

DRAFT 6 17 2020PROPOSED FINDINGS FOR GRANTING OF A SPECIAL PERMIT AND SITE PLAN REVIEW
APPROVALI. INTRODUCTION

Bask, Inc. (“Bask”) seeks a Special Permit and Site Plan Review approval in order to expand its current operations at 2 Pequod Road in Fairhaven, Massachusetts (the “Property”) to include adult use Marijuana Establishment¹ operations. Bask is currently permitted at the Property as a vertically-integrated Medical Marijuana Treatment Center² (“MMTC”), including cultivation, product manufacturing and retail dispensing, pursuant to a Special Permit issued by the Fairhaven Planning Board on April 1, 2015.³

As set forth in the 2015 Special Permit issued to Bask (f/k/a Coastal Compassion, Inc.) and included with this submission, the Planning Board found that Bask’s proposed use of the Property as a medical marijuana facility was consistent with the general purposes and intent of the Town of Fairhaven (the “Town”) Zoning Bylaw (the “Zoning Bylaw”), and that the issuance of the Special Permit was in the public interest and would preserve community interests for the following reasons:

- The design assures safety with respect to internal circulation and egress of traffic and will not cause congestion, hazard or substantial change in established neighborhood character;
- The design provides adequate access for fire and service equipment;
- The design provides adequate utility services consistent with the Fairhaven Zoning Bylaws;
- The intent of the performance standards and approval criteria of Section 198-24 and 198-29.7 will be met;
- The proposed use will not adversely affect the continued operation or development of adjacent uses; and
- The proposed use will not create a nuisance or hazard.

Upon receipt of its Special Permit, and after receiving all required approvals from the Commonwealth’s Medical Use of Marijuana Program, Bask commenced medical marijuana operations in July 2017 and has been continuously operating ever since.

¹ Pursuant to § 198-33 of the Town of Fairhaven Zoning Bylaw, the term “Marijuana Establishment” is defined as “a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Craft Marijuana Cultivator Cooperative, Independent Testing Laboratory, Standards Laboratory, Research Facility, Marijuana Micro-business, Marijuana Transporter, or any other type of Marijuana-related business, including a Medical Marijuana Treatment Center, that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State Agency.”

² Pursuant to § 198-33 of the Zoning Bylaw, the term “Medical Marijuana Treatment Center” is defined as “an entity registered by the State under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.”

³ The Special Permit is recorded at the Bristol County Registry of Deeds, Book 11333, pg. 56.

In November 2018, the Town voted to amend the Zoning Bylaw to permit Marijuana Establishments “to operate and be located in such a way as to protect the health and safety of Fairhaven residents, as well as patients seeking treatment and customers seeking to purchase marijuana for recreational use, while minimizing adverse impacts on adjacent properties, residential neighborhoods, schools and other sensitive locations by regulating the siting, design, placement, security, modification and removal of such uses.” (See § 198-29.7(A) of the Zoning Bylaw). In order to fulfill this purpose, the Town deleted § 198-29.7, which previously only applied to Medical Marijuana Facilities, and replaced it with a new § 198-29.7, which governs both medical and adult use Marijuana Establishments.

Under the amended Zoning Bylaw, § 198-29.7(B)(4) states that “[a] special permit issued prior to November 13, 2018, allowing the use of premises for a Medical Marijuana Treatment Center shall remain in effect subject to its own terms and conditions; provided that any subsequent change in use, including the use of the premises for an additional or different form of Marijuana Establishment...shall be subject to the terms of this section.”

As such, and in accordance with the requirements set forth in § 198-29.7 *et seq.*, Bask now seeks a Special Permit and Site Plan Review approval to permit both its previously approved use of the Property as a vertically-integrated MMTC, and to expand its permitted use of the Property to include adult use Marijuana Establishment operations, including cultivation, product manufacturing and retail dispensing operations. **Bask’s proposed expanded use of the Property will not involve any exterior modifications to either the existing facility or Property site and is substantially similar to its current use of the Property, which was previously approved by the Fairhaven Planning Board.**

For the reasons explained below, Bask’s proposal is compliant with all criteria set forth in Zoning Bylaw § 198-8 (which governs Special Permits), § 198-29 (which governs Site Plan Review), and § 198-29.7 (which governs Marijuana Establishments). Therefore, Bask respectfully requests that the Planning Board grant Bask’s petition for a Special Permit and Site Plan Review approval allowing it to continue to operate its MMTC at the Property, and to expand the use to include adult use Marijuana Establishment operations.

II. COMPLIANCE WITH § 198-8(A)(1)-(5): GENERAL SPECIAL PERMIT CRITERIA

Pursuant to § 198-8 of the Zoning Bylaw, a special permit granting authority, here the Planning Board, shall not issue a special permit which shall appear to be detrimental to the public interest because: (1) it appears that the intent of the performance standards of § 198-24 or other requirements of this chapter cannot be or will not be met; (2) traffic generated or patterns of access and egress would cause congestion, hazard or substantial change in established neighborhood character; (3) the continued operation of or development of adjacent uses as permitted by this chapter would be adversely affected by the nature of the proposed use; (4) a nuisance or hazard would be created; and (5) the specific proposal derogates from the intent and purpose of the chapter.

As demonstrated below, Bask's current use and its intended use to the Property is in harmony with the general purpose and intent of the Zoning Bylaw, and none of the preceding factors are implicated.

(1) Bask's proposed use of the Property satisfies the intent of the performance standards of § 198-24 and other requirements set forth in the Zoning Bylaws.

Section 198-24 of the Zoning Bylaws states that no activity shall be permitted in any district unless it can be demonstrated that its operation will be conducted and that the following standards will be met:

A. No noise, sound from public address or other amplification systems, vibration, odor or flashing shall be normally perceptible more than four hundred (400) feet from the premises if in an industrial district, more than one hundred (100) feet from the premises if in a business district and more than twenty (20) feet from the premises if in another district.

B. Interferences originating in an industrial district shall not normally be perceptible more than one hundred fifty (150) feet within a business district, nor more than one hundred (100) feet within a residential district.

The Property is located in the Industrial District, implicating the four hundred (400) foot buffer referenced in Section A above, and the one hundred and fifty (150) foot buffer referenced in Section B.

As shown in Bask's 2015 Special Permit, the Planning Board previously found that Bask's use of the Property as a MMTC satisfied the intent of § 198-24 of the Zoning Bylaw. Since Bask's MMTC commenced operations in July 2017, it has not received any reports or complaints relative to sound intrusion, vibration, odor or flashing that has been perceptible more than 400 feet from the premises. Similarly, to the best of Bask's knowledge, its current operations have not resulted in perceptible interferences in the adjacent business district.

Bask's proposed use of the Property is substantially similar to its current use of the property as a Medical Marijuana Treatment Center, although it is limited to Adult-Use Retail sales, and will not expand any of the cultivation or manufacturing activities at the premises or involve any exterior modifications to the Property. As such, Bask's proposed expanded use of the Property to include adult use retail will not result in detrimental effects at the Property or in the surrounding area or contravene the performance standards set forth in of § 198-24.

(2) Bask's proposed use of the Property will not result in increased traffic, or patterns of access and egress that would cause congestion, hazard or substantial change in established neighborhood character.

The Planning Board previously issued findings determining that Bask's use of the Property as a MMTC would not cause congestion, hazard or substantial change in established neighborhood character. Bask's proposed use of the Property is substantially similar to the current use of the Property, and Bask does not intend to modify any current points of access and egress that would negatively impact traffic, congestion, or the established neighborhood character. In addition, as set

forth in the accompanying Traffic Impact Statement enclosed herewith, increased traffic impacts at the site related to Bask's proposed retail operations are projected to be minimal. In order to further mitigate any negative impacts from its adult use retail operations, Bask intends to implement an Opening Day Traffic and Parking Management Plan, a copy of which is enclosed herewith.

- (3) **Bask's continued operation of or development of adjacent uses as permitted by this chapter would not be adversely affected by the nature of the proposed use.**

The Planning Board previously issued findings determining that Bask's use of the Property would not adversely affect the continued operation or development of adjacent uses. Bask's proposed use of the Property is substantially similar to the current use of the Property, which has not resulted in any adverse impacts on adjacent uses in the vicinity. As such, Bask's proposed expanded use of the Property to include adult use marijuana operations will not negatively impact adjacent uses at the Property.

- (4) **A nuisance or hazard would not be created.**

The Planning Board previously issued findings determining that Bask's use of the Property would not create a nuisance or hazard. Bask's proposed use of the Property is substantially similar to the current use of the Property, which has not resulted in any nuisance or hazard. As such, Bask's proposed expanded use of the Property to include adult use operations will not result in any nuisance or hazard at the Property or surrounding premises.

- (5) **The specific proposal does not derogate from the intent and purpose of the chapter.**

The Planning Board previously issued findings determining that Bask's use of the Property as a MMTC was consistent with the general purposes and intent of the Fairhaven Zoning Bylaw, that the grant of its Special Permit in 2015 was in the public interest and that it would preserve community values. Section 198-29.7 states that an adult use Marijuana Establishment is an allowed use at the Property by special permit, and Bask's proposed addition of adult use marijuana operations at the Property is substantially similar to the current use of the Property. Therefore, Bask's proposed expanded use of the Property to include adult use marijuana operations does not derogate from the intent and purpose of the Zoning Bylaw.

III. COMPLIANCE WITH § 198-29(B): SITE PLAN REVIEW

Pursuant to § 198-29.7(B)(3), all Marijuana Establishments shall be permitted by Special Permit pursuant to § 198-29.7 *et seq.* and Site Plan Review pursuant to § 198-29. In compliance with § 198-29(B), enclosed with this submission are ten copies of Site Plans containing the following information:

(a) Actual dimensions of the lot; (b) All easements existing or proposed; (c) Location and size of existing and proposed structures including any existing structures within 100 feet of the site; (d) Name, width and condition of all abutting streets; (e) All parking and driveway areas including curbing and planted islands; (f) Existing and proposed topography at two-foot minimum contours; (g) Existing and proposed water, sanitary and storm drainage facilities; (h) Landscaping including sizes, types and numbers of planting and details. All site plans involving 20 or more parking spaces shall be required to have the site plan, or a separate landscaping plan, signed by a registered landscape architect. Existing trees and other unique land features shall be preserved where feasible; (i) An elevation plan of all proposed buildings indicating the type of architecture to be Please advise if applicable. used and how it will conform to area appearances; (j) The stamps and seal of the professional land surveyor responsible for surveying the property; (k) The stamp and signature of the professional engineer responsible for drawing the plan; (l) The location of all wetlands on the site and within 100 feet of the site; (m) The location of the River Protection Act Riverfront Resource Protection Area.

IV. COMPLIANCE WITH § 198-29(D)(1)(A)-(E): SITE PLAN REVIEW CRITERIA

In addition to the foregoing Site Plans, below please find proposed findings of fact addressing the site plan design criteria set forth in § 198-29(D)(1)(a)-(e).

(a) The design assures safety with respect to internal circulation and egress of traffic.

The Planning Board previously issued findings determining that Bask's design of the Property assured safety with respect to internal circulation and egress of traffic. Bask's proposed expanded use of the Property will not impact the current design of the Property, and as such, Bask's proposed use of the Property will not negatively impact traffic safety. In addition, as set forth in the accompanying Traffic Impact Statement included with this submission, increased traffic at the site related to Bask's proposed retail operations is projected to be minimal.

(b) The design provides adequate access to each structure for fire and service equipment.

The Planning Board previously issued findings determining that Bask's design of the Property provided adequate access to the structure for fire and service equipment. Bask's proposed expanded use of the Property will not impact the current design of the Property, and as such, the Property will continue to provide adequate access for fire and service equipment.

- (c) **The design provides adequate utility services and drainage facilities consistent with the performance standards of the Subdivision Regulations of the Planning Board.**

The Planning Board previously issued findings determining that Bask's design of the Property provided adequate utility services and drainage facilities. Bask's proposed expanded use of the Property will not impact the current design of the Property, and as such, the Property will continue to provide adequate utility services and drainage facilities.

- (d) **Landscape design shall conform to § 198-27C of this chapter.**

The Planning Board previously issued findings determining that Bask's landscape design complied with § 198-27C of the Zoning Bylaw. As shown on the Site Plans included with this submission, Bask's proposed expanded use of the Property will not impact the current landscape design of the Property, and as such, the Property's landscape design will continue to conform to § 198-27C.

- (e) **If a reduction in the number of available parking spaces on the site is proposed below the minimum required in the Mixed Use District, the Planning Board may require landscaping improvements, including the planting of trees of two-inch caliper.**

This section is not applicable. Bask's Property is located within the Industrial Zoning District and complies with § 198-27C of the Zoning Bylaw, which governs parking area designation and location. Please see the Site Plans enclosed herewith.

V. COMPLIANCE WITH § 198-29.7(C): ELIGIBLE LOCATIONS FOR MARIJUANA ESTABLISHMENTS

Pursuant to § 198-29.7(C)(1) and (2) of the Zoning Bylaw, Marijuana Establishments may be allowed by Special Permit from the Planning Board only in in the Medical Marijuana Overlay District provided the facility meets the requirements of this Chapter. The Medical Marijuana Overlay District is comprised of the Following Map and Lot Numbers: Map 24: lots 16, 16A, 18; Map 26: Lots 62, 62A, 63, 71, 71A, 72; Map 30A: lots 86A, 86C, 86D, 86H; Map 36: Lots 13, 14, 14A, 14B, 14C, 14D, 14E, 14F, 14K, 14N, 15, 15A, 158, 15C, 15D, 15F, 15G, 15J.

Bask's facility is located in the Medical Marijuana Overlay District at 2 Pequod Road in Fairhaven, Massachusetts, which is shown as Lot 14 on Map 36.

VI. COMPLIANCE WITH § 198-29.7(D): LIMIT ON THE NUMBER OF SPECIAL PERMITS FOR MARIJUANA RETAILERS

In compliance with § 198-29.7(D) of the Zoning Bylaw, Bask hereby submits the following information in connection with its Special Permit Application and Site Plan Review Approval.

- 1. No new Special Permit shall be issued if the resulting number of Special Permits for Marijuana Retailers within the Town exceeds the smallest whole number which is not less than twenty per cent (20%) of the number of liquor licenses for off premises alcohol consumption issued within the Town pursuant to Chapter 138, § 15 of the General laws. Special Permits previously granted for Marijuana Retailer shall not be affected by a change in the number of liquor licenses for off premises alcohol consumption.**

Upon information and belief, the Planning Board's approval of Bask's request for Special Permits related to its current MMTC operations, and proposed adult use operations will not cause the number of Special Permits for Marijuana Retailers within the Town to exceed the smallest whole number which is not less than twenty percent (20%) of the number of liquor licenses for off premises alcohol consumption issued within the Town.

- 2. All Marijuana Establishments are prohibited from offering marijuana or marijuana products for consumption on the premises of a Marijuana Establishment.**

All smoking, burning, consumption and use of marijuana or marijuana products on the premises of the Marijuana Establishment is expressly prohibited. Bask will also install signage at the Property alerting all patrons that public consumption of marijuana is expressly forbidden.

VII. COMPLIANCE WITH § 198-29.7(E): MARIJUANA ESTABLISHMENT SPECIAL PERMIT APPLICATION REQUIREMENTS

Section 198-29.7(E) of the Zoning Bylaw states that:

No new Special Permits shall be issued if the resulting number of Special Permits for each particular type of adult use Marijuana Establishment, except Marijuana Retailers, exceeds the number of licensed Medical Marijuana Treatment Centers permitted in the Town. Special Permits previously granted each particular type of adult use Marijuana Establishment, except Marijuana Retailers, shall not be affected by a change in the number of licensed Medical Marijuana Treatment Centers permitted in the Town.

Upon information and belief, Bask's request for a Special Permits related to its current MMTC operations, and proposed adult-use operations will not cause the number of Special Permits for each particular type of adult use Marijuana Establishment to exceed the number of licensed Medical Marijuana Treatment Centers permitted in the Town.

VIII. COMPLIANCE WITH § 198-29.7(F): MARIJUANA ESTABLISHMENT SPECIAL PERMIT APPLICATION REQUIREMENTS

In compliance with § 198-29.7(F) of the Zoning Bylaw, Bask hereby submits the following information in connection with its Special Permit Application and Site Plan Review Approval.

- 1. The name and address of each owner of the facility/operation;**

Pequod Principal Solutions, LLC
8 River Road
Mattapoisett, MA 02739

- 2. Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;**

Enclosed with this submission is the Notice of Provisional License from the Cannabis Control Commission showing the current status of Bask's adult use marijuana Retailer Establishment application for its Fairhaven location.

- 3. Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;**

Included with this submission are a notarized statement from the property owner and a copy of the lease agreement for the Property.

- 4. A notarized statement signed by the organization's Chief Executive Officer and corporate attorney, if any, disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;**

Included with this submission is a notarized statement signed by Bask's Chief Executive Officer and corporate attorney disclosing all designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses.

- 5. A Security Plan, approved by the Cannabis Control Commission as part of the issuance of a Provisional License, to be approved by the Police and Fire Departments prior to the issuance of a Special Permit, with details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and protecting the premises from theft or other criminal activity;**

Enclosed with this submission is copy of a Security Plan summary which has been submitted to the Cannabis Control Commission as part of the Marijuana Establishment applications. Bask has also submitted its proposed Security Plan drawing for review by the Fairhaven Police and Fire

Departments, with details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and protecting the premises from theft or other criminal activity.

- 6. A Management Plan, including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishments or off-site direct delivery consistent with state law and regulations;**

Included with this submission is a copy of Bask's proposed Business & Management Plan, including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishments or off-site direct delivery consistent with state law and regulations.

- 7. A Resource Plan, for all marijuana cultivators, shall be submitted to the Planning Board and the Board of Health to demonstrate best practices for waste disposal, use of energy, water, and other common resources, and to ensure that there will be no undue damage to the natural environment. The Resources Plan shall include an electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand; and**

Included with this submission is a copy of Bask's Business Plan which includes a proposed Resource Plan for any future cultivation operations.

- 8. A Traffic Impact Report shall be required for all Marijuana Establishments. The Planning Board may require a traffic study if in their determination one is warranted because of public safety concerns.**

Included with this submission is a copy of a Traffic Impact Report.

IX. COMPLIANCE WITH § 198-29.7(G)(1): GENERAL SPECIAL PERMIT REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

As set forth in greater detail below, Bask has or will satisfy all of the General Special Permit Requirements for Marijuana Establishments articulated in § 198-29.7(G)(1)(a)-(d) prior to commencing its proposed operations at the Property.

- a. Marijuana Establishments shall comply with applicable State and local laws, regulations, bylaws, codes, conditions and agreements with the Town.**

Bask is in the process of obtaining its adult-use Marijuana Cultivator, Product Manufacturer and Retailer licenses from the Cannabis Control Commission for its Fairhaven location. Prior to commencing adult-use operations at the Property, Bask's facility will be subjected to multiple

inspections by the Commission to ensure that Bask complies with applicable State laws and regulations. Bask will also comply with all applicable local laws, regulations, bylaws, codes, conditions and agreements with the Town, including any Special Permit and Site Plan Review decisions and the Host Community Agreement.

- b. An approved Host Community Agreement shall be required prior to the granting of a Special Permit for a Marijuana Establishment.**

Bask entered into a Host Community Agreement for the proposed adult use marijuana operations with the Fairhaven Board of Selectmen in January 2019. A copy is included with this submission.

- c. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any voiding, revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the Special Permit, pending hearing or the opportunity therefore afforded to the Marijuana Establishment by the CCC, and pending determination by the Planning Board during a regularly scheduled public meeting that the Marijuana Establishment has cured any violation with State laws and is duly licensed by and in good standing with the CCC.**

Prior to commencing adult use marijuana operations at the Property, Bask will obtain all necessary permits and licenses required by State and local laws, and Bask will maintain such permits and licenses in good standing.

- d. A violation of the Host Community Agreement shall result in automatic suspension of the Special Permit and may result in the revocation of the Special Permit.**

Bask will comply with all terms of the Host Community Agreement. Bask also acknowledges the circumstances and process for revoking a Special Permit set forth in § 198-29.7(G)(1) (e)-(f).

X. COMPLIANCE WITH § 198-29.7(G)(2): SPECIAL PERMIT REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS; USE REGULATIONS

As described in greater detail below, Bask will comply with the use regulations set forth in § 198-29.7(G)(2)(a)-(f).

- a. No smoking, burning, consumption or use of Marijuana or Marijuana Products shall be permitted on the premises of a Marijuana Establishment.**

All smoking, burning, consumption and use of marijuana or marijuana products on the premises of the Marijuana Establishment by customers, employees or visitors is expressly forbidden.

- b. Marijuana manufacturing or extraction shall not be done in any building containing residential units including transient housing such as motels and dormitories, assembly, educational, health care, ambulatory health care, residential board and care, motels, or detention and correctional facilities, or inside a movable or mobile structure such as a van or truck.**

Bask's facility is a free-standing permanent building that does not include any residential units such as motels or dormitories, or assembly, educational, health care, ambulatory health care, residential board and care, motels, or detention and correctional facilities.

- c. The hours of operation shall be set by the Planning Board as a condition of the Special Permit.**

Bask's proposed hours of operation are from 9:00 a.m. to 9:00 p.m. The expanded hours of operation from Bask's MMTC operation of 10am to 6pm, will allow more flexibility for patrons to visit throughout 12 hours of the day rather than concentrating visits for 8 or 10 hours. The proposed hours will also allow Bask to remain competitive with retail establishments in neighboring communities that may allow longer hours of operation. Bask will comply with any hours of operation conditions set by the Planning Board.

- d. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, lighting trespass on adjacent properties, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.**

Bask has been operating a vertically-integrated MMTC at the Property since July 2017 and has not received any complaints of nuisance conditions in parking areas, sidewalks, street and areas surrounding the premises or adjacent properties. Bask's proposed expanded use of the Property to include adult use marijuana operations is substantially similar to its current use of the Property, and Bask does not anticipate its additional operations will create unreasonable nuisance conditions identified in § 198-29.7(G)(2)(d).

Further, Bask will take the following affirmative steps in order to mitigate potential nuisance conditions:

Prohibition on Marijuana Consumption. All smoking, burning, consumption and use of marijuana or marijuana products on the premises of the Marijuana Establishment is expressly prohibited. Bask will also install signage at the Property alerting all patrons that public consumption of marijuana is expressly forbidden.

Pedestrian and Vehicular Traffic. As shown on the Site Plans, the site has been designed for the efficient flow of pedestrian and vehicular traffic in and out of the Property. As set forth in the accompanying Traffic Impact Statement, increased traffic at the Property is projected to be minimal. Enclosed herewith please also find an Opening Day Traffic and Parking Management Plan, which has been specifically designed to satisfy the following goals:

1. Ensure the safety of customers, employees, and the surrounding community.
2. Minimize the impact of traffic flow on adjacent businesses and nearby streets.
3. Facilitate efficient parking lot operations to minimize back up on adjacent streets.
4. Implement efficient appointment systems to reduce initial traffic burdens.
5. Provide information to allow customers to get to and from the facility efficiently and safely.
6. Promote efficient coordination between Bask, the Fairhaven Police Department, and the Town.
7. Establish open lines of communication with abutters and nearby residents and local businesses.

Odor Mitigation. Since opening for operations in July of 2017, Bask has used carbon filtration to mitigate against any potential odor from the operation of a Marijuana Establishment. Bask's proposed use of the Property is substantially similar to the current use of the Property, which has not resulted in any nuisance or hazard. As such, Bask's proposed expanded use of the Property to include adult use operations will not result in any Odor nuisance or hazard at the Property or surrounding premises.

Lighting Design. Please see the enclosed Site Plans. All exterior lighting at the Property is downcast and appropriately located to ensure site security and safety and to allow clear and identifiable video-capture of necessary objects, persons, and information while also preventing unnecessary light trespass onto any street or abutting property and eliminating direct or reflected glare. The lighting will not differ noticeably from similar commercial establishments.

Illegal Drug Activity. Bask's current and proposed use of the Property will serve community interests by assisting in the elimination of the current illicit cannabis market through the production of high-quality marijuana and marijuana products that are regulated, tested for cannabinoid content and contaminants, and sold to registered patients and eligible consumers 21 years of age and older.

Nuisance Mitigation through Security Plan. Please see Security Plan included with this submission. Bask will minimize any nuisance conditions by implementing and complying with its Security Plan to ensure that the facility is a safe and secure environment for its customers, employees and the local community. Bask will also work cooperatively with the Fairhaven Police Department to ensure community safety.

- e. **Marijuana Establishments are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.**

Bask will not utilize any on-site self-service displays for either medical or adult use marijuana sales to customers.

- f. **The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which may promote or encourage the use of marijuana or other drugs by minors.**

Bask will not display on-premises signage or other marketing on the exterior of the building, or in any manner visible from the public way which may promote or encourage the use of marijuana or other drugs by minors. Bask will comply with all local ordinances governing on premises signage, as well as all State regulations governing medical and adult use marijuana establishments set forth in the Cannabis Control Commission's regulations.

XI. COMPLIANCE WITH § 198-29.7(G)(3): SPECIAL PERMIT REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS; LOCATIONAL AND PHYSICAL REQUIREMENTS

- a. **All Marijuana Establishments' licensed operations must take place within a building at a fixed location and shall not be visible from the exterior of the business.**

Bask's proposed adult use marijuana operations will take place within the existing permanent building located on the Property and will not be visible from the exterior of the business.

- b. **Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.**

In compliance with the Zoning Bylaw and the Commission's regulations, Bask will cultivate, process, manufacture, test and store its marijuana and marijuana products within enclosed and secured areas of the facility that will only be accessible to authorized Bask personnel.

- c. **No outside storage of marijuana, related supplies, or educational materials is permitted.**

Bask will not store marijuana, related supplies or educational materials outside of the facility.

- d. **All business signage, marketing, advertising, and branding shall be subject to the requirements promulgated by the Cannabis Control Commission and the requirements of the Fairhaven Zoning Bylaws and Sign Code. In the case of a conflict, the stricter requirement shall apply.**

Bask will comply with the Fairhaven Zoning Bylaw and Sign Code governing on premises signage, as well as all State regulations governing medical and adult use marijuana establishments set forth at 935 CMR 502.105(4).

- e. **The gross floor area of Marijuana Establishments accessible to patients or customers, and not including space dedicated to administration or operations and accessible only to employees of the facility, shall be no greater than the following:**
 - 1. **Medical Marijuana Treatment Centers: 4,500 square feet**
 - 2. **Marijuana Retailers: 2,500 square feet**

In compliance with the Zoning Bylaws, the gross floor area of Bask's Marijuana Establishment accessible to patients and customers is 1,979 Square Feet.

- f. **Ventilation. All facilities shall be ventilated in such a manner that:**
 - i. **No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere: and**
 - ii. **No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.**

Bask's facilities are ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere and that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.

XII. COMPLIANCE WITH § 198-29.7(G)(4): SPECIAL PERMIT REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS; REPORTING REQUIREMENTS

If awarded a Special Permit, Bask confirms that it will comply with all reporting requirements set forth in § 198-29.7(G)(4)(A)-(D).

XIII. COMPLIANCE WITH § 198-29.7(H): PROPOSED FINDINGS OF FACT

Pursuant to § 198-29.7(H) of the Zoning Bylaw, the Planning Board shall not issue a Special Permit for a Marijuana Establishment unless it finds that the use as proposed satisfies the criteria set forth below. As demonstrated below, Bask's proposed use complies or will comply with all criteria before it commences adult use marijuana operations at the Property.

1. Does not contravene the limit on the number of Special Permits that may be granted.

To the best of its knowledge, Bask's request for a Special Permit from the Fairhaven Planning Board does not contravene the limit on the number of Special Permits that may be granted by the Town.

2. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

Bask has received Provisional Licenses for adult use Retailer Establishment license from the Cannabis Control Commission. Prior to receiving a Final License, Bask must secure a Special Permit from the Planning Board. Prior to commencing adult use operations at the Property, Bask's facility will be subject to multiple inspections by the Cannabis Control Commission to ensure that Bask complies with all applicable State laws and regulations. Prior to commencing operations, Bask will also have received Final licenses and approvals to commence operations, and copies of these licenses and approvals will be provided to the Planning Board upon request.

3. Meets all the applicable conditions and requirements as set forth in this Chapter.

As set forth herein, Bask's proposed use of the Property satisfies all conditions and requirements stated in the Zoning Bylaw.

4. Will provide copies of registrations and licenses and a copy of a signed Host Community Agreement with the Town of Fairhaven, in accordance with M.G.L. Chapter 94G and subsequent regulations, including 935 CMR 500, to the Building Commissioner prior to the issuance of a Certificate of Occupancy.

Bask received a Certificate of Occupancy prior to commencing operations as a MMTC in 2017. In connection with this application and upon request, Bask is happy to provide copies of registrations and licenses and a copy of a signed Host Community Agreement with the Town of Fairhaven, in accordance with M.G.L. Chapter 94G and subsequent regulations, including 935 CMR 500, to the Building Commissioner.

5. Is designed to minimize adverse visual impacts on abutters and other parties in interest.

Bask's proposed expanded use of the Property will not alter the exterior of the premises in any way. Bask's Property was specifically designed to minimize adverse visual impacts on abutters and other parties in interest in connection with its initial MMTC operations, and has not resulted in any negative impacts since Bask commenced operations in 2017.

6. Provides a secure waiting area, as required by state law or regulations.

As shown on the floor plan included with this submission, Bask's facility includes a secure waiting area in compliance with state law and regulations. Specifically, Bask's retail operations will include a physical separation between medical and adult-use sales areas and a private patient consultation room in compliance with 935 CMR 502.140 *et seq.*

7. Provides adequate security measures to ensure that no individual or group participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

Please see the Security Plan included with this submission demonstrating adequate security measures in compliance with the Commission's strict security regulations.

8. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

Please see the Traffic Impact Statement Plan included with this submission showing estimated traffic impacts in and around the facility, as well as Bask's Opening Day Traffic and Parking Management Plan.

9. Adequately demonstrates best practices with regard to the use of energy, water, waste disposal and other common resources, with no undue damage to the natural environment.

Bask's proposed use is substantially similar to its current use of the Property, which was previously approved by the Fairhaven Planning Board and has been operating without incident since 2017.

Please see the Business and Management Plan included with this submission demonstrating best practices. Bask does not anticipate its use of water, energy, waste disposal and other common resources will result in any undue damages to the natural environment.

FOR THE ABOVE REASONS AND BASED ON THESE FINDINGS, WE ASK THE PLANNING BOARD TO DETERMINE THAT BASK, INC. HAS FULLFILLED ALL OF THE LEGAL REQUIREMENTS IMPOSED ON IT AND IS THEREFORE ENTITLED TO A SPECIAL PERMIT AND SITE PLAN REVIEW APPROVAL.