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PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

**SPECIAL PERMIT
AMENDMENT TO DECISION
Application No. 2017-01**

29-37 Franklin Street

**Sira Naturals, Inc., d/b/a Ayr
June 6, 2023**

(Original Decision dated June 13, 2017, amended October 18, 2022)

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 April 13, 2023 by the Petitioner for: a Special Permit amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 4.2 of Special Permit No. 2017-01, dated June 13, 2017, amended October 18, 2022.

The requested Special Permit Amendment, would, if granted, amend the existing special permit as follows: FIRST: by making permanent the elimination of the "appointment only" operational requirement for the facility; and SECOND: by making such additional amendments to the Decision as are needed to comport with the preceding proposed amendment.

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, May 16, 2023 at 7:00 PM in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264 . Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the May 16, 2023 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 Special Permit No. 2017-01, with Exhibit A.

Exhibit 2 Letter from Attorney Robert Smart, dated April 13, 2023.

- Exhibit 3** “Operations Narrative for the 29-37 Franklin Street, Needham Facility,” prepared by Richard Parsons, Operations Manager, Sira Naturals, dated April 13, 2023.
- Exhibit 4** Letter from Scott W. Thornton and Derek Roach, Vanasse and Associates, Inc., dated April 11, 2023.
- Exhibit 5** Interdepartmental Communications (IDC) to the Board from David Roche, Building Commissioner dated May 10, 2023; IDC to the Board from Chief John Schlittler, Police Department, dated April 28, 2023; IDC to the Board from Tara Gurge, Needham Health Department, dated May 10, 2023; and IDC to the Board from Thomas Ryder, Town Engineer, dated May 10, 2023.

EXHIBITS 1, 2, 3 and 4 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 Special Permit No. 2017-01, the Board approved the operation of a Medical Marijuana Treatment Center.
- 1.3 By Amendment to Decision dated October 18, 2022, the Board approved 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; and 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 approved 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; and SIXTH: by allowing an increase in the maximum number of sales stations from five to seven.

- 1.4 Under the terms of 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.

- 1.5 During the temporary trial period of the elimination of the by-appointment only requirement, Sira did find that the administrative burden on staff was reduced. The Petitioner informed the Board that there has been no undue bunching of patient visits, no lines out the door, and patients have not had to wait to see a sales associate. The facility's on-site and leased parking spaces have been adequate for employee and patient parking.
- 1.6 During the temporary trial period of allowing an increase in the maximum number of sales stations from five to seven, Sira found that the seven stations were not necessary and does not request to make that change permanent.
- 1.7 No changes to the footprint of the building(s) at the facility, or to its parking space layout, are contemplated.
- 1.8 The Planning Board finds the amendment proposed by the Petitioner to permanently eliminate the appointment-only component of the facility to be appropriate, and finds that it does not result in increased traffic, parking needs or other burdens to the neighborhood.

THEREFORE, the Board voted 4-0 to GRANT the following requested amendment to Special Permit No. 2017-01, dated June 13, 2017, amended October 18, 2022: permission to eliminate the "appointment-only" operational requirement for the facility permanently; 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 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 well as those set forth in Amendment to Decision dated October 18, 2022, issued to Sira Naturals, Inc., d/b/a Ayr, of 300 Trade Center, Suite 7750, Woburn, MA 01801 are ratified and confirmed, except as amended

herein.

- 3.2 The Board approves the requested amendment to Special Permit No. 2017-01, dated June 13, 2017, amended October 18, 2022 for permission to eliminate the “appointment-only” operational requirement for the facility permanently.
- 3.3 Although the 2022 Amendment permitted the temporary increase in the maximum number of sales stations from five to seven, the Petitioner no longer requests this change. The number of sales stations shall remain at the originally approved number of five sales stations.
- 3.4 The Petitioner shall continue to walk the entire subject property daily to ensure that there is no trash and no smoking on the subject property and on the sidewalk and parking spaces adjacent to the subject property.
- 3.5 Sira management, on the first instance of any parking or behavioral issues, shall be immediately responsive. There shall be a sign posted visibly on site providing the name and phone number of the current store manager with whom anyone can speak regarding questions or concerns about parking or any other issues.
- 3.6 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.
- 3.7 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 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.

- 4.2 This decision applies only to the requested Special Permits. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 4.3 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.4 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.
- 4.5 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 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 6th day of June, 2023.

NEEDHAM PLANNING BOARD

Adam Block

Adam Block, Chair

Natasha Espada, Vice Chair

Paul S. Alpert

Artie Crocker

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

June 6, 2023

On this 6 day of June, 2023, 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

Needham Planning Board Decision – Sira Naturals, Inc., d/b/a Ayr Amendment
June 6, 2023