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Land Court
Docket Number: 26 MISC 000403

EXHIBIT A

CITY of MALDEN CITY COUNCIL
NOTICE of DECISION

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CASE NUMBER 334-26
LOCATION of SUBJECT PROPERTY 36 Charles Street Malden, MA
NAME of PETITIONER DMS Trinity, LLC
NAME of OWNER Charles Street Realty Trust 2020, Roseanne J. Spinney, TRS
DATE of PUBLIC HEARING June 23, 2026
DATE of DECISION June 23, 2026
DATE of FILING DECISION with CITY CLERK July 6, 2026
DATE of NOTIFICATION to BUILDING INSPECTOR July 6, 2026
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT July 27, 2026
[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]

PROCEDURAL HISTORY (Case 334-26):

1. The subject property is known as and numbered 36 Charles Street, Malden MA and known by City Assessor's parcel 062 239 910.
2. The property owner is Charles Street Realty Trust 2020, Roseanne J. Spinney TRS, 40 Spruce Road, North Reading MA 01867.
3. Petitioner is the proposed tenant, DMS Trinity, LLC, 38 Gould Street, Stoneham MA 02180, doing business as Trinity Naturals.
4. At the hearing, petitioner was represented by Attorney Roberto DeMarco from Foster, Walker & DeMarco, 350 Main Street, Malden MA 02148.
5. The petition filed in Permit Application CMID-040598-2021 filed under Title 12 of the Code of the City of Malden (the Ordinance), seeks to amend the special permit in Case 77-25 to change the name to allow for the transfer of the business.
6. The following information was submitted in support of the current petition: "Addendum to Petition on 36 Charles Street", City Council Petition dated May 7, 2026, prepared by Attorney Roberto DiMarco of Foster, Walker & DiMarco of 350 Main Street Malden.
7. No new plans were submitted with the current petition and there are no changes proposed to the plans approved with the special permit granted in Case 77-25.
8. A special permit for the project was originally granted in Case 202-22 on April 26, 2022, subject to 20 conditions, to allow Marijuana Establishment use of property in the Industrial II zoning district, namely, Marijuana Retailer use of 4,006 square feet at the subject property.
9. On June 6, 2023, in Case 233-23 the City Council granted a 12-month extension of the special permit in Case 202-22, subject to twenty (20) conditions.
10. On February 11, 2025, in Case 77-25 the City Council amended the special permit in Case 233-23 to revise the approved floor plan to increase the size of the premises by approximately 1,627 square feet, subject to twenty (20) conditions.
11. Condition 8 of the special permit granted in Cases 202-22, 233-23, and 77-25 provides that the special permit is non-transferable and non-assignable.
12. All twenty conditions of the special permit, granted in Case 77-25 have been met or will be complied with prior to operation of the business.
13. The petitioner constructed the proposed marijuana retailer at the property pursuant to a building permit issued on May 8, 2024 in Permit #CMID-040598-2021; all work under the building permit passed final inspections by the City; and the City issued an occupancy permit for the marijuana retailer at the property on March 12, 2025 in Permit #COO-071463-2025.
14. Alicia McNeil, City Solicitor, provided information through a memorandum dated June 23, 2026 and verbal testimony at the public hearing regarding the validity of the special permit granted in Case #202-22 and its automatic extension to 2025 by the State Permit Extension Act of 2024 (Chapter 238 of the Acts of 2024); and petitioner's substantial construction and/or substantial use during this statutory period.

15. Nelson Miller, Building Commissioner, and Ron Hogan, Chief Strategy and Innovation Officer, who are both members of the Malden Cannabis Licensing and Enforcement Commission (CLEC), provided information through a memorandum dated June 23, 2026 and verbal testimony at the public hearing regarding the various actions that will be required by the City Council, Mayor, and CLEC and/or State Cannabis Controls Commission (CCC) to allow and approve the transfer of a Marijuana Establishment business and license to a new owner and operator, including the following processes, which will apply to petitioner's current proposal: amendment of the City licensing ordinance and/or promulgation of regulations regarding a local transfer process; vetting and approval by CLEC of the new ownership and operator; negotiation and execution of a new Host Community Agreement; and vetting and approval by the CCC of the new ownership and operator.
16. The Malden Planning Board provided the City Council with an advisory report and recommendations, dated June 10, 2026, pursuant to 12.32.030.B.2 of the Ordinance.
17. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11 and Title 12.32.020K of the MCC.

FINDINGS of FACT (Case 334-26):

The Malden City Council finds the following facts:

1. All facts found in the special permit granted in Case 202-22, Case 233-23, and Case 77-25 except as modified herein.
2. Petitioner seeks to transfer rights authorized by the special permit to a new entity, Beach House Cannabis, LLC, which according to petitioner is "a joint venture between DMS Trinity, LLC and new financial backers and cannabis operational specialists."
3. The petitioner has negotiated a Host Community Agreement with Malden, is in the process of obtaining a local license from Malden CLEC, and has a Provisional Marijuana Retailer License from the State CCC.
4. The petitioner intends to comply with requirements to negotiate a new Host Community Agreement and seek approval from Malden CLEC and State CCC for this proposal.
5. According to petitioner, there is an Asset Purchase Agreement to transfer all of petitioner's assets, including its Provisional Marijuana Retailer License, to Beach House, LLC, subject to receipt of all necessary State and City approvals.
6. According to petitioner, the amendment to the special permit is necessary in order to effectuate the Asset Purchase Agreement and allow the transfer of the business.
7. According to petitioner, petitioner will maintain a financial and operational interest in the business.
8. According to petitioner, additional funding is required to construct and operate the business under the current plan, and this funding is being provided by Beach House Cannabis, LLC.
9. According to petitioner, Beach House Cannabis, LLC is owned by Paul Ferazzi and Casey Baker, who operate The Healing Center in Fitchburg, and are both licensed owners and marijuana establishment agents in good standing with the CCC.
10. The petition does not change the proposal's compliance with use regulations.
11. The petition does not change the proposal's existing violations of dimensional controls.
12. The petition does not change the proposal's existing deficiencies of parking requirements.
13. The Ward One City Councilor is in favor of the amendment of the special permit.
14. The Planning Board recommends to the City Council approval of the petition to amend the special permit granted in Case 77-25 and issue a new special permit, only provided subject to the same twenty (20) conditions of the special permit granted in Case 77-25.
15. In opposition to the petition are the owner and operator of a nearby Malden marijuana retailer, his attorney, and one Malden resident.
16. As modified by the proposed conditions of the special permit, the traffic and traffic patterns generated by the proposed use will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
17. As modified by the proposed conditions of the special permit, the proposed use will not be more detrimental to the neighborhood.
18. As modified by the proposed conditions of the special permit, the proposed use is not in conflict with surrounding land uses.
19. As modified by the proposed conditions of the special permit, the proposed use is in the interest of the common good.
20. Petitioner consents to all proposed conditions of the special permit.

DECISION (Case 334-26):

On June 23, 2026 pursuant to the foregoing Findings of Fact, the Malden City Council amended the special permit in Case 77-25 to remove condition number 8 regarding non-transferability and non-assignability and granted a new special permit subject to the following nineteen (19) conditions:

1. Peer review petitioner's Response to Traffic Peer Review Comments dated February 25, 2022 and implement any recommended mitigation.
2. This special permit authorizes marijuana retailer use of only 5,524 SF of the first floor, as per plans, and specifically: 1,676 SF for retail space, 1,455 SF for loading, delivery area and indoor trash storage, and the remainder, approximately 2,393 SF, for vault, accessory offices and common areas. All other areas of the building shall remain vacant and shall be used for no purpose whatsoever, including storage by the marijuana retailer, and any use or occupancy shall require an amendment to this special permit.
3. The loading and delivery area may be used for parking during retail hours.
4. Install bicycle parking onsite for four bicycles, accessible to customers and employees.
5. Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of DPW Director.
6. Implement Transportation Demand Measures regarding rideshare and parking attendant.
7. All development shall be as per plans, including landscaping of the northwest portion of the lot, except as modified by these conditions.
8. Design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission.
9. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet.
10. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises.
11. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building.
12. Any outside storage of any kind is prohibited.
13. Any outside display of any kind is prohibited.
14. Incorporate odor control technology and provisions and ensure that emissions do not violate M.G.L. c.111 § 31C, including but not limited to those specified for odors.
15. Prior to issuance of any final occupancy permit, submit copies of the following licenses and approvals: a) A valid license issued by the Massachusetts Cannabis Control Commission, as defined herein this Ordinance; b) A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance; c) Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and d) Any required license and/or approvals issued by the Malden Board of Health.
16. Mitigation based on preliminary peer review and after the six-month traffic study is conducted.
17. The Petitioner shall work with the City and the abutting property owners to connect the Spot Pond Greenway Project to the bike path.
18. Provide twelve (12) off-site parking spaces.
19. The hours of retail operation shall be 9:00 A.M. to 9:00 P.M.

RECORD of VOTES (Case 334-26):

A motion was made by Councillor Sica, seconded by Councillor Simonelli, to amend the special permit in Case 77-25 to remove the condition regarding non-transferability and non-assignability and to grant a new special permit subject to nineteen (19) conditions.

Ten were in favor, none opposed, and the motion passed.

The motion carried by the following vote:

Yea: Colón-Hayes, Condon, Crowe, Linehan, Luong, McDonald, Sica, Simonelli, Taylor, Winslow

Nay: None

Absent during vote/non-voting: O'Malley

I, Carol Ann T. Desiderio, City Clerk for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden City Council.

A TRUE COPY
ATTEST: JUL 27 2026

By: Carol Ann T. Desiderio
Carol Ann T. Desiderio, City Clerk

Carol Ann T. Desiderio