



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

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Community Development

To: Planning Board
From: Jeff Roberts, Land Use and Zoning Planner
Date: July 1, 2016
Re: **PB #312, Sage Cannabis RMD at 1001 Massachusetts Ave.**

Overview

Sage Cannabis, Inc. has proposed to establish a Registered Marijuana Dispensary (RMD) at 1001 Massachusetts Avenue for the sale (but not cultivation) of marijuana for medical purposes. An RMD is a rare use within the Zoning Ordinance that requires a special permit from the Planning Board, subject to the Medical Marijuana Overlay District provisions of Section 20.700 (summarized on the following page).

Background

A ballot initiative to authorize the use of marijuana for medical purposes was approved by Massachusetts voters in 2012. Regulations to govern the establishment and operation of RMDs were promulgated by the Massachusetts Department of Public Health (MDPH) in 2013. While RMDs are regulated primarily at the state level, municipalities have local control over where RMDs may be sited through zoning, and can impose other requirements so long as they do not conflict with state regulations.

Following the promulgation of such regulations, the City of Cambridge adopted zoning regulations in 2013. Cambridge's zoning establishes overlay districts in which an RMD may be authorized by special permit from the Planning Board, after consideration of such issues as transportation, design and impacts on neighboring uses. Initially, two overlay districts were established (MMD-1 in the Alewife area and MMD-2 in the North Point area). Earlier this year, the City Council established a third district, MMD-3, in a small section of Massachusetts Avenue between Central Square and Harvard Square.

In addition to regulation through zoning, the Cambridge Public Health Department is in the process of considering regulations that it may promulgate to govern the operation of RMDs.

Initially, state regulations authorized up to 35 RMDs across Massachusetts, with up to 5 allowed in any one county. Those numerical caps were since lifted and municipalities now have broader latitude to determine how many RMDs may be allowed within their communities. Additional information about municipal regulation of RMDs is found at <http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/medical-marijuana/info-for-municipalities.html>.

According to MDPH, there are currently six RMDs operating in Massachusetts, with retail locations in Salem, Ayer, Brockton, Brookline, Northampton and Lowell.

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Summary of Planning Board Considerations: Approval of a Registered Marijuana Dispensary (20.700)

Summary of Requirements:

- RMDs are only allowed in designated Medical Marijuana Overlay Districts.
- 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 (e.g., FAR, height, setbacks) and signage requirements apply to RMDs.
- Additional requirements apply in MMD-3:
 - RMDs must be retail only, with no cultivation.
 - RMDs must be either below grade or at the second story or above.
 - RMDs must be less than 10,000 square feet, with at least 70% used for patient services and the remainder for administrative support, storage and security.

Planning Board Determinations:

- The required number of 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 operational and security plans provided by the applicant.

Criteria for Approval:

- The Registered Marijuana Dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
- The site is located at least five hundred feet distant 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 determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the RMD.
- The site is designed such that it 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.
- Traffic generated by client trips, employee trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- 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.
- **In MMD-3:** Areas with access to pedestrian and public transportation would be preferred.

Staff Comments

Staff from different city departments, including CDD, the Traffic, Parking and Transportation Department (TP&T), Cambridge Public Health Department (CPHD) and Police Department, have reviewed the application and met with the applicant to discuss areas where further information would be helpful. The applicant provided supplemental materials, included in the Planning Board's package, in response to these staff requests.

As this is the first RMD special permit application in Cambridge, it is reasonable to assume that the Planning Board will have many questions. The following set of comments are intended to briefly cover those issues that staff believes are most relevant to the Planning Board's review as set forth in the Medical Marijuana Overlay Zoning.

Location

The MMD-3 district, which is coterminous with the Business B-2 (BB-2) base district, is fairly small and does not encompass much more than the proposed 1001 Massachusetts Avenue location. Aside from being within the MMD, the most significant land use consideration is the requirement for RMDs to be buffered from facilities in which children commonly congregate. As set by the MDPH, the standard buffer is 500 feet, although municipalities are allowed to set their own buffer distances and Cambridge's zoning allows the Planning Board to reduce the required buffer distance if it finds that there are site-specific reasons why the RMD will not adversely impact the operation of such a facility. MDPH provides the following guidance when determining what uses should be buffered from an RMD:

The [Massachusetts] Department [of Public Health] interprets a "facility in which children commonly congregate" to include facilities in which children are gathered for a particular purposes [sic] in a structured and scheduled manner or which are dedicated to the use of children, such as playgrounds, youth services programs, day care centers, youth sports facilities, dance schools, and gymnastic schools. It includes a private home housing a family day care center, but not a private home where children happen to live. It does not include other facilities, such as ice cream shops, where children may happen to congregate, but not in a structured, scheduled manner.

When the Medical Marijuana Overlay Zoning was established in 2013 and again when the MMD-3 district was being considered earlier this year, CDD staff created a map which shows that the BB-2 district is 500 feet distant from any public school or playground. As shown in the context map provided in the Applicant's supplemental materials, the nearest public playgrounds at Franklin Street Park and Cooper Park (on Hancock Street) are just outside the 500-foot distance. The space identified as Sullivan Park is a privately-owned passive garden space that allows public access, but is not explicitly dedicated to the use of children.

The Applicant's supplemental materials include a more exhaustive catalog of land uses within 500 feet of the proposed RMD, and show no non-residential facilities meeting the description above. The only "school" use within that distance, Cambridge College, has programming oriented toward adults rather than children. The materials also note that a yoga studio within the same building offers some classes

for young children as well as adults, but it is not clear if that studio would fall under the state's definition (since it is not necessarily "dedicated to the use of children"), and the applicant has communicated with the owner of the studio to discuss potential impacts. The applicant has also employed various available resources to determine whether there are home-based family day care facilities within the 500 foot distance, and has found none. This finding can be verified using tools on the web site of the Massachusetts Executive Office of Education: <http://www.mass.gov/edu/birth-grade-12/early-education-and-care/find-early-education-and-care-programs/>

Transportation, Loading and Service

The application included a transportation analysis, and TP&T 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 no off-street parking since none is proposed. The TP&T memo will address whether the monitoring and mitigation efforts described in the supplemental materials will help to alleviate these potential issues, and will also address the operation of loading and deliveries, which may need to be coordinated among multiple parties including the Police Department.

Building and Site Design

As described in the application, many aspects of RMD design are strictly regulated at the state level. For instance, entrances and exits must be designed so that only registered patients or staff can enter the facility, and even visual access to the interior of the RMD must be prevented. At the perimeter of the facility, there are requirements for video surveillance, lighting, and removing any landscaping that might serve as a hiding place.

There are few changes being proposed to the building itself, which will appear as it does now and as shown in the site photographs. Since the RMD facility is located below grade, it will have little impact on the retail streetscape that currently defines the ground floor of the building. The most visible distinction is the addition of a wall sign which, due to the below-grade entrance to the RMD and the presence of existing retail signage above, is separated from the actual building entrance. Any signage would have to comply with the requirements in Article 7.000 of the Zoning Ordinance.

The supplemental materials help to more clearly show the pedestrian routes of access and egress, including an accessible entry/exit through the building's elevator lobby. They also show where existing and additional lighting fixtures are proposed to be installed at the rear of the building. While state regulations mandate lighting for security purposes, such lighting should be designed to minimize adverse impacts on abutting properties and the public way by using full cut-off fixtures and limiting the output of each fixture to a reasonable level. The Draft Outdoor Lighting Ordinance recently provided to the City Council by the City's Lighting Task Force provides recommended standards for lighting fixtures, including pedestrian-scaled lighting and vehicular driveway lighting.