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## CITY OF CAMBRIDGE

Community Development Department

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To: Planning Board

From: CDD Staff

Date: February 20, 2019

Re: **Special Permit PB #345, Native Sun Wellness Inc. Registered Marijuana Dispensary at 229-231 Third Street**

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

**SANDRA CLARKE**  
*Deputy Director  
Chief of Administration*

**KHALIL MOGASSABI**  
*Deputy Director  
Chief of Planning*

This memo contains an overview of the proposed project at 229-231 Third Street, the special permits being requested, and related comments.

### Summary of Proposal

Native Sun Wellness Inc. is proposing to repurpose the existing building at 229-231 Third Street to operate a registered medical marijuana dispensary (RMD). The proposal includes renovation of the 2,355 square-foot existing building to use the first floor for the RMD and the second floor to accommodate a security vault, office area, and locker room for the employees.

### Requested Special Permits

The project is located in the Industry A-1 (IA-1) District, which allows RMDs by Special Permit per the requirements of Section 11.800. Applicable sections of the zoning are provided in an appendix. The site is also within the Eastern Cambridge Housing Overlay (ECHO) district, which modifies some zoning requirements for residential uses.

The City Council recently amended Section 11.800 to include provisions for non-medical or "adult use" cannabis establishments with a delayed effective date in order to consider a "Cannabis Business Permitting Ordinance," which will continue to be worked on with the Council in the early part of this year. The zoning will become effective when such an ordinance is adopted, or on 4/20/19, whichever comes first. The amendments are discussed further in this memo. If the effective date precedes the decision filing date, the proposed RMD will be required to conform to the newly adopted Section 11.800. Under the new zoning, an establishment that is permitted only as a RMD will need to seek an additional special permit from the Planning Board to allow an adult-use cannabis retail establishment.

Requested Special Permits	Summarized Findings <i>(see appendix for zoning text excerpts)</i>
Medical Marijuana Dispensary Use in Industry A-1 District (Section 11.800 as currently in effect)	<ul style="list-style-type: none"> <li>• Location shall serve an area that currently does not have reasonable access to medical marijuana.</li> <li>• The location is at least five hundred feet from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is sufficiently buffered from such facilities such that its users will not be adversely impacted by its operation.</li> <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>• Traffic generated shall not create a substantial adverse impact on nearby residential uses.</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> </ul> <p><i>(See full criteria in appendix)</i></p>
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**

Pursuant to Section 11.800, RMDs are allowed in Business A, Business B, Business B-1, Business B-2, Business C, Industry A-1, Industry B-1 and Industry B-2 districts in the city with a Planning Board Special Permit. The base zoning for the site located in East Cambridge is Industry A-1 (IA-1). The site is also in the Eastern Cambridge Housing Overlay (ECHO) district, which is intended to promote residential development but continues to allow commercial uses. For commercial uses, the district has a height limit of 45 feet and a maximum FAR of 1.25. No front yards are required, and side or rear yards are only required for new residential structures or for nonresidential uses abutting residences, residential or open space districts or public parks and recreation areas.

Summary of requirements for a RMD:

- RMDs are only allowed to operate, notwithstanding the use limitations of the base zoning district or any overlay zoning district, with a special permit by the Planning Board.
- Permitted RMDs must be properly registered at the state level.
- Special permits are unique to a particular RMD (i.e., not transferrable to a different operator).
- RMDs must operate within a building.
- District dimensional requirements (e.g., FAR, height, setbacks) for non-residential uses apply to RMDs.
- Vehicle parking and bicycle parking (both long-term and short-term) spaces and the required number of loading bays shall be determined by the Planning Board based on the transportation analysis and other information related to operations and security of the RMDs.
- Normal signage requirements (Article 7.000 of the Zoning Ordinance) apply to RMDs, and additional restrictions may be imposed on signage as appropriate to mitigate any aesthetic impacts.
- A RMD is not allowed within 1,800 feet of another RMD.

Cambridge's current zoning only allows only medical marijuana dispensaries until the effective date of the recently adopted amendments. An establishment that has received a special permit only for a medical RMD will need to amend its special permit to allow adult use cannabis sales or production.

This is the first RMD application made after the City Council adopted amendments to cannabis zoning last year. These amendments address both medical and non-medical cannabis establishments within the city. The recently adopted amendments include the following changes to the currently effective requirements as they apply to RMDs:

- Parking and bicycle parking requirements are established in Article 6.000, as with other retail uses, rather than being determined by the Planning Board.
- It must be agreed to in writing and made a condition of a special permit that no on-site packaging of cannabis products may occur within a retail store. If this is not agreed to, then the retail store must be in a separate building that is separated by at least 100 feet from residential, institutional, office, or other retail uses.
- A full transportation analysis is no longer required, but a logistics plan to describe delivery and loading functions around the site is required to be reviewed by the Traffic, Parking and Transportation Department.
- An application is required to include an update on progress toward establishing a host community agreement, which is required under new state regulations for both medical and non-medical cannabis stores.
- An applicant that has been designated by the Cannabis Control Commission as an Economic Empowerment Applicant or as qualifying for its Social Equity Program can waive the 1,800-foot separation requirement, and only such applicants are allowed in Business A-1 districts.
- No cannabis establishments shall be permitted within 300 feet of a 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. The Planning Board may still issue a special permit to approve a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts.

## **Comments on Proposal**

### *Consistency with Planning and Zoning*

The proposal is to renovate the existing building on the lot, which is currently conforming with regard to dimensional requirements and contains 2,355 square feet of gross floor area (GFA). The proposed RMD will be a retail dispensary with its main entrance on Third Street, operational between 8 am and 8 pm. All cultivation and processing will occur at another registered facility in Fitchburg, MA.

This RMD, if approved, would be the seventh permitted RMD in the city. Ascend Mass, LLC at 200 Monsignor O'Brien Highway will be the closest RMD once it becomes operational, and appears to be close to 1,800 feet from this proposed site. The other five approved RMD locations are much farther from the site.

### *Location*

The site is within the IA-1 district, where RMDs are allowed under the current and recently adopted zoning. The area is characterized by a mix of housing, office, some retail, and public open space uses. The Lechmere Station on the MBTA Green Line and Kendall Square Station on the Red Line are both approximately a half-mile from the site.

Under the current and recently adopted zoning, the two key locational considerations for an RMD are the distance from other RMDs and the distance from schools or youth-oriented facilities. As noted above, the proposed site is just about 1,800 feet from another approved RMD in Cambridge. As per the current zoning, RMDs have to be at least 1,800 feet from each other. Under the recently adopted zoning, the 1,800-foot separation requirement can be waived only for an Economic Empowerment Applicant or one qualifying for Social Equity Program. The project narrative materials indicate that the proposed RMD is within 500 feet of the Anthony Costa playground, but appears to be more than 300 feet away, thereby meeting the standard in the newly adopted zoning. The proposed RMD is only just over 100 feet from Rogers Street Park, currently an unprogrammed public open space that is scheduled to start construction this year to add community features including a play field, playground equipment, a sledding hill, a dog run, and an event space. The proposed RMD would be across the street and visible from many portions of the park. The site is also around the corner from the Bent Street side of the Foundry Building, a city-owned facility that is planned for redevelopment into an arts-oriented community center. The Planning Board would need to carefully consider whether there are mitigating factors that are sufficient to justify a waiver of the required buffer from public facilities that are used by children.

### *Transportation, Loading and Service*

The application included a transportation analysis by Howard Stein Hudson. The Traffic, Parking and Transportation (TP&T) Department has reviewed the analysis and is providing comments in a separate memo. The key considerations for the Planning Board will be whether or not the proposed RMD might have substantially different transportation impacts than a comparably-sized retail establishment, and whether the use can be reasonably accommodated with a single off-street parking space. The site plan

indicates that the off-street parking space is for employee usage. However, the narrative indicates that it is for patient usage.

Under the recently adopted zoning, an establishment of this size would be required to have at least two, but no more than five off-street parking spaces, one long-term bicycle parking space, and two short-term bicycle parking spaces. However, the building previously had an office use, and requirements for both parking and bicycle parking for a change of use depend on the characteristics of the existing and proposed uses.

Because the difference in bicycle parking requirements between the former office use and the proposed RMD is fewer than two bicycle parking spaces, requirements for additional bike parking are not triggered. The project proposes 3 long-term and 2 short-term bicycle parking spaces, exceeding the minimum requirements, which is supported by staff. The 3 long-term bicycle parking spaces proposed as lockers near the parking area will allow the employees to secure their bikes in a weather protected location.

The project proposes one off-street parking space at the rear of the site. Since the proposed retail use requires fewer than four parking spaces and is in an industrial district, requirements for new off-street parking spaces may be waived. However, the adequacy of parking at this site is an important consideration given that there is little public parking available in the immediate vicinity for customers.

Additional comments related to proposed parking and bicycle parking are provided by TP&T.

#### *Urban Design*

From an urban design perspective, little of the existing building or street frontage is changing to accommodate the RMD. The entrance will be made accessible and given more prominence. The existing bay windows, which are a prominent feature of the façade will remain open and transparent. Artwork will be displayed in the bays, setback from the windows to shield rather than completely obscure the interior spaces. This approach successfully addresses the security measures associated with visibility into RMDs, while allowing daylight into the interior and providing transparency and a sense of depth.

Some windows on the side elevations are proposed to be removed and security bars added to the interior of some windows. While not necessarily design improvements, the south elevation is screened from view by the adjoining building, and the windows to be removed on the north elevation are located some distance from the public realm

#### **Continuing Review**

The following is a summary of issues that staff recommends should be further studied by the Applicant, either in preparing revised materials if the Planning Board continues the hearing to a future date, or as conditions for ongoing design review by staff if the Board decides to grant the special permit:

- Provide clarification whether the off-street parking space is for employees or patients.
- Provide accurate information regarding distance from the project site to 200 Monsignor O'Brien Highway.
- Review of all exterior materials, colors, façade alterations and details.

- 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.