

# CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce  
 Division of City Planning



## Memorandum

DATE: 3/25/2022  
 TO: Planning Board Commissioners  
 Francisco Espinoza, Assistant Planner  
 FROM: Matt Ward, AICP, PP, Supervising Planner  
 RE: Case P22-035  
 759A Bergen Ave  
 Conditional Use  
 Staff Comments

### APPLICATION SUMMARY

The Applicant is proposing a Class 5 Cannabis Retailer at an existing ground floor commercial space as well as a cannabis consumption area in the basement of the property. The applicant is proposing interior alterations and façade signage changes.

The retailer is located at 759A Bergen Ave in Jersey City. The site is listed as Block 14901, Lot 21 on the Jersey City Tax Map. The existing storefronts main entrance and exit is in the 200 feet school buffer. However, the applicant is planning on relocating the front door of the retailer outside of the 200 feet from any nearby school. A Buffer Map is enclosed in this memo.

The retailer is located in the Neighborhood Commercial Zone in McGinley Square area of Jersey City. This zone permits Retail Sales of Goods and Services. Notice was given per the MLUL.

#### Conditional Use Standards:

Requirement	Proposed	Complies Y/N
<b>Permitted Zone -</b> <b>Class 5 is a permitted conditional use in the following zoning districts:</b> <b>Neighborhood Commercial (NC), Palisade Avenue Mixed Use Multi-Family Attached Housing District (R-2D), Commercial/Automotive (C/A), Highway Commercial (HC), Waterfront Planned Development (WPD), Central Business District (CBD), and Office/Residential (O/R). Any district, zone, overlay, or subdistrict of a Redevelopment Plan where retail sales of goods and services is a permitted principal use.</b>	Neighborhood Commercial (NC) Zone	Y
<b>Separation Distance from Schools:</b> The main entry door of any Cannabis Establishment subject to a class 5 license shall be at least two hundred (200) feet from any school identified on the City’s Official Drug Free School and Park Zones Map, pursuant to Section 151-1 of the Jersey City Municipal Code and pursuant to regulations and definitions in N.J.S.A. 2C:35-7 et seq., and N.J.S.A. 2C:35- 7.1 et seq.. A copy of said map may be made available by	Greater than 200 feet from any school.	Y

the Division of Engineering or City Clerk. Distance is measured from the parcel boundary on which the School is located.		
<b>Separation Distance from other Class 5 Retailers:</b> The main entry door of any Cannabis Establishment subject to a Class 5 license (including microbusinesses) shall be separated from one another by a distance of at least six hundred (600) feet.	No Class 5 Retailers are approved yet by PB, CCB and CRC within 600 feet from the main entry door.	Y
General Provision. Odor. A cannabis establishment shall have the equipment to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The carbon filters are required to be replaced regularly for the best effectiveness to mitigate odor.	Applicant to provide testimony.	
General Provision. Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.	Applicant to provide testimony.	
General Provision. Security. All cannabis establishments shall be secured in accordance with State of New Jersey statutes and regulations and shall have a round-the-clock video surveillance system, 365 days a year.	Applicant to provide testimony.	
The signage, bulk, coverage, design standards, loading, and parking regulations and standards of the zone in which the subject property is located shall apply.		Y

## **BACKGROUND**

The city adopted zoning in August of 2021 regarding this use and other related cannabis uses. The applicant is not a microbusiness as defined in the state law. The applicant is seeking a Cannabis Consumption Area. If the Planning Board approves this application, the Applicant will be required to seek approval by Jersey City's Cannabis Control Board ("CCB") and the State's Cannabis Regulatory Commission ("CRC").

### **Standards for indoor Cannabis Consumption Areas:**

1. An indoor Cannabis Consumption Area shall be a structurally enclosed area within a cannabis retailer that is separated by solid walls or windows from the area in which retail sales of cannabis items occur, shall only be accessible through an interior door after first entering the retailer, and shall comply with all ventilation requirements applicable to cigar lounges, as that term is defined in section 3 of P.L.2005, c.383 (C.26:3D-57), in order to permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the "New Jersey Smoke-Free Air Act," P.L.2005, c.383 (C.26:3D-55 et seq.).
2. Hours of operation in compliance with licensing laws of the City.

Pursuant to General Provisions of 345-60.5:

- A. The regulations of this Section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this Section is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.
- B. Prior the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the City of Jersey City for the applicable type(s) of cannabis establishment and for cannabis consumption area endorsement. No cannabis establishment shall be permitted to operate without State and municipal permits or licenses.
- C. Permitted conditional uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits and licenses issued by the State of New Jersey and the City of Jersey City.

Cannabis Retailers are required to provide the following submittals.

- a. A community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; which shall include an economic impact plan and a description of outreach activities.
- b. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community.
- c. A workforce development and job creation plan, which may include information on the applicant's history of job creation and planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan.
- d. Submit attestation signed by a bona fide labor organization stating that the applicant has entered into a labor peace agreement. This requirement shall not apply to applicants for a conditional permit or for an entity that is a certified microbusiness.
- e. Applicant shall provide a map of nearby cannabis establishments. Applicant shall indicate compliance with maximum number or separation distance requirements. A list of cannabis establishments shall be made available by the State Commission or City of Jersey City, Division of City Planning.

#### **STAFF COMMENTS**

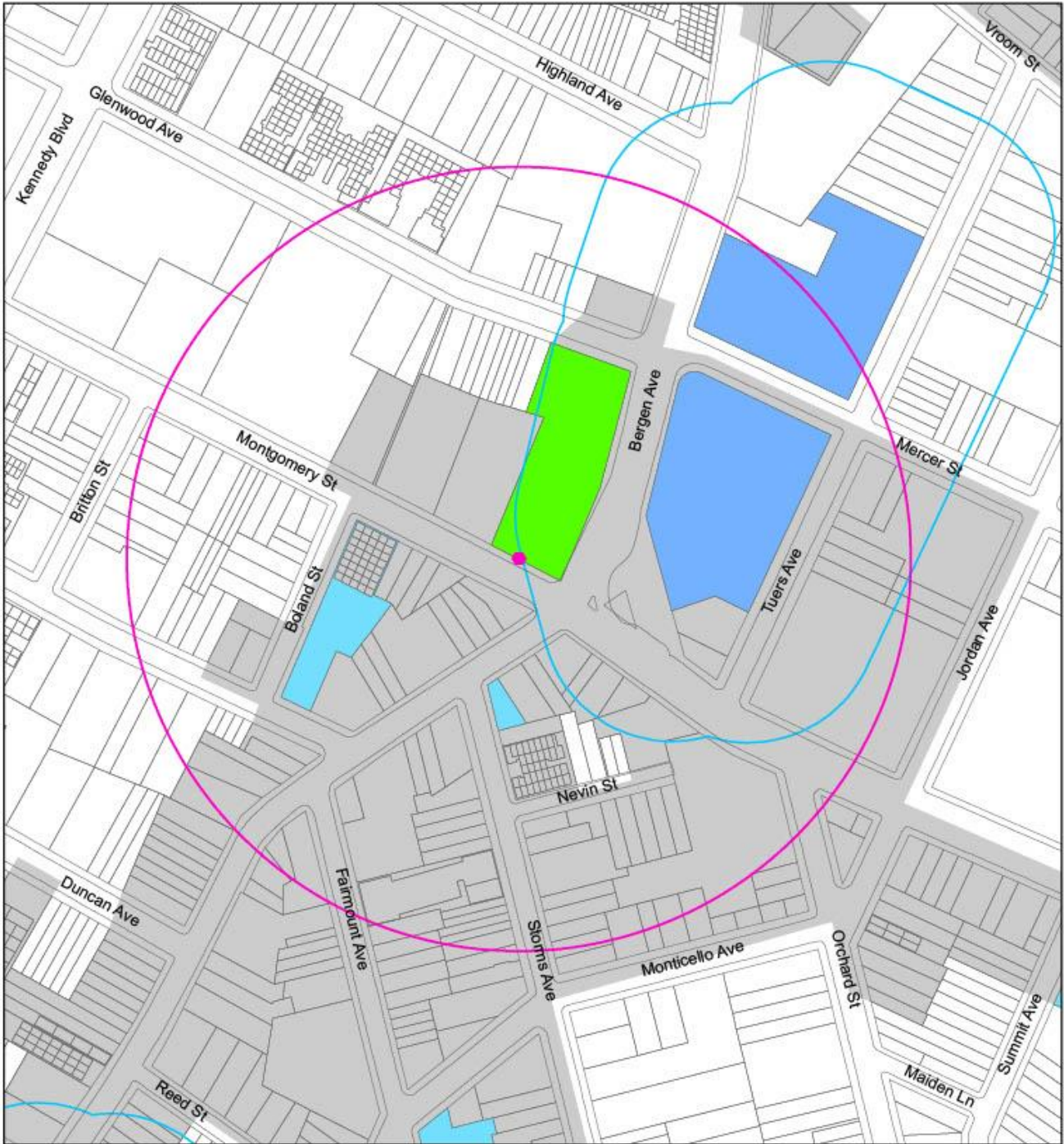
- 1. Applicant shall provide testimony regarding the Cannabis Consumption Area compliance.
- 2. Applicant shall provide testimony regarding the zoning regulations and project compliance.
- 3. Applicant shall provide testimony regarding the additional submittal items referenced above.
- 4. Applicant shall provide testimony for, but not limited to, the following: façade, interior work, signage, security, odor, rear yard work and use, and trash removal.

#### **STAFF RECOMMENDED CONDITIONS**

In the event a motion is made to approve this application, staff recommends the following conditions:

- 1. All materials and color selections shall be shown on Final Plans. No change to the facade and site design, including materials as well as any changes that may be required by the Office of Construction Code, shall be permitted without consultation with and approval by planning staff.
- 2. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
- 3. Prior to the issuance of any permit, the Applicant shall seek and receive approval by the Cannabis Control Board and Cannabis Regulatory Commission.
- 4. Architect of record shall provide an affidavit confirming the development is built in accordance with the approved plans prior to the issuance of the first certificate of occupancy.

5. The memorialized resolution shall be recorded with the office of the County Registrar and made part of the deed. In addition, documentation of same shall submitted to the Division of City Planning prior to application for construction permits.
6. Applicant shall comply with all conditions of approval set forth on the record by the planning board and/or the Division of City Planning staff.



**CANNABIS RETAILER BUFFER MAP  
759A BERGEN AVE - P22-035**

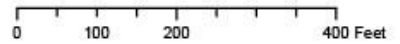
MARCH 22, 2022

**Legend**

- Subject Parcel
- Schools (per Ord. 20-024)
- Concurrent Class 5 Applicants
- Front Door Locations
- School Buffer (200 ft)
- Retail Zones \*
- Day Care Centers
- Parcels
- Class 5 Buffer (800 ft)



1 inch = 200 feet



\* Disclaimer: The areas shown in gray may include subdistricts or zones within redevelopment plans where retail of goods and services is NOT listed as a permitted principal use.