

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: July 9, 2020

Time: 7:15 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2020 JUL -2 P 1:47

This meeting will be held virtually with Councilors attending in person and/or remotely. **NO PUBLIC ATTENDANCE WILL BE PERMITTED.** This meeting will be televised on WMCT-TV (Comcast Channel 8 or Verizon/Fios Channel 34) or you can view the meeting using the link under the Meeting Videos tab on the city website (www.marlborough-ma.gov).

Continued Review

Order No.2019-1007881: Application for Special Permit by Vedi Naturals, LLC, 505 Boston Post Road West (Twin Boro Crossing) to operate an Adult Use Marijuana Facility

-In Urban Affairs

Public Hearing: January 27, 2020

Time for Action Extended until August 25, 2020

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



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2020 JUN 25 A 7:33

CITY OF MARLBOROUGH
Office of the City Council
140 Main Street
Marlborough, Massachusetts 01752
(508) 460-3711 TDD (508) 460-3610

**AGREEMENT TO EXTEND
TIME LIMITATIONS**

Order No.2019-1007881
Application for Special Permit by Vedi Naturals, LLC
505 Boston Post Road West (Twin Boro Crossing)
To Operate an Adult Use Marijuana Facility

The Decision of the Special Permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the City Clerk.

Pursuant to Mass. General Laws, c.40A, s.9, as amended, the required time limits for action by the Marlborough City Council, as it is the special permit granting authority in the above referenced matter, is hereby extended, by agreement, until 10:00 p.m. on August 25, 2020

By: Kathleen D. Robey
Kathleen D. Robey, Chair, Urban Affairs Committee
acting on behalf of, and at the direction of,
the special permit granting authority
Marlborough City Council

By: [Signature]

For Petitioner

**DECISION FOR SPECIAL PERMIT
IN CITY COUNCIL**

**NOTICE OF DECISION
GRANT OF SPECIAL PERMIT**

Special Permit Application of:
Vedi Naturals LLC
Order No. 19-1007881

Locus:
505 Boston Post Road West
Marlborough, MA 01752
Assessors Map 88, Parcel 3

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Vedi Naturals LLC with mailing address of P.O. Box 303, Clinton, MA 01510, as provided in this Decision and subject to the following Findings of Fact and Conditions.

Decision date: _____, **2020**.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the ____ day of _____, **2020**.

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 the ____ day of _____, **2020**.

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

A TRUE COPY
ATTEST

City Clerk

DECISION ON A SPECIAL PERMIT

Application of:
Vedi Naturals LLC

Locus:
505 Boston Post Road West
Assessors Map 88, Parcel 3

DECISION ON A SPECIAL PERMIT ORDER NO. 19-1007881

The City Council of the City of Marlborough hereby GRANTS the Application for a Special Permit to Vedi Naturals LLC (the "Applicant") to build and operate an Adult Use Marijuana Retail Establishment at 505 Boston Post Road West, 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 limited liability company having a business address of P.O. Box 303, Clinton, MA 01510.
2. The Applicant is the prospective tenant of a commercial retail unit located at 505 Boston Post Road West, Marlborough, Massachusetts, as shown on Marlborough Assessors Map 88, Parcel 3 (the "Site"). The Site's owner is Sparte II Realty Trust, Dino Karalis, Trustee with a business address of 160 Edgell Road, Framingham, MA 01701.
3. In accordance with Article VI, § 650-17, § 650-18(46), and § 650-32 of the Zoning Ordinance of the City of Marlborough, the Applicant proposes to operate an Adult Use Marijuana Retail Establishment at the Site (the "Use").
4. The Site is located in the Business Zoning District with frontage on Boston Post Road West (Route 20).
5. The overall Site has an area of 87,555.6 +/- square feet.
6. The Use will occupy an existing retail unit at the Site with an area of 2,350 +/- square feet.
7. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use, as provided in this Decision.

8. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, existing site plans for the Site in accordance with Rule 5 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit, and a set of drawings of the exterior and interior of the unit associated with the Use (collectively the "Plans").

9. The Application was certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of 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 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 January 27, 2020. The hearing was closed on that date.

12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.

13. At the public hearing, one member of the public spoke in favor of the Use and one member of the public spoke in opposition to the Use.

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

A. The Applicant has complied with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

B. The City Council finds that the proposed Use of the 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 herein. 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 herein.

C. The City Council finds that the Site is located in the portion of the Business District along Massachusetts State Highway 20 (Boston Post Road West) between the Northborough town line and Massachusetts State Highway Route 495 with frontage along Massachusetts State Highway 20 (Boston Post Road), in accordance with § 650-18(46)(a) and

(b) of the Zoning Ordinance, and that the Site is not located within 500 feet of a school or daycare center, in accordance with § 650-32.F and § 650-32.F.1 of the Zoning Ordinance.

D. In accordance with § 650-32.C of the Zoning Ordinance, the City Council hereby determines that any adverse effects of the Use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the Site and of the proposal in relation to the Site, based upon consideration of the following:

1. Social, economic, or community needs which are served by the proposal:

Finding: The Use will provide a safe and convenient location adults to obtain marijuana and marijuana-infused products.

2. Traffic flow and safety, including parking and loading:

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

3. Adequacy of utilities and other public services:

Finding: The 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 Site.

5. Impacts on the natural environment:

Finding: The Use will have no greater impact than the established retail uses in the area.

6. Potential fiscal impact, including impact on City services, tax base, and employment:

Finding: The Use will be revenue positive, with additional revenues coming from a local sales tax and host community agreement impact fees.

7. Hours of operation:

Finding: The hours of operation of the Use 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. Requiring payment of a community impact fee:

Finding: The City and the Applicant have entered a host community agreement that requires the payment of impact fees in accordance with statutory requirements.

10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or 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 Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission:

Finding: This requirement is specially conditioned below.

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 Commonwealth of Massachusetts Department of Public Health and/or 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 on the Plans is appropriate for the Use Prior to seeking an initial sign permit from the City, the Applicant, its successors and/or assigns, shall submit to the City Council renderings of its proposed signage, which shall comply with the City's Sign Ordinance.~~

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, as provided in the Application and shown on the Plans, are appropriate for the Use Prior to commencing operations, the Applicant, its successors and/or assigns, shall submit to the City Council its business name, logos, and symbols, all of which shall comply with state and federal law and regulations.~~

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 a Special Permit to operate an Adult Use Marijuana Retail Establishment, 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 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, its successors and/or assigns 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.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed 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 § 650-32.E of the Zoning Ordinance. 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 occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans 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.

5. Compliance with State Requirements. In accordance with §650-18(46)(c) of the Zoning Ordinance, the Use shall comply with all statutes and regulations of the Commonwealth of Massachusetts for the licensure and operation of an Adult Use Marijuana Retail Establishment.

6. Security.

- a. As shown on the Plans, the Applicant, its successors and/or assigns, shall maintain a secure entrance lobby and 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 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, its successors and/or assigns, shall maintain a secure pick-up / drop-off area for customers and products.
- c. The Use shall have opaque exterior windows.
- d. The Applicant, its successors and/or assigns, shall maintain adequate staffing so that customers may make purchases in an efficient manner to avoid queuing and impacts on neighboring uses.
- e. The Applicant, its successors and/or assigns, 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.

7. Processing and Odors. There shall be no processing or manufacturing of marijuana or marijuana infused products as part of the Use. Marijuana and marijuana products shall be pre-packaged and sealed prior to arriving at the 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.

8. Hours. The maximum hours of operation of the Use shall be Monday through Saturday, 10:00 a.m. to 8:00 p.m., and Sunday from 10:00 a.m. to 5:00 p.m.

9. Contact Information. The Applicant, its successors and/or assigns, shall provide current contact information of management and staff to the Chief of Police, the Building Commissioner, and the City Council.

10. Annual Reports. The Applicant, its successors and/or assigns, shall submit to the City Council the same annual reports that must be provided to Massachusetts Cannabis Control Commission.

11. Inspections and Records. The Applicant, its successors and/or assigns, 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.

12. Background Checks. The Applicant, its successors and/or assigns, 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.

13. Unrelated Materials. The Applicant, its successors and/or assigns, shall not make available for sale as part of the Use any materials or items unrelated to the purposes of licensure by the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes.

14. Police Detail. The Applicant, its successors and/or assigns, shall employ a City of Marlborough Police detail at the Site during all operating hours for the first sixty (60) days after the commencement of operations, unless the Chief of Police determines in a letter filed with the City Council that a police detail is not necessary during certain times of the day. At the end of the 60-day period, if the Chief of Police determines in a letter filed with the City Council that a police detail is still necessary during all operating hours or at certain times, then the Applicant, its successors and/or assigns, shall continue to employ a City of Marlborough Police detail until deemed unnecessary by the Chief of Police in a letter filed with the City Council. In the event a City of Marlborough Police detail is not available when required, the Applicant, its successors and/or assigns, shall obtain a private detail.

15. Boundary Street Entrance/Exit. Prior to receiving a certificate of occupancy for the Use, the Applicant, its successors and/or assigns, shall have the vegetation located north of the Boundary Street entrance/exit to the Site trimmed to improve sight distances for vehicles.

16. Parking Lot. Prior to receiving a certificate of occupancy for the Use, the Applicant, its successors and/or assigns, shall have the Site's parking lot restriped and parking lot

accessibility signage updated, in accordance with the Zoning Ordinance, the City Code, and state regulations. As part of the Site Plan Review process, the Applicant shall review options to convert the former child play area at the Site to additional parking spaces.

15.17. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, § 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex County 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's office, the Building Department, and the City Solicitor's office.

Yea: ___ - Nay: ___ -Absent - ___
Yea: _____, _____, _____, _____, _____, _____, _____,
Nay: _____, _____,
Absent: _____, _____,

Signed by City Council President
Michael H. Ossing

ADOPTED
In City Council
Order No. 19-1007881