

MICHELLE B. CARRON, LL.M.

ATTORNEY AT LAW
1075 WASHINGTON STREET
FIRST FLOOR
WEST NEWTON, MA 02465

ADMITTED IN MA & NH

TEL. (617) 558-5525
TOLL FREE (888) 882-0008
FAX (617) 558-5504

February 3, 2020

Via email: citycouncil@newtonma.gov;
nkhan@newtonma.gov
Newton Land Use Committee
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: Proposed Ascend Dispensary, #67-20
1089 Washington Street, West Newton, MA 02465

Dear Land Use Committee Chairman and Members:

Ascend intends to open a Marijuana Dispensary a few doors down from our commercial offices at 1075 Washington Street, West Newton with their new Petition filed in January, 2020. We have 19+ businesses in these offices.

Please note that the following issues that Adversely Impact our businesses have yet to be resolved. This is despite Ascend's multiple Land Use hearings in 2019 on their previous application for the same facility (#268-19). This application was withdrawn at the end of 2019; I am therefore assuming that all of the objections, documentation and studies submitted by the abutters, myself included, have been deleted and Ascend is starting with a clean slate.

The issues of concern are resolvable if proper safeguards and modifications are made PRIOR to Ascend opening their Dispensary and MUST be made, in writing, prior to any Land Use Committee Approval.

There are FIVE (5) items of concern for us - supporting information follows:

1. Lack of available **Customer Bathrooms** inside the Dispensary, both for current customers and waiting customers. The Cannabis Control Commission ("CCC") does not prohibit or discourage Customer Bathrooms as Ascend has previously indicated - public urination and imposition on neighboring business for their Customers needs;

2. **Two Hundred Forty-Seven (247) Traffic Accidents** were reported by the Newton Police Department within a few block radius of proposed site from 1/1/2016 - 10/31/19; these accidents were not included in Ascend's Traffic report which only listed the intersection of Washington Street and Cross Street up to 2016, nor negative impact to the on-street parking for local businesses/clients;

3. **Lack of waiting area** for the hundreds of customers on their premises impacting abutters safety and security;

4. Proposed **Long Hours of Operation** and their adverse impact to the neighborhood parking and physical location - these hours need to be shortened to 10 am - 8 pm, Monday - Saturday with NO 'FIRST AVAILABLE' appointments but Scheduled appointments only;

5. **Security Cameras** - Monitoring by Law Enforcement, not Neighbors with Real Time Monitoring.

Issue #1: Bathrooms. Public Inside Bathrooms for both Medical and Recreational Use ARE permitted by CCC and currently exist in other approved MA Dispensaries despite argument of Ascend to the contrary. This includes Brookline, North Hampton, and Ascend's Dispensaries in Cambridge and Boston.

Adverse Impact: Without bathrooms for customer use, there will be more incidents of public urination and overwhelming influx of customers at our office building trying to use our private bathrooms. Public urination has occurred at both the Brookline and Newton (Garden Remedies) Dispensaries in abutters' yards.

Medical Emergency Use of Bathroom NOT AVAILABLE (M.G.L.c.270,§ 26)

*FYI - Rules for **emergency medical use of Bathroom** - everyone thinks patrons can use Ascend's staff bathrooms if they have a medical condition. (Keep in mind Ascend is Adult use only (not medical marijuana)). That is NOT the case.*

*Ascend can **legally deny** any use of their bathrooms by their Customers (Patron's) because **all Three** of the following criteria must be met:*

- 1. The patron must have an **eligible medical condition** requiring bathroom access;*
- 2. Patron must have a **Doctor's letter** about the condition; and*
- 3. Use of the bathroom cannot constitute a **safety risk** to the patron or a security risk to the establishment.*

Miss any of the three and the Patron can be legally denied.

Ascend's bathrooms are located within parts of the building for employee access only, where their product or funds are stored. No Patron will be allowed to go there. And they will be in full compliance with the law when they deny use of the bathroom.

Solution: Ascend needs to include Public Bathrooms for all of its customers, regardless of whether the customer is already in their store or waiting for entry.

Issue #2: Traffic, Accidents and Parking - Ascend only reported accidents on Cross Street from 2014 - 2016. Nothing for the last four years.

Traffic will be leaving the Dispensary flowing out to Washington Street and going Left to Newton Corner and Right to West Newton Center and beyond as well as onto side streets and Cross Street.

There have been 247 reported accidents in the last four years for the area surrounding the proposed Dispensary. This number will **increase** when MADOT adds the remainder of 2019. And this is just the area between Lowell Ave to the Left and Chestnut to the Right of proposed Dispensary from 1/1/2016 - 10/31/19. See the MADOT map (attached). Each red dot is NOT one accident. It represents many.

See also the MADOT graph (attached). It shows an Increase in traffic accidents every year and then a decline AFTER Beacon Hill Health Club closed for business.

Adverse Impact: Parking for our businesses, staff and clients will be eliminated by Ascend's customers taking all available on-street parking. At a minimum, Ascend needs to remain closed until 10:00 am to at least provide parking for our businesses' staff and first morning appointments. Ascend's customers should be prohibited from parking on the currently limited on-street parking on Washington Street.

Solution: Ascend must be required to:

- Have Appointments Only - NO 'FIRST AVAILABLE' Appointments;
- Delay morning opening to AFTER RUSH HOUR (i.e. 10:00 am) (like Brookline Dispensary and Garden Remedies);
- Restrict hours to 10:00 am to 8:00 pm, Monday - Saturday;
- Limit total occupancy at any given time - NOT appointments every 5 minutes per employee which will result in hundreds per hour, coming,

going and shopping - the latest verbal number from Ascend is 65 new customers per hour - this is not in writing anywhere in their proposal;

- Require Mandatory Police directing traffic onto Washington Street during congested times of day/evening (not Ascend staff or security for issues within their parking lot);

-Prohibit customers from parking on Washington Street (similar to Garden Remedies prohibition of customers on their on-street parking).

Issue #3: Lack of Waiting Area for Customers.

There is currently no plan to house, hold or locate the 200+ per hour customers entering, waiting to enter and waiting to leave the Dispensary. In bad weather they will be in our office building foyer, hanging out on our front porch, and congesting the entire area including sidewalks, blocking local school children, neighbors and clients access to the Public Transportation Bus Stop in front of Ascend, blocking access to on-street parking, etc. interfering with our clients and patients privacy and physical access to our building.

Adverse Impact: This will cause Safety and Privacy concerns for our clients and staff, will clog the entry and exit to our offices, and will discourage clients from coming to our building with so many people milling about.

Many of the businesses in our building do not have their own reception areas. With the influx of people hanging out in our building until their appointments, waiting for transportation, they will be in our hallways, foyer, front steps, etc. obstructing our clients and interfering with their safety and privacy.

The late hours of the dispensary means more people after dark, causing more safety concerns for our clients.

If our Landlord is forced to install an expensive locked entry with buzzer system on all entries, it means our clients will be stranded Outside instead of Inside near our businesses waiting for their appointments as they cannot be buzzed in while the proprietor is with the preceding client. This is an undue burden to us all.

Solution: Install a waiting area that can hold the 200+ customers entering, exiting and waiting for transportation - either inside or outside the facility. Like Ascend has included in their Boston Dispensary (~700 square feet of Waiting Area).

Also install a covered bus stop (large as possible) for all of the customers waiting for public transportation and Lyft/Uber immediately outside their proposed facility.

Issue #4: Hours of 10:00 am - 8:00 pm and PROHIBIT "FIRST AVAILABLE" appointments to minimize adverse impact to neighborhood;

Hours need to be limited to 10:00 am to 8 pm, Monday - Saturday. The current anticipated amount of people (up to 200 per hour) coming, going, trying to make their appointment, waiting for transportation, and shopping will adversely impact our businesses and the neighborhood. This site cannot accommodate the large influx of people on this small location.

Adverse Impact: This will result in more:

- Street Traffic - cars double-parked on Washington Street waiting for parking;
- Sidewalk Traffic clogging pathway for residents, local school children and clients from the bus stop in front of Ascend inhibiting their passage;
- Ascend's customers wandering/loitering in front of local residences/businesses clogging entry;
- Overwhelm the available street parking for local businesses;
- Block access/entry to our businesses with Ascend's customers hanging out on our front steps (full flight of stairs outside, partially under cover), foyer, porch, etc. either for a place to sit and wait or to avoid bad weather.

Solution:

- Open at 10:00 am, which is After rush hour and close by 8:00 pm;
- Reduce/limit the amount of appointments per hour;
- Prohibit 'FIRST AVAILABLE' appointments -or customers will just show up hoping to squeeze in causing more traffic and clogged passageways

#5. Security Cameras and Police Notification of Customer's Inappropriate and Unsafe Behavior.

Ascend needs to take appropriate steps so their Customers can be readily monitored by Law Enforcement as is required and not force the neighborhood residents to take on the role of policing Ascend's customers in order to keep their families safe.

Adverse Impact of unmonitored Customers:

- Customers have urinated in neighboring resident's yards in Brookline and

Newton (Garden Remedies) abutting the Dispensaries in violation of the law;

-Customers have used their purchases in their cars parked near the Dispensary in violation of the law;

Ascend's application says it has security cameras that will record the activity from the perimeter of the facility. In their Boston Facility, they have a security system hard-wired with the local Police Department. Unclear what that actually means. Who is watching the video; in real time or later?

Here, in Newton, all that is planned is a security system that records the past. NO ONE at Ascend is monitoring the security cameras in real time to then take action. NO ONE at Ascend is calling the Police.

It is unsafe for any abutting resident to approach the Customer or take a picture of the offending Customer so they can call the Police and share this information with Ascend, as Ascend has requested, so they can cut off their customer's privileges. It is ASCEND who is required to keep us safe from their Customers, no matter how many or how few errant customers they have.

Solution: This is in three parts:

First: Real Time Monitor - Ascend must have a **real time monitor** of the Security System during all hours of operation. This person **MUST** be authorized and required to immediately contact the West Newton Police Department if any unlawful or unsafe activity is witnessed.

Second: Uniformed Police Officer - During peak hours, a **Uniformed Police Officer** must be on site to deal with traffic congestion - this person can be notified, if appropriate, by Ascend staff after calling the West Newton Police Department, for immediate assistance.

The West Newton Police Department must be notified for EVERY incident/infracton so there is a written record of what transpired for the protection of the neighbors and other Customers. Otherwise the offending Customer is long gone before the police get there and there is no documented record of the incident. As if it never happened.

Third: Security System for Neighbors - Ascend has offered the neighboring business of the Boston Dispensary security cameras/systems of their own. This is not appropriate here as most of the neighboring properties here are residential, not commercial as well as privacy issues.

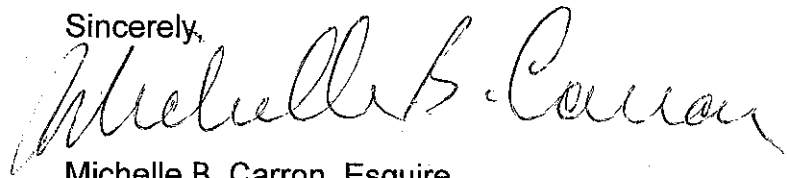
An option is for **Ascend to provide**, at their expense, **doorbell cameras** or the

equivalent, with a minimum of two years subscription, so each homeowner (and local business who wants it), will have a recording of the safety infraction of the Ascend Customer and can have something to forward to the Newton Police and Ascend, while remaining in the safety of their own homes.

This option DOES NOT help with any urgent safety infraction but will record the identity and possibly the license plate of any person (in a car) which the Police can then track down. Again, it is not the responsibility of the neighboring residents to have to police Ascend's customers for the safety of themselves, their families and children.

Thank you for the opportunity to express our concerns as neighboring businesses who will be adversely impacted by the current proposal by Ascend for their Marijuana Dispensary in our Residential/Commercial neighborhood in West Newton.

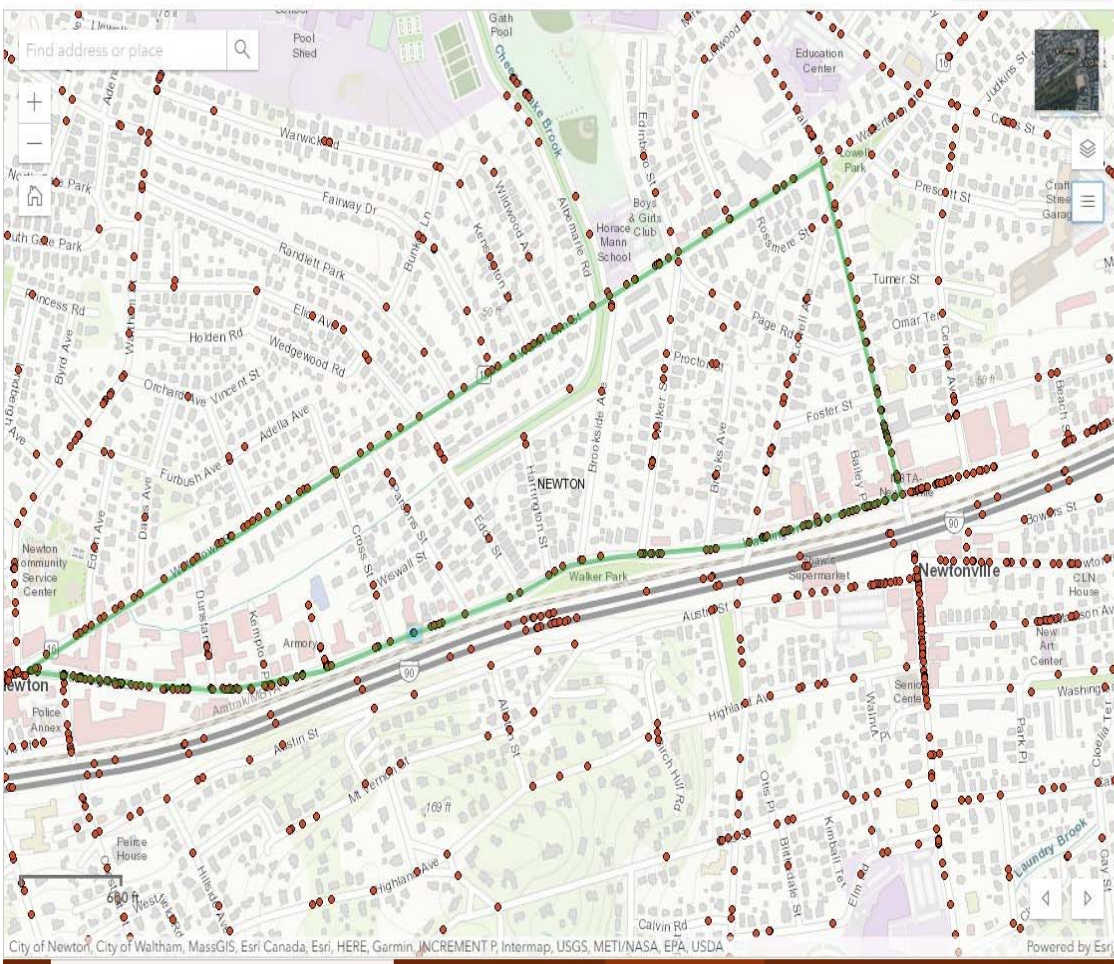
Sincerely,

A handwritten signature in cursive script that reads "Michelle B. Carron". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Michelle B. Carron, Esquire

Enclosure (2 DOT maps/graph)

MBC/dr



crash date from 01/01/2016 | crash date to 12/06/2019

Find | Draw | Address

Step 1: Draw Shape Type | Reset Draw

Point | Line | Area

Step 2: Define Buffer (Optional)

buffer distance 1000 | buffer units Feet

Buffer

