



# TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT

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## DECISION Granting of Special Permits June 13, 2017

### PLANNING

**Sage Naturals, Inc. (formerly known as Sage Biotech, Inc. and Sage Cannabis, Inc.)**  
**29-37 Franklin Street, Needham, MA 02492**  
**Application No. 2017-01**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Sage Naturals, Inc., formerly known as Sage Biotech, Inc. and Sage Cannabis, Inc., 13 Commercial Way, Milford, MA 01757 (hereinafter referred to as the Petitioner), for property located at 29 and 37 Franklin Street, together with a parking and access easement over a portion of 55 Franklin Street, Needham, MA, shown on Assessors Plan No. 75 as Parcels 6 and 8 containing 13,365 square feet. Note that 55 Franklin Street is shown on Assessors Plan No. 75 as Parcel 5. Said parcels are all located in the Mixed Use – 128 Zoning District.

This Decision is in response to an application submitted to the Board on March 28, 2017, by the Petitioner for: (1) a Special Permit under Sections 3.2.6.2(h) and 6.10 of the Needham Zoning By-Law (hereinafter referred to as the By-Law) for the operation of a Medical Marijuana Treatment Center in the Mixed Use – 128 Zoning District; (2) a Special Permit under Section 1.4.6 of the By-Law for the structural alteration, enlargement or reconstruction of a non-conforming building; (3) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, Subsection 5.1.3(h) (Parking Space Layout), Subsection 5.1.3(j) (Parking Setbacks), Subsection 5.1.3(k) (Landscaped Areas), Subsection 5.1.3(l) (Trees) and Subsection 5.1.3(m) (Location); (4) findings and determinations required by Sections 7.5.2 and 7.5.2.1 of the By-Law; and (5) a finding that the criteria set forth in Section 6.10 of the By-Law are met.

The requested Special Permits, would, if granted, permit the Petitioner to construct and operate a Medical Marijuana Treatment Center at 29-37 Franklin Street. The Petitioner proposes to dispense medical marijuana, marijuana-infused products and vaporizers to patients at the site. The medical marijuana will be grown, processed and packaged off-site at the Petitioner's cultivation facility in Milford, Massachusetts and delivered to the Needham site approximately once per day. The Needham facility will only dispense medical marijuana products that are cultivated and processed at the Petitioner's Milford facility. The proposed facility will be designed and operated in accordance with state and local regulations for registered marijuana dispensaries and will be subject to oversight by the Massachusetts Department of Public Health.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Elizabeth J. Grimes, on Tuesday, April 25, 2017 at 7:45 p.m. in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. The hearing was continued to May 23, 2017 at 7:30 p.m., in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. Board members, Elizabeth J. Grimes, Paul S. Alpert, Martin Jacobs, Jeanne S. McKnight, and Ted Owens were present at the April 25, 2017 and May 23, 2017 public hearings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Properly executed Application for a Special Permit under Section 1.4.6 of the By-Law, Sections 3.2.6.2(h) and 6.10 of the By-Law, and Section 5.1.1.5 of the By-Law as well as a request for findings that the criteria set forth in Section 6.10 of the By-Law have been met. Said application submitted on March 28, 2017.
- Exhibit 2 - Letter to Planning Board Members, from Attorney Roy A. Cramer, dated March 24, 2017, with Exhibits A and B.
- Exhibit 3 - Plans entitled "Site Development Plans, for 29 and 37 Franklin Street, Needham, MA 02494," prepared by Kelly Engineering Group, Inc., 0 Campenelli Drive, Braintree, MA 02184, consisting of 5 sheets: Sheet 1, entitled "29 and 37 Franklin Street, Needham, MA," dated January 3, 2017; Sheet 2, entitled "Existing Conditions Plan," dated January 3, 2017; Sheet 3, entitled "Layout Plan," dated January 3, 2017, revised March 17, 2017; and Sheet 4, entitled "Site Plan," dated January 3, 2017; Sheet 5, entitled "Detail Sheet," dated January 3, 2017.
- Exhibit 4 - Plans entitled "Needham Dispensary, 29 Franklin Street," prepared by Peter Quinn Architects, 259 Elm Street, Suite 301, Somerville, MA 02144, consisting of 4 sheets: Sheet 1, Sheet A-1.0, entitled "Rendered Elevation and 3D View," dated February 6, 2017, revised March 21, 2017; Sheet 2, Sheet A-1.1, entitled "Floor Plan," dated February 6, 2017, revised March 21, 2017; Sheet 3, Sheet A-1.2, entitled "Roof Plan," dated February 6, 2017, revised March 21, 2017; and Sheet 4, Sheet A2.0, entitled "Elevations," dated February 6, 2017, revised March 21, 2017.
- Exhibit 5 - Transportation Impact Assessment, 29-37 Franklin Street, prepared by Vanasse & Associates, Inc., 35 New England Business Center Drive, Suite 140, Andover, MA 01818, dated January 2017.
- Exhibit 6 - Letter from Brandon Li, Project Engineer, Kelly Engineering, directed to Anthony Del Gaizo, Needham Town Engineer, dated January 3, 2017.
- Exhibit 7 - Two plans showing 500 and 1,000 foot radius from subject property to the potential "protected uses" described in Section 6.10, undated.
- Exhibit 8 - Information sheet on Charles River Pathway Conservation Area in Newton, MA.
- Exhibit 9 - Letter to Planning Board Members, from Attorney Roy A. Cramer, dated March 27, 2017, with exhibits.
- Exhibit 10 - Information sheets on Newton Upper Falls Greenway in Newton, MA. Exhibit comprises 4 pages.
- Exhibit 11 - Lease Agreement by and between 37 Franklin LLC and Mad Dog Realty Trust, as Landlord, and Sage Biotech, Inc., dated October 17, 2016.
- Exhibit 12 - Parking Easement Agreement by and between 55 Franklin LLC and Sage Biotech, Inc., executed March 23, 2017.

- Exhibit 13 - Letter from Peter Quinn, project architect, directed to Roy A. Cramer, Attorney, dated March 22, 2017.
- Exhibit 14 - Letter to Planning Board Members, from Attorney Roy A. Cramer, dated May 15, 2017, with exhibits.
- Exhibit 15 - RAB Lighting Technical Specifications Cut Sheet for SLIM37N.
- Exhibit 16 - Plans entitled "Needham Dispensary, 29 Franklin Street," prepared by Peter Quinn Architects, 259 Elm Street, Suite 301, Somerville, MA 02144, consisting of 3 sheets: Sheet 1, Sheet L1.1, entitled "Site Lighting Plan," dated May 11, 2017; Sheet 2, Sheet L1.2, entitled "Photometric Plan," dated May 11, 2017; and Sheet 3, Sheet L1.3, entitled "Photometric False Color Diagram," dated May 11, 2017.
- Exhibit 17 - Email from Attorney Roy Cramer, dated May 17, 2017, with attached letter from Daniel Roma, Nature Springs Water Company, dated May 15, 2017.
- Exhibit 18 - Letter from Marianne Connaughton, 19 Brook Road, Needham, dated May 18, 2017, with attachments.
- Exhibit 19 - Letter to Planning Board Members, from Attorney Roy A. Cramer, dated May 22, 2017, with exhibits.
- Exhibit 20 - Letter of non-opposition from Needham Board of Selectmen, to the Massachusetts Department of Public Health, dated June 14, 2016.
- Exhibit 21 - Community Benefit Agreement, between the Town of Needham and Sage Cannabis, Inc., dated June 14, 2016.
- Exhibit 22 - Letter from Eric Sheehan, Interim Bureau Director, Massachusetts Department of Public Health, dated July 12, 2016.
- Exhibit 23 - Email from Attorney Roy Cramer, dated May 22, 2017.
- Exhibit 24 - Letter from David Roche, Needham Building Commissioner to Attorney Roy Cramer, dated May 23, 2017.
- Exhibit 25 - Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Assistant Town Engineer, by memo dated April 20, 2017 and May 19, 2017; IDC to the Board from Lt. John Kraemer, Needham Police Department, dated April 19, 2017; and IDC to the Board from Chief Dennis Condon, Needham Fire Department, dated April 21, 2017.

Exhibits 3, 4 and 16 are referred to hereinafter as the Plan.

Submitted following the close of the public hearing were the following exhibits:

- Exhibit 26 - Letter to Planning Board Members, from Attorney Roy A. Cramer, dated June 6, 2017, with exhibits.

## FINDINGS AND CONCLUSIONS

- 1.1 The subject property is located at 29 and 37 Franklin Street, together with a parking and access easement over a portion of 55 Franklin Street, Needham, MA. The property located at 29 and 37 Franklin Street is shown on Assessors Plan No. 75 as Parcels 6 and 8 containing 13,365 square feet. The property located at 55 Franklin Street is shown on Assessors Plan No. 75 as Parcel 5. Said parcels are all located in the Mixed Use – 128 Zoning District.
- 1.2 29 Franklin Street consists of a one-story building containing approximately 2,925 square feet and an attached one-story garage containing 1,613 square feet. The square footage of the lot is 9,124 square feet. 37 Franklin Street, the adjoining property to the west, contains a one-story wood building of approximately 1,715 square feet. The square footage of the lot is 4,241 square feet. Together 29 and 37 Franklin Street comprise 13,365 square feet.
- 1.3 The Petitioner proposes to establish a Medical Marijuana Treatment Center location at 29 and 37 Franklin Street. The Petitioner is a Registered Marijuana Dispensary (RMD) with a state registered cultivating facility located in Milford, Massachusetts. The proposed facility will be designed and operated in accordance with state and local regulations for RMDs and will be subject to oversight by the Massachusetts Department of Public Health.
- 1.4 The Petitioner proposes to dispense medical marijuana, marijuana-infused products and vaporizers to patients at the subject site. The medical marijuana will be grown, processed and packaged off-site at the Petitioner's cultivation facility in Milford, Massachusetts and delivered to the Needham site approximately once per day. The Needham facility will only dispense medical marijuana products that are cultivated and processed at the Petitioner's Milford facility.
- 1.5 The Petitioner will operate the RMD within the framework established by the Department of Public Health, which requires that patients complete certain steps before coming to the dispensary. The patient must receive a certification from a certified physician who is registered with the State, and patients under 18 years old will need to receive prescriptions from two physicians. Patients will then register with the Department of Public Health, where they will be provided a photo identification card. Patients are required to re-register every year. After completing these steps, patients will be able to make an appointment with the Petitioner, which will operate by appointment only. In no case will people be able to enter the premises without showing the Department of Public Health identification. The Petitioner expects a substantial number of patients will prefer to receive their product by delivery.
- 1.6 The dispensary operation is proposed to be located primarily in the 2,925 square foot building at 29 Franklin Street. The attached garage will house the van to be used for home deliveries during the day and the van will be housed overnight at the Petitioner's main facility in Milford, Massachusetts. The building located at 37 Franklin Street will be utilized primarily for storage but will not be utilized for storage of any marijuana products.
- 1.7 In terms of the fit out of the interior space at 29 Franklin Street, the first floor plan establishes three important areas for patient contact; an initial check-in/entry area inside of the building, the main interior area where patients meet with patient-care advocates, and an exit area. Patients accessing the site will be buzzed in from the outside of the building to the entry area, and then buzzed in from the entry area to the main interior area. Patients will also be buzzed out of the building when exiting. The floor plan is designed so that security

staff can monitor and control access to the interior of the commercial space at both the entrance and exit points.

- 1.8 The facility will be operated on an appointment-only basis and will be opened seven (7) days per week from 10:00 a.m. to 8:00 p.m. The scheduled appointments will be not less than 15 minutes long and will be accommodated at five (5) sales stations in the facility.
- 1.9 The facility is designed to accommodate up to 200 appointments per day. Given a 10 hour work day, 5 sales stations and 15 minute scheduled appointments the maximum number of patients per day is 200. (4 appointments per hour per sales station x 5 sales stations = 20 appointments per hour x 10 = 200 appointments). Based upon information provided by the Petitioner, the facility is expected to accommodate on a typical day an average of seven (7) patients per hour and eighty-four (84) patients per day.
- 1.10 The maximum number of employees based at the site at any given time will be eight (8) including five (5) sales associates, two (2) security officers, and one (1) manager.
- 1.11 Under the By-Law Section 5.1.2, in the event that the Building Inspector is unable to determine if a particular use relates to any use within the table of "Required Parking" (Section 5.1.2), the Planning Board shall recommend to the Building Inspector a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests or employees of the proposed business. In the subject case, the Board voted to recommend a parking requirement total of eighteen (18) parking spaces based upon recommendations from the Department of Public Works and contingent upon the property being used as stated in a letter from Roy A. Cramer, Attorney, dated January 19, 2017 (Exhibit 2).
- 1.12 A total of eighteen (18) parking spaces are on-site to accommodate eight (8) staff spaces and ten (10) patient appointments. The facility will have five (5) sales stations and the maximum patient demand of ten (10) spaces is based upon five (5) patients at appointments and five (5) patients waiting for the next appointment. Visits are by appointment only which will limit any peak parking demand. In addition, Franklin Street accommodates twenty-four (24) on-street spaces and observations by Vanasse & Associates, Inc. on December 20, 2016 indicate a maximum parking demand of fourteen (14) spaces between 11:00 a.m. and 2:00 p.m. and demand drops to seven (7) or less after 5:00 p.m. These spaces are available for overflow parking, but it is not anticipated that any will be needed and the on-site parking supply of eighteen (18) spaces will adequately service the peak parking demand.
- 1.13 A portion of parking spaces 16, 17 and 18, as shown on the Layout Plan, are located within the Franklin Street right-of-way. The Petitioner will request a permit authorizing that parking use within the right-of-way from the Board of Selectmen or other appropriate Town department. Parking spaces located partially on the property and partially within the Franklin Street right-of-way presently exist at the location and are currently perpendicular to the building, requiring vehicles to back out of the parking spaces. The proposed parking spaces have been rotated so that they are parallel with the building and Franklin Street, rather than perpendicular to the building. Parking spaces 1-7 are partially located on the property at 55 Franklin Street. Parking spaces 11-13 are designated as Employee Parking and are tandem spaces.
- 1.14 A portion of parking spaces 1-7, as shown on the Layout Plan, are located on and accessed from the abutting property at 55 Franklin Street. The Petitioner has secured a parking easement agreement from the Owner of 55 Franklin Street so that said parking spaces may

be used exclusively for the Medical Marijuana Treatment Center use at 29-37 Franklin Street. Additionally, the owner of 55 Franklin Street and the owner of the business at 55 Franklin Street have agreed that the trailer on 55 Franklin Street will be restricted from occupancy at the 55 Franklin Street site except as noted herein. The trailer may enter the site at approximately 8:00 a.m. two or three times a week. The unloading and loading of water bottles may then proceed for approximately 1 hour. After the loading/unloading operation is complete the trailer shall leave the site. The Petitioner has agreed to change its proposed opening time from 8:00 a.m. to 10 a.m. so that the Petitioner does not interfere with the loading/unloading operation and to assure that parking spaces 1-7 as shown on the Plan are available for the stated parking use.

- 1.15 The Petitioner has requested a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.3, more specifically, in Subsection 5.1.3 (h), (“Parking Space Layout”), Subsection 5.1.3(j) (“Parking Setbacks”), Subsection 5.1.3(k) (“Landscaped Areas”), Subsection 5.1.3(l) (“Trees”) and Section 5.1.3(m) (“Location”).
- 1.16 The Petitioner provided a traffic study from Vanasse & Associates. Access to the project site is provided by way of Wexford Street that intersects Highland Avenue from the north while Franklin Street intersects Wexford Street from the west. The Project is expected to generate approximately 22 vehicle trips (11 entering and 11 exiting) during the weekday evening peak hour and 30 additional vehicle trips (15 entering and 15 exiting) during the Saturday peak hours. In order to assess the impact of the project on the roadway network, a traffic operations analysis was performed at two intersections 1) Highland Avenue at Wexford Street; and 2) Wexford Street at Franklin Street under 2015 Existing, 2023 No-Build and 2023 Build conditions. The study results indicated that the project will add some traffic to the area, but will not have a significant impact (increase) on motorist delays from the 2023 No-Build to the 2023 Build conditions at the noted intersections. None of the intersections had a drop in the Level-of-Service from the 2023 No-build to the 2023 Build condition.
- 1.17 The Petitioner is also proposing the following modest changes to the site and the exterior of the building: a façade change on the Franklin Street side of the building, installation of site landscaping, additional security cameras and lighting around the building to meet Department of Public Health requirements, two new accessible handicapped parking spaces, and restriping of the parking lot.
- 1.18 The Petitioner appeared before the Design Review Board on February 6, 2017, and obtained approval for the project.
- 1.19 The Petitioner has requested a Special Permit under Section 1.4.6 of the By-Law for the alteration of a lawful, pre-existing, non-conforming structure. Under Section 1.4.6 of the By-Law, a lawful, pre-existing, non-conforming building may be structurally altered only pursuant to a special permit issued by the Board pursuant to Section 7.5.2, provided that the Board determines such alteration would not be substantially more detrimental to the neighborhood than the existing non-conforming structure. On the basis of the above findings and criteria, the Board finds that the proposed alteration, as conditioned and limited herein, is to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not expand the existing non-conforming structure nor to be more detrimental to the neighborhood than the existing non-conforming structure. The Board notes that the structure is non-conforming in that the minimum side setback in the Mixed Use – 128 Zoning District is 10 feet but the minimum side setback of the building at



29 Franklin Street to the east is 0.4 feet and the minimum side setback to the west is approximately 2 feet. Portions of the building are also less than the minimum rear setback of 10 feet and the lot size of both 29 and 37 Franklin Street are both less than 10,000 square feet. The project does not contemplate a change in the footprint of the structures that comprise the project.

- 1.20 The Petitioner has requested a Special Permit under Sections 3.2.6.2(h) and 6.10 of the By-Law for the operation of a Medical Marijuana Treatment Center in the Mixed Use – 128 Zoning District. Under Section 3.2.6.2(h), a special permit may be granted to operate a Medical Marijuana Treatment Center in the Mixed Use – 128 Zoning District provided that the proposed use, building, structure, off-street parking or loading, modification of dimensional standards, screening or landscaping are in harmony with the general purposes and intent of the By-Law as set forth in Section 1.1 of the By-Law and is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area. The Board finds that the proposed development plan shown on the Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements. The Board further finds that the proposed use, structure or activity will not constitute a demonstrable adverse impact on the surrounding area resulting from: (a) excessive noise, level of illumination, glare, dust, smoke or vibration which are higher than levels now experienced from uses permitted in the surrounding area; (b) emission or discharge of noxious or hazardous materials or substances, or pollution of waterways or ground water; (c) pollution of waterways or ground water. The Board notes that the proposed facility does not manufacture any product on site, is a secure facility with a maximum number of employees, maximum number of sales stations and a by appointment only business model.
- 1.21 The Petitioner has requested a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.3, more specifically, in Subsection 5.1.3 (h), (“Parking Space Layout”), Subsection 5.1.3(j) (“Parking Setbacks”), Subsection 5.1.3(k) (“Landscaped Areas”), Subsection 5.1.3(l) (“Trees”) and Section 5.1.3(m) (“Location”). Under Section 5.1.1.5 of the By-Law, a special permit to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirements) may be granted in the Mixed Use – 128 Zoning District provided the Board finds that: (a) The issuance of a special permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the By-Law; (b) The ability to provide parking and design in accordance with the particular requirements of Section 5.1.3 of the By-Law was considered; and (c) The circulation patterns for motor vehicles and pedestrians which would result from the use or structure which is the subject of the special permit will not result in conditions that unnecessarily add to traffic congestion or the potential traffic accidents on the site or in the surrounding area.

On the basis of the above findings and conclusions, the Board finds that the proposed project and plan, as modified by this Decision and as conditioned and limited herein, to meet these requirements, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and will not be a detriment to the Town’s and neighborhood’s inherent use of the surrounding area. The Board also finds and determines that the circulation patterns for motor vehicles and pedestrians which would result from the use or structure which is the subject of the special permit will not result in conditions that unnecessarily add to traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

- 1.22 The Board finds that the criteria set forth in Section 6.10 (a) of the Zoning By-Law are either inapplicable to the four properties/uses described below, or if applicable, the criteria are met. That section states in part that if the site on which a Medical Marijuana Treatment Center or Off-site Medical Marijuana Dispensary is more than 500 feet but less than 1,000 feet from a public or private elementary school, middle school or a municipal park or playground, that the Planning Board shall determine if the said “protected use” is sufficiently buffered such that its users will not be adversely impacted by the operation of the Medical Marijuana Treatment Center or Off-site Medical Marijuana Dispensary. The distance is to be measured in a straight line.

The first property is located across the Charles River in the City of Newton and is administered by the Newton Conservation Commission. The property consists of a short path (the Charles River Pathway Conservation Area) paralleling the Charles River that begins at Williams Street (off Oak Street) and ends at the foot of a steep railroad embankment. A portion of the path lies within the 1000 foot radius from the project site. The Board finds that pursuant to Section 6.10 of the By-Law that the Charles River Pathway Conservation Area, portions of which are located at least 500 feet distant but less than 1,000 feet distant from the proposed use, is not considered “a public or private elementary school, middle school, or secondary school, or a municipal park or playground” and as a result the provisions of Section 6.10 of the By-Law are not applicable to the pathway. The Board further finds, however, that in the event that the Charles River Pathway Conservation Area is considered a municipal park or playground (a protected use), that the project site is determined to be sufficiently buffered from such protected use such that its users will not be adversely impacted by the operation of the Medical Marijuana Treatment Center. The Board notes that the Charles River Pathway Conservation Area is located in Newton, Massachusetts on the other side of the Charles River and parallel to the Charles River. While portions of the conservation area are located less than 1,000 feet from the proposed facility as the crow flies, since the property in question is located on the other side of the Charles River it is not accessible from the proposed Medical Marijuana Treatment Center unless one travels from the City of Newton land to Oak Street in Newton then to Needham Street in Newton, crosses over the Charles River into Needham and proceeds west on Highland Avenue until Charles Street or Wexford Street are reached and then onto either street to the proposed Medical Marijuana Treatment Center on Franklin Street, a distance that is substantially greater than 1,000 feet and is sufficiently buffered from such “protected use”.

The second property, the Newton Upper Falls Greenway, is also located in the City of Newton on the other side of the Charles River. It is a walking path on a portion of the inactive old rail corridor that extended south from the MBTA Greenline D Branch through Newton Upper Falls to the Charles River. It runs roughly parallel to Needham Street. The MBTA owns the land and has entered into a long-term lease with the City of Newton. The Board finds that the Newton Upper Falls Greenway, portions of which are located at least 500 feet distant but less than 1,000 feet distant from the project site, is not considered “a public or private elementary school, middle school, or secondary school, or a municipal park or playground” and as a result the provisions of Section 6.10 of the By-Law are not applicable to the Newton Upper Falls Greenway. The Board further finds, however, that in the event that the Newton Upper Falls Greenway is considered a municipal park or playground (a protected use), that the project site is determined to be sufficiently buffered from such protected use such that its users will not be adversely affected by the operation of the Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary. The protected use is located on the other side of the Charles River from the project site and is not accessible unless one travels to Needham Street or Oak Street in Newton, crosses over the



Charles River and proceed west along Highland Avenue until Charles Street or Wexford Street are reached, and then onto either street until the project site on Franklin Street, a distance that is substantially greater than 1,000 feet.

The third property/use is the Montessori School located at 238 Highland Avenue. The Board notes as follows. The Board of Appeals on July 21, 2016 approved the operation of a Montessori School for toddlers and pre-schoolers at 238 Highland Avenue. As of the date of this Decision, no certificate of occupancy has been issued for the facility and it is not operational. The Board determines that Section 6.10 of the By-Law is not applicable because the Montessori School, which is limited to toddlers and preschoolers, does not constitute a “public or private elementary school, middle school or secondary school, or a municipal park or playground”. In addition, even if it were considered a protected use within the meaning of Section 6.10, the route from the Montessori School to the proposed Medical Marijuana Treatment Center involves crossing Highland Avenue (a major thoroughfare), as well as walking on several streets in order to reach the Franklin Street facility. While as the crow flies, the distance is approximately 965 feet from one property to the other, the walking distance is over 1450 feet so that even if the Montessori School is considered a school and covered by Section 6.10 of the By-Law, it is determined by the Board that the project site is sufficiently buffered from such protected use such that its users will not be adversely impacted by the operation of the Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary.

The fourth property/use is Riverside Community Care, located at 255 Highland Avenue. The Board notes the following: Riverside Community Care provides a variety of integrated behavioral health care and human services to individuals, families and communities. Services include programs for emergency services, early childhood services, home-based services such as in-home therapy, intensive family services and therapeutic mentoring, developmental disabilities programs and care coordination services. One component of Riverside Community Care is the Riverside School, a Chapter 766 approved facility that specializes in children with significant emotional difficulties or a psychiatric diagnosis. There is a high staff to student ratio in small group settings, with skilled educational and clinical professionals provided. Children are dropped off in the morning and picked up in the afternoon. They do not make their own way to and from Riverside. The Board doubts that this type of “therapeutic school” which is a Chapter 776 facility is the type of facility that falls within the definition of “public or private elementary school, middle school, or secondary school, or a municipal park or playground” within the meaning of Section 6.10 of the Zoning By-Law. The Board further finds, however, that the Riverside School is at least 500 feet from the project site, and the Board determines that the project site is sufficiently buffered from such protected use such that its users will not be adversely impacted by the Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary. The Board finds, the walking route from Riverside Community Care to Sage Naturals, Inc. would be along Highland Avenue, turning left onto Wexford Street and turning left again on Franklin Street, which is a distance of approximately 1,490 feet. The Board finds that the combination of the type of facility, the drop off/pick up requirement and the necessity of walking approximately 1,490 feet on several streets in order to reach 29-37 Franklin Street, enables the Board to determine that Sage Naturals, Inc. is sufficiently buffered from such protected use such that its users will not be adversely affected by the operation of Sage Naturals, Inc. and so finds.

- 1.23 The Board finds that the criteria set forth in Section 6.10 (b) of the Zoning By-Law are met. That section states that a Medical Marijuana Treatment Center or Off-site Medical Marijuana Dispensary may not be located in a building that contains a licensed daycare

center, or any facility providing educational, recreational or social programs or activities attended primarily by children enrolled in such facility. The Board finds that Sage Naturals, Inc. is not located in a building that contains a licensed daycare center, or any facility providing educational, recreational or social programs or activities attended primarily by children enrolled in such facility.”

THEREFORE, the Board voted 4-0 to GRANT: (1) the requested Special Permit under Sections 3.2.6.2(h) and 6.10 of the By-Law for the operation of a Medical Marijuana Treatment Center in the Mixed Use – 128 Zoning District; (2) the requested Special Permit under Section 1.4.6 of the By-Law for the alteration, enlargement or reconstruction of a non-conforming building; (3) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law; (4) the requested findings and determinations required by Sections 7.5.2 and 7.5.2.1 of the By-Law; and (5) the requested finding that the criteria set forth in Section 6.10 of the By-Law are met; subject to and with the benefit of the following Plan modifications, conditions and limitations.

#### PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.1 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
  - a) The Plan shall be revised to show a reduction in the overall illumination level of the portion of the site between the buildings and Franklin Street.

#### CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.32 of this Decision.
- 3.1 This special permit shall authorize Sage Naturals, Inc. to establish and operate a Medical Marijuana Treatment Center at 27 and 39 Franklin Street, Needham, in compliance with the Application Documents received March 28, 2017 and dated March 24, 2017, and supplemental documents and information submitted by the Petitioner to the Planning Board as referenced above in this Decision. This special permit does not authorize any activities related to marijuana cultivation or product manufacturing at 29 and 37 Franklin Street.

- 3.2 This special permit is conditioned upon the ongoing registration of the approved Medical Marijuana Treatment Center with the Massachusetts Department of Public Health, and shall terminate if such registration is terminated or fails to be renewed.
- 3.3 The approved Medical Marijuana Treatment Center shall be operated in accordance with all applicable state and local regulations, including but not limited to regulations set forth by the Massachusetts Department of Public Health as well as any additional regulations promulgated by local agencies that are applicable to the facility.
- 3.4 The Medical Marijuana Treatment Center may not be changed to a Recreational Marijuana facility under this permit without further approval of the Board through issuance of an amendment to this special permit under M.G.L., Ch. 40A, S.9 following a public hearing for which notice has been given as provided in M.G.L., Ch. 40A, S.11.
- 3.5 The proposed Medical Marijuana Treatment Center facility shall contain the dimensions and shall be located on that portion of the locus exactly as shown on the Plan, as modified by this Decision, and in accordance with applicable dimension requirements of the By-Law. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board, except that the floor plan may be modified without further Board review and approval provided that (a) the square footage of the facility is not increased, (2) the number of sales stations does not exceed five (5), and (3) the current level of security is maintained.
- 3.6 The parking areas, driveways, lighting, fencing, and landscape areas and other site features shall be located and constructed in accordance with the Plan. Any changes, revisions or modifications to the Plan shall require approval by the Board.
- 3.7 The operation of the proposed Medical Marijuana Treatment Center at 27 and 39 Franklin Street, Needham, shall be as described in Sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9., and 1.10 of this Decision and as further described under the support materials provided under Exhibits 1, 2, 9, 11, 12, 15, 17, 19, and 23.
- 3.8 The maximum number of employees present at the site (excluding 2 delivery personnel, who will park their personal cars at the Milford facility) at any given time shall not exceed eight (8) including five (5) sales associates, two (2) security officers, and one (1) manager.
- 3.9 The delivery van to be used for home deliveries shall not be parked in any of the 18 on-site parking spaces. Said delivery van shall be housed in the garage at 29 Franklin Street during business hours and shall be housed at the Petitioner's main facility in Milford outside of said business hours.
- 3.10 The Medical Marijuana Treatment Center may be open for business seven (7) days per week from 10:00 a.m. to 8:00 p.m.
- 3.11 This Special Permit to operate a Medical Marijuana Treatment Center at 27 and 39 Franklin Street, Needham, is issued to Sage Naturals, Inc., 13 Commercial Way, Milford, MA 01757, and may not be transferred, set over, or assigned by Sage Naturals, Inc., to any other person or entity, without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.12 Eighteen (18) parking spaces shall be provided for 27 and 39 Franklin Street at all times in accordance with the Plan. All off-street parking as shown on the Plan shall contain the

dimensions and shall be located on that portion of the locus exactly as shown on the Plan and in accordance with applicable requirements of Section 5.1.3 of the By-Law, except that the requirements noted more specifically, in Subsection 5.1.3 (h) the required parking space layout, in Subsection 5.1.3(j), the parking setback requirements, in Subsection 5.1.3(k), the landscape requirements, in Subsection 5.1.3(l), the tree requirements, and in Subsection 5.1.3(m) the location of parking, are hereby waived as further described in Section 1.15 of this Decision and as shown on the Plan. ‘

- 3.13 The Parking Easement Agreement described in Exhibit 12 shall be recorded at the Norfolk Registry of Deeds prior to the issuance of a building permit.
- 3.14 The Petitioner shall deliver to the Board an amendment to the Lease Agreement regarding the premises located at 29 and 37 Franklin Street that incorporates the terms and conditions of the May 15, 2017 letter signed by Daniel Roma (Exhibit 17) regarding the loading and unloading of the trailer serving the business located at 55 Franklin Street. A copy of said amendment shall be filed with the Board prior to the issuance of a building permit for Petitioner's project.
- 3.15 The Petitioner shall secure a permit from the Board of Selectmen or other appropriate Town department authorizing the placement of a portion of parking spaces 16, 17 and 18, as shown on the Layout Plan, within the right- of-way of Franklin Street. Said permit shall be filed with the Board prior to the issuance of a building permit for the Petitioner's project.
- 3.16 All required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed At Owners Expense". The quantity and design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.17 All lights shall be shielded during evening hours to prevent any annoyance to the neighbors and to minimize light pollution.
- 3.18 All deliveries and trash dumpster pick up shall occur only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The trash shall be picked up no less than two times per week or as necessary.
- 3.19 The maintenance of parking lot landscaping and site landscaping, as shown on the Plan, shall be the responsibility of the Petitioner.
- 3.20 The parking lot shall be swept a minimum of four times per year, at least once during April and again during September.
- 3.21 No unregistered vehicles or commercial vehicles are to be stored in the parking lot.
- 3.22 No maintenance operations, washing, oil changes, etc., are to be performed in the parking lot.
- 3.23 All snow shall be removed from the site so that the total number and size of parking spaces are not reduced.

- 3.24 Trash receptacles shall be provided if required, and the area shall be kept free of litter from the parking lot operation. The trash receptacles if required shall be emptied as needed, cleaned, and maintained to meet Board of Health Standards.
- 3.25 That the following interim safeguards shall be implemented during construction:
- a) The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
  - b) The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site that requires excavation or otherwise pose a danger to public safety.
  - b) The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Inspector, and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Highland Avenue.
- 3.26 No building permit shall be issued in pursuance of the Special Permit until:
- a) The Petitioner shall submit nine copies of the final Plans as approved by the Board.
  - b) Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approval to the Building Inspector.
  - c) The final plans shall be in conformity with those previously approved by the Board in this Amendment, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
  - d) Pursuant to Section 3.13 of this Decision, the Petitioner shall have recorded the Parking Easement Agreement described in Exhibit 12 of this Decision at the Norfolk Registry of Deeds.
  - e) Pursuant to Section 3.14 of this Decision, the Petitioner shall have delivered to the Board an amendment to the Lease Agreement regarding the premises located at 29 and 37 Franklin Street that incorporates the terms and conditions of the May 15, 2017 letter signed by Daniel Roma regarding the loading and unloading of the trailer serving the business located at 55 Franklin Street.
  - f) Pursuant to Section 3.15 of this Decision, the Petitioner shall have delivered to the Board a copy of the permit issued by the Board of Selectmen or other appropriate Town department authorizing the placement of a portion of parking spaces numbered 16, 17 and 18 within the right-of-way of Franklin Street.
  - g) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this Special Permit with the appropriate reference to the book and page number of the recording of the Petitioners title deed or notice endorsed thereon.
- 3.27 The space that is the subject of this Special Permit and Site Plan Approval shall not be

occupied until:

- a) A Final Affidavit and an as-built floor plan, signed by the registered architect of record certifying that the project was built according to the approved documents, has been submitted to the Board.
- b) That there shall be filed, with the Building Inspector, a statement by the Board approving the Certificate of Compliance and as-built plan floor plan for the proposed improvements, in accordance with this Decision and the approved Plan.
- c) An as-built plan site plan supplied by the surveyor of record certifying that the project was built according to the approved documents has been submitted to the Board and Department of Public Works.
- d) That there shall be filed, with the Building Inspector, a statement by the Board approving the as-built site plan for the proposed improvements, in accordance with this Decision and the approved Plan.
- e) Notwithstanding the provisions of Sections c and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.

Operation of Sage Naturals, Inc. at the subject location shall not commence until a Final Certificate of Registration to operate an RMD is issued by the Massachusetts Department of Public Health and has been submitted to the Board.

- 3.28 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.29 The portion of the building that is authorized for construction by this Approval shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.30 All solid waste shall be removed from the site by private contractor.
- 3.31 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.32 Violation of any of the conditions of this Decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the



case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision if the Town prevails in such enforcement action.

#### LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision.
- 4.2 There shall be no further development of this site without further approval by the Board. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 The Special Permits granted herein shall lapse on June 13, 2019 if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to June 13, 2019. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.
- 4.7 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with G.L. Chapter 40A, Section 11, this Special Permit shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered

undone.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 13<sup>th</sup> day of June, 2017.

NEEDHAM PLANNING BOARD



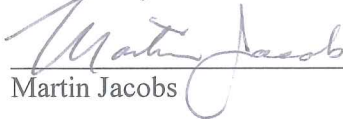
Ted Owens, Chairman



Paul S. Alpert, Vice Chairman



Elizabeth J. Grimes



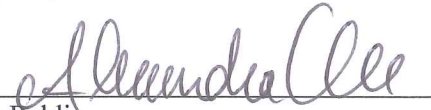
Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

June 13 2017

On this 13 day of June, 2017, before me, the undersigned notary public, personally appeared Ted Owens, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.



Notary Public

My Commission Expires: March 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Decision on Sage Naturals, Inc., formerly known as Sage Biotech, Inc. and Sage Cannabis, Inc., 13 Commercial Way, Milford, MA 01757 has passed, and there have been no appeals made to this office. (All Judicial Appeals taken from this Decision have been dismissed.)

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner - Certified Mail #  
Town Clerk  
Building Inspector  
Director, PWD  
Board of Health  
Conservation Commission

Board of Selectmen  
Engineering  
Fire Department  
Police Department  
Roy A. Cramer  
Parties in Interest