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# CITY OF CAMBRIDGE

Community Development Department

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To: Planning Board

From: CDD Staff

Date: November 4, 2021

Re: **Special Permit PB #355 Amendment 1, 1686 Massachusetts Avenue**

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Community Development

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## Overview

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Submission Type:	Special Permit Application
Applicant:	Budega, Inc.
Zoning District(s):	Business A-2 District (BA-2)/ Massachusetts Avenue Overlay District/ Basement Housing Overlay District
Proposal Summary:	Amendment to the previously granted special permit (PB-355) to modify the ownership of the permitted Cannabis Retail Store. No other changes are proposed.
Special Permits Requested:	Cannabis Retail Store Use (Section 11.800)
Other City Permits Needed:	Cannabis Business Permit
Planning Board Action:	Grant or deny requested special permits.
Memo Contents:	Overview of the proposed changes to the project, the amendments being requested for the Special Permit PB-355, and related comments. (Note: No urban design report is provided as no changes to the design are proposed.)
Other Staff Reports:	Traffic, Parking and Transportation Dept. (TP+T) in separate document.

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Requested Special Permits	Required Planning Board Findings (Summary - see appendix for zoning text excerpts)
Cannabis Retail Store Special Permit (Section 11.800)	<p>Complies with Zoning Requirements:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Located in a permanent building.</li> <li>• 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.</li> <li>• 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.</li> <li>• No packaging or re-packaging of cannabis products will occur on-site.</li> </ul> <p>Meets Special Permit Criteria:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Location and design of cannabis use will not detract from the sense of activity with opaque, unwelcoming façade at ground floor in retail areas.</li> <li>• Loading, refuse and service areas are designed to be secure and shielded from abutting uses.</li> <li>• 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.</li> <li>• The facility will provide programs to assist qualifying patients in obtaining services under Massachusetts Medical Use of Marijuana Program.</li> </ul>
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:

	<p>(a) It appears that requirements of this Ordinance cannot or will not be met, or</p> <p>(b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or</p> <p>(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</p> <p>(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</p> <p>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</p> <p>the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30.</p> <p>Where a special permit is required for a Retail or Consumer Service Establishment listed in Section 4.35 or 4.36 of this Zoning Ordinance, the special permit granting authority shall consider the following factors when evaluating the criteria in Section 10.43:</p> <p>(a) Anticipated delivery and loading operations, their potential impacts on neighboring uses and the overall neighborhood, and the extent to which those impacts are mitigated;</p> <p>(b) The extent to which neighboring uses would be impacted by environmental nuisance such as dust, fumes, odors, smoke, vapors, noise, vibration, flashing, light trespass, or glare, and the extent to which those impacts are mitigated;</p> <p>(c) The extent to which storefronts and other elements of the façade visible to the public are compatible with the visual character of the surrounding area and conform to the City’s urban design objectives for retail uses in the area; and</p> <p>(d) Where citywide or neighborhood plans have been published by the City that identify types of retail uses that are preferred or desirable in the area, such plans may be considered in support of such identified uses where they are proposed.</p>
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**Summary of Proposal**

In November 2020, the Board approved a proposal at 1686 Massachusetts Avenue to operate a cannabis retail store occupying approximately 2,316 square feet in the first floor and basement of the existing building. The proposal received a Special Permit per Section 11.800. The project is located in the Business A-2 District and the Massachusetts Avenue Overlay District. Mr. Ricardo Acevedo who had 51%

ownership in the business had received approval from the Cannabis Control Commission as an Economic Empowerment Applicant, pursuant to Application Number EEA202069. The previous Planning Board special permit decision is attached, and contains a condition stating, in part, that “the special permit shall only be valid for the original Permittee and the original Economic Empowerment Applicant,” consistent with Section 11.802.3 of the Zoning Ordinance regarding permits for Cannabis Uses.

### **Requested Amendment**

Under the current proposal, there are no changes to the approved use or design for this project, but Mr. Ricardo Acevedo will have only 10% ownership in the business. With the proposed change in ownership structure, the Building Commissioner determined that the business will not be considered an Economic Empowerment Applicant and will need to seek an amendment to the special permit per the requirements and conditions summarized above. The required Planning Board findings and action to grant the requested amendment are the same as for granting a new special permit, summarized in the table above.

### **Comments on Proposed Amendment**

From a zoning perspective, the only difference between the revised proposal and the original proposal is that as a non-Economic Empowerment Applicant, a Cannabis Retail Store cannot be located within 1,800 feet of another Cannabis Retail Store. The nearest permitted Cannabis Retail Store is located at 1908 Massachusetts Avenue, which is over 1,800 feet from this site. 1908 Massachusetts Avenue and 51 New Street are the two other locations where non-Economic Empowerment Applicants have received a special permit to operate a cannabis retail store in the city.

TP+T staff reviewed the proposed revisions and has transmitted comments regarding the proposed change and recommended conditions in a separate memo.

### **Continuing Review**

The following is a summary of issues that staff recommends as conditions if the Board decides to grant the special permit:

- The project shall continue to be subject to the all Conditions set forth in the original Special Permit Decision (PB-355) dated November 5, 2020, except as provided below.
- Condition #3 would be revised to reflect the proposed change in ownership. Note that the Applicant has provided suggested condition language, but staff’s recommendation is that the Planning Board direct staff, in consultation with the City’s Law Department, to draft the revised condition to be consistent with applicable City policies for Cannabis Uses.
- Condition #11 would be revised to be consistent with the recommendation in the TP+T memo with regard to contributions to mitigate transportation impacts.