



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

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**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
AMENDMENT TO DECISION
Application No. 2017-01**

29-37 Franklin Street

**Sira Naturals, Inc., d/b/a Ayr
October 18, 2022**

(Original Decision dated June 13, 2017)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Sira Naturals, Inc., d/b/a Ayr, of 300 Trade Center, Suite 7750, Woburn, MA 01801, (hereinafter referred to as the Petitioner) for property located at 29-37 Franklin Street, Needham, Massachusetts. Said property is shown on Assessors Plan No. 75 as Parcels 6 and 8 containing a total of 13,365 square feet in the Mixed-Use 128 Zoning District.

This Decision is in response to an application submitted to the Board on July 28, 2022 by the Petitioner for: a Major Project Site Plan Review Special Permit amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 4.2 of Major Project Site Plan Review Special Permit No. 2017-01, dated June 13, 2017.

The requested Major Project Site Plan Review Special Permit, would, if granted, amend the existing special permit as follows: FIRST: by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr. SECOND: by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, rather than the Massachusetts Department of Public Health. THIRD: by eliminating the "appointment-only" operational requirement for the facility. FOURTH: by allowing sales of medical marijuana products other than those cultivated and processed at the Petitioner's Milford facility. FIFTH: by allowing an increase in the maximum number of sales stations from five to seven. SIXTH: by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner's main facility in Milford, and by allowing two vans to be kept in the garage at the facility. SEVENTH: by making such additional amendments to the Original Decision dated June 13, 2017 as are needed to comport with the preceding proposed amendments.

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 Chair, Adam Block, on Tuesday, September 20, 2022 at 7:10 p.m. in the Needham Town Hall, Powers Hall, 1471 Highland Avenue, Needham, MA, as well as by Zoom Web ID Number 826-5899-3198. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the September 20, 2022 proceedings. 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** Application for Amendments to Major Project Special Permit No. 2017-01.
- Exhibit 2** Letter from Attorney Robert Smart, dated July 26, 2022, with Exhibits A-H.
- Exhibit 3** Memorandum to David Roche, Building Commissioner, dated June 23, 2022, regarding parking determination, including a letter from Thomas A. Ryder, Town Engineer dated June 16, 2022, and a Memo to the Department of Public Works and Town Engineer dated June 9, 2022.
- Exhibit 4** Memorandum from Scott W. Thornton, Vanasse & Associates, Inc., dated June 7, 2022, regarding traffic and parking assessment.
- Exhibit 5** Plan Sheet A1.1, prepared by Peter Quinn Architects, 259 Elm Street, Suite 301, Somerville, MA 02144, entitled "First Floor Plan Update 7-21-22, dated June 7, 2017, January 2, 2018, April 22, 2022, and July 21, 2022.
- Exhibit 6** Interdepartmental Communications (IDC) to the Board from David Roche, Building Commissioner dated August 30, 2022 and September 15, 2022; IDC to the Board from Chief John Schlittler, Police Department, dated September 14, 2022 and September 19, 2022; IDC to the Board from Tara Gurge, Needham Health Department, dated September 13, 2022 and September 20, 2022; and IDC to the Board from Thomas Ryder, Town Engineer, dated September 15, 2022.

EXHIBITS 1, 2, 3, 4 and 5 are referred to hereinafter as the Plan.

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 On June 13, 2017, under Major Project Site Plan Special Permit No. 2017-01, the Board approved the operation of a Medical Marijuana Treatment Center.
- 1.3 By application dated July 28, 2022, the Petitioner is now requesting that the 2017 special permit be amended as follows: FIRST: by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr. SECOND: by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, rather than the Massachusetts Department of Public Health. THIRD: by eliminating the "appointment-only" operational requirement for the facility. FOURTH: by allowing sales of medical marijuana products other than those cultivated and processed at the Petitioner's Milford facility. FIFTH: by allowing an increase in the maximum number of sales stations from five to seven. SIXTH: by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner's main facility in Milford, and by allowing two vans to be kept in the garage at the facility. SEVENTH: by making such additional amendments to the Original Decision dated June 13, 2017 as are needed to comport with the preceding proposed amendments.

- 1.4 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, Section 3.11, written approval of the Planning Board was required for an entity other than Sage Naturals, Inc. to operate the facility. Several developments make approval appropriate. First, the corporate name was changed from Sage Naturals, Inc. to Sira Naturals, Inc. on November 27, 2017. Second, the Cannabis Control Commission approved the change of name on September 3, 2021. Third, the Community Benefit Agreement with the Town was amended on September 21, 2021, to authorize this change. Fourth, a filing indicating that Sira Naturals, Inc. is doing business as Ayr was made with the Needham Town Clerk on March 11, 2022. (See Exhibits A-D as part of the Petitioner's application letter).
- 1.5 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, the Medical Marijuana Treatment Center was required to 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. The Massachusetts state legislature established the Cannabis Control Commission, by Chapter 55 of the Acts of 2017, and it mandated a transfer of the administration and oversight of the Massachusetts Medical Use of Marijuana Program from the Department of Public Health to the Cannabis Control Commission as of December 31, 2018. (See Exhibit E as part of the Petitioner's application letter).
- 1.6 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, the medical marijuana facility was required to be operated on an appointment-only basis, per Sections 1.8 and 3.7, among others. The Petitioner asserts that the requirement of appointments creates an administrative burden for Sira employees and patients. Patients often cancel appointments at the last minute, or simply don't come on the dates and times of their appointments. This leaves designated appointment times unused and unable to be subsequently scheduled. In addition, requiring an appointment may keep a patient from coming to the facility at a time which is convenient for the patient. Managing an appointment calendar, in addition to conducting the normal check-in process, takes more time for the processing of each visit.
- 1.7 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, Section 1.4 stated and Section 3.7 required that the medical marijuana facility will only dispense medical marijuana products that are cultivated and processed at the Petitioner's Milford facility.
- 1.8 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, the medical marijuana facility was required to have no more than 5 sales stations, per Sections 1.8 and 3.7, among others. The Petitioner asserts that the addition of two sales stations to the five currently permitted will allow Sira to complete transactions with patients more quickly, resulting in a reduction in the time a patient's vehicle will be parked at the facility. Since the existing Planning Board special permit already allows Sira to have eight employees on site at one time, there will be enough staff for seven sales stations.
- 1.9 Under the terms of Major Project Site Plan Special Permit No. 2017-01, dated June 13, 2017, Section 1.6 stated and Section 3.7 required that the attached garage will house the van to be used for home deliveries during the day and that the van will be housed overnight at the Petitioner's main facility in Milford, Massachusetts. The Petitioner asserts that this restriction has prevented the Petitioner from making home deliveries, which are allowed by the Decision. Home deliveries would reduce the need for patients to drive to the facility, park, and drive home. The Petitioner claims that this restriction causes significant operational problems. Requiring the housing of delivery vehicles in Milford means that at the end of each

day, these vehicles are driven empty to Milford, only to be driven back the next morning, empty, before they can be filled with the day's orders for delivery to patients in Needham and surrounding communities. Milford is a 45-minute drive from Needham. This is a waste of gas. The Petitioner has also asked to be allowed to hold and operate two vans for home deliveries. There are no operational or safety reasons to require return of vans being used for home deliveries to Milford each evening. The vans will be stored in the garage, which is safely locked at night.

- 1.10 No changes to the footprint of the building(s) at the facility, or to its parking space layout, are contemplated.
- 1.11 Based on Memorandum from Scott W. Thornton, Vanasse & Associates, Inc., dated June 7, 2022, regarding traffic and parking assessment (Exhibit 4) and letter directed to Planning Board, from Thomas Ryder, Town Engineer, dated June 16, 2022 (exhibit 6), the Board voted on June 23, 2022 to recommend a parking requirement total of 18 parking spaces contingent upon the property being used as described in the materials provided and detailed above.
- 1.12 The Planning Board finds the amendments proposed by the Petitioner to be appropriate, but wishes to ensure that said proposals by the Petitioner do not result in increased traffic, parking needs or other burdens to the neighborhood. Due to this use being the only one of its kind in Needham, as well as the comments from the Police Department and testimony at the hearing, the Board is approving the requested changes for a limited time.

THEREFORE, the Board voted 5-0 to GRANT the following requested amendments to the 2017 special permit permanently: FIRST: by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr; SECOND: by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, in addition to the requirements of the Massachusetts Department of Public Health, as applicable; THIRD by allowing sales of medical marijuana products other than those cultivated and processed at the Petitioner's Milford facility; FOURTH: by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner's main facility in Milford, and by allowing two vans to be kept in the garage at the facility; and to GRANT the following requested amendments to the 2017 special permit for a limited time of 8 months (until June 18, 2023) with the Petitioner permitted to submit an application for any requested extension within 6 months (by April 18, 2023), but no sooner than 5 months of this Decision: FIFTH: by eliminating the "appointment-only" operational requirement for the facility; SIXTH: by allowing an increase in the maximum number of sales stations from five to seven; 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 Commissioner 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 Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner 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 Commissioner to the Board prior to the issuance of a Building Permit.

2.1 No Plan Modifications.

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 3.6 hereof.
- 3.1 The conditions and limitations set forth in Major Project Site Plan Special Permit No. 2017-01, issued to Sage Naturals, Inc., formerly known as Sage Biotech, Inc. and Sage Cannabis, 13 Commercial Way, Milford, MA 01757, dated June 13, 2017, as further amended by this Amendment are ratified and confirmed.
- 3.2 The Board approves the following amendments to the 2017 special permit permanently: FIRST: by authorizing the activities permitted at 29-37 Franklin Street, Needham, to be conducted by Sira Naturals, Inc. d/b/a Ayr; SECOND: by requiring the Petitioner to comply with the requirements of the Massachusetts Cannabis Control Commission, in addition to the requirements of the Massachusetts Department of Public Health, as applicable; THIRD by allowing sales of medical marijuana products other than those cultivated and processed at the Petitioner's Milford facility; FOURTH: by eliminating the requirement that the delivery van(s) for home deliveries be housed at the Petitioner's main facility in Milford, and by allowing two vans to be kept in the garage at the facility.
- The Board approves the following amendments to the 2017 special permit for a limited time of 8 (eight) months (until June 18, 2023) with an application to be submitted for any requested extension, which may include making the amendments permanent, within 6 (six) months (by April 18, 2023), but no sooner than 5 months, of this Decision: FIFTH: by eliminating the "appointment-only" operational requirement for the facility; SIXTH: by allowing an increase in the maximum number of sales stations from five to seven..
- 3.3 Within 6 (six) months from the date of this Decision (April 15, 2023), but no sooner than 5 months, if the Petitioner wishes to maintain the changes granted temporarily herein, the Petitioner shall file another application to the Planning Board requesting to make the changes permanent. The Board will subsequently schedule a public hearing and process said application with all the hearing and notice requirements of M.G.L. Chapter 40A.
- 3.4 If the Petitioner does not file for the above noted extension of the approval, the time limited authorizations granted in Section 3.2 hereof will automatically expire in 8 months (June 15, 2023) from the date of this Decision.
- 3.5 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.
- 3.6 Violation of any of the conditions of this Approval 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 Approval, 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 Commissioner to revoke any building permit or certificate of occupancy granted hereunder, or for other recommended relief. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Approval 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 Approval 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 site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, Section 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 and Site Plan Review. 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 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 M.G.L. Chapter 40A, Section 11, this Major Site Plan 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 18th day of October, 2022.

NEEDHAM PLANNING BOARD

Adam Block

Adam Block, Chair

Jean S. McKnight

Jean S. McKnight, Vice Chair

Paul S. Alpert

Paul S. Alpert

Artie Crocker

Artie Crocker

Natasha Espada

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Oct. 18 2022

On this 18 day of October, 2022, before me, the undersigned notary public, personally appeared Adam Block, 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 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.

Alexandra Clee

Notary Public Alexandra Clee

My Commission Expires: March 9, 2029

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed by the Sira Naturals, Inc., d/b/a Ayr, of 300 Trade Center, Suite 7750, Woburn, MA 01801, for property located at 29-37 Franklin Street, Needham, Massachusetts, has passed,

 and there have been no appeals filed in the Office of the Town Clerk or
 there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

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

Board of Selectmen
Engineering
Fire Department
Police Department
Robert Smart, Attorney
Parties in Interest