

Medical Marijuana Zoning Amendment Petition

Cover Letter

2016 JUN 23 AM 11:37

CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Nathaniel Averill
Executive Director
Healthy Pharms, Inc.
22 Milton St.
Somerville, MA 02144

Cambridge City Clerk
Mrs. Donna Lopez
795 Massachusetts Avenue
Cambridge, MA 02139

June 23, 2016

Re: Medical Marijuana Zoning Amendment Petition

Madam Clerk Lopez:

Included herewith is a zoning amendment petition sponsored by Healthy Pharms Inc. (“HPI”), a Massachusetts Registered Marijuana Dispensary (“RMD”) operator to amend the provisions of the Medical Marijuana Overlay district section 20.700 of the Cambridge Zoning Ordinance and Map.

The enclosed petition satisfies the original factors that were the basis for the establishment of the original two Medical Marijuana Zoning Districts in 2013.

First, “[a]llowed Uses: RMDs would only be allowed in districts that otherwise allow commercial uses.” March 8, 2016 letter from Jeff Roberts to the Planning Board Re: Sage Cannabis, Inc., Zoning Petition (hereinafter “Roberts’ Letter”), pg. 3. The enclosed zoning petition contemplates that MMD-4 be “coterminous with the portions of Base Zoning Districts: Business B (BB) and Office-3 (O-3), that are within the Harvard Square Overlay Zoning District.” Section 4.35 of the Use Regulations of the Zoning Ordinance for the City of Cambridge contemplates commercial uses as allowed in Business B (BB) and Office-3 (O-3).

Second, “[t]ransportation: Areas with access to regional roadways and public transportation would be preferred.” Roberts’ Letter, Pg. 3. The portions of Harvard

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Square contemplated in this petition are accessible from John F. Kennedy St., Mt. Auburn St., Elliot St., and Brattle St. Additionally, Massachusetts Ave., and Memorial Dr. service this area of Cambridge. Finally, Harvard Square is serviced by the Red Line, and 10 different bus lines. The proposed zoning amendment satisfies this factor.

Third, “[p]ublic Safety: Areas that are isolated and difficult to reach for emergency vehicles would be excluded.” Roberts’ Letter, Pg. 3. Harvard Square is not isolated, nor is it difficult to reach when viewed in the context of traffic in Cambridge and the greater Boston area.

Fourth, “[u]rban Character: State-imposed security regulations would require an RMD to be inaccessible, physically and visually, to the general public. This could be disruptive in areas with an active streetscape character, such as squares and retail corridors.” Roberts’ Letter, Pg. 3. HPI’s proposal for siting an RMD in Cambridge will not disrupt the active streetscape character of Harvard Square. HPI’s specific proposal is to site at 98 Winthrop St., at the Red House restaurant. Subject to all local and state approvals, HPI intends to use what is currently the entrance to the Red House restaurant as the dispensary entrance. Immediately inside will be a security check-point followed by a long hallway leading to the back of the building. What is currently the dining room will be converted to the dispensary. In order to keep the look and feel of the area, the current dining patio and bar area will become the Red House Oyster Bar. While both establishments will be in the same building there will be architectural and security separation. The front door is set back 19 feet from the sidewalk. Only the front door of the current Red House Restaurant will be used solely for the RMD.

Fifth, “[b]uffers from Sensitive Uses: State regulations dictate that RMDs should be located at least 500 feet from schools or other facilities that have programming directed toward children. Municipalities are permitted to set their own distance standards. Federal enforcement may also be an issue where RMDs are proximate to such uses.” Roberts’ Letter, Pg. 3. Harvard Square is a dense urban environment. It

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is extremely difficult to find an available location in Harvard Square to site an RMD and maintain the 500-foot setback from places children commonly congregate. Other communities have reduced this setback below the 500-foot suggestion as described in 105 CMR 725.110(A)(14). For instance, in Kingston Massachusetts, their setback from places children commonly congregate is 100 feet. Town of Kingston Zoning By-Laws, Revised Through Sept. 2015, section 4.8.3.7.4.5. Given the virtual impossibility of siting within Harvard Square without reducing the 500-foot requirement, and the important patient access that would be provided by such a location, the included zoning petition contemplates reducing the 500-foot setback to 250 feet, by way of direct pedestrian access.

In addition to HPI's proposal satisfying the original factors used when devising zoning for RMD use in Cambridge, HPI will comply with all special permit criteria. HPI will work with the Planning Board and the City of Cambridge to address any site-specific impacts that may require mitigation including but not limited to parking and traffic, loading and service activity, and conformance with urban design objectives. HPI will comply and work closely with the Cambridge Public Health Department, the Planning Board, the Inspectional Services Department and the Police Department. HPI seeks to be a responsible and transparent member of Cambridge's thriving business community.

In addition to compliance with factors of the original RMD zoning in Cambridge, and any additional requirements set forth by the Planning Board and other City departments, in the event that HPI is able to site a RMD in Harvard Square, as contemplated by the enclosed petition, HPI commits as follows:

1. Prior to the initiation of operations at the facility, HPI will develop a data collection and reporting program to provide the City of Cambridge with information specific to the operation of a medicinal marijuana dispensary facility in Cambridge's dense urban environment, of genuine public interest,

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and which maintains the privacy of patients. HPI further agrees to provide the details of its data collection program to the City for review. The data collected by HPI and reported to the City of Cambridge will include, but not be limited to, the following information:

- i. The number of persons that visit HPI per day, not to include employees, whether or not they are patients;
 - ii. The number of patients that are denied service during the operating period;
 - iii. The patient's city of residence;
 - iv. A report of the times of the day patients visit the dispensary, averaged over the course of the reporting period; and
 - v. The patient's method of travel to the HPI dispensary.
2. That such information and any other information that the Public Health Department deems to be of genuine public interest, will be provided to the City for a period of three (3) years following the opening of operations, on a biannual schedule, in January and July.
3. HPI will commit an additional \$25,000 per year to one or more local charities to be chosen by a board of local stakeholders, including a representative of the Harvard Square Business Association, a local community leader, a member of the HPI Board of Directors, and a Cambridge City Councillor, or a designee of the Cambridge City Council.
4. HPI commits to working with local law enforcement on the implementation of a detailed security plan that will satisfy the concerns of Cambridge City Departments.
5. HPI commits to working with local law enforcement to review HPI's management in the HPI Cambridge facility.

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The members of HPI, and the residents petitioning for this increased access for the patients of the Commonwealth, sincerely appreciate the time and effort of the City of in considering the enclosed petition. Please do not hesitate to contact us with any questions, comments or concerns.

Thank you for your time and attention to this matter.

Sincerely,



Nathaniel Averill
Executive Director
Healthy Pharms, Inc.

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To the Honorable Cambridge City Council:

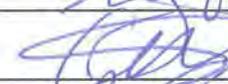
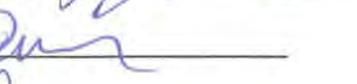
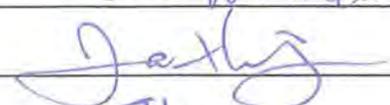
Submitted herein is a zoning petition to amend the provisions of the Medical Marijuana Overlay district section 20.700 of the Cambridge Zoning Ordinance by creating an additional Medical Marijuana Overlay District (MMD-4) to better serve Cambridge's patient population suffering from debilitating illnesses.

The proposed zoning amendment retains the current boundaries of the Medical Marijuana districts (MMD-1, MMD-2 and MMD-3) and current Planning Board special permit criteria set forth in section 20.700 but adds an additional MMD-4 district, coterminous with the portions of Base Zoning Districts: Business B (BB) and Office-3 (O-3), that are within the Harvard Square Overlay Zoning District. Further the petition proposes additional planning board criteria applicable to the MMD-4 allowing for a retail only Registered Marijuana Dispensary (RMD) facility that is appropriately integrated into Cambridge's diverse and dense retail and commercial corridors.

Healthy Pharms Inc., ("HPI") is a licensed Massachusetts RMD operator has secured a lease within the proposed MMD-4 district at 98 Winthrop Street and has conducted due diligence that the location can satisfy the requirements of the Cambridge Zoning Ordinance and statewide medical marijuana regulations as set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana.

The undersigned being all registered voters of the City of Cambridge, hereby petition the Cambridge City Council to amend the zoning map and ordinance by adoption of the following:

1. Amend the Zoning Map to create an additional Medical Marijuana Overlay District coterminous with the portions of Base Zoning Districts: Business B (BB) and Office-3 (O-3), that are within the Harvard Square Overlay Zoning District. See *Exhibit A*.
2. Add a new section 20.705.2 to include additional planning board special permit criteria applicable to the proposed MMD-4 See *Exhibit B*.

<u>Printed Name</u>	<u>Street Address</u>	<u>Signature</u>
Gregory Henkes	90 Lexington	
✓ Arthur Strang	60 Ppp	
✓ Angela Pendleton	10 Saville St	
✓ Stephen Pettibone	6 Harrington Rd	
✓ Daniel Paradis	9 Field St	
Rob Gray	58 Steward St	
JoAnn Buckland	41 Granville Rd	JoAnn Buckland
✓ JOE WHITNEY	58 CHILTON ST	
EVAN MASSARO	75 Chilton St.	
J. Aaron	100 Larch Rd	J. Aaron

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<u>Printed Name</u>	<u>Street Address</u>	<u>Signature</u>
✓ CHARLES F. BROWN	291 HURON AVE	Charles F. Brown
✓ CHARLES J. BROWN	291 HURON AVE	Charles J. Brown
✓ TERRELL DOYLE	34 GURNEY ST	Terrell Doyle
David Albaugh	5 Calcombl St	David Albaugh
Michael Servant	55 Chilton St	Michael Servant
✓ John Rosario	81 Grozier Rd	John Rosario
Forbes Little	56 Garden St	Forbes Little
✓ Margaret Ulmer	27 Reservoir	Margaret Ulmer
✓ John Roberts	321 Huron Av	John Roberts
✓ SARA ANN BATHURST	15 Fayrewell St	Sara Ann Bathurst

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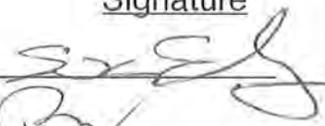
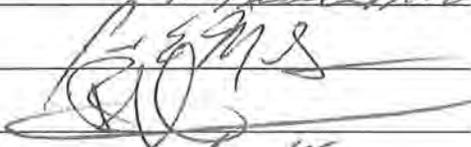
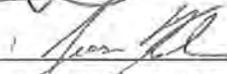
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2. Add a new section 20.705.2 to include additional planning board special permit criteria applicable to the proposed MMD-4 *See Exhibit B.*

<u>Printed Name</u>	<u>Street Address</u>	<u>Signature</u>
Evan Kennedy	10 Gilmore St #3	
Paul Kennedy	10 Gilmore St #3 02139	
Mr Kevin Moore	242 WESTERN	
PAUL MCGOWAN	30 HOWARD ST 02139	
Bob Harkins	484 FRANKLIN ST	
Jesse Kline	27 Jay St.	
James McLean	2036 MASS. AVE. #3	
DAVID WESTERWOOD	203 PEARL ST	

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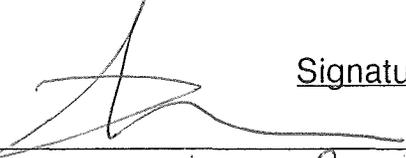
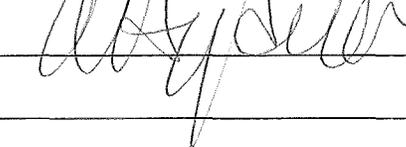
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<u>Printed Name</u>	<u>Street Address</u>	<u>Signature</u>
James Woodman	27 Ash St.	
PETER X. ST. CLAIR	995 MERRILL CAMB.	
WILFREDA CHENA	975 WINTHROP ST CAMB	
Catherine Hayden	30 Ash St.	

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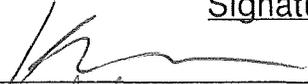
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<u>Printed Name</u>	<u>Street Address</u>	<u>Signature</u>
<i>Kari Kueher</i>	<i>19 Copley St.</i>	
<i>Daniel Egan</i>	<i>156 Harvey St.</i>	

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Printed Name

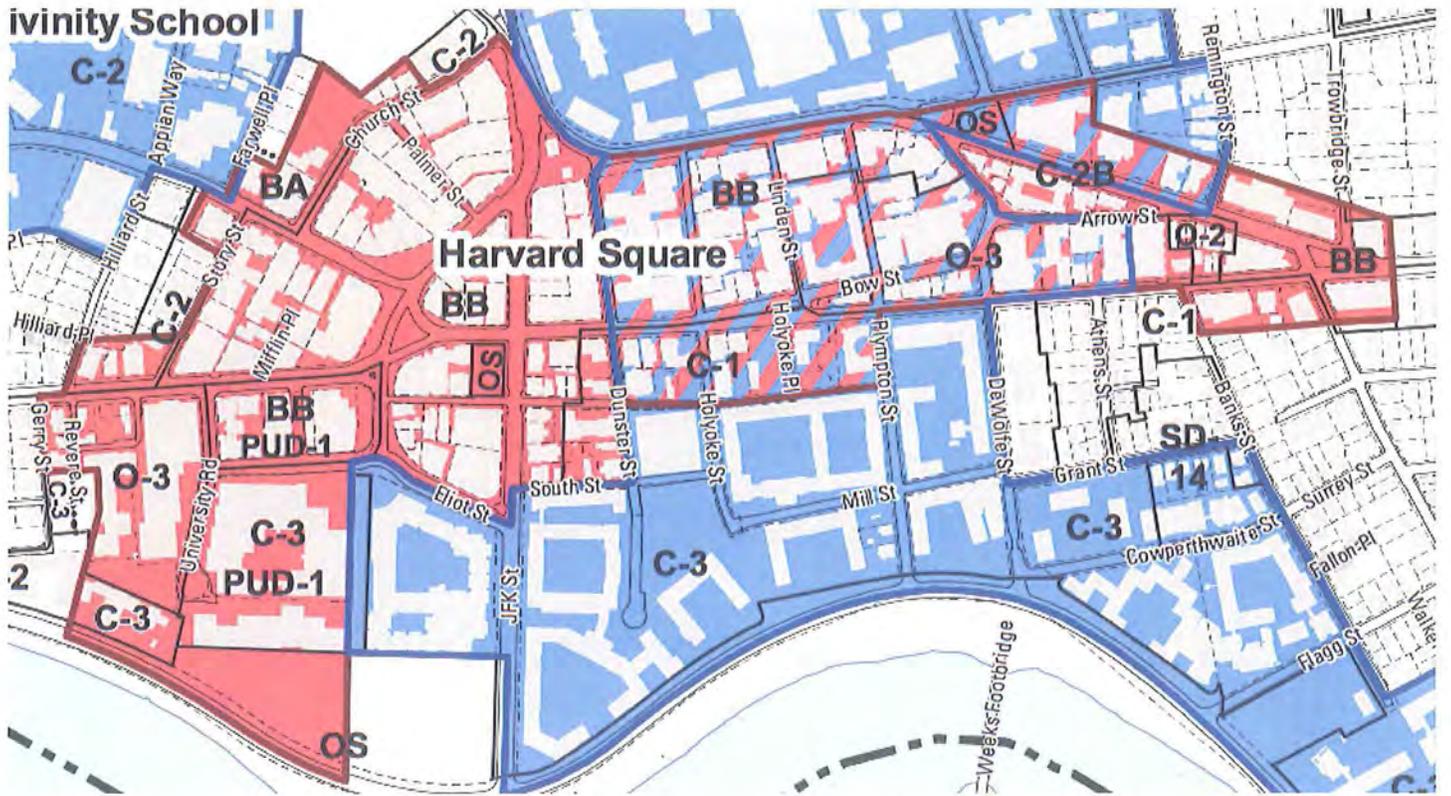
Street Address

Signature

Jonathan B. Banker 110 Oxford St. [Signature]
Cambridge, MA

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Exhibit A



Medical Marijuana Zoning Amendment Petition

Exhibit B

Zoning Amendment proposed text underlined below:

20.700 MEDICAL MARIJUANA OVERLAY DISTRICTS

20.701 *Purpose*

The purpose of the Medical Marijuana Overlay Districts is to provide for the limited establishment of Registered Marijuana Dispensaries as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. Given that Registered Marijuana Dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them where there is access to both regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not impact the character of lower-scale residential neighborhoods, business districts and educational institutions.

20.702 *Establishment*. There is hereby established on the Zoning Map of the City of Cambridge the Medical Marijuana Overlay Districts, which shall be defined as follows:

Medical Marijuana Overlay District 1 shall be coterminous with the area encompassed by the Alewife Overlay Districts 2, 4, 5 and 6, having Office 1, Office 2A, Business A and Industry B-2 base zoning designations.

Medical Marijuana Overlay District 2 shall be the area bounded by Monsignor O'Brien Highway to the south and the Cambridge Municipal Boundary on all other sides, commonly referred to as the North Point area, including the North Point Residence Office and Business District, a portion of Special District 1, and a district with an Industry A base zoning designation.

Medical Marijuana Overlay District 4 shall be coterminous with the portions of Base Zoning Districts: Business B (BB) and Office-3 (O-3), that are within the Harvard Square Overlay Zoning District.

20.703 *Requirements*

20.703.1 *Use*. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, a Registered Marijuana Dispensary shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit by the Planning Board, subject to the requirements set forth in this Section.

20.703.2 *Registration*. All permitted Registered Marijuana Dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable

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state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Registered Marijuana Dispensary that is not properly registered with the Massachusetts Department of Public Health.

20.703.3 *Limitation of Approval.* A special permit authorizing the establishment of a Registered Marijuana Dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the Registered Marijuana Dispensary has been authorized by special permit. If the registration for a Registered Marijuana Dispensary has not been renewed or has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay Districts, a new special permit shall be required prior to issuance of a Certificate of Occupancy.

20.703.4 *Building.* A Registered Marijuana Dispensary shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.

20.703.5 *Dimensional Requirements.* Except where it is explicitly stated otherwise in this Section 20.700, a Registered Marijuana Dispensary shall conform to the dimensional requirements applicable to non-residential uses within the base and overlay zoning districts.

20.703.6 *Parking and Loading.* Notwithstanding anything to the contrary in Article 6.000 of this Ordinance, the required number of parking and bicycle parking (both term and short-term) spaces and the required number of loading bays for a Registered Marijuana Dispensary shall be determined by the Planning Board based on the transportation analysis and other information related to operational and security plans provided by the applicant. Except as set forth above, all parking, bicycle parking and loading facilities shall conform to the requirements set forth in Article 6.000.

20.703.7 *Signage.* All signage shall conform to the requirements of Article 7.000 of this Ordinance. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

20.704 *Application Requirements.* An application to the Planning Board shall include, at a minimum, the following information:

(a) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

(b) *Service Area:* A map and narrative describing the area proposed to be served by the Registered

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Marijuana Dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other Registered Marijuana Dispensaries exist or have been proposed within the expected service area.

(c) *Transportation Analysis*: A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.

(d) *Context Map*: A map depicting all properties and land uses within a one thousand-foot (1,000') radius (minimum) of the project site, whether such uses are located in Cambridge or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.

(e) *Site Plan*: A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.

(f) *Building Elevations and Signage*: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.

(g) *Registration Materials*: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health.

20.705 *Special Permit Criteria*. In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Ordinance, the Planning Board shall find that the following criteria are met:

(a) The Registered Marijuana Dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

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Exhibit B

(b) Except as provided for in 20.205.2, the site is located at least five hundred feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary.

(c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.

(d) Traffic generated by client trips, employee trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.

(e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

(f) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

20.705.1 Additional Special Permit Criteria for MMD-3: In granting a special permit for a Registered Marijuana Dispensary in the MMD-3 the Planning Board shall find that the criteria in 20.705 are met as well as the criteria in 20.705.1

(a) Use Limitations: The RMD facility shall be retail only with no cultivation activities on site.

(b) Siting: The RMD facility must be located either below grade or above the street level at the second story or above and be appropriately shielded from the public view.

(c) Size: The RMD facility size shall be less than 10,000 square feet and at least 70% of the square footage shall be used for patient services and the remainder shall be devoted to administrative support, storage and security.

(d) Access to Public transit: Areas with access to pedestrian and public transportation would be preferred.

20.705.2 Additional Special Permit Criteria for MMD-4: In granting a special permit for a Registered Marijuana Dispensary in the MMD-4 the Planning Board shall find that the criteria in 20.705 are met as well as the criteria in 20.705.2

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Exhibit B

(a) Use Limitations: The RMD facility shall be retail only, with no cultivation activities on site.

(b) Siting: The RMD facility must be set back from the sidewalk by a minimum of 15 feet and be appropriately shielded from the public view.

(c) Size: The RMD facility size shall be less than 10,000 square feet and shall be used for patient services and administrative support, storage and security.

(d) Access to Public transit: Areas with access to pedestrian and public transportation would be preferred.

(e) A RMD facility that is located within MMD-4 may be two hundred fifty feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary. Such distance shall be measured by way of direct pedestrian access from the closest point of the RMD facility to the closest point of the school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate.