



# TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

## Department of Planning and Development

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**TO:** Planning Board Members

**FROM:** Paul Grygiel, AICP, PP, Township Planner

**DATE:** February 27, 2023

**RE:** **PB 23-02/Dogwood Green, LLC**  
Block: 10; Lot: 1.01; Zone: I  
5 Central Avenue  
Application for conditional use and minor site plan approval to permit Licensed Cannabis Retailer

### INTRODUCTION

The applicant is proposing to locate a Licensed Cannabis Retailer in an existing commercial building. Physical changes proposed as part of the application include interior building renovations and modifications to the building's exterior, including provision of new signage. Some changes are also proposed to the site, including resurfacing and restriping of the parking area, replacing existing fencing and adding a trash enclosure and generator. The proposed use is a permitted conditional use in the B-1 zone, and all conditional use standards for this use are met.

### LAND USE

The subject property is approximately 0.27 acres in area and is located on the north side of Central Avenue a short distance east of Valley Road. It is nearly rectangular, with 84 feet of frontage on Central Avenue and depth ranging from 144 to 148 feet.



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The site is developed with a one-story commercial building with 2,045 square feet of gross floor area and a rear parking lot. The parking lot has 11 parking spaces according to the architectural plans, including two compact spaces and one handicap space. There are also currently two drive-up windows on the building. Site photos are attached to this memorandum.

Commercial uses are located to the west and southwest, industrial uses are located to the east and multifamily residential is located to the south across Central Avenue. Residential uses are located to the north along Joyce Street and to the west on the west side of Valley Road, with commercial uses scattered throughout the vicinity.

## **SUBMISSIONS**

| <b><u>ITEM</u></b>              | <b><u>SIGNED BY</u></b> | <b><u>DATE/REVISION</u></b> |
|---------------------------------|-------------------------|-----------------------------|
| Survey of Premises              | James T. Sapio, P.L.S.  | 8/29/16                     |
| Architectural plans (11 sheets) | Ronald TR Elkins, RA    | 2/10/23                     |

## **VARIANCES REQUIRED**

| <b><u>SECTION</u></b>       | <b><u>REQUIRED</u></b>   | <b><u>EXISTING</u></b> | <b><u>PROPOSED</u></b>    | <b><u>VARIANCE</u></b> |
|-----------------------------|--------------------------|------------------------|---------------------------|------------------------|
| 25-7.1 Maximum lot coverage | 75%                      | 88.21%                 | Not provided <sup>1</sup> | “c”                    |
| 25-15.3 d.1 Signage         | Wall signs not permitted | Two                    | Four <sup>2</sup>         | “c”                    |

## **DISCUSSION/RECOMMENDATIONS**

The applicant is seeking conditional use approval for a “Class 5 Cannabis Retail Dispensary”<sup>3</sup> as defined by State law, which is considered a Licensed Cannabis Retailer by local ordinance. The West Orange Land Use Regulations Ordinance was amended in 2021 following a change in State law that permitted recreational cannabis, subject to both State and local regulations. Licensed Cannabis Retailers and Licensed Medical Cannabis Dispensaries are permitted as a conditional

<sup>1</sup> The plans state the existing impervious coverage will not be changed. However, a trash enclosure and a concrete generator pad are proposed and would therefore increase lot coverage.

<sup>2</sup> As noted below, two additional signs are listed on the plans – additional information is required for these.

<sup>3</sup> A Class 5 cannabis retailer is authorized to “purchase recreational use cannabis from licensed cultivators, manufacturers, or wholesalers and sell those items to consumers in a retail store.” (<https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb104.pdf>)



use in the B-1, B-2 and I Districts. The standards for review of a conditional use are outlined in § 25-24.2 a., which states that “Pursuant to the provisions of the Municipal Land Use Law, the Planning Board shall have the power to grant conditional uses on particular sites, according to the definite specifications and standards set forth in Subsection 25-24.2b.”

Below is a listing of the standards for this conditional use, as listed in § 25-24.2 b. (o) of the Land Use Regulations Ordinance:

- (1) The Licensed Cannabis Entity shall be required to have a Local License pursuant to Chapter 5, § 5-34 of the Township of West Orange Municipal Code.
- (2) No Licensed Cannabis Entity shall be located within one hundred feet (100’) from the property line of any property with a school building owned and operated by the West Orange Board of Education.
- (3) No Licensed Cannabis Entity shall be housed in a vehicle or any movable or mobile structure.
- (4) No Licensed Cannabis Entity shall be allowed to operate as a Home Occupation.
- (5) Any signage for a Licensed Cannabis Entity shall be subject to the approval from either the Planning Board or the Zoning Board of Adjustment.
- (6) A Licensed Cannabis Entity shall meet of the required security measures as set forth in Chapter 5, § 5-34 of the Township of West Orange Municipal Code.
- (7) Cannabis Consumption Areas, as defined in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq., shall be prohibited from all Licensed Cannabis Entities.

The application complies with all of the above standards, and therefore is permitted.

The applicant has requested a waiver of site plan approval. However, pursuant to the definitions section of the Land Use Regulations Ordinance, site plan approval is not required “for a change in use or modification of an existing use that does not change the size of an existing building or propose any modifications to existing site improvements such as sidewalks, driveways, parking areas, fences and walls.” As the proposal is modifying site improvements, the application requires minor site plan approval.

Minimal changes are proposed to the exterior of the building. These include adding signage, filling in a portion of an existing doorway, installing a new HVAC unit and screening on the roof, replacing existing doors with high security doors and adding lighting. Proposed signage includes replacements with smaller signs for an existing wall-mounted sign and a blade sign on the front of the building (proposed to be 18.6 square feet and 10 square feet, respectively) and providing a new 28 square foot wall mounted sign on the west side of the building. Two additional signs not listed on the sign table are a 16.5-square foot non-illuminated wall graphic on the front façade and a 24-inch diameter logo graphic on the northern drive-up window.



The dispensary is proposed to include a vestibule and a reception/security area with separate entrance and exit doors in the front of the building and retail areas. It appears from the floor plan that the rear portion of the building will be accessible only to staff.

Eleven parking spaces are proposed, including one accessible space. Two of the proposed spaces will be compact spaces (eight feet wide by 18 feet deep), six spaces will be nine feet wide by 18 feet deep and two spaces will be 10 feet wide by 18 feet deep. The application materials indicate the south drive-up window will be utilized as an online order pickup window, but will not be available for other transactions.

Four of the five existing trees on the subject property will remain, along with shrubbery along the rear of the parking lot. An existing tree in the northwest corner of the site is proposed to be removed to allow for the construction of a trash enclosure, which would be eight feet wide by eight feet deep and constructed of masonry with metal gates. A detail of this enclosure should be provided. A generator is proposed on a concrete pad to the north of the building.

It appears from the plans that public access will only be available from the front door, while parking is provided in the rear of the site, while the rear door is limited to staff. The applicant should confirm whether this is the case, as there is no pedestrian path from the rear parking lot to the front of the site other than the entrance and exit driveways.

The applicant must provide information regarding the 16.5-square foot non-illuminated wall graphic on the front façade and a 24-inch diameter logo graphic on the northern drive-up window.





*Front view of building*



*West side of building, including existing drive-up windows*



*East side of building*



*Rear of building and parking lot*



*Two views of rear parking lot*