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Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 30, 2019
Land Use Action Date: July 9, 2019
City Council Action Date: July 15, 2019
90-Day Expiration Date: July 29, 2019

DATE: April 26, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #41-19(2)**, SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #288-18 to allow the retail sale of recreational marijuana at **24-26 Elliot Street**, Newton Highlands, Ward 5, on land known as SBL 51, 25, 01, containing approx. 25, 320 sq. ft. of land in a district zoned BUSINESS 2. Ref: §4.4.1, §6.10.3.D, §6.10.3.E.15, §7.3.3, and §7.4 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



24-26 Elliot Street

EXECUTIVE SUMMARY

The subject property at 24-26 Elliot Street consists of a 25,320 square foot lot improved with a one-story commercial structure constructed circa 1953 and two accessory parking facilities. The property is located in the Business 2 (BU-2) zone in Newton Highlands. The petitioner obtained a special permit (Council Order #288-18) to establish a registered medical marijuana dispensary (RMD) within 500 feet of a school with waivers to the requirements pertaining to parking facilities containing more than five stalls (**Attachment A**). The petitioner is seeking to amend Council Order #288-18 to allow the retail sale of recreational marijuana and to make minor modifications to the site plan. The petitioner is not seeking any further changes to Council Order #288-18.

The Planning Department believes the petition meets the criteria required of Marijuana Retailers in the City's Marijuana Use ordinance given its proximity to regional roadways and public transportation and the petitioner's plans to manage parking and transportation to mitigate any adverse effects to the neighborhood. Additionally, the petitioner would be operating the Marijuana Retailer under the operational conditions required by Council Order #288-18, specifically that all visitors to the Marijuana Retailer will require an appointment, and the petitioner will attend look-back meetings with City Departments to monitor other Transportation Demand Management measures.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed marijuana retailer (§7.3.3.1).
- The proposed marijuana retailer as developed and operated will not adversely affect the neighborhood (§7.3.3.2).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).

With regard to special permits concerning the Marijuana Retailer on site, pursuant to §6.10.3.G:

- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)

- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
- The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)
- 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. (§6.10.3.G.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
- The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.G.2.g)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

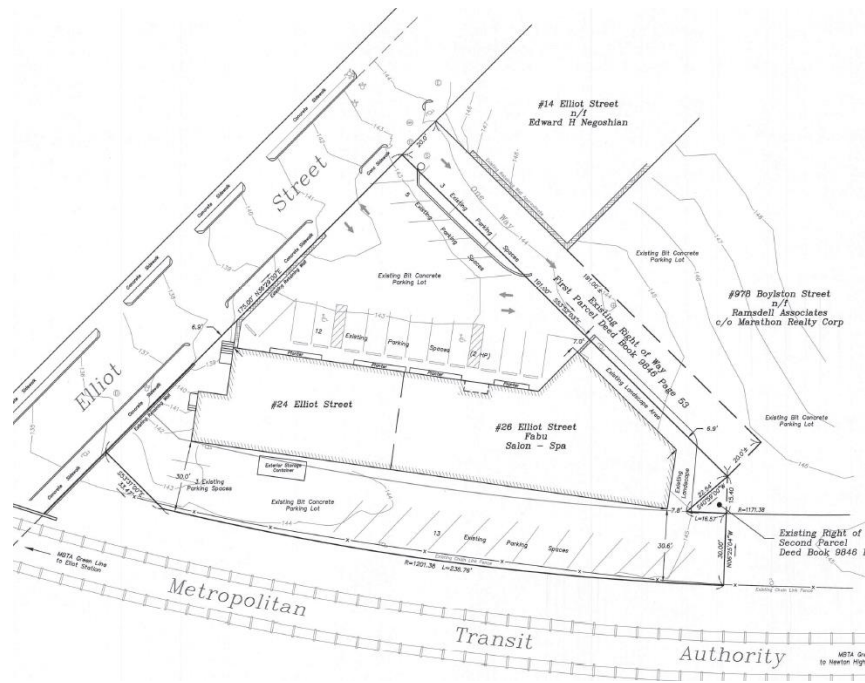
The site is located on Elliot Street in the BU-2 zone in Newton Highlands. The site is connected to a shopping plaza which fronts Boylston Street/Route 9. The immediate area contains several zones including the Multi-Residence zones to the west, to the south, and to the north. The BU-2 zone continues to the east along the southern side of Boylston Street and to the south are Public Use and Manufacturing districts (**Attachment B**). These zones contain a number of land uses ranging from single and multi-family uses to the west and north, commercial uses to the east, and industrial uses, as well as a public use, to the south (**Attachment C**).

B. Site

The site consists of a 25,320 square foot lot improved with a one-story, 7,585 square foot commercial building constructed circa 1953. The site is accessed at the northwest corner via an approximately 28-foot-wide curb cut. The curb cut provides access to a two-way drive aisle and a 17-stall surface parking facility at the front of the building. To the north and east boundaries of the site, a shared right-of-way

provides access to the rear of the building and an additional 16 surface parking stalls; there is also a separate curb cut at the western portion of the site that is abandoned. The southern boundary is enclosed with fencing and directly abuts the D Branch of the MBTA's Green Line. The front of the site is generally flat but lies above Elliot Street due to the grade of the street.

Existing Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use(s) of the site will change from a salon and a restaurant with more than fifty seats, to a co-located Marijuana Retailer and RMD use with either a service or retail use in the adjacent tenant space.

B. Marijuana Retailer

In 2018, the City Council passed Ordinance B-16 that established rules governing medical and nonmedical marijuana uses in accordance with the Department of Public Health (DPH) and the Cannabis Control Commission (CCC) guidelines. The Ordinance nullified the moratorium which prohibited recreational marijuana uses and offered new defined terms distinguishing medical from nonmedical marijuana

uses. Specifically, a Marijuana Retailer is an entity that can sell recreational or adult use marijuana while an RMD is an entity only allowed to sell medical marijuana. The petitioner obtained a special permit to establish the RMD on site and is seeking an amendment to establish the retail sale of recreational marijuana. For the purposes of this memorandum, the proposed co-located use will be referred to as a Marijuana Retailer.

C. Operations

The petitioner will offer both medical and recreational marijuana on site. All marijuana will be grown off-site at a cultivation facility and will be delivered to the site four times per week. Deliveries will be made to the rear of the building via a secure entrance to which public access is prohibited. The petitioner intends to dedicate this portion of the site to deliveries and to valet parking only.

Visitors to the site may either choose to park in one of the stalls or choose to valet. Those who choose to valet their vehicle will pull up to the valet stand and hand their vehicle over to an attendant to park the vehicle at the rear of the site via the shared easement at the northeast boundary. The valet would then be notified when the customer is paying and retrieve the vehicle and drive the vehicle to the front of the site where the customers would exit the site onto Elliot Street. The petitioner has stated that there will be two valet attendants on site during all operating hours for the first 60 days. After that period, valet hours may be adjusted after consultation with the City of Newton Police Department, Planning Department, and Transportation Planning Division of Public Works.

Recreational marijuana customers are not required to either receive a prescription or to register with the CCC before making an appointment. However, a customer must be 21 years of age to enter the Marijuana Retailer. Once allowed entry, they will be offered a semi-private consultation to gain information about marijuana products and dosing amounts. Customers may also avail themselves of other educational materials offered by the petitioner. All customers and patients visiting the site must have an appointment, as required by Council Order #288-18.

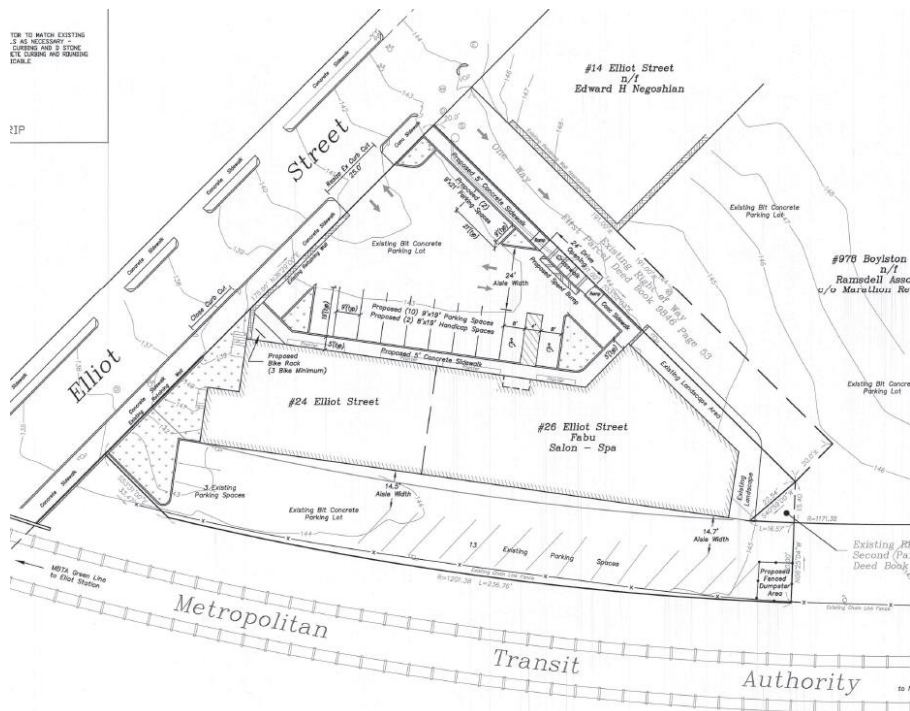
The petitioner is proposing to employ twenty (20) staff members during the largest shift to serve up to 450 patients a day, Monday through Saturday, half that on Sunday. Employees will consist of greeters, points of sale employees, managers, inventory managers, security personnel, and valet attendants. The staff will assist customers from the moment they enter the door to the moment they exit. The petitioner will have six point of sale employees, one of which will be dedicated to customers who order their marijuana online. These customers will still require an

appointment to enter the building, pickup their order, and pay. The petitioner is seeking to operate from 9:00 a.m. to 9:00 p.m. Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday; the same hours approved by Council Order #288-18.

D. Site Design

The plans approved by Council Order #288-18 require the petitioner to update the parking stalls in front of the building to contain 11 conforming parking stalls, two of which are accessible stalls. The petitioner is also increasing the amount of interior landscaping and providing a five-foot wide concrete sidewalk along the front of the building and along the shared passageway at the northern and western boundaries, enhancing the pedestrian safety and circulation within the site. The petitioner is not altering the rear parking facility because this area will be available only for deliveries and for valet parking.

Approved Site Plan



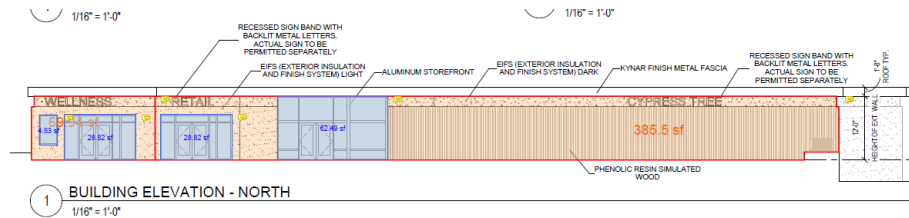
E. Building Design

The petitioner is not proposing to alter the footprint of the structure or to deviate from the architectural plans approved in Council Order #288-18. The approved plans indicate that the front façade will be treated with simulated wood to reduce

transparency into the Marijuana Retailer as required by State Law. However, the City’s Registered Marijuana Use ordinance requires that Marijuana Retailers “located on the ground level shall provide at least 25 percent transparency along the building’s front façade at ground level, unless waived by the City Council.” The intent of this requirement is to ensure the security requirements found in the State Law do not overburden the aesthetics of the structure in relationship to the adjacent structures.

The petitioner provided an architectural plan indicating that 27 percent of the entire façade, including the proposed retail/service use, is transparent; if the measurement is limited to only the Marijuana Retailer tenant space, less than 25 percent of the Marijuana Retailer façade is transparent. The Planning Department believes this requirement should apply to the Marijuana Retailer solely, not the entire façade. Staff believes the level of transparency is appropriate given the structure’s setback from Elliot Street, and the narrow shape of the building, which limits opportunities for partition walls. Staff further believes that the transparency level will not adversely affect the structure or the adjacent structures.

TRANSPARENCY AREA TOTAL: 124.96 sf;
BUILDING FRONT AREA TOTAL: 455.44 sf;
TRANSPARENCY PERCENTAGE: 27.4%



F. Parking

The site has 36 existing surface parking stalls split between the facilities at the front and at the rear of the building. Many of these stalls are nonconforming and the facilities themselves do not meet the requirements of the Ordinance for parking facilities containing over five stalls, i.e. screening from adjacent properties, interior landscaping, and lighting. The petitioner gained approval in the form of Council Order #288-18 to restripe the front of the site to contain 11 conforming parking stalls, two of which are accessible, while legalizing the nonconformities. In total, the redesign will reduce the number of stalls on site from 36 to 27. The previous uses of the site required 58 parking stalls which is a greater requirement than the 35 parking stalls required by the Marijuana Retailer use and the retail/service use. In cases of a change of use, the Newton Zoning Ordinance establishes a formula to determine the number of required spaces. Due in part to the large number of spaces required by the previous uses, the parking requirement is satisfied. For a review of the parking analysis and a complete analysis of the petition concerning zoning, please see the Zoning Review Memorandum, dated January 10, 2019 (Attachment D).

The Zoning Review stated that reliefs from the requirements of parking facilities containing more than five stalls were required due to an interpretation, which has since been changed. As a result, the petitioner does not require those reliefs and the petitioner may withdraw them.

As part of the Transportation Demand Management Plan approved by Council Order #288-18, employees will not be allowed to park on site. Instead, the petitioner will offer bicycle accommodations, and subsidize the cost of parking and the cost of travel to and from nearby satellite parking facilities. The petitioner is seeking to increase the number of employees by six, from 14 to 20, who will also not be allowed to park on site. This approach regarding employee parking increases the amount of parking available for visitors, while also raising questions regarding practicality and enforcement. As such, the Planning Department suggests the petitioner be required to submit an Employee Parking Plan to the Director of Planning and Development and the Commissioner of Public Works for review, prior to the issuance of a building permit, should this petition be reviewed. Once operations have commenced, the Employee Parking Plan will be reviewed as part of the look-back provisions with City staff, where the effectiveness will be determined and adjustments can be made, if deemed appropriate.

G. Traffic

The petitioner submitted Traffic Impact and Analysis Study examining the projected trips generated from the petition (**Attachment E**). The analysis indicates the proposed project is expected to generate approximately 137 new vehicle trips (67 entering/70 exiting) during the weekday evening peak hour and approximately 111 new vehicle trips (58 entering/53 exiting) during the Saturday mid-day peak hour; this analysis subtracts the expected trips generated by the previous uses. The memorandum indicates most of the new trips would access the site via Boylston Street/Route 9, but Elliot Street northbound can expect a 10% increase in trips resulting from the Marijuana Retailer. The analysis did not model deliveries to the site, but staff believes the four deliveries per week will not significantly affect the number of trips to and from the site.

The Planning Department engaged Green International Affiliates, INC. (Green) to conduct a peer-review of the petitioner's Traffic Impact and Access Study (TIAS) (**Attachment F**). Green found that the TIAS was prepared in a professional manner, consistent with industry standards. The Planning Department later met with the petitioner, the Transportation Planning Staff of Public Works, and Green to discuss the peer-review. The group was able to find consensus on several items identified

in the peer-review and the petitioner subsequently responded to Green's comments **(Attachment G)**.

In their review, Green noted that the intersection of Boylston Street/Route 9 and Elliot Street along with the intersection of Boylston Street/Route 9 and Ramsdell Street are both Massachusetts Department of Transportation (MASSDOT) Highway Safety Improvement Program (HSIP)-eligible clusters. Green believed that, given the projected 10% increase in traffic to the Elliot Street northbound right-turn volume associated with the petition, further study of these intersections was warranted.

As a response, the petitioner will provide the City with \$25,000 to conduct a Road Safety Audit (RSA) of both intersections. A Road Safety Audit is a Massachusetts Department of Transportation process which convenes an inter-disciplinary team to identify safety improvements or opportunities at an intersection. An RSA is also required by MassDOT prior to implementing any improvements to Route 9. Planning staff, along with the Transportation Planning Division of Public Works, believes this approach is appropriate given that the RSA will provide the City with a range of initiatives from low-cost improvements to long-term solutions to improve safety at these intersections.

The petitioner is hoping to book 450 appointments per day. The Planning Department believes the appointment only condition, along with the other required conditions will allow the petitioner to manage trips to and from the site as well as circulation within the site, without adversely impacting the neighborhood.

H. Operational Conditions

Council Order #288-18 set the below operational conditions to ensure traffic from the RMD use did not adversely affect the neighborhood, these requirements will be applied to the Marijuana Retailer as well.

- All visitors to the site must have an appointment to enter the Marijuana Retailer;
- A police detail for the first 180 days from the commencement of operations from 3:45 to 7:45 p.m. on the weekdays;
- Valet parking during all operating hours for the first 60 days of operations and during peak periods thereafter;
- Look back provisions with City Departments; and
- Implement a Transportation Demand Management Plan to prevent employees from parking on site and to reduce trips to the site.

If this petition is approved, the site will offer both recreational and medical marijuana. Should the petitioner choose to commence operations first with medical

marijuana and then offer recreational marijuana, the Planning Department believes the petitioner should be required to obtain a police detail under the same parameters as outlined above. Staff believes the additional use warrants additional monitoring to ensure the petitioner's proposals are working effectively.

I. Landscaping

The petitioner proposes to move the bicycle rack from the western portion of the site building to the eastern portion, due to the input from Green. This allows for increased landscaping at the western portion of the building. Otherwise, the petitioner is not proposing any other changes to the approved landscape plan.

J. Lighting

The Ordinance requires parking facilities containing more than five stalls to be designed to maintain a minimum intensity of 1-foot candle on the entire surface of the parking facility. The petitioner is not proposing any changes to the approved lighting design.

IV. MINIMUM CRITERIA AND LIMITATIONS ON APPROVAL

A. Location

Council Order #288-18 allowed the RMD use within a 500-foot radius of a preschool located at 991-1001 Boylston Street. For reference, the school is approximately 286 feet from the subject property. The Marijuana Use Ordinance does not impose such limits on Marijuana Retailers, only requiring that they may not be located within a 500-foot radius of an existing private or public k-12 school. As such, the proposed Marijuana Retailer satisfies the criterion.

B. Registration

All RMDs or Marijuana Retailers must be properly registered with the Department of Public Health or the CCC. The petitioner has filed with the Department of Public Health for the RMD portion of the site and is in the process of seeking licensure from the CCC for the retail sale of recreational marijuana. The petitioner is required to obtain both licenses before obtaining a certificate of occupancy.

C. Signage

State Law and the Registered Marijuana Use Ordinance prohibit graphics, symbols, or images of marijuana or related paraphernalia from being displayed or clearly visible from the exterior of a Marijuana Retailer. The plans indicate the petitioner is not proposing to change the signage from the approved signage plan referenced in Council Order #288-18. As such, all signage will be as of right and will be submitted to the

Urban Design Commission for review and approval.

D. Hours of Operation

The petitioner is not proposing to change the hours of operation approved by Council Order #288-18. The Planning Department believes the hours of operation will not adversely impact nearby uses.

E. Number

The number of Marijuana Retailers shall not exceed 20% of the number of liquor licenses issued in the City pursuant to G.L.c 138 § 15 (commonly known as “package stores”). The number of Marijuana Retailers in the City is less than 20% of the number of package stores currently.

F. Distance from Other Marijuana Retailers

The Registered Marijuana Use Ordinance prohibits RMDs and marijuana retailers from locating within a one-half mile radius of an existing RMD or marijuana retailer. The Marijuana Retailer located at 697 Washington Street is approximately 3.3 miles from the subject property.

G. Size

The Registered Marijuana Use Ordinance prohibits RMDs or marijuana retailers from occupying more than 5,000 square feet. The proposed marijuana retailer will occupy approximately 4,043 square feet.

H. Transparency

Please see Section III.D *Building Design* above regarding this criterion.

There remain several additional minimum criteria and limitations on approval for Marijuana Retailers that are understood by the petitioner and that will be conditioned prior to the issuance of a temporary certificate of occupancy, should this petition be approved. For a complete list of all criteria please see Exhibit 1 – Special Permit Criteria (Pursuant to Section 6.10.3 **(Attachment H)**).

V. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning. Based on the Memorandum, the petitioner is seeking the following relief:

- Amend Council Order #288-18
- §4.4.1, §6.10.3.D, and §7.3.3 of Section 30, to allow a Marijuana Retailer
- §6.10.3.E.15 and §7.3.3 of Section 30, to waive the 25 percent transparency

requirement

B. Engineering Review

Associate City Engineer, John, Daghlian, provided comments during the public hearings for petition #288-18. The petitioner is required to install a trench drain across the driveway opening to increase stormwater management on site and to update the sidewalks along the Elliot Street frontage to City of Newton design standards and Massachusetts Architectural Access Board standards. Mr. Daghlian will review the final engineering, utility, and drainage plans prior to the issuance of a building permit, should this petition be approved.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

- Attachment A:** Council Order #288-18
- Attachment B:** Zoning Map
- Attachment C:** Land Use Map
- Attachment D:** Zoning Review Memorandum, dated January 10, 2019
- Attachment E:** Petitioner submitted TIAS, dated February 12, 2019
- Attachment F:** Green Peer-Review, dated March 1, 2019
- Attachment G:** Petitioner's Responses, dated March 26, 2019
- Attachment H:** Petitioner's Responses to the Additional Criteria and Limitations on Approval
- Attachment I:** DRAFT Council Order

7 pages

24-26 Elliot St.
#288-18

CITY OF NEWTON

IN CITY COUNCIL

October 1, 2018

RECEIVED
Newton City Clerk
2018 OCT -3 AM 11:59
David A. Olson, City Clerk
Newton, MA 02459

ORDERED:

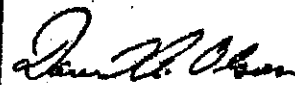
That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a registered medical marijuana dispensary (RMD) within 500 feet of a school, and to allow waivers to the requirements of parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the RMD due to its location in the Business 2 zone along the Boylston Street/Route 9 corridor. (§7.3.3.1)
2. The proposed RMD as developed and operated will not adversely affect the neighborhood because the intensity of the RMD will not be greater than other uses allowed as of right. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the site's location along the Boylston Street/Route 9 corridor and proximity to regional roadways. (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians due to the petitioner's upgrades to the site, including new sidewalks along the site's frontage and in the interior of the site. (§7.3.3.4)

With regard to special permits concerning the RMD on site, pursuant to §6.10.F:

5. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§6.10.3.F.1)
6. The site is located within five hundred (500) feet of a school, but the site is adequately buffered from the school by Boylston Street/Route 9. The school's population is also of an age which will not be adversely impacted by the RMD. (§6.10.3.F.2)
7. 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. (§6.10.3.F.3)

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City Clerk of Newton, Mass.

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- 8. Traffic generated by client trips, employee trips, and deliveries to and from the RMD will not create a significant adverse impact on nearby uses. (§6.10.3.F4)
- 9. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.F5)
- 10. 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. (§6.10.3.F6)
- 11. The building and site are accessible to persons with disabilities. (§6.10.3.F 7)
- 12. The site is accessible to regional roadways and public transportation. (§6.10.3.F 8)
- 13. The site is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.F 9)
- 14. The RMD's hours of operation will have no significant adverse impact on nearby uses given the mixed use nature of the Boylston Street/Route 9 corridor. (§6.10.3.F 10)

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities, pursuant to §5.1.8.B, §5.1.8.C, §5.1.9, §5.1.10, and §5.1.13:

- a. The Council finds that exceptions to the parking requirements, including waiving the minimum stall dimensions, waiving the minimum aisle width for two-way traffic, waiving the perimeter screening requirements, waiving the interior landscaping requirement, and waiving the lighting requirements are in the public interest because the rear parking facility was developed before current standards and reserving this area for valet parking offers convenience for patients and increases site security;
- b. Reducing the required landscaping allows for the most efficient parking layout; and
- c. The security lighting will comply with the standards imposed by the Department of Public Health.

PETITION NUMBER: #288-18

PETITIONER: Cypress Tree Management, Inc.

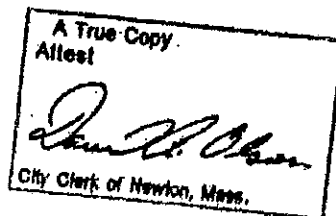
LOCATION: 24-26 Elliot Street, on land known as SBL 51, 25, 01, containing approximately 25, 320 square feet of land

OWNER: 24-26 Elliot Street Realty Trust, Alan Chow, Trustee

ADDRESS OF OWNER: P.O. Box 265
Brookline, MA 02446

TO BE USED FOR: Registered Medical Marijuana Dispensary

CONSTRUCTION: Concrete



EXPLANATORY NOTES: §6.10.3 and §7.3.3 to locate a RMD within five hundred feet of a school; §5.1.8.B and §5.1.13 to waive the minimum stall dimensions; §5.1.8.C and §5.1.13 to waive the minimum aisle width for two-way traffic; §5.1.9.A and §5.1.13 to waive the perimeter screening requirements; §5.1.9.B and §5.1.13 to waive the interior landscaping requirements; §5.1.10 and §5.1.13 to waive the lighting requirements

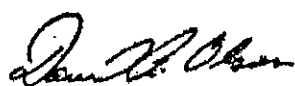
ZONING: Business 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. Existing Conditions Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated February 14, 2018, and revised May 1, 2018.
 - b. Proposed Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated February 14, 2018, and revised June 19, 2018.
 - c. Area Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated February 14, 2018.
 - d. Architectural Plans, signed and stamped by Jana Gooden Silsby, Registered Architect, dated May 3, 2018.
 - e. Proposed Landscape Plan, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, dated June 27, 2018.
 - f. Proposed Lighting Plan, prepared by G2 Collaborative Landscape Architecture, dated May 31, 2018.
2. The petitioner shall employ a police detail, subject to availability of such police details, on site from 3:45 p.m. to 7:45 p.m. Monday through Friday for 180 days from the commencement of operations of the RMD. At the end of such term, the Director of Planning and Development, in concert with the Transportation Division of Public Works and Newton Police Department, shall determine whether the term for the detail shall be extended or whether other changes shall be made to address queuing along Elliot Street.
3. The petitioner shall see patients of the RMD on an appointment only basis. Given that the petitioner requires each patient to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of patients arriving to and leaving from the site, to avoid patients waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate patient volume.

The petitioner may use reasonable flexibility to accommodate patients where events such as, but not limited to, traffic delays, public transportation schedules, and changes in patients' schedules occur.

Attest



City Clerk of Newton, Mass.

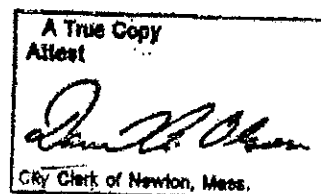
and patients' schedules affect the appointment schedule. The petitioner shall also accommodate those patients who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that patient.

No sooner than twelve (12) months after commencement of operations for the RMD authorized by this Order the petitioner may submit a letter to the Commissioner of Inspectional Service and the Director of Planning and Development requesting waiver of the requirement that patients be seen on an "appointment only" basis set out in this condition. The petitioner shall also file a copy of such letter with the City Clerk. Such letter shall only be filed after the petitioner has completed the following:

- Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and Condition # 8 below.
- Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #7 below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the RMD, including the number of patients coming to the site during peak times and the petitioner's intent to no longer serve patients by appointment only.

The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the petitioner is able to maintain an orderly flow of patients, accommodate all patients waiting to see a customer service representative inside the building, and accommodate patient parking on site without the "appointment only" requirement. Prior to any decision on the petitioner's waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a "consistency" ruling on a special permit is requested from the Commissioner of Inspectional Services.


4. The RMD may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
5. There shall not be more than fourteen (14) staff members, including valet attendants, on site at any one time.
6. The petitioner shall update the sidewalks along the Elliot Street frontage and install a trench drain at the entrance to the site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
7. The petitioner shall implement a Transportation Demand Management Plan to mitigate employees from parking on site. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules in the immediate area, including a pedestrian wayfinding map, in a central location within the facility;



- b. Participating in the City of Newton Bikeshare program. If the program is unsuccessful, the petitioner shall purchase no less than three bikes for employees to commute to and from work;
- c. Providing a secure bicycle storage area on site;
- d. Establishing an on-site car-pool, rideshare program with guaranteed ride home; and
- e. Subsidizing the cost of parking at satellite parking facilities and the cost of travel to and from such facilities.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the RMD, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

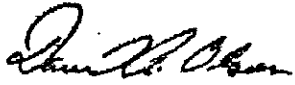
8. The petitioner shall offer valet parking during all operating hours for the first 60 days of operations. At the end of such term, the Director of Planning and Development, in consultation with the Director of Transportation and City of Newton Police Department, shall determine whether valet parking shall be continued during all operating hours or reduced to specific periods.
9. The petitioner shall limit on-site transactions to one ounce of medical marijuana, or its equivalent in whatever form the medical marijuana is dispensed, per customer per site visit, with the balance of the order, if any, delivered to customers' homes.
10. Security lighting shall be in accordance with the standards imposed by the Department of Public Health. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
11. The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.
12. The granting of a special permit to allow an RMD to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Massachusetts Department of Public Health and/or Cannabis Control Commission, the RMD use as well as the additional relief granted by this Order shall expire.
13. Snow shall not be stored on site.
14. Should the petitioner seek to extend the RMD authorized by this Order, including but not limited to incorporating adult use sale of recreational marijuana, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.

A True Copy
Attest

City Clerk of Newton, Mass.

15. The petitioner shall maintain its registration with the Massachusetts Department of Public Health and/or Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
16. In order to provide information to the City regarding the operation of the RMD and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the RMD's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:
 - a. Within six (6) months and again at twelve (12) months of commencing operations of the RMD, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the RMD and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the RMD at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the RMD are warranted to address such public safety or security of the facility concerns.

17. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
18. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

A True Copy
Attest

City Clerk of Newton, Mass.

- c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
19. Notwithstanding the provisions of Condition #18 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules

Readings Waived and Approved

20 yeas 1 nay (Councilor Gentile) 1 recused (Councilor Lappin) 2 absent (Councilors Ciccone and Lipof)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on October 3, 2018. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



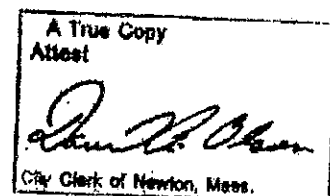
(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 10/3 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

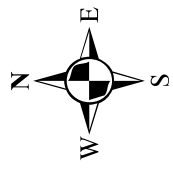


(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council



Attachment B Zoning Map Elliot St., 24-26 City of Newton, Massachusetts

Legend	
	Single Residence 2
	Multi-Residence 1
	Multi-Residence 2
	Business 2
	Manufacturing
	Mixed Use 1
	Public Use
	Building Outlines
	Surface Water
	Property Boundaries

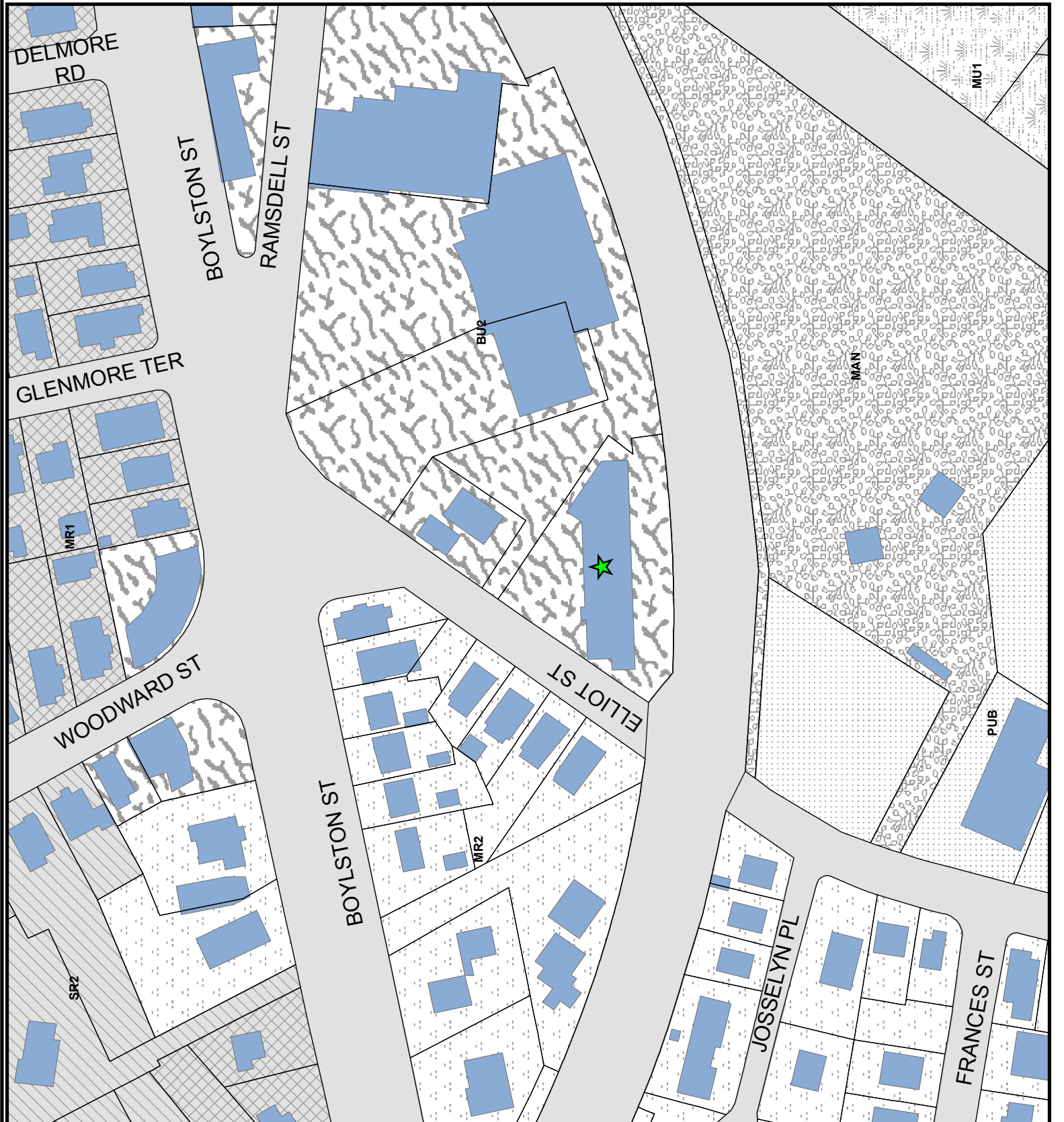


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



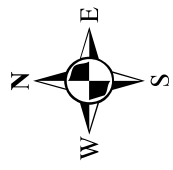
Map Date: April 26, 2019



Attachment C Land Use Map Elliot St., 24-26 City of Newton, Massachusetts

Legend

Land Use	Land Use
	Single Family Residential
	Multi-Family Residential
	Commercial
	Industrial
	Mixed Use
	Open Space
	Nonprofit Organizations
	Vacant Land
	Building Outlines
	Surface Water
	Property Boundaries

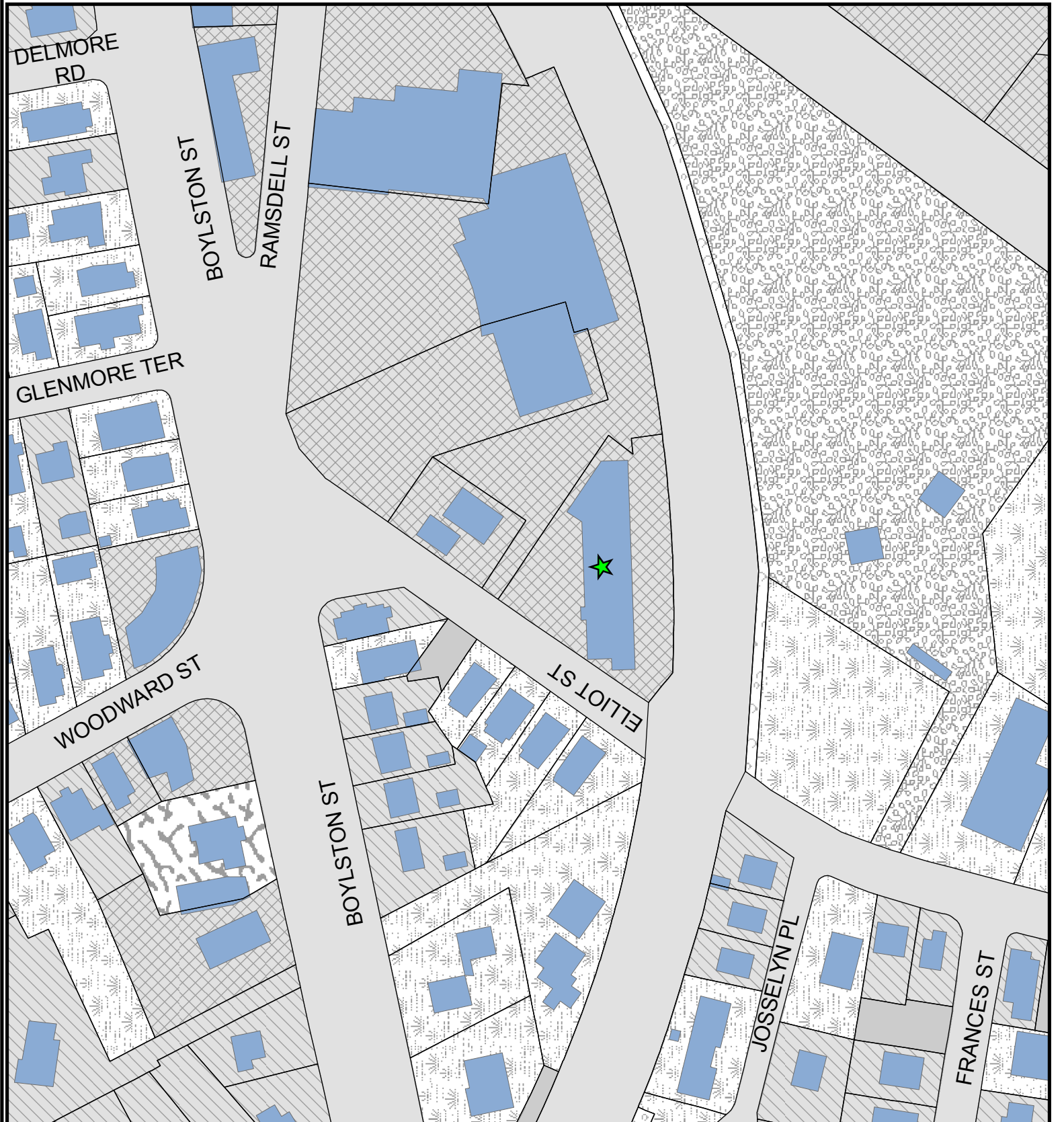


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: April 26, 2019





Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 10, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: 24-26 Elliot Street Realty Trust, owner
Stephen J Buchbinder, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to co-locate a medical and recreational marijuana dispensary and to amend Special Permit #288-18

Petitioner: 24-26 Elliot Street Realty Trust	
Site: 24-26 Elliot Street	SBL: 51025 0001
Zoning: BU2	Lot Area: 25,320 square feet
Current use: Hair salon and restaurant	Proposed use: Medical marijuana dispensary and marijuana retailer

BACKGROUND:

The property at 24-26 Elliot Street consists of a 25,320 square foot lot improved with a one-story 7,436 square foot building constructed in 1953 formerly occupied by a hair salon which will relocate and a restaurant. The petitioner was granted a special permit in October 2018 to introduce a medical marijuana dispensary to 4,043 square feet of the existing building, with the remaining space intended for retail or service uses. The petitioner is seeking to convert the approved space to a co-located registered marijuana dispensary and retail marijuana establishment.

The petitioner is seeking a special permit to co-locate a medical marijuana dispensary and retail marijuana establishment per Section 6.10.3 and to amend the existing special permit allowing the Registered Marijuana Dispensary.

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 11/21/2018
- Existing Conditions Plan, signed and stamped by Verne T. Porter, dated 2/14/2018, revised 3/12/2018

- Proposed Site Plan, signed and stamped by Verne T. Porter, dated 2/14/2018, revised 3/12/18, 4/12/18, 4/25/18, 4/27/18, 5/1/18, 6/1/18, 6/19/18
- Parking Calculation
- Floor Plans and elevations, signed and stamped by Jana Gooden Slisby, architect, dated 5/3/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner is proposing to co-locate a medical marijuana dispensary (RMD) and a retail marijuana establishment. This use requires a special permit from the City Council per Section 6.10.3.D of the Newton Zoning Ordinance.
2. The petitioner was granted Special Permit #288-18 in 2018 allowing for the operation of an RMD. The petitioner seeks an amendment to the special permit to add the retail use to the site.
3. Per Section 6.10.3.E.1 a marijuana retailer shall not be located within a radius of 500 feet from a K-12 public or private school, or a lesser distance if the Council deems it appropriately buffered. There is no school within this radius.
4. Section 6.10.3.E.5 states that an RMD or marijuana retailer are subject to the parking requirements of 5.1.4, which requires one stall for every 300 square feet of gross floor area, and one stall for every three employees at the highest shift for a retail use. The petitioners are proposing to use 4,043 square feet for the operation, and the remaining 3,393 square feet is intended for one or two retail or personal service use tenants (the remaining square footage is common area). The proposed uses on site would require 35 parking stalls. The petitioner is proposing to reconfigure the existing parking area with 27 parking stalls.

The previous uses on the site included a 102-seat restaurant and a 5,100 square foot hair salon. The two uses had a combined parking requirement of 58 parking stalls. As stated, the proposed uses have a parking requirement of 35 stalls. The proposed parking demand is less intense than that which was required for the previous uses on the site, creating a "credit" of 23 stalls. No waiver for the number of parking stalls is required.

5. The petitioner will present a sign package to the UDC prior to the special permit hearing, and intends to comply with 105 CMR 725.105(L) and section 5.2 of the Newton Zoning Ordinance, per section 6.10.3.E.6
6. Sections 6.10.3.E.7 require that the RMD's or marijuana retailer's hours of operation have no significant adverse impacts on nearby uses and in no case shall operate outside the hours of 9 a.m. to 9 p.m. The petitioner proposes operating from 9:00 a.m. until 9:00 p.m. Monday through Saturday, and from noon to 6:00 p.m. on Sundays, as is consistent with the approved hours of operation for the special permit to operate the RMD.
7. Section 6.10.3.E.9 requires that no RMD or marijuana retailer may locate within a half-mile radius of an existing or approved RMD or marijuana retailer. The proposed operation is not located within the prescribed radius of any other operations. The intended co-location of the RMD and retailer on the same site is not subject to this buffer requirement.

8. Section 6.10.3.E.15 requires that an RMD or marijuana retailer located on the ground level provide at least 25 percent transparency along the building's front façade at ground level, and that existing buildings shall not be modified to reduce the ground level transparency to less than 25 percent, unless the City Council finds it appropriate. The petitioner will endeavor to meet the transparency requirements for the space intended to be used by the operation. The entire front façade has approximately 27% transparency, however this includes the other uses on site. The operation itself does not appear to meet the transparency requirements, and to the extent necessary seeks a waiver of this requirement.
9. The existing parking is nonconforming with regard to stall dimensions per section 5.1.8.B.1 and 2, which require a stall width of nine feet, and a depth of 19 feet. The petitioner proposes to reconfigure some of the parking and create stalls meeting the dimensional requirements. However, the unchanged stalls' dimensions were not provided. To the extent that the alteration to the existing parking facility requires a waiver for the unchanged existing stalls from the provisions of section 5.1.8.B.2, the petitioner requests a special permit per section 5.1.13.
10. Per section 5.1.8.C.1 and 2, parking facilities with 90 degree parking require a minimum aisle width of 24 feet for two-way traffic. The proposed parking aisle in the rear parking area is less than 20 feet wide. A special permit is required for a reduce aisle width.
11. Section 5.1.9.A requires outdoor parking facilities with more than five stalls to be screened from abutting streets and properties with a strip at least five feet in width and 3.5 feet in height of densely planted shrubs or trees and fencing. The plans indicate proposed landscaping at the corner of the parking on the northern boundary but do not indicate any landscaping or fencing along the perimeter of the rear parking facility. To the extent that the proposed parking does not meet the perimeter screening requirements of section 5.1.9.A, a special permit is required.
12. Section 5.1.9.B requires interior landscaping for outdoor parking facilities with more than 20 stalls. This section requires an area equivalent to at least five percent of the area of the parking facility be landscaped. An interior planting area must consist of at least 25 square feet with no dimension less than five feet. One three-inch caliper tree is required for every ten parking stalls. The 27 parking stalls on the property are divided with 11 at the front of the building, and 16 at the rear. The proposed plans do not indicate any interior landscaping. While the petitioner intends to add landscaping to the site, to the extent that the proposed parking does not meet the interior landscaping requirements of section 5.1.9.B, a special permit is required.
13. Section 5.1.10.A requires that parking facilities which are used at night have security lighting with a minimum intensity of one foot candle on the entire surface of the parking facility. To the extent that any proposed lighting in the parking facility does not meet the requirements of section 5.1.10.A, a special permit is required.

14. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend special permit #288-18	
§6.10.3.D §4.4.1	To allow a marijuana retailer	S.P. per §7.3.3
§6.10.3.E.15	To waive the 25% façade transparency requirement	S.P. per §7.3.3
§5.1.8.B.1 §5.1.8.B.2 §5.1.13	To waive minimum stall dimensions	S.P. per §7.3.3
§5.1.8.C.1 §5.1.8.C.2 §5.1.13	To waive minimum aisle width for two-way traffic	S.P. per §7.3.3
§5.1.9.A §5.1.13	To waive perimeter screening requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	To waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive the lighting requirements	S.P. per §7.3.3



Memorandum

To: Mr. Todd Finard
 Weston Roots Management, LLC
 419 Boylston Street, Suite 300
 Boston, Massachusetts 02116

Date: February 12, 2019

Project #: 14493.00

From: Randall C. Hart, Principal
 Matthew Duranleau, EIT

Re: Proposed Dispensary
 24-26 Elliot Street
 Newton, Massachusetts

VHB has conducted a traffic assessment to determine the suitability and potential impacts of a recreational marijuana dispensary at 24-26 Elliot Street in Newton, Massachusetts (the Site). Specifically, the Project will include the conversion of an existing salon/spa establishment and 102-seat restaurant into a recreational/medical marijuana dispensary and general retail space. The specific retail tenants that will occupy the general retail space are unknown at this time. To improve the access, circulation, and parking, modifications to the Site are proposed as part of the redevelopment proposal. It should be noted that the Site was approved in 2018 with the same on-Site modifications to become a medical marijuana dispensary with adjacent retail space, and now the Project is proposing to become a recreational/medical marijuana dispensary with adjacent retail space.

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 Development

The Site is located at 24-26 Elliot Street in Newton, Massachusetts, directly south of Route 9 (Boylston Street). The Site currently includes one building of approximately 8,157 square feet (sf) that consists of an operational salon/spa establishment, and a 102-seat restaurant that is currently not open for business. The proposed recreational/medical marijuana dispensary will occupy approximately 4,043 sf of the reconfigured building and the adjacent retail space will occupy approximately 3,393 sf. An approximately 149 sf vestibule will be located between the dispensary and the retail space.

Under the existing conditions, the Site is accessed via a curb cut on Elliot Street. A second point of egress connects the Site to the adjacent CVS retail plaza and provides a two-way vehicular connection between the two sites. Under the proposed redevelopment, the access configuration will remain similar to existing conditions. However, a speed bump will be added to the east end driveway connection to the CVS Plaza to slow down traffic in the parking area. A total of 36 parking spaces are provided under existing conditions. With the proposed redevelopment in place and Site plan adjustments, a total of 27 parking spaces will be provided.

Due to the popularity of recreational marijuana dispensaries in the Commonwealth that have already opened, the proposed recreational/medical marijuana dispensary will operate by appointment only until demand subsides to control potential congestion on-Site. Based on information provided by the Proponent, the dispensary will allow up to 70 appointments per hour. In addition, to maximize the efficiency of operations onsite, the Proponent is proposing valet parking. Customers to the dispensary will give their keys to the valet, who will be in charge of parking each vehicle.

101 Walnut Street
 PO Box 9151
 Watertown, MA 02472-4026
 P 617.924.1770

Figure 1 shows the project site in relation to the surrounding area. The existing and proposed site plans are included in the Attachments to this memorandum.

Existing Conditions

The following section provides a summary of the local intersection and roadway conditions in the immediate vicinity of the Site. Based on an understanding of the current traffic operations in the region, a study area comprised of the following intersections and their approach roadways were selected for review:

- Route 9 (Boylston Street) at Elliot Street / Woodward Street
- Elliot Street at CVS Driveway
- Elliot Street at Site Driveway

Figure 2 shows the observed existing geometry and traffic control at each study area intersection.

The existing conditions analysis consists of an inventory of the traffic control, roadway, driveway, and intersection geometry in the study area, the collection of daily and peak hour traffic volumes, a summary of public transit options in the area, a review of recent crash history, and a documentation of the existing sight distance at the site driveway.

Study Area Roadways

Elliot Street

In this study area, Elliot Street is a two-lane roadway running in a northeast-southwest direction. It connects to Route 9 (Boylston Street) and Woodward Street to the north and Central Avenue in Needham to the south. Sidewalks are provided along both sides of Elliot Street and on-street parking is prohibited on the east side of the roadway. MBTA bus route 59 travels down Elliot Street. Elliot Street falls under local jurisdiction and is classified as an urban collector. There is a posted speed limit of 30 mph. Land use along Elliot Street is primarily residential and commercial.

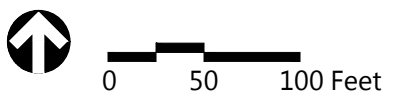
Study Area Intersections

Route 9 (Boylston Street) at Elliot Street / Woodward Street

Elliot Street intersects Route 9 (Boylston Street) from the south and Woodward Street intersects Route 9 (Boylston Street) from the north to form a four-way signalized intersection. The eastbound and westbound approaches on Route 9 (Boylston Street) consist of a dedicated left-turn lane, a through lane, and a shared through/right-turn lane. The Elliot Street northbound approach consists of a left-turn lane, a through lane, and a channelized right-turn lane under YIELD control. The southbound Woodward Street approach consists of a left-turn lane and a shared through/right-turn lane. Sidewalks are provided on all approaches and crosswalks are located across the westbound, northbound, and southbound approaches. Bus stops are located in both directions on Woodward Street north of the intersection. Land use around the intersection is mainly residential and commercial, with a CVS Pharmacy and a Sunoco gas station to the southeast of the intersection.

Elliot Street at CVS Driveway

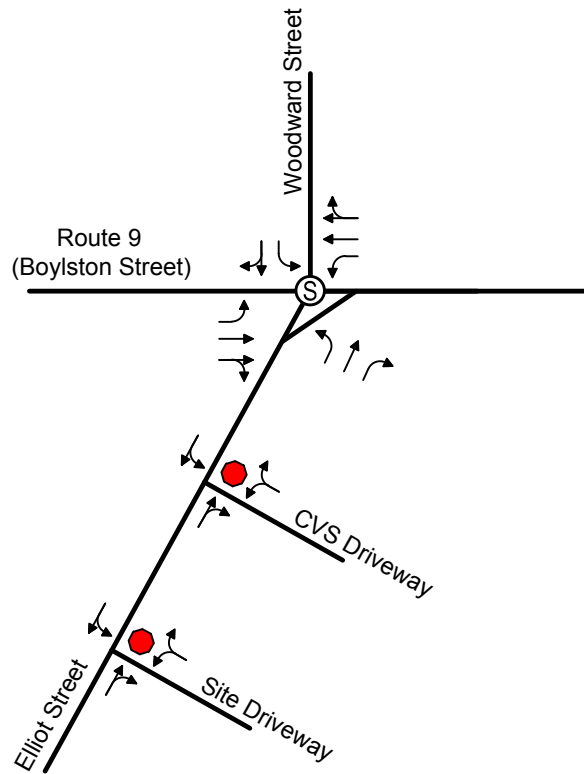
A CVS driveway intersects Elliot Street from the east to form a three-legged unsignalized intersection. All approaches consist of one general-purpose lane. The CVS driveway is unsigned but operates under STOP control. Sidewalks are provided on both sides of Elliot Street and no crosswalks are provided at this intersection. Land use at the intersection is mainly commercial and residential.



Site Location Map
24-26 Elliot Street
Newton, Massachusetts

Figure 1

- Ⓢ Signalized Intersection
- Stop-Controlled



↑
Not to Scale



Lane Geometry and Traffic Control
24-26 Elliot Street
Newton, Massachusetts

Figure 2

Elliot Street at Site Driveway

The Site driveway intersects Elliot Street from the east to form a three-legged unsignalized intersection. All approaches consist of one general-purpose lane. The Site driveway is unsigned but operates under STOP control. Sidewalks are provided on both sides of Elliot Street and no crosswalks are provided at this intersection. Land use at the intersection is mainly commercial and residential.

Traffic Volumes

To assess the existing operational conditions at the study area, a review of existing condition traffic volumes was conducted. Automatic traffic recorder (ATR) counts were conducted in February 2018 along Elliot Street in the vicinity of the Site. The observed traffic volume data were seasonally adjusted to reflect average month conditions and were grown to reflect the 2019 Existing conditions. The average daily traffic volume data are summarized below in Table 1 and included in the Attachments to this document.

Table 1 2019 Existing Traffic Volume Summary

Location	Weekday Daily	Weekday Morning Peak Hour			Weekday Evening Peak Hour			Saturday Daily	Saturday Midday Peak Hour		
	Vol (vpd) ^a	Vol (vph) ^b	K Factor ^c	Dir. Dist. ^d	Vol (vph)	K Factor	Dir. Dist.	Vol (vpd)	Vol (vph)	K Factor	Dir. Dist.
Elliot Street south of Route 9	8,900	710	7.9%	NB 83%	785	8.7%	NB 58%	6,200	545	8.6%	NB 60%

Source: Automatic Traffic Recorder (ATR) counts conducted by VHB on 2/15/18 and 2/24/18 and adjusted to reflect average season conditions and Existing 2019 conditions.

- 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.

Note: Peak hours do not necessarily coincide with the peak hours of the individual intersection turning movement counts.

As shown in Table 1, during a typical weekday, Elliot Street carries approximately 8,900 vehicles per day with approximately 710 vehicles during the weekday morning peak period and approximately 785 vehicles during the weekday evening peak hour. Elliot Street traffic is significantly heavier in the northbound direction during the weekday morning peak hour and slightly heavier in the northbound direction during the weekday evening peak hour. During a typical Saturday, Elliot Street carries approximately 6,200 vehicles per day with approximately 545 vehicles during the Saturday midday peak hour. Traffic along Elliot Street is slightly heavier in the northbound direction during the Saturday midday peak hour.

In addition to daily traffic volumes, peak hour turning movement counts (TMCs) were conducted at the study area intersection in February 2018 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. These time periods were considered following the standard practice of evaluating the combined peak period for roadway and development traffic. Based on a review of the count data, the weekday evening and Saturday midday peak hours of vehicular activity were determined to be 4:45 PM to 5:45 PM and 12:15 PM to 1:15 PM, respectively. The 2018 TMCs were then grown with a 0.5-percent per year growth

rate for one year in order to adjust the volumes to reflect the 2019 Existing conditions. The traffic volume count data is included in the Attachments to this memorandum.

Seasonal Variation

The traffic data collected for the study area was obtained during the month of February 2018. To quantify the seasonal variation of traffic volumes in the area, historic traffic data available from MassDOT were reviewed. Specifically, 2017 monthly traffic volumes were reviewed at MassDOT permanent counting stations along I-90 and I-95 in Newton, Needham, and Wellesley. Multiple count stations on I-90 and I-95 were reviewed in order to get an accurate representation of seasonal traffic volumes in the region. Based on the review, traffic volumes in February are approximately nine-percent lower than average-month conditions. To present a conservative analysis, the observed traffic volumes were adjusted upward by nine-percent to represent average-month conditions. The seasonal adjustment factors are included in the Attachments to this memorandum.

The resulting 2019 Existing traffic volume networks for the weekday evening and Saturday midday peak hours are shown in Figure 3.

Public Transportation

Public transportation in Newton is provided in the area by the Massachusetts Bay Transportation Authority (MBTA). MBTA bus route 59 travels down Woodward Street and Elliot Street and provides direct access to the Site. The nearest bus stop to the Site is located on Woodward Street north of Route 9 (Boylston Street) approximately 400 feet north of the Site. Route 59 travels between Watertown Square in Watertown and Needham Junction in Needham. Connections are provided to the Needham Line and the Worcester Line of the commuter rail at Needham Junction and Newtonville, respectively, and to the Green Line at Newton Highlands. Service is provided approximately every 30-40 minutes during peak hours.

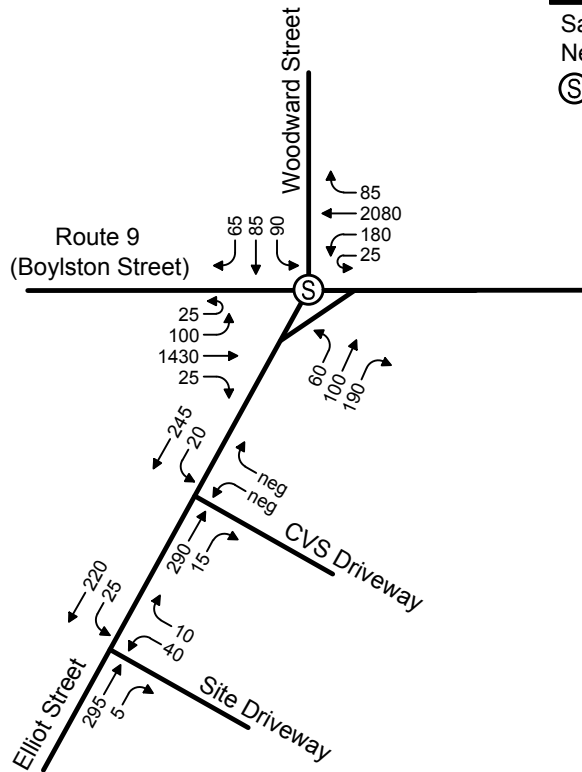
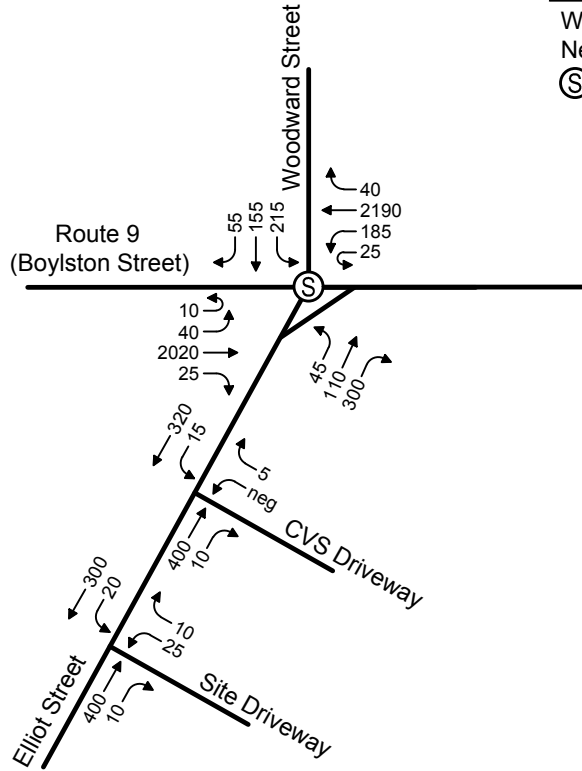
The Site is also served by the D branch of the MBTA's Green Line. The D branch of the Green Line connects Newton with Brookline and Boston and travels from Riverside in Newton to Government Center in Downtown Boston. The nearest stops to the Site on the D branch of the Green Line are Eliot, approximately 1,200 feet west of the Site on Route 9, and Newton Highlands, approximately 2,500 feet northeast of the Site on Walnut Street. Service is provided approximately every six-to-eight minutes during peak hours.

Public transportation route maps and schedules are provided in the Attachments to this memorandum. While ample public transportation is provided near the Site, to present a conservative analysis, no credit was taken for customers or employees arriving and departing via public transportation.

Crash Summary

A detailed crash analysis was conducted to identify potential vehicle accident trends and/or roadway deficiencies in the traffic study area. The most current vehicle accident data for the traffic study area intersections were obtained from MassDOT for the years 2012 to 2016. The MassDOT database is comprised of crash data from the Massachusetts Registry of Motor Vehicles (RMV) Division primarily for use in traffic studies and safety evaluations. Data files are provided for an entire city or town for an entire year, though it is possible that some crash records may be omitted either due to individual crashes not being reported, or the city crash records not being provided in a compatible format for RMV use.

Crash rates are calculated based on the number of accidents at an intersection and the volume of traffic traveling through that intersection on a daily basis. Rates that exceed MassDOT's average for accidents at intersections in the MassDOT district in which the town or city is located could indicate safety or geometric issues for a particular



↑
Not to Scale



2019 Existing Conditions
 24-26 Elliot Street
 Newton, Massachusetts

Figure 3

intersection. For our study area, the calculated crash rates for the study area intersections were compared to MassDOT's District 6 (The MassDOT district for Newton) average. In District 6, the average crash rate is 0.71 for signalized intersections and 0.52 for unsignalized intersections. These rates imply that, on average, 0.71 accidents occurred per million vehicles entering signalized intersections throughout District 6 and 0.52 accidents occurred per million vehicles entering unsignalized intersections in District 6. It should be noted that the location for some accidents cannot be precisely determined from the database. Additionally, some accidents may have occurred but were either not reported or not included in the database, and therefore not considered.

A summary of the study intersections vehicle accident history based on the available RMV data is presented in Table 2 and the detailed crash data is provided in the Attachments to this memorandum.

As shown in Table 2, none of the study area intersections have a calculated crash rate higher than the MassDOT average crash rate for District 6. The intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street experienced 55 reported crashes over the five-year period, and the intersection of Elliot Street at Site driveway experienced four reported crashes over the five-year period. The majority of crashes in the study area were rear-end and angle collisions on dry pavement resulting in property damage only. No fatal crashes were reported at any of the study area intersections. At the intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street, five crashes occurred that involved bicyclists or pedestrians over the five-year period.

Highway Safety Improvement Program

In addition to calculating the crash rate, study area intersections should also be reviewed in the MassDOT's Highway Safety Improvement Program (HSIP) database. An HSIP-eligible cluster is one in which the total number of "equivalent property damage only"¹ crashes in the area is within the top 5% of all clusters in that region. Being HSIP-eligible makes the location eligible for FHWA and MassDOT funds to address the identified safety issues at these locations. As part of this effort, VHB reviewed this database and found that one of the study area intersections is listed as an HSIP-eligible cluster based on the 2013-2015 HSIP cluster listing: Route 9 (Boylston Street) at Elliot Street / Woodward Street.

1 "Equivalent property damage only" is a method of combining the number of crashes with the severity of the crashes based on a weighted scale. Crashes involving property damage only are reported at a minimal level of importance, while collisions involving personal injury (or fatalities) are weighted more heavily.

Table 2 Vehicular Crash Data (2012-2016)

	Route 9 (Boylston Street) at Elliot Street / Woodward Street	Elliot Street at CVS Driveway	Elliot Street at Site Driveway
Signalized?	Yes	No	No
MassDOT Average Crash Rate	0.71	0.52	0.52
Calculated Crash Rate	0.50	0.00	0.26
Exceeds Average?	No	No	No
Year			
2012	11	0	2
2013	10	0	0
2014	15	0	2
2015	10	0	0
<u>2016</u>	<u>9</u>	<u>0</u>	<u>0</u>
Total	55	0	4
Collision Type			
Angle	14	0	1
Head-On	0	0	1
Rear-End	28	0	0
Rear-to-Rear	0	0	1
Sideswipe, opposite direction	2	0	0
Sideswipe, same direction	4	0	0
Single Vehicle Crash	7	0	0
Unknown	0	0	1
Severity			
Fatal Injury	0	0	0
Non-Fatal Injury	22	0	0
Property Damage Only	30	0	2
Not Reported	3	0	2
Time of day			
Weekday, 7:00 AM - 9:00 AM	3	0	1
Weekday, 4:00 – 6:00 PM	7	0	0
Saturday, 11:00 AM – 2:00 PM	0	0	0
Weekday, other time	29	0	2
Weekend, other time	16	0	1
Pavement Conditions			
Dry	47	0	4
Wet	6	0	0
Snow	2	0	0
Not Reported	0	0	0
Non-Motorist (Bike, Pedestrian)	5	0	0

Source: Crash data was obtained from MassDOT Crash Portal, accessed January 2019.

Sight Distance

A sight distance analysis was performed at the existing unsignalized Site driveway along Elliot Street in conformance with guidelines of the American Association of State Highway and Transportation Officials (AASHTO). 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 unsignalized Site driveway, the 85th percentile speed along Elliot Street measured by the ATR count described above was utilized. The 85th percentile speed along Elliot Street was observed to be 32-34 mph in the northbound direction and 31-33 mph in the southbound direction.

Table 3 summarizes the sight distance analysis based on field measurements conducted by VHB. The sight distance worksheets are included in the Attachments to this memorandum.

Table 3 Sight Distance Analysis Summary

Location	Stopping Sight Distance ^a			Intersection Sight Distance ^a		
	Traveling	Required	Measured	Looking	Desired	Measured
Elliot Street at Site driveway	Northbound	240	400	Left	325	400
	Southbound	230	200	Right	375	210 ^b

^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 for the 85th percentile speed of 31-34 mph.

^b Sight distance is visible to/from the intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street.

As shown in Table 3, the minimum stopping sight distance requirement is met travelling northbound and the desired intersection sight distance is met looking left (south). Both of these sight distances are visible to/from the far side of the Elliot Street underpass under the MBTA train tracks immediately south of the Site. The intersection sight distance looking right (north) is visible to the signalized intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street while the stopping sight distance travelling southbound is visible from just after the signalized intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street. Traveling southbound there is a horizontal curve departing the intersection on Elliot Street and the stopping sight distance is met from the beginning of the curve. While the sight distances are not met departing the Route 9 (Boylston Street) at Elliot Street / Woodward Street

intersection, vehicles entering the Elliot Street approach and travelling around the horizontal curve are generally travelling slower than the 85th percentile speed, which were collected south of the Site driveway after vehicles had an opportunity to speed up to the cruising speed on Elliot Street.

Future Conditions

To determine the impacts of the site-generated traffic volumes in the vicinity of the site, future traffic conditions were evaluated. A seven-year horizon (2026) was used for the evaluation consistent with MassDOT TIA requirements.

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

Traffic studies conducted in the City of Newton and historic count data were reviewed to establish a rate at which traffic volumes can be expected to grow. A review of recent traffic studies indicated that a 0.5-percent per year growth rate is appropriate for analysis purposes.

Site Specific Growth

In addition to the historic traffic growth, VHB contacted representatives of the City of Newton to identify any other development projects planned within the vicinity of the site. Based on these discussions, there are no planned development project that could affect traffic volumes in the vicinity of the site.

In addition to external background growth, VHB considered the effect of re-tenanting the currently empty restaurant space located on the Site. Since the 102-seat restaurant on Site can be re-occupied without going through an additional review, the No-Build condition traffic analysis assumed full occupancy of the restaurant space. Trips generated by the full occupancy of the restaurant space were projected based on ITE's *Trip Generation Manual* and were distributed to the local roadway network based on the existing traffic distribution. A further discussion of trip generation and distribution methodology is provided below.

Background Transportation Projects

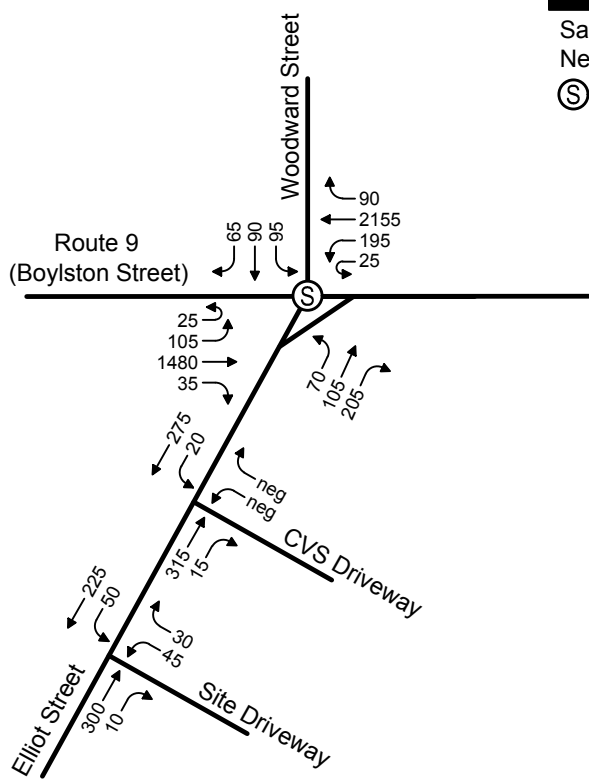
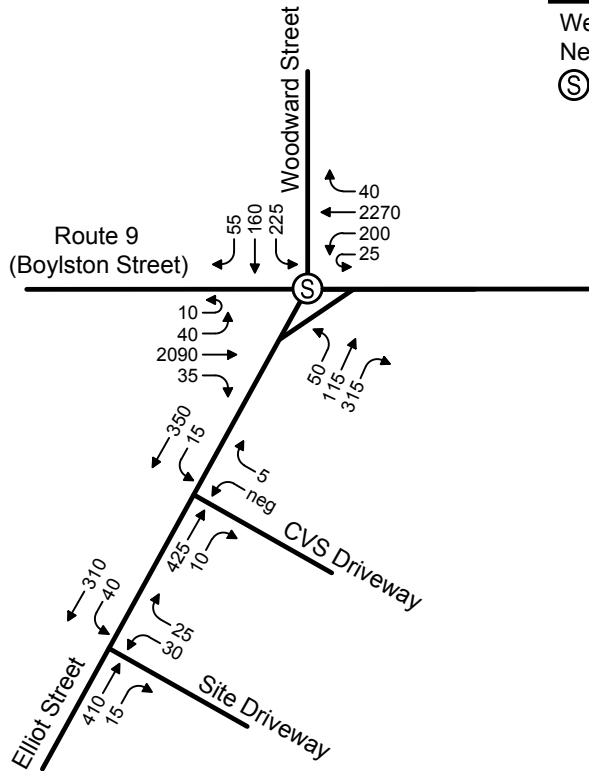
In assessing future traffic conditions, proposed roadway improvements within the study area were considered. Based on discussions with the City of Newton, there are no projects in the study area that would affect traffic volumes within the seven-year horizon.

No-Build Traffic Volumes

The 2026 No-Build traffic volumes were generated by consideration of the above described factors. Figure 4 illustrates the resulting 2026 No-Build condition traffic volumes for the weekday evening and Saturday midday peak hours.

Trip Generation

The rate at which any development generates traffic is dependent upon the size, location, and concentration of surrounding developments. As previously discussed, the proposed project will include the redevelopment of an approximately 8,717 sf building currently housing a 102-seat restaurant and a salon/spa into a recreational/medical



↑ Not to Scale



2026 No Build Conditions
 24-26 Elliot Street
 Newton, Massachusetts

Figure 4

marijuana dispensary and adjacent retail. VHB used data provided by the Proponent and trip generation data provided in the *Trip Generation Manual*² published by the Institute of Transportation Engineers (ITE) to estimate the number of proposed and existing Site-generated trips.

The proposed project will include an approximately 4,043 sf medical/recreational marijuana dispensing facility as well as approximately 3,393 sf of retail. As stated previously, the dispensary will be appointment-only with a maximum of 70 patients per hour. Using that information, the dispensary could generate a maximum of 140 trips per hour (70 entering / 70 exiting). The ITE *Trip Generation Manual* also publishes data for marijuana dispensary under land use code (LUC) 882 (Marijuana Dispensary). A comparison of the ITE trip generation rates to the appointment-base trip generation is provided in Table 4.

Table 4 Marijuana Dispensary Trip Generation Comparison

Time Period	Movement	Appointment-Based Trip Generation ^a	ITE Trip Generation ^b
Weekday Evening	Enter	70	44
Peak Hour	<u>Exit</u>	<u>70</u>	<u>44</u>
	Total	140	88
Saturday MIDDAY	Enter	70	74
Peak Hour	<u>Exit</u>	<u>70</u>	<u>74</u>
	Total	140	147

a Based on a maximum of 70 customers per hour.

b Based on ITE land use code 882 (Marijuana Dispensary) for 4,043 sf using average rates.

As shown in Table 4, based on ITE projections the marijuana dispensary is expected to generate approximately 88 vehicle trips (44 entering / 44 exiting) during the weekday evening peak hour and 147 vehicle trips (74 entering / 74 exiting) during the Saturday midday peak hour. Based on the appointment-style operations of the proposed redevelopment and the maximum number of customers that will be served in any given hour, the marijuana dispensary could generate a maximum of 140 vehicle trips (70 entering / 70 exiting) during the weekday evening and Saturday midday peak hours. To provide a conservative analysis and to be consistent across all analysis periods, the appointment-based trip generation methodology has been used for all analyses going forward in this memorandum. It should be noted that 140 trips per hour is the maximum number of customer-based trips that the dispensary can generate based on the appointment schedule, and that during the weekday evening and Saturday midday peak hours, the dispensary may generate less than that number of trips.

For the retail portion of the Project, ITE land use code (LUC) 820 (Shopping Center) was determined to be the most appropriate land use code for estimating Site-generated trips. The retail uses are expected to be small, service oriented businesses. Although exact tenants have not yet been secured, these are not expected to be large

2 Trip Generation Manual, 10th Edition, Institute of Transportation Engineers, Washington D.C., 2017.

destination-retail uses. While these don't exactly fit the description of a traditional ITE "Shopping Center", retail traffic was estimated using this land code resulting in an overly conservative analysis.

The unadjusted proposed Site-generated trips for the dispensary and the retail portions of the Project is presented below in Table 5. The trip generation worksheets are presented in the Attachments to this memorandum.

Table 5 Unadjusted Proposed Trip Generation Summary

Time Period	Movement	Proposed Dispensary Trips ^a	Proposed Retail Trips ^b	Total Vehicle Trips
Weekday Evening	Enter	70	21	91
Peak Hour	<u>Exit</u>	<u>70</u>	<u>23</u>	<u>93</u>
	Total	140	44	184
Saturday MIDDAY	Enter	70	22	92
Peak Hour	<u>Exit</u>	<u>70</u>	<u>21</u>	<u>91</u>
	Total	140	43	183

a Based on a maximum of 70 customers per hour.

b Based on ITE land use code 820 (Shopping Center) for 3,393 sf using regression equations

Existing Site-Generated Trips

The existing Site consists of an approximately 3,051 sf, 102-seat restaurant and an approximately 5,106 sf salon/spa. To determine the net new traffic that the redevelopment of the Site will generate, a credit was taken based on the traffic the Site has the potential to generate today. Since the restaurant is not currently operational, empirical count data at the existing driveways could not be used to determine how much traffic the Site has the potential to currently generate. VHB estimated the expected number of vehicle trips currently generated by the restaurant and the spa based on trip generation data provided in ITE's *Trip Generation Manual*. The existing trip generation was estimated using ITE data for land use code 932 (High-Turnover (Sit-Down) Restaurant) and land use code 918 (Hair Salon).

The unadjusted existing Site-generated trips are presented below in Table 6 and the trip generation worksheets are included in the Attachments to this memorandum.

Table 6 Unadjusted Existing Trip Generation Summary

Time Period	Movement	Restaurant Trips ^a	Salon/Spa Trips ^b	Total Vehicle Trips
Weekday Evening	Enter	24	1	25
Peak Hour	<u>Exit</u>	<u>18</u>	<u>6</u>	<u>24</u>
	Total	42	7	49
Saturday Midday	Enter	29	9	38
Peak Hour	<u>Exit</u>	<u>25</u>	<u>17</u>	<u>42</u>
	Total	54	26	80

a Based on ITE land use code 932 (High-Turnover (Sit-Down) Restaurant) for 102 seats using average rates
 b Based on ITE land use code 918 (Hair Salon) for 5,106 sf using average rates

It should be noted that the Hair Salon land use code in ITE has limited data points and therefore may not accurately represent the trips generated at the existing salon/spa. Based on observations at the Site, the existing salon/spa most likely generates traffic at a rate higher than expected by ITE. However, to present a conservative analysis, the ITE data was used to estimate the traffic generated by the salon/spa.

Pass-By Trips

While the ITE rates provide estimates for all the traffic associated with each land use, not all the trips generated by the Project will be new traffic that is added to the study area intersections and roadways. Retail uses typically attract a significant percentage of their traffic from the traffic streams passing the Site, particularly during peak periods. These trips, which are considered pass-by, are already on the roadway system traveling to and from locations other than the Site (such as home, work or other shopping destinations). For this evaluation, ITE pass-by rates for LUC 820 (Shopping Center) were utilized and applied to existing trips on Elliot Street. Specifically, 34-percent and 26-percent of the Site trip generation was assumed to be drawn from the surrounding roadway network. Pass-by rates were applied to the existing restaurant and salon/spa trips as well as the proposed retail trips. Pass-by rates were not applied to the dispensary trips as it is expected that most trips to the dispensary will be destination trips.

Net New Project Generated Trips

To estimate the net new Project-generated trips to the Site, pass-by rates were applied as discussed above and the existing Site-generated trips were subtracted from the Proposed Site-generated trips. Table 7 summarizes the net new Project-generated trips.

Table 7 Net New Trip Generation Summary

Time Period	Movement	<u>Proposed</u>			<u>Existing</u>			<u>Net New</u>
		Unadjusted Total Trips	Pass-By ^a	Total New Trips	Unadjusted Total Trips	Pass-By ^b	Total Trips	Total Trips
Weekday Evening	Enter	91	7	84	25	8	17	67
Peak Hour	<u>Exit</u>	<u>93</u>	<u>7</u>	<u>86</u>	<u>24</u>	<u>8</u>	<u>16</u>	<u>70</u>
	Total	184	14	170	49	16	33	137
Saturday Midday	Enter	92	6	86	38	10	28	58
Peak Hour	<u>Exit</u>	<u>91</u>	<u>6</u>	<u>85</u>	<u>42</u>	<u>10</u>	<u>32</u>	<u>53</u>
	Total	183	12	171	80	20	60	111

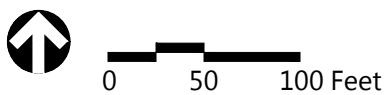
a 34-percent and 26-percent pass-by credit applied to retail trips for the weekday evening and Saturday midday peak hours, respectively.
 b 34-percent and 26-percent pass-by credit applied to restaurant and salon/spa trips for the weekday evening and Saturday midday peak hours, respectively.

As shown in Table 7, the proposed project is expected to result in approximately 137 vehicle trips (67 entering / 70 exiting) during the weekday evening peak hour and approximately 111 vehicle trips (58 entering / 53 exiting) during the Saturday midday peak hour.

It should be noted that to present a conservative analysis, no credit was taken for shared trips. Because the proposed redevelopment is a mixed-use project, the trip generation characteristics of the Site will be different from a single-use project. Some of the traffic to be generated by the proposed redevelopment will be contained on site as “internal” or “shared vehicle” trips with customers that are visiting both the dispensary and the retail uses. In addition, with the location of the Project next to the CVS shopping center and the Sunoco gas station, some visitors may visit the dispensary or retail portion of the Site on their way to or coming back from the CVS shopping center or gas station without exiting back to Elliot Street or Route 9 (Boylston Street). While these shared trips represent new traffic to the individual uses, they would not show up as new vehicle trips on the surrounding roadway network. As stated previously, no credit was also applied for the Site’s proximity to public transportation, even though some customers may arrive/depart the Site via the bus or the Green Line.

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 used in this analysis is based on existing travel patterns within the study area. The trip distribution patterns for the project, based on existing traffic conditions are presented in Table 8 and illustrated in Figure 5.



Trip Distribution
24-26 Elliot Street
Newton, Massachusetts

Figure 5

Table 8 Trip Distribution

Roadway	Direction (From/To)	Trip Distribution
Route 9 (Boylston Street)	East	45%
Route 9 (Boylston Street)	West	40%
Woodward Street	North	5%
<u>Elliot Street</u>	<u>South</u>	<u>10%</u>
Total		100%

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 8 and added to the 2026 No-Build peak hour traffic volume networks to develop the 2026 Build weekday evening and Saturday midday peak hour traffic volume networks. The site-generated trip traffic volume networks are provided in the Attachments to this memorandum. The 2026 Build traffic volumes are shown in Figure 6 for the weekday evening and Saturday midday peak hours.

Access and Parking

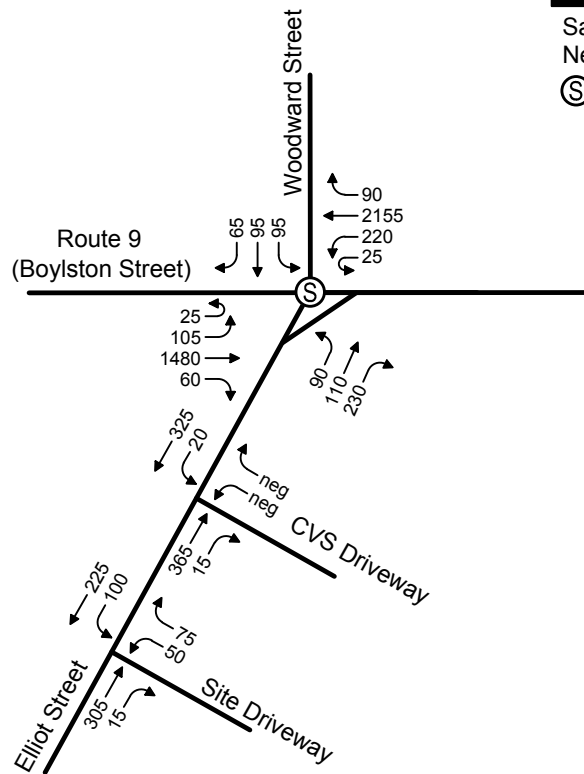
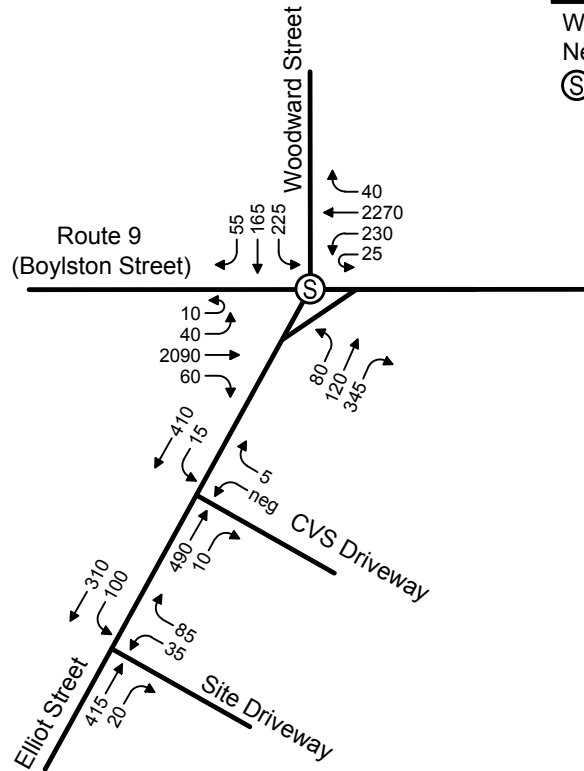
Under existing conditions, access to the Site is through a driveway on Elliot Street and through a connection to the CVS parking lot to the east of the Site. A separate driveway for the CVS retail plaza runs directly north of the Site and connects to Elliot Street approximately 40 feet north of the Site driveway. Based on observations conducted by VHB, vehicles accessing the CVS retail plaza frequently use the Site driveway and cut through the Site to reach their destination. From a driver's perspective, it is unclear which driveway belongs to which development and no signage is provided directing vehicles to the appropriate driveways. In addition, the existing CVS driveway is approximately 14 feet wide while the Site driveway is approximately 24 feet wide, which contributes to the greater use of the Site driveway over the CVS driveway.

Under the proposed conditions access will remain similar to existing conditions. However, a speed bump will be installed along the eastern internal driveway connection to the CVS Plaza.

Approximately 36 parking spaces are provided under existing conditions on Site. The parking lot is expected to generally maintain its current configuration under the proposed redevelopment and with Site plan changes there will be 27 parking spaces for the proposed medical/recreational marijuana dispensary and retail facilities. The Site will operate with valet parking to maximize operational efficiencies. Customers to the dispensary will give their keys to the valet, who will handle all parking operations. This will allow for more than 27 vehicles to be parked on-Site at once if need be, as the valet can double park vehicles for a temporary period of time.

Traffic Operations Analysis

To assess quality of flow, intersection capacity analyses were conducted with respect to 2019 Existing, 2026 No-Build, and 2026 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.



↑ Not to Scale



2026 Build Conditions
 24-26 Elliot Street
 Newton, Massachusetts

Figure 6

Level-Of-Service Criteria

Level-of-service (LOS) is the term used to denote the different operating conditions which occur for a given roadway segment or intersection under various traffic volume loads. It is a qualitative measure of a number of factors including roadway geometrics, speed, travel delay and freedom to maneuver. Level-of-service provides an index to the 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 congested operating conditions.

For this study, capacity analyses were completed for the signalized and unsignalized intersections within the study area using Synchro traffic analysis software. Level-of-service designation is reported differently for signalized and unsignalized intersections. For signalized intersections, the analysis considers the operation of each lane or lane group entering the intersection and the LOS designation is for overall conditions at the intersection. For unsignalized intersections, the analysis assumes that traffic on the mainline is not affected by traffic on the side streets. The LOS is only determined for left-turns from the main street and all movements from the minor street.

The evaluation criteria used to analyze the signalized study area intersections in this traffic study is based on the percentile-delay method (SYNCHRO results). The evaluation criteria used to analyze the unsignalized study area intersections is based on the *2010 Highway Capacity Manual* (HCM)³.

Intersection Capacity Analysis

Levels-of-service analyses were conducted for the 2019 Existing, 2026 No-Build, and 2026 Build conditions for the study area intersections. Tables 9 and 10 summarize the capacity analyses for the signalized and unsignalized intersections, respectively. The capacity analyses worksheets are included in the Attachments to this memorandum.

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

Table 9 Signalized Intersection Capacity Analysis

Location / Movement	2019 Existing Conditions					2026 No-Build Conditions					2026 Build Conditions				
	v/c ^a	Del ^b	LOS ^c	50 Q ^d	95 Q ^e	v/c	Del	LOS	50 Q	95 Q	v/c	Del	LOS	50 Q	95 Q
Route 9 (Boylston Street) at Elliot Street / Woodward Street															
<i>Weekday Evening</i>															
EB L	0.36	23	C	12	60	0.35	22	C	11	57	0.35	22	C	11	57
EB T/R	1.17	114	F	~1308	#1914	1.19	>120	F	~1321	#1962	>1.20	>120	F	~1351	#1996
WB L	0.78	60	E	136	#340	0.84	67	E	168	#421	0.95	85	F	202	#507
WB T/R	1.00	47	D	1013	#1814	1.10	79	E	~1371	#2092	1.10	79	E	~1371	#2092
NB L	0.48	66	E	53	74	0.45	65	E	48	82	0.75	90	F	~100	121
NB T	0.42	56	E	125	157	0.36	55	D	106	165	0.38	55	E	111	171
NB R	0.77	24	C	58	102	0.67	15	B	13	131	0.72	17	B	25	158
SB L	>1.20	>120	F	~280	#566	>1.20	>120	F	~282	#577	>1.20	>120	F	~283	#578
SB T/R	0.84	84	F	207	#448	0.84	85	F	205	#453	0.86	88	F	210	#467
Overall		80	F				97	F				100	F		
<i>Saturday Midday</i>															
EB L	0.63	47	D	66	175	0.65	49	D	70	179	0.66	50	D	74	179
EB T/R	0.79	29	C	538	#1116	0.82	31	C	590	#1154	0.85	34	C	647	#1189
WB L	0.74	52	D	119	#335	0.80	62	E	155	#414	0.89	75	E	190	#483
WB T/R	1.05	60	E	981	#1926	1.13	92	F	~1308	#2123	1.14	98	F	~1367	#2123
NB L	0.49	65	E	57	97	0.55	68	E	67	108	0.66	75	E	89	135
NB T	0.40	57	E	93	148	0.39	56	E	96	153	0.39	56	E	102	160
NB R	0.59	15	B	0	83	0.59	14	B	0	88	0.60	14	B	2	95
SB L	0.68	86	F	83	177	0.67	84	F	89	#186	0.62	78	E	89	#187
SB T/R	0.75	77	E	124	245	0.74	75	E	132	#261	0.70	71	E	138	#281
Overall		48	D				65	E				69	E		

- a Volume to capacity ratio.
- b Average total delay, in seconds per vehicle.
- c Level-of-service.
- d 50th percentile queue, in feet.
- e 95th percentile queue, in feet.
- ~ Volume exceeds capacity, queue is theoretically infinite.
- # 95th percentile volume exceeds capacity, queue may be longer.

As shown in Table 9, the overall level-of-service at the intersection of Route 9 (Boylston Street) and Elliot Street / Woodward Street is expected to be maintained between the 2026 No Build conditions and the 2026 Build conditions at LOS F and LOS E during the weekday evening and Saturday midday peak hours, respectively. Overall level-of-service is expected to stay at LOS F between the 2019 Existing conditions and the 2026 No Build during the weekday evening peak hour and expected to deteriorate from LOS D to LOS E during the Saturday midday peak hour. The expected additional Site-generated traffic in the 2026 Build conditions is expected to have a negligible effect on queue lengths at each approach.

Table 10 Unsignalized Intersection Capacity Analysis

Location / Movement	2019 Existing Conditions					2026 No-Build Conditions					2026 Build Conditions				
	D ^a	v/c ^b	Del ^c	LOS ^d	95 Q ^e	D	v/c	Del	LOS	95 Q	D	v/c	Del	LOS	95 Q
Elliot Street at CVS Driveway															
<i>Weekday Evening</i>															
WB L/R	5	0.02	12	B	3	5	0.01	11	B	0	5	0.01	12	B	0
SB L	15	0.02	9	A	3	15	0.02	8	A	0	15	0.02	9	A	0
<i>Saturday Midday</i>															
WB L/R	neg	-	0	A	0	neg	-	0	A	0	neg	-	0	A	0
SB L	20	0.02	8	A	3	20	0.02	8	A	3	20	0.02	8	A	3
Elliot Street at Site Driveway															
<i>Weekday Evening</i>															
WB L/R	35	0.14	17	C	13	55	0.15	16	C	13	120	0.32	18	C	35
SB L	20	0.02	9	A	3	40	0.04	8	A	3	100	0.10	9	A	8
<i>Saturday Midday</i>															
WB L/R	50	0.12	14	B	10	75	0.17	14	B	15	125	0.29	16	C	30
SB L	25	0.02	8	A	3	50	0.04	8	A	3	100	0.09	8	A	8

- a Demand
- b Volume to capacity ratio.
- c Average total delay, in seconds per vehicle.
- d Level-of-service.
- e 95th percentile queue, in feet.

As shown in Table 10, the two driveways are expected to operate at LOS C or better under the 2019 existing conditions, 2026 No Build conditions, and 2026 Build conditions. The 95th percentile queues on each driveway approach are expected to be less than two car lengths under all conditions.

Project Requirements

As outlined in the October 1, 2018, City of Newton Board Order, the project will be subject to the following conditions at a minimum, and perhaps other requirements that come from review of the recreational use being proposed:

- Condition 2 from Board Order; The petitioner shall employ a police detail, subject to availability of such police detail, on site from 3:45 p.m. to 7:45 p.m. Monday through Friday for 180 days from the commencement of operations of the recreational marijuana dispensary. At the end of such term, the Director of Planning and Development, in concert with the Transportation Division of Public Works and Newton Police Department, shall determine whether the term for the detail shall be extended or whether other changes shall be made to address queuing along Elliot Street.
- Condition 3 from Board Order; The petitioner shall see patients of the recreational marijuana dispensary on an appointment only basis. Given that the petitioner requires each patient to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of patients arriving to and leaving the site, to avoid patients waiting outside the building for a customer service representative to be available and allow the petitioner to anticipate patient volume.
- Condition 6 from Board Order; The petitioner shall update the sidewalks along Elliot Street frontage and install a trench drain at the entrance to the site to the satisfaction of the City Engineer. Such improvements shall be completed prior to issuance of a temporary occupancy certificate.

- Condition 7 from Board Order; The petitioner shall implement a Transportation Demand Management Plan to mitigate employees from parking on-Site. The plan shall include, but not be limited to:
 - › Displaying all transit schedules in the immediate area, including a pedestrian wayfinding map, in a central location within the facility,
 - › Participating in City of Newton Bikeshare program. If the program is successful, the petitioner shall purchase no less than three bikes for employees to commute to and from work;
 - › Providing a secure bicycle storage area on-Site;
 - › Establishing an on-Site car-pool, rideshare program with guaranteed ride home; and
 - › Subsidizing the cost of parking at satellite parking facilities and the cost of travel to and from such facilities.
- Condition 8 from Board Order; The petitioner shall offer valet parking during all operating hours for the first 60 days of operations. At the end of such term, the Director of Planning and Development, in consultation with the Director of Transportation and City of Newton Police Department, shall determine whether valet parking shall be continued during all operation hours or reduced to specific periods.

Conclusion

VHB has conducted a traffic assessment to determine the suitability and potential impacts of a recreational marijuana dispensary at 24-26 Elliot Street in Newton, Massachusetts. Specifically, the Project will include the conversion of an existing salon/spa establishment and 102-seat restaurant into a recreational/medical marijuana dispensary and general retail space.

Under the existing conditions, the Site is accessed via a curb cut on Elliot Street. A second point of egress connects the Site to the adjacent CVS retail plaza and provides a two-way vehicular connection between the two sites. Under the proposed redevelopment, the access will remain similar to existing conditions. However, a speed bump will be installed along the eastern internal driveway connection to the CVS Plaza to slow traffic movements in this area. A total of 36 parking spaces are provided under existing conditions and a total of 27 parking spaces will be available under the future redevelopment plan. The dispensary will be by appointment-only upon opening with a limit of 70 customers per hour, and vehicular operations on-Site will be managed through a valet parking system.

The proposed Project is expected to generate approximately 137 new vehicle trips (67 entering/70 exiting) during the weekday evening peak hour and approximately 111 new vehicle trips (58 entering/53 exiting) during the Saturday midday peak hour. Based on the intersection capacity analysis, it is expected that the project will have a minimal impact upon intersection operations within the study area.



GREEN INTERNATIONAL AFFILIATES, INC.

239 LITTLETON ROAD, SUITE 3, WESTFORD, MA 01886
TEL (978) 923-0400 FAX (978) 923-0404

Attachment F

March 1, 2019

Ms. Jennifer Caira
Chief Planner
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Subject: **Engineering Peer Review for Traffic
and Parking at the Proposed
Dispensary at
24-26 Elliot Street**

Dear Ms. Caira:

On behalf of the City of Newton, Green International Affiliates, Inc. (Green) is submitting this letter report of the findings from our engineering peer review of the application package for the proposed "Recreational Marijuana Dispensary" at 24-26 Elliot Street. The scope of our review included a review of the traffic study and the proposed site plans, as they relate to vehicular access, pedestrian access, traffic circulation, and parking at the proposed site.

This review included an examination of the following documents submitted in support of the proposed project:

- Report titled "Traffic Memorandum", including the Transportation Demand Management Plan - Proposed Medical Marijuana Dispensary and Retail Space, 22-24 Elliot Street, Newton, Massachusetts", prepared by VHB, dated May 8, 2018.
- Report titled "Traffic Memorandum", including the Transportation Demand Management Plan - Proposed Recreational/Medical Marijuana Dispensary and Retail Space, 22-24 Elliot Street, Newton, Massachusetts", prepared by VHB, dated February 12, 2019.
- Document titled "Council Order #288-18", prepared by the City of Newton City Council.
- Plan titled "Proposed Site Plan, 24-26 Elliot Street", prepared by Verne T. Porter Jr. PLS, dated January 7, 2019.

In addition to the above documents, Green visited the project site and the surrounding roadways on February 27, 2019 to gain a better understanding of the existing conditions and the context of the proposed project. Our review evaluated the documents for consistency with MassDOT's "Transportation Impact Assessment (TIA) Guidelines" (March 13, 2014), typical industry practice for traffic studies, the City of Newton's Zoning Bylaw and General Bylaw, City of Newton Complete Streets Policy, Newton 2040: A Transportation Strategy for Newton, Newton Street Design Guide, and Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) design standards.

Green offers the following comments resulting from our review of the above documents:

May 2018, and February 2019 Transportation Memorandum

1. The 2018 and 2019 Transportation Memorandums were generally prepared in a professional manner, consistent with industry standards for Transportation Impact Assessments.
2. The TIA included the following three study intersections:
 - Route 9 (Boylston Street) at Elliot Street/Woodward Street
 - Elliot Street at CVS Driveway
 - Elliot Street at Site Driveway

The Route 9 (Boylston Street) at Elliot Street/Woodward Street intersection is directly adjacent to the intersection of Route 9 (Boylston Street) at Ramsdell Street, and Ramsdell Street provides access to the development plaza that includes 22-24 Elliot Street. The northbound right turn from Elliot Street onto Route 9 creates a weave condition with vehicles using this driveway. The intersection of Route 9 (Boylston Street) at Ramsdell Street is a MassDOT HSIP-eligible cluster in addition to the adjacent intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street. Given the higher volume of crashes at both intersections, and the roughly 10% increase in traffic to the Elliot Street northbound right-turn volume associated with the proposed project, we recommend including this location in the study area to evaluate any safety concerns that arise from the increase in traffic associated with the weave condition. In addition, the right-turn volume from Boylston Street (Route 9) eastbound onto Elliot Street is significantly lower than all other volumes entering Elliot Street at this location and is also lower than the reverse volume from Elliot Street northbound turning left onto Route 9 (Boylston Street). This suggests that some vehicles may be choosing to bypass Elliot Street due to the tight nature of the turn and enter the Plaza from the Ramsdell Street driveway. This potential movement should be evaluated for the proposed condition as some project trips may choose to do the same.

3. Traffic count data were collected in February of 2018 and revised using background growth data to reflect 2019 conditions. Automatic Traffic Recorders (ATRs), including 24-hour counts and speed data were collected on Wednesday February 14th and Saturday February 25th. Turning Movement Counts (TMCs) were collected on Thursday February 1st and Saturday February 3rd. The Saturday February 25th counts occurred during the end of school vacation week and may be lower than an average Saturday condition. However, since the analysis was conducted using the TMC data, this is unlikely to have a major impact on the results of the study and is sufficient for this particular use.
4. Crash data were presented from information provided by the MassDOT Highway Division Safety Management/Traffic Operations Unit for the years 2012-2016. During the five-year period that was examined, the Route 9 (Boylston Street) at Elliot Street/Woodward Street intersection experienced 55 crashes, the Elliot Street at CVS Driveway intersection experienced no crashes, and the Elliot Street at Site Driveway intersection experienced 4 crashes. None of the study intersections exceeded the MassDOT District 6 average crash rate for signalized and unsignalized intersections. The intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street was also identified as an HSIP-eligible cluster, where the total number of "equivalent property damage only" crashes is within the top 5% of all clusters in that region, making it eligible for FHWA and MassDOT funding. There were also 5 pedestrians/bicycles involved in crashes at this location during the 5-year time period. While the crash rate is not above average for signalized intersections due to the higher volume of traffic on Route 9 (Boylston Street), there are still a significant number of total crashes, which should be taken into consideration when evaluating potential impacts and improvements.

5. There are existing pedestrian accommodations along both sides of Elliot Street and accessible pedestrian crossings for 3 of the 5 legs at the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. The west leg of Boylston Street is the only one missing a pedestrian crossing. While the sidewalk directly in front of 22-24 Elliot Street appears to be in good condition, there are 5 curb-cuts over the 250 foot-distance between the Site Driveway for 22-24 Elliot Street and the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. These curb cuts deteriorate the pedestrian experience and create multiple conflict points over a small section of Elliot Street. Green recommends eliminating the curb cut directly adjacent to the Site Driveway to reduce the number of conflict points and to improve the pedestrian connection to the Green Line MBTA. This curb cut is redundant and provides access to the retail plaza adjacent to 22-24 Elliot Street, which has two other, more visible, access points available. The volumes collected at this site driveway are relatively low and moving them to one of the other access points should not have a significant impact on vehicle operations at those locations.
6. Green verified the accuracy of VHB's measurements of the Stopping Sight Distance (SSD) in both directions. However, the required Stopping Sight distance does not account for the grade on Elliot Street, which is shown on the Existing Site Plan as a 3-6% downgrade away from the intersection. As stated in the Traffic Memorandum produced by VHB, the measured Sight Distance is currently insufficient for the 85th percentile speed on Elliot Street. While the speed data was taken further from the intersection and vehicles may be traveling more slowly through the intersection, the grade on Elliot Street may contribute to increasing speeds approaching the site driveway and should be considered when calculating the Stopping Sight Distance. The limited sight distance on this approach provides additional justification for closing the adjacent driveway, as the sight distance for that driveway would be even more limited than the Site Driveway. Green recommends revising the sight distance calculations to account for the grade on Elliot Street, and consider reducing the speed limit on Elliot Street to 25 mph to account for the sight distance concerns from the project Site Driveway.
7. Green verified the accuracy of VHB's measurements of the Intersection Sight Distance (ISD) from the proposed exit driveway looking north, however Green does not concur with the applicant's measured Intersection Sight Distance looking south, due to the retaining wall on the property of 22-24 Elliot Street obstructing the view of oncoming traffic. It appears as if Intersection Sight Distance measurements were taken from the location where the driveway meets the roadway as opposed to 14.5 feet from the edge of the roadway as outlined in the American Association of State Highway and Transportation Officials (AASHTO) guidelines. Our records indicate that there is only 100 feet available of Intersection Sight Distance looking south, rather than the 400 feet indicated by the applicant. However, given the limitations to Stopping Sight Distance in the opposite direction, Green does not recommend any site specific changes to increase the Intersection Sight Distance. Vehicles will have to pull up to the edge of the roadway in order to determine whether it is appropriate to enter Elliot Street.
8. The future conditions were evaluated for a seven-year horizon which is consistent with MassDOT TIA guidelines. The background growth is indicated to be 0.5% per year, with no specific planned developments in the area. The 0.5% per year is based on "a review of recent traffic studies", however information from these studies or additional information to support the background growth was not included in the appendix and cannot be verified.
9. Green has reviewed the proposed trip generation and distribution and concurs with the information provided by the applicant.

10. In the intersection capacity analysis, different peak hour factors (PHF's) were used for each approach. The HCM 6¹ recommends that a single PHF based on peak hour traffic volumes at the entire intersection should be used for intersection capacity analyses. This is because it is unlikely that multiple approaches will experience peak volumes within the same 15-minute interval (within the peak hour). The applicant's use of approach PHF's for the analysis generally results in a conservative analysis and actual operating conditions are likely to be better than stated.
11. The traffic analysis provided by the applicant does not appear to include the volumes from the Route 9 (Boylston Street) Westbound U-Turn movement. The existing conditions counts show 25 vehicles making this movement during the PM and Saturday Peak Hours. This volume should be included in the traffic analysis for this intersection.
12. The memorandum addresses conditions from the City Council as outlined in Council Order #288-18, however there are a number of conditions that have been excluded. A commitment to these conditions should be outlined clearly as they affect the traffic operations to the site. It should be noted that conditions 9, 10, 11, 12, 13, 14,15, 17, 18, and 19 have not been included but are not addressed here as they will not impact traffic operations. The following conditions were omitted:
 - a. Condition 3: The petitioner shall also accommodate those patients who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that patient.

No sooner than twelve (12) months after commencement of operations for the RMD authorized by this Order the petitioner may submit a letter to the Commissioner of Inspectional Service and the Director of Planning and Development requesting waiver of the requirement that patients be seen on an "appointment only" basis set out in this condition. The petitioner shall also file a copy of such letter with the City Clerk. Such letter shall only be filed after the petitioner has completed the following:

- Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and Condition # 8 below.
- Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #7 below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the RMD, including the number of patients coming to the site during peak times and the petitioner's intent to no longer serve patients by appointment only.

¹ Transportation Research Board, *Highway Capacity Manual*, 6th Edition, 2016.

- b. Condition 4: The RMD may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
- c. Condition 5: There shall not be more than fourteen (14) staff members, including valet attendants, on site at any one time.
- d. Condition 7: The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the RMD, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.
- e. Condition 16: In order to provide information to the City regarding the operation of the RMD and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the RMD's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:

Within six (6) months and again at twelve (12) months of commencing operations of the RMD, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the RMD and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the RMD at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the RMD are warranted to address such public safety or security of the facility concerns.

January 2019 Site Plan

- 13. The Transportation Demand Management section indicates that secure bicycle storage must be provided on-site. There is currently a bicycle rack with a minimum of three spaces available, located at the edge of the building adjacent to the sidewalk. Green recommends increasing the size of the bicycle storage and moving it closer to the front door, away from the roadway where it would be visible to pedestrians and vehicles passing by.
- 14. The TIA requires valet parking for the first 60 days of operations. The valet parking pick-up/drop-off location is not shown on the site plan and should be clearly identified.

15. The parking space on the northeast corner of the plan appears to be blocked by a proposed speed bump, so vehicles backing out would have to back out into the speed bump. Green Recommends closing the access to the adjacent drive, eliminating the need for a proposed Speed Bump and preventing vehicles from driving through the proposed site in order to access the adjacent plaza. The adjacent retail plaza already has multiple access points, including an additional access on Elliot Street.
16. The site plan does not show a loading zone. This should be clearly identified on the site plan to identify any potential conflicts.

Additional Mitigation

17. Green recommends eliminating the curb-cut on Elliot Street and within the project site to the adjacent Site Driveway. There are 5 curb cuts along the 250 feet between the Site Driveway and the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. This disrupts pedestrian accommodations and creates a hazard along Elliot Street between vehicles entering and exiting adjacent driveways simultaneously. The curb-cut within the site encourages drivers to use the project Site Driveway to access the adjacent plaza. Given the limited space within the Site for the proposed use, we recommend eliminating this curb-cut to reduce the amount of traffic circulating through the site and prevent the need for a speed-bump that restricts access to one of the parking stalls.
18. The project will be increasing the Elliot Street northbound right-turning movement by approximately 10%, which exacerbates the existing weave condition with Ramsdell Street and vehicles entering the adjacent retail plaza. This location was identified as an HSIP-eligible location, indicating high incidences of crashes. The traffic study should evaluate this intersection and consider revising the geometry of the right-turn slip-lane to eliminate the weave with Ramsdell Street and the plaza driveway. This will also reflect the goals of the Newton 2040 Transportation Strategy of adjusting turning radii to minimize crossing distances and lower driving speeds.
19. Green recommends reducing the speed limit on Elliot Street southbound to 25 mph to reflect the limited sight distance available for vehicles exiting the Site Driveway, as well as other access drives along Elliot Street.
20. The intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street is currently experiencing an overall LOS F during the PM peak hour, and a LOS D during the Saturday peak hour, which is anticipated to degrade to a LOS E under no-build and build conditions. The proposed development will degrade the LOS for the westbound left-turn and the northbound approach during the PM peak hour. The applicant should evaluate signal timing modifications to improve the efficiency of the intersection.
21. The existing crosswalks at the intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street are deteriorating and no longer visible in some locations. This intersection provides pedestrian access from the nearby MBTA Green Line Stop to the proposed development. Green recommends restriping the crosswalks at this intersection to improve and highlight the pedestrian crossings.

Ms. Jennifer Caira
March 1, 2019

If either the City staff or the Applicant's engineer would like to discuss any of these comments further, please feel free to contact me at 978-923-0400.

Sincerely,
Green International Affiliates, Inc.

A handwritten signature in black ink, appearing to read 'Corinne Tobias', written in a cursive style.

Corinne S. Tobias, P.E., PTOE
Project Manager

cc: W. Wong, Green
W. Scully, Green



Memorandum

To: Ms. Jennifer Caira, Chief Planner
 City of Newton
 1000 Commonwealth Avenue
 Newton, MA 02459

Date: March 26, 2019

Project #: 14493.00

From: Randall C. Hart, Principal

Re: Response to Comments
 Proposed Dispensary
 24-26 Elliot Street
 Newton, MA

Introduction

VHB, Inc. has prepared the following response to comments received regarding the Proposed Dispensary at 24-26 Elliot Street in Newton, Massachusetts. Comments were received from Green International Affiliates, Inc. on March 4th, 2019, and a meeting was held between Green International, VHB, the City of Newton, and the Proponent on March 12th, 2019. For ease of review the comments that were received are outlined below along with the responses.

Traffic Memorandum Comments

Comment 1 *The 2018 and 2019 Transportation Memorandums were generally prepared in a professional manner, consistent with industry standards for Transportation Impact Assessments.*

Response 1 No response necessary.

Comment 2 *The TIA included the following three study intersections:*

- *Route 9 (Boylston Street) at Elliot Street/Woodward Street*
- *Elliot Street at CVS Driveway*
- *Elliot Street at Site Driveway*

The Route 9 (Boylston Street) at Elliot Street/Woodward Street intersection is directly adjacent to the intersection of Route 9 (Boylston Street) at Ramsdell Street, and Ramsdell Street provides access to the development plaza that includes 22-24 Elliot Street. The northbound right turn from Elliot Street onto Route 9 creates a weave condition with vehicles using this driveway. The intersection of Route 9 (Boylston Street) at Ramsdell Street is a MassDOT HSIP-eligible cluster in addition to the adjacent intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street. Given the higher volume of crashes at both intersections, and the roughly 10% increase in traffic to the Elliot Street northbound right-turn volume associated with the proposed project, we recommend including this location in the study area to evaluate any safety concerns that arise from the increase in traffic associated with the weave condition. In addition, the right-turn volume from Boylston Street (Route 9) eastbound onto Elliot Street is significantly lower than all other volumes entering Elliot Street at this location and is also lower than the reverse volume from Elliot Street northbound turning left onto Route 9 (Boylston Street). This suggests that some vehicles may be choosing to bypass Elliot Street due to the tight nature of the turn

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and enter the Plaza from the Ramsdell Street driveway. This potential movement should be evaluated for the proposed condition as some project trips may choose to do the same.

Response 2

The Elliot Street northbound right-turn movement at the intersection with Route 9 (Boylston Street) is under yield control. Route 9 (Boylston Street) consists of two eastbound travel lanes at this location, and Elliot Street merges into the eastbound travel lane. Approximately 100-feet from the Elliot Street northbound right-turn merge is a diverge to Ramsdell Street. There is no true weave condition in this area. VHB does acknowledge the close spacing of the merge and diverge points, however the signal at Route 9 (Boylston Street) and Elliot Street/Woodward Street provides gaps in traffic to allow northbound right-turning vehicles to enter the traffic stream. In addition, the proposed project is expected to have a negligible effect on traffic operations at the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street.

Regardless, the Proponent is providing the City with a one-time payment (\$25,000) to identify and address safety concerns at the intersections of Route 9 (Boylston Street) at Elliot Street/Woodward Street and Route 9 (Boylston Street) at Ramsdell Street. The one-time payment can be used by the City of Newton to conduct a road safety audit (RSA) at this location, which will identify potential safety issues and develop a list of potential recommendations to address the safety deficiencies, and to implement some of the short-term, low-cost improvements that come out of the RSA.

While the right-turn volume from Boylston Street (Route 9) eastbound onto Elliot Street is lower than all other volumes entering Elliot Street at this location, it is expected that all vehicles destined to the Site from Boylston Street (Route 9) eastbound will turn onto Elliot Street to access the Site as it is the most direct access. Entering the site from the retail driveway near Ramsdell Street is a circuitous path and very unlikely to be used for site access.

Comment 3

Traffic count data were collected in February of 2018 and revised using background growth data reflect 2019 conditions. Automatic Traffic Recorders (ATRs), including 24-hour counts and speed data were collected on Wednesday February 14th and Saturday February 25th. Turning Movement Counts (TMCs) were collected on Thursday February 1st and Saturday February 3rd. The Saturday February 25th counts occurred during the end of school vacation week and may be lower than an average Saturday condition. However, since the analysis was conducted using the TMC data, this is unlikely to have major impact on the results of the study and is sufficient for this particular use.

Response 3

No response necessary.

Comment 4

Crash data were presented from information provided by the MassDOT Highway Division Safety Management/Traffic Operations Unit for the years 2012-2016. During the five-year period that was examined, the Route 9 (Boylston Street) at Elliot Street/Woodward Street intersection experienced 55 crashes, the Elliot Street at CVS Driveway intersection experienced no crashes, and the Elliot Street at Site Driveway intersection experienced 4 crashes. None of the study intersections exceeded the MassDOT District 6 average crash rate for signalized and unsignalized intersections. The intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street was also identified as an HSIP-eligible cluster, where

the total number of "equivalent property damage only" crashes is within the top 5% of all clusters in that region, making it eligible for FHWA and MassDOT funding. There were also 5 pedestrians/bicycles involved in crashes at this location during the 5-year time period. While the crash rate is not above average for signalized intersections due to the higher volume of traffic on Route 9 (Boylston Street), there are still a significant number of total crashes, which should be taken into consideration when evaluating potential impacts and improvements.

Response 4 It should be noted that since 2014, the total number of crashes per year has decreased at the intersection of Route 9 (Boylston Street) and Elliot Street / Woodward Street. In addition, the proposed project is expected to have a negligible effect on traffic operations at the intersection. Regardless, VHB acknowledges that this location and the adjacent intersection of Route 9 (Boylston Street) are identified as an HSIP-eligible cluster and therefore the Proponent is providing the City with a one-time payment to identify and address safety concerns. The one-time payment (\$25,000) can be used by the City of Newton to conduct an RSA at this location, which will identify potential safety issues and develop a list of potential recommendations to address the safety deficiencies, and to implement some of the short-term, low-cost improvements that come out of the RSA.

Comment 5 *There are existing pedestrian accommodations along both sides of Elliot Street and accessible pedestrian crossings for 3 of the 5 legs at intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. The west leg of Boylston Street is the only one missing a pedestrian crossing. While the sidewalk directly in front of 22-24 Elliot Street appears to be in good condition, there are 5 curb-cuts over the 250 foot-distance between the Site Driveway for 22-24 Elliot Street and the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. These curb cuts deteriorate the pedestrian experience and create multiple conflict points over a small section of Elliot Street. Green recommends eliminating the curb cut directly adjacent to the Site Driveway to reduce the number of conflict points and to improve the pedestrian connection to the Green Line MBTA. This curb cut is redundant and provides access to the retail plaza adjacent to 22-24 Elliot Street, which has two other, more visible, access points available. The volumes collected at this site driveway are relatively low and moving them to one of the other access points should not have a significant impact on vehicle operations at those locations.*

Response 5 The driveway to the north of the 22-24 Elliot Street property is part of the adjacent 978 Boylston Street property and not under the control of the Proponent. The Proponent attempted to work with the adjacent property owners to consolidate the curb-cuts during the early stages of project development. However, the owners of the adjacent project who control that access driveway would not agree to consolidating access or changing it in any way.

Comment 6 *Green verified the accuracy of VHB's measurements of the Stopping Sight Distance (SSD) in both directions. However, the required Stopping Sight distance does not account for the grade on Elliot Street, which is shown on the Existing Site Plan as a 3-6% downgrade away from the intersection. As stated in the Traffic Memorandum produced by VHB, the measured Sight Distance is currently insufficient for the 85th percentile speed on Elliot Street. While the speed data was taken further from the intersection and vehicles may be traveling more slowly through the intersection, the grade on Elliot Street may contribute*

to increasing speeds approaching the site driveway and should be considered when calculating the Stopping Sight Distance. The limited sight distance on this approach provides additional justification for closing the adjacent driveway, as the sight distance for that driveway would be even more limited than the Site Driveway. Green recommends revising the sight distance calculations to account for the grade on Elliot Street, and consider reducing the speed limit on Elliot Street to 25 mph to account for the sight distance concerns from the project Site Driveway.

Response 6 VHB has revised the sight distance calculations to reflect a six-percent downgrade from the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. The revised sight distance summary is shown in Table 1.

Table 1 Sight Distance Analysis Summary

Location	Stopping Sight Distance ^a			Intersection Sight Distance ^a		
	Traveling	Required	Measured	Looking	Desired	Measured
Elliot Street at Site driveway	Northbound	220	400	Left	375	400
	Southbound	250	200	Right	375	210 ^b

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 for the 85th percentile speed of 31-34 mph.
 b Sight distance is visible to/from the intersection of Route 9 (Boylston Street) at Elliot Street / Woodward Street.

As shown in Table 1, with the revised sight distance calculations, the required stopping sight distance traveling northbound and desired intersection sight distance looking left (south) is exceeded. As discussed in the Traffic Memorandum, the intersection sight distance looking right (north) is visible to the signalized intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street while the stopping sight distance travelling southbound is visible from just after the signalized intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street. Traveling southbound on Elliot Street from the intersection with Route 9 (Boylston Street), there is a horizontal curve departing the intersection and the stopping sight distance is met from the beginning of the curve. It should be noted vehicles entering Elliot Street after traveling through the signal are generally traveling slower than the 85th percentile speeds, which were collected south of the Site driveway after vehicles had an opportunity to speed up to the cruising speed on Elliot Street.

As previously discussed, the Proponent does not control the adjacent site driveway to the 978 Boylston Street property and therefore cannot close or combine the two site driveways. The Proponent is not opposed to reducing the speed on Elliot Street, however since Elliot Street is a public roadway under City of Newton jurisdiction, a reduction to the posted speed limit would have to be implemented by the City.

Comment 7 *Green verified the accuracy of VHB’s measurements of the Intersection Sight Distance (ISD) from the proposed exit driveway looking north, however Green does not concur with the applicant’s measured Intersection Sight Distance looking south, due to the retaining wall on the property of 22-24 Elliot Street obstructing the view of oncoming traffic. It appears as if Intersection Sight Distance measurements were*

taken from the location where the driveway meets the roadway as opposed to 14.5 feet from the edge of the roadway as outlined in the American Association of State Highway and Transportation Officials (AASHTO) guidelines. Our records indicate that there is only 100 feet available of Intersection Sight Distance looking south, rather than the 400 feet indicated by the applicant. However, given the limitations to Stopping Sight Distance in the opposite direction, Green does not recommend any site-specific changes to increase the Intersection Sight Distance. Vehicles will have to pull up to the edge of the roadway in order to determine whether it is appropriate to enter Elliot Street.

Response 7 VHB reviewed the reported intersection sight distance measurement looking left (south) from the site driveway and confirms that when a vehicle is positioned 14.5-feet back from the edge of the roadway the available sight distance is reduced due to fence on top of the retaining wall. However, the fence is chain link and therefore vehicles can still see through the fence to on-coming traffic. As Green noted, vehicles exiting the site driveway will likely pull up to the edge of the roadway to get a better view without the fence, and at that viewpoint the available intersection sight distance exceeds the desired intersection sight distance. In addition, the site driveway is located on the northern edge of the property and therefore it cannot be shifted to the north. Even if that was not the case, VHB agrees with Green that relocating the site driveway further north is not advantageous.

Comment 8 *The future conditions were evaluated for a seven-year horizon which is consistent with MassDOT TIA guidelines. The background growth is indicated to be 0.5% per, with no specific planned developments in the area. The 0.5% per year is based on "a review of recent traffic studies", however information from these studies or additional information to support the background growth was not included in the appendix and cannot be verified.*

Response 8 As stated in the traffic memorandum, the 0.5-percent per year background growth rate is consistent with the 0.5-percent per year background growth rate used for other traffic studies conducted recently in this area of Newton. Specifically, the following four traffic studies used a background growth rate of 0.5-percent per year:

- The Northland Newton Development Traffic Impact and Access Study; VHB; October 2018.
- Needham Street Functional Design Report; Stantec; August 2017.
- 180 Wells Avenue Traffic Impact Assessment; MDM Transportation Consultants; August 2015.
- 2 Wells Avenue Traffic Impact Assessment; MDM Transportation Consultants; May 2015.

In addition, a review of historic count data on MassDOT's MS2 count portal indicates that traffic volumes have actually gone down in the local area in recent years. Based on the MassDOT MS2 data, traffic counts were conducted on nearby Needham Street and Oak Street (count stations 236144 and 236145) in 2001 (the most recent year data is provided on these roadways) that showed approximately 25,200 vehicles traveled on Needham Street on a typical weekday and 12,000 vehicles traveled on Oak Street on a typical weekday. The 2018 traffic counts presented in the Northland Newton Development TIA referenced above showed that approximately 20,500 vehicles and 9,600 vehicles travel on Needham Street and Oak Street on a typical weekday, respectively. While the Project Site is slightly north of Oak Street and Needham Street, these two roadways provide a general

representation of traffic on local streets in this area of Newton. Since historic count data show that traffic has decreased between 2001 and 2018 on these two roadways, using a 0.5-percent annual growth rate provides a conservative analysis.

Comment 9 *Green has reviewed the proposed trip generation and distribution and concurs with the information provided by the applicant.*

Response 9 No response necessary.

Comment 10 *In the intersection capacity analysis, different peak hour factors (PHF's) were used for each approach. The HCM 6 recommends that a single PHF based on peak hour traffic volumes at the entire intersection should be used for intersection capacity analyses. This is because it is unlikely that multiple approaches will experience peak volumes within the same 15-minute interval (within the peak hour). The applicant's use of approach PHF's for the analysis generally results in a conservative analysis and actual operating conditions are likely to be better than stated.*

Response 10 VHB concurs that the use of approach PHF's results in a more conservative analysis and that actual operating conditions are likely to be better than stated. It should be noted that MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines indicate peak hour factors should be applied on an approach-by-approach basis. Although this project is not subject to MassDOT review, VHB prepared the traffic analysis in general accordance with MassDOT guidelines where applicable.

Comment 11 *The traffic analysis provided by the applicant does not appear to include the volumes from the Route 9 (Boylston Street) Westbound U-Turn movement. The existing conditions counts show 25 vehicles making this movement during the PM and Saturday Peak Hours. This volume should be included in the traffic analysis for this intersection.*

Response 11 The signal phasing at the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street includes protected left-turn phases for both the eastbound and westbound movements. Synchro software provides a conservative analysis for u-turn movements, and therefore the u-turn volume was added to the left-turn volume for analysis purposes. Since the left-turn movement is protected, the u-turn movement is unconflicted and is therefore more appropriately analyzed as a left-turn movement using Synchro software. It should be noted that the proposed Project is not expected to add any trips to the u-turn movements at this location.

Comment 12 *The memorandum addresses conditions from the City Council as outlined in Council Order #288-18, however there are a number of conditions that have been excluded. A commitment to those conditions should be outlined clearly as they affect the traffic operations to the site. It should be noted that conditions 9, 10, 11, 12, 13, 14, 15, 17, 18, and 19 have not been included but are not addressed here as they will not impact traffic operations. The following conditions were omitted:*

- A. *Condition 3: The petitioner shall also accommodate those patients who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that patient.*

No sooner than twelve (12) months after commencement of operations for the RMD authorized by this Order the petitioner may submit a letter to the Commissioner of Inspectional Service and the Director of Planning and Development requesting waiver of the requirement that patients be seen on an "appointment only" basis set out in this condition. The petitioner shall also file a copy of such letter with the City Clerk. Such letter shall only be filed after the petitioner has completed the following:

- › *Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and Condition # 8 below.*
- › *Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #7 below.*
- › *Appeared before the Newton Upper Falls Area Council to discuss the operations of the RMD, including the number of patients coming to the site during peak times and the petitioner's intent to no longer serve patients by appointment only.*

- B. *Condition 4: The RMD may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.*
- C. *Condition 5: There shall not be more than fourteen (14) staff members, including valet attendants, on site at any one time.*
- D. *Condition 7: The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the RMD, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.*
- E. *Condition 16: In order to provide information to the City regarding the operation of the RMD and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the RMD's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:*

Within six (6) months and again at twelve (12) months of commencing operations of the RMD, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the RMD and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the RMD at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the RMD are warranted to address such public safety or security of the facility concerns.

Response 12 The Proponent is committed to following all conditions outlined in Council Order #288-18, including the conditions listed above.

Site Plan Comments

Comment 13 *The Transportation Demand Management section indicates that secure bicycle storage must be provided on-site. There is currently a bicycle rack with a minimum of three spaces available, located at the edge of the building adjacent to the sidewalk. Green recommends increasing the size of the bicycle storage and moving it closer to the front door, away from the roadway where it would be visible to pedestrians and vehicles passing by.*

Response 13 The Proponent has agreed to move the bicycle rack away from the roadway and closer to the front door. The location of the bicycle rack was agreed upon at the meeting between the Proponent, VHB, the City of Newton, and Green on March 12, 2019, and is reflected on the updated Site Plan. It should also be noted that separate bicycle storage for employees will be provided at a secure, indoor location.

Comment 14 *The TIA requires valet parking for the first 60 days of operations. The valet parking pick-up/drop-off location is not shown on the site plan and should be clearly identified.*

Response 14 Pick-up/drop-off for the valet parking will occur directly in front of the building entrance. A sandwich board or similar will be placed in the parking lot informing vehicles of the location for pick-up/drop-off operations and it is expected that the valet attendants will stand near the sandwich board. Using a sandwich board will allow for flexibility in the exact location of the valet stand and it will be brought inside the vestibule when the dispensary is closed. The updated Site Plan includes an identification of the pick-up/drop-off location.

Comment 15 *The parking space on the northeast corner of the plan appears to be blocked by a proposed speed bump, so vehicles backing out into speed bump. Green Recommends closing the access to the adjacent drive, eliminating the need for a proposed Speed Bump and preventing vehicles from driving through the proposed site in order to access the adjacent plaza. The adjacent retail plaza already has multiple access points, including an additional access on Elliot Street.*

Response 15 The internal curb-cut is necessary to access the parking spaces behind the building which will be used for valet operations. If this curb-cut were closed, vehicles would have to utilize Elliot Street to access the parking in the rear of the building, creating additional traffic at the site driveway and on Elliot Street, and resulting in inefficient operations for the valet team. Based on the meeting held on March 12, 2019, it was determined that the speed bump may not be necessary on the driveway between the two sites. Based on observations, the existing parking field is generally used as a "cut-through" from Elliot Street to the adjacent retail plaza. The speed bump was proposed to discourage this from continuing and to help reduce speed of travel within the parking lot. However, with valet operations taking place in the parking field for the site and with valet operations frequently using the internal site connection to reach the parking field behind the building, it is unlikely that people will continue to use the site as a "cut-through" to the adjacent retail plaza. Therefore, a speed bump is no longer proposed on driveway between the two sites, and the parking space on the northeast corner of the plan will not be blocked by a speed bump. Once operational, the City and the Proponent may monitor the internal connection to determine if a speed bump is required at that time.

Comment 16 *The site plan does not show a loading zone. This should be clearly identified on the site plan to identify any potential conflicts.*

Response 16 All loading for the Site will occur behind the building and will occur at off-peak hours. The updated Site Plan identifies the loading zone.

Additional Mitigation

Comment 17 *Green recommends eliminating the curb-cut on Elliot Street and within the project site to the adjacent Site Driveway. There are 5 curb cuts along the 250 feet between the Site Driveway and the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street. This disrupts pedestrian accommodations and creates a hazard along Elliot Street between vehicles entering and exiting adjacent driveways simultaneously. The curb-cut within the site encourages drivers to use the project Site Driveway to access the adjacent plaza. Given the limited space within the Site for the proposed use, we recommend eliminating this curb-cut to reduce the amount of traffic circulating through the site and prevent the need for a speed-bump that restricts access to one of the parking stalls.*

Response 17 As previously discussed, the Proponent does not control the adjacent site driveway to the 978 Boylston Street property and therefore cannot close or combine the two site driveways. In addition, the internal curb-cut is necessary to access the parking spaces behind the building which will be used for valet operations. A speed bump is no longer proposed on the driveway between the two sites and therefore access to one of the parking stalls is no longer restricted.

Comment 18 *The project will be increasing the Elliot Street northbound right-turning movement by approximately 10%, which exacerbates the existing weave condition with Ramsdell Street and vehicles entering the adjacent retail plaza. This location was identified as an HSIP-eligible location, indicating high incidences of crashes. The traffic study should evaluate this intersection and consider revising the geometry of the right-turn slip-lane to eliminate the weave with Ramsdell Street and the plaza driveway. This will also reflect the goals of the Newton 2040 Transportation Strategy of adjusting turning radii to minimize crossing distances and lower driving speeds.*

Response 18 The Elliot Street northbound right-turn movement at the intersection with Route 9 (Boylston Street) is under yield control. Route 9 (Boylston Street) consists of two eastbound travel lanes at this location, and Elliot Street merges into the eastbound travel lane. Approximately 100-feet from the Elliot Street northbound right-turn merge is a diverge to Ramsdell Street. There is no weave condition in this area. VHB does acknowledge the close spacing of the merge and diverge points, however the signal at Route 9 (Boylston Street) and Elliot Street/Woodward Street provides gaps in traffic to allow northbound right-turning vehicles to enter the traffic stream. In addition, the proposed project is expected to have a negligible effect on traffic operations at the intersection of Route 9 (Boylston Street) and Elliot Street/Woodward Street.

Regardless, the Proponent is providing the City with a one-time payment to identify and address safety concerns at the intersections of Route 9 (Boylston Street) at Elliot Street/Woodward Street and Route 9 (Boylston Street) at Ramsdell Street. The one-time payment can be used by the City of Newton to conduct an RSA at this location, which will identify potential safety issues and develop a list of potential recommendations to address the safety deficiencies, and to implement some of the short-term, low-cost improvements that come out of the RSA.

Comment 19 *Green recommends reducing the speed limit on Elliot Street southbound to 25mph to reflect the limited sight distance available for vehicles exiting the Site Driveway, as well as other access drives along Elliot Street.*

Response 19 The Proponent is not opposed to reducing the speed on Elliot Street, however since Elliot Street is a public roadway under City of Newton jurisdiction, a reduction to the posted speed limit would have to be implemented by the City. Based on the meeting held on March 12, 2019, between the Proponent, VHB, the City, and Green, it appears unlikely that the City or Newton will reduce the speed limit along Elliot Street.

Comment 20 *The intersection of Route 9 (Boylston Street) at Elliott Street/Woodward Street is currently experiencing an overall LOS F during the PM peak hour, and a LOS D during the Saturday peak hour, which is anticipated to degrade to a LOS E under no-build and build conditions. The proposed development will degrade the LOS for the westbound left-turn and the northbound approach during the PM peak hour. The applicant should evaluate signal timing modifications to improve the efficiency of the intersection.*

Response 20 As discussed previously, the Proponent is providing the City with a one-time payment (\$25,000) to identify and address safety concerns at the intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street and the adjacent intersection of Route 9 (Boylston Street) at Ramsdell Street. If desired by the City of Newton, one of the short-term, low-cost improvements that the payment is intended to cover may include signal timing modifications.

Comment 21 *The existing crosswalks at the intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street are deteriorating and no longer visible in some locations. This intersection provides pedestrian access from the nearby MBTA Green Line Stop to the proposed development. Green recommends restriping the crosswalks at the intersection to improve and highlight the pedestrian crossings.*

Response 21 As discussed previously, the Proponent is providing the City with a one-time payment to identify and address safety concerns at the intersection of Route 9 (Boylston Street) at Elliot Street/Woodward Street and the adjacent intersection of Route 9 (Boylston Street) at Ramsdell Street. If desired by the City of Newton, one of the short-term, low-cost improvements that the payment is intended to cover may include restriping the crosswalks at the intersection.

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 issuance of a final Certificate of Occupancy.
- (13) 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.
- (14) 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.
- (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.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #288-18 to allow a co-located registered medical marijuana dispensary (RMD) and the retail sale of recreational marijuana herein a Marijuana Retailer, to waive the transparency requirement of the Marijuana Retailer as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed Marijuana Retailer due to its location within the Business Use 2 zone. (§7.3.3.1)
2. The proposed Marijuana Retailer as developed and operated will not adversely affect the neighborhood given its proximity to the varied uses along the Boylston Street/Route 9 corridor and the petitioner's proposals to manage traffic and parking. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the site's proximity to regional roadways such as Boylston Street/Route 9. (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians due to the petitioner's upgrades to the site, including new sidewalks along the site's frontage and in the interior of the site. (§7.3.3.4)

With regard to special permits concerning the Marijuana Retailer on site, pursuant to §6.10.3.G:

5. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters. The Council finds a waiver of the 25% transparency requirement is appropriate given the structure's setback from Elliot Street and the narrow shape of the structure. (§6.10.3.G.1.c)

8. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
9. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)
10. 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. (§6.10.3.G.2.c)
11. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
12. The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
13. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
14. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Boylston Street/Route 9 corridor. (§6.10.3.G.2.g)

PETITION NUMBER: #41-19(2)

PETITIONER: Cypress Tree Management, Inc.

LOCATION: 24-26 Elliot Street, on land known as SBL 51, 25, 01, containing approximately 25, 320 square feet of land

OWNER: 24-26 Elliot Street Realty Trust, Alan Chow, Trustee

ADDRESS OF OWNER: P.O. Box 265
Brookline, MA 02446

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

EXPLANATORY NOTES: Special Permits per §7.3.3: to amend Council Order #288-18 that allowed a Registered Medical Marijuana Dispensary within five hundred feet of a school and that legalized the nonconformities of the rear parking facility; to allow a Marijuana Retailer (§4.4.1 and §6.10.3.D); and to waive the 25 percent transparency requirement (§6.10.3.F.15)

ZONING: Business Use 2 District

This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #41-19(2) are null and void.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. Existing Conditions Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated January 7, 2019.
 - b. Proposed Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated January 7, 2019, revised March 20, 2019.
 - c. Area Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated January 7, 2019.
 - d. Architectural Plans, signed and stamped by Jana Gooden Silsby, Registered Architect, dated May 3, 2018.
 - e. Proposed Landscape Plan, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, dated April 17, 2019.
 - f. Proposed Lighting Plan, prepared by G2 Collaborative Landscape Architecture, dated May 31, 2018.

2. The petitioner shall employ a police detail, subject to availability of such police details, on site from 3:45 p.m. to 7:45 p.m. Monday through Friday for 180 days from the commencement of operations. At the end of such term, or sooner if no longer required by the Newton Police Department, the Director of Planning and Development, in concert with the Transportation Division of Public Works and Newton Police Department, shall determine whether the term for the detail shall be extended or whether other changes shall be made to address queuing along Elliot Street.

Should the petitioner choose to commence operations of the Registered Medical Marijuana Dispensary (RMD) without the recreational sale of retail marijuana, the petitioner shall be required to employ a police detail under the parameters outlined above once the petitioner establishes the recreational sale of retail marijuana.

3. The petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. Given that the petitioner requires each patient/customer to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of patients arriving to and leaving from the site, to avoid patients waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate patient volume.

The petitioner may use reasonable flexibility to accommodate patients where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in patients' and patients' schedules affect the appointment schedule. The petitioner shall also accommodate those patients who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that patient.

Six months after commencement of operations for the Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional Services, the Director of Planning and Development and the Clerk of the Council requesting an appearance before the before the Land Use Committee to no longer require that all patients be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:

- Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and with Condition # 8 below.
- Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #7 below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the Marijuana Retailer, including the number of customers coming to the site during peak times and the petitioner's intent to no longer serve patients by appointment only.

The appearance before the Land Use Committee shall not be a public hearing, and the Committee shall not be required to take public testimony. Should the Committee continue to require that all visitors be served by appointment only, the petitioner shall require an amendment to this Special Permit/Site Plan Approval to remove this condition. Alternatively, should the Committee move that appointments are no longer required, the petitioner shall still be responsible for submitting a report to the Commissioner of Inspectional Services, the Director of Planning and Development, the Clerk of the Council at twelve months after commencement of operations in accordance with Condition #17 below.

4. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
5. There shall not be more than twenty (20) staff members, including valet attendants, on site at any one time.
6. The Petitioner shall update the sidewalks along the Elliot Street frontage and install a trench drain at the entrance to the site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
7. The Petitioner shall implement a Transportation Demand Management Plan to prevent employees from parking on site and to reduce vehicle trips to the site. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules in the immediate area, including a pedestrian wayfinding map, in a central location within the facility;
 - b. Participating in the City of Newton Bikeshare program. If the program is unsuccessful, the petitioner shall purchase no less than three bikes for employees to commute to and from work;
 - c. Providing a secure bicycle storage area on site;
 - d. Establishing an on-site car-pool, rideshare program with guaranteed ride home; and

- e. Subsidizing the cost of parking at satellite parking facilities and the cost of travel to and from such facilities.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the Marijuana Retailer, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

8. The Petitioner shall offer valet parking during all operating hours for the first 60 days of operations. At the end of such term, the Director of Planning and Development, in consultation with the Director of Transportation and the City of Newton Police Department, shall determine whether valet parking shall be continued during all operating hours or reduced to specific periods.
9. Prior to the issuance of a building permit for the project, the petitioner shall provide an Employee Parking Management Plan stating where employees will park off site and how they will travel to the site, to the Director of Planning and Development and the Commissioner of Public Works for review. Employee Parking and the Employee Parking plan shall be subject to the look-back provisions outlined in Condition #7 above and Condition #20 below.
10. Prior to the issuance of any building permit for the project, the petitioner shall make a payment to the City for \$25,000 to be used by the City to conduct Road Safety Audit (RSA) of the intersections of Boylston Street/Route 9 and Elliot Street as well as Boylston Street/Route 9 and Ramsdell Street.
11. Security lighting shall be in accordance with the standards imposed by the Department of Public Health. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
12. The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.
13. The granting of a special permit to allow a Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Massachusetts Department of Public Health and/or Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.
14. Snow shall not be stored on site.
15. Should the petitioner seek to extend the Marijuana Retailer authorized by this Order, including but not limited to, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.

16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
17. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
18. The petitioner shall maintain its registration with the Massachusetts Department of Public Health and/or Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
19. In order to provide information to the City regarding the operation of the Marijuana Retailer and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the Marijuana Retailer's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:
 - a. Within six (6) months and again at twelve (12) months of commencing operations of the Marijuana Retailer, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the Marijuana Retailer and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the Marijuana Retailer at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the Marijuana Retailer are warranted to address such public safety or security of the facility concerns.

20. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
21. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.

22. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved emergency response plan to the City of Newton Fire Department for review and approval.
23. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
24. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Made a payment to the City in accordance with Condition #10 above.
 - d. Received approval of the final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
25. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
 - d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #15.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - f. Received approval from the appropriate City Departments in accordance with Conditions #21, #22, and #23 above.
26. Notwithstanding the provisions of Condition #25 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the

building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.