



Principals

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July 5, 2022

Lance B. Landgraf, Jr., P.P., AICPM
Casino Reinvestment Development Authority
Division of Land Use and Regulatory Enforcement
15 S Pennsylvania Avenue
Atlantic City, NJ, 08401

Re: Land Use Application
Everest Dispensary LLC
1226 Atlantic Avenue (Block 141, Lot 2 & 4)
Atlantic City, NJ, 08401
ARH File: 24-10060

Dear Mr. Landgraf:

ARH ASSOCIATES has received the above captioned Application for review. Applicant seeks Minor Site Plan Approval and Use Variance relief to permit an adult use cannabis retail store and adult use cannabis consumption lounge.

The Use Variance is as follows:

1. From NJAC 19:66-5.10(a)1i., General Use Limitations – no adult use cannabis retail store and adult use cannabis consumption lounge explicitly permitted in this zoning district.

Block 141, Lot 2 & 4 is located in Atlantic City's Resort Commercial (RC) Zoning District.

It is proposed that the existing building will remain the same with no changes. The parking lot is reducing the number of spaces from the required 14 to 12, consisting of 11 regular spaces and one (1) handicap space. The applicant requests a use variance to an adult use cannabis retail store and cannabis consumption lounge as well as bulk variance relief from the parking requirements.

This report consists of a review of the Subject Application for conformance with Casino Reinvestment Development Authority checklists. Comments are limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing on this matter.

I. OWNER & APPLICANT INFORMATION

OWNER

1226 Atlantic Avenue LLC
113 Marlin Lane, Mays Landing, NJ 08330
seagravesra@aol.com
1-609-517-3698

ARH Associates

Corporate Headquarters – 215 Bellevue Avenue – PO Box 579 – Hammonton, NJ 08037 – 609.561.0482 – fax 609.567.8909
Bloomfield Office – 2 Broad Street – Suite 602 – Bloomfield, NJ 07003 – 973.337.8562 – fax 973.337.8876

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Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 2

APPLICANT

Everest Dispensary LLC
 330 Changebridge Road, Suite #101, Pine Brook, NJ 07058
mkgill@ymail.com
 1-805-252-3876
 Cooper Levenson
 1125 Atlantic Avenue, 3rd Floor
 Atlantic City, NJ 08401
 609-572-7544
ntalvacchia@cooperlevenson.com

II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Cover Letter From Applicant’s Attorney	Applicant’s Attorney Cooper Levenson	06/15/2022	
CRDA Land Use Application	Owner / Applicant	Not Dated	
Minor Site Plan Checklist, “c” & “d” Variance Checklists	Arthur W. Ponzio Co. & Associates, Inc.	06/15/2022	
Variance Plan	Arthur W. Ponzio Co. & Associates, Inc.	06/08/2022	
Survey	Arthur W. Ponzio Co. & Associates, Inc.	06/08/2022	
200’ Property Owners List	City of Atlantic City	04/18/2022	
Certification of Payment of Taxes	City of Atlantic City	05/18/2022	
Escrow Setup	Applicant	Not dated	

III. VARIANCE

The following addresses conformance with the CRDA’s list of Required Application items for “c” & “d” Variance Checklists (Forms #12 & #11) and does not reflect adequacy of submissions for review purposes. The correct number of copies are assumed to have been submitted. Column entries reflect **ARH’s** review of Applicant’s submissions.

“c” Variance Checklist (Form #12)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
1	Completed Land Use Application Form	X		
2	Payment of Required Application and Escrow Fees (19:66-4.3)	X		
3	Name and address, email address of property owner and applicant.	X		
4	Proof of real estate taxes and other assessments paid.	X		
5	Name, signature, license number, seal and address of each professional consultant, as	X		

Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 3

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
	applicable, involved in preparation of required documents.			
6	Color Photographs of site from four (4) different viewpoints.	X		
7	Project narrative describing existing conditions, surrounding uses and the proposed development including list of "c" variance(s) and design waiver relief sought, if applicable.	X		
8	Title block denoting type of application, tax map sheet, project address, block and lot, and street location.	X		
9	Proof of ownership of property. (Report of title, copy of deed AS FILED with the Atlantic County Clerk's Office, affidavit or other documentation evidencing ownership.)	X		
10	Consent of property owner to applicant to development project.	X		
11	Zoning Schedule listing: Use, lot area, lot width, lot depth, yard setbacks, floor area ratio, density, building coverage, building height and parking requirements, including existing and proposed with conformity status of each.	X		
12	Certified List of Property Owners within 200' Radius of the subject property by City of Atlantic City Tax assessor's Office.	X		
13	Public Notice in compliance with NJSA 40:55D-12.	TBP		
14	North arrow, scale and graphic scale.	TBP		
15	Signature blocks for Hearing Officer, Land Use Regulation Enforcement Officer, Engineer and Planner.	X		
16	Key map(s) at a legible scale showing location of property with existing structures, uses, streets, public right of ways, municipal boundaries, public parks, beaches, environmental sensitive areas, zoning district boundaries within 200 feet of the subject property. Property tax lots within 200 feet of the subject property taken from the most recent municipal tax map records.	X		
17	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	N/A		
18	List of development stages or phases, if any.	N/A		

Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 4

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
19	List of approvals or permits required by other regulatory authorities having jurisdiction and the status of same.	X		
20	Land Title Survey and topographic survey depicting existing conditions prepared by New Jersey licensed professional land surveyor. All elevations shall be based on NAVD 1988. The horizontal datum shall on the NJ State Plane Coordinate System (NAD 1983) Survey shall include all existing conditions, including buildings, structures, parking areas with parking space striping, driveways, walkways, fences, stoops, stairs, porches, easements, walls, patios, curbs, roof overhangs, overhead wires, bay windows, building setbacks of building on-site and adjoining the site, landscape areas, trees, utility poles, flag poles, directional and identification signs, spot elevations, contours in one foot intervals, FEMA Flood Zone, State Claim areas, utility poles, utilities such as water, sanitary sewer, storm sewer, electric, gas, cable, telephone, etc. Improvements in adjoining right-of-ways / roadways / streets including painted traffic markings.	X		
21	Site Plan depicting proposed buildings, structures, existing and proposed building setbacks, landscape areas, location of identification signage and directional signs, trash enclosure, building setback lines (dashed) and their dimensions from the property lines, parking area plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.	X		
22	Preliminary architectural plan and elevations, and areas and type of each proposed use.	N/A		
23	Electronic copy of the full application including: application, photos, maps, reports, plans and other exhibits in pdf format. Maximum size of file(s) 4 MB.	X		

Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 5

"d" Variance Checklist (Form #11)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
1	Completed Land Use Application Form	X		
2	Payment of Required Application and Escrow Fees (19:66-4.3)	X		
3	Name and address, email address of property owner and applicant.	X		
4	Proof of real estate taxes and other assessments paid.	X		
5	Name, signature, license number, seal and address of each professional consultant, as applicable, involved in preparation of required documents.	X		
6	Narrative presenting justification for the "d" Variance relief sought that includes a statement of legal basis for granting of variance which must include: a) A list and explanation of the specific special reason(s) demonstrating that the proposed variance relief would not cause detriment to the intent and purpose of the municipality's zone plan and zoning regulations. b) Explanation of how requested variance would be consistent with goals and provisions of the Master Plan. c) Reasons why proposed development would pose no substantial harm to surrounding properties or the municipality in general.	X		
7	Color Photographs of site from four (4) different viewpoints.	X		
8	Project narrative describing existing conditions, surrounding uses and the proposed development including list of "c" variance(s) and design waiver relief sought, if applicable.	X		
9	Title block denoting type of application, tax map sheet, project address, block and lot, and street location.	X		
10	Proof of ownership of property. (Report of title, copy of deed AS FILED with the Atlantic County Clerk's Office, affidavit or other documentation evidencing ownership.)	X		
11	Consent of property owner to applicant to development project.	X		
12	Zoning Schedule listing: Use, lot area, lot width, lot depth, yard setbacks, floor area ratio, density, building coverage, building height and parking	X		

Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 6

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
	requirements, including existing and proposed with conformity status of each.			
13	Certified List of Property Owners within 200' Radius of the subject property by City of Atlantic City Tax assessor's Office.	X		
14	Public Notice in compliance with NJSA 40:55D-12.	TBP		
15	North arrow, scale and graphic scale	TBP		
16	Signature blocks for Hearing Officer, Land Use Regulation Enforcement Officer, Engineer and Planner.	X		
17	Key map(s) at a legible scale showing location of property with existing structures, uses, streets, public right of ways, municipal boundaries, public parks, beaches, environmental sensitive areas, zoning district boundaries within 200 feet of the subject property. Property tax lots within 200 feet of the subject property taken from the most recent municipal tax map records.	X		
18	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	N/A		
19	List of development stages or phases, if any.	N/A		
20	List of approvals or permits required by other regulatory authorities having jurisdiction and the status of same.	X		
21	Land Title Survey and topographic survey depicting existing conditions prepared by New Jersey licensed professional land surveyor. All elevations shall be based on NAVD 1988. The horizontal datum shall on the NJ State Plane Coordinate System (NAD 1983) Survey shall include all existing conditions, including buildings, structures, parking areas with parking space striping, driveways, walkways, fences, stoops, stairs, porches, easements, walls, patios, curbs, roof overhangs, overhead wires, bay windows, building setbacks of building on-site and adjoining the site, landscape areas, trees, utility poles, flag poles, directional and identification signs, spot elevations, contours in one foot intervals, FEMA Flood Zone, State Claim areas, utility poles, utilities such as water, sanitary sewer, storm sewer, electric, gas, cable, telephone, etc. Improvements in adjoining right-	X		

Land Use Application
 Everest Dispensary LLC
 1226 Atlantic Avenue
 (Block 141, Lots 2 & 4)
 Atlantic City, NJ, 08401
 (ARH File: 24-10060)

Page 7

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Submitted	Waiver Required	Waiver recommended by Reviewer
	of-ways / roadways / streets including painted traffic markings.			
22	Site Plan depicting proposed buildings, structures, existing and proposed building setbacks, landscape areas, location of identification signage and directional signs, trash enclosure, building setback lines (dashed) and their dimensions from the property lines, parking area plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.	X		
23	Preliminary architectural plan and elevations, and areas and type of each proposed use.	N/A		
24	Electronic copy of the full application including: application, photos, maps, reports, plans and other exhibits in pdf format. Maximum size of file(s) 4 MB.	X		

IV. BULK REQUIREMENTS, RESORT COMMERCIAL DISTRICT (RC)

Standard	Required	Existing	Proposed	Complies?
Maximum Height (measured from BFE), Principal Structure (FT)	300	<i>Not Provided</i>	NC	NC
Maximum Height (measured from BFE), Accessory Structure (FT)	35	0	NC	C
Minimum Lot Area (SF)	7,500	9,405	NC	C
Minimum Lot Depth (FT)	150	150	NC	C
Minimum Lot Width (FT)	50	80	NC	C
Minimum Lot Frontage (FT)	50	80	NC	C
Maximum Building Coverage (%)	70	48	NC	C
Maximum Impervious Coverage (%)	80	100	NC	ENC
Minimum Front Yard (FT) – Atlantic Avenue	0	0.55	NC	C
Minimum Rear Yard	20	5.64	NC	ENC
Minimum Side Yard	0	0	NC	C
Floor Area Ratio	N/A	N/A	N/A	N/A
Open Space	N/A	N/A	N/A	N/A
Density	50	N/A	N/A	N/A
Parking	14	14	12	V

C = COMPLIES

N/A = NOT APPLICABLE

ENC = EXISTING NON-CONFORMING CONDITION

NC = NO CHANGE FROM EXISTING

V = VARIANCE REQUIRED

V. REVIEW OF PLANS

1. Variance Plan

a. Grading:

1. Applicant shall provide the finished floor elevation of the building.
2. Applicant shall provide the FEMA flood zone and base flood elevation, if applicable.
3. Applicant shall provide a graphic scale on the plans.

b. Utilities

1. Applicant shall confirm if any utility connections are proposed.

c. Parking:

1. Per NJAC 19:66-5.8(a) for retail uses, one (1) parking space is required for every 300 sq ft of floor space. 14 parking spaces are required, however 12 are proposed. A variance has been requested. It should be noted that 14 parking spaces are existing, so a reduction of two (2) spaces is proposed.

d. Miscellaneous:

1. Applicant shall discuss the hours of operation and general business operations.

COFONE CONSULTING REVIEW

Zoning Compliance

The property is located in the Resort Commercial (RC) District. As stated at CRDA Land Development Rules Section at N.J.A.C. 19:66-5.10, the purpose of the RC District is as follows:

The purpose of the RC Resort Commercial District is to provide an array of land uses that will capitalize on the zoning district's geographical advantages of the zoning district's proximity to the boardwalk and the Atlantic Ocean. The Resort Commercial District also offers the highest intensity residential offerings within the Tourism District with a variety of supportive commercial and services uses. The vision is to create an environment where residential and resort offerings seamlessly integrate.

An adult-use retail cannabis dispensary is not listed as a permitted use in the RC District, nor in any CRDA zone district, and therefore a d(1) use variance is required.

Master Plan Review

The subject property is located within the Atlantic City Tourism District. Pursuant to the New Jersey CRDA Atlantic City Tourism District Master Plan, the overall intention and vision is to "reinvigorate Atlantic City in the near-term as the leading resort destination in the Northeast and beyond (Page 4, New Jersey CRDA Atlantic City Tourism District Master Plan). Among others, overarching objectives are to "develop an economically viable and sustainable tourism district" and "[expand] Atlantic City's tourism and economic bases" (Id, Page 1-2).

Planning Analysis and Issues for Consideration by the Board

In regard to the "d(1)" variance, the Municipal Land Use Law (MLUL) at NJSA 40:55D-70.d sets forth the standards for variances from the use regulations of a zoning ordinance. A "d(1)" variance is required when an applicant submits an application for a use that is not permitted in the list of permitted uses within a specific zoning district. The applicant must satisfy the *Medici* proofs:

- Is the site particularly suited for the proposed use?
- Does the proposed use advance special reasons and further the purposes of the Municipal Land Use Law (MLUL)?
- Does the proposal substantially impair the purpose and intent of the master plan, zone plan, and zoning ordinance? Does the proposal satisfy the enhanced quality of proof that the variance sought is not inconsistent with the intent of the master plan and zoning ordinance, proof which must reconcile the proposed use variance with the

zoning ordinance's omission of the use from those permitted in the district?

- Can a variance for this use be granted without substantial detriment to the public good?

In regard to the “c” variance, the Municipal Land Use Law (MLUL) at NJSA 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance application also must address the “negative criteria.”

We offer the following for your consideration in reviewing the Application:

- 1) The Applicant shall provide such statutorily required testimony through a New Jersey licensed professional planner.
- 2) The Applicant’s professional planner should discuss the required use variance in the context of the site and the immediate area.
- 3) The Applicant shall provide detailed testimony on the operation of the business, with a specific focus on staffing, product storage, patron access, on-site product consumption, security, etc.
- 4) In conjunction with the parking variance request, the Applicant’s professional planner shall discuss anticipated parking demand for customers and staff.
- 5) The Applicant shall discuss any proposed aesthetic improvements to the building and site.
- 6) The Applicant shall comply with the conditions of all previous approvals received for the site.
- 7) The Applicant shall furnish any resolution and/or prior approvals from, and agreements with, the City of Atlantic City, if any.

Land Use Application
Everest Dispensary LLC
1226 Atlantic Avenue
(Block 141, Lots 2 & 4)
Atlantic City, NJ, 08401
(ARH File: 24-10060)

Page 11

POST APPROVAL CONSIDERATIONS

Should the Board grant the desired approval for this Application, Applicant, and/or its professionals must:

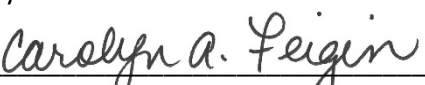
- A. Make all appropriate plan revisions as directed by the Board.**
- B. Obtain approvals from all outside agencies, if necessary.**
- C. Contact the Board Secretary to reconcile any outstanding review escrow accounts prior to Final Plan Certification, Signature, or the issuance of building permits, as applicable.**

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items. To facilitate the Board's decision-making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

Respectfully Submitted,

ARH ASSOCIATES

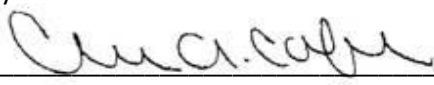
By



Carolyn A. Feigin, PE, PP
CRDA Consulting Engineer

COFONE CONSULTING GROUP

By



Christine A. Nazzaro-Cofone, AICP, PP
CRDA Consulting Planner