

TO: Kenton County Planning Commission Members

FROM: Andy Videkovich, AICP, Director of Planning

RE: Staff Recommendations for the Public Hearing

DATE: June 30, 2025

PDS submits the attached report and recommendation for your review prior to the scheduled July 08, 2025, special public hearing. This information relates to the following agenda item:

FILE: PC-25-0007-MA

APPLICANT: Daniel Woodward on behalf of Jerome E. Henke

LOCATION: 3208 Dixie Highway, Erlanger

REQUEST: A proposed map amendment to the Erlanger Zoning Ordinance changing the property from CC (Community Commercial) to GI (General Industrial) Zone. The property contains an existing legal nonconforming use (Medical Cannabis Cultivation). The applicant proposes this map amendment to bring the site into conformity with the permitted uses.

Staff will be prepared to address your comments and/or questions regarding the project during the public hearing. If you need additional information or clarification prior to that time, don't hesitate to contact me.

cc: Jerome Henke – Owner
Daniel Woodward – Applicant

Map Amendment

Case No: PC-25-0007-MA

Jurisdiction: City of Erlanger

Applicant: Daniel Woodward on behalf of
Jerome E. HenkeProject Manager: Cody Sheets, AICP, Associate
Planner

1. **Request:** A proposed map amendment to the Erlanger Zoning Ordinance changing the property from CC (Community Commercial) Zone to GI (General Industrial) Zone. The property contains an existing legal nonconforming use (Medical Cannabis Cultivation). The applicant proposes the map amendment to bring the site into conformity with the permitted uses.

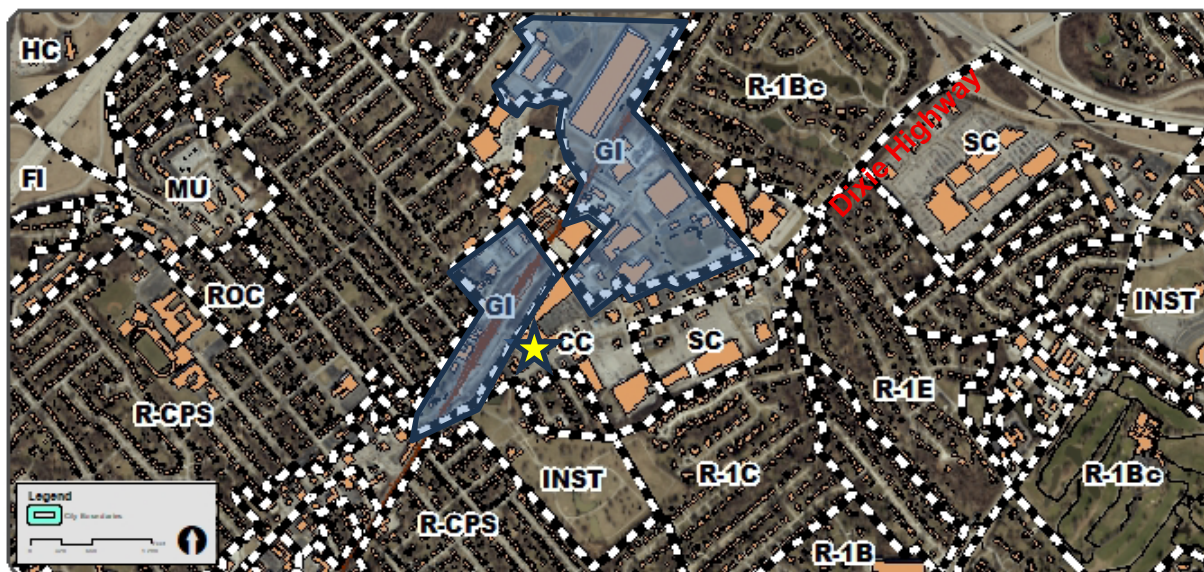
Location: 3208 Dixie Highway; an area of approximately 1.26 acres and is located north of Dixie Highway and south of the railroad. A private access road known as Burley Drive, connects the site with Dixie Highway.

**HISTORY & BACKGROUND**

1. In 2021 the City of Erlanger adopted the new Z21 zoning ordinance (PC2107-004) which included a new zoning map. The subject parcel was originally zoned IP-1 (Industrial Park-One) in the previous Erlanger Zoning Map prior to their adoption of the new Z21 Zoning Ordinance where it was changed to CC (Community Commercial). See map below for the previous IP-1 Zone. Subject site is indicated with a yellow star:



See the map below for the zoning after the Z21 update where the site in question was grouped with the other commercial uses. The subject site is again marked with a yellow star:



2. On July 10, 2024 the Kenton County Planning Commission gave a favorable recommendation on a proposed text amendment (PC-24-0014-TX) from the City of Erlanger for medical cannabis uses: (1) to allow medical cannabis cultivation, processing, producing, and safety compliance facilities as permitted uses within the BP (Business Park), FI (Flex Industrial), and GI (General Industrial) Zones; (2) to allow

medical cannabis dispensaries as a permitted use within the ROC (Residential Office Conversion), NC (Neighborhood Commercial), CC (Community Commercial), HC (Highway Commercial), and MU (Mixed-Use) Zones; and (3) establishing use specific standards, required off-street parking standards, and defining medical cannabis uses and related terms.

3. On September 3, 2024 the City of Erlanger passed an ordinance (Ordinance No. 2576) amending the Erlanger Zoning Ordinance to allow medical cannabis cultivation, processing, producing, and safety compliance facilities as permitted uses within the BP, FI, and GI Zones; to allow medical cannabis dispensaries as a permitted use within the ROC, NC, CC, HC, and MU Zones; and establishing use specific standards, required off-street parking standards, and defining medical cannabis uses and related terms.
4. On May 19, 2025 the Erlanger Board of Adjustment approved a request for a Change of Nonconforming Use on the site in question (BOA-25-0013) to change from light fabrication to Medical Cannabis Cultivation. This action allowed the applicant to move forward with establishing a medical cannabis cultivation facility as a legal nonconforming use, subject to all required zoning, building, and state permits, licenses, and requirements.

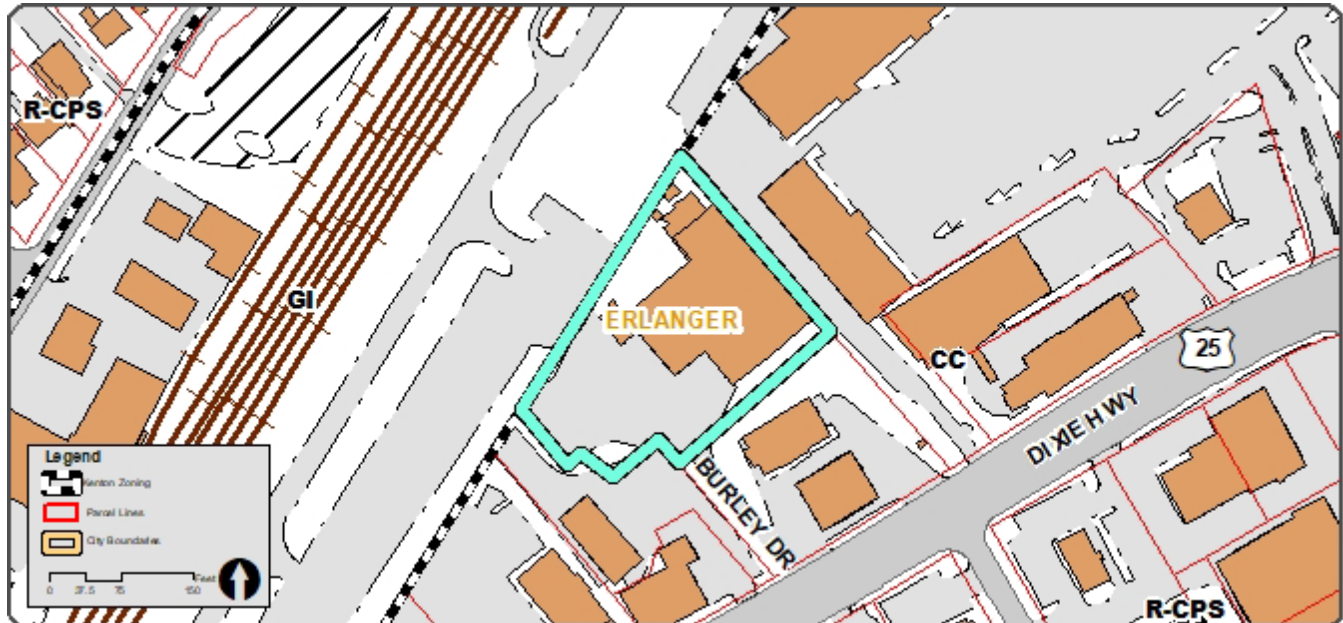
SITE CHARACTERISTICS

1. The property's previous use was a legal nonconforming industrial use and was used for rigging and dispatch before the Board of Adjustment case which allowed for the legal nonconforming use of Medical Cannabis Cultivation. The existing building footprint is approximately 19,105 square feet and contains loading docks. The property also contains paved areas for off-street parking.
2. The surrounding area includes auto-oriented suburban commercial businesses to the east, south, and west and a large rail yard and industrial uses to the north.

ANALYSIS

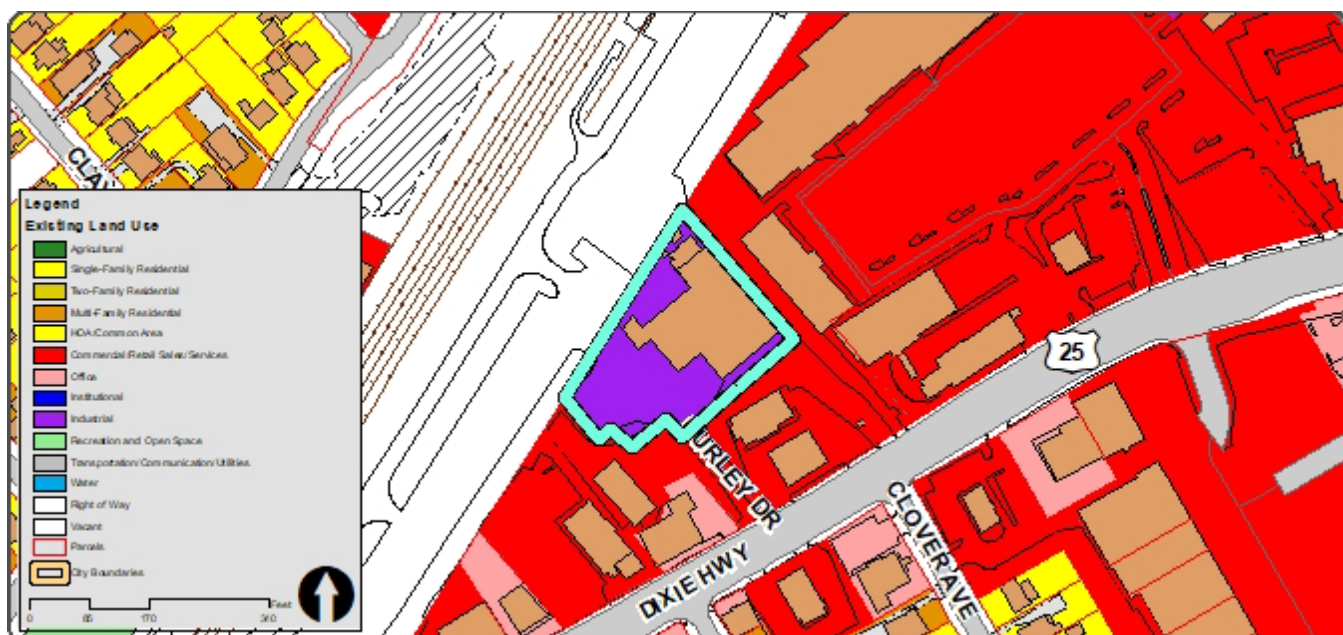
1. Current Zoning

	ZONING	MINIMUM LOT SIZE	MAXIMUM DENSITY
CURRENT	CC	n/a	n/a
NORTH	GI	1 acre	n/a
SOUTH	CC	n/a	n/a
EAST	CC	n/a	n/a
WEST	GI	1 acre	n/a



2. Existing Land Use

	DESCRIPTION
CURRENT	Industrial
NORTH	Railroad / commercial
SOUTH	Commercial
EAST	Commercial
WEST	Railroad / commercial



PETITION REVIEW

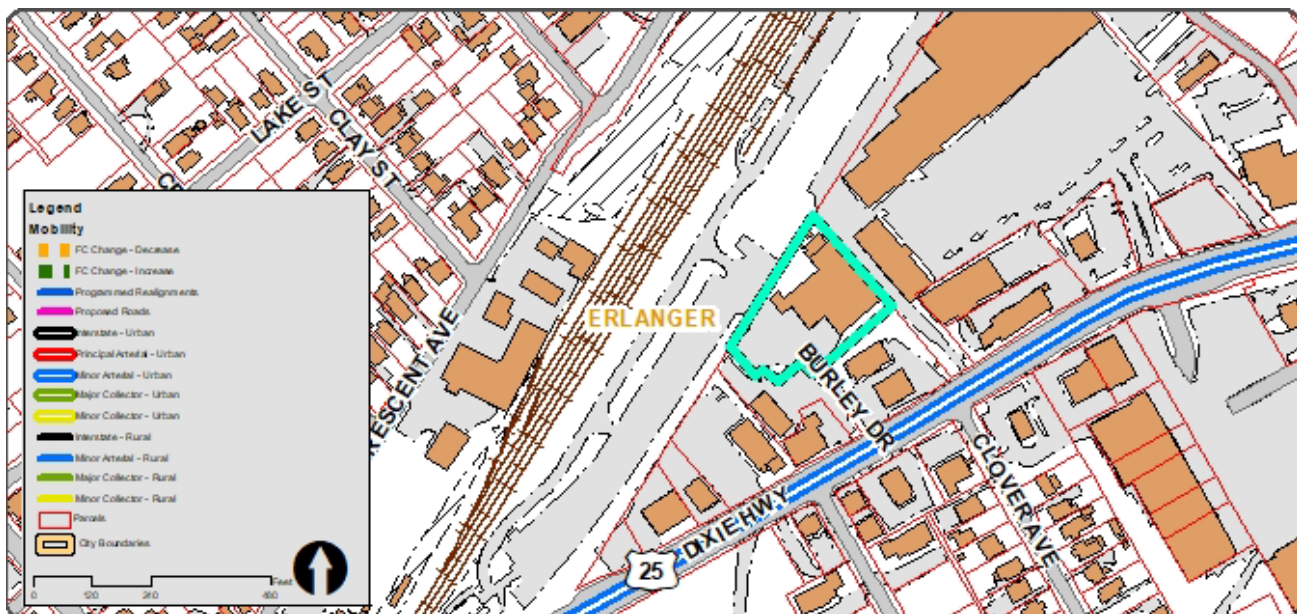
1. The CC (Community Commercial) Zone is intended to provide locations for supermarkets, general merchandise retailers, and offices. It may include large-footprint retail uses as well as smaller outlets or strip centers. The CC District should be sited along transportation thoroughfares that can accommodate the increased traffic demands these uses can create.
2. The GI (General Industrial) Zone is intended to provide locations for all types of manufacturing, research, and development, warehouse, and flex space, and may include uses that have extensive outdoor storage/service areas, generate heavy truck traffic, or create negative impacts that must be mitigated or buffered. Selected business service uses are also appropriate when sized and designed to serve the employment area. Increased setbacks and landscape screening should be used to help minimize potential negative impacts.
3. The submitted Development Plan and submitted materials (attached) indicate the following:
 - a. A 19,105 square foot building that is one story with a mezzanine
 - i. Two existing loading docks
 - b. 34 total parking spots on site
 - i. 22 proposed staff spaces
 - ii. Eight visitor spaces
 - iii. Two proposed loading spaces
 - iv. Two proposed ADA spaces including one van space
 - c. Proposed fence around the property with gate at site entry
4. Section 4.05, L. of the Erlanger Zoning Ordinance states:
 - a. Medical Cannabis Cultivator
 - i. These facilities must adhere to the regulations in KRS Chapter 218B
 - ii. Uses shall maintain all applicable local and state permits and licenses
5. Table 10.1 of the Erlanger Zoning Ordinance requires one off-street parking space per employee on shift of largest employment for Medical Cannabis Cultivation
6. Section 2.07, B. of the Erlanger Zoning Ordinance states:
 - a. An applicant with property that has any nonconformity may request a zone change. If a zone change is granted, all other nonconformities, such as site and design features must be remedied to the maximum extent practicable as a condition of approval
7. Section 2.07, F of the Erlanger Zoning Ordinance provides:
 - a. A legal nonconforming use is a use that was lawful before current zoning regulations but does not conform to the current zoning ordinance. Legal nonconforming uses may continue, but have the following restrictions:
 - i. **Expansion Prohibited.** Nonconforming uses cannot expand in scope, size, activity, hours, or location.
 - ii. **Relocation Restricted.** Moving a nonconforming use on the same site requires Board of Adjustment approval and must not worsen public or adjacent property impacts.
 - iii. **Change of Use.** Changing from one nonconforming use to another may be allowed with Board of Adjustment approval. Once changed to a conforming use, the nonconforming use cannot be reinstated.
 - iv. **Reestablishment Restricted.** A nonconforming use is considered abandoned if discontinued for 180

consecutive days. This applies to both land and buildings, regardless of whether the use is primary or accessory. A one-time extension of up to 180 additional days may be granted by the Board.

- v. **Structural Alterations Restricted.** Structural alterations are not allowed if they increase the nonconforming use but are allowed for safety, maintenance, or converting to a conforming use.

COMPREHENSIVE PLAN

1. **Mobility:** Dixie Highway is classified as an urban minor-arterial. Burley Drive is a private access road. There are sidewalks along both sides of Dixie Highway. The Dixie Highway / Florence TANK bus route runs along Dixie Highway with stops at Dixie and Hallam 1,000 feet to the west and Dixie at Silverlake Plaza 600 feet to the east.

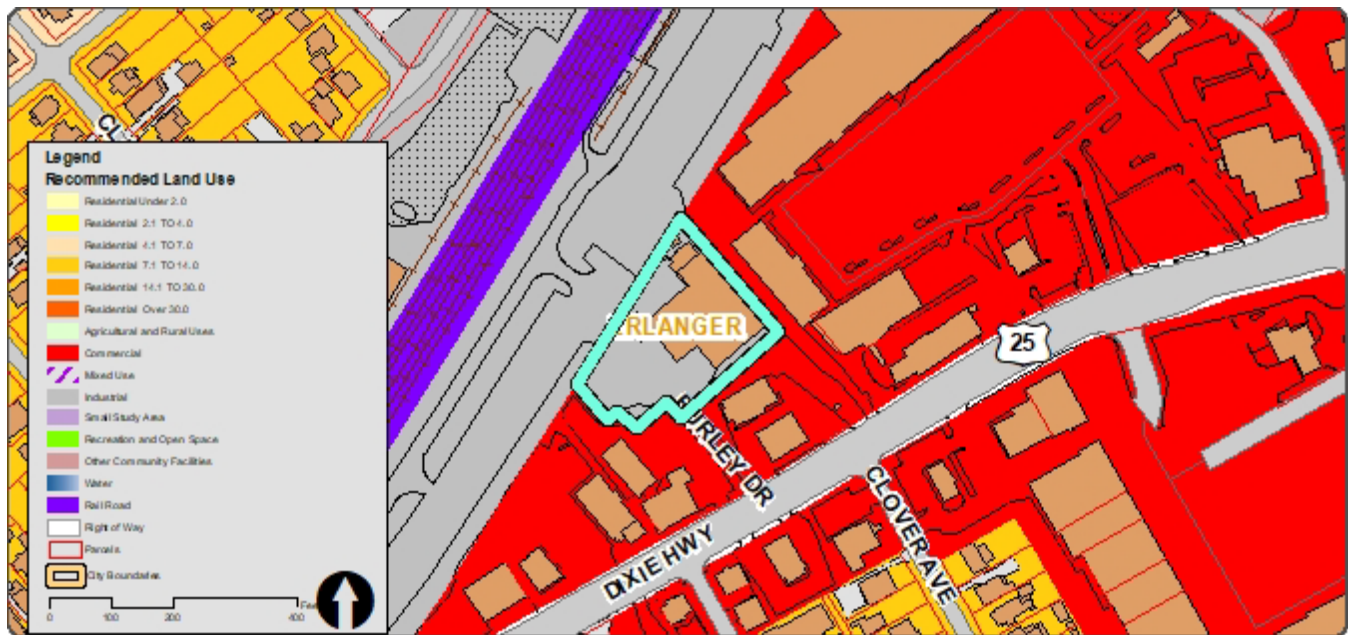


2. **Comprehensive Plan:** A full review of the Kenton County Comprehensive Plan goals, objectives, recommendations, and tasks was conducted by staff. The full review is available in the issue file. The following is a summary of what staff finds to be the most relevant sections:
 - a. PDS staff finds that the submitted request is consistent with the following:
 - i. **Goals and Objectives**
 - ii. **Economy Element**
 - iii. **Land Use Element**

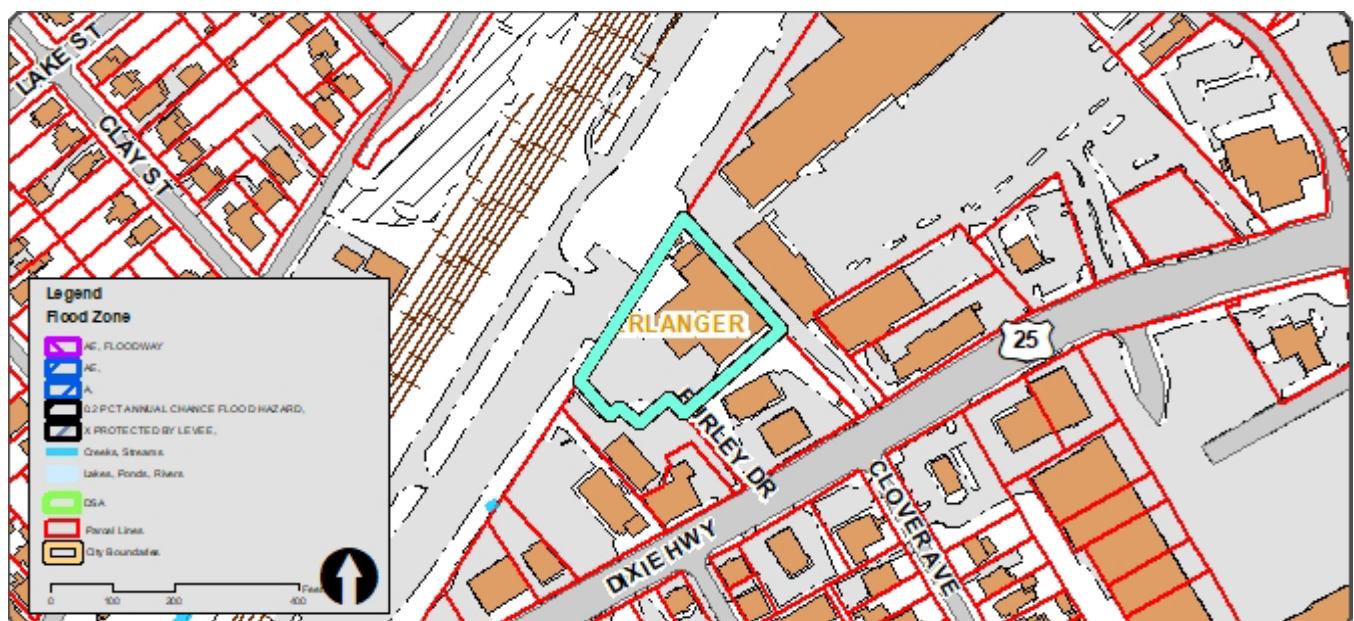
Staff findings: The proposed map amendment will help support a new business by bringing them into conformity and ensuring that the underlying zoning better reflects the existing land use. This will help to alleviate some of the restrictions associated with being a legal nonconforming use.

3. Recommended Land Use

	DESCRIPTION
CURRENT	Industrial
NORTH	Industrial / railroad
SOUTH	Commercial
EAST	Commercial
WEST	Industrial / railroad



- a. The site does not contain any areas of DSA or blue-line streams.



Staff findings: The proposed development is consistent with the Recommended Land Use map. The parcel was originally zoned IP-1 (Industrial Park-One) in the previous Erlanger Zoning Map prior to their adoption of the new Z21 Zoning Ordinance. The proposed map amendment will allow the parcel to more consistently match the Recommended Land Use Map.

STATE STATUTE

1. KRS 100.213 states that before any map amendment is granted, the planning commission or the legislative body or fiscal court must find that the map amendment is in agreement with the adopted comprehensive plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or the legislative body or fiscal court:
 - a. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;
 - b. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

STAFF RECOMMENDATION: Favorable recommendation on the map amendment to the Erlanger Zoning Ordinance changing the described area from CC (Community Commercial) to GI (General Industrial) to bring the site into conformity with the permitted use subject to the applicant agreeing to the following conditions:

1. Existing nonconforming site features regarding off-street parking design, required landscaping and character standards are remedied to the maximum extent practicable.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. The proposed map amendment, as conditioned, is generally in agreement with the adopted comprehensive plan. The existing zoning classification given to the property is inappropriate and the proposed zoning classification is appropriate. The original zoning classification in the previous zoning map was IP-1, an industrial zone, but was changed to CC, a commercial zone, with the adoption of the Z21 ordinance. The previous use and the current use are industrial and the recommended land use for the site is industrial.
2. The proposed map amendment will prevent potential difficulties associated with running a nonconforming business, such as a restriction on expansion and certain restrictions on structural alterations that result from the business being classified as a nonconforming use.
3. If a zone change is granted, all other nonconformities, such as site and design features must be remedied to the maximum extent practicable as a condition of approval. If approved, the following nonconformities should be remedied. Sufficient information should be submitted with permits to determine compliance with:
 - a. Section 10.17, B. of the Erlanger Zoning Ordinance states:
 - i. All required off-street parking areas, drive aisles, and driveways shall be paved with asphalt, concrete, permeable pavement, or other approved material as determined in Appendix 15.03, Specifications for Paving of Off-Street Parking and Loading Areas.
 - ii. All drive aisles used to access dumpsters shall be paved with heavy duty asphalt or concrete consistent with the truck parking standards in Appendix 15.03.

- iii. Except for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, all parking spaces shall be striped or otherwise designated to clearly mark each space.

Off-street parking areas need to be adequately surfaced and appropriately striped with parking spaces that meet dimensional requirements and design

- b. Table 7.1, D. of the Erlanger Zoning Ordinance lists character standards for services, utilities, and minor accessories including:
 - i. All dumpster, trash, and recycling receptable storage areas shall be located in the side or rear yard. Dumpsters shall also be screened per Section 7.07, N.
- c. Section 7.07, P. of the Erlanger Zoning Ordinance states:
 - ii. All trash dumpsters, trash pads, and ground-mounted heating and cooling units shall be screened from residential uses, residential zones, and all adjacent public roads. This equipment shall use a six-foot-high solid fence or wall (if the type and location is permitted by the fence regulations) along with three small or medium evergreen shrubs per 10 lineal feet.

The existing dumpster shall be appropriately screened.

ADDITIONAL INFORMATION

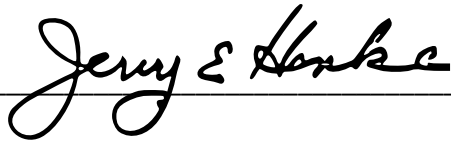
- 1. Table 7.3 in the Erlanger Zoning Ordinance states the allowable fence types, heights, and location in the GI Zone. The applicant has not provided details on the proposed fence, but it will need to follow the permitted fence type and the allowed height in the front, side, and rear yard or will require a Board of Adjustment hearing.
- 2. Medical Cannabis facilities are regulated and licensed by the state. The following is a portion of state law governing these uses which is in the purview of the state licensing authorities.
 - a. KRS 218B
 - i. Defines Cultivator as an entity licensed as such under KRS 218B.080, 218B.085 and 218B.090
 - ii. Provides requirements for such licensed businesses, including:
 - 1) Shall not be located within 1,000 feet of an existing elementary or secondary school or a daycare center. The cultivation of medicinal cannabis for cannabis businesses licensed in this state shall only be done by cultivators and producers licensed under this chapter and shall only take place in an enclosed, locked facility which can only be accessed by cultivator agents working on behalf of the cultivator or producer at the physical address or global positioning system coordinates provided to the cabinet during the license application process.

Landlord Authorization Letter

April 18, 2025

I, Jerome E Henke, owner of property located at 3208 Dixie Hwy. Erlanger KY 41018 give authorization to Flower Power 5390, LLC to apply on my behalf for zoning changes, use changes and or map amendments to allow for their cannabis cultivation usage at the above address.

Jerome E. Henke

A handwritten signature in black ink, reading "Jerome E. Henke", is written over a horizontal line.

PROJECT DATA

SITE LOCATION: 3208 DIXIE HIGHWAY, ERLANGER, KENTUCKY 33859

PIDN: 015-20-25-010.00

LOT AREA: 1.26 ACRES

ZONING: COMMUNITY COMMERCIAL (CC)

LAND USE: MANUFACTURING/ASSEMBLY

OCCUPANCY CLASS (SECTION 311): F-1

CONSTRUCTION CLASS (SECTION 602): TYPE II-B

BUILDING DATA (SECTION 504): GROSS FLOOR AREA +/- 19,105 SF

NUMBER OF STORIES: ONE + MEZZANINE

PARKING DATA

TOTAL PARKING COUNT:

PROPOSED STAFF SPACES: 22

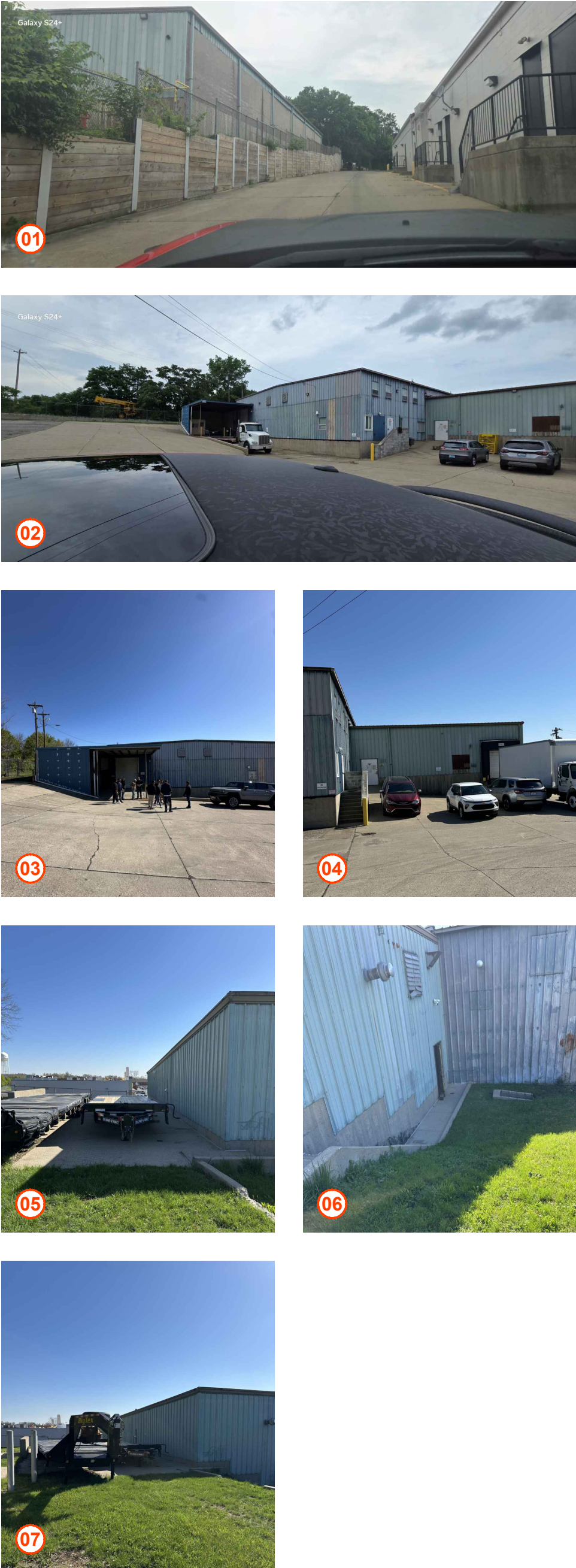
PROPOSED VISITOR SPACES: 8

PROPOSED LOADING SPACES: 2

PROPOSED ADA SPACES (INCLUDING 1 VAN SPACE): 2

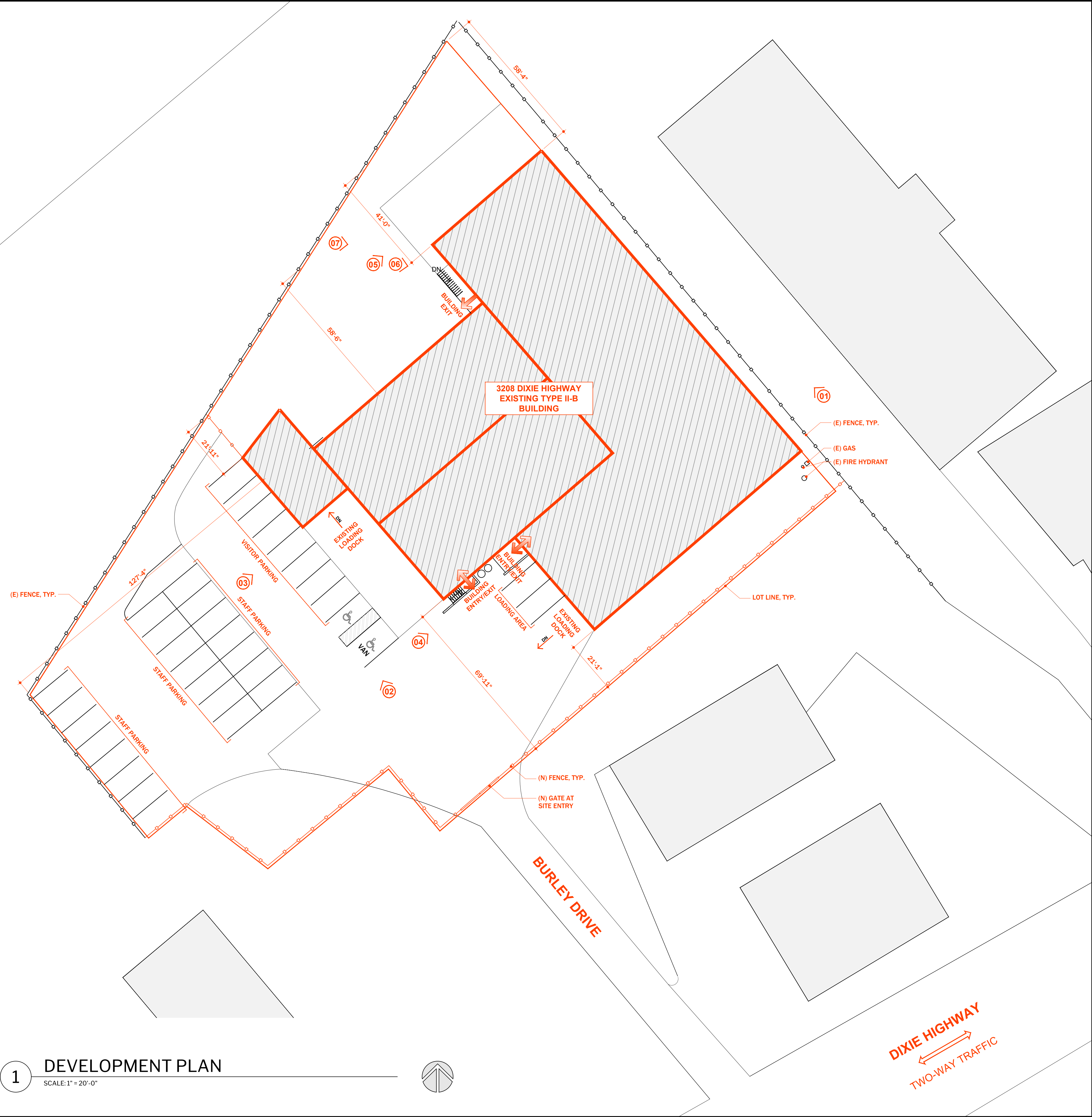
TOTAL PARKING SPACES ON SITE: 34

SITE PHOTOS



1 DEVELOPMENT PLAN

SCALE: 1" = 20'-0"



NOT FOR CONSTRUCTION

Architect of Record

Laney R. Vela, NCARB
233 Newark Ave. 5D
Jersey City, NJ 07302
laneyrvela@gmail.com
(281) 217-9228

Owner

Jerry Henke
jerry.henke@henkeindustrial.com
(859) 512-1260

Lessee

Flower Power 5390 LLC
dwoodward@naturemedinc.com
(520) 665-8855

Ownership & Use Statement

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Project No. 2025.01

NatureMed

3208 Dixie Highway,
Erlanger, KY 40126

Design Professional Seal

Laney R. Vela, NCARB
KY License No. 9361

Drawing Record

Development Plan	06.10.25

Sheet No. X OF X

Development Plan

A-010.00

Plot Date: 4/5/25