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## CITY OF CAMBRIDGE

Community Development Department

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To: Planning Board

From: CDD Staff

Date: August 3, 2020

Re: **Special Permit PB #363, Porter Square Remedies, LLC. Cannabis Retail Store at 1908 Massachusetts Avenue**

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This memo contains an overview of the proposed project at 1908 Massachusetts Avenue, the special permits being requested, and related comments.

### Summary of Proposal

Porter Square Remedies, LLC is proposing to repurpose the first floor of the existing building located at 1908 Massachusetts Avenue (parcel address 1906 Massachusetts Avenue) to operate a cannabis retail store. The proposal includes renovation of 1,100 square feet of the first floor of the existing building to include sales space, storage, and office for the cannabis retail store.

### Requested Special Permits

The project is located in the Business C (BC) 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 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.

Requested Special Permits	Summarized Findings <i>(detailed zoning text on following pages)</i>
Cannabis Retail Store (Sections 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 (see appendix).

## **Area Planning and Zoning**

The site is located in the BC base zoning district along Massachusetts Avenue and is also within the Massachusetts Avenue Overlay District. A small portion at the rear of the lot where two parking spaces are proposed is in the Residence B District, but the entire building is in BC. The BC district allows a broad range of residential and commercial uses, including retail.

### *Cannabis Retail Stores*

Cannabis retail stores are generally allowed in districts where other retail uses are allowed. The pertinent planning and zoning considerations for cannabis retail stores are their location relative to other cannabis retail stores and relative to schools and youth-oriented public facilities, their operational characteristics in terms of transportation for customers, employees, and products, and their façade design in relation to the character of other retail storefronts in the area. The zoning provides greater flexibility for applicants with an “Economic Empowerment” or “Social Equity” designation from the state Cannabis Control Commission to promote greater participation in the cannabis industry from communities that have been disproportionately affected by past drug enforcement policies. Cannabis retail stores are subject to the same dimensional, parking, and signage requirements as comparable retail uses within a given zoning district.

In addition to meeting the zoning requirements and special permit criteria summarized on the preceding page, cannabis retail stores must be properly licensed by the state Cannabis Control Commission. A host community agreement is required under state regulations for both medical and non-medical cannabis establishments. Special permits are unique to a particular cannabis retail store (i.e., not transferrable to a different operator).

### *Massachusetts Avenue Overlay*

The intent of the Massachusetts Avenue Overlay District is:

- to create a more harmonious and consistent image for the development of Mass. Avenue, adjacent areas, and abutting neighborhoods;
- to encourage good building design and site development, which enhances the pedestrian amenities;
- to ensure that changes along the Avenue are compatible with the scale and character of abutting neighborhoods.
- to encourage the retention of existing buildings of historic value and uses which serve the abutting neighborhoods; and
- to discourage new development inappropriate in both scale and design.

Design standards associated with building facades are intended to enhance the visual quality of the District, create a pleasant and inviting pedestrian environment, and be compatible with the residential neighborhoods. Specifically, principal building entrances must face Mass. Ave, and front facades must consist of at least 25 percent clear glass.

## **Comments on Proposal**

### *Consistency with Planning and Zoning*

This is the ninth special permit application for a cannabis retail store made after the City Council adopted amendments to cannabis zoning that address both medical and non-medical cannabis establishments within the city. The proposal is to renovate the 1,100 square foot retail space, formerly a Fast Order Food Establishment, in the existing building, which is currently non-conforming with regard to dimensional requirements and location of parking spaces. No dimensional changes are proposed. The proposed establishment will be a cannabis retail store with separate customer entrance and exit on Massachusetts Avenue and a service entrance/exit at the rear. The application indicates that the main entrance meets accessibility requirements.

This project has not submitted an application for a Cannabis Business Permit. The applicant is not an Economic Empowerment Applicant and therefore would not be eligible for a permit until two years after the adoption of the Cambridge Cannabis Business Permitting Ordinance. The store will be operational between 10 am and 11 pm all days of the week. The Logistics Plan indicates that the maximum number of employees on-site at one time is 4. The plans and narrative suggest a higher potential number by showing 6 sale counters and an additional security counter.

The summary form included in the Logistics Plan mentions that the maximum capacity of the sales area is 14 and the maximum capacity of the waiting area is 6. For the first six months, the applicant suggests limiting service to scheduled appointments to facilitate efficient operations and reduce impact on the public realm. A customer waiting system is not proposed to be employed to mitigate customer overflow after the initial 6 months.

No restroom facilities are proposed inside the store for employees and customers. The plan shows access to the basement from the retail area, but does not include any information regarding the existing or proposed uses in the basement.

### *Location*

The site is partially within the BC district, where cannabis retail stores are allowed under current zoning by special permit from the Planning Board. There no other permitted cannabis retail stores within 1,800 feet of this site. The project narrative records that the site is 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.

### *Transportation, Loading and Service*

The application includes a transportation logistics plan by Vanasse & Associates, Inc. The Traffic, Parking and Transportation (TP&T) Department is reviewing the analysis. The key considerations for the Planning Board will be whether or not the proposed cannabis retail store might have substantially different transportation impacts than a comparably-sized retail establishment.

Under the current zoning, a new establishment of this size would be required to have at least one, but no more than two, off-street parking spaces and one short-term bicycle parking space. However, as this is a change of use in an existing building, parking requirements are waived by the provisions for small

business in a business district requiring no more than 4 spaces. And no new bicycle parking is required because the change in use from a retail store to a cannabis retail store does not cause an increase in the required number of spaces. The project proposes to use two existing off-street parking spaces for employees and no bicycle parking spaces. The existing parking spaces are located in the Residence B zoning district, which does not allow the proposed cannabis retail use. As per the rules for interpretation of district boundaries (Section 3.30 of Zoning Ordinance), uses not allowed in the more restricted district cannot be extended into that district if the parcel is part of two zoning districts. This applies to parking and other accessory use associated with the principal use.

It is unclear whether the off-street parking spaces on this parcel, which exceed 5 in number, are registered parking spaces. A Parking and Transportation Demand Management Plan (PTDM) is required for any addition of 5 or more off-street parking spaces, which can include the use of off-street parking spaces that were previously unregistered. If a PTDM plan is required, then the project cannot be granted a permit from the Planning Board until the PTDM plan is approved. Loading is proposed to take place in the rear of the building through the service door.

#### *Urban Design*

A detailed urban design review would be facilitated by more complete and consistent drawings, but the following comments can be made:

Cambridge's design guidelines recommend that retail storefronts offer visual interest to pedestrians. The 67% opaque fritted decorative pattern proposed for the storefront glazing seems excessively opaque. As the storefront glazing looks into the entry vestibule / waiting area, where no product will be visible, staff recommends that transparent glazing be utilized. If this is done, the entry vestibule will be a more significant element of the pedestrian experience. Sections showing display windows, and lighting and interior elevations of the entry vestibule should be provided.

The proposed design of the storefront minimizes visual clues that would indicate entry and exit. It is difficult to tell from the submitted materials, but the glazing appears to be in a single plane, divided by an L shaped wooden element. Consideration should be given to using changes in the plane of the glazing to emphasize the location of the entry door. Consideration should be given to reconfiguring the exit door so that it does not swing into the sidewalk zone.

Note that the plan and elevation of the Mass Avenue facade are not coordinated with each other, and that the existing entry door noted on sheet A0.04 is actually the entry door to the adjoining business.

The applicant could consider planting trees (in coordination with the Department of Public Works) to replace the dead tree in the sidewalk in front of the building and the nearby empty tree wells.

The proposed business sign is sufficient. Staff suggests, however, that given the high volume of pedestrian traffic in this area, window decals could be considered in addition.

Quality lighting for the business sign will be essential. More even lighting could be considered. Exterior lighting should be provided at the rear service entry. Lighting should follow the recommendations of the Draft Outdoor Lighting Ordinance.

The entry vestibule is quite narrow and seems small to accommodate the number of customers depicted in the queue. The provision of sufficient turning radii and clear widths of doors for wheelchair users should be verified.

Customer queueing in the entry vestibule appears to be well designed, with separate doors for entry and exit and the use of stanchion poles to divide entry and exit routes, but the entry vestibule appears to be very small for the number of customers shown in the queue, making it seem likely that customers will spill out onto sidewalk. Given that abutting businesses are very close to proposed location and the busy nature of the sidewalk in this part of the commercial district, it will be essential to demonstrate how outside customer queuing will be handled or prevented. The application narrative notes that an “appointment only” system is proposed should outside queuing become a problem. Consideration should be given to starting operations with an appointment only system, and discontinuing it only if it is verified that demand is limited enough to make it unnecessary.

ADA compliant counters at the sales positions and the reception desk should be provided.

The door at the rear of the sales floor is noted “card entry”. It should be verified that it is not part of an emergency egress route.

Deliveries are proposed at the building’s rear entry; dimensions of the parking lot and driveway should be provided.

The applicant’s July 28, 2020 memo in reply to TP&T’s memo says that two long term bicycle storage lockers will be provided for employees, but they are not shown on the site plan.

It is not clear from the application whether the project will include new HAVC systems. Rooftop HVAC equipment should be provided with appropriate visual and acoustical screening.

### **Continuing Review**

The following is a summary of issues that staff recommends should be further studied by the Applicant:

- Provide information about the existing and proposed use of the basement.
- Consider retaining a transparent storefront.
- Revise the total number of employees in the store or explain the reason for the difference between the number of employees and the number of sales positions.
- Provide information about restroom facility for employees.
- Location of long-term bicycle storage facilities.
- Provide accurate information regarding the status of the existing off-street parking spaces on the site and seek a determination of whether a small PTDM plan is required.

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

- Review of the design and details of the storefront, including glazing and other materials, and lighting.

- Review of any proposed mechanical equipment on the rooftop, façade or exterior of the building, and its acoustical and visual screening
- Review of exterior signage, lighting, and other security features that may be required by state regulations. Any proposed outdoor lighting should be designed to conform to the guidelines recommended in the proposed Cambridge Outdoor Lighting Ordinance.

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 majority 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.