



City of New Bedford Department of City Planning

133 William Street · Room 303 · New Bedford, Massachusetts 02740
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MAYOR
JON MITCHELL
DIRECTOR
JENNIFER CARLONI

PLANNING BOARD

May 2, 2023

Councillor Ryan Pereira, Chair, Committee on Ordinances
133 William Street
New Bedford, MA 02740

RE: WRITTEN MOTION – ORDINANCE AMENDMENT for extending marijuana establishment hours of operation from 9:00 AM to 9:00 PM.

Dear Councillor Pereira:

This is to advise you of the Planning Board's action on Wednesday, April 12, 2023, regarding the request by Councillor-at-Large Ian Abreu and Ward 4 Councillor Derek Baptiste for the Planning Board to review and make a recommendation to the City Council for its consideration regarding extending marijuana establishment hours of operation from 9:00 AM to 9:00 PM. **The Planning Board sends a favorable recommendation for the ordinance amendment.**

At the hearing, Planning Board Chair Arthur Glassman read the request and asked if anyone was present to speak on the matter. Councillor-at-Large Ian Abreu introduced himself as co-petitioner, described the history of the City's marijuana ordinance, and attested to how the current hours dictated in the ordinance prevent New Bedford-based marijuana businesses from competing with other marijuana establishments in Massachusetts. Councillor Abreu said his perspective was informed by concerns brought to him by existing marijuana businesses and applicants. Councillor Abreu explained he reviewed the hours of operation for existing marijuana establishments and noted New Bedford has the most restrictive hours.

Ward 4 Councillor Derek Baptiste reiterated Councillor Abreu's concerns and noted extending the hours of operation would benefit employees as well as the businesses. He explained that the existing hours are too restrictive and limit consumer options, resulting in a loss of local business to the surrounding towns.

Board member Kathryn Duff agreed that the hours were restrictive based on a typical workday and indicated a need to support local business. Chair Glassman concurred with Board member Duff.

Board member Kamile Khazan raised concerns about traffic congestion and neighborhood impacts on residents. She noted a recent applicant argued to the Planning Board that the existing hours in the

ordinance would prevent traffic concerns. Board member Khazan said that many liquor stores in the city do not stay open late anymore. She said that marijuana establishments will continue to negotiate site specific hours of operation through the permitting process.

Councillor Baptiste noted many liquor stores are open to 11:00 PM. He noted two marijuana establishments adjacent to residential neighborhoods in a neighboring city. Councillor Baptiste pointed out that customers do not appear to conflict with the neighbors at those locations.

Board member Khazan clarified that her concern was that the existing ordinance had justified in part the Special Permit granted by the Board for the proposed establishment on Church Street.

Councillor Abreu reminded the Board that marijuana establishments are regulated locally and by the state in such a way that businesses are highly incentivized to avoid conflict with the community. He noted his role in developing the local ordinance in regard to regulation of marijuana establishments.

Board member Duff inquired whether any locations in the state are permitted for on-site consumption. Councillor Abreu explained there are none, and consumers are making a purchase and taking it home with them.

Chair Glassman opened the floor to members of the public wishing to speak in favor or opposition.

Stephen Brown of 116 Bedford Street identified himself as the attorney representing Ascend Cannabis at 115 Coggeshall Street in favor of the proposed ordinance amendment. Atty. Brown also expressed his personal support for the amendment and noted the existing ordinance inconveniences local residents. He described the existing hours as overly stringent and capricious.

Jared Walker of 26 Paul Road, Dartmouth, MA, spoke in favor of the ordinance amendment as the assistant general manager at Ascend Cannabis in New Bedford. He reiterated the previous remarks made in support of the amendment by the petitioners and Atty. Brown. Walker explained that the proposed amendment would open opportunities for increased revenue as well as additional wages for employees and job growth in New Bedford.

Board member Khazan inquired about days of operation and why the existing hours do not meet consumer needs. Walker responded that consumers are being turned away at 7:00 PM because the establishment needs to meet compliance. He indicated that regulatory oversight is strict and therefore the establishment must turn people away.

Board member Khazan asked whether those consumers are returning to make a purchase on a different day. Walker responded that personally, through multiple conversations, customers indicated they would go to other towns to make their purchase.

Mike Demarzo of 170 Hadley Street spoke in favor of the amendment as one of the founding members of South Coast Apothecary. He explained that extending the hours may relieve traffic congestion

currently occurring at rush hour. He noted that their particular location does not seem to pose a traffic problem.

Board member Duff noted the amendment would not impact the morning school traffic and may indeed relieve some rush hour congestion. Chair Glassman agreed and noted businesses should not be in a position of losing sales.

Chair Glassman then asked for a motion.

Board member Kalife made a motion, seconded by Board member Duff, to favorably **recommend extending marijuana establishment hours of operation from 9:00 AM to 9:00 PM.**

The motion was approved on a vote of 4-1, with board members Alexander Kalife, Peter Cruz, Kathryn Duff, and Arthur Glassman recorded in favor and board member Kamile Khazan recorded in opposition.

As such, the **Planning Board sends a favorable recommendation.** Please find enclosed a copy of the Department of City Planning Staff Report.

Sincerely,



Jennifer Carloni
Director, Department of City Planning

encl.

- Department of City Planning Staff Report, dated 4/5/23

cc. Jon Mitchell, Mayor
Danny Romanowicz, Building Commissioner
Linda Morad, City Council President

Eric Jaikes, City Solicitor
Dennis Farias, City Clerk



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STAFF REPORT

REPORT DATE
APRIL 5, 2023

MEETING DATE
APRIL 12, 2023

Case #23-15: Ordinance Amendment
Petitioners: City Councilors: Ian Abreu, At Large, and Derek Baptiste, Ward 4
133 William Street, Room 215, New Bedford, MA 02740

Proposal

On March 9, the City Council requested that Planning Board review and make a recommendation on an ordinance amendment proposed to Chapter 9 Section 4133B Paragraph (i) of the Code of Ordinances, relative to “Marijuana Establishment Hours of Operation,” submitted by Councilor-at-Large Ian Abreu and Ward 4 City Councilor Derek Baptiste. The proposed amendment would extend the public-facing hours of operation for marijuana establishments, which are currently limited to 10:00 AM – 7:00 PM, to 9:00 AM – 9:00 PM.

Proposed Ordinance Amendment to Section 4133B, Paragraph (i) with Changes Highlighted	
Existing Ordinance	Proposed Ordinance
The hours of operation shall be set by the special permit granting authority, but in no event shall a Marijuana Establishment or Medical Marijuana Treatment Center that dispenses marijuana or marijuana products to the public be open to the public between the hours of 7:00 p.m. and 10:00 a.m. , Monday through Sunday.	The hours of operation shall be set by the special permit granting authority, but in no event shall a Marijuana Establishment or Medical Marijuana Treatment Center that dispenses marijuana or marijuana products to the public be open to the public between the hours of 9:00 PM and 9:00 AM , Monday through Sunday.

Background

The hours dictated by Section 4133B are maximum allowable public hours of operation for marijuana establishments. As the Special Permit Granting Authority (SPGA) for marijuana establishments, the Planning Board is empowered to further limit an establishment’s public hours when approving a Special Permit for a Marijuana Establishment, and to date, the Board has not exercised this authority. The proposed amendment would not alter the Board’s ability to set hours for future establishments, if deemed necessary. To date, the Planning Board has approved two (2) Special Permits for a Marijuana Establishment, only one establishment is open to the public, Ascend at 115 Coggeshall Street, and it operates from 10:00 AM – 7:00 PM, in accordance with the Zoning Ordinance.

Input from other City Departments

The proposed amendment was distributed to relevant City departments. No comments have been received as the writing of this memo. Any comments subsequently received will be provided at the Planning Board’s public hearing.

For the Board Member Consideration

The state law and regulations for adult use marijuana do not specify hours of operation for marijuana retail establishments. However, more recent state regulations devised for marijuana social consumption establishments and

home delivery services restrict hours to 8:00 AM – 9:00 PM. To understand restrictions imposed by other municipalities, Planning staff surveyed communities throughout Massachusetts (see Exhibit A) Overall, New Bedford has hours of operations for marijuana establishments that are more restrictive than any of the communities surveyed. Many communities seem to follow the restrictions for package stores: 8:00 AM – 11:00 PM Monday through Saturday, and 10:00 AM – 11:00 PM on Sunday.

As noted above, the proposed amendment would not impact the Planning Board’s authority to set specific hours for marijuana establishments as part of the special permit process. Marijuana establishments that have already received a special permit would have to submit a request for a modification to the Planning Board for review and approval.

Exhibit A: Survey of Zoning Ordinances Governing Marijuana Establishment Hours

Community	Set Hours in Ordinance	SPGA can set hours
Athol	Monday – Saturday: 8:00AM to 11:00 PM Sunday: 10:00 AM to 11:00 PM	Yes
Attleboro	8:00 AM to 8:00 PM ¹	Yes
Brockton	Medical: 8:30 AM to 7:00 PM Recreational: 8:00 AM to 8:00 PM	No
Cambridge	No	No ²
Framingham	No	No ³
Greenfield	7:00 AM to 10:00 PM	Yes
Haverhill	Monday – Saturday: 9:00 AM to 9:00 PM Sunday: 12:00 noon to 9:00 PM	No
Holyoke	8:00 AM to 11:00 PM	No
Hudson	8:00 AM to 10:00 PM	Yes
Lynn	No	Yes
Millbury	No ⁴	Yes
Worcester	Monday – Saturday: 8:00 AM to 11:00 PM Sunday: 10:00 AM to 11:00 PM	Yes
Quincy	Monday – Saturday: 8:00AM to 11:00 PM Sunday: 10:00 AM to 11:00 PM	No

¹ Attleboro Planning staff advise that their council is debating expanding hours to 11:00 PM.

² Cambridge grants the Police Chief authority to review and approve hours.

³ Framingham sets hours of operation as part of host community agreement negotiation.

⁴ Millbury Planning staff note SPGA set hours have generally aligned with package store hours.

Materials Provided are available at: <https://www.newbedford-ma.gov/planning/planning-board-agenda-info-2023/>

Staff Report prepared by: Michael McCarthy, Assistant City Planner