



Land Use Committee Report

City of Newton **In City Council**

Tuesday, April 30, 2019

Present: Councilors Schwartz (Chair), Lipof, Laredo, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Downs, Albright

City Staff Present: Associate City Solicitor Jonah Temple, Chief Planner Jennifer Caira, Senior Planner Michael Gleba, Senior Planner Neil Cronin

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#425-18 Request to Rezone three parcels for Northland Development

NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, NORTHLAND OAK STREET, LLC petition for a change of zone to BUSINESS USE 4 for land located at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), currently zoned MU1.

Action: **Land Use Held 8-0; Public Hearing Continued**

#426-18 Special Permit to allow mixed use development

NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, LLC, NORTHLAND OAK STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a mixed-use development greater than 20,000 sq. ft. with building heights of up to 96' consisting of 822 residential units, with ground floor residential units, with restaurants with more than 50 seats, for-profit schools and educational uses, stand-alone ATMs drive-in businesses, open air businesses, hotels, accessory multi-level parking facilities, non-accessory single-level parking facilities, non-accessory multi-level parking facilities, places of amusement, radio or TV broadcasting studios, and lab and research facilities, to allow a waiver of 1,600 parking stalls, to allow a reduction in the overall parking requirement to not less than 1900 stalls, to waive dimensional requirements for parking stalls, to waive end stall maneuvering requirements, to allow driveway entrances and exits in excess of 25', to waive perimeter landscaping requirements, to waive interior landscaping requirements, to waive lighting requirements for parking lots, to waive general lighting, surfacing and maintenance requirements, to waive off-street loading facilities requirements, to waive sign requirements relative to number, size, location or design, to waive the number of signs allowed at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), Newton Upper Falls, Ward 5, on 22.6 acres of land in a proposed BU4 district. Ref: Sec. 7.3.3, 7.4, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C, 5.4.2, 4.4.1, 5.1.4, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.D.2,

5.1.9.A, 5.1.9.B, 5.1.10.A.1, 5.1.10, 5.1.12, 5.1.13, 5.2, 5.2.13 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 8-0; Public Hearing Continued**

Note: The Chair noted that at the public hearing on April 9, 2019 after extensive public comment, Councilors did not have an opportunity to ask questions or submit requests for information to the petitioner and the Planning Department. Councilors submitted questions which were circulated to the Planning Department and the petitioner. The questions and the petitioner's responses can be found on the City's website at:

http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp.

The Chair explained that the intent of the meeting is to focus commentary on clarifying questions relative to Transportation and determining whether Councilors are satisfied with the data that has been provided. The Chair confirmed that there will be opportunities for public comment at future meetings.

Committee members noted that the traffic data supplied is insufficient. Councilors requested an analysis of the traffic based on what is proposed compared with the current conditions. A Committee member questioned how the petitioner determined that 20%-25% of residents will live on site and questioned if this number is actualized, will the proposed traffic conditions be improved? Committee members requested a traffic analysis that accounts for Citywide developments in process. A Committee member asked for some analysis on how GPS programs might divert traffic to side streets.

Councilors noted that the petitioner proposes to locate 1650 parking stalls in the garage including 200 spaces for valet parking. It was noted that the garage is at capacity during peak times. A Councilor questioned whether the peak capacity accounts for the 200 valet parking spaces. One Councilor questioned whether the petitioner might consider reducing the number of parking spaces while building in some flexibility to build additional parking at a later date, if it is determined to be necessary.

Councilors questioned whether the shuttles should be offered to non-residents and whether the rates should vary. A Committee member questioned whether 20 minutes between shuttles is enough. A Councilor questioned whether the petitioner would reconsider on demand shuttle service for multiple riders. One Councilor suggested that the City investigate the option of requiring the petitioner to post a performance bond for management of the shuttle system.

Committee members expressed support for enhancing the Greenway access to the Newton Highlands and Elliot train stations. A Committee member noted that the petitioner and the City's demographer viewed 55+ housing very differently and questioned whether the Planning Department believes that intergenerational housing at this location will be successful?

A Committee member questioned whether there other projects in Newton or Massachusetts that have applied transit-oriented standards for parking or transport in a similar manner and questioned which communities are being referred to as suburban TOD communities? A Councilor questioned what the mode splits are in comparable communities where the 128 Business Council has other successful operations.

Councilor Auchincloss motioned to hold the items which carried unanimously. The next meeting will be held on May 14, 2019 and the presentation will be relative to Sustainability, Stormwater and Design Guidelines.

Request for a Consistency Ruling relative to 642 Centre Street as it relates to Special Permit Council Order #361-16. Requesting an amendment to the site plan to allow substitute the approved crawl space with basement space.

Note: Petitioner for the project, Lisa Schwarzberg presented the request for a consistency ruling to allow basement space in the approved crawl space. Senior Planner Michael Gleba noted that the change to basement space does not impact the FAR. Committee members expressed no concerns relative to the request.

#564-18(2) Petition to allow nine-unit multi-family dwelling at 19-31 and 39 Herrick Road
STUART ROTHMAN/HERRICK ROAD REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a 36' three-story nine-unit multi-family dwelling with accessory parking for nine cars, to allow multi-family residential use on the ground level in a BU1 district, to allow a reduction to one parking stall per unit, to waive 18 stalls on the parcel associated with the multi-family dwelling (Lot 7), to allow off-site parking facilities (Lot 6), to allow parking in the side setback, to allow a reduced minimum aisle width, to waive maneuvering space required of restricted stalls, to allow a retaining wall greater than 4' in a setback, to waive perimeter screening requirements and to waive lighting and surfacing requirements at 39 Herrick Road, Ward 6, on land known as Section 61 Block 36 Lots 6 and 7, in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 5.1.4, 5.1.13, 5.1.6.A, 5.1.6.B, 5.1.8.A, 5.1.8.B.6, 5.1.8.C.2, 5.1.9.A, 5.1.10, 5.4.2, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 6-0 (Laredo, Kelley not Voting)

Note: The Chair noted that this item will be postponed. Councilor Lipof motioned to hold the item which carried unanimously.

#497-18 Petition to allow single-family attached dwellings at 10 Pillion Court
MICHAEL MOSKOWITZ/TEN PILLION, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached dwelling unit to the existing single-family structure, reduce lot area, frontage and lot coverage requirements, to reduce front and side setback requirements and to allow a driveway along the side lot line, requiring an amendment to Variance #99442 at 10 Pillion Court, Ward 2, on land known as Section 22 Block 7 Lot 46, containing approximately 10,559 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved Withdrawal without Prejudice 6-0 (Laredo, Kelley not Voting)

Note: Committee members reviewed the request to withdraw the petition without prejudice. Committee members expressed no concerns relative to the request and voted 6-0 in favor of a motion to approve from Councilor Auchincloss.

#41-19 Petition to amend Council Order #288-18 to allow adult use-sales at 24-26 Elliot St
CYPRESS TREE MANAGEMENT, INC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #288-18 to allow retail marijuana sales in conjunction with as the approved RMD (Registered Medical Dispensary), to waive the 25% façade transparency requirement, to waive minimum stall dimensions, to waive minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements and to waive lighting requirements at 24-26 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 25 Lot 01, containing approximately 25,320 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec 7.3.3, 7.4, 6.10.3.D, 4.4.1, 6.10.3.E.15, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.10.A, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 4-0-3 (Schwartz, Kelley, Auchincloss abstaining, Lipof Recused); Public Hearing Closed 04/30/2019

Note: Attorney Katherine Adams, offices of Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, Cypress Tree Management. Atty. Adams presented the request to amend Special Permit Council Order #288-18 to allow the sale of recreational marijuana at 24-26 Elliot Street. Atty. Adams presented details of the request as shown on the attached presentation. Atty. Adams noted that Cypress Tree received a Special Permit for the sale of medical marijuana on October 1, 2018. Atty. Adams explained that the site and operations will remain very similar to the approved plans.

Atty. Adams stated that the petitioner engaged VHB to conduct a traffic assessment to quantify the impact of adult-use marijuana sales on the site and adjacent intersections. She noted that the City has engaged Green International to conduct a peer review of VHB's report. The peer reviewer found the methodology used to be according to industry standards. Atty. Adams noted that as a result of the peer review, the petitioner was asked to fund a Road Safety Audit of the intersections at Boylston Street/Elliot Street and Boylston Street/Ramsdell Street as well as implement improvements identified by this project (a cost of \$15,000). Atty. Adams noted that the petitioner has offered to pay \$25,000 for the funding of the report and recommended mitigation measures.

Atty. Adams noted that adult-use sales are emerging and difficult to quantify at this time. As such, the petitioner proposes to operate on an "appointment-only" basis with modification to that according to the procedure outlined in the Council Order. The petitioner anticipates offering up to 450 appointments each day, with the exception of Sunday. The proposed plan includes 6 point of sale stations, the same number approved when the medical operations were approved in 2018. Atty. Adams noted that the petitioner proposes to add 4 staff members to operations to ensure operations are facilitated efficiently but confirmed that the increase in staff members would not affect the number of appointments each day.

Atty. Adams stated that the employees will not be allowed to park on site and Cypress Tree is working to secure off-site parking for staff. Rear parking will be reserved for valet parking for 180 days at which point Cypress Tree may seek to reduce valet hours depending on demand. Atty. Adams stated that Cypress Tree has engaged in community outreach and has executed a host agreement with the Mayor.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, land use, zoning and plans for the proposed facility as shown on the attached presentation. Mr. Cronin noted that a bicycle rack at the site has been moved to a more prominent location based on the recommendation of the City's peer reviewer. He explained that a security vestibule will be used where staff will verify identification prior to access of the retailer. Mr. Cronin noted that the petitioner is seeking a waiver from the City's requirement that 25% of the façade is transparent. Mr. Cronin confirmed that given the setback of the facility from Elliot Street and the narrow shape of the structure, the Planning Department believes that the waiver of the transparency requirement is appropriate.

The 2018 Special Permit allowed hours of operation from 9:00 am – 9:00 pm Monday through Saturday and 12:00 pm – 6:00 pm on Sunday. It was anticipated that the petitioner would serve 150 patients each day, generate 32 new vehicle trips in the weekday evening peak hour and 2 new trips during the Saturday mid-day peak hour. Mr. Cronin confirmed that the proposed addition of recreational marijuana sales results in an increase in number of patrons to 450 each day, 137 new vehicle trips during the weekday evening peak and 111 new trips during the Saturday mid-day peak. Mr. Cronin noted that the Planning Department recommends implementation of a plan to prevent employees parking on site and reduce vehicle trips as well as submission of an Employee Parking Plan prior to the issuance of a building permit. The petitioner will secure a police detail during weekday evening peak for 180 days to ensure access to and from the site is not restricted.

Committee members noted that the increase in trips to the site will be approximately 100 during the weekday evening peak and 100 during the mid-day Saturday peak and questioned whether the site can sustain the increase. VHB Traffic Engineer Randy Hart confirmed that 10% of the site generated traffic will be approaching the site on Elliot Street headed north. Additionally, Elliot Street will see a 10% increase in traffic for the right turn movement onto Route 9.

The Public Hearing was Opened

Jared, 29 Lasell Street, spoke in favor of the project and the revenue generated by the project.

Jane Frantz, 12 Glastonbury Oval, supports the proposed retail marijuana at this site. Ms. Frantz noted that the Cannabis Commission covered every aspect of marijuana regulation. She noted that Cypress Tree complies with both state and local regulations.

Josh Bowman, 150 Warren Street, expressed support for the petition. He noted that the petitioner has engaged in significant community outreach and he believes the location is an appropriate location for the business.

Evan Michaud, 21 Elliot Street, is opposed to the petition. He noted that the petitioner has not moved forward with any of the approved plans and he believes they should open the medical use to see the impact prior to the approving of the recreational use.

Zach Green, 26 Fox Hill Road, is supportive of the proposed project. He noted that the former use was a Chinese Restaurant, which generated traffic as well. He stated that the petitioner has performed a significant amount of community outreach and noted that the Brookline NETA facility has not generated an overwhelming amount of traffic.

Nancy Liverman, 187 Woodcliff Road, supports the proposed recreational dispensary.

Craig Mauer, 176 East Side Parkway, supportive of the petition. He noted that marijuana retailers are coming into the City and he knows that this operator will run their business with the City's best interest in mind.

Mary Bradley, lives in the vicinity of the proposed facility and does not have concerns relative to the increase in traffic at the site.

Ann Waldox, 12 Lombard Street, believes having a location on the south side will be good for balancing customers to marijuana facilities.

Seeing no other member of the public who wished to speak, Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the petition.

Some Committee members expressed concerns relative to increase in traffic around the site. Attorney Steve Buchbinder noted that the total 8,000 sq. ft. site is composed of the marijuana dispensary as well as approximately 4,000 sq. ft. in retail space. VHB Traffic Engineer Randy stated that when the traffic study was performed, VHB was required to use an analysis based on the figures for a shopping center, because there is no data that represents the specialty retail stores proposed for the site. Mr. Hart noted that the figures for a shopping center overestimate the number of trips. Mr. Cronin confirmed that the peer reviewer agrees that the number of trips generated from the site are overestimated in the traffic study. Atty. Buchbinder reiterated that the number of appointments per day is not increased from what was permitted when the 2018 Special Permit was approved for medical use. He confirmed that the dispensary must operate as appointment-only unless the Council determines otherwise.

A Committee member expressed concerns relative to the waiver of the façade transparency requirement. Chief Planner Jennifer Caira noted that the façade transparency requirement applies only to a portion of the building and reiterated that the building is set back on the site. Committee members questioned how the Road Safety Audit will be used. It was noted that because Route 9 is a state road, the City may make any changes without first conducting a Road Safety Audit. Ms. Caira confirmed that after the study is completed, the City will understand what improvements are recommended and will pursue state and federal funding opportunities to implement the recommendations. Additionally, the 3% tax on the gross revenue for the dispensary must be used in conjunction with improvements in the vicinity of the project.

A Councilor questioned whether there might be an opportunity to focus some efforts on strengthening the pedestrian and public transit connections. A Committee member asked that the petitioner consider the addition of trees in the landscaping plan and Atty. Buchbinder confirmed that the petitioner is willing to work with the Planning Department on including trees in the landscaping plan.




A Committee member expressed concern relative to the use of a cut-through on site to access abutting properties and noted that efforts to eliminate one curb cut were unsuccessful. The Committee member questioned whether the petitioner might consider a temporary blockade or speed bump to mitigate cut through traffic and use of the rear parking lot. Atty. Buchbinder confirmed that the petitioner would be willing to install signage and add a speed bump at the site if it is determined necessary in consultation with the Planning Department after 30-60 days. Atty. Buchbinder stated that the rear parking lot will only be used for valet parking, even if the number of hours for valet are reduced. Committee members asked that if the hours for valet parking are reduced, the data supporting the reduction in hours is provided to Council.

Committee members reviewed the draft findings and conditions as shown on the attached draft Council Order. Committee members noted that the draft Council Order does not highlight the changes from what was approved in 2018. Councilors requested that a red lined version be provided for the Council meeting. Committee members asked that the term “patients” be replaced with “patrons” throughout the Council Order. A Committee member asked that the language in the order is replicated according to the 2018 Special Permit where it is appropriate. With that Committee members voted 4-0-3 with abstentions from Councilors Schwartz, Kelley and Auchincloss.

The Committee adjourned at 10:30 pm.

Respectfully Submitted,

Greg Schwartz, Chair



Cypress Tree Management

24-26 Elliot Street

Special Permit Application to the Land Use Committee of
the Newton City Council

April 30, 2019

STRICTLY CONFIDENTIAL

1



Aerial View



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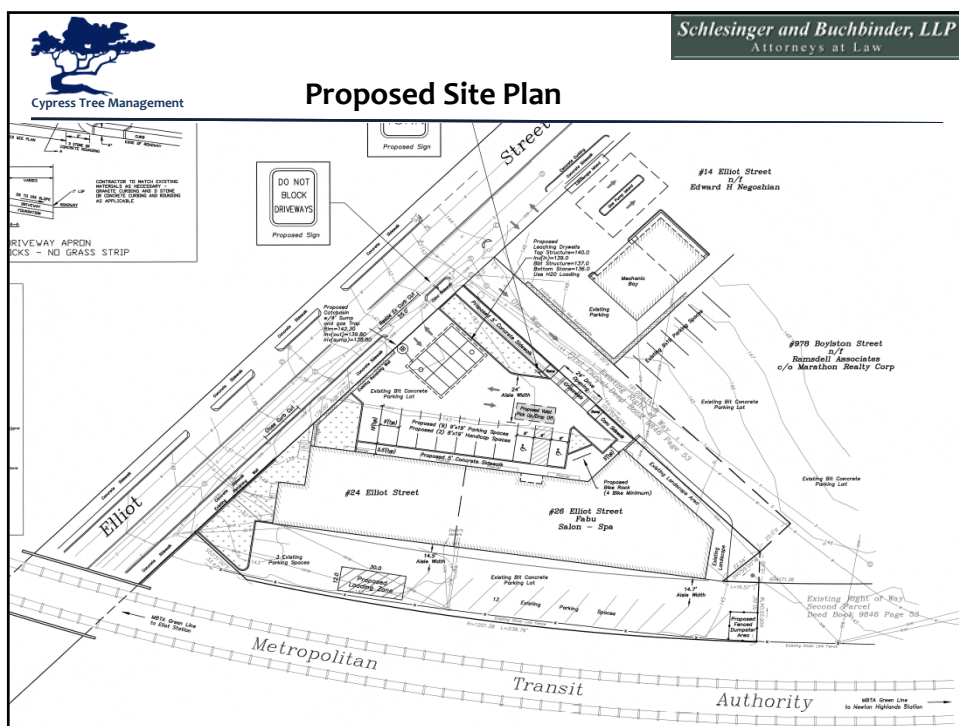
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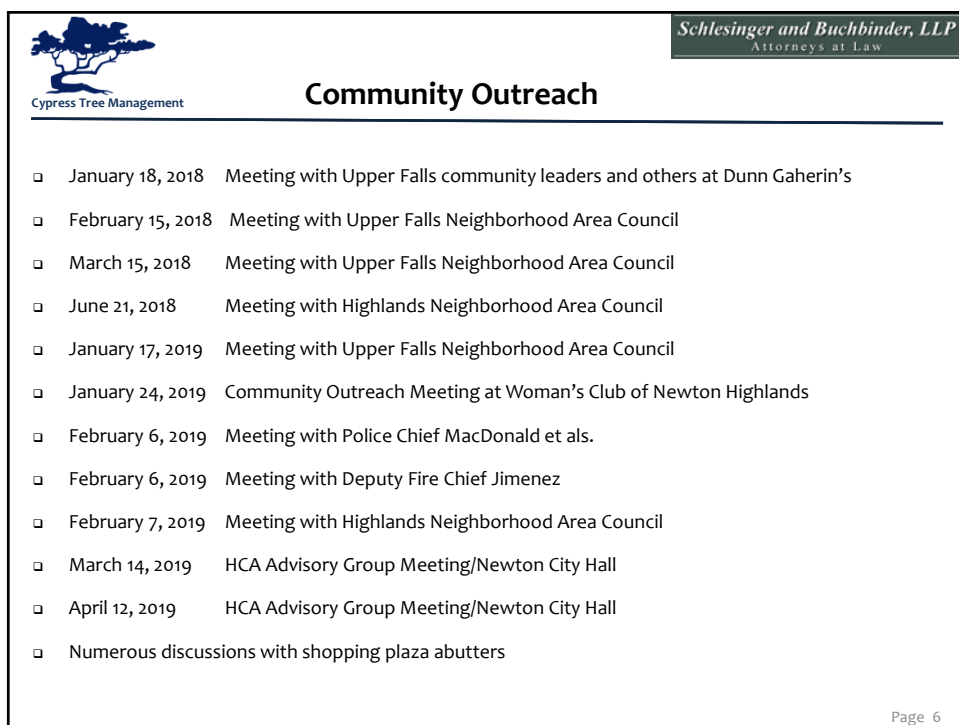
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4



5



6



Cypress Tree Management

Schlesinger and Buchbinder, LLP
Attorneys at Law

Security Protocols: Exterior

- ❑ Perimeter of building to be secured with cameras, motion detectors and glass break alarms
- ❑ Lighting and landscaping will be carefully positioned
- ❑ Security attendants will be monitoring outside of building as well as interior spaces
- ❑ Valet service and police detail will ensure safe and efficient access and egress from facility

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Cypress Tree Management

Schlesinger and Buchbinder, LLP
Attorneys at Law

Security Protocols: Interior

- ❑ Medical patients to show CCC ID card along with proper identification (i.e., drivers' license or passport)
- ❑ Adult use consumers to show proper identification
- ❑ All entrants must have appointment
- ❑ Identification will be scanned for authenticity
- ❑ Identification will be checked prior to entering and at time of purchase
- ❑ Security to facilitate safe exit from building after purchase

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Cypress Tree Management

Schlesinger and Buchbinder, LLP
Attorneys at Law

Prevention of Diversion

- ❑ Train personnel on how to identify valid identification
- ❑ Use up to date ID scanners
- ❑ Educate customers about state laws and risks of minors coming into contact with products and how to prevent same through safe storage
- ❑ Packing will be tamper and child resistant as well as resealable by consumer
- ❑ Cypress Tree will have an inventory tracking and control system that includes seed to sale tracking

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Cypress Tree Management

Schlesinger and Buchbinder, LLP
Attorneys at Law

No Nuisance to Community

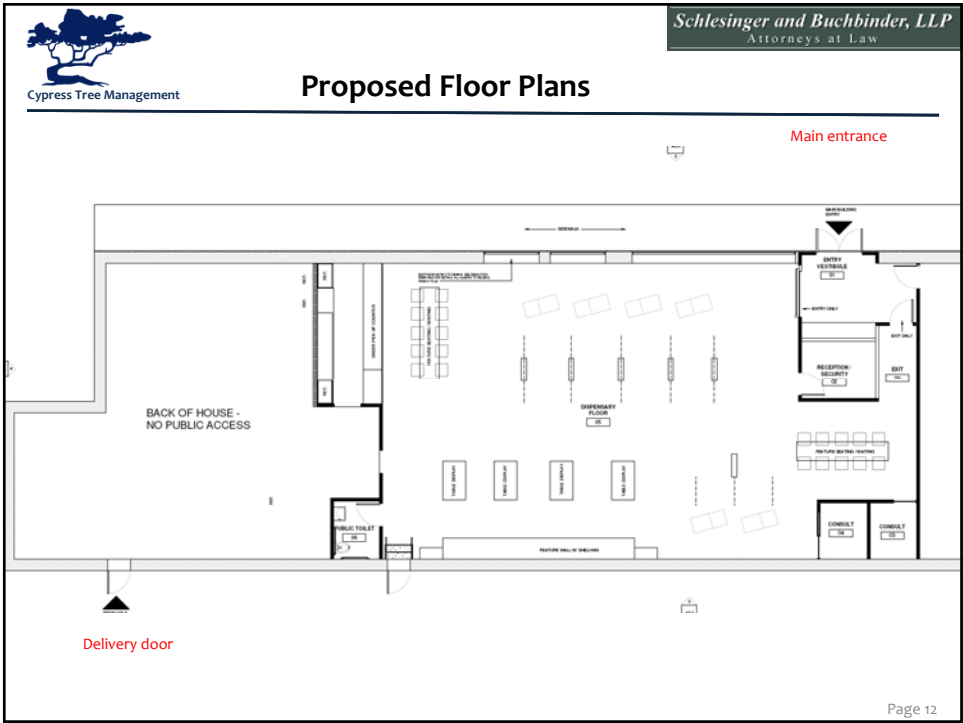
- ❑ Product is delivered to premises in sealed containers
- ❑ Products leave facility in sealed, child resistant packaging
- ❑ No noise or odor will emanate outside of building
- ❑ Security cameras monitor full perimeter of site
- ❑ No loitering is permitted

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10



11



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Cypress Tree Management

Schlesinger and Buchbinder, LLP
Attorneys at Law

Transparency for Dispensary Space Only:

- 30% if include all windows
- 5% if exclude windows behind wood slats



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Department of Planning and Development



**PETITION #41-19(2)
24-26 ELLIOT STREET**

SPECIAL PERMIT TO AMEND
COUNCIL ORDER #288-18 TO
ALLOW A MARIJUANA RETAILER
AND TO WAIVE THE
TRANSPARENCY REQUIREMENT

APRIL 30, 2019



Requested Relief



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

- Amend Council Order #288-18.
- Allow a Marijuana Retailer (§4.4.1 and §6.10.3.D).
- Waive the transparency requirement (§6.10.3.E.15).

Criteria to Consider



When reviewing this request, the Council should consider whether:

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

Criteria to Consider Continued

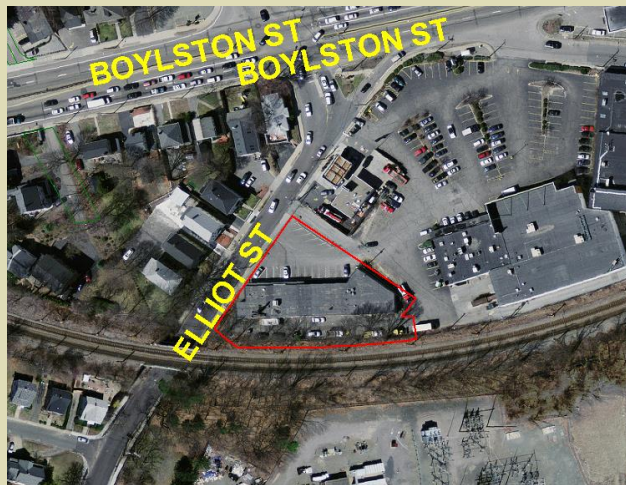


- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
- The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)

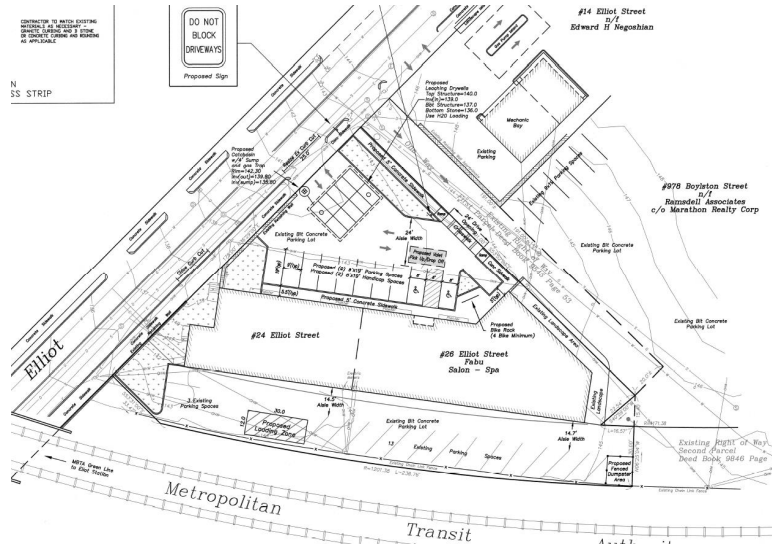
Criteria to Consider Continued

- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
- The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.G.2.g)

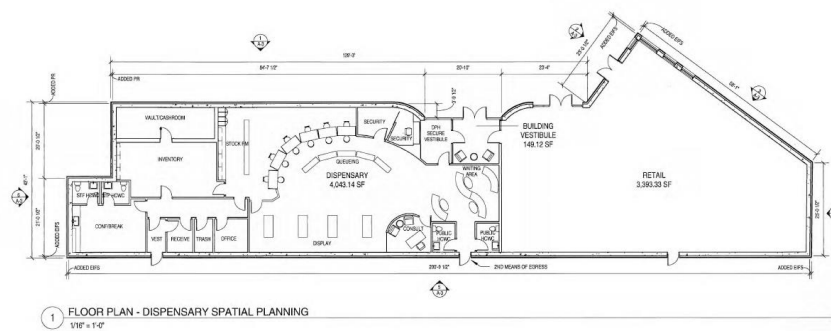
AERIAL/GIS



Proposed Site Plan

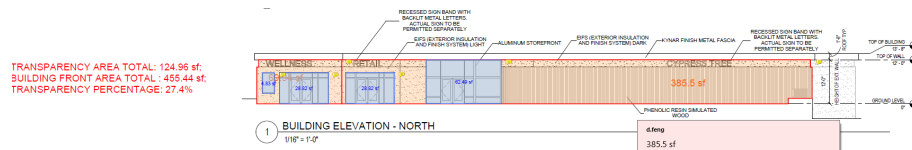


Floor Plan



1 FLOOR PLAN - DISPENSARY SPATIAL PLANNING
1/8" = 1'-0"

Front Elevation



Council Order #288-18 Registered Medical Marijuana Dispensary (RMD)

- The petitioner gained approval to establish a RMD on site in 2018, under the following conditions:
 - Hours of Operation from 9:00 a.m. through 9:00 p.m. Monday through Saturday and from 12:00 p.m. to 6:00 p.m. on Sunday.
 - Fourteen staff members on the largest shift
 - The petitioner hoped to serve 150 patients per day. The RMD was expected to generate approximately 32 new vehicle trips in the weekday evening peak hour and 2 new trips during the Saturday mid-day peak hour.

Immediate Area



#41-19(2) Marijuana Retailer

- The petitioner is seeking to allow a Marijuana Retailer, offering both medical and recreational marijuana, with the below changes to Council Order #288-18:
 - Twenty staff members on the largest shift
 - The petitioner hopes to serve 450 patients per day. The Marijuana Retailer is expected to generate approximately 137 new vehicle trips in the weekday evening peak hour and 111 new trips during the Saturday mid-day peak hour.

#41-19(2) Marijuana Retailer Continued

- The petitioner would operate the Marijuana Retailer with the same measures stated in Council Order #288-18.
- The Planning Department believes the conditions will help ensure trips generated by the Marijuana Retailer will not adversely impact the neighborhood.

Transportation Peer Review

- The City engaged a third party engineering firm to peer-review the petitioner's Traffic Impact and Access Study.
- Peer-Review believed further study was warranted for the intersections of Boylston and Elliot and Boylston and Ramsdell Streets.
- The petitioner will provide a payment for the City to conduct a Road Safety Audit (RSA)
- Staff suggests the petitioner submit an Employee Parking Plan prior to the issuance of a building permit.

Minimum Criteria and Limitations on Approval



- Location: The site is not located within a 500-foot radius of a public or private K-12 school.
- Number: The number of Marijuana Retailers in the City is less than 20% of the number of liquor licenses (package stores).
- Distance: The site is not within a half-mile radius of an existing Registered Medical Marijuana Dispensary or an existing Marijuana Retailer.
- Size: The Marijuana Retailer is less than the 5,000 square feet.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

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

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

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

5. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters. The Council finds a waiver of the 25% transparency requirement is appropriate given the structure's setback from Elliot Street and the narrow shape of the structure. (§6.10.3.G.1.c)
8. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)

9. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)
10. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
11. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
12. The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
13. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
14. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Boylston Street/Route 9 corridor. (§6.10.3.G.2.g)

PETITION NUMBER: #41-19(2)

PETITIONER: Cypress Tree Management, Inc.

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

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

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

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

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

ZONING: Business Use 2 District

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

Approved subject to the following conditions:

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

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

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

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

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

Six months after commencement of operations for the Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional Services, the Director of Planning and Development and the Clerk of the Council requesting an appearance

before the before the Land Use Committee to no longer require that all patients be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:

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

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

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

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

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

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

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

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

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

Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

24-26 Elliot ~~St.~~ Street
#~~288-1841-19(2)~~

CITY OF NEWTON

IN CITY COUNCIL

October 1, 2018

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #288-18 to allow a co-located registered medical marijuana dispensary (RMD) within 500 feet with the retail sale of recreational marijuana (hereinafter a school, "Marijuana Retailer"), and to allow waivers to waive the requirements transparency requirement of parking facilities containing more than five stalls, the Marijuana Retailer as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

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

With regard to special permits concerning the RMD Marijuana Retailer on site, pursuant to §6.10.F.3.G:

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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 site is located within five hundred (500) feet of a school, but the site is adequately buffered from the school by Boylston Street/Route 9. The school's population is also of an age which will not be adversely impacted by the RMD. (§6.10.3.F.2)~~
- ~~7.5. The site~~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.~~F3G.1.a~~)
- ~~8. Traffic generated by client trips, employee trips, and deliveries to and from the RMD will not create a significant adverse impact on nearby uses. (§6.10.3.F4)~~
- ~~9.6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.F5G.1.b)~~
- ~~7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters. The Council finds a waiver of the 25% transparency requirement is appropriate given the structure's setback from Elliot Street and the narrow shape of the structure. (§6.10.3.G.1.c)~~
- ~~8. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)~~
- ~~9. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)~~
10. The building and site~~lot~~ 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.~~F6G.2.c~~)
11. The building and site are accessible to persons with disabilities. (§6.10.3.~~F7G.2.d~~)
12. The site~~lot~~ is accessible to regional roadways and public transportation. (§6.10.3.~~F8G.2.e~~)
13. The site~~lot~~ is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.~~F9G.2.f~~)
14. The ~~RMD's~~Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Boylston Street/Route 9 corridor. (§6.10.3.~~F10G.2.g~~)

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

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

PETITION NUMBER: #288-1841-19(2)

PETITIONER: Cypress Tree Management, Inc.

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

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

ADDRESS OF OWNER: ~~P.O. Box 26515~~ Dimick Street, Unit C
~~Brookline~~ Somerville, MA 02446 ~~02143~~

TO BE USED FOR: ~~Registered Medical Marijuana Dispensary~~ Retailer

CONSTRUCTION: Concrete

EXPLANATORY NOTES: ~~§6.10.3 and Special Permits per §7.3.3 to locate; amend Council Order #288-18 which allowed a RMD~~ Registered Medical Marijuana Dispensary within five hundred feet of a school; ~~§5 and which legalized the site's nonconformities regarding parking facilities; allow a Marijuana Retailer (§4.4.1.8.B and §5.1.13 to 6.10.3.D); and waive the minimum stall dimensions; §5.1.8.C and §5.1.13 to waive the minimum aisle width for two-way traffic; §5.1.9.A and §5.1.13 to waive the perimeter screening requirements; §5.1.9.B and §5.1.13 to waive the interior landscaping requirements; §5.1.25 percent transparency requirement (§6.10 and §5.1.13 to waive the lighting requirements 3.F.15)~~

ZONING: Business Use 2 District

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

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Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. Existing Conditions Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated ~~February 14, 2018, and revised May 1, 2018.~~ January 7, 2019.

- b. Proposed Site Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated ~~February 14, 2018, and January 7, 2019~~, revised ~~June 19, 2018~~ March 20, 2019.
 - c. Area Plan signed and stamped by Verne T. Porter, Professional Land Surveyor, dated ~~February 14, 2018~~ January 7, 2019.
 - d. Architectural Plans, signed and stamped by Jana Gooden Silsby, Registered Architect, dated May 3, 2018.
 - e. Proposed Landscape Plan, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, dated ~~June 27, 2018~~ April 17, 2019.
 - f. Proposed Lighting Plan, prepared by G2 Collaborative Landscape Architecture, dated May 31, 2018.
2. The petitioner shall employ a police detail, subject to availability of such police details, on site from 3:45 p.m. to 7:45 p.m. Monday through Friday for 180 days from the commencement of operations of the Marijuana Retailer or the RMD. At the end of such term, the Director of Planning and Development, in concert with the ~~Transportation Division~~ Commissioner of Public Works and the Newton Police Department, shall determine whether the term for the detail shall be extended or whether other changes shall be made to address queuing along Elliot Street. At that time, the officials shall also discuss whether a speed bump or a similar traffic calming measure should be installed at the curb cut at the northeast boundary to prevent vehicles from using the site as a "cut-through." The Director of Planning and Development shall notify the Land Use Committee and the Ward 5 Councilors in writing of the decision reached by the officials.
- Should the petitioner choose to commence operations of the Registered Medical Marijuana Dispensary use first, without the retail sale of recreational marijuana, the above requirements regarding the police shall be in place at the at the commencement of RMD operations and shall restart upon commencement of the retail sale of recreational marijuana.
3. The petitioner shall see ~~patients of all patrons to~~ the RMD Marijuana Retailer on an appointment only basis. Given that the petitioner requires each ~~patient~~ patron to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of ~~patients~~ patrons arriving to and leaving from the site, to avoid ~~patients~~ patrons waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate ~~patient~~ patron volume.

The petitioner may use reasonable flexibility to accommodate ~~patients~~ patrons where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in ~~patients' and patients' patrons'~~ schedules affect the appointment schedule. The petitioner shall also accommodate those ~~patients~~ patrons 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~~ patron.

No sooner than twelve (12) Six months after commencement of operations for of the RMD Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional ~~Service and Services~~, the Director of Planning and Development

and the Clerk of the Council requesting ~~waiver of the requirement an appearance before the Land Use Committee to no longer require~~ that ~~patients~~all patrons be seen on an ~~“appointment served by appointments only” basis set out in this condition. The petitioner shall also file a copy of such letter with the City Clerk.~~ Such letter shall only be filed after the petitioner has completed the following:

- Met with the ~~Director of the Transportation Division~~Commissioner of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and ~~with~~ Condition #8 below.
- Met with the ~~Director of the Transportation Division~~Commissioner of Public Works, and the Director of Planning and Development regarding Transportation Demand Management ~~and the Employee Parking Plan~~ in accordance with ~~Condition~~Conditions #7 ~~and #21~~ below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the ~~RMD~~Marijuana Retailer, including the number of ~~patients~~patrons coming to the site during peak times and the petitioner’s ~~intent~~desire to no longer serve ~~patients~~patrons by appointment only.

The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the “appointment only” requirement if they determine that the petitioner is able to maintain an orderly flow of ~~patients~~patrons, accommodate all ~~patients~~patrons waiting to see a customer service representative inside the building, and accommodate ~~patient~~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.

4. The ~~RMD~~Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
5. There shall not be more than ~~fourteen (14)~~twenty (20) staff members, including valet attendants, on site at any one time.
6. The petitioner shall update the sidewalks along the Elliot Street frontage and ~~shall~~ install a ~~trench drain~~catch basin at the entrance to the site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
7. The petitioner shall implement a Transportation Demand Management Plan to ~~mitigate~~prevent employees from parking on site ~~and to reduce vehicle trips to the site~~. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules ~~inserving~~ the immediate area, including a pedestrian wayfinding map, in a central location within the facility;

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

The ~~Petitioner~~petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the ~~RMD~~Marijuana Retailer, the petitioner shall provide an update to the Director of Planning and Development and the ~~Director~~Commissioner of ~~Transportation~~Public Works 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~~Commissioner of ~~Transportation~~Public Works. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

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- 8. The petitioner shall offer valet parking during all operating hours for the first 60 days of ~~operations~~medical marijuana sales as well as the first 60 days of the retail sale of recreational marijuana. At the end of such ~~term~~terms, the Director of Planning and Development, in consultation with the ~~Director~~Commissioner of ~~Transportation~~Public Works and ~~the~~ City of Newton Police Department, shall determine whether valet parking shall be continued during all operating hours or reduced to specific periods. The Director of Planning and Development shall notify the Land Use Committee and the Ward 5 Councilors of the decision reached by the officials.

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- ~~9. The petitioner shall limit on-site transactions to one ounce of medical marijuana, or its equivalent in whatever form the medical marijuana is dispensed, per customer per site visit, with the balance of the order, if any, delivered to customers' homes.~~

- 9. Prior to the issuance of any building permit for the project, the petitioner shall make a payment to the City for \$25,000 to be used by the City to: a) conduct a Road Safety Audit (RSA) of the intersections of Boylston Street/Route 9 and Elliot Street as well as Boylston Street/Route 9 and Ramsdell Street; and b) implement certain improvements recommended by the RSA.

- 10. Prior to the issuance of any building permit for the project, the petitioner shall provide a final landscape plan to the Director of Planning and Development for review and approval.

- ~~10.11.~~ Security lighting shall be in accordance with the standards imposed by the ~~Department of Public Health~~Cannabis Control Commission. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.

~~14.12.~~ The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.

~~12.13.~~ The granting of a special permit to allow an ~~RMD~~ Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the ~~Massachusetts Department of Public Health and/or~~ Cannabis Control Commission, the ~~RMD~~ Marijuana Retailer use as well as the additional relief granted by this Order shall expire.

~~13.14.~~ Snow shall not be stored on site.

~~14.15.~~ Should the petitioner seek to extend the RMD Marijuana Retailer use authorized by this Order, including but not limited to ~~incorporating adult use sale of recreational marijuana~~, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.

16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.

17. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.

~~15.18.~~ The petitioner shall maintain its registration with the ~~Massachusetts Department of Public Health and/or~~ Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.

~~16.19.~~ In order to provide information to the City regarding the operation of the RMD Marijuana Retailer and the effectiveness of the ~~mitigations~~ mitigation and conditions imposed through this Council Order, the petitioner shall monitor the ~~RMD's~~ Marijuana Retailer's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and ~~to~~ the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:

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

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the RMD Marijuana Retailer at this site, or if at the time the reports are filed, but independent of the information contained

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in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further ~~mitigations~~mitigation on the operation of the ~~RMD~~Marijuana Retailer are warranted to address such public safety or security of the facility concerns.

20. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
21. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide an Employee Parking Plan stating where employees will park off site and how they will travel to the site, to the Director of Planning and Development and the Commissioner of Public Works for review. Employee Parking and the Employee Parking Plan shall be subject to the look-back provisions outlined in Conditions #7 and #19 above.
22. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.
23. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved emergency response plan to the City of Newton Fire Department for review and approval.
24. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
- ~~17.~~25. 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 #9 above.
 - d. Received approval of the final engineering, utility, and drainage plans from 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.~~e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
- 18.26. No Final Inspection and/or Occupancy ~~Permit~~Certificate 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 and a registered architect.
- c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
- d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #20.
- ~~d.e.~~ Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
- f. Received approval from the appropriate City Departments in accordance with Conditions #21, #22, #23, and #24 above.

~~19.27.~~ Notwithstanding the provisions of Condition ~~#19.26~~ above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules

Readings Waived and Approved

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

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

ATTEST:

(SGD) DAVID A. OLSON, City Clerk

Clerk of the City Council

#288-1841-19(2)

Page 10 of 10

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 _____ 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

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CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

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

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

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

5. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters. The Council finds a waiver of the 25% transparency requirement is appropriate given the structure's setback from Elliot Street and the narrow shape of the structure. (§6.10.3.G.1.c)
8. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)

9. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)
10. The building and lot have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
11. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
12. The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
13. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
14. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Boylston Street/Route 9 corridor. (§6.10.3.G.2.g)

PETITION NUMBER: #41-19(2)

PETITIONER: Cypress Tree Management, Inc.

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

OWNER: 24-26 Elliot Street, LLC

ADDRESS OF OWNER: 15 Dimick Street, Unit C
Somerville, MA 02143

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

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

ZONING: Business Use 2 District

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

Approved subject to the following conditions:

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

2. The petitioner shall employ a police detail, subject to availability of such police details, on site from 3:45 p.m. to 7:45 p.m. Monday through Friday for 180 days from the commencement of operations of the Marijuana Retailer or the RMD. At the end of such term, the Director of Planning and Development, in concert with the Commissioner of Public Works and the Newton Police Department, shall determine whether the term for the detail shall be extended or whether other changes shall be made to address queuing along Elliot Street. At that time, the officials shall also discuss whether a speed bump or a similar traffic calming measure should be installed at the curb cut at the northeast boundary to prevent vehicles from using the site as a "cut-through." The Director of Planning and Development shall notify the Land Use Committee and the Ward 5 Councilors in writing of the decision reached by the officials.

Should the petitioner choose to commence operations of the Registered Medical Marijuana Dispensary use first, without the retail sale of recreational marijuana, the above requirements regarding the police shall be in place at the at the commencement of RMD operations and shall restart upon commencement of the retail sale of recreational marijuana.

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

The petitioner may use reasonable flexibility to accommodate patrons where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in patrons' schedules affect the appointment schedule. The petitioner shall also accommodate those patrons 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 patron.

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

- Met with the Commissioner of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and with Condition #8 below.
- Met with the Commissioner of Public Works and the Director of Planning and Development regarding Transportation Demand Management and the Employee Parking Plan in accordance with Conditions #7 and #21 below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the Marijuana Retailer, including the number of patrons coming to the site during peak times and the petitioner's desire to no longer serve patrons by appointment only.

The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the petitioner is able to maintain an orderly flow of 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.

4. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
5. There shall not be more than twenty (20) staff members, including valet attendants, on site at any one time.
6. The petitioner shall update the sidewalks along the Elliot Street frontage and shall install a catch basin at the entrance to the site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
7. The petitioner shall implement a Transportation Demand Management Plan to prevent employees from parking on site and to reduce vehicle trips to the site. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules serving the immediate area, including a pedestrian wayfinding map, in a central location within the facility;

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

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

- 8. The petitioner shall offer valet parking during all operating hours for the first 60 days of medical marijuana sales as well as the first 60 days of the retail sale of recreational marijuana. At the end of such terms, the Director of Planning and Development, in consultation with the Commissioner of Public Works and the City of Newton Police Department, shall determine whether valet parking shall be continued during all operating hours or reduced to specific periods. The Director of Planning and Development shall notify the Land Use Committee and the Ward 5 Councilors of the decision reached by the officials.
- 9. Prior to the issuance of any building permit for the project, the petitioner shall make a payment to the City for \$25,000 to be used by the City to: a) conduct a Road Safety Audit (RSA) of the intersections of Boylston Street/Route 9 and Elliot Street as well as Boylston Street/Route 9 and Ramsdell Street; and b) implement certain improvements recommended by the RSA.
- 10. Prior to the issuance of any building permit for the project, the petitioner shall provide a final landscape plan to the Director of Planning and Development for review and approval.
- 11. Security lighting shall be in accordance with the standards imposed by the Cannabis Control Commission. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
- 12. The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.
- 13. The granting of a special permit to allow a Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.

14. Snow shall not be stored on site.
15. Should the petitioner seek to extend the Marijuana Retailer use authorized by this Order, including but not limited to, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.
16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
17. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
18. The petitioner shall maintain its registration with the Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
19. In order to provide information to the City regarding the operation of the Marijuana Retailer and the effectiveness of the mitigation and conditions imposed through this Council Order, the petitioner shall monitor the Marijuana Retailer's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and to the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:

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

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the Marijuana Retailer at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigation on the operation of the Marijuana Retailer are warranted to address such public safety or security of the facility concerns.
20. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.

21. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide an Employee Parking Plan stating where employees will park off site and how they will travel to the site, to the Director of Planning and Development and the Commissioner of Public Works for review. Employee Parking and the Employee Parking Plan shall be subject to the look-back provisions outlined in Conditions #7 and #19 above.
22. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.
23. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved emergency response plan to the City of Newton Fire Department for review and approval.
24. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
25. 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 #9 above.
 - d. Received approval of the final engineering, utility, and drainage plans from 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.
26. No Final Inspection and/or Occupancy Certificate 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 and a registered architect.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
 - d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #20.

- e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - f. Received approval from the appropriate City Departments in accordance with Conditions #21, #22, #23, and #24 above.
27. Notwithstanding the provisions of Condition #26 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.