



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## EXHIBIT "A" TO RESOLUTION 17- , ADOPTED 5/16/2017

**TO:** Members of the Authority

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

**COPY:** Christopher M. Howard, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
Application #2017-04-2159  
Dectrinity, LLC  
Preliminary and Final Site Plan Approval  
Block 32, Lot 8  
2701 Boardwalk

**DATE:** May 1, 2017

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### EXECUTIVE SUMMARY

On April 20, 2017, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Dectrinity, LLC (the "Applicant"), seeks Preliminary and Final Site Plan Approval for the development of an open air restaurant and bar along the Boardwalk at the property located at Block 32, Lot 8 in the city of Atlantic City. The restaurant and bar will consist of an outdoor kitchen area, two bars, three fire pits and a game area. The development proposal also includes facilities for dry storage, a walk-in refrigerator and restrooms, together with associated landscaping and lighting improvements. No variances are required.

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the site plan standards and technical requirements of the land use ordinances of the city of Atlantic City. Therefore, for the reasons more fully outlined



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below, the Hearing Officer recommends that the Application be approved by the Authority.

### **INTRODUCTION**

#### Application Information

Dectrinity, LLC  
Preliminary and Final Site Plan Approval  
Block 32, Lot 8  
RS-C Resort Commercial 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 Preliminary and Final Site Plan Approval for the development of an open air restaurant and bar along the Boardwalk at the property located at Block 32, Lot 8 in the city of Atlantic City. The restaurant and bar will consist of an outdoor kitchen area, two bars, three fire pits and a game area. The development proposal also includes facilities for dry storage, a walk-in refrigerator and restrooms, together with associated landscaping and lighting improvements. No variances are required.

#### Evidence List

- A-1 Application
- A-2 Aerial rendering
- A-3 Existing conditions plan
- A-4 Revised site plan showing floor plan
- A-5 Revised signage plan
  
- B-1 Letter from InSite Engineering, LLC dated April 14, 2017

### **FINDINGS OF FACT**

The Applicant seeks Preliminary and Final Site Plan Approval for the development of an open air restaurant and bar along the Boardwalk at the property located at Block 32, Lot 8 in the city of Atlantic City. The restaurant and bar will consist of an outdoor kitchen area, two bars, three fire pits and a game area. The development proposal also includes

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facilities for dry storage, a walk-in refrigerator and restrooms, together with associated landscaping and lighting improvements. No variances are required.

The attorney for the Applicant, Nicholas Talvacchia, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. He noted that the Applicant had modified the development proposal to obviate the need for any variances, and withdrew prior requests for same.

The Applicant presented the testimony of Jon Barnhart, P.E., P.P., who was qualified as an expert in the field of professional engineering and professional planning. Mr. Barnhart described the location of the site, existing conditions, development proposal, site layout and design. He explained that the development proposal seeks to utilize and activate an existing outdoor space to bring energy and excitement to the Boardwalk, and that the Applicant anticipates that most of its patrons will be pedestrians. Mr. Barnhart provided testimony regarding access, drainage and stormwater, parking, lighting, landscaping and site plan design issues. He testified that all existing infrastructure is adequate to support the development proposal, and that any new infrastructure installations will comply with city requirements. He also testified that the development proposal complies with all applicable land use and site plan standards.

During the course of his testimony, Mr. Barnhart made the following representations on behalf of the Applicant:

- Applicant will obtain any necessary license from the City of Atlantic City to use the outer ribbon of the Boardwalk for landscaping.
- The proposed restrooms will be connected to water and sewer facilities.
- All signage for the development proposal will conform to the requirements of the zoning ordinance.
- Applicant will comply with State noise standards.
- Applicant will obtain all necessary approvals for propane used in fire pits and kitchen facility.
- Trash shall be removed from the site on a daily basis.

Finally, with respect to comments noted in the planning and engineering review letter of InSite Engineering, LLC dated April 14, 2017, Mr. Barnhart testified as to the appropriateness of the grant of checklist waivers and site plan and design exceptions.

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Jason L. Fichter, P.E., P.P. was qualified as an expert in professional engineering and planning and provided testimony on behalf of the Authority. Mr. Fichter's engineering and planning review letter dated April 14, 2017 was marked into evidence as Exhibit B-1. Mr. Fichter elicited testimony from the Applicant regarding requested checklist waivers and site plan and design exceptions, noted that all issues identified in his review letter had been addressed in testimony and supported approval of the application.

Several members of the public appeared and offered comment both in favor and opposition to the application. Some local residents raised concerns about the use of propane tanks and noise associated with the development proposal.

### **CONCLUSIONS OF LAW**

#### Preliminary and Final 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 proposal generally conforms to the site plan standards and technical requirements of the land use ordinances of the city of Atlantic City.

### **RECOMMENDATION**

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Preliminary and Final Site Plan Approval 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 city of Atlantic City Land Use Ordinances, or other 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

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all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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