



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## **EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 11/19/2024**

**TO:** Members of the Authority

**FROM:** Lance B. Landgraf, Jr., Land Use Hearing Officer

**COPY:** Eric Scheffler, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
Application #2024-03-3608  
Bridge City Collective Highlands, LLC  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
3027 Atlantic Avenue  
Block 266, Lot 1  
Central Business District (CBD) Zoning District  
Green Zone Redevelopment Area

**DATE:** October 30, 2024

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### **EXECUTIVE SUMMARY**

On August 15, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Bridge City Collective Highlands, LLC (the "Applicant"), seeks Minor Site Plan Approval to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis at the subject property. Other than signage, no exterior improvements are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the site plan standards and technical requirements of the Authority's Tourism District Land Development Rules and Green Zone Redevelopment Plan. In addition, the Applicant demonstrated by evidence and testimony that the grant of the requested variance is warranted. Therefore, for the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.



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## INTRODUCTION

### Application Information

Bridge City Collective Highlands, LLC  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
3027 Atlantic Avenue  
Block 266, Lot 1  
Central Business District (CBD) Zoning District  
Green Zone Redevelopment Area

A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

The Applicant seeks Minor Site Plan Approval to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis at the subject property. Other than signage, no exterior improvements are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

### Evidence List

- A-1 Application Materials
- B-1 Letter from Environmental Resolutions, Inc. dated August 7, 2024

## FINDINGS OF FACT

The Applicant seeks Minor Site Plan Approval to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis at the subject property. Other than signage, no exterior improvements are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

The attorney for the Applicant, Benjamin Ojserkis, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. He noted that the Applicant is the first-floor tenant at the existing three-story building. Mr. Ojserkis advised that the Applicant has a lease agreement with the property owner to use 5 parking spaces at the property across the alley from the subject property. Loading will be accomplished via a designated loading space along Chelsea Avenue.



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The Applicant presented the testimony of Brant Reiter, who is a representative of the Applicant. He explained his experience in the cannabis industry and testified regarding operational features and security procedures for the proposed facility. He testified the facility will be open from 8 am to 8 pm Sunday through Monday and 10 am to 10 pm Thursday through Saturday. There will be a total of approximately 8 to 12 employees, with 3 to 8 employees on site at any given time.

Mr. Reiter testified that deliveries will occur approximately 5 to 10 times per week via Sprinter van. Loading and unloading will occur at a designated loading space on Chelsea Avenue and product will be moved through the door located along Chelsea Avenue that will be for employees and deliveries only. He testified that all product and cash will be stored in a vault at the facility. Mr. Reiter testified that trash will be stored in a designated area indoors and carted to the curb on collection days. Any cannabis waste will be disposed of in accordance with Cannabis Regulatory Commission ("CRC") regulations.

Mr. Reiter testified that the Applicant will agree to the following as a condition of any approval:

- Comply with all standards and requirements of the Green Zone Redevelopment Plan, including architectural standards.
- Have its security plan approved by the Atlantic City Police Department.
- Make all security cameras subject to monitoring by the Atlantic City Police Department.
- Comply with all requirements of the Cannabis Regulatory Commission.

The Applicant presented the testimony of Jason Sciullo, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Sciullo described the location of the site, existing conditions and development proposal. He described proposed layout, floor plan and operations plans.

Mr. Sciullo explained the proposed signage. He noted that the Applicant amended the development proposal to have one sign on the Atlantic Avenue frontage and one sign on the Chelsea Avenue frontage. No variances are required for signage. Other than signage, no exterior improvements are proposed.

Mr. Sciullo testified that the property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. He testified that the Applicant requests a variance pursuant to N.J.S.A. 40:55D-70(c) to permit 0 on-site parking spaces where a minimum of 5 on-site parking spaces are required.

Mr. Sciullo testified that the property has a grandfathered parking shortfall of 4 parking spaces. Accordingly, the Applicant requires a variance for the lack of 1 on-site parking space. He testified that the Applicant has a lease for 5 parking spaces at the property across



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the alley. Upon questioning, Mr. Sciullo agreed on behalf of the Applicant to secure alternative parking or return to the Authority for additional approvals in the event that the lease is terminated.

Mr. Sciullo testified that the characteristics of the property and the structures lawfully existing thereon present a hardship in providing the required on-site parking. He noted that there is no opportunity to provide parking spaces on-site, and the parking needs for the proposed use are adequately addressed through the lease of 5 off-site parking spaces, as well as available public parking in the vicinity of the site. With respect to the negative criteria, Mr. Sciullo testified that the grant of the variances would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Jeffrey Hanson, P.E., was qualified as an expert in the field of professional engineering and provided testimony on behalf of the Authority. Mr. Hanson testified that he supports the approval of the Application, subject to the Applicant's compliance with all requirements of the Environmental Resolutions, Inc. review letter dated August 7, 2024.

Several people offered public comment in opposition to the Application on the grounds that there are too many dispensaries already approved in the vicinity of the subject property, and alleged parking deficiencies in the vicinity of the subject property.

### **CONCLUSIONS OF LAW**

#### **Minor Site Plan Approval**

A land use agency's authority in reviewing an application for site plan approval is limited to determining whether the development plan conforms to the zoning ordinance and the applicable provisions of the site plan ordinance. See Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216 (1994).

Here, based on the evidence and testimony, the Applicant has demonstrated that development plan generally conforms to the site plan standards and technical requirements of the Tourism District Land Development Rules and Green Zone Redevelopment Plan.

#### **Variances Pursuant to N.J.S.A. 40:55D-70(c)**

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) and (c)(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

#### **Positive Criteria**



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The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) is satisfied if relief can be granted for a specific piece of property upon the finding of hardship arising out of the exceptional narrowness, shallowness, shape, or exceptional topographic conditions of specific piece of property or from a structure lawfully existing thereon. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999). The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of that deviation would substantially outweigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

Here, the Applicant requests a variance pursuant to N.J.S.A. 40:55D-70(c) to permit 0 on-site parking spaces where a minimum of 5 on-site parking spaces are required. The characteristics of the property and structures lawfully existing thereon present a hardship in providing the required on-site parking as there is no opportunity to provide parking spaces on-site. In addition, the parking needs for the proposed use are adequately addressed through the lease of 5 off-site parking spaces, as well as available public parking in the vicinity of the site.

### Negative Criteria

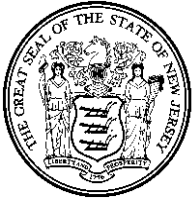
Relief under N.J.S.A. 40:55D-70(c)(1) and (c)(2) cannot be granted unless the negative criteria is satisfied. The negative criteria required for all "c" variances is that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance.

The evidence and testimony demonstrate that the grant of the requested variance will not create any detriment to the public good, and will not substantially impair the purpose and intent of the Tourism District Mast Plan and the Tourism District Land Development Rules.

### **RECOMMENDATION**

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Minor Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(c) to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis at the subject property be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions of prior approvals, satisfying all representations made by the Applicant or by others on its behalf during the course of the hearing on this matter before the Hearing Officer.

The grant of approval shall be further conditioned upon compliance with all applicable requirements of the Tourism District Land Development Rules, Atlantic City Ordinances,



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and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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