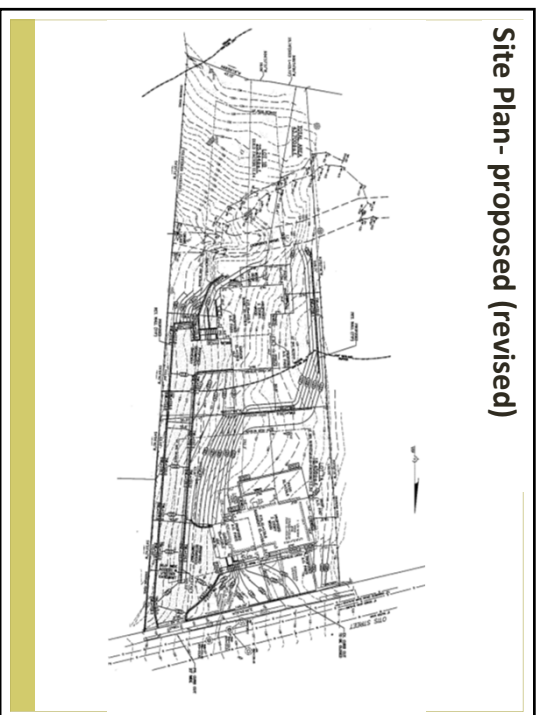
Site Plan - existing



Site Plan - proposed (original)



Site Plan - proposed (revised)



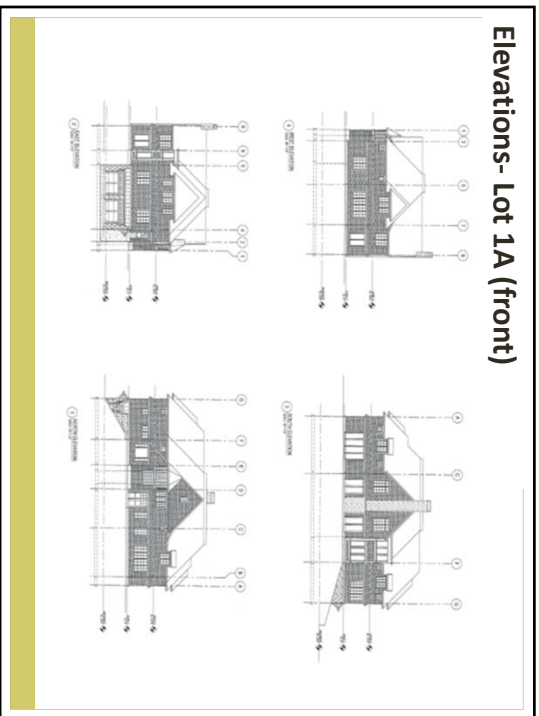
Tree plan - original



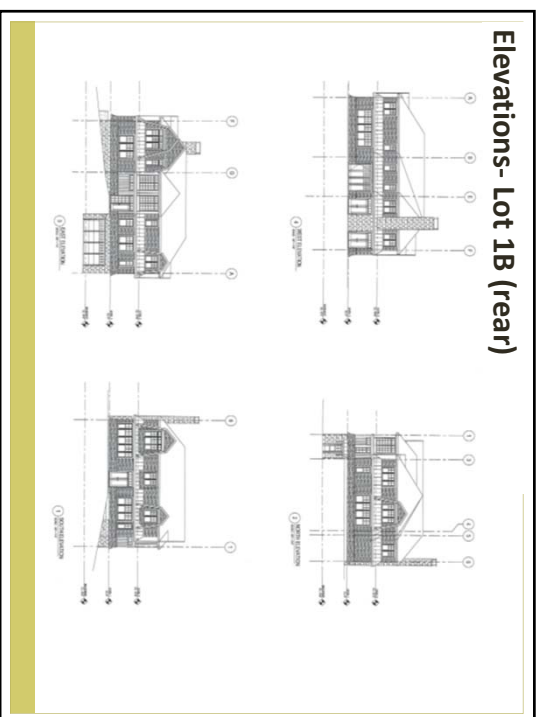
Tree plan - dated 5/31/18



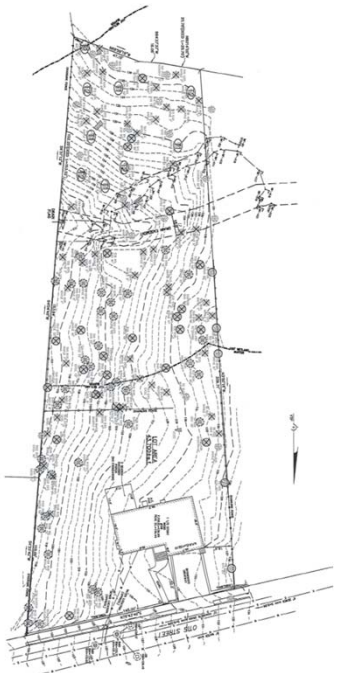
Elevations - Lot 1A (front)



Elevations - Lot 1B (rear)



Tree removal plan



Photos



Photos



Photos



Photos



Photos



Photos



Photos



Photos



Photos



Proposed Findings

1. The site is an appropriate location for the proposed use and structures as the proposed new front and rear lots will be used as single-family dwellings in a Single Residence 2 (SR2) district. (§7.3.3.C.1);
2. As single-family dwellings in a Single Residence 2 (SR2) district, the proposed residential use as will not adversely affect the neighborhood. (§7.3.3.C.2);
3. The proposed shared 20 foot wide driveway would provide adequate sight lines, there will be no nuisance or serious hazard to vehicles or 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);
5. At 30.37' the height of the proposed rear dwelling does not exceed the respective average height of abutting residential buildings and any structures used for accessory purposes (§7.3.4.B.1);
6. The two proposed single-family dwellings are designed in such a manner so that their massing and scale will be in character and consistent with adjacent existing and allowed residential structures in the surrounding Single Residence 2 (SR2) zoning district. (§7.3.4.B.2);

Proposed Findings (con't)

7. Differences in the relative dwelling heights between the proposed rear dwelling and structures on abutting properties are largely reflect the neighborhood's topography (§7.3.4.B.3);
8. The proposed landscape plan includes the extensive installation of trees and other vegetation which will largely screen the new dwellings from abutting properties. (§7.3.4.B.4);
9. The common driveway along the east property line is adequate for vehicular access (§7.3.4.B.5);
10. A portion of the rear lot will be maintained as a Conservation Commission approved Enhancement Area (§7.3.4.B.6);
11. The siting of the proposed front dwelling in the general area of an existing dwelling, and that of the rear dwelling structure near the center of a large lot, are appropriate given the scales and locations of abutting residential structures. (§7.3.4.B.8);
12. The proposed lighting will be residential in character and will not impact abutting properties (§7.3.4.B.9).

Proposed Conditions

1. Plan Referencing Condition
2. All utilities shall be located underground from the property line
3. All lighting fixtures shall be residential in scale
4. Operations and Maintenance Plan (O&M) for stormwater management requirement
5. Final Site Plan- review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department
6. Final Landscape Plan- review and approval by the Director of Planning and Development.

Proposed Conditions (con't)

11. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide 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.
12. The landscaping shown on the approved Final Landscape Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.

Proposed Conditions (con't)

7. Construction Management Plan (CMP)- review and approval by Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department
8. Standard Building Permit Condition (for one or both of the dwellings)
9. Standard Final Inspection/Certificate of Occupancy Condition.
10. No Final Inspection and/or Occupancy Permit for either of the dwellings constructed pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has, as such it relates to the such dwelling(s) for which the such Final Inspection and/or Occupancy Permit is requested, has filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the stormwater and drainage improvements identified in the provisions of Condition #1 above have been constructed to the standards of the City of Newton Engineering Department.



Garden Remedies, Inc.
697 Washington Street
Land Use Committee, June 5, 2018

Schlesinger and Bachlander, LLP
ATTORNEYS AT LAW



Schlesinger and Bachlander, LLP
ATTORNEYS AT LAW

Aerial View



State Regulatory Background

Schlesinger and Bachlander, LLP
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- Nov. 2012 - Medical marijuana legalized
- Nov. 2016
 - Adult-use marijuana legalized
 - Garden Remedies opens for medical sales
- Fall 2017
 - Adult Use program refined: CCC created, regulations drafted
- March 2018
 - Adult Use regulations finalized
 - Newton enacts temporary moratorium; exempts Garden Remedies from moratorium
- July 1, 2018 - First possible date for Adult Use sales in Massachusetts

Background/Current Operations

Schlesinger and Bachlander, LLP
ATTORNEYS AT LAW

- Dr. Munkacy background
- Current operations and track record
- Reasons for expansion into adult-use market: safer product, access for patients who can't get medical cards.
- Limit sales to 21+ only, reserve inventory for patients.

Positive Impacts for Community

- Host Agreement payment of 3% of gross revenues of Medical sales.
- Host Agreement payment of 3% of gross revenues of Adult-Use sales.
- Newton has approved an additional 3% local tax on Adult-Use sales.
- Will make charitable contributions of at least \$2,500 per year.
- Participation in Newton Food Drive.
- Provides safe product.

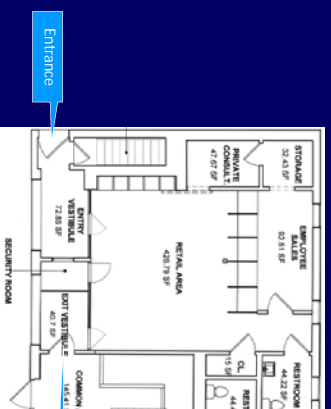
Adult-Use Act Purpose

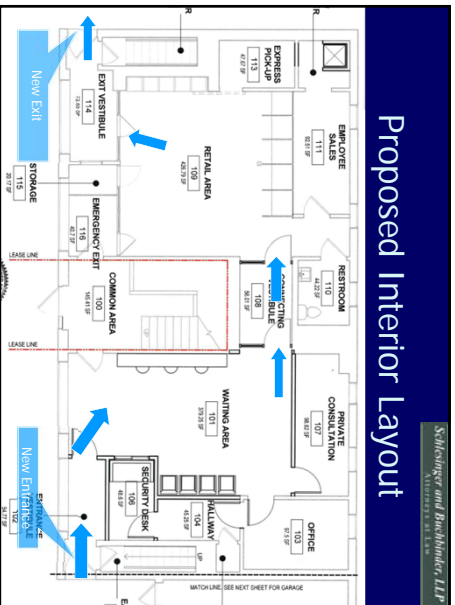
The intent of the adult use act is to remove the production and distribution of marijuana from the dangerous illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated, taxed and safe distribution system that will not sell to minors.

Security Protocols

- Protocol for entering facility (electronic ID reader)
- Educate patients to lock up medicine at home (sell lock boxes)
- Refuse to sell to anyone suspected of diversion
- No incidents of nuisance to community
- Good relationship with Newton Police Dept

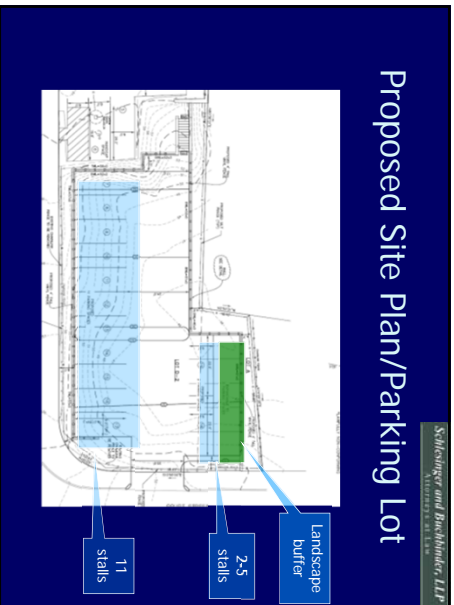
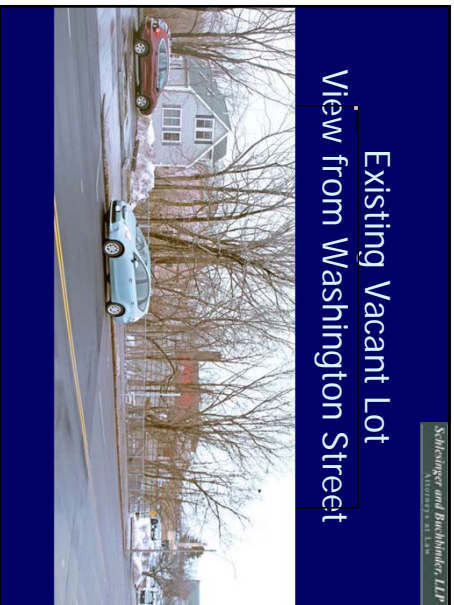
Current Interior Layout





14-3

- Schlesinger and Bachlander, LLP*
- ## Changes to Conditions
- Eliminate appointment-only requirement.
 - Expand hours of operation to 9:00 a.m. to 9:00 p.m. Monday through Friday, 12:00 p.m. until 6:00 p.m. on Sundays.
 - Raise maximum number of employees onsite from 6 to 12.
- Schlesinger and Bachlander, LLP*



Transportation Evaluation

- VHB traffic/parking study:
- 2018 Existing Condition
- 2025 Future No-Build Condition (without project)
- 2025 Future Build Condition (with project)

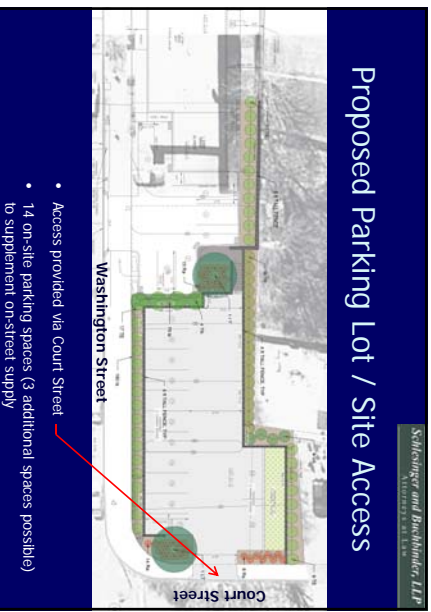
Parking Assessment

- Parking accumulation study conducted along Washington Street near site:
- Periods of study:
 - 4 PM to 6 PM (Weekday)
 - 11 AM to 2 PM (Saturday)
- Occupied spaces counted every 15 minutes
- Counts on both sides of Washington Street (Beach Street to Court Street) and site.

Parking Assessment



Proposed Parking Lot / Site Access



Pedestrian Accommodations

- Sidewalks on both sides of Washington Street
- Crosswalks across Harvard Street with traffic signal control for crossing Washington Street

Trip Generation

- Expansion into Optometrist's office
- Acupuncture office / massage therapy office unchanged
- Existing Garden Remedies
- Proposed expansion/adult sales
 - ITE data for dispensary use

Trip Generation

| Time Period | Direction | Increased New Trips |
|---------------------------|--------------|---------------------|
| Weekday Evening Peak Hour | Enter | 3 |
| | Exit | 1 |
| | Total | 4 |
| Saturday Midday Peak Hour | Enter | 19 |
| | Exit | 20 |
| | Total | 39 |

Conclusion

- Traffic study considered existing and future conditions with and without project – negligible impact
- Sufficient parking will be provided

Proposed Parking Lot with Landscaping Plan



Waivers Requested

- 5.1.8.A.1 – allow parking in front setback;
- 5.1.9.B.1 – interior landscaping;
- 5.1.9.B.2 – interior planting area;
- 5.1.9.B.3 – tree planting;
- 5.1.9.B.4 – bumper overhang area landscaping;
- 5.1.10.A.1 – 1 foot candle lighting;
- 5.4.2.B - retaining wall in excess of 4 feet; and
- 5.1.1.3 – waiver of 5 parking stalls (if necessary)



Department of Planning and Development



PETITION #289-18
697 WASHINGTON STREET
 SPECIAL PERMIT TO AMEND COUNCIL ORDER #167-14 TO ALLOW THE RETAIL SALE OF RECREATIONAL MARIJUANA, TO REMOVE PERMITS FROM OWNERS TO #167-14 AND ALLOW OWNERS TO THE REQUIREMENTS OF PARKING FACILITIES CONTAINING MORE THAN FIVE STALLS, AND TO ALLOW A RETAINING WALL EXCEEDING FOUR FEET IN A SETBACK



JUNE 5, 2018

Requested Relief

- Special Permit per §7.3.3 of the NZO to:
- amend Council Order #167-14 to allow the retail sale of recreational marijuana
 - remove conditions pertaining to operations from Council Order #167-14
 - allow parking in the front setback (§5.1.8.A.1 and §5.1.13)
 - waive the perimeter screening requirements (§5.1.9.A and §5.1.13)
 - waive the interior landscaping requirements (§5.1.9.B and §5.1.13)
 - waive the lighting requirements (§5.1.10 and §5.1.13)
 - allow a retaining wall exceeding four feet in a setback (§5.4.2)

Criteria to Consider

- When reviewing this request, the Council should consider whether:
- The specific site is an appropriate location for the amendments to Council Order #164-14 (§7.3.3.1).
 - The marijuana establishment, as developed and operated, resulting from the amendments to Council Order #167-14 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 over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.4).
 - Lateral compliance with the parking requirements of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interests of safety or protection of environmental features (§5.1.13).

Criteria to Consider Continued

- The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§6.10.3.F.1)
- The site is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance, if the City Council finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation (§ 6.10.3.F.2).
- 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.F.3).
- Traffic generated by client trips, employee trips, and deliveries to and from the RMD do not create a significant adverse impact on nearby uses (§6.10.3.F.4).
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses (§6.10.3.F.5)

Criteria to Consider Continued

- 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 buildings interior (§6.10.3.F.6).
- The building and lot are accessible to persons with disabilities (§6.10.3.F.7).
- The lot is accessible to regional roadways and public transportation (§6.10.3.F.8).
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel (§6.10.3.F.9).
- The RMD's hours of operation will have no significant adverse impacts on nearby uses (§6.10.3.F.10).

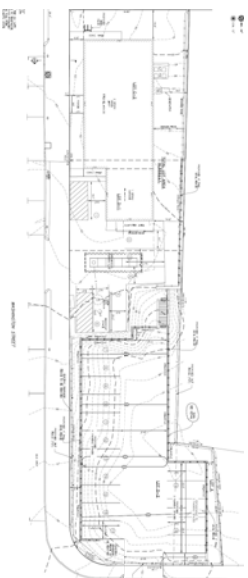
Recreational Marijuana

- State law allows RMDs operating as of July 1, 2017 to add the retail sale of recreational marijuana. The City Council passed Ordinance B-4 which places a moratorium on recreational marijuana until December 31, 2018 or until an ordinance is adopted with an exemption for RMDs licensed prior to July 1, 2017.
- State law prohibits zoning ordinances or bylaws from preventing RMDs operating as of July 1, 2017 to add the retail sale of recreational marijuana.
- The Cannabis Control Commission was established in September of 2017 to oversee all recreational and medicinal use marijuana activities.

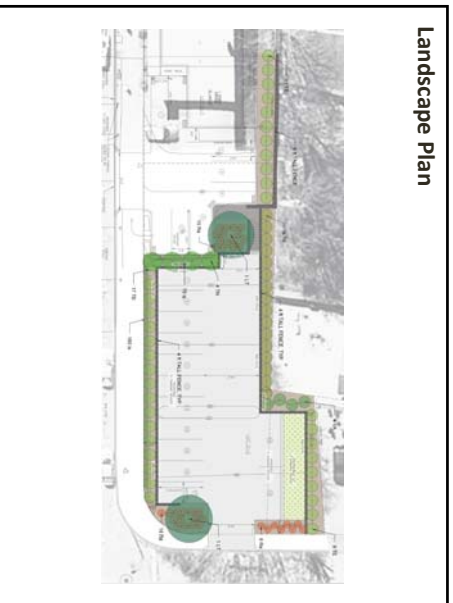
AERIAL/GIS



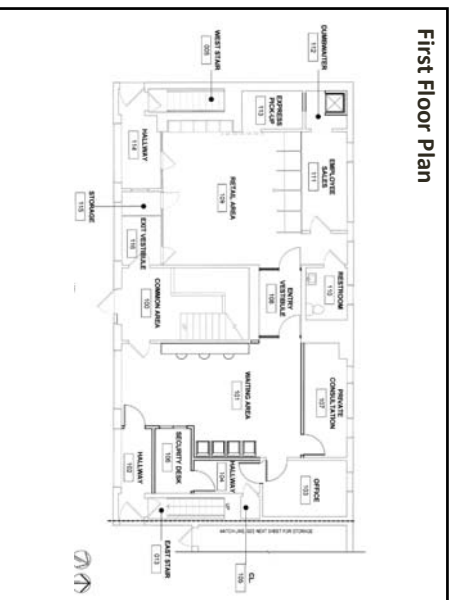
Proposed Site Plan



Landscape Plan



First Floor Plan



Council Order #167-14

1. The petitioner obtained Council Order #167-14 to establish the RMD use on site. The Order required the petitioner to operate by appointment only, to operate from 10:00 a.m. to 8:00 p.m. Monday through Saturday, and to employ no more than six staff members on the largest shift.
2. The petitioner is seeking to amend these conditions to be able to serve walk ins, to operate from 9:00 a.m. until 9:00 p.m. Monday through Saturday, to open from 12:00 p.m. to 6:00 p.m. on Sunday, and to increase the number of employees to twelve on the largest shift.
3. The petitioner should clarify the request for additional hours and the request to allow walk ins.

Outstanding Items

1. The petitioner submitted a TIA5 which is being reviewed by the Transportation Division.
2. The Planning Department suggests the petitioner remove the two parallel stalls in the surface parking facility because it is not clear those stalls are needed. Staff suggested the petitioner consider alternatives to the proposed arborvitae along Washington Street because the trees may seem out of place. Staff confirmed with the Commissioner of Inspectional Services that the two parking facilities are treated as one. Therefore, the petitioner is not required to create an additional handicap stall.



Cypress Tree Management, Inc.
24-26 Elliot Street
Land Use Committee, June 5, 2018

Schlesinger and Buchbinder, LLP
ATTORNEYS AT LAW



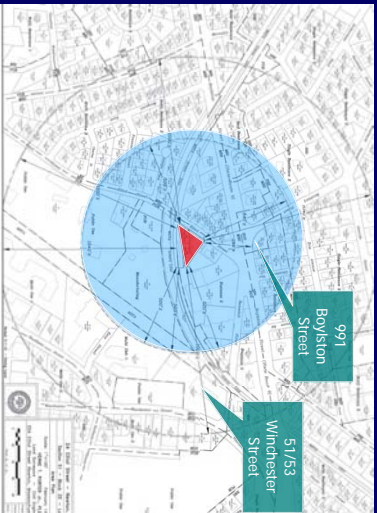
Aerial View

Schlesinger and Buchbinder, LLP
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Context Map

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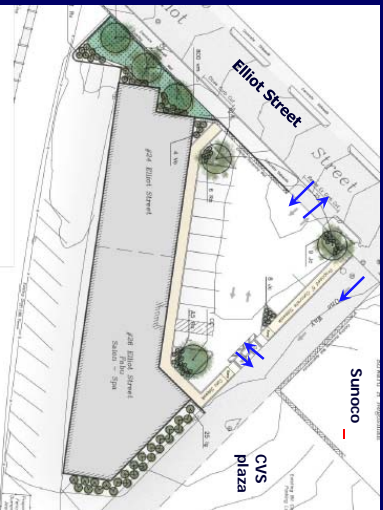


Cypress Tree Management: Vision

Schlesinger and Buchbinder, LLP
ATTORNEYS AT LAW

- CTM is dedicated to providing the next generation cannabis wellness brand through medical grade cannabis products, education, proper dosing and patient experience.
- Formed by childhood friends, Victor Chiang, Becky Dempsey, Todd Finard, and Eric Liebman, our team includes deeply experienced and successful business operators.
- Wellness Center will offer classes on cannabis history, safety, strain identification, accessories, dosage, and how to register with the DPH.

Proposed Conditions Site Plan



Transportation Evaluation

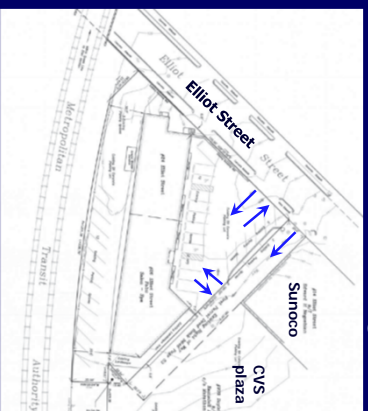
- Redevelopment of existing vacant site
- Former Fabu salon and Green Tea restaurant to be redeveloped as RMD and retail space
- VHB traffic/parking study:
 - 2018 Existing Condition
 - 2025 Future No-Build Condition (without project)
 - 2025 Future Build Condition (with project)

Site and Area of Review

Schlaenger and Bachelder LLP
1000 15th Street, Suite 1000
Minneapolis, MN 55402

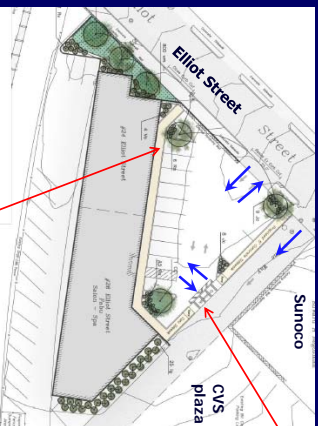


Existing



- 36 parking spaces
- Poor layout
- Cut-through traffic
- Parking up to building
- Unused Elliot Street loading driveway

Proposed



- Speed Bump
- 30 parking spaces
- Improved Parking Layout
- Unused curb cut eliminated
- Sidewalk between building and parking

Pedestrian Accommodations

- Existing sidewalks on both sides of Elliot Street
- New sidewalk along building frontage
- Crosswalks at Route 9/Elliot Street/Woodward Street with signalized crossing phase
- MBTA Green Line Elliot Street Station – ¼ mile +/- (5-10 minute walk)

Trip Generation

| | Proposed RMD / Retail | | | Fabu salon/ Green Tea restaurant | | | |
|-------------------------|-----------------------|----|----|-------------------------------------|----|----|----------|
| Weekday PM Peak Hour | Enter | 7 | 31 | Total | 25 | 8 | 17 |
| | Exit | 41 | 34 | Total | 21 | 2 | 16 |
| | Total | 79 | 65 | Total | 49 | 16 | 33 |
| Saturday Peak Hour | Enter | 6 | 32 | Total | 38 | 10 | 28 |
| | Exit | 36 | 30 | Total | 42 | 10 | 32 |
| | Total | 74 | 62 | Total | 80 | 20 | 60 |
| | | | | | | | Increase |
| | | | | | | | 14 |
| | | | | | | | 18 |
| | | | | | | | 32 |
| | | | | | | | 4 |
| | | | | | | | -2 |
| | | | | | | | 2 |

Conclusion

- Redevelopment of vacant commercial site
- Traffic study considered existing and future conditions with and without project – negligible impact
- Sufficient parking will be provided with improved site layout

Current Building

Schlesinger and Bachlander, LLP



PERKINS
— EASTMAN

Proposed Building

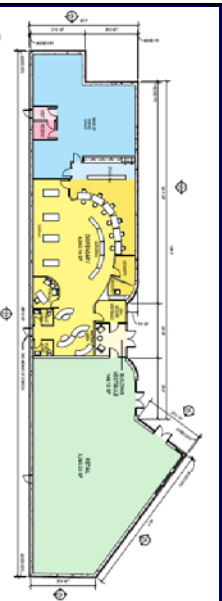
Schlesinger and Bachlander, LLP



PERKINS
— EASTMAN

Interior Layout/Building

Schlesinger and Bachlander, LLP

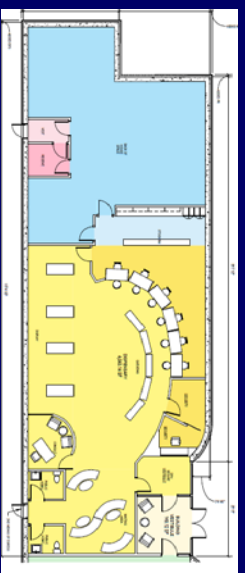


PERKINS
— EASTMAN

K&L

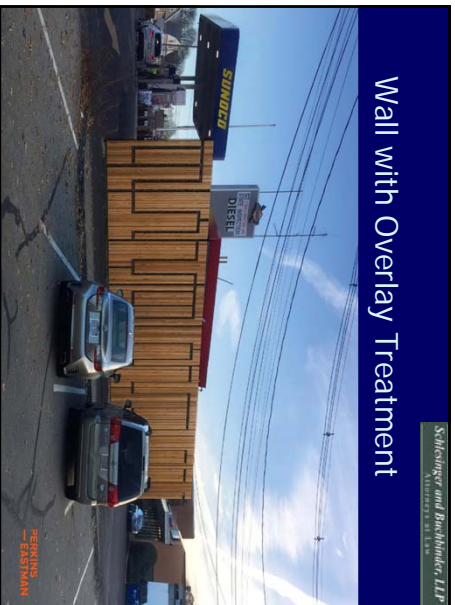
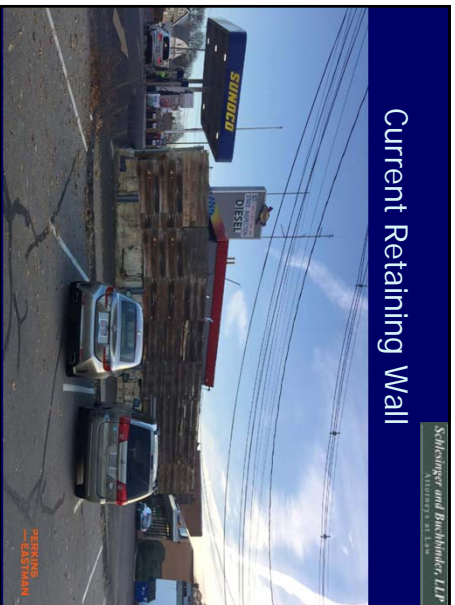
Interior Layout/RMD

Schlesinger and Bachlander, LLP



PERKINS
— EASTMAN

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Planting Concepts



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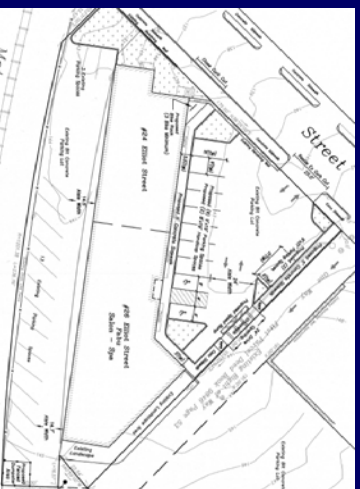
Parking Calculation

| | | | |
|-------------------------------------|----------------------------|-------------------------------------|----------------------------|
| Previous use – Restaurant | 34 stalls | Proposed – RMD | 14 stalls |
| 102 seats (per NLEB) | 3 stalls | 4,043 square feet | 3 stalls |
| 9 employees (est.) | 37 stalls | 9 employees | 17 stalls |
| Previous use – Salon | 17 stalls | Proposed Retail | 12 stalls |
| 5,100 SF | 4 stalls | 3,393 square feet | 2 stalls |
| 12 employees (est.) | 21 stalls | 6 employees | 14 stalls |
| Total Requirement for Previous Use: | 37 + 21 = 58 stalls | Total Requirement for Proposed Use: | 17 + 14 = 31 stalls |

Relief Requested

- Special permit (6.10.3.C);
- Waiver of location requirements for an RMD (6.10.3.D.1 and 6.10.3.F.2);
- Waivers for parking facility requirements (5.1.1.3)
 - Minimum stall dimensions (5.1.8.B.1 and 2);
 - Minimum aisle width for two way traffic (5.1.8.C.1 and 2);
 - Perimeter screening (5.1.9.A);
 - Interior landscaping (5.1.9.B.1);
 - Interior planting area (5.1.9.B.2);
 - Interior tree planting (5.1.9.B.3);
 - Bumper overhang area landscaping (5.1.9.B.4);
 - 1 foot candle lighting (5.1.10.A.1).

6/4/18 Proposed Site Plan





Department of Planning and Development



**PETITION #298-18
24-26 ELLIOT STREET**

SPECIAL PERMIT TO ALLOW A REGISTERED MEDICAL MARIJUANA DISPENSARY WITHIN 500 FEET OF A SCHOOL AND TO ALLOW MAINTENANCE OF THE REQUIREMENTS OF PARKING FACILITIES CONTAINING MORE THAN FIVE STALLS

JUNE 5, 2018



Requested Relief

Special Permit per §7.3.3 of the NZO to:

- allow a registered medical marijuana dispensary (RMD) within 500 feet of a school (§6.10.3.D.1 and §6.10.3.F.2)
- waive the minimum stall dimensions (§5.1.8.B.1, §5.1.8.B.2, and §5.1.13)
- waive the minimum aisle width for two-way traffic (§5.1.8.C.1, §5.1.8.C.2, and §5.1.13)
- waive the perimeter screening requirements (§5.1.9.A and §5.1.13)
- waive the interior landscaping requirements (§5.1.9.B and §5.1.13)
- waive the lighting requirements (§5.1.10 and §5.1.13)

Criteria to Consider

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the RMD (§7.3.3.1).
- The RMD, as developed and operated, 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 over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.4).
- Literal compliance with the parking requirements of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features (§5.1.13).

Criteria to Consider Continued

- The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§6.10.3.F.1)
- The site is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance, if the City Council finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation (§6.10.3.F.2).
- 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.F.3).
- Traffic generated by client trips, employee trips, and deliveries to and from the RMD do not create a significant adverse impact on nearby uses (§6.10.3.F.4).
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses (§6.10.3.F.5).

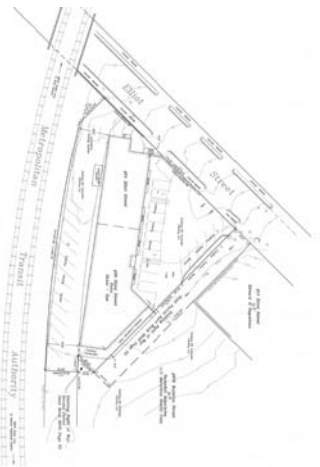
Criteria to Consider Continued

- 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 buildings interior (§6.10.3.F.6).
- The building and lot are accessible to persons with disabilities (§6.10.3.F.7).
- The lot is accessible to regional roadways and public transportation (§6.10.3.F.8).
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel (§6.10.3.F.9).
- The RMD's hours of operation will have no significant adverse impacts on nearby uses (§6.10.3.F.10).

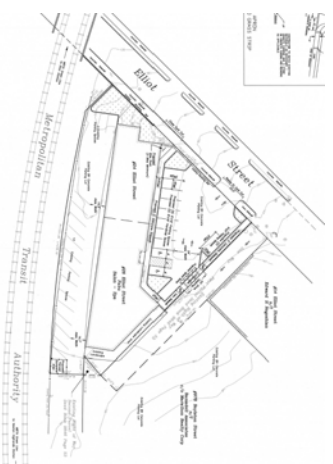
AERIAL/GIS



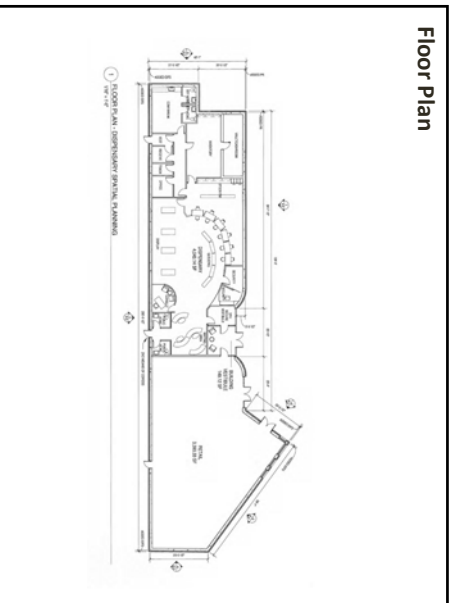
Existing Site Plan



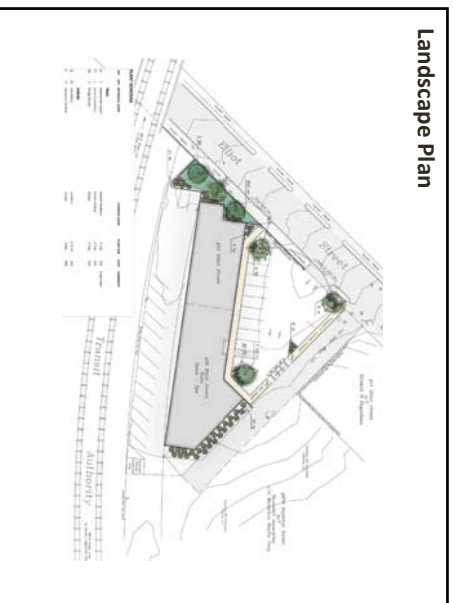
Proposed Site Plan



Floor Plan



Landscape Plan



Additional Analysis

1. **Location:** The site is located approximately 286 feet from a pre-school at 991-1001 Boylston Street. The Ordinance requires a distance of at least 500 feet or the site be sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMDs operation. The Planning Department believes the site is sufficiently buffered from the school by Boylston Street/Route 9 and the school will not be adversely impacted by the RMDs operation.
2. **Service Area:** The Ordinance requires an RMD to be located to serve an area that currently does not have reasonable access to medical marijuana. The petitioner indicates an expected client base of 1,983 people. The petitioner states there are four existing RMDs within five miles of the subject property.
3. **Access:** The petitioner is proposing a number of measures to increase safety and access including new sidewalks, conforming stall dimensions, and a speed bump.

Additional Analysis

4. **Accessibility:** The petitioner is proposing two handicap stalls and shall ensure the entire building is accessible to those with disabilities. Staff suggests a condition requiring the petitioner to submit building permit plans indicating the building will be accessible to those with disabilities, should this petition be approved.
5. **Transportation:** The site is located along the Boylston Street/Route 9 corridor with access to major interstate highways. Additionally, the site is located near the D branch of the MBTA Green Line and MBTA bus route 59.
6. **Operation:** The site is located along the Boylston Street/Route 9 Corridor which is comprised by a number of different uses. The Planning Department believes the RMD's hours of operation will not have a significant adverse impact on nearby uses.

Outstanding Items

1. The petitioner submitted a TIAS indicating the RMD is expected to have a minimal effect on traffic in the area. The Planning Department and Transportation Division support this finding due to the amount of traffic in the vicinity.
2. The Planning Department suggested the petitioner explore bringing the rear parking facility into conformance, and consider removing the parallel stalls at the northeast corner of the site in favor of additional landscaping.
3. The petitioner shall clarify how security can be achieved given the level of lighting proposed in the rear parking facility.

Oppose Marijuana Facility, Medical or Otherwise, at 24-26 Elliot St., Newton Highlands

We are abutters or neighbors of the proposed Registered Marijuana Dispensary (RMD) at 24-26 Elliot St. in Newton Highlands and we strongly oppose this type of business in our neighborhood. We believe this business will detract from our neighborhood and that the reliefs they are requesting in their special permit application, including being allowed to operate within 500 feet of a school or daycare, are not in keeping with the intent of the zoning ordinance to protect residential areas from these restricted use businesses. We feel strongly that this type of business should be located in a purely commercial area that is not within direct sight of residential neighborhoods and ask the Land Use Committee and the City Council to deny their application and place these types of businesses in commercial-only zones apart from residential neighborhoods.

| Name | Address |
|-------------------------|-----------------------------------|
| Michael Vohay | 27-28 Elliot St. Newton Highlands |
| Christopher Harris | 1006 Boylston St Newton Highlands |
| Victor Brown | 1026 Boylston St Newton Highlands |
| Tony Marshall-White | 25 Sosselyndr. Newton, Ma. |
| Danny Gee | 49 Elliot St, Newton, MA |
| Dorothy Perry | 1 Frances St, Newton, MA |
| Sherry Rene Wd | 1 Frances St, Newton, MA |
| Aprinda Cynar | 6 CHARLES ST. NEWTON, MA. |
| Kax Halaret | 6 CHARLES ST. NEWTON, MA |
| Nesnell Benzo. | 6 Charles St. Newton, MA. |
| 101 5th | 9 Charles St. Newton MA |
| Alexander Pissin | 11 FRANCES ST NEWTON MA |
| Mark Tracy Dury Min | 1018 Boylston St. Newton MA |

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