



Appeal No. CUSM2024-11
Filed 10/8/24

Board of Zoning Appeals
9323 Union Cemetery Road
Symmes Township, OH 45140-9386

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OCT 09 2024

APPEAL UNDER THE ZONING RESOLUTION

The appellant must file herewith an explicit typewritten statement setting forth the following:

- a. The principal points on which the appeal is made. In any case, the principal points set forth in this appeal shall be the same as those under which the administrative officer acted, whether the granting or refusal of a zoning certificate or any other decision based upon the regulations of the Zoning Resolution.
- b. A clear and accurate description of the construction use.
- c. Specific reference to the Sections of the Zoning Resolution which, it is claimed, authorize the determination sought.
- d. Names and addresses of owners of all abutting lots and lands within two hundred (200) feet of the property in question. (This list is now provided by the Board on the applicant's behalf.)

NAMES AND ADDRESSES

Appellant	<u>Kevin A. Oliver, AIA</u>	Address	<u>7100 Euclid Ave., Cleveland, OH 44103</u>
Owner	<u>GHB-95-1 LLC</u>	Address	<u>1999 Richmond Rd., Suite 300 Lexington, KY 40502</u>
Lessee	<u>NA</u>	Address	<u></u>

The undersigned Kevin A. Oliver hereby appeals under Sections Table 35-1 "Commercial Uses" heading listing "Adult Use Cannabis Operator" as a Conditional Use in Zone "E" of the Zoning Resolution

In accordance with the plats, plans and other data hereto attached and made a part of this appeal.

I hereby depose and say that all the above statements and the statements contained in all of the exhibits transmitted herewith are true.

Kevin Oliver
Kevin Oliver (Jun 28, 2024 13:34 EDT)

Appellant

Sworn to and subscribed before me, this 28th day of June, 2024



Lauren N. Fridley
Notary Public Lauren N. Fridley
Commission 7699515
Expires 06/30/2028
of Chesterfield County, Virginia

Address of subject property 12160 Mason Rd., Symmes Township, 45249

Lot Number parcel #'s 62001900371 & 62001900280

Identification	Name	Address	City	State	Zip Code	Phone No.
Owner	GHB-95-1 LLC	1999 Richmond Rd.	Lexington	KY	40502	
Contractor	None at this time					
Plans By	Oliver Architecture	7100 Euclid Ave, Ste 200	Cleveland	OH	44103	216-245-2661

Type of improvement: (Briefly describe proposed work)

A new, one story retail sales building and associated site improvements on an existing site with paved lot and existing restaurant building.

- Commercial
- Residential
- Other
- Appeal
- Conditional Use
- Non-Conforming Use
- Compatible Non-Conforming Use
- Other

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State in detail all existing and proposed uses of this building and premises:

- Existing Restaurant and paved lot. Formerly there was a retail building with a restaurant, then a loan center, on the paved lot which has been since torn down.
- Proposed Proposed use for new retail sales building is a cannabis dispensary retailer.

- Ownership Cost
- Private Estimated cost of improvement for which this application is made:
 - Public (Federal, State, Local) \$ 1,000,000
 - Corporate
 - Other

The owner of this building and undersigned, do hereby covenant and agree to comply with all the laws of the State of Ohio and the Zoning Resolution of Symmes Township, pertaining to building and structures, and to construct the proposed building or structure or make the proposed change or alteration in accordance with the plans and specifications submitted herewith, and certify that the information and statements given on this application, drawings and specifications are the best of their knowledge, true and correct.

Application by:  Address: 7100 Euclid Ave, Suite 200 Cleveland, OH 44103

DO NOT WRITE BELOW THIS LINE (office use only)

Adopted: _____ Journalized: _____

BZA Filing Fee: \$1,595.34

Kimberly A. Lapensee
Zoning Administrator



Phone: (513) 683-6644
Fax: (513) 683-6626

Luanne C. Felter
Secretary

OFFICE OF
BOARD OF ZONING APPEALS

INSTRUCTION TO APPELLANT FOR FILING A CONDITIONAL USE APPLICATION

Applications for a conditional use *shall be filed in person*. Applications are filed at 138 East Court Street, Room 801, Cincinnati, Ohio 45212. A legal notice will be prepared by the Board of Zoning Appeals and placed in a newspaper of general circulation in the County two weeks prior to the public hearing. The Board will also prepare, for the applicant, a typewritten list of names and complete addresses of the property owners of all lots and lands located within 200 feet of the property requesting the appeal. Said list will be prepared from the County Auditor's current tax list. All forms, including individual and legal notices, necessary for the processing of an application will be executed by the office of the Board. Public Hearings are held by the Board of Zoning Appeals on the first Monday of the month at the Symmes Township Administration building located 9323 Union Cemetery Road, Symmes Township, OH 45140.

All complete applications shall include the following information. *Please submit this checklist with your application.*

1.

LETTER - Please provide one copy of an explicit typewritten statement addressed to the Board of Zoning Appeals, setting forth the following:

The location & size of the property;

A clear and accurate description of the proposed construction or use of the property;

State clearly the reasons why the conditional use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located;

State clearly the extent of additional protection from adverse impacts afforded to the adjacent property owners including protection from aesthetic, lighting, traffic, noise and other issues.

2.

SITE PLAN - Please provide six full size drawings and two reduced drawings (11 x 17 inches or smaller). The site plan shall be drawn to scale of not less than one inch equals 50 feet and shall contain the following information:

Surveyor's seal (required for all new dwellings, residential additions over 600 sq. ft., residential additions less than 10 feet from a property line and all commercial projects);

Name of person(s) preparing the plan;

Title, name of owner & name of builder;

North arrow (North to top of plan);

Property lines, property dimensions, street name(s), right-of-ways, site size

Existing and proposed buildings and structures including playgrounds, athletic fields, courts, putting greens, including the use of each structure;

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- Distance from structures to property lines;
- Paving, parking areas, driveways, walks etc.;
- Parking space, aisle & drive dimensions and parking analysis;
- Identify land uses on parcels adjoining the proposed site and within the surrounding neighborhood;
- Streetscape & boundary buffer yards and interior landscape areas;
- Existing & proposed grades and flood plains;
- Easements & purpose of easements;

Note: Modifications or changes to the plats and or plans approved by the Board are subject to review by the Board and a new case could be required by the Board or the Board's Administrator.

3.

LANDSCAPE & LIGHTING PLAN - Please provide six full size drawings and two reduced drawings (11 x 17 inches or smaller) drawn to scale of not less than 1 inch equals 50 feet. A landscape plan is not required for single family dwellings and similar uses not subject to buffering and landscape standards but when required for other uses shall contain the following information:

- Landscape architect's seal;
- Streetscape buffer yard width & location;
- Boundary buffer yard(s) width & location;
- Interior landscape areas width & location;
- Detailed schedule of planting materials including type, caliper & location within each yard or area;
- Location of any exterior light fixtures or poles.

X

STRUCTURAL DRAWING (Please provide two reduced sets of elevation drawings with architectural treatments)

5.

APPLICATIONS (Complete one copy of each of the attached BZA application forms)

6.

FEE - An application fee of \$1,595.34 is required when the appeal is filed and is based on the acreage of the site. Contact Hamilton County Planning & Development Zoning Division at 946-4550 for additional information. (All fees are nonrefundable and must be made payable to Symmes Township.)

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Checklist prepared by:

Name KEVIN OLIVER, AIA
 Address 7100 EUCLID AVE., CLEVELAND, OH 44103
 Phone 216.245.2661 Date 10/8/24

MANLEY BURKE

a legal professional association

Micah E. Kamrass
mkamrass@manleyburke.com
513-763-6747

June 19, 2024

To Whom It May Concern:

Please find the attached Conditional Use Application submitted by Kevin Oliver on behalf of my client. The application is for an adult-use cannabis dispensary. As you may be aware, the Symmes Township Trustees adopted Resolution G2024-45 on April 2, 2024, and subsequently Resolutions G2024-47 and G2024-55. These Resolutions expressly permit the operation of an adult-use cannabis dispensary in Symmes Township, although it limits the number to just one, and requires that it shall be regulated in the zoning as a conditional use in the retail district. To my best knowledge, there are currently no approved adult-use cannabis dispensaries operating in Symmes Township. Consequently, this application is for a use that is explicitly permitted in Symmes Township.

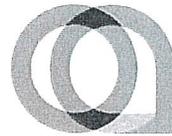
My client appreciates your time and consideration to this application. If you have any questions, feel free to reach me at the above-listed contact information.

Sincerely,

/s/ Micah E. Kamrass

Micah E. Kamrass
Partner
Manley Burke, LPA

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Sep 20, 2024

12160 Mason Rd. Conditional Use

Description of Construction Use

Applicant proposes to construct a new, one-story retail sales building on an existing paved lot for a cannabis dispensary retailer. Associated site improvements are proposed as well as a drive through service window.

Per Zoning Resolution Section 386 "Specific Criteria Pertaining to Conditional Uses:"

e. Setbacks from any adjacent residential property line shall be a minimum of fifty (50) feet for all buildings and twenty-five (25) feet for all parking areas.

Applicant's site is in full compliance with the stated setback requirements. All buildings on the site are situated approximately One Hundred Thirty (130) Feet or more from any residential property line, and all parking areas on the site are situated approximately Sixty (60) Feet or more from any residential property line.

g. Use shall have direct access to a collector or arterial street.

The site has direct access to both Mason Road and Governors Way, which are both classified as arterial streets pursuant to the Hamilton County Thoroughfare Plan.

h. The vehicular use area shall be located and designed so as to minimize impact on the neighborhood.

The applicant is not proposing to change the vehicular access drive.

i. Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties.

Applicant's proposed use is consistent with the site's past use in the retail trade, as the site was formerly used as a payday loan facility and a restaurant with a drive-thru.

Adjacent properties include Arby's, Potbelly, and McDonalds (all with drive-thrus), and a Speedway gas station.

Applicant's use as a retail store generates minimal potential nuisances: all inventory is in tamper-proof sealed packaging; no product, at any time, is permitted to be removed from its sealed packaging. There is no loud equipment, food odors/kitchens, grease traps, etc used in the Applicant's day-to-day business. Relative to the site's past uses and the uses surrounding the site, Applicant will not generate a nuisance to adjacent properties since, as a retail store, Applicant does not generate material noise, vibration, odor, or dust.

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o. Landscaping shall be installed in accordance with one of the following buffers as described in detail in Article XXXII, Sections 326 through 331.2, inclusive.

Applicant will provide the required streetscape buffer as noted in 328.2, and the area will be planted with a minimum of 1.5 canopy trees and 20 shrubs per 100 linear feet of the boundary buffer. The adjacent parcels are not of residential use. Per 328.1-3, no buffer yard is required.

s. All exterior lighting shall be directed away from adjacent residential properties and not exceed 0.5 foot candles at the property line when abutting a Residential Use or Residential District.

All exterior lighting will be cut-off type fixtures and will not exceed 0.5 foot candles at the property line.

u. Security measures shall be submitted as part of the application.

Applicant has established a comprehensive security, contingency plan, and framework in accordance with OAC 1301:18-7-05. These measures meet or exceed all regulatory requirements. Applicant takes security very seriously and has a proven track record with no material security incidents incurred at its other retail facilities. Security measures in place include:

- All staff/employees, management, and owners are required to submit fingerprints to the Ohio BCI and FBI and pass a background check.
 - All employees shall be registered with the State and receive education and training on security procedures.
 - All registered employees are to display their employee badge at all times during working hours.
- The Ohio Division of Cannabis Control (DCC) is enabled to remotely access, in real-time, the facility's live CCTV feed, as well as have access to the facility's CCTV backup recordings.
- The facility shall be equipped with unobstructed tamper-evident CCTV cameras that capture the entirety of the facility premises and clearly identify all individuals and activities within the surveilled area.
 - The camera shall operate 24 hours per day, 7 days a week, and cover the entirety of the interior and exterior of the facility.
 - All recordings shall be archived and maintained for at least forty-five calendar days, shall produce clear color still photographs that are a minimum of 9600 dpi from any camera image, live or recorded, shall embed a date and time stamp on all recordings.
 - The system shall include a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.
 - Camera placement shall occur at all of the following locations:
 - (a) All points of ingress and egress;
 - (b) All secure, limited access areas;
 - (c) Any area that stores inventory;
 - (d) The facility's inventory destruction and disposal area;

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- (e) All areas where sales proceeds are stored or transferred; and
- (f) Each point of sale / register.
- The system shall document all entry and exit with time in and time out of secure, limited access areas
- The facility shall inspect and test all security and surveillance equipment at least once per thirty calendar days to ensure functionality. The facility shall record and maintain all security and surveillance equipment tests. The facility shall notify the division of any failure in the facility's security or surveillance system or equipment. Any necessary repair or replacement shall occur within twenty-four hours of identification.
- In the event a the facility is made aware of any pending criminal, civil, or administrative investigations or legal proceedings for which a video recording may contain relevant information, the facility shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the facility that it is not necessary to retain the recording.
- The facility shall be equipped with:
 - (i) an access alarm on all entry points and windows, and
 - (ii) motion detectors that identify unauthorized access into the facility including glass break sensors as part of a comprehensive security alarm system,
 - (iii) Silent and audible duress alarms shall be placed throughout the facility, including the reception desk, sales area, vault, manager's office, and intake area, which when activated sends a pre-recorded voice message to the facility's designated security personal and law enforcement, which includes the capability to enter a designated code into an arming station to signal that the alarm user is being forced to turn off the system.
- Dedicated security staff / guards are present at all-times during operating hours. Security staff shall go through comprehensive training as mandated by the State.
- There shall be designated secure, limited access areas which shall include the following:
 - (i) storage area for all inventory,
 - (ii) security area for all security and surveillance systems and equipment,
 - (iii) an inventory destruction and disposal area in compliance with OAC 1301:18-3-16, and
 - (iv) an area for receipt of all deliveries to the facility.
- Access to "Secured Limited Access Areas" shall be constantly monitored, video surveilled, and controlled via badged access and strictly limited to authorized employees.
 - No person not previously cleared with the DCC are permitted in these areas.
 - No photographs, videos, or other media depicting such secure, limited access area shall be permitted.
- Facility's retail area shall be secure and video surveilled to prevent diversion, theft, loss and unauthorized access by the public.
 - Inventory may not be maintained in the designated retail area.
 - Within the retail area, there shall be a secure, limited access area that is physically separated from the remainder of the retail area and is accessible only

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3 - 12160 Mason Rd

by authorized registered employees. This secure, limited access area shall (i) maintain all cash registers or other points of sale, and (ii) ensure all inventory is maintained in this area is limited in quantity, separately secured to prevent theft, and not visible from outside the facility.

- Staff training around security is continuous and regularly reviewed and updated to ensure adequate security, surveillance, and control of the licensed premises that prevent diversion, theft, and loss. Applicant has never had a significant security incident because security is taken very seriously.

w. A refuse collection plan shall be submitted as part of the application.

Applicant shall contract with a waste management company for regular and as-needed waste pick-ups, in accordance with its refuse collection plan. Measures put in place as part of its refuse collection plan include:

- A dedicated enclosed trash area at the rear of the property will be secured by a lock and a 6' opaque fence with locking gates to maintain cleanliness and prevent unauthorized access. This enclosed trash area is designed to be in congruence with the surrounding retailers who have similar enclosed receptacle areas.
- Waste will be placed in the locked dumpster by company personnel for pickup. Applicant's standard operating procedures trains employees to ensure that all waste is processed pursuant to OAC 1301:18-3-16.
- Pick-ups will be scheduled to minimize disruption to operations and the surrounding community.

y. The intensity of the particular use shall be evaluated with regard to the location, size, and configuration of the tract.

Applicant's proposed retail use is in harmony with the existing intensity of the surrounding area and previous retail uses at the site. The surrounding parcels and uses are a mix of one-story restaurant, retail, and service establishments with similarly sized tracts and overall scale of development, including Arby's, Potbelly, and McDonalds (all with drive-thrus), and a Speedway gas station.

Applicant's one-story building and retail use is in-line with these adjacent businesses and in-line with the zoning purpose of the tract (Zoned E with Subservient Retail). Further, 41 parking spaces are provided, over 2.5x the amount that is required. Applicant's site connects directly to Governors Way and Mason Road, a major arterial street.

z. An emergency response plan shall be submitted detailing safety measures and response procedures.

Applicant's Emergency Response Plan ("ERP") outlines Applicant's safety measures and response procedures to a variety of incidents including emergencies such as fires, medical emergencies, security threats, natural disasters, and other unforeseen events that could impact the safety and operations of the facility.

Incident Types Covered:

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- Fires
- Medical emergencies
- Security threats (e.g. robbery and active shooter situations)
- Natural disasters (e.g. floods, earthquakes)
- Other unforeseen emergencies

General Safety Measures:

- **Employee Training:** Employees will be trained on the ERP upon hiring, when employee responsibilities change, and when the ERP is updated. Regular reviews and evacuation drills will be conducted to ensure preparedness.
- **Emergency Equipment:** Fire alarms, smoke detectors, and fire extinguishers will be installed and regularly maintained. Audible and silent alarms will be installed throughout the facility for immediate alert during emergencies. First aid kits and other emergency equipment will be readily accessible. All security and surveillance equipment will be inspected and tested at regular intervals.

Fire Emergency Procedures:

- **Prevention:** Do not place or store flammable items such as paper, books, clothing, or trash near heaters, vents, electrical appliances, or any other potential sources of ignition. Ensure that escape routes are never obstructed, especially in areas where flammable materials are stored.
- **Detection and Alarm:** Immediate activation of fire alarms and notification of the fire department.
- **Evacuation:** Clear, well-marked evacuation routes and assembly points. Regular fire drills to ensure all employees are familiar with evacuation procedures.
- **Containment:** Trained personnel may use fire extinguishers to contain small fires if it is safe to do so.

Medical Emergency Procedures:

- **Immediate Response:** Call 911 and provide details of the medical emergency. Administer first aid or CPR if trained and necessary until professional help arrives.
- **Employee Training:** Security agents will be trained in first aid and CPR. Regular refresher courses will be provided.

Robbery Response Procedures: [Redacted for Security Reasons]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Active Shooter Response Procedures: [Redacted for Security Reasons]

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[REDACTED]

- [REDACTED]

Natural Disaster Procedures:

[REDACTED]

Continuous Improvement

- **Regular Reviews:** The ERP will be reviewed and updated regularly. Updates will incorporate feedback from drills, actual incidents, and changes in regulations.
- **Employee Feedback:** Encourage employees to provide feedback on drills and actual incidents to improve response procedures.

This ERP ensures a structured and effective approach to handling various emergencies, to maintain a high level of safety and preparedness within the facility. Regular training, drills, and reviews will help ensure that all employees are equipped to respond appropriately to emergency situations.

kk. Site shall contain a minimum of one (1) acre.

Site is 1.90 acres spanning two parcels, with multiple existing easements in place across the Site's parcels requiring shared access, shared ingress/egress, shared parking, shared signage, landscaping, and utilities. Further, easements permit the structural support for the subject parcel's drive-thru to be placed on the adjacent parcel at the Site. In addition, there are easements requiring repair and maintenance costs for common driveway at the Site be shared between each parcel's owner at the Site.

The result is that these two parcels form one Site, with direct access to major arterial streets and 120 parking spaces; materially higher than what is required for the use at either parcel or the Site. The easements are detailed in Deed Book 4259 Page 714 and Deed Book 4221 Page 17 of the Registered Land Records of Hamilton County, Ohio, among other easements at the Site.

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6 - 12160 Mason Rd

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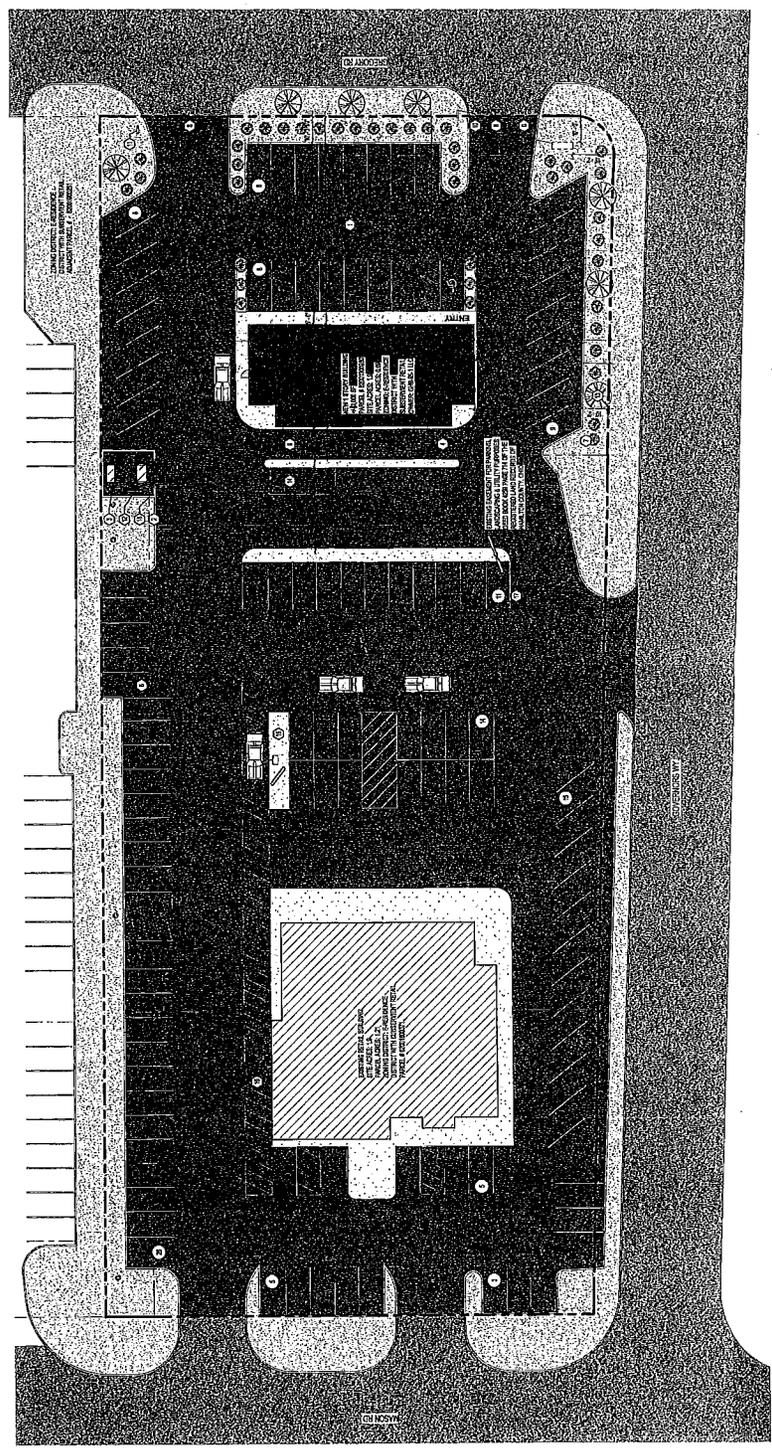
NEW DISPENSARY
 3,000 SF RETAIL AT 200 SF PER PARKING SPACE = 18 SPACES
 REQUIRED 33 SPACES PROVIDED

EXISTING RESTAURANT PARKING TO REMAIN = 79 SPACES

SITE PARCEL # 62001900260 AND # 62001900371 = 1.50 ACRES
 ZONING: E-RESIDENCE DISTRICT WITH SUBSERVIENT RETAIL

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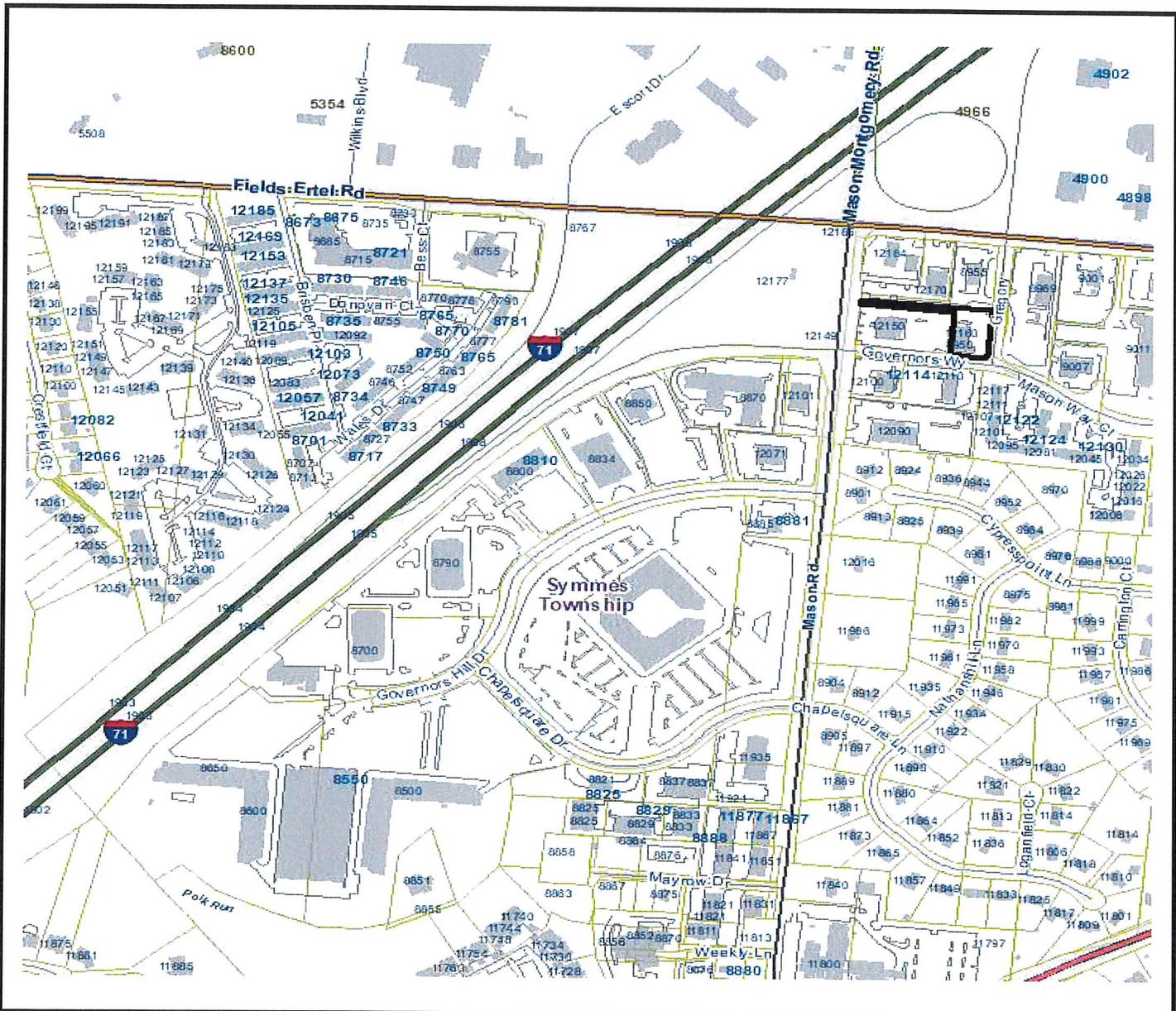
MASON RD. DISPENSARY
 NEW ONE STORY BUILDING
 ONE PARCEL
 ONE LOT

DATE: 10/09/24
 SCALE: 1/8" = 1'-0"

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES
 CITY OF VAN NUYS
 PLANNING DEPARTMENT

SITE PLAN

PROJECT NO. G-101



Vicinity Map

Case: CUSM2024-11; 12160 Mason Road
Request: Conditional Use

DISCLAIMER:
 Neither the provider nor any of the parties of the Cincinnati area geographic information system (CAGIS) make any warranty or representation, either expressed or implied, with respect to this information, its quality, performance, merchantability, or fitness for a particular purpose. As a result this information is provided as is, and you, the recipient, are assuming the entire risk as to its quality and performance.
 In no event, will the provider or any party of CAGIS be liable for direct, indirect, incidental, or consequential damages resulting from any defect in the information or any other part of the map product, even if advised of the possibility of such damages. In particular, neither the provider nor any party of CAGIS shall have any liability for any other information, programs or data used with or combined with the information received, including the cost of recovering such information, programs or data.
 Any floodway and flood fringe information provided on this map is for conceptual planning purposes only. For official determination of limits recipient must refer to the 2004 FEMA floodway fringe maps. Large differences can exist between actual flood prone area and official FEMA flood fringe areas.

HAMILTON COUNTY RURAL ZONING COMMISSION
 138 E COURT ST RM 801
 CINCINNATI, OH, 45202-020
 (513) 946-4500

Signed: _____ Date: _____

Created: 10-10-2024