



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

2019 MAY 24 AM 11:16
CITY CLERK
CAMBRIDGE, MASSACHUSETTS

NOTICE OF DECISION

Case Number:	345
Address:	229-231 Third Street
Zoning:	Industry A-1 District (IA-1) / East Cambridge Housing Overlay District (ECHO)
Applicant:	Native Sun Wellness, Inc. 67 Kemble St, Suite 2.3, Boston, MA 02119
Owner:	Joyce Kauffman 67 Clarendon Park, Roslindale, MA 02131
Application Date:	January 30, 2019
Date of Planning Board Public Hearing:	February 26, 2019
Date of Planning Board Decision:	February 26, 2019
Date of Filing Planning Board Decision:	May 24, 2019
Application:	Request for special permits for Native Sun Wellness, Inc., to operate a registered retail medical marijuana dispensary pursuant to Sections 11.800 and 10.43 of the Zoning Ordinance occupying approximately 2,355 square feet in the existing building at 229-231 Third Street.
Decision:	DENIED

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 submitted on 1/30/19, including, *inter alia*, Application Forms, Project Narrative, Description of Activities, Service Area, Transportation Analysis prepared by Howard Stein Hudson dated 12/19/18, Community Outreach Summary, Dimensional Form, and plan set prepared by Candis Design dated 1/17/19.
2. Supplemental materials, including revised dimensional form, ownership certificate, and narrative provided on 2/19/19.
3. Presentation slides shown to Planning Board on 2/26/19.

City of Cambridge Documents

4. Memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation, dated 2/19/19.
5. Memorandum from Community Development Department (CDD) staff dated 2/20/19.

Other Documents

6. Letter from Charles T. Hinds, President, East Cambridge Planning Team, dated 11/8/18.
7. Letter from Councillor Timothy J. Toomey Jr., dated 12/12/18.
8. Letter from Charles T. Hinds, President, East Cambridge Planning Team, dated 11/8/18.
9. Letter from Charles R. Lavery, Jr. and Paul R. Lohnes, dated 2/12/19.
10. Email communication from Joe Rose, dated 2/18/19.
11. Letter from Caleb Hurst-Hiller, Community Charter School of Cambridge, dated 2/20/19.
12. Letter from Homeowners Association of 111-117 Charles Street, dated 2/20/19.
13. Letter from Charles T. Hinds, President, East Cambridge Planning Team, dated 2/22/19.
14. Email communication from Nancy Stiening, dated 2/22/19.
15. Email communication from Tim and Erin Logan, dated 2/25/19.
16. Letter from Elizabeth Mallakis, undated with signed petition in support.
17. Signed petition in opposition.

APPLICATION SUMMARY

The Applicant, Native Sun Wellness, Inc., having received a provisional certificate of registration from Massachusetts Department of Public Health, is proposing to operate a registered marijuana dispensary (RMD) at 229-231 Third Street, 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 Fitchburg, Massachusetts. The Applicant proposes to renovate the 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. 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 Cannabis Control Commission. The project will also provide 3 long-term and 2 short-term bicycle parking spaces. Loading and deliveries are proposed to be provided by secure vehicles in the off-street parking area in the rear.

FINDINGS

After review of the Application Documents and other documents submitted to the Planning Board, testimony given at the public hearing by the Applicant and by members of the public, 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 Industry A-1 District (IA-1), within which an RMD would be allowed by special permit from the Planning Board pursuant to Section 11.800 of the Zoning Ordinance if the Board finds that the proposal meets the criteria set forth in Section 11.804, set forth below.

(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.

(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.

(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.

(d) Traffic generated by client trips, employees trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.

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

The Board finds that these criteria are not met, for the reasons set forth below.

Given that the Planning Board has permitted six other RMDs in Cambridge, one of which is located at the corner of Third Street and Monsignor O'Brien Highway, less than a half-mile away, the Board finds no compelling reason why additional service is needed in this specific location.

The proposed RMD is located within 500 feet of several public facilities that host programming for children. It is just over 100 feet from and visible to Rogers Street Park, a public open space that is planned for construction this year to add community features including a play field, playground equipment, a sledding hill, a dog run, and an event space. The site is also less than a block from the Bent Street side of the Foundry Building, a city-owned facility that is planned for redevelopment into an arts-oriented community center. Other existing public children's playgrounds within 500 feet of the site include Costa Lopez Taylor Park and Hurley Street Park. Upon careful consideration of site-specific factors, the Planning Board did not find sufficient mitigating factors to justify a waiver of the required buffer from public facilities that are used by children.

The proposed RMD would only provide one on-site parking space and would not offer any customer parking on the site. The Board finds that there is little public parking in the immediate vicinity for customers or employees, as most of the on-street parking in the area is for residents only. A transportation analysis prepared by Howard Stein Hudson has been provided with the Application, and has been reviewed by the Traffic, Parking and Transportation Department (TP&T). Comments have been provided in a memorandum from Joseph E. Barr, Director of Traffic, Parking and Transportation, dated 2/19/19, which indicates concerns about potential parking impacts given the expected customer traffic to and from the site. The Applicant stated at the public hearing that the proposed RMD would primarily serve residents and employees in the neighborhood; however, given the indicated staffing levels and customer projections, the Board finds it likely that the proposed RMD would need to serve customers from a broader area to be viable. Therefore, the Board finds that the proposed site would not provide adequate access to customers and would have transportation characteristics that are not compatible with the surrounding area.

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

The General Criteria for Issuance of a Special Permit are 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

(b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or

(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

(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

(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

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

Upon review of these criteria, the Planning Board finds that the granting of a special permit for an RMD at this particular location, not generally true of the district or of other districts where an RMD is allowed, would be to the detriment of the public interest for the following reasons.

Although the proposed site is located within the Industry A-1 District (IA-1) and an RMD would be allowed by special permit from the Planning Board pursuant to Section 11.800 of the Zoning Ordinance, the Planning Board finds that there are requirements and criteria set forth in Section 11.800 that are not met, as set forth above in these Findings.

Furthermore, given the concerns set forth above in these Findings related to the proximity of the site to public parks and other facilities, the anticipated patterns of customer activity to and from the site, and the lack of adequate parking for customers either on-site or within public parking facilities in the area, the Board finds that the proposed RMD at this site would create patterns of access and egress that would cause a substantial change in neighborhood character and would impair the integrity of the district.

DECISION

Based on a review of the Application Documents, testimony given at the public hearing, and the above Findings, the Planning Board hereby DENIES the requested Special Permit.

Voting to deny the special permit were Planning Board Members Louis Bacci, Catherine Preston Connolly, Mary Flynn, Hugh Russell, Tom Sieniewicz and Associate Member Nikolas Bowie, appointed by the Chair to act on the case, constituting at least two thirds of the members of the Board. Planning Board Member Steven Cohen was present but abstained from voting.

For the Planning Board,

A handwritten signature in cursive script that reads "Catherine Preston Connolly". The signature is written in dark ink and is positioned below the text "For the Planning Board,".

Catherine Preston Connolly, Chair.

A copy of this decision PB #345 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 May 24, 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