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Mayor

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: July 27, 2021  
Land Use Action Date: October 12, 2021  
City Council Action Date: October 18, 2021  
90-Day Expiration Date: October 25, 2021

DATE: July 23, 2021

TO: City Council

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

SUBJECT: **Petition #215-21**, SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #289-18 to remove the appointment only condition, amend the hours of operation, to remove the sign plan as a control document and to amend the site plan and landscape plan in Ward 2, Newton at 697 Washington Street (Section 23 Block 19 Lot 01B), 691 Washington Street (Section 23 Block 19 Lot 01A), 681 Washington Street (Section 23 Block 19 Lot 01) and 2 Court Street (Section 23 Block 19 Lot 23), containing approximately 16,669 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: 7.3.3, 7.4 of the City of Newton Rev Zoning Ord, 2017.

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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.



**697 Washington Street**

### EXECUTIVE SUMMARY

The subject properties at 681, 691, and 697 Washington Street total 16,669 square feet in the Business Use 2 zone (the “BU-2 zone”) in Newtonville. The petitioner obtained a special permit (Council Order #289-18) to operate a co-located marijuana establishment in 2018 (**Attachment A**). The petitioner is seeking to amend Council Order #289-19 to remove the appointment-only condition, to amend the site plan, and to amend the signage plans.

The Planning Department engaged Green International Affiliates, Inc. (“Green”) to peer-review the petitioner’s transportation memorandum. Green requested more information concerning appointments and customer duration on site to determine whether the surrounding area and on-site parking could accommodate any traffic and/or parking impacts that may arise should the appointment-only condition be removed. The Planning Department expects to provide an update at the public hearing.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION

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

- The site is an appropriate location for the proposed amendments to Council Order #289-18 (§7.3.3.1).
- The amendments to Council Order #289-18 as developed and operated will 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 a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).

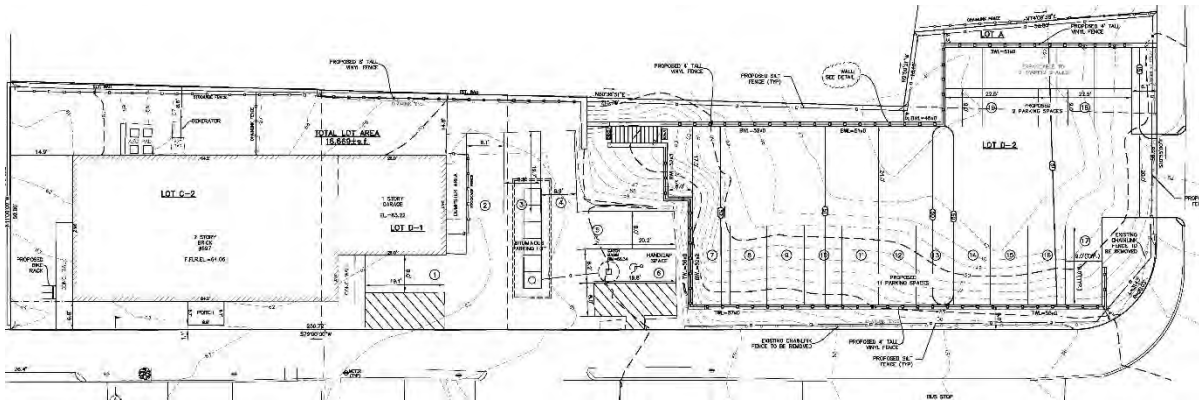
#### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

##### A. Neighborhood and Zoning

The site is located on Washington Street in the BU-2 zone in Newtonville. The BU-2 zone continues to the east and west along the northern side of Washington Street containing commercial uses to the east and mixed use parcels to the west. To the north are two Multi Residence zones containing single-family as well as multi-family uses. Directly south of the site along Washington Street is a Manufacturing zone containing an industrial use, and farther south lies another Multi Residence zone containing residences (**Attachments B & C**).

B. Site

The site consists of three properties under common ownership: 697 Washington Street is the westernmost parcel, and is improved with a two-story, 4,480 commercial structure; 691 Washington Street is the middle parcel consisting of a six-stall surface parking facility; and 681 Washington Street is a surface parking facility containing 13 stalls with access from Court Street. The parcels function as one lot and are treated as such for the purposes of zoning.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain commercial.

B. Operations

Council Order #289-18 requires the petitioner to operate the co-located marijuana establishment by appointment only. Council Order #289-18 also limits the hours of operation from 10:00 a.m. to 8:00 p.m. Monday through Thursday, from 10:00 a.m. to 9:00 p.m. Friday and Saturday and from noon to 6:00 p.m. on Sunday.

The petitioner is seeking to remove the appointment-only condition, and to increase the hours of operation from 9:00 a.m. to 9:00 p.m. Monday through Saturday; there would be no change to the Sunday hours. These hours would match the maximum hours for marijuana uses stated in the zoning ordinance.

C. Building and Site Design

The petitioner is not proposing any changes to the structure. The petitioner is proposing to construct a patio with landscape screening at the eastern boundary for customers to queue. Additionally, trash receptacles are proposed for the surface parking facility accessed from Court Street. The Planning Department is unconcerned with the proposed changes to the site and landscape plans.

INSERT Landscape Plan

D. Transportation

The petitioners submitted a transportation memorandum, dated April 20, 2021 in support of removing the appointment-only condition. The City's on-call consultant, Green, conducted a peer-review (**Attachment D**). Green requested more information on operations including, pre-Covid 19 data, recent post-Covid-19 data, average duration of customer visits, and requested the parking data separate off-street from on-street parking stalls. This information will help determine whether the surrounding area and on-site parking could accommodate any traffic and/or parking impacts that may arise should the appointment-only condition be removed. The petitioner submitted some of this information on Wednesday July 21<sup>st</sup>, the Planning Department will be able to provide an update at the public hearing.

Green noted the co-located marijuana establishment exceeded the trip projections contained in the transportation memorandum that accompanied the 2018 special permit application. Specifically, the appointment data indicates 96 appointments were booked during the Friday peak hour on April 9, 2021 and 76 appointments were booked during the Saturday peak hour on April 10, 2021 whereas 21 and 36 trips were projected, respectively. As such, Green suggests the "Build Condition Capacity Analysis" be updated to reflect the current trip generation.

Green also reviewed the turning movement counts for Court Street which suggested few vehicles travelling on Court Street turn into the parking facility. This coupled with observations from a site visit, suggests the Court Street parking facility is underutilized. Green agrees directional signage for the parking facility would remove parking from adjacent streets and properties and that removing the appointment-only condition would not significantly impact traffic on Court Street.

E. Signage

In October of 2014, the petitioner obtained a special permit (Council Order #167-14) to operate a registered medical dispensary. The approval included relief to install a projecting wall-mounted sign. As such, any future signs would be required to be "consistent" with the approved sign plan, requiring a consistency

determination from either the Commissioner of Inspectional Services or the Land Use Committee.

In 2020, the petitioner received approval for two wall-mounted signs from the Urban Design Commission and received a permit from Inspectional Services to install the signs because they complied with the zoning ordinance. However, the signs did not receive a consistency ruling. The petitioner now seeks to “abandon” the relief granted by Council Order #167-14 by removing the projecting wall-mounted sign from the site. As a result, the special permit would not include any reference to signage; current and future signage would be as of right and would be subject to the dimensions of the zoning ordinance. The Planning Department will confer with the Law Department as to formally abandoning the relief and will provide an update at the public hearing. In the interim, the petitioner should file a notice of such intent with the City Clerk.

#### IV. TECHNICAL REVIEW

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

The petitioner is seeking to amend Council Order #289-19 to amend certain conditions as well as to remove the sign plan as a control document and to amend the approved site and landscape plans.

B. Urban Design Commission

The petitioner presented the two additional signs to the UDC in October and November of 2020. The UDC unanimously approved the signs subject to relocating the wall-mounted sign on the Washington Street façade. The petitioner revised the plans per the UDC’s condition and received a permit on November 24, 2020. Once the relief granted by Council Order #167-14 is removed, all signage will be required to comply with the zoning ordinance and will be subject to review and approval by the UDC.

#### V. PETITIONER’S RESPONSIBILITIES

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

**ATTACHMENTS:**

- Attachment A:** Council Order #289-18
- Attachment B:** Land Use Map
- Attachment C:** Zoning Map
- Attachment D:** Green Memorandum, dated July 21, 2021

13 pages

#289-18  
687 Washington St.  
Amending #167-14

CITY OF NEWTON

IN CITY COUNCIL

October 1, 2018

RECEIVED  
Newton City Clerk  
2018 OCT -3 AM 11:52  
David A. Olson, Clerk  
Newton, MA 02459

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #167-14 to modify conditions pertaining to operation, to allow the retail sale of recreational marijuana (hereinafter "marijuana retail establishment" aka recreational marijuana retail establishment), to allow parking within the front setback, to allow a retaining wall exceeding four feet in the setback, and to waive one parking stall, and to allow waivers to the requirements of parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for amendments to Council Order #167-14 permitting use of the site for a marijuana retail establishment and a Registered Medical Marijuana Dispensary (RMD) because the site received a special permit to operate the RMD; the petitioner then received a license for a medical marijuana treatment center prior to July 1, 2017; and M.G. L. c. 94G, sec. 3(a)(1) allows the petitioner to co-locate a marijuana retail establishment use at the same site. (§7.3.3.1)
2. The proposed marijuana retail establishment as developed and operated resulting from amendments to Council Order #167-14 will not adversely affect the neighborhood because the site is located along a mixed-use corridor with sufficient on-site parking. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians resulting from amendments to Council Order #167-14 because sidewalks will be installed along Court and Washington Streets thereby increasing pedestrian safety and access in the area. (§7.3.3.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles that will come to the site following amendments to Council Order #167-14 because the site is located on a heavily trafficked corridor proximate to regional roadways and public transportation. (§7.3.3.4)

With regard to special permits authorizing the operations of the RMD on site and permitting a marijuana retail establishment use to co-locate at the site, pursuant to §5.10.3.F


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5. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§6.10.3.F.1)
6. The lots are at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate in a structured, scheduled manner as more specifically described in Guidance for Municipalities Regarding the Medical Use of Marijuana, updated December 13, 2013, issued by the Massachusetts Executive Office of Health and Human Services, or from a house of worship or religious use. (§6.10.3.F.2)
7. The site is designed to provide convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking, or using public transportation. (§6.10.3.F.3)
8. Traffic generated by client trips, employee trips, and deliveries to and from the RMD will not create a significant adverse impact on nearby uses. (§6.10.3.F.4)
9. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.F.5)
10. The Petitioner is not proposing to alter the exterior of the building, thereby retaining the structure's and site's compatibility with other buildings in the area and the petitioner will not have 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.F.6)
11. The building and lots are accessible to persons with disabilities. (§6.10.F.7)
12. The site is accessible to regional roadways and public transportation. (§6.10.3.F.8)
13. The site is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.F.9)
14. The hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.F.10)

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities, pursuant to §5.1.4, §5.1.8.A.1, §5.1.9.A, §5.1.9.B, §5.1.10.A.1, and §5.1.13:

15. The Council finds that exceptions to the parking requirements, including a waiver of one parking stall, locating parking within the front setback, waiving the screening requirements, waiving interior landscaping requirements, and waiving the lighting requirements, are in the public interest or in the interest of safety or protection of environmental features for the following reasons:
  - a. Literal compliance with the parking requirements is impracticable due to the size and grade of the lot;
  - b. Locating parking within the front setback allows for the most efficient layout of the parking lot, including dimensionally compliant parking stalls and a two-way drive aisle;
  - c. Waiving interior landscaping and perimeter screening helps maximize the number of parking stalls available to guests of the marijuana retail establishment, and a sufficient number of trees will be added to improve screening the facility from the residences to the north; and

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d. Reducing parking lot lighting is in the public interest and the interest of the residential properties to the north.

16. The Council finds that the site consists of three lots under common ownership that have merged for the purposes of zoning and are treated as one lot. This Special Permit/Site Plan Approval hereby governs the site in its entirety.

With regard to special permits for a retaining wall exceeding four feet within a setback, pursuant to §5.4.2 and §7.3.3:

17. A retaining wall exceeding four feet within the setback is appropriate given the topography of the lot and the wall height allows for a level parking field.

PETITION NUMBER: #289-18

PETITIONER: Garden Remedies, Inc.

LOCATION: 697 Washington Street, on land known as SBL 23, 19, 1b, containing approximately 16,669 square feet of land

OWNER: 697 Washington Street Realty Trust, Mark Donato, Trustee

ADDRESS OF OWNER: 1211 Washington Street  
Newton, MA 02465

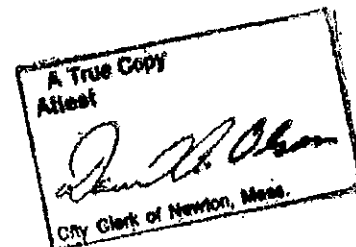
TO BE USED FOR: A Registered Medical Marijuana Dispensary and Marijuana Retail Establishment

CONSTRUCTION: Brick

EXPLANATORY NOTES: §7.3.3 to amend Council Order #167-14 to amend the conditions pertaining to operations of the RMD and to allow a marijuana retail establishment; 5.1.4 and §5.1.13 to waive one parking stall; 5.1.8.A.1 and §5.1.13 to allow parking in the front setback; §5.1.9.A and §5.1.13 to waive the perimeter screening requirements; §5.1.9.B and §5.1.13 to waive the interior landscaping requirements; §5.1.10.A.1 and §5.1.13 to waive the lighting requirements; and §5.4.2 and §7.3.3 to allow a retaining wall exceeding four feet in a setback.

ZONING: Business 2 District

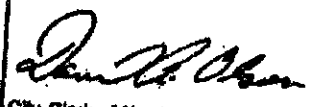
Approved subject to the following conditions:



This special permit #289-18 supersedes, consolidates, and restates provisions of special permit #167-14 to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #289-18 are null and void.

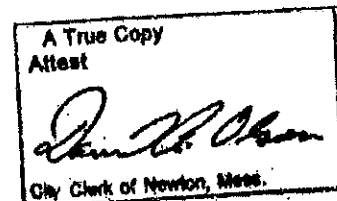
1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
  - a. Area Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated February 28, 2014, revised October 6, 2014, and May 1, 2018
  - b. Topographic Site Plan, Prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated March 15, 2018.
  - c. Grading and Drainage Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated May 1, 2018.
  - d. Parking and Layout Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated March 15, 2018, revised April 24, 2018.
  - e. Floor Plans, signed and stamped by Michael R. Davis, Registered Architect, dated March 19, 2018.
  - f. Proposed Lighting Plan, prepared by Omni-Lite, Inc., dated May 30, 2018.
  - g. Proposed Plan Detail Wrought Iron Fence Entry, prepared by Phillip H. Bakalchuk, Registered Architect, dated May 20, 2014.
  - h. Proposed Landscape Plan, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, dated April 24, 2018.
  - i. Sign Plan, prepared by GenSign, dated April 15, 2014.
2. The petitioner shall comply with the Community Host Agreement on file with the City Clerk.
3. The petitioner shall see patients/customers on an appointment only basis. Given that the petitioner requires each patient/customer to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of patients/customers arriving to and leaving from the site, to avoid patients/customers waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate patient/customer volume.

The petitioner may use reasonable flexibility to accommodate patients/customers where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in patients' and 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 patient/customer. In addition, as part

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of this "appointment only" condition, the petitioner shall take the following steps no later than the date the marijuana retail establishment commences:

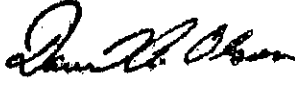
- a. Hire a police detail for the first 90 days of operation. Condition #9 below further details whether this condition is extended beyond the initial 90 days;
  - b. Hire a private security officer to monitor the exterior of the facility and prevent any patients/customers from lingering outside the building following their transactions as well as monitor entrance and exits from the parking lot on to Court Street. Condition #10 below further details the requirements and responsibilities of the security professional;
  - c. Maintain a "real time" indicator clock on its website to enable customers to determine if appointments are running late; and
  - d. Distribute sale coupons to customers to encourage non-peak time visits.
4. After the marijuana retail establishment commences, the petitioner shall attend "look-back review meetings with staff from the Planning Department, Transportation Division of the Public Works Department and the Newton Police Department at intervals of 30, 60 and 90 days, and thereafter at intervals of 6, 12, 18 and 24 months. During the first 90-day period, the petitioner shall keep records detailing the number of appointments per day, and the number of appointments taken outside of established appointment protocols i.e., "first available" as well as early and late appointments. The Planning Department shall also solicit comments from the three Ward 2 councilors, and shall review any comments from the public. At such time as the Planning Department concludes that this "appointment only" condition is no longer required, the petitioner may seek an amendment to this special permit.
5. Until such time as the petitioner receives a final inspection from appropriate City Departments for the parking facility and interior renovation, the RMD and the marijuana retail establishment shall operate under the following conditions:
- a. Hours of operation shall be from 10:00 a.m. to 8:00 p.m. Monday through Thursday, and from 10:00 a.m. to 9:00 p.m. on Friday and Saturday; the marijuana establishment shall not be open on Sunday.
  - b. There shall be no more than seven employees on site at any one time.
6. Upon receipt of final inspections from appropriate City Departments for the parking facility at 681 Washington Street and the interior renovation, the RMD and marijuana retail establishment may operate under the following conditions:
- a. Hours of operation shall be from 10:00 a.m. to 8:00 p.m. Monday through Thursday, from 10:00 a.m. to 9:00 p.m. Friday and Saturday and from 12:00 p.m. to 6:00 p.m. on Sunday.
  - b. There shall be no more than twelve employees on site at any one time.
7. The petitioner shall implement a Transportation Demand Management Plan to prevent employees from occupying parking stalls both in the surface parking facility and on-street parking stalls. The Plan shall include, but not be limited to:



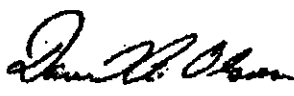
- a. Displaying all transit schedules in the immediate area, including a pedestrian wayfinding map, in a central location within the facility;
- b. Participating in the City of Newton Bikeshare program. If the program is unsuccessful, the petitioner shall purchase no less than three bikes for employees to commute to and from the site;
- c. Providing a secure bicycle storage area on site;
- d. Establishing an on-site car-pool, rideshare program with guaranteed ride home;
- e. Reimbursing employees commuting to the site via public transit; and
- f. Subsidizing the cost of parking and the cost of travel to and from the site from and to satellite parking facilities.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods such as the bikeshare. Three months after the start of marijuana retail establishment, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The Petitioner shall also meet with the Director of Planning and Development and the Director of Transportation three months after receiving final occupancy certificates for the interior renovation and the surface parking facility. If the interior renovation and parking facility are not completed simultaneously, the three-month deadline shall start from the date of whichever aspect is completed second.

8. The petitioner shall construct the parking facility to contain 11 stalls, with the option to create an additional five stalls, for a total of 16 stalls, should the additional stalls be necessary to satisfy demand. Six months after receipt of final inspections for the parking facility and the interior renovation, the Petitioner shall conduct a parking utilization study in a form outlined and approved by the Director of Planning and Development and the Director of Transportation; such study shall be filed with the Clerk of the City Council. The petitioner shall be required to expand the parking facility to 16 stalls should the Directors of Planning and Development and Transportation determine such, based on the findings of the parking study.
9. The petitioner shall employ a City of Newton Police Detail on the site during all operating hours for the first ninety days of the use of the site as a marijuana retail establishment. If at the end of the ninety days, the Director of Planning and Development, in consultation with the Director of Transportation and the Newton Police Department, determines the City of Newton Police Detail is still necessary, the Petitioner shall continue to employ a City of Newton Police Detail until deemed unnecessary by the officials stated. In the event a City of Newton Police Detail is not available, the petitioner shall obtain a private detail.
10. The petitioner shall employ a security professional to monitor the property, including the surface parking lot, during all operating hours. The petitioner shall make the security professional available to consult with the Newton Police Department, Newton Fire Department, and other law enforcement agencies.

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11. The petitioner shall limit on-site transactions to one ounce of marijuana, or its equivalent in whatever form the marijuana is dispensed, per customer per site visit, with the balance of the order, if any, delivered to customers' homes, provided home delivery is allowed by the Cannabis Control Commission.
12. Perimeter lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plans identified in Condition 1 above.
13. The petitioner shall locate and screen the dumpster to minimize its visibility from the public way. The dumpster(s) shall be kept closed, and the area surrounding the dumpster shall be kept free of debris.
14. The granting of a special permit to allow the RMD and marijuana retail establishment to operate at this site applies only to the petitioner and does not run with the land. At such time as the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Massachusetts Department of Public Health and/or the Cannabis Control Commission, the RMD and marijuana retail establishment granted by this Council Order shall terminate.
15. The petitioner shall maintain its registration with the Massachusetts Department of Public Health and/or the Cannabis Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services, and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
17. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works.
18. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
19. Prior to the issuance of any Building Permit for the Project, the petitioner shall pay the sum of \$25,000 to the City for the cost and installation by the City of a bus shelter along the Project's Washington Street frontage. The petitioner shall have no obligation regarding the ongoing maintenance or repair of said bus shelter.
20. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
21. In the event that a ballot question prohibiting all recreational marijuana retail establishments from operating in the City of Newton is passed by the voters at the November 6, 2018 special

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municipal election and the Newton City Council subsequently adopts a general ordinance prohibiting all recreational marijuana retail establishments from operating in the City of Newton, the provisions in this special permit that would authorize the co-location of a recreational marijuana retail establishment and regulate such operation shall be null and void. The provisions in this special permit which apply to the operation of the RMD shall remain in force.

Should the Newton City Council adopt a general ordinance prohibiting all recreational marijuana retail establishments from operating in the City of Newton and should the petitioner not elect to pursue the interior expansion and parking lot expansion, the petitioner shall be exempt from Condition #s 4, 5, 6, 7, 8, 18, and 19. Moreover, the petitioner shall also be exempt from the plans found in Condition #1.b that detail the interior renovation and surface parking facility. In such an event, the petitioner shall operate the RMD under the following conditions:

- a. Hours of operation shall be from 10:00 a.m. to 8:00 p.m. Monday through Thursday, and from 10:00 a.m. to 9:00 p.m. on Friday and Saturday and from 12:00 p.m. until 6:00 p.m. on Sunday.
  - b. There shall be no more than seven employees on site at any one time.
22. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
- a. Recorded a certified copy of this council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Made a payment to the City in accordance with Condition #18.
  - d. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
23. 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 and engineer certifying compliance with Condition 1.
  - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.

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- c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department and that the O&M plan has been recorded at the Middlesex Registry of Deeds.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
24. Notwithstanding the provisions of Condition #23 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules

Readings Waived and Approved

19 yeas 2 nays (Councilors Auchincloss and Gentile) 1 recused (Councilor Lappin) 2 absent (Councilors Ciccone and Lipof)

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


ATTEST:



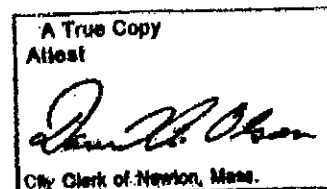
(SGD) DAVID A. OLSON, City Clerk  
Clerk of the City Council

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

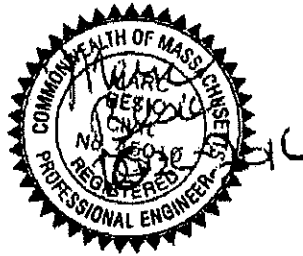
ATTEST:



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



**OPERATION & MAINTENANCE PLAN  
697 WASHINGTON STREET  
NEWTON, MASSACHUSETTS**



October 26, 2018

VTP Associates, Inc.  
132 Adams Street  
2<sup>nd</sup> Floor, Suite 3  
Newton Massachusetts 02465  
1-617-332-8271  
Job # 214113



**OPERATION & MAINTENANCE PLAN  
697 WASHINGTON STREET  
NEWTON, MASSACHUSETTS**

The proposed project includes stormwater runoff controls associated with the design of a newly paved area for client parking that will require continued maintenance by the property owner. The components associated with maintenance needs are the catch basin and the infiltration system. These will need to be cleaned periodically as noted below. Cleaning of these structures shall be done by the property owner via a specialty contractor with hydraulic cleaning ability. The property owner should also provide for the periodic sweeping (bi-annually) of the paved area to remove large debris, grass cuttings and sand particles prior to discharge through the catch basin. The following outlines the major maintenance issues associated with the project:

**Catch basin Cleaning:**

The catch basin structure should be inspected after completion of construction to assure that all debris was removed and no construction material will cause the system to clog. This inspection should also include the drain lines within the system.

The catch basin should be cleaned with a hydraulic vacuum system twice per year to remove accumulated solids and debris. At the same time, the drain lines should be inspected and cleaned if needed. Assuming the catch basin & lines are maintained and cleaning is in accordance with normal standards, the solids removal efficiency should be as required to prevent carry over of large solids to the cistern and infiltration system.

**Pavement Runoff Storage / Infiltration System**

The storage / infiltration system should be inspected after completion of construction to assure that all debris was removed and no construction material will be cause the system to clog.

The storage / infiltration system should be inspected over the first year of operation on a quarterly basis to determine the level of required maintenance. This inspection should be performed by the Owner's Engineer and a report issued to the City as to any cleaning / maintenance needs of that system. At the same time, the inspection of the piping should be performed to determine any flushing / cleaning needs. As a preliminary schedule, the system piping should be cleaned once a year to remove accumulated sediments and sediments in the infiltration chambers should be removed when they reach two (2) inches in depth.

**Maintenance Responsibilities**

The maintenance of the Drainage System is the responsibility of the Property Owner. The actual work should be subcontracted to a company that specializes in the cleaning of storm drainage facilities. Inspections should be performed by independent individual such as the design engineer or other experienced individual in the field.

**OPERATION & MAINTENANCE PLAN  
697 WASHINGTON STREET  
NEWTON, MASSACHUSETTS**

**INSPECTION REPORT:**

Inspection Firm: \_\_\_\_\_

Inspectors Name: \_\_\_\_\_ Date: \_\_\_\_\_

Components Inspected: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

**SYSTEM MAINTENANCE:**

Maintenance Firm: \_\_\_\_\_ Date: \_\_\_\_\_

Trench Drain Cleaned: Yes \_\_\_ No \_\_\_ Comments  
\_\_\_\_\_  
\_\_\_\_\_

Drain lines & Manholes Inspected: Yes \_\_\_ No \_\_\_ Comments:  
\_\_\_\_\_  
\_\_\_\_\_

Catch Basin Cleaned: Yes \_\_\_ No \_\_\_ Comments  
\_\_\_\_\_  
\_\_\_\_\_

Infiltration System(s) Cleaned: Yes \_\_\_ No \_\_\_ Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimate of Material Removed: \_\_\_\_\_

Other Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_



# ATTACHMENT B






## Land Use Map

Washington St., 697

*City of Newton,  
Massachusetts*

### Land Use

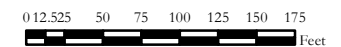
#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Vacant Land



The information on this map is a 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  
GIS Administrator - Douglas Greenfield



Map Date: July 23, 2021



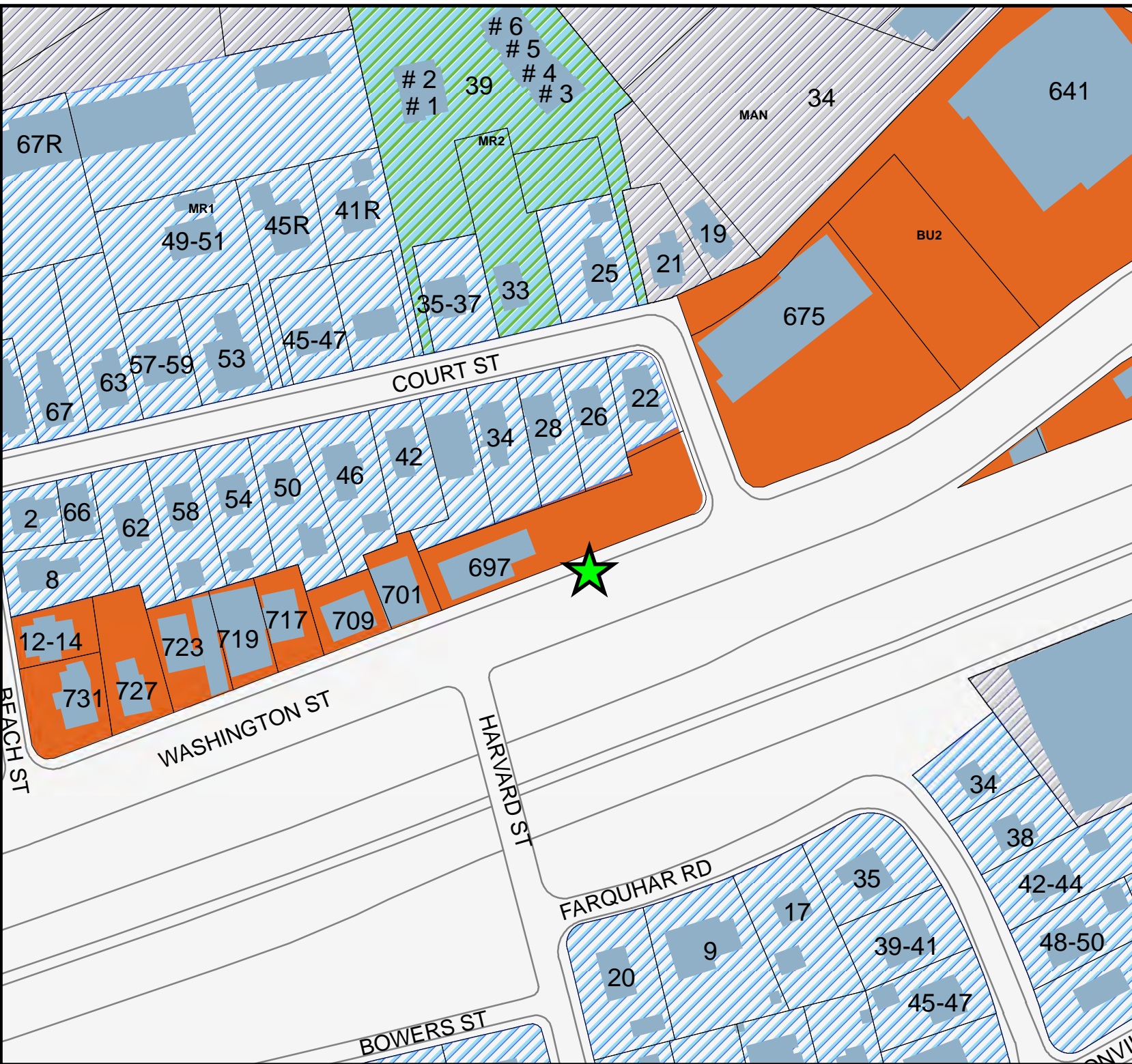


# ATTACHMENT C

## Zoning Map

Washington St., 697

*City of Newton,  
Massachusetts*

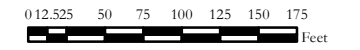


-  Multi-Residence 1
-  Multi-Residence 2
-  Business 2
-  Manufacturing



The information on this map is:  
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  
GIS Administrator - Douglas Greenfield



Map Date: July 23, 2021


**GREEN INTERNATIONAL AFFILIATES, INC.**

239 LITTLETON ROAD, SUITE 3 WESTFORD, MA 01886

T: (978) 923-0400 | F: (978) 399-0033 | WWW.GREENINTL.COM

July 21, 2021

Mr. Neil Cronin  
 Chief Planner  
 Planning and Development Department  
 Newton City Hall  
 1000 Commonwealth Ave  
 Newton, MA 02459

Subject: **Transportation Peer Review –  
 Recreational Marijuana Use  
 697 Washington Street  
 Newton, Massachusetts**

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Dear Mr. Cronin:

On behalf of the City of Newton (the City), Green International Affiliates, Inc. (Green) is submitting this letter report of the findings from our engineering peer review of the application package for the recreational marijuana use on Washington Street. The Applicant seeks to remove the appointment-only restriction that has been in place since October 2018 per City Council Order #289-18. The scope of our review included a review of the traffic assessment as it relates to parking at the site and to local traffic circulation at and near the site. The project is before the City Council for approval.

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

- Technical Memorandum titled “Traffic Assessment, Garden Remedies, Inc. – 697 Washington Street, Newton, MA”, prepared by Fuss & O’Neill, dated April 20, 2021.
- Supporting Statement titled “Amendment to Special Permit (Council Order #289-18), 697, 691, 681 Washington Street; 2 Court Street – Garden Remedies, Inc.,” prepared by Prince Lobel, dated May 12, 2021.
- PowerPoint Presentation titled “Garden Remedies Update – Appointment Only Removal,” prepared by Garden Remedies, Inc.
- Recorded Council Order titled “#289-18, 687 Washington St., Amending #167-14,” prepared by the City of Newton City Council, dated October 1, 2018.

In addition to the above documents, Green visited the project site and the surrounding roadways on June 24, 2021, to gain a better understanding of the existing conditions and the context of the proposed project. Our review evaluated the documents for consistency with typical industry practice for traffic studies, the City of Newton’s regulations and general bylaws, and Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) design standards.

On June 25, 2021, Green contacted Garden Remedies to request the following data that is needed to complete our review:

- Appointment data from pre-COVID conditions (last 30 days of first 90 days per council order), with a breakdown of appointments booked in advance versus on site.

- Appointment data from post-COVID conditions (most recent 30 days)
- Average duration of visits
- Parking occupancy data separating parking lots from on-street parking

While we are waiting for this data to be provided, Green offers the following comments resulting from our initial review of the above documents:

### **April 2021 Traffic Assessment Memorandum**

1. Footfall counts were performed at Garden Remedies on Friday, March 19, 2021, from 3:30 to 7:30 PM and Saturday, March 20, 2021, from 2:00 to 6:00 PM. Customer counts were also performed at Seed, a nearby dispensary, on Friday, March 26, 2021, from 4:00 to 6:00 PM and Saturday, March 27, 2021, from 2:00 to 4:00 PM. Garden Remedies served 74 total customers during the Friday peak hour and 57 customers during the Saturday peak hour. Seed served 44 customers during the Friday peak hour and 36 customers during the Saturday peak hour.

Based on the appointment data provided, 96 customers booked appointments during the Friday peak hour and 76 customers booked appointments during the Saturday peak hour on April 9 and 10, 2021. As stated in the initial traffic study by VHB dated May 31, 2018, a marijuana dispensary the size of Garden Remedies is expected to generate 21 entering and 21 exiting trips during the weekday evening peak hour, and 36 entering and 36 exiting trips during the Saturday midday peak hour using ITE trip generation rates. The appointment data provided shows that the dispensary generates significantly more trips than were originally projected. Please update the Build Condition capacity analysis to reflect the higher trip generation experienced under current conditions. In addition, data regarding appointments versus walk-in customers is needed to determine whether there will be a substantial increase in customers relative to the current condition and if additional analysis would be needed for that scenario. Please refer to the previous request for data.

2. The memorandum included the following two study intersections:
  - Washington Street at Court Street
  - Court Street at Site Driveway

Turning movement counts (TMCs) were collected during the weekday evening peak period on Thursday, March 11, 2021, from 4:00 PM to 6:00 PM and the Saturday midday peak period on March 13, 2021 from 11:00 AM to 1:00 PM. During the weekday evening peak hour, one of 29 total vehicles traveling southbound on Court Street turned into the Garden Remedies parking lot. During the Saturday midday peak hour, four of 40 total vehicles traveling southbound on Court Street turned into the Garden Remedies parking lot. This demonstrates that most of the vehicles on Court Street are not using Court Street to access the dispensary.

Green concurs that the vehicles turning right into the Court Street parking lot make up a minority of the traffic on Court Street (less than or equal to 10 percent). Green also notes that vehicles turning into the parking lot from Court Street may not account for all dispensary-generated traffic on Court Street. During our field visit, a customer was observed parking in the Beach Street/ Court Street neighborhood. At the time of our visit, nearly all the parking spaces along both Beach Street and Court Street were occupied, indicating that there are very few spots available for customers to utilize. Due to the COVID-19 pandemic, parking meters on Washington Street were not in operation

from the spring of 2020 to July 2021, which led to the on-street spaces being utilized for long-term parking. Now that the parking meters have been re-activated, it is expected that parking turnover on Washington Street will increase providing additional available spaces. Green concurs that traffic on Court Street would not be significantly affected by the removal of the appointment-only restriction and no further action is required.

3. Two on-site parking lots are provided. One parking lot located on Washington provides six parking spaces and the other on Court Street provides 13 spaces. Three of the parking spaces in the Washington Street parking lot are reserved for medical use patients and two are accessible spaces. Metered street parking is also available on both sides of Washington Street. Parking occupancy counts at the 19 on-site parking spaces and 14 street parking spaces adjacent to the site were conducted on Friday and Saturday. The maximum on-site parking occupancy was 10 of the 19 spaces at 3:00 pm on Saturday. For the remainder of the Friday and Saturday study periods, a maximum of three spaces were occupied in the Court Street parking lot.

Green concurs that the Court Street parking lot is underutilized. During our site visit, a maximum of four vehicles were parked in this parking lot. All these vehicles were customers who parked for a maximum of ten minutes. Customers were observed parking in on-street spaces and in the parking lot of Marty's Fine Wines. Marty's Fine Wines and most of the on-street spaces utilized by customers are located farther from the dispensary than the Court Street lot, indicating that these customers are unaware of the Court Street parking lot. Green concurs with the recommendation to install signage directing customers to the parking lot. This would minimize the number of customers occupying off-site parking spaces and reduce emissions resulting from customers driving around to look for parking spaces. It is our opinion that with proper signage directing customers to utilize the Court Street parking lot, the on-site parking spaces provided would accommodate the vehicles generated by the dispensary. In addition to installing signage, the Applicant should add language to their website directing customers to utilize the Court Street parking lot.

4. Appointment data from the week of April 5, 2021, shows that during the busiest half hour of operation, 61% of available appointment slots are booked. The hour with the highest number of booked appointments was 5:30 to 6:30 PM on Friday April 9, when 96 appointments were booked. The capacity of the parking lot is greater than the existing demand; however, to determine the demand, we need the average duration of customer visits. Please refer to the previous request for data.
5. Green reviewed City Council Order #289-18 and found that the dispensary has complied with all conditions related to Transportation Demand Management. The initial traffic study by VHB stated that the Washington Street parking lot would be used for employees only; however, this lot is currently available for customers and no employees were observed parking on-site during our field visit. The dispensary subsidizes employee parking at 727 Washington Street, located within walking distance of the project site. Overflow employee parking at Richardson Street Municipal Parking Lot and Uber rides to and from the lot are also subsidized by the dispensary. By utilizing both on-site parking lots for customers, the dispensary has increased the customer parking capacity beyond what was originally approved. This reduces the demand for on-street parking near the site. No additional information is required.

If either the City staff or the Applicant's engineer would like to discuss any of these comments further, please feel free to contact me at 978-843-5214.

Sincerely,



Mr. Neil Cronin  
July 21, 2021

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Green International Affiliates, Inc.



Corinne Tobias, P.E., PTOE  
Transportation Planning Group

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

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