

SPECIAL PERMIT APPLICATION

TO THE NEWTON CITY COUNCIL

The undersigned hereby makes application for a permit to erect and use, to alter and use, or to make such uses as may be hereinafter specified of a building or buildings at the location and for the purpose hereinafter specified under the provisions of Chapter 30 of the Revised Ordinances, 2015, as amended, or any other sections.

PLEASE REFERENCE SECTION(S) OF THE ORDINANCES FROM WHICH RELIEF IS REQUESTED:

4.4.1; 5.1.8.B.1; 5.1.8.B.2; 5.1.8.C.1; 5.1.8.C.2; 5.1.9.A; 5.1.9.B; 5.1.10; 5.1.13; 6.10.3.D; 6.10.3.E; 7.3.3

- PETITION FOR: [X] Special Permit/Site Plan Approval, [ ] Extension of Non-Conforming Use and/or Structure, [ ] Site Plan Approval, [X] Amendment of Council Order #288-18

STREET 24-26 Eliot Street WARD SECTION(S) 51 BLOCK(S) 025 LOT(S) 0001 APPROXIMATE SQUARE FOOTAGE (of property) 25,320 square feet ZONED BU2 TO BE USED FOR: Marijuana Retailer CONSTRUCTION: masonry

EXPLANATORY REMARKS: Special permit sought for the operation of an adult use marijuana retail establishment (Marijuana Retailer) pursuant to Section 6.10.3.D. A. A waiver of the transparency requirement set forth in Section 6.10.3.E.15 is also requested (to the extent necessary). Additionally, the following waivers are also sought, to the extent necessary, pursuant to Section 5.1.13: (i) minimum stall dimensions (Sections 5.1.8.B.1 and 5.1.8.B.2); (ii) minimum aisle width for two-way traffic (Sections 5.1.8.C.1 and 5.1.8.C.2); (iii) perimeter screening requirements (Section 5.1.9.A); (iv) interior landscaping requirements (Section 5.1.9.B); and (v) lighting requirements (Section 5.1.10.A) See attached Exhibits 1 through 8, inclusive.

The undersigned agree to comply with the requirements of the Zoning Ordinance and rules of the Land Use Committee of the City Council in connection with this application.

PETITIONER (PRINT) Cypress Tree Management, Inc.

SIGNATURE [Signature] By: Stephen J. Buchbinder, its attorney duly authorized

ADDRESS 419 Boylston Street Suite 300, Boston, MA 02116

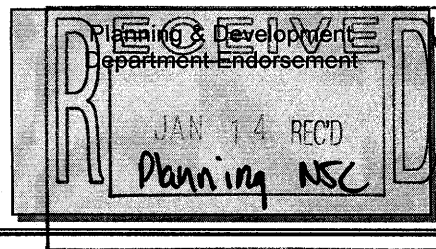
TELEPHONE N/A E-MAIL N/A

ATTORNEY Stephen J. Buchbinder, Esquire

ADDRESS 1200 Walnut Street, Newton, Massachusetts 02461-1267

TELEPHONE 617-965-3500 E-MAIL sibuchbinder@sab-law.com


RECEIVED NEWTON CITY CLERK 19 JAN 14 PM 2:49 David A. Olson, Clerk Newton, MA 02459



PROPERTY OWNER (PRINT) 24-26 Elliot Street Realty Trust

SIGNATURE 

By: Alan Chow, Trustee

SIGNATURE 

By: Ming Fung Chao, Trustee

ADDRESS P.O. Box #265, Brookline, MA 02446

TELEPHONE N/A

E-MAIL N/A

**Exhibit 1 – Special Permit Criteria (Pursuant to Section 6.10.3)**

The applicant is seeking permission to operate a Marijuana Establishment (“ME”) pursuant to Section 6.10.3 at 24-26 Elliot Street.

Pursuant to the requirements of Section 6.10.3.E:

- (1) The proposed ME is not within a radius of 500 feet from an existing public or private k-12 school.
- (2) The applicant is the process of seeking licensure from the Cannabis Control Commission (“the CCC”).
- (3) The applicant understands that the proposed special permit may only be exercised by Cypress Tree Management, Inc. for its operation at 24-26 Elliot Street.
- (4) Home delivery to patients will be available to the extent that same is allowed by the CCC.
- (5) The proposed use of the site is less intense than the previous use of the site, and therefore no parking waiver is required. The existing parking lot contains certain nonconformities which were waived pursuant to Council Order #288-18.
- (6) Signage shall comply with the requirements of 105 CMR 725.105(L) and 935 CMR 500.105(4) and to the requirements of Section 5.2.
- (7) The applicant proposes the following hours of operation: 9:00 a.m. until 9:00 p.m. Monday through Saturday, and 12:00 noon until 6:00 p.m. on Sunday. These hours are designed to mitigate any adverse impact on the neighborhood and to avoid conflicts with both the morning and late afternoon/early evening rush hour traffic.
- (8) There is only one licensed Marijuana Retailer in the City at this time, Garden Remedies, located at 697 Washington Street.
- (9) See above. 697 Washington Street is located approximately 3.3 miles away from the proposed site.
- (10) N/A.
- (11) The proposed facility would be a co-located RMD and ME, and would be 4,043 square feet.

- (12) The applicant will make the required security submission to the Police Department prior to the Public Hearing.
- (13) The applicant will make the required emergency response submission to the Police Department and Fire Department prior to the Public Hearing.
- (14) The applicant will make the required Operation and Management submission to the Inspectional Service Department and Planning Department prior to the Public Hearing.
- (15) To the extent necessary, the applicant is seeking a waiver of the 25 percent transparency along the building's front façade on the basis that the impacts to security and aesthetics have been mitigated. Specifically, the building where the ME/RMD will be located should be viewed as a whole and was designed to be opaque on the ME/RMD portion and contain a great deal of transparency on the adjacent tenant space. The transparency of the front façade when viewed as a whole is 27.4% transparent.
- (16) N/A
- (17) The applicant will design the building to ensure compliance with 6.10.3.E.17.a and b.
- (18) N/A
- (19) The ME shall not engage in home delivery to customers unless or until the same is permitted by the City.

**Exhibit 2 – Description of Activities (Pursuant to Section 6.10.3.F.1)**

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

Cypress Tree Management ("CTM") will operate a co-located adult-use and medical-use dispensary where it will sell marijuana, marijuana infused products, and vaporizers on site and by delivery to established patients; will distribute educational materials; and engage in educational programming as permitted by the Massachusetts Cannabis Control Commission ("CCC") guidelines. CTM's operations will be compliant with all regulations with regard to the dispensing of marijuana. CTM will only dispense marijuana to adults over the age of 21 and to qualified patients who can provide their registration and ID to verify that their information is current in the CCC database. The hours of operation will be as noted in Exhibit 1.

Adults must have a State or Federal issued ID to gain admission to the site. Patients must have a CCC registration card to gain admission to the site. As shown on the floor plan, there will be a secure reception area where a receptionist will check patients' credentials before buzzing them into the dispensary. The CCC also allows caregivers to accompany patients into dispensaries, but such caregivers would be required to obtain their own CCC identification card.

Upon gaining access to the site, patients will be greeted by a Patient Service Advisor (PSA). Customers and patients entering the facility for the first time will be guided to a private or semi-private consultation space where the PSA will guide them through the various products and appropriate dosing. For medical patient cardholders the PSA will inquire about patients' medical condition(s), symptoms, and overall objectives. All customers will receive educational materials about marijuana usage, dosage, how to safely secure their marijuana and MIPs, and about CTM and other wellness services offered in the surrounding areas. After the consultation, the PSA will guide them to review products and to make their purchases.

For medical patients, at each point-of-sale console, the PSA will ensure that each patient does not exceed his or her sixty-day supply limit. All products and samples will be kept within a locked counter and will be accessed only by the PSA. After the patient has selected his or her medication, an order sheet will be printed at the secure fulfillment area where a fulfillment agent will bag the products together in a child resistant bag and ensure proper labeling of each item. The bagged items will be delivered to the PSA and then delivered to the patient, allowing the PSA a final opportunity to ask if the patient has any additional questions. The PSA will then direct the patient to the exit. Upon exiting, a dispensary agent outside of the facility will be responsible to ensure that no patients are loitering outside of the facility and that no consumption of product occurs in or around the site. Any marijuana waste generated at the site will be stored in a dedicated, secure compartment and will be securely disposed of in accordance with CCC regulations.

Pursuant to 105 CMR 725.100, CTM will implement a hardship program that provides discounted or free marijuana and MIPs to medical patients with verified, documented financial hardship indicating that they qualify for Massachusetts or Federal means-based programs.

CTM's operations and facility will encompass a comprehensive security program to prevent diversion, theft, and loss of marijuana and to provide for the safety of all patients, caregivers, and agents. CTM will work closely with the Newton Police Department to address any security concerns that may arise. CTM will have licensed security personnel conduct training of all dispensary agents on safety measures and security protocols to minimize potential criminal risks. Additionally, at least one security agent will be on site during all hours of operation.

The outside perimeter of the site will be sufficiently lit to allow for state-of-the-art video surveillance, and foliage will be removed as necessary so as not to allow persons to conceal themselves from sight. Perimeter alarms will be placed on all entry points and the site will include duress, panic, and holdup alarm systems which will be connected to local law enforcement systems. The site will have a redundancy alarm system that will ensure an active

alarm in the event the primary alarm is compromised, and a failure notification system will notify management and local law enforcement in the event of a surveillance system failure.

Video cameras will be used on all exterior portions of the site with coverage of the parking lot. Video cameras also will be used in all areas that contain marijuana, all entrances and exits, and all areas of the retail floor. The site's surveillance system will be equipped with backup power sources to ensure that they remain operational during a power outage.

CTM is committed to operating a secure, professionally managed collocated dispensary, which meets and exceeds the criteria set forth by the CCC and the City of Newton.

**Exhibit 3 – Service Area (Pursuant to Section 6.10.3.E.2)**

N/A – Section 3 only applied to RMDs

**Exhibit 4 – Transportation Analysis (Pursuant to Section 6.10.3.F.3)**

Please see Traffic Memorandum by VHB dated May 8, 2018 and supplemented on July 19, 2018 submitted herewith.

**Exhibit 5 – Photometric Plan (Pursuant to Section 6.10.3.F.4)**

Please see enclosed plan entitled “Photometric Plan” dated May 31, 2018 by G2 Collaborative Landscape Architecture.

**Exhibit 6 – Context Map (Pursuant to Section 6.10.3.E.5)**

Attached please find a map which depicts all properties within a 1,000 foot radius of the site. The following educational uses are reflected on the map:

991 Boylston Street – Spanish Immersion Daycare (ABC in Motion)

51 Winchester Street – The Conservatory at the Highlands

53 Winchester Street – Create a Cook

56 Winchester Street – Little Red Wagon Playschool

**Exhibit 7 – Registration Materials (Pursuant to Section 6.10.3.E.6)**

This document has been emailed to the City Clerk due to the fact that it is several hundred pages in length.

### Exhibit 8 - Parking Calculation

#### Proposed Use – Co-Located Marijuana Retailer and Registered Marijuana Dispensary

1 parking stall per 300 square feet and 1 parking stall per 3 employees

4,043 square feet	14 parking stalls
14 employees	<u>5</u> parking stalls
	19 parking stalls required

#### Proposed Use – Retail or Service Establishment Uses (one or more tenants)

1 parking stall per 300 square feet and 1 parking stall per 3 employees

3,393 square feet	12 parking stalls
6 employees	<u>2</u> parking stalls
	14 parking stalls required

Total Requirement for Proposed Use:  $19 + 14 = 33$  parking stalls

#### Previous use – Restaurant

1 parking stall per 3 seats and 1 parking stall per 3 employees

102 seats (per NLB)	34 parking stalls
9 employees (estimate)	<u>3</u> parking stalls
	37 parking stalls required

#### Previous use – Salon

1 parking stall per 300 square feet and 1 parking stall per 3 employees

5,100 square feet	17 parking stalls
12 employees (estimate)	<u>4</u> parking stalls
	21 parking stalls required

Total Requirement for Previous Use:  $37 + 21 = 58$  parking stalls

#### Onsite Parking

Current - 36

Proposed - 27

Note: As the proposed parking demand is less intense than what was required for the previous uses at the site, the A-B+C formula is inapplicable and thus no parking waiver is needed, even though the number of on-site stalls will be reduced from 36 to 27. However, if the A - B + C formula was applicable, then the calculation would be as follows:  $33 - 58 + 27 = 2$ .



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue, Newton, Massachusetts 02459

RECEIVED
2019 JAN 14 10:21 AM
Barney Heath
Director
Telephone (617) 796-1120
Telefax (617) 796-1086
www.newtonma.gov

Ruthanne Fuller
Mayor

GENERAL PERMIT APPLICATION

PROJECT #: ZONING DISTRICT: BU-2 DATE RECEIVED:

PROJECT DESCRIPTION: the applicant is seeking a special permit for the operation of a Marijuana Retailer

PROPERTY LOCATION INFORMATION

STREET ADDRESS: 24-26 Elliot Street CITY/ZIP: 02461

LEGAL DESCRIPTION (SECTION, BLOCK, LOT): 51 025 0001

PROPERTY OWNER INFORMATION

NAME: 24-26 Elliot Street Realty Trust PHONE: N/A ALT. PHONE: N/A

MAILING ADDRESS: P.O. Box #265, Brookline, MA 02446 E-MAIL ADDRESS: N/A

PROPERTY OWNER CONSENT

- I am (we are) the owner(s) of the property subject to this application and I (we) consent as follows:
1. This application for a land use permit or administrative approval for development on my (our) property is made with my permission
2. I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this application.

24-26 Elliot Street Realty Trust

X [Signature] Alan Chow, Trustee (Date) 1/10/2019
X [Signature] Ming Fung Chao, Trustee (Date) 1/10/2019

NOTICE: The City of Newton staff may need access to the subject property during regular business hours and will attempt to contact the applicant/agent prior to any visit. Further, members of a regulatory authority of the city may visit the property as well.

APPLICANT/AGENT INFORMATION

NAME: Stephen J. Buchbinder, Esquire PHONE:617-965-3500 ALT. PHONE:617-538-7392 (C)

MAILING ADDRESS: Schlesinger and Buchbinder, LLP, 1200 Walnut Street, Newton, MA 02461-1267

E-MAIL ADDRESS: sjbuchbinder@sab-law.com

X [Signature] Stephen J. Buchbinder (Application/Agent Signature) (Date) 1-10-19

NOTICE: The applicant/agent is the primary contact and may be any individual representing the establishment or property owner. The applicant/agent must also be legally authorized to make decisions on behalf of the Property Owner(s) in regards to the application.

OFFICE USE ONLY BELOW THIS LINE

CHECK APPROPRIATE PERMIT OR REVIEW PROCESS (CHECK ALL BEING SUBMITTED)

Table with 2 columns: Permit/Review Process (Zoning Review Application, Administrative Site Plan Review, Sign Permit, Special Permit/Site Plan Approval, Fence Appeal, Comprehensive Permit, Variance Application, Historic Preservation Review, Conservation Commission Review, Other, describe)

Comments:

RECEIVED
PERMIT INTAKE INITIALS AND DATE STAMP
JAN 14 RECD
Planning NSC



STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A. MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
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www.sab-law.com

E-Mail: kadams@sab-law.com

January 16, 2019

**BY HAND**

Ms. Nadia Khan  
Chief Committee Clerk  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: Petition of Cypress Tree Management, Inc./24-26 Elliot Street

Dear Nadia,

As we discussed, and in accordance with my discussions with Jennifer Caira and Neil Cronin in the Newton Planning Department, Cypress Tree Management, Inc. seeks to revise its responses listed on Exhibit 1, Sections 12, 13 and 14 as follows:

- (1) The applicant will make the required security submission to the Police Department prior to the issuance of a final Certificate of Occupancy.
- (2) The applicant will make the required emergency response submission to the Police Department and Fire Department prior to the issuance of a final Certificate of Occupancy.
- (3) The applicant will make the required Operation and Management submission to the Inspectional Services Department and the Planning Department prior to the issuance of a final Certificate of Occupancy.

The responses as initially filed indicated that the foregoing submissions would be made prior to the issuance of a building permit as opposed to the issuance of a final Certificate of Occupancy.

Sincerely,



Katherine Braucher Adams

cc: (By Hand)  
Ms. Jennifer Caira, Chief Planner  
Mr. Neil Cronin, Senior Planner  
Jonah Temple, Assistant City Solicitor  
(By First Class Mail)  
Mr. Victor Chiang

RECEIVED  
NEWTON CITY CLERK  
2019 JAN 16 PM 1:57  
DAVID A. OLSON, CMA  
NEWTON, MA 02459