



TOWNSHIP OF WEST ORANGE

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Department of Planning and Development

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TO: Planning Board Members

FROM: Paul Grygiel, AICP, PP, Township Planner

DATE: July 18, 2023

RE: **Master Plan Consistency Review – Ordinance 2808-23 (Licensed Cannabis Entities)**

The Municipal Land Use Law at N.J.S.A. 40:55D-26a includes the following requirement:

Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.

The Township Council introduced a proposed ordinance amendment, Ordinance 2808-23 at its June 27, 2023 meeting, which includes a number of changes to the Township's General Licensing Ordinance and some modifications to the Land Use Regulations Ordinance pertaining to Licensed Cannabis Entities. I have reviewed the proposed changes to the Land Use Regulations Ordinance for Master Plan consistency and offer the following for your consideration. (The modifications to the General Licensing Ordinance, i.e. any section of Chapter 5, is not subject to Planning Board review.)

The specific changes proposed to the Land Use Regulations Ordinance included in Ordinance 2808-23 are to:

- Extend the existing distance from the property line of any property with a school building for which the operation of a Licensed Cannabis Entity (except a Pre-Approved Entity at its originally approved location) is prohibited from 100 feet to 500 feet, and to not limit to schools owned and operated by the West Orange Board of Education



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- Add an additional condition whereby a Licensed Cannabis Entity (except a Pre-Approved Entity at its originally approved location) shall not be allowed to operate within 500 feet from the property line of any property with a house of worship
- Clarify the parking requirements for Licensed Cannabis Entities
- Provide reference to the Township Municipal Code provisions governing the standards and criteria for commercial signage for Cannabis Entities.

These changes are to the conditional use standards for licensed cannabis entities, including medical marijuana dispensaries and licensed cannabis businesses, in the B-1, B-2 and I zone districts.

The definition of a “Pre-Approved Entity” is proposed to be added to the General Licensing Ordinance as part of Ordinance 2808-23, and is as follows: an applicant who has: “(i) received a Resolution of Local Support from the Township on or before January 10, 2023 with all subsequent modifications, if any, approved by the Township of West Orange; and (ii) whose cannabis business receives a license from the Commission.”

The Township’s 2019 Master Plan Update addresses this topic. It includes the following language under the recommendation to “consider changes to permitted uses”:

“Evaluate whether there are locations appropriate to permit medical cannabis production and/or sales, or places where it should be prohibited, in advance of potential future change in laws to permit recreational production and sales. An appropriate means of regulating these uses could be by only allowing them as conditional uses in certain zoning districts. Conditional use standards could include distance requirements from sensitive uses such as schools. Zoning districts in West Orange where these uses could be permitted as conditional uses could include certain business, office building and industrial zones for dispensaries, as well the Industrial zone for production.”

The original ordinance regulating these uses essentially implemented this recommendation, and the proposed ordinance modifies these standards. The distance requirement from “sensitive uses” was not included in the original ordinance, but has evolved to be included and modified, which is a policy decision by the Township Council. In addition, the amended regulations remain consistent with another recommendation of the 2019 Master Plan Update to “(m)odify permitted uses in commercial zones, in recognition of market changes for retail and other nonresidential uses.”

It is my opinion that the specific changes proposed to the Land Use Regulations Ordinance included in Ordinance 2803-23 are therefore consistent with the Township’s Master Plan for the reasons discussed above.

One recommendation is to add a definition of a “Pre-Approved Entity” to the Land Use Regulations Ordinance, as the term is referred to in the amended zoning regulations, but only defined in the General Licensing Ordinance in a different chapter of the Municipal Code.

