

March 15, 2024

VIA UPS GROUND & EMAIL (rreid@njcrda.com)

Robert L. Reid, AICP, NJPP, Land Use Regulation Enforcement Officer
CASINO REINVESTMENT DEVELOPMENT AUTHORITY
Land Use Regulation and Enforcement Division
15 South Pennsylvania Avenue
Atlantic City, New Jersey 08401

**RE: Application of Garden Organics, LLC
3112 Atlantic Avenue, Third Floor
Block 182, Lot 4
Atlantic City, New Jersey 08401
Our File No.: 12942-3-B**

Dear Mr. Reid:

As you may recall, this firm represents Garden Organics, LLC (“Applicant”) with respect to the above-referenced application to the Casino Reinvestment Development Authority (“CRDA”) to establish a Class 1 Cannabis Cultivation and Class 2 Cannabis Manufacturing facility on the third floor of the above-referenced property. This application for Use Variance Approval and a Waiver of Site Plan Approval originally was submitted under cover letter dated March 4, 2024. On March 5, 2024, we received the enclosed email from you indicating the application was deemed incomplete for the reasons expressed therein. Please accept this correspondence as the Applicant’s response thereto and in furtherance of the application.

Enclosed please find the following documents in response to your March 5, 2024 email and in further support of the application (please note the documents are numbered consecutively from the last document submitted with the initial application materials on March 4, 2024):

17. Five (5) copies of Email Correspondence, dated March 5, 2024, from Robert L. Reid, AICP, NJPP, Land Use Regulation Officer Deeming the Application Incomplete;

18. Five (5) copies of a signed and sealed Property Survey prepared by Arthur W. Ponzio, Jr., P.P., P.L.S., dated December 7, 2022;

19. Five (5) copies of a Sketch of the Proposed Third Floor Layout, prepared by the Applicant, demonstrating the proposed layout of the Third Floor; and

20. Five (5) copies of Architectural & Floor Plans, prepared by William C. McLees, AIA, LEED AP, dated November 15, 2022, demonstrating the approved layout of the first floor of the subject property which recently was approved for Class 5 cannabis retail.

In addition to the above, the following represents Applicant's point-by-point response to the comments set forth in your March 5, 2024 email:

1. The Application as submitted via email is not consistent with the Green Zone Redevelopment Plan requirements / CRDA Site Plan requirements and is considered incomplete. Each application for cannabis use requires site plan approval. Please revise the application to reflect the request for minor site plan approval.

Pursuant to N.J.S.A. 40:55D-10.3, "The applicant may request that one or more of the submission requirements be waived..." As such, under the Municipal Land Use Law ("MLUL"), an Applicant is permitted to request a waiver of site plan review. As articulated in the *Cox & Koenig* Treatise, "N.J.S. 40:55D-10.3 gives recognition to the fact that, particularly in connection with site plan and subdivision applications, requests may be made to waive certain submission requirements which would otherwise be required for the application to be considered complete. The situations in which such waivers may be requested often involve applications for site plan approval where the buildings, parking lot, etc. are already in existence. Perhaps a business building which is the subject of an application presently covers all of the site with the exception of the sidewalk. Obviously, there is not anything which can really be submitted in such a case, other than a survey showing that the building lines coincide with the property lines." Cox and Koenig, New Jersey Zoning and Land Use Administration, § 23-8, at 484 (2022).

We have reviewed the Green Zone Redevelopment Plan and have found no language therein which indicates a site plan application/site plan approval is required. Further, this site is fully improved with an existing building which generally covers the entirety of the lot. Moreover, Applicant, as the tenant of the Third Floor, is not proposing any changes to the exterior of the building or to the site itself.

We also note this building was recently approved for use by the property owner (Applicant's landlord), Legal Distribution, LLC, for cannabis retail on the first floor and a cannabis consumption lounge on the second floor. Applicant's proposal to add cannabis cultivation and manufacturing on the Third Floor generates no consumer traffic to the site and therefore should not present any impacts that should be deemed to trigger any changes to the exterior of the building. Stated another way, it is

presumed the CRDA considered the need for any exterior building renovations at the time CRDA granted approval for cannabis retail and cannabis consumption at the site.

Based upon the above, we submit a site plan waiver is a legally permissible request under the MLUL and is warranted in light of the circumstances presented here.

Notwithstanding same, and without waiving the arguments presented herein, Applicant is enclosing herewith a survey of the property prepared by Arthur W. Ponzio, Jr., P.P., P.L.S. as noted above. Applicant respectfully requests this survey be accepted in lieu of a site plan for the reasons expressed above.

2. Please provide a survey of the subject property showing existing conditions and site plan based on existing conditions survey with required Approval Signature Block.

A Property Survey prepared by Arthur W. Ponzio, Jr., P.P., P.L.S., is enclosed herewith. Please note the Survey was completed in 2022. No changes have occurred on site since the Survey was prepared.

3. Also, provide architectural plans for the proposed cultivation and manufacturing operations.

A sketch floor plan for the Third Floor is enclosed herein. As noted thereon, the current layout of the third floor is largely proposed to remain intact with a re-designation of existing rooms to suit the proposed use. If the application is approved, signed and sealed architectural plans consistent with the sketch will be provided as a condition of approval.

4. Please be advised of the following trash storage requirements: N.J.A.C. 19:66-7.12(c) and (k). Currently trash and trash dumpster are in the public street. This is not permitted. The architectural plans will need to include a trash room.

The enclosed Sketch floor plan includes a trash room to meet trash storage requirements. The property owner currently maintains and has historically maintained an existing trash receptacle that is situated outside the rear alley way across from the rear of the building in the same general location as other trash receptacles that belong to other neighboring properties. Trash for this property is picked up in this location by a privately contracted waste hauler, currently Waste Management. The property owner indicates this location and trash removal arrangement was approved as part of the recent Legal Distribution, LLC application since this location has been existing for many years with various uses over many decades utilizing this arrangement. Applicant does not propose any trash disposal in excess of what would be typical from the previous uses of the building and therefore

does not propose any changes relating to the existing trash receptacle or trash removal process.

5. In addition, the site will need a loading and unloading area to service the site. The loading / unloading area is required in close proximity to the front entrance. It is recommended that you reach out to the AC Planning Office and request a loading area be designated in front of the site on Atlantic Avenue.

The property owner has already filed an application with the City of Atlantic City to designate a loading zone for the property as indicated in your March 6, 2024 email. The proposed loading zone will be utilized to service all cannabis uses within the building. As noted in the Project Narrative and Variance Justification Report submitted with this application, deliveries and loading will occur from the main entrance on Atlantic Avenue where the loading zone is proposed. Deliveries would be standard and comparable to deliveries to/from an office or business. Loading for outgoing deliveries will be performed on a randomized schedule with two armed guards from SaberOne Security (an MBE & WBE certified business). The Applicant intends to comply with all CRC requirements pertaining to shipments and deliveries of cannabis products.

As a courtesy, an electronic copy of the above-referenced supplemental materials can be accessed via the following Google Drive link for your convenience and ease of reference:

https://drive.google.com/drive/folders/1LOCV1cKg-_N2KgVMpGB2a66XCMK_DHk?usp=drive_link

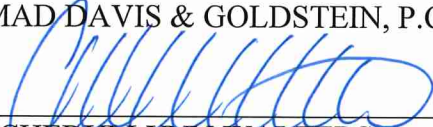
Please do not hesitate to contact me should you require any additional documents or information in order to deem this application complete. Once deemed complete, please advise of the date of the hearing before the CRDA and our firm will, of course, provide the required public notices in advance thereof.

Thank you for your kind attention and courtesies.

Very truly yours,

NEHMAD DAVIS & GOLDSTEIN, P.C.

BY:


CHERYLLYNN WALTERS

CLW:ES:JS

Enclosures

cc: *All Copies via Email with Enclosures via Google Drive Link*

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