

# City of Atlantic City

## LAND USE APPLICATION

City of Atlantic City: (Check where applicable)



### AC Planning Division Jurisdiction

City of Atlantic City Planning Board  
1301 Bacharach Boulevard  
City Hall-Suite 508  
Atlantic City, NJ 08401  
609-347-5404

CRDA: (Check where applicable)



### NJ CRDA LURED Jurisdiction

Casino Reinvestment Development Authority  
15 S Pennsylvania Avenue  
Atlantic City, NJ 08401  
609-347-0500

### To be completed by staff only.

Date Filed 6/20/22  
Application Fees: \$300.00

Application No. 2022-06-3220  
Escrow Deposit \$3000.

Scheduled for:

Review for Completeness \_\_\_\_\_ Hearing: \_\_\_\_\_

### 1. SUBJECT PROPERTY

Location: 3112 - 3114 Atlantic Ave  
Tax Map Page \_\_\_\_\_ Block 182 Lot(s) 4  
Page \_\_\_\_\_ Block \_\_\_\_\_ Lot(s) \_\_\_\_\_  
Page \_\_\_\_\_ Block \_\_\_\_\_ Lot(s) \_\_\_\_\_

Dimensions Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Total Area \_\_\_\_\_

Zoning District CBD

### 2. APPLICANT

Name Legal Distribution LLC  
Email mbd100@aol.com  
Address 533 New Jersey Ave Atlantic  
Telephone Number 609-333-4987  
Applicant is a: Corporation ☒ Partnership ☐ Individual ☐  
LLC

### 3. If Owner is other than the applicant, provide the following information on the Owner(s):

Owner's Name 3112 Atlantic Ave Holdings LLC  
Email mbd100@aol.com  
Address 302 N. Douglas Ave Margate NJ 08402  
Telephone Number 609-333-4987

#### 4. DISCLOSURE STATEMENT

Pursuant to N.J.S 40:55D-48.1 [Application by corporation or partnership; list of stockholders owning 10% of stock or 10% interest in partnership.] Disclosure of owners of organization and property subject to application. [A corporation or partnership applying to a governing body of a municipality]Any organization making an application for development under this act [for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of 25 or more family units or for approval of a site to be used for commercial purposes] shall list the names and addresses of all members, stockholders or individual partners (collectively, "interest holders") [owning at least 10% of its stock of any class or at least 10% of the interest in the partnership], including any other organization holding at least a 10% ownership interest in the organization, and shall also identify the owner of the property subject to the application, including any organization holding at least a 10% ownership interest in the property [as the case may be]. In accordance with 40:55D-48.2 [Disclosure of 10% ownership interest of corporation or partnership which is 10% owner of applying corporation or partnership.] Listing of names and addresses of interest holders of applicant and owner organization. If [a corporation or partnership] an organization owns an interest equivalent to 10% or more of another organization the stock of a corporation, or 10% or greater interest in a partnership, subject to the disclosure requirements hereinabove described, [pursuant to section 1 of this act that organization shall list the names and addresses of its interest holders holding 10% or greater interest in the [partnership, as the case may be, and] organization. [This requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the stockholders and individual partners, exceeding the 10% ownership criterion established in this act, have been listed.] In accordance with recently added 40:55D-48.3 Disclosure of all officers and trustees of a non-profit organization. A non-profit organization filing an application for development under this act shall list the names and addresses of all officers and trustees of the non-profit organization. In accordance with 40:55D-48.4 [Failure to comply with act; disapproval of application.] Approval of application. a. No municipal planning board, board of adjustment or [municipal] governing body shall approve the application of any [corporation or partnership] organization or non-profit organization which does not comply with this act. Any approval not in compliance with this act shall be voidable in a proceeding in lieu of prerogative writ in the Superior Court. b. Any party, including any member of the public, may institute a proceeding in lieu of prerogative writ in the Superior Court to challenge any PROPOSED AMENDMENTS TO MUNICIPAL LAND USE LAW approval granted by a municipal planning board, board of adjustment or governing body on the grounds that such action is void for the reasons stated in subsection a. of this section, and if the court shall find that the approval was not in compliance with this act, the court may declare the approval to be void. In accordance with 40:55D-48.5 [Concealing names of owners;] Organization or non-profit organization failing to disclose; fine. Any [corporation or partnership which conceals] organization or nonprofit organization failing to disclose in accordance with this act, [the names of stockholders owning 10% or more of its stock, or of individual partners owning a 10% or greater interest in the partnership, as the case may be,] shall be subject to a fine of \$1,000 to \$10,000, which shall be [recovered] recoverable in the name of the municipality in any court of record in the State in a summary manner pursuant to the "Penalty Enforcement Law" (N.J.S.A. 2A:58-1 et seq.).



|      |                     |         |                                |          |            |
|------|---------------------|---------|--------------------------------|----------|------------|
| Name | <u>Low Freedman</u> | Address | <u>202 N. Dwyer Ave Mezate</u> | Interest | <u>25%</u> |
| Name | <u>Rachon White</u> | Address | <u>10 Timberwind Drive BHT</u> | Interest | <u>11</u>  |
| Name | <u>Holly Greh</u>   | Address | <u>707 15th St Abrecon</u>     | Interest | <u>11</u>  |
| Name | <u>Jason Lentz</u>  | Address | <u>1523 Emerson Ave AC</u>     | Interest | <u>11</u>  |
| Name | _____               | Address | _____                          | Interest | _____      |

##### 5. PROPERTY INFORMATION:

Restrictions, covenants, easements, association by-laws, existing or proposed on the property:

Yes [attach copies] \_\_\_\_\_ No ✓ Proposed \_\_\_\_\_

Present use of the premises: Call center + Two vacant floors

Note: All deed restrictions, covenants, easements, association bylaws, existing and proposed must be submitted for review and must be written in easily understandable English in order to be approved.

##### 6. Applicant's Attorney

Daniel J. Gallagher

Email d.gallagher@djgallagherac1.com

Address 336 N. 4th Ave AC NJ 08901

Telephone Number 609-541-4856

FAX Number 609-541-4871

##### 7. Applicant's Engineer

Colliers - Tim Kerner

Email \_\_\_\_\_

Address 2000 Myrtle Drive Suite 100 Mt Laurel NJ 08054

Telephone Number 856-777-0412

FAX Number \_\_\_\_\_

##### 8. Applicant's Planning Consultant

Architect - William McLees

Email wmclees@wmacarch.net

Address 5 MacArthur Blvd Somerset NJ 08854

Telephone Number 609-727-0888

FAX Number \_\_\_\_\_

##### 9. Applicant's Traffic Engineer

N/A

Email \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

FAX Number \_\_\_\_\_

10. List any other **Expert** who will submit a report or who will testify for the Applicant: [Attach additional sheets as may be necessary]

Name Collins - Tim Korman + William Mcleer

Field of Expertise \_\_\_\_\_

Email \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

FAX Number \_\_\_\_\_

**11. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:**

SUBDIVISION:

\_\_\_\_\_ Administrative Review of Minor Subdivision Plan

\_\_\_\_\_ Administrative Review of Major Subdivision Plan

\_\_\_\_\_ Minor Subdivision Approval

\_\_\_\_\_ Major Subdivision Approval [Preliminary]

\_\_\_\_\_ Major Subdivision Approval [Final]

Number of lots to be created \_\_\_\_\_ Number of proposed dwelling units \_\_\_\_\_  
(including remainder lot) (if applicable)

SITE PLAN:

\_\_\_\_\_ Administrative Review of Minor Site Plan

\_\_\_\_\_ Administrative Review of Major Site Plan

\_\_\_\_\_ Minor Site Plan Approval

\_\_\_\_\_ Major Preliminary Site Plan Approval [Phases (if applicable) \_\_\_\_]

\_\_\_\_\_ Major Final Site Plan Approval [Phases (if applicable) \_\_\_\_]

\_\_\_\_\_ Amendment or Revision to an Approved Site Plan

Area to be disturbed (square feet) \_\_\_\_\_

Total number of proposed dwelling units \_\_\_\_\_

☒ Request for Waiver From Site Plan Review and Approval

Reason for request: NO SITE IMPROVEMENTS PROPOSED

MISC:

\_\_\_\_\_ Administrative Review

\_\_\_\_\_ Appeal decision of an Administrative Officer [N.J.S. 40:55D- 70a]

\_\_\_\_\_ Map or Ordinance Interpretation of Special Question [N.J.S. 40:55D-70b]

\_\_\_\_\_ Variance Relief (hardship) [N.J.S. 40:55D-70c(1)]

\_\_\_\_\_ Variance Relief (substantial benefit) [N.J.S. 40:55D-70c(2)]

☒ Variance Relief (use) [N.J.S. 40:55D-70d]

\_\_\_\_\_ Conditional Use Approval [N.J.S. 40:55D-67]

\_\_\_\_\_ Direct issuance of a permit for a structure in bed of a mapped street, public drainage way, or flood control basin [N.J.S. 40:55D-34]

\_\_\_\_\_ Direct issuance of a permit for a lot lacking street frontage [N.J.S. 40:55D-35]

12. Section(s) of Ordinance from which a variance is requested and justification for said request: [attach additional pages as needed] Child 5 microbusiness / Superstore  
is requested

13. **Waivers Requested** of Development Standards and/or Submission and justification for request.

Requirements: [attach additional pages as needed] \_\_\_\_\_

14. Attach a copy of the Notice to appear in the official newspaper of the municipality and to be mailed to the owners of all real property, as shown on the current tax duplicate, located within the State and within 200 feet in all directions of the property, which is the subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable.

The publication and the service on the affected owners must be accomplished at least 10 days prior to the date scheduled by the Administrative Officer for the hearing. An affidavit of service on all property owners and a proof of publication must be filed before the application will be complete and the hearing can proceed.

15. Explain in detail the exact nature of the application and the changes to be made at the premises, including the proposed use of the premises:

[attach pages as needed] Convert Vacant 2<sup>nd</sup> Floor to  
Child 5 micro business / Superstore

16. Is a public water line available? Yes

17. Is public sanitary sewer available? Yes

18. Does the application propose a well and septic system? NO

19. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate lot and block numbers? NO

20. Are any off-tract improvements required or proposed? NO

21. Is the subdivision to be filed by Deed or Plat? NO

22. What form of security does the applicant propose to provide as performance and maintenance guarantees? N/A



23. Other approvals, which may be required and date plans submitted:

|   | Yes   | No       | Date Plans Submitted |
|---|-------|----------|----------------------|
| Atlantic City Municipal Utilities Authority | _____ | <u>X</u> | _____                |
| Atlantic County Health Department           | _____ | <u>X</u> | _____                |
| Atlantic County Planning Board              | _____ | <u>X</u> | _____                |
| Atlantic County Soil Conservation Dist.     | _____ | <u>X</u> | _____                |
| NJ Department of Environmental Protection   | _____ | <u>X</u> | _____                |
| Sewer Extension Permit                      | _____ | <u>X</u> | _____                |
| Sanitary Sewer Connection Permit            | _____ | <u>X</u> | _____                |
| Stream Encroachment Permit                  | _____ | <u>X</u> | _____                |
| Waterfront Development Permit               | _____ | <u>X</u> | _____                |
| Wetlands Permit                             | _____ | <u>X</u> | _____                |
| Tidal Wetlands Permit                       | _____ | <u>X</u> | _____                |
| Potable Water Construction Permit           | _____ | <u>X</u> | _____                |
| Other                                       | _____ | <u>X</u> | _____                |
| NJ Department of Transportation             | _____ | <u>X</u> | _____                |
| Public Service Electric & Gas Company       | _____ | <u>X</u> | _____                |
| _____                                       | _____ | <u>X</u> | _____                |

24. Certification from the Tax Collector that all taxes due on the subject property have been paid.

25. List of Maps, Reports and other materials accompanying the application (attach additional pages as required for complete listing).

| Quantity | Description of Item                                  |
|----------|--|
| <u>5</u> | <u>Floor plan, Architectural Plan, Security Plan</u> |
| _____    | <u>to be supplied</u>                                |
| _____    | _____  |

26. The Applicant hereby requests that copies of the reports of the professional staff reviewing the application be provided to the following of the applicant's professionals:

Specify which reports are requested for each of the applicant's professionals or whether all reports should be submitted to the professional listed.

Applicant's Professional Reports Requested \_\_\_\_\_

Attorney \_\_\_\_\_

Engineer \_\_\_\_\_

**CERTIFICATIONS**

27. I Louis Friedma certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation or that I am a general partner of the partnership applicant.

[If the applicant is a corporation, this must be signed by an authorized corporate officer. If the applicant is a partnership, this must be signed by a general partner.]

Sworn to and subscribed before me this

14 day of June, 20 22

Colleen J Higgins  
NOTARY PUBLIC  
COLLEEN JO HIGGINS  
A Notary Public of New Jersey  
My Commission Expires January 18, 2024

[Signature]  
SIGNATURE OF APPLICANT

28. I certify that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant.

[If the owner is a corporation, this must be signed by an authorized corporate officer. If the owner is a partnership, this must be signed by a general partner.]

Sworn to and subscribed before me this

14 day of June, 20 22

Colleen J Higgins  
NOTARY PUBLIC  
COLLEEN JO HIGGINS  
A Notary Public of New Jersey  
My Commission Expires January 18, 2024

[Signature]  
SIGNATURE OF OWNER

29. I understand that the sum of \$ 3,000 has been deposited in an escrow account (Builder's Trust Account). In accordance with Land Use Fees and Escrow Deposit Requirements, I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and other expenses associated with the review of submitted materials and the publication of the decision by the Board. Sums not utilized in the review process shall be returned. If additional sums are deemed necessary, I understand that I will be notified of the required additional amount and shall add that sum to the escrow account within fifteen (15) days.

June 14, 2022  
Date

[Signature]  
SIGNATURE OF APPLICANT

## NARRATIVE

The proposed property owners are requesting a use variance for a micro dispensary at 3112-3114 Atlantic Avenue, Atlantic City, New Jersey. The proposed use as micro dispensary of recreational marijuana is not defined as a legal use as in the subject zone although under the control of the CRDA. However, the requested use is a permitted use according to recent legislation passed. The operating LLC of the property is a recognized minority entity in the State of New Jersey.

A cursory review of the case law and facts indicates the positive impacts far outweigh the negative criteria. The subject site has plenty of parking and was formerly operated as an office building and retail. The first floor of the property has been vacant for a long time. The applicant plans on cleaning the premises, providing a new design, providing lighting and maintaining the property which would include 24/7 security until the above referenced issues are fully addressed.

Although only a subsection a. of N.J.S. 40:55D-2 refers to the "general welfare," meeting any of the other purposes listed in that section has been consistently construed as serving the general welfare. However, as the Court in *Kohl v. Mayor and Council of Fair Lawn*, 50 N.J. 268, 279-280 (1967) made clear "there must be a finding that the general welfare is served because the use is peculiarly fitted to the particular location for which the variance is sought. [citations omitted]. This is so because nearly all lawful uses of property promote, in greater or lesser degree, the general welfare." This requirement has been consistently reiterated by New Jersey courts, most notably by *Medici v. BPR, Co.*, 107 N.J. 1, 4 (1987). See Also *Stop & Shop v. Springfield Tp. Bd. Of Adj.*, 162 N.J. 418, 431 (2000); *New Brunswick Cellular v. Bd. Of Adj.* 160 N.J. 1,6 (1999); *Smart SMR v. Fair Lawn Bd. Of Adj.*, 152 N.J.309, 323 (1998); *Burbridge v. Mine Hill Tp.*, 117 N.J. 376, 386 (1990); *Saadala v. E Brunswick Zoning Bd.*, 412 N.J. Super. 541, 550-551 (App. Div. 2010); *Saddle Brook Realty v. Saddle Brook Zoning Bd. Of Adj.*, 388 N.J. Super. 67, 76 (App. Div. 2006). See discussion of the site suitability component of the positive criteria at 32-4.1. Also note there the discussion of whether the site suitability test applies or should apply inherently beneficial uses.

The general welfare purpose is frequently found to be promoted by uses deemed "inherently beneficial," such as hospitals and schools. See further discussion at 32-5.

Although not set forth as a specific purpose of zoning as it had been in the prior zoning law (N.J.S. 40:55-32), the Supreme Court has stated that the preservation of the character of a neighborhood and conservation of neighborhood values are still proper zoning purposes, relying particularly on the general welfare purpose, as well as N.J.S. 40:55D-2e and i. *Home Builders League of So. Jersey, Inc. v. Tp. Of Berlin*, 81 N.J. 127, 145 (1979).

Promotion of a State policy has also been held to advance the general welfare and thus serve as the basis for the grant of a use variance. *Anfuso v. Seeley*, 243 N.J. Super. 349 (App. Div.1990). The subject request promotes a use approved by the State, cleans a formerly vacant property which makes the neighborhood safer and cleaner and provides a significant ratable to the tax base. Hence, the Petitioner respectfully suggests that the suggested use is a vast improvement over the lack of activities at this location.



**ESCROW SETUP INFORMATION**

The Information below is necessary to initially set up your Escrow Account.

Applicant's Name: Legal Distribution LLC

Applicant's Address: 3112-3114 Atlantic Ave AC NJ

\*Applicant's Signature: \_\_\_\_\_

Applicant's Phone No.: 609-335-4987

Applicant's Email Address: mbd104@aol.com

Applicant's Date of Birth: \_\_\_\_\_

Tax Identification or Social Security Number: 88-1232217

Assigned Escrow #: \_\_\_\_\_

Should you require assistance or have any questions, please do not hesitate to contact:

**Atlantic City Planning:**

Lisa D'Alessandro, Board Secretary  
City of Atlantic City Planning  
1301 Bacharach Boulevard  
City Hall-Suite 508  
Atlantic City, NJ 08401  
Email: LDAlessandro@cityofatlanticcity.org  
609-347-5404

**CRDA:**

Loreta Acevedo, Project Officer  
Casino Reinvestment Development Authority  
15 S Pennsylvania Avenue  
Atlantic City, NJ 08401  
Email: lacevedo@njcrda.com  
609-347-0500