

CASE NUMBER: PZC 20-005
TYPE: SPECIAL USE
PERMIT



Village Board of Trustees
Memorandum
April 9, 2020

Village Board to consider an ordinance:

- a) Granting a Special Use Permit to allow an adult-use cannabis dispensing organization in the B-2 District.
- b) Approving the Site, Landscape and Building Elevation plans related to this Special Use Permit.

Recommended Action:

To consider the Special Use Permit application based on the following Special Use Standards and Conditions.

- (1) That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (4) That adequate utilities, access ways, drainage and/or other necessary facilities have been or are being provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the village board pursuant to the recommendation of the plan commission.

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CASE SUMMARY AND BASIS FOR RECOMMENDATION

TITLE: Windy City Cannabis regarding the property located at 11 E. Ogden, Westmont, IL 60559 for the following:

(A) Special Use Permit request to operate an adult-use cannabis dispensary facility in the B-2 General Business District.

A. Background

The subject lot is located on the south side of Ogden Avenue, east of Cass Avenue.



Aerial Map of the Subject Property showing existing buildings and nearby developments.

The applicant seeks approval of a Special Use permit in order to operate an adult-use cannabis dispensing organization, which would typically be operated between 10:00 a.m. and 8:00 p.m. Monday through Saturday, and 11:00 p.m. to 5:00 p.m. on Sunday.

ZONING ANALYSIS and SPECIAL USE REQUIREMENTS

Appendix “A”, Section 7.03(A)(a1) requires that adult-use cannabis dispensing organizations proposed in the B-2 General Business District receive a special use permit prior to opening a facility. The subject property is located in the B-2 General Business District. Properties to the north, south, east and west are

similarly zoned. The proposed adult-use cannabis dispensing organization is proposed within an existing vacant tenant space.

B. Critical Issues

Adult-use cannabis dispensaries were authorized by the State of Illinois in 2020 with very specific regulations, and individual municipalities can also pass their own zoning regulations. The Village of Westmont passed an ordinance at the end of 2013 that required any proposed medical cannabis facility be located in the M-Manufacturing District with a Special Use, and also had similar restrictions as the State of Illinois, which required 1000' distance from schools and from daycares. Most recently, on October 24, 2020, the Village Board passed an ordinance allowing adult-use cannabis dispensing organizations as a special use in the B-2 General Business District (See attached Exhibit, Ordinance # 19-155).

The applicant met with the Economic Development Committee (EDC) to review the concept plan, prior to submitting the application on January 17, 2020. On January 8, 2020, the EDC listened to the presentation, asked questions about how the business would operate, and made a positive recommendation. Below are highlights of the discussion related to zoning matters.

- 1. The applicant discussed the suitability for the proposed location including the site meeting distance requirements, parking requirements, and falls within the appropriate zoning district. Weisman described the location floor plan, security precautions, and facade improvements.*
- 2. The building will be purchased for this purpose, not leased.*
- 3. At other locations, the company has experienced product sell-outs, with customer wait lines as long as five hours.*
- 4. Due to the high demand, security precautions have been taken including police officers directing traffic, security, porta potties, cameras etc.*
- 5. The license will not allow the company to sell medical cannabis at this location. However, medical patients will be able to purchase the product, but at higher tax rates.*
- 6. The applicant anticipates that the convenience in location for medical use would outweigh the cost of higher taxes.*
- 7. The hours of operation will be reduced to 10am-8pm on weekdays and Saturday, and 11am-5pm on Sunday.*
- 8. The number of employees average 20-25 employees per location. The employees would park off-site so it would not impede on the parking space requirement.*
- 9. Medical and adult-use (recreational) cannabis are governed by two different license types in Illinois. Businesses that already had a medical license were able to apply for recreational if their town had opted in. The applicant stated that the four towns where their medical facilities operate have all opted-in.*
- 10. The amount of customers at one time is limited by occupancy, and online pre-orders are available.*

11. *IDOT must be consulted for any proposed modifications to the driveway. For this reason, a right-in right-out driveway will not be implemented to control traffic and circulation from or to Ogden Avenue.*
12. *This is a cash-only business, due to inter-state commercial banking regulations.*
13. *On site consumption would be possible if the Village of Westmont allows it. Currently, the Village's cannabis regulations do not provide for on-site consumption of product, and it is assumed that consumption will occur off-site (on private property only).*
14. *Edible products are exempt from the State's health regulations.*
15. *The company owns a primary manufacturing facility, which is responsible for delivering the product, and the type of delivery truck can vary. The applicant indicated that the site plan would include a space for deliveries at the proposed location.*

Special Use Standards. A proposed special use shall substantially meet the following standards in order to obtain the recommendation of the planning and zoning commission and approval of the board of trustees:

- (1) That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (4) That adequate utilities, access ways, drainage and/or other necessary facilities have been or are being provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the village board pursuant to the recommendation of the plan commission.

In addition, adult-use cannabis dispensary facilities have two special conditions that mandate that:

1. Such special use may be permitted provided that no buildings or outdoor portions of the lot containing such use are located within 100 feet of a residence district.
2. Such special use may be permitted provided that such use is separated by at least 1,000 feet from a public or private school, and by at least 300 feet from a public park, measured from lot line to lot line.

C. Site Plan

See Attached Sheet, S-1.

D. Parking Analysis

Per Appendix A, Article X, Section 10.06(J) and (K)(4)(b), Employee parking. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both,

on the premises at any one time. The traffic the operation is expected to generate will be most like the moderate volume commercial uses, which require 1 space per 400 square feet of floor area. The Floor Plan shows a square footage of 4,475 of floor space. Therefore, 11 spaces are required, plus the number required for the number of employees at one time, which is expected to be 15 employees at any given time. The number of spaces provided in the parking lot on site is 17. Off-site parking for employees will need to be provided at all times, as the number of spaces on the property would not be sufficient to accommodate the maximum number of employees projected for a business like this, and customer parking would therefore become unavailable. An employee off-site parking arrangement has been finalized with U-Store It on Plaza Drive, for 15 employees, who will be transferred to and from the dispensary by shuttle van.

E. Access

There is full access to the project from Ogden Avenue to the north. The landscape plan shows that the applicant proposes to saw cut and remove existing paving on each side of the entry drive aisle. However, no modifications are proposed for the driveway. Any proposed improvements in the Ogden Avenue right-of-way will require a permit from the Illinois Department of Transportation (IDOT). A traffic impact study is not requested from the applicant at this time.

F. Landscaping

See Attached Sheets, L-1 and L-2.

G. Building Details

See Attached Sheets, CP and A3.1.

H. Policy

Zoning: B-2 General Business District. No zoning change is proposed. Consistent with the Proposed Land Use Plan of the Comprehensive Plan.

Existing Land Use: Vacant building was the home of a former childcare center.

Proposed Land Use: Adult-Use Cannabis Dispensing Organization

Comprehensive Plan: Corridor Commercial. The proposed use is a regional destination, which is a suitable business for the subject property, which is located along a major established commercial corridor.

SUMMARY

A special use permit is required for adult-use cannabis dispensing organization in the B-2 General Business District, with a special condition that the facilities not be located within 1,000 feet of schools or daycare facilities, 300 feet of residentially zoned districts and public parks. The Village Attorney's opinion is that the proposed facility would not be located within 1000' of a school and meets the special condition requirements, and therefore may be approved.

I. Attachments and References

1. *Exhibit "B" Site Plan dated 1/31/2020*
 2. *Exhibit "C" Landscape Plan dated 1/31/2020*
 3. *Exhibit "D" Building Elevations dated 1/14/2020*
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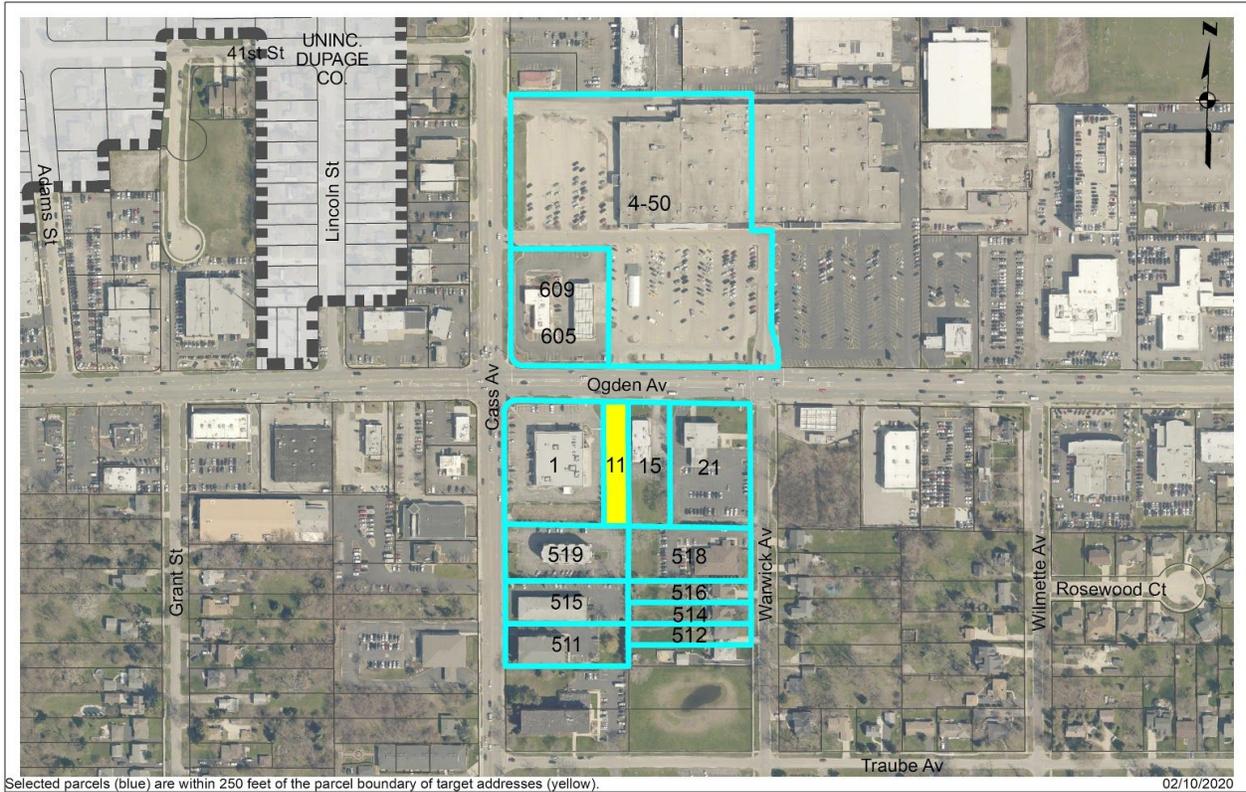
J. Legal

Notification: *Westmont Village code of ordinances requires for the proposal to be advertised with a Class Two Legal Notices and to be considered by the Planning and Zoning Commission at a public hearing. Public notice was provided in the Westmont Suburban Life on February 20, 2020.*

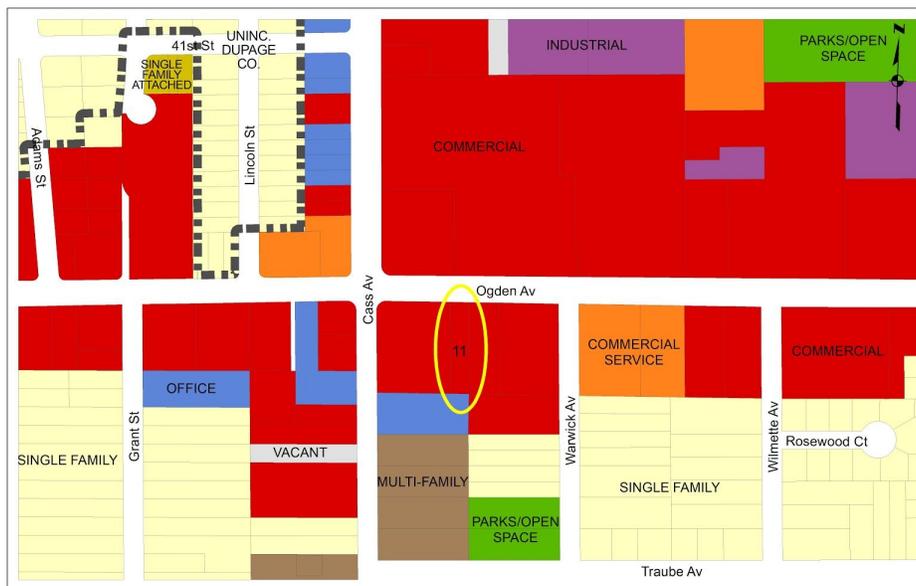
Other Required Actions: *Village Board action is required for these proposed Ordinance Amendments. After the Planning and Zoning Commission has made a recommendation, the Special Use Permit request will be taken to the Village Board of Trustees for review and a final decision on March 26, 2020.*

Code Reference: *Village Code Section 13-09 specifies the requirements to follow for Special Use Permit requests.*

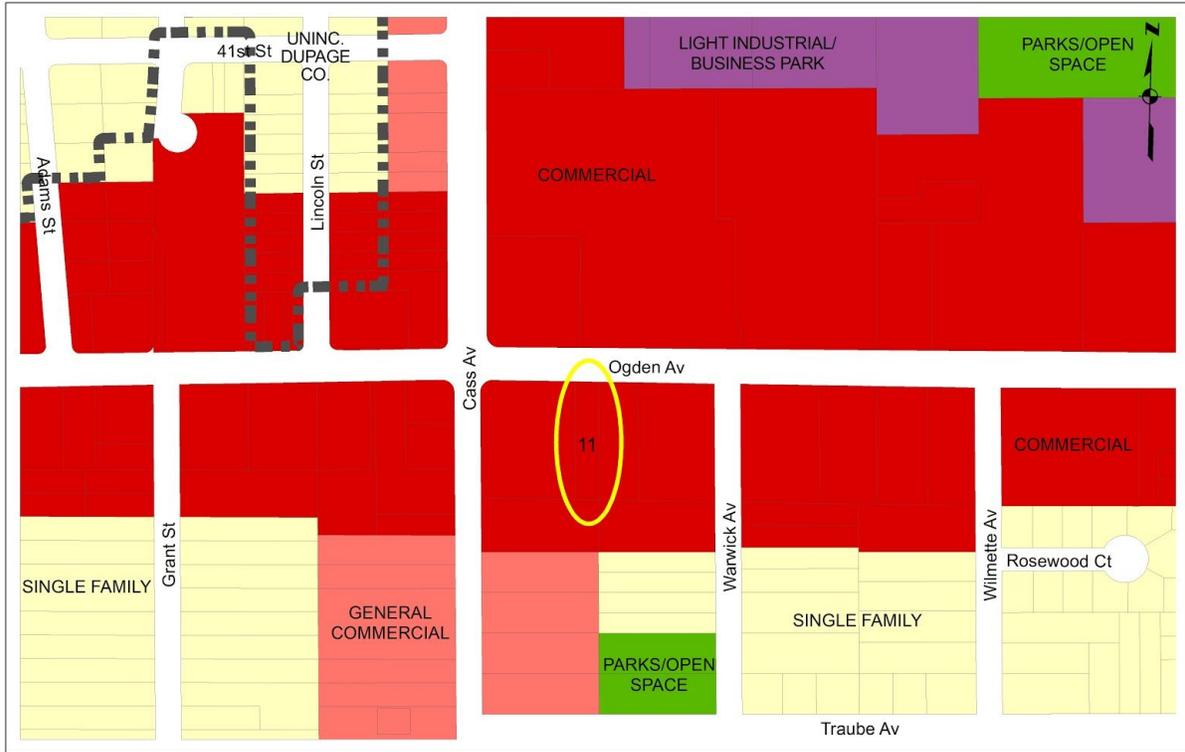
MAP SERIES



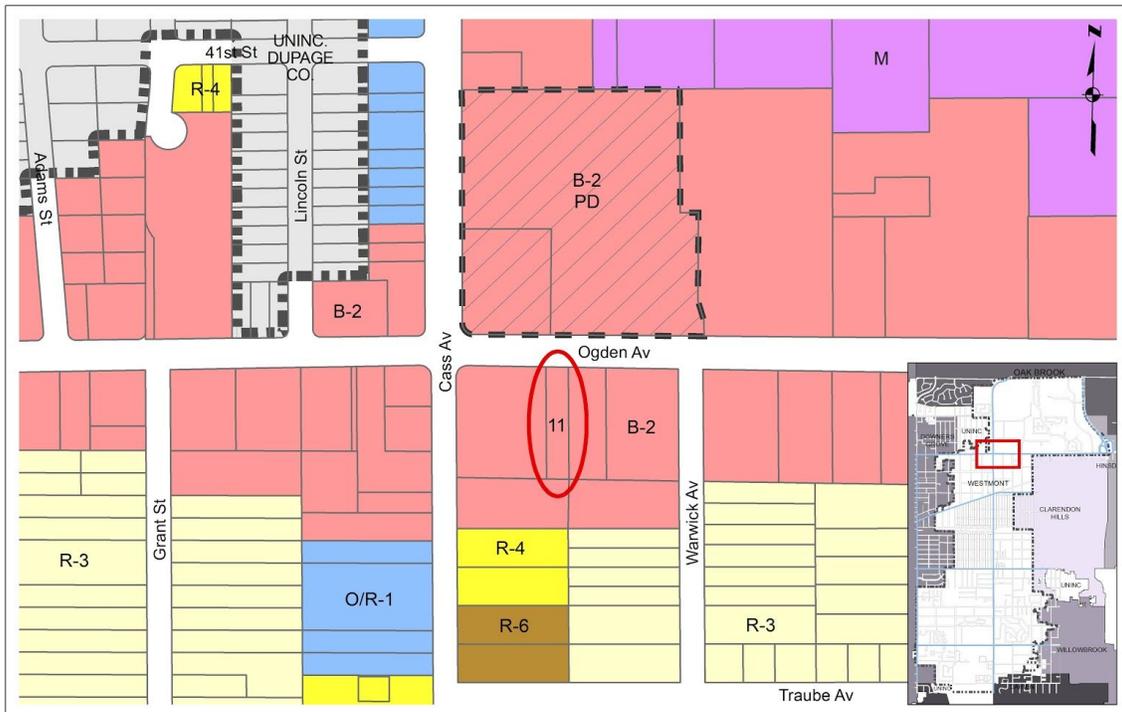
Aerial Image of Subject Property at 11 East Ogden Avenue showing the notification area.



The Existing Land Use Map shows 11 E. Ogden as “Corridor Commercial” Designation. The proposed use is compatible with the properties to the North (grocery store and similar uses), East (Restaurant) and West (Pharmacy).



The Proposed Land Use Map (2013) shows the subject property as “Corridor Commercial Designation” and surrounded on all sides by the same designation.



The Zoning Map shows the subject property as B-2 General Business District, and surrounded on all sides by the same zoning districts, consistent with the proposed use.

**STIPULATIONS RECOMMENDED BY PLANNING AND ZONING COMMISSION FOR
PZC CASE # 20-005**

1. Hours of operation: Monday – Saturday: 10:00 a.m. – 9:00 p.m.; Sunday: 11:00 a.m. – 6:00 p.m. Should the Applicant wish to permanently or temporarily amend these hours of operation, it may petition directly to the Village Board of Trustees for such an amendment and no additional special use public hearing or recommendation from the Planning and Zoning Commission is required. A request for a temporary amendment to the hours of operation (such as for a special event) may be approved by a motion of the Village Board of Trustees. A request for a permanent amendment to the hours of operation shall require approval of an ordinance amending the original special use ordinance. No more than six (6) temporary amendments to the hours of operation shall be permitted in any calendar year.
2. All deliveries of product to the dispensary shall occur during the approved hours of operation.
3. Prior to the issuance of a final or temporary certificate of occupancy to applicant, the applicant shall provide the Community Development Director with a copy of its parking agreement with a third party for the off-site parking of applicant’s employees. Such parking agreement shall provide no less than thirty (30) parking spaces for employee use, shall not result in a diminution of required parking spaces below the minimum parking spaces required by the Zoning Ordinance for the third party’s property, and shall contain a term of at least three (3) years. Upon approval of the parking agreement by the Community Development Agreement, whose approval shall not be unreasonably withheld, the Applicant shall record a restrictive covenant against title to third party’s property which contains a summary of said parking agreement as required by Section 10.05 of the Zoning Ordinance. Strict compliance with any requirement of Section 10.05 not specified herein is hereby waived. At least sixty (60) days prior to the expiration of the parking agreement then in effect, the applicant shall provide a copy of its proposed renewal parking agreement or a proposed new parking agreement for a new location to the Community Development Director, and the parties shall follow the same process outlined above for such renewal or new parking agreement. A parking agreement for employee parking shall be maintained by the applicant in full force and effect during all times that the applicant is operating from the property. In the event that the applicant fails to meet any requirement of this special condition, such failure shall constitute a violation of the special use ordinance. Upon the occurrence of a purported violation, the Village shall provide written notice to the applicant of such violation and shall provide a date upon which the applicant must appear before the Village Board of Trustees for a hearing to determine whether the Village Board of Trustees shall revoke the special use.
4. All signage for applicant’s use shall strictly comply with the sign regulations of the Village and the regulations of the State of Illinois. No variances from the Village’s sign regulations are permitted.
5. Provide private security traffic control personnel on site to direct traffic ingress and egress, traffic flow within the property, and parking on the property for no less than the first thirty (30) days that the dispensary is operational, minus Sundays, and minimally during the hours of 9:00 a.m. to 10:30 a.m. and from 4:00 p.m. to 6:30 p.m., or during such other hours as reasonably recommended by the Westmont Police Department.
6. No onsite consumption of cannabis products is permitted.
7. Site plan and property improvement requirements:

- a. The existing parking lot shall be patched, seal coated and striped prior to the issuance of a final or temporary certificate of occupancy. The striping shall comply with the parking space striping shown on the approved site plan.
- b. The site plan shall show one ADA-compliant parking space, and such space shall be appropriately marked by the applicant prior to the issuance of a final or temporary certificate of occupancy.
- c. The site plan shall show a painted right-turn arrow on the parking lot at the egress point onto Ogden Avenue. The applicant shall paint a yellow right-turn arrow at the location and in the dimensions shown on the site plan prior to the issuance of a final or temporary certificate of occupancy, and shall continuously maintain this painted arrow so that it is visible to motorists. Additionally, the site plan shall show the location of a sign near the egress onto Ogden Avenue which prohibits left-hand turns from the property onto Ogden Avenue. The applicant shall install such sign consistent with the site plan prior to the issuance of a final or temporary certificate of occupancy, and shall continuously maintain, repair and replace as necessary such sign.
- d. Site plan approval shall include approval of the submitted building elevations, floor plan, and photographic depiction of the interior build-out, which plans shall be attached to the site plan approval ordinance, and shall also include applicant's description of the exterior veneer materials for the front façade of the building. The applicant shall strictly comply with the approved site plan and landscaping plan, and shall substantially comply with the approved building elevations, floor plan, interior build-out depiction, and description of exterior veneer materials.
- e. All landscaping depicted on the site plan shall be continuously maintained, repaired and replaced as necessary by applicant.

CONCURRENCY SUMMARY REPORT

Project Name: Windy City Cannabis (WCCC LLC) - PZC Case # 20-005

Report Date: March 26, 2020

The proposal is consistent with the Comprehensive Plan, the Proposed Land Use Plan, and the Codes and Ordinances for the Village of Westmont. The Planning and Zoning Commission voted to recommend approval at the March 11, 2020 meeting.

**VILLAGE OF WESTMONT PLANNING AND ZONING COMMISSION
FINDINGS OF FACT FOR SPECIAL USE PERMIT REQUEST PZC CASE NO.
20-005**

PUBLIC HEARING OF MARCH 11, 2020

WCCC, LLC, d/b/a Windy City Cannabis, regarding 11 E. Ogden Avenue, Westmont

Request for a special use to allow an adult-use cannabis dispensing organization upon the subject property which is zoned B-2 General Business District.

CRITERIA NO. 1: That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

FINDINGS OF FACT: *The proposed retail use will generate tax revenue for the benefit of the Village and the public. The applicant has not experienced any incidences of crime at its other locations and the applicant will have in place strict security protocols. The applicant is licensed by the State of Illinois and is subject to the strict licensing regulations of the State which will protect the public health, safety, morals and welfare. Signage and advertising is strictly limited by the State.*

CRITERIA NO. 2: That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.

FINDINGS OF FACT: *The applicant will maintain normal retail hours of operations. The retail use will be conducted solely indoors with strict security protocols. The use will not result in adverse odors, noise, vibration, light pollution, traffic congestion or other adverse impacts on surrounding properties.*

CRITERIA NO. 3: That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

FINDINGS OF FACT: *Surrounding property is fully developed and the establishment of this use on an existing lot will not adversely impact surrounding development or redevelopment, but may actually encourage redevelopment.*

CRITERIA NO. 4: That adequate utilities, access ways, drainage and/or other necessary facilities have been or are being provided.

FINDINGS OF FACT: *The property, which is currently improved, is already adequately serviced by utilities, access ways and other necessary facilities. IDOT will review the proposed ingress-egress on Ogden Avenue.*

CRITERIA NO. 5: That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

FINDINGS OF FACT: The proposed use will exceed the number of off-street parking spaces required for customers, and employees will park off-site. The use is not expected to generate adverse traffic or traffic congestion, particularly after it has been operational for several months.

CRITERIA NO. 6: That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the village board pursuant to the recommendation of the plan commission.

FINDINGS OF FACT: The proposed use complies with all other Zoning Ordinance requirements and no variances are needed.

CRITERIA NO. 7: The proposed use meets the special conditions of Special Conditions 1 and 14.

FINDINGS OF FACT: The proposed use meets the distance separation requirements of being located at least 100 feet from a residence district, 300 feet from a public park, and 1000 feet from a public or private school.

PREVIOUS PZC CASES FILES / OTHER APPLICABLE REGULATIONS

Ordinance 19-155

An Ordinance Approving Zoning Ordinance Text Amendments Regulating Adult-Use Cannabis
Businesses

EXHIBITS

Exhibit "A"

LEGAL DESCRIPTION

THE EAST 60.2 FEET OF LOT 4 IN BLOCK 6 IN ARTHUR T. MC INTOSH AND COMPANY'S WESTMONT ACRES, BEING A SUBDIVISION OF THE SOUTHWEST QUARTER (EXCEPT THAT PART OF THE EAST HALF OF THE SOUTHWEST QUARTER LYING SOUTH OF THE CENTER LINE OF NAPERVILLE ROAD) ALSO THE WEST HALF OF THE SOUTHEAST QUARTER, ALL IN SECTION 3, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REC-ORDED NOVEMBER 4, 1920 AS DOCUMENT #145100, IN DUPAGE COUNTY, ILLINOIS.

Property Common Address: 11 East Ogden, Westmont, IL 60559

PIN: 09-03-300-004

