



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## EXHIBIT "A" TO RESOLUTION 25- , ADOPTED 2/18/2025

**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 #2024-05-3649  
ZAZA Dispensary, LLP  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
12 South Virginia Avenue  
Block 136, Lot 7  
Resort Commercial (RC) Zoning District  
Green Zone Redevelopment Area

**DATE:** January 27, 2025

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### EXECUTIVE SUMMARY

On January 16, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, ZAZA Dispensary, LLP (the "Applicant"), seeks Minor Site Plan Approval to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis on the first floor of the existing structure at the subject property. 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

ZAZA Dispensary, LLP  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
12 South Virginia Avenue  
Block 136, Lot 7  
Resort Commercial (RC) 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 on the first floor of the existing structure at the subject property. 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 ARH Associates dated January 13, 2025

## 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 on the first floor of the existing structure at the subject property. 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, Daniel J. Gallagher, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. He noted that the property has been vacant since at least 2006.

The Applicant presented the testimony of Jon Barnhart, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Barnhart



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described the location of the site, existing conditions and development proposal. He described proposed layout, floor plan and operations plan.

Mr. Barnhart explained that the Applicant proposes to renovate the interior of a portion of the existing structure for use as a cannabis dispensary. No exterior improvements are proposed. He testified that loading would be accomplished via a receiving bay with an entrance along Gordon's Alley. Upon questioning by Authority staff and consultants, Mr. Barnhart agreed, on behalf of the Applicant, that delivery vehicles will back into the loading space with assistance from security personnel. The sole means of access to the facility for customers will be an existing door along South Virginia Avenue.

Mr. Barnhart testified that no signage is proposed at this time. However, he testified, that any signage will comply with the requirements of the Authority's Tourism District Land Development Rules and Green Zone Redevelopment Plan. Mr. Barnhart testified that no on-site parking is existing or proposed at the subject property.

Mr. Barnhart 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 9 on-site parking spaces are required.

Mr. Barnhart testified that the overall property has a grandfathered parking shortfall of 17 spaces. He further testified that there is adequate on-street parking in the vicinity of the property to accommodate parking needs. In addition, he testified, the property may be accessed via public transportation and rideshare services.

Mr. Barnhart testified that the development proposal will promote the purposes of the Municipal Land Use Law ("MLUL") by promoting the general public health, safety and welfare through the repurposing of a vacant structure and bringing activity to the neighborhood. With respect to the negative criteria, Mr. Barnhart 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.

The Applicant presented the testimony of Dashnay Holmes, who is a representative of the Applicant. She explained her experience in the cannabis industry. Ms. Holmes noted her background in marketing, planned outreach to the local art community and sustainability practices.

Ms. Holmes testified regarding operational features for the proposed facility, including security procedures, product storage and inventory management. She testified the facility will be open from 10 am to 7 pm seven days a week. She testified that all product and cash will be stored in a vault at the facility. She testified that trash will be stored in a designated



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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.

Ms. Holmes 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 CRC.

Carolyn Feigin, P.E., P.P. was qualified as an expert in the fields of professional engineering and planning and provided testimony on behalf of the Authority. Ms. Feigin testified that any use on the site would require variance relief for parking and that she supports the approval of the Application.

A local business owner offered public comment regarding 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.



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### Positive Criteria

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 9 on-site parking spaces are required. The development proposal will promote the purposes of the MLUL by promoting the general public health, safety and welfare through the repurposing of a vacant structure and bringing activity to the neighborhood. Moreover, there is adequate on-street parking in the vicinity of the property to accommodate parking needs and the property may be accessed via public transportation and rideshare services.

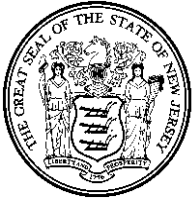
### Negative Criteria

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.



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