COOPER LEVENSON
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NICHOLAS F. TALVACCHIA
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FILE NO. 61481/00001

December 29, 2022

Via Hand Delivery

Robert L. Reid, AICP, PP
Land Use Regulation Enforcement Officer
Casino Reinvestment Development Authority
15 South Pennsylvania Avenue
Atlantic City, New Jersey 08401

Re: MPX New Jersey, LLC
120, 122 and 124 St. James Place
Block 52, Lots 37, 38 and 39

Dear Mr. Reid:

We are the attorneys for the Applicant, MPX New Jersey, LLC (the "Applicant"). Enclosed please find an Amended Site Plan Application. Applicant requests minor site plan approval to allow retail sales for dispensing of medicinal cannabis and adult use retail sales of cannabis, including delivery at its permanent location located at 120, 122 and 124 St. James Place, Lots 37, 38 and 39 in Block 52 (the "Property") in accordance with the Green Zone Redevelopment Plan dated September, 2022, Ordinance #57 dated September 22, 2022 and CRDA Resolution #22-112 dated September 20, 2022 (collectively referred to as the "GZRP") and subject to the Class 5 retail license Applicant seeks to obtain from the State of New Jersey. Applicant also requests sign variance relief for ground sign setback (5 ft. is required and zero is proposed) and number of signs permitted (2 signs are permitted in the GZRP and 5 signs are proposed).

We are providing the following to the CRDA and its professionals. Enclosed please find:

1. Original and one (1) copy of the CRDA Land Use Application including Project Narrative;

2. Two (2) copies of the Minor Site Plan Checklist (Form #5);

3. Two (2) copies of the "c" Variance Checklist (form #12);

4. Two (2) copies of amended site plan prepared by Sciullo Engineering Services, LLC dated December 29, 2022, consisting of one (1) page;

5. Two (2) copies of the of redacted pages of the Lease between Owner and iAnthus New Jersey, LLC, the Sole Member of Applicant;

6. Two (2) copies of current color photographs;

7. Two (2) copies of Letter of Support from Mayor Mary Small, Sr., dated July 26, 2022;

8. Two (2) copies of Resolution No. 432 dated June 22, 2022, of the City of Atlantic City, Amending Resolution 331 of 2022 in support of suitability of cannabis business at the Applicant's temporary location on New York Avenue and Applicant's permanent location at the above referenced property;

9. One (1) copy of correspondence dated December 21, 2022 requesting the 200 foot property owners list;

10. One (1) copy of correspondence dated December 21, 2022 requesting proof taxes are paid on the subject site;

11. One (1) copy of the Escrow Setup Information form;

12. One (1) copy of Resolution No. 21-75 of CRDA granting property owner amended site plan approval with variances;

13. Flash drive with a digital copy of the submission; and

14. Checks in the amount of $550 and $4,200 for the amended site plan application and escrow fees, respectively.

Please review the enclosed information and contact me if you require additional information.

Thank you for your kind attention to this matter.

Very truly yours,

Cooper Levenson, P.A.

Nicholas F. Talvacchia

NFT/ln
Enclosures
cc: Scott G. Collins, Esquire *(w/Enclosures, via E-mail)*
Christine A. Nazzaro-Cofone, PP, AICP, Cofone Consulting Group, LLC *(w/ Enclosures, via E-mail)*
Justin Auciello, PP, AICP, Cofone Consulting Group, LLC *(w/ Enclosures, via E-mail)*
Carolyn Feigin, PE, PP, ARH Associates *(w/Enclosures, via E-mail)*
Atlantic City Planning Dept. *(w/ Enclosures, via Hand Delivery)*
Atlantic City Engineering Department *(w/ Enclosures via Hand Delivery)*
MPX New Jersey LLC *(w/ Enclosures, via E-mail)*
Jason T. Sciullo, PE, PP *(w/ Enclosures, via E-mail)*
CLAC 7023409.5

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_____ Application No._____
Application Fees: _____ Escrow Deposit_____

Scheduled for:
Review for Completeness _____ Hearing: _____

==========

1. SUBJECT PROPERTY

Location: 120, 122 and 124 St. James Place

Tax Map Page _____ Block 52 Lot(s) 37-39
Page _____ Block _____ Lot(s) _____
Page _____ Block _____ Lot(s) _____

Dimensions Frontage 110 sq. ft. Depth 75 sq. ft. Total Area 8,250 sq ft.

Zoning District RC

2. APPLICANT

Name MPX New Jersey, LLC
Email c/o ntalvacchia@cooperlevenson.com
Address 420 Lexington Avenue, Suite 414, New York, NY 10170
Telephone Number 609-412-0173
Applicant is a: Corporation ☐ Partnership ☐ Individual ☐

3. If Owner is other than the applicant, provide the following information on the Owner(s):
Owner's Name NJORANGEDEEDS, LLC
Email patfasano@verizon.net
Address 1005 Main St., Asbury Park, NJ 07712
Telephone Number 732-322-5523

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 iAnthus New Jersey, LLC Address 420 Lexington Avenue Interest _____
Name iAnthus Capital Managment, LLC Address Suite 414 Interest _____
Name iAnthus Capital Holdings, Inc. Address New York, NY 10170 Interest _____
Name _____ Address _____ Interest _____
Name _____ Address _____ Interest _____

5. PROPERTY INFORMATION:

Restrictions, covenants, easements, association by-laws, existing or proposed on the property:
Yes [attach copies]_____ No X Proposed_____
Present use of the premises: Premises under construction and in the process of being built.

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** Nicholas F. Talvacchia, Esquire
Email ntalvacchia@cooperlevenson.com
Address Cooper Levenson, P.A., 1125 Atlantic Avenue, Third Floor, Atlantic City, NJ 08401
Telephone Number 609-572-7544
FAX Number 609-572-7545

7. **Applicant's Engineer** Same as #8 below.
Email _____
Address _____
Telephone Number _____
FAX Number _____

8. Applicant's Planning Consultant Jason T. Sciullo, P.E. and P.P.
Email jsciullo@sciulloengineering.com
Address Sciullo Engineering Services, LLC, 137 S. New York Avenue, Suite 2, Atlantic City, NJ 08401
Telephone Number 609-300-5171
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 _____N/A_____

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

___X___ 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: _____

_____

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)]

___X___ 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] 19:66-5.7(j) and GZRP 5.1.2.D.7.q

13. **Waivers Requested** of Development Standards and/or Submission and justification for request.
Requirements: [attach additional pages as needed] N/A

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] See Project Narrative attached

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? Yes
20. Are any off-tract improvements required or proposed? N/A
21. Is the subdivision to be filed by Deed or Plat? N/A
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		X	
Atlantic County Health Department		X	
Atlantic County Planning Board		X	
Atlantic County Soil Conservation Dist.		X	
NJ Department of Environmental Protection		X	
Sewer Extension Permit		X	
Sanitary Sewer Connection Permit		X	
Stream Encroachment Permit		X	
Waterfront Development Permit		X	
Wetlands Permit		X	
Tidal Wetlands Permit		X	
Potable Water Construction Permit		X	
Other		X	
NJ Department of Transportation		X	
Public Service Electric & Gas Company		X	

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
2	Site plan prepared by Sciullo Engineering Services, LLC

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 All

Attorney All

Engineer All

CERTIFICATIONS

27. I Nicholas F. Talvacchia, Esquire 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.]

BRIANA M. SIMON
Commission # 50103179
Notary Public, State of New Jersey
My Commission Expires
April 18, 2024

Sworn to and subscribed before me this
29th day of December, 20 22

Briana M. Simon
NOTARY PUBLIC

SIGNATURE OF APPLICANT
Nicholas F. Talvacchia, Esquire, Attorney for 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.]

BRIANA M. SIMON
Commission # 50103179
Notary Public, State of New Jersey
My Commission Expires
April 18, 2024

Sworn to and subscribed before me this
29th day of Dececmber, 20 22

Briana M. Simon
NOTARY PUBLIC

SIGNATURE OF OWNER
Nicholas F. Talvacchia, Esquire, Attorney for Owner

29. I understand that the sum of $_____ 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.

December 29, 2022
Date

SIGNATURE OF APPLICANT
Nicholas F. Talvacchia, Esquire, Attorney for Applicant

PROJECT NARRATIVE
December 29, 2022

120, 122 and 124 St. James Place
Lots 37, 38 and 39 in Block 52
City of Atlantic City

MPX New Jersey, LLC (the "Applicant") requests minor site plan approval to allow retail sales for dispensing of medicinal cannabis and adult use retail sales of cannabis, including delivery at its permanent location located at 120, 122 and 124 St. James Place, Lots 37, 38 and 39 in Block 52 (the "Property") in accordance with the Green Zone Redevelopment Plan dated September, 2022, Ordinance #57 dated September 22, 2022 and CRDA Resolution #22-112 dated September 20, 2022 (collectively referred to as the "GZRP") and subject to the Class 5 retail license Applicant seeks to obtain from the State of New Jersey.

The Property is located within the Resort Commercial (RC) zoning district. The proposed use of retail sales for dispensing of medicinal cannabis, adult use retail sales of cannabis are a permitted use in accordance with the GZRP. Applicant is currently approved for retail sales for dispensing of medicinal cannabis and adult use retail sales of cannabis at its temporary location located at 153 S. New York Avenue, Units A & B (f/k/a 157-159 S. New York Avenue), Lot 7 in Block 52, City of Atlantic City.

Applicant is a tenant that will occupy commercial space on the first floor of the Property. The Property is a multi-family and mixed commercial use building.

Applicant further requests: (a) a sign variance for ground sign setback (5 ft. is required and zero is proposed); and (b) an additional sign variance for number of signs permitted (2 signs are permitted in the GZRP and 5 signs are proposed).

The Applicant also requests any other variances, waivers, exceptions or other relief that the Casino Reinvestment Development Authority, Division of Land Use and Regulatory Enforcement, deems necessary for this application.

15 South Pennsylvania Avenue

Atlantic City, NJ 08401

NJ CRDA – City of Atlantic City - Minor Site Plan Checklist (Form # 5)

(An Application for Development that does not exceed one acre in size, maximum building gross floor area of 10,000 square feet, a maximum of three stories and no more than twenty-five parking spaces)

REQUIRED APPLICATION ITEMS

Project Name: MPX New Jersey , LLC Application # _____

Prepared by: Jason T. Sciullo, P.E. and P.P. Title Principal Planner date 12/20/2022

Note : Five (5) copies of plans and supporting documents are required as the initial submission. Ten (10) copies of plans are required for final sign-off and distribution.

Item #	Description	REQUIRED	SUBMITTED	WAIVER REQUESTED BY APPLICANT	Waiver Recommended by Reviewer
1	Completed Land Use Application Form	X	X		
2	Payment of Required Application and Escrow Fees (19:66-3.4)	X	X		
3	Name and address, email address of property owner and applicant.	X	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	X		
6	Project narrative describing existing conditions, surrounding uses and the proposed development including list of variance and design waiver relief sought, if any.	X	X		
7	Title block denoting type of application, tax map sheet, project address, block and lot, and street location.	X	X		
8	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		X	
9	Consent of property owner to applicant to development project.	X	X		

10	FOR ADMINISTRATIVE REVIEW AND APPROVAL: Certification from Applicant's licensed professional that the development proposed meets all requirements and no variance or design waivers are requested. (19:66-4.6)	X	N/A		
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	X		
12	Certified List of Property Owners within 200' Radius of the subject property by City of Atlantic City Tax assessor's Office.	X	X		
13	Public Notice in compliance with NJSA 40:55D-12.	X	X		
14	North arrow, scale and graphic scale.	X	X		
15	Signature blocks for Hearing Officer, Land Use Regulation Enforcement Officer, Engineer and Planner.	X	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	X		
17	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		
18	List of development stages or phases, if any.	X		X Previously Provided	
19	List of approvals or permits required by other regulatory authorities having jurisdiction and the status of same.	X		X Previously Provided	

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, site lighting/fixtures, 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		X Previously Provided	
21	Stormwater management plans and drainage calculations. (19:66-7.5)	X	N/A	Not a major project pursuant to NJAC 7:8	
22	Site Plan depicting proposed buildings, structures, existing and proposed building setbacks, landscape areas, lighting / fixtures, lighting intensity, 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		
23	Grading plan depicting direction of flow of surface run-off, spot elevations, contours within 1 foot intervals, stormwater management structures	X		X Previously Provided	
24	Landscaping Plan, details and plant schedule (19:66-7.6)	X		X Previously Provided	
25	Lighting plan and details (19:66-7.10)	X		X Previously Provided	
26	Soil Erosion and Sediment Control Plan. (Required for soil disturbance of 5,000 sq. ft. or greater)	X		X Previously Provided	

27	Plans of proposed utility layouts including sanitary sewer, water, gas, telephone, cable and electricity and showing proposed connections to existing or any proposed utility systems.	X		X Previously Provided	
28	Road and paving cross-sections and profiles.	X		X Previously Provided	
29	Solid and liquid waste management plan.	X		X Previously Provided	
30	Vehicular and pedestrian circulation patterns, Traffic control signs, directional signs and Sight triangles	X		X Previously Provided	
31	Preliminary architectural plan and elevations, and areas and type of each proposed use.	X		X Previously Provided	
32	Estimate of costs of on-site and off-site improvements [19:66-3.4 (b)]	X	N/A		
33	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		
34	Performance guarantee [19:66-3.4 (b)]	X		X	
35	Maintenance guarantee (19:66-16.3)	X		X	
36	Inspection Fees (19:66-16.1)	X		X	

CRDA
www.njcrda.com

15 South Pennsylvania Avenue

Atlantic City, NJ 08401

NJ CRDA – City of Atlantic City – "c" Variance Checklist (Form #12)

REQUIRED APPLICATION ITEMS

Project Name: MPX New Jersey, LLC Application # _____

Prepared by: Jason Sciullo, P.E. and P.P. Title Principal Planner date 12/21/22

Note : Five (5) copies of plans and supporting documents are required as the initial submission. Ten (10) copies of plans are required for final sign-off and distribution.

Item #	Description	REQUIRED	SUBMITTED	WAIVER REQUESTED BY APPLICANT	Waiver Recommended by Reviewer
1	Completed Land Use Application Form	X	X		
2	Payment of Required Application and Escrow Fees (19:66-4.3)	X	X		
3	Name and address, email address of property owner and applicant.	X	X		
4	Proof of real estate taxes and other assessments paid.	X	X		
5	Name, signature, license number, seal and address of each professional consultant, as applicable, involved in preparation of required documents.	X	X		
6	Color Photographs of site from four (4) different viewpoints.	X	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	X		
8	Title block denoting type of application, tax map sheet, project address, block and lot, and street location.	X	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	X		
10	Consent of property owner to applicant to development project.	X	X		
11	Zoning Schedule listing: Use, lot area, lot	X	X		

	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.				
12	Certified List of Property Owners within 200' Radius of the subject property by City of Atlantic City Tax assessor's Office.	X	X		
13	Public Notice in compliance with NJSA 40:55D-12.	X	X		
14	North arrow, scale and graphic scale.	X	X		
15	Signature blocks for Hearing Officer, Land Use Regulation Enforcement Officer, Engineer and Planner.	X	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	X		
17	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X		X	
18	List of development stages or phases, if any.	X	X Previously Provided		
19	List of approvals or permits required by other regulatory authorities having jurisdiction and the status of same.	X	X Previously Provided		
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	X Previously Provided		

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.	X	X Previously Provided		
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	X		

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "**Lease**") is entered into and effective as of July 6, 2022 (the "**Effective Date**"), by and between **NYORANGEDEEDS, LLC** (the "**Landlord**"), a New Jersey limited liability company, with its principal business address located at 1005 Main Street, Asbury Park, NJ 07712 and **iAnthus New Jersey, LLC** (the "**Tenant**"), a New Jersey limited liability company, with its principal business address located at 420 Lexington Avenue, Suite 414, New York, NY 10170. Landlord and Tenant may be referred to individually as a "Party" or collectively as the "Parties".

FUNDAMENTAL LEASE PROVISIONS

[redacted]

(a) **Tenant's Name**: iAnthus New Jersey, LLC

(b) **Term**: One (1) initial term of Five Year (5) Lease Years (See Parag. 3)

(c) **Option(s) to Renew**: Two (2) additional, consecutive Five (5) Lease Year Option (See Parag. 3)

(d) **Premises** : (See Exh. A)
120-124 St. James Place, Atlantic City, New Jersey (Block 52, Lots 37-39), the plan and drawing for which is set forth and attached hereto as Exhibit A.

[redacted]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Lease as of the Effeective Date.

LANDLORD:

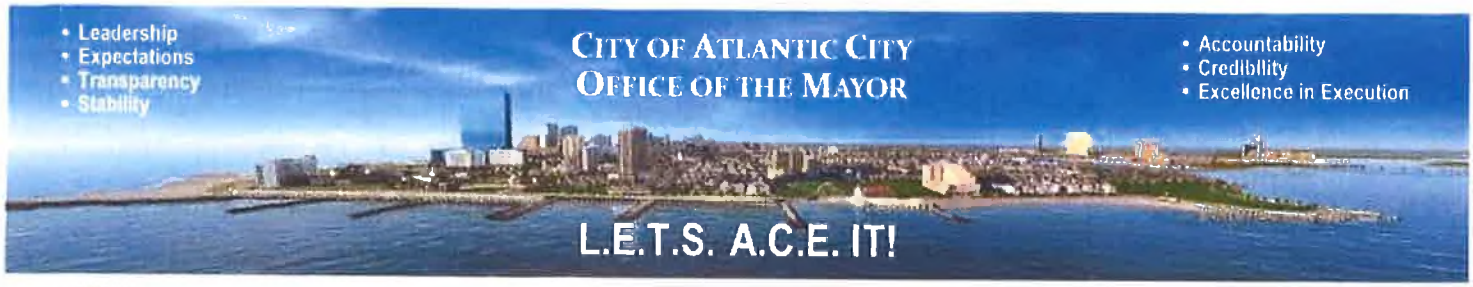
NYORANGEDEEDS, LLC

By:_____
Name: Patrick J. Fasano
Title: Managing Member

TENANT:

IAnthus New Jersey, LLC

By: Robert Galvin
Name: Robert Galvin
Title: CEO



MAYOR MARTY SMALL, SR.

City Hall
1301 Bacharach Boulevard • Suite 706
Atlantic City, New Jersey 08401
Telephone 609-347-5400

7/26/2022

Robert Galvin
CEO
MPX New Jersey, LLC
420 Lexington Avenue, Suite 414 New York, NY 10170

RE: LETTER OF SUPPORT FOR MPX New Jersey, LLC

To Whom It May Concern:

MPX New Jersey, LLC has requested a letter of support to be included in his application before the Cannabis Regulatory Commission, as is required to obtain a state license for a cannabis business to operate within the City of Atlantic City. 120, 122, and 124 St. James Place first floor Block 52, Lots 37, 38, and 39, qualifies as being in the Orange Loop and is within the approved zone for Recreational Cannabis Dispensary.

The purpose of this letter is to express support on behalf of the Administration of the City of Atlantic City for a cannabis business with the City of Atlantic City. This letter of support is contingent upon an organization's ability to meet all state, county and local regulations.

Yours in service to the community,

Marty Small Sr.
Mayor
City of Atlantic City

Resolution of the City of Atlantic City

No. 432

Approved as to Form and Legality on Basis of Facts Set Forth

Assistant City Solicitor /s/ Karl Timbers

Factual contents certified to by

Assistant Director of Planning & Development /s/ Jacques Howard

Prepared by City Solicitor's Office

Council Member MARSHALL presents the following Resolution:

RESOLUTION AMENDING RESOLUTION 331 OF 2022 IN SUPPORT FOR SUITABILITY OF CANNABIS BUSINESS MPX NEW JERSEY LLC

WHEREAS, operators of a proposed cannabis business are required to demonstrate local support for the suitability and appropriateness of its business location from a municipality pursuant to N.J.A.C. 17:30-5.1(g) and/or pursuant to the provisions of N.J.S.A. 24:61-7.2(4); and

WHEREAS, pursuant to the provisions of N.J.S.A. 17:30-5.1, the City of Atlantic City has adopted Ordinance No. 51 of 2021 amending Chapter 163 to license and regulate cannabis businesses in designated zoning districts; and

WHEREAS, the City Council of the City of Atlantic City adopted Resolution No. 331 of 2022 in Support for Suitability of Cannabis Business MPX New Jersey LLC for two (2) locations within the City, one (1) temporary location and one (1) permanent location; and

WHEREAS, as a result of a lot consolidation the City of Atlantic City has assigned a new address to the site of the temporary location, that new address being 153 S. New York Avenue, Units A & B; and

WHEREAS, the applicant, MPX New Jersey LLC, (the "Licensee-Applicant") has sought such a letter of support to apply for a state license to operate a licensed Class 5 retail cannabis dispensary business, which will include the delivery of cannabis by the Licensee-Applicant to consumers incidental to the Class 5 retail cannabis dispensary license, for its temporary location at the address of 153 S. New York Avenue, Units A & B (f/k/a 157-159 S. New York Avenue), located in the Zoning District RC, (the "Temporary Location"); and

WHEREAS, the Licensee-Applicant has sought such a letter of support to apply for a state license to operate a licensed Class 5 retail cannabis dispensary business, which will include the delivery of cannabis by the Licensee-Applicant to consumers incidental to the Class 5 retail cannabis dispensary license, for its permanent location, pending building completion and receipt of all necessary licenses and permits to be located on Block 52, Lots 37-39, the address 120, 122 and 124 St. James Place, located in the Zoning District RC, (the "Permanent Location"); and

WHEREAS, the City of Atlantic City has reviewed and considered the request of the License-Applicant to conduct the cannabis business at the Temporary Location and at the Permanent Location described above; and

WHEREAS, the City of Atlantic City has determined that it has authorized the type of cannabis business license being sought by the License-Applicant to operate within its jurisdiction subject to approval by the CRDA; and

WHEREAS, to the extent the City of Atlantic City has imposed a limit on the number of licensed cannabis businesses within its jurisdiction, the issuance of a license to the License-Applicant by the Cannabis Regulatory Commission would not exceed that limit as of the date of this Resolution; and

WHEREAS, the City of Atlantic City has determined that the both the Temporary Location and Permanent Location are suitable and appropriate for the proposed activity subject to CRDA approval, related to the operations of the proposed cannabis business to be conducted by the License-Applicant; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Atlantic City hereby authorizes this Resolution of local support to MPX New Jersey LLC for the purposes described herein.

kc June 23, 2022 11:47 AM

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DUNSTON	X						RANDOLPH	X					X
KURTZ	X						SHABAZZ	X					
MARSHALL	X						WEEKES	X					
MORSHED	X				X		ZIA	X					
							TIBBITT, PRESIDENT				X		

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: JUNE 22, 2022 Paula Geletei

/s/ Paula Geletei, City Clerk

COOPER LEVENSON
ATTORNEYS AT LAW

1125 Atlantic Avenue – 3rd Floor
Atlantic City, NJ 08401
Phone (609) 344-3161
Toll Free (800) 529-3161
Fax (609) 344-0939
www.cooperlevenson.com

NICHOLAS F. TALVACCHIA
Also Admitted to PA Bar
EMAIL: ntalvacchia@cooperlevenson.com

Direct Phone: (609) 572-7544
Direct Fax: (609) 572-7545

FILE NO. 61481-1

December 21, 2022

Lisa M. D'Alessandro, Board Secretary
Planning & Development Offices
City of Atlantic City
City Hall, Suite 508
1301 Bacharach Boulevard
Atlantic City, New Jersey 08401

Re: Block 52, Lots 11, 12, 13, 14, 15, 16, 17, 18 and 30, 31, 32, 33, 34, 35, 36, 37, 38, 39

Dear Ms. D'Alessandro:

We represent MPX New Jersey, LLC in support of a land use application with regard to the above-captioned property and therefore request that you provide this office with a Certified List of Property Owners and Registered Utilities within a 200-foot radius of the subject property.

Enclosed please find our firm check in the amount of $10.00 for the cost of the list. For your convenience, we enclose a self-addressed stamped envelope to send us the requested information.

Please feel free to contact us with any questions.

Thank you for your attention to this matter.

Very truly yours,

Cooper Levenson, P.A.

Nicholas F. Talvacchia

NFT/bms
Enclosures
CLAC 7262348.1

COOPER LEVENSON, P.A.
1125 ATLANTIC AVENUE • THE THIRD FLOOR
ATLANTIC CITY, NEW JERSEY 08401
ATTORNEY BUSINESS ACCOUNT

639470

CHECK #

Fulton Bank

60-142/313

DATE
12-21-22

AMOUNT
$20.00

PAY THE AMOUNT OF TWENTY AND 00/100

PAY TO

CITY OF ATLANTIC CITY
1301 BACHARACH BLVD

ATLANTIC CITY, NJ 08401

AUTHORIZED SIGNATURE

Details on back.

⑈639470⑈ ⑆031301422⑆ 0008307393⑈

COOPER LEVENSON, P.A.
1125 ATLANTIC AVENUE • THE THIRD FLOOR
ATLANTIC CITY, NEW JERSEY 08401
(609) 344-3161

639470

2831 CITY OF ATLANTIC CITY

INVOICE	INV. DATE	DESCRIPTION	VOUCHER I.D.	NET AMOUNT
122022BS02	12-20-22	64259.00001	371674	10.00
122022BS03	12-20-22	61481.00001	371675	10.00

PROOF OF FUNDS MCBEE To Reorder 1-800-662-2031 or www.mcbeeinc.com

P135
13071923001

COOPER LEVENSON
ATTORNEYS AT LAW

1125 Atlantic Avenue – 3rd Floor
Atlantic City, NJ 08401
Phone (609) 344-3161
Toll Free (800) 529-3161
Fax (609) 344-0939
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NICHOLAS F. TALVACCHIA
Also Admitted to PA Bar
EMAIL: ntalvacchia@cooperlevenson.com

Direct Phone: (609) 572-7544
Direct Fax: (609) 572-7545

FILE NO. 61481-1

December 21, 2022

City of Atlantic City
Attn: Tax Collector's Office
1301 Bacharach Blvd., 1st Floor, Suite 125
Atlantic City, NJ 08401

Re: Block 52, Lots 11, 12, 13, 14, 15, 16, 17, 18 and 30, 31, 32, 33, 34, 35, 36, 37, 38, 39

To Whom it May Concern:

We represent MPX New Jersey, LLC in support of a land use application with regard to the above-captioned property and therefore request that you provide this office with a current Proof of Payment of Taxes.

Please advise if there are any fees associated with this request. For your convenience, we enclose a self-addressed stamped envelope to send us the requested information.

Please feel free to contact me with any questions. Thank you.

Very truly yours,

Nicholas F. Talvacchia

NFT/bms
Enclosures

CLAC 7262349.1

ESCROW SETUP INFORMATION

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

Applicant's Name: MPX New Jersey , LLC

Applicant's Address: 420 Lexington Avenue, Suite 414, New York, NY 10170

*Applicant's Signature: _____

Applicant's Phone No.: 609-572-7544

Applicant's Email Address: c/o ntalvacchia@cooperlevenson.com

Applicant's Date of Birth: N/A

Tax Identification or Social Security Number: 83-1258286

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

21-75

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING AMENDED SITE PLAN APPROVAL WITH VARIANCES FOR THE CONSTRUCTION OF IMPROVEMENTS ON PROPERTY LOCATED AT 161-205 SOUTH NEW YORK AVENUE AND 120-142 ST. JAMES PLACE (BLOCK 52, LOTS 11-18 AND 30-39) IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2021-04-2981

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the "Act"), the Casino Reinvestment Development Authority (the "Authority"): (i) designated the Atlantic City Tourism District by Resolution 11-25, adopted April 19, 2011; (ii) established the Land Use Regulation and Enforcement Division to, among other matters, hear applications for development in the Tourism District by Resolution 11-33, adopted April 19, 2011; and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34, adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14, adopted February 1, 2012, the Authority adopted the "New Jersey CRDA Atlantic City Tourism District Master Plan" prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the "Master Plan") (as affirmed and readopted pursuant to Resolution 12-23, adopted February 21, 2012), subject to further comment and revision, which master plan shall become effective upon the adoption of design, development and land use regulations on January 2, 2018; and

WHEREAS, NYORANGEDEEDS, LLC. ("Applicant") seeks Amended Site Plan Approval with Variances pursuant to N.J.S.A. 40:55D-70(c) for approval to add a third floor to a building for which the Authority has previously granted Preliminary and Final Site Plan approval for the construction of mixed use development on the site, which included a two-story building with approximately 10,000 square feet of retail space. The additional third floor sought by this Amended Site Plan would increase the structure to a total of approximately 15,000 square feet. Under the current development proposal, the ground floor will contain approximately 5,000 square feet of retail space. The second and third floors will each contain four (two-bedroom) residential units. The variances pursuant to N.J.S.A. 40:55D-70(c) are for front yard, side yard and rear yard setbacks and impervious coverage; and

WHEREAS, on June 17, 2021, the Authority's Land Use Regulation and Enforcement Division convened a public hearing on Application 2021-04-2981 in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered a Hearing Officer's Report and Recommendation dated July 8, 2021 (the "Report), incorporated herein by this reference and appended hereto as Exhibit "A"; and

WHEREAS, the Authority intends to adopt the findings, conclusions and recommendations of the Hearing Officer, as detailed in the Report.

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.

2. Based on the record in this matter, the Amended Site Plan Approval with Variances pursuant to N.J.S.A. 40:55D-70(c) under Application 2021-04-2981 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated July 8, 2021.

3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 21-75 of the Casino Reinvestment Development Authority.

GARY HILL, SECRETARY

MEETING OF JULY 20, 2021

Casino Reinvestment Development Authority
Land Use Regulation and
Enforcement Division

EXHIBIT "A" TO RESOLUTION 21-75, ADOPTED 7/20/2021

TO: Members of the Authority

FROM: Lance B. Landgraf, Jr., Land Use Hearing Officer

COPY: Matthew J. Doherty, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application #2021-04-2981
NYORANGEDEEDS, LLC
Amended Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)
161-205 New York Avenue and 120-142 St. James Place, Atlantic City
Block 52, Lots 11-18 & 30-39
Resort Commercial (RC) Zoning District

DATE: July 8, 2021

EXECUTIVE SUMMARY

On June 17, 2021, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, NYORANGEDEEDS, LLC (the "Applicant"), seeks Amended Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. The Applicant previously obtained approvals from the Authority for the construction of mixed use development on the site, including a two-story building with approximately 10,000 square feet of retail space. The Applicant now seeks approval to add a third floor to the building for a total of approximately 15,000 square feet. Under the current development proposal, the ground floor will contain approximately 5,000 square feet of retail space. The second and third floors will each contain four (two-bedroom) residential units. The Applicant requires variances pursuant to N.J.S.A. 40:55D-70(c) for front yard, side yard and rear yard setbacks and impervious coverage.

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the subdivision standards, 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.

INTRODUCTION

Application Information

NYORANGEDEEDS, LLC
Amended Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)
161-205 New York Avenue and 120-142 St. James Place, Atlantic City
Block 52, Lots 11-18 & 30-39
Resort Commercial (RC) Zoning District

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 Amended Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. The Applicant previously obtained approvals from the Authority for the construction of mixed use development on the site, including a two-story building with approximately 10,000 square feet of retail space. The Applicant now seeks approval to add a third floor to the building for a total of approximately 15,000 square feet. Under the current development proposal, the ground floor will contain approximately 5,000 square feet of retail space. The second and third floors will each contain four (two-bedroom) residential units. The Applicant requires a variance pursuant to N.J.S.A. 40:55D-70(c) for front yard, side yard and rear yard setbacks and impervious coverage.

Evidence List

A-1 Application Materials
A-2 Current Rendered Site Plan
A-3 September 2019 Rendered Site Plan
A-4 Architectural Rendering
A-5 Architectural Rendering
A-6 Architectural Rendering

B-1 Letter from ARH Associates dated May 24, 2021

FINDINGS OF FACT

The Applicant seeks Amended Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. The Applicant

previously obtained approvals from the Authority for the construction of mixed use development on the site, including a two-story building with approximately 10,000 square feet of retail space. The Applicant now seeks approval to add a third floor to the building for a total of approximately 15,000 square feet. Under the current development proposal, the ground floor will contain approximately 5,000 square feet of retail space. The second and third floors will each contain four (two-bedroom) residential units. The Applicant requires a variance pursuant to N.J.S.A. 40:55D-70(c) for front yard, side yard and rear yard setbacks and impervious coverage.

The attorney for the Applicant, Nicholas Talvacchia, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. Mr. Talvacchia represented that the Applicant intends to consolidate the properties and obviate the need for a side yard setback (ocean-facing side yard).

The Applicant presented the testimony of Patrick Fasano, who is a principal of the Applicant. He described the overall project and the specific changes under the current application. He explained that the Applicant seeks to implement a block by block approach to the redevelopment of the neighborhood with a dynamic mix of restaurant, entertainment venues and residences.

The Applicant presented the testimony of Jason T. Sciullo P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. He described the location of the site, existing conditions and site layout. Mr. Sciullo explained that the purpose of the application modify the approved retail building to convert the second floor to residential use and add a third floor for residential use. He noted that the overall height of the building is 38.5'.

Mr. Sciullo testified that the Applicant is seeking variances pursuant to N.J.S.A. 40:55D-70(c) to permit:

- A front yard setback of 0' where a minimum of 20' is required for structures above 35';
- A side yard setback of 0' where a minimum of 20' is required for structures above 35' (Pacific Avenue side yard);
- A rear yard setback of 5' where a minimum of 20' is required above 35; and
- Impervious coverage of 84.7% where a maximum of 80% is permitted.

He noted that the existing lot is deficient in lot depth, thereby creating a hardship in satisfying the setback requirements. He testified that the development of the properties within the permitted building envelope would be an inefficient use of land and inconsistent with existing structures in the neighborhood. Mr. Sciullo opined that the that the approval of the application for development would advance the purposes of the Municipal Land Use Law by providing adequate air, light and open space (Purpose C) by providing appropriate

development intensity; promoting a desirable visual environment (Purpose I) through the use of architectural features; and encouraging the more efficient use of land (Purpose M) by developing vacant land with minimal impacts on neighboring properties. Overall, he concluded that the development proposal constitutes a better planning alternative to strict compliance with the requirements of the Tourism District Land Development Rules.

With respect to the negative criteria, Mr. Sciullo testified that the grant of the variance would advance the purposes of the Tourism District Master Plan and would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules. He testified that development proposal was designed to minimize impact on neighboring properties.

The Applicant presented the testimony of William McLees, a licensed architect in the State of New Jersey, who as qualified in the field of architecture. Mr. McLees described the location of the site, development proposal and site layout. He testified as to architectural features of the proposed improvements, floor-plans, operational features, accessibility improvements and signage.

Kathryn Cornforth, P.E., was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. Ms. Cornforth testified that the Applicant had provided sufficient testimony to address all issues raised in the review letter and that she supports approval of the Application. Ms. Cornforth asked that the Applicant provide a building lighting plan as a condition of any approval.

Christine Cofone, P.P. was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that the Applicant had provided sufficient testimony to support approval of the Application.

CONCLUSIONS OF LAW

Amended 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 subdivision standards and technical requirements of the Tourism District Land Development Rules.

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

- A front yard setback of 0' where a minimum of 20' is required for structures above 35';
- A side yard setback of 0' where a minimum of 20' is required for structures above 35' (Pacific Avenue side yard);
- A rear yard setback of 5' where a minimum of 20' is required above 35; and
- Impervious coverage of 84.7% where a maximum of 80% is permitted.

Based on the unique size and shape of the property, strict compliance with the bulk zoning requirements would create a hardship for the Applicant . In addition, the grant of the variances would advance the purposes of the MLUL by providing adequate air, light and open space (Purpose C) by providing appropriate development intensity; promoting a desirable visual environment (Purpose I) through the use of architectural features; and encouraging the more efficient use of land (Purpose M) by developing vacant land with minimal impacts on neighboring properties. The Applicant's expert witness concluded that the development proposal constitutes a better planning alternative to strict compliance with the requirements of the Tourism District Land Development Rules.

Negative Criteria

Relief under N.J.S.A. 40:55D-70(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 Amended Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) 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.

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

CRDA BOARD TALLY **JULY 20, 2021**

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING AMENDED SITE PLAN APPROVAL WITH VARIANCES FOR THE CONSTRUCTION OF IMPROVEMENTS ON PROPERTY LOCATED AT 161-205 NEW YORK AVENUE AND 120-142 ST. JAMES PLACE (BLOCK 52, LOTS 11-18 AND 30-39) IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2021-04-2981

MOTION	**JP**
SECOND	**MBESON**
Michael Beson	Y
Debra DiLorenzo	Y
Ed Gant	Y
Michael Hanley	Y
Gary Hill	Y
Brett Matik	Y
William Mullen	Y
Kim Holmes for Lt. Governor & DCA Commissioner	Y
James Plousis	Y
Dave Rebuck for the State Attorney General	Y
Bob Shaughnessy for the State Treasurer	Y
Mayor Marty Small	Y
William Sproule	Y
Shelley Williams	Y
Karen Worman	Y
Vice Chairman, Richard Tolson	Y
Chairman, Modia Butler	Y