



#288-18

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089

www.newtonma.gov

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 5, 2018
Land Use Action Date: August 14, 2018
City Council Action Date: August 20, 2018
90-Day Expiration Date: September 3, 2018

DATE: June 1, 2018

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 #288-18**, SPECIAL PERMIT/SITE PLAN APPROVAL to operate a Registered Marijuana Dispensary within 500 feet of a school, and to allow waivers to the parking requirements 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: §6.10.3, §6.10.3.D.1, §6.10.3.F.2, §4.1.3, §6.10.3.D.5, §7.8.2.C.2, §5.1.8.B.1, §5.1.8.B.2, §5.1.13, §5.1.8.C.1, §5.1.8.C.2, §5.1.9.A, §5.1.9.B, §5.1.10, §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 accessory parking facilities. The property is located in the Business 2 (BU-2) zone in Newton Highlands. The petitioner is seeking to establish a registered medical marijuana dispensary (RMD) on site. The Newton Zoning Ordinance (Ordinance) allows RMDs by special permit in the Business 2 zone with additional requirements and limitations on approval to “permit RMDs where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.” One of these additional criteria mandates that RMDs shall not be located within a 500-foot radius of a school; the subject property is located approximately 286 feet from a school located at 991-1001 Boylston Street. Therefore, the petitioner requires a special permit to establish an RMD within 500 feet of a school. Additionally, the petitioner is seeking special permits to waive certain requirements of parking facilities containing more than five stalls.

The Planning Department believes the petition meets several of the criteria pertaining to RMDs because the site is located in the Boylston Street/Route 9 Corridor which contains a number of zones and uses. Additionally, the petitioner is proposing to improve the site by refacing the façade and updating the parking facility at the front of the building. Although the subject property is located within 500 feet of a school, staff believes the subject property is adequately buffered by Boylston Street/Route 9 and the school’s population will not be adversely impacted. Staff suggests the petitioner consider bringing the stalls in the rear parking facility into conformance and provide better two-way access than currently exists. Additionally, staff suggests the petitioner consider increasing the amount of landscaping in front of the building.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

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

- The site is an appropriate location for the proposed RMD (§7.3.3.1).
- The proposed RMD 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).
- Literal compliance with the parking requirements is impractical due to the size of the lot, and that granting a parking waiver of two stalls would be in the public interest (§5.1.8.B.1, §5.1.8.B.2, §5.1.13, §5.1.8.C.1, §5.1.8.C.2, §5.1.9.A, §5.1.9.B, §5.1.105.1).

- The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
- The site is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance, that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.
- The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation.
- Traffic generated by client trips, employee trips, and deliveries to and from the RMD do not create a significant adverse impact on nearby uses.
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
- The building and site are accessible to persons with disabilities.
- The site is accessible to regional roadways and public transportation.
- The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.
- The RMD's hours of operation will have no significant adverse impact on nearby uses.

II. MEDICAL MARIJUANA BACKGROUND

On November 6, 2012, the voters of Massachusetts voted in favor of Ballot Question 3, "*An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana*", to permit the cultivation and sale of marijuana for medicinal use (**Attachment A**). The Massachusetts Department of Public Health (DPH) administers the regulations of RMDs state-wide, permitting is left to the cities and towns of the State. Council Order #309-12(4) identifies the zoning districts in which the RMD use would be allowed, allows the RMD use by special permit; and establishes the review criteria for the RMD use (**Attachment B**). RMDs are allowed by special permit in Business 2, Business 5, and Mixed Use 1 zoning districts only.

III. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

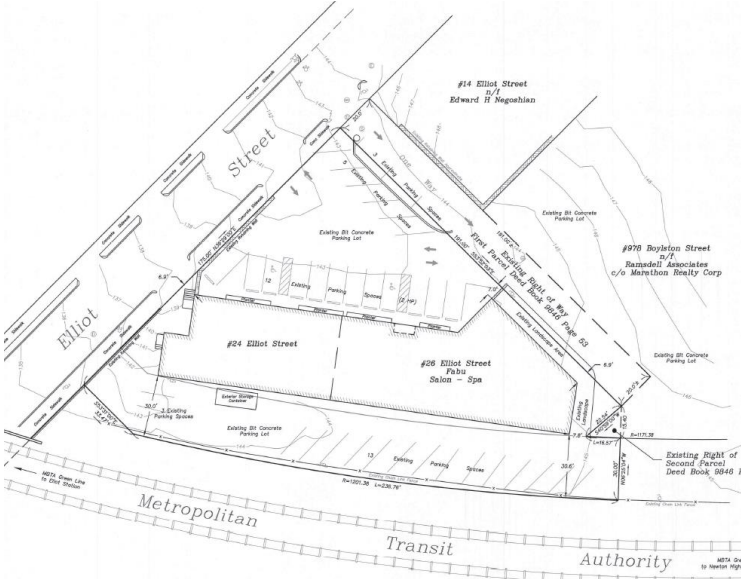
A. Neighborhood and Zoning

The site is located on Elliot Street in the BU-2 zone in Newton Highlands. The site contributes to the Boylston Street/Route 9 corridor, despite not fronting on Boylston Street/Route 9. The immediate area contains several zones including the Multi-Residence zones to the west, south, and 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 C**). These zones contain a vast number of land uses ranging from single and multi-family uses to the west and north, commercial uses to the east, and industrial uses to the south (**Attachment D**).

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 northeast 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



C. Structure

The Ordinance requires RMDs to conform to the dimensional standards of the zoning district in which they are to be located. The subject property is located in the BU-2 zone which requires a front setback equal to the average setback of the abutting buildings, with a maximum of ten feet. The existing structure was built in 1953 with a front setback from Elliot Street of 6.9 feet in the then Business B zoning district. The Business B district did not have a front setback requirement; therefore, the structure is legal nonconforming regarding front setback.

The Acting City Solicitor and Commissioner of Inspectional Services have interpreted this section of the Ordinance to apply to new structures, and alterations to existing nonconforming structures to be used for RMDs. The petitioner is not proposing alterations to the structure which would affect the nonconformity of the structure; therefore, this criterion is not applicable, and the petitioner does not require relief. For a complete analysis of this petition regarding zoning, please see the Zoning Review Memorandum, dated May 8, 2018 (**Attachment E**).

IV. 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 an RMD use and either a service or retail use.

B. Operations

The petitioner has applied for a provisional license from DPH to locate at subject property. The petitioner intends to sell medical marijuana, medical marijuana-infused products, and vaporizers (device for smoking). The medical marijuana will be grown off-site at a cultivation facility and will be delivered to the site two to three times per week. Deliveries will be made to the rear of the building via a secure entrance. The cultivation facility, which will be regulated by DPH, may also distribute the product directly to patient's homes after their initial consultation.

The petitioner will operate the RMD within the framework established by DPH which requires patients to receive a prescription from a certified physician and to register with DPH before making an appointment with an RMD. Patients are required to book an initial consultation on site, then they may only arrive on site once every two months for additional medication. Alternatively, patients may choose to have the medication delivered directly to their homes. The petitioner states patients will not have to book an appointment before visiting the RMD.

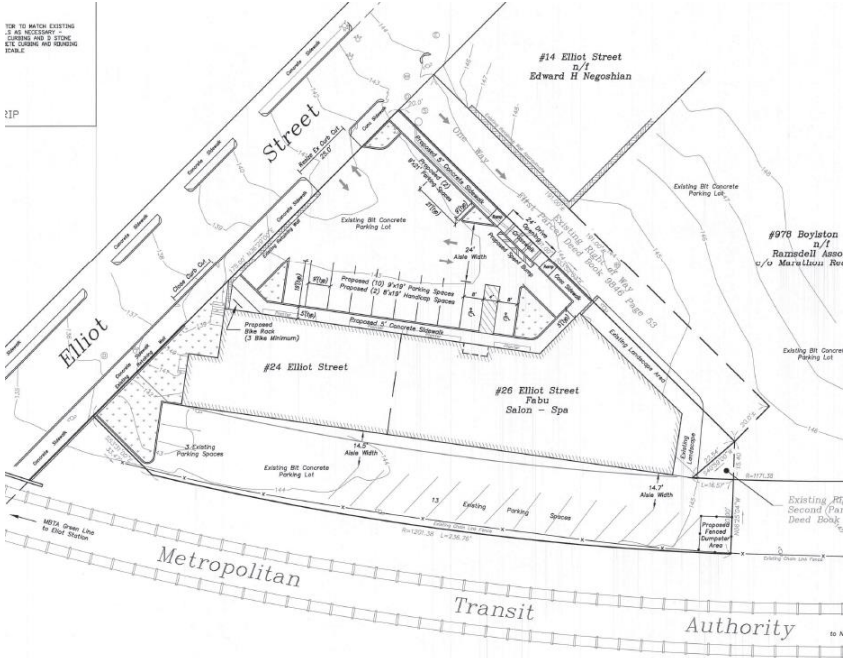
The petitioner is proposing to employ nine staff members during the largest shift to serve 150 patients a day. Employees will consist of a receptionist who will allow patients into the dispensary, patient service advisors who will assist with questions regarding the medication, and fulfillment assistants who will bag the medication. The petitioner is seeking to operate from 9:00 a.m. to 9:00 p.m. Monday through Saturday, and 12:00 p.m. to 6:00 p.m. on Sunday.

C. Site Design

The petitioner is proposing to improve the parking facility at the front of the site. The area will be restriped to include 12 conforming parking stalls, two of which are handicap stalls. The petitioner is also proposing to increase the amount of interior landscaping and provide a five-foot wide concrete sidewalk along the front of the building and along the shared passageway at the north and west boundaries, enhancing the pedestrian safety and circulation within the site. The curb cut at the western portion of the site will be closed and replaced with granite curbing and a concrete sidewalk to match the existing sidewalk. Closing this curb cut allows for the western portion of the site to be landscaped. The curb cut at the northeast corner of the site will be reduced to approximately 25 feet wide. Staff will consult with the Engineering and Transportation Divisions to explore whether the curb cut can be reduced further.

The petitioner is also formalizing a condition which allows vehicles to access and exit the subject property from the adjacent parcels to the east. The petitioner is proposing to install a speed bump and curbing as speed calming measures. Staff is supportive of these improvements because they will require drivers to slow down, thereby increasing safety. The petitioner is not proposing to upgrade the parking facility at the rear of the site, instead opting to dedicate this parking area to employees, and possibly use this space for valet parking in the future, if needed. Staff suggests the petitioner explore bringing the stalls into conformance and providing better two-way access than currently exists.

Proposed Site Plan



D. Building Design

The petitioner is proposing minor changes to the exterior of the building. The front facade will be treated with simulated wood to reduce transparency into the RMD. The petitioner is not proposing to alter the façade of the building where the retail or service use will operate. As for the interior, the petitioner is proposing to create a vestibule for building security to identify patients before they are allowed access into the dispensary.

E. Parking

The site has 36 existing surface parking stalls split between the front and back 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 is proposing to restripe the parking stalls in front of the building to create ten conforming stalls and two handicap stalls. Staff is supportive of these changes but questions the practicality of the two parallel stalls at the northeast corner of the site as well as the stalls at the westernmost portion of the site.

The previous uses of the site required 58 parking stalls which is greater than the 32 parking stalls required by the RMD use and the retail/service use; therefore, the

parking requirement is satisfied. Staff believes the petitioner can further design the parking at the front of the building to remove these impractical stalls to increase landscaping, bring the stalls in the rear parking facility into conformance, and provide better two-way access at the rear of the building because of this credit.

F. Landscaping

The petitioner is proposing to install three shade trees with shrubbery and ground cover at the western portion of the site. Three flowering trees and groundcover will be installed within the parking lot and the existing landscaped area at the eastern portion of the structure will be updated with inkberry plants. The Planning Department suggests the petitioner consider installing additional plantings to further screen the site regarding the comments above regarding impractical parking stalls.

Proposed Landscape Plan



G. 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 photometric plan submitted by the petitioner indicates the rear of the parking facility will be lighted below the 1-foot candle requirement. Staff suggests the petitioner explain how security goals can be achieved with this level of lighting.

V. REGISTERED MEDICAL MARIJUANA DISPENSARY MINIMUM CRITERIA AND LIMITATIONS ON APPROVAL

A. Location

Council Order #309-12(4) mandates that an RMD shall not be located within a 500-foot radius of a school, daycare center, preschool or afterschool facility or any facility in which children or minors congregate, or from a house of worship or religious use, or a lesser distance if the Council deems it appropriately buffered. The petitioner submitted an area map which indicates the subject property is located approximately 286 feet south from a Spanish Immersion School at 991-1001 Boylston Street (**Attachment F**).

The Spanish Immersion School educates children between the ages of two and five years old. It appears the school educates its students entirely within the building. The Planning Department believes the subject property is buffered from the school by Boylston Street/Route 9 and believes the school's population will not be affected by presence of the RMD.

B. Service Area

The petitioner states the service area for the RMD includes residents from Wellesley, Weston, Needham, and the south side of Newton for a total of 99, 131 people. The petitioner assumes 2% of these residents will obtain a medical patient card, which results in a patient base of 1, 983. The petitioner states there are four existing RMDs within five miles of the subject property.

C. Traffic

The petitioner submitted an analysis from a certified engineer to model the origin and frequency of trips to the site, the expected modes of transportation used by patients and employees, and the frequency and scale of deliveries (**Attachment G**). The analysis indicates the proposed project is expected to generate approximately 32 new vehicle trips (14 entering/18 exiting) during the weekday evening peak hour and approximately 2 new vehicle trips (4 entering/-2 exiting) during the Saturday mid-day peak hour. Additionally, the memorandum indicates most of the new trips would utilize Boylston Street/Route 9 therefore not impacting the local road network. The analysis did not model deliveries to the site, but staff believes the deliveries will not significantly affect the number of trips to and from the site.

D. Accessibility

The building and lot on which an RMD is located is required to be handicap accessible. The petitioner is proposing to stripe two handicap stalls at the front of

the building eight feet wide with a shared access aisle measuring four feet wide. The Massachusetts Architectural Access Board (MAAB) requires the shared aisle to be five feet wide for handicap stalls. However, due to the number of stalls proposed, the petitioner is required to provide one van-accessible handicap stall which requires an eight-foot wide drive aisle. Staff recommends the petitioner amend the plans to include two handicap stalls with a shared drive aisle measuring eight feet. The plans do not indicate the slope of the sidewalk in front of the entrance nor the entrances and exits from the building regarding accessibility. Staff suggests the petitioner update the plans to provide these details or provide a signed and stamped code analysis from an architect stating the building will be handicap accessible.

E. Signage

The Ordinance prohibits graphics, symbols, or images of marijuana or related paraphernalia from being displayed or clearly visible from the exterior of an RMD. The submitted plans indicate the petitioner is only proposing a sign band displaying the name of the RMD. The petitioner did not request relief from the requirements of the Ordinance regarding the size, number, or type of signs. Therefore, it is expected the signage will be as of right and will be submitted to the Urban Design Commission (UDC) for review and approval.

VI. 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:

- §6.10.3 and §7.3.3 of Section 30, to allow a registered medical marijuana dispensary
- §6.10.3.D.1, §6.10.3.F.2 and §7.3.3 of Section 30, to allow an RMD to locate within 500 feet of a school
- §5.1.8.B.1, §5.1.8.B.2, and §5.1.13 of Section 30, to waive the minimum stall dimensions
- §5.1.8.C.1, §5.1.8.C.2, and §5.1.13 of Section 30, to waive the minimum aisle width for two-way traffic
- §5.1.9.A, and §5.1.13 of Section 30, to waive the perimeter screening requirements
- §5.1.9.B, and §5.1.13 of Section 30, to waive the interior landscaping requirements

- §5.1.10, and §5.1.13 of Section 30, to waive the lighting requirements

B. Engineering Review

Associate City Engineer, John, Daghlian, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment H**). Mr. Daghlian suggests the petitioner install a trench drain across the driveway opening to increase stormwater management on site. Additionally, Mr. Daghlian suggests the petitioner update the sidewalks along the Elliot Street frontage to MAAB standards.

VII. 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:** RMD Statute
- Attachment B:** Council Order #309-12(4)
- Attachment C:** Zoning Map
- Attachment D:** Land Use Map
- Attachment E:** Zoning Review Memorandum, dated May 8, 2018
- Attachment F:** Area Plan
- Attachment G:** Traffic Analysis, dated May 8, 2018
- Attachment H:** Engineering Review, dated May 30, 2018



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

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

Section 1. Purpose and Intent.

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

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

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

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

(C) "Debilitating medical condition" shall mean:

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

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

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

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

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

(H) "Medical marijuana treatment center" shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Protection Against Forfeiture and Arrest

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

Section 7. Limitations of Law

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

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

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

Section 9. Registration of nonprofit medical marijuana treatment centers.

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

(b) An application, including:

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

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

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

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

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

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

Section 10. Registration of medical treatment center dispensary agents.

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

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

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

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

Section 11. Hardship Cultivation Registrations.

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

Section 12. Medical marijuana registration cards for qualifying patients and designated caregivers.

(A) A qualifying patient may apply to the department for a medical marijuana registration card by submitting

1. Written certification from a physician.

2. An application, including:

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

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

Section 13. Department implementation of Regulations and Fees.

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

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

Section 14. Penalties for Fraudulent Acts.

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

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

Section 15. Confidentiality

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

Section 16. Effective Date.

This law shall be effective January 1, 2013.

Section 17. Severability.

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

CITY OF NEWTON
IN BOARD OF ALDERMEN

ORDINANCE NO. A-35

December 2, 2013

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

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

Add the following new section:

Sec. 30-36. Registered Marijuana Dispensaries.

(a) *Purpose.* The purpose of this section is to provide for the limited establishment of registered marijuana dispensaries ("RMD") within the City as they are authorized pursuant to state regulations set forth in 104 CMR 725.000. Since RMDs are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMDs where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

(b) *RMD uses not allowed as-of-right.* RMD uses are not included within the definition of retail sales or services, agriculture, or any other lawful business permitted as of right or by special permit as provided in Chapter 30.

(c) *RMD uses allowed by special permit.* Use of land, buildings or structures for RMDs shall be allowed only by special permit pursuant to section 30-24 in the following districts, subject to the requirements and criteria of this section: Business 2; Business 5; and Mixed Use 1.

(d) *Minimum criteria and limitations on approval.*

(1) An RMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, but may be located within a lesser distance if the board of aldermen finds that the RMD is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD to the nearest property line of the facility.

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

(3) A special permit granted by the board of aldermen authorizing the establishment of an RMD shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the RMD has been authorized by the special permit. If the registration for the RMD is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

(4) An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

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

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

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

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

(e) *Special permit application and procedure*

The procedural and application requirements of section 30-24 shall apply. In addition to the procedural and application requirements of section 30-24(a), (b) and (c), an application for special permit shall include, at a minimum, the following information:

- (1) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
 - (2) *Service Area:* A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMDs exist or have been proposed within the expected service area.
 - (3) *Transportation Analysis:* A quantitative analysis, prepared by a qualified transportation specialist acceptable to the director of planning and development and the director of transportation, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
 - (4) *Context Map:* A map depicting all properties and land uses within a minimum one thousand (1,000) foot radius of the proposed site, whether such uses are located in Newton or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in section 30-36 (d)(1).
 - (5) *Registration Materials:* Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to that department for the purpose of seeking registration, to confirm that all information provided to the board of aldermen is consistent with that provided to the Massachusetts Department of Public Health.
- (f) *Special Permit Criteria.* In granting a special permit for a Registered Marijuana Dispensary, in addition to finding that the general criteria for issuance of a special permit as set forth in section 30-24(d) of this ordinance are met, the board of aldermen shall find that the following criteria are met:
- (1) The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
 - (2) The site is located at least five hundred (500) feet distant from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance if the board of aldermen finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.

(3) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation.

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

(5) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

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

(7) The building and site are accessible to persons with disabilities.

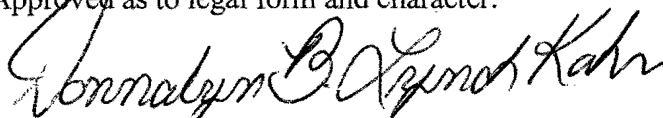
(8) The site is accessible to regional roadways and public transportation.

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

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

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

Approved as to legal form and character:

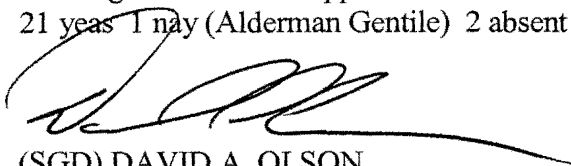


DONNALYN B. LYNCH KAHN
City Solicitor

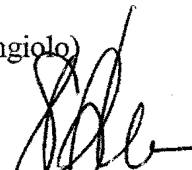
Under Suspension of Rules

Readings Waived and Approved

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



(SGD) DAVID A. OLSON
City Clerk



(SGD) SETTI D. WARREN
Mayor

Date: 12/16/13

Attachment C Zoning Map Elliot St., 24-26

*City of Newton,
Massachusetts*



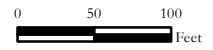
Legend

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



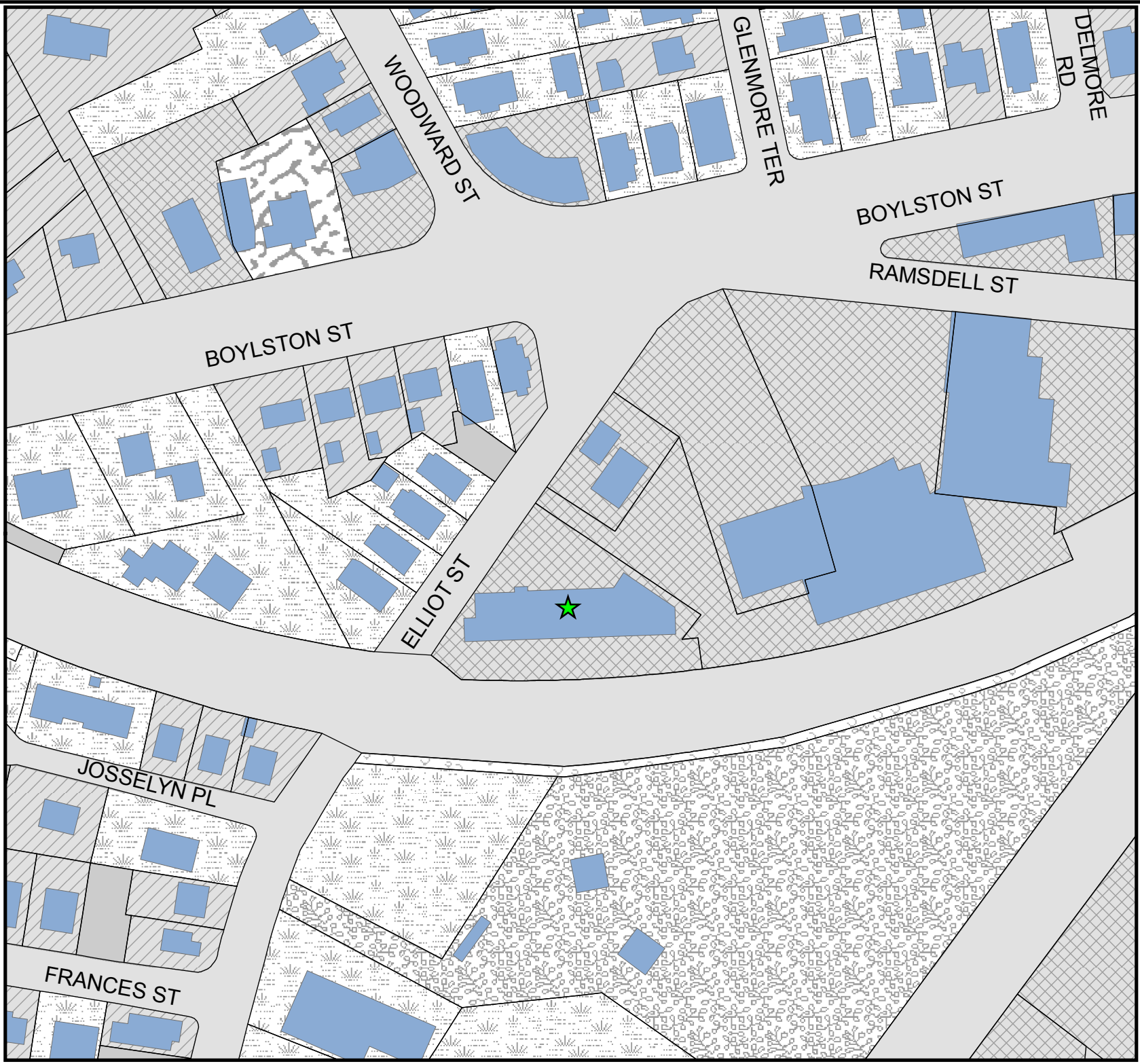
The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Attachment D Land Use Map Elliot St., 24-26

*City of Newton,
Massachusetts*



Legend

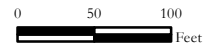
Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Open Space
- Nonprofit Organizations
- Vacant Land
- 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





Ruthanne Fuller
Mayor

Attachment E

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: May 8, 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
Cypress Tree Management, Petitioner
Stephen J Buchbinder, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to operate a medical marijuana dispensary

Petitioner: Cypress Tree Management	
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

BACKGROUND:

The property at 24-26 Elliot Street consists of a 25,320 square foot lot improved with a one-story 7,585 square foot building constructed in 1953 currently occupied by a hair salon which will relocate and a former restaurant which recently closed. The petitioner proposes 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 will construct an entry vestibule which would separate the dispensary from the other two uses.

The petitioner is seeking a special permit to operate a medical marijuana dispensary per Section 6.10.3, and associated parking waivers.

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

- Zoning Review Application, prepared by Stephen J Buchbinder, attorney, dated 3/19/2018
- Existing Conditions Plan, signed and stamped by Verne T. Porter, dated 2/14/2018, revised 5/1/2018
- Proposed Conditions Plan, signed and stamped by Verne T. Porter, dated 2/14/2018, revised 5/1/2018
- Parking Calculation
- Floor Plan, prepared by Perkins-Eastman, dated 2/16/2018, revised 5/3/2018

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner is proposing to use the site as a medical marijuana facility. This use requires a special permit from the City Council per Section 6.10.3.B and 6.10.3.C of the Newton Zoning Ordinance.
2. Per Sections 6.10.3.D.1 and 6.10.3.F.2 a registered marijuana dispensary (RMD) shall not be located within a radius of 500 feet from a school, daycare center, preschool or afterschool facility or any facility in which children or minors congregate, or from a house of worship or religious use, or a lesser distance if the Council deems it appropriately buffered. The proposed property is within 300 feet of a Spanish immersion school, which is located across Boylston Street, and requires a waiver from this provision.
3. Section 6.10.3.D.2 requires that a petitioner for a registered marijuana dispensary (RMD) must be properly registered with the Massachusetts Department of Public Health (DPH) pursuant to 105 CMR 725.100. The petitioner has submitted an application for a license from DPH.
4. Section 6.10.3.D.3 requires that any special permit authorizing the establishment of an RMD is valid for only the registered entity to which it was issued, and only for the lot on which it has been authorized.
5. Per section 6.10.3.D.4, an RMD must be located in a permanent building and not within a mobile facility. All sales must be either within the building or by home delivery. The petitioner will dispense its products at the proposed site, and will make home delivery available to its established customers.
6. Section 6.10.3.D.5 requires that an RMD conform to the dimensional requirements applicable to the zoning district in which it is located. The building was built by building permit in 1953 in what was then the Business B zoning district, which had no front or side setback requirements. The current dimensional requirements found in section 4.1.3 state that a building must meet a front setback equal to the average setback of the buildings on either side up to a maximum of 10 feet. The structure has an existing legally nonconforming front setback of 6.9 feet.

Section 4.1.3 requires a side setback of half the building height, or equal to the abutting side yard setback. The adjacent parcel at 978 Boylston Street is U-shaped, with one large building spanning between the lot and the 980 Boylston Street parcel. The building at 978 Boylston Street is located directly on the side lot line, with a zero setback. The petitioner's building is located 6.9 feet from the side lot line, meeting the setback requirement.

The Acting City Solicitor and the Commissioner of Inspectional Services have interpreted section 6.10.3.D.5 to apply to new structures, and alterations and additions to existing nonconforming structures to be used for RMDs. The building is legally nonconforming with regard to the front setback, and meets all other dimensional requirements.

7. Section 6.10.3.D.6 states that an RMD is subject to the parking requirements of 5.1.4, which requires one stall for every 300 square feet, 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 dispensary, 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 31 parking stalls. The petitioner is proposing to reconfigure the existing parking area with 30 parking stalls.

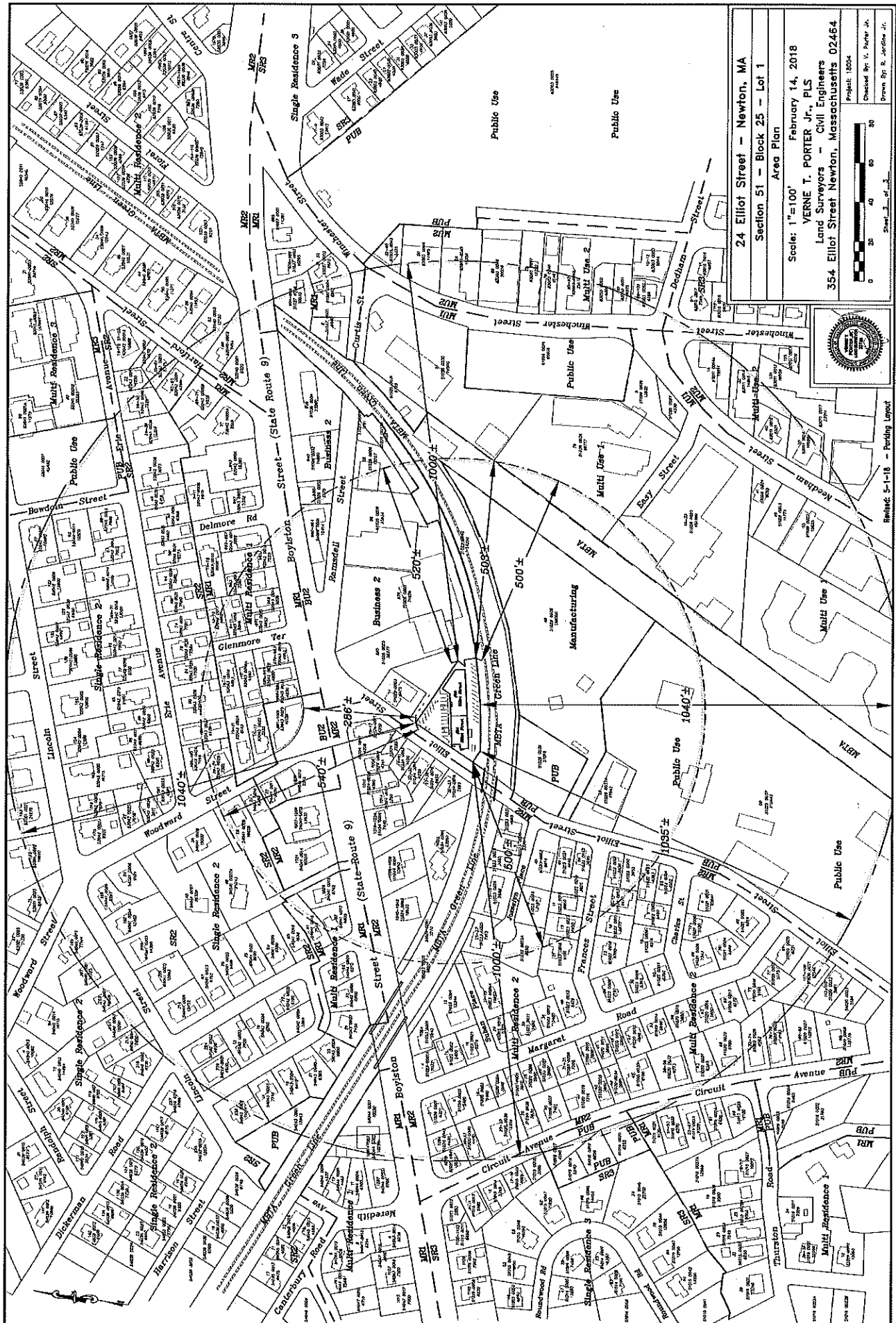
The previous uses on the site included a 102-seat restaurant and a 5,100 square foot hair salon. The two uses had a combined parking requirement of 58 parking stalls. As stated, the proposed uses have a parking requirement of 30 stalls. The proposed parking demand is less intense than that which was required for the previous uses on the site, creating a "credit" of 28 stalls. No waiver for the number of parking stalls is required.

8. Any signage proposed by the petitioner must conform to the requirements of 105 CMR 725.105(L) and to section 6.10.3.D.7 of the Newton Zoning Ordinance.
9. Sections 6.10.3.D.8 require that the RMD's hours of operation have no significant adverse impacts on nearby uses. 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.
10. Sections 6.10.3.E.2 and 6.10.3.F.1 require that an RMD must be located to serve an area that currently does not have reasonable access to medical marijuana or an area established by DPH as requiring supplemental service as well as the anticipated number of clients the proposed dispensary will serve. An RMD has been permitted and is operating at 697 Washington Street in Newtonville. No information regarding the intended service area was provided as part of this application.
11. Per sections 6.10.3.E.3 and 6.10.3.F.3 the site must be designed so as to provide convenient, safe and secure access and egress for clients and employees utilizing all modes of transportation. The petitioner proposes to reconfigure the existing parking lot to provide 30 stalls. The petitioner intends to provide a transportation analysis conducted by VHB as part of its special permit application.
12. The petitioner has hired VHB to perform a transportation study, per section 6.10.3.F.4 to determine the impact of traffic generated by client trips, employee trips and deliveries to and from the site.
13. Per section 6.10.3.F.5 loading, refuse and service areas must be designed to be secure and shielded from abutting uses. The petitioner must design the site with these criteria in mind.
14. Section 6.10.3.F.6 requires the building and site to be compatible with the neighborhood, and to mitigate any negative aesthetic impacts due to security measures. The proposed site is an existing building requiring mainly interior modifications to comply with required security.
15. The building and site must be fully accessible to persons with disabilities, per section 6.10.3.F.7.

16. The site must be fully accessible to regional roadways and public transportation, per section 6.10.3.F.8.
17. Section 6.10.3.F.9 requires that the site be located where it may be readily monitored by law enforcement and other code enforcement personnel.
18. Per section 6.10.3.F.10, the RMD's hours of operation can have no significant adverse impacts on nearby uses.
19. 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.
20. 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.
21. 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.
22. 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 30 parking stalls on the property are divided with 14 at the front of the building, and 16 at the rear. The proposed plans do not indicate any interior landscaping. 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.
23. 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.

24. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§6.10.3	To allow a registered medical marijuana dispensary	S.P. per §7.3.3
§6.10.3.D.1 §6.10.3.F.2	To allow an RMD to locate within 500 feet of a school	S.P. per §7.3.3
§6.10.3.D.5 §4.1.3 §7.8.2.C.2	To allow an RMD in a nonconforming structure	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



24 Elliot Street - Newton, MA
 Section 51 - Block 25 - Lot 1
 Area Plan

Scale: 1"=100' February 14, 2018
 VERNE T. PORTER JR., PLS
 Land Surveyors - Civil Engineers
 354 Elliot Street Newton, Massachusetts 02464

Project: 1804
 Checked By: V. Porter, Jr.
 Drawn By: R. Jardine, Jr.



Revised 5-1-18 - Parking Layout



Memorandum

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

Date: May 8, 2018

Project #: 14158.00

From: Randall C. Hart, Principal

Matthew Duranleau, EIT

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

VHB, Inc. has prepared a traffic memorandum to support the proposed redevelopment of 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 medical marijuana dispensary and retail space. The specific retail tenants that will occupy the space are unknown at this time. To improve the access, circulation, and parking onsite, modification to the site are part of the redevelopment proposal.

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 medical marijuana dispensary will occupy approximately 4,360 sf of the reconfigured building and adjacent retail space of approximately 3,421 sf.

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, a total of 30 parking spaces will be provided.

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.

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. The average daily traffic volume data are summarized below in Table 1 and included in the Attachments to this document.

Table 1 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	705	7.9%	NB 83%	780	8.7%	NB 58%	6,200	540	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.

- 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 705 vehicles during the weekday morning peak period and approximately 780 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 540 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 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 2018 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 2011 to 2015. 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. 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.

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 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 0.70 for signalized intersection and 0.53 for unsignalized intersections. These rates imply that, on average, 0.70 accidents occurred per million vehicles entering signalized intersections throughout District 6 and 0.53 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.

Table 2 Vehicular Crash Data (2011-2015)

	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	0.70	0.53	0.53
Calculated Crash Rate	0.47	0.00	0.39
Exceeds Average?	No	No	No
Year			
2011	7	0	2
2012	10	0	2
2013	10	0	0
2014	15	0	2
<u>2015</u>	<u>9</u>	<u>0</u>	<u>0</u>
Total	51	0	6
Collision Type			
Angle	15	0	1
Head-On	0	0	2
Rear-End	27	0	0
Rear-to-Rear	0	0	1
Sideswipe, opposite direction	2	0	0
Sideswipe, same direction	2	0	0
Single Vehicle Crash	5	0	1
Unknown	0	0	1
Severity			
Fatal Injury	0	0	0
Non-Fatal Injury	19	0	2
Property Damage Only	29	0	2
Not Reported	3	0	2
Time of day			
Weekday, 7:00 AM - 9:00 AM	4	0	1
Weekday, 4:00 - 6:00 PM	6	0	0
Saturday, 11:00 AM - 2:00 PM	0	0	0
Weekday, other time	27	0	4
Weekend, other time	14	0	1
Pavement Conditions			
Dry	43	0	6
Wet	7	0	0
Snow	1	0	0
Not Reported	0	0	0
Non-Motorist (Bike, Pedestrian)	5	0	0

Source: Crash data was obtained from MassDOT Crash Portal, accessed February 2018.

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 51 reported crashes over the five-year period and the intersection of Elliot Street at Site driveway experienced six reported crashes over the five-year period. The majority of crashes in the study area were angle and rear-end 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.

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.

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 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 (2025) 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 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 2025 No-Build traffic volumes were generated by consideration of the above described factors. Figure 4 illustrates the resulting 2025 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 medical marijuana dispensary and adjacent retail. VHB used empirical traffic data 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 4,360 sf medical marijuana dispensing facility as well as approximately 3,421 sf of retail. Since medical marijuana dispensary is a relatively new land use, standardized traffic generation information for these facilities is not available from typical sources such as the ITE's Trip Generation Manual. Therefore, the trip generation was estimated based on empirical traffic data that was collected at three similar facilities in eastern Massachusetts. The three facilities that were counted are identified below:

- Compassionate Care located at 31 Central Street, Ayer, Massachusetts
- Ermont Inc. located at 216 Ricciuti Avenue, Quincy, Massachusetts
- In Good Health located at 1200 West Chestnut Street, Brockton, Massachusetts

Traffic activity at each facility was collected on Friday December 16, 2016 and Saturday December 17, 2016 during the critical weekday evening peak commuter period (4:00 PM to 6:00 PM) and during the Saturday midday peak period (11:30 AM to 1:15 PM). The average traffic activity for the three facilities was determined for the weekday afternoon and Saturday midday peak hours and was used to estimate the number of new trips that will be generated by the medical marijuana dispensary portion of the Project.

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

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

oriented businesses. Although exact tenants have not yet been secured, these are not expected to be large 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 4. The empirical traffic data collected and the trip generation worksheets are presented in the Attachments to this memorandum.

Table 4 Unadjusted Proposed Trip Generation Summary

Time Period	Movement	Proposed Dispensary Trips ^a	Proposed Retail Trips ^b	Total Vehicle Trips
Weekday Evening	Enter	17	21	38
Peak Hour	Exit	18	23	41
	Total	35	44	79
Saturday Midday	Enter	16	22	38
Peak Hour	Exit	15	21	36
	Total	31	43	74

^a Based on an average of empirical traffic counts collected at three facilities, Ayer/Quincy/Brockton
^a Based on ITE land use code 820 (Shopping Center) for 3,421 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 5 and the trip generation worksheets are included in the Attachments to this memorandum.

Table 5 Unadjusted Existing Trip Generation Summary

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

a 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 6 summarizes the net new Project-generated trips.

Table 6 Net New Trip Generation Summary

Time Period	Movement	Unadjusted Proposed Trips	Pass-By ^a	New Proposed Trips	Unadjusted Existing Trips	Pass-By ^b	Existing Trips	Net New Trips
Weekday Evening	Enter	38	7	31	25	8	17	14
Peak Hour	Exit	<u>41</u>	<u>7</u>	<u>34</u>	<u>24</u>	<u>8</u>	<u>16</u>	<u>18</u>
	Total	79	14	65	49	16	33	32
Saturday Midday	Enter	38	6	32	38	10	28	4
Peak Hour	Exit	<u>36</u>	<u>6</u>	<u>30</u>	<u>42</u>	<u>10</u>	<u>32</u>	<u>-2</u>
	Total	74	12	62	80	20	60	2

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 6, the proposed project is expected to result in approximately 32 vehicle trips (14 entering/18 exiting) during the weekday evening peak hour and approximately 2 vehicle trips (4 entering/-2 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.

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 7 and illustrated in Figure 5.

Table 7 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 7 and added to the 2025 No-Build peak hour traffic volume networks to develop the 2025 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 2025 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 there will be 30 parking spaces for the proposed medical marijuana dispensary and retail facilities. Local parking requirements under zoning were reviewed as part of the site plan package development. The details are on the site plan and generally suggest the following:

- Marijuana Dispensary (4,360 sf) would require 18 parking stalls
- Retail Establishments (3,421 sf) would require 14 parking stalls
- Total Required would be 32 parking stalls
- Former Uses Required 58 so that use was 22 short of the requirement; proposed project is only 2 spaces short of requirement

Traffic Operations Analysis

To assess quality of flow, intersection capacity analyses were conducted with respect to 2018 Existing, 2025 No-Build, and 2025 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.

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 2018 Existing, 2025 No-Build, and 2025 Build conditions for the study area intersections. Tables 8 and 9 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 8 Signalized Intersection Capacity Analysis

Location / Movement	2018 Existing Conditions					2025 No-Build Conditions					2025 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	112	F	~1296	#1900	1.19	>120	F	~1310	#1948	1.19	>120	F	~1316	#1955
WB L	0.78	60	E	136	#340	0.84	67	E	168	#421	0.85	69	E	173	#435
WB T/R	1.00	46	D	1000	#1800	1.09	77	E	~1354	#2073	1.09	77	E	~1354	#2073
NB L	0.48	66	E	53	74	0.45	65	E	48	82	0.50	67	E	54	89
NB T	0.42	56	E	125	157	0.36	55	D	106	165	0.36	55	D	106	165
NB R	0.77	24	C	57	102	0.67	15	B	13	130	0.68	15	B	13	131
SB L	>1.20	>120	F	~280	#566	>1.20	>120	F	~282	#577	>1.20	>120	F	~282	#577
SB T/R	0.84	84	F	207	#448	0.84	85	F	205	#453	0.84	85	F	205	#453
Overall		79	E				95	F				95	F		
<i>Saturday Midday</i>															
EB L	0.63	46	D	65	175	0.65	49	D	69	179	0.65	49	D	70	179
EB T/R	0.78	28	C	527	#1103	0.82	31	C	573	#1140	0.82	31	C	582	#1140
WB L	0.73	50	D	116	#332	0.79	60	E	153	#413	0.80	61	E	155	#413
WB T/R	1.04	58	E	960	#1915	1.12	90	F	~1283	#2111	1.13	92	F	~1298	#2111
NB L	0.50	66	E	57	97	0.55	69	E	67	108	0.54	68	E	67	108
NB T	0.39	56	E	87	142	0.38	56	E	92	146	0.38	56	E	92	146
NB R	0.59	15	B	0	83	0.59	14	B	0	88	0.59	14	B	0	88
SB L	0.69	87	F	83	176	0.68	84	F	89	186	0.67	83	F	89	186
SB T/R	0.77	78	E	124	245	0.75	76	F	132	#261	0.74	75	E	132	#261
Overall		47	D				64	E				65	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 8, 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 2025 No Build conditions and the 2025 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 deteriorate between the 2018 Existing conditions and the 2025 No Build conditions from LOS E to LOS F during the weekday evening peak hour and from LOS D to LOS E during the Saturday midday peak hour. The expected additional Site-generated traffic in the 2025 Build conditions is expected to have a negligible effect on queue lengths on each approach.

Table 9 Unsignalized Intersection Capacity Analysis

Location / Movement	2018 Existing Conditions					2025 No-Build Conditions					2025 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	11	B	0
SB L	15	0.02	9	A	3	15	0.02	8	A	0	15	0.02	8	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	70	0.19	16	C	18
SB L	20	0.02	9	A	3	40	0.04	8	A	3	55	0.05	8	A	5
<i>Saturday Midday</i>															
WB L/R	50	0.12	14	B	10	75	0.17	14	B	15	70	0.17	14	B	15
SB L	25	0.02	8	A	3	50	0.04	8	A	3	50	0.05	8	A	3

- 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.
- # 95th percentile volume exceeds capacity, queue may be longer.

As shown in Table 9, the two driveways are expected to operate at LOS C or better under the 2018 existing conditions, 2025 No Build conditions, and 2025 Build conditions. The 95th percentile queues on each driveway approach are expected to be less than one car length under all three conditions.

Conclusion

VHB has conducted a traffic assessment to support the proposed redevelopment of 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 medical marijuana dispensary and retail space. The specific retail tenants that will occupy the space are unknown at this time.

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 30 parking spaces will be available under the future redevelopment plan.

The proposed Project is expected to generate approximately 32 new vehicle trips (14 entering/18 exiting) during the weekday evening peak hour and approximately 2 new vehicle trips (4 entering/-2 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.

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit ~ 24 - 26 Elliot Street

Date: May 30, 2018

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Neil Cronin, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*24 Elliot Street
Proposed Site Plan
Prepared by Verne T. Porter, Jr. PLS
Dated February 14, 2018*

Executive Summary:

The existing site is a former restaurant & commercial establishment, the site is entirely all impervious and has no stormwater controls, the runoff from the site essentially sheet flows uncontrolled to Elliot Street and into the City's drainage system. Although the proposed plan shows some modest landscaping islands, there is not stormwater management proposed. As a public benefit the site should have at a minimum a trench drain installed along the proposed driveway apron which is greater than the [City's maximum of 22' wide] to collect and infiltrate on site via underground chambers. This would improve stormwater runoff quality to the City's system and recharge the groundwater in accordance to DEP & DPW Stormwater Policy.



If the interior of the building(s) are to be renovated more than 50%, then both the water and sanitary sewer services must be updated in accordance to the DPW Policy. The existing water & sewer services are 65 years old.

Finally, if this Permit is approved the sidewalk and curbing along the entire frontage of Elliot Street should be reconstructed to current standards as it does not comply with AAB and current City Standards.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*

2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.