



Ruthanne Fuller  
Mayor

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

**#774-20**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

**Barney S. Heath**  
Director

---

## PUBLIC HEARING/WORKING SESSION III MEMORANDUM

**DATE:** May 7, 2021  
**MEETING DATE:** May 11, 2021  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

---

### **PETITION #774-20**

**232 Boylston St.**

**Petition #774-20**, SPECIAL PERMIT/SITE PLAN APPROVAL to allow a recreational retail marijuana establishment, allow waivers to parking facility requirements for: parking in the side setback, parking stall width and depth, reduced dimensions for accessible parking stalls, to reduce the minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive lighting requirements, to allow tandem parking and parking managed by an attendant, to allow a free-standing sign and to allow an oversized directional sign and to amend Special Permit Board Order #774-85 at **232 Boylston Street**, Ward 7, Chestnut Hill, on land known as Section 82 Block 02 Lot 09, containing approximately 16,570 sq. ft. of space in a district zoned BU4. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.4, 5.1.8.A.1, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.C.1, 5.1.8.E.1, 5.1.8.E.2, 5.1.9.A, 5.1.10, 5.2.3, 5.2.8, 5.2.13 of the City of Newton Rev Zoning Ord, 2017.

---

The Land Use Committee (the "Committee") held a public hearing on December 15, 2020, January 26, 2021 and March 9, 2021 on this petition. This memo reflects additional information addressed to the Planning Department as of May 6, 2021.

---

## **Background**

The property at 232 Boylston Street consists of a 16,570 square foot lot located in a Business 4 (BU4) district improved with a two-story, 5,484 square foot commercial building. The petitioner seeks a special permit from the City Council to operate a marijuana establishment per Section 6.10.3.D of the Newton Zoning Ordinance (NZO). The establishment would occupy the building's basement, first floor, and a portion of its second floor. The petitioner is proposing to use 2,973 square feet for the retail operation while 1,852 square feet would be used for storage and mechanical equipment. As designed the proposed marijuana establishment also requires additional zoning relief, including exceptions to NZO requirements related to parking, lighting and signage, with the latter requiring the amendment of Special Permit #774-85.

## **Updates**

### ***Traffic & Parking***

As noted previously, the Planning Department, its on-call transportation consultant (the BETA Group), and the Transportation Division, have raised concerns regarding the adequacy of the proposed parking arrangements. Specifically, the ability of the parking facility to accommodate the turnover projected by eight points of sale stations. Several factors such as patrons arriving to appointments early or delays associated with managed parking could result in congestion on site that could spill onto adjacent properties. On April 20<sup>th</sup> the petitioner submitted the attached letter to the Land Use Committee (**Attachment A**) discussing various issues, including, collaboration with efforts to establish a Chestnut Hill shuttle service, its funding of a raised crosswalk on Florence Street and its intent to offer product discounts to customers who utilize non-auto modes of transportation (e.g., transit, carpooling, Uber/Lyft, etc.) to travel to the site.

This letter also discusses the petitioner's current approaches to concerns about onsite parking lot operations, and the petitioner also submitted an updated version of its "TDM and Managed Parking Plan" dated April 15, 2021 (**Attachment B**). As referenced in the letter, this plan would be expected to serve as a framework for a Transportation and Demand Parking Management plan that could be required as a condition of a special permit and would be expected to be finalized in advance of the issuance of any building permit for the project.

Relatedly, the petitioner's letter of April 20<sup>th</sup> proposed a so-called "staggered start" to operations at the site, proposing to open with only six points of sale initially and then ramping up to the full operations with eight points of sale only when the petitioner "has demonstrated to the satisfaction of the Planning Department that operations do not result in congestion in the parking lot or create a nuisance to the surrounding properties."

The BETA Group has reviewed these materials and proposals. It did not have any significant issues or concerns with the approach described in petitioner's TDM and Managed Parking Plan. BETA and the Planning Department reviewed and discussed the proposed "staggered start" to better understand its implications and shape appropriate protocols. The result of that process is reflected on the proposed Condition 3 of the attached draft Council Order (**Attachment C**). That draft condition proposes a process by which on-site conditions are monitored for an initial six-month period with operations limited to six points of sale, an assessment would be made as to whether it is appropriate to allow the

petitioner to ramp up to eight of points after that initial period, and to facilitate monitoring for three months after such time the facility would operate with said eight points of sale.

The Planning Department believes that as proposed the described staggered start protocol would be an appropriate process by which the petitioner's impacts on neighboring properties and public ways would be assessed before they attained full operations. Importantly, issues that might arise could be addressed at the earliest possible time and allow for the petitioner to take steps that can mitigate negative impacts based on actual observed conditions. The Planning Department also appreciates that this approach by the petitioner, which was undertaken in response to concerns expressed during the review process, will allow it and the City Council to continue to observe and monitor conditions for a reasonable period after such time the petitioner might operate at its full capacity of eight points of sale.

The City's peer reviewer will discuss these issues at the upcoming public hearing.

### ***Landscaping***

On April 15<sup>th</sup> the petitioner provided a landscape plan dated April 12, 2021 superseding the previously submitted plan. The Planning Department suggests the petitioner address any updates in advance of or at the public hearing.

### **ATTACHMENTS**

<b>Attachment A</b>	Petitioner's letter to the Land Use Committee, dated April 20, 2021
<b>Attachment B</b>	Petitioner's updated "TDM and Managed Parking Plan" dated March 1, 2021
<b>Attachment C</b>	DRAFT Council Order

ATTACHMENT A

**SCHLESINGER AND BUCHBINDER, LLP**  
ATTORNEYS AT LAW

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
BARBARA D. DALLIS  
JULIE B. ROSS  
KATHRYN K. WINTERS  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER  
ADAM M. SCHECTER

1200 Walnut Street  
Newton, Massachusetts 02461-1267  
Telephone (617) 965-3500

www.sab-law.com  
Email: sjbuchbinder@sab-law.com

April 20, 2021

**BY ELECTRONIC MAIL**

Richard A. Lipof, Chair  
Land Use Committee  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: Petition of MME Newton Retail, LLC (“MedMen”)/232 Boylston Street (#443-20)

Dear Chairman Lipof,

As we prepare to return to the Land Use Committee for a continuation of the public hearing on the above matter, I thought it would be helpful to provide the Land Use Committee with a summary of the commitments that MedMen has made to date along with our proposal for a staggered start of operations.

**Parking Lot Operations**

Attached, please find an updated version of the *TDM and Managed Parking Plan* prepared by VHB dated April 15, 2021 which was previously submitted on January 25, 2021. This document was originally prepared in response to questions raised by the BETA Group’s peer review of the project, and it contains details about the managed parking protocols for the site. The document has been updated to include proposed transportation demand management measures, as well as MedMen’s plan for subsidizing employee parking offsite and prohibiting employee parking onsite. It is our expectation that this document will serve as the framework for the more robust *Transportation Demand and Parking Management Document* (“the TDPM”) which will be finalized in collaboration with the Planning Department prior to the issuance of a building permit. The TDPM may be revised subsequent to periodic review meetings between MedMen and the Planning Department once operations have commenced. Certain elements of the TDPM, including the practice of having parking attendants park customers’ vehicles for them, may be discontinued if, in the opinion of the Director of the Planning Department, such practices contribute to congestion or nuisance in the parking lot.

**Discount program for customers who carpool/utilize rideshare and/or public transit**

One element of the Managed Parking Plan which we want to highlight is MedMen’s proposal to offer a discount to its customers who can demonstrate that they’ve carpooled or taken alternative methods of transportation to the site during peak hours. By either showing their MBTA ticket or email receipt from Uber and/or Lyft, the customer will be eligible to receive a discount on a purchase. This promotion will be advertised when a customer books an appointment through the website. This initiative will also help further the company’s goals of operating a sustainable and environmentally friendly business.

### **Shuttle**

If its special permit is approved, MedMen intends to provide administrative support to the City relative to its efforts to establish a shuttle serving the Chestnut Hill business community. MedMen will organize and host a kickoff meeting for major area property owners and businesses, and would collaborate with the City's Planning Department and Transportation Division on identifying the optimal route and service radius. This collaboration would include a one-time payment to the City of \$25,000 to be used as the City sees fit for the planning and development of the shuttle.

### **Crosswalk**

MedMen is prepared to wholly fund the installation of a raised crosswalk on Florence Street, at a location to be determined in consultation with the Transportation Division and the Planning Department. The location of existing underground infrastructure will impact the selected location.

### **Staggered Start**

In deference to concerns about the potential impact of the proposed operations on the site, MedMen is willing to open at a reduced capacity (6 point of sale stations) for the first six months of its operations. Full operations (8 point of sale stations) will be permitted only when MedMen has demonstrated to the satisfaction of the Planning Department that operations do not result in congestion in the parking lot or create a nuisance to the surrounding properties. MedMen proposes that the impact of its operations on the site be measured through the use of a third party parking lot monitor who shall make random visits to the site, on average three times each week, for the purpose of observing the operations of the parking lot. MedMen will pay \$7,800 to the City as the cost for the third party monitor, representing three visits per week for 26 weeks at a cost of \$100 per visit. As is set forth in the proposed condition, below, a review at three month intervals would facilitate an informed dialogue between MedMen and the Planning Department.

*The petitioner may never operate more than eight point of sale stations. For the first six months of operations, the petitioner will only schedule appointments at six of its point of sale stations. During this time, the petitioner shall pay \$7,800 for a third party ("the parking monitor") to monitor the parking lot and document his or her observations in a report. The monitor shall make periodic unscheduled visits to the parking lot (on average three times each week for 26 weeks) to obtain first hand observations of the operation of the parking lot. The monitor shall note whether there are any demonstrable adverse effects to the surrounding properties as a result of the petitioner's operations. Attention will be paid to whether customers are parking in parking lots adjacent to the site, and whether any queuing or parking congestion is present. The monitor shall submit a report of observations for review by the Planning Department after three months of operations. The petitioner and the Planning Department shall meet to review the results of this report ("the three month check in meeting"), and if any adverse effects are noted in the report, the petitioner shall adjust its operations in an attempt to cure the same. The monitor shall continue to observe the site for the subsequent three months, at the conclusion of which, an updated report shall be submitted to the petitioner and the Planning Department for a second review meeting ("the six month check in meeting"). If the Planning Department concludes that there are no adverse effects at the time of the six month check in meeting, the petitioner shall be permitted to schedule appointments at eight point of sale stations ("full operations").*

Richard A. Lipof, Chair  
April 20, 2021

Page 3

Please feel free to contact me if you have any questions or require further information.

Sincerely,

*Katherine Braucher Adams*

Katherine Braucher Adams

cc: (By Electronic Mail, w/enclosure)  
Councilor Andrea W. Kelley, Vice-Chair  
Councilor Alicia Bowman  
Councilor Andreae Downs  
Councilor Maria Scibelli Greenberg  
Councilor Marc C. Laredo  
Councilor Christopher J. Markiewicz  
Councilor Tarik J. Lucas  
Ms. Nadia Khan, Committee Clerk  
Ms. Jennifer Caira, Deputy Director of Planning  
Mr. Neil Cronin, Chief Planner  
Mr. Michael Gleba, Senior Planner  
Jonah Temple, Assistant City Solicitor  
(By First Class Mail, w/enclosures)  
Mr. Geoffrey Whitehouse, MedMen



To: Newton Planning Department

Date: April 15, 2021

Memorandum

Project #: 14559.00

From: Randall C. Hart, Principal

Re: Traffic Demand Management/Parking Management Plan  
Proposed Recreational Marijuana Dispensary  
232 Boylston Street, Newton, Massachusetts

VHB has prepared this memorandum to summarize the various changes and commitments that have been made to the proposed redevelopment project based on input from the City Council, the Planning Department, and the community. As originally proposed the site would allow 8 point of sale stations with 6 potential appointments per hour (total of 48 appointments per hour). Based on the concerns which have been noted, MedMen will commence operations with 6 point of sale stations for the initial six months (36 total appointments per hour). MedMen is proposing to pay for monitoring of operations as stated below. After three months of operation, and again after six months of operations, MedMen will meet with the city to review the operation to ensure that there are not concerns.

For the initial six months of operations, MedMen will agree to a third-party monitoring service mutually agreed upon by the company and the Planning Department, the cost of which shall be borne solely by the company. The monitoring service may include in-person visits on an unannounced basis, and as frequent as the Planning Department deems necessary. This service will provide a first-hand account and independent analysis of whether any demonstrable nuisances are affecting the surrounding properties as a result of MedMen's operations. If the monitoring service discovers there to be unnecessary queuing outside of the retail site or traffic congestion leading out of the MedMen parking lot due to unavailable parking stalls, a report will be generated and provided to the Planning Department for its review. This monitoring service will also be authorized to work with MedMen to develop and test operational adjustments in-between the lookback requirements as specified by the City. MedMen shall pay the sum of \$7,800 to the city for the monitoring program.

### **Parking Management Plan**

As noted in the October 28, 2020 Traffic Impact and Access Memorandum ("the TIA") prepared for the project, the site will be restriped to accommodate 19 parking spaces, 10 of which would be "managed parking spaces". MedMen will have an on-site Parking Attendant that will monitor activity, direct customers to self-parking spaces when available, and if necessary, will valet customer vehicles in the 10 managed parking spaces. The Parking Attendant will also monitor customers who arrive by foot and if the attendant sees a customer parking in the adjacent Chestnut Hill Square parking lot, the parking attendant will make the customer aware that the customer should utilize the MedMen parking lot in the future. There may very well be times when someone does park in the adjacent Chestnut Hill parking lot and chooses to accomplish multiple stops in a single trip. The expectation in those instances is that the customer would likely park near the other retail facilities, to make it convenient to get larger goods to the vehicle, and then walk to MedMen as the purchase at MedMen would be small and easy to transport by foot. This is particularly true for the supermarket, which is a heavy draw within the retail center.

It is MedMen's experience that the typical customer dwell time (time inside the store) averages around approximately 7 minutes from data they have collected. Some are longer and some are shorter as customers may pre-order and simply arrive to pick up. To be conservative we are proposing 10-minute appointment intervals. With that in mind, there are 19 parking spaces and 6 potential turnovers per space per hour (60 min/10 min per customer), so there are approximately 114 parking opportunities on site per hour. This should be considered conservative as some customers may walk, bike, or take public transportation to the site. As noted in the TIA, the Proponent will operate under an appointment only configuration at the onset of operation for a period of at least one year, and possibly longer. The expectation is that Newton will ultimately have up to eight dispensaries and other Towns/Cities surrounding Newton already have and are planning to add more dispensaries. Therefore, the demand will ultimately be spread between the various available locations. Today there is currently a dispensary along the Route 9 corridor 3 miles to the east of the site and a second 1 mile to the west along Route 9 at Elliot Street (that will open soon).

The appointment only schedule will consist, initially, of 36 total appointments per hour (staggered) assuming full occupancy is realized. That means that we need to be able to park 36 vehicles per hour if everyone drives, single customer per automobile to the facility, which is unlikely. As demonstrated above, there are approximately 114 parking opportunities per hour, so the parking supply far exceeds the controlled demand under appointment only operations.

VHB assessed the potential traffic generation based on a normal retail operation (no appointments). Based on ITE data for similar types of facilities, the project would be expected to generate approximately 84 and 140 vehicle trips during the two-weekday evening and Saturday midday peak hour periods. Those are the two periods where the combination of site traffic coupled with traffic on the adjacent streets are most critical. The 84 and 140 trips represent the trips entering and then exiting the site, so the prospective parking demands would be half of those values, or 42 parking opportunities during the PM peak and 70 parking opportunities during the Saturday midday peak hours. As mentioned, we have approximately 114 parking opportunities per hour, so the parking supply far exceeds the demand even under a non-appointment scenario.

As mentioned above, the Parking Attendant will monitor the parking operation and the priority will be to direct customers to open self-parking spaces. There will be initially up to 36 appointments per hour under an appointment only system (6 point of sale station and 6 slots per hour). With 36 customers per hour and 10-minute average transactions, the parking could be accommodated by approximately 6 parking spaces (36 appointments/6 parking opportunities per space per hour). The parking lot is designed to accommodate 9 self-parking spaces before requiring the use of a Parking Attendant, so the likelihood of having to resort to managed parking will be minor during appointment only operations. In addition, while the average customer experience is 10 minutes, there will be customers who order ahead and will be on site for shorter periods of time, which will increase the number of self-parking opportunities that will be allowed per hour and further decrease the frequency in which valet operations will be required.

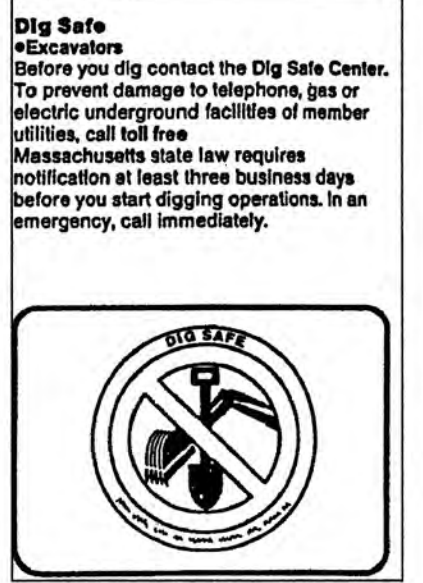


Should managed parking be necessary, we would anticipate that the Parking Attendant would alternate vehicle parking between the east and west portions of the parking lot to leave as much open space as possible for maneuvering. See attached graphic for an example of the order that spaces may be considered for the Parking Attendant, keeping in mind that person will determine the most efficient utilization of the parking supply.

### **Traffic Demand Management Plan (TDM)**

The petitioner will implement a Transportation Demand Management Plan to reduce vehicle trips and associated parking at the site. The TDM plan will include many elements that are designed to minimize single occupancy vehicular access to the site. The plan will include the following, at a minimum:

- Establish onsite TDM Coordinator who will be responsible for program implementation.
- Provide discount program for customers who carpool/utilize rideshare and/or public transportation. This program will be advertised to ensure that the public is aware of this benefit.
- Display Transit Schedules in highly visible and prominent location.
- Provide Subsidy for employees who participate in TDM program.
- Provide secure bike racks on site.
- Carpool/rideshare program with guaranteed ride home.
- Require all employees to park at remote parking lot and I pay for transportation between satellite lot and the site.
- Petitioner will keep records detailing how employees commute to the site, including number of employees utilizing transit, parking at satellite lots, and using alternative transportation.
- Chestnut Hill business community shuttle participation. MedMen will organize and host a kickoff meeting for major area property owners and businesses on identifying optimal route and service radius. This collaboration would include a one-time payment to the City of \$25,000 to be used as the City sees fit for the planning and development of a shuttle system.
- MedMen will fund the installation of a raised crosswalk on Florence Street, at a location to be determined in consultation with the Transportation Division and the Planning Department.



Zoning Chart		
Zoning	Required	Existing/Proposed
Business 4		
Lot Area	10,000 sf	16,570 sf
Building Height	36'	33.09'
Setbacks		
Front	*10' Average	30.5'
Side	1/2 Bld Height (16.54')	22.9'
Rear	0	51.0'

\* Average setback is described in Sec. 1.5.3 in a Business 1, 2, 3 and 4 district, a vacant lot or a lot where a building is set back more than 10 feet is counted as though occupied by a building set back 10 feet.  
 Note: Existing buildings of abutting lots are set back more than 10 feet from street line, therefore the average front setback required is 10 feet.

N/F  
 250 Boylston Street  
 LLC  
 Bk.58650 Pg.430

N/F  
 CHS Commercial Owner LLC  
 Bk.58698 Pg.549

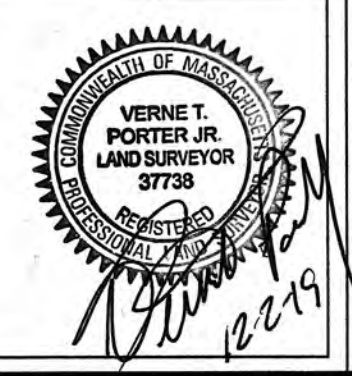
N/F  
 CHS Commercial Owner LLC  
 Bk.58698 Pg.549

**232 Boylston Street, Newton, MA**  
 Section 83 Block 2 Lot 9  
 Proposed HC Parking and Route  
 Scale: 1"=10' December 2, 2019  
**VERNE T. PORTER Jr., PLS**  
 Land Surveyors - Civil Engineers  
 354 Elliot Street Newton, Massachusetts 02464

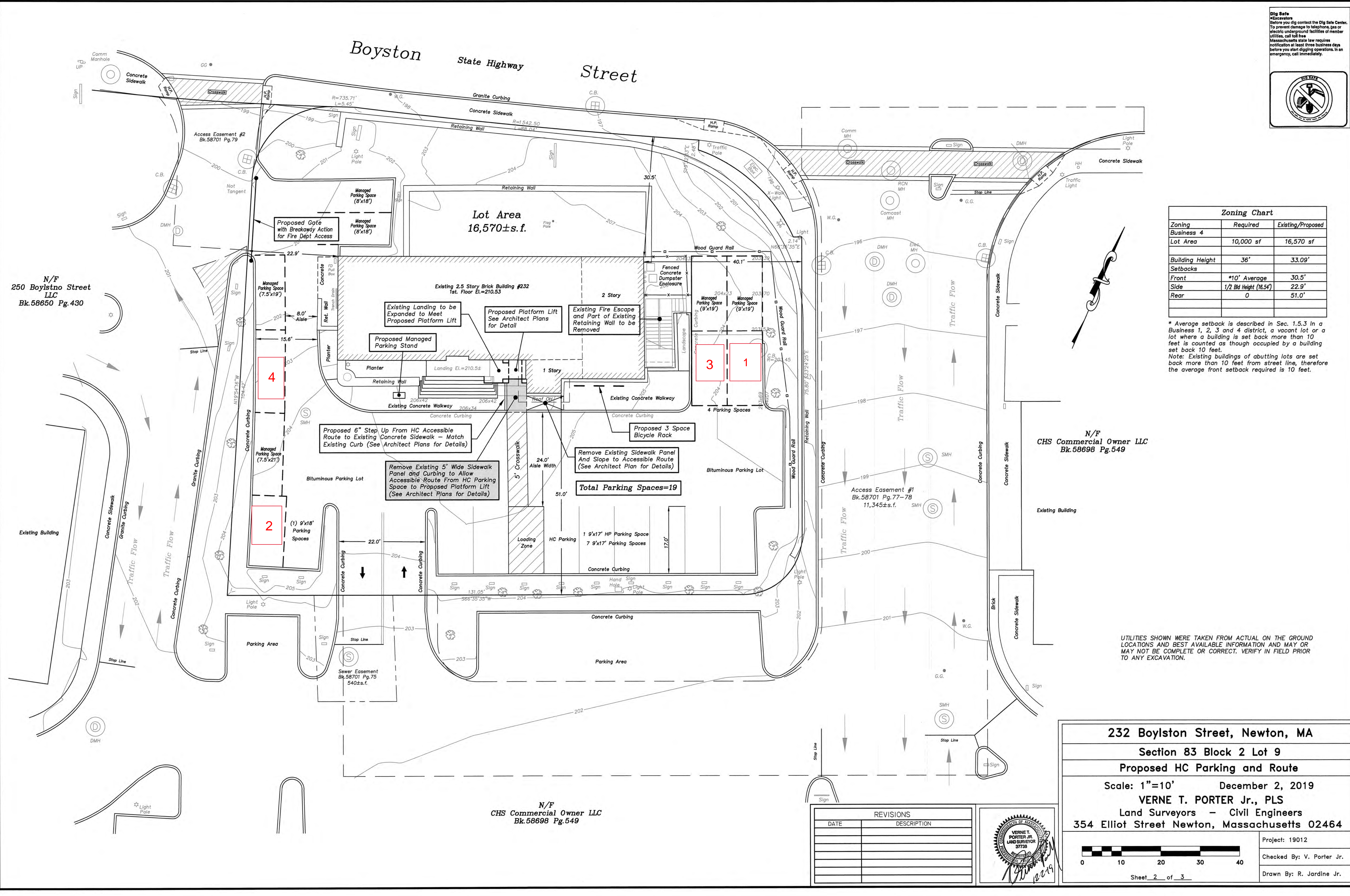
Project: 19012  
 Checked By: V. Porter Jr.  
 Drawn By: R. Jardine Jr.

Sheet 2 of 3

REVISIONS	
DATE	DESCRIPTION



UTILITIES SHOWN WERE TAKEN FROM ACTUAL ON THE GROUND LOCATIONS AND BEST AVAILABLE INFORMATION AND MAY OR MAY NOT BE COMPLETE OR CORRECT. VERIFY IN FIELD PRIOR TO ANY EXCAVATION.



ATTACHMENT C

#772-20  
232 Boylston Street

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to

- allow a marijuana retailer (§6.10.3.D; §4.4.1)
- allow parking in the side setback (§5.1.8.A.1, §5.1.13)
- reduce the width requirement for parking stalls (§5.1.8.B.1, §5.1.13)
- reduce the depth requirement for parking stalls (§5.1.8.B.2, §5.1.13)
- reduce dimensions for accessible parking stalls (§5.1.8.B.4, §5.1.13)
- reduce the minimum aisle width requirement for two-way traffic (§5.1.8.C.1, §5.1.13)
- allow tandem parking and parking managed by an attendant (§5.1.8.E.1, §5.1.8.E.2, §5.1.13)
- waive perimeter screening requirements (§5.1.9.A, §5.1.13)
- waive the lighting requirements (§5.1.10, §5.1.13)
- waive the 25% front façade ground floor transparency requirements (§6.10.3.E.15)
- amend Order #774-85 so to allow a free-standing sign (§5.2.3, §5.2.8, §5.2.13)

as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed marijuana retailer due to its location within the Business Use 2 zone. (§7.3.3.1)
2. The proposed marijuana retailer as developed and operated will not adversely affect the neighborhood given its proximity to the mixed uses along Boylston Street and the petitioner's proposals to manage traffic and parking. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the projected trip generation associated with the proposed use (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4);
5. Literal compliance with applicable parking facility requirements requiring a minimum driveway width of twenty feet for two-way traffic is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.8.D.1; §5.1.13)
6. Literal compliance with applicable parking facility perimeter screening requirements is impracticable due to the size and grade of the lot (§5.1.9.A; §5.1.13)
7. Literal compliance with applicable parking facility lighting requirements is in the public interest as it will limit light overspill onto adjoining properties (§5.1.10, §5.1.13)

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

8. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking, or using public transportation. (§6.10.3.G.1.a)
9. Loading, refuse, and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
10. The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
11. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
12. Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses due to the appointment only system and traffic and parking demand management approaches set forth herein. (§6.10.3.G.2.b)
13. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
14. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
15. The lot is accessible to regional roadways and public transportation due to its location on Boylston Street and proximity to public transit services. (§6.10.3.G.2.e)
16. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
17. The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the surrounding area along Boylston Street and the presence of commercial uses nearby that operate during similar hours (§6.10.3.G.2.g)

***With regard to amending Special Permit #774-85 (Appendix 1):***

16. The specific site is an appropriate location for the proposed signage (§7.3.3.1)
17. The proposed signage will not adversely affect the neighborhood (§7.3.3.2)
18. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3)
19. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4)

PETITION NUMBER: #772-20

PETITIONER: MME Newton Retail LLC

LOCATION: 232 Boylston Street, on land known as Section 82 Block 2 Lot 9, containing approximately 16,570 square feet of land

OWNER(S): Dacos Realty, LLC

ADDRESS OF OWNER(S): 232 Boylston Street  
Newton, MA 02459

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Brick

EXPLANATORY NOTES: Special Permit per §7.3.3 of the Newton Zoning Ordinance to:

- allow a marijuana retailer (§6.10.3.D; §4.4.1)
- allow parking in the side setback (§5.1.8.A.1, §5.1.13)
- reduce the width requirement for parking stalls (§5.1.8.B.1, §5.1.13)
- reduce the depth requirement for parking stalls (§5.1.8.B.2, §5.1.13)
- reduce dimensions for accessible parking stalls (§5.1.8.B.4, §5.1.13)
- reduce the minimum aisle width requirement for two-way traffic (§5.1.8.C.1, §5.1.13)
- allow tandem parking and parking managed by an attendant (§5.1.8.E.1, §5.1.8.E.2, §5.1.13)
- waive perimeter screening requirements (§5.1.9.A, §5.1.13)
- waive the lighting requirements (§5.1.10, §5.1.13)
- waive the 25% front façade ground floor transparency requirements (§6.10.3.E.15)
- Amend Order #774-85
  - To allow a free-standing sign (§5.2.3, §5.2.8, §5.2.13)
  - To allow an oversized directional sign (§5.2.8, §5.2.13)

ZONING: Business Use 2 District

Approved subject to the following conditions:

*(PLAN LIST- to be confirmed)*

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:

- a) A set of site plans entitled “232 Boylston Street, Newton, MA,” prepared by Verne T. Porter Jr., PLS, signed and stamped by Verne T. Porter Jr., Registered Professional Land Surveyor, dated December 2, 2019, as revised through February 9, 2021 consisting of three sheets.
  - b) A photometric plan entitled “232 Boylston Street, Newton, MA, Section 83 Block 2 Lot 9, Existing Conditions Plan,” prepared by Verne T. Porter Jr., PLS, signed and stamped by Verne T. Porter Jr., Registered Professional Land Surveyor, dated June 14, 2019, including information Plan prepared by Kimley-Horn and Associates, Inc., denoting information from a “Photometric survey conducted on 11/4/2020 at 8:30 pm utilizing Extech Instruments Foot Candle / Luxe Meter at a hight (sic) of 4’ above pavement surface by Kimley-Horn and Associates, Inc.”
  - c) A set of landscaping plans entitled “232 Boylston St, Newton, MA, prepared by G2 Collaborative, dated March 22, 2021 consisting of the following sheets.
    - i. Overall Planting”
    - ii. Planting- Front
    - iii. Planting- Back
  - d) Architectural Floor Plans and Elevations entitled "232 Boylston Newton MA" prepared by TPG Architecture dated October 16, 2020 and revised January 22, 2021. comprised of the following sheets:
    - i. Ground Floor, Proposed Floor Plan- Floor Plan (A-102)
    - ii. *232 Boylston, Newton, MA 02459 North Elevation (Route 9 Elevation)*
  - e) A signage plan set consisting of eight sheets entitled “MedMen, 232 Boylston Street” prepared by North American Signs, dated September 1, 2020 and revised February 5, 2021.
2. The petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. The “appointment only” requirement is intended to ensure a smooth flow of customers arriving to and leaving from the site, to avoid customers waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate customer volume.
- The petitioner may use reasonable flexibility to accommodate customers where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in customers’ schedules affect the appointment schedule. The petitioner shall also accommodate those customers who need to wait inside the building either before or after their scheduled appointments. This “appointment only” condition will permit “first available” (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that customer.
3. The petitioner may never operate more than eight point of sale stations.
- For the first six months of operations, the petitioner will only schedule appointments at six of its point of sale stations. During this time the City of Newton, through its Department of Planning and Development, shall engage a third party to monitor the parking lot operations (“the Parking Monitor”). The reasonable costs of the Parking Monitor shall be paid by the petitioner.

The scope and nature of the activities of the Parking Monitor, as directed by the Director of Planning and Development, shall include, but not be limited to making periodic unscheduled visits to obtain first-hand observations of the operation of the parking lot to ascertain whether there are any demonstrable nuisances to the surrounding properties resulting from the petitioner's parking operations, including the use and occupancy of general and managed parking stalls onsite, use of adjacent off-site parking areas by petitioner's customers and/or staff, arrivals by petitioner's customers and/or staff by alternative transportation modes (e.g., bicycle, taxi and/or transportation network company services, public transit, etc.), and parking congestion.

The Parking Monitor shall submit observation reports to the Planning Department as directed by the Director of Planning and Development. In the event that the Parking Monitor identifies nuisances in such reports, the petitioner shall, in consultation with the Planning Department, adjust its operations to address such concerns or nuisances.

At the conclusion of this initial six-month period, the Parking Monitor shall submit a report summarizing the site's parking operations as observed during that period (the "Six-Month Report") to the petitioner and the Planning Department. Thereafter, the Planning Department and the petitioner shall meet to discuss the report's findings ("the Six-Month Check-in Meeting").

If the Planning Department concludes that there are no nuisances regarding the parking operations at the time of the Six-Month Check-in Meeting, the petitioner shall be permitted to schedule appointments at eight point of sale stations ("Full Operations").

During the first three months of Full Operations by the petitioner with eight points of sale, the Parking Monitor shall continue to monitor the parking lot operations as directed by the Planning Department (the reasonable costs of which shall be paid by the petitioner), consistent with the protocol described above, including but not limited to making periodic unscheduled visits to the parking lot and submitting observation reports to the Planning Department as often as bi-weekly.

At the conclusion of the initial three-month period of Full Operations, the Parking Monitor shall submit a report summarizing the site's parking operations as observed during that period (the "Nine-Month Report") to the petitioner and the Planning Department. Thereafter, the Planning Department and the petitioner shall meet to discuss the report's findings ("the Nine Month Check-in Meeting"). In the event that any concerns or nuisances are noted in the report, the petitioner shall, in consultation with the Planning Department, adjust its operations to address such concerns or nuisances, which may include reducing the number of point of sale locations.

4. The Petitioner shall implement a Transportation Demand and Parking Management (TDPM) Plan to prevent employees from parking onsite and reduce vehicle trips and associated parking at the site. The Final TDPM Plan shall include, but not be limited to, the following measures which are outlined in the petitioner's TDPM plan of **April 15, 2021** :
  - a) The proposed parking management plan for the site .
  - b) The petitioner's commitment to subsidize the cost of having its employees park off-site as well as the cost of their transportation to/from off-site parking areas.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation, as well the expenses incurred by the petitioner for the above-referenced subsidies.

This TDPM Plan, which shall be reviewed and approved by the Planning Department and the Transportation Division in advance of the issuance of any Building Permit pursuant to this Special Permit, shall be kept on file with the City Clerk's Office and the Planning Department.

5. Six months after commencement of full operations with eight points of sales for the Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional Services, the Director of Planning and Development and the Clerk of the Council requesting to no longer require that all customers be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:
  - Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety and site security
  - Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #4 above.
6. The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the petitioner is able to maintain an orderly flow of patrons, accommodate all patrons waiting to see a customer service representative inside the building, and accommodate patron parking on site without the "appointment only" requirement. Prior to any decision on the petitioner's waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a "consistency" ruling on a special permit is requested from the Commissioner of Inspectional Services.
7. If the appointment only condition is removed, and at any time the Director of Planning in conjunction with the Commissioner of Inspectional Services, Chief of Police, and Commissioner of Public Works, determines there is a public safety concern due to the lack of appointments, the petitioner shall meet with the Director of Planning to discuss and implement measures to address concerns, including resuming appointments during peak periods.
8. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 Noon to 6:00 p.m. on Sunday.
9. There shall not be more than twenty-one (21) staff members, on site at any one time, not including delivery personnel.
10. Petitioner shall provide administrative support to the City relative to its efforts to establish a shuttle serving the Chestnut Hill business community. In that regard, the petitioner will organize and host a kickoff meeting for major area property owners and businesses. The petitioner shall collaborate with the City's Planning Department and Transportation Division on identifying the optimal route and service radius and shall make a one-time payment to the



City of \$25,000 in advance of the issuance of any Building Permit pursuant to this Special Permit to be used as the City sees fit for the planning and development of the shuttle.

11. The petitioner shall design and construct a raised crosswalk along Florence Street, its exact location to be subject to the review and approval of the Transportation Division and the Planning Department. Said crosswalk, which shall be installed prior to the issuance of a final Certificate of Occupancy pursuant to this order, shall include any drainage infrastructure deemed necessary by the Commissioner of Public Works, and shall be constructed at the sole expense of the petitioner with no upset limit as to its cost.
12. Security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Site Photometric Plan identified in Condition 1 above.
13. The petitioner shall locate, secure, and screen any dumpster(s) on the site to minimize its visibility from the public way. Any dumpster(s) shall be kept closed and secured and the area surrounding the dumpster(s) shall be kept free of debris.
14. The granting of a special permit to allow a Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.
15. Snow shall not be stored on site.
16. Should the petitioner seek to extend the Marijuana Retailer authorized by this Order, including but not limited to, increasing the number of employees it shall seek an amendment to this Order.
17. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
18. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
19. The petitioner shall maintain its registration with the Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
20. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.
21. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit an emergency response plan to the City of Newton Fire Department for review and approval.
22. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review.

23. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Received approval of the final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
  - e. Provided payment to the City in accordance with Condition #10 above.
24. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - c. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
  - d. Received approval from the Commissioner of Public Works for the raised crosswalk in accordance with Condition #11 above.
25. Notwithstanding the provisions of Condition #25 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.