

## **Project Narrative**

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### **I. Introduction**

The following project narrative is submitted by 828 West Genesee Street LLC, as contract vendee, and Tap Root Family LLC, as proposed lessee in cooperation with Carroll Enterprises, LLC as the current fee owner of the subject property.

This application is for a Special Permit and Area Variance to operate a cannabis dispensary at 828 West Genesee Street in the Town of Skaneateles (the “Property”). The Property is situated on a .71 acre parcel in the Highway Commercial Zoning District in the “Western Gateway” to Skaneateles. The Highway Commercial District is the only zoning district where a cannabis dispensary may be located under the Town Code. The Property is improved by a two-story commercial building that historically was operated as a gas station and is currently operated by Carroll Equipment as a vehicle and equipment dealership and repair facility.

The cannabis dispensary will be operated by Tap Root Family, LLC pursuant to a lease agreement. Tap Root Family LLC is a licensed cannabis microbusiness in the State of New York and is regulated by the Office of Cannabis Management. Tap Root is a local business founded by Josh Allyn in 2019 with a farm and produce farmstand located at 4272 Jordan Road in the Town of Skaneateles. As set forth in Section III, Tap Root utilizes regenerative farming practices in all its endeavors, including cannabis cultivation, and seeks to educate the public about responsible land use activity as stewards of the environment and the natural resources in Skaneateles.

The Property is ideal for the proposed use. First, it is located on Route 20 in the Western Gateway of Skaneateles—an area that is ripe for transformation and improvement. Route 20 provides easy ingress and egress. At .71 acres, the Property is an appropriate size to accommodate necessary parking with some excess parking. The building situated on the Property is an ideal size and configuration for the proposed use. As shown on the floor plan submitted with the application, the first floor of the building will be renovated to provide for +/- 591 square feet of sales floor space with additional room for private consultation and education of consumers, office, restrooms, vault, and parking. The vault will be in one of the existing garage bays, the other will provide convenient and secure access for a delivery vehicle and will avoid the need to park outside and transfer products through the parking lot. Finally, the second floor of the building will serve as an employee lounge and office and IT space. The basement will be maintained as the mechanical room as it is today.

In assessing the requested variance and special permit, the Zoning Board of Appeals and Planning Board may inquire about traffic, parking, and other concerns expressed through the adoption of Town Code § 148-5-9. Through the following narrative the applicant seeks to address those concerns. The opening of a cannabis dispensary in Skaneateles will not create a frenzied descent of customers upon the town. Dozens of legal cannabis dispensaries are already open in New York and a dispensary in Skaneateles will be a local, not regional draw. This dispensary will also be extremely limited. As discussed in Section III, by law and pursuant to Tap Root’s microbusiness license, it may only sell its own products, which are also sold throughout New York. Customers of the dispensary are anticipated to be local residents and those who are travelling to and through Skaneateles for other purposes. Through attractive cosmetic improvements to the Property it should enhance the area and the neighboring properties while providing a safe, legal, and convenient outlet for local cannabis products to responsible and legal consumers.

## **II. Cannabis Dispensary Laws and Regulations**

State and local law regulate the licensing, siting, and operation of adult use cannabis dispensaries. Pursuant to the New York Cannabis Law, a retail dispensary licensee is authorized to acquire, possess, sell and deliver cannabis from the licensed premises to consumers (Cann. L. § 72).

Under New York Cannabis Law § 131, local municipalities were given the opportunity to “opt out” of permitting cannabis dispensaries in their jurisdiction by enacting a local law on or before December 31, 2021. A local municipality that declined to opt out during that time could not thereafter prohibit dispensaries but could regulate the “time, place and manner” of operation, provided that such regulations do not make the operation of a dispensary “unreasonably impracticable” as determined by the New York Cannabis Control Board (Cann. L. § 131(2)). The Town of Skaneateles carefully studied and considered whether to permit cannabis dispensaries and did not “opt out.” However, by amendment to the zoning code, the Town of Skaneateles adopted an ordinance to regulate the location and operation of dispensaries within its borders.

### **A. Town Code**

Pursuant to Town of Skaneateles Code § 148-5-9, a cannabis dispensary is a conditionally permitted use requiring a Special Permit. Cannabis dispensaries are only permitted in the Highway Commercial District and must be located on a parcel at least 2.5 acres in area entirely within that district. Cannabis dispensaries have more stringent parking requirements than other commercial uses in the Town Code. For every 75 square feet devoted to merchandising space within the dispensary, one parking space is required. The Town Code also limits the hours of operation for a dispensary: 9:00am-9:00pm, Monday through Saturday, and 10:00am-6:00pm on Sundays.

### **B. New York Law and Regulations**

The operation of cannabis retail dispensaries is extensively regulated under New York law. The following is a summary of key provisions that may address matters of interest to the Town of Skaneateles.

- Dispensaries may not be located nearer than 500 feet from any school or 200 feet from a house of worship (Cann. L. § 72(6));
- In a municipality having a population of 20,000 or less, no retail dispensary shall be permitted within a 2,000 foot radius of another dispensary (9 NYCRR § 119.4(a)(2));
- No dispensary shall permit entry of or sell cannabis to any person under the age of 21; valid proof of age is required for every transaction (Cann. L. § 85(1)(2); 9 NYCRR §123.10(d); § 125.3(1));
- An inventory tracking system is required to compile inventory data, transaction data, and tax liability (9 NYCRR § 123.10(e)(2)(v));
- Inventory may only be displayed in secured, locked cases and only removed by authorized employees (9 NYCRR § 123.10(e)(3));
- A dispensary shall not use the words “drugs, medicines, drug store, apothecary, pharmacy” or similar terms in its name or otherwise in the advertisement or transaction of business (9 NYCRR § 123.10(g)(2));
- A dispensary shall not display cannabis products, packaging, or labelling in such a manner that it is visible from a storefront window or so as to be easily visible from the exterior (9 NYCRR § 123.10(g)(3));
- A dispensary may not sell products containing alcohol or nicotine (9 NYCRR § 123.10(g)(11)(v)(vi));
- Consumption of cannabis shall not be permitted in any area of the licensed premises (9 NYCRR § 123.10(g)(20));
- Dispensaries are required to maintain standard operating procedures for the safe and secure handling and storage of cash to prevent loss or theft (9 NYCRR § 123.10(j)(2));
- Dispensaries must implement a security plan to prevent unauthorized access, deter theft, prevent loitering, lock all perimeter doors and windows, provide for safe cash storage and handling, maintain appropriate lighting to facilitate surveillance, and maintain landscaping to prevent a person from concealing themselves at the premises (9 NYCRR § 125.3(a)(2)).

- Cannabis products must be stored in a secured, locked safe or vault to prevent theft or loss that is accessible only to authorized individuals (9 NYCRR 125.3(b)).
- Dispensaries must have a security system including at least a perimeter alarm and video surveillance. Video surveillance shall be fixed on all points of entry, parking lots, safes or vaults, sales areas, and any area containing product or cash (9 NYCRR 125.3(c);
- Dispensaries must maintain a visitor log of all persons other than employees including (1) full name, (2) time of arrival, (3) time of departure, and (4) purpose of visit (9 NYCRR § 125.3(d)(3)).

### **III. Tap Root Family Microbusiness Operation**

The proposed dispensary will be operated by Tap Root Family, LLC (“Tap Root”) pursuant to its microbusiness license. Tap Root, owned by Skaneateles native Josh Allyn, is a local company and brand with a farm at 4272 Jordan Road. It is devoted to supporting the Skaneateles community and protecting its natural resources, most notably Skaneateles Lake. Tap Root leads by example in the agricultural community by utilizing environmentally sustainable growing techniques. Their no-till, regenerative practices are key to their success. While regenerative practices are more expensive up front, they are cheaper in the long run because they require less water and no harmful pesticides. Responsible farming practices are a core value at Tap Root and are utilized not only in cultivating cannabis, but also their fruit and vegetables grown on the same property which they sell to the local community. Tap Root’s microbusiness license will permit it to showcase its values and sustainable farming practices through its local retail operation. Tap Root’s retail dispensary will serve as an outlet to inform customers about its practices and environmental stewardship. Consumers will know where and how the products they purchase were grown—as it should be.

A microbusiness license is unique in New York to the extent that it permits a vertically integrated operation. No other license category is permitted to grow, process, and sell products at retail. A microbusiness license, however, authorizes cultivation, processing, distribution, retail sale and delivery, but only of the licensee’s *own* cannabis products. Therefore, the products sold by Tap Root will be locally grown in Skaneateles. Tap Root will perform all five core business functions of a microbusiness license: cultivation (farming in a greenhouse at Tap Root’s farm), processing, wholesale distribution, retail sales (dispensary) and local deliveries.

With the expanded array of licensed activities comes limitations imposed by New York’s cannabis regulations. As a microbusiness, Tap Root may grow only up to 5,000 square feet of flowering canopy at its farm (standard cultivator licensees may maintain up to 100,000 square feet of canopy). The microbusiness license is intended for small farms to create a craft experience similar to a craft brewery. The ability to vertically integrate allows microbusiness operators to compete with larger cultivators.

This application is not for a typical cannabis dispensary. The proposed dispensary may only sell Tap Root’s products (which are also available across New York State). In that respect it

is considerably limited in scale and is not expected to draw customers from significant distances except those already visiting Skaneateles. Further, by offering delivery service the dispensary can obviate the need for many to visit the store, thereby easing concerns about parking and congestion. This dispensary is ideal for Skaneateles. It will showcase a local product and will be operated by locals who take pride in Skaneateles and care for the community. It will also contribute to the current trend of positive development in the western gateway.

#### **IV. Proposed Site**

The proposed site of the Tap Root dispensary is located at 828 West Genesee Street in the Town of Skaneateles. The parcel contains .71 acre and is situated entirely within the Highway Commercial District in the “Western Gateway.” The parcel is improved with a two-story structure presently utilized as a vehicle and equipment dealer and motor vehicle repair shop.

The property abuts Route 20 and provides for convenient ingress and egress for patrons. Adjacent properties include compatible hospitality/service uses: Finger Lakes Lodging to the East, Fyzical to the West, and the former Hilltop Restaurant and Bowling Center directly across Route 20 which is presently being renovated to include lodging, dining, and recreation offerings.

As demonstrated on the site plan submitted with this application, at least 16 parking spaces may be provided on site which exceeds the Town of Skaneateles requirement of one space per 75 square feet of merchandising space. This site meets all of the other HC and Cannabis regulations within the Town ordinance and in its present state is below the impermeable surface coverage allowed within the district. As a result of this development another vehicle and equipment dealer and motor vehicle repair shop would be removed from the watershed of Skaneateles Lake.

#### **V. Variance Analysis**

An area variance is required to operate a cannabis dispensary at the proposed site because it does not meet the minimum lot size requirement of 2.5 acres contained in Town Code § 148-5-9.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by granting the variance. The Zoning Board of Appeals shall take account of the fact that Skaneateles Lake is a public water supply and shall not grant any variance that, individually or in combination with other variances, may result in pollution of the lake from more intensive use of property, encroachment into required lake yards, additional surface water runoff or subsurface leaching of septic waste or any other factors.

***No undesirable change will be produced in the character of the neighborhood. An area variance will not cause any detriment to nearby properties.***

The benefit to the applicant if the variance is granted is significant, while there is no appreciable detriment to the health, safety, or welfare of the neighborhood or community as a result of an area variance. Siting a cannabis dispensary in the Town of Skaneateles is a considerable challenge due to the limited area of the Highway Commercial District and the dearth of conforming parcels that are 2.5 acres in size, and entirely situated in the district. The proposed site permits the operation of a dispensary in an appropriate area of the Town that is the subject of other, nearby improvements. Even though the site is .71 acres as opposed to the required 2.5 acres, it is sufficient to provide more than the required parking spaces for a cannabis dispensary, which under Town Code § 148-5-9 is already *double* what is required for other commercial uses. Even if a larger lot were used to create excessive parking, that would require more impervious surface and would arguably be a detriment to the neighborhood, community, and Skaneateles Lake. The proposed site also offers easy and convenient ingress and egress on Route 20. Therefore, even if the parcel were conforming in area, the additional size would arguably be of no utility to the applicant or the Town.

Further, unlike any properties in the Eastern Gateway, the Western Gateway and the site are accessible to pedestrians. The Property is adjacent to a crosswalk over Route 20 and the potential for foot traffic may serve to ease a burden, if any, on parking.

Finally, under the Cannabis Law and regulations, retail cannabis dispensaries may provide a delivery service. Applicant intends to offer that service which will further serve to ease vehicle traffic and the demand for parking.

Granting the requested variance will have no detriment to the health, safety and welfare of the neighborhood or community. Whether the lot is .71 or 2.5 acres has no material impact. The most obvious concern regarding lot size is the flow of traffic and adequate parking. As mentioned previously, the property is more than sufficient to provide required parking. A greater lot size would not enhance the health and safety of the neighborhood in that respect. The nature of the proposed site is, in all other respects, substantially similar to any conforming parcel within the Highway Commercial district (Note: there are no conforming parcels in that portion of the district situated on Fennell Street). All conforming parcels abut Route 20 and will experience similar traffic conditions as the proposed site. The proposed site, though not conforming to the minimum lot size required by the Code, is as appropriate as any other in the Highway Commercial district for a cannabis dispensary.

#### ***Consideration of Skaneateles Lake.***

Granting the requested variance specifically, and operation of a cannabis dispensary generally, will have no impact on Skaneateles Lake. There are no plans to alter the existing surface conditions, thereby creating increased runoff. As a retail establishment the use of water and the existing septic system will be minimal and there is no basis to conclude that such use will be more intensive than the present use.

In making its determination on an application for an area variance, the Board shall also consider the following questions, for which applicant has furnished responses below:

**1. Whether an undesirable change will be produced in the character of the neighborhood and whether any detriment to nearby properties will be created by the granting of the area variance.**

Granting the requested variance will not produce a change in the character of the neighborhood or detriment to nearby properties. The only variance requested is an exception from the minimum lot size requirement of 2.5 acres. Even if the proposed site was 2.5 acres it would be immaterial. The proposed site is sufficient to provide more than the number of parking spaces required by code for the proposed use and undue congestion is not anticipated. The existing use of the site, as with a retail dispensary, involves regular vehicular traffic. Deviating from the minimum lot size requirement will have no impact on the neighborhood.

**2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.**

There is no way to achieve the benefit to the applicant at the proposed site other than by an area variance. As stated previously, the requested variance should have no material impact on the operation of a cannabis dispensary at the site.

**3. Whether the requested area variance is substantial.**

The requested variance of +/- 1.79 acres could be viewed as substantial. However, that conclusion should be mitigated by the fact that 2.5 acres is not required in this instance to provide the benefit to the applicant with no material adverse impact on the neighborhood and community.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood or district. The sole variance requested is to permit operation of a cannabis dispensary on an undersized lot. In reality, there will be no change of any kind to the physical or environmental conditions in the neighborhood except those which should be viewed as positive: improved landscaping, lighting, and cosmetic upgrades.

**5. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.**

The need for the requested variance is not any more self-created than any other variance request for an undersized lot. The present "difficulty" and condition requiring a variance is the minimum lot size requirement in the Town Code for a cannabis dispensary. Applicant proposes to operate the dispensary on a lot that is within the proper zoning district. The site will contain more than the required parking for a cannabis dispensary of its size—which is double the required parking for other commercial uses. It is respectfully submitted that under the

circumstances the minimum lot size requirement under the code is immaterial and a deviation from that requirement is warranted.

## **VI. Special Permit Analysis**

A cannabis dispensary requires a special permit in the Town of Skaneateles. Under Town Code 148-12-2, a Special Permit is defined as: “Discretionary review and determination by the Planning Board of a land use proposal that may have adverse impacts on its surroundings and the community. Special permit approval focuses on the appropriateness of the use in a particular location.”

In granting or denying special permits, the Planning Board shall take into consideration the scale of the proposed project and the possible impact of the proposed project on the functioning of nearby farm operations, as well as any proposed conservation easements, architectural restrictions or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic, natural and historic character of the Town. Under Town Code § 148-5-9(D), in consideration of an impact on neighboring properties the Planning Board shall consider the “unique potential for excessive traffic, noise, light, glare, or other nuisances associated with the retail sale of Cannabis products, due to the anticipated high intensity of the use, potential for crowds and long lines.” The Planning Board may require additional buffers and screening in excess of the minimum set forth in the Zoning Law in order to mitigate the above referenced impacts.

### **A Special Permit is warranted under the general standard set forth in § 148-10-7 and in consideration of § 148-5-9(D)**

In evaluating the standard for a special permit, applicant respectfully objects to the assumption that a cannabis dispensary has a “unique potential” for causing excessive traffic, noise, light, glare, or other “nuisances” or that any of the foregoing are associated with the retail sale of cannabis as stated in the Town Code. To the contrary, for the dozens of legal, licensed dispensaries that have opened in New York State in the past year and a half, applicant is not familiar with any such concerns, nor have any been noted by the Office of Cannabis Management.

Further, any assumption that a cannabis dispensary will, *ipso facto*, generate a high intensity of use, crowds, and long lines is not consistent with the experience in the industry to date. Nor is such an assumption consistent with the limited operation that is proposed. The scale of the proposed project is minimal. In fact, aside from cosmetic upgrades to the existing building and landscaping to enhance the character of the area, there will be no appreciable impact. Rather, the proposed use will eliminate some of the current unattractive aspects of the property including the sale of equipment and vehicles on the roadside of Route 20. The project as proposed will have no impact on the functioning of nearby farms, conservation easements, or architectural restrictions.

The scale of this cannabis dispensary is small due to its limited nature as a microbusiness license retail establishment. Unlike other dispensaries across New York State, including in and around Syracuse and Auburn, the proposed dispensary shall only sell Tap Root products (which



are also available elsewhere). There will not be any merchandise available which is not also available at dispensaries in neighboring cities and, therefore, no basis to expect a swell of travelers to Skaneateles. It is anticipated that the 16 parking spaces will be more than enough to accommodate normal business operations. Neither excessive traffic, nor inadequate parking will be an issue for neighboring properties. Moreover, there will be no noise, light, glare, or other nuisances to impact other properties. The proposed cannabis dispensary will not produce any noise at all. Lighting will be pursuant to a landscape plan to make the Property and building more attractive and safe. There will not be any glare or other nuisances. Finally, the proposed dispensary will abide by the hours of operation as set forth in the Town Code (9:00am-9:00pm Monday-Saturday; 10:00am-6:00pm Sunday). The dispensary is not permitted to operate late at night.

If anything, the proposed dispensary will be a boon to local businesses and the immediate commercial neighbors. New York State in enacting the Cannabis Law and the Town of Skaneateles in permitting retail dispensaries have embraced the sale of cannabis products as a legal activity to be enjoyed by responsible adults. The proposed dispensary will provide a source of local, safe products to consumers, including undoubtedly the patrons of nearby businesses.

### **Special Permit Specific Findings**

Before granting a special permit, the Planning Board shall make specific written findings as to the following questions, for which applicant has furnished responses with the foregoing discussion in mind:

- 1. Will comply with all provisions and requirements of this chapter and of all other local laws and regulations and will be consistent with the purposes of the land use district in which it is located, with the goals of the Comprehensive Plan, and with the purposes of this chapter.**

Upon issuance of an area variance for lot size, the proposed project will be in compliance. Further, the locale of the proposed dispensary is within the limited area selected by the Town of Skaneateles for such use in the Highway Commercial district.

- 2. Will not adversely affect surrounding land uses by creating excessive traffic, noise, dust, odors, glare, pollution or other nuisances.**

As discussed above, the proposed dispensary is not expected to create any form of nuisance, nor will it adversely affect surrounding land.

- 3. Will not result in the release of harmful substances or any other nuisances, nor cause excessive noise, dust, odors, solid waste or glare.**

The proposed dispensary will not use or result in the release of any harmful substances. The proposed dispensary activities will take place indoors and will not generate noise, dust, odors, or solid waste. No glare will be generated by the project except for lighting as approved by the Planning Board.

**4. Will not adversely affect the general availability of affordable housing in the Town.**

The proposed use will have no impact on the availability of affordable housing.

**5. Will not cause undue traffic congestion, unduly impair pedestrian safety, convenience, or comfort, or overload existing roads, considering their current width, surfacing and condition.**

As set forth above, given the availability of cannabis dispensaries in neighboring cities and their surrounding areas, and the limited offerings of a Tap Root dispensary, it is not anticipated that there will be any traffic congestion or impact on pedestrian safety. The Property is situated on Route 20, the most accessible and appropriate roadway for the free flow of traffic.

**6. Will have appropriate parking and be accessible to fire, police and other emergency vehicles.**

The proposed dispensary will be compliant with the enhanced parking requirements for a cannabis dispensary contained in § 148-5-9. As demonstrated by the floor plan submitted with the application, the proposed merchandising area is +/- 834 square feet which requires 16 parking spaces. As seen on applicant's site plan, 16 parking spaces are proposed. Further, the delivery service to be offered from the dispensary will serve to reduce the need for parking. The site is easily accessible to emergency response vehicles.

**7. Will not overload any public water, drainage or sewer system or any other municipal facility or service, including schools.**

The proposed use will utilize very little water and has private septic. No alterations are proposed that would alter the drainage conditions of the property. No aspect of the proposed use will otherwise overburden any other municipal facility or service, including the schools.

**8. Will not degrade any natural resource, ecosystem or historic resource, including Skaneateles Lake or Owasco Lake.**

No alterations to the site or operation on site will cause the degradation of natural resources.

**9. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.**

The proposed use is suitable for the property. It is situated in the Highway Commercial District, the only zoning district in which it is permitted. The size of the property is ideal for the proposed use as it can accommodate more than adequate parking, especially for the reduced

scale of a microbusiness dispensary, and is convenient to Route 20 for easy ingress and egress. The property, as presently developed, will be little changed except for cosmetic enhancements. The topography, vegetation, soils, natural habitat, and hydrology are not material factors.

**10. Will be subject to such conditions on operation, design and layout of structures and provision of screening, buffer areas and off-site improvements as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.**

The property, as presently developed, will be little changed except for cosmetic enhancements. The proposed use is compatible with surrounding uses and is located in the only zoning district selected by the Town of Skaneateles for the operation of a cannabis dispensary. While the Highway Commercial District is not commonly associated with the natural, historic, and scenic resources of the Town, it is nevertheless an important area and applicant intends to enhance the attractiveness of the Western Gateway with the proposed project.

**11. Will be consistent with the community's goal of concentrating retail businesses in the Village and hamlets and locating nonresidential uses that are incompatible with residential use on well-buffered properties.**

Although the proposed use is a retail business, it is an exception in that it may only be located in the Highway Commercial District under Town Code § 148-5-9 and is not permitted in the Village of Skaneateles.

**12. Will comply with relevant site plan review standards of § 148-10-6 and The Rural Siting Principles in Town Policy and Guideline Book shall be taken into consideration.**

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**13. Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right. This criterion shall not apply in the HC District.**

The proposed dispensary is in the Highway Commercial District. Therefore, this criterion is not applicable.

**828 West Genesee Street, LLC**

**Site Plan**

**See Application #2**

**Tax Map #048.-01-13.1**