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## CITY OF CAMBRIDGE

Community Development Department

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To: Planning Board

From: CDD Staff

Date: June 8, 2021

Re: Special Permit **PB #379, Ivy League Technologies, LLC. Cannabis Retail Store at 95 First Street** (parcel address – 85-95 First Street)

**IRAM FAROOQ**  
Assistant City Manager for  
Community Development

**SANDRA CLARKE**  
Deputy Director  
Chief of Administration

**KHALIL MOGASSABI**  
Deputy Director  
Chief of Planning

### Overview

Submission Type:	Special Permit Application
Applicant:	Ivy League Technologies, LLC
Zoning District(s):	Business A District (BA); PUD 4B District
Proposal Summary:	Repurpose a portion of the first floor of the existing building to operate a cannabis retail store. The proposal includes renovation of 4,575 square feet of the existing building for the sales area, storage, bicycle parking, and break room for the employees. It also includes 3 long-term bicycle parking spaces.
Special Permits Requested:	Cannabis retail store use (Section 11.800). <i>A summary of the applicable special permit findings is listed on the following page. Applicable sections of the zoning are provided in an appendix.</i>
Other City Permits Needed:	Cannabis business permit.
Planning Board Action:	Grant or deny requested special permits.
Memo Contents:	Review of area planning and zoning, comments on proposal addressing planning, zoning, and urban design.
Other Staff Reports:	Traffic, Parking and Transportation Dept. (TP+T)

Requested Special Permits	Required Planning Board Findings (Summary) (see Criteria for zoning text excerpts)
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 Criteria).

## **Area Planning and Zoning**

The base zoning for the site is Business A (BA) and it is in the PUD-4B District. The building was recently constructed under a PUD special permit (PB-231A) and was subject to the Planning Board's design approval. The base zoning district allows a broad range of residential and commercial uses, including retail, and this site is permitted for retail use under the PUD special permit. Cannabis retail stores are allowed under current zoning by special permit from the Planning Board.

### ***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. 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).

## **Comments on Proposal**

### ***Consistency with Planning and Zoning***

This is the thirteenth 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 application mentions that the applicant Ivy League Technologies, LLC is an Economic Empowerment Applicant.

The existing building was constructed under a Planning Board special permit that included multiple parcels on First Street (PB-231A). The space was formerly a pet supply store. The proposed establishment will be a cannabis retail store with separate building entrance and exit on First Street and emergency exit on Hurley Street. The application notes that any queueing, if it were to occur, would take place at the rear of the building and not on the sidewalk. The store will be operational between 10 am and 11 pm Monday to Saturday and 11 am to 8 pm on Sunday. The application does not indicate the location from which the products will be supplied. It also does not suggest limiting service to scheduled appointments for initial operations. The summary form included in the Logistics Plan indicates that the maximum capacity is 74 including customers and employees.

### **Location**

This site is 1,600 feet from another permitted cannabis establishment at 200 Monsignor O'Brien Highway. But, since the applicant is an Economic Empowerment Applicant, the 1,800-foot separation requirement

does not apply. The project narrative materials indicate 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 prepared by the applicant. The Traffic, Parking and Transportation (TP&T) Department is reviewing the analysis and comments are provided in a separate memo. 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, an establishment of this size would be required to have at least five, but no more than nine off-street parking spaces and three short-term bicycle parking spaces. The project is proposing six long-term bicycle parking spaces and has eleven short-term bicycle parking spaces on the site. Four of the eleven off-street parking spaces are designated for this project, which are proposed to be used for customers. Loading is proposed to utilize the existing off-street loading area behind the building.

According to the Application, the Applicant intends to apply for a "Delivery Operator" license if it is permissible in the future. The City Council is considering an amendment to the Zoning Ordinance that would permit Cannabis Delivery Operator Establishments (which do not allow retail sales on-site) by special permit, and Cannabis Courier Establishments (which conduct home deliveries from licensed Cannabis Retail Stores) as-of-right. The Cannabis Control Commission could issue both a retail and a courier license for a single establishment. If the proposed Cannabis Retail Store is approved, it will be important for the Planning Board to specify whether a future Cannabis Courier Establishment would be authorized on the site. Thus far, special permits for Cannabis Retail Stores have explicitly prohibited home deliveries from the site. Issues to be considered by the Planning Board include whether the future delivery operation is accounted for in the operations and logistics plan, as well as the effects on parking given that off-street parking spaces would be required to store delivery fleet vehicles overnight.

#### ***Urban Design***

##### Proposed cannabis retail in existing building

The new retail cannabis store, Sankofa, is proposed to occupy a space in the existing newly constructed (2018) one-story retail 'box' building on the corner of First and Hurley Street in East Cambridge. The existing retail building, approximately 9,800 SF, is currently occupied by three tenants, the paint store—Sherwin-Williams, U.S. Postal Service, and a pet store-Loyal Companion. The proposed Sankofa cannabis store will occupy the corner space, which is currently occupied by the pet store. The retail box building is slightly offset from the property line on First and Hurley Street. The parking, drop-off area, bike racks, and trash collection are located the back of building and are shared by the three tenants.

According to the Application, the proposed square footage for Sankofa is approximately 4,575 SF. It is anticipated to accommodate 15 Sankofa employees and 56 customers. The floor plan indicates about a 1/3 of the gross square footage is allotted for the retail supporting functions including for consultation space, office, bathrooms, vault room, and break room (with bike racks inside the space). The other 2/3

of the retail space includes circulation space, security space, queuing area, display cases, art space, sale stations, counter space for cashiers, online order and pick up area.

On the existing retail box exterior elevations, the Sankofa store takes up almost all the elevation on Hurley Street and about half on First Street and the back side.

#### Existing building storefront

Providing visual connection between the interior and exterior to amplify street life is essential for First Street. The existing primarily full-height clear glass (about 13'-6") for the proposed Sankofa retail space enhances and supports activating the public realm. As part of this retail strategy, the storefront's transparent glass, black mullions and black metal panel clad provide a slick and contemporary feel to the street wall. They complement the existing collage of buildings on First Street.

The cannabis store provides a welcome addition to the eclectic context and provides an opportunity to further enliven the street. The partial two-story facade also supports Sankofa store visibility and presence and provides a sense of scale to the next block.

The Hurley Street side also has existing glass and aluminum storefront at both building corners that are in-framed with metal panel (in an I-Beam shaped profile), the remainder of the wall (the middle portion) is opaque brick wall (in two different shades of grey, stack bond pattern brick). The blank wall portion is currently adorned with a full height metal mesh to support growing a green (vertical) wall which staff feel is a positive façade feature that should be maintained, and the vegetation should be cared for.

The existing west façade facing the parking lot consists of storefront glass with two storefront entrances, a brick wall and with one man-door entry to the building.

Staff appreciate maintaining the existing glass transparency by providing the mandated product screening on the product display cases by using proprietary film (3M Black Privacy Filter) that obscures view of the contents to people who are not next to the display case. It is our understanding, however that an approval of this film is pending acceptance by the Cannabis Control Commission.

The mechanical equipment on the lower roof is adequately screened by sight-proof mechanical louvers. The Application does not indicate if any additional units would project higher than the existing mechanical screen. The applicant should confirm.

#### Store Signage

The existing signage for the existing retail tenants is comprised of illuminated channel letters. Each store has its signs above the glass and directly over the store entrance. The signs fit within the I-shaped metal panel band fascia. The current pet shop store (Loyal Companion) has two illuminated channel letter signs on First, one on Hurley Street and two on the back.

The proposed Sankofa store renderings show one sign and logo directly above the entrance on First Street and another sign on Hurley Street. No signs are proposed or shown facing the back side. No details are provided for those signs. The sign permit will be pending a separate permitting track with staff. However, staff is providing some guidance here:

*Size:* Generally, we recommend using a smaller size cut-out-letter. Staff feel the existing pet store signage letter size seems appropriate for the band space allowed by the I-shaped metal pane fascia.

*Material:* We recommend cut-out metal letters e.g., aluminum or stainless steel, or shop-painted composite material that are stud/pin mounted to a base surface (the base surface could be the existing building material e.g., metal, brick or stone or a separate metal or other composite material).

*Lighting:* We recommend LED type for halo lighting effect (no exposed wiring or transformers).

#### Retail space entrances, circulation, and absence of a vestibule

*Entrances:* The Sankofa store is served by two entrances. The main entrance is on First Street. This entrance is designated as the ADA/handicap entrance. There is a secondary entrance/exit in the back which is designated as an 'emergency exit'. Staff recommends consulting with ISD prior to submitting for building permit to confirm ADA, State and local guidance on requirements related to compliance.

Entering from First Street, one would go through a 'sally port' area by a security desk. Current plan layout and renderings show some sort of rail for this sally port area which is also an area for queuing before passing through the sally port.

*Interior circulation:* The proposed Sankofa retail space circulation is primarily organized around the product display cases. The interior space is fully utilized by the placement of 28 display cases. The display cases (some of which are of different sizes) are placed to direct the circulation flow into a desired direction i.e., to the 'Transaction Counter' or 'Online Order Pick up Counter' or to exit the store in the front. Some of the display cases are about 3'-2" high, but some of them are double that height and are used along the 'Transaction Counter' space in two rows.

The number and placement of display cases appears to overwhelm the clarity of interior space. This is also compounded by using only the main entrance to enter and exit the store. Staff understand that this is intended to control store operation but wonder if more thought is given to explore alternative circulation flow, furniture layout, and using the back entrance for exiting the store. This might require relocating some of the cashier counters and/or re-organizing the supporting functions. Most importantly, staff feels that a clear path or wider aisle in the middle of the space would provide much needed clarity of interior space and functions. Also, staff recommend replacing the taller display cases (obstructing views) in front of the 'Transaction Counter' with low height display cases to provide more visual connection within the store.

Staff also recommend maximizing the utility of the interior corner space for seating and/or waiting area for customers. This would require removing the lone corner display case near the queuing side area (facing the corner of First and Hurley Street). Seeing people sitting near by the window would be livelier than seeing a display case with one person nearby.

*Absence of a vestibule:* A vestibule at the main entrances would make sense for occupants' comfort. The proposed layout for the interior store build-out does not show a *vestibule* at the main entrance. Intuitively, based on the space configuration and scale, staff feel it would be a best practice to have a vestibule for such an interior space area (Note: interior space square footage/configuration is near the

threshold mark of IECC/Code requirement 3000 SF). Staff is unclear as to an accurate square footage of the store retail/display area that would trigger the requirement for an air-lock space mechanism i.e., by a vestibule. There remains a question as to whether a vestibule is required based on floor area threshold set by building/and or IECC code.

It is staff's understanding that any submittal to ISD for a building permit would require a licensed architect or engineer to document compliance to building codes. We recommend the Applicant retain the services of a licensed architect or engineer as soon as possible. Retaining a licensed architect/or engineer would also be helpful to facilitate any continued design review by CDD staff if required.

### **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. Also, if a Cannabis Courier license is sought for this site, the Board should specify whether off-street parking that is currently proposed for customers may be used for delivery fleet vehicles. Refer to comments in the TP+T memo for guidance.

The following additional information is requested to clarify operational aspects of the proposal:

- Clarify if any additional units that would project higher than the existing mechanical screen.
- Clarify whether a vestibule is required based on floor area threshold set by building

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

- Explore alternative circulation flow, furniture layout, and using the back entrance for exiting the store.
- Consider maximizing the utility of the interior corner space for seating and/or waiting area for customers.
- Size, material, and type of lighting for the signage.

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.