

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE

PUBLIC HEARING

TUESDAY, JUNE 17, 2014

Present: Ald. Laredo (Chairman), Ald. Cote, Crossley, Albright, Lipof, Lennon, Harney, and Schwartz; also present Ald. Fuller, Leary, Johnson, and Norton  
Staff: Alexandra Ananth (Chief Planner for Current Planning) Dan Sexton (Senior Planner), Robert Waddick (Assistant City Solicitor), Ouida Young (Associate City Solicitor), Linda Finucane (Assistant Clerk of the Board of Aldermen)

A public hearing was opened on the following petition:

#167-14      GARDEN REMEDIES/697 WASHINGTON STREET TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to operate a Registered Marijuana Dispensary and to waive two parking stalls; to allow parking in the front setback; and to exceed the allowable horizontal projection of a secondary sign at 697 WASHINGTON STREET, Ward 2, NEWTONVILLE, on land known as SBL 23, 19, 1B, containing approximately 16,669 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-36, 30-19(d)(10), 30-19(h)(1), 30-19(m), and 30-20(j)(2) of the City of Newton Rev Zoning Ord, 2012.

**ACTION:**      HEARING CONTINUED TO DATE TO BE DETERMINED

**NOTE:** Presenting the petition were

- Attorney Stephen Buchbinder of Schlesinger and Buchbinder, 1200 Walnut Street, Newton Highlands,
- Doctor Karen Munkacy, principal of Garden Remedies, who is a Newton resident and cancer survivor,
- Randy Hart, Director of Transportation Planning and Engineering at Vanasse Hangen Brustlin (VHB), and
- Thomas Walsh, US Business Development Manager, for the security firm Netwatch.

In 2012, 72% of the voters in Newton voted in favor of legalizing medical marijuana. Garden Remedies has met the requirements established by the Department of Public Health (DPH), as well as the criteria for applying for a special permit in Sec. 30-36, and is one of 20 companies that have received a provisional license from the state. The petitioner hosted a community meeting at City Hall on May 29<sup>th</sup>.

The property consists of a two-story commercial building that contains a massage therapist, acupuncturist, and optician. The petitioner proposes to fill a first-floor vacant commercial space of approximately 945 square feet with a registered medical marijuana dispensary (RMD). An additional 750 square feet in the basement would be used for storage. Relief is sought for the RMD use, for which a special permit is required, to waive two required parking stalls, to allow

parking in the front setback, and to exceed the allowable horizontal projection for a wall-mounted sign reviewed and approved by the Urban Design Commission.

The petitioner expects to have approximately five employees. Employees include a manager, a principal of the organization, two patient-care advocates to educate and dispense the medication, a receptionist, and another staff person to bring the product from the storage area. Patients will be required to make an appointment. Two to three patients will be seen at a time. Walk-ins may be allowed if patient-care advocates are available. Everyone entering the building will be required to check in with the receptionist. The petitioner expects that after an initial consultation, most patients will choose to have medicine delivered directly to their homes. A patient must receive a prescription from a certified physician who is registered with the state; patients under 18 years old will need to receive a prescription from two physicians. Patients are required to register with the DPH where they are provided a photo identification card. (Patients are required to re-register each year.) Patients then may make an appointment with an RMD.

The Planning Department believes that in terms of the quantity of patients and employees on the site at any given time, the proposed use appears to be similar to the previous office use, which was an insurance company. The small, mostly unpaved parking lot on the site contains four stalls, each stall reserved for existing tenants, although they are not reserved in any of the leases. The Planning Department suggested another space might be accommodated if the lot were striped. For the purposes of the parking calculation, no on-site stalls have been included. The Planning Department recommends that the parking lot be paved to improve pedestrian access and safety for patients parking along Washington Street.

The petitioner provided a parking study from VHB which counted the number of vacant parking stalls on Washington Street proximate to the site on weekdays and weekends. Results of that study indicate there appear to be a sufficient number of parking stalls on Washington Street. The city's transportation engineer and traffic planner agree that the proposed increase in vehicle trips even during peak hours is unlikely to materially impact traffic on Washington Street. There is some concern about the intersection of Washington and Harvard Streets, which is adjacent to the commuter rail across the street. This intersection has been identified as a difficult one for pedestrians and recently the subject of several safety improvements including two LED streetlights and a pedestrian-activated warning signal. Additional improvements suggested include a curb extension to provide better visibility of pedestrians trying to cross Washington Street and/or a HAWK signal.

Changes proposed to the site and building exterior include a new ornamental fence with signage where the entrance to the commercial space is located, additional security cameras and perimeter lighting to meet the DPH requirements and a new van-accessible handicapped parking stall. The petitioner still needs to identify where the dumpster will be relocated and screened, as well as the area for snow storage. A new entrance will be located on the east side of the building. Clients will be buzzed in.

Medical marijuana can be grown in different strains to provide targeted benefits to patients. The different strains will not provide the same psychotropic effects as marijuana purchased illegally on the street. The medical marijuana will be grown off-site at a cultivation facility,

regulated by the DPH, located outside of Newton and be delivered to the site approximately once a day. The cultivation facility will also distribute directly to the patient's homes after their initial consultation. A potential cultivation site in Essex fell through, but the petitioner is looking at a number of other locations.

Netwatch is an Irish security company, which includes Deloitte and Ernst and Young among its clients, will monitor the site via a remote visual warning system that will alert the Newton Police Department. As required by the DPH, the security has been vetted by the state.

*Public Comment – please see the attached sign in sheet.*

Peter Hayashi suffers severe pain from an accident 13 years ago. He has sought relief unsuccessfully from a number of hospitals and has found relief, albeit it illegal, in marijuana. He said Dr. Munkacy is well-qualified. Studies show no crime increase from the use of medical marijuana.

James Rutenbeck has an autistic son with epilepsy. Clinical trials indicate that medical marijuana will reduce the exhausting seizures his son suffers and help him and others have a better life.

John Madfis has Crohn's disease, which symptoms according to trials can be alleviated by medical marijuana. It is a safe therapeutic substance, not recreational, for people with serious medical issues.

Stuart Ezrin, a chiropractor, supports the therapeutic use of medical marijuana. Dr. Munkacy is a pioneer for a needed facility.

Merry Gerard's business, Center for Balance, has been at 697 Washington Street for 12 years. She and her clients never have a problem parking. The lot actually holds eight cars. She is very comfortable with the proposed use. It will provide a tremendous benefit for people suffering from chronic pain and it is complementary to the existing businesses on the site.

Bill Dain said it is an overblown fear that the proposed use will trigger a crime wave in Newtonville, any more than CVS, which has all sorts of drugs, a liquor store, or bank attracts crime.

Joy Huber, president of the Newtonville Neighborhood Area Council, supports the proposed use. Strict regulations and close monitoring will ensure safety. She noted that 64% of Ward 2 voted in favor of legalizing medical marijuana.

Robert Gerst believes the petition itself is flawed and the petitioner may not be legally in front of the Board of Aldermen.

Matthew Allen, Executive Director of the Mass Patient Advocacy Alliance, supports the proposed use, which he said will be regulated more in Massachusetts than in other states.

Greg Reibman, President of the Newton Needham Chamber of Commerce, supports the proposed use. It is appropriate and it meets the requirements of both the state and city. The

petitioner has financing and the inventory will be secured. He looks forward to welcoming it to the community.

Nathan Zielonka is a certified financial planner with a business at 382 Watertown Street and has no hesitation supporting the proposed use. He has known Dr. Munkacy for ten years and said there is no disconnect between her personal and business integrity.

Terry Sauro is opposed to the proposed use. It is too close to Cabots Ice Cream, Our Lady Help of Christian Church, and there is too much traffic. She is concerned about people driving from the facility. The use belongs in an industrial park.

Theodor Stoia has owned 701 Washington Street for 11 years and the parking situation is horrendous, especially in winter. One of his tenants left because of the parking. Although he does not oppose the use of medical marijuana, his tenants are concerned about the property value.

Galina Laffer supports the proposed use.

Victoria Hirt believes it is an inappropriate location. Deliveries to banks are by armored cars. The location is too close to schools. She disagrees with the parking study. Traffic on Washington Street is bad enough now.

Sarah Quigley also believes it is an inappropriate location, too near Newtonville square, residences, and schools. She noted that the petitioner had withdrawn the proposal to locate a cultivation facility in Essex. She urged the petitioner to listen to the residents and withdraw this petition.

Francis Azzarto said it is an inappropriate location. Washington Street traffic is difficult. The traffic analysis is incorrect. The location is within a mile of Cabots, Marty's Liquors, and Newton North High School.

Doreen Menelly is a client of Merry Gerard's at the Center for Balance. Her family was the long-time owner of Midnight Foods (now the Village Café). Currently, in addition to the café and the Center for Balance, there is a Laundromat and there is no problem with parking. Unlike California, where medical marijuana is sold in open air markets and in shopping centers, the proposed operation will be very controlled.

Anne Cedrone is opposed; the proposed use doesn't meet the criteria. Minors congregate at Cabots. It should not be in a residential neighborhood. There is a serious parking and traffic problem already.

William Cedrone is opposed as well. How is it to be delivered? Will it attract robbers? Why not name the bank?

Bob Kavanaugh feels the neighborhood is being dumped on. The parking study ignored the proposed 40B project for Court Street. Why is the use allowed to be located abutting residences?

Dan Fogel said this is not a referendum – that was already settled. We cannot only like specific laws. The proposed use has complied with all the DPH regulations. It will be by appointment. The parking issues, if any, are the same as any other business.

Scott Murphy supports the proposed use. There will be security and privacy. Cabots is a cash business and CVS has drugs. The site is convenient to public transit. The use does not belong in an out-of-the-way industrial park.

Ginny Gardner supports the proposed use. Many comments smack of NIMBY. Consider the very sick, ill people. Medical marijuana is legal, 72% of the voters voted in favor. She has lived in the city her whole life and there have been more dramatic changes to every square in Newton.

Kim Daley opposes the site. There is too much traffic in the area and it is too close to Cabots.

Tom Kraus supports the proposed use. It is an existing commercial site and the regulations should mitigate any impact. The idea that it should be relegated to an industrial site is disturbing. Once it is in operation, there probably won't be any more impact than many by-right businesses.

Lee Aldrich supports the proposed use. This is a convenient location for people. He obtains prescriptions at Harvard Vanguard on Route 9 in Wellesley and there are no police details there, although there are far more potent drugs than medical marijuana. In his opinion, many bogus arguments have been made this evening.

A gentleman (inaudible) from Fuller Terrace said that a bank in Nonantum has been robbed three times. There is fear and misinformation in the community.

A gentleman (inaudible) from Chapel Street supports the proposed use. Newton North High School students are not going to march down the street and kick in the doors for a bag of weed. The parking issue appears to have been addressed. There are five bars and a liquor store in proximity.

Tim Callahan said the only issue is if the site is right for this business. He believes it is a spectacularly awful site. The location is surrounded by small lots with many young families/

Kathleen Kouril Grieser, although she voted against the referendum question, supports the use but not the location. Medical marijuana should be dispensed like any other drug. There may be over 43 patients a day. She is concerned about the inventory held overnight. What is the value of 75 lbs.? The security is outsourced to Dublin? The petitioner applied for three licenses in Massachusetts, not just Newton. The petitioner is unwilling to pledge that should marijuana be legalized the operation will not turn into a full pot shop.

Lil Tyer is opposed. There are 20-30 children living on Prescott Street and the adjacent street. This will jeopardize people walking by. It belongs in an office park location. The ballot question should have been worded differently.

Steve Colella supports the proposed use. He understands the emotions, but there are liquor stores and bars in the area. If there are traffic concerns, the petitioner should work with the community.

*Questions from committee:*

How much inventory will be on-site? It is the petitioner's intent to not have a large amount on-site – the intent is to perceive what is reasonably needed for each day. The petitioner anticipates one delivery per day. A DPH requirement is that a patient can only get up to two month's supply at a time. This is a small location that will only accommodate a small number of clients, probably five at any one time. The committee asked if the two month supply to the patient could be split with a portion delivered and a portion picked up?

The petitioner has agreed to not open on Sundays. Hours of operation will be 10:00 AM to 8:00 PM, Monday through Saturday.

Where will the dumpster be located? Will it be enclosed? What about snow storage? With only one assigned space in the parking lot, where will employees park? Will they feed meters? Take public transit? Landscaping/fencing in the parking lot? Paving and striping of parking lot? Contribution towards curb extension or other improvements at Washington and Harvard Streets?

Has police department reviewed security? The petitioner has met with Captain Chris Marzilli, the captain in charge of the NPD patrol bureau. NPD will be responsible for the outer perimeter including a detail when the RMD opens since, initially, there is bound to be a curiosity factor. The NPD will work with the petitioner to allay fears re traffic and security. If they are not assisting patients, patient advocates will be available to escort people to their cars or to bring the prescription to patients after they retrieve their cars. The DPH must inspect the site prior to opening.

There are concerns about retention of cash on the site because the business cannot take debit or credit cards. Will there be an ATM available only to patients on the site for cash withdrawals? The petitioner is working with a local bank, but cannot disclose details because the federal government does not recognize legalization of medical marijuana.

The committee pointed out that passage of the referendum legalized the use. If the Board of Aldermen had not created an ordinance, then the use could have been located anywhere. The ordinance implemented controls. The proposed location is one in which the use is allowed by special permit.

The public hearing was continued to a date to be determined.

Respectfully submitted,

Marc C. Laredo, Chairman

# SIGN IN

Please print!

Name

Address

- |                          |   |
|--------------------------|---|
| ✓ Peter Hayashi          | Newton  |
| ✓ James Putenbeck        | Newton  |
| ✓ John Madfis            | Newton  |
| ✓ Stuart Ezrin           | Newton  |
| ✓ Merry Gerard           |   |
| <del>Scott Murphy</del>  | <del>Newton</del>   |
| ✓ BILL DAIN              | 199 Harvard circle <u>N.ville</u>                               |
| ✓ Joy Huber              | 27 Whitney Pl Nville  |
| ✓ Robert Gerst           | 51 Claremont St Newton  |
| ✓ Matthew Allen          | Mass Patient & Woodside Ave, Jamaica Plain<br>Advocacy Alliance |
| ✓ Greg Reibman           | 10 Mayflower Ter Newton Highlands                               |
| ✓ NATHAN ZIELONKA        | 382 WATERTOWN ST., NEWTON                                       |
| ✓ Terry Sauro            | 50 Cook St Newton   |
| ✓ Theodore Stora         | 701 Washington St.  |
| ✓ Galina Laffer          | 744 <del>Washington</del> Redham St, Newton, MA                 |
| ✓ URSULA HUR             | 184 Harvard Circle Needhamville                                 |
| ✓ Sarah Quigley          | 105 Atwood Ave Needhamville                                     |
| ✓ Doreen Mewelly-Pepinho | 697 Washington St Needhamville                                  |
| ✓ Francis AZZARITO       | 8 Richard N Circle  |
| ✓ Anne Cedrone           | 49 Walker St. Newtonville                                       |
| ✓ William Cedrone        | 15 St James St.   |
| ✓ Bob Havanagh           | 68 Court St   |
| ✓ Dorothy Dundas         | 15 Moreland Ave Newton Center                                   |
| ✓ Daniel Fogel           | 51 Lake Ave Newton  |
| <del>XXXXXXXXXX</del>    | <del>XXXXXXXXXX</del><br>Boston,                                |

✓ Scott Murphy  
Ginny Gardner

Newton  
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