

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

TUESDAY, OCTOBER 22, 2013

7:00 PM – PLEASE NOTE SPECIAL DATE AND EARLY START

Room 202

ITEM SCHEDULED FOR DISCUSSION:

Chairman's Note: The items will be taken up in order and discussed as time permits.

- #309-13 DEPT. HEADS HAVENS AND ZALEZNIK requesting amendments to the City Of Newton Zoning Ordinance, **Chapter 30**, as needed to add a definition of Medical Marijuana Treatment Center and to establish parameters regarding what districts and under what conditions Medical Marijuana Treatment Centers will be allowed within the City of Newton. [09/11/13 @ 4:12PM]
- #295-13 ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by deleting paragraph (11) *Hotels* in its entirety to remove the requirement that new hotel developments must make cash payments to the City in support of housing for low and moderate income housing. [08/26/13 @ 12:30PM]
- #64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances **Sec 30-24(f)(8)(b)** to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities. [03-14-12 @8:54AM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: jreider@newtonma.gov . or 617-796-1145. For Telecommunications Relay Service dial 711.

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #296-13 ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by reorganizing and clarifying the provisions regarding purchaser and renter income limits and sale and rental price limits. [08/26/13 @ 12:30PM]
- #294-13 ALD. DANBERG proposing amendment to **Sec.30-24(f) Inclusionary Zoning** to clarify the limitation on use of public funds in constructing inclusionary units and to expand on where the use of public funds for inclusionary units will be allowed. [08/26/13 @ 12:30PM]
- #214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment.
- #263-13 ALD. JOHNSON & ALBRIGHT requesting that the Planning Department document a clear and transparent process for the establishment of housing that complies with Massachusetts Chapter 40B statute so that citizens are knowledgeable of the steps needed, decision making points and decision makers. [07/15/13 @ 2:09PM]
- #81-13 DIRECTOR OF PLANNING & DEVELOPMENT on behalf of the Newton Housing Partnership requesting consideration of naturally affordable compact housing opportunities in MR1 zones. [02/22/13 @ 1:13 PM]
- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #406-12(3) ZONING & PLANNING COMMITTEE requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding the size and number of campaign signs allowed on lots. [08/15/13 @ 4:37PM]
- #264-13 ALD. YATES requesting that the Zoning Reform Group or its successor consider amending City of Newton Zoning Ordinances Chapter 30 to develop additional residential districts reflecting the small lots in older sections of the City and map changes to bring the zones of more residential sections of the City into conformity with the existing land uses. [08/05/13 @ 12:28PM]
- #265-13 ALD. YATES requesting a report from the Law Department on the decision by the U.S. Supreme Court on the *Koontz vs. St. Johns River Water Management District* and its possible impact on the City's zoning ordinances. [08/05/13 @ 12:28PM]

- #266-13 ALD. YATES requesting that the Law Department provide the Zoning & Planning and Land Use Committees and other interested members of the Board with legal advice on what parties have standing to challenge zoning ordinances and the relevant court cases involving uniformity. [08/05/13 @ 12:28PM]
- #267-13 LAND USE COMMITTEE proposing to amend Section 30-21(c) to permit de minimis relief for alternations, enlargements, reconstruction of or extensions to lawfully nonconforming structures in which the nonconformity is due to Floor Area Ratio (FAR) requirements set out in section 30-15(u) Table A, subject to administrative review by the Planning Department.
- #222-13 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30, Section 30-1** of the City of Newton Zoning Ordinances. [06/07/13 @ 1:31 PM]
- #129-13 ALD. HESS-MAHAN proposing to amend and/or clarify definition and provisions for granting a special permit for "attached dwellings" in the City of Newton Zoning Ordinances, **Chapter 30-1, 30-8(b)(13) and 30-9(b)(5)**. [05/25/13 @ 5:14 PM]
- #128-13 ALD. ALBRIGHT, FULLER, CROSSLEY, LAREDO requesting the creation a comprehensive, 10-year strategic plan for Newton's conservation lands which would include a multi-year prioritized list of short-term and long-term projects with appropriate estimated budget. This plan should be finished in time to include high priority item(s) in the FY15 Budget, with any project exceeding \$75,000 added to the Capital Improvement Plan. [03/15/13 @ 10:56 AM]
- #65-13 ALD. YATES, FISCHMAN, KALIS requesting that Chapter 30 be amended to require a special permit for major topographic changes. [02/12/13 @ 12:30 PM]
- #64-13 NEWTON HISTORICAL COMMISSION requesting the creation of an administrative permitting process for converting historic barns and carriage houses into accessory apartments to assist in their preservation. [02/05/13 @ 11:35 AM]
- #423-12 ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City. [12/03/12 @ 9:14 AM]

- #406-12 ALD. JOHNSON requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding campaign signs, and the failure of candidates to comply with current removal requirements. [11/19/12 @ 9:24AM]
- #328-12 DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report [10/26/12 @ 11:08 AM]
- #308-12 ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @ 3:59 PM]
- #282-12 ALD. JOHNSON, CROSSLEY, DANBERG, SANGIOLO requesting quarterly reports, starting the last month of the quarter beginning December 2012, Re-implementation of *Ramping Up: Planning for a More Accessible Newton*. [09-09-12]

REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES

- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer. [09/10/12 @ 1:17 PM]
- #260-12 ALD. YATES proposing amendments to Sec. 30-19 to increase the vitality of village centers without adverse impacts on the residential neighborhoods around them. [08-17-12 @ 1:01 PM]
- #215-12 ALD. YATES proposing a RESOLUTION requesting that the Planning Department and the Economic Development Commission develop a Main Streets Program following the model of the National Trust for Historic Preservation to revitalize the Newtonville and Newton Centre business districts.
- #48-12 ALD. ALBRIGHT requesting a discussion with the Executive Office and the Planning Department on the creation of a housing trust. [02/10/2012 @ 9:13AM]
- #11-12 ALD. HESS-MAHAN & LINSKY requesting discussion on the implementation and enforcement of the provisions of Section 30-5(c)(1) of the Newton Ordinances which requires that "[w]henver the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties." [1/11/12 1:01PM]

- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]
- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts. [05- 10-11 @3:19 PM]
- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @12:00 PM]
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

ITEMS FOR ZONING REFORM DISCUSSIONS WHEN SCHEDULED:

- #220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a) be clarified with respect to “lot width,” “lot area,” or “lot frontage.”
- #219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “Space, usable open” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms “flat roof” and “sloped roof” be defined in the zoning ordinance.
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]

Respectfully Submitted,

Marcia T. Johnson



Setti D. Warren
Mayor

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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: October 18, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
Dori Zaleznik, Commissioner of Health & Human Services
Marie Lawlor, Assistant City Solicitor
James Freas, Chief Planner, Long-Range Planning 

RE: #309-13: DEPT. HEADS HAVENS AND ZALEZNIK requesting amendments to the City Of Newton Zoning Ordinance, **Chapter 30**, as needed to add a definition of Medical Marijuana Treatment Center and to establish parameters regarding what districts and under what conditions Medical Marijuana Treatment Centers will be allowed within the City of Newton.

MEETING DATE: October 22, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

This memo is intended to follow-up on information requested by the Zoning and Planning Committee at the October 16th meeting. A more complete description and analysis of the proposed zoning amendment for registered marijuana dispensaries (RMDs) can be found in the memo provided by the Planning Department for that meeting dated October 11, 2013.

Please find attached the proposed amendment to Newton's Zoning Ordinance created by the Medical Marijuana working group along with three proposed zoning regulations for registered marijuana dispensaries from other municipalities; those of Brookline, Cambridge, and Framingham. It is important to note that none of these proposed amendments have been adopted by their respective communities and, for the two Towns, these proposed ordinances have not yet been reviewed by the Attorney General's office. The Cambridge ordinance was relied-on as a partial model for crafting the proposed amendment for Newton. On further review, it was discovered that there was a data collection error in the previous report of adopted ordinance amendments and Westwood has only adopted a

moratorium, not a permanent amendment. Therefore, of our nearby municipalities, only Boston has adopted a zoning amendment relative to medical marijuana, the language of which is not useful or applicable to Newton given the different structure inherent to Boston’s zoning ordinance.

In reviewing the attached example zoning ordinance provisions, all three municipalities are allowing the RMD use only by special permit, two of the municipalities are proposing overlay districts to strictly limit the areas where the use might be available, and all three are using the 500 feet from schools, daycare facilities and other areas where children typically congregate as identified in the State regulations. The proposed ordinance from Cambridge allows the Planning Board to reduce the 500 foot buffer through special permit review. Brookline considered a 1000 foot buffer on these uses based on federal enforcement guidelines but ultimately rejected such a buffer as potentially overly limiting. Further, Brookline’s proposal eliminates the buffer on daycare facilities, only requiring that the RMD use not locate in the same building.

If the Zoning and Planning Committee concludes that the proposed draft Registered Marijuana Dispensaries zoning ordinance amendment is ready for public review and comment, staff recommends this item be scheduled for a Public Hearing on November 13, 2013. If further consideration is necessary, staff requests the Zoning and Planning Committee define what additional data and analysis it may need from staff to inform further discussion.

Enclosures

- | | |
|--------------|--|
| Attachment A | Proposed Ordinance Language to allow Registered Marijuana Dispensaries in Newton |
| Attachment B | Proposed Ordinance Language – Brookline |
| Attachment C | Proposed Ordinance Language – Cambridge |
| Attachment D | Proposed Ordinance Language - Framingham |

Add the following definition to 30-1:

Marijuana Dispensary, Registered. Registered Marijuana Dispensary, also known as RMD or Medical Marijuana Treatment Center, shall mean an establishment properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments) transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Add the following new section:**30-36. Registered Marijuana Dispensaries**

- (a) *Purpose.* The purpose of this section is to provide for the limited establishment of registered marijuana dispensaries (“RMD”) within the City as they are authorized pursuant to state regulations set forth in 104 CMR 725.000. Since RMD’s are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMD’s where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.
- (b) *RMD uses not allowed as-of-right.* RMD uses are not included within the definition of retail sales or services, agriculture, or any other lawful business permitted as of right or by special permit as provided in Chapter 30.
- (c) *RMD uses allowed by special permit.* Use of land, buildings or structures for RMD’s shall be allowed only by special permit pursuant to section 30-24 in the following districts, subject to the requirements and criteria of this section: Business 2; Business 5; and Mixed Use 1.
- (d) *Minimum criteria and limitations on approval.*
- (1) An RMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, measured in a straight line from the nearest property line of the proposed RMD to the nearest property line of the facility.
 - (2) An RMD shall not be located within a radius of five hundred (500) feet from a house of worship or religious use, measured as specified in (d)(1) above.
 - (3) An RMD shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local

laws, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health.

(4) A special permit granted by the board of aldermen authorizing the establishment of an RMD shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the RMD has been authorized by the special permit. If the registration for the RMD is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

(5) An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

(6) An RMD shall conform to the dimensional requirements applicable to the zoning district in which it is located.

(7) Notwithstanding anything to the contrary in section 30-19, the required number of parking spaces for an RMD shall be determined by the board of aldermen based on the transportation analysis provided by the applicant

(8) All signage shall conform to the requirements of state regulations and of this ordinance. The board of aldermen may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

(e) *Special permit application and procedure*

In addition to the requirements of section 30-24, an application for special permit shall include, at a minimum, the following information:

(1) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

(2) *Service Area:* A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD's exist or have been proposed within the expected service area.

(3) *Transportation Analysis:* A quantitative analysis, prepared by a qualified transportation specialist acceptable to the director of planning and development, modeling the expected origin and frequency of client and employee trips to the

site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.

(4) *Context Map:* A map depicting all properties and land uses within a minimum one thousand (1,000) foot radius of the proposed site, whether such uses are located in Newton or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.

(5) *Site Plan:* A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.

(6) *Building Elevations and Signage:* Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.

(7) *Registration Materials:* Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to that department for the purpose of seeking registration, to confirm that all information provided to the board of aldermen is consistent with that provided to the Massachusetts Department of Public Health.

(f) *Special Permit Criteria.* In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in section 30-24 of this ordinance, the board of aldermen shall find that the following criteria are met:

(1) The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

(2) The site is located at least five hundred (500) feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or from a house of worship.

(3) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and users of public transportation.

- (4) Traffic generated by client trips, employee trips, and deliveries to and from the RMD shall not create a substantial adverse impact on nearby residential uses.
 - (5) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
 - (6) 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.
 - (7) The building and site are accessible to persons with disability.
 - (8) The site is accessible to regional roadways and public transportation.
 - (9) The site is located where it may be readily monitored by law enforcement for health and public safety purposes.
- (g) *Severability.* If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

ARTICLE VII

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-Law as follows:

Amending Section 2.13.1, “M” Definitions, “Medical Marijuana Treatment Center” as follows: (new language in bold)

1. **MEDICAL MARIJUANA TREATMENT CENTER** – Any Medical Marijuana Treatment Center, **to be known as a Registered Marijuana Dispensary (RMD)**, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

And amending Sec. 4.07, Table of Use Regulations, Use #20B, by changing the use name from Medical Marijuana Treatment Centers, to Registered Marijuana Dispensary, and change the use columns as follows (new language in bold):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. Registered Marijuana Dispensary (RMD)* * To be eligible for a special permit under Use 20 B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, shall be met.	No	No	No	No	No	No SP*	No SP*	No SP*	No SP*

And creating a new Sec 4.12, Registered Marijuana Dispensary (RMD with the following requirements: (new language in bold):

Sec. 4.12 - Registered Marijuana Dispensary (RMD)

1. Purpose

The intent of this section is to establish RMDs in appropriate locations and under strict safeguards to mitigate any possible adverse public health and safety consequences related to the establishment of RMDs in the Town of Brookline, in conformity with Chapter 369 of the Acts of 2012 (Question # 3 on the November 6, 2012 ballot).

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. General Restrictions

An RMD shall:

- a. Have a valid license or permit as may be required by law, including 105 CMR 725 and the Town By-Law, and comply with all state provisions.
- b. Be located more than 500 feet from an elementary or secondary school, public or private, as measured from lot boundary to lot boundary.
- c. Not be located in a building that contains a day care center.
- d. Not have direct access from a public way to the portion of the RMD where marijuana or related products or supplies are dispensed.
- e. Have signage that conforms to the state regulations, is not internally illuminated, and is approved by the Brookline Planning Board under Article VII of the Brookline Zoning By-Law.
- f. Require that if an RMD cultivates marijuana in Brookline, it shall be in an entirely enclosed building for security purposes.
- g. Submit a detailed description of security measures for the RMD, such as lighting, fencing, gates, and alarms, etc., that comply with the requirements of 105 CMR 725, to ensure the safety of persons and protect the premises from theft.

3. Submittal Requirements prior to issuance of a Building Permit for an RMD

The following information shall be provided to the Building Department:

- a. The name and address of each owner of the RMD.
- b. Copies of any required licenses and permits relating to the operation of the RMD, or, if an application for a required license or permit is pending, a copy of the application.
- c. Evidence of the Applicant's right to use the proposed site as an RMD, such as a deed or lease.
- d. If the Applicant is a business organization, a statement disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners/trustees of such entities by listing the individuals' names and addresses.

4. Submittal Requirements prior to issuance of a Certificate of Occupancy for an RMD

The following information shall be provided to the Building Department:

- a. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and persons with access to the facility when it is closed, to enable contact if operating problems should arise.

b. Proof that the Brookline Police Department has approved the proposed security measures and that all security measures have been installed or implemented.

5. Annual Reporting *[Delete this section if a Town By-Law requiring annual licensing of RMDs by the Selectmen is approved by Town Meeting.]*

As a condition for the continuation of the Special Permit, the owner (s) or manager (s) of each RMD permitted under this By-law shall appear before the Zoning Board of Appeals no later than January 31st of each year, to demonstrate continued compliance with state and town requirements, submit proof that the Brookline Police Department has been given updated contact information, and has found security measures adequate.

And amending Sec 6.02.5, Off-Street Parking Space Regulations by adding “20B” to the list of Retail and Office uses after “20A” in the first sentence: (new language in bold):

5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 20B, 21, 26, 27, 29, 31-33 inclusive, 35-39 inclusive, 41, 58, and 59 as listed in Article IV.

Or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article with the support of the Selectmen’s Zoning By-Law Committee. It ends the moratorium on the sale of medical marijuana or related uses in Brookline adopted by Town Meeting in May 2013 in response to the state having now adopted regulations regarding this use. Several departments have been working together – Planning, Building, Health, Police, and Town Counsel - to formulate zoning requirements that are not only consistent with the state regulations, but provide necessary restrictions and oversight.

An initiative petition titled “Law for the Humanitarian Medical Use of Marijuana” (Petition #11-11) was approved by the Massachusetts voters in the November 6, 2012 general election. More than 70 percent of Brookline voters approved the law, which took effect on January 1, 2013. The new law defines a “medical marijuana treatment center” as a Massachusetts not-for-profit entity, registered under the new law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses or administers marijuana, products containing marijuana, related supplies or educational materials to qualifying patients or their personal caregivers. The new law enables the Massachusetts Department of Public Health (DPH) to register up to 35 such centers within the first year of enactment, with a minimum of one and a maximum of five located within each county. DPH has now promulgated regulations for registration and administration of

such centers. Thus far, the production and distribution of marijuana for medical use has been legalized in 18 states and the District of Columbia. Laws and regulations vary from state to state.

The proposed warrant article does the following:

- Amends the definition of Medical Marijuana Treatment Center by adding “also known as a Registered Marijuana Dispensary (RMD)” to be consistent with the wording used in the definition under the state regulations, 105 CMR 725.
- Changes the name of the use under 20B to “Registered Marijuana Dispensary (RMD)” from “Medical Marijuana Treatment Center” to be consistent with the state regulations (105 CMR 725), adds a footnote referring to requirements for all RMDs under a new Sec. 4.12, and changes the use columns under Local and General Business, Office and Industrial districts from a “No” to an “SP” to allow the siting of RMDs in these zoning districts. RMDs remain a prohibited use in all residential zones.
- Adds a new Section 4.12 listing requirements for all RMDs, including: state licensure, where an RMD may be located (not within 500 feet of a K-12 school, nor within a building with a daycare center, restrictions based on – but not as restrictive as – the “default” restrictions in state DPH regulation as discussed below); the type of entrance from the street to the area where marijuana products are dispensed (access must be through a lobby or vestibule, not directly onto the street, providing an additional margin for screening and security purposes); the type of signage (no internally illuminated signs); restricting any cultivation of marijuana in Brookline to be within an enclosed building; and requiring security measures. This section also requires specific submittals from the applicant prior to a Building Permit and then again prior to a Certificate of Occupancy to ensure that the Town has current information about all licenses, operators/owners of the site, and security measures.
- Inserts the new use, 20B, to the list of uses under the general parking requirements for retail and office uses.
- Lastly, adds an annual review of the special permit by the Board of Appeals. This should be deleted from the warrant article if a Town By-Law passes requiring an annual license by the Board of Selectmen.

A discussion of the procedural posture of this article is warranted. The Zoning By-Law Committee has proceeded on the premise that the regulations proposed in this article could be made more stringent during the by-law review process and still be within the “scope of the warrant.” The reasoning is that the Town’s current Zoning By-Law flatly prohibits RMDs, so any additional restriction that may be added before the final Town Meeting vote would result in an outcome that is “between” the current situation (no RMDs) and the “looser” warrant article. In addition, the ZBLC recognizes that any by-law that is so stringent that it effectively forecloses

RMDs in the Town could well be rejected by the Attorney General as inconsistent with the November 6, 2012 referendum.

To give an example, the proposed warrant article would prohibit RMDs within 500 feet of a K-12 school. That article adopts the 500-foot distance that would apply under state regulations in the absence of a Town By-Law. The “default” state regulations would, however, apply that 500-foot buffer zone not only to K-12 schools but also to daycare centers and “any facility in which children commonly congregate.” The ZBLC did not recommend such language in recognition of the fact that – if the state language were adopted without modification -- the location of multiple daycare centers and parks throughout Brookline would effectively prohibit RMDs in much of the Town, including medical office buildings in commercial areas. At the same time, the ZBLC does recommend that RMDs not be located in the actual building where a daycare center is located.

As another example, an organization that is pursuing licensure as a non-profit RMD recommended a 1,000-foot buffer zone around schools, on the theory that federal authorities have exercised their discretion in adopting that distance for federal law enforcement purposes. This would, again, limit the areas in which RMDs could be located.

The ZBLC notes that the various boards, committees and commissions that will review this warrant article would have flexibility to recommend more stringent regulations than proposed in the article – for example, a buffer zone around daycare centers or parks, or a 1,000-foot (rather than 500-foot) buffer zone around schools. The final by-law will ultimately be decided by Town Meeting, with the recognition that any by-law must ultimately pass muster with the Attorney General.



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

BRIAN MURPHY
Assistant City Manager for
Community Development

To: Richard C. Rossi, City Manager
From: Brian Murphy, Assistant City Manager for Community Development
Date: September 26, 2013
Re: **Medical Marijuana Regulations**

Background

The Law for the Humanitarian Medical Use of Marijuana was adopted by Massachusetts voters in November, 2012. In April, 2013, the Cambridge City Council enacted a zoning moratorium, Section 11.700 of the Cambridge Zoning Ordinance, prohibiting the establishment of medical marijuana-related uses to allow sufficient time for the City to develop a permanent zoning amendment regarding such uses.

Section 11.706 of the Ordinance provides that the provisions of the zoning moratorium "[s]hall no longer apply after one hundred eighty (180) days have elapsed since May 1, 2013. However, if the Massachusetts Department of Public Health has failed to promulgate regulations with regard to the certification and administration of Medical Marijuana Treatment Centers by May 1, 2013, the provisions of this Section 11.700 shall continue to apply until one hundred eighty (180) days have elapsed since the date on which such regulations will have been promulgated, or until June 30, 2014, whichever date is earlier." On May 8, 2013, the Public Health Council approved regulations presented to it by the Massachusetts Department of Public Health (MDPH) with regard to the certification and administration of medical marijuana. These regulations were first published in the Massachusetts Register (Issue 1235) on May 24, 2013, went into effect on that date, and were thus promulgated on May 24, 2013. Therefore, the moratorium expires 180 days later, on November 20, 2013.

Current Status of Statewide Registration Process

In August, MDPH accepted Phase 1 applications from companies seeking to operate a Registered Marijuana Dispensary (RMD) in Massachusetts. On September 23, MDPH released the list of applicants that were approved in Phase 1 and may submit a more detailed Phase 2 application. There were 40 approved Phase 1 applications to operate an RMD in Middlesex County. Phase 2 applications have not yet been made available, but it is expected that the Phase 2 application process will begin in October and will be completed in early 2014. At the end of Phase 2, MDPH will permit up to 35 RMDs statewide, with at least one but no more than five in each county. Information is available at www.mass.gov/medicalmarijuana.

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Local Regulation

The MDPH regulations (105 CMR 725.000) permit local regulatory oversight so long as it does not conflict with state regulations.¹ While the Cambridge moratorium has been in effect, representatives from various City departments including the Community Development Department, Public Health Department, Law Department, Police Department, Department of Human Service Programs, Inspectional Services Department, License Commission and City Manager’s office have been meeting to review the statewide regulations and discuss local regulatory approaches.

The expectation is that land use characteristics such as location, parking and urban design would be controlled through the Zoning Ordinance, and the operational aspects of RMDs could be controlled through Cambridge public health regulations that would be enforced locally in addition to the state public health regulations which would be enforced by MDPH. The Cambridge Public Health Department, Inspectional Services Department, License Commission and Police Department would be authorized to enforce the local health regulations.

The zoning petition is being submitted at this time so that the public hearing process may begin prior to the expiration of the moratorium. The public hearings, beginning in October, will provide an opportunity for review and discussion of both zoning and public health regulations by the Planning Board, the City Council and the public at large.

Below is the anticipated timeline for development of the zoning petition and public health regulations.

Anticipated Timeline

September 30, 2013	City Manager submits zoning petition and requests City Council referral to Planning Board and Ordinance Committee to schedule public hearings.
October 22, 2013	Planning Board holds combined public hearing with Public Health Department to discuss proposed zoning amendment and draft public health regulations.
December 3, 2013	Cambridge Public Health Department presents draft public health regulations to Public Health Subcommittee for review and approval.
January 20, 2014	Final date for City Council adoption of zoning petition.

¹ 105 CMR 725.600 (B) states in relevant part: “[n]othing in 105 CMR 725.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.”

Proposed Zoning Regulations for Registered Marijuana Dispensaries

Introduction

The Law for the Humanitarian Medical Use of Marijuana was adopted by Massachusetts voters in November, 2012. The measure became law on January 1, 2013 (Chapter 369 of the Acts of 2012). In May, 2013, the Massachusetts Department of Public Health promulgated regulations set forth at 105 CMR 725.000 by which it will approve, register and control the establishment of up to 35 Registered Marijuana Dispensaries (RMDs) statewide in the first year, with at least one but no more than five RMDs in each county. Local regulatory oversight is allowed so long as it does not conflict with state regulations. This proposal includes a set of zoning regulations that will work in concert with state and other local regulations while focusing on land use planning issues such as district character, compatibility among adjacent uses, transportation and parking, and urban design. In addition to the zoning, a proposed set of local public health regulations will be considered to supplement the controls and oversight at the state level, providing guidance on operational matters.

Outline of Zoning Proposal

1. Define Registered Marijuana Dispensary in the Zoning Ordinance
This definition will parallel the definition in the state regulations.
2. List Registered Marijuana Dispensary in the Table of Use Regulations
Clarify that the use is allowed by special permit only, and refer to Overlay District provisions that will control the approval of RMDs by special permit.
3. Delete Existing Interim Regulations for Medical Marijuana Uses
This would end the current "moratorium" when the new regulations are adopted. If the new regulations are not adopted, the moratorium could be extended for an additional six months.
4. Create Medical Marijuana Overlay Districts
Designate areas of the city where RMDs would be allowed, subject to a set of zoning requirements and approval by the Planning Board.

Registered Marijuana Dispensaries – Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

1. Create the following Definition within Article 2.000:

Marijuana Dispensary, Registered. Registered Marijuana Dispensary, also known as RMD or Medical Marijuana Treatment Center, shall mean an establishment properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

This proposed definition is the same as the definition provided in the state medical marijuana regulations, found in 105 CMR 725.000.

2. Add the following text to Section 4.35 of the Table of Use Requirements and to the Use Requirements in Article 16.000 for the North Point Residence, Office and Business District:

4.35 Retail Business and Consumer Service Establishments

[...]

s. Registered Marijuana Dispensary	Open Space	No	Res A 1&2	No	Res B	No	Bus C-1A, 1, 2A, 2B, 3A, 3B	No	Off 1, 2A, 2, 3A	Bus A-1, A-2, A-3	No	Bus B, B-1, B-2	Bus C, C-1	Ind A-1, A-2	Ind B-1, B-2	Ind A, A-1	Ind B, C	Ind C
	Registered Marijuana Dispensary	No	Res 1&2	No	Res B	No	Bus 3, 3A, 3B	No	PB ⁵⁸	Bus A	PB ⁵⁸	Bus B-1, B-2	Bus C, C-1	Ind A-1, A-2	Ind B-1, B-2	Ind A, A-1	Ind B, C	Ind C

[...]

S8. Permitted by special permit from the Planning Board only within the Medical Marijuana Overlay Districts pursuant to the requirements of Section 20.700.

Listing RMDs in the use table provides a reference to the controlling Overlay District special permit requirements and clarifies that it is not otherwise considered an allowed use under base zoning. The same text is added to Article 16.000 for the "Np" base district, which is not referenced in the Table of Use Regulations.

16.21.7 Registered Marijuana Dispensary, Section 4.35 s, permitted by special permit from the Planning Board only within the Medical Marijuana Overlay Districts pursuant to the requirements of Section 20.700.

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

3. *Delete the existing Section 11.700 and replace with a reference as follows:*

11.700 INTERIM REGULATIONS FOR MEDICAL MARIJUANA USES

11.701 Purpose. This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts shall be in effect beginning January 1, 2013, and that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in Cambridge shall provide the opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.

11.702 Definition. A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations;

11.703 Exclusion of Other Marijuana Uses. Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

11.704 Exclusion of Accessory Uses. In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana,

The interim zoning was enacted in April, 2013, prior to the promulgation of state regulations for the registration of medical marijuana dispensaries. The text of the interim measure reflects the uncertainty at the time in how medical marijuana would be regulated. In the proposed text, the definition (previous pages) and zoning regulations (following pages) are intended to be harmonious with the regulations that have been promulgated by the Massachusetts Department of Public Health. Therefore, the text in this section is deleted in its entirety.

Registered Marijuana Dispensaries – Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

~~products containing or derived from marijuana, or related products be considered accessory to any use.~~

~~**11.705** *Interim Restriction.* Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Cambridge so long as this Section 11.700 is effective, as set forth in Section 11.706 below. Use variances shall be strictly prohibited.~~

~~**11.706** *Expiration.* The provisions of this Section 11.700, in their entirety, shall no longer apply after one hundred eighty (180) days have elapsed since May 1, 2013. However, if the Massachusetts Department of Public Health has failed to promulgate regulations with regard to the certification and administration of Medical Marijuana Treatment Centers by May 1, 2013, the provisions of this Section 11.700 shall continue to apply until one hundred eighty (180) days have elapsed since the date on which such regulations will have been promulgated, or until June 30, 2014, whichever date is earlier.~~

~~**Section deleted. Refer to Section 20.700 for Medical Marijuana regulations.**~~

If it is determined through the public hearing process that the proposed zoning should not be enacted at this time, an alternative approach would be to retain all of the existing zoning text except for the 180-day expiration timeframe. This would result in June 30, 2014 being the final expiration date, and would allow an additional six months to develop an alternate proposal.

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

4. *Create the following New Section within Article 20.000 Overlay Districts:*

20.700 MEDICAL MARIJUANA OVERLAY DISTRICTS

20.701 Purpose

The purpose of the Medical Marijuana Overlay Districts is to provide for the limited establishment of Registered Marijuana Dispensaries as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, implementation of an Act for the Humanitarian Medical Use of Marijuana. Given that Registered Marijuana Dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them where there is access to both regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not impact the character of lower-scale residential neighborhoods, business districts and educational institutions.

The proposed zoning is meant to dovetail with state registration requirements, which will allow for a very limited number of RMDs (up to 35 RMDs statewide), with an allowance for increases only if more service is needed.

If state laws or regulations change in the future to allow for a significant expansion in the number or type of marijuana providers, this zoning should be revisited accordingly.

20.702 Establishment. There is hereby established on the Zoning Map of the City of Cambridge the Medical Marijuana Overlay Districts, which shall be defined as follows:

Medical Marijuana Overlay District 1 shall be coterminous with the area encompassed by the Alewife Overlay Districts 2, 4, 5 and 6, having Office 1, Office 2A, Business A and Industry B-2 base zoning designations.

Because RMDs will be so limited in number, it is important to plan for them as regional service providers rather than typical retail establishments.

Medical Marijuana Overlay District 2 shall be the area bounded by Monsignor O'Brien Highway to the south and the Cambridge Municipal Boundary on all other sides, commonly referred to as the North Point area, including the North Point Residence Office and Business District, a portion of Special District 1, and a district with an Industry A base zoning designation.

The areas proposed are among those in Cambridge with the best access to both regional roadways and public transportation, and the least impact on residential neighborhoods.

20.703 Requirements

20.703.1 Use. Notwithstanding the use limitations of the base zoning district or any other overlay

zoning district, a Registered Marijuana Dispensary shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit by the Planning Board, subject to the requirements set forth in this Section.

(SEE MAP)

Registered Marijuana Dispensaries -- Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

20.703.2 Registration. All permitted Registered Marijuana Dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Registered Marijuana Dispensary that is not properly registered with the Massachusetts Department of Public Health.

20.703.3 Limitation of Approval. A special permit authorizing the establishment of a Registered Marijuana Dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the Registered Marijuana Dispensary has been authorized by special permit. If the registration for a Registered Marijuana Dispensary has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay Districts, a new special permit shall be required prior to issuance of a Certificate of Occupancy.

20.703.4 Building. A Registered Marijuana Dispensary shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.

20.703.5 Dimensional Requirements. Except where it is explicitly stated otherwise in this Section 20.700, a Registered Marijuana Dispensary shall conform to the dimensional requirements applicable to non-residential uses within the base and overlay zoning districts.

20.703.6 Parking and Loading. Notwithstanding anything to the contrary in Article 6.000 of this Ordinance, the required number of parking and bicycle parking (both long-term and short-term) spaces for a Registered Marijuana Dispensary shall be determined by the Planning Board based on the transportation analysis provided by the applicant. At least one loading bay shall be provided and may not be shared with any other use; however, the Planning Board may require a greater number of loading bays if it finds, based on the transportation analysis, that one loading bay shall not be sufficient. Except as set forth above, all parking, bicycle parking and loading facilities shall conform to the requirements set forth in Article 6.000.

Any special permit must go hand-in-hand with state registration and is conditioned on compliance with local public health regulations. A special permit is not valid for an unregistered dispensary – whether it has not received its registration, has lost its registration, or needs to seek a new registration for any reason.

Based on the state regulations, each RMD is expected to be a secure, stand-alone facility. It will likely be expected to have its own parking and loading facilities and continual monitoring of the site.

Although the design of RMDs will be constrained by state requirements to some extent, zoning can help ensure consistency with the development standards for the district.

Because it is not clear what kind of traffic will be generated by a typical RMD, it will be prudent to review RMDs on a case-by-case basis and apply the City's general standards to require an adequate supply of parking and bicycle parking while not creating an oversupply of parking and thus encouraging excess auto traffic.

Registered Marijuana Dispensaries – Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

20.703.7 Signage. All signage shall conform to the requirements of Article 7.000 of this Ordinance. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

20.704 Application Requirements. An application to the Planning Board shall include, at a minimum, the following information:

- (a) Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
- (b) Service Area: A map and narrative describing the area proposed to be served by the Registered Marijuana Dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other Registered Marijuana Dispensaries exist or have been proposed within the expected service area.
- (c) Transportation Analysis: A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
- (d) Context Map: A map depicting all properties and land uses within a one thousand-foot (1,000') radius (minimum) of the project site, whether such uses are located in Cambridge or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.
- (e) Site Plan: A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.

The information provided in a special permit application should describe the RMD in terms of the type and scale of activities that will occur there. The purpose of this information is so that the Planning Board can fully understand the scope of the operation and what impact it may have on traffic patterns and on the operation of adjacent uses. Much of this information will reflect what is in the RMD's registration issued by the state Department of Public Health.

Registered Marijuana Dispensaries – Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

- (f) Building Elevations and Signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
- (g) Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health.

20.705 Special Permit Criteria. In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Ordinance, the Planning Board shall find that the following criteria are met:

- (a) The Registered Marijuana Dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
- (b) The site is located at least five hundred feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary.
- (c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
- (d) Traffic generated by client trips, employee trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.

Because RMDs will be regulated by various authorities, most significantly the Massachusetts Department of Public Health, it is important to be clear and specific about what aspects of the RMD will be under the Planning Board's purview to regulate.

This proposal focuses on those aspects of project review that are typically addressed by the Planning Board (similar to the Article 19.000 process for large projects):

- Compatibility with adjacent uses
- Traffic and transportation
- Environmental impacts on abutters
- Overall urban design

The Planning Board review is meant to supplement the informational and operational requirements imposed at the state and local level while avoiding conflicts with those other jurisdictions and ensuring compatibility with the City's overall zoning objectives.

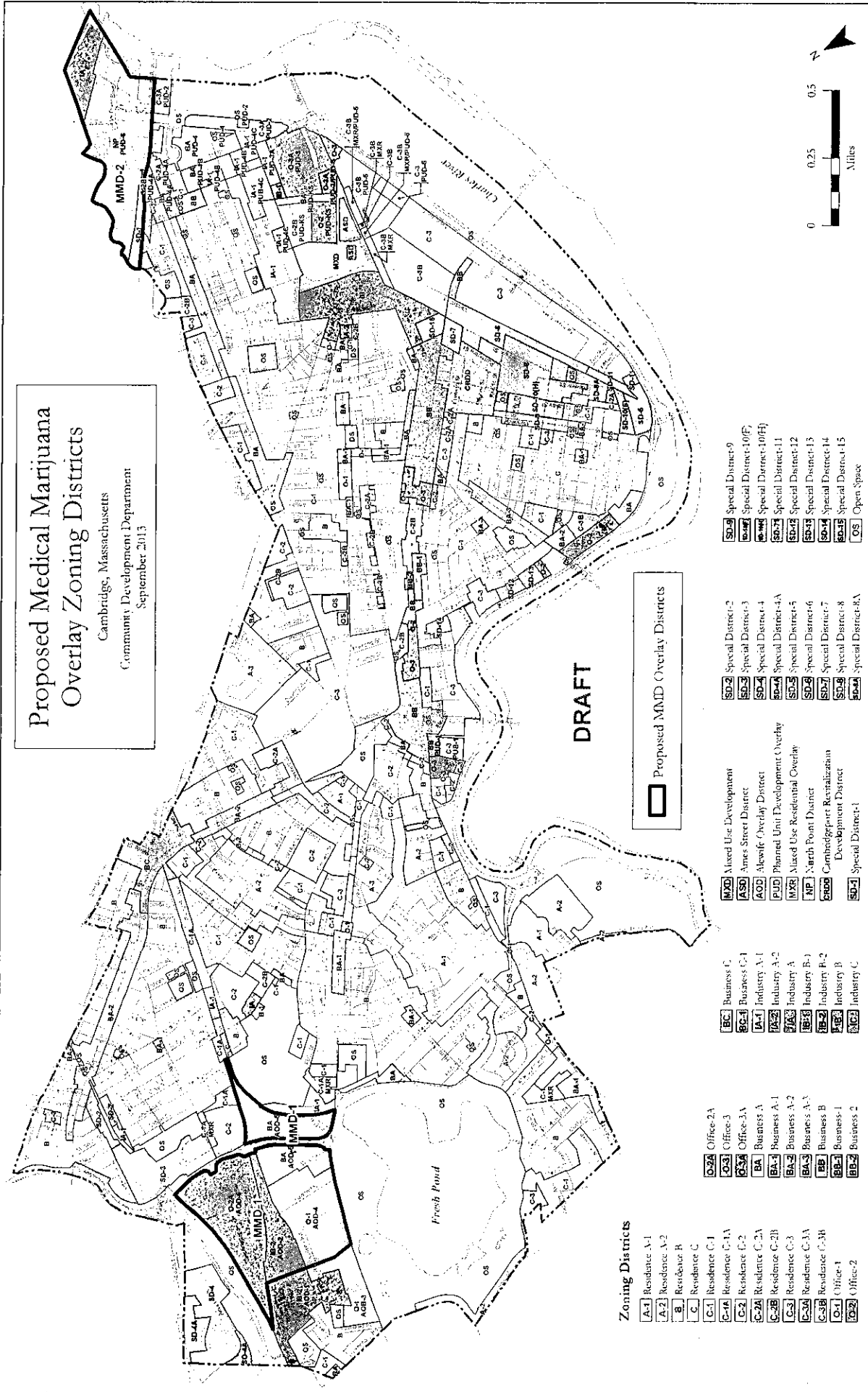
Registered Marijuana Dispensaries – Proposed Zoning Text

Note: Additions and creations are underlined. Deletions are in ~~strikeout~~.

- (e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- (f) 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.

Proposed Medical Marijuana Overlay Zoning Districts

Cambridge, Massachusetts
Community Development Department
September 2013



DRAFT

Zoning Districts

- OA-1 Office-1
- OA-2 Office-2
- OA-3 Office-3
- OA-4 Office-4
- OA-5 Office-5
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Proposed MMD Overlay Districts

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Map prepared by Brendan Malone on September 20, 2013. CDR GIS © Project 2 ZoningMapData/MapData/ProposedMMDOverlay11x17.mxd

SECTION III.Q. MEDICAL MARIJUANA TREATMENT CENTER AND MARIJUANA CULTIVATION

1. Purpose and Intent.

The purpose of this By-law is to provide appropriate zoning regulations for Medical Marijuana Treatment Centers and establish overlay districts for Medical Marijuana Dispensary Center and Medical Marijuana Cultivation Center uses that comply with state law and regulations.

The intent of this section is to:

- a. Establish specific zoning standards and regulations for Medical Marijuana Dispensary Centers and Medical Marijuana Cultivation Centers;
- b. Protect public health, safety and welfare of Framingham residents and community; and
- c. Provide site design standards, permitting requirements and removal procedures for Medical Marijuana Dispensary Centers and Medical Marijuana Cultivation Centers.

2. Definitions

Medical Marijuana Treatment Center (MMTC): means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused product, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Medical Marijuana Dispensary Center (MMDC): means a not-for-profit entity registered under 105 CMR 725.100, to be known as an RMD, that acquires, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), sells, dispenses, or administers marijuana products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, MMDC refers to the site(s) of dispensing and preparation of marijuana.

Medical Marijuana Cultivation Center (MMCC): means a not-for-profit entity registered under 105 CMR 725.100, to be known as an RMD, that cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells or distributes marijuana, products containing marijuana and related supplies to a qualified Medical Marijuana Dispensary Center.

Medical Marijuana Dispensary Center Overlay District (MMDCO): Parcels or areas of land within the Framingham boundaries designated by Town Meeting for a Medical

1 Marijuana Dispensary Center. These locations shall support the actions and activity of a
2 registered MMDC.
3

4 **Medical Marijuana Cultivation Center Overlay District (MMCCO):** Parcels or areas
5 of land within the Framingham Boundaries designated by Town Meeting for a Medical
6 Marijuana Cultivation Center. These locations shall support the actions and activity of a
7 registered MMCC that transfers, transports, sells or distributes marijuana, products
8 containing marijuana and related supplies to qualified Medical Marijuana Dispensary
9 Center.
10

11 **Terms Not Defined**

12 Any terms not defined in this Section but defined elsewhere in the Town By-laws,
13 Building and Board of Health Regulations or Commonwealth of Massachusetts laws and
14 regulations shall have the meanings given therein to the extent the same are not
15 inconsistent with this Section.
16

17 **3. Applicability**

- 18 a. All MMDC and MMCC activities shall require a special permit from the Planning
19 Board.
- 20 b. MMDC shall be allowed only within the designated Medical Marijuana Dispensary
21 Center Overlay (MMDCO), that shall be superimposed upon a parcel or contiguous
22 parcels of land by a vote of at least two-thirds of Annual or Special Town Meeting.
23 MMDC are prohibited in all other zoning districts.
- 24 c. MMCC shall be allowed only within the designated Medical Marijuana Cultivation
25 Center Overlay (MMCCO), that shall be superimposed upon a parcel or contiguous
26 parcels of land voted by a vote of at least two-thirds of Annual or Special Town
27 Meeting. MMCC are prohibited in all other zoning districts.
28

29 **4. Separation of Use**

30 **a. Requirements**

31 MMDC and MMCC shall not be allowed or permitted upon any parcel, any portion of
32 which would be, at the time of establishment of the MMDC or MMCC, within:
33

- 34 i. 1,000 feet from a parcel on which another MMDC or MMCC has been
35 established;
- 36 ii. 500 feet from a parcel containing a school, licensed registered daycare
37 facility, playground, park, recreation center, youth center or any established
38 facility in which children commonly congregate; or
- 39 iii. within a Single Family Residential Zone or General Residential Zone.
40

41 The distance between the MMDC or MMCC and uses referenced i-iii, herein, shall be
42 measured in a straight line, without regard for intervening structures, from any parcel
43 line of the real property on which the MMDC or MMCC is located, to the nearest
44 point on a parcel line of the real property, referenced herein.
45

1 No more than one RMD, MMDC, MMCC, and/or MMTC shall be located in the
2 Town of Framingham.
3

4 **b. Residential Use and Residential Zoning District**

5 No marijuana or marijuana based products shall be sold or grown or cultivated,
6 interior or exterior within a residential dwelling unit, residential use, mixed-use
7 residential building or residential zoning district except if a hardship certificate is
8 granted by the Department of Public Health. Marijuana cultivation activities shall
9 occur only in a MMCCO as permitted in this By-law.
10

11 **5. Design Standards, Off-street Parking and Loading Requirements**

12 **a. Site Plan Review**

13 All MMDC and MMCC shall require site plan review and shall comply with the
14 regulations of Section IV.I. of this Zoning By-law.
15

16 **b. Basic Requirements**

17 All MMDC and MMCC shall be designed and constructed in accordance with the
18 requirements of the underlying zoning district and with the requirements of all
19 applicable provisions of the Zoning By-Law including Section IV.K. Highway
20 Overlay District Regulations for site layout.
21

22 **c. Off-street Parking**

- 23 i. Off-street parking facilities for MMDC and MMCC shall conform to all
24 regulations and design standards set forth in Section IV.B. of the Zoning By-law.
25 In addition to the setback and landscaping requirements set forth in Section IV.B.,
26 the Planning Board may require that any parking lot which contains more than 12
27 parking spaces be suitably screened by a landscaped area with trees which are of a
28 type that may be expected to form a permanent screen designed not to interfere
29 with security.
30
- 31 ii. An MMDC shall be considered as a “Other personal, consumer and retail
32 services” occupancy type for the purpose of parking space count.
33
- 34 iii. An MMCC shall be considered as a “R&D establishment, manufacturing,
35 industrial service, or extractive industry” occupancy type for the purpose of
36 parking space count.
37

38 **d. Premises Requirements**

39 **i. Building Area**

- 40 a). No MMDC building shall exceed 3,000 gross square feet.
- 41 b). MMDC and MMCC must be located in a permanent building and may not
42 be located in a trailer, cargo container or motor vehicle.
- 43 c). The MMDC shall be of adequate interior space to accommodate all
44 activities inside the building so as not to have outside patient queuing on
45 sidewalks, parking area, and other areas outside the building.

46 **ii. Signage**

- a). The exterior signage shall conform to the requirements in 105 CMR 725.105(L) Marketing and Advertising Requirements, in addition to the Town’s General By-law Article VII. Signs and Historic District.
- b). Signage shall not depict figures or symbols related to marijuana. Off-site signage or advertising in any forms, including billboards shall not be allowed.
- c). MMDC and/or MMCC external signage shall not be illuminated except for a period of 30 minutes before sundown until closing in accordance with 105 CMR 725.105(L) as set forth by the Commonwealth of Massachusetts.

iii. Physical Appearance

- a). The development or redevelopment of properties shall improve the exterior appearance of the structure and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment or property values within the immediate area.
- b). Marijuana, marijuana-infused products, or associated products shall not be displayed or clearly visible to a person from the exterior of the MMDC and/or MMCC.
- c). MMDC and/or MMCC shall not display on the exterior of the facility advertisements for marijuana or any brand name, and may only identify the building by the registered name.
- d). MMDC and/or MMCC shall not utilize graphics related to marijuana or paraphernalia on the exterior of the MMDC and/or MMCC or the building in which the MMDC and/or MMCC is located.

iv. Drive-thru:

- a). MMDC or MMCC may not have a drive-thru service.

v. Waste Disposal:

- a). The disposal of waste shall comply with 105 CMR 725.105(J).
- b). Outdoor storage of waste shall be screened with a locking fence.

6. Openness of Premises

Any and all distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within the restricted interior area of a MMDC and shall not be visible from the exterior of the business. Therefore, a MMDC shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.

7. MMDC Storage Requirements

All requirements for storage of Medical Marijuana and products shall in compliance with 105 CMR 725.105(D)

8. Cultivation, Acquisition and Distribution Requirements

Cultivation of medical marijuana, marijuana-infused products, or associated products shall follow the regulations set forth in 105 CMR 725.105(B)

1 **9. Operating License Required**

2 The Department of Public Health registration and Compliance Certificate shall be
3 required for the operation of a MMDC or a MMCC within the Town of Framingham.
4

5 **10. Special Permit Application Requirements**

6 **a.** An applicant for a special permit for a MMDC and/or MMCC must complete an
7 application that includes all of the following information

- 8 i. If the application is by an agent for the owner the authorization must include an
9 explicit acknowledgement from the owner that the owner knows that the
10 proposed use of the property is as a MMDC and/or MMCC.
11 ii. The legal name of the MMDC and/or MMCC.
12 iii. The name, address and date of birth of each principal officer and member of the
13 not-for-profit MMDC and/or MMCC and the name, address and date of birth of
14 each MMDC and/or MMCC dispensary agent.
15 iv. A notarized copy of the RMD's Certificate of Registration.
16

17 **11. Additional Conditions, Limitations, and Safeguards**

18 **a. 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use**
19 **of Marijuana** Applicants shall be required to follow the regulations set forth in 105
20 CMR 725.000.

21 **b. No Entitlement or vested rights to permitting** No person shall be deemed to have
22 any entitlement or vested rights to permitting under this By-law by virtue of having
23 received any prior permit from the Town including, by way of example only, any
24 zoning permit or any wholesale food manufacturer's license. In order to lawfully
25 operate a MMDC and/or MMCC, any person must qualify for and obtain a special
26 permit in accordance with the requirements of this By-law.

27 **c. Conflict of Laws** In the event of any conflict between the provisions of this By-law
28 and any other applicable state or local law, the stricter provision, as deemed by the
29 Zoning Enforcement Officer, shall control.

30 **12. Terms Not Defined**

31 Any terms not defined in I.E. shall have the meanings given therein the Board of Health
32 Regulations or Commonwealth of Massachusetts laws and regulations.



Setti D. Warren
Mayor

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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: October 11, 2013


TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning
Amanda Stout, Senior Planner, Long-Range Planning

RE: #295-13: ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by deleting paragraph (11) Hotels in its entirety to remove the requirement that new hotel developments must make cash payments to the City in support of housing for low and moderate income housing.

MEETING DATE: October 16, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor



EXECUTIVE SUMMARY

Hotels represent a land use and business type that is in high demand in the greater Boston region and that provides net benefits to its host municipality in terms of real estate taxes, meals taxes, occupancy taxes, and economic multipliers of guests dining, shopping, and visiting the community. Hotels and motels are allowed in some zoning districts by special permit, and Newton currently has three hotels. It has been observed that no new hotels have been proposed in Newton since the adoption of the Inclusionary Zoning ordinance in 1977, which requires a hotel developer to pay a fee equal to 10% of the valuation of any new hotel rooms created. This memorandum addresses the comments and questions raised at the September 9, 2013 Zoning and Planning Committee meeting, and it proposes a recommended text amendment that would eliminate the paragraph on hotels from the Inclusionary Zoning ordinance.

BACKGROUND

In mid-2012, a small joint working group was formed by the Economic Development Commission (EDC) and the Newton Housing Partnership (NHP) to identify and draft proposals for improvement to the current Inclusionary Zoning regulations in Chapter 30 Section 24(f). Driven by the observation that Newton has not had any recent hotel development and that current development projects do not explore hotel development among their possible land uses, the group investigated the barriers that exist to hotel development in Newton. The group discovered that the Newton Zoning Ordinance requires a “housing affordability” fee on any new hotel rooms created, which dates to Newton’s initial adoption of the Inclusionary Zoning ordinance in 1977. That is, a special permit for a hotel is conditional on a cash payment in the amount of “10 per cent of the number of rooms in excess of that which existed on January 1, 1989 multiplied by the estimated per room valuation following construction.” The EDC/NHP study found that no parallel provisions exist in other communities in Massachusetts and that this linkage does not apply to any other non-residential land uses in Newton. The EDC/NHP study elaborates on the origins of this linkage in the Inclusionary Zoning ordinance. Furthermore, they found that no hotel has been built or has added guest rooms anywhere in the City of Newton since the hotel fee was added, which has resulted neither in gains for hotels nor for affordable housing.

ANALYSIS

Newton has three hotels: the Boston Marriott Newton (2345 Commonwealth Avenue, Auburndale), the Crown Plaza Boston-Newton (320 Washington Street, Newton Corner), and the Hotel Indigo Boston-Newton Riverside (399 Grove Street, Newton Lower Falls). There are no motels, inns, or other lodging areas. “Hotel/motel” is a use allowed by special permit in Business Districts 1, 2, 3, and 4, in Mixed Use 2, and in Mixed-Use 3/Transit-Oriented Development District. In Business District 5, which is the zone for the Marriott and Indigo locations, “hotel/motel” is allowed by special permit.

At the September 9, 2013 meeting of the Zoning and Planning Committee, the EDC, NHP, and Committee discussed some of the advantages of hotel development. Hotels have a positive fiscal impact, generating revenue for a host community and providing a variety of jobs with a low impact on services. By their nature, hotels draw visitors to the City, so there is an economic multiplier associated with these guests who will dine, shop, and patronize Newton’s village centers and commercial corridors.

In Massachusetts, cities and towns may levy a tax of up to 6% of the taxable rents of hotels, motels, lodging houses, and certain bed and breakfast establishments. Newton, like most of our neighbors including Needham, Waltham, and Brookline, has adopted this Local Room Occupancy Tax of 6%, which hotel operators collect and remit to the State, along with the 5.7% State room occupancy excise tax. According to the Massachusetts Department of Revenue, in FY2013, Newton received revenue of \$2,051,414 from the Local Option Rooms Tax. Additionally, in FY2013 Newton received \$1,407,804 in

revenue from the Local Option Meals Tax, which Newton has adopted at 0.75%. While raising revenue through taxes is not the principal reason for amending the Inclusionary Zoning ordinance, it is true that hotel development generates revenue for the City through Local Option Rooms and Meals Taxes.¹

There are hotels at a variety of price points in neighboring communities, and these municipalities are constructing new hotels to meet continued demand. For example, Needham recently hosted a grand opening for the Residence Inn Marriott Boston-Needham, which is located in the New England Business Center/Needham Crossing and poised to attract business guests visiting the Highland Avenue/Needham Street Corridor.

Newton's location and demographics make it a very attractive location with a high demand for hotels. According to the 2010 Census, the City of Newton has a population of 85,146 and a median household income of over \$100,000. Newton is home to several colleges, including Boston College, the Boston College Law School campus, Lasell College, Mount Ida College, the Andover-Newton Theological Seminary, and Hebrew College, and the many parents, visiting scholars, conference attendees, and sporting event attendees for these colleges and the others in surrounding communities generate significant demand for hotels in the area. Additionally, businesses in and around Newton hosting conferences and Newton residents hosting out-of-town guests seek out Newton-based hotels.

The EDC and NHP suggested that the unfairness of the ordinance by singling out hotels alone as non-residential development subject to this fee sends a negative message to the business community. This requirement negatively impacts economic development in Newton by imposing a financial barrier on hotels, which have the potential to be a net tax contributor and a business type that is uniquely suited to attracting other businesses and improving the quality of life in Newton. While any new hotel would still be subject to review through the special permit process, the proposed change to eliminate the link between hotels and Inclusionary Housing may yield short-term results that will enhance the tax base and quality of life in Newton through the creation of new hotels.

PROPOSED TEXT AMENDMENT

1. Delete the entire paragraph in Sec. 30-24(f)(11) Hotels.

~~“(11) Hotels. Whenever an application for a special permit seeks to increase the density of residential development for a hotel, the board of aldermen shall require a cash payment as a condition of any such grant. The amount of the payment shall be determined as 10 per cent of the number of rooms in excess of that which existed on January 1, 1989 multiplied by the estimated per room valuation following construction, as determined by the assessing department. Payment shall be made in accordance with section 30-24(f)(4).”~~

¹ <http://www.mass.gov/dor/local-officials/municipal-data-and-financial-management/data-bank-reports/local-options.html>

NEXT STEPS

If the Zoning and Planning Committee wishes to eliminate the current requirement for a cash payment towards inclusionary housing from new hotels, staff recommends this item be scheduled for a Public Hearing on November 13, 2013. If further consideration is necessary, staff requests the Zoning and Planning Committee define what additional data and analysis it may need to inform further discussion.



Setti D. Warren
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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: October 11, 2013


TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning
Amanda Stout, Senior Planner, Long-Range Planning

RE: #64-12: ALD HESS-MAHAN requesting an amendment to Newton Revised Ordinances **Sec. 30-24(f)(8)(b)** to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities.

MEETING DATE: October 16, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor



EXECUTIVE SUMMARY

The purpose of this memo is to discuss a proposed amendment to the Inclusionary zoning ordinance to give preference to households that are displaced from their homes as a result of a residential development. For units that are designed to be accessible for persons with disabilities, it is suggested that these be given preference for households where a member of the household has a disability.

BACKGROUND

The Newton Fair Housing Committee, and its predecessor Fair Housing Task Force, developed guidelines for resident selection preferences applicable to housing developments that are subject to oversight by the City of Newton through either funding or regulation (not including housing developed

or administered by the Newton Housing Authority, which is subject to a different set of Federal requirements). In 2009, the Board of Aldermen adopted amendments to the City's Inclusionary Zoning provisions making them consistent with these guidelines. In 2010, the Guidelines were revised in order to provide more clarity regarding preferences for units to serve households that include a person with disabilities. In 2012, the Guidelines were revised to add a provision for those cases in which an Inclusionary Housing development results in the displacement of households that are currently living in affordable units on that site. The intent is to ensure that residents who are displaced and who are eligible for the new affordable units created through the development receive first preference for those units. The proposed language below suggests how to incorporate this criterion as the first in a series of criteria to determine preference for affordable units included in 30-24(f)(8)(b)(v).

ANALYSIS

There is considerable merit to maintaining continuity in neighborhoods and assisting households that currently live in Newton to remain in the community if they are displaced from their homes. The proposed language would work toward this goal. Additionally, a development that relies on Federal funds provided through the City of Newton is already subject to Federal requirements which aim to minimize displacement of eligible households.

It is unlikely that a proposal in Newton would displace more eligible households than it plans to accommodate. All projects that are subject to Inclusionary Zoning go through the special permit process, and if a proposed project would lead to a net decrease in affordable units, the circumstance would be discussed on a case-by-case basis as part of the special permit process.

PROSED TEXT AMENDMENT

1. The proposed language Recommends deletion of 30-24(f)(8)(b)(v) and (vi) and replacing it with the new text:

- ~~v) Preference shall be given for qualified applicants who fall within any of the following equally weighted categories: (1) individuals or families who live in Newton; (2) households with a household member who works in Newton, has been hired to work in Newton, or has a bona fide offer of employment in Newton; (3) and households with a household member who attends a public school in Newton.~~
- ~~vi) Preferences for those dwelling units which are designed or modified to be accessible to people with disabilities shall be assigned (a) first to households that as well as having one or more of the four preferences above also include a member needing the features of the unit, then (b) to households having none of the above preferences but that include a member needing the features of the unit, then (c) to other households having one or more of the preferences above, and then (d) to other applicants."~~

- v) Preference shall be given for qualified applicants as follows:
- a) Where a development results in the displacement of individuals who qualify for a unit in terms of household size and income, first preference shall be given to those displaced applicants, unless such preference would be unallowable under the rules of any source of funding for the project.
 - b) Following that, preference shall be given to any other qualified applicants who fall within any of the following equally weighted categories: (1) Individuals or families who live in Newton; (2) Households with a family member who works in Newton or has been hired to work in Newton; and (3) Households with a family member who attends public school in Newton.
 - c) Following that, preference shall be given to other qualified applicants.
- vi) Preferences for dwelling units having features that are designed, constructed, or modified to be usable and accessible to people with visual, hearing, or mobility disabilities shall be given for qualified applicants as follows.
- a) First preference for initial occupancy shall be given to applicants who are displaced as a result of the project and who need the features of the unit;
 - b) To households that include a family member needing the features of the unit and having preference under one or more of the three categories listed in 30-24(f)(8)(b)(v)(b);
 - c) To households that include a family member needing the features of the unit but that do not have a preference under one of the three categories listed in 30-24(f)(8)(b)(v)(b);
 - d) To households having preference under one or more of the three categories listed in 30-24(f)(8)(b)(v)(b);
To other qualified applicants.

NEXT STEPS

If the Zoning and Planning Committee agrees with these amendments, staff recommends this or similar language be presented at a Public Hearing on November 13, 2013. If further consideration is necessary, staff requests the Zoning and Planning Committee describe what additional data and analysis it may need to inform its decision-making.