



**Principals**  
Richard Rehmann, GISP  
Chris Rehmann, PE, CME, PP, PLS  
Richard Heggan, PLS, PP  
Robert Heggan, PLS, PP

September 28, 2022

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

Re: Land Use Application  
SunnyTien LLC  
3004 Atlantic Avenue (Block 180, Lot 2)  
Atlantic City, NJ 08401  
ARH File: 24-10065

Dear Mr. Landgraf:

**ARH ASSOCIATES** has received the above captioned Application for review. The applicant is seeking bulk 'c' variance relief to permit 99.13% impervious coverage where only 80% is allowed. The applicant is also requesting approval for one (1) awning and one (1) wall sign where only one (1) awning or two (2) wall signs are permitted. In addition, the applicant is requesting 'd(1)' Use Variance approval for the adult use cannabis micro dispensary and consumption lounge, which are not explicitly permitted in the zoning district, per NJAC 19:66-5.12(a)1.i.

Testimony will be required in support of the requested bulk 'c' variances and the 'd(1)' Use Variance.

Block 180, Lot 2 is located in Atlantic City's Central Business (CBD) Zoning District. The site is not located within a Drug Free Zone. It is proposed that the existing building will remain with no changes and is intended to be used as a micro dispensary for cannabis and consumption lounge.

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 & APPLICANT**

SunnyTien LLC  
[tiennhan708@hotmail.com](mailto:tiennhan708@hotmail.com)  
205 N. Sovereign Avenue, Atlantic City, NJ  
609-271-8002

### **ARH Associates**

Corporate Headquarters – 215 Bellevue Avenue – PO Box 579 – Hammonton, NJ 08037  
Tinton Falls – 97 Apple Street – Tinton Falls, NJ 07724 | Bloomfield – 2 Broad Street – Bloomfield, NJ 07003  
tel 609.561.0482 – fax 609.567.8909

**[www.arh-us.com](http://www.arh-us.com)**

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## II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Cover Letter from Applicant's Attorney	Law Office of Daniel J. Gallagher, Esquire	8/15/2022	
CRDA Land Use Application	Owner / Applicant	Not Dated	
Cannabis "d" Variance Checklist	Applicant	Not Dated	
Variance Plan	Craig F. Dothé Architect LLC	07/07/2022	
Architectural Plan	Craig F. Dothé Architect LLC	07/07/2022	
Certification of Payment of Taxes	City of Atlantic City	Not Submitted	
Letter of Support from the Mayor or the City of Atlantic City	Mayor Marty Small, Sr.	Not Submitted	
Resolution of the City of Atlantic City	Council Member Marshall	08/12/2022	
Escrow Setup	Applicant	Not Dated	

## III. VARIANCES

The following addresses conformance with the CRDA's list of Required Application items for Cannabis "d" Variance Checklist (Form #13) 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.

### Cannabis "d" Variance Checklist (Form #13)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
1	Lease or agreement of sale identifying location.	X			Not Provided
2	Letter of Support from Mayor's Office.	X			Not Provided
3	Resolution from City Council endorsing location.	X	X		
4	Map demonstrating site is outside the DRUG FREE ZONE.	X			Not Submitted
5	Compliance with Atlantic City Ordinance #51 of 2021	X			Does not qualify as microbusiness
6	Completed Land Use Application	X	X		
7	Payment of Required Application and Escrow Fees (19:66-4.3)	X	X		
8	Name and address, email address of property owner and applicant.	X	X		
9	Proof of real estate taxes and other assessments paid.	X		X	
10	Name, signature, license number, seal and address of each professional consultant as	X	X		

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
	applicable, involved in preparation of required documents.				
11	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	X		
12	Color Photographs of the site from four (4) different viewpoints.	X	X		
13	Project narrative describing existing conditions, surrounding uses and the proposed development including a list of “c” variance(s) and design waiver relief sought, if applicable.	X	X		
14	Title block denoting type of application, tax map sheet, project address, block and lot, and street location.	X	X		
15	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			Not Submitted
16	Consent of property owner to applicant to development project.	X	Owner is Applicant		
17	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	X		
18	Certified List of Property Owners within 200’ Radius of the subject property by City of Atlantic City Tax assessor’s Office.	X	TBP		
19	Public Notice in compliance with NJSA 40:55D-12.	X	TBP		
20	North arrow, scale and graphic scale.	X			Not Provided

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
21	Signature blocks for Hearing Officer, Land Use Regulation Enforcement Officer, Engineer and Planner.	X	X		
22	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	X		
23	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X	N/A		
24	List of development stages, if any.	X	N/A		
25	List of approvals or permits required by other regulatory authorities having jurisdiction and the status of same.	X	N/A		
26	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			Not Submitted

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ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
27	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	X		
28	Preliminary architectural plan and elevations, and areas and type of each proposed use.	X	X		
29	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	X		

#### IV. BULK REQUIREMENTS, COMMERCIAL BUSINESS DISTRICT (CBD)

Standard	Required	Existing	Proposed	Complies?
Maximum Height (measured from BFE), Principal Structure (FT)	65	26	NC	C
Maximum Height (measured from BFE), Accessory Structure (FT)	35	0	NC	C
Minimum Lot Area (SF)	5,000	8,475	NC	C
Minimum Lot Depth (FT)	100	113	NC	C
Minimum Lot Width (FT)	50	75	NC	C
Minimum Lot Frontage (FT)	50	75	NC	C
Maximum Building Coverage (%)	30	48.27	NC	ENC
Maximum Impervious Coverage (%)	80	100	99.13	V
Minimum Front Yard (FT) – Dr. Martin Luther King Jr. Boulevard	5	10	NC	C
Minimum Rear Yard	20	No Rear Yard	N/A	N/A
Minimum Side Yard	0	2.5	NC	C
Floor Area Ratio	N/A	N/A	N/A	N/A
Open Space	N/A	N/A	N/A	N/A
Density	25	N/A	N/A	N/A
Parking per CRDA	17	11	NC	ENC
Parking Per Ordinance 51	10	11	NC	C

**C = COMPLIES**

**ENC = EXISTING NON-CONFORMING CONDITION**

**V = VARIANCE REQUIRED**

**N/A = NOT APPLICABLE**

**NC = NO CHANGE FROM EXISTING**

## **V. REVIEW OF PLANS**

### **1. Site Plan**

#### **a. Zoning:**

1. The current impervious coverage is 100%, while only 80% is allowed in the zoning district. 99.13% impervious coverage is proposed, a variance has been requested.
2. The application states the site is in the Central Business District, while the site plan indicates that the property is in the Resort Commercial district. The zoning analysis table on the cover sheet shall be revised to the CBD and the zoning map on page 2 of the site plan shall be updated to properly reflect the site.

#### **b. Parking:**

1. The applicant has calculated 17 required parking spaces to comply with the parking demand per NJAC 19:66-5.8(b)1, where one (1) parking space is required for every 300 SF of Retail space. The first floor totals 4,125 SF, therefore 13.7 (14) parking spaces are required. The applicant has indicated that an additional 3.3 parking spaces are required for employees (5 OCC/1.5 spaces). Therefore, a total of 17 parking spaces are required. The parking lot has an existing requirement of 17 spaces for the food market, however, only 11 shared parking spaces are existing, therefore, in both conditions, a 6-parking space deficiency is established. The applicant has also indicated that the second floor consists of 909.5 SF for storage and office purposes with no parking required; testimony shall be provided regarding the use and necessity for parking for this second floor space.
2. A handicap parking space is identified on the plan as stall #1, however no striping, signage or ramp is shown. Bollards are shown across the frontage of the parking area, which may cause a hindrance to unimpeded access to the entrance. ADA Compliance shall be demonstrated for the handicap parking space, including dimensions, grades and signage/striping. Details of any site improvements for ADA compliance shall be provided.

#### **c. Ordinance Number 51:**

1. It should be noted that as per the definition of a microbusiness of recreational cannabis in Ordinance 51 of the City Code, the establishment cannot occupy a space exceeding 2,500 SF. The proposed area for retail sales has an area of 4,125 SF per the Cover Sheet of the plan set. Applicant shall conform compliance with the definition of micro dispensary and the Class 5 license.
2. Applicant shall confirm if they have obtained a license for selling recreational cannabis from both the State of New Jersey and the City of Atlantic City.
3. Applicant shall submit a letter of support from the Mayor's office.

d. Landscaping:

1. A Landscaping Plan is required in accordance with NJAC 19:66-7.6. The Site Plan indicates that the concrete in the middle of the existing planter is to be removed and landscaping is to be provided. Details of the number and type of species shall be provided.

e. Lighting:

1. A Lighting Plan is required in accordance with NJAC 19:66-7.10. Testimony shall be provided regarding the existing lighting and adequacy of same.

f. Miscellaneous:

1. Applicant shall discuss the hours of operation, number of employees, number of shifts and general business operations, including the security plan. It shall be noted that a Security Plan is provided on Sheet 8 of the Plans, however, a narrative of same is required.
2. Applicant shall provide a north arrow and graphic scale on the site plans.

## **COFONE CONSULTING REVIEW**

### **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).

### **Zoning Review**

The property is located in the Central Business District (CBD) Zone. As stated at CRDA Land Development Rules Section at N.J.A.C. 19:66-5.12, the purpose of the CBD District is as follows:

The purpose of the CBD is to accommodate a mixture of land uses within an expansion area in generally the center of the Tourism District. The CBD contains the most intensive retail business uses within the Tourism District.

The engineering review portion of this letter lists the required variance relief.

### **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” variances, 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) While the Applicant has provided a “Security Plan” for both floors on the submitted Site Plan, a narrative plan is required. The Applicant shall provide testimony on the operation of the business, with a specific focus on staffing, product storage, patron access, on-site product consumption, security, etc. The Applicant shall provide details of the security gate and confirm that it will not be a roll down configuration. A Security Plan shall be submitted as a condition of approval.
- 4) There is an existing parking deficiency on the site that will not be exacerbated in conjunction with this Application. We note that there is ample on- and off-street parking available in the surrounding area.
- 5) The Applicant shall discuss all aesthetic improvements to the building and site.
- 6) The Site Plan shall be corrected to reflect the site’s zone, CBD, the zone’s requirements, and the Application’s compliance with same. We note that there are no proposed changes to the existing building footprint.



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- 7) The Applicant shall furnish testimony relative to the proposed sign package and the consistency with the purpose of NJAC 19-66:5.7(a).
- 8) A notation on the Site Plan shall be added, stating the class 5 "micro dispensary" for recreational marijuana use area in the existing building will not exceed 2,500 SF.
- 9) The Applicant shall comply with the conditions of all previous approvals received for the site.
- 10) The Applicant shall furnish any resolution and/or prior approvals from, and agreements with, the City of Atlantic City, if any.

**POST APPROVAL CONSIDERATIONS**

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

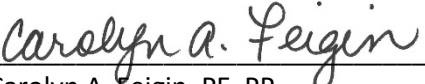
- A. Submit all required information listed above for review and approval.**
- B. Obtain approvals from all outside agencies, if necessary.**
- C. Contact the Board Secretary to reconcile any outstanding review escrow accounts prior to Final Plan Certification, Signature, or the issuance of building 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