



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

**Joshua Sanderlin
Commissioner**

**Paul R. Hyland
Deputy Commissioner**

Althea's Farms LLC
2127 S. Little Creek Rd
Dover, Delaware 19901
License No. K03069

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DECISION AND ORDER
Protested Application

This matter concerns the application of Althea's Farms LLC ("Applicant"), license number K03069, for approval of a premises located at 2127 S. Little Creek Rd, Dover, DE, 19901 ("the Property"), for the operation of a microbusiness marijuana cultivation facility.

SUMMARY OF EVIDENCE

1. On July 7, 2025, Applicant was granted a conditional license to operate a microbusiness marijuana cultivation.

2. On August 7, 2025, Applicant submitted documents to the Office of the Marijuana Commissioner ("OMC") sufficient to show site control of the Property as well as compliance with the applicable Kent County Zoning ordinance(s). *See* Exhibit 1, Zoning Verification Letter.

3. On March 20, 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 11 objections to the use of the property as a microbusiness 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, including use of a shared driveway and already-congested roads.
- e. Possible crime or attraction of an undesirable "crowd."
- f. Possible effects on residential property values, zoning, rural character, and community character.
- g. Water and electricity consumption, the shared aquifer, and chemicals used in cultivation.

5. Of those objections received, 9 were from members of the public residing within 1 mile of the Property.

6. While falling short of 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, because this program and its processes are brand new, the Commissioner elected to schedule a hearing for July 28, 2026 (“the Protest Hearing”), pursuant to 4 *Del. C.* § 1352(b)(2).

7. Public notice of the Protest Hearing was given by posting the notice on the Property on July 1, 2026, as well as advertisement in the Daily State News on July 15, 2026, and July 24, 2026. OMC also provided direct notice of the hearing via email to individuals that submitted objections. 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.

8. At the Protest Hearing, the opponents were permitted to give oral testimony, and three members of the community spoke in opposition to the proposed use of the Property; the attorney for two of the protesting individuals also spoke at the Protest Hearing. The opponents’ testimony is summarized as follows:

- a. **Melissa Barrett** lives within a mile of the Property and shares a driveway. She and her husband, Robert Barrett, own the adjacent lot and maintain a mechanical shop and a home thereupon. Mrs. Barrett is concerned about the long-term health impact from the smell of cultivating marijuana (as opposed to the combustion of marijuana), increased traffic and noise, security risks related to the cultivation of marijuana, and the negative impact on her property value. When asked if she had any studies supporting her assertions relating to property value, she stated that she did not. Mrs. Barrett was also concerned that her children and grandchildren would be unable to walk or enjoy the driveway because of the intended use of the property.
- b. **Robert Barrett** lives within a mile of the Property and shares a driveway with the Property. He and his wife, Melissa Barrett, own the adjacent lot and maintain a mechanical shop and a home thereupon. Mr. Barrett’s only stated opposition at the hearing concerned security. However, Mr. Barrett’s only evidence of the risk concerned a suspected shooting that recently occurred as well as finding two kids on his own property “smoking dope.” Mr. Barrett was unable to establish a link between the future use and the current security concerns.
- c. **Richard Cammock** lives within a mile of the Property (he stated he lives 120 feet from the Property). He is concerned about odor and potential criminal activity. Mr. Cammock also mentioned the shooting that was reported to the police on July 27, 2026. It’s worth noting that no neighbor reported seeing or hearing the shooting. In fact, the shooting was only reported by the Applicant upon seeing a bullet hole in the side of the building located on the Property. Finally, Mr. Cammock opposed the use because of a belief that it would impact his property values.
- d. **Liam Gallagher** is an attorney hired by Mr. and Mrs. Barrett to represent their interests at the hearing. Mr. Gallagher reiterated the complaints of his clients and added that he perceived an issue with the notice of the hearing. He stated that the posted notice only alerts individuals living within 1 mile of the Property that a hearing will be held.

Additionally, Mr. Gallagher asserted that OMC should hold the license in abeyance until the police investigation of the suspected shooting is concluded.

9. The final witness to testify at the hearing was Paul Sewell, the owner of Althea's Farm LLC. Mr. Sewell testified that he is the owner of the Property. Further, he testified that the Property's zoning and proposed use for marijuana cultivation was reviewed and approved by Kent County. The property, as well as the adjacent properties, are zoned Agricultural. As a micro cultivation, Mr. Sewell testified that his staff would be limited and he would employ approximately 4 individuals, including himself. In response to the complaints about possible odors, Mr. Sewell stated that the facility would utilize a closed-loop HVAC system and any expelled air would be filtered prior to release. Mr. Sewell identified two studies showing that a marijuana cultivation facility can cause property values to rise. He did not have copies of the studies.

FINDINGS OF FACT

1. Applicant submitted a complete application for purposes of obtaining a conditional license for a microbusiness marijuana cultivation facility.

2. After receiving written objections from 11 members of the public, OMC scheduled a hearing on the use of the property as a microbusiness marijuana cultivation facility; however, only three members of the community (and an attorney representing two of those community members) appeared at the hearing to offer testimony in opposition.

3. Kent County Department of Land Use affirmed that the County's zoning regulations define marijuana cultivation as an agricultural use permitted by right on properties located in the Agricultural Conservation zone. The proximity of an agricultural use to neighboring residences is addressed by the Kent County zoning regulations and is not prohibited. *See* Exhibit 1, Zoning Verification Letter.

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 HVAC system to address possible odors associated with marijuana cultivation.

6. The record contains no evidence demonstrating or suggesting that odors associated with marijuana cultivation result in specific or general health consequences.¹ 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 4 individuals; the record contains no evidence to support concerns about traffic congestion.

8. Mr. and Mrs. Barrett's specific concerns about the usage of a shared driveway are private property concerns over which OMC has no authority. OMC does not adjudicate private title, easement, or access disputes. This Decision and Order does not authorize Applicant to use property

¹ 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.

in which it lacks a lawful interest. Applicant must maintain lawful ingress and egress and remains responsible for resolving any private property dispute in the appropriate forum.

9. 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 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.

10. On or about July 27, 2026, while cutting the grass around the building, Mr. Sewell noticed a hole resembling a bullet hole on the side of the building in which Applicant intends to locate its operations. Mr. Sewell contacted law enforcement to report the incident and initiate a police investigation.

11. Opponents testified to their concerns arising from the pending police investigation, but none of them testified to any first-hand knowledge of the incident, and the record contains no evidence indicating that use of the property as a marijuana cultivation facility was the genesis of the incident.

12. Opponents and the Applicant each submitted documents purporting to address the impact of marijuana establishments on neighboring home property values. However, none of the 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.

13. The record contains no evidence indicating concerns about water and electricity consumption, the shared aquifer, and chemicals used in cultivation would not be adequately addressed by the applicable OMC regulations. OMC takes these concerns seriously despite no evidence that there would be any such impact. These concerns are addressed in the OMC regulations that require all cultivation facilities to submit to OMC “an environmental and suitability 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. Should that study show a sustainable impact on the area, OMC will require that the Applicant adjust plans before an active license is issued.

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. The notice challenge asserted by counsel for Mr. and Mrs. Barrett fails because it conflates the statutory requirements for initiating a protest hearing (4 *Del C.* § 1352(b)(1)) with the statutory definition of “substantial objection” imposed on the Commissioner’s consideration of the application (4 *Del C.* § 1354(b)(5) a.). Said differently, the five-mile radius referenced in § 1354(b)(5) a. requires the Commissioner to consider whether the record compiled at a protest hearing demonstrates that a majority of residents within five miles oppose the issuance of the license, while the one-mile radius

referenced in § 1352(b)(1) relates to the requirements for the community to compel the Commissioner to schedule a protest hearing.

3. Pursuant to 4 *Del C.* § 1340, microbusiness marijuana cultivation licensees are permitted to cultivate marijuana in an amount not to exceed 2,500 square feet of indoor cannabis plant grow canopy; licensees are also prohibited from having more than 10 employees. The record reflects that the Applicant intends for its operations to comply with these requirements.

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

5. 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 10 written objections to compel a public protest hearing, after public notice was given in accordance with 4 *Del C.* § 1352(b), only three members of the community appeared to testify in opposition. Less than half of those community members within a one-mile radius of the proposed premises that submitted written objections appeared to offer testimony, and zero members of the community outside of the one-mile radius appeared in person or submitted additional written comments or substantive objections. Therefore, the record does not support a conclusion that a majority of residents within five miles opposed 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 24th day of August, 2026, the Decision and Order of this Office that the Applicant's use of the premises at 2127 S. Little Creek Rd., Dover, Delaware 19901 for its microbusiness 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.

The opponents' request to hold the premises-approval decision in abeyance pending completion of the police investigation is DENIED. The record contains no evidence connecting the reported property damage to Applicant or the proposed licensed use, and no statutory or regulatory basis has been shown for delaying the premises-approval determination on that ground.

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.