



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

### **EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 10/15/2024**

**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 #2023-10-3536  
Juniper Lane Cannabis Corporation  
Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)  
2305 Atlantic Avenue  
Block 280, Lot 40  
Ducktown Arts (DA) Zoning District  
Green Zone Redevelopment Area

**DATE:** September 27, 2024

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### **EXECUTIVE SUMMARY**

On July 18, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Juniper Lane Cannabis Corporation (the "Applicant"), seeks Minor Site Plan Approval with variances 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. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and 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. In addition, the Applicant demonstrated by evidence and testimony that the grant of the requested variances 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

Juniper Lane Cannabis Corporation  
Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)  
2305 Atlantic Avenue  
Block 280, Lot 40  
Ducktown Arts (DA) 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 with variances 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. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and parking.

### Evidence List

- A-1 Application Materials
- AO-1 Witness and Exhibit List
- AO-2 Site Plan
- AO-3 CRC Approval and Annual License
- AO-4 Architectural Rendering
- A-5 Photo of Façade
- B-1 Letter from Environmental Resolutions, Inc. dated July 12, 2024

## FINDINGS OF FACT

The Applicant seeks Minor Site Plan Approval with variances 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. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and parking.

The attorney for the Applicant, Rachel Koutishian, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.



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The Applicant presented the testimony of Colleen McQuade, who is a representative of the Applicant. She explained her experience in the cannabis business and testified regarding operational features and security procedures for the proposed facility. She testified the facility will be open from 9 am to 9 pm daily. There will be a total of approximately 5 to 8 employees.

Ms. McQuade testified that all product and cash will be stored in a vault at the facility. She testified that office trash will be stored beneath the exterior staircase and carted to the curb along Mississippi Avenue on collection days. In the event that the storage of trash beneath the staircase is unacceptable to the Fire Official or Fire Department, trash will be stored in a designated area indoors and carted to the curb along Mississippi Avenue on collection days. Any cannabis waste will be disposed of in accordance with Cannabis Regulatory Commission ("CRC") regulations.

Ms. McQuade testified that deliveries will occur approximately 3 to 5 times per week via Sprinter van. Loading and unloading will occur at a designated loading space on Mississippi Avenue and carried by security personnel through a door at the rear of the building and taken directly into the vault. Deliveries of cash will be accomplished in the same fashion.

Ms. McQuade testified that customers will have the option to order product online and pick it up at the facility. Although product deliveries may be available in the future, deliveries will be the subject of another CRC license.

Ms. McQuade testified generally to security procedures to be implemented at the facility. She 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.

Ms. McQuade noted that the existing residential unit on the second floor will continue to be occupied by the existing long-term tenant. The unit has direct access via a stairway along Mississippi Avenue and does not require the tenant to enter or exit through the proposed cannabis facility on the first floor.

The Applicant presented the testimony of Craig Dothe, R.A., P.P., who was qualified as an expert in the fields of architecture and professional planning. Mr. Dothe described the location of the site, existing conditions and development proposal. Mr. Dothe described proposed layout, floor plan and operations plans.



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Mr. Dothe explained the proposed signage. He testified that the Applicant proposes to retain the existing awning sign and replace the text and logos. The Applicant also proposes painted window sign along the front of the building. Mr. Dothe agreed on behalf of the Applicant to obtain any necessary licenses from the City for encroachments of the awning sign and/or bay window into the public right of way.

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 described the location of the site, existing conditions and development proposal. He explained site payout, circulation, access, signage and parking.

Mr. Barnhart testified that the site is extremely small and there is limited opportunity to modify the existing building. He noted that the Applicant has a licensing agreement with the City for the use of the designated loading space along Mississippi Avenue, as well as the alley between Mississippi Avenue and Atlantic Avenue. He testified that the alley will be monitored by video cameras from all angles.

Mr. Barnhart testified that 3 on-site parking spaces are required for the cannabis use. The lack of on-site parking for the residential unit is an existing non-conforming condition that is not exacerbated by the development proposal.

He testified that the Applicant has a lease for 4 parking spaces at the nearby B & B Parking facility for use by the Applicant's employees. Upon questioning, Mr. Barnhart agreed on behalf of the Applicant to secure alternative parking or return to the Authority for additional approvals in the event that the lease with B & B Parking is terminated. He testified that there is adequate public parking in the vicinity of the site to serve the development proposal.

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 the following variances pursuant to N.J.S.A. 40:55D-70(c):

- A variance to permit 0 on-site parking spaces where a minimum of 3 on-site parking spaces are required.
- A variance to permit an awning sign where awning signs are not permitted.

Mr. Barnhart 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 4 off-site parking spaces at the B & B Parking lot, as well as available public parking in the vicinity of the site.



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With respect to signage, Mr. Barnhart noted that this is an existing conditions previously installed as part of an Authority Special Improvement District Project. Mr. Barnhart opined that the approval of the application for development would advance the purposes of the Municipal Land Use Law (the "MLUL") by promoting the repurposing of an existing vacant building. 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.

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 July 12, 2024 and obtaining any necessary licenses from the City for encroachments into the public right of way.

### **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**

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



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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 the following variances pursuant to N.J.S.A. 40:55D-70(c):

- A variance to permit 0 on-site parking spaces where a minimum of 3 on-site parking spaces are required.
- A variance to permit an awning sign where awning signs are not permitted.

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 4 off-site parking spaces at the B & B Parking lot, as well as available public parking in the vicinity of the site.

With respect to signage, this is an existing conditions previously installed as part of an Authority Special Improvement District Project. The evidence and testimony demonstrate that the approval of the Application would advance the purposes of the MLUL by promoting the public health, safety and welfare (Purpose A) by promoting the repurposing of an existing vacant building.

### 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 variances 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 variances 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



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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, 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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