



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 #2024-08-3688
Map 3 Partners, LLC
Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)
112 and 114 South Tennessee Avenue and 1400 Pacific Avenue
Block 53, Lots 26, 27 & 28
Resort Commercial (RC) Zoning District

DATE: October 7, 2024

EXECUTIVE SUMMARY

On September 19, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Map 3 Partners, LLC (the "Applicant"), seeks minor site plan approval to construct a container park on the existing paved parking lot at the subject properties. The container park will include retail containers, a restroom container, farming containers, a covered stage for entertainment purposes and a food truck. The development proposal includes parking, landscaping, lighting and signage improvements. The Applicant also seeks variances pursuant to N.J.S.A. 40:55D-70(c) for signage and impervious coverage.

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

Map 3 Partners, LLC

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112 and 114 South Tennessee Avenue and 1400 Pacific Avenue

Block 53, Lots 26, 27 & 28

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 construct a container park on the existing paved parking lot at the subject properties. The container park will include retail containers, a restroom container, farming containers, a covered stage for entertainment purposes and a food truck. The development proposal includes parking, landscaping, lighting and signage improvements. The Applicant also seeks variances pursuant to N.J.S.A. 40:55D-70(c) for signage and impervious coverage.

Evidence List

A-1 Application Materials

A-2 Colorized Site Plan

B-1 Letter from ARH Associates dated September 13, 2024

FINDINGS OF FACT

The Applicant seeks minor site plan approval to construct a container park on the existing paved parking lot at the subject properties. The container park will include retail containers, a restroom container, farming containers, a covered stage for entertainment purposes and a food truck. The development proposal includes parking, landscaping, lighting and signage improvements. The Applicant also seeks variances pursuant to N.J.S.A. 40:55D-70(c) for signage and impervious coverage.

The attorney for the Applicant, Nicholas Talvacchia, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.

The Applicant presented the testimony of Mark Callazzo. Mr. Callazzo described his efforts to bring development to the Orange Loop since 2015. He noted that previous developments have largely consisted of bars and eateries, and that the current Application



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is an effort to bring retail facilities and personal services to the Orange Loop. He testified that the proposed uses will be situated in 22 shipping containers and are intended to complement the existing uses in the Orange Loop. Mr. Callazzo advised that potential tenants may include businesses such as boutique clothing sales, a barber shop and a coffee shop. He testified that the hours of operation will be from 9 am to midnight daily.

The Applicant presented the testimony of Jason Sciullo, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Sciullo described the location of the site, existing conditions, development proposal and site layout and circulation, trash removal, landscaping, parking and signage. He noted that the site is currently nearly a 100% paved parking lot.

He testified that the containers will be arranged in an array to maximize site utility. The containers will be positioned above the flood hazard level. He testified that the Applicant's intent is to be as flexible as possible in providing opportunities for small merchants, pop-up uses and entertainment. Mr. Sciullo testified that on-site parking requirements are met. No on-site EV charging stations are required or proposed.

Mr. Sciullo testified that the proposed food truck is a conditionally permitted use and that the development proposal meets the conditional use standard. In addition, Mr. Sciullo testified that the Applicant would consolidate the subject lots as a condition of any approval.

The Applicant seeks variances pursuant to N.J.S.A. 40:44D-70(c)(2) to permit the following:

- A freestanding sign with a setback of 2 feet where a minimum setback of 5 feet is required.
- An impervious coverage where 95.7% is existing, 86.6% is proposed and a maximum of 80% is permitted.

With respect to the variance for signage, Mr. Sciullo testified that the sign location is required for visibility, wayfinding and public safety and provides a better planning alternative to strict compliance with the Authority's Tourism District Land Development Rules. With respect to the variance for lot coverage, Mr. Sciullo noted that the development proposal is an improvement over existing conditions.

With respect to the variances pursuant to N.J.S.A. 40:44D-70(c)(2), Mr. Sciullo opined that the development proposal will promote the purposes of the Municipal Land Use Law (the "MLUL"). Specifically, he opined that the purposes of the MLUL will be advanced by promoting the public health, safety and welfare (Purpose A) by providing signs that provide visibility, wayfinding and public safety, and improving an existing nonconforming



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condition for lot coverage. Mr. Sciullo opined that the grant of the variances will not create a substantial detriment to the public good and will not substantially impair the purpose and intent of the Authority's Tourism District Master Plan and Tourism District Land Development Rules.

The Applicant presented the testimony of Rosa Gamarra, R.A., an architect licensed in the State of New Jersey, who was qualified as an expert in the field of professional architecture. Ms. Gamarra described the location of the site, development proposal and site layout. She provided testimony regarding architectural features, materials, mechanical systems and signage.

Carolyn Feigin, P.E., was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. Ms. Feigin questioned the Applicant's witnesses regarding parking sufficiency and site circulation. In response, Mr. Sciullo testified that the Applicant controls parking lots within walking distance of the site that can be used for overflow needs, and the food truck will only be on-site during pop-up events. Mr. Sciullo, on behalf of the Applicant, agreed to make several minor plan amendments in response to questioning from Ms. Feigin. Ms. Feigin testified that the Applicant had provided sufficient testimony to address all issues raised in the review letter and that she supports approval of the Application.

Christine Cofone, P.P., qualified as an expert in professional planning and provided testimony on behalf of the Authority. She questioned the Applicant regarding proposed hours of operation and trash removal. She testified that the Applicant had provided sufficient testimony to address all issues raised in the review letter and that she supports approval of the Application.

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 plan generally conforms to the technical requirements of the Tourism District Land Development Rules and the grant of Minor Site Plan approval is appropriate.



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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).

The Applicant seeks variances pursuant to N.J.S.A. 40:44D-70(c)(2) to permit the following:

- A freestanding sign with a setback of 2 feet where a minimum setback of 5 feet is required.
- An impervious coverage where 95.7% is existing, 86.6% is proposed and a maximum of 80% is permitted.

The evidence and testimony demonstrate that the development proposal will promote the purposes of the MLUL. Specifically, the purposes of the MLUL will be advanced by promoting the public health, safety and welfare (Purpose A) by providing signs that provide visibility, wayfinding and public safety, and improving an existing nonconforming condition for lot coverage.

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 have any substantial detriment to the Tourism District Master Plan or 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.



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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 Authority's Tourism District Land Development Rules, any applicable 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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