



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

2021 OCT 26 PM 1:06
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

NOTICE OF DECISION

Case Number:	353
Address:	45-51 New Street (47 New Street)
Zoning:	Industry A-1 District (IA-1)
Applicant:	Bhari Inc. 8 Curtis Street, Somerville, MA
Owner:	26 New Street group Limited Partnership 51 New Street, Cambridge, MA
Application Date:	August 16, 2019
Date of Planning Board Public Hearing:	September 24, 2019; December 10, 2019; September 14, 2021
Date of Planning Board Decision:	September 14, 2021
Date of Filing Planning Board Decision:	October 26, 2021
Application:	Request for special permit for Bhari Inc., to operate a cannabis retail store pursuant to Sections 11.800 and 10.43 of the Zoning Ordinance occupying approximately 3,200 square feet in the first floor of the existing building at 45-51 New Street.
Decision:	GRANTED, with Conditions.

Appeals, if any, shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after filing of the above referenced decision with the City Clerk. Copies of the complete decision and final plans, if applicable, are on file with the Community Development Department and the City Clerk.

Authorized Representative of the Planning Board: Swaathi Joseph

For further information concerning this decision, please contact Swaathi Joseph at 617-349-4668, or sjoseph@cambridgema.gov.

DOCUMENTS SUBMITTED

Application Documents and Supporting Material

1. Special Permit Application submitted on 8/16/2019, including, *inter alia*, Application Forms, Project Narrative, Description of Activities, Transportation Logistics Plan prepared by Vanasse & Associates, Inc., dated 8/5/2019, Community Outreach Summary, Dimensional Form, and plan set titled “Cambridge Dispensary” prepared by Khalsa Design, dated 6/12/2019.
2. Revised application submission dated 11/12/2019 including revised Project Narrative, Revised Dimensional Form, revised Transportation Logistics Plan prepared by Vanasse & Associates, Inc., dated 11/8/2019, and plan set titled “Cambridge Dispensary” prepared by Khalsa Design, dated 10/22/2019.
3. Presentation slides shown to the Planning Board on 12/10/2019.
4. Revised application submission dated 8/11/2021 including responses to questions from the Planning Board, revised Project Narrative, Revised Dimensional Form, revised Transportation Logistics Plan prepared by Vanasse & Associates, Inc., dated 8/6/2021, and plan set titled “Cambridge Dispensary” prepared by Khalsa Design, dated 8/3/2021.
5. Presentation slides shown to the Planning Board on 9/14/2021.

City of Cambridge Documents

6. Memorandum from Community Development Department (CDD) staff dated 9/17/2019.
7. Memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation (TP+T), dated 9/19/2019.
8. Memorandum from CDD staff dated 12/3/2019.
9. Memorandum from CDD staff dated 9/8/2021.
10. Memorandum from Joseph E. Barr, Director of TP+T, dated 9/10/2021.

Other Documents

11. Notice of Extension of Time to January 23, 2020, dated 11/21/2019.
12. Notice of Extension of Time to June 10, 2020, dated 2/12/2020.
13. Notice of Extension of Time to next available date, dated 3/26/2020.
14. Notice of Extension of Time to September 30, 2021, dated 6/9/2021.
15. Notice of Extension of Time to October 29, 2021, dated 7/23/2021.

APPLICATION SUMMARY

The Applicant, Bhari, Inc., (the “Applicant”), is proposing to operate a Cannabis Retail Store at 45-51 New Street. The Applicant is not certified as an Economic Empowerment Applicant. No cultivation, processing or packaging will occur on site. The Applicant proposes to renovate 3,200 square feet on the first floor of the existing building to include sales space, storage, and office, along with 7 long-term and 12 bicycle parking spaces. The site is in the Industry A-1 District. The proposed facility will be designed and operated in accordance with state and local regulations for Cannabis Retail Stores and will be subject to oversight by the Massachusetts Cannabis Control Commission. Loading and deliveries are proposed to be provided by secure vehicles through the existing parking lot on the site in front of the building.

FINDINGS

After review of the Application Documents and other documents submitted to the Planning Board, testimony given at the public hearing, and review and consideration of the applicable requirements and criteria set forth in the Zoning Ordinance with regard to the relief being sought, the Planning Board makes the following Findings:

1. Approval of a Cannabis Retail Store (Section 11.800)

The proposed site is located within the Industry A-1 District (IA-1). The Planning Board may grant a special permit approving a Cannabis Retail Store within this district upon finding that the proposal meets the criteria set forth in Section 11.800. The Board finds that these criteria are met, for the reasons set forth below.

11.803 Location Standards.

11.803.1 Cannabis Retail Stores.

(a) Cannabis Retail Stores shall be allowed only by Planning Board Special Permit within the following districts: Business A (BA), Business A-1 (BA-1), Business A-2 (BA-2), Business A-3 (BA-3), Business B (BB), Business B-1 (BB-1), Business B-2 (BB-2), Business C (BC), Industry A-1 (IA-1), Industry B (IB), Industry B-1 (IB-1), and Industry B-2 (IB-2) districts, and special districts and overlay districts whose use regulations are based on those of any of the aforementioned districts, subject to any limitations set forth in the regulations of those districts. In the Business A-1 district, only applicants that have been designated as Economic Empowerment Applicants or certified as eligible to participate in the Social Equity Program by the Massachusetts Cannabis Control Commission may be permitted and it shall be made a condition of the special permit that such designation or eligibility shall be maintained.

The site is within the Industry A-1 district, where Cannabis Retail Stores are allowed under current zoning.

(b) A Cannabis Retail Store shall not be permitted within one thousand and eight hundred (1,800) feet of another Cannabis Retail Store, except if the applicant has been designated as an Economic Empowerment Applicant or certified as eligible to participate in the Social Equity Program by the Massachusetts Cannabis Control Commission and it is made a condition of the special permit that such designation or eligibility shall be maintained.

This site is not within 1,800 feet from the other permitted Cannabis Retail Stores in the city. The Application Documents indicate that the nearest approved cannabis retail store at 110 Fawcett Street is over 1,800 feet from this location.

(c) All products offered to consumers shall be pre-packaged off-site, and no packaging or repackaging of cannabis or marijuana products shall take place on the premises of a Cannabis Retail Store unless it also meets the requirements for a Cannabis Production Facility.

All products are pre-packaged at the cultivation facility. No cultivation, packaging, or re-packaging is proposed at the Cannabis Retail Store.

11.803.3 Buffer Zones.

(a) A Cannabis Retail Store or Cannabis Production Facility shall not be permitted within 300 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12, except where the Planning Board, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit.

The Application Documents indicate that there are no public or private K-12 schools within 300 feet of the proposed location.

(b) A Cannabis Retail Store or Cannabis Production Facility shall not be permitted within 300 feet of a pre-existing public children's playground, public youth athletic field, or public youth recreation facility, except where the Planning Board, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit.

The Application Documents indicate that a portion of Danehy Park is within 300 feet of the proposed location. There is no entrance to the park from New Street in that area and the park is at a significantly higher elevation than New Street, creating a natural buffer. The application indicates that a proposed residential development adjacent to the park will create an additional visual barrier from the cannabis retail store location.

11.805 Special Permit Criteria. In granting a special permit for a Cannabis Retail Store or Cannabis Production Facility, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Zoning Ordinance, the Planning Board shall find that the following criteria are met:

(a) The site is designed such that it provides convenient, safe and secure access and egress for customers and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.

A transportation logistics plan prepared by Vanasse & Associates, Inc. has been provided with the Application, and has been reviewed by the Traffic, Parking and Transportation Department ("TP+T"). While there is limited data about traffic generated by a Cannabis Retail Store, the expectation is that the traffic will not be significantly greater than that of a typical retail establishment of similar size and should have minimal impacts on transportation in the neighborhood. The Applicant has committed to submitting an operations plan for approval by TP+T staff and to implementing both transportation demand management (TDM) measures and a monitoring program of employee and customer visits as well as loading and pick-up activities of this project to mitigate any unexpected transportation

impacts. The Applicant has agreed to consider programmatic strategies, including an appointment system, to reduce the potential for queueing in addition to providing seven long-term and 12 short-term bicycle parking spaces. The Applicant has also agreed to the mitigation measures recommended by TP+T in their memorandum dated September 10, 2021, which will be made Conditions of this Special Permit Decision.

(b) On-site loading, refuse and service areas are designed to be secure and shielded from abutting uses.

Loading and trash management are proposed to be in the service area inside the building and accessed through a separate service door. This provides adequate security and minimizes impact on abutting uses.

(c) The building and site have been 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 Cannabis Retail Store will be sited in the existing building. The Board discussed the need to improve the storefront design. The Applicant has agreed to revise the storefront design to provide more visibility into the reception area. The storefront design will be subject to continuing review by CDD staff. The proposed signage and treatment of the doors and windows will provide interesting street frontage while meeting the state's security requirements.

(d) In retail areas, the location and design of the Cannabis Use will not detract from the sense of activity with opaque, unwelcoming façades at the ground floor. Where interior activities must be screened from public view, such areas should be screened by transparent, publicly accessible active business uses where possible. Opaque façades should be minimized, and where they are necessary they should include changing public art displays or other measures to provide visual interest to the public.

The customer entry and exit doors as well as windows in the waiting room will incorporate a substantial amount of glazing and will be well lit, both as an aesthetic contribution to the street, and for improved security.

(e) If the proposed Cannabis Retail Store or Cannabis Production Facility is not proposed to include a Medical Marijuana Treatment Center, it will nevertheless provide programs to assist qualifying patients within the city or neighborhood who are registered through the Massachusetts Medical Use of Marijuana Program in obtaining services under that program.

The proposed Cannabis Retail Store will not include a Medical Marijuana Treatment Center. However, the Applicant stated that a separate area will be provided to assist clients seeking cannabis products for medical purposes.

2. General Criteria for Issuance of a Special Permit (10.43)

The Planning Board finds that the proposal meets the General Criteria for Issuance of a Special Permit, as set forth below.

10.43 Criteria. Special permits will normally be granted where specific provisions of this Ordinance are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

(a) It appears that requirements of this Ordinance cannot or will not be met, or ...

With the requested special permit, the requirements of the Zoning Ordinance will be met.

(b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or ...

As set forth above in these findings, the proposed use is not expected to adversely impact traffic patterns or the character of the area in general.

(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 ...

The proposed Cannabis Retail Store is allowed in the district. It will be operated in accordance with applicable state and local regulations, and will generate pedestrian and vehicular traffic comparable to that generated by a similarly sized allowed retail use. Therefore, the proposed use and location will not adversely impact adjacent uses.

(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 ...

The proposed Cannabis Retail Store will be operated in accordance with applicable health and safety regulations, as well as state and local regulations particular to cannabis retail stores, which are specifically intended to prevent nuisance or hazard.

(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 ...

The site is located within the Industry A-1 District, which allows Cannabis Retail Stores, as authorized in a zoning amendment adopted by the City Council in 2018.

(f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30.

The proposed new use will minimally impact the design of the building, and all exterior alterations will be conducted in accordance with applicable zoning and other regulations for Cannabis Retail Stores. No new exterior mechanical systems are proposed. The proposal will be subject to continued design review to ensure that door and window treatments will activate street frontage and promote transparency as much as possible. All exterior alterations will be subject to ongoing review by Community Development Department (“CDD”) staff, where applicable. Therefore, the Board finds no inconsistency with applicable urban design objectives.

DECISION

Based on a review of the Application Documents, testimony given at the public hearings, and the above Findings, the Planning Board hereby GRANTS the requested Special Permit, subject to the following conditions and limitations.

1. This special permit shall authorize only Bhari LLC, as it has been identified in detail in its application materials (the “Permittee”) to establish and operate a Cannabis Retail Store at 45-51 New Street, Cambridge, in substantial conformance with the Application Documents and supplemental documents and information submitted by the Permittee to the Planning Board as referenced above. The Permittee is permitted to operate this Cannabis Retail Store only as a Cannabis Retailer. No other type of cannabis establishment is hereby permitted. Any activity that involves the cultivation, processing, manufacturing, packaging, storage, transportation, or use of cannabis products shall require an amendment to this special permit, and shall require compliance with all applicable state and local regulations for such activity.
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. The Permittee shall execute a Host Community Agreement with the City of Cambridge pursuant to the regulations of the Massachusetts Cannabis Control Commission (“CCC”) 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. The Board recognizes that this Cannabis Retail Store will be eligible to be issued a Cannabis Business Permit only if the Permittee is certified as a Priority Applicant as per the Cambridge Cannabis Business Permitting Ordinance.
3. This special permit shall be valid only for the approved 45-51 New Street site. Furthermore, the special permit shall only be valid for the original Permittee 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 the individuals initially disclosed under 935 CMR 500.002 as Persons or Entities Having Direct Control failing to maintain a controlling equity interest, shall be reported to the Commissioner of Inspectional Services Department (“ISD”) 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.
4. Alterations to the building shall occur in substantial conformance with the building plan set prepared by Khalsa Design, dated 8/3/2021, and the materials presented to the Planning Board on 9/14/2021, and other Conditions of this Special Permit Decision. The project shall be subject to continuing design review by the Community Development Department (“CDD”). Before issuance of each Building Permit for the project, CDD shall certify to the Superintendent of Buildings that the final plans submitted to secure the Building Permit are consistent with and meet all conditions of this Decision. As part of CDD’s administrative review of the project, and prior to any certification to the Superintendent of Buildings, CDD

may present any design changes made subsequent to this Decision to the Planning Board for its review and comment.

5. The Permittee shall address the following design comments through the continuing design review process set forth above. Each of the below items shall be subject to CDD review and approval of the final design details prior to issuance of a Building Permit:
 - a. All exterior materials, colors, façade alterations, and details, including new wood slat fence trash enclosure.
 - b. Final design of storefront and doors, including proposed lighting.
 - c. Revisions to the landscape design, including selection and location of plant species and the configuration and specifications for pedestrian paving material.
 - d. Location and screening of any mechanical equipment on the rooftop, façade, or exterior of the building.
 - e. All exterior signage, lighting, and other security features that may be required by state regulations. To the extent possible, any proposed outdoor lighting shall be designed to conform to the guidelines recommended in the proposed Cambridge Outdoor Lighting Ordinance.
6. The Permittee shall coordinate with the Department of Public Works regarding any planned reconstruction of sidewalk adjacent to the site.
7. The permitted operating hours of the approved Cannabis Retail Store shall be between 2:00 PM and 10:00 PM daily.
8. The Permittee shall provide a detailed bicycle parking plan for review and approval by Traffic, Parking and Transportation Department (“TP+T”) prior to the issuance of a Building Permit.
9. The Permittee shall submit an operations plan to the Traffic, Parking and Transportation Department (“TP+T”) and Cambridge Police Department for approval prior to issuance of a Building Permit. This plan should address in detail how the Applicant is intending to manage bicycle lane infringement and sidewalk crowding in a manner that maintains safety and access to adjacent buildings, transit, and any other key uses. In addition, there should be a specific plan for the initial opening period, including how the Proponent will identify and respond to any unexpected situations (i.e., sidewalk crowding, blocking bike lanes, or other safety issues). The Permittee shall ensure in the operations plan that at no time shall transport vehicles stop on New Street or any public streets in a way that blocks bicycle lanes or impedes the flow of traffic. If required by TP+T in the course of approving an operations plan, the Permittee shall commit to use an on-line pre-purchase and appointment only scheduling system for the non-medical cannabis use operations for an initial period of 12 months to manage traffic impacts and prevent queuing on the public sidewalk and shall

extend the commitment beyond that period if it is deemed by the City to minimize transportation impacts.

10. The Permittee shall contribute \$70,000 to the City toward transportation, parking, transit and/or bicycle improvements to support non-automobile travel modes for employees and customers and to mitigate the Project's traffic and parking impacts on the surrounding area. However, if the Permittee provides confirmation that it is a Group A Priority Applicant as per Cannabis Business Permit Ordinance, this contribution shall be reduced to \$35,000. Half of this contribution shall be made prior to the issuance of a Building Permit and the other half of the contribution shall be made prior to the issuance of a Certificate of Occupancy.
11. The Permittee shall provide a loading and service delivery management plan that includes all delivery activities to TP+T for approval prior to issuance of a Building Permit.
12. The Permittee shall be required to implement a transportation demand management (TDM) program and a transportation monitoring and reporting program including, at a minimum, the following measures, which shall be certified by the TP+T and CDD prior to issuance of a Certificate of Occupancy for the approved Cannabis Retail Store.
 - a. Provide 100% MBTA T-Pass subsidies to all employees (may be pro-rated for part-time employees). The program shall be administered by the employer through the MBTA Corporate Pass/Perq Program.
 - b. Offer all employees Gold Level "Bluebikes" Public Bicycle Sharing System membership; to be administered through the Bluebikes Corporate Program by the employer.
 - c. Provide lockers for employees that walk or bike to work.
 - d. Have available an air pump and bicycle repair tools for employees and customers to use when needed.
 - e. Designate an employee of the facility as a Transportation Coordinator (TC) to manage the implementation of the TDM measures and a transportation monitoring program. The TC shall:
 - i. Post in a central and visible location (i.e., lobby for customers, break room for employees) information on available non-automobile services in the area, including, but not limited to:
 1. Available pedestrian and bicycle facilities in the vicinity of the Project site.
 2. MBTA maps, schedules and fares.
 3. "Getting Around in Cambridge" map (available from CDD).
 4. Locations of bicycle parking.
 5. Bluebikes regional Public Bicycle Sharing system.
 6. Carpool-matching programs.

7. Other pertinent transportation information.
 - Instead of or in addition to posting paper MBTA schedules, provide a real-time transportation display screen in a central location to help people decide which mode to choose for each trip.
 - ii. Compile up-to-date transportation information explaining all commuter options and provide to all employees. This information should also be distributed to all new employees as part of their orientation. Transportation information packets may be purchased from the CDD.
 - iii. Provide or describe to customers information on sustainable transportation options to access the site.
 - iv. Provide and maintain information on the project's website, newsletters, social media, etc., on how to access the site by all modes, with emphasis on sustainable modes.
 - v. Participate in any TC training offered by the City of Cambridge or a local Transportation Management Association.
 - vi. If requested by TP+T or CDD, provide information on employees and customer travel modes and where they customarily park, as well as information on loading and service delivery operations. Surveys of employees and customers shall be designed and conducted in a manner approved by TP+T and CDD.
13. The Cannabis Retail Store at 45-51 New Street shall not be used as a distribution point for home deliveries, so it may not provide cannabis or cannabis products to a cannabis delivery licensee for deliveries.
14. Prior to issuance of a Certificate of Occupancy for the approved Cannabis Retail Store, CDD shall certify to the Superintendent of Buildings that all Conditions of this Special Permit Decision are met.
15. All authorized development shall abide by all applicable City of Cambridge Ordinances, including the Noise Ordinance (Chapter 8.16 of the City Municipal Code).

Voting in the affirmative to GRANT the Special Permit were Planning Board Members Louis Bacci, Jr., H Theodore Cohen, Steven Cohen, Catherine Preston Connolly, Hugh Russell, and Tom Sieniewicz, constituting at least two thirds of the members of the Board, necessary to grant a special permit.

For the Planning Board,

A handwritten signature in cursive script that reads "Catherine Preston Connolly".

Catherine Preston Connolly, Chair.

A copy of this decision PB #353 shall be filed with the Office of the City Clerk. Appeals, if any, shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws, and shall be filed within twenty (20) days after the date of such filing in the Office of the City Clerk.

ATTEST: A true and correct copy of the above decision has been filed on October 26, 2021 with the Office of the City Clerk, by Swaathi Joseph, duly authorized representative of the Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

Twenty days have elapsed since the above decision was filed in the office of the City Clerk and:
_____ no appeal has been filed; or

_____ an appeal has been filed within such twenty days.

The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the periods provided under the second paragraph of G.L. c. 40A, §6.

Date: _____, City Clerk

Appeal has been dismissed or denied.

Date: _____, City Clerk

Appendix I: Approved Dimensional Chart

	Existing	Allowed or Required	Proposed	Permitted
Lot Area (sq ft)	25,082	5000	No Change	No Change
Lot Width (ft)	126	50	No Change	No Change
Total GFA (sq ft)	14,138 ¹	31,352	3,200 ²	3,200 ²
Residential Base	n/a	n/a	n/a	Consistent with Application Documents and applicable zoning requirements
Non-Residential Base	14,138	31,352	3,200	
Inclusionary Bonus	n/a	n/a	n/a	
Total FAR	0.56	1.25	No Change	Consistent with Application Documents and applicable zoning requirements
Residential Base	n/a	2.0	No Change	
Non-Residential Base	0.56	1.25	No Change	
Inclusionary Bonus	n/a	n/a	n/a	
Total Dwelling Units	0	n/a	0	0
Base Units	n/a	n/a	n/a	Consistent with Application Documents and applicable zoning requirements
Inclusionary Bonus Units	n/a	n/a	n/a	
Base Lot Area / Unit (sq ft)	n/a	n/a	n/a	
Total Lot Area / Unit (sq ft)	n/a	n/a	n/a	
Height (ft)	20+/-	45	No Change	Consistent with Application Documents and applicable zoning requirements
Front Setbacks (ft)	0	0	No Change	
Side Setback (ft)	0/0	0	No Change	
Rear Setback (ft)	0	0	No Change	
Open Space (% of Lot Area)	0	None	No Change	Consistent with Application Documents and applicable zoning requirements
Private Open Space	0	None	No Change	
Permeable Open Space	0	None	No Change	
Off-Street Parking Spaces	4	3	4 ³	4 ³
Long-Term Bicycle Parking	0	0	7	Consistent with Application Documents and applicable zoning requirements
Short-Term Bicycle Parking	0	2	12	
Loading Bays	0	0	0	

¹ No change to the existing total GFA.

² 3,200 square feet of GFA for cannabis retail store.

³ 4 existing spaces in front of the building including one handicapped parking space.