



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

2017 APR 26 PM 4:00
CANTON, MASSACHUSETTS

NOTICE OF DECISION

Case Number:	325
Address:	98 Winthrop Street, Unit 1
Zoning:	Business B / Harvard Square Overlay District
Applicant:	Healthy Pharms, Inc. 401 East Main Street, Georgetown, MA 01833
Owner:	Timbuktu Real Estate LLC 10 Eliot Street, Cambridge, MA 02138
Application Date:	January 25, 2017
Date of Planning Board Public Hearing:	February 28, 2017
Date of Planning Board Decision:	February 28, 2017
Date of Filing Planning Board Decision:	April 26, 2017
Application:	Request for special permits for Healthy Pharms, Inc. to operate a registered retail medical marijuana dispensary pursuant to Section 11.800 occupying approximately 1,250 square feet at 98 Winthrop Street.
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 Liza Paden at 617-349-4647, or lpaden@cambridgema.gov.

DOCUMENTS SUBMITTED

Application Documents and Supporting Material

1. Special Permit Application received January 25, 2017, including Application Forms, Project Narrative, Description of Activities, Service Area, Transportation Analysis, copies of Provisional Certificate of Registration from the Massachusetts Department of Public Health, Community Outreach Narrative, Dimensional Form, and plan set prepared by Hayes Engineering, Inc. dated November 30, 2016 and revised through December 16, 2016 including Context Map, Proximity Uses Map, Site Plan, Building Elevations, and Floor Plan.
2. Additional plans and elevations as well as a memorandum from VGR Law Firm provided on February 24, 2017.

City of Cambridge Documents

3. Certificate of Appropriateness issued by Cambridge Historical Commission, dated December 22, 2016.
4. Memorandum from Jeff Roberts, Senior Manager for Zoning and Development, Community Development Department, et al., dated February 21, 2017.
5. Memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation, dated February 21, 2017.

Other Documents

6. Letter to the Planning Board from Raj Dhanda, dated 1/19/2017.
7. Letter to the Planning Board from Raj Dhanda, dated 2/27/2017.
8. Email communication from Rosamond Lu to the Planning Board, dated 2/28/2017.
9. Email communication from Raj Punjabi to the Planning Board, dated 2/28/2017.
10. Email communication from Peter Ahn to the Planning Board, dated 2/28/2017.
11. Email communication from Jessica Kalimian to the Planning Board, dated 2/28/2017.
12. Letter to the Planning Board from Daryl Janes, dated 2/28/2017.
13. Email communication from Michelle Suh to the Planning Board, dated 2/28/2017.
14. Email communication from Douglas Cho to the Planning Board, dated 2/28/2017.
15. Letter to the Planning Board from owners of Tanjore, dated 2/28/2017.

APPLICATION SUMMARY

The Applicant, Healthy Pharms, Inc., having received a provisional certificate of registration, is proposing to operate a registered marijuana dispensary (RMD) at 98 Winthrop Street for retail sales. No cultivation or processing will occur on site. Products will be cultivated, process, and packaged at a facility, which has obtained a final certificate of registration, located in Georgetown, Massachusetts. The Applicant proposes to establish the RMD at 98 Winthrop Street in a portion of the existing building, which is a historically significant building in the Harvard Square Historic District. The existing restaurant will be reduced in size and remain in the front part of the building, while the RMD will occupy the rear. The Cambridge Historical Commission has issued a Certificate of Appropriateness for this project. The 98 Winthrop Street facility will only dispense products that are cultivated and processed at the Applicant's Georgetown facility. The proposed facility will be designed and operated in accordance with state and local regulations for RMDs and will be subject to oversight by the Massachusetts Department of Public Health. The project does not propose adding any parking or bicycle parking spaces. Loading and deliveries are proposed to occur through "live loading" in secure vehicles using Winthrop Street.

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 Registered Marijuana Dispensary (RMD, Section 11.800)

The proposed site is located within the Business B District (BB). The Planning Board may grant a special permit approving an RMD within this district upon finding that the proposal meets the criteria set forth in Section 11.804. The Board finds that these criteria are met, for the reasons set forth below.

11.804 Special Permit Criteria. In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Ordinance, the Planning Board shall find that the following criteria are met:

(a) 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.

There are no RMDs operating in Cambridge yet, and the Massachusetts Department of Public Health has continued to permit additional dispensaries given that only a small number have been established thus far. The two other RMDs that have received special permits in Cambridge are more than 1,800 feet from 98 Winthrop Street, satisfying the distance requirement of Section 11.802.8.

(b) 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 Registered Marijuana Dispensary.

The supplemental materials in the Application Documents provide ample evidence, based on a visual survey of the area and search of available online databases, that there are no facilities within 500 feet of the proposed RMD location in which children commonly congregate, such as children's schools, playgrounds, recreation centers, child care facilities or other facilities that offer programming distinctively oriented toward children. The Board acknowledges that a Sunday school program is located at the University Lutheran Church, at 66 Winthrop Street, located about 300 feet away, but does not find that such program will be adversely impacted or require any limitation on the Sunday hours of operation of the RMD.

(c) 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.

The facility is proposed to reuse the existing access to the site located off of Winthrop Street where there is convenient access to sidewalks and various modes of public transportation. The customer entry and exit is proposed through a door facing Winthrop Street with the facility located toward the rear side of the building. This single entry and exit will be monitored for security purposes as required by state regulations.

(d) 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.

A transportation analysis prepared by Hayes Engineers, Inc. has been provided with the Application, and has been reviewed by the Traffic, Parking and Transportation Department (TP&T). While there is limited data about traffic generated by an RMD, given the anticipated client base and experience with RMDs elsewhere in Massachusetts the expectation is that the traffic will not be significantly greater than that of a typical retail establishment of similar size and should have minimal impacts on transportation in the Harvard Square vicinity. The proposed RMD is located in a predominantly commercial district that supports retail establishments of this scale. The Applicant has committed to submitting a loading and service delivery management plan for approval by TP&T staff and to implementing both transportation demand management (TDM) measures and a monitoring program of the loading and pick-up activities of this project to mitigate any unexpected transportation impacts.

(e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

Loading and delivery operations specific to the RMD will occur every other day. Loading is proposed to occur on Winthrop Street through “live loading,” in a manner similar to other retail and restaurant establishments on Winthrop Street, but using secure vehicles in accordance with state regulations. All regulated material waste will be transported back to the Georgetown facility for approved disposal. All other trash will be disposed as per city regulations.

(f) 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.

No exterior changes to the building are proposed, except for replacement of the door at the entrance of the facility and the installation of additional signage and security lighting, which will be in conformance with local requirements for signage and lighting as well as state regulations specific to RMDs. The sales area and regulated material handling area are not visible from the streetscape.

2. Approval of Parking, Bicycle Parking and Loading Requirements for an RMD

In approving an RMD, the Planning Board is responsible for determining the required amount of parking, bicycle parking, and loading in accordance with Section 11.802.6 of the Zoning Ordinance, as set forth below.

11.802.6 Parking and Loading. Notwithstanding anything to the contrary in Article 6.000 of this Ordinance, the required number of parking and bicycle parking (both long-term and short-term) spaces and the required number of loading bays for a Registered Marijuana Dispensary 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. Except as set forth above, all parking, bicycle parking and loading facilities shall conform to the requirements set forth in Article 6.000.

The Application proposes no automobile or bicycle parking on-site, and indicates that necessary loading and service activities will occur on Winthrop Street using a secure vehicle in a similar manner to the loading and service activities of other retail establishments on Winthrop Street. The Applicant proposes that clients and staff will walk, drive, bike or use public transportation in order to get to the RMD; and that bicyclists will use public bicycle racks in the vicinity and that drivers will use either existing metered parking or commercial parking facilities near the facility in Harvard Square.

The transportation analysis provided by the Applicant and comments provided by TP&T indicate that the proposed use will likely generate only modest parking demand compared to a retail use of a similar scale, and that the loading needs of the facility can be reasonably accommodated. Therefore, the Board finds that the proposed parking and loading arrangements for the RMD will be sufficient, subject to the additional TDM and monitoring measures recommended by TP&T and agreed to by the Applicant.

For bicycle parking, the Board accepts the recommendation of TP&T that since space is limited at the site, a contribution be made to the City's Bicycle Parking Fund for two long-term spaces and three short-term spaces, as would be required for a higher trip-generating retail establishment similar to the proposed size of the RMD.

Details of the automobile parking, bicycle parking and loading requirements are set forth in the Conditions of this Special Permit Decision.

3. General Criteria for Issuance of a Special Permit (10.43)

The Planning Board finds that the proposal 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, the requirements of the 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 retail-oriented 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 RMD will be operated in accordance with applicable state and local regulations, and will generate pedestrian and vehicular traffic equal to, or less than, that generated by a similarly sized allowed retail use. Therefore, the RMD 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 RMD will be operated in accordance with applicable health and safety regulations, as well as state and local regulations particular to RMDs, 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 within Business B District, which allows RMDs, as was recently authorized in a zoning amendment adopted by the City Council in 2017.

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

The proposed new use will minimally impact the design of the building, and all exterior alterations will be conducted in accordance with applicable zoning and other regulations for RMDs. In addition, exterior alterations will be subject to ongoing review by Community Development Department (CDD) staff and Cambridge Historical Commission staff, where applicable. Therefore, the Board finds no inconsistency with applicable urban design objectives.

DECISION

Based on a review of the Application Documents, testimony given at the public hearings, and the above Findings, the Planning Board hereby GRANTS the requested Special Permit, subject to the following conditions and limitations.

1. This special permit shall authorize only Healthy Pharms, Inc. (Permittee) to establish and operate a Registered Marijuana Dispensary (RMD) at 98 Winthrop Street, Cambridge, in substantial conformance with the Application Documents received January 25, 2017, and supplemental documents and information submitted by the Applicant to the Planning Board as referenced above.
2. This special permit is not transferrable to any other RMD seeking to operate at 98 Winthrop Street, and shall not apply to any RMD operated by Healthy Pharms, Inc. at any other location within the City of Cambridge.
3. This special permit is conditioned upon ongoing registration of the approved RMD with the Massachusetts Department of Public Health, and shall terminate if such registration is terminated or fails to be renewed.
4. The approved RMD shall be operated in accordance with all applicable state and local regulations, including but not limited to regulations set forth by the Massachusetts Department of Public Health as well as any additional regulations promulgated by local agencies.
5. The project shall be subject to continuing design review by the Community Development Department (“CDD”). 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.
6. The Permittee shall address the following design 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 Building Permit:
 - a. Review of any proposed mechanical equipment on the rooftop, façade or exterior of the building.
 - b. Review of exterior signage, lighting, and other security features that may be required by state regulations. Any proposed outdoor lighting shall utilize appropriate design measures to mitigate light pollution and trespass.
7. There shall be no required off-street parking for the permitted RMD use. In order to meet the requirement for two long-term and three short-term bicycle parking spaces, the Permittee

shall make a contribution to the City's Bicycle Parking Fund in accordance with Section 6.104.2-b of the Zoning Ordinance equivalent to the amount necessary to provide five (5) bicycle parking spaces. Such contribution shall be made prior to the issuance of a Building Permit.

8. The Permittee shall be required to implement a transportation demand management (TDM) program and a transportation monitoring and reporting program including, at a minimum, the following measures that shall be certified by the TP&T and CDD prior to issuance of a Certificate of Occupancy for the approved RMD:
 - a. Provide 65% MBTA T-Pass subsidies, up to the federal fringe benefit limit, to all employees (may be pro-rated for part-time employees).
 - b. Offer all employees Gold Level Hubway membership.
 - c. Provide lockers in the break room for employees that walk or bike to work.
 - d. Have available an air pump and bicycle repair tools for employees and customers to use when needed.
 - e. Designate an employee of the facility as a Transportation Coordinator (TC) to manage the implementation of the TDM measures and a transportation monitoring program. 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 in the vicinity of the Project site.
 2. MBTA maps, schedules and fares.
 3. "Getting Around in Cambridge" map (available from CDD).
 4. Locations of bicycle parking.
 5. Carsharing/ridematching programs.
 6. Hubway regional bikesharing system.
 7. Carpooling/vanpooling programs.
 8. Other pertinent transportation information.
 - Instead of or in addition to posting paper MBTA schedules, provide a real-time transit and Hubway display screen or tablet in a central location to help people decide which mode to choose for each trip.
 - ii. Compile and provide to all employees up-to-date transportation information explaining all commuter options. This information should also be distributed to all new employees as part of their orientation.

- iii. Provide or describe to customers information on transportation options to access the site.
 - iv. Provide and maintain information on the project's website, newsletters, social media, etc., on how to access the site by all modes, with emphasis on non-automobile modes.
 - v. Participate in any TC training offered by the City of Cambridge or a local Transportation Management Association.
 - vi. Implement an annual transportation monitoring program which will involve surveying employees and customers on their travel modes and where they customarily park (cars and bicycles). The annual monitoring program shall continue for 10 years following the issuance of a Certificate of Occupancy for the RMD, at which time TP&T will work with the Permittee to determine if it would be beneficial to continue the monitoring program.
 1. The monitoring program shall include observations of the loading spaces and loading activities on Winthrop Street, similar to the analysis included in the Hayes Engineering Inc., January 6, 2017 transportation analysis report.
 2. All surveys shall be designed and conducted in a manner approved by TP&T and CDD.
 3. The form of any survey instrument or monitoring method shall be approved before issuance of the Certificate of Occupancy.
 4. Surveying shall begin one year from the date of the first Certificate of Occupancy. If the Certificate of Occupancy is issued between September 1 and February 29, the monitoring should take place during the months of September or October and be reported to the City no later than November 30. If the Certificate of Occupancy is issued between March 1 and August 31, monitoring should take place during the months of April or May and be reported to the City no later than June 30.
9. No loading bays shall be required; however, a loading and service delivery management plan that includes all delivery activity to the facility shall be submitted to and approved by TP&T prior to the issuance of a Building Permit for any improvements associated with the approved RMD. Such a plan shall include the following measures:
- a. Loading/deliveries and cash pick-ups shall only occur between 2:00 AM and 11:00 AM, when Winthrop Street is open to vehicular loading activities for businesses on the street.
 - b. Existing loading spaces in the area, such as the loading spaces southeast of the facility on Winthrop Street, shall be used.

- c. At no time shall a vehicle park or stop on Winthrop Street in a manner that blocks emergency vehicle access on Winthrop Street or impedes the flow of pedestrians or bicycle travel on Winthrop Street.
 - d. The Permittee shall monitor/observe the use of loading spaces on Winthrop Street to identify the best days/times for deliveries and pick-ups when those loading spaces are most available/unoccupied. It is understood that deliveries and pick-ups will be randomized for security reasons.
 - e. The Permittee shall cooperate with the City to resolve any issues caused by loading, pick-up/drop-off activities associated with the facility on abutting uses, public users or infrastructure on Winthrop Street.
 - f. In accordance with the proposal, the RMD at 98 Winthrop shall not be used as a distribution point for home deliveries.
10. Prior to issuance of a Certificate of Occupancy for the approved RMD, CDD shall certify to the Superintendent of Buildings that all Conditions of this Special Permit Decision are met.
11. 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 Special Permits were Planning Board Members Louis Bacci, H Theodore Cohen, Steve Cohen, Mary Flynn, Hugh Russell, and Associate Member Thacher Tiffany, appointed by the Chair to act on the case, constituting at least two thirds of the members of the Board, necessary to grant a special permit. Planning Board Member Tom Sieniewicz voted in the negative.

For the Planning Board,

A handwritten signature in blue ink, appearing to read "H Theodore Cohen". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

H Theodore Cohen, Chair.

A copy of this decision PB #325 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 filed with the Office of the City Clerk on April 26, 2017, by Swaathi Joseph, authorized representative of the Cambridge Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

Twenty (20) days have elapsed since the filing of the decision. No appeal has been filed.

DATE:

City Clerk of Cambridge

Appendix I: Approved Dimensional Chart

	Existing	Allowed or Required	Proposed	Permitted
Lot Area (sq ft)	3,582	None	No Change	No Change
Lot Width (ft)	36.54	None	No Change	No Change
Total GFA (sq ft)	2,760	7,590	2,760	2,760
Residential Base	n/a	n/a	n/a	Consistent with Application Documents and applicable zoning requirements
Non-Residential Base	2,760	7,590	2,760	
Inclusionary Bonus	n/a	n/a	n/a	
Total FAR	0.77	2.75	0.77	Consistent with Application Documents and applicable zoning requirements
Residential Base	n/a	n/a	n/a	
Non-Residential Base	0.77	2.75	0.77	
Inclusionary Bonus	n/a	n/a	n/a	
Total Dwelling Units	0	n/a	0	0
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)	18.3	80	18.3	Consistent with Application Documents and applicable zoning requirements
Front Setbacks (ft)	0	None	0	
Side Setback (ft)	0	None	0	
Rear Setback (ft)	0	None	0	
Open Space (% of Lot Area)	0	None	0	Consistent with Application Documents and applicable zoning requirements
Private Open Space	0	None	0	
Permeable Open Space	0	None	0	
Off-Street Parking Spaces	0	*	0	0
Long-Term Bicycle Parking	0	*	0	Consistent with Application Documents and applicable zoning requirements
Short-Term Bicycle Parking	0	*	0	
Loading Bays	0	*	0	

* Requirement determined by the Planning Board based on the transportation analysis as per Section 11.802.6.