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PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 17, 2014
Land Use Action Date: July 29, 2014
Board of Aldermen Action Date: September 2, 2014
90-Day Expiration Date: September 15, 2014

DATE: June 13, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner 

SUBJECT: **Petition #167-14**, Garden Remedies/697 Washington Street Trust SPECIAL PERMIT/SITE PLAN APPROVAL to operate a Registered Marijuana Dispensary and to waive two parking stalls; to allow parking in the front setback; and to exceed the allowable horizontal projection of a secondary sign at **697 Washington Street**, Newtonville, Ward 2, on land known as SBL 23, 19, 1B, containing approx. 16,669 sq. ft. of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-36, 30-19(d)(10), 30-19(h)(1), 30-19(m), and 30-20(j)(2) of the City of Newton Rev Zoning Ord, 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



697 Washington Street

EXECUTIVE SUMMARY

The property at 697 Washington Street consists of a 16,669 square foot lot improved with a two-story commercial structure containing a massage therapist, acupuncturist, and optician. The petitioner is proposing to fill vacant commercial space with Garden Remedies, Inc., a registered medical marijuana dispensary (“RMD”). Garden Remedies proposes to use approximately 945 square feet on the first floor for retail activities, and to use approximately 750 square feet in the basement for storage. The petitioner is requesting a special permit to allow the RMD use, which is only allowed by special permit, to waive two required parking stalls, to allow parking in the front setback, and to exceed the allowable horizontal projection for a wall mounted sign. The proposed signage was approved by the Urban Design Commission (**ATTACHMENT A**).

RMD became a legal use in Massachusetts when the State passed the “Humanitarian Medical Use of Marijuana” statute in 2012 (**ATTACHMENT B**). Regulations for RMDs are administered by the Massachusetts State Department of Public Health (DPH). The City subsequently amended its local zoning ordinance in order to identify the districts in which the RMD use would be allowed; to establish that the RMD use is only allowed by special permit; and to establish the review criteria for the RMD use (**ATTACHMENT C**). Garden Remedies has met the requirements established by DPH for a provisional license, and the criteria for applying for a special permit established by the City.

Garden Remedies is expecting to operate with approximately five employees, and to see approximately two to three patients at a time. Garden Remedies indicated at a community meeting that patients will be required to make an appointment prior to coming to the site, except that walk-ins may be allowed if patient-care advocates are available to assist them. However, in no circumstance will patients be allowed to enter the building until they are checked in by the receptionist. Garden Remedies expects that after their initial consultation most patients will choose to have their medicine delivered directly to their home instead of traveling to the dispensary. In terms of the quantity of patients and employees on the site at any given time, this use appears to be similar to the previous office use, which was an insurance company, and not any more intense than similar by-right uses, such as retail and service establishments, which can experience higher volumes of customers during peak hours.

At a community meeting held by Garden Remedies, residents voiced their concerns for the safety of patients of the business coming to and leaving from the site, and the potential spillover of crime into the neighborhood. DPH requires that RMDs create a highly secure site, from the monitoring and lighting of the outside of the building, to securing the storage of the product and limiting access in the interior of the building. Garden Remedies appears to meet DPH requirements, and has hired a security firm to monitor the site remotely. Garden Remedies is also considering the use of an ATM inside the facility to offer patients an alternative to carrying cash to the site, and is considering ways in which staff can assist patients to their modes of transit after appointments.

Garden Remedies is also seeking a special permit to waive two required parking spaces, as there are an insufficient number of parking stalls on the site. The petitioner provided a parking study from Vanasse Hangen Brustlin, Inc. (VHB), which counted the number of vacant parking stalls on Washington Street proximate to the site on weekdays and weekends (**ATTACHMENT D**). Based on the results of the study there appears to be a sufficient amount of parking stalls on Washington Street to accommodate the proposed use. The Planning Department notes that a portion of the existing parking lot is unpaved, and recommends that the petitioner pave and stripe the remainder of the driveway as part of the special permit.

The Planning Department is concerned about pedestrian safety along the Massachusetts Turnpike side of Washington Street. One planned improvement for the area is the construction of a curb extension at the intersection of Harvard and Washington Street, which will provide better visibility and awareness to drivers of pedestrians attempting to cross Washington Street. The Planning Department recommends that Garden Remedies contribute funds to be used to offset a portion of the cost of the planned improvement, which will improve pedestrian access and safety for Garden Remedies patients parking along Washington Street.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

Under the general special permit criteria, when reviewing this request, the Board should consider whether:

- The site is an appropriate location for the proposed use. (§30-24(d)(1))
- The proposed use as developed and operated will not adversely affect the neighborhood. (§30-24(d)(2))
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§30-24(d)(4))
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(3))
- Literal compliance with the parking requirements is impractical due to the size of the lot, and that granting a parking waiver of two stalls would be in the public interest. (§30-19(m)(2))

When reviewing this request, the Board should also consider the following special permit criteria established in the RMD zoning amendment:

- 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.

- The site is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance, that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.
- 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, whether driving, bicycling, walking or using public transportation.
- Traffic generated by client trips, employee trips, and deliveries to and from the RMD do not create a significant adverse impact on nearby uses.
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- 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.
- The building and site are accessible to persons with disabilities.
- The site is accessible to regional roadways and public transportation.
- The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.
- The RMD's hours of operation will have no significant adverse impact on nearby uses.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on Washington Street between Beach Street and Court Street, and is approximately a quarter mile from Newtonville's village center. The site is abutted by a commercial building to the west, residential structures to the east and north, and the Massachusetts Turnpike to the south. The site is in close

proximity to major transportation corridors and public transportation. The site is located in a mixed-use neighborhood, directly across from the Massachusetts Turnpike, as shown in the attached land use map (**ATTACHMENT E**). As required by the Newton Zoning Ordinance, the site is not within 500 feet of a school, daycare center, preschool or afterschool facility or any facility in which children or minors congregate, or from a house of worship or religious use. The zoning in the neighborhood is a mixture of residential, commercial and manufacturing districts, and the site is zoned as Business 2, as shown in the attached zoning map (**ATTACHMENT F**).

B. Site

The site consists of a 16,669 square foot lot improved with a two-story commercial building with an attached garage used for storage, a mostly unpaved four-stall parking lot, and an undeveloped wooded area, which is at a significantly lower grade than the rest of the site. The parking stalls are unstriped, and each space appears to be reserved for one of the businesses in the building. The petitioner has indicated that while the stalls are assigned by signage, they are not reserved in any of the leases.

The other commercial uses in the building include a massage therapist, acupuncturist, and optician. There is one vacant commercial space in the building that was formerly occupied by an insurance company. There are wall-mounted signs for each of the businesses on the front of the building.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

On November 6, 2012, the voters of Massachusetts voted in favor of Ballot Question 3, *"An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana"*, to permit the cultivation and sale of marijuana for medicinal use. The use was codified under Chapter 369 of the State statute, and became law on January 1, 2013. DPH has developed regulations to permit the siting and operation of RMDs, and has completed the application phase. The approval of RMDs under state law means that they are a legal use; therefore, if Newton did not enact local zoning regulations the Buildings Commissioner would have to determine how to classify the use. It is likely that an RMD would be similar to a pharmacy, and would therefore be permitted in zoning districts that allow retail uses. In order to provide control over the use, the City passed an amendment to its zoning ordinance to identify the districts in which the RMD use will be allowed, establish that the use is only allowed by special permit, and established the review

criteria for this use. Under the City's zoning amendment, RMDs are allowed by special permit in Business 2, Business 5, and Mixed Use 1 zoning districts, which mostly consist of the Washington Street and Needham Street corridors. The State has issued 20 provisional licenses for sites throughout the State, including four in Middlesex County (**ATTACHMENT G**). As of the date of this memorandum, applicants who received provisional licenses were undergoing similar processes and have not begun operations. Garden Remedies petition was the only RMD application granted DPH provisional within the City of Newton.

Garden Remedies has received a provisional license from DPH to locate at 697 Washington Street in Newtonville. The business will sell medical marijuana, medical marijuana-infused products, and vaporizers. Medical marijuana can be grown in different strains to provide targeted benefits to patients, which means that certain strains will not provide the same psychotropic effects as marijuana purchased illegally on the street. The medical marijuana will be grown off-site at a cultivation facility located outside of Newton, and delivered to the site approximately once per day. The cultivation facility, which will be regulated by DPH, will also distribute the product directly to patient's homes after their initial consultation.

Garden Remedies will operate the RMD within the framework established by DPH, which requires that patients complete certain steps before coming to the dispensary. The patient must receive a prescription from a certified physician that is registered with the State, and patients under 18 years old will need to receive a prescription from two physicians. Patients will then register with DPH, where they'll be provided a photo identification card. Patients are required to re-register every year. After completing these steps, patients will be able to make an appointment with Garden Remedies, which has indicated that they will generally operate by appointment only but may allow limited walk-ins if staff are available. However, in no case will people be able to enter the premises without showing their DPH identification. Patients will be required to come to the site for an initial consultation so that trained staff can educate them on how to safely use the product. After their initial visit patients may return once a month for additional medication, or choose to have the medication delivered directly to their home. Garden Remedies expects that the majority of patients will prefer to receive their product by delivery.

Garden Remedies is proposing to have five employees working at one time, and to see approximately two to three patients at a time. Employees will consist of a manager, who will be a principal of the organization, two patient-care advocates to educate and dispense the medication to patients, a receptionist, and another staff member to retrieve the products from the storage area. If the requested

special permit is approved, any expansion of the business into other commercial spaces within the building, or any increase in the number of employees that would require additional parking waivers, would require amending the special permit. The business expects to operate from 10:00 a.m. to 8:00 p.m. Monday through Saturday, and 10:00 a.m. to 6:00 p.m. on Sunday. Based on the expected number of patients, the Planning Department does not believe that this use will be any more intense than by-right uses, such as retail and service establishments, or other more intense uses allowed by special permit such as restaurants.

At a community meeting held by Garden Remedies, residents voiced their concerns for the safety of patients of the business, and for the potential spillover of crime into the neighborhood. The concerns appear to stem from the type of product being sold and the limited types of payment methods, which may require patients to carry significant amounts of cash to the site. While the site itself is highly secure, there is the potential for patients to be targeted beyond the perimeter of the site. To address these issues, Garden Remedies has indicated to City staff that it may try to install an ATM machine within the building that would only be available to patients. Patient-care advocates that are not assisting patients will also be available to walk people to their cars, or to bring the prescription to patients after they retrieve their cars. It appears that these solutions would significantly mitigate concerns regarding safety and crime.

B. Building and Site Design

Garden Remedies is proposing the following modest changes to the site and the exterior building: a new ornamental fence with signage on the west side of the building where the entrance to the commercial space is located, additional security cameras and lighting around the building to meet DPH requirements and, a new van accessible handicapped parking stall in front of the attached garage. The Planning Department notes that the dumpster for the building is currently located where the handicapped parking stall is proposed. The petitioner/business should identify the proposed location of the dumpster on a revised plan, as well as identify the proposed area for snow storage. The dumpster should be screened from the public view.

The Planning Department notes that the existing parking lot is mostly unpaved and without striping, and may be large enough to add an additional parking space. The Planning Department suggests that the petitioner pave and strip the parking area, and add an additional parking space, if possible.

In terms of the fit out of the interior space, the floor plan for the first floor establishes three important areas; an initial check-in/entry area inside of the building, the main interior area where patients meet with patient-care advocates,

and an exit area. Patients accessing the site will be buzzed in from outside of the building to the entry area, and then buzzed in from the entry area to the main interior area. Patients will also be buzzed out of the building when exiting. The floor plan is designed so that the receptionist can monitor and control access to the interior of the commercial space at both the entrance and exit points. The basement floor plan will consist of employee lockers, a storage room, and an employee bathroom. Access to the basement will be restricted from other tenants in the building. Since the business expects that most of its patients will receive the product directly from the cultivation facility, it does not expect to maintain large amounts of inventory on the site, even as the number of patients grows.

C. Parking, Traffic and Pedestrian Safety

The change from the former office use (an insurance company) to this retail use (RMD) increases the required number of on-site parking stalls by two (from four to six), which cannot be accommodated on the site. The Planning Department notes that the undeveloped portion of the site is at a much lower grade, which would make it difficult to develop for parking. The petitioner will rely on metered parking stalls along Washington Street for the majority of their patient and employee parking.

The petitioner provided a parking study from VHB, which analyzed the availability of street parking proximate to the site. The parking study calculated a total of 57 off-site parking stalls and four on-site parking stalls, with an average vacancy of 64% and 45% during weekday and weekend hours, respectively. Based on the study and parking counts from previous special permits, it appears that there is enough parking supply in the immediate area to accommodate the modest increase in parking demand from the change in use.

The proposed change in use is projected to generate an increase in vehicle trips to the site, as it is changing from an office type of use, which has a limited number of customers traveling to the site, to a retail type of use, which has a greater turnover of customers. The VHB study estimates a maximum increase of approximately 28 vehicle trips per hour during peak hours. Based on the VHB report and staff's conversation with the city's Transportation Planner and Transportation Engineer, the increase in vehicle trips even during peak hours is not expected to materially impact traffic on Washington Street.

The intersection of Harvard and Washington Street is proximate to the Newtonville Commuter Rail Station and has experienced pedestrian crashes in the past. The intersection was identified as a difficult location for pedestrians to cross, and has recently received significant safety improvements, including two LED streetlights and a pedestrian-activated warning signal. However, pedestrian

safety concerns remain and additional improvements have been discussed. One planned improvement involves the construction of a curb extension to provide better visibility and awareness to drivers of pedestrians attempting to cross Washington Street. Due to concerns relating to sight lines, City staff recommends the temporary removal of a parking meter on the north side of Washington Street until such time that the curb extension can be constructed. The project is estimated to cost around \$15,000 and is only partially funded. The timing of the project is largely dependent on receiving additional mitigation funding. The Planning Department recommends that the petitioner contribute mitigation funds to the City to help offset a portion of the costs of the construction of a curb extension, which has a clear nexus to the patients of Garden Remedies who need to cross Washington Street to and from the metered parking stalls on the south side of the street.

D. Signage

The petitioner received approval from UDC for their proposed signage, which includes a wall-mounted sign on the front of the building, whose size is consistent with the signage for other tenants in the building, and a projecting wall-mounted sign to identify the entrance to the business. The projecting wall-mounted sign requires a special permit as it exceeds the maximum projection allowed. While the Planning Department generally recommends less signage, especially when signs are in close proximity to each other, the importance of way-finding in this situation may outweigh limiting the number of signs. Therefore the Planning Department has no particular concerns with the requested relief.

E. Landscape Screening

No landscaping plan is required for this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**ATTACHMENT H**) provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to allow a registered marijuana dispensary use, which is only allowed by special permit, to waive two required parking stalls, to allow parking in the front setback, and to exceed the allowable horizontal projection for a wall-mounted sign.

B. Engineering Review

As the petitioner is not increasing the impervious surfaces on the lot by more than

400 feet no engineering review is required.

V. ZONING RELIEFS SOUGHT

Based on the Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- §30-36, to allow a registered medical marijuana dispensary
- §30-19(d)(9) and 30-19(m) to waive two required parking stalls
- §30-19(h)(1) and 30-19(m), to allow parking in the front setback
- §30-20(j)(2), to exceed the allowable horizontal projection for a sign

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** UDC Recommendation
Attachment B: RMD State Statute
Attachment C: Newton Zoning Ordinance Amendment for RMD Use
Attachment D: VHB Traffic and Parking Analysis
Attachment E: Land Use Map
Attachment F: Zoning Map
Attachment G: Cities with Provisional RMD Licenses
Attachment H: Zoning Review Memorandum

DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON
Massachusetts

INTER-OFFICE CORRESPONDENCE – SIGN APPLICATION REVIEW

DATE: May 22, 2014

TO: John Lojek, Commissioner of Inspectional Services

FROM: Candace Havens, Director of Planning and Development
Daniel Sexton, Senior Planner 

LOCATION: 697 Washington Street BUSINESS: Garden Remedies, Inc.

CONTRACTOR: GenSign

Sections 30-20(c)(1), as amended, allows the Director of Planning and Development, in consultation with the Urban Design Commission (Commission), to review sign permit applications. The Commission reviewed the proposed signs for compliance with §30-20(f)(1) and (2) on **May 21, 2014** and has recommended approval of the following signs as proposed.

- One principal wall mounted sign, externally illuminated, with approximately 24 square feet of sign area on the southeast façade of the building facing Washington Street.

At the meeting, the Commission recommended that the petitioner modify the font size of the advertising message on the secondary projecting wall mounted sign to provide greater emphasis to the word “Entrance.” The petitioner asked the Commission for their opinion on illuminating the secondary sign. The Commission suggested that the sign be illuminated using an external fixture. The petitioner agreed with the Commission’s recommendations (above), and will provide staff with a revised shop drawing for the sign before the building permit for the sign is issued. The Commission recommended approval of the secondary sign as modified:

- One secondary projecting wall mounted sign, externally illuminated, with a six inch horizontal projection and approximately 6.8 square feet of sign area on the southwest façade of the building, with the sign facing Washington Street. The font size of the advertising message will be changed to provide greater emphasis to the word “Entrance.”

Finally, the Commission recommended a condition for the above approvals stipulating that the sign permits not be issued until the special permit to allow for the use is obtained. The Planning Department concurs with the Commission and recommends approval of the proposed signage as conditioned and described above and in the application and plans of reference.

This application, specifically the proposed secondary sign, requires further review by the Land Use Committee and Planning Department through the special permit permitting process.

This memo does not constitute a permit. The applicant must receive a special permit from the Board of Alderman and a building permit from Inspectional Services prior to installing the signs. All decisions of the Urban Design Commission are appealable to the Commissioner of Inspectional Services.

Cc:

Schlesinger and Buchbinder, LLC, Attn. Steve Buchbinder, Esq, 1200 Walnut Street, Newton, MA 02461
Urban Design Commission file

**Acts****2012****Chapter 369** AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA.

Be it enacted by the People, and by their authority, as follows:

Section 1. Purpose and Intent.

The citizens of Massachusetts intend that there should be no punishment under state law for qualifying patients, physicians and health care professionals, personal caregivers for patients, or medical marijuana treatment center agents for the medical use of marijuana, as defined herein.

Section 2. As used in this Law, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(A) "Card holder" shall mean a qualifying patient, a personal caregiver, or a dispensary agent of a medical marijuana treatment center who has been issued and possesses a valid registration card.

(B) "Cultivation registration" shall mean a registration issued to a medical marijuana treatment center for growing marijuana for medical use under the terms of this Act, or to a qualified patient or personal caregiver under the terms of Section 11.

(C) "Debilitating medical condition" shall mean:

Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient's physician.

(D) "Department" shall mean the Department of Public Health of the Commonwealth of Massachusetts.

(E) "Dispensary agent" shall mean an employee, staff volunteer, officer, or board member of a non-profit medical marijuana treatment center, who shall be at least twenty-one (21) years of age.

(F) "Enclosed, locked facility" shall mean a closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

(G) "Marijuana," has the meaning given "marihuana" in [Chapter 94C of the General Laws](#).

(H) "Medical marijuana treatment center" shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this 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.

(I) "Medical use of marijuana" shall mean the acquisition, cultivation, possession, processing, (including development of related products such as food, tinctures, aerosols, oils, or ointments),

transfer, transportation, sale, distribution, dispensing, or administration of marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof.

(J) "Personal caregiver" shall mean a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient.

An employee of a hospice provider, nursing, or medical facility providing care to a qualifying patient may also serve as a personal caregiver.

(K) "Qualifying patient" shall mean a person who has been diagnosed by a licensed physician as having a debilitating medical condition.

(L) "Registration card" shall mean a personal identification card issued by the Department to a qualifying patient, personal caregiver, or dispensary agent. The registration card shall verify that a physician has provided a written certification to the qualifying patient, that the patient has designated the individual as a personal caregiver, or that a medical treatment center has met the terms of Section 9 and Section 10 of this law. The registration card shall identify for the Department and law enforcement those individuals who are exempt from Massachusetts criminal and civil penalties for conduct pursuant to the medical use of marijuana.

(M) "Sixty-day supply" means that amount of marijuana that a qualifying patient would reasonably be expected to need over a period of sixty days for their personal medical use.

(N) "Written certification" means a document signed by a licensed physician, stating that in the physician's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide physician-patient relationship and shall specify the qualifying patient's debilitating medical condition(s).

Section 3. Protection from State Prosecution and Penalties for Health Care Professionals

A physician, and other health care professionals under a physician's supervision, shall not be penalized under Massachusetts law, in any manner, or denied any right or privilege, for:

- (a) Advising a qualifying patient about the risks and benefits of medical use of marijuana; or
- (b) Providing a qualifying patient with written certification, based upon a full assessment of the qualifying patient's medical history and condition, that the medical use of marijuana may benefit a particular qualifying patient.

Section 4. Protection From State Prosecution and Penalties for Qualifying Patients and Personal Caregivers

Any person meeting the requirements under this law shall not be penalized under Massachusetts law in any manner, or denied any right or privilege, for such actions.

A qualifying patient or a personal caregiver shall not be subject to arrest or prosecution, or civil penalty, for the medical use of marijuana provided he or she:

- (a) Possesses no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and
- (b) Presents his or her registration card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.

Section 5. Protection From State Prosecution and Penalties for Dispensary Agents.

A dispensary agent shall not be subject to arrest, prosecution, or civil penalty, under Massachusetts law, for actions taken under the authority of a medical marijuana treatment center, provided he or she:

- (a) Presents his or her registration card to any law enforcement official who questions the agent concerning their marijuana related activities; and
- (b) Is acting in accordance with all the requirements of this law.

Section 6. Protection Against Forfeiture and Arrest

- (A) The lawful possession, cultivation, transfer, transport, distribution, or manufacture of medical marijuana as authorized by this law shall not result in the forfeiture or seizure of any property.
- (B) No person shall be arrested or prosecuted for any criminal offense solely for being in the presence of medical marijuana or its use as authorized by this law.

Section 7. Limitations of Law

- (A) Nothing in this law allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana.
- (B) Nothing in this law requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana.
- (C) Nothing in this law requires any health care professional to authorize the use of medical marijuana for a patient.
- (D) Nothing in this law requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place.
- (E) Nothing in this law supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes.
- (F) Nothing in this law requires the violation of federal law or purports to give immunity under federal law.
- (G) Nothing in this law poses an obstacle to federal enforcement of federal law.

Section 8. Department to define presumptive 60-day supply for qualifying patients.

Within 120 days of the effective date of this law, the department shall issue regulations defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

Section 9. Registration of nonprofit medical marijuana treatment centers.

- (A) Medical marijuana treatment centers shall register with the department.
- (B) Not later than ninety days after receiving an application for a nonprofit medical marijuana treatment center, the department shall register the nonprofit medical marijuana treatment center to acquire, process, possess, transfer, transport, sell, distribute, dispense, and administer marijuana for medical use, and shall also issue a cultivation registration if:
 - 1. The prospective nonprofit medical marijuana treatment center has submitted:
 - (a) An application fee in an amount to be determined by the department consistent with Section 13 of this law.

(b) An application, including:

(i) The legal name and physical address of the treatment center and the physical address of one additional location, if any, where marijuana will be cultivated.

(ii) The name, address and date of birth of each principal officer and board member.

(c) Operating procedures consistent with department rules for oversight, including cultivation and storage of marijuana only in enclosed, locked facilities.

2. None of the principal officers or board members has served as a principal officer or board member for a medical marijuana treatment center that has had its registration certificate revoked.

(C) In the first year after the effective date, the Department shall issue registrations for up to thirty-five non-profit medical marijuana treatment centers, provided that at least one treatment center shall be located in each county, and not more than five shall be located in any one county. In the event the Department determines in a future year that the number of treatment centers is insufficient to meet patient needs, the Department shall have the power to increase or modify the number of registered treatment centers.

(D) A medical treatment center registered under this section, and its dispensary agents registered under Section 10, shall not be penalized or arrested under Massachusetts law for acquiring, possessing, cultivating, processing, transferring, transporting, selling, distributing, and dispensing marijuana, products containing marijuana, and related supplies and educational materials, to qualifying patients or their personal caregivers.

Section 10. Registration of medical treatment center dispensary agents.

(A) A dispensary agent shall be registered with the Department before volunteering or working at a medical marijuana treatment center.

(B) A treatment center must apply to the Department for a registration card for each affiliated dispensary agent by submitting the name, address and date of birth of the agent.

(C) A registered nonprofit medical marijuana treatment center shall notify the department within one business day if a dispensary agent ceases to be associated with the center, and the agent's registration card shall be immediately revoked.

(D) No one shall be a dispensary agent who has been convicted of a felony drug offense. The Department is authorized to conduct criminal record checks with the Department of Criminal Justice Information to enforce this provision.

Section 11. Hardship Cultivation Registrations.

The Department shall issue a cultivation registration to a qualifying patient whose access to a medical treatment center is limited by verified financial hardship, a physical incapacity to access reasonable transportation, or the lack of a treatment center within a reasonable distance of the patient's residence. The Department may deny a registration based on the provision of false information by the applicant. Such registration shall allow the patient or the patient's personal caregiver to cultivate a limited number of plants, sufficient to maintain a 60-day supply of marijuana, and shall require cultivation and storage only in an enclosed, locked facility. The department shall issue regulations consistent with this section within 120 days of the effective date of this law. Until the department issues such final regulations, the written recommendation of a qualifying patient's physician shall constitute a limited cultivation registration.

Section 12. Medical marijuana registration cards for qualifying patients and designated caregivers.
(A) A qualifying patient may apply to the department for a medical marijuana registration card by submitting

1. Written certification from a physician.

2. An application, including:

(a) Name, address unless homeless, and date of birth.

(b) Name, address and date of birth of the qualifying patient's personal caregiver, if any.

Section 13. Department implementation of Regulations and Fees.

Within 120 days of the effective date of this law, the department shall issue regulations for the implementation of Sections 9 through 12 of this Law. The department shall set application fees for non-profit medical marijuana treatment centers so as to defray the administrative costs of the medical marijuana program and thereby make this law revenue neutral.

Until the approval of final regulations, written certification by a physician shall constitute a registration card for a qualifying patient. Until the approval of final regulations, a certified mail return receipt showing compliance with Section 12 (A) (2) (b) above by a qualifying patient, and a photocopy of the application, shall constitute a registration card for that patient's personal caregiver.

Section 14. Penalties for Fraudulent Acts.

(A) The department, after a hearing, may revoke any registration card issued under this law for a willful violation of this law. The standard of proof for revocation shall be a preponderance of the evidence. A revocation decision shall be reviewable in the Superior Court.

(B) The fraudulent use of a medical marijuana registration card or cultivation registration shall be a misdemeanor punishable by up to 6 months in the house of correction, or a fine up to \$500, but if such fraudulent use is for the distribution, sale, or trafficking of marijuana for non-medical use for profit it shall be a felony punishable by up to 5 years in state prison or up to two and one half years in the house of correction.

Section 15. Confidentiality

The department shall maintain a confidential list of the persons issued medical marijuana registration cards. Individual names and other identifying information on the list shall be exempt from the provisions of Massachusetts Public Records Law, [M.G.L. Chapter 66, section 10](#), and not subject to disclosure, except to employees of the department in the course of their official duties and to Massachusetts law enforcement officials when verifying a card holder's registration.

Section 16. Effective Date.

This law shall be effective January 1, 2013.

Section 17. Severability.

The provisions of this law are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

#309-13(4)

CITY OF NEWTON
IN BOARD OF ALDERMEN

ORDINANCE NO. A-35

December 2, 2013

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, be and are hereby further amended relative to Chapter 30 as follows:

Add the following new section:

Sec. 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 RMDs are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMDs 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 RMDs 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 minors commonly congregate, or from a house of worship or religious use, but may be located within a lesser distance if the board of aldermen finds that the RMD is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation. Such distance shall be 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 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, 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 that is not properly registered with the Massachusetts Department of Public Health. The RMD shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the board of aldermen within one week of issuance, and shall immediately notify said clerk if its registration is not renewed or is revoked. The RMD 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.

(3) 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.

(4) 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.

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

(6) An RMD shall be subject to the number of parking stalls required in section 30-19(d)(10) unless a lesser or greater number of stalls is required by the board of aldermen based on the transportation analysis provided by the applicant

(7) All signage shall conform to the requirements of 105 CMR 725.105(L) and to the requirements of section 30-20 of these ordinances. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD. The board of aldermen may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

(8) The RMD's hours of operation shall not adversely impact nearby uses. The board of aldermen may, as a special permit condition, limit the hours of operation of an RMD to mitigate any adverse impact on nearby uses.

(e) *Special permit application and procedure*

The procedural and application requirements of section 30-24 shall apply. In addition to the procedural and application requirements of section 30-24(a), (b) and (c), 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 RMDs 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 and the director of transportation, 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. The context map shall include the measured distance to all uses described in section 30-36 (d)(1).
 - (5) *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 finding that the general criteria for issuance of a special permit as set forth in section 30-24(d) of this ordinance are met, 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 minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance if the board of aldermen finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.

(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, whether driving, bicycling, walking or using public transportation.

(4) Traffic generated by client trips, employee trips, and deliveries to and from the RMD shall not create a significant adverse impact on nearby 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 disabilities.

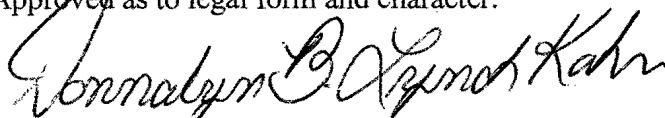
(8) The site is accessible to regional roadways and public transportation.

(9) The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.

(10) The RMD's hours of operation will have no significant adverse impact on nearby uses.

(g) *Severability.* If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

Approved as to legal form and character:

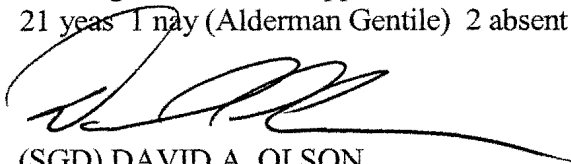


DONNALYN B. LYNCH KAHN
City Solicitor

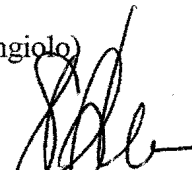
Under Suspension of Rules

Readings Waived and Approved

21 yeas 1 nay (Alderman Gentile) 2 absent (Aldermen Fischman and Sangiolo)



(SGD) DAVID A. OLSON
City Clerk



(SGD) SETTI D. WARREN
Mayor

Date: 12/16/15



Planning | Transportation | Land Development | Environmental

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101 Walnut Street
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Watertown, MA 02471-9151
617.924.1770 • Fax 617.924.2286
www.vhb.com

Memorandum

To: Dr. Karen Munkacy
President
Garden Remedies
116 Chestnut Hill Road
Newton, Massachusetts

Date: May 13, 2014

Project 12676.00
No.:

From: Randall C. Hart
Director of Transportation Planning &
Engineering

Re: Proposed Garden Remedies
697 Washington Street
Newton, Massachusetts

Christine Trearchis, P.E.
Project Engineer

Vanasse Hangen Brustlin, Inc. (VHB) has conducted a traffic impact and access study to support the local City of Newton approval process for the proposed redevelopment of a facility at 697 Washington Street in Newton, Massachusetts. The proposed redevelopment project will include the reconfiguration of an existing 945 square foot office portion of the building into a medical marijuana dispensing facility that will operate under an appointment only protocol when a customer has obtained a DPH (Department of Public Health) registration card.

This memorandum includes an evaluation of the existing traffic operations and safety; assessment of future conditions without the project; an estimate of projected traffic volumes for the project; and its potential impact on future traffic operations in the area.

SITE LOCATION AND PROPOSED REDEVELOPMENT

The project site is located on the northerly side of Washington Street, just to the east of Harvard Street in Newton. The site of the redevelopment is at 697 Washington Street, which houses four businesses. Access to the existing facility is provided by one full access driveway on Washington Street with access to a small parking lot. Under the future condition, the Proponent is proposing to add one handicapped accessible parking space to the parking lot; the remainder of the parking lot configuration will remain as it is today.

EXISTING CONDITIONS

The following section provides a description of the existing study area roadways and intersection characteristics.

Study Area Roadways

Washington Street is an east/west urban arterial roadway under MassDOT jurisdiction in the vicinity of the project site. Washington Street is a four-lane roadway with a posted speed limit of 35 mph. Sidewalks are present along both sides of the road within the vicinity of the site. Parallel on-street parking is provided on both the northerly and southerly sides of Washington Street. Land use along Washington Street consists of a mix of commercial and residential uses in this area. Currently on the west side of Harvard Street approach to Washington Street, there is a rapid reflectorized flashing beacon (RRFB) and crosswalk to accommodate pedestrian crossings of Washington Street. The RRFB and crosswalk are located in very close proximity to the proposed facility, approximately 75 feet from the front door and less to the proposed entrance to the Garden Remedies Facility.

Study Area Intersections

For the purposes of evaluating existing and future traffic conditions in the vicinity of the site, a project study area has been established and includes the site driveway along with the adjacent signalized intersection (Washington Street at Harvard Street). The study area intersections are described in detail below:

Washington Street at Harvard Street

Washington Street is intersected by Harvard Street from the south to form a three-legged unsignalized intersection. The Washington Street eastbound approach is made up of a through lane and a shared through/right-turn lane, while the Washington Street westbound approach consists of a shared left-turn/through lane and a through lane. The Harvard Street northbound approach consists of one general purpose lane and is under STOP control. Sidewalks are present on both sides of Washington Street and Harvard Street at the intersection. Crosswalks exist across the northbound and eastbound approaches; the northbound approach does not have any pedestrian control and the eastbound approach has an RRFB flashing beacon under push button actuation.

Washington Street at Site Driveway

The site driveway intersects Washington Street from the north to form a three-legged unsignalized intersection, located approximately 80-feet to the east of the Washington Street at Harvard Street intersection. The Washington Street eastbound approach is made up of a through lane and a shared through/right-turn lane, while the Washington Street westbound approach consists of a shared left-turn/through lane and a through lane. The Site Driveway consists of a single, general purpose lane accommodating all movements, and is assumed to be under STOP control. Sidewalks are present along both sides of Washington Street. No crosswalks are provided at the intersection.

Traffic Volumes

To assess the existing operational conditions at the study area intersections, a review of existing condition traffic volumes was conducted. Automatic traffic recorder (ATR) counts were conducted from Thursday May 1 through Saturday May 3, 2014 along Washington Street in the vicinity of the project site. The observed traffic volume and speed data are summarized below in Tables 1 and 2, and included in the appendix.

Table 1
Existing Traffic Volume Summary

Location	Weekday Peak Hour				Saturday Peak Hour			
	Weekday Daily	Weekday Evening			Saturday Daily	Saturday Midday		
	Vol (vpd) ^a	Vol (vph) ^b	K Factor ^c	Directional ^d Flow	Vol (vpd)	Vol (vph)	K Factor	Directional Flow
Washington Street east of the site driveway	19,000	1,720	9.1%	55% WB	13,700 ^e	1,340	9.8%	52% WB

Source: Automatic Traffic Recorder (ATR) counts conducted by VHB in May 2014.

a Daily traffic expressed in vehicles per day.

b Peak hour volumes expressed in vehicles per hour.

c Percent of daily traffic, which occurs during the peak hour.

d Directional distribution of peak period traffic.

e Due to an error in the field counts, the Saturday daily volume does not include traffic in the eastbound direction from 6:00 PM to 12:00 AM.

Table 2
Vehicular Speeds on Washington Street, east of Harvard Street

Eastbound		Westbound	
Average Speed	85 th Percentile Speed	Average Speed	85 th Percentile Speed
28 mph	34 mph	30 mph	36 mph

a miles per hour

As shown in Table 1, during a typical weekday, Washington Street carries approximately 19,000 vehicles per day with 1,720 vehicles during the evening peak hour. Washington Street traffic is slightly heavier in the westbound direction in the evening. During a typical Saturday, Washington Street carries approximately 1,340 vehicles during the midday peak hour. Traffic along Washington Street is slightly heavier in the westbound direction during the Saturday midday peak hour. Table 2 shows that the average speeds on Washington Street are lower than the posted speed limit of 35 mph in both the eastbound and westbound directions, while the 85th percentile speeds are equal to the posted speed limit.

In addition, peak hour turning movement counts (TMCs) were conducted at the study area intersections in May 2014 during the weekday evening peak period from 4:00 PM to 6:00 PM and during the Saturday midday peak period from 11:00 AM to 2:00 PM. The TMCs were conducted on May 1 and 3, 2014. Based on a review of the count data, the weekday evening and Saturday peak hours of vehicular activity were determined to be 5:00 PM to 6:00 PM and 11:15 AM to 12:15 PM, respectively. The traffic volume counts are provided in the Appendix.

Parking Accumulation Assessment

A parking accumulation assessment was conducted for the existing site parking lot and for the on-street parking supply along Washington Street in the vicinity of the site, between Beach Street and Court Street on both the north and south sides of Washington Street. The parking accumulation assessment was conducted during the weekday midday and evening peak hour periods (11:00 AM to 6:00 PM) and during the Saturday Midday peak hour period (11:00 AM to 3:00 PM) at 15-minute intervals. On street parking in this area consists of 57 on-street metered spaces along Washington Street and four spaces in the site lot, that are shared among the businesses at 697 Washington Street. Results of the parking accumulation assessment are summarized in Table 3 and the actual count sheets are provided in the Appendix of this document.

Table 3
Parking Accumulation

Time	Inventory ^a	Occupancy			
		Weekday Evening		Saturday Middy	
		Volume	Rate	Volume	Rate
11:00 AM	61	17	28%	38	62%
11:15 AM	61	18	30%	38	62%
11:30 AM	61	22	36%	35	57%
11:45 AM	61	18	30%	32	52%
12:00 PM	61	24	39%	35	57%
12:15 PM	61	28	46%	33	54%
12:30 PM	61	30	49%	37	61%
12:45 PM	61	30	49%	35	57%
1:00 PM	61	30	49%	30	49%
1:15 PM	61	28	46%	32	52%
1:30 PM	61	27	44%	35	57%
1:45 PM	61	25	41%	37	61%
2:00 PM	61	24	39%	35	57%
2:15 PM	61	23	38%	26	43%
2:30 PM	61	20	33%	28	46%
2:45 PM	61	22	36%	27	44%
3:00 PM	61	23	38%	-	-
3:15 PM	61	19	31%	-	-
3:30 PM	61	20	33%	-	-
3:45 PM	61	19	31%	-	-
4:00 PM	61	22	36%	-	-
4:15 PM	61	20	33%	-	-
4:30 PM	61	20	33%	-	-
4:45 PM	61	21	34%	-	-
5:00 PM	61	17	28%	-	-
5:15 PM	61	18	30%	-	-
5:30 PM	61	20	33%	-	-
5:45 PM	61	16	26%	-	-
Average		22	36%	33	55%
Maximum		30	49%	38	62%

a Inventory includes 57 on-street, metered parking spaces along Washington Street and 4 spaces in the site parking lot

As shown in Table 3, both the average parking occupancy and maximum parking occupancy rates are less than 50 percent of the on-street supply during the weekday evening and less than 65 percent during the Saturday midday. Based on the data, ample parking will be available for the proposed facility under future conditions. As described above the inventory of 61 spaces counted is made up of 57 on-street, metered spaces along Washington Street and four spaces in the site lot. Therefore, the majority of customer parking for the proposed facility will occur on-street.

Additionally, employees of the existing Baystate Chrysler Jeep Dodge Ram Dealership located at 777 Washington Street (to the west of the intersection of Washington Street at Beach Street) currently park at the 75-83 Court Street site where a proposed residential development is being contemplated. Assuming that the project proceeds and is successful in getting the necessary permits, the off-street employee parking will need to be relocated or on-street parking may be necessary for some or all of these employees. Our understanding is that this existing parking area can hold as many as 35 to 40 vehicles; however, only 20-30 employees have been observed utilizing this space. It is a possibility that once this parking is eliminated, employees may have the option of parking in another nearby lot owned by the dealership; however, if no other parking is available, then many of the employees will rely on on-street parking. In addition to the 57 parking spaces between Beach and Court Streets, there are approximately 54 on-street parking spaces along the segment of Washington Street from Central Avenue to Beach Street, which is the block the dealership is located on. Although these spaces were not included in the parking accumulation assessment, assuming similar rates of occupancy, approximately 37 spaces will be unoccupied during the weekday evening peak period and 24 spaces during the Saturday midday peak period. Therefore, assuming that the off-street parking is not replicated somewhere else, there is likely ample capacity to absorb the employee parking on that block.

Seasonal Variation

The peak hour traffic data collected for the Project was obtained during the month of May 2014. To quantify the seasonal variation of traffic volumes in the area, historic traffic data available from MassDOT were reviewed. According to published MassDOT weekday seasonal factors, May traffic counts are generally higher than average month conditions. To present a conservative analysis, the traffic volumes were not reduced to reflect average month conditions. The TMCs were used to develop the existing weekday evening and Saturday midday peak hour traffic volume networks, which are provided in the Appendix. All traffic count data conducted for this assessment is also included in the Appendix.

CRASH SUMMARY

To identify potential vehicle crash trends in the study area, vehicular crash data for the study area intersections were obtained from Massachusetts Department of Transportation (MassDOT) for the three most recent three year period (2009-2011) available. A summary of the MassDOT vehicle crash history is provided in Table 4 and the detailed crash data is provided in the Appendix.

The current MassDOT average crash rates for signalized and unsignalized intersections in District 6 (the MassDOT district for Newton) are 0.76 crashes per million entering vehicles and 0.58 crashes per million entering vehicles, respectively.

As shown in Table 4, the intersection of Washington Street at Harvard Street experienced 11 crashes over the three year period, including two collisions with pedestrians. The calculated crash rate for this intersection is 0.53, which is less than the MassDOT average crash rate for District 6 (the district in which the intersection is located) of 0.58. The majority of crashes that occurred at the Washington Street and Harvard Street intersection were angle, rear-end, and side-swipe collisions, indicating that there may be congestion and/or queuing issues at these intersections. No crashes were reported over this three year period at the intersection of Washington Street and the Site Driveway (see Table 4).

Table 4
Vehicular Crash Data (2009-2011)

	Washington Street at Harvard Street	Washington Street at Site Driveway
Year		
2009	5	0
2010	2	0
<u>2011</u>	<u>4</u>	<u>0</u>
Total	11	0
Average	3.7	0
Collision Type		
Angle	3	0
Head-on	1	0
Rear-end	2	0
Sideswipe, opposite direction	1	0
Sideswipe, same direction	2	0
Single Vehicle Crash	1	0
<u>Not reported</u>	<u>1</u>	<u>0</u>
Total	11	0
Crash Severity		
Fatal injury	0	0
Non-fatal injury	5	0
Property damage only (none injured)	4	0
Not Reported	2	0
<u>Unknown</u>	<u>0</u>	<u>0</u>
Total	11	0
Time of Day		
Weekday, 7:00 AM - 9:00 AM	1	0
Weekday, 4:00 PM - 6:00 PM	1	0
Saturday, 11:00 AM - 2:00 PM	0	0
Weekday, other time	8	0
<u>Weekend, other time</u>	<u>1</u>	<u>0</u>
Total	11	0
Pavement Conditions		
Dry	7	0
Wet	2	0
Snow/Ice	0	0
Other	1	0
<u>Not reported</u>	<u>1</u>	<u>0</u>
Total	11	0
Non Motorist (Bike/Ped)	2	0
Calculated Crash Rates	0.53	0.00

Source: MassDOT vehicle crash data

FUTURE CONDITIONS

To determine the impacts of the site-generated traffic volumes in the vicinity of the site, future traffic conditions were evaluated. A five year horizon (2019) was used for the evaluation.

Traffic growth on area roadways is a function of the expected land development, environmental activity, and changes in demographics. A frequently used procedure is to identify estimated traffic generated by planned developments that would be expected to affect the project study area roadways. An alternative procedure is to estimate an annual percentage increase and apply that increase to study area traffic volumes. For this evaluation, both procedures were used. The following summarizes this traffic forecasting process.

Historic Growth

A review of other recent studies in the area showed a decline in traffic volumes in recent years, however modeling data prepared by CTPS showed a growth rate of 0.4 percent per year. To be conservative, a growth rate of 0.4 percent per year was used for this study.

Site Specific Growth

In addition to accounting for background growth, the traffic associated with other planned and/or approved developments near the site were considered. Two projects within the vicinity of our site were identified, as explained below:

- **75-83 Court Street**, a proposed residential development includes the construction of 36 condominium units with a total of 77 off-street parking spaces. Traffic volumes generated by the project were obtained from MDM Transportation Consultants, Inc., who is in the process of completing a traffic study for the project; the volumes are included in the Appendix.
- **Village Café**, an existing restaurant located at 719 Washington Street submitted an application in December 2013 to expand its seating capacity from 21 seats to 60 seats within the existing layout and square footage of the restaurant. The expansion has already been completed and any increases in vehicle trips and parking demand are reflected in the May 2014 counts.

Background Transportation Improvement Projects

In assessing future traffic conditions, proposed roadway improvements within the study area were considered. At the moment, no transportation projects are planned within the immediate vicinity of the proposed project site.

No-Build Traffic Volumes

The 2019 No-Build traffic volumes were generated by consideration of the above described factors. The resulting 2019 No-Build peak hour traffic volume networks are provided in the Appendix.

TRIP GENERATION

As discussed, the proposed project involves the redevelopment of an existing 945 square foot office which formerly housed an insurance agency. Traffic credits for the removal of the existing by-right use have been assessed along with the change expected by the addition of the proposed dispensary. Standardized traffic generation information for these types of facilities is not readily available. Furthermore, the proposed dispensary will be operated **exclusively** on an appointment-only basis and therefore there are controls that are being established regarding patient activities. The Proponent expects that demands will be low at the onset of the project and remain that way for a long period of time. However over time the demand could grow. With that in mind, the Proponent is anticipating a limited operations schedule at first with operations from 4:00 to 8:00 PM Monday to Thursday, 12:00 to 8:00 PM on Friday and Saturday, and 12:00 to 6:00 PM on Sundays. Assuming that the demand grows over time, the Proponent anticipates an increase in hours of operation may be needed and ultimately include 10:00 AM to 8:00 PM Monday through Saturday and 10:00 AM to 6:00 PM on Sunday. In addition the Proponent anticipates a maximum of five employees at the facility at any time for future operations

with the expanded hours of operations. In addition, there will be delivery services available during daylight hours when the facility is open and operational; however, in general, the delivery vehicle is expected to originate at the cultivation facility and make deliveries directly to patient's residences. It is possible that if a patient lives close to Garden Remedies, there could be a trip from the dispensary to that household, but it would never occur more than once per day. Therefore, at this time, the Proponent only anticipates a maximum of one delivery trip during the course of a typical day.

For the purpose of this assessment, we have assumed traffic generation projections for the ultimate operations that could be realized (expanded hours). It is possible that such a level of operation will never be realized but for the purpose of this assessment the "worst-case" has been evaluated and is presented below. Given all of the operational consideration described above and the anticipated appointment schedule, the site would generate a maximum of approximately 30 customer trips on a daily basis, a maximum of 8 daily trips for employees (trips to work and a potential midday trip by some employees), and a maximum of one daily trips for delivery services. In addition, the Proponent anticipates that no more than 8 to 12 customers would arrive and depart the site during a peak hour of operations. The traffic generation based on these anticipated operations is summarized in Table 5 below:

Table 5
Trip Generation Summary

<u>Time Period</u>	<u>Movement</u>	<u>Existing Use Office Trips^a</u>	<u>Proposed Dispensary Trips^b</u>	<u>Net New Trips</u>
Weekday		10	78 ^c	68
Weekday Evening	Enter	0	14	14
Peak Hour	<u>Exit</u>	<u>1</u>	<u>14</u>	<u>13</u>
	Total	1	28 ^d	27
Saturday		2	78	76
Saturday Midday	Enter	0	14	14
Peak Hour	<u>Exit</u>	<u>0</u>	<u>14</u>	<u>14</u>
	Total	0	28	28

a Trip Generation estimate based on ITE LUC 940 (Office) for 828 sf of space.

b Trip Generation estimate based on data provided by Gardén Remedies.

c Daily trip generation based on 30 customer trips, 8 employee trips, and 1 delivery trips per day.

d Peak hour trip generation based on 12 customer and 2 employee trips within the peak hour.

Based on the projections outlined above, the proposed project is expected to increase vehicle trips to the site by approximately 27 (14 in/13 out) trips during the weekday evening peak hour and approximately 28 (14 in/14 out) trips during the Saturday midday peak hour. The peak hour traffic projections identified represent worst case condition under future conditions should the potential demand be realized. It is anticipated that most hours of the day will see far less traffic activity and therefore the peak hours identified represent peak conditions for assessment of traffic impacts.

TRIP DISTRIBUTION

The directional distribution of traffic approaching and departing the site is a function of several variables. These include population densities, existing travel patterns, and the efficiency of the roadways leading to and from the site. The trip distribution of the site traffic is based on existing travel patterns along Washington Street. The trip distribution reflects a worst case scenario with all entering and existing traffic passing through the Washington Street at Harvard Street intersection; it assumes that vehicles must turn around or loop to find parking or continue their journey, and is therefore overly conservative. The trip distribution patterns for the project are presented in Table 6 and provided as a figure in the Appendix.

Table 6
Trip Distribution

<u>Roadway</u>	<u>Direction (From/To)</u>	<u>Trip Distribution</u>
Washington Street	East	55%
Washington Street	West	40%
<u>Harvard Street</u>	<u>South</u>	<u>5%</u>
<u>Total</u>		<u>100%</u>

PARKING

Parking for the proposed facility in the future will be provided primarily through parallel on-street parking spaces on Washington Street. The parking lot serving the businesses at 697 Washington Street has four parking spaces, one of which Garden Remedies may be able to utilize in the future. .

Based upon the projected trip generation of a maximum of 12 customers and 5 employees on-site in the peak hour, the peak parking demand is 17 vehicles. This estimate is extremely conservative, as it assumes that every customer arriving within the peak hour will be at the dispensary at the same time. It is also anticipated that the parking demand will be substantially less during non-peak hour periods. The existing conditions parking study indicated that there is a surplus of at least 30 on-street parking spaces during the weekday midday and evening peak periods, and 22 on-street parking spaces during the Saturday peak period. It is anticipated that there will be ample parking during the peak weekday evening and Saturday midday hours for Garden Remedies patrons and employees. Given the proposed use and appointment only protocols, it is anticipated that customer trips will have very limited duration of 15-20 minutes being the norm, and therefore the actual parking demands have likely been overstated.

BUILD TRAFFIC VOLUMES

The project-related traffic volumes are assigned to the study area roadway network based on the trip distribution patterns shown in Table 6 and added to the 2019 No-Build peak hour traffic volume networks to develop the 2019 Build weekday evening and Saturday midday peak hour traffic volume networks. The trip distribution networks and the 2019 Build traffic volume networks are provided in the Appendix.

TRAFFIC OPERATION ANALYSIS

To assess quality of flow, intersection capacity analyses were conducted with respect to Existing, project No-Build and Build traffic volume conditions. Capacity analyses provide an indication of how well the roadway facilities serve the traffic demands placed upon them. Roadway operating conditions are classified by calculated levels-of-service.

The evaluation criteria used to analyze area intersections and roadways in this traffic study are based on the 2010 Highway Capacity Manual (HCM)¹. Level-of-service (LOS) is the term used to denote the different operating conditions that occur on a given roadway segment under various traffic volume loads. It is a qualitative measure that considers a number of factors including roadway geometry, speed, travel delay, freedom to maneuver, and safety. Level-of-service provides an index to operational qualities of a roadway segment or an intersection. Level-of-service designations range from A to F, with LOS A representing the best operating conditions and LOS F representing the worst operating conditions.

Intersection Capacity Analysis

¹ Transportation Research Board, Highway Capacity Manual, Washington, D.C., 2010

Levels-of-service analyses were conducted for the 2014 Existing, 2019 No-build and Build conditions for the study area intersections. Table 7 summarizes the capacity analysis for the unsignalized intersections of Washington Street at Harvard Street and Washington Street at the Site Driveway. The results shown are for the 2014 Existing conditions scenario as compared to the 2019 No-Build and Build conditions. The capacity analyses worksheets are included in the Appendix.

Table 7

Unsignalized Intersection Capacity Analysis Summary

Intersection/Time Period Weekday Evening Peak Hour	Critical Movement	2014 Existing				2019 No-Build				2019 Build			
		Demand ^a	Delay ^b	LOS ^c	95 th Queue ^d	Demand	Delay	LOS	95 th Queue	Demand	Delay	LOS	95 th Queue
Washington Street at Harvard Street	NB LR	90	48	E	5	110	>120	F	18	110	>120	F	19
Washington Street at Site Driveway	SB LR	Neg.	13	B	*	Neg.	14	B	*	Neg.	15	B	*
Saturday Midday Peak													
Washington Street at Harvard Street	NB LR	65	16	C	1	105	24	C	2	105	25	D	2
Washington Street at Site Driveway	SB LR	Neg.	17	C	*	Neg.	22	C	*	Neg.	22	C	*

a volume to capacity ratio

b vehicle delay in seconds per vehicle

c level of service

d 95th percentile queue (in vehicles)

Neg. negligible volume

* queue is less than one vehicle length

As shown in Table 7, the intersection of Washington Street at Harvard Street operates at a LOS E during the weekday evening peak hour and at a LOS C during the Saturday midday peak hour under 2014 Existing Conditions. The intersection of Washington Street at the Site Driveway operates at a LOS C or better during both peak periods under 2014 Existing Conditions. No change in LOS is expected under 2019 No-Build condition, with the exception of Washington Street at Harvard Street which decreases to LOS F under the weekday evening peak hour. Operations are expected to remain the same with minimal changes, if any, in delay and LOS between 2019 No-Build and Build conditions.

SITE ACCESS AND CIRCULATION

The site is currently accessed by a single access driveway to Washington Street located on the easterly side of the facility. The access driveway provides access to a parking lot that is un-striped and shared among the four businesses at 697 Washington Street. A maximum of five vehicles were observed to be parked in the lot at one time. Access will remain unchanged by the proposed project; however, the proponent is proposing to add one additional handicapped accessible parking space. In addition to the on-site parking supply, Washington Street in the vicinity of the site provides parallel on-street parking on both the north and south sides of the street. In total there are approximately 57 on-street parking spaces along Washington Street between Beach Street (west) and Court Street (east) near the site. A parking accumulation study has been conducted and is discussed above.

Sight Distance

A sight distance analysis, in conformance with guidelines of the American Association of State Highway and Transportation Officials (AASHTO)² was performed at the locations of the two unsignalized site driveways under proposed conditions. Sight distance considerations are generally divided into two categories: Stopping Sight Distance (SSD) and Intersection Sight Distance (ISD). Stopping Sight Distance (SSD) is the distance required for a vehicle approaching an intersection from either direction to perceive, react and come to a complete stop before colliding with an object in the road, in this case the exiting vehicle from a driveway. In this respect, SSD can be considered as the minimum visibility criterion for the safe operation of an unsignalized intersection.

Intersection Sight Distance (ISD) is based on the time required for perception, reaction and completion of the desired critical exiting maneuver once the driver on a minor street or driveway approach decided to execute the maneuver. Calculation for the critical ISD includes the time to (1) turn left, and to clear the half of the intersection without conflicting with the vehicles approaching from the left; and (2) accelerate to the operating speed of the roadway without causing approaching vehicles to unduly reduce their speed. In this context, ISD can be considered as a desirable visibility criterion for the safe operation of an unsignalized intersection. Essentially, while SSD is the minimum distance needed to avoid collisions, ISD is the minimum distance needed so that mainline motorists will not have to substantially reduce their speed due to turning vehicles. To maintain the safe operation of an unsignalized intersection, ISD only needs to be equal to the stopping sight distance, though it is desirable to meet ISD requirements by themselves.

To calculate the required SSD and ISD at the existing site driveway along Washington Street the 85th percentile speed measured by the ATR count described above was utilized. The 85th percentile speed along Washington Street was observed to be 34 eastbound and 36 westbound. The posted speed limit along Washington Street is 35 mph in both the eastbound and westbound directions. Table 8 summarizes the sight distance analysis.

² A Policy on the Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials, 2011

Table 8
Sight Distance Analysis Summary

Location	Stopping Sight Distance (a)			Intersection Sight Distance (a)		
	Traveling	Required ^a	Measured ^a	Looking	Desired ^a	Measured ^a
Site Driveway along Washington Street	Eastbound	240	500 ^d	Left	400	50/500 ^e
	Westbound	260	390 ^d	Right	345	90/500 ^e

Source: based on guidelines established in A Policy on the Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials [AASHTO], 2011

- a Based on guidelines established in A Policy on the Geometric Design of Highways and Streets, Sixth Edition, American Association of State Highway and Transportation Officials (AASHTO), 2011.
- b Speeds are based on the posted speed limit of 40 mph eastbound and 35 mph westbound
- c Speeds are based on the posted speed limit of 30 mph traveling northbound and southbound
- d SSD measurements were taken from a point at which approaching vehicles can see a vehicle entering the street from around on-street parked vehicles.
- e The first ISD measurements assume that on-street parking spaces adjacent to the driveway are occupied; the second assumes there are no vehicles parked in on-street parking spaces adjacent to the driveway.

As shown in Table 8, the minimum stopping sight distance requirements are exceeded at the site driveway. However, sight lines looking to the south from both locations are limited by on-street parking located along the northerly side of Washington Street. Specifically, there are on-street parallel parking spaces located on the Washington Street on both sides of the site driveway. When on-street parking spaces in the vicinity of the driveway are unoccupied, the intersection sight distance from the driveway looking to the east and west is over 500 feet, which exceeds the AASHTO requirement for the observed travel speeds. However, when the parking spaces are occupied intersection sight distance would be limited to only 90 feet looking to the right, and 50 feet looking to the left. There are multiple other locations where similar conditions exist along the Washington Street corridor. Accordingly, as the critical minimum stopping sight distance requirements are satisfied, this condition should not pose a significant hardship, especially since it is assumed that nearly all Garden Remedies traffic would use on-street parking.

Pedestrian Signal Assessment

As specifically requested by the City of Newton transportation staff, VHB has conducted observations at the existing Rapid Rectangular Flashing Beacon (RRFB) located immediately to the west of the site along Washington Street and the existing High-Intensity Activated crosswalk (HAWK) pedestrian signal system pedestrian crossing at Parker Street, south of Truman Road. Observations were conducted at both locations during the weekday evening peak hour period (3:00 to 6:00 PM) and during the Saturday Midday (11:00 AM to 3:00 PM) peak period. The observations were made to gather 'the number of pedestrians that utilize the crosswalks at each location', the number of "calls" to the signals based on pedestrian activation, and the reaction by motorists to the signal call, did they stop for the pedestrian or continue on without any consideration. The results of the assessment are summarized below in Table 9 and count sheets are included in the Appendix.

Table 9
Pedestrian Signal Assessment

Location Signal Type	<u>Washington Street at Harvard Street</u>		<u>Parker Street south of Truman Road</u>	
	RRFB		HAWK	
	Weekday Evening	Saturday Midday	Weekday Evening	Saturday Midday ^a
Total No. Groups	36	34	21	4
Total No. Pedestrians	52	51	42	5
Groups to Activate Signal	44%	24%	86%	75%
<u>Activated Signal</u>				
Vehicles who did NOT Stop				
Avg. NB/EB	1	3	1	1
Max. NB/EB	6	6	3	2
Avg. SB/WB	1	2	1	1
Max. SB/WB	7	7	3	2
<u>Not Activated Signal</u>				
Vehicles who did NOT Stop				
Avg. NB/EB	1	2	1	0
Max. NB/EB	12	13	2	0
Avg. SB/WB	1	2	1	0
Max. SB/WB	3	10	2	0

a There was only one occurrence when the group of pedestrian(s) did not activate the pedestrian signal.

As shown in Table 9, pedestrians on Parker Street activated the signal 75 percent or more of the time, while pedestrians on Washington Street activated the signal less than 50 percent of the time. The majority of the pedestrians on Parker Street in the weekday evening were children, which explains the larger percentage of push button activation at that location. When comparing motorists' reactions for when the pedestrian signal is activated versus not activated, on average the same or similar number of vehicles continued without stopping at both locations. On Washington Street, when the pedestrian signal was not activated, the maximum number of vehicles to continue without stopping typically increases, where-as on Parker Street the number remains relatively the same.

It is of note that at the Washington Street pedestrian crossing, pedestrians waiting to cross from the northerly side of the roadway are not fully visible when vehicles are parked on-street adjacent to the crossing. Vehicles were observed temporarily parking illegally adjacent to the crossing on the northerly side, and even on top of the crosswalk at times.

CONCLUSIONS

VHB has conducted a traffic impact study for the proposed redevelopment of the existing office into a medicinal marijuana dispensing facility on Washington Street in Newton, Massachusetts. The proposed redevelopment project will include the redevelopment of the existing office space into a new 945 sf dispensary. Access to the redeveloped site will be provided by one full access driveway that serves a parking lot with four existing parking spaces shared amongst the businesses at 679 Washington Street. The proponent is proposing to add a fifth handicapped parking space to the shared lot; however, the vast majority of the patrons and employees are expected to park on-street.



The proposed redevelopment, is expected to increase vehicle trips to the site by maximum of approximately 27(14 in/13 out) trips during the weekday evening peak hour and a maximum of 28 (14 in/14 out) trips during the Saturday midday peak hour. Since the dispensary will be by appointment only, the number of trips will be controlled. The additional vehicle trips are expected to have negligible impact on delay, queue, and overall intersection operations at the study area locations.

Based on the intersection capacity analysis, it was determined that the project will have no impact upon intersection operations within the study area and that no improvements are necessary to accommodate the project.






Land Use Map 697 Washington St.

*City of Newton,
Massachusetts*

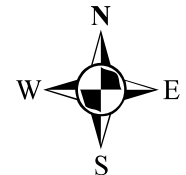
Legend

-  Streets - Pavement Edge
-  Building Outlines

Land Use

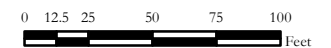
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use

ATTACHMENT E

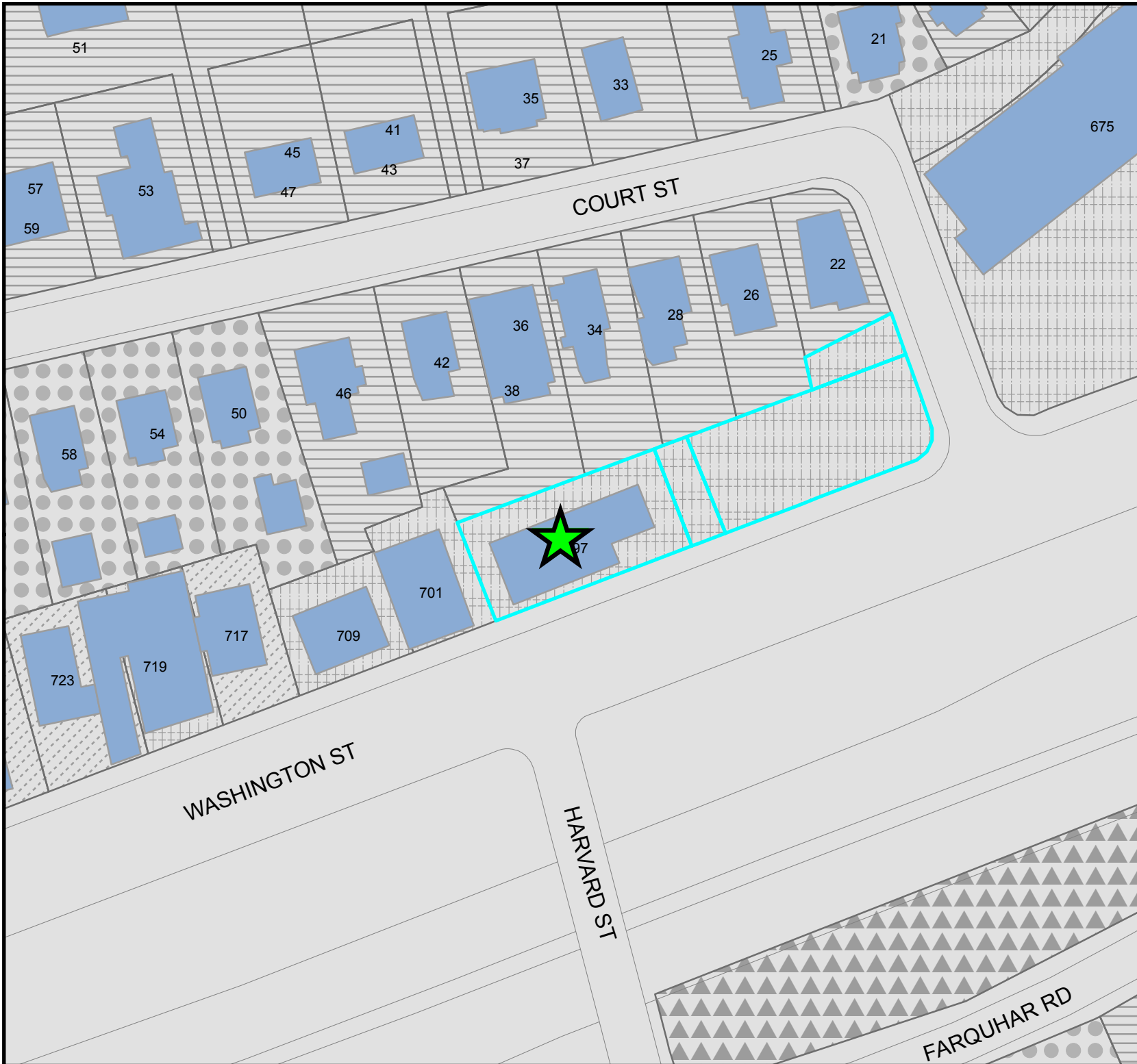


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: June 10, 2014



Zoning Map 697 Washington St.

*City of Newton,
Massachusetts*

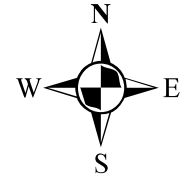
Legend

- Streets - Pavement Edge
- Building Outlines

Zoning

- Multi-Residence 1
- MAN
- Multi-Residence 2
- Business 2

ATTACHMENT F



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: June 10, 2014



Recommended at Proposed Location sorted by county					
DPH #	Applicant Name	Expert Score	Town	County	Population by County
9	Medical Marijuana of Massachusetts, Inc	160	Mashpee	Barnstable	215,888
75	William Noyes Webster Foundation, Inc	147	Dennis	Barnstable	
10	Medical Marijuana of Massachusetts, Inc.	160	Taunton	Bristol	548,285
12	Brighton Health Advocates Inc. d/b/a Compassionate Care	152	Fairhaven	Bristol	
13	Alternative Therapies Group, Inc.	149	Salem	Essex	743,156
21	Healthy Pharms, Inc.	149	Haverhill	Essex	
17	Debilitating Medical Condition Treatment Centers, Inc	142	Holyoke	Hampden	463,490
62	New England Treatment Access, Inc	155	Northampton	Hampshire	158,080
3	Patriot Care Corp.	141	Lowell	Middlesex	1,503,085
23	Central Ave Compassionate Care, Inc	143	Ayer	Middlesex	
43	Garden Remedies, Inc.	149	Newton	Middlesex	
53	The Greenway Wellness Foundation, Inc.	144	Cambridge	Middlesex	
61	New England Treatment Access, Inc.	155	Brookline	Norfolk	670,850
99	Ermont	148	Quincy	Norfolk	
8	Medical Marijuana of Massachusetts, Inc.	160	Plymouth	Plymouth	494,919
27	In Good Health, Inc.	146	Brockton	Plymouth	
44	Good Chemistry of Massachusetts, Inc.	145	Boston	Suffolk	722,023
100	Green Heart Holistic Health & Pharmaceuticals, Inc.	138	Boston	Suffolk	
7	Bay State Relief, Inc	137	Milford	Worcester	798,552
45	Good Chemistry of Massachusetts, Inc.	144	Worcester	Worcester	

Counties without a selected dispensary	Berkshire	131,219
	Franklin	71,372
	Dukes	16,525
	Nantucket	10,172

The selection of dispensaries was based on the quality of the applications. This was an objective, merit-based process guided by state procurement principles. The selection committee was supported by contracted, independent experts in subject matter (ICF International) and in background investigations (Creative Services, Inc. "CSI"). An expert review by ICF International scored the applications in areas including public health, security and strength of business plan. The expert review determined the score for each applicant, based on a scale of 0 to 163 possible points. Scores of qualifying applicants were all 137 or higher. The score was not the only factor in making the final recommendations. The Department's Selection Committee considered the scores, along with geographic diversity, local support, and a strong focus on the ability to meet patient needs, while ensuring public safety. The Management Team, Board of Directors and investors of dispensaries were also subject to extensive civil and criminal background checks by CSI. Based on this process some applicants were not selected at this time. Page two (2) lists qualified applicants who were not granted their original proposed location, but will be invited to amend their application and seek a change of location to one of the counties that lacks a dispensary. Pages 3-4 list applicants who were not selected at this time.



Setti D. Warren
Mayor

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Department of Planning and Development
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ATTACHMENT H

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: May 14, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Stephen J Buchbinder, Attorney
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to operate a medical marijuana dispensary, to waive two parking stalls and to

Applicant: Garden Remedies, Inc	
Site: 697 Washington Street	SBL: 23 019 0001B
Zoning: BU2	Lot Area: 16,669 square feet
Current use: Insurance agency office	Proposed use: Medical marijuana dispensary

BACKGROUND:

The property at 697 Washington Street consists of a 16,669 square foot lot improved with a 4,480 square foot mixed use building with three other tenants, a massage business, an acupuncturist and an optician. The applicant proposes to operate a medical marijuana facility in one of the first floor suites, previously occupied by an insurance agency. The space is approximately 1,695 square feet, of which 945 is located on the first floor and the remaining 750 square feet is located in the basement.

The applicant will be dispensing medical marijuana, marijuana-infused products and vaporizers to patients at the site. The marijuana products will be grown, processed and packaged at the applicant’s cultivation facility in Essex, MA. The marijuana products will be delivered to the Newton site in containers which are sealed and labeled per the Department of Public Health’s (DPH) regulations. The applicant will see patients by appointment only. After initial on-site consultation with a Garden Remedies, Inc employee, a patient may elect to have their marijuana products delivered from the Essex cultivation site.

The applicant is seeking a special permit to operate a medical marijuana dispensary per Section 30-36, and an associated parking waiver of two stalls.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Stephen J Buchbinder, attorney, dated 3/31/2014
- Topographic Site Plan of Newton, prepared by VTP Associates, dated 2/27/2014
- Area Plan of Newton, MA at 697 Washington St, prepared by VTP Associates, dated 2/28/2014
- Topo Site Plan of Newton, MA Showing Proposed Conditions at 697 Washington St, prepared by VTP Associates, dated 3/27/2014
- Proposed First Floor Plan, prepared by Silverstone & Bakalchuk Architects, dated 3/31/2014
- Proposed Basement Floor Plan, prepared by Silverstone & Bakalchuk Architects, dated 3/31/2014
- Building Permit, dated 8/8/1953
- Section 23.11 of 1952 Zoning Ordinances
- Parking Calculation

ADMINISTRATIVE DETERMINATIONS:

1. The applicant is proposing to use the site as a medical marijuana facility. This use requires a special permit from the Board of Alderman per Section 30-36 of the Newton Zoning Ordinance.
2. Section 30-36 requires that an applicant for a registered marijuana dispensary (RMD) must be properly registered with the Massachusetts Department of Public Health (DPH) pursuant to 105 CMR 725.100. The applicant has received a provisional license from DPH and is in the process of finalizing the registration.
3. Per Sections 30-36(d)(1) and 30-36(f)(2), a registered marijuana dispensary (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 children or minors congregate, or from a house of worship or religious use, or a lesser distance if the Board deems it appropriate. The proposed property is not within 500 feet of any of these uses.
4. Section 30-36(d)(4) requires that an RMD be located in a permanent building only, and not a mobile facility. The building at 697 Washington Street was built in 1953.
5. Section 30-36(d)(5) requires that an RMD conform to the dimensional requirements applicable to the zoning district in which it is located. The building was built by building permit in 1953 and conformed to the zoning in place at the time. At that time, the zoning allowed for a building height of 60 feet. The current zoning states a building may be 24 feet tall by right, and 36 feet tall by special permit. The building's existing height of 28.51 feet is legally nonconforming. The building meets all other dimensional requirements.
6. Section 30-26(d)(6) states than an RMD is subject to the parking requirements of section 30-19(d)(10), which requires one stall for every 300 square feet of gross floor area, and one stall for every three employees at the highest shift, unless otherwise waived by the Board of Aldermen. The applicants are proposing to use 945 square feet of the first floor for the dispensary (the storage space in the basement is not included in the parking calculation), and to have five employees working at one time, which will require 6 parking stalls. The previous use of the site with the insurance company required one stall for every 250 square feet, and thus needed four stalls per section 30-19(d)(11). The applicant is seeking a waiver of two parking stalls.

7. Any signage proposed by the applicant must conform to the requirements of 105 CMR 725.105(L) and to section 30-20 of the Newton Zoning Ordinance. An application for a blade sign has been submitted to the UDC for review. If the proposed signage exceeds the dimensional controls of the ordinance, relief from section 30-20(j)(2) will be required.
8. Sections 30-36(d)(8) and 30-36(f)(10) require that the RMD's hours of operation have no significant adverse impacts on nearby uses. The applicant proposes opening from 10:00 a.m. until 8:00 p.m. Monday through Saturday, and from 10:00 a.m. until 6:00 p.m. on Sundays.
9. Section 30-36(f)(1) states that an RMD must be located to serve an area that currently does not have reasonable access to medical marijuana or an area established by DPH as requiring supplemental service. The applicant stated that Garden Remedies anticipates serving mainly Newton residents, though it is impossible to predict the number and origination of patients the proposed dispensary will serve. Garden Remedies is one of four dispensaries to receive provisional licenses in Middlesex County; the other county dispensaries are proposed to be located in Lowell, Ayer and Cambridge. Other regional dispensaries are proposed in Boston (two locations), Brookline, and Quincy.
10. Per section 30-36(f)(3), the site must be designed so as to provide convenient, safe and secure access and egress for clients and employees utilizing all modes of transportation. There currently exists a small parking lot serving all four business tenants in the building. The owner of the building intends to stripe the lot and designate a handicapped parking stall to be shared by all tenants. The application states that there are 78 metered on-street parking stalls within a two-minute walk. The site is located on an MBTA bus route, with the Washington Street/Harvard Street bus stop directly across the street. The Newtonville commuter rail stop is located several blocks away.

The applicant is developing a security plan to monitor patients from arrival to when they leave the site. The applicant proposes to station an employee outside to greet patients. External security cameras will monitor the surrounding area.

11. The applicant has hired VHB to perform a transportation study, per section 30-36(f)(4) to determine the impact of traffic generated by client trips, employee trips and deliveries to and from the site.
12. Per section 30-36(f)(5), loading, refuse and service areas must be designed to be secure and shielded from abutting uses. The applicant must design the site with these criteria in mind.
13. Section 30-36(f)(6) requires the building and site to be compatible with the neighborhood, and to mitigate any negative aesthetic impacts due to security measures. The proposed site is an existing building requiring mainly interior modifications to comply with required security. The main exterior change will be construction of a gate and fence on the side of the building intended to direct patients to the separate entrance used for the dispensary only.
14. The building and site are fully accessible to persons with disabilities, per section 30-36(f)(7).

15. The site is fully accessible to regional roadways and public transportation, per section 30-36(f)(8). The site is located on a main roadway through the City (Washington Street) and is adjacent to the Massachusetts Turnpike. The site is located along an MBTA bus line and near the Newtonville commuter rail station.
16. Section 30-36(f)(10) requires that the site be located where it may be readily monitored by law enforcement and other code enforcement personnel. The site is located on a busy and heavily travelled main thoroughfare.
17. The existing parking area is legally nonconforming and the petitioner is not proposing any changes except to add one regulation handicapped parking stall.
18. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-36	To allow a registered medical marijuana dispensary	S.P. per §30-24
§30-19(d)(10), 30-19(m)	To waive two required parking stalls	S.P. per §30-24
§30-19(h)(1), 30-19(m)	To allow parking in the front setback	S.P. per §30-24
§30-20(j)(2)	To exceed the allowable horizontal projection	S.P. per §30-24