



ZONING BOARD OF APPEALS  
WHATELY, MASSACHUSETTS

Updated 05-2021

TOWN OF WHATELY  
TOWN CLERK

2022 OCT 11 PM 3:50

APPLICATION FOR VARIANCE, SPECIAL PERMIT, OR APPEAL

To: Town Clerk  
Whately, Massachusetts

Application fees: \* Residential/Agricultural Use: \$175 X  
(check one) Commercial/Industrial Use: \$225       

Pursuant to the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts and the Zoning By-Laws of the Town of Whately, application is hereby made to the Zoning Board of Appeals for:

(check one)        Variance        X Special Permit        Appeal

to do the following: Indoor Marijuana Cultivator, in addition to the existing special permit for

Outdoor Marijuana Cultivator at the property.

on premises located at 7 River Road  
(street address)

A/R2 & A/R1 Map 7, Parcel 9  
Zone (Map and Parcel No.)

Owned by Lawrence, Benedict, and Nicole Rawls of 15 Desperado Dr, Laramie, WY  
(name of owner) (address of owner)

Name of applicant: John Hanmer DMCTC, Inc. Signature of applicant: John Hanmer  
(print or type)

Mailing address of applicant: 7 River Road, South Deerfield, MA 01373

Phone No. of applicant: (413) 374-1915 Email of applicant: j@thccrafts.com

Relationship to owner: Tenant

\*The full cost of advertising all legal notices required to hold a public hearing by the Zoning Board of Appeals shall be the responsibility of the applicant. The applicant shall make full payment of the advertisement costs prior to the opening of the public hearing. If the applicant does not make full payment of the advertising costs prior to the opening of the public hearing then the Zoning Board of Appeals shall open the public hearing and immediately continue the public hearing to a date, time and place certain. The payment of all advertising costs shall be in addition to any other fees charged by the Zoning Board of Appeals. The advertising costs will vary by application and will be provided to the applicant once the legal ad is submitted to the newspaper and the newspaper provides the quote. The applicant will be informed of that cost and the payment can be made payable to the Town of Whately.

## INSTRUCTIONS FOR PETITIONERS

### FILING TO APPEAR BEFORE THE ZONING BOARD OF APPEALS

1. Familiarize yourself with sections of the Zoning By-Law pertinent to your petition. You may represent yourself or have someone represent you.
2. One copy of the application with the correct fee: \$175 for Residential/Agricultural Use; \$225 for Commercial/Industrial Use is to be given to the Town Clerk. Each petitioner is urged to discuss the application with the Building Commissioner first. At that time the Building Commissioner may inform the petitioner of the requirement that all plans must have the stamp of the registered engineer or surveyor (this may be waived).
3. Be informed that review fees and/or legal fees can and will be assessed for the Zoning Board of Appeals to evaluate the project, at the sole and absolute discretion of the Zoning Board of Appeals.
4. The Petitioner must list all owners' names and current addresses of property abutting the premises, and the owners' names and current addresses of land immediately adjoining the land of the Abutters (within 300 feet). Also, the names and current addresses of the owners of land across all highways.
5. If the petition is an appeal from a decision of the Building Commissioner, the Board of Selectmen or any other permit granting authority, such appeal to the Zoning Board of Appeals shall be taken within 30 days from the date of the order or decision that is being appealed.
6. To be granted a variance, a Petitioner must establish that special conditions exist affecting the parcel of land or building, that literal enforcement of the Zoning By-Law would involve substantial hardship, financial or otherwise, and that the variance may be granted without detriment to the public good and without nullifying or substantially derogating from the intent of the By-Law. Be prepared to present this data at the public hearing. It is strongly suggested that this data be prepared in writing and submitted to the Board at the hearing. It is emphasized that all of the foregoing requirements must be satisfied before the Board of Appeals is authorized under the laws of the Commonwealth to grant a variance.

In order to expedite consideration of your petition, include all factors that may be relevant to the question of hardship, financial or otherwise, including, but not limited to, purchase price, when purchased, mortgage indebtedness, expenses of maintenance and upkeep, income, taxes, etc. The Petitioner should present all facts indicating why a hardship exists and how it may be overcome by the granting of the variance.

7. If your petition before the Zoning Board of Appeals requests a Special Permit rather than a Variance, be prepared to present data that tends to indicate that the public convenience and welfare will be substantially served by granting the petition requested; that the petition requested will not tend to impair the status of the neighborhood; that the permission requested will be in harmony with the general purposes and intent of the regulations in the Zoning By-Laws. You should also include in your application any copies of existing Special Permits for the parcel of which you have knowledge.

ZONING BOARD OF APPEALS  
TOWN OF WHATELY

Copies of the Zoning By-Laws are available at the Town Clerk's office for a small fee.

The petition must be filed with the Town Clerk together with the filing fee.







# 300 foot Abutters List Report

Whately, MA  
September 27, 2022

## Subject Property:

Parcel Number: 07-0-09  
CAMA Number: 07-0-09  
Property Address: 7 RIVER RD

Mailing Address: RAWLS LAWRENCE STE MARIE C/O  
RAWLS BEN & NICOLE  
176 VIOLET LN  
WALDOBORO, ME 04572

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## Abutters:

Parcel Number: 07-0-01  
CAMA Number: 07-0-01  
Property Address: OFF RIVER NR HATFIELD LINE

Mailing Address: RAWLS BENEDICT STE & NICOLE JU  
RAWLS STE LAWRENCE  
176 VIOLET LN  
WALDOBORO, ME 04572

Parcel Number: 07-0-02  
CAMA Number: 07-0-02  
Property Address: W/S RIVER RD

Mailing Address: THE CHANG FAMILY TRUST CHANG  
TSO-CHENG + ROSE C  
PO BOX 191  
S DEERFIELD, MA 01373

Parcel Number: 07-0-03  
CAMA Number: 07-0-03  
Property Address: 5 RIVER RD

Mailing Address: ANNIS AI S JR & CAROL L, LIFE  
ANDERSON EDITH & AI ANNIS III  
PO BOX 146  
WHATELY, MA 01093

Parcel Number: 07-0-04  
CAMA Number: 07-0-04  
Property Address: E/S RIVER RD

Mailing Address: NOURSE REALTY, LLC  
41 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-05  
CAMA Number: 07-0-05  
Property Address: W/S RIVER RD

Mailing Address: PASIECNIK JAMES M  
207 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-08  
CAMA Number: 07-0-08  
Property Address: E/S RIVER RD

Mailing Address: NOURSE REALTY, LLC  
41 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-10  
CAMA Number: 07-0-10  
Property Address: 13 RIVER RD

Mailing Address: SMITH TIMOTHY N  
13 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-11  
CAMA Number: 07-0-11  
Property Address: 15 RIVER RD

Mailing Address: MATUSIEWICZ SCOTT J  
15 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-13  
CAMA Number: 07-0-13  
Property Address: 21 RIVER RD

Mailing Address: HASLETT ASHLEE B & ETHAN  
21 RIVER RD  
S DEERFIELD, MA 01373

Parcel Number: 07-0-15  
CAMA Number: 07-0-15  
Property Address: 29 RIVER RD

Mailing Address: NOURSE MARY C  
41 RIVER RD  
S DEERFIELD, MA 01373



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Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



# 300 foot Abutters List Report

Whately, MA  
September 27, 2022

Parcel Number: 07-0-15-1  
CAMA Number: 07-0-15-1  
Property Address: 41 RIVER RD

Mailing Address: NOURSE REALTY, LLC  
41 RIVER RD  
S DEERFIELD, MA 01373



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9/27/2022

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October 11, 2022

Whately Zoning Board of Appeals  
4 Sandy Lane  
Whately, MA 01373

**RE: DMCTC, Inc.  
Marijuana Cultivation (to Include Indoor Cultivation)  
7 River Road**

Dear Board Members:

On 9/26/2020, the Whately Zoning Board of Appeals issued a Special Permit to Debilitating Medical Condition Treatment Centers, Inc. (DMCTC) for the land use "Outdoor Marijuana Cultivator" (Whately Zoning Bylaw §171-8) at 7 River Road. On 11/24/2020, the Whately Planning Board issued Site Plan Approval for the proposed facility, which was subsequently amended as described under "Site Plan History" below.

At the time these approvals were issued, the zoning bylaw did not include a clear definition of indoor vs. outdoor cultivation. Instead, the Board deferred to the Massachusetts Cannabis Control Commission (CCC) which defines outdoor cultivation as the raising of marijuana plants without the use of artificial light (with limited exceptions for propagation). On 6/15/2021, the zoning bylaw was amended to include a specific definition for Indoor Marijuana Cultivation, which includes:

*The growing of marijuana inside any Greenhouse, or any other fully enclosed structure and any subsequent drying of marijuana in such a facility. (§171-28.6B)*

Under existing operations, as approved by the above-referenced permit decisions, DMCTC cultivates marijuana in both open air (Outdoor) and enclosed (Indoor) conditions. Based on the zoning amendment, this activity constitutes a legally existing nonconforming use.

DMCTC now proposes to bring the site into conformance with current zoning by seeking approval of a Special Permit and Site Plan Review for the land use "Indoor Marijuana Cultivator" (§171-8), in addition to the continuing use of the site as an Outdoor Marijuana Cultivator.

Importantly, this application for Special Permit does not propose any exterior physical changes to the approved site plan. The only change proposed is that, as an approved Indoor Cultivator, DMCTC will install supplemental horticultural lighting in the currently approved greenhouse structures. All structures with lighting will also include blackout curtains designed to contain any light spill.

At this time, DMCTC is requesting a Special Permit from the Zoning Board of Appeals and Site Plan Approval from the Planning Board to allow indoor marijuana cultivation within the greenhouse structures previously approved, in addition to continued use of the site for outdoor marijuana cultivation.

#### **Site Plan History**

- The original site plan for this project was submitted to the Planning Board in August 2020 and was based on a drawing set by Berkshire Design Group (BDG), dated 8/13/2020.
- After an initial public hearing, drawings were revised and the Planning Board voted to approve the project on 11/24/2020, based on site plan drawings by BDG, dated 10/19/2020.
- A revised site plan, dated 5/7/2021, was submitted to the Planning Board and accepted as a minor

change. This revision merged the originally proposed 12 individual greenhouses into 2 larger greenhouses.

- An additional site plan sheet, dated 8/9/2022, was submitted to the Planning Board and accepted as a minor change. This sheet created a temporary "Phase I" plan for the site, including one of the two proposed greenhouse structures and temporary storage containers. Acceptance of this temporary phase of the proposed project was limited to 24 months after Planning Board approval, at which point the temporary containers must be removed and the second greenhouse must be built, or DMCTC will be required to return to the Planning Board for additional approval.

### **Currently Proposed Site Plan**

Site plan drawings associated with this new request for Special Permit for Indoor Marijuana Cultivation are enclosed with this application and are re-issued with the date 9/27/2022. Plan sheets reflect the approved full-build plan shown on the 5/7/21 drawings described in the previous section, plus the inclusion of the Phase I site plan dated 8/9/2022. No changes to the site plan have been made since the 5/7/2021 plan, except for the inclusion of the Phase I temporary plan.

### **Previous Complaint**

At a recent Planning Board meeting, DMCTC was made aware of a complaint by a neighbor that light from the interior of an existing structure at the 7 River Road site was visible during late night hours. DMCTC investigated this complaint and determined that staff forgot to close the blackout curtains, which were on a manual control switch. DMCTC is in the process of installing a programmable timer on all the blackout curtains within the facility to prevent this issue from recurring.

### **Use of Property**

This application package includes a letter of support for the project written by the current property owners (Lawrence Rawls, Benedict Rawls, and Nicole Rawls) and dated 8/17/2020. Note that this is the same letter that was submitted for the original special permit in 2020. This letter documented the property owner's support for marijuana cultivation generally, and did not specify between the "outdoor" and "indoor" cultivation uses that are distinct under the zoning bylaw.

### **Zoning Compliance**

The remainder of this letter describes how the proposed indoor cultivation use complies with the standards listed in the Whately Zoning Bylaw, but only to the extent that compliance differs from the previously approved outdoor cultivation project. For a more complete discussion of project compliance, please refer to record documents from the previous Special Permit and Site Plan Review applications associated with this property.

Note that after the inclusion of indoor cultivation at the site, staffing needs will not change. Therefore, no revisions are required relating to traffic, parking, utilities, or other demands that are based on site population.

### **Table of Uses**

The site is currently approved for the use "Outdoor Marijuana Cultivator" under §171-8. This application requests approval to maintain this use and to allow the additional use "Indoor Marijuana Cultivator". Marijuana cultivation activities occur entirely within the portion of the site located in Zone A/R2. These land uses are allowed in A/R2 by special permit.



Nonconformance

The existing property does not conform to the Whately Zoning Bylaw for frontage, and an existing barn is located within the property line setback. The continuation of these existing nonconformances was approved as part of the existing special permit. This application does not propose to change the existing conditions.

General Zoning Requirements

No physical changes to the exterior of the site are proposed. No changes to the employee head count are proposed. Therefore, this project complies with the general zoning requirements in the same ways as the originally approved Site Plan.

New horticultural lighting will be shielded by blackout curtains and will not create new impacts to the site.

Requirements Specific to Marijuana Establishments

*Setbacks from Certain Land Uses* – No change is proposed.

*Residential Units* – No Change.

*Additional Setback for Marijuana Establishments* – No Change.

Permitting Standards

The project is designed to meet the marijuana-specific design standards established by §171-28.6.D. Specifically:

1. Dimensional Requirements: No change
2. Parking and Loading Requirements: No change
3. Site Screening: No change
4. Lighting & Security: Additional horticultural lighting will be incorporated after approval for indoor cultivation. Interior lighting will be shielded at night with blackout curtains. Blackout curtains will be placed on timers. No change to exterior lighting is proposed.
5. Noise & Odors: Negligible change. The addition of indoor cultivation will allow for the installation of horticultural lighting, which will allow for an extended growing season and additional harvests of indoor-grown plants. The outdoor, open-air production will be unchanged. The maximum number of plants grown indoors at one time will not change. The odor mitigation equipment included in the approved special permit plans is not proposed to change.
6. Energy Efficiency: Under the proposed special permit for indoor cultivation, supplemental horticultural lighting will be incorporated into the two large greenhouses proposed under the original special permit. The Massachusetts Cannabis Control Commission (CCC) regulations (935 CMR 500) include detailed energy standards and specific compliance criteria that are applicable to marijuana cultivators. The specific energy standards are listed under 935 CMR 500.120(11). As part of the CCC licensing process, DMCTC will be required to submit extensive documentation of proposed equipment and energy consumption for review.

The core energy requirement imposed by CCC regulations is that power consumption for horticultural lighting be limited to a Horticultural Lighting Power Density (HLPD) of less than 36 Watts per square

foot<sup>1</sup>. The HLPD is determined by calculating the total power consumption of horticultural lighting, divided by the total horticultural area (total area occupied by plants, a.k.a. "canopy").

#### *Lighting Power Density*

Each greenhouse bay (7 total bays per greenhouse) will include a total of 27 horticultural lights rated for 1,000 Watts hung over three columns. (See Figure 1 for horticultural lighting layout) Therefore, each greenhouse bay will use 27,000 Watts of horticultural lighting.

Each greenhouse bay will include 3 columns of plants measuring 5' x 70', resulting in 1,050 sq. ft. of canopy per bay.

HLPD is equal to total power consumption for horticultural lighting, divided by canopy area, or 27,000 Watts / 1,050 sq. ft. = 25.7 Watts per square foot. This HLPD is less than the maximum allowable HLPD of 36 Watts per square foot set by CCC regulations.

#### *Mechanical Power Density*

CCC regulations require that power consumption for HVAC systems be totaled, but this consumption is not subject to a maximum power density standard. HVAC systems in the greenhouses (i.e. the indoor cultivation areas) consist of circulating fans, carbon filtration equipment, exhaust fans, and propane heaters. Total electricity requirements for all HVAC equipment is 10,800 Watts per bay (again, there are 7 bays in each of the two greenhouses). As was the case under the lighting section above, a power density per square foot of grow canopy can be calculated as: HVAC Power Density = 10,800 Watts / 1,050 sq. ft. canopy = 10.3 Watts per square foot.

#### *Overall Power Density*

Based on the above calculations, the total power density per square foot of grow area is 25.7 Watts per sq. ft. lighting + 10.7 Watts per sq. ft. HVAC electricity = 36 Watts per sq. ft.

We note that the total power consumption per sq. ft. of grow area for the proposed indoor facility is expected to be equal to the maximum *lighting* power density allowed by CCC regulations.

Also note that, if the proposed special permit for indoor cultivation is approved, the majority of plants will continue to be grown in the open air without any supplemental lighting. Therefore, on a facility-wide basis, the power consumption will remain a small fraction of the power draw of a typical fully indoor grow facility on a per-square-foot basis.

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<sup>1</sup> For Tier 1 and 2 cultivators, which are the smallest category, the standard is 50 Watts per square foot. DMCTC currently operates as a Tier 1 cultivator; however, the proposed energy plan complies with the standard for larger growers and DMCTC will operate at a higher tier in the future, after the site is fully built-out.

*Renewable Energy*

The existing site includes a 10-kilowatt ground-mounted solar array that will remain in use. DMCTC is also exploring the feasibility of roof-mounted solar panels on the existing farmhouse.

7. Water Efficiency: The addition of indoor cultivation will allow for the installation of horticultural lighting, which will allow for an extended growing season and additional harvests of indoor-grown plants. This will increase total water consumption over the course of the year. The approved plans include multiple water-conserving features, including a controlled fertigation system that are monitored daily to minimize the quantity of water required. Peak water use at the facility will occur during summer production, when greenhouses were already projected to be at full capacity under the outdoor cultivation license. Therefore, peak day water use is unchanged by the addition of indoor cultivation.

The exterior components of the approved site plan (including proposed rainwater cisterns) are not proposed to change.

8. Hazardous Materials: No Change.
9. Signs: No Change.
10. Greenhouses: No Change. Physical characteristics of the greenhouses remain as proposed in the approved site plan, including use of gravel flooring.
11. Buildings: No Change.
12. Marketing: No Change.
13. Hours of Operation: No Change.
14. Retailer Limits: Not applicable.
15. Applications: (No Change. Responses are reproduced for reference.)
  - a. Land Owner:  
Rawls Family  
15 Desperado Drive  
Laramie, WY  
  
Licensee:  
Debilitating Medical Conditions Treatment Centers, Inc.  
7 River Road  
South Deerfield, MA 01373
  - b. See Attached
  - c. John Hanmer  
36 Hickory Lane  
Hampden, MA 01036
  - d. Employees: 10 full-time year-round with additional seasonal employees peaking at 60 during fall harvest.

- e. Security plans have previously been reviewed and accepted by the Whately Police Department. The proposed inclusion of indoor cultivation will not change the details of the security plan.
- 16. Inspections & Monitoring: Noted. DMCTC will comply with all inspection and monitoring requirements.
- 17. Site Plan Review: A Site Plan Review application has been submitted to the Planning Board.
- 18. Reporting: No Change.
- 19. Change in License or Owner: No Change.
- 20. Change in Ownership: No Change.
- 21. Host Community Agreement: No Change. The original Host Community Agreement (HCA) for this project made no distinction between outdoor vs indoor cultivation and would remain in effect. The original HCA is attached for reference.

We trust that the above information demonstrates how the proposed project complies with the requirements of the Whately Zoning Bylaw. We look forward to discussing this application at the Board's next available meeting and addressing any questions you may have.

Sincerely,

**Berkshire Design Group**



Christopher Chamberland, P.E.  
Principal

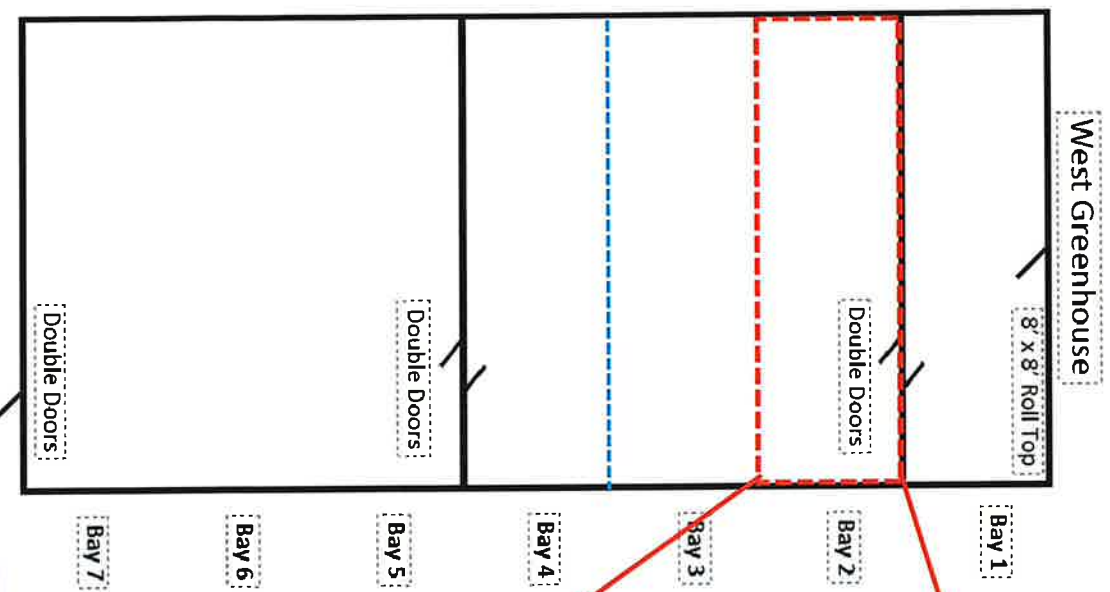
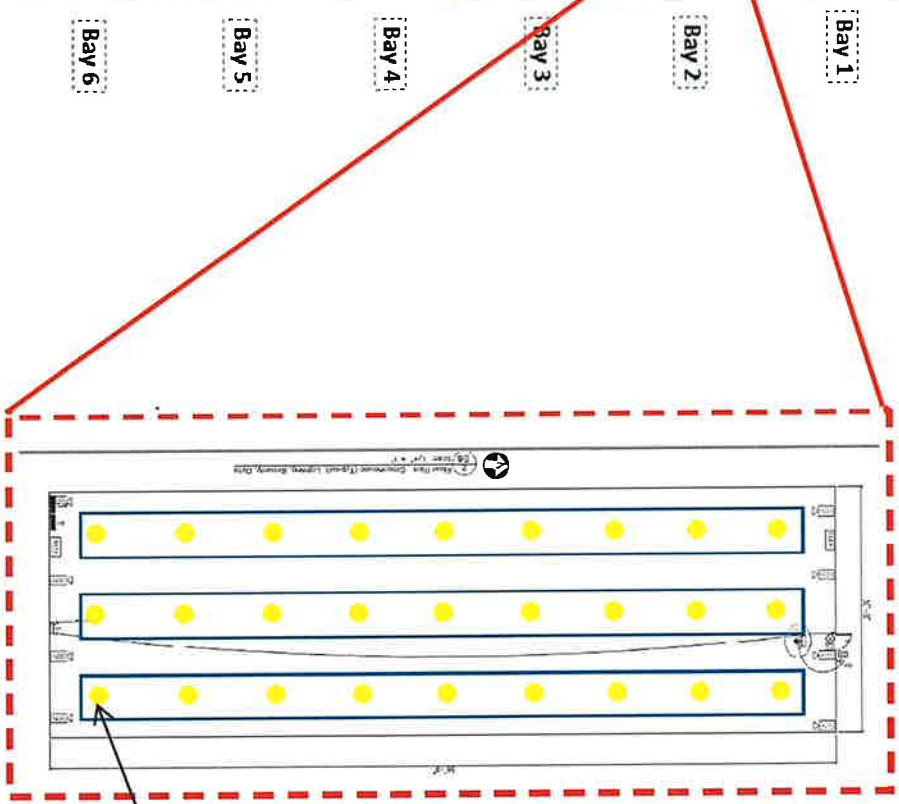


Figure 1 lighting/canopy overlay showing the dimensions of canopy and light locations for mature plants and (Veg and Flowering Plants).



- Each Bay is 30'x96'
- Each bay has 3 5'x70' columns of mature plants
- This equates to 1050 sq. ft. per bay of canopy
- 4 bays will consist of 4,200 sq. ft. of canopy total

1,000 Watt Horticultural Light (typ.)  
 9 per column of mature plants  
 27 lights per bay (3 columns)



Debilitating Medical Condition Treatment Centers, Inc.  
7 River Road, Whately, MA

List of Shareholders

The following is a list of individuals having greater than 9.9% ownership and/or greater than 9.9% voting interest in Debilitating Medical Condition Treatment Centers, Inc.:

Shareholders & Directors:

Jared Glanz-Berger\*

Samuel Hanmer\*

David Goldblum\*

Bradley Joseph\*

Officers:

President: Jared Glanz-Berger

Treasurer: Jared Glanz-Berger

Secretary: Jared Glanz-Berger

Mailing address for correspondence for all shareholders and officers is:

7 River Road  
South Deerfield, MA 01373

DMCTC has omitted the legal addresses for shareholders from the land use permit submission to be posted on the Town website. Legal addresses for shareholders and directors are publicly available in DMCTC's most recent corporate filings with the Massachusetts Secretary of State.





LETTER OF SUPPORT  
DMCTC, INC. APPLICATION FOR SPECIAL PERMIT  
WHATLEY ZONING BOARD OF APPEALS

August 17, 2020

Whately Zoning Board of Appeals  
4 Sandy Lane  
Whately, MA 01373

**RE: DMCTC, Inc.  
Marijuana Cultivation  
7 River Road**

Dear Board Members of the Zoning Board:

WHEREAS, Lawrence Rawls, Benedict and Nicole Rawls ("Property Owners") are owners of 7 River Road, Whately, MA 01373 ("the Property") and have entered into a lease for the Property with Core High Yield MA, LLC.

WHEREAS, Core High Yield MA, LLC ("CHY MA") is an affiliate of Debilitating Medical Condition Treatment Center, Inc. ("DMCTC, Inc."), holder of a Provisional Marijuana Treatment Center License, granted by the Massachusetts Cannabis Control Commission.

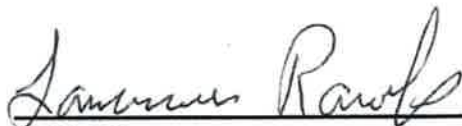
WHEREAS, Property Owners have granted a lease to CHY MA acknowledging the intended use of the Property for cannabis cultivation, including the following language:

*USE OF LEASED PREMISES: The Lessee shall use the leased premises for cannabis cultivation, storage of cannabis for transport, and processing of cannabis into products, and for all other ancillary and incidental uses including for ancillary offices, residential occupancy and storage.*

WHEREAS, through CHY MA's lease of the Property it may sublease the Property to DMCTC, Inc. for the purpose of cannabis cultivation.

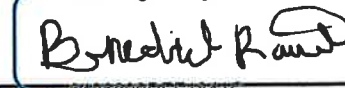
NOW, THEREFORE, Property Owners acknowledge, affirm, and support approval by the Zoning Board of the Special Permit application proposed for a Marijuana Cultivation Permit on the Property by DMCTC, Inc. and believe it presents the prospect of public benefits, both monetary and non-monetary, to the Town.

Sincerely,



Lawrence Rawls  
Property Owner

DocuSigned by:



Benedict and Nicole Rawls  
Property Owner



Town of Whately  
Host Community Agreement  
Dated: July 15, 2020

The parties to this agreement are Debilitating Medical Condition Treatment Centers, Inc., a Massachusetts corporation having an office and principal place of business at 11-13 Hampden St, Springfield, Massachusetts 01103, intending soon to establish a principal place of business at 7 River Rd., Whately, Massachusetts (“DMCTC”); and the **Town of Whately, Massachusetts**, acting by and through its Selectboard, with a place of business at 4 Sandy Lane, Whately, MA (“Town”).

WHEREAS, in 2016 a majority of Massachusetts voters, including a majority of Whately voters, legalized the commercial cultivation, processing, product manufacture, distribution, and retail sales of marijuana and marijuana products to adults; and

WHEREAS, DMCTC proposes to make substantial improvements to property in Whately and operate a commercial, licensed marijuana cultivation facility at 7 River Road as a tenant under a lease from the owners, Lawrence Rawls, Benedict Rawls, and Nicole Rawls; and

WHEREAS, the proposed change to the site and use of the facility shall be the subject of public hearing by the Whately Planning Board and Zoning Board of Appeals, and shall be reviewed by residents and Town officials, with a special permit hearing to be administered by the Zoning Board of Appeals and a site plan review hearing administered by the Planning Board; and

WHEREAS, DMCTC’s proposal presents the prospect of other public benefits, both monetary and non-monetary, without the prospect of burdening public resources; and

WHEREAS, on April 27<sup>th</sup>, 2020, the Cannabis Control Commission, issued Administrative Order No. 2, “Administrative Order Allowing Virtual Web-Based Community Outreach Meetings,” which allowed Community Outreach Meetings to be held on virtual web-based platforms; and

WHEREAS, on May 18<sup>th</sup>, 2020, DMCTC received official communication from Town officials that the Whately Selectboard had at its meeting on May 13, 2020 approved DMCTC’s request to hold a virtual community outreach meeting; and

WHEREAS, on June 15<sup>th</sup>, 2020, DMCTC held a virtual web-based Community Outreach Meeting attended by local residents; and

WHEREAS, no substantial opposition has been raised by local residents to the proposal; and

WHEREAS, Section 3(d) of G.L. Chapter 94G requires a licensed marijuana establishment to have a host community agreement with the municipality in which it is located; and

WHEREAS, the parties intend hereby to stipulate their respective rights, duties, responsibilities and expectations relating to DMCTC’s operation of the facility, and conditions thereof;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. Term. This agreement shall be effective upon commencement of operation and shall remain in effect for a period of five (5) years, unless terminated for cause by either party. For purposes of this agreement, Cause shall be defined as the breach of any term of this agreement by either party or the Company's cessation of operations within the Town, voluntarily or by the Cannabis Control Commission's ("CCC" or "Commission") issuance of an administrative order to cease operations or by non-renewal of licensure by the Cannabis Control Commission.
  
2. Community Impact.
  - a) Negative impact. The Town reasonably expects to experience certain negative impacts arising from the operation of DMCTC's cultivation facility that will subject the Town to additional costs, including but not limited to, potential increase in objectionable odors, increase in demand for police services, increase in demand for educational services, increase in demand for fire services, increase in demand for land use permitting and administrative oversight services, and increase in the potential for incidents affecting public safety or security of persons and property.
  
  - b) Positive impact. DMCTC reasonably expects the Town to experience certain positive impacts arising from the fixed capital improvement to its property and operation of DMCTC's cultivation operation, namely, an increase in local employment, property taxes, and local vendor priority.
  
  - c) Community Impact fee. DMCTC shall pay the Town a community impact fee as provided in Section 5, below, and as limited by G.L. Chapter 94G, §(3)(d).
  
3. Charitable Contribution. DMCTC shall, annually, measured from the date of the commencement of operations, over five (5) years as provided below, make a charitable contribution to a public charity or cause of its choosing, providing benefits to the Town of Whately. DMCTC shall include a list of said charitable contributions in its annual report submitted to the Town pursuant to Section 6.

Year	Charitable Contribution
1	\$5,000
2	\$5,000
3	\$10,000
4	\$10,000
5	\$10,000
<i>Total</i>	\$40,000

4. Educational Programming Contribution. DMCTC shall, annually, measured from the date of the commencement of operations, make payments over five years, as provided below, to cover the

Town's cost of a science-based K-12 Drug Awareness & Education Program. Said education programming contribution shall be made when remitting payments pursuant to Section 5.

Year	Educational Programming Contribution
1	\$5,000
2	\$5,000
3	\$10,000
4	\$10,000
5	\$10,000
<i>Total</i>	\$40,000

5. Impact Fee. The Community Impact Fee shall be three percent (3%) of DMCTC's actual gross sales of marijuana from the cultivation facility. Said Impact Fee shall be payable annually, for each of the five years following receipt of a certificate of occupancy for the facility from the local building inspector. The first payment shall be due forty-five (45) days following each of said anniversaries (of C.O. issuance).
6. Reporting. DMCTC shall submit an annual report to the Town that includes an accounting of its sales over the previous year and a written report of its activities over the same time period that includes a summary of its operations, including any security related incidents. Said report shall be due when remitting payment to the Town pursuant to Section 5.
7. Lapse of Agreement. This agreement shall lapse and be considered null and void if DMCTC fails to obtain a final license from the Cannabis Control Commission ("CCC") within eighteen (18) months from the date hereof, and, in light of the current COVID-19 pandemic, the Town may grant an extension of time pursuant to a written request submitted by DMCTC within ninety (90) days before the expiration of the initial eighteen (18) month period, with said assent to an extension request not to be unreasonably withheld or delayed by the Town.
8. Stipulation of Responsibilities.
  - a) DMCTC's Responsibilities. DMCTC shall:
    1. Maintain its cultivation facility premises in a neat and tidy condition and conduct its operations in a businesslike and professional manner, with due regard for the interests of the Town and the community;
    2. If contacted by a representative of the Town, shall respond promptly and substantively;
    3. Maintain its marijuana establishment license in active status with the CCC and comply with all bylaws and regulations of the Town;

4. Comply with any and all conditions imposed by local zoning authorities;
5. Make reasonable efforts to:
  - A. First hire, before others who would perform the task or service in question, local vendors and works; and
  - B. Otherwise to engage the establishment in the local economic mainstream;
6. Submit security plans for the cultivation facility to the Town's Police Chief and Fire Chief, for approval prior to the start of operations, and to submit updates whenever changes to the plans are made;
7. Upon reasonable notice, make the cultivation facility available for inspection by the Town's Police Chief and/or Fire Chief;
8. Pay, or see to it that payment is made for, all real property and personal property taxes owing with respect to the cultivation facility and its premises when the same are due, and in no event shall DMCTC apply for a reduction or elimination of such taxes on account of a change in DMCTC's organization status.

b) Town's Responsibilities. The Town shall:

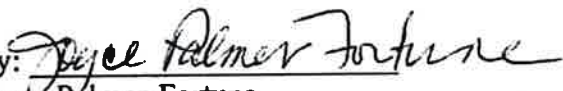
1. Provide an appropriate forum whereby the views of citizens about DMCTC's operations may be aired and DMCTC have the opportunity to address complaints or suggestions that arise concerning DMCTC's operations;
  2. Confer and reasonably cooperate with DMCTC in DMCTC's installation and use of state-of-the-art security and fire protection/alert systems at the cultivation facility, provided, however that if DMCTC requests any upgrades to the Town's facilities in connection therewith DMCTC shall pay the cost thereof;
  3. Recognize DMCTC as having all the rights, duties and responsibilities of, and deserving of equal treatment with, other business establishments in the Town;
  4. If reasonably requested by DMCTC, provide a letter in the nature of an estoppel certificate, stating that the Town is aware of no outstanding violations of local law or insufficiently addressed complaints.
9. Other. This agreement applies only to the cultivation facility described herein for a cultivation facility that may be comprised of either a standalone Medical Marijuana Treatment Center cultivation license and a standalone adult-use cultivation license, or both, the cumulative canopy of which shall not exceed 100,000 square feet regardless of which license type(s) are secured from the CCC. If DMCTC desires to expand its operations or establish another marijuana establishment in the Town, a new agreement or amendment to this agreement is required. This agreement may not be amended or assigned without the parties' written consent, which shall not be unreasonably withheld or delayed by either party. Nothing herein shall be

construed to limit the lawful authority of the Town's municipal agencies to carry out their duties under state and local law. In the event of changes to G.L. Chapter 94G, Section 3, by statutory amendment or court ruling(s), this agreement shall be subject to review in accordance with said changes.


10. Effective Date and Governing Law. This agreement shall be effective upon its execution. This agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflicts of laws principles; and DMCTC submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this agreement.
11. Severability. If any term or condition of this agreement, or any application thereof, shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining terms and conditions of this agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.


DMCTC  
Debilitating Medical Condition  
Treatment Centers, Inc.

Town of Whately  
By the Selectboard

By:   
Joyce Palmer-Fortune  
Selectboard Member  
Date: 07/15/20

By: \_\_\_\_\_  
Jonathan Edwards  
Selectboard Member  
Date: \_\_\_\_\_

By:   
Manager  
Samuel Hanmer  
Date: 7-15-20

By:   
Frederick Orloski  
Selectboard Chairperson  
Date: 07/15/20

## Host Community Agreement Certification Form

The applicant and contracting authority for the host community must complete each section of this form before uploading it to the application. Failure to complete a section will result in the application being deemed incomplete. Instructions to the applicant and/or municipality appear in italics. Please note that submission of information that is "misleading, incorrect, false, or fraudulent" is grounds for denial of an application for a license pursuant to 935 CMR 500.400(1).


### Applicant

I, Samuel Hamner, (*insert name*) certify as an authorized representative of Debilitating Medical Conditions Treatment Centers, Inc. (*insert name of applicant*) that the applicant has executed a host community agreement with Whately (*insert name of host community*) pursuant to G.L.c. 94G § 3(d) on July 15, 2020 (*insert date*).

  
Signature of Authorized Representative of Applicant

### Host Community

I, Frederick Orloski, (*insert name*) certify that I am the contracting authority or have been duly authorized by the contracting authority for Whately (*insert name of host community*) to certify that the applicant and Whately (*insert name of host community*) has executed a host community agreement pursuant to G.L.c. 94G § 3(d) on July 15, 2020 (*insert date*).

  
Signature of Contracting Authority or  
Authorized Representative of Host Community



THE BERKSHIRE DESIGN GROUP, INC.

Re. 7 River Rd

Pay To Town of Whately

Invoice No.	7 River Road Whately	Invoice Date	10/11/2022	Invoice Amount	175.00	Amount Due	175.00	Notes:
								Special Permit App

1 / 34 U  
10/11/2022



The Berkshire Design Group, Inc.

4 ALLEN PLACE  
NORTHAMPTON, MA 01060-3016  
413-582-7000

FLORENCE BANK  
53-7168/2118

17340

Re. 7 River Rd  
One Hundred Seventy Five and 00/100 Dollars

PAY TO THE ORDER OF  
Town of Whately  
P. O. Box 447  
Haydenville, MA 01039

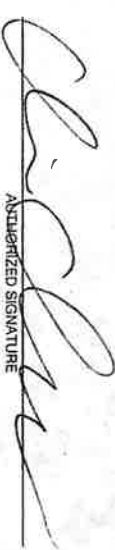
10/11/2022

\$175.00

DATE

AMOUNT

VOID AFTER 90 DAYS FROM DATE OF CHECK

  
AUTHORIZED SIGNATURE

⑈017340⑈ ⑆211871588⑆ 19 80 859301⑈

