

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCE RELIEF FOR THE CONSTRUCTION OF A PHASED COMMERCIAL DEVELOPMENT, INCLUDING THE DEMOLITION OF EXISTING STRUCTURES, A CONCRETE PLATFORM WITH APPROXIMATELY 6,600 SQUARE FEET OF OPEN AIR RESTAURANT/BAR AND APPROXIMATELY 5,300 SQUARE FEET OF A FAMILY AMUSEMENT AREA, AND AN APPROXIMATELY 11,900 SQUARE FOOT BUILDING ABOVE THE CONCRETE PLATFORM HOUSING COMMERCIAL USES, ALONG THE BOARDWALK BETWEEN TENNESSEE AVENUE AND ST. JAMES PLACE IN THE CITY OF ATLANTIC CITY, BLOCK 53, LOT 14 UNDER APPLICATION 2017-06-2215

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the "Act"), the Casino Reinvestment Development Authority (the "Authority"): (i) designated the Atlantic City Tourism District by Resolution 11-25 adopted April 19, 2011, (ii) established the Land Use Regulation and Enforcement Division to, among other matter, hear applications for development in the Tourism District by Resolution 11-33 adopted April 19, 2011, and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34 adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14 dated February 1, 2012, the Authority adopted the "New Jersey CRDA Atlantic City Tourism District Master Plan" prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the "Master Plan") (as affirmed and readopted pursuant to Resolution 12-23 adopted February 21, 2012), subject to further comment and revision, which master plan became effective upon the Authority's adoption of design, development and land use regulations on January 2, 2018; and

WHEREAS, Schiff Enterprises, LLC (the "Applicant") seeks preliminary and final site plan approval with a bulk variance for the construction of a phased commercial development, including the demolition of existing structures, a concrete platform with approximately 6,600 square feet of open air restaurant/bar and approximately 5,300 square feet of a family amusement area, and an approximately 11,900 square foot building above the concrete platform housing commercial uses, , with a bulk variance to permit 88.4% impervious coverage where a maximum of 80% impervious coverage is permitted along the Boardwalk between Tennessee Avenue and St. James Place in the city of Atlantic City, New Jersey, at Block 53, Lot 14 under Application 2017-06-2215 (the "Application"), pursuant to Municipal Land Use Law N.J.S.A. 40:55D-70(c); and

WHEREAS, on May 3, 2018, the Authority's Land Use Regulation and Enforcement Division convened a public hearing on the Application in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared


and delivered the Hearing Officer's Report and Recommendation dated May 29, 2018 (the "Report"), incorporated herein by this reference and appended hereto as Exhibit "A"; and

WHEREAS, the Authority intends to adopt the findings, conclusions and recommendations of the Hearing Officer, as detailed in the Report; and

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.
2. Based on the record in this matter, Application 2017-06-2215 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated May 29, 2018.
3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 18-48 of the Casino Reinvestment Development Authority.



PAUL G. WEISS, ESQ., ASSISTANT SECRETARY

MEETING OF JUNE 19, 2018

***EXHIBIT "A" ATTACHED TO RESOLUTION 18-48 ADOPTED JUNE 19, 2018
HEARING OFFICER REPORT DATED MAY 29, 2018***



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 18-48, ADOPTED 6/19/2018

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 2017-06-2215
Schiff Enterprises
Preliminary and Final Major Site Plan Approval and Bulk Variance
1401 Boardwalk Commercial Project
Tennessee Avenue and St. James Place
Block 53, Lot 14
RC Resort Commercial Zoning District

DATE: May 29, 2018

EXECUTIVE SUMMARY

On May 3, 2018, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Schiff Enterprises (the "Applicant"), seeks Preliminary and Final Site Plan Approval with a bulk variance to permit the phased construction of a commercial development along the Boardwalk between Tennessee Avenue and St. James Place in the city of Atlantic City. Phase I includes the demolition of existing structures; Phase II includes the construction of concrete platform with an approximately 6,600 square foot open air restaurant/bar and an approximately 5,300 square foot family amusement area; and Phase III includes the construction of an approximately 11,900 building above the concrete platform housing commercial uses. The Applicant seeks a bulk variance to permit 88.4% impervious coverage where a maximum of 80% impervious coverage is permitted.

Page 1 of 5

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Error! Unknown document property name.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the site plan standards and technical requirements of the Authority's Tourism District Land Development Rules. In addition, the Applicant demonstrated by evidence and testimony that the grant of the requested variance is warranted. Therefore, for the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.

INTRODUCTION

Application Information

Schiff Enterprises
Preliminary and Final Major Site Plan Approval and Bulk Variance
Tennessee Avenue and St. James Place
Block 53, Lot 14
RC 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 with a bulk variance to permit the phased construction of a commercial development along the Boardwalk between Tennessee Avenue and St. James Place in the city of Atlantic City. Phase I includes the demolition of existing structures; Phase II includes the construction of concrete platform with an approximately 6,600 square foot open air restaurant/bar and an approximately 5,300 square foot family amusement area; and Phase III includes the construction of an approximately 11,900 building above the concrete platform housing commercial uses. The Applicant seeks a bulk variance to permit 88.4% impervious coverage where a maximum of 80% impervious coverage is permitted.

Evidence List

- A-1 Application Materials
- A-2 Colorized Site Plan
- A-3 Phase II Site Plan
- A-4 Phase II Schematic

Page 2 of 5

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

- A-5 Handout
- A-6 Atlantic City Zoning Board Resolution and CAFRA approval

- B-1 Letter from ARH Associates dated April 27, 2018, 2018

FINDINGS OF FACT

The Applicant seeks Preliminary and Final Site Plan Approval with a bulk variance to permit the phased construction of a commercial development along the Boardwalk between Tennessee Avenue and St. James Place in the city of Atlantic City. Phase I includes the demolition of existing structures; Phase II includes the construction of concrete platform with an approximately 6,600 square foot open air restaurant/bar and an approximately 5,300 square foot family amusement area; and Phase III includes the construction of an approximately 11,900 building above the concrete platform housing commercial uses. The Applicant seeks a bulk variance to permit 88.4% impervious coverage where a maximum of 80% impervious coverage is permitted.

The attorney for the Applicant, George Miller, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. Mr. Miller explained that Phase I of the development, consisting of demolition of the existing structures, has been completed. He further noted that Phase III of the development is speculative at this stage based on market conditions and acknowledged the need for further land use approvals from the Authority.

The Applicant presented the testimony of David Fleming, P.E., who was qualified as an expert in the field of professional engineering. Mr. Fleming described the location of the site, existing conditions, development proposal and site layout, site circulation, lighting, sewer and stormwater. He explained that Phase II consists of the construction of a concrete platform with an approximately 6,600 square foot open air restaurant/bar and an approximately 5,300 square foot family amusement area. Mr. Fleming noted that the development will be served with sanitary sewer.

With respect to the bulk variance, Mr. Fleming testified that the high percentage of impervious coverage is common along the Boardwalk in the vicinity of the site, and noted that it is consistent with the existing CAFRA permit for the site. He testified that the grant of the variance would advance the purposes of zoning. With respect to the negative criteria, Mr. Fleming testified that the grant of the variance would advance the purposes of the

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

Tourism District Master Plan and would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Finally, Mr. Fleming noted that the Applicant will comply with comments set forth in the April 27, 2018, 2018 ARH Associates review letter as a condition of approval.

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 Tourism District Land Development Rules.

Variances Pursuant to N.J.S.A. 40:55D-70(c)

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

Positive Criteria

The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of that deviation would substantially out-weigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

Here, the Applicant seeks a bulk variance to permit 88.4% impervious coverage where a maximum of 80% impervious coverage is permitted. The Applicant presented testimony that the approval of the application would advance the purposes of zoning because the high

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

percentage of impervious coverage is common along the Boardwalk in the vicinity of the site, and is consistent with the existing CAFRA permit for the site.

Negative Criteria

Relief under N.J.S.A. 40:55D-70(c)(2) cannot be granted unless the negative criteria is satisfied. The negative criteria required for all "C" variances is that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance.

The evidence and testimony demonstrate that the grant of the requested variances will not create any detriment to the public good, and will not substantially impair the purpose and intent of the Tourism District Master Plan and the Tourism District Land Development Rules.

RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Preliminary and Final Site Plan Approval with a bulk variance 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 all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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CRDA BOARD TALLY

June 19, 2018

SCHIFF ENTERPRISES, LLC (1401 BOARDWALK) - Preliminary and Final Major Site Plan Approval and Bulk Variance

MOTION

EG

SECOND

GH

Debra DiLorenzo

A

Edward Gant

y

Mark Giannantonio

y

Mayor Frank Gilliam

y

Michael I. Hanley

y

Gary Hill

y

Howard Kyle

y

James Plousis

y

William Mullen

y

Kevin C. Ortzman

Recusal

Dave Rebeck for the State Attorney General

y

Robert Shaughnessy for the State Treasurer

y

Stacy Spera for the DCA Commissioner

y

Frank Spencer

y

Richard Tolson

y

Robert Mulcahy, Chairman

y