



Ruthanne Fuller
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September 6, 2019

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Dear Honorable City Councilors,

I am writing to give you an update on the status of marijuana establishments in Newton.

Host Community Agreement Process

On December 3, 2018, the City of Newton adopted amendments to its Zoning Ordinance to govern all marijuana establishments and recreational marijuana dispensaries. The Newton Zoning Ordinance requires a Special Permit from the City Council for all marijuana establishments. Marijuana uses are restricted to certain commercial and manufacturing zones and numerous standards and criteria are placed on the different types of marijuana uses. The City of Newton also has a limit of eight (8) marijuana retailers in total, a requirement for a half-mile buffer between all marijuana retailers and dispensaries, and a 500-foot buffer zone for any schools or childcare uses.

Under state law, marijuana establishments and dispensaries are required to execute Host Community Agreements (HCA) with the municipalities in which they operate. The agreement must set forth the responsibilities of the marijuana establishment or dispensary and the community. The HCA may include a community impact fee of up to 3% of gross sales to be paid to the host community. The Cannabis Control Commission and the Commonwealth's Attorney General have stated that executing an HCA is the sole authority of the municipality's contracting authority, which in the case of a city is the Mayor. The Mayor is not obligated to enter into an HCA with any particular applicant. The basis for this review and consideration is to protect the health, safety and welfare of Newton residents and the community, while determining which marijuana establishment and dispensary operators best align with Newton's community values.

I have designed a process for reviewing applicants for HCAs. It considers criteria such as security, public health, community relations, experience, equity, economic value, sustainability and context. I have created a Marijuana Host Community Agreement Advisory Group (Advisory Group) consisting of representatives from Planning and Development, Law, Police, Health and Human Services, Transportation and the Mayor's Office to meet with applicants and to give me a recommendation on whether to grant a provisional Host Community Agreement. The HCA is provisional until the completion of the City Council's special permit process as well as the state's Cannabis Control Commission licensing approval process.

Previous Host Community Agreements Granted and Status Update

The City of Newton has a limit of eight (8) marijuana retailers in total. Prior to today, I had approved three host community agreements (HCAs). Only one company, Garden Remedies, is open. **Cypress Tree** has received both a provisional HCA from me and a special permit from the City Council and is awaiting licensing approval from the state's Cannabis Control Commission (CCC). **Ascend Mass** has received a provisional HCA from me and will be before the City Council for a special permit this fall; the date has not been set. Ascend Mass also needs licensing approval from the Cannabis Control Commission.

Garden Remedies

Garden Remedies opened on November 15, 2016 as a medical marijuana dispensary at 697 Washington Street, just outside of the village center of Newtonville. It added adult retail operations on an appointment only basis on May 25, 2019. Operations have been smooth with limited impact on the neighborhood, traffic and parking. The Newton Police Department have no concerns at this time. After the initial 90 days of being open, the special permit allows Garden Remedies to request the discontinuation of police details. That request has just been received and the Planning Department is currently evaluating it.

The City of Newton receives two streams of money from stores selling marijuana. Three percent (3%) of the tax revenue collected by the State for adult recreational sales (not medical) will come to the City and go into the general fund to support our operating budget. An additional three percent (3%) of revenues from both medical and recreational marijuana sales may, to repeat, may, come to us as a community impact fee if agreed to as part of the Host Community Agreement (HCA). These HCA funds must be used to address the public health, safety, education, administrative, infrastructure and other effects or impacts by the marijuana establishment on the City and our municipal and school programs, services, personnel and facilities. As this is an emerging industry with significant uncertainty about the level of the funding stream, my Administration is conservative in our budgeting of this new source of funding. Our policy is to collect the money and expend it the following fiscal year. Knowing that community impact fees may be limited to only the first five years of a company's operation per state law and that we may see a shake-out in the number of stores and fluctuations in the level of sales, the Administration will lean to using the funds for one-time expenditures rather than ongoing operating expenses. While the Administration will be inclined to fund new programs and services, as we are this year, the funds may also be used for current ones, especially if the City is facing economic pressures. The Administration will transparently track both the revenues and related expenditures.

While Garden Remedies opened its medical dispensary in Newton in November 2016, they offered to make a voluntary community impact fee of 3% of revenues on medical marijuana starting in the fourth quarter of Fiscal Year 2018. In the end of Fiscal Year 2018 and in Fiscal Year 2019 – as of the time we created the FY2020 budget – Garden Remedies had provided the City of Newton with approximately \$170,000 in funds from its Host Community Agreement from its medical marijuana sales. (Retail operations had not yet commenced when the FY2020 budget was prepared.) Most of these revenues are being expended currently in the Fiscal Year 2020 budget:

- Newton Public Schools, \$75,000, Additional clinical counselor at the high school level;

- Health & Human Services, \$45,000, Grant to the Gavin Foundation for supportive, treatment and prevention substance abuse services in Newton;
- Newton Police Department, \$25,000, Drug Recognition training and certification for officers.

Decision on Six Recent Applicants for Host Community Agreements

The Advisory Group has been meeting with applicants and has given me their recommendations on the six applications for marijuana retailers.

The Advisory Group has recommended moving forward with provisional host agreements for three applicants for marijuana retailers: MME Newton Retail, LLC at 232 Boylston Street, GR Vending MA Newton LLC at 131 Rumford Street, and Union Twist Inc. at 1158 Beacon Street. The Advisory Group did not recommend moving forward with three other applications for marijuana retailers: ARL Healthcare, Inc. at 1114 Beacon Street, Bloominus, Inc. at 1136 Beacon Street, and a second applicant at the same address, The Green Harbor Dispensary, LLC, also at 1136 Beacon Street.

I agree with the recommendations of the Advisory Group.

Per the Advisory Group's recommendation, I will be signing a provisional HCA with MME Newton Retail, LLC (d/b/a **MedMen**) for 232 Boylston Street (Route 9) in Chestnut Hill. MedMen has a management team with experience in regulatory compliance, retail, quality assurance, and cultivation. The proposed site is located within a commercial strip outside of a village center and has sufficient parking nearby. The applicant has presented well-thought-out plans for operations, security, traffic and parking assessment, and social equity. The applicant has appropriate public health, community relations, and sustainability philosophies and the company will provide economic value to the City. The Advisory Group is aware of recent accusations regarding business practices and treatment of employees contained in a lawsuit brought by the former Chief Financial Officer. While deeply concerning, the Advisory Group understands that the Cannabis Control Commission, rather than the City, is uniquely positioned to investigate the validity of such claims as part of its licensing process. MedMen received a provisional HCA from the City of Boston in February 2019 and is already in the queue for review for licensing at the Cannabis Control Commission. If these claims are confirmed by the Cannabis Control Commission, I will rescind the provisional HCA at that time.

Per the Advisory Group's recommendation, I will also be signing a provisional HCA with GR Vending MA Newton LLC (d/b/a **Herbology**) for 131 Rumford Avenue in Auburndale. Herbology has a management team with experience in law enforcement, regulatory compliance, retail, and cultivation. The proposed site is located adjacent to the City of Newton Resource Recovery Center and is surrounded by a mix of commercial and industrial uses near the border with the City of Waltham. The site is vacant, allowing for a new building and site design to be tailored to the particular needs of the business; the applicant has committed to designing the building to meet LEED certification levels and will include solar panels and other initiatives to reduce energy consumption and waste. There are no residential buildings on adjacent properties and the location near the border of Waltham allows the applicant to serve an adjacent community with minimal traffic impact within Newton. The applicant has presented well-thought-out plans for operations and security. The applicant has appropriate public health, community relations, and sustainability philosophies and the company will provide economic value to the City.

The City of Newton zoning ordinance requires a half-mile buffer between all marijuana retailers and dispensaries. Four of the six recent applicants for HCAs were within a half-mile span along Beacon Street in Newton Four Corners; zoning only allows for one establishment. Therefore, the Advisory Group had to decide whether to grant an HCA to any of the four applicants, and if so, which one.

Per the Advisory Group's recommendation, I will be signing a provisional HCA with **Union Twist**, Inc. (d/b/a Union Twist) for 1158 Beacon Street close to Newton Four Corners. Union Twist is led by three women, including a woman of color, who have experience in law enforcement, regulatory compliance, retail and cultivation. The proposed site is located within a commercial strip outside of a village center. The applicant has presented well-thought-out plans for operations, security, and social equity. The applicant has appropriate public health, community relations, and sustainability philosophies. The applicant has deep local ties to the Boston region. The proposal for this small store, located at the rear of the building and well-buffered from surrounding uses is well suited. Further, the proposed site has dedicated parking and is a sufficient distance from the busy Beacon Street and Walnut Street intersection to minimize backups.

Per the Advisory Group's recommendation, I have chosen not to proceed with a provisional HCA for **Bloominus**, Inc., a co-located registered medical marijuana dispensary and recreational marijuana retailer at 1136 Beacon Street near Newton Four Corners. The application includes a minority-led management team experienced in a small business development, retail, security, technology, security and the marijuana industry. The Advisory Group identified transportation and safety challenges at the site due to the high-turnover nature of the use. The site currently has dedicated parking, but it is shared with several abutting retail and restaurant uses. The applicant failed to provide detailed plans for site improvements, transportation, management, community relations, sustainability and equity. The Advisory Group has significant concerns regarding the lack of proposed details in each of these areas.

Per the Advisory Group's recommendation, I have also chosen not to proceed with a provisional HCA for **ARL Healthcare**, Inc. at 1114 Beacon Street, also near Newton Four Corners. The applicant has a management team with significant local ties and experience in commercial real estate development, the medical cannabis industry, security, and healthcare. The Advisory Group has identified traffic and safety concerns at this site as the size of the building and parking facility may induce driving in an area where congestion is a concern. The applicant did not present strong enough plans for transportation demand management, equity, or community relations. The size of the site and its proximity to the intersection of Beacon Street and Walnut Street is a concern due to the likelihood of traffic back-ups and poor visibility for motorists entering and exiting the site.

Per the Advisory Group's recommendation, I have chosen not to proceed with a provisional HCA for **Green Harbor Dispensary**, LLC, who proposes to become a co-located registered medical marijuana dispensary and recreational marijuana retailer at 1136 Beacon Street in Newton Four Corners. The applicant has a management team experienced in small business management, health care, retail and the marijuana industry. The Advisory Group has identified transportation and safety challenges at the site for the high turnover nature of its use. The site currently has dedicated parking, but it is shared with several of the abutting retail and restaurant uses. The site lacks adequate space for secure loading and trash. The applicant failed to provide detailed plans

for site improvements, transportation management, sustainability and equity. The team lacks experience in community relations.

One of my goals in granting provisional HCAs was to disperse marijuana establishments across the City. As a group, these HCAs help achieve this goal. Please see the attached map of the six locations.

Next Steps

The three recent applicants who are being granted a provisional HCA will now undergo a rigorous review by the City Council. The final decision as to whether and under what conditions a marijuana establishment may operate will be made by the City Council as part of the Special Permit process. The Special Permit process includes public input and allows for the City Council to consider concerns raised by the public, as well as how the proposal meets the goals of the City and criteria established by the Newton Zoning Ordinance. The three approved applicants may now contact the Planning Department to proceed with preliminary steps to completing a special permit application. In accordance with City Council time restriction rules pertaining to an election year, completed applications may be submitted after November 15, 2019 for docketing in January 2020. In addition, the Cannabis Control Commission needs to give each applicant its licensing approval.

Additional Requests for Host Community Agreements

The HCA Advisory Group prefers to meet with a batch of applicants to be able to make relative comparisons among them. Currently, there are no applicants.

Attached please find both the Host Community Agreement Process memo and the memos on the six current applicants to me from the Advisory Group.

Please feel free to reach out to me with any questions.

Sincerely,

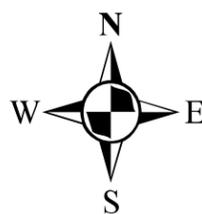
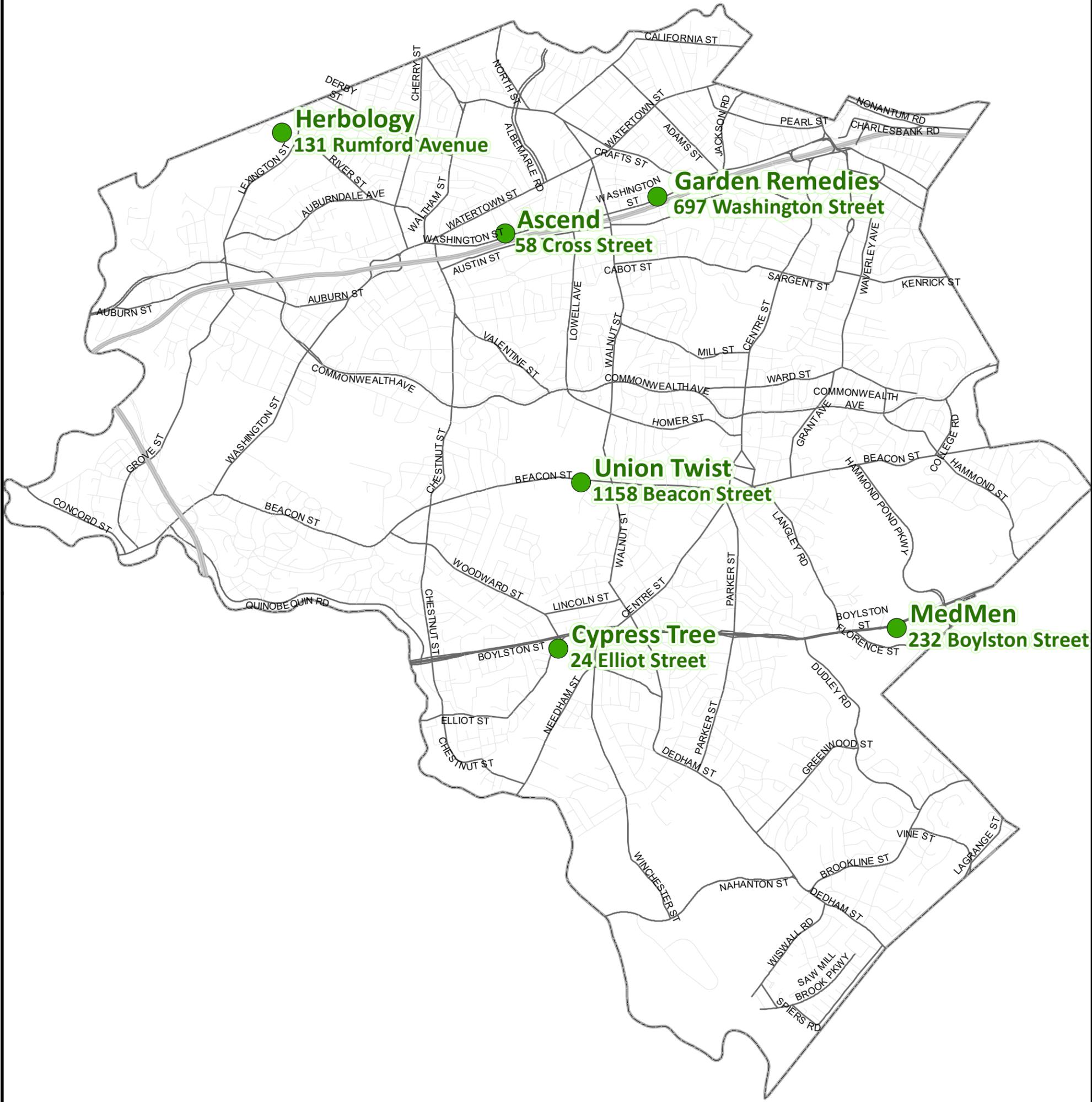
A handwritten signature in black ink that reads "Ruthanne Fuller". The signature is written in a cursive, slightly slanted style.

Mayor Ruthanne Fuller

Host Community Agreements for Marijuana Retailers

City of Newton, MA

Map Date: September 03, 2019



CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller