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Barney S. Heath
Director

MEMORANDUM

DATE: January 22, 2021

TO: Councilor Crossley, Chair
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Neil Cronin, Chief Planner

RE: #41-21 Zoning Amendments for Marijuana Establishments
THE DIRECTOR OF PLANNING AND DEVELOPMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.10, to amend the regulations for marijuana establishments to be consistent with the regulations put forth by the Cannabis Control Commission on January 8, 2021.

MEETING DATE: January 25, 2021

CC: City Council
Planning and Development Board
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani
Marie Lawlor
John Lojek, Commissioner of ISD

In December 2018, the City Council adopted zoning for marijuana establishments, including recreational marijuana uses. Since that zoning was adopted the Mayor has signed provisional host community agreements (HCAs) for eight marijuana retailers (the maximum permitted under the ordinance) and for one marijuana research facility. Thus far only Garden Remedies has opened for recreational marijuana sales and the other are in various states of pursuing a Special Permit and/or licensing from the state. The December 2018 ordinance as well as more information on the HCAs

granted can be found here: <https://www.newtonma.gov/government/planning/development-review/high-interest-projects/marijuana-uses>.

On January 8, 2021 the Cannabis Control Commission (Commission) filed updated regulations for both medical and recreational marijuana. Included in the new regulations are updates to address inconsistencies in the prior regulations, amend definitions, change some terminology, clarify measurements, and add two new license types. Most of the changes are relatively minor but require updates to the ordinance to remain consistent with state regulations. Examples includes renaming Registered Marijuana Dispensaries (RMD) to Medical Marijuana Treatment Centers (MTC), revising the buffer requirements for medical marijuana (MTCs) to be consistent with those for marijuana retailers (500 feet from k-12 public or private schools), and clarifying how that buffer distance is to be measured.

The most significant change is the addition of two new types of delivery licenses, marijuana courier and marijuana delivery operator. A marijuana courier is defined as an entity licensed to deliver marijuana and marijuana products directly to consumers from a marijuana retailer or medical marijuana treatment center but is not authorized to sell directly to consumers. A marijuana delivery operator is defined as an entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, product manufacturer, microbusiness or craft marijuana cooperative and to sell and deliver directly to consumers but is not authorized to operate a storefront. A marijuana courier will partner with retailers or MTCs to deliver to their customers but cannot store any products while a delivery operator can buy marijuana products wholesale, store onsite in a warehouse, and then deliver to customers under their own brand. Neither entity will allow for public access at their physical location. Delivery operators are not considered retailers and are not subject to the cap on the number of licenses a municipality must issue.

For a period of three years (starting with the issuance of the first license), both marijuana courier and marijuana delivery operator licenses will be limited to applicants who qualify under the Commission's Social Equity or Economic Empowerment programs. The Social Equity program provides training and technical assistance to applicants who have been disproportionately impacted by the War on Drugs, marijuana prohibition, arrests and incarceration and meet certain income and residency requirements. The Economic Empowerment program applicants have to meet criteria such as living in an area of disproportionate impact; holding a position where the primary population served were disproportionately impacted; the majority of ownership is made up of individuals from Black, African American, Hispanic, or Latino descent; the majority of employees live in areas of disproportionate impact; the majority of employees have drug-related CORI; and owners can demonstrate significant past experience in economic empowerment in areas of disproportionate impact.

New zoning is needed for the two new license types. The zoning allows for the courier or delivery operators to physically locate here, it does not affect the ability of Newton residents to receive deliveries from operators within or outside of Newton. The current ordinance allows for Marijuana Transporters, who are licensed only to transport marijuana but not to deliver to customers, to locate in manufacturing zones but does not allow for any delivery uses as they were not included in the initial regulations. The marijuana courier will need a site that allows for parking of the delivery vehicles and likely some office space. The delivery operator will require parking for delivery vehicles and space for

a storage warehouse and office. The courier will never have marijuana products onsite as they will pick up from the retailer/MTC and deliver directly to the customer. The delivery operator will require a secure location to store products. All products come prepackaged, so odors are not a concern.

Planning staff are considering the following factors in order to present zoning recommendations at the next meeting:

- The existing uses that are most similar to these uses are Marijuana Transporter (allowed in M zones) and Wholesale Business or Storage Facility (allowed with conditions by-right in BU2, by Special Permit in MU1, and by-right with conditions in M and LM zones)
- The couriers and delivery operators will likely have higher parking needs than typical storage or office uses.
- Drivers will make multiple deliveries at a time, reducing potential traffic impacts.
- Given the parking requirements and security needs, these uses may not be compatible with the goals for vibrant, pedestrian oriented village centers and commercial districts.
- Manufacturing zoning districts are limited in Newton and allowing for couriers and delivery operators to locate in some commercial districts will make it easier for social equity and economic empowerment applicants to open here.

Questions for ZAP Committee:

- Should commercial or mixed-use zoning districts be considered for couriers and delivery operators?
- Could couriers be allowed by-right as there will not be any marijuana product onsite?

Next Steps:

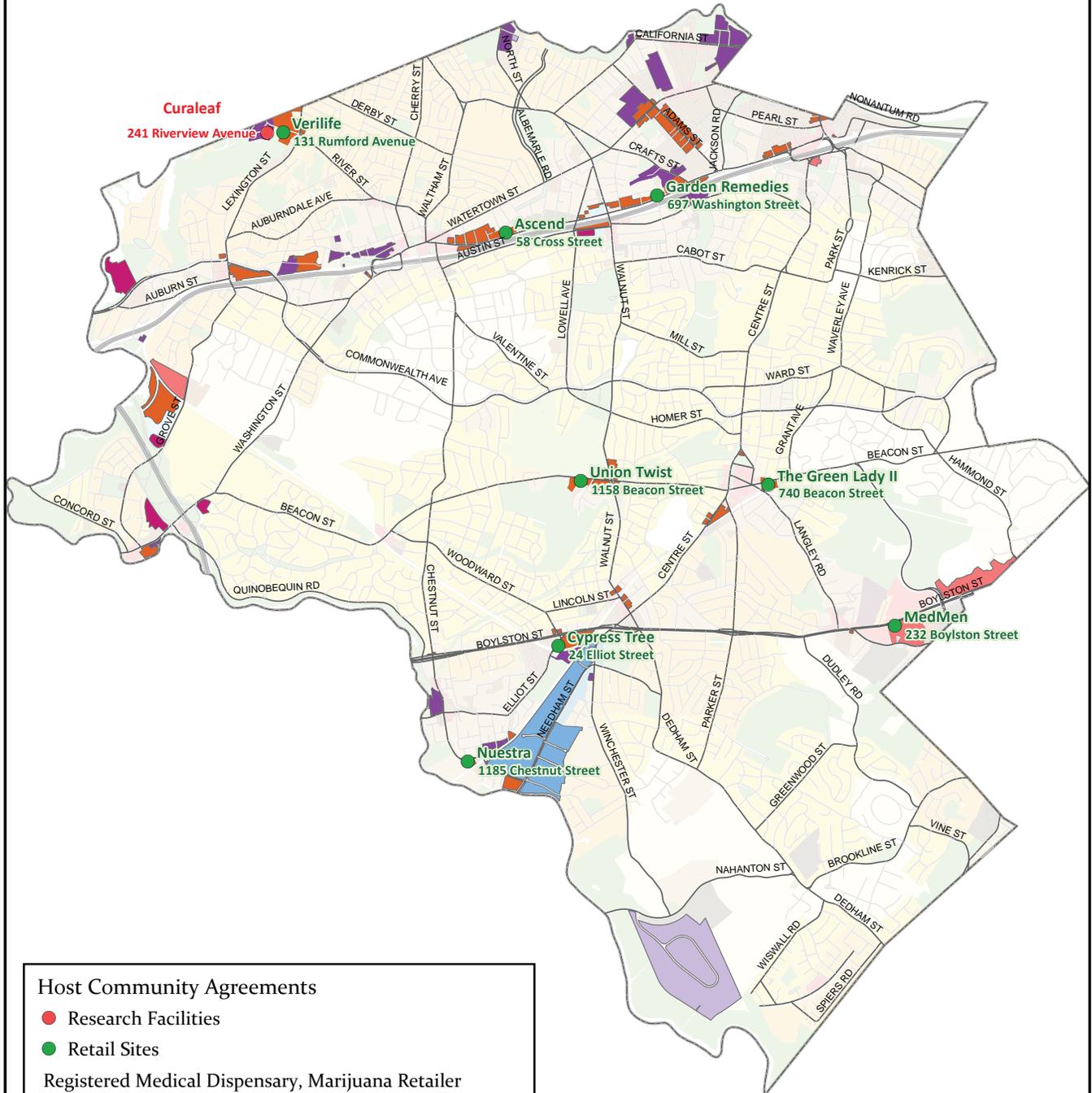
Staff will present a red-lined version of the 2018 ordinance reflecting the necessary changes as well as zoning recommendations for marijuana couriers and delivery operators.

ATTACHMENT A: Existing Marijuana Zoning and locations of establishments with Host Community Agreements

Existing Marijuana Zoning

City of Newton, MA

January 22, 2021



- Host Community Agreements**
- Research Facilities
 - Retail Sites
- Registered Medical Dispensary, Marijuana Retailer**
- Business 2
 - Business 4
 - Business 5
 - Mixed Use 1
- Craft Marijuana Cooperative, Independent Testing Laboratory, Cultivator, Product Manufacturing, Research Facility, Transporter, Microbusiness**
- Manufacturing
- Independent Testing Laboratory, Research Facility**
- Limited Manufacturing

