

January 2, 2020

Via Hand Delivery

Newton City Council
Land Use Committee
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

RECEIVED
Newton City Clerk
2020 JAN -2 AM 9:15
David A. Olson, CMC
Newton, MA 02459

Re: Special Permit Application
Property Address: 1089 Washington Street, Newton, MA
a/k/a 58 Cross Street, Newton, MA
Applicant: Ascend Mass, LLC

Dear Honorable Chair and Members of the Land Use Committee:

This firm represents Ascend Mass, LLC ("Ascend" or the "Applicant") in connection with its application for a Special Permit (the "Special Permit") from the City of Newton (the "City") to permit the operation of its proposed Marijuana Retailer (the "Marijuana Retailer") at 1089 Washington Street, otherwise known as 58 Cross Street, Newton, MA 02465 (the "Property"). The Property is located in the BU2 zoning district and pursuant to Section 6.10.3 and Section 4.4, of the Newton Zoning Ordinance (the "Ordinance") the use of the property for a Marijuana Retailer is a restricted use, subject to the execution of a Host Community Agreement (the "HCA") with the City, Zoning Review by the Planning and Development Department and Special Permit approval from the City Council. The HCA was entered into as of July 8, 2019 by the City and Ascend, a copy of which is attached hereto and incorporated herewith. The Department of Planning and Development provided its Zoning Review Memorandum on August 7, 2019, a copy of which is attached hereto and incorporated herewith.¹ Please accept this supporting statement and the accompanying attachments as the Applicant's Special Permit Application pursuant to Section 6.10.3(F) and Section 7.3.

I. Background

Ascend is committed to providing high-quality adult use cannabis to customers in Massachusetts in a secure and compliant setting. Its CEO, Andrea Cabral, is an established leader in the Criminal Justice arena, and as such, approaches this industry with a high-regard for compliance, safety, and equity. As a part of identifying this Property for use as a Marijuana Retailer, the Ascend team considered a facility that would comport to the highest level of operational excellence. Its team has developed a plan that will responsibly serve area customers, while minimizing any deleterious effects to the surrounding community.

¹ Ascend has taken into consideration community input and the Department of Planning and Development's input and has modified its plans since issuance of the initial Zoning Review Memorandum. The project as currently proposed requires relief from the following sections of the Ordinance: Section 7.3.3 (for grant of a special permit), Section 7.4 (for site plan review), Sections 6.10.3.D and 4.4.1 (to allow a Marijuana Retailer), and Sections 5.1.10 and 6.1.13 (to waive lighting requirements).

Prince Lobel Tye LLP
One International Place
Suite 3700
Boston, MA 02110
TEL: 617 456 8000
FAX: 617 456 8100

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 2 of 14

II. Executive Team

Andrea Cabral - CEO

Andrea, CEO for Ascend, has served as the Executive Secretary of Public Safety in the Administration of Governor Deval Patrick from 2012 to 2015 where she oversaw 14 state public safety agencies. Prior to that, she was sheriff of Suffolk County for ten years, Assistant District Attorney in the Suffolk County District Attorney's office, and Assistant Attorney General and Assistant District Attorney in the Middlesex County District Attorney's Office. Andrea is also a former member of the Advisory Board of the Rappaport Center for Law and Public Policy, and the Governing Board of the Mass Mentorship Program. In 2017, Andrea was appointed by the Attorney General to the cannabis Advisory Board and is the current Chair of the Public Safety and Community Mitigation Subcommittee.

Joseph Gullia- Vice President of Retail Operations

Joseph, Vice President of Retail Operations, brings twelve years of retail experience as the Senior Director of Stores for Ralph Lauren as well as experience within the cannabis industry. In addition to his time at Ralph Lauren, Joseph also served as Vice President of Store Operations at Maggie's Farm, a medical and recreational retail cannabis company in Colorado, where he designed, staffed, and opened three new store locations, including the single most productive dispensary in the United States. Joseph increased staffing from 37 employees to 120 employees and reduced attrition by 75% at Maggie's Farm. After three years at Maggie's Farm, Joseph briefly worked at Silverpeak farms prior to joining Ascend.

Eugene "Gene" Sumpter- Chief of Compliance and Security

Gene, Chief of Compliance and Security, is a military veteran and the former Superintendent of the Nashua Street Jail at the Suffolk County Sheriff's Department. He served in the Army for 6 years (3 years active duty and 3 years as a Reservist) and was honorably discharged with the rank of Corporal. He joined the Suffolk County Sheriff's Office immediately thereafter in 1989 and rose through the ranks to become Superintendent, where he served from 2004-2018. The Operation of all jails, like the operation of all licensed cannabis facilities, is governed by the Code of Massachusetts Regulations. Gene is an expert in regulatory and statutory compliance and is well prepared to work with the City of Newton agencies and the Cannabis Control Commission to maintain the company's compliance with state and local regulations. Gene is also a former SCSD Academy Drill Instructor, has been trained by the Federal Bureau of Investigation, the Department of Homeland Security, the Massachusetts Commission Against Discrimination and the Massachusetts Criminal Justice Training Council, and will be responsible for security training at all Ascend facilities.

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 3 of 14

III. Project Description

The Applicant has identified 1089 Washington Street/ 58 Cross Street, an approximate 25,122 square foot lot, as an ideal location in which to establish its Marijuana Retailer. The Property is located in the BU2 zoning district and pursuant to Section 4.4 of the Ordinance, the use of the property for a Marijuana Retailer is a permitted, subject to the execution of a HCA with the City, Zoning Review by the Planning and Development Department and Special Permit approval from the City Council.

The Property currently contains a vacant building (the "**Building**") and the Applicant proposes to purchase the Property, renovate and convert approximately 4,973 square feet of space inside the Building for its use as a Marijuana Retailer. The Building is an existing one-story masonry building. The Applicant will make necessary improvements to the Building, the parking lot, and open space on the Property, including state-of-the-art security systems and high-quality amenities and finishes.

More specifically, the Applicant will be utilizing this space for its retail area, storage, fulfillment areas, employee locker rooms and break rooms, a secure loading area and other ancillary uses. The Marijuana Retailer will also include 25 on-site parking stalls, where 22 are required by zoning. Please note, an earlier Special Permit application identified a total of 28 on-site parking stalls, however that amount is reduced in this submission as a result of the correctly identified total number of employees per shift, and to accommodate enhanced landscaping, and other changes to the plan, as a part of the community process.

The Property is part of an established commercial district running along Washington Street, easily accessible by car and strategically situated to serve West Newton and Newtonville. The site will include a large illuminated and monitored parking lot allowing for safe passage for customers to and from the store. Due to the size of the facility, the Applicant is able to take advantage of ample square footage which it will utilize for providing an expansive sales floor area, comprehensive security systems, secure loading and storage areas, limited access areas, and ample spaces for business uses ancillary to the Marijuana Retailer (offices and vault areas).

The Property will be made safe and secure through reinforced construction materials and technology, cameras and remote monitoring, and on-site security personnel. The project will include various security and safety equipment and technology, including but not limited to secure access control areas, customer entrance protocols, and redundant security alarms and controls. In addition, all personnel will be trained extensively and the operation will fully comply with Massachusetts regulations and guidelines.

Please also see the engineering and architectural plans attached hereto and incorporated herein by reference (the "**Plans**") for additional project details.

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 4 of 14

IV. Special Permit Criteria

The Applicant respectfully submits that it has satisfied the criteria for obtaining a Special Permit from the City Council set forth in the Process and the Ordinance as follows:

Section 6.10.3 Registered Marijuana Use

- A. Purpose. The purpose of this Sec. 6.10.3 is to provide for the limited establishment of Registered Marijuana Dispensaries ("RMDs") and adult use Marijuana Establishments within the City as they are authorized pursuant to state regulations set forth in 105 CMR 725.000 and 935 CMR 500.000. Since RMDs and Marijuana Establishments are strictly regulated by the Massachusetts Department of Public Health and the Cannabis Control Commission, the intent of this Sec. 6.10.3 is to permit RMDs and Marijuana Establishments 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.**

The Applicant respectfully submits that its proposal satisfies the purpose and intent of Section 6.10.3 of the Ordinance as it is proposing to site a Marijuana Retailer within the BU2 zoning district. The BU2 Zoning district has been deemed an appropriate location for Marijuana Retailers, pursuant to the Host Community Agreement from the Mayor's Office and subject to a Special Permit from the City Council.

The Applicant respectfully submits that the Property is ideally situated for a Marijuana Retailer. The Property has adequate access to Washington Street, a regional roadway. The Property is located near Route 16 and Interstate Highway 90, providing additional access across the Commonwealth. Additionally, the Property has ample access to public transportation options, including the MBTA 553 and 554 bus lines, which stop in front of the Property, and the West Newton and Newtonville Commuter Rail stations are under a fifteen-minute walk from the Marijuana Retailer.

Pursuant to the Applicant's proposed security plan, attached hereto and incorporated herewith, the Applicant respectfully submits that its Marijuana Retailer's security plan and procedures will be put in place by Kroll Inc., an international security firm, and its managing director of their Boston Office, Daniel Linskey, a 27-year veteran of the Boston Police Department and former Superintendent-in-Chief of the Boston Police Department. The Applicant will provide direct video feed access to its video surveillance system and will work with local law enforcement and the Cannabis Control Commission to ensure its video cameras are properly positioned within the Marijuana Retailer.

The Property is also ideally located in that it will not adversely impact the character of the neighborhood. The Property located in a commercial business corridor and neighbors' multiple businesses including Trader Joes, Oakley Food Mart, Alpha Cleaners, and a few furniture and auto repair shops. Furthermore, the segment of Washington Street which the Property is on is only fronted by

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 5 of 14

buildings and businesses on one side of the street, as the other side of the street is buffer zone for Interstate Highway 90, so there is minimal impact to the neighborhood. Ascend also proposes fencing on the sides of the Property directly abutting residential houses to minimize its impact on its neighbors.

B. Definitions.

The Applicant respectfully submits that it is proposing to site a Marijuana Retailer, which is defined in the Newton Zoning Ordinance as an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Per the Newton Zoning Ordinance, a Marijuana Retailer is a type of Marijuana Establishment.

- C. Marijuana uses not Allowed As-of-Right. Marijuana uses are not included within the definition of retail sales or services, agriculture, manufacturing, research, or any other lawful business permitted as of right or by special permit as provided in this Chapter.**

Pursuant to this application the Applicant respectfully submits that it is in compliance with this requirement.

- D. Marijuana uses allowed by special permit. Use of land, buildings or structures for an RMD or Marijuana Establishment shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3.**

Pursuant to this application the Applicant respectfully submits that it is in compliance with this requirement.

E. Minimum criteria and limitations on approval

- 1. An RMD shall not be located within a radius of 500 feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, and a Marijuana Retailer shall not be located within a radius of 500 feet from an existing public or private k-12 school, unless the City Council finds that the RMD or Marijuana Retailer is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the facility.**

The Property is not located within a radius of 500 feet from an existing public or private K-12 school. Please see the context map included with the Plans and incorporated herein.

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 6 of 14

- 2. An RMD or Marijuana Establishment shall be properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission pursuant to 105 CMR 725.100 or 935 CMR 500.100 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD or Marijuana Establishment that is not properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission. The RMD or Marijuana Establishment shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance and shall immediately notify said clerk if its registration is not renewed or is revoked. The RMD or Marijuana Establishment shall provide the Newton Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.**

The Applicant hereby submits that it shall diligently pursue registration from the Cannabis Control Commission pursuant to 935 CMR 500.000 *et. seq.* and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. The Applicant further pledges to file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance and shall immediately notify said clerk if its registration is not renewed or is revoked. The Applicant shall provide the Newton Police Department with the names and contact information for all management staff and shall notify the police department of any changes.

- 3. A special permit granted by the City Council authorizing the establishment of an RMD or Marijuana Establishment shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the RMD or Marijuana Establishment has been authorized by the special permit. If the registration for the RMD or Marijuana Establishment 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.**

The Applicant hereby submits that it shall maintain the registered entity for which the special permit is issued on the Property.

- 4. An RMD or Marijuana Establishment 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.**

The Applicant hereby submits that the Marijuana Retailer will be located within a restored and renovated freestanding permanent building and all sales shall be conducted either within the building to qualified customers pursuant to applicable state regulations.

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 7 of 14

- 5. An RMD or Marijuana Establishment shall be subject to the number of parking stalls required in Sec. 5.1 unless a lesser or greater number of stalls is required by the City Council based on the transportation analysis provided by the applicant. An RMD or Marijuana Retailer shall comply with the parking requirements for Retail uses; a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Microbusiness, or Marijuana Product Manufacturer shall comply with the parking requirements for Manufacturing; and a Marijuana Research Facility or Independent Testing Laboratory shall comply with the parking requirements for Research, Laboratory.**

Pursuant to the Plans, the Applicant respectfully submits that it is in compliance with this requirement. The Applicant is proposing to include 25 parking spaces on site, exceeding the required number of parking stalls pursuant to Section 5.1 of the Ordinance. Pursuant to Section 5.1.4, and as determined in the Zoning Review Memorandum, retail uses are required to have one (1) parking stall per every three (3) employees at the highest shift plus one (1) parking stall per three hundred (300) square feet of retail space. The Marijuana Retailer is proposed to be 4,973 square feet and combined with the proposed 15 employees during the peak shift, the Ordinance therefore requires 22 parking spaces, or three (3) fewer than the allotted 25 parking spaces.

- 6. All signage shall conform to the requirements of 105 CMR 725.105(L) and 935 CMR 500.105(4) and to the requirements of Sec. 5.2. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD or Marijuana Establishment. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.**

The Applicant hereby submits that it will comply with this requirement. All signage at the Marijuana Retailer be subject to review and approval by the Cannabis Control Commission and shall conform to 935 CMR 501.105(12), 935 CMR 500.105(4) and Section 5.2 of the Ordinance. No graphics, symbols or images of marijuana or related paraphernalia will be displayed or clearly visible from the exterior of the Marijuana Retailer.

- 7. The RMD or Marijuana Retailer's hours of operation shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall the Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m.**

The Applicant hereby submits that it shall comply with this requirement.

- 8. The number of Marijuana Retailers shall not exceed 20 percent of the number of liquor licenses issued in the City pursuant to G.L. c.138 § 15 (commonly known as "package stores").**

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 8 of 14

The Applicant respectfully submits that to the best of its knowledge and belief, there is currently only one (1) licensed Marijuana Retailer in the City. Accordingly, should it receive a license, the Applicant shall not violate this requirement.

9. **No RMD or Marijuana Retailer shall be located within a radius of one half-mile of an existing or approved RMD or Marijuana Retailer. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the existing RMD or Marijuana Retailer. The co-location of a RMD and Marijuana Retailer on the same site shall not be subject to this buffer requirement.**

The Applicant hereby submits that the Marijuana Retailer will not be located within a radius of one half-mile of an existing or approved RMD or Marijuana Retailer. The nearest Marijuana Retailer is Garden Remedies, which is 0.9 miles away from the Property. Please see the attached context map.

10. **No RMD or Marijuana Establishment shall be located within a building containing a residential use.**

The Applicant hereby submits that the Building currently located on the Property that will host the proposed Marijuana Retailer is a standalone building. The Marijuana Retailer will occupy the whole Building, therefore no residential uses will be within the same Building.

11. **No RMD or Marijuana Retailer or co-located facility shall exceed 5,000 square feet of floor area.**

The Applicant hereby submits that it is in compliance with this requirement as the proposed Marijuana Retailer is approximately 4,973 square feet of floor area.

12. **All RMDs and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.**

The Applicant respectfully submits that it has submitted a preliminary security plan along with this submittal and also pledges to submit a state approved security plan to the Newton Police Department for review and approval.

13. **All RMDs and Marijuana Establishments shall submit a state approved emergency response plan to the Newton Police Department and Newton Fire Department for review and approval.**

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 9 of 14

The Applicant will provide the Newton Police Department and Newton Fire Department copies of its emergency response plan.

14. **All RMDs and Marijuana Establishments shall submit a state approved Operation and Management Plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.**

The Applicant shall submit its state approved plans as required in the Management and Operations Profile application to the Inspectional Services Department and the Department of Planning and Development for review and approval.

15. **An RMD or Marijuana Retailer located at the ground level shall provide at least 25 percent transparency along building's front façade at ground level and existing buildings shall not be modified to reduce the transparency of the front façade at the ground level to below 25 percent, unless the City Council finds impacts to security and aesthetics have been appropriately mitigated.**

Please see the attached Plans for further details on the Applicant's proposal.

16. **Any marijuana cultivation shall offset 100 percent of energy used for cultivation through renewable energy, either by any combination of purchasing Renewable Energy Certificates through the State, generating renewable energy onsite, and/or through Newton Power Choice, if available.**

The Application respectfully submits that this requirement is not applicable, this application is for a Marijuana Retailer.

17. **The RMD or Marijuana Establishment shall be ventilated in such a manner that no:
 - a. **Pesticides, insecticides, or other chemicals or products in cultivation or processing are dispersed into the outside atmosphere; or**
 - b. **Odor from marijuana may be detected by a person with a normal sense of smell at the exterior of the building or at any adjoining use or property.****

The Applicant hereby submits that it will use industry best practices to ventilate its proposed Marijuana Retailer and shall comply with the aforementioned requirements to the extent reasonably practicable. Furthermore, this application is for a Marijuana Retailer, not a cultivator, and as such will not include the active use of any pesticides, insecticides, or other chemicals or products relating to cultivation.

18. **A Marijuana Research Facility may not sell marijuana cultivated under its research license.**

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 10 of 14

The Application respectfully submits that this requirement is not applicable, this application is for a Marijuana Retailer.

- 19. Marijuana Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Marijuana Establishment.**

The Applicant hereby submits that it shall comply with all rules and regulations enacted by the City of Newton regarding delivery and consumption of cannabis.

F. Special Permit Application and Procedure

- 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), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.**

The Applicant respectfully submits that this Application provides the materials necessary for the Land Use Committee to conduct a thorough and comprehensive review of this proposal. To the extent additional information is required, the Applicant shall provide such additional information.

- 2. RMD Service Area: Applications for an RMD shall include 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.**

N/A, this application is associated with a Marijuana Retailer, not an RMD.

- 3. RMD and Marijuana Retailer Transportation Analysis: An application for an RMD or Marijuana Retailer shall include a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Director of Planning and Development and the Director of Transportation, analyzing the proposed new vehicular trips, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site. An RMD or Marijuana Retailer that does not provide the number of parking stalls required per this Sec. 6.10.E.6. shall also provide a parking study.**

The Applicant hereby submits its Transportation Letter as prepared by Fuss & O'Neil, a copy of which is attached hereto and incorporated herewith.²

² Please note, the Transportation Letter identified a total of 28 on-site parking stalls, however that amount is reduced in this submission as a result of the correctly identified total number of employees

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 11 of 14

4. **Lighting Analysis: A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.**

The Applicant hereby submits its Site Lighting Photometric Plan as prepared by Fuss & O'Neill, a copy of which is attached hereto and incorporated herewith.

5. **Context Map: A map depicting all properties and land uses within a minimum 1,000-foot radius of the proposed lot, whether such uses are located in the City or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in paragraph D.1 above.**

The Applicant hereby submits a context map as prepared by Fuss & O'Neill and indicates that Collegewise Consulting, a college preparation company, is located at 1185 Washington Street, Newton, MA, and In Home Jams, offering music lessons, is located at 230 Austin Street, Newton, MA.

6. **Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health or Cannabis Control Commission and any materials submitted to that Department for the purpose of seeking registration, to confirm that all information provided to the City Council is consistent with that provided to the Massachusetts Department of Public Health or Cannabis Control Commission.**

The Applicant hereby submits that it shall provide copies of all required registration materials upon submission to the Cannabis Control Commission.

G. Special Permit Criteria

1. Criteria for all marijuana uses:

- a. **The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot, whether driving, bicycling, walking or using public transportation.**

The Property is located in the BU2 district, which is one of the limited areas that the City of Newton has permitted the use of property as a Marijuana Retailer, subject to the granting of a Special Permit from the City Council. The Property has adequate access to Washington Street. Additionally, the Property has

per shift, and to accommodate enhanced landscaping, and other changes to the plan, as a part of the community process.

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 12 of 14

ample access to public transportation options, including the MBTA 553 and 554 bus lines which stop in front of the Marijuana Retailer and the West Newton and Newtonville Commuter Rail stations, approximately a fifteen-minute walk from the Marijuana Retailer.

The Applicant respectfully submits that the Property as it is currently designed provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the Property by multiple means of transportation.

- b. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.**

The Applicant shall be conducting an interior fit-up of the existing building located on the Property. It shall design loading, refuse and services areas in compliance with state regulations subject to review and approval by the Cannabis Control Commission.

- c. The RMD or Marijuana Establishment is designed to minimize any adverse impacts on abutters.**

The Applicant and its team has deep experience in the cannabis industry and has designed a number of cannabis establishments, all with the goal of minimizing impacts on abutters. The Applicant has spent a significant amount of time searching for appropriate locations for its Marijuana Retailer, and chose this location because of its business character and significant distance from sensitive uses. The Property is ideally located in that it will not adversely impact the character of the neighborhood. The Property is bounded on each side by numerous other commercial businesses and bounded on the South by Interstate Highway 90. The Applicant also respectfully submits that there are no additional impacts on the residential neighbors to the rear portion of the Property, as compared to the immediately prior use of the Property as a gym with an entrance opening on Cross Street. The Applicant submits that its Marijuana Retailer, as currently designed, minimizes any adverse impacts on abutters.

- d. The RMD or Marijuana Establishment has satisfied all of the conditions and requirements in this section.**

The Applicant respectfully submits that it will comply with all of the conditions and requirements in this Section G.

2. Additional criteria for RMDs and Marijuana Retailers:

- a. The lot location complies with Sec. 6.10.3.E.1, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation.**

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 13 of 14

The Property is not located within a radius of 500 feet from an existing public or private K-12 school.

- b. Traffic generated by client trips, employee trips, and deliveries to and from the RMD or Marijuana Retailer shall not create a significant adverse impact on nearby uses.**

The Property is an ideal location for the proposed Marijuana Retailer with respect to traffic and congestion. The Marijuana Retailer will be located in a stand-alone building with a private parking lot, in a commercial corridor of the City that is part of a limited area of the City that allows for Marijuana Retailers. Accordingly, it will not cause any more traffic or congestion than other allowed uses for this zoning district. The proposed Marijuana Retailer will not disturb the existing right of way, pedestrian access, and will not cause a serious hazard to vehicle or pedestrian traffic or create a nuisance. The Applicant will be improving the lot so as to make traffic and parking safe thereon, as well as make available 25 parking stalls available, exceeding the minimum zoning requirements.

As such, the Applicant respectfully submits that any impact on traffic flow and safety and parking and loading requirements on nearby uses will be de minimus.

- c. The building and lot have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.**

The Marijuana Retailer will be located in a renovated one-story building previously built and designed to be compatible with other buildings in the area. The renovated interior will be tastefully designed to prevent any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

- d. The building and lot are accessible to persons with disabilities.**

The Applicant respectfully submits that the building and lot will be accessible to persons with disabilities as required by the Ordinance and 935 CMR 500.000 *et. seq.*

- e. The lot is accessible to regional roadways and public transportation.**

The Property is located on Washington Street, a major thoroughfare for Newton, and is located near Route 16 and Interstate Highway 90. The Property also has ample access to public transportation options, including the MBTA 553 and 554 bus lines which stop immediately in front of the Marijuana Retailer and the West Newton and Newtonville Commuter Rail stations, approximately a fifteen-minute walk from the Marijuana Retailer.

- f. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel.**

Newton City Council
Land Use Committee
City of Newton
January 2, 2020
Page 14 of 14

The Property is located along a major roadway in a business subdistrict, promoting ease of monitoring for both law enforcement and other code enforcement personnel. The Applicant will provide direct video feed access to its video surveillance system and will work with local law enforcement and the Cannabis Control Commission to ensure its video cameras are properly positioned within the Marijuana Retailer.

- g. The RMD or Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses.**

Pursuant to the Ordinance, the hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall the Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m. Accordingly, the Applicant respectfully submits that any impact from hours of operation will be de minimus.

V. Summary

The Applicant hereby requests that its proposed Marijuana Retailer will be in harmony with the purpose and intent of the Ordinance and will not have any adverse effect on the neighborhood within which the Property is located in particular, and the City of Newton as a whole. The findings are made in view of the particular characteristics of the Property and of the Applicant's proposed Marijuana Retailer, as detailed above and herein. The Property is the most appropriate location for the Marijuana Retailer and adequate and appropriate facilities will be provided for the proper operation of the use of the Property as a Marijuana Retailer and finally that such a use will not create any nuisance.

For the foregoing reasons the Applicant respectfully requests that the Land Use Committee approve its Special Permit Application as described herein.

Sincerely,

Michael Ross (ART)

Michael P. Ross, Esq.
Direct: 617-456-8149
Email: mross@princelobel.com