



City of Somerville

# PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

**TO:** Planning Board  
**FROM:** Planning & Zoning Staff  
**SUBJECT:** 67 Broadway, P&Z 21-005  
**POSTED:** July 22, 2021

**RECOMMENDATION:** Approve with Conditions (Cannabis Retail Sales Special Permit)  
Approve with Conditions (Site Plan Approval)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from the Planning & Zoning staff to the Review Board members.

This memo summarizes the development review application submitted for 67 Broadway, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on June 11, 2021, and is scheduled for a public hearing on August 5, 2021. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

## SUMMARY OF PROPOSAL

Revolutionary Clinics II, Inc., is proposing to modify a Commercial Building and establish a Cannabis Retail Sales principal use. The proposed development will produce approximately 1,100 square feet of commercial space, provide 4 long-term bicycle parking spaces, and 0 short-term bicycle parking spaces.

## LEGAL NOTICE

Revolutionary Clinics II, Inc., proposes to modify a 3-story commercial building in the Mid Rise 4 district which requires Site Plan Approval and to establish a Cannabis Retail Sales use which requires a Special Permit.

## ADDITIONAL REVIEW NECESSARY

67 Broadway is located on a Pedestrian Street in the Mid Rise 4 zoning district in the East Somerville neighborhood represented by Ward 1 Councilor Matt McLaughlin. The proposed modifications to the Commercial Building require Site Plan Approval and the Applicant is seeking a Special Permit to establish a Cannabis Retail Sales use. Site Plan Approval is the administrative review and approval of conforming development to address any potential impacts as necessary. The Planning Board is the decision-making authority for all (non-variance) discretionary or administrative permits required for the

MR4 zoning district. The proposed signage requires Minor Site Plan Approval, approval of which the Planning Board has delegated to the Director of Planning & Zoning.

## **DESIGN REVIEW**

The proposal was reviewed by the Somerville Urban Design Commission (UDC) during virtual meetings on January 26, 2021, and February 23, 2021. The Commission voted on February 23, 2021, and provided its official recommendation on March 11, 2021.

## **NEIGHBORHOOD MEETINGS**

The first neighborhood meeting was held virtually on January 5, 2021, at 6pm. The second neighborhood meeting was held virtually on March 29, 2021, at 6pm. Summaries of each meeting have been provided to the Board.

## **BACKGROUND**

In March 2017, the Applicant received a Special Permit from the Planning Board to establish a Medical Marijuana Facility at this location (PB 2017-01). This approval was explicitly for a Medical Marijuana Facility (SZO §7.15) as Recreational Marijuana Facilities (SZO §7.16) were not permitted by the Ordinance at that time. The addition of recreational sales to an existing medical sales location would have required a Special Permit under SZO §7.16, as medical and recreational facilities were regulated as distinct uses under that Ordinance.

On December 12, 2019, the Somerville Zoning Ordinance governing the previously issued Special Permit was repealed and replaced by an entirely new ordinance. Under this new ordinance, marijuana retail facilities are not distinguished based on whether they sell medical or recreational products.

Therefore, to add recreational sales at this location the Applicant must apply for a new Special Permit under the current zoning ordinance. If granted, the Cannabis Retail Sales Special Permit will encompass both medical and recreational sales at the location, allowing the Applicant to abandon their previous Special Permit from 2017. If that permit is abandoned, the Applicant will no longer be bound by the conditions of approval included there. Therefore, Staff has reviewed PB 2017-01 to determine which conditions may still be relevant to how the use operates at this site but found that the conditions recommended by the Mobility Division in their attached memo encompass all the potentially relevant conditions from that previous approval.

## **ANALYSIS**

Revolutionary Clinics currently operates a medical cannabis dispensary in the front portion of the building at 67 Broadway, with the rear portion operating as a garage and vehicle storage. This proposal is to convert the existing garage into a new recreational sales area; this includes a slight expansion of the footprint of the building (which triggers

the need for Site Plan Approval) and replacing the garage doors with fenestration but otherwise the proposal consists of primarily interior modifications.

The medical and recreational sales floors will be entirely separate with separate entrances for customers, although they will share many back-of-house functions including trash areas, loading areas, and parking.

The Mobility Division has reviewed the Applicant's Transportation Impact Study (TIS) and provided a memo to the Board; the conditions recommended by the Mobility Division have been incorporated into this memo. Some of the memo's key points are summarized here:

- The Applicant's TIS that the location has more than sufficient motor vehicle parking to handle the additional customers expected, and the Mobility Division recommends that one or more of the existing motor vehicle parking spaces be removed or converted into short-term bicycle parking. The current proposal includes 4 new long-term bicycle parking spaces and 0 new short term bicycle parking spaces.
- The Applicant's TIS finds that the additional trips generated as a result of this proposal will result in a decline in the level of service at nearby intersections, and the Mobility Division recommends that the Board require the Applicant to contribute \$15,000 to a stabilization fund for traffic signal and striping modifications in the nearby area to mitigate this impact on the street network.
- The Mobility Division recommends a number of conditions to ensure implementation of the Transportation Demand Management (TDM) proposed by the Applicant and recommended by the Mobility Division.
- Based on the assumptions stated in the Transportation Impact Study, the Mobility Division recommends requiring the Applicant to operate on an appointment-only basis until they provide additional information.

One item that always draws Staff's attention for cannabis retail sales uses is how Applicants propose to satisfy the Ordinance's requirements for fenestration and design of storefronts while also complying with the requirements of 935 CMR 500 which limit the visibility of cannabis-related products. While it is not Staff's or the Board's role to review an application for compliance with 935 CMR 500, Staff reminds Applicants throughout the special permit process that the CCC's requirements do not supersede the requirements of the Ordinance, and that proposals must comply with both sets of requirements. Staff have made clear that installing privacy film on windows does not satisfy the Ordinance's requirements regarding fenestration, and that all fenestration must comply with the Ordinance's standards for Visible Light Transmittance (VLT) and Visible Light Reflectance (VLR).<sup>1</sup> The Applicant has indicated to Staff that the proposed "security glass" will meet the Ordinance's standards for fenestration enclosed with glazing, but have not provided material specifications for the windows. Staff have

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<sup>1</sup> The Board may note that many of the windows that look into the medical sales area have privacy film. As that is a pre-existing condition, the Applicant is not required to remove the privacy film from those windows. However, privacy film cannot be installed on new windows that are being counted towards the minimum fenestration requirement.

included a condition which requires that material specifications be submitted to confirm compliance with the Ordinance prior to receiving a building permit.

The one area that the Applicant appears unlikely to have challenges with the VLT and VLR requirements for fenestration is the storefront. All ground floor commercial spaces are required to have at least one storefront, but due to the pre-existing nature of this building the storefront for this space is very narrow – it is only the area between the two white pilasters where the entry door is proposed to be. Behind the entry door the Applicant proposes a small “secured entry” that allows customer identification to be checked prior to accessing the sales floor. The windows from the exterior into the secured entry must satisfy the VLT and VLR requirements, but any windows from the secured entry onto the sales floor are not regulated by the Ordinance and are not required to comply with the VLT and VLR requirements.

## **CONSIDERATIONS & FINDINGS**

The Planning Board is required by the Somerville Zoning Ordinance to deliberate each of the following considerations at the public hearing. The Board must discuss and draw conclusions for each consideration, but may make additional findings beyond this minimum statutory requirement.

### **Site Plan Approval Considerations**

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. Mitigation proposed to alleviate any impacts attributable to the proposed development.

### **Special Permit Considerations**

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
4. Location, visibility, and design of the principal entrance.

Information relevant to the required considerations is provided below:

### **Site Plan Approval and Special Permit**

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The proposal will help achieve the following goals of SomerVision 2030, the comprehensive Master Plan for the City of Somerville.

- Promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs
- Support a business-friendly environment to attract and retain a diverse mix of businesses that can start here, grow here and stay here.

2. *The intent of the zoning district where the property is located.*

The proposal is consistent with the intent of the MR4 zoning district which is, in part, “To create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings and neighborhood serving uses.”

**Site Plan Approval Specific**

3. *Mitigation proposed to alleviate any impacts attributable to the proposed development.*

As conditioned, it is not expected that there will be any negative impacts attributable to the proposed development.

**Cannabis Retail Use Special Permit Specific**

4. *Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.*

The proposal includes the reducing the existing number of motor vehicle parking spaces by 1, for a total of 14 motor vehicle parking spaces (two of which are wheelchair accessible) and adding 4 long-term bicycle parking spaces.

After reviewing the Applicant’s Transportation Impact Study (TIS), the Mobility Division recommended further reducing the number of motor vehicle parking by one space and using that area for additional bicycle parking spaces, particularly for short-term parking. These recommended changes, in addition to contributions to a stabilization fund for traffic signal and striping modifications in the nearby area, will help reduce the expected negative impacts from this proposal on the local thoroughfare network.

5. *Location, visibility, and design of the principal entrance.*

The principal entrance for the medical portion of the cannabis retail sales use is on Broadway and is unchanging from what has existed since 2017. Wall signs reading “Revolutionary Clinics” are on both the Broadway and the Pennsylvania Ave facades and mark the location of this entrance.

The principal entrance for the recreational portion of the cannabis retail sales use is on Pennsylvania Ave, around the corner from the medical entrance. This entrance will be marked by a blade sign above the entrance, although the blade sign may not be visible to pedestrians on the Broadway sidewalk due to the configuration of the building. This entrance is accessed through the parking lot and does not directly abut a public sidewalk.

## PERMIT CONDITIONS

Should the Board approve the necessary *Site Plan Approval for modifying a commercial building*, Staff recommends the following conditions:

### Validity

- This Decision must be recorded with the Middlesex South Registry of Deeds.
- Construction documents must be substantially equivalent to the approved plans and other materials submitted for development review.

### Construction Documents

- Utility meters are not permitted on any facade or within the frontage area of the lot.
- Material specifications from suppliers must be submitted to confirm fenestration glazing is compliant with the VLT and VLR ratings required by the Somerville Zoning Ordinance.
- An outdoor lighting plan and supplier cut sheet specifications of chosen lighting fixtures must be submitted to confirm compliance with Section 10.7 Outdoor Lighting of the Somerville Zoning Ordinance. The site photometric plan must include a keyed site plan identifying the location of all luminaires; total site lumen limit table (calculations from the SZO); lighting fixture schedule indicating the fixture type, description, lamp type, lumens, color temperature, color rendering index, BUG rating, mounting height, and wattage of all luminaires; and notation of any timing devices used to control the hours set for illumination.

### Public Record

- Physical copies of all submittal materials as permitted by the Review Boards must be submitted for the public record in accordance with the document format standards of the ISD/PB/ZBA Submittal Requirements.
- A copy of the Recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted for the public record.

Should the Board approve the required *Special Permit to establish a Cannabis Retail Sales use*, Staff recommends the following conditions:

### General

- Approval is limited to Revolutionary Clinics II, Inc., and is not transferable to any other party in interest.

- A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be submitted to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

#### Validity

- This permit is valid subject to Revolutionary Clinics II, Inc., having a fully executed and active Host Community Agreement with the City of Somerville.

#### Mobility

- Retail sales to walk-in customers are prohibited. Customer visits must be by appointment only.
- Any change to the means of sales requires a new Transportation Impact and Access Study (TIAS). The scope of the TIAS must be approved by the Director of Mobility.
- Revolutionary Clinics shall provide employees 100% subsidized MBTA passes, or up to the federal maximum Qualified Transportation Fringe benefits per current U.S. Internal Revenue Code (\$270 per month in 2021), subject to annual increases.
- Revolutionary Clinics shall provide employees 100% subsidized Bluebikes public bikeshare memberships, subject to annual rate increases.
- Revolutionary Clinics shall post information about non-vehicular services available in the area on the website and in materials posted at the store.
- Revolutionary Clinics shall provide discounts or other incentives to customers who take non-vehicular or public transportation modes to the site.
- Revolutionary Clinics shall provide real time transit information consisting of a connected TransitScreen display (or equivalent service) in an area visible to customers and at the bus shelter [Stop ID 2718] displaying real time MBTA and bike share information.
- Revolutionary Clinics shall remove parking spaces #1 and #14, as shown in the TAP site plans, and install additional short or long-term bicycle parking in that space.
- Revolutionary Clinics shall commit to annual monitoring and reporting of the appointment-only recreational marijuana operations model. The annual report shall include at least the following information:
  - a. A statistically valid travel surveys of employees and customers
  - b. A status update on the implementation of all TDM measures.
- If annual reporting shows that the Applicant is not meeting existing mode split in the Census Tract and/or the actual vehicle mode share found at the project site is increasing, the Applicant shall reduce the amount of parking spaces provided at the project site. These spaces can be blocked off or turned into short-term or long-term bicycle parking.
- Revolutionary Clinics shall collect existing conditions traffic data and submit TIS addendum including capacity analysis of study area intersections.
- To mitigate transportation impacts, the signal timing and pavement markings of impacted intersections must be improved as required by the Director of Mobility.

Final mitigation or its substantial equivalent must approved by relevant City departments.



## **Subject: 67 Broadway TIS and TAP Review**

This memo outlines preliminary comments from the Mobility Division regarding the applicant's Transportation Impact Study (TIS) and Transportation Access Plan (TAP) for the above-referenced property. It is the Mobility Division's intent to provide as much comment as possible at this time in order to help inform stakeholder dialogue.

### **Review of Mobility Requirements**

#### Public Transportation, Walking, and Bicycling

The project location is in a transit area and on a pedestrian street, as defined in the Somerville Zoning Ordinance (SZO). As noted in the TIS, the project site is within ½ mile of 13 bus routes and 2 rapid transit stops. Of those, four major bus routes are within ¼ mile of the project site including the 101, 93, and the 89 which run down Broadway. Travel time and reliability for these bus routes has been significantly improved since implementation of the Central Broadway bus lanes. The City continues to work with the MBTA to extend this priority bus treatment further east on Broadway to continue to improve bus service along this important corridor. Improved bus mobility is a key element necessary to reach the City's climate and Vision Zero goals and the Mobility Division is committed to working with businesses to help achieve those goals.

In addition to improved bus mobility, bicycling is a key mode that the City works to improve. The City has plans to create parking protected bike lanes along this section of Broadway in the project area. The provision of adequate short and long-term bicycle parking is central to customers and employees being able to use bicycles to access businesses and residences. The Applicant is proposing to add four long-term bicycle parking spaces and zero short-term bicycle parking spaces. With the addition of 30 customers per hour, as well as the Applicant's analysis that existing parking in the 14-space parking lot is under-utilized (described in more detail below), the Mobility Division recommends utilizing one or more of the existing parking spaces for the provision of short-term bicycle parking.

The Mobility Division also notes that public bike share is an increasingly important part of Somerville's public transit ecosystem. In 2019 Somerville added eight bike share stations across the city. September 2019 was Somerville's most successful month on record, with more than 20,000 trips starting in Somerville. In January 2020, there were 7,500 trips beginning in Somerville, compared with only 3,000 trip-starts in January 2019. A BlueBikes Station is located in a public parking lot, approximately 0.15 miles east of the project site.

#### Traffic Data

The applicant's TIS was submitted, as agreed to by the City of Somerville's Mobility Division, with 2015 and 2019 traffic data. The applicant and the City agreed that new data will be collected in the spring of 2021 and existing conditions capacity analysis will be completed. In addition to 2021 data being collected, the 2019 data did not include Saturday traffic counts. As of June 5, 2021, the applicant still needs to submit 2021 data including Turning Movement Counts (TMCs) and Automatic Traffic Recorder Counts (ATRs) as well as an addendum to the TIS that uses the updated data to summarize the existing conditions and future project capacity analysis for study area intersections.

### Trip Generation

The applicant's TIS states that the proposed facility's operating hours will begin at 9:00am. Although this restriction on business hours is not explicitly described as a Transportation Demand Management (TDM) measure, it will offer some similar benefits by reducing the number of site-generated customer trips during peak morning commute times on weekdays. The TIS describes that the proposed facility will initially operate as an "appointment only" facility that effectively limits customers to 30 additional customers per hour, above existing operations. The TIS uses a mode split based on the Census Tracts in which the site is located, and assumes that 54% of customers will arrive by private motor vehicle. Based on this, there would be approximately 16 additional customer trips made by motor vehicle each hour.

While additional customer trips will be made outside of peak commute times, TIS states that employee shifts are expected to be 8:00am to 5:00pm and 11:00am to 9:00pm, and that additional employee trips would occur during Weekday AM and Weekday PM peak hours. The TIS further states that there would be 10 additional employees on-site and, based on US Journey-to-Work data, this would result in 4 employees commuting via motor vehicle and 6 commuting via non-vehicular modes. This impact does not appear to be analyzed in the TIS. Table 3.3-1 shows zero employee vehicle trips for all time periods. Additionally, the applicant states that employee parking is provided at an off-site, off-street location that is within walking distance to the project site. The impact of additional vehicle trips to this off-site parking area is not analyzed in the TIS.

The TIS, as submitted, does not account for existing trips made by customers and employees. In addition, it counts service and delivery trips, some of which may exist currently. This makes it difficult to understand how the proposed project is projected to change existing operations and the traffic impacts of those changes.

Based on the trip generation and distribution analysis, the Applicant's TIS concludes that the southbound left movement at the Broadway and Mt. Vernon/Lombardi Street intersection would decline in level of service. This impact is seen in the 2021 Build Conditions Vehicle Analysis (Section 3.1.3, Table 3.1-2). The 2021 Build Conditions analysis factors in existing traffic and traffic resulting from the proposed project; no background growth is included in the 2021 Build Conditions analysis, this future condition analyzes the impact of the proposed project given existing traffic levels. Based on this decline in LOS as a result of the proposed project, the

Mobility Division recommends a condition that the Applicant contribute \$15,000 to a stabilization fund for traffic signal and striping modifications in the vicinity of the project.

Finally, The Mobility Division notes that in the case that the Applicant would like to change the operating model to walk-in, the impact analysis in the current TIS is not sufficient to account for, understand, and mitigate potential impacts to the roadway network and traffic safety in the neighborhood. If the applicant wants to switch to a walk-in model, the Mobility Division will review a revised TIS submittal presenting data from the first period of operation and accounting for the additional trips and impact on the roadway network under the proposed new operations model.

### Vehicle and Bicycle Parking

The TIS describes that the existing parking lot is under-utilized. During parking data collection, two of the 14 existing parking spaces were unable to be utilized due to snow storage and patient queueing. Therefore, even with the reduced parking during the TIS parking study (12 spaces versus 14 spaces) the maximum utilization of the parking lot was only 50% (6 vehicles parked out of the 12 available parking spaces). This data illustrates that there is more parking than is needed for this development. Extensive studies have determined a relationship between parking and automobile mode share. Given the excessive parking proposed, the Mobility Division recommends removing at least two of the existing parking spaces and either blocking them off or using the space for bicycle parking.

In addition to the over supply of vehicle parking, the TIS notes that a total of 6 out of the 10 additional employees would be traveling to the site via non-vehicular modes. The TAP notes that the Applicant intends to construction 4 long-term bicycle parking spaces. There is no description of existing short or long-term bicycle parking at the project site. Removing unnecessary vehicle parking and replacing it with short- or long-term bicycle parking would help the Applicant reach their goals of encouraging employees and customers to travel to and from the project site via non-vehicular modes.

### Transportation Demand Management

In the TIS, the Applicant commits to several Transportation Demand Management (TDM) measures. While the Mobility Division appreciates the Applicant's commitment to provide subsidized transit passes and BlueBike memberships, among other TDM measures, the Division notes that the provision of free parking is the largest contributing factor to individuals' decision to drive to a location. The parking analysis in the TIS proves that the amount of parking provided at the site is over twice as much as is needed given current and future projected vehicle trips to the site. Recommended conditions are included below to address this issue and

to continue to help the City move in the direction of our climate change mitigation and Vision Zero goals.

The City has received applications for similar appointment-only cannabis retail establishments that have proposed to control parking and transportation through an online appointment process. Customers are asked to state their mode of transportation to the site and non-vehicular or public transportation modes are connected to a coupon for their purchase. While there are some unknowns about how this process is tracked and reported, the Mobility Division supports this as a TDM measure.

### **Recommended Conditions**

- The Applicant shall collect existing conditions traffic data and submit TIS addendum including capacity analysis of study area intersections.
- The Applicant shall provide employees 100% subsidized MBTA passes, or up to the federal maximum Qualified Transportation Fringe benefits per current U.S. Internal Revenue Code (\$270 per month in 2021), subject to annual increases.
- The Applicant shall provide employees 100% subsidized Bluebikes public bikeshare memberships, subject to annual rate increases.
- The Applicant shall post information on available non-vehicular services in the area will be posted on the website and available in materials posted at the store.
- The Applicant shall provide discounts or other incentives to customers who take non-vehicular or public transportation modes to the site.
- The Applicant shall provide real time transit information consisting of a connected TransitScreen display (or equivalent service) in the building lobby and at the bus shelter [Stop ID 2718] displaying real time MBTA and bike share information.
- The Applicant shall remove parking spaces #1 and #14, as shown in the TAP site plans, and use these spaces for additional short or long-term bicycle parking.
- The Applicant shall commit to annual monitoring and reporting of the appointment-only recreational marijuana operations model. Data collection shall include statistically valid travel surveys of employees and customers, and a status update on the implementation of TDM measures.
- In the case that annual reporting shows that the Applicant is not meeting existing mode split in the Census Tract and/or the actual vehicle mode share found at the project site is increasing, the Applicant shall reduce the amount of parking spaces provided at the project site. These spaces can be blocked off or turned into short-term or long-term bicycle parking.
- In order to address the reduction in level of service caused by this project, the Applicant shall contribute \$15,000 for use by the City to improve signals and pavement markings in the project area.