

APPLICATION TO EXTEND SPECIAL PERMIT
GRANTED ON NOVEMBER 5, 2020

Location of Premises:	1908 Massachusetts Avenue, Cambridge, MA 02138 (aka: 1906 Massachusetts Avenue)
Zoning. District	Business C
Applicant Name:	Porter Square Remedies, LLC
Applicant Address:	1908 Massachusetts Avenue, Cambridge, MA 02138
Contact Information:	Tel. No.: 617-834-2955 Email Address: wsullivan@waltersullivanlaw.com
Planning Board Case No.:	PB-363
Status:	Special Permit Granted, October 22, 2020

REQUEST FOR AN EXTENSION OF THE SPECIAL PERMIT

Porter Square Remedies, LLC, the Applicant, respectfully requests an extension of the the special permit granted on October 22, 2020, decision PB # 363, for an additional year.

Pursuant to 10.46 of the Cambridge Zoning Ordinance, unless good cause is shown, “a special permit shall lapse within two years if substance use thereof has not sooner commenced.” Such and extension of a special permit would not be extended into perpetuity. G.L. c. 40A, sec. 9 states, “Zoning Ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a special period of time, not more than 3 years, ..., if a substantial use thereof has not sooner commenced, except for good cause,”

The good cause request for the extension is:

Local and State Permitting and Licensing Process

1. On March 1, 2019, the Applicant secured the rights to the property in order to operate a cannabis retail store at 1908 Massachussts Avenue. The Applicant has been paying \$8,000 a month rent since March 1, 2019.
2. The Applicant conducted two community outreach meetings, two meetings with the Porter Square Neighborhood Association, a meeting with the Agassiz-Baldwin Neighborhood Council and the Mayor and various council members.

3. On June 2, 2020, the Applicant submitted its Special Permit Application to operate a Cannabis Retail Store at 1908 Massachusetts Avenue. Since the Applicant is not an Economic Empowerment Applicant or a Social Equity Applicant, it had to submit the special permit application or face the risk of another applicant coming before it that is located within 1,800 feet of the location, which would prohibit the Applicant from applying for the special permit.
4. On July 20, 2020, pursuant to the City's Guidelines for Cannabis Retail Stores, the Applicant submitted a Host Community Letter of Intent to the City Manager with respect to executing an HCA with the Applicant.
5. On August 20, 2020, pursuant to the City's Guidelines for Cannabis Retail Stores, the Applicant submitted an Cannabis Business Permit Application.
6. The Special Permit was granted on November 5, 2020.
7. On or about September 21, 2021, pursuant to the City's Guidelines for Cannabis Retail Stores, the Applicant filed a Statement of Intent to Execute a Host Community Agreement for a Cannabis Retail Store. Such application cannot be submitted until the Applicant has been granted a special permit by the Planning Board.
8. Although not required in any ordinance, due to the language contained in the Cannabis Business Permit Ordinance that only allowed Economic Empowerment Applicants to be granted a Cannabis Business Permit until September 23, 2021, the City did not allow others to file an application for a Cannabis Business Permit. Applying for a permit and being granted a permit are two very different phases of a permitting process.
9. Although not required by any ordinance or General Law, the City Manager would not execute a Host Community Agreement with any applicant until such applicant was eligible to be granted a Cannabis Business Permit and was granted a special permit. Prior to the passing of the City's Guidelines for Cannabis Retailers, the City Manager would provide an applicant wishing to operate a medical marijuana treatment center, a letter of non-opposition, which was one of the requirements to file a state license application, prior to an applicant filing a special permit application.
10. In order to file an application with the Massachusetts Cannabis Control Commission, an applicant must execute a Host Community Agreement with the City and have conducted a Community Outreach Meeting within the 6 months preceding the filing of the application with the CCC.
11. The process of executing a Host Community Agreement with the City may take a number of months to accomplish, and in many cases years. The Host Community

Agreement was not executed until April 5, 2022. The local process described above took seventeen months from then the special permit was granted.

12. On September 29, 2022, the Applicant applied for a demolish permit for 1908 Massachusetts Avenue, so that it could begin the construction process. Said permit was issued on December 19, 2022.
13. On November 3, 2022, a Community Outreach Meeting was held.
14. On November 22, 2022, the Applicant submitted its application to the CCC. This process could take up to a year to complete.
15. Since submittal, the Applicant has received requests for further information by the CCC and has filed responses. It has yet to receive notice that its application is deemed complete. Receiving such notice for further information implies that the CCC is close to deeming the application deemed complete.
16. Once the application is deemed complete notice is sent to the City with regards to the application. The City has 60 days to respond to the notice.
17. Once the City responds or the 60-day period expires, the CCC schedules a hearing on the application as to whether to grant a provisional license.
18. In order for an Applicant to begin construction, it must first be granted a provisional license and pay the licensing fee and then must submit an Architectural Plan Review Request Form for approval of the applicant's building plans.
19. As mentioned above, once the provisional license is approved and licensing fee is paid, the applicant can then submit its Architectural Plan Review Application.
20. After CCC architectural plans, a cannabis business permit and building permit can be granted by the Commissioner of Inspectional Services. Construction is anticipated to take between six to eight months.
23. After the completion of construction both a final inspection of ISD for the granting of occupancy permit and an inspection by the CCC, which allows the Applicant to submit an application for final license. Such application is reviewed by CCC staff and then placed on the CCC monthly meeting agenda for approval. This process can take more than a couple of months.
24. Upon the granting of a final license, the Applicant can begin purchase cannabis and cannabis products at which the CCC will conduct a final inspection and grant the Applicant the ability to begin sales.

25. The above local and state process makes it extremely difficult, if not impossible, to meet the two-year special permit requirement to begin the use. As stated above, the local process ate away seventeen months of the special permit two-year requirement.

COVID-19

1. On March 10, 2020, Governor Charlie Baker issued a State of Emergency, effectively shutting down the Commonwealth and state and local government.

2. On April 3, 2020, Chapter 53 of the Acts of 2020, An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19 was enacted. Section 17(c) of the Act states, “ Nothing in this section shall affect the ability of a permit granting authority, subject to applicable notice and hearing requirements, to revoke or modify a permit if that permit or the law or regulation under which the permit was issued authorizes the modification or revocation thereof; provided, however, that the permit granting authority shall not revoke or modify the permit where the permit holder fails as a result of the state of emergency to exercise or otherwise commence work pursuant to the permit or where such work commenced on or before March 10, 2020 but has stopped as a result of the state of emergency or actions taken by an agency or political subdivision of the commonwealth in reliance thereon. The limitations set forth in this subsection shall apply as long as the state of emergency is in effect and for a period of 60 days following the termination of the state of emergency; provided, however, that a permit holder shall be entitled to a further extension of reasonable length to exercise or otherwise commence work pursuant to the permit at the discretion of the permit granting authority for good cause shown; provided further, that the chair of any permit granting authority may grant such further extension whether or not a quorum is present to vote on the matter.” (Emphasis added.)

3. In addition, Section 17(a)(iii) states, “a permit in effect or existence as of March 10, 2020, including any deadlines or conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit, or time period for meeting a deadline or for performance of a condition of the permit, shall toll during the state of emergency.”

4. Local permits in effect during COVID-19 state of emergency are eligible for tolling under Chapter 53. The Special Permit in this matter is a local permit that is eligible for an extension under the COVID Extension Act. For example, if the Applicant received a special permit on January 1, 2020, which under normal circumstances would December 31, 2022, and the State of Emergency was from January 1, 2021 to December 31, 2021, the the expiration of the special permit would December 31, 2023.

5. An analogous to the above, can be found in Governor Baker's COVID-19 Order No.42. Paragraph 3 states, "Permit Tolling: An approval issued by a state promoting agency valid as of March 10, 2020 and any deadline to record said approval to establish its validity shall not lapse or otherwise expire during the state of emergency and the expiration date of the approval and deadline to record said approval shall toll during the state of emergency. The new date for the expiration of an approval or the deadline to record said approval is calculated as follows: determine how many days remain as of March 10, 2020 until the approval or deadline to record would have expired, and then same number of days will remain as of the date that the state of emergency is terminated. To any extent that any such approval contains or is subject to other deadlines or waive such conditions, the state permitting agency may extend such deadlines or waive such condition,, if an approval holder is not able to abide by the deadlines or conditions due to the state of emergency."

6. Governor Baker lifted the State of Emergency on June 15, 2021.

7. Given all of the above, since the Applicant was granted a special permit on November 20, 2020, which would normally expire two years hence, November 19, 2022, the Applicant would receive a tolling of seven month - November 20 2020 to June 15, 2021, and, thus, the special permit in this matter does not expire until June 19, 2023.

COVID-19 Impact, as well as other Personal Medical Impact on the Applicant

1. The Applicant's source of income is from the operation of a restaurant in Teele Square Somerville, Masala, 1129 Broadway. The restaurant industry was significantly decimated by COVID. The restaurant industry is still struggle from the effects of COVID.

2. The Applicant immigrated from Nepal. He still has most of his family members in Nepal. In September, 2022, he learned that his mother was having open heart surgery. The applicant and his entire family left for Nepal on Oct, 2022.

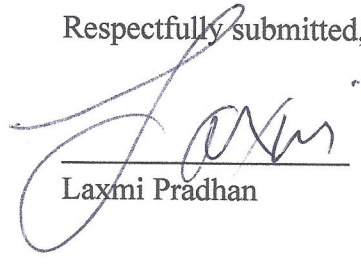
3. Due to complications from the surgery, the Applicant's two week visit turned into a three month stay to take care of his mother. The Applicant did not leave Nepal until February 1, 2023.

4. Being out of the country and caring for a loved-one, impacted the Applicant's ability to address matters in the United States.

Based on the aforementioned, the Applicant believes that it has demonstrated, due to no fault of its own, good cause as to why it will not be able to meet the two year requirement contained in

the ordinance and good cause as why a year extension should be granted. Thus, it requests that the Board grant the extension of the special permit for an additional year.

Respectfully submitted,



Laxmi Pradhan

4/3/23

Date