



CITY OF CAMBRIDGE, MASSACHUSETTS

# PLANNING BOARD

2019 FEB -6 PM 3:53

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## NOTICE OF DECISION

Case Number:	342
Address:	200 Monsignor O'Brien Highway
Zoning:	Business A District (BA) / East Cambridge Housing Overlay District (ECHO)
Applicant:	Ascend Mass, LLC 137 Lewis Wharf, Boston, MA 02110
Owner:	Allen Realty Trust; Patrick A. Curley, Jr. 200 Monsignor O'Brien Highway, Cambridge, MA
Application Date:	October 15, 2018
Date of Planning Board Public Hearing:	November 13, 2018; December 18, 2018
Date of Planning Board Decision:	December 18, 2018
Date of Filing Planning Board Decision:	February 6, 2019
Application:	Request for special permits for Ascend Mass, LLC, to operate a registered retail medical marijuana dispensary pursuant to Sections 11.800 and 10.43 of the Zoning Ordinance occupying approximately 5,212 square feet in the existing building at 200 Monsignor O'Brien Highway.
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](mailto:lpaden@cambridgema.gov).

## **DOCUMENTS SUBMITTED**

### Application Documents and Supporting Material

1. Special Permit Application submitted on 10/15/18, including, *inter alia*, Application Forms, Project Narrative, Description of Activities, Service Area, Traffic Study, Community Outreach Summary, Dimensional Form, and site plan set prepared by Hayes Engineering, Inc., dated 9/6/18 and revised through 10/4/18 and building plan set prepared by BKA Architects, dated 10/3/18.
2. Revised traffic impact statement prepared by Hayes Engineering, Inc., dated 10/31/18.
3. Presentation slides shown to Planning Board on 11/13/18.
4. Revised material dated 11/26/18 from Andrea Cabral documenting responses to comments from the Planning Board, including Small Project PDTM Plan approval, modifications to site plan and window displays, additional details about rooftop equipment and lighting plans.
5. Updated site plan set prepared by Hayes Engineering, Inc., dated 9/6/18 and revised through 11/26/18 and updated building plan set prepared by BKA Architects, dated 10/3/18 and revised through 11/19/18.
6. A letter dated 12/4/18 from Anthony M. Capachietti, Hayes Engineering, Inc., documenting responses to comments from Traffic, Parking and Transportation (TP&T).
7. Presentation slides shown to Planning Board on 12/18/18.

### City of Cambridge Documents

8. Memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation, dated 11/6/18.
9. Memorandum from Community Development Department (CDD) staff dated 11/7/18.
10. Memorandum from CDD staff dated 12/11/18.

### Other Documents

11. Letter from Charles T. Hinds, President, East Cambridge Planning Team, dated 11/8/18.

## **APPLICATION SUMMARY**

The Applicant, Ascend Mass, LLC, having submitted application of intent and awaiting a provisional certificate of registration from Massachusetts Department of Public Health, is proposing to operate a registered marijuana dispensary (RMD) at 200 Monsignor O’Brien Highway, in East Cambridge, for retail sales. No cultivation or processing will occur on site. Products will be cultivated, processed, and packaged at a facility located in Athol, Massachusetts. The Applicant proposes to establish the retail sales area on the first floor and use the second floor to accommodate a security vault, office area, and break room for the employees. The proposal includes the renovation of the existing building, containing approximately 5,212 square feet of gross floor area, and the creation of five off-street parking spaces. A Small Project Parking and Transportation Demand Management (PTDM) plan has been prepared and approved in compliance with the Cambridge PTDM Ordinance. The 200 Monsignor O’Brien Highway facility will only dispense products that are cultivated and processed at the Applicant’s Athol 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 (to be succeeded by the Massachusetts Cannabis Control Commission). The project will also provide 2 long-term and 10 short-term bicycle parking spaces. Loading and deliveries are proposed to be provided by secure vehicles in the off-street parking area.

## 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 Board's findings are based on the version of Section 11.800 effective at this time. Amendments to Section 11.800, adopted by the City Council on December 17, 2018 (City of Cambridge Ordinance #1404), shall be effective at a later date (not later than April 20, 2019) in accordance with Ordinance #1404.

The proposed site is located within the Business A District (BA). 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 currently five RMDs that have received special permits in Cambridge, three of which are in operation. The Massachusetts Department of Public Health has continued to permit additional dispensaries given that only a small number have been established thus far. The five other RMDs that have received special permits in Cambridge are in other areas of the city, all more than 1,800 feet from 200 Monsignor O'Brien Highway, satisfying the distance requirement of Section 11.802.8.

*(b) The site is located at least five hundred (500) 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 Application Documents indicate that there are no facilities within 500 feet of the proposed RMD location in which children commonly congregate.

*(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.*

All accesses to the facility are proposed on Monsignor O'Brien Highway with convenient access to sidewalks and various modes of public transportation including multiple bus stops and the Lechmere MBTA Green Line station. There is off-street parking including a handicap-accessible parking space as well as public parking lots in the vicinity, and bicycle parking spaces will be provided on-site. All access doors 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 Engineering, 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 Lechmere area. 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 employee and customer visits as well as 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 are anticipated to occur approximately four times per week. An interior service area is provided for holding materials after they are delivered and refuse before it is picked up. Loading is proposed to occur using the off-street parking area in accordance with state regulations. All regulated material waste will be transported back to the Athol 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.*

The exterior changes to the building proposed are meant to activate the streetscape, especially the window displays. The sales area and regulated material handling area are not visible from the streetscape on Monsignor O'Brien Highway. The installation of signage and security lighting will be in conformance with local requirements for signage and lighting as

well as state regulations specific to RMDs. The East Cambridge Planning Team has reviewed this project and issued a report in support. At the Board's suggestion, the Applicant has made improvements to the design of the site, particularly the storefront windows, which will be subject to continuing review by Community Development Department (CDD) staff.

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 an on-site parking area with five spaces and indicates that~~ necessary loading and service activities will occur there as well. The clients and staff can walk, drive, bike or use public transportation in order to get to the RMD. Two long-term bicycle lockers are proposed for the employees in addition to five bike racks in the parking area for visitors.

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. 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.

Details of the automobile parking, bicycle parking, loading and TDM 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 A District, which allows RMDs, as 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. The proposal includes window treatment to activate street frontage and landscape treatment to screen the parking area. All exterior alterations will be subject to ongoing review by Community Development Department (CDD) 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 Ascend Mass, LLC (Permittee) to establish and operate a Registered Marijuana Dispensary (RMD) at 200 Monsignor O’Brien Highway, Cambridge, in substantial conformance with the Application Documents and supplemental documents and information submitted by the Applicant to the Planning Board as referenced above. No other type of marijuana establishment is hereby permitted. Any activity that involves the cultivation, processing, manufacturing, packaging, storage, transportation, sale, or use of marijuana products for non-medical purposes shall require an amendment to this special permit, and shall require compliance with all applicable state and local regulations for such activity.
2. This special permit is not transferrable to any other RMD seeking to operate at 200 Monsignor O’Brien Highway, and shall not apply to any RMD operated by Ascend Mass, LLC 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 or its successor agency, 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 or its successor agency, as well as any additional regulations promulgated by local agencies.
5. Alterations to the building shall occur in substantial conformance with the site plan set prepared by Hayes Engineering, Inc., dated 9/6/18 and revised through 11/26/18 and updated building plan set prepared by BKA Architects, dated 10/3/18 and revised through 11/19/18, and presentation to the Planning Board on December 18, 2018. 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 a Building Permit:
  - a. All exterior materials, colors, façade alterations and details.



- b. Specifications for storefront glazing, curation of window displays on street frontages, and design of the infill at the existing large door on the east façade.
  - c. Any proposed rooftop mechanical equipment, and materials and details of the visual/acoustical screening.
  - d. Details of the landscape plan, including plant materials, planters, paving, and location of trash and recycling.
  - e. All exterior signage, lighting, and other security features that may be required by state regulations. To the extent possible, any proposed outdoor lighting shall be designed to conform to the guidelines recommended in the proposed Cambridge Outdoor Lighting Ordinance.
7. The Permittee shall coordinate with the Department of Public Works regarding any planned reconstruction of public spaces adjacent to the site.
8. The permitted operating hours of the approved RMD shall be between 9:00 AM and 8:00 PM ~~daily~~
9. The Permittee shall contribute \$35,000 to the City prior to issuance of a Building Permit to improve transit services and information in the Lechmere area and to support the use of transit for employees and patrons, such as providing real-time bus arrival information at bus stops.
10. 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, which shall be certified by the TP&T and CDD prior to issuance of a Certificate of Occupancy for the approved RMD. In addition to the TDM program required by this Condition, ongoing compliance with the requirements of the Parking and Transportation Demand Management (PTDM) Ordinance shall be made a condition of this special permit.
  - 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). The program shall be administered by the employer through the MBTA Corporate Pass Program.
  - b. Offer all employees Gold Level Blue Bikes bikeshare membership; to be administered through the Blue Bikes Corporate Program by the employer.
  - c. Provide lockers 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. Blue Bikes 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 Blue Bikes display screen or tablet in a central location to help people decide which mode to choose for each trip
  - ii. Compile up-to-date transportation information explaining all commuter options and provide to all employees. 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 information/observations of the loading activities (locations and frequency of deliveries).
    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.
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11. In accordance with the proposal, the RMD at 200 Monsignor O'Brien Highway shall not be used as a distribution point for home deliveries:
  12. 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.
  13. 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, Steven Cohen, Catherine Preston Connolly, Mary Flynn, Hugh Russell, and Tom Sieniewicz, constituting at least two thirds of the members of the Board, necessary to grant a special permit.

For the Planning Board,

A handwritten signature in black ink, appearing to read "H Theodore Cohen". The signature is fluid and cursive, with a large initial "H" and a stylized "C" at the end.

H Theodore Cohen, Chair.

A copy of this decision PB #342 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 February 6, 2019 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)	5,415	None	No Change	No Change
Lot Width (ft)	113	None	No Change	No Change
Total GFA (sq ft)	5,212	5,415	No Change	No Change
Residential Base	n/a	n/a	n/a	Consistent with Application Documents and applicable zoning requirements
Non-Residential Base	5,212	5,415	No Change	
Inclusionary Bonus	n/a	n/a	n/a	
Total FAR	0.96	1.0	No Change	Consistent with Application Documents and applicable zoning requirements
Residential Base	n/a	n/a	n/a	
Non-Residential Base	0.96	1.0	No Change	
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)	34	35	No Change	Consistent with Application Documents and applicable zoning requirements
Front Setbacks (ft)	existing	None	No Change	
Side Setback (ft)	existing	None	No Change	
Rear Setback (ft)	existing	20 (min)	No Change	
Open Space (% of Lot Area)	existing	None	No Change	Consistent with Application Documents and applicable zoning requirements
Private Open Space	existing	None	No Change	
Permeable Open Space	existing	None	No Change	
Off-Street Parking Spaces	7	5*	5	5
Long-Term Bicycle Parking	0	2*	2	Consistent with Application Documents and applicable zoning requirements
Short-Term Bicycle Parking	16	10*	10	
Loading Bays	0	0*	0	

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