

**Garden Organics, LLC**  
**Application for Minor Site Plan Approval with ‘c’ Variance Relief and Waivers**  
**3112 Atlantic Avenue – Third Floor**  
**Block 182, Lot 4**  
**City of Atlantic City, Atlantic County, New Jersey**

**Addendum to Application**  
**Revised Project Narrative & Variance Justification Report**  
**Dated: April 25, 2024**

**I. Subject Property & Applicant Identification**

Garden Organics, LLC (the “Applicant”), seeks Minor Site Plan approval with waivers and “c” variance relief pursuant to N.J.S.A. 40:55D-70(c)(1) and/or (2) for parking to permit the Applicant to establish a Class 1 Cannabis Cultivation and Class 2 Cannabis Manufacturing facility on the third floor of the above-referenced property located at 3112 Atlantic Avenue in Atlantic City, Atlantic County, New Jersey (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 Green Zone Redevelopment Plan establishes regulations for cannabis uses within the Green Zone Redevelopment Area, including the Subject Property. The proposed cannabis cultivation and cannabis manufacturing uses are permitted uses under the Green Zone Redevelopment Plan.

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 the date hereof no such lounge has been established yet. As a result, the second floor is currently vacant. The third floor currently is a call center/office space.

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. The Applicant does not propose any changes to the exterior of the building or the site itself. The existing on-street parking and nearby parking lot have been utilized by the existing and previous uses and is more than sufficient for the Applicant’s proposed use, which does not serve individual customers. 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.

## **II. Cannabis Operations**

### **Hours of Operation & Employees**

The Applicant anticipates a total of eight (8) employees upon commencement of operations, with operational hours being 8:00AM to 6:00PM, seven (7) days per week. Employees will access the building by entering through the front door on Atlantic Avenue in accordance with the security measures and procedures indicated below.

### **Deliveries & Vehicle Circulation**

Deliveries and loading will occur from the main entrance on Atlantic Avenue. The Property Owner has applied to Atlantic City to establish a loading zone on Atlantic Avenue in front of the building. Proof of designation of the loading zone will be supplied as a condition of approval.

Deliveries will be standard and comparable to deliveries to/from an office or business. Specifically, typical deliveries will arrive via transit van or small box truck and consist of two types: (1) cannabis-related supplies and (2) general supplies, including office, breakroom and bathroom supplies. Cannabis-related supplies include gardening supplies and nutrients. General supplies include such things as toilet paper, paper towels, trash bags and other typical supplies for the proposed small office, break room and bathroom. The Applicant does not anticipate large-scale deliveries or delivery of large quantities of product at any given time therefore no tractor trailer deliveries are anticipated. Deliveries will occur one or two times per month for both general supplies and cannabis-related supplies. Deliveries will be effectuated by use of the loading area in front of the building on Atlantic Avenue. General supplies will be brought into the building by the delivery driver. Deliveries of cannabis supplies will be brought inside to the vestibule by qualified staff with security clearance from the Cannabis Regulatory Commission, at which point the Applicant's staff will bring it through a secured door into the stairwell leading to the third floor.

With regard to vehicle circulation, although the Applicant has frontage on two streets, the Applicant will primarily use Atlantic Avenue for all business operations. Additionally, emergency personnel will continue to be able to access the building in the same location from which they always have had access – through the main door in the front of the building on Atlantic Avenue.

### **Cannabis Product Storage**

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 Class 5 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 RFID code will be assigned to the packaged products and will continue to be utilized to track the product off-site from the time of pick up at the Subject Product through the final delivery of the product to a consumer at the time of sale at a licensed cannabis retail facility.

### **Cannabis Product & General Waste Disposal**

General or non-cannabis trash will be stored in the trash room on the third floor and will be removed and placed in the trash receptacle behind the building. *See Revised Floor Plan.* General waste pick up will be conducted in the same manner that the same type of trash has historically been removed from the site. Waste produced in connection with the operations of the proposed cannabis business also will be stored in the trash room located on the third floor next to the vault. Cannabis waste will be removed weekly by a qualified third-party waste removal company through the main entrance on Atlantic Avenue. The Applicant's employees will bring the waste down to the waste truck upon arrival at the scheduled pick up time. The Applicant is willing and able 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.

### **Security**

The existing building on the Subject Property has three (3) floors. There are multiple entry points associated with the building and access to each floor, as follows: (1) the main access door facing Atlantic Avenue which leads 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, deliveries and employees to the Applicant's facility 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.

Employees will be required to enter credentials in order to access the facility. An electronic access control system is used for the entrance to the facility and all interior areas. Dual authentication security is provided via a lock and capture mechanism which requires an employee access control card or other personal information for the lock to become unlocked. Dual authentication security will be implemented at each entrance to an area where cannabis in any form is grown or stored – such areas will be referred to as Limited Access Areas (“LAA”). To enter an LAA, the employee swipes or enters his or her unique access credentials. If the credentials have the requisite security authorization to access the LAA, the door will unlock and the employee may enter. Every attempt to access an LAA is automatically recorded and stored in the Garden Organics access control logs. These logs will record which credentials attempted to gain access to which LAA, the date and time of the attempt, and whether access was granted. The access logs are vital to mitigating and investigating instances of diversion or deviation from standard operating

procedures. Any unauthorized attempt to gain access to an LAA will send an audio and text alert to management and the security team. The alert will also be recorded in the access control log.

Security also will be provided for outgoing deliveries of cannabis products. Specifically, 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.

### **Noise**

The Applicant recognizes that noise is an area of focus for the operation. A strategic facility design will mitigate potential noise 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.

### **Odor**

The Applicant further recognizes that odor also is an area of focus for the operation. 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.

## **III. Variance Relief & Justification**

The Applicant requires relief from onsite parking requirements because there is no onsite parking at the Subject Property. Accordingly, the Applicant requires 'c' or bulk variance relief. Bulk variance relief can be satisfied by a demonstration that the relief is warranted under N.J.S.A. 40:55D-70(c)(1) or (c)(2). An applicant must establish both the positive and negative criteria to demonstrate a right to variance relief.

### **A. c(1) Variance Relief is Appropriate in Light of Existing Site Conditions**

As the CRDA is aware, c(1) variance relief is warranted if the CRDA finds that, "(1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property . . . " N.J.S.A. 40:55D-70(c)(1).

The Applicant submits that c(1) variance relief from onsite parking requirements is warranted in this case due to the current lawfully existing conditions of the Subject Property,

namely the fact that the property is almost entirely occupied by a long-existing three-story building which almost extends from property line to property line. Thus there is no onsite parking available on this site and Applicant is unable to acquire more land to add onsite parking to satisfy the parking requirement. Further, as a result of the existing conditions no exterior renovations (which would require the Property Owner's permission) to create onsite parking are possible without a total demolition of the existing building and a complete re-design of the Subject Property. As such, the Applicant requests c(1) variance relief from the onsite parking requirements due to the existing conditions uniquely affecting this property which result in peculiar and exceptional practical difficulties and undue hardship to the Applicant if the onsite parking requirement were strictly imposed.

**B. The Parking Variance Also Can Be Granted Under the c(2) Variance Criteria**

As the CRDA is aware, c(2) variance relief is warranted if the CRDA finds that "the purposes of [the Municipal Land Use Law]... would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment." N.J.S.A. 40:55D-70(c)(2). The purposes of zoning are found under N.J.S.A. 40:55D-2, and advancement of any one or more of the enumerated purposes satisfies the positive criteria.

**Positive Criteria**

1. Promotion of Public Welfare (N.J.S.A. 40:55D-2(a)) – The Applicant satisfies purpose (a) 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 noted above, the Subject Property has been included in the Green Zone Redevelopment Plan as an appropriate and permissible location for Class 1 and Class 2 cannabis operations. The use of the site for cannabis operations also is consistent with the Cannabis Regulatory Enforcement and Marketplace Modernization Act's public policy goals which promote the cultivation, manufacturing and retail sales of recreational cannabis as a social equity movement in this State. Further, the proposed operations will promote public health and safety because Applicant is required to, and will, comply with CRC regulatory requirements associated with its Class I and Class II licenses, 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 specific reference to the general welfare, the Applicant's proposed use will create job opportunities within the City and will generate valuable tax dollars for Atlantic City in the form of a local cannabis tax.

2. Appropriate Location (N.J.S.A. 40:55D-2(g)) - The Applicant satisfies this purpose 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. In particular, the third floor of the Subject Property is an especially appropriate location for the Applicant's proposed cannabis cultivation and manufacturing facility due to its location (i) within the Green Zone Redevelopment Area which specifically permits the use and (ii) 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 with the existing and approved uses within the building and therefore is an appropriate use of the third floor. Further, the third floor provides a unique opportunity to promote agricultural use in the form of cannabis cultivation. Finally, there remains a distinct lack of cannabis cultivation and manufacturing facilities in this State outside of the original ATC-licensed growers, therefore allowing Applicant to operate in this location helps meet the demand for cannabis cultivators and manufacturers thereby meeting the needs of all New Jersey citizens.

3. Efficient Use of Land (N.J.S.A. 40:55D-2(m)) – The Applicant satisfies this purpose 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. Here, 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. In addition, rather than constructing its operation on a lot as the sole use, the Applicant proposes to establish its cannabis operation in an existing building which already hosts a cannabis-related operation. The Applicant will make use of an otherwise minimally used portion of an existing building thereby lessening the cost of development and promoting the more efficient use of the Subject Property.

### C. Negative Criteria

As noted above, as with all variance applications the Applicant must satisfy the negative criteria. The Applicant will satisfy the negative criteria if the CRDA finds that the parking variance “can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.” N.J.S.A. 40:55D-70. Here, the Applicant must demonstrate the requested parking variance will not substantially impair the intent and purpose of the Atlantic City Zoning Ordinance and the Green Zone Redevelopment Plan.

It is important to note that, as evidenced by the recent issuance of a Zoning Determination Letter regarding the Applicant’s proposed use for this specific site, the proposed cannabis cultivation and cannabis manufacturing facility is a permitted use and therefore is consistent with the zone plan and Green Zone Redevelopment Plan. The lack of onsite parking at this existing site does not substantially impair the intent and purpose of the zone plan or zoning ordinance because the proposed operations are not open to the public and therefore will not generate customer traffic to the site. The only parking associated with the proposed use would be for the eight employees assuming each drives his or her own vehicle and/or does not utilize alternative methods of transportation. Further, the minimal amount of parking needed for the Applicant’s operations can be accommodated by on street parking and a nearby public parking lot.

Moreover it is important to note the Subject Property was previously approved for a restaurant with dining facilities which would have generated a much higher amount of customer traffic to the site despite the fact that there is no onsite parking. Thus the Applicant submits the intensity of parking associated with Applicant’s permitted use is much less than what previously has been allowed. Ultimately, the lack of onsite parking does not substantially impair the intent or purpose of the zone plan or zoning ordinance which, again, specifically permits this specific use at this site.

Finally, 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 represents progress for the City of Atlantic City and further promotes the social equity movement of regulated cannabis activities. Further, given the *de minimis* need for parking for this permitted use and the availability of on street parking and a nearby public parking lot, there is no detriment the public good in granting the parking variance for the Applicant's quiet and peaceful use of the third floor.

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