

Garden Organics, LLC
Application for Variance Relief
3112 Atlantic Avenue – Third Floor
Block 182, Lot 4
City of Atlantic City, New Jersey

Addendum to Application – Project Narrative & Variance Justification Report

Garden Organics, LLC (the “Applicant”), requests use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the Applicant to establish a Class 1 Cannabis Cultivation and Class 2 Cannabis Manufacturing operation on the third floor of the property located at 3112 Atlantic Avenue, Atlantic City, NJ (the “Subject Property”). The Subject Property is located within the NC-2 Neighborhood Commercial Zoning District. Additionally, the Subject Property is located within the Central Business District within the Tourism District and within the Green Zone Redevelopment Area.

The Applicant holds two annual permits issued by the New Jersey Cannabis Regulatory Commission (“CRC”) for Class (1) Cannabis Cultivation and Class (2) Cannabis Manufacturing. The Applicant is a social equity permittee and has been certified as a Women Business Enterprise by New Jersey’s Division of Revenue & Enterprise Services. The founders of Garden Organics, LLC are active in the Atlantic City community. Miss Audrey Hart has been an advocate for human and civil rights in Atlantic City for over sixty years. Ashley Walsh is a cannabis industry pioneer cultivating Regenerative Organic Certified Cannabis and other innovative cannabis products.

The Subject Property previously has been operated as an office building with retail services and previously approved as a restaurant with a banquet hall. Currently, the property owner, by and through Legal Distribution, LLC, has been approved by the Casino Reinvestment Development Authority (“CRDA”) for a Class 5 Cannabis Micro Dispensary operation on the first floor of the existing three (3) story building. The second floor of the building was approved by the CRDA at the same time for a cannabis consumption lounge, but as of this application’s filing date no such lounge has been established yet. As a result, the second floor is vacant. The third floor is currently a call center/office space.

The Applicant does not propose any changes to the exterior of the building or the site itself. The parking ascribed to the existing and previous uses is still present and more than enough for the Applicant’s proposed use, which does not serve individual customers. The Applicant intends to lease the third floor in order to grow and harvest cannabis plants and make cannabis products for sale to Class 5 dispensaries throughout New Jersey. There will be no additional signage added to the building for the Applicant’s business operations. The exterior of the building will remain as-is and shall be maintained by the building owner. The Applicant will utilize the street address for first responders and deliveries.

The Applicant proposes eight (8) employees upon commencement of operations, with operational hours being 8:00AM to 6:00PM, seven (7) days per week.

As discussed above, the Subject Property has three (3) floors. There are multiple entry points: (1) an existing door leading to a shared vestibule entrance; (2) an internal door to enter the existing Legal Distribution, LLC dispensary; (3) a metal security door with secured and limited access to the second and third floors; and (4) a second security door to enter the Applicant's operations on the third floor. Each door will be installed with an intercom and security camera for any visitors or deliveries to the Applicant's operation on the third floor. Additionally, the stairwell will be outfitted with cameras for additional security as dictated by the CRC. The business operations and cameras will be monitored by security 24/7 as required by the CRC, adding support to safety.

Deliveries and loading will occur from the main entrance on Atlantic Avenue. 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). SaberOne guards will load the cannabis product into a secured vehicle to be delivered to dispensaries throughout New Jersey. The Applicant intends to comply with all CRC requirements pertaining to shipments and deliveries of cannabis products.

A locked trash enclosure will be located in the Subject Property's rear alley way. The trash will be picked up weekly from a private third party waste management company. The Applicant is willing to have trash picked up more often if needed. All cannabis products will be disposed of in accordance with CRC regulations, including but not limited to mixing any and all plant waste with 50% inert material to render it unusable.

The Applicant expects to harvest eleven (11) times per year, slightly less than once per month. Harvest will consist of: (1) removing the plants from the grow room; and (2) drying/freezing different parts of the plants to prepare them for packaging and value-added products. Once packaged, all products, usable and unusable, are stored in the vault until they are prepared in secured packaging for delivery to dispensaries in accordance with CRC regulations. The lifecycle of cannabis plants, from seed to end product, takes about 14-16 weeks. An RFID code is assigned to each plant by the Applicant from the time it enters the building through the time of harvest. This RFID code enables proper tracking through the CRC's selected seed-to-sale inventory tracking system, METRC.

The Applicant recognizes that sound and odor are areas of focus for the operation. A strategic facility design will mitigate potential noise and odor impacts from the proposed operation. Specifically, the proposed facility is an indoor cultivation and manufacturing operation so all noise from the indoor operations will be contained within the building. With respect to specific odor controls, the Applicant's facility will implement a dynamic noxious odor mitigation control system to reduce detectable odor from the exterior of the building. The system includes two (2) independent air-filtration technologies to eliminate and control cannabis odor inside and outside the cultivation facility.

As the CRDA is aware, "d" use variance relief is warranted if the CRDA finds that the proposed use is justified "in particular cases for special reasons." Special reasons have been held to be those which advance the purposes of zoning as set forth in Section 2 of the Municipal Land

Use Act (“MLUL”). N.J.S.A. 40:55D-2. This is also referred to as the positive criteria. The Applicant also is required to satisfy the so-called negative criteria, which requires a finding that the variance sought can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the City of Atlantic City. Pursuant to the Supreme Court’s decision in Medici v. BPR Co., 107 N.J. 1 (1987), the Applicant also is required to establish an enhanced burden of proof showing the property in question is particularly suited for the variance relief being requested and that the grant of the use variance is justified even though the Ordinance does not specifically permit the use.

Positive Criteria

1. Promotion of Public Welfare (N.J.S.A. 40:55D-2(a)) – The Applicant satisfies the purpose of the MLUL to “encourage municipal action to guide the appropriate use or development of all land in the state in a manner which will promote the public health, safety, morals, and general welfare.” N.J.S.A. 40:55D-2(a). As addressed above, the Applicant will promote public health and safety by complying with CRC requirements such as noise, odor and disposal controls, shipment and delivery standards, and security personnel, thereby eliminating any possibility of disregard for health or safety. In reference to the general welfare, the Applicant’s proposed use will generate valuable tax dollars for Atlantic City in the form of a local cannabis tax and will create job opportunities within the City.

2. Appropriate Location (N.J.S.A. 40:55D-2(g)) - The Applicant satisfies the purposes of the MLUL by “providing sufficient space in an appropriate location for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.” N.J.S.A. 40:55D-2g. The third floor of the Subject Property is an appropriate location for the Applicant’s proposed use due to its location above the first floor approved Class 5 Cannabis Micro Dispensary and approved second floor consumption lounge. Due to the cannabis-related operations on the first and second floors, opening a cannabis-related operation on the third floor is consistent and appropriate.

3. Efficient Use of Land (N.J.S.A. 40:55D-2(m)) – The Applicant satisfies the purposes of the MLUL by “encouraging coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.” N.J.S.A. 40:55D-2m. The Applicant’s proposal makes efficient use of land by operating within an existing building in a manner which will require no exterior site improvements and only minimal interior renovations. Rather than constructing its operation on a lot as the sole use, the Applicant has proposed establishing their operation in a building which already hosts a cannabis-related operation. The Applicant will make use of an otherwise minimally used portion of the building.

Negative Criteria

As indicated above, the Applicant must also satisfy the so-called negative criteria by demonstrating that the within variance will not substantially impair the intent and purpose of the Atlantic City Zoning Ordinance. Under Section 4.5 of the Green Zone Redevelopment Plan, an

objective of the Plan is stated to be “to eliminate the need for cannabis retailers in the Green Zone to secure use variances by making cannabis retail a permitted use.” While the Applicant is not a retailer of cannabis, the Applicant is still a cannabis-related business which would seek to further benefit the objectives of the Green Zone Redevelopment Plan and Area.

Finally, as part of the negative criteria, the Applicant must satisfy an enhanced burden of proof showing that the property in question is particularly suited for the use, and by reconciling the grant of the use variance with the fact that the City’ Ordinance does not specifically permit the use. For the reasons set forth above, we submit that the Subject Property is suited for the proposed use, primarily because of its proximity to other cannabis-related uses on the first and second floors of the same building. Additionally, the Subject Property’s location in the Green Zone Redevelopment Area further emphasizes that the proposed use is particularly suitable for the Subject Property.

As previously stated, the Applicant’s founders are active in the Atlantic City community and the Applicant is a social equity permittee, having been certified as a Women Business Enterprise by New Jersey’s Division of Revenue & Enterprise Services. A local and certified women-owned business and social equity business in a previously under-utilized tenant space on Atlantic Avenue is progress for the City of Atlantic City.

The Applicant reserves the right to supplement this Addendum with testimony at the time of the hearing.