



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 1/21/2025

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 #2024-11-3739
Nancy Claude
Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)
30 S. Florida Avenue
Block 166, Lots 20, 22, 29 & 30
Resort Commercial (RC) Zoning District

DATE: January 9, 2025

EXECUTIVE SUMMARY

On January 2, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Nancy Claude (the "Applicant"), seeks Minor Site Plan Approval to convert the existing first-floor bar/restaurant and retail uses to a banquet hall/restaurant. The residential apartment uses on the second floor are to remain. No exterior improvements or changes to signage are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and 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 variances 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

Nancy Claude

Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)

30 S. Florida Avenue

Block 166, Lots 20, 22, 29 & 30

Resort Commercial (RC) 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 Minor Site Plan Approval to convert the existing first-floor bar/restaurant and retail uses to a banquet hall/restaurant. The residential apartment uses on the second floor are to remain. No exterior improvements or changes to signage are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and parking.

Evidence List

A-1 Application Materials

A-2 Site Plan Drawings (6)

B-1 Letter from ARH Associates dated December 30, 2024

FINDINGS OF FACT

The Applicant seeks Minor Site Plan Approval to convert the existing first-floor bar/restaurant and retail uses to a banquet hall/restaurant. The residential apartment uses on the second floor are to remain. No exterior improvements or changes to signage are proposed. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for signage and parking.

The attorney for the Applicant, Stephanie Bush Mann, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.

The Applicant presented the testimony of Nancy Claude, who is the owner of the property. Ms. Claude testified that she purchased the property in July 2024 with the intent to transform the existing bar/restaurant into an elegant banquet space for intimate to mid-size gatherings. She testified that an area will be designated for the location of a dumpster,



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which will be used by the banquet hall and residential uses. Trash will be removed via a commercial trash hauler.

Ms. Claude testified that the Applicant has made arrangements with the owner of a parking lot located at 2415 Pacific Avenue for the use of 20 parking spaces. She stated that the parking lot is an approximately two-minute walk from the property. Ms. Claude testified that the security cameras will be installed at the facility and shared with the Atlantic City Police Department.

The Applicant presented the testimony of Craig Dothe, R.A., P.P., who was qualified as an expert in the fields of professional architecture and professional planning. He described the location of the site, existing conditions and site layout. He noted that the building had historically been used as a bar with limited seating and parking.

Mr. Dothe explained the floor plans, site operation and architectural features. He testified regarding the interior renovations on the first floor for use as a banquet hall and restaurant. On behalf of the Applicant, he testified that the food may be prepared on site or catered from off-site vendors. Mr. Dothe noted that the three apartments on the second floor will be used as short-term rentals.

Mr. Dothe testified that a loading area will be designated for deliveries and trash removal. The Applicant agreed to coordinate with the City for the removal of one on-street parking space along Bellevue Avenue to improve loading access to the property.

Mr. Dothe testified that the Applicant seeks variances pursuant to N.J.S.A. 40:55D-70(c) to permit:

- Two awning signs where one awning sign is permitted.
- 23 parking spaces where 32 parking spaces are required.

With respect to signage, Mr. Dothe testified that two existing awning signs will remain. Although only one awning sign is permitted, Mr. Dothe testified that the total size of the signage is less than permitted. With respect to parking, Mr. Dothe testified that 16 parking spaces are proposed where 32 parking spaces are required. He noted that there is a grandfather existing shortfall of 7 spaces, so the Applicant seeks a variance to permit a shortfall of 9 parking spaces. He noted parking needs will be adequately met through off-site leased spaces and other available parking in the vicinity.

Mr. Dothe further testified that the approval of the application for development would advance the purposes of the Municipal Land Use Law ("MLUL") by promoting the efficient use of land (Purpose M) by renovating a building that has been vacant but has development potential. With respect to the negative criteria, Mr. Dothe testified that the grant of the variances would advance the purposes of the Tourism District Master Plan and



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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 opined that the grant of the requested variances would be a better planning alternative to strict compliance of the Tourism District Land Development Rules and that she supports approval of the application.

Carolyn Feigin, P.E., was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. She testified that she supports approval of the application subject to the submission of updated plans conforming to all representations made by the Applicant or on its behalf at the public hearing.

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).

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)(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 out-



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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 variances pursuant to N.J.S.A. 40:55D-70(c) to permit:

- Two awning signs where one awning sign is permitted.
- 23 parking spaces where 32 parking spaces are required.

The evidence and testimony demonstrate that the approval of the application for development would advance the purposes of the MLUL by promoting the efficient use of land (Purpose M) by renovating a building that has been vacant but has development potential. With respect to signage, the total size of the signage is less than permitted. With respect to parking, parking needs will be adequately met through off-site leased spaces and other available parking in the vicinity.

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.

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) 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, city of 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.