

PLANNING BOARD FOR THE CITY OF CAMBRIDGE

GENERAL HEARING

Tuesday, October 22, 2013

7:00 p.m.

in

Sullivan Chamber

City Hall

795 Massachusetts Avenue

Cambridge, Massachusetts

Hugh Russell, Chair

H. Theodore Cohen, Vice Chair

Tom Sieniewicz, Member

Steven Cohen, Member

Ahmed Nur, Associate Member

Catherine Preston Connolly, Associate Member

Brian Murphy, Assistant City Manager for
Community Development

Community Development Staff:

Liza Paden

Jeff Roberts

Stuart Dash

-- And --

Claude Jacobs, Chief Public Health Officer

Sam Lipson, Director of Environmental Health

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PUBLIC HEARING

Medical Marijuana Zoning Petition to amend the Zoning Ordinance of the City of Cambridge in the following ways:

- * Define Registered Marijuana Dispensary consistent with the definition set forth in the Massachusetts state regulations, 105 CMR 725.000
- * List Registered Marijuana Dispensary within Section 4.35 of the Table of Use Regulations, allowed only by Planning Board Special Permit within the Medical Marijuana Overlay Districts
- * Delete the existing Section 11.700, Interim Regulations of Medical Marijuana Uses
- * Create a new Section 20.700 - Medical Marijuana Overlay Districts, establishing two Medical Marijuana Overlay Districts and setting forth requirements and criteria for Planning Board approval

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P R O C E E D I N G S

(Sitting Members: Hugh Russell, H. Theodore Cohen, Tom Sieniewicz, Steven Cohen, Catherine Preston Connolly.)

HUGH RUSSELL: Good evening. This is the meeting of the Cambridge Planning Board.

First item on our agenda is an update by Brian. Do you want to give us an update at this meeting?

BRIAN MURPHY: Sure, we've got a little bit of an update. I know that you've been bored lately so the good news is that there were three new Zoning Petitions filed last night at the City Council so there be more work coming.

Tonight we've got the one topic. On the 29th we have the second hearing for Planning Board No. 85, use amendment. We've

also got the discussion on the amendment of parking Planning Board No. 38, as well as design review for Planning Board No. 243 for a 270 Third Street for Alexandria as well as 250 Monsignor O'Brien Highway for AT&T.

On the 12th we'll have the second hearing for the Planning Board 38 as well as Ames Street rezoning. Just to sort of put that meeting in context on the 12th, I think the plan is to have the City Manager's meeting at 5:30 discussing the public process for around 30B and 2.110 for the sale of the portion of Ames Street which is separate and distinct from the Ames Street Zoning, but I think the blockbuster to start that to Ames Street night for people, if you will, on the 12th. And to sort of repeat that going along, and then I think as well on the 12th we'll have General Business of Planning Board

No. 198 for Discovery Park looking to do a change of use to a hotel.

And then on the 19th we've got Norris Street design coming back to us on November 19th.

And then one other thing the Board might just find of note, I'm not clear on where it's going to go, that is for 75-125 Binney Street, one of the Alexandria Properties (inaudible) was going to be the anchored tenant for that, the tenant for the entire building. They had a setback for one of their clinical trials so they've lost a significant amount of their stock value and they described it as taking a pause in terms of looking at the building. Where that goes, it's unclear. But as of now, I think they're still trying to figure out what happens next.

HUGH RUSSELL: Thank you.

BRIAN MURPHY: Sure.

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HUGH RUSSELL: Next item is the Board of Zoning Appeal cases.

LIZA PADEN: So the cases on the agenda are the ones for October 24th. I did want to draw your attention to the sign request for the Variance. It's case No. 10525, and in the Residence A-2 District the setback requirement for signage for freestanding sign is half of the front yard requirement in the A-2 District it's a 20-foot setback requirement. And at 10 feet the sign would be behind a tree. So, they're requesting a freestanding sign that meets the height limit and the size limit, but would be 18 inches from the sidewalk and it's -- it seems to meet the intent of the regulation.

HUGH RUSSELL: What is -- what

building is it, 42?

LIZA PADEN: This is for the -- let me get the -- Study of World religions. The Center for World Religions.

HUGH RUSSELL: It's the first building in Cambridge.

LIZA PADEN: I didn't realize it's the first.

HUGH RUSSELL: Yes. They came out at the same time (Inaudible).

LIZA PADEN: Does anybody have any questions on any of other cases?

STEVEN COHEN: No.

LIZA PADEN: No?

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HUGH RUSSELL: Okay.

Are there meeting transcripts?

LIZA PADEN: No, there are no new transcripts at the moment.

Thank you.

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HUGH RUSSELL: Okay. Then we will go to our public hearing which is a public hearing on the Medical Marijuana Zoning Petition and I think that Jeff is going to explain that to us and we have some guests from the Board of Health and they're going to talk to us.

JEFF ROBERTS: Brian, did you want to start?

Okay. Jeff Roberts, Community Development Department, and with me is Sam Lipson who is the Director of -- in case you haven't met. Sam Lipson, Director of Environmental Health at the Cambridge Public Health and Claude Jacob is also sitting back there on the bench. He is the Director of Public Health.

(Ahmed Nur Seated.)

JEFF ROBERTS: I'm going to spend sometime walking through a little bit of background and talking a bit about proposed Zoning regulations for registered marijuana dispensaries and we'll talk a little bit about what they are.

Following that Sam is going to talk briefly about proposed regulations that would be promulgated by the Cambridge Public Health Department that would apply to other aspects of the regulation of registered marijuana dispensaries in Cambridge.

So let's jump into it. When we were last Planning Board we were talking about a moratorium which was approved by the City Council in April. And the purpose of that is to provide some time to review the state -- that's working right? To review the state

regulations and to consider some Zoning and regulation proposals that would be consistent with those state regulations. The regulations were promulgated in May. So we have them. This is what it -- this is what they're covering, the table of context looks like. It's about 52 pages. We talked to some people about it. It's possibly the most comprehensive medical marijuana regulations that is currently available in any state. I'm not sure if that's the case, but from what we reviewed, it seems to be very comprehensive. There are still some unknowns at this point, but I think now we have a much better sense of how the Massachusetts system for medical marijuana will work. We know a little bit about how it might be different from some other systems and other states that were discussed back when we were talking

about this in, back in earlier this year. So we're going to -- I'm going to focus a little bit now on what the Massachusetts regulations say, and particularly how they relate to the Zoning and other local regulatory issues.

So first of all, this term is introduced, registered marijuana dispensary, that's the thing that we are setting out to regulate. It's a not-for-profit entity. It handles all aspects of medical marijuana from in the -- what's referred to as a seed to sale comprehensive program where there's no change of a separate grower, processor, transporter, retail, all of that functioning is incorporated within an RMD.

One of the other terms to point out is one that they'll probably use a few times, which is MIP which stands for marijuana infused product. That is important because

as marijuana's been applied through medical purposes, we've learned that most -- or many, if not most, of the products that are sold are not the -- think of it as the typical form of marijuana, but products such as foods, cooking oils, other types of medicines, lotions, even -- there are lots of different products and delivery systems for the product.

MIPs are sold only to qualifying patients. That is an individual who has been diagnosed with a debilitating illness by a doctor with whom that patient has a, what they refer to as a bona fide relationship. Meaning someone that is seeing the patient on a regular basis and not someone who has just kind of walked in for a single visit.

And just as a quick note, personal -- the only other individuals that are involved

in the medical marijuana transaction are personal caregivers, and those are people who can be designated to purchase MIPs on behalf of patients, except in some cases there is a one-to-one relationship between patients and caregivers and one can't be a caregiver for, you know, a large set of people, just for one person. When you talk about patients, it also includes potentially the caregivers.

So just starting with the basics. Beginning at cultivation, all products are controlled and tracked within the RMD until the point that they're sold directly to a patient or a caregiver. That sale can happen directly on the site of the RMD or home delivery is also allowed. In the case of delivery, it has to be in a secure vehicle that's staffed by two people at all times. And the amount that can be sold is 60-day

supply, that's what was adopted in the law. The regulations say that 60-day supply can be up to 10 ounces or the equivalent of 10 ounces of marijuana, and it can be -- it could exponentially be less than that. What a 60-day supply would vary depending on exactly how much is being administered.

An RMD can operate on separate sites with cultivation occurring on one dispensing occurring on another. Processing or any intermediate stages could happen on either of those sites, but not on both. And one of the things to note is that cultivation is very likely a more space intensive use. It's a more resource intensive use. Probably requires a lot more security. From what we gathered, it's most likely that RMDs will locate their dispensing sites in more populated areas like Cambridge and would

likely have cultivating sites elsewhere in the state where more is readily available. That might not necessarily be the case if someone could propose a cultivation, but we don't think that's particularly likely.

According to the Department of Public Health, they estimate about one percent or less of the population will register to be patients. Some say that estimate is low, but that's the number that has been, that has been put out there. And in terms of the number of RMDs, there will be up to 35 permitted statewide, and between one and five, at least one and up to five per county. There may be less -- there may more than 35 permitted in future years, not within this first phase. But possibly if there seems to be a greater demand than can be served. But it's also important to note there may be less

than 35 if not enough providers can meet the requirements and find the available sites to operate, we may end up at least initially with a lower number.

And in terms of the number per county, it's worth noting that the counties are obviously not all the same size. Middlesex County, which is what we're in, has about a quarter of the state's population. By comparison, Nantucket which is also a county and an island has about one-tenth of one percent of the population of Massachusetts. So for those counties that have greater population, there may be more demands on that limited number of RMDs.

The 60-day supply simply translates to about six trips made by a patient per year. It could be more than that. Patients could come more frequently if they want to make

more pick-ups or education programs or wellness programs offered at the RMD.

So if averaging all of this out it's about 2,000 patients served per RMD. It becomes higher if there are more patients or fewer RMDs. The service areas, the general population that would be served, would be relatively high. 200, 300,000, depending on where they're located relative to one another. Where the population at cities are higher and lower. And in a place like Cambridge where the population density is higher, likely would be on the higher end.

So for an RMD in Cambridge if we were to speculate as to what the service would be for an RMD if it were located in Cambridge, very roughly, because it depends on a lot of factors, would be probably 3,000 patients or more. Maybe 30, 50 trips per day. That

could go up by some amount, again, depending on how much is being served. But in general it's not a particularly high number of trips per day, but the important thing to keep in mind is that probably most of the trips would not necessarily be from Cambridge. They would be coming from surrounding communities, at least immediately adjacent communities and possibly communities further out, depending on where the other nearest RMDs are located.

So and, again, the number of trips, you know, it could go up for a lot of reasons.

So looking at -- focusing in a little bit on what the characteristics are of an RMD facility and looking again at only the dispensing facilities for now, every dispensary has to have secure storage, a separate area within the dispensary that has limited access only to designated employees.

It's locked. It's under 24-hour surveillance, and that's where all the products would be stored. They would be loaded and unloaded securely and through a transportation that's, that basically is almost in sort of a truck with a safe built into it, like an armored bank truck. It would be transferred in and out of the site either for, if it's being brought in of a site or being brought out for deliveries.

And then within the facility there's the general dispensing area where only registered qualified patients are permitted. Its access is controlled. IDs will be checked. This won't be a place that the general public can walk in and out of and browse through. The products available at the dispensing area are for samples only and for, and for educational purposes.

Consumption is not allowed within the RMDs except for the purposes of education or demonstration. For instance, in many cases the marijuana for medical purposes taken through a vaporizer which would be sold by the RMD facility and the RMD staff would be able to demonstrate how the vaporizer is properly used.

Entry and exit is controlled and under camera surveillance, again, at all times. Same with parking. It would have to be monitored at all times. And the signage on the facility would include only the registered company name and logo. Only that information can be displayed outside of the facility. And to further stress that point, the requirements say no use of the words marijuana, cannabis or other colloquial terms. You can imagine what they are. The

graphics would not contain -- there would be no graphic images of marijuana, anything that might be construed as being related to marijuana. No information about what's being sold inside or no products visible through the windows or outside of the RMD. So basically there's no -- the outward appearance is there would be no direct indication that medical marijuana is being sold on the premises.

And then just looking into the process that the state has laid out for registering the RMDs. There's a two-phase application process and it's a competitive process.

The Phase I application is basically information about the entity that's going to be running it, financial information, information about the principals.

And then the Phase II application where

there needs to be more detailed information about the site itself, the siting of the business plan, the staffing. And part of that is evidence of support or at least non-competition by the local community by which the RMD is proposing to locate.

So here's just an overview of the process. And Phase I is completed. We're now into Phase II. There were in Phase I, 181 applications in the state. Out of that was trimmed down a little bit, and so there's about 159 applicants that have been advanced and that can submit a Phase II application that the deadline for that is November 22nd.

Of those 159, 40 applicants have said that are expressed that they would want to locate in Middlesex County which will be -- if you look at just the population of the state is to be expected. But in the final

selection, which is anticipated by the end of January next year, that applicant pool will be narrowed down significantly when they get to the ultimate number.

As we shift to looking at local regulation, there are a few things that have been determined, both the state regulations and through some work that was done by the Attorney General's office. The regulations say that municipalities can have Zoning or other regulations, including public health regulations, so long as they don't conflict with the state law or the state regulations. That's a -- that's basic principle. One of the things that has been determined in the intervening times we talked about this last, the Attorney General has issued a statement that the towns cannot ban them from the communities. Some communities have tried to

enact a ban, and the Attorney General said that they couldn't do that.

There are a lot of moratoria, though, in effect along with the City of Cambridge. There are a moratoria that extends into 2014 and that means that those cities and towns, RMDs would be affected will be disqualified from this first phase, the first year phase of applications in future years depending on how they end up regulating, there could be some in those areas. And some cities and towns have adopted Zoning.

For the most part they seem to focus on the industrial areas or in some cases where they have adult-oriented uses for particular Zones they have been zoned into those. So usually those areas that are kind of on the outskirts of town.

So, now I'm just going to talk a little

bit through the Zoning proposal which you've had a chance to review. There are four parts to it.

The first three are fairly perfunctory, creating a definition. The definition that's proposed is practically identical to the state regulations, that's the main take consistency.

Adding the use of the applicable use regulations is really just a reference to make sure that we've established it as a use and that we have, and it would -- and that that refers to the Overlay Zoning that we're proposing.

The next part has to do with the interim regulations, and I'm going to talk about that a little bit at the end. But you're all familiar with the interim regulations. I'm going to focus on the main

piece of the proposal which is the Overlay Zoning.

So there's five basic parts to it. The purpose, the important thing to note here is that the purpose of this is to create a local regulation that follows the lead of the state regulation and not to necessarily invent something that's -- or to imagine something happening that's different from what's, from what's allowed for, what's provided for in the state regulations. So we've taken that as a starting point, and then use that as a guide to look at what the local, what the local Zoning issues would be.

The next part is the establishment of districts. I'm going to take a little time to walk through this because this is the part that will serve some discussion.

We went through a little process of

looking at -- and let me just stop for a second and say that this actually has been a very interesting process because it's rare that we have the opportunity in Cambridge through our Zoning to look at the completely new sort of category use and say well, what is this, what is this use? And then to really start from the ground up to say how do we create a rational Zoning plan for what districts they would be located in. So it's been an interesting process, but I'm sure we'll have a lot of discussion.

This is the Cambridge Zoning Map. The green -- the colors are a little bit off. But there are some green areas that are open space. There are some yellow areas which look a little bit more orange on the screen which are residential districts. They're areas where only residential uses are

allowed. The other colors where it's red or pink or purple are different varieties for mixed use.

So in Cambridge we allow residential uses everywhere in the city. So our business districts and even industrial districts are not necessarily, you know, exclude, excluding all other uses except for those. It's, they are areas where we anticipate they'll be mixed use development of housing and commercial.

So the first step in this analysis is to look just at those areas where we allow business and office uses. So we take the yellow and the green parts off of the map.

The second is to look at transportation. So one of the important characteristics as I talk about it in the beginning of these of RMDs is access, and

they're going to be serving not just, not just a local area and not even just Cambridge, but really a regional area. So it's important to look at regional roadways which are shown on this map with twisty lines as well as regional public transportation and of course the T stations are shown on this map as well. So the areas where there are kind of more what I would call more neighborhood, where there's more neighborhood-oriented districts such as, such as throughout here and down along Inman Square and Cambridge Street. Those are areas -- and sort of down here -- those are areas where you would think that it would be, it would be less desirable to have RMDs given the regional focus of their service.

Another issue we looked at is public safety. And here we, as part of this

process, we've been talking interdepartmentally with lots of other departments around the city, including the police department. And one of the things that they noted is that Acorn Park Drive area, which is right along Route 2, can be somewhat of a difficult place to respond to calls, because you do have to go out of Cambridge and then come back into Cambridge in order to, in order to get there. So that concern was raised. And so we decided that that was an area that we would look at as being less desirable for RMD Zoning.

The next issue we looked at was urban character. This is a little bit trickier issue to go through, but in some of our core business areas we have a plan and a policy that encourages active street front and mixed use buildings. You know, denser

development. And our feeling was that it would be a difficult fit in those areas to have uses that really don't allow any public access to have strict security requirements, a singular function, and requires really a secure perimeter and parking and loading facilities. So, again, we looked at those sort of, those sort of core business areas of Porter and Harvard and Kendall as being less desirable than even other parts of -- the same applies in some other areas too that are further away from transportation.

And then the last issue we looked at is an issue which is inclusion in the state regulation of having buffers from schools or child-oriented uses. So the state regulations say to maintain a 500-foot buffer from schools, day cares, and other facilities where children normally congregate, which to

be taken to youth centers, playgrounds. We worked on locating within the city, and some of them are actually hard to locate if you think about day care. Day care, sort of new ones sort of pop up every time and some go away. We tried to get an overview of where they're located. And they are located in many areas around the city. You can see that there really are not that many areas that are left with significant sites that are, that are not within that 500-foot buffer.

One of the other things we included on this map, and it's a little bit hard to see, but I'm going to touch on it briefly, is a 1,000-foot buffer around schools. And the reason why we included that is because as we talk to people about this issue, we discovered that the federal enforcement standards for marijuana that when it's been

enforced in other states that have medical marijuana provisions, it's the federal authorities have applied the standard for 1,000-foot radius from schools rather than a 500-foot radius. And as a result of that, you even though it's not, it's not in the state piece, you would imagine that an RMD would probably not want to be located in an area that is within a thousand feet of a school. So for reference we wanted to include that in our mapping as well, just so that we understand that there are some areas that even if, even if the state says okay, that the feds might not.

So, after going through that analysis, we looked for existing districts and we didn't redraw any districts. We said what are the districts in the city that, you know, meet the criteria that we've laid out the

best and that have some number of suitable sites that are outside of this buffer from child-oriented uses that it would be reasonable to expect that an RMD could find a site to locate. And those, and those areas are up in the Alewife area, near Alewife T, Concord Ave., and the Fresh Pond Parkway area which connects into the regional roadway system. And then out in the North Point area, if you look along Monsignor O'Brien Highway and the areas along there and into North Point.

So, now just focusing on the process and the requirements of the process that would apply to RMDs under this proposal, it would be allowed by Special Permit from the Planning Board. It would have to be registered to be allowed and it would not be, it would not be allowed to continue as a

pre-existing use if for some reason its registration, you know, is no longer valid with the state.

It has to be in a building. That's one of the issues that people have brought up with, you know, what exactly what kind of facility would they operate in? And would meet the district dimensional requirements.

The parking and loading issues were sort of tricky to think about, because if you remember from the beginning of the presentation it's hard to get exactly what the purpose of an RMD will be. So as part of this Special Permit requirement we talked about a transportation analysis that would help to give the Planning Board some guidance as to how much parking and bicycle parking would actually be required.

And then the signage, we spoke about

before. In basic terms it would have to conform to everything as dimensionally in terms of signage.

The application requirements, aside from the typical things that we would expect to have in a Special Permit application, we would have a description of the operation and a map of the -- of what area is being served by that operation. A transportation analysis. It would be similar to a transportation study, but maybe it would just be focussed on who's coming within that service area, who's coming to the site, how many people and what modes of transportation are they using?

A map of the area directly around the facility to see what uses are present within a nearby area. And then along with the plans and elevations, a copy of registration, of

the registration that have been filed with the state to make sure that everything's consistent.

And then in -- under this proposal the Special Permit, the Planning Board would grant a Special Permit based on a demonstration need for the service which would really be tied into the approval by the state. Whether there were sufficiently buffered from schools and child-oriented uses. And 500 feet is a general standard, but there could be opportunities, and the state allows some flexibility where if there's sufficient buffer, that the Planning Board could approve something that's a further distance.

The Planning Board look at the access and egress along the site which it ties into the general Special Permit criteria. We look

at traffic. We look at impact at nearby buildings, both in terms of the operation of the facility and in terms of the visual and aesthetic characteristics of the facility.

So that's the, that's the Zoning proposal. Oh, and I'm just going to say briefly the -- about the interim regulations. So, the intended interim regulations always provides some clarity in the Zoning Ordinance because after this, after it was adopted there was no provision in our Zoning. And without this interim regulation there is no provision in our Zoning for registered marijuana dispensary. So it's hard to say what the -- it's hard to say what our regulation would be. The current expiration is 180 days after the date that the regulations are promulgated, which is November 20, 2013. We also say in the

interim that just as a sort of a fall back fail safe or June 30, 2014. So the thing to consider here is as we, as we look at the proposed Zoning Regulations, that the interim regulations are still there. And if for any reason we want to take more time to address or modify the Permit Zoning Regulations, the appropriate thing to do would be to modify the interim regulation so that it continues through that initial November 20th date and would continue through June 30, 2014, to give an opportunity to look at it again.

So now I'm going to turn it over to Sam to talk a little bit about the public health side.

SAM LIPSON: All right, I'll try not to get too close here.

So Jeff did a terrific job summarizing what the state regulation includes. There

are a lot of other facets to it, but I think those are the most important parts to it. When the state, the referendum will to promulgate by order of referendum these regulations, there was a lot of anxiety I think around the state and local communities about the extent to which they may or may not trust the state to fulfill their obligation. There are examples. We work through Public Health Department where the state has passed a regulation which ends up being effectively enforced locally even if that wasn't how it was originally intended. I think that there was also a general sense in some communities around the state that having local, some local oversight, at least a lever that could be pulled if the feeling that operations did not comply with state regulations was a powerful sort of failsafe or insurance. So

we began discussions with Jeff and Brian to look at whether or not a local public health regulation, what form that would take, and that's how we ended up as part of the Planning Board meeting which normally we would not be.

So, it's important to say some very simple clear lines of authority here are that the state is going to permit these registered marijuana dispensaries directly. That's their intention. They claim that because of the large fees they intend to collect, that they expect to have the resources to properly regulate those dispensaries around the state. They say up to 35 in the first year, but as Jeff said, that may be a number they don't meet and that's only the first year as they find that there's a need or for any other reason that there's a justification to have a

larger number, they did not rule that out after the first year. So it's certainly a possibility.

But anyway, they have created the financial resources through verified fees at the state level to enforce. Nevertheless, they did carve out the option for local communities to regulate, and that appears to be taking different form in different places in many communities, Zoning restrictions are the only form of oversight. We are aware of several communities that are promulgating public health regulations or other forms of oversight, not always public health regulations, that are taking, taking up where the state regulation leads off and essentially adding some additional provisions.

So the state regulation acknowledged

that local regulation could be appropriate, but it was certainly not required. The state regs were written under the assumption that there would be no further oversight, perhaps Zoning issues that could be resolved. They did say, though, that any such local regulations cannot be in conflict and that doesn't mean that they can't be stricter. It doesn't mean that they can't add some elements which are simply not in the state regulation, they just can't contradict what's the intent of the state regulation is. There probably will be some murky areas that we have to sort out with the Attorney General's office. When we've asked questions directly to the Public State Health Department about this, they deferred to the Attorney General's office. That's kind of the -- they have enough to worry about, and there are some

legal questions that no doubt will come up down the road.

So the additional assurance that's provided by local control includes not only determination of the terms of the operation, ours for instance, that's probably the most obvious, but also the opportunity and in fact the authority to inspect. But in this case as you will see, we're looking at inspections that would occur both upon initial application, upon renewal, but also could occur with no prior announcement throughout the year.

And also the authority to suspend a permit. If a permit is suspended locally, it doesn't really matter if they are in good standing with the state, but a local permit cannot be sought unless they are in good standing with the state.

And so this draft regulation which is still taking shape, I'm here to provide you some sort of outline, is going to need to be reviewed by the advisory board to our department, that is the Cambridge Public Health Subcommittee of the Cambridge Public Health Alliance. Although we don't have a Board of Health in the same structure or format as many communities in Massachusetts, we're a commission or forum of public health which is one of the allowable formats. We do have an oversight board and their role is very important. They would be meeting in early December. I think the 4th of -- the 3rd of December. And before that time we'll be putting more detail on to the kind of regulations that we're looking at here. But we need to get feedback from them and hope to get public feedback as well, probably at a

later date once we have a draft regulation to share.

So the permits themselves will be issued by our department, but they would be done -- they would be unlike other permits in that they would be done only in consultation with certain -- with key departments that have a role in enforcement, primarily the public health -- the police department and Inspectional Services would play a role. We would have to work out the mechanism of approval, whether we seek to get advisory report from each department after an application has been received, but essentially it would be a permit that our department issues. And is signed off on by the Commissioner of Health and Hospitals or his designee, in most cases, which is the Chief Public Health Officer which is Claude

Jacob who is here with us.

I mentioned the annual and the unannounced inspections. And as somebody said that does a lot of enforcement with laboratories and other kinds of unusual enforcement. They both play different roles and they're both very important, I believe.

It also would include a provision that guarantees that the local community has a right to review the security plan which is already in the state regulation. It's a mandate, fairly detailed. But this would essentially mean that we would have to review and approve that plan and we're not asking you to do a separate plan, but we're essentially creating a second layer of oversight in that case. That's a fairly essential question in terms of the impact on the community. So it's very important.

Boston is doing -- and Brookline both are doing something very similar on security plans.

And then the Cambridge Public Health Department in consultation with the police department primarily would set terms around hours of operation which would be a great interest to some people. But the really important features that -- I'm not including a lot of details in this quick oversight. There is a handout which I would be very happy to go over in more detail if there are questions. There are a lot of provisions that I did not put into my slides that are listed in the handout, but among the most important provisions that we're looking at locally are essentially a plan or a requirement to establish a home delivery plan for the product to only those certified

patients who are allowed to receive and/or are associated with that dispensary. That delivery plan, really, as we only have the authority within the City of Cambridge, only applies to the addresses within the City of Cambridge.

There is also an element that we would intend to include in this regulation, affordability requirements. This is intended to be a nonprofit enterprise in any case, but there's a -- upon closer inspection the fact that the -- there's unlikely to be insurance coverage, the fact that there is in fact a lot of expense associated with this, this could run into many thousands of dollars a year. We would be looking at some kind of a sliding scale program that would be based on affordability standards that are already in the state regulation. So they already have

some sections of the state regulation of eligibility for affordability plans. In this case we would make that affordability plan a mandate as home delivery would also be a mandate.

Annual community meetings, details that need to be determined, but within a certain -- we may look at neighborhood associations that are abutting where on all sides of the location where it eventually is placed.

Then we may include the right to establish additional restrictions on signage and on a marketing and advertising. There are already a number of restrictions and Jeff mentioned a few of them. Images that show marijuana leaf or a marijuana plant are prohibited. Direct use of that term or any slang terms are also prohibited. But

depending on how this takes shape, there may be an interest in further restrictions at the local level and so we would retain that right.

And then finally educational materials at the site of the dispensary would be an important factor -- feature that Public Health Department would have to take into consideration. It's not yet determined as to what they would like to see there, but the kinds of things that we would be looking at relate to substance abuse prevention. I shouldn't just say abuse, substance abuse and wellness and patient rights.

And so that's a quick overview. As I said, I don't know if there was a copy distributed to -- I think there were copies left out here of the outline, and if you guys already have copies --

The hard part of all this to be perfectly candid, most of the aspects of this are essentially not public health issues. So it's, it's I think for all of us it's the idea of having to figure out how to regulate locally and at the state level these kinds of dispensaries has stretched our imaginations a little bit as to what our normal terms of operation and jurisdictions are. So although there is a process for promulgating public health regulations which are quite painless, and we have used it on a number of issues which have in fact involved enforcement from other departments, example being the trans fat ban in Cambridge which is in fact enforced by Inspectional Services but was promulgated as a Public Health regulation as a good example. That would sort of be the precedence to this. But this -- a lot of the

features of what would need to occur are -- as well as enforcement, are not public health issues. We don't have much experience. It would be very important to structure it in a way that's quite clear of what the roles of the police department. The role of Inspectional Services, perhaps even the License Commission. And we'll have time to do that, but I just wanted to make sure that we got a first pass to you guys because you're also into the Zoning issues. And this was our first opportunity in a public setting to put out -- to put a marker down so to speak, the times of provisions that we would like to look at locally. We would have more detail to share earlier next year and I think that's about it.

HUGH RUSSELL: Okay, thank you.

Does that end your both of your --

JEFF ROBERTS: I'll just say one thing to close. You know, Sam and I are in the process of recovering some of what is in the state regulations. We certainly haven't covered everything, so to the extent that there are questions that relate to, or still some issues about that refer to what the state regulations are, we can do our best to answer those, but we may need to refer to some of them to the Mass. Department of Public Health.

HUGH RUSSELL: Okay.

TOM SIENIEWICZ: Hugh, I had a quick question with Sam's suggesting that they have a hearing in December on public health issues. I just wonder about the timeline here. And I know the moratorium expires on the 20th. It looks like the public health issues might need a lot more time to sort

themselves out. Are we -- then having our conversation within the context of a likely extension of a moratorium or do the two sets of regulations run separately?

JEFF ROBERTS: I'll start off with that one just to explain a little background. I didn't go into much detail about the moratorium and what it means.

It's actually in -- it's an interim Zoning restriction. Which means it's in the Zoning Ordinance and it expires in November.

The way Zoning works when there's a Zoning Petition that's been put forward and advertised for public hearings, that Zoning is assumed to have -- assuming that it ultimately adopted, it's assumed to have taken effect when it was first advertised. So the reason why we're coming forward now with advertising and starting the beginning

hearings on this Zoning Proposal is so that that process can begin prior to the moratorium taking effect. The Zoning doesn't necessarily need to be adopted before the moratorium expires, so long as, so long as the hearing process has started. And you can talk about the --

SAM LIPSON: Yes, I also wanted to clarify in early December this would not really be a hearing but a meeting of the advisory board. The hearing would occur sometime after that. But it's also my understanding that the state timeline is such that it's very unlikely that they would have identified and fully permitted any candidates even by early next year. Perhaps as early as next year. So I think, again, given this somewhat easier obstacle or hill to climb in public health regulation, City Council

ordinance, I think we can meet these kinds of timelines pretty easy.

HUGH RUSSELL: Okay.

Brian, did you want to say anything?

BRIAN MURPHY: I'm good.

HUGH RUSSELL: Are there any other questions by members of the board or shall we go to public comment?

H. THEODORE COHEN: I just have one question and you may have answered it. I take it if someone is a qualified purchaser, patient, they can go to any dispensary anywhere?

JEFF ROBERTS: I would presume that's the case. That's not -- there's nothing -- there's nothing in the regulation that says a patient must be associated with a particular RMD, that I can't honestly say that with certainty because that would

probably be a question for the Mass.

Department of Public Health. But it's been my understanding, and I don't know if it's Sam's as well, but the, that there's no -- that a registered patient can only go to a registered dispensary, but I don't think there's necessarily a one-to-one relationship between the patient and dispensary.

H. THEODORE COHEN: Okay.

SAM LIPSON: That's my understanding as well.

H. THEODORE COHEN: Assuming that's the case, they're not required to go to a dispensary in the county in which they reside?

JEFF ROBERTS: Yeah, I think that's the case. But what's important to note, though, is that this isn't because the state is doing this process where the number is in

the distributions are being limited, the intent is to have, is not to have, you know, multiple RMDs competing with one another and within the same service areas. To have the service distributed so that there's one available to all the patients that will need it.

STEVEN COHEN: Hugh, is this the time to discuss specific Zoning Provisions or do we do that after the public hearing?

HUGH RUSSELL: I think ordinarily we would do it after the public hearing so we have more information.

Is there a sign-up sheet or not tonight? I'd like to have people speak, sit at the table here rather than stand up at the microphone. I think it's more collegial.

Thank you, Brian.

BRIAN MURPHY: Sure.

HUGH RUSSELL: So the first person who's on the list to speak is Matt Allen. Many of you may not have come to the Planning Board. Our rules for speaking are that you give your name and spell it so that the recorder gets it perfectly for the record. You can speak for three minutes and somebody will look at a clock and time you.

Ted has it and he will let you know.

MATT ALLEN: Great, thank you so much. My name is Matt Allen. And to be clear, I'm not a resident of Cambridge. I actually live in Jamaica Plain, but I'm here today because I'm Executive Director of the Massachusetts Patient Advocacy Alliance. So we're the group of medical marijuana patients and healthcare providers and public health groups that supported the referendum to make sure implementation is going to work for

patients and the patients have a voice in this process.

I'm here to support the proposal that you've put forward and here is some written testimony. First of all, I want to commend the Planning Board for really tackling this issue and taking a thoughtful look at how is it going to impact your community and how it will benefit communities. While a lot of other municipalities have passed moratorium and have opposed dispensaries set in their communities largely based on misinformation and misperception about how the system is going to work.

As you indicated the state law does include multiple regulations to insure that the system works for patients, but also for communities and to relieve municipalities of the burden of day-to-day regulations of the

system. That being said, when municipalities do impose local regulation that makes the system stronger. So we support the provisions that you've discussed that would include Zoning dispensaries away from residential districts and having a local permitting process where the dispensary has to indicate the expected impact on a public safety and traffic and other issues.

The only recommendation that we would make is related to the Overlay District. There's just a slight concern that there are few properties in the Overlay District we've seen in other towns that dispensary applicants are trying to move forward, but in some cases are having a hard time getting leases in place because there is reluctance from some landlords to allow this use. So, we would suggest that the Planning Board

consider in selling additional permitting process where they look at dispensaries looking to locate outside of the Overlay Districts, but away from residential areas in a case-by-case basis provided that the RMDs can demonstrate they're not going to have a significant impact on the points that were brought up before including traffic, public safety, urban character, and buffers from schools. And with that being said, overall, I think this is a very thoughtful and reasonable proposal. We only wish that other municipalities in the state would take a similar approach.

Just one point just to clarify, it is correct that patients can go to any dispensary to get their medicine, and that was a provision we supported just thinking about patients, for instance, might live in

Cambridge but then vacation on the Cape. We want to make sure they still have access to their medicine. Nonetheless, the sales will be tracked so the patient cannot be exceed the amount limit.

So I thank very much for the opportunity to speak today about the issue.

HUGH RUSSELL: Thank you.

Next speaker is Doctor Karen -- and I guess she's a doctor of medicine.

KAREN MUNKACY: Nobody gets the name right. Hello. My name is Doctor Karen Munkacy.

HUGH RUSSELL: Can you just spell your name.

KAREN MUNKACY: Karen, K-a-r-e-n Munkacy, M-u-n-k-a-c-y.

I am the President of Garden Remedies. Our organization is interested in locating a

medical marijuana dispensary in Cambridge and we have notified the appropriate city officials. I'm a resident of Newton. My husband and I are raising our 11-year-old son there. I'm a California licensed and Board Certified anesthesiologist. I'm a delegate to the Massachusetts Medical Society, a breast cancer survivor, and a patient advocate.

I have not written recommendations for medical marijuana for patients when I was California. I commend Cambridge for addressing this subject in a positive patient-centered manner. Cambridge acted early in approving a moratorium and your schedule and timeline allow for the consideration of medical marijuana Overlay Zoning Districts before the Massachusetts Department of Public Health will decide on

which applicants will be approved as registered medical marijuana dispensaries which will occur on or before January 31st of 2014. We are in favor of dispensaries being located in all industrial, retail, and business zones that are also compliant with state regulations. As long as the DPH regulations prohibiting dispensary being located within a radius of 500 feet of the school, a child care center, or any facility in which children commonly congregate, the dispensaries should be able to site there. Given the proposal before you tonight, we are currently looking at sites within these zones. If Cambridge approves the current Overlay Zoning District proposal, we recommend also that a process be put in place by which on a case-by-case basis locations not zoned for dispensaries but meeting all

other DPH and Cambridge requirements, can be approved. If the Zones are more limited, a potential dispensary site that may otherwise work with respect to considerations such as distance from residential neighborhoods, traffic patterns, and accessibility for patients may not be permissible.

In addition, an owner of a property that would be allowable within the proposed Zoning Districts, they don't have to allow their space to be used as a dispensary if they don't want their space to be used for this. This could further limit the opportunities for siting.

Garden Remedies is committed to providing the highest quality medical marijuana to patients who can benefit from this medicine and we will provide this service in a secure, accessible, and

professional setting. We will provide good jobs for local residents, revenue for the City of Cambridge, and education for patients, their loved ones, medical professionals, and community members. Until a dispensary opens in a convenient location for patients, the DPH regulations allow patients who have received a recommendation to use medical marijuana from their doctors to grow marijuana in their homes or in the home of a caregiver. Garden Remedies will minimize the need for patients to seek these DPH hardship waivers to grow their own medicine at home because we will provide affordable medicine and free delivery to eligible local patients.

H. THEODORE COHEN: If you could wrap up?

KAREN MUNKACY: Yes.

We're committed to working productively with Cambridge city officials and to developing positive working relationships with other Cambridge stakeholders. We'll be providing education to all patients on proper dosage, use of vaporizers, and oral medications. This will require significant time for patients. No medicating will be allowed on-site, but we will have private rooms for patient education.

These private discussions will be essential in determining the correct strain of medical marijuana in which patients --

HUGH RUSSELL: Your time is up.

KAREN MUNKACY: Thank you for your time.

HUGH RUSSELL: Okay, thank you very much.

KAREN MUNKACY: I appreciate you

letting me speak.

Thank you.

HUGH RUSSELL: The next person on the list is Joseph Skenderian.

JOSEPH SKENDERIAN: My name is Joseph Skenderian, S-k-e-n-d-e-r-i-a-n. I'm a pharmacist here in Cambridge. As people tell me. At parties people ask what I do, I say I sell drugs across from a high school. That's where my pharmacy is located.

This to me -- I work with Doctor Munkacy, with Karen and Garden Remedies, and this to me, I already deal with scheduled through medications, and why I'm on board is to make sure this is done in an appropriate professional manner. We've been in the same location since some of you know since 1959. My grandfather had the store since 1930. We've never had any problems

along that. I'm for the security for transportation setup as well as counselling. And they pretty much said everything as far as we do it in a professional manner. But I just wanted to emphasize as another healthcare professional working with the Department of Public Health, Cambridge Public Health Alliance that, you know, I appreciate what you guys have done and let you know that, you know, I'm on board as a pharmacist with what you're doing and thank you for your time and thoughtful, you know, Zoning.

HUGH RUSSELL: Thank you.

Does anyone else wish to speak?

(No Response.)

HUGH RUSSELL: Okay. Then we will go on. It seems like the only issue that's been brought up is whether the kind of spatial analysis that led to the designation

of districts unduly restricts this use. And would you put back up on the screen the slide? It was like the ultimate slide that showed all the various constraints in the districts.

I don't actually have any opinion to offer at this point in time except that it seems like the three circles are very important in ruling out many, many locations. And it's how much land is left that isn't, that is in a district that allows business, doesn't have a circle. And I think that there's -- I mean, I can see the MIT play fields, but then again with what the feds believes that, you know, is it the 500 feet from the perimeter of MIT or is it at, you know, right now there's a circle at the dome. And I don't know -- so maybe the dome, the -- which makes sense to me, that the district

would not be one circle in the middle of campus, but that would be the entire campus at least. You've got something, several things to say.

STEVEN COHEN: Thank you, Hugh.

Just picking up on what you said. I mean, as I read the actual word Zoning and the section which refers to that 500-foot buffer, it then seems to grant discretion to waive that. It says it's 500 feet or if not located in such a distance, it is located by the Planning Board to be sufficiently buffered from sufficient facilities such that its users will not be adversely impacted by the operation of the marijuana dispensary.

So first of all, I don't know how anybody would be adversely affected by the use of these dispensaries. So -- but that's a separate matter.

And I guess my question is, and my primary concern is, again, how this will be implemented by the Planning Board. So my question is am I reading -- is that right, that the Planning Board can, in fact, you know, waive that 500-foot buffer if it makes such a finding?

JEFF ROBERTS: Right. So according to the proposal the -- well, according to the state regulations, the standard that they've set is a 500-foot buffer from schools and other child areas where facilities -- where children normally congregate. But it says that -- it essentially says that the local, if there's no other local regulation that applies, so it leaves a little bit of room for a local regulation to set, you know, a different standard. For instance, I think as Sam was just telling me that apparently, and

I didn't realize this as well. I guess their regulations had applied a 300-foot standard from day care centers instead of a 500 foot. So, again, the purpose of the Zoning was to, was to really follow the lead of the state regulations, but in this case, since we're proposing a discretionary permit of Planning Board review, we felt it was appropriate to provide some opportunity for discretion if the Planning Board felt that there were a compelling reason why something located at 400 feet rather than 500 feet were still suitably buffered from those uses.

STEVEN COHEN: No, I'm just curious, it sort of goes back to the whole system of regulation here. I feel like the regulations are written as if we are regulating some sort of biohazard radioactive substance here. So given that perspective, would you say that

the finding has to be -- the use will not adversely effect the children in the children's facility, what sort of adverse effect would be contemplated?

JEFF ROBERTS: I think the effect is really the -- how the operation, whether there will be any conflict between the operation of the facility, people going in and out, cars going in and out and, you know, who would be walking by? Is this a facility that would normally have a lot of children in the area that would interact with it in some way? I think that's really the concern. And, you know, I can't, I probably can't answer fully a question of why. Either the state or the Federal Government applies that standard, and because it's -- because it is a standard that's applied at a higher level of jurisdiction, but, but that's the, that is

the intended to make sure that the operation of RMD and the operation of a school are to remain separate from one another.

STEVEN COHEN: But again, and again I'm just trying to understand how it would be implemented by the Planning Board. So if per chance the Planning Board were to find that the application for a placement of a facility at 50 feet from a school does not adversely affect the children in the school, can we make such a finding? Can we approve such an application?

HUGH RUSSELL: Well, I think, for example, you can say think about the new shops that are being built on Fresh Pond Parkway and they back up to the Tobin School. There's actually no access. So that that would be one way of making a finding is saying --

STEVEN COHEN: We can reach a finding?

HUGH RUSSELL: Yes, that's the way it's written. If that's the case, then should we be less restrictive in terms of the districts where they're permitted? And assume we're getting advice from the people who testified, that might be wise. We don't want to make it so that it doesn't happen. That's the, that's the real important thing. We want to make sure that there can be a dispensary serving the citizens of the City of Cambridge.

STEVEN COHEN: It seems that the thing that most distinguishes this use from other retail uses is -- what we contemplate will be the regional nature of the draw and, therefore, the traffic and transportation related issues.

CATHERINE PRESTON CONNOLLY: I think the other thing that distinguishes it, though, Steve, is that it's not open to the public. So it's not necessarily the kind of use that you would want to activate a busy square or, you know, be inviting to the public. It is by definition a use that is closed to most people.

HUGH RUSSELL: And, you know, it's secured parking facilities and --

STEVEN COHEN: But there in terms of negative impact, I mean it may be bad planning, you know --

HUGH RUSSELL: Right.

CATHERINE PRESTON CONNOLLY: Agreed.

STEVEN COHEN: -- that took place in an active retail area, but the impact, to the extent that it might be negative is primarily one of traffic and parking.

HUGH RUSSELL: Yes. That's my view.

You know, in a more perfect world you could simply get a prescription and take it into Skenderian's Pharmacy and get it filled.

H. THEODORE COHEN: Well, while I don't like to have Zoning dependent on the Board of Appeals and a Variance, if we were to adopt just these limited Overlay Districts, I assume that if someone was unable to locate in one of those districts and could convince the ZBA that they met the criteria for a Variance, they could get a Variance to allow them to be located someplace outside of that and then I would imagine they'd still have to come to the Planning Board for a Special Permit to meet all the other criteria, but there is some safety valve if people are unable to locate in those districts.

STEVEN COHEN: Except that safety valve would entail a showing of hardship, which is --

H. THEODORE COHEN: Right. The ZBA can decide. But they can prove that they cannot otherwise get a location, maybe they can convince the ZBA.

JEFF ROBERTS: I would just comment, that is true, but I will comment that Use Variances are something that are generally not granted and not permitted to be granted unless there's some explicit mention in the Zoning that it could, that a particular use could be allowed by Variance. So it's -- so that it is a much more difficult test to have to meet and maybe -- may be unmeetable for an applicant.

CATHERINE PRESTON CONNOLLY:

Although we could authorize one.

JEFF ROBERTS: Yes. The Zoning Ordinance --

CATHERINE PRESTON CONNOLLY: Yes, exactly. We could in fact adopt a Zoning Ordinance that said that the BZA was permitted to do Variances -- Use Variances specifically for this use.

STEVEN COHEN: But if we were going in that direction, we could simply, you know, expand this provision and say by Special Permit the Planning Board can then grant a permit outside of the designated areas upon showing of something or other.

CATHERINE PRESTON CONNOLLY: Right. It's a question of whether, you know, you think that outside of these areas you need to have that elevated standard of hardship, or if you think that it would be the same standard applied, you know, in for instance,

as was suggested all industrial retail and offices citywide.

STEVEN COHEN: But maybe for us it's just the same standards as would apply regularly, and the only additional share showing that we might require it might be that they couldn't find an appropriate location within the designated district.

HUGH RUSSELL: And there are steps they've taken to demonstrate they've taken steps to find. And the urban design issues might become more compelling in the -- so it might be additional open design criteria that would be applied if you weren't assigned the designated.

STEVEN COHEN: And the staff in point, you don't want to put it in a location where actually detracts from the activity and the function and of vital retail.

HUGH RUSSELL: Right. And it's funny because it's not the actual transaction is innocuous. It's the state regulations around the way in which the transaction has to be conducted in a security and that's causing the incompatibility.

STEVEN COHEN: So the detrimental impact is caused by the regulations designed to prevent the detrimental impact.

HUGH RUSSELL: Right.

TOM SIENIEWICZ: Or relative to the urban design. There is regional impact for these uses and I think we should be concerned about that as a Planning Board. And I don't know anything about these operations, but there seems to be a very large concern about security around the handling of these substances, and so that also is of concern to me. And so I think the very good thinking

that's been put into where these should be allowed in terms of these two districts, I think sort of consistent with supporting and ameliorating the adverse, potential adverse effects of these dispensaries is. On that withstanding I don't want to regulate them out the community. I agree with my fellow Board members here, at least the sense I'm getting is that we want this as a service to our fellow citizens if they need it. I would like to find or to sketch out some additional criteria which would allow the use outside of the two designated districts, and I also agree with the sense of my fellow Board members that it's probably not right to pitch that evaluation up to the Zoning Board making financial hardship for the location outside these districts would not be good. But that withstanding, I don't think we should allow

the use liberally across the whole city. I think we want to try to encourage them in these two pockets and then allow some relief if we can meet some criteria to be somewhere else.

AHMED NUR: I also agree with Tom. Though I have questions regarding to transportation. Jeff, did I understand that you said that you don't recommend the trans -- the dispensing center to be near the transportation? Because I thought that patients would want not to drive. They would want to -- they would want it fairly accessible to transportation.

JEFF ROBERTS: The intent was to choose locations that had availability for public transportation.

AHMED NUR: Okay. All right. So I misunderstood your statement.

And the Section 2704, the application Requirement C Transportation, which is calculating I guess -- so we will treat this as an -- every other, every Special Permit that we normally do by getting a letter from Transportation Department to figure out -- because I -- I'm concerned, you said it was 159 applications approved or rather just in the process. Then how do we know if that number grows, for example, say, you know, MMD-2, which is North Point and starts to grow. Is there a capacity in these facilities?

JEFF ROBERTS: Well, the -- again, this is, this goes along with the fact that we're following the -- what the state has put forward which is that there will be a very limited number. There will be no more, essentially no more than one in each

community which will serve not just that community but also surrounding communities. If there is additional demand, need -- if it's determined through the course of the program that there's additional service that's needed, then additional RMDs could be permitted in future years. But at this point given the numbers and the expectations, at this point it's not, there's no prediction that there's going to need to be a dramatic increase in the number over time. So that would depend on really how the, how the first -- the initial years of the registration process played out.

HUGH RUSSELL: So run some numbers, and I've been doing this in my head, but 2,000 patients associated with each dispensary, six visits a year maximum, because although we've heard testimony that

one of the providers actually wants to go over, and I think that might make a lot of sense for a lot of people who particularly who might be quite sick to have drugs delivered to their home. But let's just say 12,000 patient visits a year, divide that around 300 days. That's 40 visits a day. And if you divide that among 10 hours, that's four visits an hour, so every 15 minutes somebody's going to come there. And I don't think there's going to be a huge regional transportation impact. I mean, it's sort of ironic in the ways that those two districts are in the worst congested parts of the city at rush hour and, you know, both places are serious problems. And so to me it's -- the urban design impact of the security features are the biggest problem of the appearance and I don't know, maybe the other thing is, you

know, now there's substances are now legal to be purchased in two states and Massachusetts is generally not far behind in liberal issues. So we don't know what's going to happen. This may be a very short period of ten years going these highly regulated dispensaries are actually required in the Commonwealth. But in any case, we want to make sure they have them. If we have somebody who wants to do it in the city, she's competing with, you know, four or five times as many people who also want to. I guess 40 people want to do it in our county. So I think the flip side is why do we have a biotech industry in the city for two reasons?

One reason we have, you know, an intellectual capital at Harvard and MIT. But the second reason actually started in this chamber when Councillor Vellucci got up when

he heard that RD Little was going to be studying nerve gas in West Cambridge which apparently was not actually true. At least they said it wasn't true. Anyway, and he, he did it a Councillor Vellucci thing. He made a compassionated speech about protecting our families and our children and everything else. And the city's reaction was actually 30 or 35 years ago when this happened to create a pool of city staff and citizens on a board to consider this matter. And there were scientists on it. And they said okay, there are two levels of research you should never do in Cambridge, you know, because you just can't. You know, they should be out in the middle of the desert somewhere. And then there are rules and regulations about how to do work with hazardous substances that, you know, are generally understood and should be

applied here and that was it. So when biotech companies were just starting then and said where could we do the work? Cambridge had a policy that said, you know, there is a policy. If they fit in the policy, then there's no issue. And Lexington didn't have a policy, and Bedford didn't have a policy, and I don't even think Boston had a policy. So that -- having regulations that are reasonable actually encourage people to come because they know where they stand. And if they're not reasonable regulations, it doesn't work. So this is I think important that we get this done.

STEVEN COHEN: Could I speak on a subject of reasonable regulations? And we talked mostly about location thus far. And I think there is the sense that, you know, it ought to be loosened up somewhat. It ought

to be at the very least some sort of escape valve to locate these dispensaries elsewhere subject to what criteria we haven't even gotten to yet. But I have one more technical -- well, not -- I imagined as I think you pointed out, Jeff, more likely than not, the actual growing will be done elsewhere. And so at these dispensaries will primarily be dispensing. And as you pointed out going through the numbers, they're not going to be dispensing a whole lot. And so I would imagine that the dispensaries could be actually pretty small. And that the volume of product that comes in and comes out is also going to be pretty small.

Now, when I look at the proposed Zoning, it says on parking and bicycles the Planning Board will have the discretion to place or pose requirements based on the

traffic report that we get. But then we get to the loading dock and it says that there shall be a loading dock, at least one loading dock, and it cannot be a shared loading dock. And in terms of actually encouraging such uses and then imposing reasonable regulations, the notion of requiring a loading dock for a retail establishment dispensary, which is likely to be very small in handling very small volumes of product, struck me as possibly an unreasonable regulation.

HUGH RUSSELL: Doesn't this come out of the state?

STEVEN COHEN: Oh, is that the case?

JEFF ROBERTS: Well, the state sets some very strict requirements on monitoring and security. The, you know, Cambridge, not every retail establishment has a loading

dock. And essentially what it means is a truck pulls up in front of the location and takes product out and moves it into the place. Whether we would encourage that or whether a -- there are sort of two aspects of that question.

One is would we in Cambridge want to allow that? And the other is would the state look at an operation, look at RMD and say well, we're going to pull out the truck and, you know, bring it out on to the sidewalk and bring it into the, into our secure area. Would that fly with the state authorities? So, you know, we thought a simpler approach to say that the loading dock had a loading area had to be on-site and had to be available and it wouldn't --

STEVEN COHEN: I guess my suggestion is that unless it's specifically prohibited

by the state, I would at least suggest that the Planning Board have discretion on that matter just as it does for the other, you know, parking related requirements. So that appropriate instance the Planning Board could waive the loading dock requirement.

HUGH RUSSELL: I think some of the security arrangements are also designed to protect people who are working at the dispensary from bad people who might want to come in and not have prescriptions and have guns and knives and take the product that way. So I think that's part of the issue is to -- I don't know what the value of the product is, but I could imagine people would think there would be a lot of value there.

STEVEN COHEN: I think I'm coming from the perspective if these dispensaries, as small as they might be, and you know, I

can imagine a thousand feet being more than enough for such a dispensary, it's difficult enough to get good locations in this city. But to get a 1,000-foot, you know, facility in a location that also has its own loading dock, may be extremely difficult. And, you know, if readily available, then it's a non-issue. If they're not readily available, which I suspect is the case, then I'd wish this Board to at least have the discretion to waive the requirement.

TOM SIENIEWICZ: I sure would like to understand what the public safety issues are. I mean, the picture you just painted for me verbally is not a happy one. And I gather there are a number of people that use the drug recreationally in the Commonwealth, and so there is a demand. And I sure would like to understand what other states'

experience is and what our police department would recommend here. Obviously the regulations, some all of the regulations as we already alluded to, you know, we have some very strict cautions about the way in which these products are handled in and out and through the doors.

CATHERINE PRESTON CONNOLLY: Jeff, is this a kind of thing that the State Board of Health would likely have weighed in before this ever gets to us? I guess I don't understand the sequencing. I understand that the business operator will have been an approved operator before it gets to us, but will the details of the operation have been worked out with the state or is that really going to be determined by us and then approved by the state after the fact?

JEFF ROBERTS: It's -- it's a bit of

a process, sort of intertwined process. So the -- in the Phase II application the applicants are going to be submitting, they're certainly identifying their site. They're saying this is where the site is and this is what -- in some way they need to characterize what the local community feels about it is. The other, the -- another part I'm sorry. The other part of that is the city will require them to submit a security plan and a detailed security plan. And as Sam mentioned, it could be one of the components that has reviewed by the local authorities as well, local police department. And the security plan has to cover essentially how is product being delivered? Whether delivered to the site or from the site. How is it being disposed of? How is it being monitored? Where is the perimeter

security? Where are the security cameras are monitoring site at all times. Perimeter lighting is actually a piece of it. And one of the regulations says it can't be any foliage that allows opportunity for people to hide. It's, it's a real, you know, I think I wouldn't -- I can't necessarily, you know, comment on why the regulations are set up the way they are, but I think there really has been a significant concern about marijuana dispensaries around the country and where they've been located in other states. Where in some cases they become, they become either a public nuisance or even an attraction to -- for criminal activity. Whether it's, whether it's the dispensary, whether the dispensary is complicit in that or whether the dispensary has become a target for thieves or other people who are not obeying the law.

CATHERINE PRESTON CONNOLLY: But just to be clear, so that whole process gets completed by January 31st of 2014, and are we then expecting to see if we adopt this Zoning let's say after December 1st are we expecting to see Special Permits December 2nd or February 2nd? I guess that's what I'm trying to figure out. Is that whole security plan already approved before we ever get a Special Permit application?

JEFF ROBERTS: Well, the -- it's an interesting question because the state -- again, the location has to be identified, and they have to prove that they can essentially that they can operate there. Their approval can be contingent on them getting a Special Permit. Similarly our Special Permit approval will be contingent on them getting state approval. So the process is -- so

again, it's like we say -- this is what Liza says about regulations, you have to get everything. You have to get approved for everything before you can -- before you're allowed to go ahead and operate. So that, I think that's sort of how I would answer the question.

CATHERINE PRESTON CONNOLLY: I guess I'm just trying to figure out if we can punt and say the state will have worked out all of the security issues. And it sounds like we're actually going to be dealing with them simultaneously with the state and we'll actually have input into that. Am I understanding that correctly?

JEFF ROBERTS: Yes. That's my understanding. So our local, between Zoning and Zoning will require them to issue -- to provide copies of their registration

materials, and Planning Board will get a chance to review it depending on what the public health regulations will be. Public health department, police department Inspectional Services will also have a chance to review it.

SAM LIPSON: And also quickly just to add in, if their permitting process is everything like every permitting process I've been a part of, just because they've identified the people that are selected, the granting of that permit is unlikely to occur until they've met the documentation requirements at the state. So I also, I'm not really sure how the state is going to play this whole thing about granting permits before they know whether or not the local staff has determined that that application can comply with local rules, which I think

you are kind of getting at. But my understanding from our discussions with folks at the state is that they, they take very seriously whether or not there's a single intent to support that application at a local level which could be reading tea leaves a little bit, but that would be very important.

CATHERINE PRESTON CONNOLLY: But a Special Permit approval would obviously signal that strongly.

SAM LIPSON: Absolutely. But they're going to go ahead and approve, but they're not waiting for cities and towns to make their judgments. That they realize they probably have to act first.

CATHERINE PRESTON CONNOLLY: Got it.

AHMED NUR: Jeff, I have a question. Just finishing up my last point. Well, the definition of school, I mean, is it talking

about children here? Are we talking about college? Just for my own clarification I just wanted to know what that is. I know that we approved an EF, Education First at North Point not too far from an RMD, probably a block away.

HUGH RUSSELL: It's in district.

AHMED NUR: And it is district, and I'm sure that there is a pharmacy. But before you answer that, I happen to be sitting in a nice restaurant and they smoked next to me and it's non-smoking and I said what is going on here? Literally just smoke coming out of here. And he was something called e-cigarettes. Evidently they're not regulated. It's operated by battery. They're getting nicotine but it's a fake smoke. And looking forward into the future, I'm pretty sure that marijuana will be there, too. Or

e-marijuana coming out pretty soon. So I just wanted to see when you talked about marijuana infused products if you take that into consideration?

JEFF ROBERTS: I'll answer the second one first.

Yes, in fact the way as I understand it, the way that marijuana for medicinal purposes is administered is often through a use of a vaporizer. So I don't know exactly how an e-cigarette works, but I think it's similar. Rather than creating smoke, it vaporizes the product in some way. And so it can be inhaled without creating smoke.

The other component of your question of occasional use is that that was a little bit of a surprise to me, too, as we've learned as it's been applied as the standard has been applied schools do typically include

universities and colleges. So in this case we would -- that's why we're looking not just, looking not just at elementary, middle, high schools, but also at colleges and universities. And as you know, there are educational uses beyond large universities that are educational uses beyond Cambridge.

H. THEODORE COHEN: Going back to security for a minute. I mean, from a planning point of view and from the City's point of view, I really don't want to see little mini fortresses cropping up in, you know, the Alewife or North Point area. You know, we're spending so much time on getting North Point to be this beautiful location. And having some thousand-foot square foot entity surrounded by barbed wire and prison walls all around it is certainly not what I want to see. And, you know, the state

notwithstanding in its regulations, you know, we have liquor stores, we have banks, there are a lot of places that have adult uses; convenience stores that are subject to bad people coming and robbing them and doing bad things there, and that I don't think it's necessary for us to overregulate everything so that the security just becomes the driving issue. I mean, these are going to be non-profits, but they're businesses and they're not going to be able to stay in business if they can't function appropriately. And so I'm really concerned that -- I understand we have to go with the state regulations, but I don't think, you know, Cambridge has to put a further gloss on top of it to make it even more difficult for them to operate and to be concerned about what is actually going to happen. I mean,

the way it's set up in Massachusetts as I understand it, you're not going to have people going down the block and getting doctor's prescription and walking in to buy something off the shelf. So I think we're talking about a very different type of dispensary, and I'd like it to fit into the cityscape as much as possible.

HUGH RUSSELL: So, I am concerned about the security because it happens to be a potential danger to patients along the, you know, accosted and it might be safer in Central Square than you would be on Fawcett Street. Nothing against Fawcett Street, but there's more activity around -- but I think the idea that there's a security plan that's been say approved by the Public Health Department for the city, by the police department, and comes to us and says hey,

this is how we're going to do it. And then we can look at the impact of that plan on the things that we're interested in to make a decision whether if you implement the plan you create this, you know, fortress in the middle of Central Square, we would say no, we don't want that. I'm sure the operators don't want their clients coming to a place that looks, you know, like they're criminals or something. And they also want to have their own staff in place. But, you know, when I went to buy this ring, I went to Spire Jewelry store up on Mass. Avenue. And, you know, you can't get into that store. You have to be buzzed in. You have to be recognized. He's got gold and platinum there, and he's the only person who's working there sometimes. And that's -- so, you know, there are businesses that have learned that

how to deal with that. Now, nobody's gonna cut my finger off to get this \$300 ring or \$3,000 ring. The first one I bought was 300 (Inaudible). Anyway....

So, I don't know, I'm just sort of rambling on. But these are important questions.

Are there other important questions that we need to throw back to Jeff to think about?

AHMED NUR: I heard him say also that Planning Board would consider the egress size and so on and so forth. Isn't that the Inspectional Services field usually? There's language for requirements.

JEFF ROBERTS: What I was referring to was just the sort of access and egress points. The typical kind of things that the Planning Board would look at where the

entrances are located, how they connect to both vehicular and pedestrian entrances and exits and where they're located, how they're situated in terms of access in and out.

HUGH RUSSELL: The public realm from the private realm.

AHMED NUR: From the private, yeah. Okay.

CATHERINE PRESTON CONNOLLY: I guess what I'm hearing here is that for the most part we're supportive of having a use of wanting it to have it in the city here. We want to foster that. And we don't want to duplicate state regulations that we think are not helpful to integrating that use into our community. So to the extent that, for instance, loading docks can be dealt with through a security plan rather than embody them further in our Zoning regulations, and

we can say that we want to see the security plan that's approved by the state and the police department, but we don't need to specifically require for this use something that, you know, may not make it work should state regulations later be amended. And in general, you know, we want to foster this so that the uses are -- as the hopefully state regulations evolve, this becomes an easier use to integrate to the community rather than end up with silos and prison-like structures at the edges. Does that -- that's my sense of what our, what instruction to staff is.

STEVEN COHEN: And also as to location, some sort of mechanism whereby the Planning Board would have discretion to approve locations outside of the two designated districts.

CATHERINE PRESTON CONNOLLY: Right,

and I think that it's part of my thinking that -- I mean, the two designated districts in my understanding here really have been driven largely by the state requirements for 500 feet away from education and child-oriented uses. And so, to the -- you know, we're not, we are not necessarily endorsing or disagreeing with those. We're saying that's what the state does and the state is, you know, appropriately involved in running their regulations. But we want freedom to should that buffer not be 500 feet anymore, whatever, we can adjust it accordingly.

STEVEN COHEN: Well, exactly. And we already, at least that's drafted we already have that discretion.

CATHERINE PRESTON CONNOLLY: Yes.

JEFF ROBERTS: One of the, just to

interject a little bit, I think that it certainly was important to look at the distances from the 500-foot buffers as were put in the state regulations. I wouldn't necessarily say that was the -- particularly the driving issue. I think that especially when you consider the fact that those are uses that in some cases could change over time, that that's something that and, again, as Steve was mentioning, that it's something that the Planning Board would have some degree of discretion about. I think the, you know, the issues about, you know, basically where they fit within the urban character, I think that the Board has really talked around what a lot of the -- talked about a lot of the considerations and kind of brought those out to their, you know, to their limits which is good which is similar to the process I

think that we went through looking at this. I think that, you know, these are uses that won't necessarily look like a fortress, but they will have, you know, security requirements that are relatively unique. And, you know, they're not going to generate necessarily huge amounts of traffic, and yet we have to consider that they are going to be the only provider within a -- within a pretty large radius. So it's a, it's a unique type of use. And I think those were the issues that we're really driving our look at this and would certainly, if we were looking at expanding it to other areas, I think we would need to kind of go through that similar type of exercise and say well, what are the other areas of the city that would accommodate this and what would the fit be in areas and in core business versus core business districts,

what would the fit be in some of the more neighborhood-oriented business district. But Inman Square, Mass. Ave., and what the fit look like or what would the fit look like out on Memorial Drive. What would the fit look like out there? So those are the kinds of issue that are important to consider if we were looking at expanding, expanding the scope of the where we would be located.

BRIAN MURPHY: And then from a procedural point following up on that, depending on which way the Board wants to go, if the Board did want to go into allowing this as a permitted use by the Planning Board rather than say the BZA piece, the two options I think would be either to pass something contained within this proposal now and then do that as a supplementary piece, or alternatively I think we would be looking at

a re-advertisement because I think channeling my inner (inaudible), she would say that there's not been adequate constructive notice to people that we would be considering this as a use throughout the entire city rather than the two RMDs. So, again, I think the Board can go either direction in terms of doing it, but it may be one more use of saying, you know, pass this, you know, with direction to sort of come back with a follow on Zoning to sort of address the other piece might be one way to go.

HUGH RUSSELL: So we then just go one more step down that way, we could -- we wouldn't expect that there would be five dispensaries in the City of Cambridge because that would not be serving Middlesex County very well. So if this gets enacted and it's on the books soon, let's say in a month or

two months or three months, whatever it takes, the people who want to locate dispensaries in the city have a chance to try to lock up sites. And if they come back to us or back to the Council saying it's not going to work, we could do that alteration that you discussed relatively quickly.

BRIAN MURPHY: Yes. And I think it's a practical matter. I would suspect it's to be one dispensary in the city frankly. The competing challenges for the state are, among others referenced earlier, the number of municipalities have moratorium to continue into 2014. At the same time we're looking at wanting to get a real geographic distribution.

Another challenge you face in Middlesex is not just the population, but the geography of it. It's between major centers like

Framingham, Newton, Cambridge, Somerville. Local it's a big county. I mean, the fact that you've got two Registry of Deeds and, you know, suggest that. But my expectation would be that we're probably looking to see one site in Cambridge I would not expect more than that.

Would you agree with that, Jeff and Sam?

JEFF ROBERTS: Yes.

SAM LIPSON: We actually did have a sort of conversations with folks at the State Public Health Department about how they -- what criteria they are using in weighing permit approvals. The impression that I got was that they would really assume that they would have only one in the community, but if it was signalled to them in any number of ways that the community would be interested

in a second one, that would weigh heavy on their judgment.

STEVEN COHEN: So, Brian, again, if we changed or if we granted it to the Planning Board the right to give permits outside of those two districts, that's the part that you think we would have to re-advertise.

BRIAN MURPHY: Right.

STEVEN COHEN: But if for instance we granted discretion to waive the loading dock requirement, I assume that's something we could do now. We wouldn't have to re-advertise that.

BRIAN MURPHY: Right, I think that's a rational approach of looking at this in terms of the constructive notice. Again, one the Law Department would be weighing in, but I think that's the right kind of analysis.

AHMED NUR: Right. Not just the loading dock but the image of this facility is heavily secured isn't open to as Ted was saying to a hardscape. So there are a couple other things, you know, aside from the one (Inaudible).

JEFF ROBERTS: I'll just comment on that. I think one of the key rationales just occasions for having this be a Planning Board review process is to make sure that those concerns are mitigated to make sure that it's not a -- it doesn't end up being a use that has an unattractive front to the public realm even despite the fact that it will be a use that will not have any public accessibility.

BRIAN MURPHY: We've had discussions I think when you get to the place of sort of reviewing and had promulgation, we're thinking of things can you have windows with

art or something so that it's not sort of just a blank front. That, you know, it's sort of the classic challenge we face with other uses, sort of the, you know, the CVS problems where, you know, this isn't a very friendly face to the community.

HUGH RUSSELL: So in way in terms of impact it's not too similar from a dentist's office. You actually don't want to see.

BRIAN MURPHY: I would hope it would be a little less painful.

HUGH RUSSELL: There are several patients an hour come, and I think only the security things.

SAM LIPSON: I was just going to add, you know, it seems like a more central question here centers around the restrictions the state is placing for security. Secure parking. These make sense in many parts of

the state, but in a dense, urban area some of those restrictions may not make as much sense and I'll be interested to see whether the state -- they've rethought a lot of aspects from the very beginning, and I don't think they're done yet, but I'll be curious to see if they have any accounting for the kind of urban landscape that we have here and whether that some of those requirements might not work very well for them. You know, these considerations, I would think they would want to hear the kind of conversation we're having.

TOM SIENIEWICZ: I'm very conscious, you know, thank you, Brian, for putting a focus on this about how many establishments we're actually considering here. We're using Zoning language to regulate one establishment and maybe at the outside two establishments,

so that puts me at ease. I think we should not second guess ourselves too much and put something in place relatively quickly and see what happens. And then we have -- I think the well reasoned escape valve, there's no way to find a place to lease any of these districts. We'll just advertise again and cast a broader net in terms of where we might consider the placement of the establishment. But I'm in favor of sort of hammering this through tonight and moving on and getting something on the books.

STEVEN COHEN: I agree with Tom. We might as well try to do something here tonight. I wish the escape trap were in there for location, but if not we could do it later. But, you know, I mean I guess the question I would pose is are there any other restrictions that don't require

re-advertising that we would want to revisit?
And I guess I would propose that we do loosen
up the loading dock requirement. I don't
mean to have a fetish about this.

HUGH RUSSELL: That's great, the
loading dock --

STEVEN COHEN: But I do think that
won't be unreasonable.

HUGH RUSSELL: -- and particularly
the security to lesser security plan, and
then we'll address the implications of that
security plan.

STEVEN COHEN: Right, exactly.

TOM SIENIEWICZ: One other detail in
this cart before the horse discussion that
happened here, my sense of the Board and the
community is that this is a use that we very
much like to have in the community to serve
the people that need it. I wonder if we

don't do something formal tonight like some kind of a motion amongst the word in the sense of that so that something that's making an application of the state can say look, here's a community and here's something on the transcript that's indicating that this is a use that they're quite willing to entertain.

HUGH RUSSELL: Well, the favorable recommendation to the Council to enact these provisions with the -- as we often do, the issues raised, and have staff to think about it. And I mean at this, the Council is one that has to decide it. So I'm perfectly prepared now having gone through this process to do that tonight.

STEVEN COHEN: Sure.

HUGH RUSSELL: So is there a motion to do that? Are we ready?

H. THEODORE COHEN: I move that we recommend to the City Council that they adopt the Amendment to the Zoning Ordinance in substantially the same form that was presented to us this evening, taking into account the possibility of loosening some of the security regulations in order to improve the cityscape, specifically noting the possibility of making the existence, nonexistence of a loading dock up to the discretion of the Planning Board.

And were there any other points that need to be raised?

HUGH RUSSELL: No. I think you should say in the motion that we strongly support the provision of the service to the residents of the city.

STEVEN COHEN: So moved.

AHMED NUR: So moved.

HUGH RUSSELL: You did the motion
and you seconded it.

No more discussion on the motion?

And all those in favor?

(Show of hands.)

HUGH RUSSELL: And everybody voted
in favor.

And I believe there's nothing else on
our agenda for tonight so we are adjourned.

(Whereupon, at 9:00 p.m., the
Planning Board Adjourned.)

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