



**State of Delaware
Office of the Marijuana Commissioner
1128 South Bradford Street
Dover, Delaware 19901**

**Joshua Sanderlin
Commissioner**

**Paul R. Hyland
Deputy Commissioner**

Diamond State Growers, LLC	)	
158 Blackbird Station Rd	)	
Townsend, Delaware 19734	)	<u>DECISION AND ORDER</u>
License No. N02091	)	Protested Application
	)	

This matter concerns the application of Diamond State Growers, LLC (“Applicant”), license number N02091, for approval of a premises located at 158 Blackbird Station Rd, Townsend, Delaware, 19734 (“the Property”), for the operation of a social equity marijuana cultivation facility.

SUMMARY OF EVIDENCE

1. On August 7, 2025, Applicant was granted a conditional license to operate a social equity marijuana cultivation.

2. On March 11, 2026, New Castle County Department of Land Use affirmed that the property is zoned Suburban Reserve, which permits Agricultural uses, including marijuana cultivation, by right. The letter further states that the parcel is protected by an Agricultural Land Preservation Easement with the State of Delaware, and that the “Department [of Land Use] has verified with the Department of Agriculture that Marijuana Cultivation is permitted” under the easement. See Exhibit 1.

3. On June 18, 2026, OMC posted public notice of the intended use of the property and the email address for members of the public to send their objections.

4. Prior to the expiration of the 30-day posting window, OMC received 15 objections to the use of the property as a social equity marijuana cultivation facility. Written objections were received via email and can be categorized as follows:

- a. General opposition to marijuana.
- b. The proximity of the facility to residences.
- c. Possible odors and uncertain health consequences from odors.
- d. Increased traffic.
- e. Security and crime concerns.

- f. Possible effects on residential property values, zoning, rural character, and community character.
- g. Water usage.
- h. Belief that processing belongs in industrial zones.¹

5. During the protest window, OMC received one letter of support from a member of the community. The letter stated that the author lives less than a mile from the Property and prefers that it be used for marijuana cultivation instead of a housing development. He stated that he is familiar with similar operations and supports the use even if there is a slight odor of marijuana.

6. Of those objections received, 10 were from members of the public residing within 1 mile of the Property.

7. Having reached the statutory minimum required by 4 *Del. C.* § 1352(b)(1) of 10 objections from members of the public residing within 1 mile of the Property, the Commissioner scheduled a hearing for July 30, 2026 (“the Protest Hearing”).

8. Public notice of the Protest Hearing was given by advertisement in the Daily State News on July 15, 2026 and July 24, 2026. It was further posted on the State Calendar on July 1, 2026. OMC also provided direct notice of the hearing via email to individuals that submitted objections on July 2, 2026. The Commissioner did not restrict attendance or participation at the public hearing; any person wishing to attend or present evidence was permitted to do so.

9. At the Protest Hearing, the opponents were permitted to give oral testimony, and six members of the community spoke in opposition to the proposed use of the Property. The opponents’ testimony is summarized as follows:

- a. **Steven Gue** lives within 1 mile of the Property. He stated that according to a Google search, he believes that property values will drop as much as 7 percent if a cultivation facility is located in the area. He did not provide any evidence of this for the record. Further, Mr. Gue is concerned that a marijuana cultivation facility will cause an increase in crime and traffic.
- b. **Tammy Hamby** lives within 1 mile of the Property. Ms. Hamby’s objections to the use of the Property include the odor of marijuana as well as a decrease in neighboring property values, which she stated will be a 7 to 10 percent decline. She is also concerned about an increase in crime and the presence of unsavory people. Ms. Hamby further opposes the use of the Property for marijuana cultivation out of environmental concerns, especially relating to water runoff. Her final point of opposition is that the Applicant is not the owner of the property and, therefore, will not have an interest in keeping the property maintained.
- c. **David Cannaro** lives within 1 mile of the Property. Mr. Cannaro’s opposition is based on the possible odor of marijuana, noise emanating from the Property, and increased traffic.
- d. **William Beaston** lives within 1 mile of the Property. Although speaking in opposition, Mr. Beaston did not directly state his points of opposition. Instead, during his testimony

¹ Although included here, this point of opposition is mistaken in the character and permissible activities of the Applicant’s license. As a cultivation, processing of marijuana is prohibited. See 4 Del. Admin. Code § 5001-6.7.2.

he listed 21 questions he has and would like to have answered. Summarized, his questions relate to the following: security, buffer zones between operation and public, number of employees, traffic, odor, enforcement entities, water runoff, security, crime, property values, roles and authority of the Commissioner, complaint process, and the status of all state and local permitting.

- e. **Lisa Rice** opposes the location of the proposed cultivation because she believes that manufacturing should be limited to industrially zoned areas. She also objects to the Property's proximity to public areas that are used for hiking and the enjoyment of nature. Ms. Rice is also concerned for the possible consequences to the environment if the cultivation is allowed to locate on the Property.
- f. **Sherri Allabaugh** opposes the Applicant's use of the Property as a marijuana cultivation because Applicant does not own the Property and, therefore, has no cause to increase or maintain the Property's value. She also opposes the use of the property because of possible odor and her opinion that it will create an "eye-sore." Ms. Allabaugh also believes that industrial uses should be limited to industrial zones and that the Property is too close to State Parks.

10. Three witnesses testified in support of the proposed use of the property. One was a member of the public and two were owners of the Applicant. The supporters' testimony is summarized as follows:

- a. **Emily Wilkins** is the president of the Delaware Cannabis Industry Association and an operator of marijuana establishments throughout the state. In response to opponents, Ms. Wilkins stated that the use of properties as marijuana cultivation facilities in Delaware has not led to any additional crime in the years that marijuana has been legal for medical use in the state. She further stated that odor is mitigated when a cultivation is indoor and that the cultivation and sale of marijuana is tightly regulated by the OMC and the Division of Alcohol and Tobacco Enforcement.
- b. **David Beau Zebley**, member of Applicant, addressed concerns regarding potential effects on neighboring property values and traffic. He stated that the research concerning cannabis facilities and property values is mixed, largely focuses on retail dispensaries or residential grow houses rather than licensed indoor cultivation facilities, and does not establish that cannabis facilities necessarily cause property values to decline. Drawing on his experience as a real estate professional and former appraiser, Mr. Zebley emphasized that property values depend on numerous market and property-specific factors and noted that no site-specific appraisal, market study, paired-sales analysis, or comparable sale had been presented to demonstrate that the proposed facility would reduce neighboring property values. Regarding traffic, he stated that the facility would not be open to the public, would employ approximately five to seven people, and would generate an estimated 10 to 14 one-way employee vehicle movements per day, together with occasional scheduled deliveries and product transportation. He further expressed a willingness to accept reasonable operating conditions governing delivery hours, on-site parking, and roadside vehicle queuing.

- c. **Gary Stewart**, CEO and founding member of Applicant, stated that the proposed facility would operate as a small, indoor marijuana cultivation business on agriculturally preserved land, in a building of less than 10,000 square feet with approximately 4,224 square feet of flowering canopy. He emphasized that the site would have no retail sales or public consumption and would generate limited traffic while creating approximately five to eight local jobs. Mr. Stewart asserted that the project would maintain the property in productive agricultural use and improve its condition, and that a closed-loop HVAC system, odor-control measures, and the facility's setback would prevent odors from affecting neighboring properties. He further stated that the facility would comply with applicable state and local requirements, employ cameras, controlled access, secure storage, appropriate exterior lighting, and other required security measures, and operate quietly and discreetly with minimal effects on neighboring properties, traffic, property values, and public safety. Under questioning by the Commissioner, Mr. Stewart stated that the Applicant planned to invest more than \$3 million into the Property.

11. In support of their position, Applicant submitted the following evidence into the record:

- a. **Security Plan.** The plan provides alarm, monitoring, and crime prevention procedures specifically tailored to the Property and proposed building.
- b. **Appraisal Rebuttal.** The appraisal rebuttal asserted that the available literature does not provide a reliable basis for concluding that the proposed small, professionally managed indoor cultivation facility would reduce surrounding property values, particularly because existing research is mixed and largely concerns dispensaries or poorly controlled grow operations. It further maintained that any adverse effect would require site-specific local market evidence and that potential odor, traffic, security, lighting, and visual impacts would be mitigated through the facility's design and operating controls.
- c. **Ethos Odor Letter.** Patrick Leonard, P.E., of Ethos Consulting Engineers concluded that, because the cultivation rooms would use closed-loop, recirculating HVAC systems without continuous cultivation-air exhaust, the maximum modeled odor concentration at the nearest property line would be 0.85 OU/m³, below both the 1.0 OU/m³ detection threshold and the 1.5 OU/m³ odor-impact benchmark. He therefore determined that cultivation-related odors would not reasonably be recognizable at or beyond the property line during normal operations, while noting that the screening-level evaluation did not address abnormal conditions such as equipment failure, emergency purging, open exterior doors, or improper material handling.
- d. **Pennoni Traffic Letter.** Douglas D. Barry, P.E., of Pennoni Associates estimated that the proposed facility would generate fewer than 20 vehicle trip ends per day, based on six to eight employees working separate shifts, no retail component or anticipated large-truck traffic, and managed delivery and pickup schedules. He concluded that the project would have a minimal effect on Blackbird Station Road and would fall well below DeIDOT's threshold of 2,000 additional daily vehicle trip ends for requiring a Traffic Impact Study.

- e. **Letter of Support from the Delaware Cannabis Industry Association.** Emily Wilkins, President of the Delaware Cannabis Industry Association and Vice President of Compliance and Quality for MariMed Inc./First State Compassion, supported the project and asserted that Delaware's experience with licensed cannabis facilities demonstrates that such operations can coexist with neighboring communities without negatively affecting property values, while maintaining low traffic, effective odor controls, and extensive security measures. She stated that Diamond State Growers would be subject to the same regulatory oversight and expressed the view that the facility could operate as a responsible community neighbor while creating jobs and contributing to the local economy.

FINDINGS OF FACT

1. Applicant submitted a complete application for purposes of obtaining a conditional license for a social equity marijuana cultivation facility.
2. After receiving written objections from 15 members of the public, OMC scheduled a hearing on the use of the property as a social equity marijuana cultivation facility. Six members of the community appeared at the hearing to offer testimony in opposition.
3. New Castle County Department of Land Use affirmed that the County's zoning regulations treat marijuana cultivation as an agricultural use permitted by right on properties located in the Suburban Reserve zone. The letter further states that the "Department [of Land Use] has verified with the Department of Agriculture that Marijuana Cultivation is permitted...." *See* Exhibit 1.
4. Testifying opponents maintain a general opposition to marijuana, as is their right; however, the General Assembly has authorized and directed the establishment of a regulated marijuana industry.
5. Applicant will use a closed-loop, recirculating HVAC systems without continuous cultivation-air exhaust to address possible odors associated with marijuana cultivation. The Odor Study concluded that cultivation-related odors would not reasonably be recognizable at or beyond the property line during normal operations
6. The record contains no evidence demonstrating or suggesting that odors associated with marijuana cultivation result in specific or general health consequences.² Additionally, the Department of Natural Resources and Environmental Control does not list the smell of marijuana growing as a hazardous air pollutant. *See* 7 Del. Admin. Code § 1121.
7. Applicant will not be open to the public and will employ approximately 5 to 7 individuals; the record contains no evidence to support concerns about traffic congestion. Pennoni Associates estimated that the proposed facility would generate fewer than 20 vehicle trip ends per day.
8. Security requirements for OMC licensed facilities are outlined in OMC regulations, subsections 6.3 and 6.7.6. Under these provisions, access is significantly limited, premises are

² The odor of growing marijuana at issue here is distinct from the odor of smoke created from the combustion of marijuana. OMC regulations prohibit the consumption of marijuana at any marijuana facility in the state of Delaware. 4 Del. Admin. Code § 5001-6.7.2.3.

monitored by security alarm, and nearly every square foot of the inside and immediate outside are under 24/7 camera surveillance. Both the OMC and the Division of Alcohol and Tobacco Enforcement have unlimited access to those cameras. All owners and employees undergo thorough background checks and must be approved by OMC prior to ownership or employment. The record contains no evidence showing that cultivation facilities attract crime in Delaware. None of the opponents presented evidence of any studies or reports that show marijuana cultivation facilities generally cause a rise in crime in the immediately adjacent area.

9. Opponents and the Applicant each testified as to the impact of marijuana establishments on neighboring property values. However, none of the testimony or evidence submitted contains actual studies or verifiable data. Therefore, the record lacks any evidence to conclude that issuing an active license to Applicant would raise or lower the property values in this community. Moreover, the lowering of property values, even if established, is not an adverse impact on the quality of life.

10. The record contains no evidence that the Applicant's anticipated water consumption, water runoff, or use of cultivation chemicals would cause adverse impacts that are not adequately addressed by the applicable OMC regulations. Nevertheless, OMC takes these concerns seriously. The regulations require every cultivation facility to submit for OMC review "an environmental and sustainability plan that includes efforts the facility will take to minimize the environmental impact of its operations and plans to minimize water usage." 4 Del. Admin. Code § 5001-6.7.4. If OMC's review of that plan identifies a potential unsustainable impact on the surrounding area, OMC will require the Applicant to revise its plans before an active license is issued.

11. Although concerns were raised about the Property's proximity to public parks, no evidence was provided that the Property's location violates any state or local law and established buffer.

CONCLUSIONS OF LAW

1. The public notice of a pending marijuana establishment application posted on the premises, and the public notices of the subsequent protest hearing, complied with 4 Del C. § 1352.

2. Marijuana cultivation is an agricultural trade. Although the final product is closely regulated, it is a plant: *Cannabis sativa L.* New Castle County zoning regulations provide that marijuana cultivation is a permissible, agricultural use of property.

3. After conducting the protest hearing and compiling the associated record in accordance with 4 Del C. § 1352(b), the record does not contain substantial evidence reasonably supporting a belief that granting the license is not in the public interest. 4 Del C. § 1354(b)(5).

- a. While OMC received the statutory minimum of 15 written objections to compel a public protest hearing, after public notice was given in accordance with 4 Del C. § 1352(b), only six members of the community appeared to testify in opposition. Less than half of those community members that submitted written objections appeared to offer testimony. No testimony or evidence was given as to the support or opposition of the majority of residents living within five miles of the Property. Therefore, the record does not support a conclusion that a majority of residents within five miles oppose approval. 4 Del C. § 1354(b)(5)a.
- b. Likewise, the record does not support a conclusion that the proposed premises will adversely affect community quality of life. 4 Del C. § 1354(b)(5)b. General opposition to the legalization of marijuana is not sufficient. The General Assembly has authorized and

directed the establishment of a regulated marijuana industry, and the Commissioner must have reasonable grounds to believe that a statutory basis to refuse the license exists. OMC has evaluated the site-specific health, safety, environmental, and quality-of-life concerns presented in the record and finds no evidence that approving the proposed premises will adversely affect quality of life in the community.

DECISION AND ORDER

IT IS THIS 28th day of August 2026, the Decision and Order of this Office that the Applicant's use of the premises at 158 Blackbird Station Road, Townsend, Delaware, 19734 for its social equity marijuana cultivation establishment is APPROVED. This Order does not grant an active license and does not authorize Applicant to commence cultivation or other licensed operations. Applicant may commence operations only after satisfying 4 *Del. C.* § 1346 and all applicable provisions of 4 DE Admin. Code 5001 and receiving an active license from the Commissioner.

IT IS SO ORDERED.



Joshua Sanderlin,
Marijuana Commissioner

Right of Appeal, per 4 *Del. C.* § 1352(c):

(c) The Commissioner's decision on an application must be in writing and is final and conclusive unless a party to such hearing files an appeal within 30 days from the date of the postmark on the Commissioner's decision by mailing notice of the appeal to the Commissioner's office. Upon receipt of the appeal, the Commissioner shall notify the chair of the Appeals Commission of the pending appeal and the chair shall convene the Appeals Commission with at least 20 days' notice to all parties. The Appeals Commission shall hear the appeal and shall review the matter on the record; act in accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and affirm, reverse, or modify the decision of the Commissioner. A decision of the Commissioner may only be reversed upon a finding of abuse of discretion.