

# R LEVESQUE ASSOCIATES, INC.

40 School Street, P.O. BOX 640,  
Westfield, MA 01085

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January 19, 2021

Mr. Donald Sluter, Chairman  
Town of Whately Planning Board  
4 Sandy Lane  
Whately, MA 01093

Mr. Roger Lipton, Chairman  
Town of Whately Zoning Board of Appeals  
4 Sandy Lane  
South Deerfield, MA 01373

RE: Supplemental Materials and Permit Criteria  
Proposed Indoor Cultivator Establishment  
23A LaSalle Drive  
Whately, MA 01093  
RLA Project File: 20 0724

Dear Chairmen and Board Members,

On behalf of our client, Robert Cimini of Whately RE Holdings, LLC , our office is herein providing additional information to address matters raised at both the Planning Board and Zoning Board of Appeals meetings. Below, our office has provided responses to specific sections of the zoning by law pertaining specifically to this project. Also submitted herewith is the updated Narrative of Canna Select addressing additional matters in anticipation of the upcoming meetings.

171-28.6 C. Requirements Regarding the Allowed Locations for Marijuana Establishments

1. See ~ 171.8 Table of Use Regulations for locations for permitted Marijuana Establishments.

**Response: The proposed establish is allowed by SP per the Table of Use Regulations.**

2. Marijuana Establishments shall not be located within 500 feet of any existing public, parochial, or private school, kindergarten, or State approved day care center. This setback shall include the grounds on which said public, parochial, or private school, kindergarten or State approved day care center is located on. The distance between any Marijuana Establishment and any public, parochial, or private school, kindergarten, State-approved day care center, or other location where children congregate shall be measured in a straight line, without regard to intervening structures, from the closest property line of any existing public, parochial, or private school, kindergarten, or State-approved day care center, or other places where children congregate to the Marijuana Establishment.

**Response: The proposed facility complies with said requirement.**

3. Marijuana Establishments shall not be located within 500 feet from any public recreation area

**A LAND PLANNING SERVICES COMPANY**

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or park measured in a straight line, without regard to intervening structures, from the closest property line of the recreation area to the Marijuana Establishment.

**Response: The proposed facility complies with said requirement.**

4. Marijuana Establishments shall not be located within 500 feet from any existing church without regard to intervening structures, from the closest property line of the church to the Marijuana Establishment.

**Response: The proposed facility complies with said requirement.**

5. Marijuana Establishments may request a waiver from the setback standard of 500 feet required by Sections C.2 - 4 from the Zoning Board of Appeal to no less than 300 feet if there is no other feasible alternative. Such waiver may be granted in the ZBA's sole discretion.

**Response: No waiver is required at this time and the proposed facility complies with said requirements hereinabove.**

6. No Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

**Response: No residential component is included at proposed cultivation establishment.**

7. Marijuana establishments shall have a minimum 50-foot setback from all property lines except Marijuana Retailers shall have a minimum 20-foot setback from rear/side yard property lines in the Commercial District.

**Response: The proposed establishment complies with said requirement.**

## 171-28.6 D. Site Development, Permitting Standards & Application

1. Dimensional Requirements: Any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section C.6 and other dimensional controls of the appropriate district as specified in these bylaws. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.

**Response: This proposed establishment does not include any newly constructed building or structures at this time. All business operations will be in the existing footprint on-site with necessary renovations/improvements to make them amenable to business operations and this zoning bylaw.**

2. Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of ~171-13 of these bylaws. For any property proposed to contain a Marijuana Establishment Business in the Commercial, Commercial-Industrial, and Industrial Districts, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.

**Response: On-site parking for 10 vehicles is currently available. Additional parking areas may be added as needed. See Site Plans and map on Page 9 of Canna Select Supplemental Packet.**

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3. Site Screening: The Special Permit and Site Plan Review granting authorities shall have the ability to require appropriate screening from abutters.

**Response: Site Plans have been updated to include a proposed 6' vinyl fencing and arborvitae proposed to screen the establishment from abutters.**

4. Lighting & Security: Security cameras covering external areas shall include cameras with the capability to function with minimum lighting at night. External lighting should be consistent with public safety requirements and hours of operation, reasonably shielded from abutting properties and designed to reduce light pollution. Internal lighting in greenhouses shall be fully screened from abutters after sunset.

**Response: Please see Page 11 of Canna Select Supplemental Packet.**

5. Noise & Odors: Except for outdoor cultivation, no noise or marijuana or other odors detectable at the property line of the Marijuana Establishment shall be allowed. Outdoor Marijuana Cultivators shall be required to mitigate odors through siting, use of low-odor seed varieties, and other odor-reduction methods as practicable.

**Response: We want to be the best in Odor Mitigation which is why we plan to engage Byers Scientific for our odor mitigation plan. Byers Scientific has handled odor mitigation for some of the top cannabis cultivation centers in the nation including Canopy Growth. Byers Scientific will provide Additional Supporting Materials including references from three major cannabis cultivators will be provided.**

6. Energy Efficiency: Except for outdoor cultivation, marijuana establishments shall be required to prepare a detailed energy efficiency plan. Cultivators in buildings and greenhouses shall generate a minimum of 50% of their projected energy use on site where feasible. For solar power generation, priority is to be given to roof-mounted facilities, then to siting on non-arable land, then to dual-use facilities that permit agriculture underneath high-mounted and well-spaced panels, and then to the least productive arable land.

**Response: Canna Select will employ High efficiency LED grow lights and Heating/Cooling systems that utilize sub-frost ground temperatures to reduce energy cost.**

7. Water Efficiency: Marijuana Establishments are required to prepare a plan for water management and efficiency, including the incorporation of greenhouse run-off recapture and reuse. Where public water is to be used, Marijuana Cultivators are required to receive certification from the Water Department that there is sufficient capacity for their projected water use.

**Response: Understood. Canna Select will adhere to the above.**

8. Hazardous Materials: Submission of a complete list of chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Provide a Hazardous Materials Management Plan if using or storing hazardous materials on site in excess of household quantities to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of

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hazardous materials and wastes with impervious floor surfaces.

**Response: All hazardous materials will be stored in compliance with state and local regulations.**

9. Signs: All signs for a Marijuana Establishment must meet the requirements of ~ 171-14 of this bylaw and the State Regulations (935 CMR 500.000) including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.

**Response: Understood.**

10. Greenhouses: Greenhouses (see Definition in Section B) for Marijuana Cultivation shall be designed to limit the impact on arable land and shall be subject to the lot coverage requirements of ~171-10 and ~171-28.4F(2).

**Response: The pre-existing greenhouses will remain in the same location, however significant renovations are required to address the change of use and properly addressing the containment of light and filtration of odor. Please see supplemental information provided herewith.**

11. Buildings: Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Whately, not employing unusual color or building design which would attract attention to the premises. In Agricultural/Residential District 2 new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble vernacular agricultural buildings, such as barns. Marijuana Establishment Buildings shall not exceed 4000 square feet in the Agricultural/Residential Districts and 5000 square feet in the Commercial District.

**Response: No exterior improvements are proposed at this time other than to renovate the greenhouses to contain the lighting and odor of said proposed cultivation establishment.**

12. Marketing: Marijuana Establishments shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments to consumers.

**Response: Understood. This is not a retail facility.**

13. Hours of operation: The hours of operation shall be set by the Special Permit Granting authority but in no event shall a facility be open to the public and no sale or other distribution of marijuana occur on the premises or via delivery between the hours of 8:00 pm and 7:00 am.

**Response: This facility will not be open to the public.**

14. Retailer limits: No more than three Marijuana Retailers will be permitted to operate in Whately.

**Response: This is not a Retail Marijuana facility.**

15. Applications: The applicant requesting permission to operate any Marijuana Establishment must file their application with the Special Permit Granting Authority and the Town Clerk. Such application shall contain the information required by ~171-31 Special Permit and any rules and regulations established by the Special Permit Granting Authority and the State Cannabis Control Commission. The application shall also include: a) Name and Address of the legal owner and

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Licensee of the Marijuana Establishment; b) Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment; c) Name and Address of the Manager of the Licensed Marijuana Establishment; d) The number of proposed employees; and e) Proposed security precautions.

**Response: Understood. Applications to the Planning Board and Zoning Board of Appeals have been submitted in compliance with this section.**

16. Site Plan Review: No Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to ~171-17. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, and other open uses. The site plan shall show the distances between the proposed Marijuana Establishment and all existing uses within 1,000 feet of the property lines of the proposed Marijuana Establishment. The site plan shall show all exterior proposed security measures including lighting, fencing, gates, cameras, alarms, etc. A traffic study may be required.

**Response: The applicant has submitted an application to the Planning Board for Site Plan Review simultaneously herewith.**

17. Reporting: All Marijuana Establishments shall provide public safety officials, the Building Inspector and the Town Administrator with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons. All such contact information shall be updated to keep it current and accurate.

**Response: Understood.**

18. Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit under this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector and Planning Board. Any failure to meet this requirement of this Bylaw will result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities conducted under the Special Permit cease immediately.

**Response: Understood.**

19. Change of Ownership: A Special Permit issued under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Article 171-28.6 and ~ 171-31 (Special Permit) and ~ 171-17 (Site Plan Review).

**Response: Understood.**

20. Host Community Agreement: Applicant shall submit the proposed Host Community Agreement that is required between a Marijuana Establishment and the town it is operating in at the time they submit their Application.

**Response: - Host Community Agreement was approved by the Board of Selectmen at the December 30, 2020 Meeting.**

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## 171-31 – Special Permit Criteria

F. Criteria. (1) Before granting a special permit, the special permit granting authority shall consider the proposed use in relation to the site and the adjacent uses and structures and the town and shall find that there will be no significant adverse effects to the neighborhood or the town, considering the following criteria:

(a) The proposed project shall comply with the environmental performance standards specified in ~ 171-15 of this chapter and with all other provisions of this chapter.

**Response: Understood. The proposed cultivation facility will operate in a similar fashion as the existing use of the site as a floral shop.**

(b) The proposal will not create traffic congestion or impair pedestrian safety. Provisions shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets, property or improvements.

**Response: The proposed cultivation facility will not create traffic congestion nor impair pedestrian safety as it will employ a similar number of employees as the existing floral shop.**

(c) The proposed project shall not create any significant emission of noise, dust, fumes, noxious gases, radiation or any other significant adverse environmental impact.

**Response: No emissions are expected or anticipated.**

(d) The proposed project shall not increase erosion, flooding or sedimentation, either on site or on neighboring properties, and shall be consistent with the Massachusetts Wetlands Protection Act (MGL C. 131, ~ 40). Provision shall be made for minimizing runoff, erosion and sedimentation.

**Response: There are no site improvements proposed to increase erosion, flooding or sedimentation either on-site or on neighboring properties.**

(e) The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provisions shall be made for maximizing groundwater recharge.

**Response: There are no proposed construction or site improvements that would adversely have an impact to the quality of surface or groundwater.**

(f) The project shall be compatible with existing uses and other uses allowed by right in the district and shall be designed to be compatible with the character and scale of neighboring properties.

**Response: Understood. See Community Host Agreement.**

(g) The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses through the use of screening or vegetated buffer zones.

**Response: The Site Plans have been updated to add the installation of vinyl fencing a row of arborvitae to buffer from the abutters. See Page 11 of the supplemental Canna Select packet attached hereto.**

(h) The design of the project shall minimize earth removal and the volume of cut and fill. Any grade changes shall be in keeping with the general appearance of the neighborhood.

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**Response:** The proposed facility will consist of renovating the existing buildings/greenhouses to minimize disturbance to the site to the improve the aesthetics of the current facility.

(i) The removal of existing trees and vegetation shall be minimized. If established trees are to be removed, special attention shall be given to the planting of replacement trees.

**Response:** There is no removal of existing trees or vegetation proposed at this time.

(j) The design of the project shall provide for adequate methods of disposal of sewage, refuse or other wastes generated by the proposed use.

**Response:** Site currently includes multiple bathroom facilities which pipe to a septic/leech field and are ample for current staff uses. Canna Select staff will not exceed the current staff in number during the first phase of the operation.

(k) The proposed use will not overload the capacity of public facilities such as water and sewer systems, storm drainage, schools and refuse-disposal facilities.

**Response:** Public Water will be used in office areas only. All cultivation will be done from a well on site.

If you have any additional questions or comments, please contact our office via email or at 413-568-0985. Thank you,

Sincerely,

R. Levesque Associates, Inc.

A handwritten signature in black ink that reads 'Sofia A. Bitzas, JD'. The signature is written in a cursive, flowing style.

Sofia A. Bitzas, JD

Director of Operations

cc: Whately RE Holdings, LLC