

**ZONING COMMISSION JOURNAL OF ACTIONS
FROM SPECIAL MEETING HELD JANUARY 14, 2025
ORANGE TOWNSHIP - DELAWARE COUNTY**

The electronic recordings of this meeting serve as the official meeting minutes.
A full and accurate account of this meeting's audio and video can be found at www.orangetwp.org

Christine Trebellas called the meeting to order.

ROLL CALL: Christine Trebellas, Chair - Present
Les Pierce, Vice Chair - Present
Dennis McNulty - Present
Pam Foster - Present
Karthik Avadhanula - Present

ALSO PRESENT: Robin Duffee, Development and Zoning Director
Eric Gayetsky, Senior Zoning Officer
Julie Donnan Legal Council

NEW BUSINESS

Zoning Amendment Application #ZON-24-09, 3812 E. Powell Road, Requesting to amend the current PC District zoning #07-0714 to allow for the operation of a marijuana dispensary and to allow for commercial and office uses on two parcels having 1.488 +/- acres. The subject properties are currently owned by Early Childhood Education LLC and are located at 3812 E. Powell Road and 3784 E. Powell Road, Lewis Center, Ohio 43035 with parcel number 318-441-04-007-000 & 318-441-04-006-000.

Mr. Duffee presents the Staff Report:

- Summary of Amendment Request
 - The applicant is requesting to amend the currently effective Planned Commercial & Office District (PCD) to allow for the operation of a marijuana dispensary and to allow for commercial and office uses on the site.
- Marijuana Status in Orange Township
 - On July 24, 2024, the Orange Township Board of Trustees passed Resolution 24-228, which amended and restated a previous resolution that prohibited cannabis dispensaries in the Township. Resolution 24-228 permits up to 2 retail dispensaries in the Township for medical or adult use cannabis. The resolution also states that for the purposes of the Zoning Resolution, a dispensary shall be considered a “retail” or “commercial” use.
 - The Ohio Division of Cannabis Control requires that the local zoning authority sign a 10(B) for a proposed dispensary, which indicates that the zoning for a given location either permits a cannabis dispensary, or could be amended to permit a cannabis dispensary. Orange Township has signed off on a 10(B) form for a dispensary at this location, indicating that a dispensary could be located on the subject property, provided the zoning is approved.
- Divergences
 - A divergence from Section 21.09: To permit a setback for Potential Building C to be 48 feet from the E. Olde Powell Road right-of-way instead of the required 50 feet.

**ZONING COMMISSION JOURNAL OF ACTIONS
FROM SPECIAL MEETING HELD JANUARY 14, 2025
ORANGE TOWNSHIP - DELAWARE COUNTY**

- A divergence from Section 21.10: To reduce the setback for Building B to 30 feet from the property line, to reduce the setback for the existing utility structures to 2 feet from the property line, to reduce the setback for the Potential Building C to 25 feet from the property line, and to waive the landscaping or screening requirement for that area.
- A divergence from Section 21.12: In the event of a discrepancy between the submitted lighting plan and the requirements of Section 21.12, the submitted lighting plan shall control.
- A divergence from 21.01: Parking spaces are proposed to be 9 feet by 18 feet instead of 9 feet by 20 feet.
- A divergence from Article XXII: Proposing to allow up to 4 “No Loitering” signs without a permit, and to allow any other state-required signage to be exempt from the requirements of Article XXII.
- A divergence from Section 14.06: To allow future proposed uses to be established without rezoning if they meet the definition of “Commercial and office establishments of all types developed and maintained in accordance with the approved development plan”, and to allow variations from the development standards by up to 10% with a waiver from the Zoning Inspector.
- Additional Staff Comments:
 - Staff is concerned with the language regarding the lighting plan. Staff recommends that the applicant either remove the language stating that the lighting plan shall control vs. the requirements of Article XXI, or resubmit an updated lighting plan that clearly shows the fixtures and the footcandle levels throughout the site and onto neighboring properties.
 - Staff is also concerned that language regarding future uses is too vague (“Commercial and office establishments of all types”), and that the applicant should either include a list of expressly permitted uses, or a list of prohibited uses.
 - After consulting with legal counsel, staff recommends that the applicant remove the language regarding an administrative waiver of development standards.
- Staff Recommendation
 - Staff recognizes and respects that some may find the operation of a cannabis dispensary to be an objectionable use. However, per Resolution 24-228, a cannabis dispensary is to be considered a retail use for purposes of the Zoning Resolution, and a general retail use is not inappropriate for this location, as it is largely away from established residential neighborhoods and is located near a commercial area, albeit one in another jurisdiction. Staff does have concerns with some of the provisions proposed by the applicant, primarily those concerning future uses and lighting regulation, but believes that these can be addressed with minor revisions to the plan. As such, staff recommends Approval with Modifications to the Zoning Commission, subject to the following modifications at the discretion of the Commission:
 - The applicant shall resubmit a lighting plan acceptable to the Zoning Director at least 10 days prior to the hearing of the Board of Trustees, or remove the language regarding the lighting plan shall override the requirements of Article XXI.
 - The applicant shall provide either a list of specific permitted and/or prohibited uses to the Zoning Director at least 10 days prior to the hearing of the Board of Trustees.
 - The applicant shall remove language relating to a 10% waiver of development standards by the Zoning Inspector.

**ZONING COMMISSION JOURNAL OF ACTIONS
FROM SPECIAL MEETING HELD JANUARY 14, 2025
ORANGE TOWNSHIP - DELAWARE COUNTY**

Greg Gorospe attorney with Ice Miller 667 Park Edge Drive, Gahanna Ohio, Eric Kmetz, dispensary owner, 7720 Campus Lane Montgomery OH 45252 and Kathleen Olivastro, Ascend operator 1906 Chesterfield Ridge Circle, Chesterfield MO 63017 present

- Seeks approval of 2 existing buildings and 1 proposed building
 - One for operation of cannabis dispensary, others for commercial and office uses
- Goes over Ohio process and how licenses are issued
 - Speaks on location restrictions and signage restrictions
- Speaks on process for receiving product
- Shows security plan

Julie Donnan attorney with Brosius, Johnson and Griggs, Orange Township legal council

Speaks on resolution passed by the Orange Township Trustees allowing marijuana dispensaries

- A few years ago Ohio enacted a law permitting medical marijuana but left it up to townships to either prohibit or to allow up to a certain number of medical dispensaries. Orange Township Trustees put a moratorium on medical dispensaries. More recently, Ohio voters voted to also allow recreational marijuana. As before, the state leaves it up to townships to either prohibit or allow a certain number. The trustees revisited the moratorium that had been put in place. A majority of Orange Township voters voted for recreational use so trustees lifted the moratorium and permit up to a total of 2 dispensaries with some restrictions added.

Board Comments:

Mr. Pierce:

- Asks in the past year how many times has panic button or silent alarm been used
 - Ms. Olivastro replies zero
- Asks when the last security incident was and what was the incident
 - Ms. Olivastro replies it was an attempted break in last July. Before that it was about 3 years ago
- Asks if there has been any discussion at the county level about the road and traffic
 - Mr. Duffee replies not to his knowledge, not at this stage of the development

Ms. Foster:

- Asks if there is any loitering in the parking lot once purchases have been made
 - Ms. Olivastro replies No, they have no loitering signs in addition to it being a part of the security team's job to walk the grounds ensuring there is no loitering going on

Mr. Avadhanula

- Asks how often inebriated customers come in
 - Ms. Olivastro replies we don't let them in, we call the police, says she can only remember that happening one time and it was several years ago
- What is a marijuana cultivating operation and could they put that in one of the other buildings
 - Ms. Donnan replies the township resolution does not permit cultivators in the township
- Asks if there is a required green space and if so, do they meet the criteria
 - Mr. Duffee replies the requirements of the Planned Commercial District are that 75% is the maximum hardscape and 25% of the site has to be green space and permeable surfaces; there is not specific landscape requirements

Ms. Trebellas:

- Wonders what uses are permitted to be next to a dispensary

**ZONING COMMISSION JOURNAL OF ACTIONS
FROM SPECIAL MEETING HELD JANUARY 14, 2025
ORANGE TOWNSHIP - DELAWARE COUNTY**

- Ms. Donnan replies that is dependent on what is included in the development plan. The zoning commission can also make recommendations on what could be included in the plan as either a permitted use or a not permitted use.

Public Comments:

Mike Nagode, 3874 Waverly Place Drive

- States there are ample places for retail elsewhere in the township, does not want this here. Goes on to ask if they take cash as he is concerned that will encourage violent acts
 - Ms. Olivastro replies they do take cash however, 70% of transactions are done by debit cards

Addison Smith, 8044 Hickory Ridge Court

- Agrees there are better places for this, asks what percentage of Orange Township voters voted for the sale of marijuana
 - Ms. Donnan replies she believes the percentage was in the high 50's to low 60's
- Concerned about traffic with this business plus the distillery across the street; asks what the projected traffic is for the distillery
 - Mr. Duffee replies the distillery went through the same permitting requirements with the county that this business will go through. If/when this business goes to the county for permitting, the county will take into consideration additional traffic

Courtney Shoemaker, 7991 Hickory Ridge Court

- Wonders what the proposed use is for the second floor of the dispensary; asks if the law allows for anyplace for consumption/use of the marijuana; asks what is the proposed tax revenue
 - Mr. Gorospe replies they do not release specific figures for sales for competitive reasons however, these are high performing and contribute a lot to the tax base
 - Mr. Kmetz adds Ohio does not allow consumption lounges so there will not be a consumption lounge at the neighboring building
 - Ms. Olivastro adds the second floor will be secured off

Michael Lazar, 3819 Waverly Place Drive

- Asks how often people can come in for medical/recreational marijuana, weekly, daily, hourly?
Agrees with neighbors, opposes application.
 - Ms. Olivastro there are limits set by the state on how much a consumer can purchase at one time. The consumer can come in everyday; there is nothing in the state regulation that gives her the right to tell them they can't.

Franz Geiger, 7447 Allpath Rd. New Albany, OH developer at Polaris 8800 Lyra Drive

- States he opposes this use. Says this is an experiment in the State of Ohio and we don't know what the outcome will be. Says it will negatively effect property values. Much more intensive use than a daycare. Another issue he has is the shared drive he has with this property; the applicant has not come to talk with him about how the shared drive will work.

Mike Meyers, 5570 Worthington Rd

- Agrees with the other comments he has heard, does not feel this is a good use here. Says it should remain a daycare.

Amanda Mosely, 3565 East Powell Road

- Agrees with all other comments. Has traffic concerns

Tom Enneking, 3657 Pine Ridge Drive

- Agrees with other comments. Does not feel this is the right location for this business. Believes it is a bad move for the community, property values and resale

**ZONING COMMISSION JOURNAL OF ACTIONS
FROM SPECIAL MEETING HELD JANUARY 14, 2025
ORANGE TOWNSHIP - DELAWARE COUNTY**

Arron Underhill, zoning attorney – represents the landowner in contract to sell the property

- His client supports this and in particular this applicant with their first call amenities and security, they own other properties in the area and feel this would make a good addition to the community

Michael Coury, 3241 East Powell Road

- States he isn't for or against, it sounds like it is going to be regulated, traffic is bad there so it will be worse

Christine Brill, 3216 East Powell Rd

- States she is against proposal, feels like retail is squeezing residents and the southern edge of Orange Township has been forgotten. This is not the right location for retail.

Molly Watts, 5571 Via Alvito Drive

- Voices concerns about how this will affect traffic and property values. Believes this is not the right location for this, there are better places in the township for this

Fran Meyers, 5570 Worthington Road

- States this will take away from the community feel. Believes there are better uses for this property, suggests a park

Ryan Whitehead, no address given

- Voices traffic concerns stating a large number of people drive by here each day to get to I-71

**RESOLUTION TO RECOMMEND APPROVAL WITH MODIFICATIONS OF ZONING
APPLICATION #ZON-24-09 OF OHIO PATIENT ACCESS LLC**

Motion by Ms. Foster to recommend to the Board of Township Trustees (the "Board) the **APPROVAL WITH MODIFICATIONS** of Zoning Application #ZON-24-09 of Ohio Patient Access LLC, the pages of which are each stamped received with ORANGE TWP. ZONING on 12.13.24, requesting the amendment of the currently effective development plan for property owned by Early Childhood Education, LLC (application #07-0714), upon finding that it is in the interest of the public convenience, comfort, prosperity, or general welfare, or sufficiently in accordance with the comprehensive plan, and including additional modifications listed below:

1. The applicant shall resubmit a lighting plan acceptable to the Zoning Director at least 10 days prior to the hearing of the Board of Trustees, or remove the language regarding the lighting plan shall override the requirements of Article XXI.
2. The applicant shall provide either a list of specific permitted and/or prohibited uses to the Zoning Director at least 10 days prior to the hearing of the Board of Trustees.
3. The applicant shall remove language relating to a 10% waiver of development standards by the Zoning Inspector.
4. The applicant shall include list of restricted uses for all three buildings.
5. The applicant shall re-submit Site plan with setbacks clearly marked.

Motion seconded by Mr. Avadhanula.

VOTE: Trebellas - Yes, McNulty - No, Pierce - No, Avadhanula - Yes, Foster – Yes

Meeting adjourned