

MARCH 6, 2020  
(CANNABIS)

ZONING BOARD OF APPEALS  
CITY OF CHICAGO

City Hall Room 905  
121 North LaSalle Street  
Chicago, Illinois 60602  
TEL: (312) 744-3888



MAY 18 2020  
CITY OF CHICAGO  
ZONING BOARD OF APPEALS

**MedMar Lakeview, LLC**  
APPLICANT

**111-20-S**  
CALENDAR NUMBER

**436 N. Clark St.**  
PREMISES AFFECTED

**March 6, 2020**  
HEARING DATE

**ACTION OF BOARD**

**THE VOTE**

The application for the special use is approved subject to the conditions set forth in this decision.

	AFFIRMATIVE	NEGATIVE	ABSENT
Farzin Parang, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylvia Garcia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS  
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 436 N. CLARK  
ST. BY MEDMAR LAKEVIEW, LLC**

**I. BACKGROUND**

MedMar Lakeview, LLC (the "Applicant") submitted a special use application for 436 N. Clark St. (the "subject property"). The subject property is currently zoned DX-7 and is improved with a four-story commercial building. The Applicant proposed to establish an adult use cannabis dispensary in the basement and first two floors of this commercial building. To permit this, the Applicant sought a special use. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed special use for an adult use cannabis dispensary, provided that: (1) the special use was issued solely to the Applicant; (2) the development was consistent with the design and layout of the plans and drawings labeled as "Phase 2" dated December 11, 2019, prepared by Epstein Architecture, LLP; (3) the activities at the proposed off-site accessory waiting room located at 22 W. Hubbard St. be limited to a customer consultation and holding area with no samples, physical product displays, stock or retail sales of any kind allowed at the location; and (4) the proposed off-site accessory waiting room located at 22 W. Hubbard St. be open for City zoning inspection.

**II. PUBLIC HEARING**

**A. The Hearing**

The ZONING BOARD OF APPEALS held a public hearing on the Applicant's special use application at its special meeting on March 6, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure, the Applicant had submitted its proposed Findings of Fact. As the Applicant is a subsidiary of Cresco Labs<sup>1</sup> ("Cresco"), Cresco's chief executive officer Mr. Charles Bachtell, Cresco's senior counsel Mr. Jim Boland, Cresco's vice president of real estate and community integration Mr. Barrington Rutherford, Cresco's vice president of social equity Ms. Mykel Selph and Cresco's director of security Mr. Stan Chwastek, were present. The Applicant's MAI-certified real estate appraiser Mr. Gregory Nold, the Applicant's architect Ms. Lori Chandler, the Applicant's security consultant Mr. Jack Teitelman and the Applicant's attorney Mr. John George were also present. Testifying in support of the application was Mr. Mike Riordan. Testifying in opposition to the application were Ms. Celine Soto, Mr. George Blakemore and Mr. Akele Parnell. With the exception of certain testimony and statements that will be explained below, the statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS Rules of Procedure.

Prior to the start of the hearing, the ZONING BOARD OF APPEALS made some opening remarks, namely that the proposed special use would be reviewed within the regulatory framework established by the Chicago Zoning Ordinance and the Cannabis Regulation and Tax Act, 401 ILCS 705/1-1 *et seq.*

The Applicant's attorney Mr. John George presented an overview of the Applicant's application.

The Applicant offered the testimony of Cresco's chief executive officer Mr. Charles Bachtell in support of the application.

The Applicant offered the testimony of Cresco's senior counsel Mr. Jim Boland in support of the application.

The Applicant offered the testimony of its MAI-certified real estate appraiser, Mr. Gregory Nold in support of the application. The ZONING BOARD OF APPEALS recognized Mr. Nold's credentials as an expert in real estate appraisal.

The Applicant offered the testimony of its architect Ms. Lori Chandler in support of the application.

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<sup>1</sup> As disclosed in the Applicant's Economic Disclosure Statements ("EDSs") to the ZONING BOARD OF APPEALS, the Applicant is majority owned by MedMar, Inc. In turn, MedMar, Inc. is majority owned by Cresco Labs, Inc. Cresco Labs, Inc. has two individual owners with ownership shares between 7.5% and 10% and no other owners (individuals or entities) with ownership shares of 5% or more.

The Applicant offered the testimony of Cresco's vice president of real estate and community integration Mr. Barrington Rutherford in support of the application.

The Applicant offered the testimony of Cresco's vice president of social equity Ms. Mykel Selph in support of the application.

The Applicant offered the testimony of Cresco's director of security Mr. Stan Chwastek in supported of the application.

The Applicant offered the testimony of its security consultant Mr. Jack Teitelman in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Boland, Mr. Chwastek, Mr. Rutherford, Ms. Selph and Mr. Bachtell in support of the application.

Mr. Mike Riordan, of 500 W. Superior, offered testimony in support of the application.

Ms. Celine Soto, of 345 N. LaSalle, offered testimony in opposition to the application.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony in support of the application from Mr. Boland and Mr. Nold.

Mr. George Blakemore, address unknown, offered testimony in opposition to the application. As Mr. Blakemore had done for the entirety of the March 6, 2020 special meeting of the ZONING BOARD OF APPEALS, Mr. Blakemore made personal attacks at the Applicant and its witnesses. Personal attacks are contrary to the ZONING BOARD OF APPEALS' Rules of Procedure.

Mr. Akele Parnell offered testimony in opposition to the application. Mr. Parnell testified that he was an attorney with the Chicago Lawyers Committee for Human Rights. He testified that he was appearing on behalf of the Cannabis Equity Illinois Coalition. However, the ZONING BOARD OF APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Parnell called no members of the Cannabis Equity Illinois Coalition as witnesses. Consequently, and to resolve any confusion<sup>2</sup>, the ZONING BOARD OF APPEALS determined Mr. Parnell comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

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<sup>2</sup> "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Ill. Rules of Prof'l. Conduct (2010) R. 3.7 Advocate-Witness Rule cmt. 2 (eff. Jan. 1, 2010).

In response to Mr. Parnell's testimony, Mr. George asked Mr. Parnell one question.

**B. Criteria for a Special Use for a Cannabis Business Establishment**

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held a least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting shall be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish to a complete list of the names and last known addresses of the persons provided with such written notice as a well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

**III. FINDINGS OF FACT**

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

- 1. The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

As explained by Mr. George and as shown by the submissions to the ZONING BOARD OF APPEALS, the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The subject property is located in a DX-7 zoning district. The Applicant's proposed adult use cannabis dispensary is a special use in a DX-7 zoning district.<sup>3</sup> The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings it before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will allow a retail product for which (as has been evident over the past three months<sup>4</sup>) there is high demand to be sold within the River North Area. The proposed special use will not have a significant adverse impact on the general welfare of the neighborhood or community. As Mr. Bachtell, Mr. Boland and Mr. Chwastek testified, the Applicant will ensure that there are no lines outside of the subject property<sup>5</sup>, customers will be able to use a cashless ATM system for purchases and there will be more than adequate security at the subject property. The ZONING BOARD OF APPEALS finds Mr. Bachtell, Mr. Boland and Mr. Chwastek to be very credible witnesses. Based on this, and as set forth in Mr. Nold's report, the proposed special use will be beneficial and convenient to the public and will not adversely impact property values.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within an existing four-story commercial building on a commercial and retail street. As testified to by Mr. Nold and as set forth in greater detail in his report, the subject property is compatible with the character of the surrounding area in terms of site planning and building scale.

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<sup>3</sup> Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

<sup>4</sup> The ZONING BOARD OF APPEALS takes judicial notice of the fact that since cannabis became legal in Illinois on January 1, 2020, cannabis dispensaries have had long lines and have frequently sold out of cannabis products.

<sup>5</sup> In particular, the ZONING BOARD OF APPEALS notes that the Applicant will be providing the accessory waiting area at 22 W. Hubbard Street until at least such time that second phase of the Applicant's build-out at the subject property is completed.

The ZONING BOARD OF APPEALS finds Mr. Nold to be a very credible witness. In terms of project design, all deliveries will happen in a side alley on the north side of the subject property, so deliveries will in no way interfere with customer ingress and egress.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

As can be seen from Mr. Nold's report and Mr. Bachtell's and Mr. Boland's testimonies, the surrounding area is a highly trafficked commercial and retail street. Therefore, in terms of operating characteristics such as hours of operation, outdoor lighting, noise and traffic generation, the proposed special use will be compatible with the surrounding area. For example, as Ms. Nold testified, the neighborhood has a street scene that is close to a 24-hour cycle. Thus, the Applicant's proposed hours of operation will not be disruptive and, indeed, will be far less intense than the nearby 4:00 AM liquor licenses. There is ample access to public transportation in this area and the Applicant has an agreement with a nearby parking garage (although it does not anticipate many customers driving and parking given the subject property's location), so excess traffic generation will not be a concern. Noise pollution also will not be a concern, especially as there is no on-site consumption component to the proposed special use and thus the noise generated by the proposed special use will be much less than nearby restaurants and bars, or indeed, the nightclub/bar that previously existed on the subject property.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

Ingress and egress to the proposed special use will be separated from product delivery. Cresco will ensure that the deliveries in the side alley on the north of the subject property will not disrupt pedestrians. In addition, due to the 24/7 security cameras and the on-site security guards during the dispensary's operating hours, pedestrian safety and comfort at the subject property will exceed what currently exists at the subject property, as well as its most recent use as a bar/nightclub).

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting.

#### IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

1. The special use shall be issued solely to the Applicant;
2. The special use shall be developed consistently with the design and layout of the plans and drawings labeled as "Phase 2" dated December 11, 2019, prepared by Epstein Architecture;
3. The proposed off-site accessory waiting room located at 22 W. Hubbard St. shall be limited to a customer consultation and holding area with no samples, physical product displays, stock or retail sales of any kind allowed at the location;
4. The proposed off-site accessory waiting room located at 22 W. Hubbard St. shall be open for City zoning inspection;
5. The Applicant shall provide not less than 30 days' written notice to the local alderman before ceasing any provision of space at 22 W. Hubbard St.; and
6. The Applicant will collect data from its customers as to what transportation method they use to visit the subject property.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By:   
Farzin Parang, Chairman

**ZONING BOARD OF APPEALS  
CITY OF CHICAGO**

City Hall Room 905  
121 North LaSalle Street  
Chicago, Illinois 60602  
TEL: (312) 744-3888



**MAY 18 2020**  
CITY OF CHICAGO  
ZONING BOARD OF APPEALS

**MOCA, LLC dba MOCA Modern Cannabis**  
APPLICANT

**112-20-S**  
CALENDAR NUMBER

**214-32 W. Ohio St.**  
PREMISES AFFECTED

**March 6, 2020**  
HEARING DATE

**ACTION OF BOARD**

**THE VOTE**

The application for the special use is approved subject to the conditions set forth in this decision.

	AFFIRMATIVE	NEGATIVE	ABSENT
Farzin Parang, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylvia Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS  
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 214-32 W. Ohio  
ST. BY MOCA, LLC DBA MOCA MODERN CANNABIS**

**I. BACKGROUND**

MOCA, LLC dba MOCA Modern Cannabis (the "Applicant") submitted a special use application for 214-32 W. Ohio St. (the "subject property"). The subject property is currently zoned DX-7 and is improved with a five-story commercial building. The Applicant proposed to establish an adult use cannabis dispensary in the first floor and basement of this commercial building. To permit this, the Applicant sought a special use. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed special use for an adult use cannabis dispensary, provided that: (1) the special use was issued solely to the Applicant; (2) all on-site customer queuing occurs within the building; and (3) the development was consistent with the design and layout of the plans and drawings dated November 26, 2019, prepared by the Applicant.

**II. PUBLIC HEARING**

**A. The Hearing**

The ZONING BOARD OF APPEALS held a public hearing on the Applicant's special use application at its special meeting on March 6, 2020, after due notice thereof as

provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure, the Applicant had submitted its proposed Findings of Fact. The Applicant's chief executive officer Mr. Danny Marks, its chief operating officer Mr. Doug Marks, its security manager Mr. Michael Chasen and its attorney Ms. Sara Barnes were present. The Applicant's architect Mr. Jonathan Splitt, MAI-certified appraiser Mr. Terrence O'Brien, land planning consultant Mr. George Kisiel and traffic engineer Mr. Michael Werthmann were also present. The subject property's owner Mr. Sam Fakhouri was present. Testifying in support of the application was Mr. Devon Gray. Testifying in opposition to the application were Mr. George Blakemore, Mr. Akele Parnell, Mr. John Perkaus, Ms. Joanna Angarone and Mr. Mike Riordan. The City's Assistant Zoning Administrator Mr. Steven Valenziano was present. With the exception of certain testimony and statements that will be explained below, the statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS Rules of Procedure.

Prior to the start of the hearing, the ZONING BOARD OF APPEALS made some opening remarks, namely that the proposed special use would be reviewed within the regulatory framework established by the Chicago Zoning Ordinance and the Cannabis Regulation and Tax Act, 401 ILCS 705/1-1 *et seq.*

The Applicant's attorney Ms. Sara Barnes presented an overview of the Applicant's application.

The Applicant offered the testimony of its chief executive officer Mr. Danny Marks in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Danny Marks in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, the City's Assistant Zoning Administrator Mr. Steven Valenziano offered clarifying testimony with respect to the Zoning Administrator's recommendation pursuant to Section 17-13-0903 of the Chicago Zoning Ordinance.

The Applicant offered the testimony of its architect Mr. Jonathan Splitt in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Jonathan Splitt and Mr. Danny Marks in support of the application.

The Applicant then offered further testimony from Mr. Danny Marks in support of the application.

The Applicant offered the testimony of its security manager Mr. Michael Chasen in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Michael Chasen and Mr. Danny Marks in support of the application.

The Applicant offered the testimony of its planning consultant, Mr. George Kisiel. The ZONING BOARD OF APPEALS recognized Mr. Kisiel's credentials as an expert in land planning.

The Applicant offered the testimony of its MAI-certified appraiser Mr. Terrence O'Brien. The ZONING BOARD OF APPEALS recognized Mr. O'Brien's credentials as an expert in real estate appraisal.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Danny Marks and its chief operating officer Mr. Doug Marks in support of the application.

Mr. George Blakemore, address unknown, offered testimony in opposition to the application. As Mr. Blakemore had done for the entirety of the March 6, 2020 special meeting of the ZONING BOARD OF APPEALS, Mr. Blakemore made personal attacks at the Applicant and its witnesses. Personal attacks are contrary to the ZONING BOARD OF APPEALS' Rules of Procedure.

Mr. Akele Parnell offered testimony in opposition to the application. Mr. Parnell testified that he was an attorney with the Chicago Lawyers Committee for Human Rights. He testified that he was appearing on behalf of the Cannabis Equity Illinois Coalition. However, the ZONING BOARD OF APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Parnell called no members of the Cannabis Equity Illinois Coalition as witnesses. Consequently, and to resolve any confusion<sup>1</sup>, the ZONING BOARD OF APPEALS determined Mr. Parnell comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

Mr. Devon Gray, of 2912 142nd Place, Blue Island, offered testimony in support of the application.

Mr. John Perkaus offered testimony in opposition to the application. Mr. Perkaus testified that he represented Heritage Auctions, a business located across the street from the subject property at 215 W. Ohio St. However, the ZONING BOARD OF

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<sup>1</sup> "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Ill. Rules of Prof'l. Conduct (2010) R. 3.7 Advocate-Witness Rule cmt. 2 (eff. Jan. 1, 2010).

APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Perkaus called no employees or owners of Heritage Auctions as witnesses. Like Mr. Parnell before him, the ZONING BOARD OF APPEALS determined Mr. Perkaus' comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Perkaus offered further testimony in opposition to the application.

Ms. Joanna Angarone, director of development and business affairs for 42nd Ward alderman Alderman Brendan Reilly, offered testimony in opposition to the application.

Mr. Mike Riordan, of 500 W. Superior Street, offered testimony in opposition to the application. Much of his testimony was with respect to the Applicant's community meeting.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Riordan and Mr. Danny Marks offered further testimony with respect to the Applicant's community meeting.

The ZONING BOARD OF APPEALS then suspended the hearing so that the Applicant and Mr. Riordan could review some of the Applicant's exhibits and have further discussions regarding the Applicant's application.

When the hearing subsequently resumed, Ms. Barnes explained the positions of the Applicant and Mr. Riordan.

Mr. Riordan and Mr. Danny Marks offered further testimony with respect to these positions.

#### B. Criteria for a Special Use for a Cannabis Business Establishment

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held a least one community

meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting shall be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish to a complete list of the names and last known addresses of the persons provided with such written notice as a well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

### III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

As set forth in Mr. Kisiel's report, the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The ZONING BOARD OF APPEALS finds Mr. Kisiel and his report to be very credible. The subject property is located in a DX-7 zoning district. The Applicant's proposed adult use cannabis dispensary is a special use in a DX-7 zoning district.<sup>2</sup> The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings it before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

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<sup>2</sup> Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

The proposed special use is in the interest of the public convenience as it will allow a retail product for which (as has been evident over the past three months<sup>3</sup>) there is high demand to be sold within the River North Area. The proposed special use will not have a significant adverse impact on the general welfare of the neighborhood or community. As Mr. Danny Marks testified, the Applicant's business plan will ensure that there are no lines outside of the dispensary. Further, due to the conditions imposed by the ZONING BOARD OF APPEALS, there will be additional on-site, indoor customer queuing, on-site armed security and the ability for Applicant's customers to conduct debit transactions. Based on this, and as set forth in Mr. O'Brien's report, the proposed special use will be safe as well as harmonious and compatible with surrounding uses and will not have an adverse impact upon the use and enjoyment of other properties in the area.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within an existing commercial building on an existing commercial and retail street. As shown in Mr. Kisiel's report, the existing commercial building is compatible with the character of the surrounding area in terms of site planning and building scale as the majority of the River North Area is made up of commercial and retail buildings. In terms of project design, all deliveries will happen in a back alley at the rear of the subject property, so deliveries will in no way interfere with customer ingress and egress.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

As can be seen from Mr. Kisiel's report and Mr. Danny Marks' testimony, the surrounding River North Area is a highly trafficked commercial and retail district; in fact, higher intensity uses such as bars and nightclubs tend to be concentrated two or more blocks away from the subject property. Therefore, in terms of operating characteristics such as hours of operation, outdoor lighting, noise and traffic generation, the proposed special use will be compatible with or even less impactful than the surrounding area. For example, as Ms. Barnes explained, the proposed special use will have hours of operation less than the previous business located at the subject property (a tavern with a late night liquor license) and so will be more in keeping with the rest of the block. There will be adequate on-site

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<sup>3</sup> The ZONING BOARD OF APPEALS takes judicial notice of the fact that since cannabis became legal in Illinois on January 1, 2020, cannabis dispensaries have had long lines and have frequently sold out of cannabis products.

parking, and there is ample access to public transportation in this area, so excess traffic generation will not be a concern, especially as Applicant plans to move its customers very quickly through its dispensary. Noise pollution also will not be a concern, especially as there is no on-site consumption component to the proposed special use and thus the noise generated by the proposed special use will be much less than River North restaurants and bars.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

Ingress and egress to the proposed special use will be separated from product delivery. The Applicant will ensure that the deliveries in the back alley at the rear of the subject property will not disrupt pedestrians. In addition, due to the 24/7 security cameras and the on-site security guards during the dispensary's operating hours, pedestrian safety and comfort at the subject property will exceed what currently exists there.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting.

#### IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

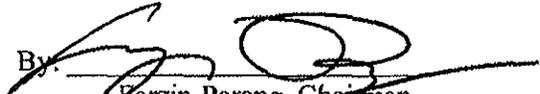
The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

1. The special use shall be issued solely to the Applicant;
2. The special use shall be developed consistently with the design and layout of the plans and drawings dated November 26, 2019 prepared by the Applicant;
3. The Applicant shall have armed security on site at the subject property 24 hours a day, seven days a week;

4. The Applicant shall employ a debit transaction process for customer purchases;
5. The Applicant shall build a non-transparent, permanent structure enclosing the adjoining patio to prevent outdoor customer queuing; and
6. Cannabis consumption shall never be permitted at the subject property.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By:   
Farzin Parang, Chairman

**ZONING BOARD OF APPEALS  
CITY OF CHICAGO**

City Hall Room 905  
121 North LaSalle Street  
Chicago, Illinois 60602  
TEL: (312) 744-3888



**MAY 18 2020**

**CITY OF CHICAGO  
ZONING BOARD OF APPEALS**

**WCCC, LLC**

APPLICANT

**113-20-S**  
CALENDAR NUMBER

**923 W. Weed St.**

PREMISES AFFECTED

**March 6, 2020**

HEARING DATE

**ACTION OF BOARD**

**THE VOTE**

The application for the special use is approved subject to the conditions set forth in this decision.

	AFFIRMATIVE	NEGATIVE	ABSENT
Farzin Parang, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylvia Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS  
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 923 W. WEED  
STREET BY WCCC, LLC.**

**I. BACKGROUND**

WCCC, LLC (the "Applicant") submitted a special use application for 923 W. Weed Street (the "subject property"). The subject property is currently zoned C3-5 and is improved with a two-story building (the "existing building"). The Applicant proposed to establish an adult use cannabis dispensary in the existing building.<sup>1</sup> In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed special use for an adult use cannabis dispensary, provided that: (1) the special use was issued solely to the Applicant; and (2) the development was consistent with the design and layout of the plans and drawings dated January 3, 2020, prepared by Camburas & Theodore, Ltd.

**II. PUBLIC HEARING**

**A. The Hearing**

The ZONING BOARD OF APPEALS held a public hearing on the Applicant's special use application at its special meeting held on March 6, 2020, after due notice

<sup>1</sup> As such term is defined in Section 17-17-0106-E(3) of the Chicago Zoning Ordinance.

thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure, the Applicant had submitted its proposed Findings of Fact. The Applicant's manager and chief executive officer Mr. Steve Weisman and its attorney Mr. Tyler Manic were present. The Applicant's architect Mr. John Bradshaw, its certified land planner Mr. Steven Lenet, its traffic expert and consultant Mr. Luay Aboona, its security consultant Mr. Adam Johnson and its real estate appraiser Mr. William Ryan were present. Also present was Mr. Jay Javers, a representative from the Applicant's landlord. Testifying in opposition to the application was Mr. Akele Parnell. The statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure.

Prior to the start of the hearings, the ZONING BOARD OF APPEALS made some opening remarks, namely that the proposed special use would be reviewed within the regulatory framework established by the Chicago Zoning Ordinance and the Cannabis Regulation and Tax Act, 401 ILCS 705/1-1 et seq.

The Applicant's attorney Mr. Tyler Manic presented an overview of the Applicant's application.

The Applicant offered the testimony of its manager and chief executive officer Mr. Steve Weisman in support of the application.

The Applicant offered the testimony of its architect Mr. John Bradshaw in support of its application.

The Applicant offered the testimony of its land planning consultant Mr. Steven Lenet in support of the application. The ZONING BOARD OF APPEALS recognized Mr. Lenet's credentials as an expert in land planning.

The Applicant offered the testimony of its traffic consultant Mr. Luay Aboona in support of the application. The ZONING BOARD OF APPEALS recognized Mr. Aboona's credentials as an expert in traffic engineering.

The Applicant offered the testimony of its security consultant Mr. Adam Johnson in support of the application.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Weisman offered further testimony in support of the application.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Lenet offered further testimony in support of the application.

The Applicant offered the testimony of its real estate appraiser Mr. William Ryan.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Manic provided further clarification.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Weisman offered further testimony in support of the application.

Mr. Akele Parnell offered testimony in opposition to the application. Mr. Parnell testified that he was an attorney with the Chicago Lawyers Committee for Human Rights. He testified that he was appearing on behalf of the Cannabis Equity Illinois Coalition. However, the ZONING BOARD OF APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Parnell called no members of the Cannabis Equity Illinois Coalition as witnesses. Consequently and to resolve any confusion<sup>2</sup>, the ZONING BOARD OF APPEALS determined Mr. Parnell comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

In closing, Mr. Manic made brief remarks.

#### B. Criteria for a Special Use

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held a least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting shall be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and

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<sup>2</sup> "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Ill. Rules of Prof'l. Conduct (2010) R. 3.7 Advocate-Witness Rule cmt. 2 (eff. Jan. 1, 2010).

the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish to a complete list of the names and last known addresses of the persons provided with such written notice as well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

### III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

As set forth in Mr. Lenet's report and as certified in the survey prepared by Joseph F. Gentile, the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The ZONING BOARD OF APPEALS finds Mr. Lenet and his report to be very credible. The subject property is located in a C3-5 zoning district. An adult use cannabis dispensary is a special use in a C3-5 zoning district.<sup>3</sup> As correctly set forth in the Applicant's proposed Findings of Fact, the Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings the Applicant before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will allow a retail product for which (if the past three months have been any indication<sup>4</sup>) there is high demand to be sold at a location that is, as testified by Mr. Aboona and as further set forth in his report, easily accessible by public transportation as well as by car. Further, the proposed special will not have a significant adverse impact on the general welfare of the neighborhood or community. As Mr. Weisman credibly testified, the Applicant

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<sup>3</sup> Section 17-4-0207(AAA)(1) of the Chicago Zoning Ordinance.

<sup>4</sup> The ZONING BOARD OF APPEALS takes judicial notice of the fact that since cannabis became legal in Illinois on January 1, 2020, there have been long lines and sold out cannabis dispensaries.

has previous expertise in the operation of cannabis dispensaries in Illinois that will serve to inform its operations at the subject property. The Applicant has operated four cannabis dispensaries in Illinois and has experienced no operational issues. The Applicant intends to initiate substantially similar security protocols to that submitted to the State of Illinois. As testified to in detail by Mr. Johnson, such safety protocols include contracting a licensed security provider, providing a suite of alarm systems (perimeter, panic and holdup) with text notifications in the event of system failures, maintaining 24-hour surveillance with a live-feed to Illinois State Police, utilizing a backup generator to minimize system disturbances due to power failures, storing cash and cannabis product in a reinforced, secured vault, offering debit payment options, tightly controlling customer flow and performing hourly patrols of the surrounding vicinity. In order to prevent spillage of patrons to the exterior of the existing building, the Applicant provides the option of an upstairs area for additional queuing.

In conclusion, and as set forth in Mr. Lenet's report, the proposed special use will not have a significant adverse impact on the general welfare of the neighborhood or community. In Mr. Lenet's review of areas similar to the subject property in Washington and Colorado (where adult use cannabis has been permitted), the addition of an adult use recreational cannabis dispensary has had no discernible adverse impact on any surrounding land uses. Mr. Lenet's report further states that there is sufficient parking in the surrounding area to accommodate the addition of the proposed special use. Additionally, Mr. Aboona credibly testified that the proximity of alternate modes of transportation such as Divvy bike stations, car sharing facilities and public transportation will minimize any impact on traffic congestion to the surrounding area.

- 3. The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

As Mr. Weisman and Mr. Bradshaw credibly testified, any renovations for the proposed special use will solely be to the interior of the existing building. The scope of such interior rehabilitation will not affect the existing conditions surrounding the subject property in terms of site planning, building scale and project design. Mr. Bradshaw testified that the site plans comply with the Chicago Building Code and the Chicago Zoning Ordinance. Further, the proposed special use is a good reuse of a vacant building. As Mr. Lenet testified, vacant buildings can adversely impact its immediate area and reflect poorly on the image and viability of an area.

- 4. The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

The area surrounding the subject property consists of other commercial uses, such as restaurants, bars, personal service providers and an off-track betting facility, that will have hours of operation consistent similar to that of the Applicant. As

Mr. Weisman credibly testified, the area surrounding the subject property is presently a well-lit area and thus the need for further lighting is reduced. Any additional lighting the Applicant installed would be – as Mr. Weisman testified – compatible with the neighborhood. Further, in order to minimize any additional light pollution, Mr. Weisman testified that the Applicant intends to use infrared cameras. Mr. Aboona credibly testified that the proposed special use's traffic generation will be compatible with the surrounding area. This is because the subject property is located near public transportation, bike-sharing stations and car sharing services, thus decreasing private car travel to and from the proposed special use. Further, the surrounding area provides adequate public parking for those patrons who do choose to drive.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

The proposed special use will exist entirely within the proposed building and will have no adverse impact as to the safety and comfort of pedestrians. The proposed special use is designed to accommodate 80 patrons in the queuing area and an additional 111 patrons in the upstairs area. As Mr. Weisman testified, the proposed special use will also have outdoor queuing in heated tents in the alleyway. As such, spillage to the outside of the existing building will be at a minimum. Furthermore, delivery of product will be infrequent as compared to the former bar/restaurant use at the subject property. Delivery will be restricted to a designated outside space at the rear of the subject property. Further, and as Mr. Aboona credibly testified, vehicular traffic generated by the proposed special use will be minimized by the presence of car sharing facilities and Divvy stations. The front of the subject property features an existing loading zone, which will facilitate drop-offs and pick-ups.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting.

#### IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

1. The special use shall be issued solely to the Applicant;
2. The special use shall be developed consistently with the design and layout of the plans and drawings dated January 3, 2020, prepared by Camburas & Theodore, Ltd.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By:   
Farzin Parang, Chairman

**ZONING BOARD OF APPEALS  
CITY OF CHICAGO**

City Hall Room 905  
121 North LaSalle Street  
Chicago, Illinois 60602  
TEL: (312) 744-3888



**MAY 18 2020**  
**CITY OF CHICAGO**  
**ZONING BOARD OF APPEALS**

**NCC, LLC**  
APPLICANT

**114-20-S**  
CALENDAR NUMBER

**810 W. Randolph**  
PREMISES AFFECTED

**March 6, 2020**  
HEARING DATE

**ACTION OF BOARD**

**THE VOTE**

The application for the special use is approved subject to the conditions set forth in this decision.

	AFFIRMATIVE	NEGATIVE	ABSENT
Farzin Parang, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylvia Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS  
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 810 W.  
RANDOLPH STREET BY NCC, LLC**

**I. BACKGROUND**

NCC, LLC<sup>1</sup> (the "Applicant") submitted a special use application for 810 W. Randolph (the "subject property"). The subject property is currently zoned DX-3 and is improved with a two-story masonry building (the "building"). The Applicant proposed to establish an adult use cannabis dispensary<sup>2</sup> in the building. To permit this, the Applicant sought a special use. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the special use for an adult use cannabis dispensary, provided that: (1) the special use was issued solely to the Applicant; and (2) the development was consistent with the design and layout of the plans and drawings dated February 25, 2020, prepared by DXU Architects.

**II. PUBLIC HEARING**

**A. The Hearing**

<sup>1</sup> NCC, LLC operates under the assumed name of Nature's Care Company. During the hearing, NCC, LLC was therefore referred to as NCC, LLC and Nature's Care Company.

<sup>2</sup> As such term is defined in Section 17-17-0106-E(3) of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS held a public hearing on the Applicant's special use application at its special meeting on March 6, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure, the Applicant had submitted its proposed Findings of Fact. The Applicant's general manager Mr. Charles Amadin and its vice president of governmental affairs Mr. Nick Etten were present. The Applicant's attorneys Ms. Donna Pugh and Mr. Michael Noon were present. The Applicant's land planning consultant Mr. George Kisiel, its traffic engineer Mr. Luay Aboona and its architect Mr. Dave Gonzalez were present. Mr. Gary Little from the Applicant's social equity partner ColaGroup was present. Testifying in support of the application were Mr. Akele Parnell and Mr. Ernest Downing, Jr. Testifying in opposition to the application were Ms. Crissy Haralampopoulos, of 160 N. Halsted, and Mr. George Blakemore. Also opposed to the application was Haymarket Center ("Haymarket"). Haymarket's president and chief executive officer Dr. Daniel Lustig and its attorney Ms. Bridget O'Keefe were present. With the exception of certain testimony and statements that will be explained below, the statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS Rules of Procedure.

Prior to the start of the hearing, the ZONING BOARD OF APPEALS made some opening remarks, namely that the proposed special use would be reviewed within the regulatory framework established by the Chicago Zoning Ordinance and the Cannabis Regulation and Tax Act, 401 ILCS 705/1-1 *et seq.*

The Applicant's attorney Ms. Donna Pugh presented an overview of the Applicant's application.

The Applicant offered the testimony of its general manager Mr. Charles Amadin in support of the application.

The Applicant offered the testimony of its vice president of governmental affairs Mr. Nick Etten in support of the application.

The Applicant offered the testimony of its planning consultant Mr. George Kisiel in support of the application. The ZONING BOARD OF APPEALS recognized Mr. Kisiel's credential as an expert in land planning.

The Applicant offered the testimony of its traffic engineer Mr. Luay Aboona in support of the application. The ZONING BOARD OF APPEALS recognized Mr. Aboona's credentials as an expert in traffic engineering.

The Applicant offered the testimony of Mr. Gary Little in support of the application.

In response to questions from the ZONING BOARD OF APPEALS, the Applicant offered further testimony from Mr. Little, Mr. Amadin and Mr. Etten in support of the application.

Mr. Akele Parnell offered testimony in support of the application. Mr. Parnell testified that he was an attorney with the Chicago Lawyers Committee for Human Rights. He testified that he was appearing on behalf of the Cannabis Equity Illinois Coalition. However, the ZONING BOARD OF APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Parnell called no members<sup>3</sup> of the Cannabis Equity Illinois Coalition as witnesses. Consequently, and to resolve any confusion<sup>4</sup>, the ZONING BOARD OF APPEALS determined Mr. Parnell's comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

Mr. Ernest Downing, Jr. offered testimony in support of the application.

Mr. George Blakemore offered testimony in opposition to the application. As Mr. Blakemore had done for the entirety of the March 6, 2020 special meeting of the ZONING BOARD OF APPEALS, Mr. Blakemore made personal attacks at the Applicant and its witnesses. Personal attacks are contrary to the ZONING BOARD OF APPEALS' Rules of Procedure.

Ms. Crissy Haralampopoulos offered testimony in opposition to the application.

In response to her testimony, the Applicant offered further testimony from Mr. Amadin, Mr. Aboona and Mr. Etten in support of the application.

Haymarket's attorney Ms. Bridget O'Keefe presented an overview of Haymarket's opposition to the application.

Haymarket offered the testimony of its president and chief executive officer Dr. Daniel Lustig. The ZONING BOARD OF APPEALS recognized Dr. Lustig's credentials as an expert in the field of substance abuse treatment programs.

The ZONING BOARD OF APPEALS granted Ms. O'Keefe leave to cross-examine the Applicant's witnesses.

In response to Ms. O'Keefe's questions, the Applicant offered further testimony from Mr. Amadin, Mr. Etten and Mr. Kisiel in support of the application. The Applicant also

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<sup>3</sup> From Mr. Ernest Downing, Jr.'s testimony, the ZONING BOARD OF APPEALS finds that Mr. Downing is no longer a member of the Cannabis Equity Illinois Coalition.

<sup>4</sup> "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Ill. Rules of Prof'l. Conduct (2010) R. 3.7 Advocate-Witness Rule cmt. 2 (eff. Jan. 1, 2010).

offered testimony from the Applicant's architect Mr. Dave Gonzalez in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, Haymarket offered further testimony from Dr. Lustig in opposition to the application.

**B. Criteria for a Special Use for a Cannabis Business Establishment**

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held a least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting shall be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish to a complete list of the names and last known addresses of the persons provided with such written notice as a well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

**III. FINDINGS OF FACT**

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

As set forth in Mr. Kisiel's report and as certified in the survey prepared by William R. Webb, the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The ZONING BOARD OF APPEALS finds Mr. Kisiel and his report to be very credible. The subject property is located in a DX-3 zoning district. The Applicant's proposed adult use cannabis dispensary is a special use in a DX-3 zoning district.<sup>5</sup> As set forth in Mr. Kisiel's report, the Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings it before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will allow a retail product for which (as has been evident over the past three months<sup>6</sup>) there is high demand to be sold in the Randolph Market corridor. As testified by Mr. Kisiel and as set forth in his report, the Randolph Market corridor is a vibrant restaurant and entertainment district surrounded by an equally vibrant mixed-use neighborhood. Mr. Amadin's testimony regarding the operations of the proposed special use leaves no doubt that the proposed special use will operate in such a manner that it will not have a significant adverse impact on the general welfare of the neighborhood. The ZONING BOARD OF APPEALS finds Mr. Amadin to be very credible. In fact, the ZONING BOARD OF APPEALS agrees with Mr. Kisiel's conclusion that the proposed special use will be a benefit to the neighborhood, in that it will create enhanced security for the neighborhood and will draw additional consumers to existing businesses within the neighborhood.

Further, the ZONING BOARD OF APPEALS finds that the proposed special use will not have a significant adverse impact on Haymarket and its patients. In particular, the ZONING BOARD OF APPEALS does not find the argument that a 1500 foot buffer is needed around Haymarket to be persuasive, especially in light of where Haymarket is located. There are many restaurants and bars within 1500

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<sup>5</sup> Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

<sup>6</sup> The ZONING BOARD OF APPEALS takes judicial notice of the fact that since cannabis became legal in Illinois on January 1, 2020, there have been long lines and sold out product at cannabis dispensaries.

fect of Haymarket. While Dr. Lustig testified that his patients could not afford to buy alcohol from a packaged goods store, Dr. Lustig did not provide any answer to why his customers could not afford a drink in a nearby bar or restaurant. Further, the ZONING BOARD OF APPEALS takes judicial notice that adult use cannabis is a very expensive product, and Dr. Lustig's same argument regarding packaged good liquor stores would equally would apply to the proposed special use. Further, if, as Dr. Lustig testified, the smell of cannabis (as opposed to alcohol) is a trigger for relapse, then Mr. Etten's testimony regarding the fact that adult use cannabis is – due to the enhanced security – not smoked in front of adult use cannabis dispensaries effectively negates any potentiality of the proposed special use causing relapse for Haymarket patients.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within an existing building that has occupied the subject property for more than a century. As shown by Mr. Kisiel's report, the existing building is compatible with the character of the surrounding area in terms of site planning and building scale. In terms of project design, all deliveries will have more than adequate security and will last no more than fifteen (15) minutes. Further, the Applicant's business model – as testified to very credibly by Mr. Amadin – is to incentivize on-line pre-ordering, ensuring that there will be no outside queuing at the adult use cannabis dispensary. Therefore, in terms of project design, the proposed special use is also compatible with the surrounding area.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics. Mr. Amadin very credibly testified that the security measures the Applicant will take to ensure that Applicant's proposed special use will operate in a safe manner, especially with respect to the loading and unloading of adult use cannabis. As shown by Mr. Kisiel's testimony and as set forth in his report, the Applicant's proposed hours of operation are compatible with the adjacent restaurant uses and not in conflict with the other commercial, entertainment and service uses in the area. As Mr. Kisiel credibly testified, all outdoor lighting will be consistent with City ordinances and not out of character with the surrounding area. Further, as Mr. Aboona and Mr. Kisiel testified, traffic generation will be consistent with other uses in the area. There is no off-street parking requirement for the proposed special use, but due to proximity to

public transportation and the fact that the proposed special use's location ensures that it will generate much of its customer base from pedestrian traffic, parking demand will be low. Noise pollution also will be compatible with the surrounding area, especially as there is no on-site consumption component to the special use<sup>7</sup> and thus the noise generated by the proposed special use will be much less than nearby restaurants, especially those with patios.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

As noted above, the proposed special use will occupy the existing building on the subject property. The existing building has a transparent ground floor elevation which provides eyes on the street from the security personnel located at the entry to facility. Further, the Applicant will have additional enhanced security measures, such as security personnel during operating hours and twenty-four (24) hour security cameras. No additional curb cuts are proposed. The Applicant's business model of incentivizing on-line pre-ordering of cannabis will ensure that there will be no outside queuing at the adult use cannabis dispensary. All loading and unloading will be done off the alley. In short, the proposed special use is designed to promote pedestrian safety and comfort.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting.

#### IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

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<sup>7</sup> The City has not authorized on-premises consumption of cannabis. 410 ILCS 705/55-25(3).

1. The special use shall be issued solely to the Applicant;
2. The special use shall be developed consistently with the design and layout of the plans and drawings dated February 25, 2020, prepared by DXU Architects.
3. The Applicant shall collect data from its customers on what transportation method was used to get to the special use; and
4. The Applicant shall have two (2) security guards present at the rear of the subject property during loading and unloading.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By



Farzin Parang, Chairman

ZONING BOARD OF APPEALS  
CITY OF CHICAGO

City Hall Room 905  
121 North LaSalle Street  
Chicago, Illinois 60602  
TBL: (312) 744-3888



MAY 18 2020  
CITY OF CHICAGO  
ZONING BOARD OF APPEALS

**MME 1001 North Retail, LLC**  
APPLICANT

**116-20-S**  
CALENDAR NUMBER

**1001 W. North Ave.**  
PREMISES AFFECTED

**March 6, 2020**  
HEARING DATE

**ACTION OF BOARD**

**THE VOTE**

The application for the special use is approved subject to the conditions set forth in this decision.

	AFFIRMATIVE	NEGATIVE	ABSENT
Farzin Parang, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylvia Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS  
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 1001 W.  
NORTH AVENUE BY MME 1001 NORTH RETAIL, LLC**

**I. BACKGROUND**

MME 1001 North Retail, LLC (the "Applicant") submitted a special use application for 1001 W. North Ave. (the "subject property"). The subject property is currently zoned C3-5 and is improved with a one-story commercial unit (the "storefront") within a multi-tenant strip mall. The Applicant proposed to establish an adult use cannabis dispensary within the storefront. To permit this, the Applicant sought a special use. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed special use for an adult use cannabis dispensary, provided that: (1) the special use was issued solely to the Applicant; and (2) the development was consistent with the design and layout of the plans and drawings dated October 14, 2019, prepared by TPG Architecture, LLP.

**II. PUBLIC HEARING**

**A. The Hearing**

The ZONING BOARD OF APPEALS held a public hearing on the Applicant's special use application at its special meeting on March 6, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning

Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure, the Applicant had submitted its proposed Findings of Fact. As the Applicant is a subsidiary of MedMen Enterprises, Inc.<sup>1</sup> ("MedMen"), MedMen's executive vice president of regulatory affairs Ms. Morgan Sokol, MedMen's midwest district manager Ms. Renee Rosenau and MedMen's regional hospitality manager Mr. Paul Bennett were present. The general manager of MedMen's Oak Park cannabis dispensary Mr. Omar Delgado was present. The Applicant's attorney Ms. Sara Barnes, MAI- certified appraiser Mr. Terrence O'Brien, land planning consultant Mr. George Kisiel and traffic engineer Mr. Michael Worthman were also present. Testifying in opposition to the application were Mr. George Blakemore, Mr. Akele Parnell and Mr. Dan Tausk. With the exception of certain testimony and statements that will be explained below, the statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS Rules of Procedure.

The Applicant's attorney Ms. Sara Barnes presented an overview of the Applicant's application.

The Applicant presented the testimony of MedMen's executive vice president of regulatory affairs Ms. Morgan Sokol.

The Applicant presented the testimony of the general manager of MedMen's Oak Park cannabis dispensary.

In response to questions by the ZONING BOARD OF APPEALS, the Applicant presented further testimony from Ms. Sokol.

The Applicant presented the testimony of its land planning consultant Mr. George Kisiel. The ZONING BOARD OF APPEALS recognized Mr. Kisiel's credentials as an expert in land planning.

The Applicant presented the testimony of its MAI certified appraiser Mr. Terrence O'Brien. The ZONING BOARD OF APPEALS recognized Mr. O'Brien's credentials as an expert in real estate appraisal.

Mr. George Blakemore testified in opposition to the application. As Mr. Blakemore had done for the entirety of the March 6, 2020 special meeting of the ZONING BOARD OF APPEALS, Mr. Blakemore made personal attacks at the Applicant and its witnesses. Personal attacks are contrary to the ZONING BOARD OF APPEALS' Rules of Procedure.

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<sup>1</sup> As disclosed in the Applicant's Economic Disclosure Statements ("EDSs") to the ZONING BOARD OF APPEALS, the Applicant is wholly controlled and owned by MM Enterprises USA LLC. In turn, MM Enterprises USA LLC is wholly controlled and almost wholly owned by MM CAN USA, Inc. MM CAN USA, Inc. is wholly controlled by MedMen and is wholly owned by MedMen's chief executive officer Mr. Adam Bierman and president Mr. Andrew Modlin.

Mr. Akele Parnell testified in opposition to the application. Mr. Parnell testified that he was an attorney with the Chicago Lawyers Committee for Human Rights. He testified that he was appearing on behalf of the Cannabis Equity Illinois Coalition. However, the ZONING BOARD OF APPEALS' Rules of Procedure require that an attorney's client be present, and Mr. Parnell called no members of the Cannabis Equity Illinois Coalition as witnesses. Consequently, and to resolve any confusion<sup>2</sup>, the ZONING BOARD OF APPEALS determined Mr. Parnell comments at the hearing to be his personal testimony rather than the statements of an attorney advocating on behalf of a client.

In response to Mr. Parnell's testimony, Ms. Sokal provided further testimony.

Mr. Dan Tausk, one of the property owners at 923 W. Weed Street, testified in opposition to the application. His opposition stemmed from his belief that the Applicant was appearing in violation of Section 2<sup>3</sup> of the Chairman's cannabis zone district lottery rules (the "Lottery Rules").<sup>4</sup>

In response to the testimony of Mr. Tausk, Ms. Sokal provided further testimony; namely, that MedMen was the owner of the entity that had entered the Chairman's cannabis zone district lottery held on November 15, 2019. She testified that MedMen had acquired the entire entity and that it had not been an asset sale.

#### B. Criteria for a Special Use for a Cannabis Business Establishment

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF

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<sup>2</sup> "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Ill. Rules of Prof'l. Conduct (2010) R. 3.7 Advocate-Witness Rule cmt. 2 (eff. Jan. 1, 2010).

<sup>3</sup> In particular, the portion of Section 2 that read: "A lottery-selected operator may not sell, assign, trade, 'swap' or otherwise transfer its lottery position within its chosen cannabis zone district."

<sup>4</sup> To avoid confusion in the event the Chairman publishes further lottery rules in accordance with Section 17-14-0303-F of the Chicago Zoning Ordinance, the rules in question were the rules promulgated by the Chairman on October 28, 2019.

APPEALS finds that the applicant for such special use has held a least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting shall be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish to a complete list of the names and last known addresses of the persons provided with such written notice as a well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

### III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

*1. The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

First, to the extent to which Lottery Rules can be considered an applicable standard of the Chicago Zoning Ordinance<sup>5</sup>, the ZONING BOARD OF APPEALS finds that no violation to the Lottery Rules has occurred. Section 2 of the Lottery Rules states: "A lottery-selected operator may not sell, assign, trade, "swap" or otherwise transfer its lottery position within its chosen cannabis district." The plain language of Section 2 makes clear that the prohibition is against selling, assigning, trading, swapping or otherwise transferring the *lottery position*; there is nothing in the rules prohibiting the acquisition of a lottery-selected operator by a new parent entity. In this case, Ms. Sokol testified that MedMen was the actual owner of the entity that was present at the Chairman's cannabis zone district lottery held on November 15, 2019. The ZONING BOARD OF APPEALS finds Ms. Sokol to be a very credible witness with respect to MedMen's corporate structure. In contrast, as 923 W. Weed Street is a location that also sought a special use for an adult use cannabis dispensary at the March 6, 2020 special meeting of the ZONING BOARD OF APPEALS, the

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<sup>5</sup> The ZONING BOARD OF APPEALS has its doubts about this; however, as the Chairman's authority to promulgate rules does stem from the Chicago Zoning Ordinance, the ZONING BOARD OF APPEALS shall address the argument.

ZONING BOARD OF APPEALS did not find Mr. Tausk's testimony particularly helpful or relevant in determining whether a violation of the Lottery Rules had occurred. After all, the control or restriction of competition is not a lawful zoning objective. *Cosmopolitan Nat. Bank v. Village of Niles*, 118 Ill.App.3d 87, 91 (1st Dist. 1983).

Second, and as set forth in Mr. Kisiel's report and as certified in the survey prepared by Roy G. Lawniczak, the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The ZONING BOARD OF APPEALS finds Mr. Kisiel and his report to be very credible. The subject property is located in a C3-5 zoning district. The Applicant's proposed adult use cannabis dispensary is a special use in a C3-5 zoning district.<sup>6</sup> The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings it before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will allow a retail product for which (as has been evident over the past three months<sup>7</sup>) there is high demand to be sold within the Clybourn Retail Corridor. As Ms. Sokol testified, the Clybourn Retail Corridor is the second highest revenue-producing retail corridor in the City, surpassed only by the Magnificent Mile (where adult use cannabis dispensaries are strictly prohibited). Further, the proposed special use will not have a significant adverse impact on the general welfare of the neighborhood or community. As Ms. Sokol testified, MedMen's business practices ensure that there are no lines outside of their facilities, MedMen is a fully banked entity in every state in which it operates (ensuring that the business is not -- as many cannabis dispensaries are -- cash only) and there will be more than adequate security at the subject property. The ZONING BOARD OF APPEALS finds Ms. Sokol a very credible witness. Based on this, and as set forth in Mr. O'Brien's report, the proposed special use will be

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<sup>6</sup> Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

<sup>7</sup> The ZONING BOARD OF APPEALS takes judicial notice of the fact that since cannabis became legal in Illinois on January 1, 2020, cannabis dispensaries have had long lines and have frequently sold out of cannabis products.

harmonious and compatible with surrounding uses and will not have an adverse impact upon the use and enjoyment of other properties in the area.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within an existing storefront in an existing strip mall. As shown in Mr. Kisiel's report, the existing strip mall is compatible with the character of the surrounding area in terms of site planning and building scale as the majority of the Clybourn Retail Corridor is made up of multi-tenant retail strip malls and buildings. In terms of project design, all deliveries will happen off of Kingsbury Street, just as they do for the other storefronts in the strip mall, so deliveries will in no way interfere with customer ingress and egress.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

As can be seen from Mr. Kisiel's report and Ms. Sokol's testimony, the surrounding area is a highly trafficked retail corridor. It is the main shopping district for the north side of Chicago, with many retail and entertainment establishments. Therefore, in terms of operating characteristics such as hours of operation, outdoor lighting, noise and traffic generation, the proposed special use will be compatible with the surrounding area. For example, as Ms. Barnes explained, the proposed special use will have hours of operation similar to the other retail establishments. Outdoor lighting will not change from what presently exists as the only outdoor lighting will be what is already part of the strip mall. There will be on-site parking, and there is ample access to public transportation in this area, so excess traffic generation will not be a concern, especially as MedMen moves its customers very quickly through its dispensaries. Noise pollution also will not be a concern, especially as there is no on-site consumption component to the proposed special use and thus the noise generated by the proposed special use will be much less than nearby restaurants, especially those with patios.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

Ingress and egress to the proposed special use will be separated from product delivery. Further, and as set forth in Mr. O'Brien's report, on-site parking is currently accessed by means of two available and existing curb cuts. No additional curb cuts will be created due to the proposed special use. The ZONING BOARD OF APPEALS finds Mr. O'Brien and his report to be very

credible. MedMen will ensure that the deliveries off of Kingsbury will not disrupt pedestrians. In addition, due to the 24/7 security cameras and the on-site security guards during the dispensaries operating hours, pedestrian safety and comfort at the strip mall will exceed what currently exists at the strip mall.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting.

#### IV. CONCLUSION

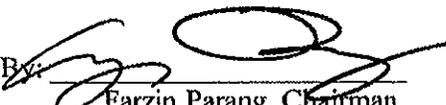
For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

1. The special use shall be issued solely to the Applicant; and
2. The special use shall be developed consistently with the design and layout of the plans and drawings dated October 14, 2019, prepared by TPG Architecture, LLP.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By:   
Farzin Parang, Chairman