



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 10/15/2024

**TO:** Members of the Authority

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

**COPY:** Eric Scheffler, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
Application #2023-10-3537  
Slamn Sammy's, LLC  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
2616 Pacific Avenue  
Block 35, Lot 15  
Resort Commercial (RC) Zoning District  
Green Zone Redevelopment Area

**DATE:** September 25, 2024

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### EXECUTIVE SUMMARY

On August 1, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Slamn Sammy's LLC (the "Applicant"), seeks Minor Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(c) to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis on the first floor and an apartment on the second floor of the existing structure at the site. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

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.



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## INTRODUCTION

### Application Information

Slamn Sammy's, LLC  
Minor Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(c)  
2616 Pacific Avenue  
Block 35, Lot 15  
Resort Commercial (RC) Zoning District  
Green Zone Redevelopment Area

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 Minor Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(c) to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis on the first floor and an apartment on the second floor of the existing structure at the site. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

### Evidence List

- A-1 Application Materials
- B-1 Letter from ARH Associates dated July 29, 2024

## FINDINGS OF FACT

The Applicant seeks Minor Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(c) to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis on the first floor and an apartment on the second floor of the existing structure at the site. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. A variance pursuant to N.J.S.A. 40:55D-70(c) is required for parking.

The attorney for the Applicant, Brian Callaghan, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. In response to questions raised in the ARH review letter, Mr. Callaghan advised the following:

- The proposed hours of operation 10 am to 10 pm daily, or as otherwise permitted by City ordinance.
- There will be between 3 and 8 employees.



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- Product will be delivered via Sprinter van approximately two times per month and stored in a vault at the facility.

The Applicant presented the testimony of Craig Dothe, R.A., P.P., who was qualified as an expert in the fields of architecture and professional planning. Mr. Dothe described the location of the site, existing conditions and development proposal. He testified that the existing building essentially occupies the entirety of the lot. Accordingly, there are a number of pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. He testified that the proposed improvements are limited to façade improvements and the relocation of the front entry door.

Mr. Dothe, on behalf of the Applicant, acknowledged that the existing structure encroached over the property lines in several location. Mr. Dothe agreed to obtain any necessary licenses to cure such encroachments.

Mr. Dothe described proposed layout, floor plan and operations plans. He explained that access to the second floor apartment is independent from access to the ground floor cannabis facility. He also explained the location of security cameras and lighting in the vicinity of the site. Mr. Dothe explained that trash will be stored inside of the facility and picked up curbside. All Cannabis trash will be disposed of in accordance with the requirements of the Cannabis Regulatory Commission. He testified that all signage will conform to the requirements of the Green Zone Redevelopment Plan.

Mr. Dothe testified that loading will be accomplished via dedicated loading space along Texas Avenue. Product and cash will be brought into and out of the facility through the front door along Pacific Avenue.

The Applicant presented the testimony of Gary Bozzini, who is one of the managers of the Applicant. He testified that there will be one to two security guards on site during hours of operation, and more on delivery days. Mr. Bozzini testified that the Applicant will reserve 5 parking spaces designated for patrons at Park Place Parking along California Avenue. He testified that the Applicant will further reserve up to 8 mirror tags for employees to park anywhere at Park Place Parking.

Mr. Bozzini testified that the Applicant will agree to the following as a condition of any approval:

- Comply with all standards and requirements of the Green Zone Redevelopment Plan, including architectural standards.
- Have its security plan approved by the Atlantic City Police Department.
- Make all security cameras subject to monitoring by the Atlantic City Police Department.



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- Comply with all requirements of the Cannabis Regulatory Commission.

Moreover, Mr. Bozzini agreed, on behalf of the Applicant, to comply with all of the requirements of the ARH review letter.

Mr. Dothe testified that there is no existing on-site parking and none is proposed. He noted that the development proposal requires 5 on-site parking spaces and that there is a grandfathered shortfall of 4 parking spaces. Accordingly, the Applicant requires a variance for the one-parking space deficiency. However, he opined, that the application for development meets the intent of the regulations by providing more than the number of required parking spaces off-site and nearby.

Mr. Dothe opined that the approval of the application for development would advance the purposes of the Municipal Land Use Law (the "MLUL") by promoting the public health, safety and welfare (Purpose A) by reinvigorating a building that has been vacant for many years and bringing activity and excitement to the neighborhood. With respect to the negative criteria, Mr. Dothe testified that the grant of the variances would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Christine Cofone, P.P., was qualified as an expert in the field of professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that there is more than enough parking being provided off-site to meet the intent of the regulations and that she supports the approval of the Application.

Carolyn Feigin, P.E., was qualified as an expert in the field of professional engineering and provided testimony on behalf of the Authority. Ms. Feigin testified that she supports the approval of the Application, subject to the Applicant revising the plans to show the location of trash containers, obtaining any necessary licenses from the City for all encroachments into the public right of way and obtaining permission from adjoining property owners to install lighting and security cameras on their property.

### **CONCLUSIONS OF LAW**

#### **Minor 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).



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Here, based on the evidence and testimony, the Applicant has demonstrated that development plan generally conforms to the site plan standards and technical requirements of the Tourism District Land Development Rules and Green Zone Redevelopment Plan.

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

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) and (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)(1) is satisfied if relief can be granted for a specific piece of property upon the finding of hardship arising out of the exceptional narrowness, shallowness, shape, or exceptional topographic conditions of specific piece of property or from a structure lawfully existing thereon. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999). 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 outweigh 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, there is no existing on-site parking and none is proposed. The development proposal requires 5 on-site parking spaces and there is a grandfathered shortfall of 4 parking spaces. Accordingly, the Applicant requires a variance for the one-parking space deficiency.

The evidence and testimony demonstrate that the approval of the application for development would advance the purposes of the MLUL by promoting the public health, safety and welfare (Purpose A) by reinvigorating a building that has been vacant for many years and bringing activity and excitement to the neighborhood. Moreover, the Application meets the intent of the regulations by providing more than the number of required parking spaces off-site and nearby.

#### Negative Criteria

Relief under N.J.S.A. 40:55D-70(c)(1) and (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 Mast Plan and the Tourism District Land Development Rules.



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### **RECOMMENDATION**

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Minor Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to permit the operation of a Class 5 dispensary for the sale of adult use recreational cannabis with an apartment on the second floor at the subject property 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 Tourism District Land Development Rules, Atlantic 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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