



CITY OF CAMBRIDGE

Community Development Department

To: Planning Board

From: CDD Staff

Date: September 8, 2021

Re: **Special Permit PB #353, Bhari Inc. Cannabis Retail Store at 45-51 New Street – Continued Hearing**

IRAM FAROOQ
Assistant City Manager for
Community Development

SANDRA CLARKE
Deputy Director
Chief of Administration

KHALIL MOGASSABI
Deputy Director
Chief of Planning

Update

Since the last Planning Board meeting in December 2019, the Applicant has discussed with staff the comments and questions raised in the initial review of the application. The Applicant's recent submission provides revisions and additional information regarding the project. This memo comments on these updates.

Planning Board Action

Bhari, Inc. is proposing to repurpose a portion of the existing building that is mostly located on the parcel at 47 New Street and a small southern portion located on the parcel at 43 New Street to operate a cannabis retail store. The proposal includes renovation of 3,167 square feet of the existing building to include sales space, storage, and an office for the cannabis retail store. The proposed use will include 4 existing off-street parking spaces and will add 7 long-term bicycle parking spaces and 12 short term bicycle parking spaces.

The project is located in the Industry A-1 (IA-1) District and requires a Special Permit to allow a cannabis retail store per Section 11.800. Applicable sections of the zoning are provided in an appendix.

Per the current zoning requirements, cannabis retail stores may include sales of cannabis products for medical and/or adult use. The current proposal is for an adult use, non-medical establishment.

The project is also subject to the City's Cannabis Business Permitting Ordinance that contains requirements separate from the Zoning Ordinance. The Zoning Ordinance requires that special permits be conditioned on compliance with all applicable state and local regulations and does not allow a building permit or certificate of occupancy to be issued for a Cannabis Use that is not properly licensed and/or registered with the applicable state and local agencies. Because the proposed establishment is not operated by a state-certified Economic Empowerment Applicant, it would not be eligible to receive a Cannabis Business Permit until two years after the enactment of the Cannabis Business Permitting Ordinance under the current provisions of that ordinance.

Requested Special Permits	Required Planning Board Findings (Summary) <i>(see Criteria for zoning text excerpts)</i>
Cannabis Retail Store (Sections 11.800)	<p>Complies with Zoning Requirements:</p> <ul style="list-style-type: none"> • Located in a BA, BA-2, BA-3, BB, BB-1, BB-2, BC, IA-1, IB, IB-1, or IB-2 district, or a BA-1 district only if it is designated by the Cannabis Control Commission as an Economic Empowerment Applicant or as qualifying for its Social Equity Program. • Located in a permanent building. • Not within 1,800 feet of another Cannabis Retail Store, unless it is designated by the Cannabis Control Commission as an Economic Empowerment Applicant or as qualifying for its Social Equity Program. • Not within 300 feet of an existing public or private K-12 school or within 300 feet of a public children’s playground, public youth athletic field, or public youth recreation facility, otherwise the Planning Board finds that it is sufficiently buffered such that users of such facilities will not be adversely impacted by its operation. • No packaging or re-packaging of cannabis products will occur on-site. <p>Meets Special Permit Criteria:</p> <ul style="list-style-type: none"> • Site design provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users. • Location and design of cannabis use will not detract from the sense of activity with opaque, unwelcoming façade at ground floor in retail areas. • Loading, refuse and service areas are designed to be secure and shielded from abutting uses. • Building and site are designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building’s interior. • The facility will provide programs to assist qualifying patients in obtaining services under Massachusetts Medical Use of Marijuana Program.
General Special Permit Criteria (Section 10.43)	Special permits will be normally granted if the zoning requirements are met, unless it is found not to be in the public interest due to one of the criteria enumerated in Section 10.43:

Requested Special Permits	Required Planning Board Findings (Summary) <i>(see Criteria for zoning text excerpts)</i>
	<ul style="list-style-type: none"> (a) It appears that requirements of this Ordinance cannot or will not be met, or (b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or (c) the continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use, or (d) nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City, or (e) for other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance, and (f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30.

Planning Board Comments from First Hearing

The following summarizes some of the key comments made by the Planning Board at the December 10, 2019 hearing. The Applicant has provided responses in the submitted materials.

- Review and respond to comments regarding loading and parking issues.
- Confirm whether a small Parking and Transportation Demand Management (PTDM) Plan is required for this use.
- Improve screening of trash collection area.
- Consider increasing the queuing capacity.
- Update the plan set to show details of the site, ADA accessibility, queuing, and bicycle parking.

Staff Comments on Revised Materials

In response to the Board’s comments, the Applicant has provided clarifications and additional information.

Operational Details:

The revisions propose all access at the front of the property, clarifying a prior question about whether the area behind the building would be used for parking, loading, or other activities. The proposal also no longer anticipates using the parking lot across the street for customer parking. Because the only parking spaces proposed will be the four spaces in front of the building, the City’s PTDM officer has determined that a PTDM plan is not needed for this use as proposed.

The revised floor plans have increased the interior queuing capacity of the business by decreasing the retail sales area. The business hours have also changed to 2 pm - 10pm all days of the week in the revised materials.

The revised narrative explains that home deliveries are anticipated to occupy a growing share of the cannabis retail market, but it is unclear if the business is considering home deliveries from this location. The Transportation Logistics Plan does not provide any information about anticipated home delivery activities. Cannabis Courier Establishments, which are licensed to deliver products from Cannabis Retail Stores to customers' homes, are currently permitted by zoning. The Planning Board should specify in the special permit conditions whether home deliveries would be permitted from this location.

Urban Design:

New Street's two new large residential buildings, and a third one that is currently in design, will further the street's transformation from a backstreet serving mostly light industrial buildings to a residential street with a considerable population. The City's urban planning efforts support this change in character: The Envision Cambridge comprehensive plan recommends that the form, use, and design of projects should help create an active public realm. The Alewife Planning Study stresses the role of architectural and landscape design in creating a pedestrian friendly environment, reinforcing the importance of the project's aesthetic contributions to its neighborhood.

Site Plan - Consideration could be given to unifying the forecourt and making it a more pedestrian-friendly space by:

- Increasing the amount of planting.
- Changing the proposed Arbor Vitae trees to canopy trees and planting additional trees in the forecourt, both to reduce the urban heat island effect and to create a more visually welcoming and gracious pedestrian experience.
- Screening the existing fence on the neighboring property to the south, either by adding a new and more visually appealing fence alongside of it, or by providing additional vegetative screening – ivy or low plantings – for the length of its north side.
- Increasing the amount of pedestrian paving and reducing the amount of asphalt paving, for instance by using pedestrian pavers for the entire area south the Hi-Tech Autobody building and the trash enclosure and extending them out to the New Street sidewalk.
- Increasing the amount of permeable paving.
- Reducing the potential for glare and light pollution by replacing the proposed wall-mounted floodlight on the south wall of the Hi-Tech Autobody building with more subdued lighting, mounted at a lower height and with more shielding.

Building Façade - Consideration could be given to:

- Retaining the existing large opening, currently a garage door, and reglazing it as a large window into the Waiting Area.
- Painting the south façade of the adjoining existing Hi-Tech Autobody building to match the proposed entry façade to the dispensary, to emphasize the courtyard as a significant space.

Suggested Conditions / Continuing Review

The Board should specify in its decision whether or not home deliveries from this site will be permitted, given that state regulations now authorize home delivery.

The following are additional recommendations for ongoing design review by staff if the Board decides to grant the special permit:

- Development of the project's landscape design, including selection and location of plant species and the configuration and specifications for pedestrian paving material.
- Design of the new wood slat fence trash enclosure.
- Design of the façade, exterior materials, colors, façade alterations, and details.
- Design of site lighting, relative to Cambridge's Draft Outdoor Lighting Ordinance.
- Review of exterior signage, lighting, and other security features that may be required by state regulations.
- Note that the applicant states that no rooftop mechanical equipment will be installed. If for an unforeseen reason any is needed, review of its location and its visual and acoustical screening.

In addition, if the Board decides to grant the special permit, it should be conditioned on the following requirements set forth in the Zoning Ordinance:

- Pursuant to Section 11.802.2, the Permittee shall maintain all required state and local licenses and/or registrations and comply with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. In particular, the Permittee shall execute a Host Community Agreement with the City of Cambridge pursuant to the regulations of the Massachusetts Cannabis Control Commission and shall have received a Cannabis Business Permit pursuant to the Cambridge Cannabis Business Permitting Ordinance prior to the issuance of a Certificate of Occupancy.
- Pursuant to Section 11.802.3, the special permit shall be valid only for the original Applicant and shall expire on the date the Permittee either ceases operation of a Cannabis Retail Store, or the Permittee's License or Certificate of Registration expires or is terminated by the CCC. Any change in the ownership of the Cannabis Retail Store from the original application, including without limitation a takeover, merger, sale of assets and equity, or sale to another entity resulting in a majority of the individuals initially disclosed under 935 CMR 500.002 as Controlling Persons failing to maintain a controlling equity interest, shall be reported to the Commissioner of Inspectional Services Department for purposes of determining whether the change in ownership requires a new special permit or modification of the existing permit for the succeeding owner of the Cannabis Retail Store.