



IN CITY COUNCIL

Marlborough, Mass., JANUARY 27, 2025

ORDERED:

NOTICE OF DECISION GRANT OF AMENDMENT TO SPECIAL PERMIT

Special Permit Application of:
Garden Remedies, Inc.
697 Washington Street
Newton, MA 02458

Order No. 24/25-1009306C

Locus:

423 Lakeside Avenue
Marlborough, MA 01752
Assessors Map 79, Parcel(s) 6

416 Boston Post Road East
Marlborough, MA 01752
Assessors Map 73, Parcel(s) 30

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application to Amend a Special Permit to Garden Remedies, Inc. with a mailing address of 697 Washington Street, Newton, MA 02458, as provided in the DECISION and subject to the Findings of Fact and Conditions contained therein.

Decision date: **January 27, 2025.**

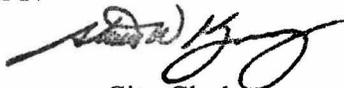
The Decision of the City Council was filed in the Office of the City Clerk of Marlborough on the **29th** day of **January 2025.**

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this **19th** day of **February 2025.**

Given under Chapter 40A Section 17 of the General Laws.

A TRUE COPY
ATTEST:


City Clerk



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NOTICE OF DECISION GRANT OF AMENDMENT TO A SPECIAL PERMIT

**ORDER NO. 24/25-1009306C
X 18/20-1007318, 21-1008417**

Application of:
Garden Remedies, Inc.
697 Washington Street
Newton, MA 02458

Locus:
423 Lakeside Avenue
Marlborough, MA 01752
Assessors Map 79, Parcel(s) 6

416 Boston Post Road East
Marlborough, MA 01752
Assessors Map 73, Parcel(s) 30

DECISION ON AN AMENDMENT TO A SPECIAL PERMIT

The City Council of the City of Marlborough hereby **GRANTS** the Application to Amend a Special Permit to Garden Remedies, Inc. (the "Applicant") to authorize the relocation of an existing Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment from 416 Boston Post Road East, Marlborough, Massachusetts, to 423 Lakeside Avenue, Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant is a duly organized and existing corporation having a business address of 697 Washington Street, Newton, MA 02458.
2. The Applicant is the tenant of a commercial retail unit located at 416 Boston Post Road East, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 73 as Parcel 30 (the "Original Site"). The Original Site's owner is Marlboro Square, LLC with a business address of 449 Boston Post Road East, Marlborough, MA 01752.
3. The Applicant is the prospective tenant of a commercial retail unit located at 423 Lakeside Avenue, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 79 as Parcel 6 (the "New Site"). The New Site's owner is EMAX LLC with a business address of 429 Lakeside Avenue, Marlborough, MA 01752.



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4. On November 5, 2018, the City Council of the City of Marlborough voted to grant a special permit authorizing the Applicant to build and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at the Original Site (the "Use") in accordance with Article VI, Section 650-17, Section 650-18(45), Section 650-18(46), and Section 650-32 of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), recorded at the Middlesex South District Registry of Deeds in Book 71986, Page 90 (the "Original Special Permit").
5. On December 7, 2020, the City Council of the City of Marlborough voted to grant an amended special permit authorizing expanded operating hours for the Use at the Original Site in accordance with Article VI, Section 650-17, Section 650-18(45), Section 650-18(46), and Section 650-32 of the Zoning Ordinance, recorded at the Middlesex South District Registry of Deeds in Book 76747, Page 587 (the "First Amended Special Permit").
6. On November 22, 2021, the City Council of the City of Marlborough voted to grant an amended special permit to update the signage for the Use at the Original Site in accordance with Article VI, Section 650-17, Section 650-18(45), Section 650-18(46), and Section 650-32 of the Zoning Ordinance, recorded at the Middlesex South District Registry of Deeds in Book 79353, Page 422 (the "Second Amended Special Permit").
7. On November 13, 2024, the Applicant, by and through its counsel, filed with the City Clerk of the City of Marlborough an application to amend a special permit to authorize the relocation of the Use from the Original Site to the New Site, under the provisions of Massachusetts General Laws Chapter 40A, Section 9, and the Zoning Ordinance (the "Application").
8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, and existing site landscaping plan for the New Site dated February 8, 2007 (the "Site Plan"), attached as "**Attachment A.**".
9. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
10. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
11. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, December 16, 2024. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on December 16, 2024.



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12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use at the New Site, describing its impact upon municipal services, the neighborhood, and traffic.
13. At the public hearing, two members of the public spoke in favor of the Use at the New Site and four members of the public spoke in opposition to the Use at the New Site. 24 members of the public submitted letters in favor of the Use at the New Site and three members of the public submitted emails in opposition to the Use at the New Site.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use at the New Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided in this Decision, in the Original Special Permit, the First Amended Special Permit, and the Second Amended Special Permit. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth in this Decision, in the Original Special Permit, the First Amended Special Permit, and the Second Amended Special Permit, as further specified below.
- C. The City Council finds that the New Site is located in the portion of the Business District along Massachusetts State Highway 20 from the Northborough town line to Interstate Highway Route 495 with frontage on Route 20, in accordance with Section 650-18(45)(a) and (b) and Section 650-18(46)(a) and (b) of the Zoning Ordinance, and that the New Site is not located within 500 feet of a school or daycare center, in accordance with Section 650-32.F of the Zoning Ordinance.
- D. In accordance with Section 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use at the New Site will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the New Site, and of the proposal in relation to the New Site, based upon consideration of the following:
 1. Social, economic, or community needs which are served by the proposal:

Finding: The Use at the New Site will provide a safe and convenient location for patients and adults to obtain medication and marijuana products.
 2. Traffic flow and safety, including parking and loading:

Finding: The New Site will safely accommodate expected traffic flow from the Use and provide adequate parking and loading capacity.



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3. Adequacy of utilities and other public services:
Finding: The New Site provides adequate utilities and public services for the Use.
4. Neighborhood character and social structures:
Finding: The Use is consistent with the established retail area in the vicinity of the New Site.
5. Impacts on the natural environment:
Finding: The Use will have no greater impact than the established retail uses in the area of the New Site.
6. Potential fiscal impact, including impact on City services, tax base, and employment:
Finding: The Use at the New Site will be revenue positive, with additional revenues coming from a local sales tax.
7. Hours of operation:
Finding: The hours of operation of the Use at the New Site are specifically conditioned below.
8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority:
Finding: The provision of contact information is specifically conditioned below.
9. To the extent permitted by law, requiring payment of a community impact fee:
Finding: The city has waived the host community agreement and community impact fee requirement for the Use at the New Site, as permitted by law.
10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Massachusetts Cannabis Control Commission:
Finding: This requirement is specially conditioned below.
11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Massachusetts Cannabis Control Commission:
Finding: This requirement is specially conditioned below.



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12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police who shall have the authority to disapprove the employment of any person(s) as a result of said background check:

Finding: This requirement is specially conditioned below.

13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises:

Finding: This requirement is specially conditioned below.

14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Massachusetts Cannabis Control Commission including, without limitation, tobacco products, clove cigarettes, or e-cigarettes:

Finding: This requirement is specially conditioned below.

15. The ability for the business to:

- a. provide a secure indoor waiting area for clients;
- b. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
- c. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals;
- d. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Business, and its impact on neighboring uses; and
- e. provide opaque exterior windows.

Finding: These requirements are specially conditioned below.

16. Signs and signage:

Finding: The signage shown in the diagrams dated December 13, 2024, and attached as "**Attachment B**" is appropriate for the Use at the New Site.

17. Names of businesses, business logos and symbols, subject to state and federal law and regulations:

Finding: The name of the business, logos, and symbols associated with the Use at the New Site as shown in the diagrams dated December 13, 2024, and attached as "**Attachment B**" are appropriate.



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18. If applicable, reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts:

Finding: The Use's energy usage, water usage, and environmental impacts would be no different than other retail uses in the vicinity of the New Site.

- E. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant an amendment to the Original Special Permit, the First Amended Special Permit, and the Second Amended Special Permit in order to relocate and operate a Medical Marijuana Treatment Center and an Adult Use Marijuana Retail Establishment at 423 Lakeside Avenue, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
 1. Construction in Accordance with Applicable Laws. Construction at the New Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts.
 2. Compliance with Applicable Laws. The Applicant agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use at the New Site.
 3. Site Plan Review. The Use at the New Site is further subject to Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit, as required by Section 650-32.E. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no final occupancy permit shall be issued until the Applicant has complied with all conditions, provided, however, that subsequent to the issuance of this Special Permit and Site Plan Approval, the Site Plan Review Committee may authorize the phasing of site and building work depending upon weather conditions and other factors. Site Plan Review shall be consistent with the conditions of this Special Permit and the materials submitted, reviewed, and approved by the City Council as the Special Permit Granting Authority.
 4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.



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5. Compliance With State Requirements. In accordance with Section 650-18(45)(c) and Section 650-18(46)(c) of the Zoning Ordinance, the Use at the New Site shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of a Medical Marijuana Treatment Center and/or an Adult Use Marijuana Retail Establishment.
6. Transition from Original Site to New Site.
 - a. Until such time as the Applicant commences marijuana sales at the New Site, the Original Special Permit, the First Amended Special Permit, and the Second Amended Special Permit shall continue (unmodified) to govern the Use at the Original Site. Once the Applicant commences marijuana sales at the New Site, this Decision shall exclusively govern the Use, and the Use shall not be conducted or reintroduced at the Original Site.
 - b. The Applicant shall not commence marijuana sales at the New Site until marijuana sales at the Original Site have terminated. The Applicant shall provide written notice to the Building Commissioner as to the commencement of sales date at the New Site.
 - c. The Applicant may obtain a building permit and other permits to build out the tenant space at the New Site, stock the New Site with equipment and inventory, conduct administrative work at the New Site, and conduct employee training at the New Site, in addition to other activities not constituting marijuana sales at the New Site, while marijuana sales at the Original Site continue.
 - d. Consistent with the City's Sign Ordinance, the Applicant may install signage at the New Site while marijuana sales at the Original Site continue, including temporary signage alerting customers to the relocation of the Use. Not later than 60 days following the relocation of the Use to the New Site and the termination of marijuana sales at the Original Site, all signage for the Use at the Original Site shall be removed with the exception of temporary signage alerting customers to the relocation of the Use to the New Site.
7. Partial Use. Subject to Condition 6, the Applicant is not required to operate all portions of the Use at the New Site simultaneously. The Applicant may commence either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use at the New Site upon receipt of all local and state permits and licenses for the respective portion of the Use and commence the other portion of the Use at the New Site at a later date. Similarly, if either the Medical Marijuana Treatment Center portion of the Use or the Adult Use Marijuana Retail Establishment portion of the Use ceases, either temporarily or permanently, the Applicant may operate the other portion of the Use. Once any portion of the Use commences at the New Site, that portion of the Use may not be conducted or reintroduced at the Original Site.



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8. Security.
 - a. At the New Site, the Applicant shall maintain a secure entrance lobby/waiting area providing a physical separation between the exterior door of the unit and interior areas of the unit where marijuana and marijuana infused products are dispensed and sold, with security personnel available during operating hours to screen individuals arriving at the unit, to ensure that interior areas of the unit are only accessible to qualified patients/caregivers or persons over the age of 21 and to ensure that no individuals pose a direct threat to the health or safety of others.
 - b. The Applicant shall maintain a secure pick-up/drop-off area for patients, customers, and products at the New Site.
 - c. The Use at the New Site shall have opaque exterior windows.
 - d. The Applicant shall maintain adequate staffing so that patients and customers may make purchases in an efficient manner to avoid queuing and impacts on neighboring uses at the New Site.
 - e. The Applicant shall maintain surveillance cameras capable of 24-hour video recording, archiving recordings, and the ability to immediately produce images, in, on, around, or at the Use at the New Site.
9. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use at the New Site. Marijuana and marijuana products shall be pre-packaged and sealed prior to arriving at the New Site. Any odors associated with marijuana and marijuana infused products shall be limited to the interior of the unit. There shall be no onsite consumption or use of marijuana or marijuana infused products associated with the Use at the New Site.
10. Hours. The maximum hours of operation of the Use at the New Site shall be Monday through Saturday, 9:00 AM to 11:00 PM, and Sunday from 10:00 AM to 9:00 PM.
11. Contact Information. The Applicant shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.
12. Annual Reports. The Applicant shall submit to the City Council the same annual reports that must be provided to the Massachusetts Cannabis Control Commission.
13. Inspections and Records. The Applicant shall make the Use available for regular inspections by City officials or their agents and shall provide City officials or their agents with access to the same records which are available for inspection to the Massachusetts Cannabis Control Commission.



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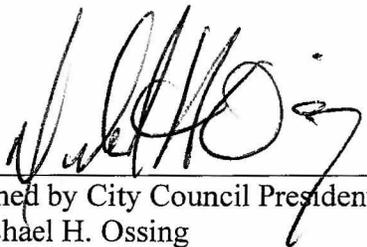
14. Background Checks. The Applicant shall require that employees undergo a criminal background check, including but not limited to CORI and an additional background check, by the Chief of Police, who shall have the authority to disapprove the employment of any person(s) as a result of said background check.
15. Unrelated Materials. The Applicant shall not make available for sale as part of the Use at the New Site any materials or items unrelated to the sale of marijuana including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.
16. Police Detail. The Applicant shall employ a City of Marlborough Police detail at the New Site in the event that the Chief of Police determines, in a letter filed with the City Council, that a police detail is necessary at certain times during the operation of the Use. In the event a City of Marlborough Police detail is not available when required, the Applicant shall obtain a private detail.
17. Recording of Decision In accordance with the provisions of Massachusetts General Laws Chapter 40A, Section 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council office, the Building Department, and the City Solicitor's office.

Yea: 9 – Nay: 1 – Absent: 1

Yea: Vital, Doucette, Preciado, Brown, Irish, Fuccillo, Oram, Ossing & Robey.

Nay: Navin.

Absent: Landers.



Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
24/25-1009306C

ORDER NO. 24/25-1009306C

ATTACHMENT

A

ORDER NO. 24/25-1009306C

ATTACHMENT

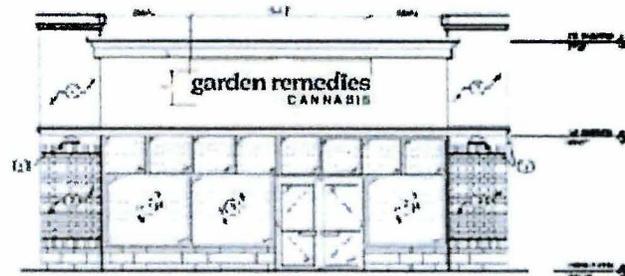
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Building Signs

December 13, 2024

Parking lot View

1

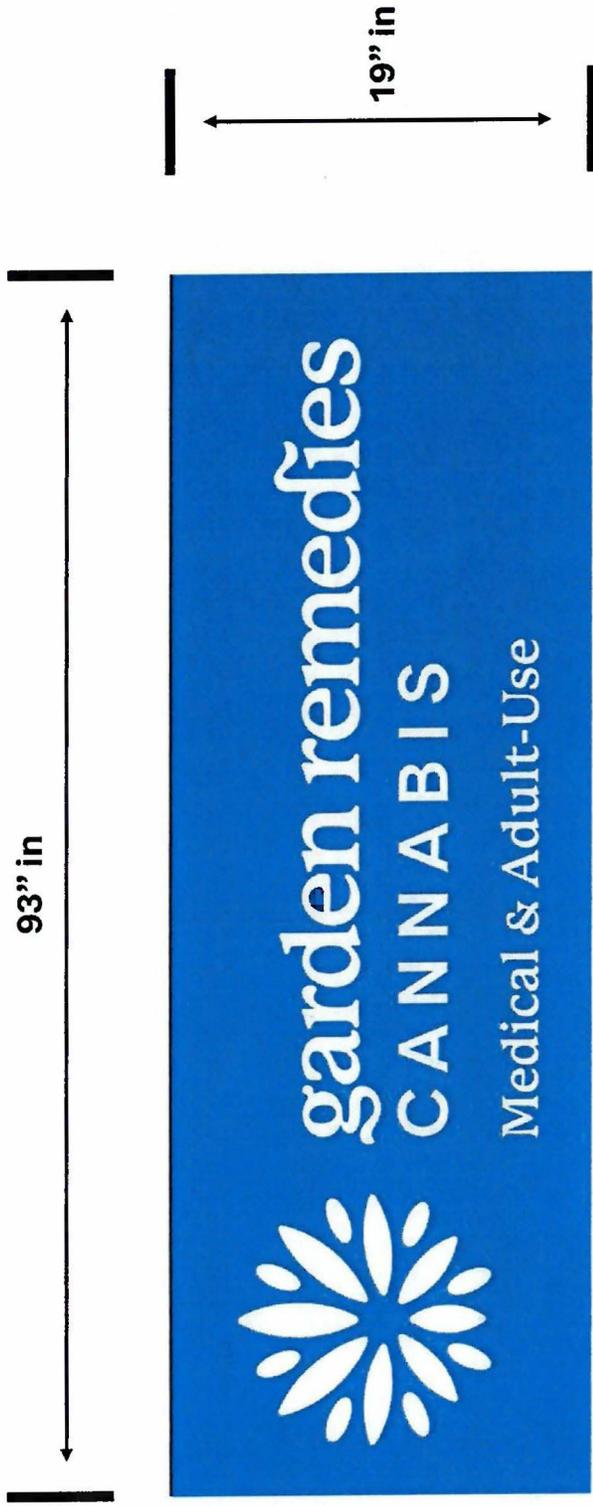


RT 20 View

2



Pylon Sign



Pylon Sign Visual Reference

