

# CITY OF DARIEN

## PLANNING AND ZONING COMMISSION

Wednesday, November 6, 2019

7:00 PM

City Hall Council Chambers

1702 Plainfield Road

### AGENDA

1. Call to Order
2. Roll Call
3. Regular Meeting

**A. Public Hearing PZC 2019-02**

A petition by the City of Darien through an ordinance, zoning title amendment to the City Code, NEW TITLE-Title 10-A, Chapters 1-4:

Chapter 1-Definitions,

Chapter 2-A Retail Operations -Permitted Use

Chapter 2-B Office and Industrial Districts and Business Districts-Permitted Use-

Chapter 3-Licensing

Chapter 4- General Provisions; regarding standards for cannabis-related uses and activities.

4. Correspondence
5. Old Business
6. New Business
7. Approval of Minutes
8. Next Meeting                      November 20, 2019
9. Public Comments                (On any topic related to planning and zoning)
10. Adjournment

**AGENDA MEMO**  
**PLANNING AND ZONING COMMISSION**  
**NOVEMBER 6, 2019**

**ISSUE STATEMENT**

A petition by the City of Darien for zoning text amendments to the City Code, New Title, Title 10-A-Canibas-Medical and Recreational

**CHAPTER 1-DEFINITIONS**

**CHAPTER 2A & 2B -GENERAL BUSINESS DISTRICT AND OFFICE AND INDUSTRIAL DISTRICTS**

**CHAPTER 3- LICENSING**

**CHAPTER 4-GENERAL PROVISIONS; STANDARDS FOR CANNABIS-RELATED USES AND ACTIVITIES**

**BACKGROUND**

On October 7, 2019, City Council approved a motion to Recommend Zoning Ordinance Revisions to the Planning and Zoning Commission for public hearing and Commission review regarding the Cannabis Regulation and Tax Act

The State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019. The Darien City Council did not prohibit these cannabis activities, therefore, the City is required to amend the zoning codes for compliance with the Act. The City may enact reasonable zoning ordinances or resolutions not in conflict with the Act, regulating cannabis business establishments, including rules adopted governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the City deems sensitive.

The City Council reviewed and recommends the following definitions for the zoning code modifications:

The following is a zoning title amendment to the City Code, -NEW TITLE-Title 10-A, Chapters 1-4:

**CHAPTER 1-DEFINITIONS**

**1. Definitions**

**CANNABIS**

**BUSINESS ESTABLISHMENT:**

A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

**CANNABIS**

**CRAFT GROWER:**

A facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and

perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet and shall not be located within 1,500 feet of another craft grower or a cultivation center.

CANNABIS  
CULTIVATION CENTER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments(s). A cultivation center may not contain more than 210,000 square feet of canopy space for plants in the flowering stage for cultivation of adult use cannabis as provided in this Act.

CANNABIS  
DISPENSING ORGANIZATION:

A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers.

ADDITIONAL NOTES

- Operation is allowed between 6 a.m. and 10 p.m.
- Operation is prohibited when video surveillance equipment is inoperative.
- Operation is prohibited when point-of-sale equipment is inoperative.

- Operation is prohibited when the State’s cannabis electronic verification system is inoperative.
- Operation is prohibited when there are fewer than 2 people working.

CANNABIS  
INFUSER ORGANIZATION OR  
INFUSER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product

CANNABIS  
PROCESSING ORGANIZATION OR  
PROCESSOR:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

CANNABIS  
TRANSPORTING ORGANIZATION  
OR TRANSPORTER:

An organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Program.

**CHAPTER 2A & 2B - GENERAL BUSINESS DISTRICT AND OFFICE AND INDUSTRIAL DISTRICTS**

**2. PERMITTED USES**

The City Council reviewed and recommended the following locations as permitted uses within the respective zoning districts.

A. For the Cannabis Dispensing Organization-Retail.

a. 75<sup>th</sup> Street and Lemont Road-Chestnut Court Shopping Center-**Aerial A**  
Zoning B-3-General Business District

b. \*75<sup>th</sup> Street–east of Lyman Avenue 2100 block-Darien Towne Centre-**Aerial B**  
Zoning B-3-General Business District

\*staff was recently informed that a dispensary is not something the owners would allow at the center.

c. 75<sup>th</sup> Street-west of Lyman Avenue 2400 block-Market Place of Darien-**Aerial C**  
Zoning B-2-Community Shopping Center Business District

d. 7800 Lemont Road-Warehouse-**Aerial D**  
Zoning OR&I-Office, Research and Light Industrial

e. 6800-6818 Route 83-Darien Center-**Aerial E**  
Zoning B-2-Community Shopping Center Business District

B. The following are recommended as permitted uses as it pertains to the properties below:

Cannabis Craft Grower  
Cannabis Cultivation Center  
Cannabis Infuser Organization or Infuser  
Processing Organization or Processor  
Transporting Organization or Transporter

a. 7800 Lemont Road-Warehouse-**Aerial F**  
Zoning OR&I-Office, Research and Light Industrial

b. 1035 South Frontage Road-Warehouse-**Aerial G**  
Zoning I-1-General Industrial District

As information, the State Statute mandates distances to certain operations of the above. Examples regarding distance:

“A craft grower shall not be located within 1,500 feet of another craft grower or a cultivation center”.

“The applicant shall also provide evidence that the location is not within 1,500 feet of an existing dispensing organization”.

## **CHAPTER 3- LICENSING**

### **BUSINESS LICENSE(S)**

1. The City Council recommended **one (1)** license for one location for a Cannabis Dispensing Organization/Retail.
2. No business license restrictions as it relates to the following Zoning Districts
  - a. OR&I-Office, Research and Light Industrial  
Cannabis Craft Grower  
Cannabis Cultivation Center  
Cannabis Infuser Organization or Infuser  
Processing Organization or Processor

- Transporting Organization or Transporter
- b. Zoning I-1-General Industrial Districts
  - Cannabis Craft Grower
  - Cannabis Cultivation Center
  - Cannabis Infuser Organization or Infuser
  - Processing Organization or Processor
  - Transporting Organization or Transporter

## **CHAPTER 4 - GENERAL PROVISIONS; STANDARDS FOR CANNABIS-RELATED USES AND ACTIVITIES**

### **1. Lounges and other methods of on-site consumption**

The City Council recommended prohibiting lounges or other methods of onsite consumption. Further, no cannabis product shall be smoked, ingested or otherwise consumed on the premises of a permit holder or in the public right-of way within twenty-five feet of a Cannabis Retailer. Cannabis Retailers are required to post signage near their entrances and exits providing notice of this policy.

### **End of Title Amendment**

### **Additional Information and Discussion**

1. Attached and Labeled as **Attachment A-Pages 1-13**, are 13 Optional **Dispensary Sites** that the Planning and Zoning Boards are to review and provide recommendations.

Below is a summary of the optional locations:

- Option 1-Brookhaven Plaza-Existing Walgreens
- Option 2-Brookhaven Plaza
- Option 3 Brookhaven Plaza
- Option 4-7900 S Cass Ave-EXISTING OFFICE BUILDING
- Option 5-8100 S Cass Ave-OUTLOT
- Option 6-8100 S Cass Ave
- Option 7-1220 S PLAINFIELD ROAD
- Option 8-MID 8100 BLOCK OF CASS AVE – PIN NO 3 AND 4
- Option 9-7300 BLOCK OF ROUTE 83 BETWEEN 73RD AND 74TH STREET
- Option 10-2600 BLOCK OF 83RD STREET
- Option 11-8100 BLOCK OF LEMONT RD
- Option 12-8200 BLOCK OF LEMONT RD
- Option 13-SOUTHWEST QUADRANT OF LEMONT RD AND 83RD STREET

2. The Planning Zoning Commission as an alternative shall consider and provide a recommendation whether all nonresidential districts shall be considered for dispensary sights.

3. The Planning and Zoning Commission is requested to review and discuss whether additional business licenses should be issued for the Dispensary (retail sites). The Commission shall recommend the number of additional licenses.
4. Attached and labeled as **Attachment B** is a Fact Sheet assembled through the Illinois Municipal League.

### **PLANNING AND ZONING RECOMMENDATION**

1. The Planning and Zoning Commission is hereby requested to forward a recommendation to the Municipal Services Committee to approve the proposed ordinance as presented.
2. The Planning and Zoning Commission as alternative shall consider and provide a recommendation whether all nonresidential districts shall be considered for dispensary sights.
3. The Planning and Zoning Commission is hereby requested to forward a recommendation to the Municipal Services Committee to approve any or all proposed Optional Dispensary locations.
4. The Planning and Zoning Commission is hereby requested to forward a recommendation to the Municipal Services Committee whether additional business licenses should be issued for the Dispensary (retail sites). The Commission shall recommend the number of additional licenses.



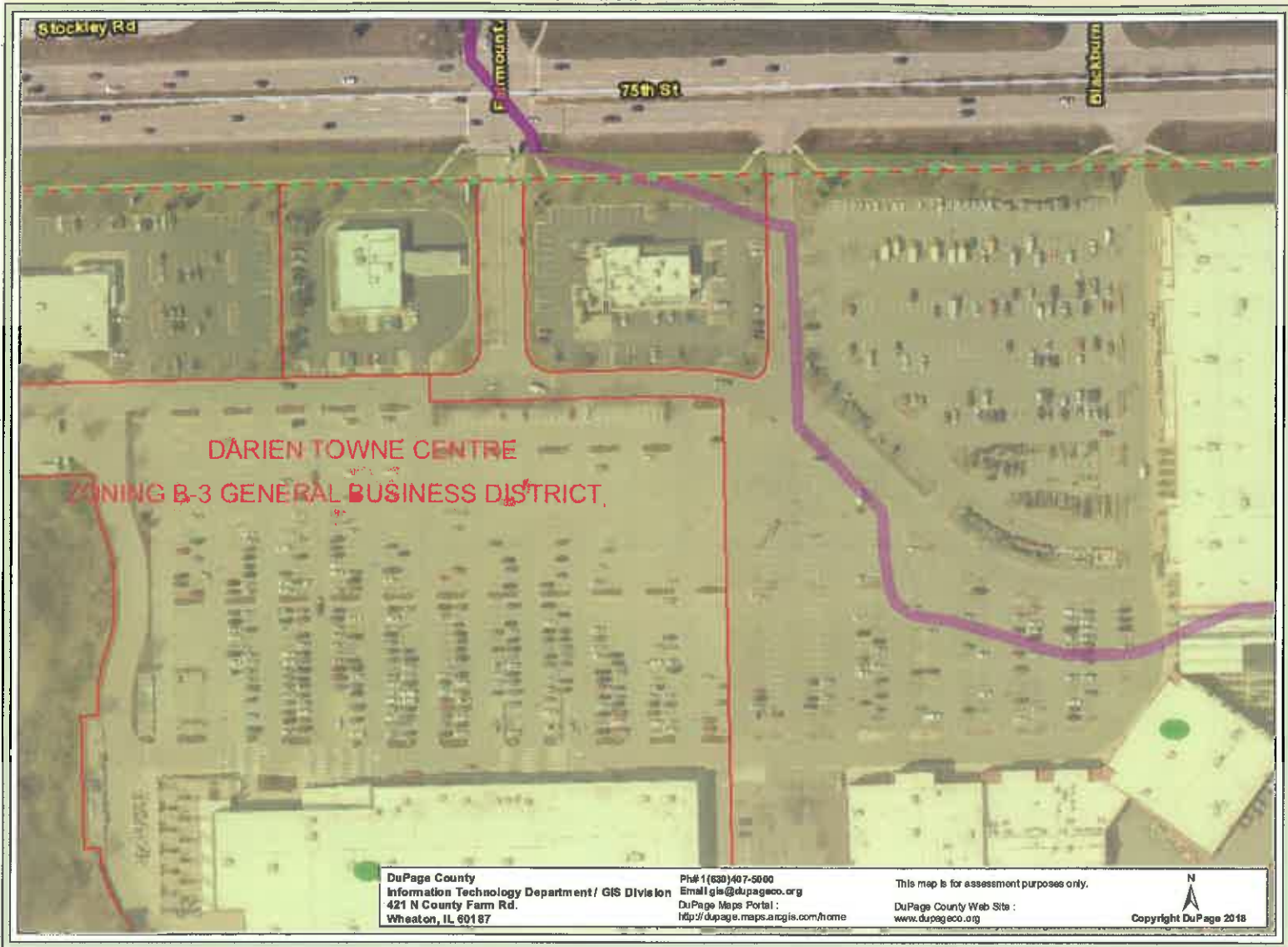
DuPage County  
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421 N County Farm Rd.  
Wheaton, IL 60187

Ph# 1(630)407-5000  
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<http://dupage.maps.arcgis.com/home>

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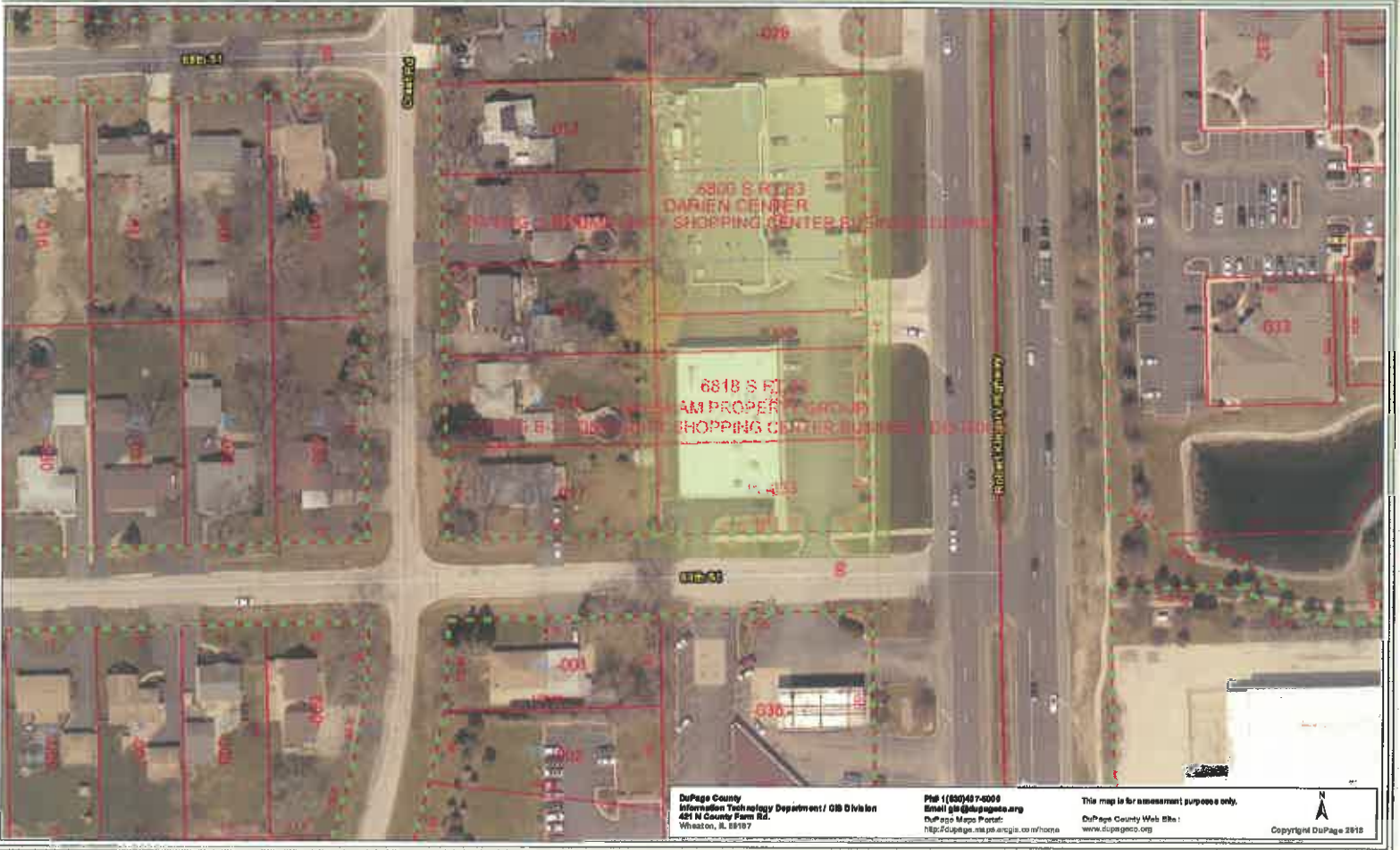
Ph#: (630) 407-5000  
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Option 1-Brookhaven Plaza-Existing Walgreens



**General Property Information:**

PIN#

**0928402021**

Property Address:

**7516 CASS AVE  
DARIEN IL 60561**

Owner:

**BROOKHAVEN PLAZA LLC**

**Option 2-Brookhaven Plaza**



**General Property Information:**

PIN#

**0928402026**

Property Address:

**7516 S CASS AVE**

**DARIEN IL 60561**

Owner:

**BROOKHAVEN PLAZA LLC**

Acreage: **3.89**



**Option 3-Brookhaven Plaza**



**General Property Information:**

PIN#

**0928402024**

Property Address:

**7516 CASS AVE  
DARIEN IL 60561**

Owner:

**BROOKHAVEN PLAZA LLC**

Acreage: **3.90**

**Option 4-7900 S Cass Ave-EXISTING OFFICE BUILDING**



**General Property Information:**

PIN#

**0928412009**

Property Address:

**7900 S CASS AVE**

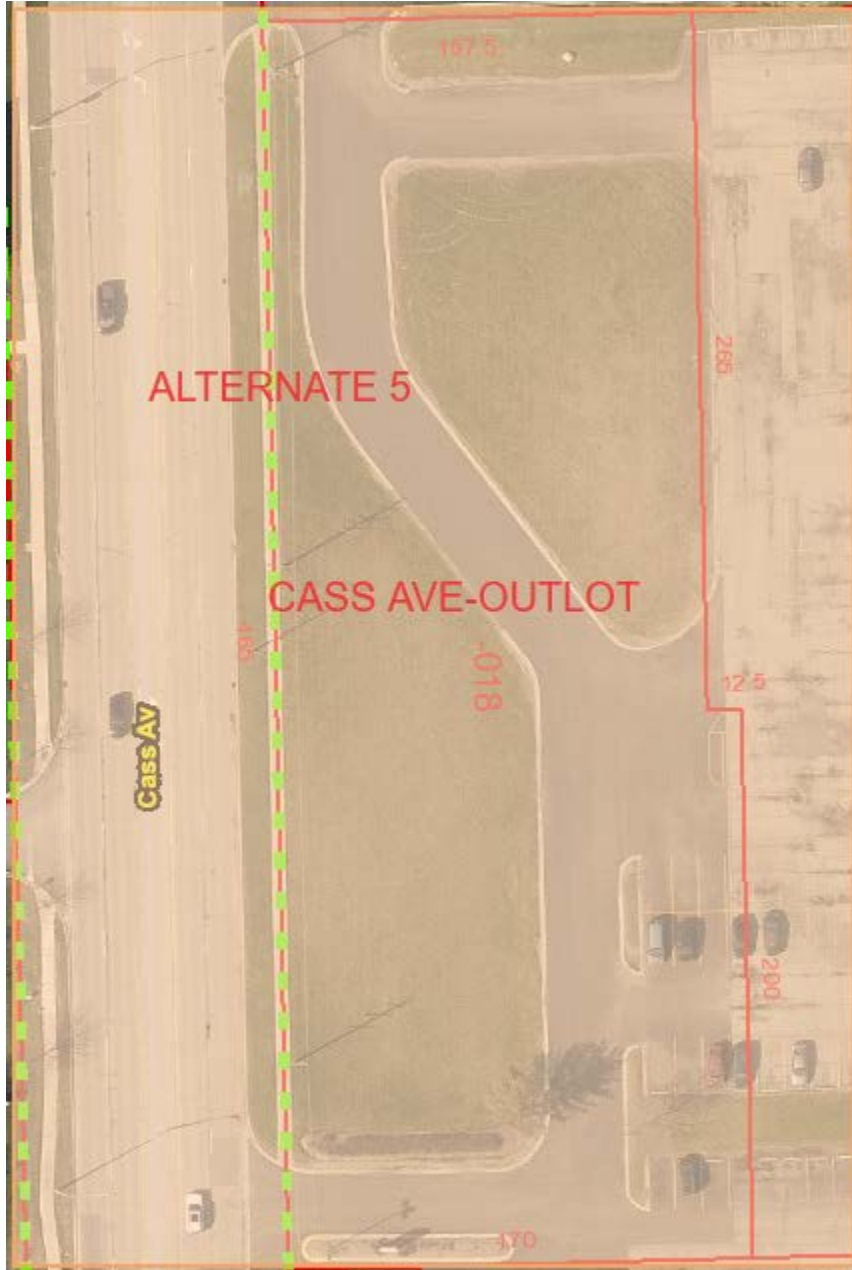
**DARIEN IL 60561**

Owner:

**7900 CASS PROPERTIES INC**

Acreage: **3.06**

**Option 5-8100 S Cass Ave-OUTLOT**



**General Property Information:**

PIN#

**0934102018**

Property Address:

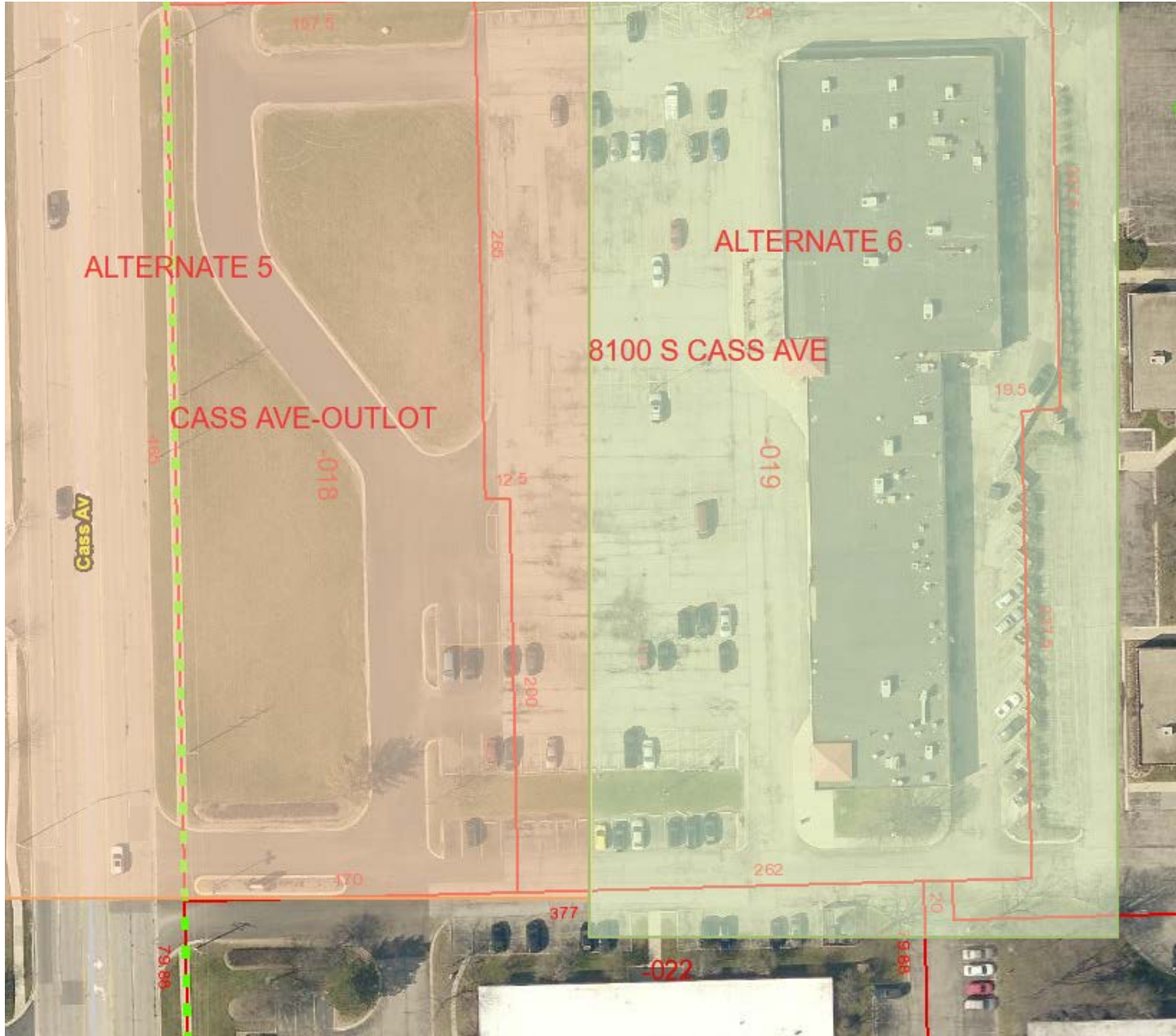
**CASS AVE  
DARIEN IL 60561**

Owner:

**ILLINOIS TRIDENT DBC LLC**

Acreage: **1.74**

**Option 6-8100 S Cass Ave**



**General Property Information:**

PIN#

**0934102019**

Property Address:

**8105 S CASS AVE**

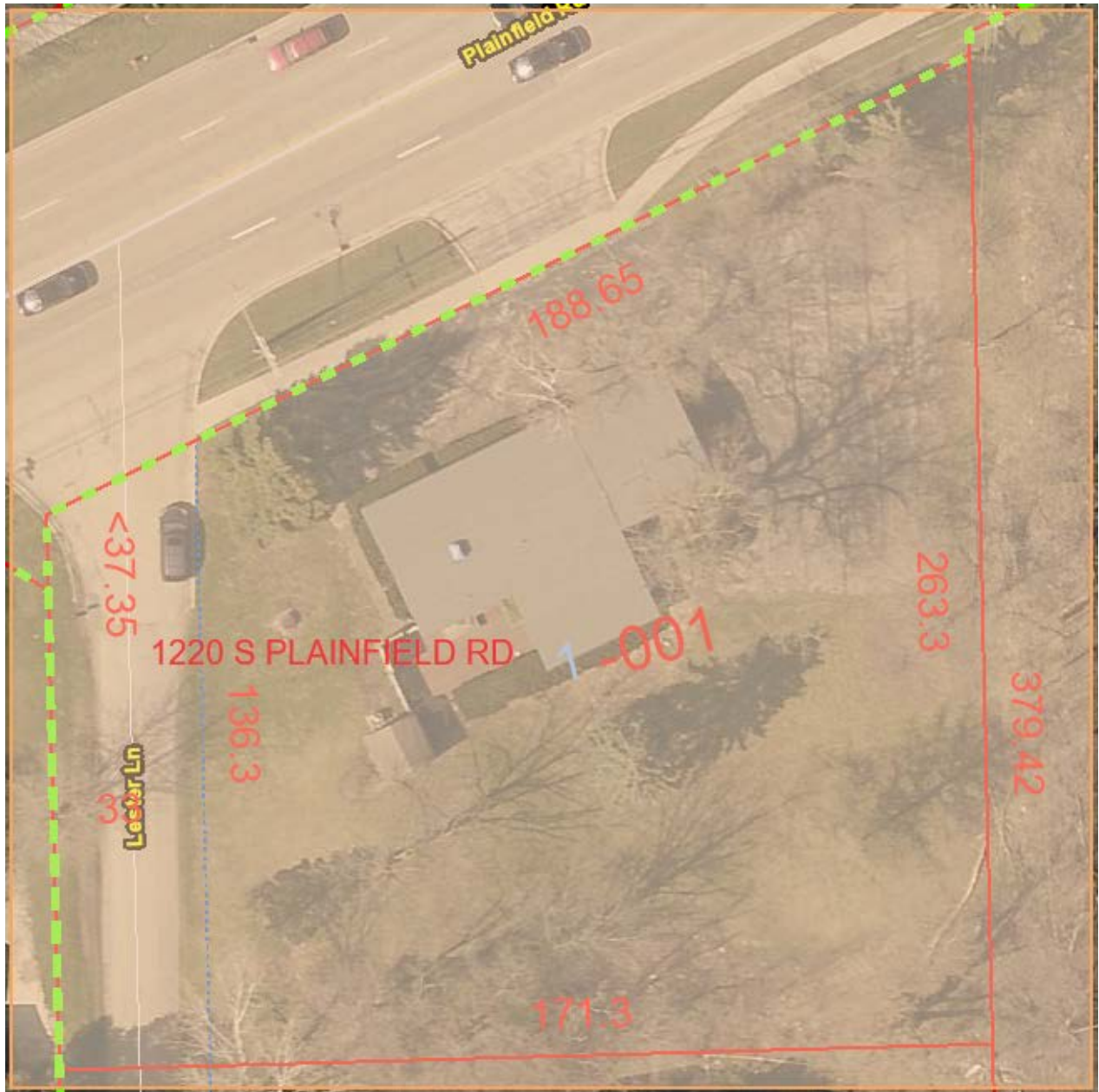
**DARIEN IL 60559**

Owner:

**LAD PROPERTIES III LLC**

Acres: **2.90**

**Option 7-1220 S PLAINFIELD ROAD**



**General Property Information:**

PIN#

**0928410001**

Property Address:

**1220 S PLAINFIELD RD**

**DARIEN IL 60561**

Owner:

**DAVIS, WILLIAM W & CHERYL**

Acreeage: **0.79**

**Option 8-MID 8100 BLOCK OF CASS AVE -PIN NO 3 AND 4**



**General Property Information:**

PIN#

**0934102023**

Property Address:

**CASS AVE**

**DARIEN IL 60561**

Owner:

**ILLINOIS TRIDENT DBC LLC**

Acreage: **0.97**



**Option 10-2600 BLOCK OF 83<sup>RD</sup> STREET**



**General Property Information:**

PIN#

**0932116008**

Property Address:  
**2622 W 83RD ST  
DARIEN IL 60561**

Owner:

**BARUMA PROPERTIES LLC**

Acreage: **4.09**



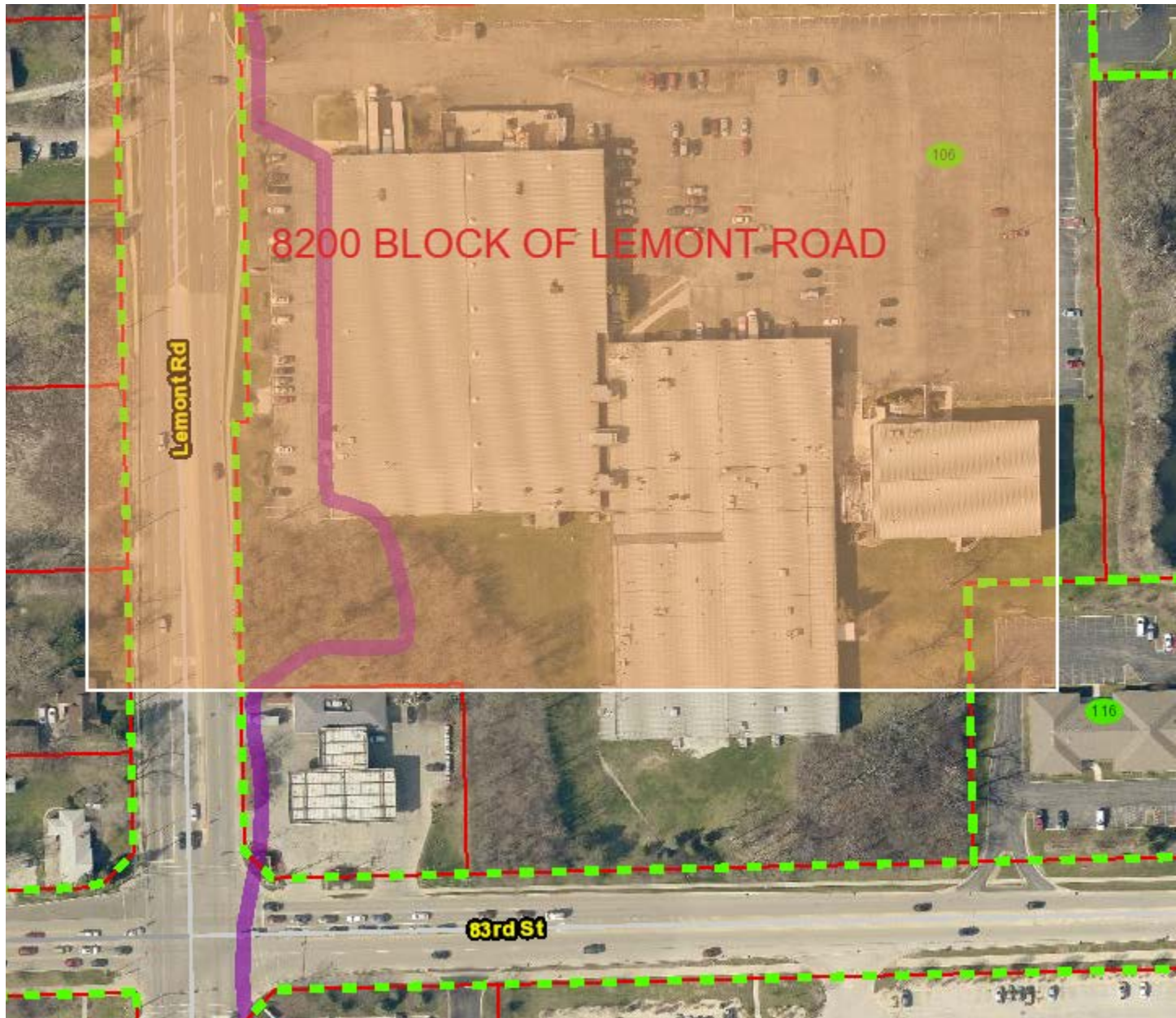
**Option 11-8100 BLOCK OF LEMONT RD**



**DESCRIPTION**

**QUADRANT WITH VARIOUS PROPERTIES**

**Option 12-8200 BLOCK OF LEMONT RD**



**General Property Information:**

PIN#

**0932106030**

Property Address:

**8245 S LEMONT RD**

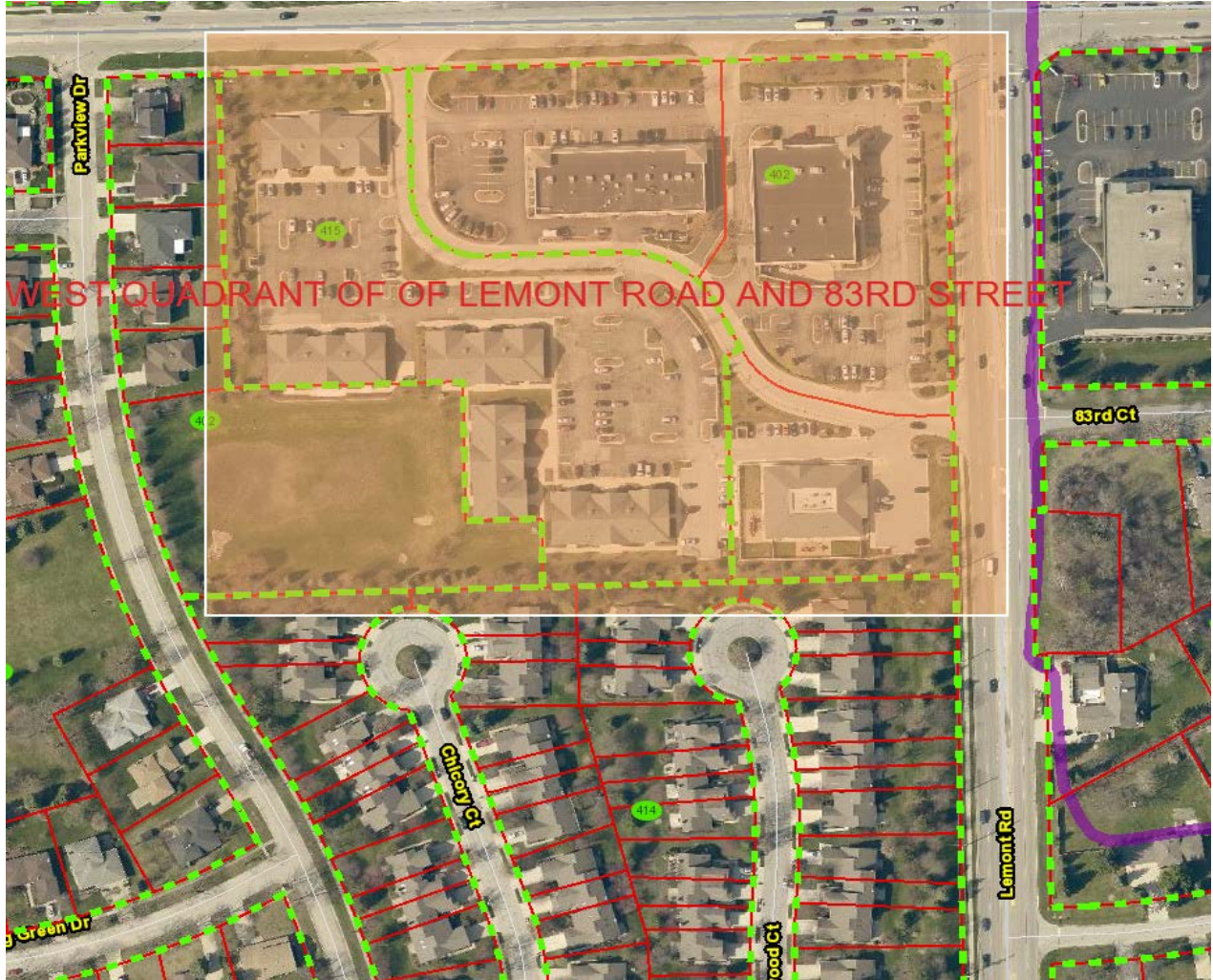
**DARIEN IL 60561**

Owner:

**EQUITIES VENTURE CORP XI**

Acreage: **12.38**

**Option 13-SOUTHWEST QUADRANT OF LEMONT RD AND 83<sup>RD</sup> STREET**



**DESCRIPTION**

**QUADRANT WITH VARIOUS PROPERTIES**

# FACT SHEET

## Adult-Use Cannabis

Public Act 101-0027 creates the Cannabis Regulation and Tax Act and was signed into law by Governor JB Pritzker on June 25, 2019. Effective January 1, 2020, the Act legalizes the possession and private use of cannabis for Illinois residents over 21 years of age.



7/15/19

### LOCAL REGULATION OF CONSUMPTION

Municipalities may not restrict the private consumption of cannabis that is authorized by the Act. However, the Act prohibits the use of cannabis in public places, schools and child care facilities among other locations. Municipalities may adopt and enforce local ordinances to regulate possession and public consumption of cannabis so long as the regulations and penalties are consistent with the Act.

### HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

Home grow cannabis will be authorized only for medical cannabis program participants, and is limited to five plants in their residence and subject to specified restrictions. Home grow of recreational cannabis by non-medical participants is prohibited. [More information about the medical cannabis program is available via this link.](#)



### ZONING

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by ordinance. Municipalities will have the authority to enact reasonable zoning regulations that are not in conflict with the act. This would include the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities also may enact zoning ordinances and regulations designating the time, place, manner and number of cannabis business operations, including minimum distances between locations through conditional use permits.

### BUSINESS REGULATION

In addition to zoning authority, municipalities will have the authority to allow for on-premise use of cannabis at locations to be determined locally. The Act anticipates that local authorities will engage in inspections of cannabis-related businesses. Municipalities may establish and impose civil penalties for violations of the local ordinances and regulations.



## LOCAL REVENUE

Municipalities, by ordinance, may impose a Municipal Cannabis Retailers' Occupation Tax on adult-use cannabis products of up to 3% of the purchase price, in .25% increments. Counties may impose up to 3.75% in unincorporated areas, in .25% increments. The taxes imposed under this Act shall be in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government, such as sales tax.



## SMOKE FREE ILLINOIS ACT

The Act applies the restrictions of the Smoke Free Illinois Act on smoking cannabis, and provides that property owners may prohibit the use of cannabis by any guest, lessee, customer or visitor. In addition, lessors may prohibit cultivation of cannabis by their lessees.

## EMPLOYER PROVISIONS

The Act provides employer protections including that nothing in the enactment prohibits employers from adopting reasonable zero-tolerance or drug-free workplace employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace or while on-call. These policies must be applied in a nondiscriminatory manner. Employers may prohibit the use of cannabis by employees in the workplace, and engage in discipline, including termination, for violations of those policies and workplace rules.

## STATE LICENSING

The Act authorizes the production and distribution of cannabis and cannabis products through state-licensed cultivators, craft growers, infusers, transporters and dispensaries. Cannabis transporters will be separately licensed by the Act, as well. A market study due in March 2021 will inform future licensing. The state will issue licenses according to a graduated scale. By the end of the first year, there will be up to 295 dispensing organizations. The Act will allow up to 500 dispensing organizations by January 1, 2022. Cultivators will be capped at 50, and 100 craft growers will be allowed. By that same date, 100 infusers will also be authorized to be licensed.

## GRANTS AND INVESTMENT

The Act establishes the Restore, Reinvest and Renew (R3) Program to invest in communities historically impacted by economic disinvestment and violence. The Illinois Criminal Justice Information Authority (ICJIA) will identify R3 areas that qualify for funding, and grants will be awarded by the R3 Board. A 22-member R3 Board will award grants throughout the state, subject to an application process and the Government Accountability and Transparency Act (GATA); the R3 Board shall be chaired by the Lt. Governor.

## SOCIAL EQUITY

The Act provides for a social equity program to establish a legal cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws in this state, including cannabis-related laws. Qualifying social equity applicants may be awarded financial assistance and incentives if they are interested in establishing cannabis related businesses.

## DECRIMINALIZATION AND EXPUNGEMENTS

A significant portion of the Act addresses the decriminalization of cannabis through mandatory and discretionary expungements of criminal convictions relating to non-violent cannabis offenses.

## STATE REVENUE

State revenues derived from the Cannabis Regulation and Tax Act will be deposited into the Cannabis Regulation Fund. The funds will be distributed to multiple state agencies for implementation of the Act. The legalization of adult cannabis also includes a new source of Local Government Distributive Fund (LGDF) dollars. A portion of the Cannabis Regulation Fund revenues (8% of deposits) will go to local governments, through LGDF, which will be used to fund crime prevention programs, training and interdiction efforts. The Cannabis Regulation Fund is derived from moneys collected from state taxes, license fees and other amounts required to be transferred into the Fund.

## Recreational Cannabis FAQ's

*The following list of Frequently Asked Questions about Recreational Cannabis was published by the Village of Lombard and modified for the Village of Downers Grove*

**1. When was cannabis made legal in Illinois?**

*On Tuesday 6/25/2019, Governor JB Pritzker signed Illinois House Bill 1438, better known as the Cannabis Regulation and Tax Act (CRTA), thus legalizing the consumption and possession of cannabis for adults 21 and older in Illinois.*

**2. Can the consumption/possession of cannabis be banned by a local municipality like Downers Grove?**

*No, municipalities cannot ban or override the CRTA.*

**3. Will the Village have any regulatory abilities?**

*Yes. When it comes to restrictions, municipalities have the ability to:*

- ban the selling of recreational cannabis within Village limit*
- dictate the amount of legal dispensaries within the Village*
- determine how cannabis businesses are operated such as hours of operation*
- dictate the location of cannabis businesses as they relate to points of interest such as schools, churches, government buildings, and liquor stores.*
- regulate the zoning of cannabis businesses in specific districts*

**4. What regulatory abilities, if any, do business owners and landlords have?**

*Any person, business, public entity, or landlord may prohibit the use of cannabis on private property.*

**5. If the sale of recreational cannabis were to be allowed in Downers Grove, how many licenses would be issued?**

*While many individual cities have a limitation on the amount of recreational cannabis facilities (dispensaries) that are allowed within their limits, Downers Grove is part of a larger Bureau of Labor Statistics Region within the state. The region Downers Grove is a part of is the Chicago-Naperville, Elgin region. The State is allowing up to 47 licenses within the region.*

**6. Who can legally purchase and consume cannabis?**

*As a result of the new State legislation, the consumption of cannabis as of 1/1/2020, will be treated similarly to that of the consumption of alcohol with any Illinois resident, or non-resident, ages 21 or over, now being able to purchase and consume cannabis.*

**7. Who can legally grow and sell recreational cannabis?**

*Only licensed businesses will be able to legally grow and sell cannabis. Medical cannabis patients will be allowed to grow up to five plants each within their home.*

**8. What will the Village's role be in the licensing process?**

*The Village plays no role in the licensing process as it is left up to the Department of Financial and Professional Regulation to select and process those individuals attempting to obtain a license.*

**9. How much cannabis may an individual possess?**

*Illinois residents may possess up to:*

*-30 grams, or just over one ounce of "flower"*

*-5 grams of cannabis concentrate*

*-500 milligrams of THC - the chemical that makes users high – in a cannabis infused product such as gummies, candy, other consumable products (referred to as "edibles"), or tinctures, and lotions*

*Non-Illinois residents may legally possess up to ½ of these amounts.*

**10. What action is required by the Village Council to allow recreational cannabis to be sold in Downers Grove?**

*The Village Council would need to amend the Village zoning ordinance to authorize the sale of recreational cannabis by cannabis business establishments and approve of a Municipal Cannabis Retailers' Occupation Tax. The Illinois Municipal Code requires that a public hearing be conducted by the Plan Commission before any amendment to a zoning ordinance.*

**11. Will cannabis consumption be allowed in public spaces?**

*No, the consumption of cannabis in public will be considered unlawful.*

**12. Where will consumption be allowed?**

*The consumption of cannabis will be allowed on private property or potentially, specifically designated establishments such as dispensaries or smoking lounges.*

**13. Are there any changes to existing medical cannabis laws?**

*Yes; the list of conditions that are covered under the use of medical cannabis was expanded to now include chronic pain, autism, migraines, irritable bowel syndrome, osteoarthritis, and anorexia.*

**14. Is the sale of medical cannabis currently allowed in Downers Grove? If so, where?**

*Yes. The locations where medical cannabis businesses may locate, subject to special use approval, can be found [here](#). There are no medical cannabis businesses currently located in the Village of Downers Grove.*

**15. How is cannabis taxed?**

*Sales will be taxed at 10% for cannabis with THC levels at or less 35%; 25% for cannabis with THC levels above 35%; and 20% for cannabis infused products such as edibles. This is in addition to standard state and local sales taxes. Additionally, municipalities may add a special tax of up to 3% and counties may add a special tax up to 3.75% in unincorporated areas.*

**16. How will the potential tax revenue generated be used?**

*Within the bill, any government proceeds associated with the sale of recreational cannabis was established as follows:*

- 20% to State mental health services and substance abuse programs*
- 10% to pay unpaid State bills*
- 35% to the State General Revenue Fund*
  - 2% to public education and safety campaigns*
  - 8% to Local Government, for prevention and training for law enforcement*
  - 25% for identified social equity programs*

**17. How will the potential tax revenue from the (3%) tax be used by Downers Grove?**

*Currently, the Village has no plans in place for these potential funds.*

**18. How do federal laws affect Illinois' law?**

*Although cannabis remains illegal at the federal level, federal law enforcement has rarely interfered with individuals possessing the state regulated legal amount or businesses complying with state enforced programs. Any questions related to*



*Federal or State regulations should be directed to the proper agencies.*

**19. How does recreational cannabis affect criminal records?**

*Illinois Governor JB Pritzker has stated that he will pardon past convictions for possession of up to 30 grams, with the attorney general going to court to delete public records of a conviction or arrest for the now legal amount. Regarding possession of 30-500 grams, an individual or a state's attorney may petition the court to vacate or expunge the conviction.*

**20. What are some potential impacts to the State's decision to allow recreational marijuana use when it comes to policing?**

*It is reasonable to assume that the legalization of cannabis will increase the demand for police services as well as the number of drug impaired drivers on our roadways, due to the state-wide allowance of marijuana, regardless of whether or not such a facility is located within the city limits of Downers Grove.*