Mantua Township Zoning Board of Adjustment Application of Appeal

	Telephone Number:	Appeal Number: 2000000000000000000000000000000000000		
	Appeal is hereby made by the undersigned (che	ck applicable item or items.)		
	From the action of the Zoning Officer/Bu For a Zoning Permit/Building Permit, date	rilding Inspector in refusing my application ted		
		20		
	for a special exception or variance from Mantua Township.	the terms of the Zoning Ordinance of		
Appella	ant: High Street Capital Partners, LLC	366 Madison Ave.,11th Floor, New York, NY 10017		
	Name	address		
Owner	: High Street Capital Partners, LLC	366 Madison Ave.,11th Floor, New York, NY 10017		
	Name	address		
Attorn	The second secon	c/o Lowenstein Sandler LLP, One Lowenstein Dr., Roseland, NJ 0		
(if any)	Name	address		
1.		tems) Yards Height Seed Construction Other		
2.	Brief description of real estate affected:			
	Plate: 34 Block: 170	D Lot:_ 5		
	Location: 510 Mantua Blvd.			
	Lot size: 12.82 acres			
	Present use: commercial greenhouse			
	Present zoning classification LI Light Indus	strial District		
	Present improvements upon land: 110,235 s	q. ft. greenhouse and related improvements		

	Date determination made:
	Your statement:
	Action desired by appellant:
	Approval of a use variance under N.J.S.A. 40:55D-70d(1) to permit the cultivation of
	medical cannabis within the existing commercial greenhouse on the subject property in
	accordance with a State-issued permit from the Dept. of Health.
	Reasons appellant believes Board should approve desired action: (Refer to section or sections o ordinance under which it is felt that desired action might be allowed, and note whether hardship is or is not claimed, and the specific hardship.) See attached supplemental statement on behalf of Applicant.
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Mantua Township Municipal Land Use Board Rules and Regulations

To the Applicant:

- 1. Meetings are held on the 3rd Tuesday of each month at 7:00 pm.
- You are required to bring your completed application to the Land Use Office before the deadline or by the deadline, which is typically six weeks prior to the regularly scheduled monthly meeting. The deadlines are in your package.
- 3. The following must be submitted by the deadline:
 - An original notarized application form and seventeen (17) copies of same.
 - Fees for the application and escrow. Check with the Land Use Coordinator for fees. These fees are a
 deposit only. Additional fees may apply and are the applicant's responsibility. A separate check
 for the application fee and a separate check for escrow fee is required.
 - Seventeen (17) copies of a sketch or survey of the property.
 - A certified list of tax owners.
 - A copy of this page signed by the applicant.
- 4. The following should be **completed** and **submitted** 10 days prior to the Joint Land Use Board Meeting to allow our Solicitor the time to review these items before the meeting.
 - A signed and notarized Affidavit of Notice served on the neighbors within two hundred feet along with
 postmarked green and white receipt stubs for certified mail, return receipt requested attached.
 - You must publish Notice of Hearing in the South Jersey Times or Courier Post. This notice must be
 in the newspaper (10) days prior to the meeting date (You can publish sooner than the required
 10 days). The newspaper will send you an Affidavit of Publication, which you must submit to the
 Coordinator in advance of the meeting..
 - A copy of the Notice sent to the neighbors.
 - A copy of the letter from the tax collector regarding property taxes

If you must mail the notices, they must be by certified mail (return receipt requested) and you must return the white and green postmarked stubs 10 days prior to the meeting and the green cards at or before the meeting to the Coordinator. If you personally deliver the notices, you must list the neighbors' names and addresses on the affidavit of notice with their signature.

- 4. It is your responsibility to make certain that the notice in the newspaper is printed no later than ten (10) days before the meeting. It is also your responsibility to bring the proof-of-publication of the notice in the newspaper to the Coordinator before the meeting. (The newspaper will send this to you).
- 5. If you are submitting an application for use variance, which will require a subdivision or site plan, you must obtain additional forms from the Land Use Office. You must also state in your notice for the use variance that you will be applying for a site plan and/or subdivision.
- 6. All professional reviews incurred in connection with the review of this application are to be paid for by the applicant. We are not able to give an estimation of fees at this time. However, in order for this application to be heard, you must sign the certification below.

I hereby certify that I shall be responsible application.	e for all professional fees incurred in connection	with the review of this
1/28/2020		
Date		Signature of Applicant

You must attend the meeting or your application will not be considered. Please be prepared to present the appropriate evidence in connection with your application.

STATEMENT ON BEHALF OF APPLICANT

Applicant:

High Street Capital Partners, LLC

Owner:

High Street Capital Partners, LLC

Operator:

Compassionate Care Foundation, Inc.

Property:

Address:

510 Mantua Blvd.

Block/Lot:

Block 170, Lot 5, 5Q (13 acres+/-)

Zone:

Light Industrial District [Zone LI]

Use:

§230-24.B(1)(f) - "commercial greenhouse, nursery and wholesale florist"

Relief:

Use Variance

A. Background

On December 2, 2019, Applicant, High Street Capital Partners, LLC ("Applicant"), submitted an application (the "Application") to the Joint Land Use Board ("JLUB") seeking amended preliminary and final major site plan approval for the above-referenced property (the "Property") to cultivate medical cannabis within the existing 110,235 sq. ft. commercial greenhouse located thereon. On December 17, 2019, the JLUB upheld the zoning officer's denial of a zoning permit application for the Property and determined that the proposed use was not permitted in the LI Light Industrial District. Accordingly, Applicant hereby wishes to amend the pending Application to include a request for a use variance, without prejudice to Applicant's rights in response to the denial of its zoning permit application or otherwise in connection with its belief that the proposed use of the Property is permitted under §230-24.B(1)(f) of the zoning Ordinance.

No further changes are being requested at this time in connection with the Application.

B. Relief Sought

In addition to seeking amended preliminary and final major site plan approval, along with the variances and other relief identified in connection with the Application, the proposal implicates §230-24.B of the Ordinance (permitted uses in the LI Light Industrial District).

C. Justifications for Use Variance Relief

The foregoing use variance is cognizable under N.J.S.A. 40:55d-70d(1), which provides in relevant part in describing the power of the JLUB (sitting as a zoning board of adjustment):

In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure,..."

Positive Criteria; Special Reasons

Any consideration by this Board of a use variance will require the analysis of the "positive" and "negative" criteria outlined in N.J.S.A. 40:55D-70. In terms of the positive criteria, "special reasons" must be shown to exist in order for the JLUB to consider the grant of variance relief under N.J.S.A. 40:55D-70d(1). Although the satisfaction of any of the purposes of zoning has consistently been construed as serving the "general welfare" to support an application for a use variance, the promotion of the general welfare under N.J.S.A. 40:55D-2a has been widely accepted as the purpose of zoning which "most clearly amplifies the meaning of special reasons" to justify d-variance relief. See Medici v. BPR Co., 107 N.J. 1 (1987).

In this regard, the Applicant's goals of expanding patient access to medical cannabis and reducing opioid dependence unequivocally promotes "the public health, safety, morals, and general welfare," as contemplated under N.J.S.A. 40:55D-2 (emphasis added). Similarly, the promotion of New Jersey's strong public policy objectives under the Jake Honig Compassionate Use Medical Cannabis Act (codified at N.J.S.A. 24:6I-1 et seq., and referred to herein as the "Jake Honig Law") likewise serves as a basis for the grant of a use variance under N.J.S.A. 40:55D-70d(1). See Anfuso v. Seeley, 243 N.J. Super. 118 (App. Div. 1990) (finding that the promotion of a State policy has been held to advance the general welfare in terms of supporting special reasons for a use variance).

Site Suitability

Ordinarily, to establish that a proposed use promotes the general welfare of the community requires a showing that the site itself is particularly suited for the proposed use. This analysis, in turn, focuses on (1) why the location of the site is particularly suited to the use despite the underlying zoning, and/or (2) what unique characteristics of the site itself make it particularly appropriate for the proposed use rather than one contemplated under the ordinance.

Applied to the Property, it is easy to see how it is particularly suited to the proposed use insofar as it is in an industrial zone, and currently improved with a 110,235 sq. ft. greenhouse which was used for the cultivation of orchids for nearly a decade. The proposed use is low-impact by nature, such that the number of employees, frequency of traffic and deliveries, is comparatively low and, in any event, generally consistent with the operations of the prior orchid cultivator. The site will be limited to cultivation activities, so members of the general public will not have any cause to visit the Property.

In terms of its physical proximity to adjoining uses, the Property is adjoined to the south by a complementary flower distribution operation, which processes flowers, botanicals, plants and produce for shipping to retail florists nationwide. The operations on the site actually benefit from various access, parking, loading and utility easements across this adjoining property. To the east are expansive wetlands. To the west, across Mantua Boulevard, are a few dwellings, the physical structures of which are all more than 200 ft. away from the existing commercial greenhouse structure. To the north of the existing greenhouse structure is a single residential dwelling that is more than 160 ft. away (to the closest corner of the dwelling), on the other side of a dense screen of trees and shrubbery.

Importantly, the Property satisfies all distance and separation requirements under applicable State and Federal laws governing distances to the closest school and other regulated facilities.

The very existence of both State and Federal laws imposing distance requirements from sensitive receptors naturally limits the availability of alternative sites. Compound that with the fact that the Property is already improved with a greenhouse on a somewhat isolated tract of land with a small number of neighbors and substantial buffers, and it is not difficult to see how the Property is particularly, if not uniquely, suited to the cultivation of medical cannabis. There are certainly no other sites in the municipality which can mirror what the Property has to offer in this regard.

Inherently Beneficial Use

Considering the strong public policy behind the Jake Honig Law, the well-established medical benefits of cannabis use, and its importance as an alternative to potentially dangerous and addictive opioids, the proliferation of medical cannabis in New Jersey is the very definition of what it means to be "inherently beneficial" insofar as it is "universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare." N.J.S.A. 40:55D-4.

Accordingly, a use which is inherently beneficial presumptively satisfies the positive criteria for the grant of use variance relief under N.J.S.A. 40:55D-70d(1), as it is assumed to serve the general welfare. In other words, site suitability is not a criterion to be addressed in the context of a use variance for an inherently beneficial use.

Negative Criteria

Regarding the negative criteria applicable to use variance relief under N.J.S.A. 40:55D-70d(1), the relief sought can be granted (i) without substantial detriment to the public good, and (ii) without substantially impairing the intent and purpose of the zone plan and ordinance. This analysis involves a balancing — of the impact of the variance upon neighboring properties, on the one hand; and on the municipal zoning scheme and master plan, on the other.

Based on the facts above and to be presented in connection with the Application, the use and operation of the Property – from the outside – will appear the same as it had during the past decade when it was used for orchid cultivation. Again, the number of employees, frequency of

deliveries, and the like will be substantially similar to that prior operation; the only real change will be in what plant is being cultivated on the inside of the greenhouse -- which change will not be discernable to any of the neighboring properties. Other than installing a perimeter fence, the exterior of the Property will not change in any way in connection with the Application.

Further, the operations within the existing greenhouse do not generate meaningful noise or disturbance, and the greenhouse itself is designed to operate as a closed system with minimal exchange with outside air. Inside the greenhouse, state of the art odor mitigation measures will be deployed to destroy odor-causing molecules at their source. As a result, the proposed operations will satisfy the performance standards contained in §230-53 of the ordinance, including those relating to glare, noise and odor, and otherwise will have no discernable impact on the few properties which surround the greenhouse.

Lastly, as it relates to the perceived impact of the proposal on the underlying master plan or zoning ordinance, the Applicant can, by enhanced quality of proof, reconcile the proposed use variance with the zoning ordinance's omission of the use from those expressly permitted in the zone. First and foremost, the greenhouse structure which already exists on the Property is expressly permitted under §230-24.B(1)(f) of the zoning ordinance. The Property, as developed, already complies with the bulk standards of the underlying ordinance, with particular recognition of the fact that the few minor bulk variances previously granted for the Property in connection with the development of the greenhouse relate to the yet-to-be-constructed "Phase 2" thereof. The Property meets or exceeds State and Federal distance requirements from sensitive receptors, and is otherwise largely isolated in a light industrial zone with a small handful of neighbors with borders within 200 ft.

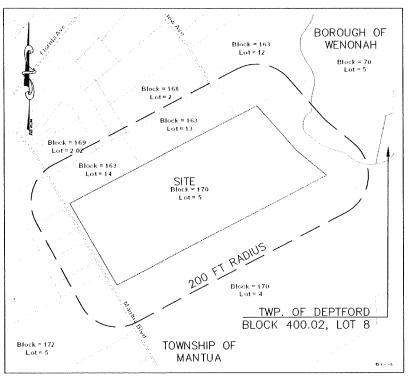
Neither the underlying zoning ordinance nor master plan regulates or limits any uses connected to the cannabis industry and, the strong public policy promoting the proliferation of medical cannabis in New Jersey provides an opportunity for the Township to satisfy this largely unmet need. Similarly, to the extent the proposal is deemed to be an inherently beneficial use, the enhanced qualify of proof as to this prong of the negative criteria is not applicable, and any concerns that the proposal results in some detrimental impact on the zone plan or ordinance could be mitigated by imposing reasonable conditions.

Either way, the variance relief requested would not be incompatible with the zone, the master plan, the surrounding uses or the underlying ordinance.

For all of the foregoing reasons, as well as those to be discussed at length before the JLUB, the Applicant hereby requests approval of a use variance for the Property under N.J.S.A. 40:55D-70d(1).

AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN FOR: HIGH STREET CAPITAL PARTNERS, L.L.C. BLOCK 170, LOT 5

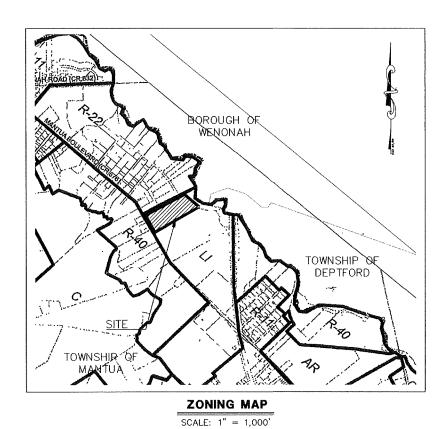
SITUATED IN:
TOWNSHIP OF MANTUA
GLOUCESTER COUNTY, NEW JERSEY





BOROUGH OF WENONAH TWP. OF DEPTFORD MANTUA 676

SCALE: 1" = 500'



PROPERTY OWNERS WITHIN 200' OF THE SITE:

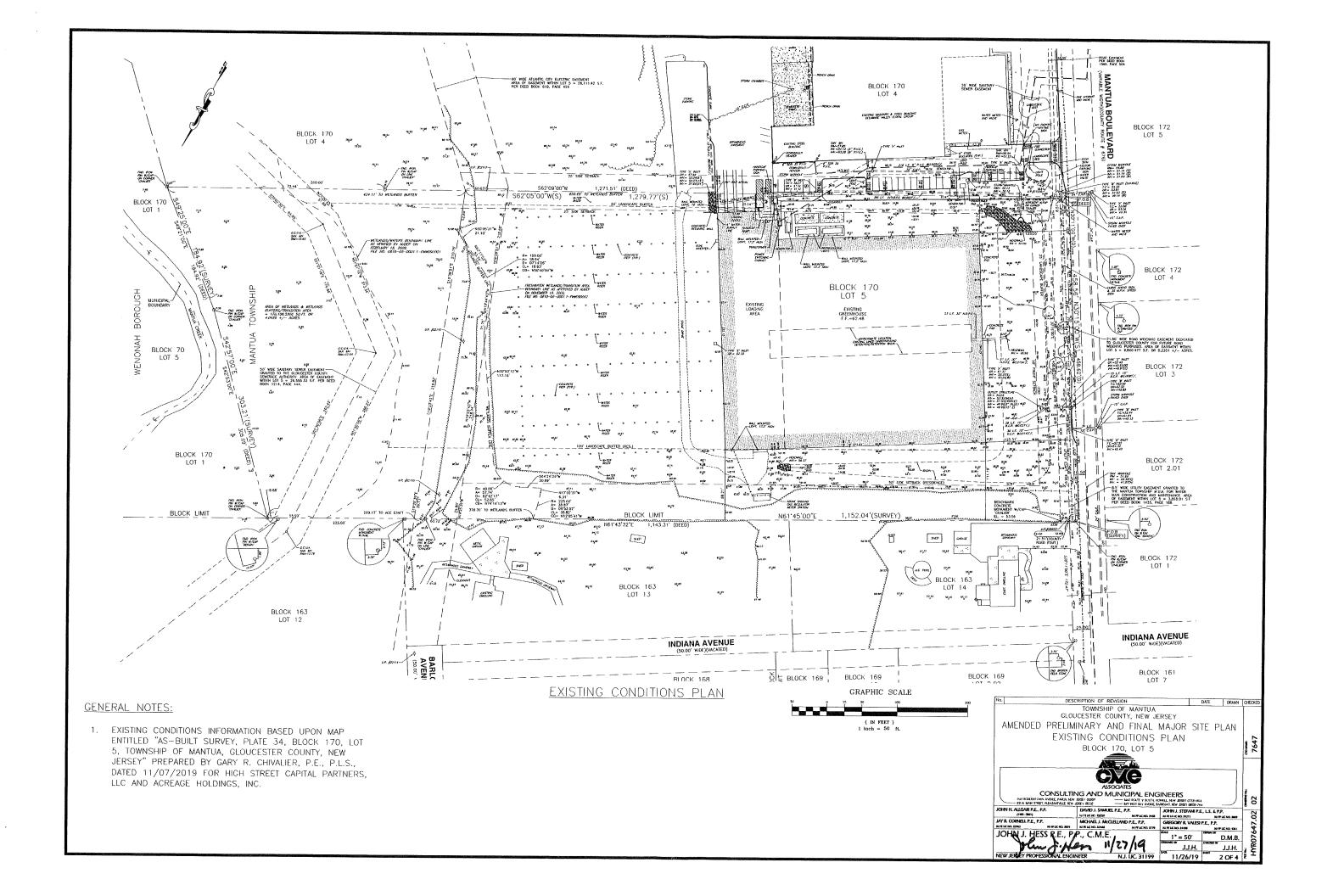
CERTIFIED 200' LIST							
MUNICIPALITY	BLOCK	LOT	LOCATION	OWNER NAME	OWNER CSZ	ADDITIONAL LOTS	
DEPTT ORD TWP	400.02	8	BARK BRIDGE ROAD	STATE OF NJ, DEPT. OF TRANSPORTATION	TRENTON, NJ 08608		
MANTUA TWP	163	12	90 BARLOW AVE	LEWIS, ROBERT C. & KAREN H	SEWELL, NJ 06080		
MANTUA TWP	163	13	97 BARLOW AVE	MCGUINNESS, WALTER C & JOAN E	SEWELL, NJ 08030	168, 2	
MANTUA TWP	163	14	500 MANUA BLVD	SHEPHERD, SAMANTHA L	SEWELL, NJ 08080		
MANTUA TWP	168	2	97 BARLOW AVE	MCGUINNESS, WALTER C & JOAN E	SEWELL, NJ 08080		
MANTUA TWP	169	2.01	31 FLORIDA AVE	HUBBS, JERALD L & LINDA	SEWELL, NJ 03080		
MANTUA TWP	169	2.02	480 MANTUA BLVD	MICHALOWSKI, MARGARET L	SEWELL, NJ 08080	2.04	
MANTUA TWP	169	2.03	37 FLORIDA AVE	ROHM, WILLIAM E.	SEWELL, NJ 08080		
MANTUA TWP	170	1	MANTUA BLVD	MANTUA TOWNSHIP	MANTUA, NJ 08051		
MANTUA TWP	170	4	520 MANTUAL BLVD	WILKINS INDUSTRIAL PARK LLC	SEWELL, NJ 08080		
MANTUA TWP	172	1	501 & 503 MANTUA BLVD	FLETCHER, DOROTHY M	SEWELL, NJ 08080		
MANTUA TWP	172	2.01	505 MANTUA BLVD	FLETCHER, SABINA HART	SEWELL, NJ 08080		
MANTUA TWP	172	3	509 MANTUA BLVD	VALENTINE, ANTHONY	SEWELL, NJ 08060		
MANTUA TWP	172	4	513 MANTUA BLVD	LEGGE, JOHN C. JR. & PATRICIA A.	SEWELL, NJ 08080		
MANTUA TWP	172	5	MANTUA BLVD	LEGGE, JOHN C. JR. & PATRICIA A.	SEWELL, NJ 08080	6.01, 6.04	
WENONAH BORO	70	5	MANTUA CREEK	BOROUGH OF WENONAH	WENONAH, NJ 08090		
BASED ON CERTIFIED 200' LIST ISSUED ON NOVEMBER 22, 2019							

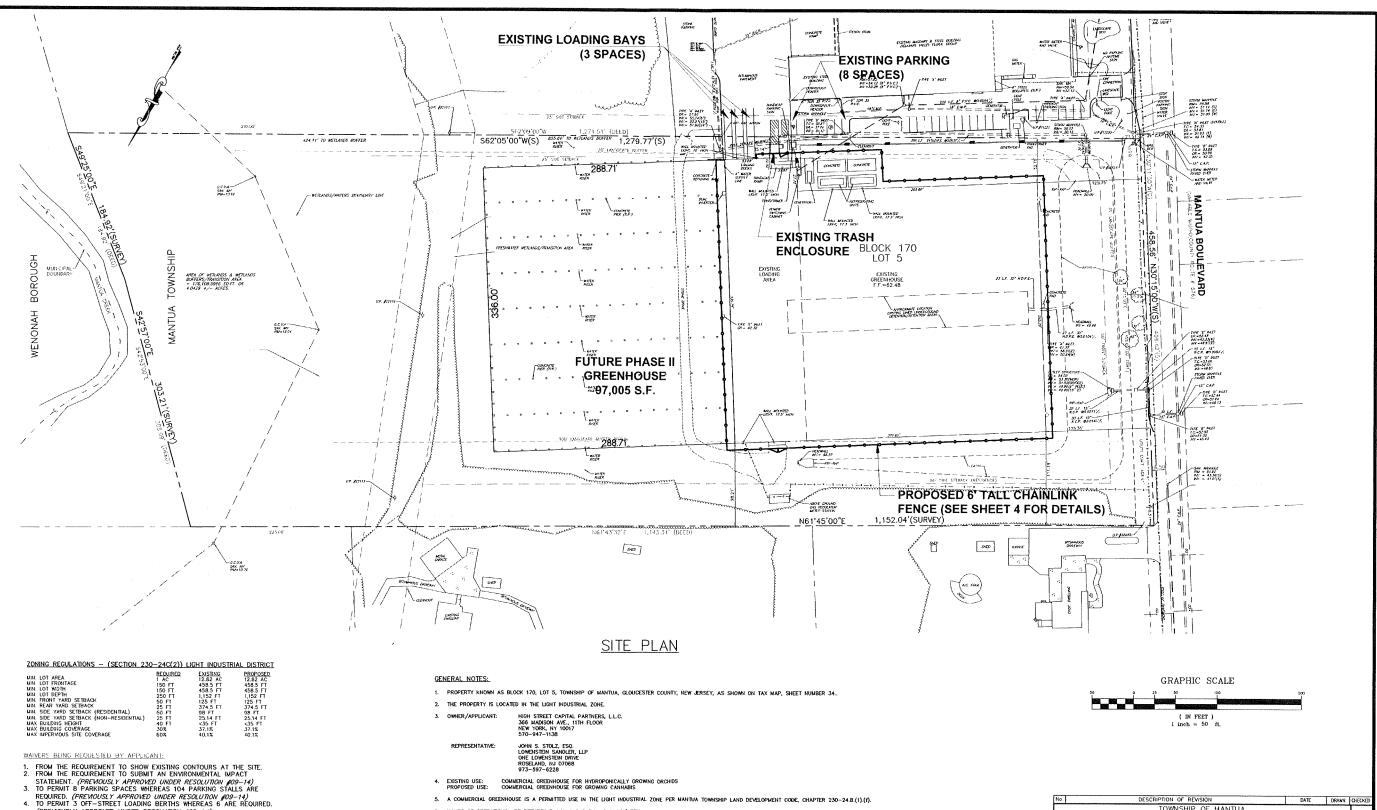
	INDEX OF SHEETS	
SHEET NO.	DESCRIPTION	LAST REVISED
1	COVER AND INDEX SHEET	11/26/19
2	EXISTING CONDITIONS PLAN	11/26/19
3	SITE PLAN	11/26/19
4	FENCE PLAN	11/26/19

AND FINAL SITE BOARD ON:	PLAN	BY	THE	LAND	USE
DATE					
RESOLUTION	#				
CHAIRMAN				-	DATI
SECRETARY					DATI
ENGINEER					DAT

APPROVED AS AN AMENDED PRELIMINARY

No. DI	SCRIPTION OF REVISION	DATE	DRAWN CHECKED		
	TOWNSHIP OF MANTUA				
	DUCESTER COUNTY, NEW JER				
	MINARY AND FINAL M		LAN		
CO	VER AND INDEX SH	EET	647		
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	ASSOCIATES				
CONSULT	TING AND MUNICIPAL ENGIN		1 5		
EZI K LIGH STREET, REASONTWELL, I	EN ERTEY DEZIZ 647 MEST BLY AVENE, BARRE	EGAT, NEW ERREY (BILDS-744)			
JOHN H. ALLGAR P.E., P.P.		JOHN J. STEFAMI P.E., L.S. & P.	P		
JAY 8. CORNELL P.E., P.P.		GREGORY R. VALESI P.E., P.P.	, tenoral 4		
JOHN J. HESSP.E.,		OUT DESIGN BY	TH. 7497		
12 /27/16 JJ.H. JJ.H.					
NEW JERSEY PROFESSION OF	GINEER NI K 31100	प्राप्त करता	1 OF 4		
14. H 3. S. S. L 1. K. S.	2 7 3 1 7 7 7	11/20/17			





- IO PERMIT 3 OFF—SIREL LOADING BERTHS WHEREAS 6 ARE REQU (PREVOUSLY APPROVED UNDER RESOLUTION \$09-14)
 FROM THE REQUIREMENT TO INSTALL SIDEWALK ALONG MANTUA BOULEVARD, (PREVIOUSLY APPROVED UNDER RESOLUTION) \$09-14)
 FROM MISCELLANEOUS SUBMISSION REQUIREMENTS FOR THE PLANS REQUIRED BY SECTION 230-83.B.(PREVIOUSLY APPROVED UNDER ESCALUTION) \$200.
- RESOLUTION #09-14)

 6. FROM SECTION 230-49.B, TO PERMIT THE INSTALLATION OF 6' HIGH CHAIN-LINK FENCE IN THE FRONT YARD.

 7. ANY AND ALL OTHER WAIVERS DEEMED NECESSARY BY THE BOARD.

VARIANCES BEING REQUESTED BY APPLICANT

- 1. A VARIANCE FROM SECTIONS 230–24.C.(2)(1) 30% MAXIMUM BUILDING COVERAGE, 230–24.D.(1)(b) 100 FOOT LANDSCAPED BUFFER TO ADJACENT RESIDENTIAL USE, AND 230–24.D.(1)(c) 20 FOOT LANDSCAPED BUFFER TO ADJACENT NON-RESIDENTIAL ZONE. (PREVIOUSLY APPROVED UNDER RESOLUTION JOS-14)
 2. VARIANCE TO PERMIT AN INCREASE IN BUILDING COVERAGE FROM 37.1% TO 37.3% WHEREAS A MAXIMUM BUILDING COVERAGE OF 30% IS PERMITTED. (PREVIOUSLY APPROVED UNDER RESOLUTION JIO-22)
 3. ANY AND ALL OTHER VARIANCES DEEMED NECESSARY BY THE BOARD.

- 4. EXISTING USE: COMMERCIAL GREENHOUSE FOR HYDROPONICALLY GROWING ORCHIDS PROPOSED USE: COMMERCIAL GREENHOUSE FOR GROWING CANNABIS
- 5. A COMMERCIAL GREENHOUSE IS A PERMITTED USE IN THE LIGHT INDUSTRIAL ZONE PER MANTUA TOWNSHIP LAND DEVELOPMENT CODE, CHAPTER 230-24.8.(1).(1).
- 6. HOURS OF OPERATIONS ARE BETWEEN 7 A.M. AND 6 P.M., 7 DAYS/WEEK
- 7. A TOTAL OF 15 EMPLOYEES ARE ANTICIPATED AT THE SITE.
- 8. A TOTAL OF 8 TO 10 EMPLOYEES ARE ANTICIPATED PER SHIFT.
- 9. A TOTAL OF 8 PARKING SPACES AND 3 LOADING SPACES ARE AVAILABLE TO THE APPLICANT ON ADJOINING LOT 4, IN ACCORDANCE WITH A DECLARATION OF CROSS EASEMENTS WHICH WAS RECORDED IN THE GLOUCESTER COUNTY CLERKS OFFICE, ON SEPTEMBER 16, 2009 IN BOOK 4692, PAGE 23R.
- 10. LOCATION OF PHASE 2 GREENHOUSE OBTAINED FROM SITE AND UTILITY PLAN (SHEET 3 OF 10) PREPARED BY CARY R. CIVALIER, P.E. & P.L.S., WITH CIVALIER ENGINEERING & SURVEYING, INC., OF WEDIONIAH, NJ DATED 2/10/09 AND LAST REVISED ON 8/18/09.
- 11. SANITARY SEWER EASEMENTS, STORM SEWER EASEMENTS AND ACCESS EASEMENTS FOR CARS AND TRUCKS PROMOED ACROSS LOT 4 BY DECLARATION OF CROSS EASEMENTS AGREEMENT CITED IN 49 ABOVE.
- 12. NO OUTDOOR DISPLAY IS PERMITTED.

No. DESCRIPTION OF REVISION DATE DRAWN CHEC					
TOWNSHIP OF MANTUA GLOUCESTER COUNTY, NEW JERSEY					
AMENDED PRELIMI	NARY AND FINAL MAJOR	R SITE P	LAN		
Е	BLOCK 170, LOT 5		. 4		
	SITE PLAN		7647		
C) (E) ASSOCIATES					
CONSULTING AND MUNICIPAL ENGINEERS THE RECORD AND FOR THE PROPERTY OF THE PROP					
JOHN H. ALIGAR P.E., P.P. DAVID J. SWAUEL P.E., P.P. DAVID J. SWAUEL P.E., P.E., P.E., P.E. DAVID J. SWAUEL P.E., P.E., P.E., P.E., P.E., P.E., P.E. DAVID J. SWAUEL P.E., P.E., P.E., P.E., P.E., P.E., P.E., P.E					
JAY B. CORNEL P.E., P.P. NOMICHO SHIP NOMICHO SHIP	LINCTUREL I. INCCLEUAND P.E., P.P. GREGORY RIFELICAD 2014 REPLEID 2019 REFELICAD 2	R VALESI P.E., P.P.	TYRO7647.02		
JOHN L HESS P.E. P.P., C.M.E.					
HTT HTT 13/16 6/85/19 6/10/19					
NET JERSEY PROFESSIONAL ENGINEER NJ. LIC. 31199 11/26/19 3 OF 4					

