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HOST COMMUNITY AGREEMENT ADVISORY GROUP RECOMMENDATION

DATE: April 29, 2019

TO: Mayor Fuller

FROM: Host Community Agreement Advisory Group

SUBJECT: **Host Community Agreement Recommendation for Cypress Tree Management, proposing a marijuana retailer at 24-26 Elliot Street**

EXECUTIVE SUMMARY

Cypress Tree Management is proposing to become a recreational marijuana retailer, in addition to being a registered medical marijuana dispensary (RMD), at 24-26 Elliot Street in Newton Upper Falls. The applicant was granted approval from the Newton City Council to operate a registered medical marijuana dispensary at this site and is now seeking to co-locate a marijuana retailer there. The applicant has not commenced operations of the RMD but has received a provisional certificate of registration from the Commonwealth's Cannabis Control Commission (Commission) to do so.



Members of the management team met with the Host Community Agreement (HCA) Advisory Group twice, on March 14, 2019 and on April 12, 2019.

Cypress Tree Management has assembled a team with substantial industry experience in Massachusetts as well as Rhode Island, California, Washington, Oregon, and Arizona. The team has demonstrated a comprehensive, thoughtful approach to security and operations. The applicant has appropriate public health, community relations and sustainability philosophies. The

company will provide economic value to the city. The proposed site is in a commercial structure that most recently served as the home of a 100-seat restaurant and a salon. By combining valet service in a rear parking lot with existing parking in front, there appears to be sufficient parking. The proposed site is near a major artery, Route 9. Congestion and traffic concerns may be issues to be addressed during the Special Permit process. Even with this concern, the HCA Advisory Group recommends moving forward with a provisional Host Community Agreement for Cypress Tree Management at 24-26 Elliot Street and moving the applicant forward to the City Council's rigorous review process.

CRITERIA FOR CONSIDERATION:

- I. Security – *Whether there is a sufficient commitment to public safety and a sufficient plan for controlling access to areas with marijuana and preventing sales to underage populations, and other similar factors.*

Cypress Tree Management (CTM) will provide security both inside and outside of the facility to ensure the safety of customers and employees and to prevent crime and diversion. Security staff will be the first to arrive and last to leave the facility. The entire perimeter will be monitored with cameras 24/7 and the footage will be stored for 90 days. CTM has offered to provide the Newton Police Department with direct access to the video feed from the security cameras. There will also be alarms that include motion and glass break detectors.

Security staff will be the first point of contact for all customers inside the secure vestibule. Customers will need to present proof of identification. CTM has committed to utilizing the latest technology to read the barcode, microprint, infrared, and any holograms to verify age and expiration, including pass back features that will notify the security personnel if the ID was scanned before or if it is on a banned list. All interior areas with product will be monitored by security cameras. When the facility is closed, all products will be stored inside a vault with limited access and monitored by security cameras and alarms. Access to secured areas will be restricted to employees only by the installation of keypads and there will be tiered access amongst employees. Deliveries will happen at the rear of the building, in an area not accessed by the public or customers.

Rick Nagle is identified as the security consultant. He worked in Massachusetts law enforcement for over 30 years, including time as a narcotics inspector with the State Police. Mr. Nagle will be developing policies and procedures relative to interior and exterior security at the facility and will be actively involved in hiring and training the Director of

Security and security staff.

The proposed security plan appears well thought out to protect customers and employees and prevent diversion.

The Advisory Group recommends that if the applicant moves forward they work closely with the Newton Police Department.

- II. Public Health – *Whether there is a commitment to help monitor and mitigate health impacts to the neighborhood and to Newton’s youth and adult populations, assistance with local substance abuse prevention programming, and other similar factors.*

CTM stated they would be happy to include any information provided by the City regarding substance abuse and prevention both inside of their store and on their website. CTM’s application also states they propose to underwrite educational programming within the City on such topics as substance abuse prevention and treatment and cancer treatment. When asked to elaborate, CTM described providing educational workshops geared towards the benefits of their products.

The Advisory Group recommends that any substance abuse prevention and treatment education should be provided by City staff.

- III. Community Relations – *What are the plans for community outreach and addressing community concerns, experience with the Newton community, and other similar factors.*

CTM has engaged in community outreach prior to their application for an RMD in 2018, including a community meeting, and numerous meetings with the Upper Falls and Newton Highlands Area Councils. Prior to pursuing this application for a marijuana retailer, CTM returned to both Area Councils and hosted a community meeting in accordance with the requirements of the Cannabis Control Commission. CTM has volunteered a \$2,500 annual donation to a Newton charity, with the amount escalating by 5% each year. CTM’s staff includes Becky Dempsey, Director of Education and Wellness, who will be responsible for community outreach.

If this application moves forward, the Advisory Group recommends CTM engage with the surrounding community and work with abutters to address specific concerns.

IV. Experience – *What are the professional experiences and qualifications of the management team and other similar factors.*

The Board of Directors (Victor Chiang, Todd Finard, and Eric Liebman) all grew up in Weston, Massachusetts and still reside in the region. They bring experience in management, real estate development, manufacturing and retail, and numerous philanthropic ventures. Mr. Chiang is also a board member of the MA Cannabis Business Association. Margot Blair, the Dispensary Operations Consultant, has opened and managed numerous RMDs in Massachusetts, including NETA in Brookline. Jamie Sipe, Director of Cultivation, has over 15 years' experience in the cannabis sector, starting in California and most recently designing, building, and operating two cultivation facilities in Massachusetts. Mr. Sipe's bio describes extensive knowledge of regulatory bodies in Massachusetts, including the Department of Public Health and CTM has stated he has a very high success rate with passing the stringent state standards. Adam Gendreau, Chief Product Officer, has over five years' experience in the field and has designed labs and kitchens in Massachusetts, Rhode Island, California, Washington, Oregon, and Arizona. He has also trained dozens of people on standard operating procedures. Mr. Gendreau's products are focused on effects (boost, float, peak, and fade) and have been gaining significant market share in the Massachusetts medical market.

The CTM team has a local Board of Directors and includes members of the team with extensive experience in a field that is still relatively new and limited in Massachusetts.

V. Sustainability – *What are the proposed sustainable and renewable energy practices, and other similar factors.*

CTM has committed to utilizing locally sourced materials, local contractors and vendors, energy efficient lighting and plumbing fixtures, higher skin insulation values at walls and windows, and bike storage for employees. CTM has stated they will meet or exceed energy code requirements. CTM has stated they have not yet explored rooftop solar panels but would look into it.

The Advisory Group recommends that CTM also explore selling reusable bags on site to further reduce waste and incentivizing public transit, biking and walking for employees.

VI. Equity – *What are the qualifications of the Applicant under state Economic Empowerment and/or Social Equity programs.*

CTM does not qualify for the state Economic Empowerment or Social Equity programs. However, they have a member of a minority group as a Board Member and they have committed to diversity in hiring. CTM stated that they seek to promote diversity hiring among minorities, women, veterans, people with disabilities, and people of all gender abilities and sexual orientations. They have also stated they seek to have employees be representative of the overall customer base, which includes a growing population over the age of 65.

CTM also has submitted a ‘Positive Impact Plan’ that they intend to submit to the Cannabis Control Commission, in accordance with the Commission’s mandate that applicants for licensure formulate and implement plans to positively impact areas of disproportionate impact, as defined by the Commission. CTM has identified three neighborhoods within identified areas of disproportionate impact (Roxbury, Mattapan, and Boston) to focus on providing a positive contribution. The plan includes goals to partner with local groups to support career development for career opportunities both within and outside of the cannabis industry and to focus neighborhood beautification programs. CTM also proposes a mentorship program to assist individuals with interest in forming their own businesses within the cannabis industry and identifying non-profit charities for donations and volunteer opportunities.

Though CTM does not qualify for the state programs related to equity, they have put thought into how to contribute positively to those areas and people disproportionately impacted.

The Advisory Group recommends they further develop these proposals, focusing on providing career opportunities and mentoring for those who have been disproportionately impacted and are looking to enter the cannabis industry.

VII. Economic Value – *What is the amount of additional economic value the business would bring to Newton, e.g., new jobs, additional local tax revenue, increased property value, commitment to diverse and local hiring, commitment to use of local businesses for construction, supplies, product, and other business needs, openness to long-term community impact fees, and other similar factors.*

CTM has volunteered, as part of a Host Community Agreement, a payment of three percent of their gross revenues from the sales of both medical and recreational use marijuana. In

addition, CTM has proposed an annual payment of \$2,500 to a local charity (escalating by 5% each year) and will use best efforts to hire qualified local residents. CTM is expecting to have around 20 employees, many of which will be part time. CTM will be investing in an underutilized commercial building and will be improving both the site and building.

The Advisory Group recommends that CTM identify local businesses to partner with for its construction work, to the extent feasible.

VIII. Context – *Whether the proposed facility is not clearly inappropriate in terms of location, operations as well as transportation, traffic and parking, with those final decisions reserved for the City Council during the Special Permit process.*

The proposed site, at 24-26 Elliot Street, is an existing commercial site, adjacent to a gas station and larger shopping plaza near the intersection of Elliot Street and Route 9, near Newton Upper Falls and at the edge of Newton Highlands. There are several homes located to the west, across Elliot Street, and the MBTA tracks are to the south. The City of Newton's Department of Public Works (DPW) and Fire Station #9 are located further south along Elliot Street. The site was approved for the sale of medical marijuana by the City Council in 2018. The applicant proposes to reuse 4,043 square feet of the 8,157 square foot existing commercial building, formerly a 100-seat restaurant and a salon. The remaining 3,393 square feet would have a future retail use that would not include any marijuana sales. An approximately 149 square foot vestibule would be located between the spaces. CTM will upgrade the facades and make improvements to the site, including reducing the width of curb cuts, installing and repairing sidewalks, restriping the front parking area to create standard sized spaces, and providing multiple landscaped beds.

There are currently 15 striped parking stalls at the front of the building and 13 stalls at the rear of the building. The existing parking stalls do not meet minimum zoning dimensions; the front stalls will be restriped to do so and to provide two ADA, van accessible spaces. In doing so, the number of stalls in the front lot will be reduced to 11 total. Given concerns regarding the limited space at the rear of the building and substandard parking stalls there, the applicant will be utilizing this space for valet parking only. There will be two valets present to start during all operating hours (the number of valets and hours that are necessary will be reevaluated after 60 days). Customers can self-park if a space is available out front; otherwise a valet will take their car to the rear of the building. When they finish their transaction, an employee will alert the valet to bring their car around to the front. Employees will be required to park off site.

The proposed site is located along the east side of Elliot Street, just south of the intersection with Route 9. The site is accessed from a curb cut on Elliot Street and just to the north of the site curb cut is the driveway for a shared right-of-way that also provides access to the adjacent large shopping plaza. Just north of the shared right-of-way is a gas station with multiple driveways. During the Special Permit process for the RMD, concerns were raised regarding congestion near this intersection and conflicts with the multiple driveways. When southbound traffic on Elliot Street is trying to turn left into one of the multiple driveways traffic can back up onto Route 9 if the driveways are blocked by northbound traffic. CTM agreed to a police detail during afternoon/evening peak hours for the first 180 days of operation. The Newton Police Department, however, cannot guarantee that a police detail will always be available. Planning and Transportation staff will also work closely with Police to determine if any changes or improvements need to be made to reduce queuing on Route 9, including signs to not block the driveways. CTM has also offered to pay \$25,000 for a Road Safety Audit (RSA) for the nearby Route 9 intersections. An RSA would be required from MassDOT prior to any improvements along Route 9.

CTM would occupy a vacant commercial building and provide needed improvements to the building and the site. The proposed plan will result in a more attractive, pedestrian friendly building. An active retail use at this site will also likely discourage those that currently cut through the site at high speeds to gain access to the adjacent shopping plaza. CTM has proposed solutions to parking and circulation concerns and has been agreeable to revisiting these issues post occupancy and adjusting as necessary.

The Advisory Group still has concerns regarding the traffic in this location and its potential impact on the nearby residents, DPW facilities and fire station. The Advisory Group recommends that if the applicant moves forward the City Council consider requiring appointments, at least initially, and that there be opportunities to review operations, traffic, and parking and the ability to make adjustments, if necessary.

RECOMMENDATION:

The proposed marijuana retailer will reactivate a vacant commercial site with a co-located marijuana retailer and medical marijuana dispensary. The Applicant has assembled an experienced team with both local ties and proven success in the industry both within Massachusetts and other states with legalized marijuana. The proposal will provide aesthetic and safety improvements to the building and site and a robust security program.

The site has access to parking in the front of the building and the rear and will utilize valets for the periods of time where the front parking is not sufficient. The Applicant has also proposed measures for reducing trips and will require employees to park offsite in order to prioritize parking for customers. The proposed site is easily accessed from major roads and from transit and will be fully accessible for those with disabilities. The Applicant has also considered how their business can contribute positively to the community, through the 3% contribution to the City, as well as local and diverse hiring practices and partnerships with local non-profits and charities. CTM has also developed a positive impact plan that focuses on those communities that have been identified as having a disproportionate impact. Community relations and sustainability have been addressed. The proposed site location presents challenges as Elliot Street experiences congestion currently and the intersection with Route 9 backs up during peak periods. The site could be occupied by another high turnover use, however. As proposed, the Applicant would contribute towards a Road Safety Audit and future improvements based on that audit through a one-time contribution and through regular funds as part of a potential host community agreement. Based on this preliminary analysis, the HCA Advisory Group recommends moving forward with a host community agreement for Cypress Tree Management. As part of the Special Permit process, the City Council may wish to further consider these topics in more depth; in particular, issues of parking and traffic analysis should be addressed.