



CITY OF CAMBRIDGE, MASSACHUSETTS

# PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

## NOTICE OF DECISION

Case Number:	394
Address:	1730 Massachusetts Avenue
Zoning:	Business A-2 / Residence B / Massachusetts Avenue Overlay District
Applicant:	1730 Mass Ave, Inc. DBA The Boston Garden 111 Wellington Hill Street, Boston, MA 02126
Owner:	Harvard Square Holdings LLC 166 Harvard Street, Brookline, MA 02446
Application Date:	January 5, 2023
Date of Planning Board Public Hearing:	February 14, 2023
Date of Planning Board Decision:	February 14, 2023
Date of Filing Planning Board Decision:	May 2, 2023
Application:	Special permit for 1730 Mass Ave, Inc. DBA The Boston Garden, to operate a retail cannabis store pursuant to Sections 11.800 and 10.43 of the Zoning Ordinance occupying approximately 5,800 square feet in the existing building at 1730 Massachusetts Avenue.
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](mailto:sjoseph@cambridgema.gov).

## **DOCUMENTS SUBMITTED**

### Application Documents and Supporting Material

1. Special Permit Application submitted on 1/5/2023, containing *inter alia*, Application Forms, Project Narrative, Description of Activities, Service Area, Transportation Logistics Plan prepared by Fuss & O’Neill dated October 2022, Community Outreach Summary, Dimensional Form, and plan set titled The Boston Garden, dated 12/12/2022.
2. Presentation slides shown to the Planning Board on 2/14/2022.

### City of Cambridge Documents

3. Memorandum to the Planning Board from Community Development Department (CDD) staff, dated 2/8/2023.
4. Memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation, dated 2/9/2023.

### Other Documents

5. Email communication to the Planning Board from Colin Summers, dated 2/10/2023.
6. Email communication to the Planning Board from Claire Chafee, dated 2/13/2023.
7. Email communication to the Planning Board from Jennifer Marshall, dated 2/13/2023.
8. Email communication to the Planning Board from Jodi Ekelchik, dated 2/13/2023.

## APPLICATION SUMMARY

The Applicant, Boston Garden, LLC (the “Applicant”) proposes to operate a cannabis retail store at 1730 Massachusetts Avenue, near Porter Square. The store would be located in an existing, one-story multi-tenant commercial building, with no physical changes to the site or current development program proposed. The Applicant is a certified minority-owned Economic Empowerment Applicant because one of its Members with over 50% of ownership is certified as an Economic Empowerment Applicant pursuant to Application Number EE202148 (“EE Applicant”), and that member is a “Person or Entity Having Direct Control” of the Applicant, as defined in 935 CMR 500.002. No cultivation, processing or packaging will occur on site. The Applicant proposes to renovate approximately 5,800 square feet of the existing building to include sales space, storage, and accessory office space. The site is located in the Business A-2 and Residence B zoning districts, as well as the Mass Ave Overlay and Basement Housing Overlay districts. 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 CCC. Loading and deliveries are proposed to be provided by secure vehicles through a secured entrance in the rear of the store, in accordance with CCC regulations.

## 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 Planning Board may grant a special permit approving a Cannabis Retail Store 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.*

Applicant has been designated as an EE Applicant by the CCC. While the lot is located in both a Business A-2 district and a Residence B district, the Cannabis Retail Store and all

accessory site elements related to the Cannabis Retail Store will be limited to the portion of the parcel in the Business A-2 district.

*(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.*

As described above, the Applicant is an EE Applicant. Therefore the 1,800 foot buffer requirement from the Applicant's Cannabis Retail Store to another Cannabis Retail Store does not apply.

*(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 is also meets the requirements for a Cannabis Production Facility.*

All products are pre-packaged at the cultivation facility. No cultivation, packaging, or repackaging will occur at the Applicant's 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 1 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 of the Applicant's Cannabis Retail Store.

*(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 there are no public children's playgrounds, public youth athletic fields, or public youth recreation facilities within 300 feet of the proposed location of the Applicant's Cannabis Retail Store.

*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 Fuss & O'Neill was submitted as part of the Application documents, and was reviewed by the Traffic, Parking and Transportation Department ("TP+T"). There are no circulation or parking changes from the existing site conditions. TP+T supports the plan for loading and delivery operations to be limited to off-peak hours, utilizing existing on-site parking spaces. As with other Cannabis Retail Stores, the Applicant will coordinate with TP+T and the Cambridge Police Department on an operations plan to be reviewed and approved prior to the issuance of a Certificate of Occupancy.

The Applicant has committed to providing Transportation Demand Management ("TDM") measures and monitoring of employee and customer visits as well as loading and pick-up activities to mitigate any unexpected transportation impacts. Prior to the issuance of a building permit, the Applicant will submit an operations plan for review and approval by TP+T and the Cambridge Police Department, which will detail how the Applicant plans to manage customer crowding and flow to/from the Applicant's Cannabis Retail Store business which could create safety issues.

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

The existing parking area contains trash receptacles adjacent to the rear of the building, which will continue to be used by the Applicant for its Cannabis Retail Store. All refuse areas will be screened and locked in accordance with CCC's security requirements. No cannabis waste will be stored within the exterior waste receptacles under any circumstances.

*(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 Applicant's Cannabis Retail Store will be located within an existing building, with minimal exterior changes proposed. Customers will be granted access into a secure entry vestibule and provide credentials to enter the sales floor, which is located beyond the entry vestibule. The design of the proposed interior space does not provide public visibility into the sales floor, therefore no visual screening will be required on the storefront windows.

The proposal includes a wall sign and a window vinyl sign, both of which will be required to obtain separate sign permits from Inspectional Services, and will be reviewed for compliance with the sign regulations in Article 7 of the Zoning Ordinance.

*(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.*

As mentioned above, the store has been designed to limit visibility to the sales floor from the street; therefore, no visual screening will be required from the storefront windows along Mass Ave.

*(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 initially will not include a medical treatment center. However, it will assist and consult with registered medical patients to access services through the Massachusetts Medical Use of Marijuana Program.

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

The Planning Board finds that the project 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 and applicable zoning relief, 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 permitted in the Business A-2 district. The use 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 operate 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 primarily within the Business A-2 district, which is a lower density, mixed-use area that supports a wide range of retail uses, including Cannabis Retail Stores.

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

The proposed Cannabis Retail Store business will have minimal exterior and site changes. The signage, landscaping details, and proposed rooftop mechanical screening will be subject to continuing design review by staff to ensure that the proposed plans remain in conformance with the Planning Board's approval of this special permit, and that the building maintains as much transparency as possible within the CCC's requirements for screening. Therefore, the Board finds no inconsistency with the applicable urban design objectives.

**DECISION**

Based on a review of the Application Documents, testimony given at the public hearing, and the above Findings, the Planning Board hereby GRANTS the requested Special Permits subject to the following conditions and limitations. Hereinafter, for purposes of this Decision, the Permittee shall mean the Applicant for the requested Special Permits and any successor or successors in interest.

1. This special permit shall authorize only Boston Garden, LLC (the “Permittee”) to establish and operate a Cannabis Retail Store at 1730 Massachusetts Avenue, Cambridge, in substantial conformance with the Application Documents and supplemental documents and information submitted by the Applicant to the Planning Board as referenced above. This Cannabis Retail Store is permitted to operate 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 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.
3. This special permit shall be valid only for the approved 1730 Massachusetts Avenue site. Furthermore, the special permit shall only be valid 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 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.
5. The Permittee shall maintain its designation as an EE Applicant pursuant to the regulations of the CCC to remain in compliance with Section 11.803.1, Paragraph (b), of the Zoning Ordinance at all times.
6. All use, building construction, and site plan development shall be in substantial conformance with the Application Documents and other supporting materials submitted to the Planning Board, except as modified by the additional Conditions of this Special Permit Decision. The project plans hereby approved by the Planning Board are the plan set prepared by Fuss &



O'Neill, dated 12/09/2022. Appendix I summarizes the dimensional features of the project as approved.

7. The project shall be subject to continuing design review by the Community Development Department. 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.
8. The Permittee shall address the following 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. Treatment of all windows and entry doors, precast concrete façade, and design of signage.
  - b. Review of all landscaping details, including proposed plantings, hardscape, and screening treatment for any proposed rooftop mechanical equipment.
  - c. Prior to the issuance of a building permit, review and approval by CDD and TP+T staff of short- and long-term bicycle parking clearances and dimensions, provided on a 1"=10' scale plan.
  - d. Review of exterior lighting and other security features that may be required by CCC regulations.
  - e. Prior to the issuance of a building permit, the Applicant shall submit an updated Application Graphics plan set which removes the stamp reading, "This document is not for regulatory approval, permitting or construction."
9. The Permittee shall use an on-line pre-purchase and/or appointment-only scheduling system for operations for a period of one month after opening, unless specifically waived by TP+T.
10. 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. No offsite deliveries shall be made from this location to customers unless approved by the Planning Board.
11. The Applicant shall provide the following transportation mitigation measures, which shall be certified by TP+T and CDD staff prior to issuance of a Certificate of Occupancy for the approved Cannabis Retail Store.
  - a. 100% MBTA T-Pass subsidies shall be provided to all employees. MBTA T-Pass subsidies may be pro-rated for part time employees. Such a program shall be administered by the employer through the MBTA Corporate Pass/Perq program.

- b. Employees shall be offered Gold-Level Bluebikes bikeshare memberships, to be administered through the Bluebikes Corporate Program by the employer.
  - c. The Permittee's Cannabis Retail Store shall provide an air pump and bicycle repair tools for employees and customers to use when needed.
  - d. The Permittee's Cannabis Retail Store shall designate an employee of the facility as a Transportation Coordinator (TC) to manage the implementation of TDM measures and a transportation monitoring program, as may be required. 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 near the Project site.
      - 2. MBTA maps, schedules, and fares.
      - 3. "Getting Around Cambridge" map (available at the Cambridge Community Development Office)
      - 4. Locations of bicycle parking.
      - 5. Bluebikes regional public bikeshare 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 and provide up-to-date transportation information explaining all commuter options to all employees. This information should also be distributed to all new employees as part of their orientation. Transportation information packets may be obtained from the Community Development Department.
    - iii. Provide customers with sustainable transportation information to access the site.
    - iv. Provide and maintain information on the project's public 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 or local Transportation Management Association.
    - vi. If requested by TP+T or the Community Development Department, the Application should provide TP+T and CDD information on employee and customer travel modes and where they customarily park, as well as information on loading and delivery operations. Surveys of employees and customers shall be designed and conducted in a manner approved by TP+T and CDD.
12. Prior to the issuance of a Building Permit, the Permittee shall submit an initial Operations and Logistics plan to TP+T and Cambridge Police Department pursuant to Section 11.804(e) of the Zoning Ordinance. 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. Such a plan shall specifically include plans for the initial opening period, including how the Permittee will identify and respond to any unexpected situations (i.e., sidewalk crowding, blocking bike

lanes, or other safety issues). A final Operations and Logistics Plan shall be approved prior to issuance of a certificate of occupancy, and ongoing compliance shall be a condition of this Special Permit.

13. The Applicant shall provide a one-time contribution in the amount of \$35,000 to the City towards 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. Half of this contribution shall be made prior to the issuance of a Building Permit and half shall be made prior to the issuance of a Certificate of Occupancy.
14. 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 requested Special Permits were Planning Board Members Louis Bacci, Jr., H Theodore Cohen, Steven Cohen, Catherine Preston Connolly, Hugh Russell, Tom Sieniewicz, and Associate Member Ashley Tan, appointed by the Vice-Chair, to act on the case constituting at least two thirds of the members of the Board.

For the Planning Board,

A handwritten signature in cursive script that reads "Catherine Preston Connolly". The signature is written in black ink and is positioned above the printed name of the signatory.

Catherine Preston Connolly, Vice-Chair

A copy of this decision PB-394 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 5/2/2023 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)	25,656	N/A	25,656	No Change
Lot Width (ft)	213	N/A	213	No Change
Total GFA (sq ft)	11,040	14,623	11,040 <sup>1</sup>	
Residential Base	N/A	N/A	N/A	Consistent with Application Documents and applicable zoning requirements
Non-Residential Base	11,040	14,623	N/A	
Inclusionary Bonus	N/A	N/A	N/A	
Total FAR	0.43	0.57	0.43	Consistent with Application Documents and applicable zoning requirements
Residential Base	N/A	N/A	N/A	
Non-Residential Base	0.43	0.57	0.43	
Inclusionary Bonus	N/A	N/A	N/A	
Total Dwelling Units	N/A	N/A	N/A	
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)	17.92	45	17.92	Consistent with Application Documents and applicable zoning requirements
Front Setbacks (ft)	0.23	5	0.23 <sup>2</sup>	
Side Setback (ft)	0.49	10	0.49 <sup>2</sup>	
Side Setback (ft)	73.67	10	73.67	
Rear Setback (ft)	28.90	20	28.90	
Open Space (% of Lot Area)	5%	0%	5%	Consistent with Application Documents and applicable zoning requirements
Private Open Space	N/A	N/A	N/A	
Permeable Open Space	5%	0%	5%	
Off-Street Parking Spaces	6	0	7	
Long-Term Bicycle Parking	0	1	1	Consistent with Application Documents and applicable zoning requirements
Short-Term Bicycle Parking	0	4	4	
Loading Bays	0	0	0	

<sup>1</sup> Area of Cannabis Retail Store is 5,800 square feet.

<sup>2</sup> Pre-existing non-conforming.