RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING MINOR SITE PLAN APPROVAL WITH VARIANCES PURSUANT TO N.J.S.A. 40:55D-70(c) TO PERMIT THE CONSTRUCTION OF A POLE-BARN GARAGE TO PROVIDE STORAGE ON THE SUBJECT PROPERTY LOCATED AT 2400 ATLANTIC AVENUE AND 8, 14, 16, 18, 20 S. GEORGIA AVENUE, BLOCK 164 LOTS 30-34 AND 36-37, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2024-12-3759

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 matters, 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, adopted 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 shall become effective upon the adoption of design, development and land use regulations on January 2, 2018; and

WHEREAS, Ducktown Tavern, Inc. (the "Applicant"), seeks Minor Site Approval with Variances pursuant to N.J.S.A. 40:55D-70(c) to permit the construction of a pole-barn garage to provide storage to support the catering business conducted at the existing bar/restaurant facility at the subject property located at 2400 Atlantic Avenue and 8, 14, 16, 18, 20 S. Georgia Avenue, Block 164 Lots 30-34 and 36-37, on the Tax Map of Atlantic City, located in the Ducktown Arts (DA) Zoning District; and

WHEREAS, on February 6, 2025, the Authority's Land Use Regulation and Enforcement Division convened a public hearing on Application 2024-12-3759 in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered a Hearing Officer's Report and Recommendation dated February 25, 2025 (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 dated February 25, 2025.

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, the Minor Site Plan with Variances pursuant to N.J.S.A. 40:55D-70(c) under Application 2024-12-3759 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated February 25, 2025,
- **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 25-30 of the Casino Reinvestment Development Authority.

Michael Beson
MICHAEL BESON, SECRETARY

MEETING OF MARCH 18, 2025



EXHIBIT "A" TO RESOLUTION 25-__, ADOPTED 3/18/2025

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 #2024-12-3759 Ducktown Tavern, Inc.

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

70(c)

2400 Atlantic Avenue and 8, 14, 16, 18 & 20 S. Georgia Avenue

Block 164, Lots 30, 32-34 & 36-37 Ducktown Arts (DA) Zoning District

DATE: February 25, 2025

EXECUTIVE SUMMARY

On February 6, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Ducktown Tavern, Inc. (the "Applicant"), seeks Minor Site Plan Approval to permit the construction of a pole-barn garage to provide storage to support the catering business conducted at the existing bar/restaurant facility. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for building coverage, setbacks, impervious coverage 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.



INTRODUCTION

Application Information

Ducktown Tavern, Inc.
Minor Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c) 2400 Atlantic Avenue and 8, 14, 16, 18 & 20 S. Georgia Avenue
Block 164, Lots 30, 32-34 & 36-37
Ducktown Arts (DA) 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 permit the construction of a pole-barn garage to provide storage to support the catering business conducted at the existing bar/restaurant facility. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for building coverage, setbacks, impervious coverage and parking.

Evidence List

- A-1 Application Materials
- A-2 Colorized Rendering
- B-1 Letter from Environmental Resolutions, Inc. dated January 30, 2025

FINDINGS OF FACT

The Applicant seeks Minor Site Plan Approval to permit the construction of a pole-barn garage to provide storage to support the catering business conducted at the existing bar/restaurant facility. Variances pursuant to N.J.S.A. 40:55D-70(c) are required for building coverage, setbacks, impervious coverage and parking.

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

The Applicant presented the testimony of John C. Exadaktilos, who is the owner of the property. Mr. Exadaktilos testified that the owner acquired additional lots adjacent to the existing bar/restaurant facility during the Covid-19 pandemic and expanded the operation to include outdoor seating and catering services. He testified that the pole-barn garage will be used for storage associated with the catering business. Items to be stored in the garage include catering boxes, tables, chairs, DJ equipment a beer trailer and vehicles. He testified



that the pole-barn garage will be served by electricity and water, but not sewer and will not have any bathroom facilities. Mr. Exadaktilos testified that gasoline and diesel will not be stored in the pole-barn garage.

The Applicant presented the testimony of Andrew Previti, P.E., who was qualified as an expert in the field of professional engineering. He described the location of the site, existing conditions, site layout and the development proposal. Mr. Previti testified that the Applicant will consolidate the existing lots and newly acquired lots by deed, if this had not already been done.

Mr. Previti testified that the Applicant proposes an approximately 36' by 60' pole barn. He testified that the pole-barn garage will be used for storage associated with the catering business. He noted that most properties in the vicinity exceed coverage requirements and do not provide parking. Mr. Previti testified that no new landscaping is proposed, and that new lighting will be installed around the perimeter of the new structure. In response to questioning by Authority consultants, Mr. Previti agreed on behalf of the Applicant to install planters on the site and conduct a nighttime lighting survey after the improvements are installed.

Mr. Previti testified that the inside bar/restaurant has 95 patron seats and a small kitchen. The outside bar/restaurant has 108 patron seats. He testified that the outdoor facility is seasonal only and that the indoor and outdoor operations are never conducted at the same time. He noted that the original facility had no on-site parking and that 39 on-site parking spaces are now proposed.

Mr. Previti testified that the Applicant seeks the following variances pursuant to <u>N.J.S.A</u>. 40:55D-70(c) to permit:

- Building coverage of 32.6% where a maximum building coverage of 30% is permitted.
- Impervious coverage of 100% where a maximum impervious coverage of 80% is permitted.
- A rear yard setback of 5' where a minimum rear yard setback of 20' is required.
- 39 on-site parking spaces where a minimum of 61 spaces are required.

Mr. Previti testified that the building coverage variance is de minimis and will have minimal visual impact. He opined that impervious coverage variance is an existing condition and consistent with development trends in the vicinity of the site. With respect to the variance for rear yard setback, Mr. Previti testified that most development on the block has no rear yard setback. Moreover, the reduction in setback allows for additional on-site parking. Finally, with respect to the variance for parking, he opined that the development proposal is an improvement over existing conditions and that the site is adequately served by off-site parking in the vicinity.



Mr. Previti testified that the that the approval of the application for development would advance the purposes of the Municipal Land Use Law by promoting the public health, safety and welfare (Purpose A) by providing services and entertainment in the neighborhood and creating a desirable visual environment (Purpose I) by creating an attractive structure the compliments the existing facility design and color. With respect to the negative criteria, Mr. Previti 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.

David J. Benedetti, P.P., was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Mr. Benedetti testified that the grant of the requested variances is justified and that he 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 subdivision 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 <u>N.J.S.A</u>. 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 the following variances pursuant to <u>N.J.S.A</u>. 40:55D-70(c) to permit:

- Building coverage of 32.6% where a maximum building coverage of 30% is permitted.
- Impervious coverage of 100% where a maximum impervious coverage of 80% is permitted.
- A rear yard setback of 5' where a minimum rear yard setback of 20' is required.
- 39 on-site parking spaces where a minimum of 61 spaces are required.

The approval of the application for development would advance the purposes of the Municipal Land Use Law by promoting the public health, safety and welfare (Purpose A) by providing services and entertainment in the neighborhood and creating a desirable visual environment (Purpose I) by creating an attractive structure the compliments the existing facility design and color.

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 Tourism Master Plan and the Tourism District Land Development Rules.

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 and on the ERI report dated 1/30/2025.

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.



4912-2216-3994, v. 1

Christopher J. Noll, PE, CME, PP
President & CEO
William H. Kirchner, PE, CME, N-2
Vice President
Rakesh R. Darji, PE, PP, CME, CFM
Vice President/Treasurer
Benjamin R. Weller, PE, CME, CPWM, 8-3, C-3



Joseph P. Orsino, Jr. CET, Vice President
Harry R. Fox, NICET III
G. Jeffrey Hanson, PE, CME
Joseph R. Hirsh, PE, CME, CPWM
C. Jeremy Noll, PE, CME, CPWM
Marc H. Selover, LSRP, PG

January 30, 2025 31623 22A

Secretary

Re: Ducktown Tavern, Inc. (CRDA Application #2024-12-3759)

Minor Site Plan with Bulk Variances

Technical Review #1 2400 Atlantic Avenue Block 164, Lots 30, 32-34 & 36-37

Atlantic City, NJ, 08401

Lance B. Landgraf, Jr., AICP, PP, Director of Planning & Development Casino Reinvestment Development Authority
15 South Pennsylvania Avenue
Atlantic City, NJ 08401

Dear Mr. Landgraf:

An Application for a Minor Site Plan with Bulk Variances has been received for the subject premise:

Applicant Information

• Applicant: Ducktown Tavern Inc. / John C. Exadaktilos

130 South Kingston Avenue, Atlantic City, NJ 08401

• Owner: Exadaktilos Family, LLC

2400 Atlantic Avenue, Atlantic City, NJ 08401

• Engineer: Andrew A. Previti, P.E., Colliers Engineering & Design

500 Scarborough Drive, Suite 108, Egg Harbor Township, NJ 08234

• Surveyor: Daniel J. Ponzio Sr., PLS, AW Ponzio Co. & Associates

400 N. Dover Ave., Atlantic City, NJ 08401

• Surveyor: R. Thomas Hugg, PLS

156 Stagecoach Road, Marmora, NJ 08223

• Architect: David Brand, RA, PP

3 Suffolk Court, Cherry Hill, NJ 08034

• Planner: None Noted

• Traffic: None Noted

31623 22A – Ducktown Tavern Technical Review #1 January 30, 2025

• Attorney: Brain J. Callaghan, Esquire

101 N. Washington Avenue, Suite 14, Margate, NJ 08401

Documents Submitted

- 1. Application Cover Letter, prepared by Andrew Previti, PE, Applicant's Engineer, dated December 17, 2024.
- 2. Letter from Site Owner, John C. Exadaktilos, dated October 30, 2024
- 3. CRDA City of Atlantic City Land Use Application, dated December 12, 2024, including 200' List, tax certifications, etc.
- 4. CRDA Minor Site Plan Checklist (Form #5)
- 5. CRDA "c" Variance Checklist (Form #12)
- 6. "Minor Site Plan for Ducktown Tavern Inc.", 1 Sheet, prepared by Colliers Engineering & Design, dated March 2022 and last revised October 29, 2024.
- 7. "Survey of Premises for Exadaktilos Family, LLC", 1 Sheet, prepared by Maser Consulting, PA, dated October 25, 2016 (Block 164, Lots 32-34 & 36-37)
- 8. "Property Survey", 1 Sheet, prepared by AW Ponzio Co. & Associates, dated February 23, 2004 (Block 164, Lots 30-31).
- 9. Property Deeds.
- 10. "Proposed Garage Project Narrative", prepared by Andrew Previti, PE, dated December 10, 2024.
- 11. "List of Variances Required", prepared by Andrew Previti, PE, dated December 10, 2024.
- 12. "Project Narrative for "C" Variance", prepared by Andrew Previti, PE, dated December 10, 2024.
- 13. "List of Approvals or Permits Required by other Regulatory Authorities", prepared by Andrew Previti, PE, dated December 10, 2024.
- 14. Structural Calculations & Details for the Proposed Garage, prepared by James M. Capitanio, PE, dated November 6, 2024.

Completeness Review / Submission Waivers Required

Our office issued a Completeness Review Letter, dated January 21, 2025, recommending that the application be deemed conditionally complete, provided that the Applicant or their professionals give testimony and / or supplemental information to support the requested / required submission waivers at the land use hearing.

Technical Review #1

The following comments are offered:

A. Project Description and Background

An application for Minor Site Plan with "c" Variance Approval has been submitted by Ducktown Tavern, Inc. to permit the construction of a 36' x 60' (2,160 SF) accessory structure ("garage") with a loft above the ground floor. According to the Project Narrative submitted with the application, the purpose of the garage will be for the storage of the various vehicles used in the existing tavern's catering and event business.

31623 22A – Ducktown Tavern Technical Review #1 January 30, 2025

The site is located within the Ducktown Arts District (DA) and the overall area of the six (6) subject lots comprises 29,146 SF (0.669 Acres). Restaurants and bars are permitted uses within the DA Zone. The existing building located on Lot 30 was formerly known as Callahan's Bar and the adjoining Cup & Saucer Breakfast Room. A doctor's office, Dr. Boxman, was also present on the site. Callahan's Bar dates back to the 1960s. The parcels consisting of Lots 32, 33, 34, 36 & 37 were formally used as a staging / work yard for Feriozzi Concrete. This dates back to the 1950s. During the 1970s the parcels were used as a parking lot. The Applicant purchased Lot 30 (Callahan's Bar) in 2005 and renamed the bar as Ducktown Tavern. The adjoining Cup & Saucer Breakfast Room also became part of the tavern. Dr. Boxman's office became the liquor store. The Applicant purchased Lots 32, 33, 34, 36 & 37 from the Feriozzi family in 2017. The use as a parking lot has continued on those lots since that time. The Applicant sought and gained approval from CRDA in 2020 to operate an outdoor seasonal bar and also to construct a one (1) story outdoor restroom building in 2022.

B. Zoning / Bulk Variance Review

- 1. Section 19:66-5.11(a)(1)(iv)(6) of the Land Development Rules limits building coverage within the DA Zone to a maximum of thirty percent (30%), whereas building coverage of 32.6% is proposed. A bulk variance is required.
- 2. Section 19:66-5.11(a)(1)(iv)(7) of the Land Development Rules limits impervious coverage within the DA Zone to a maximum of eighty percent (80%), whereas impervious coverage of 100% is proposed. A bulk variance is required. It should be noted that the current impervious coverage is 100%, however the proposed structure is replacing the current paved surface, therefore the variance should be re-affirmed.
- 3. Section 19:66-5.11(a)(1)(iv)(10) of the Land Development Rules requires a minimum rear yard setback of twenty feet (20') within the DA Zone, whereas a rear yard setback of 5.0' is proposed on Lots 36 and 37 for the proposed structure. A bulk variance is required.
- 4. Section 19:66-5.8(b)(4) of the Land Development Rules requires one (1) off-street parking space be provided for each customer based on thirty percent (30%) of building capacity or one space for each 150 SF of floor area, whichever is greater. This results in an off-street parking requirement of 61 seats (203 total seats X 0.30 = 60.9), whereas thirty-nine (39) spaces are proposed (including valet spaces). Since the construction of the accessory structure results in the loss of off-street parking spaces, a variance is required.
- 5. Since the overall property is divided between several individual lots, there are several existing non-conforming conditions that are not being exacerbated by the Applicant's current proposal. In Comment #5 in the Site Plan Review Section of this letter, we recommend that the various lots be consolidated. Should the Applicant decline to consolidate the lots, a list of currently existing non-conformities for the various lots should be provided so that they can be recorded and recognized in conjunction with the approvals sought.
- 6. With respect to "c" variances the Applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property or the exceptional topographic conditions uniquely affecting the property.

C. Site Plan Review

- 1. The Applicant's Project Narrative indicates that twenty-eight (28) off-street parking spaces are provided on the premises, but with valet service the number of off-street parking spaces available is 39. The Applicant should provide testimony regarding where the valeted cars are parked and also provide appropriate access agreements for the use of those spaces, should he not own the lot(s) where the valeted cars are proposed to be parked.
- 2. The Site Plan shall illustrate where the required handicapped accessible parking spaces are located.
- 3. The Applicant shall provide testimony regarding any and all uses for the proposed structure, the number of and exactly what types of vehicles that will be stored in the structure and any other relevant details with respect to the use / operation of the structure.
- 4. The Applicant shall provide testimony regarding whether any flammable materials (i.e. fuels, oils, etc.) or other chemicals / hazardous materials will be stored within the proposed structure.
- 5. The Applicant shall provide testimony regarding what utilities (i.e. electric, gas, water, sewer, etc.) will service the structure.
- 6. The Land Use Board may wish to consider requiring the Applicant to consolidate the various lots associated with the business as a condition of approval. If it is determined that the lots are to be consolidated, then an appropriate plan and legal description should be prepared and provided to our office and the CRDA Land Use Attorney for review and comment prior to perfection.
- 7. The construction of the proposed structure appears that it may cause maneuverability issues for vehicles attempting to utilize the two (2) parking spaces directly adjacent to the north of the proposed structure. Similar concerns exist with the spaces across the access drive to the north of the structure. The Applicant's professionals should provide detailed testimony regarding how vehicles will be able to safely enter and exit these spaces and the site plan should include turning templates illustrating that safe maneuvering of vehicles entering and exiting these spaces can be achieved.

D. Outside Agency Permits and Approvals

- 1. The following permits and approvals are required:
 - a. Atlantic City Building Code Official
 - b. Atlantic City Construction Department
 - c. Atlantic City Fire Marshal
 - d. New Jersey Alcohol Beverage Control
 - e. All others as necessary

If you require any additional information or have any questions, please contact the undersigned. We are pleased to be of service.

Sincerely yours,

G. Jeffrey Hanson, PE, CME

CRDA Land Use Board Engineering and Planning

Consultant

Cc: Ducktown Tavern Inc., c/o John Exadaktilos, Applicant, <u>ducktowntavern@yahoo.com</u>

Brian J. Callaghan, Esquire, Applicant's Attorney, biclaw@comcast.net
Andrew Previti, PE, Applicant's Engineer, andrew.previti@collierseng.com
Rob Reid, AICP, PP, CRDA Land Use Regulation Forcement Officer

Scott Collins, Esquire, CRDA Land Use Board Attorney

Tetje Linsk, CRDA Administrative Assistant

31623 22A - Technical Review #1 - 01-30-25



DATE: MARCH 18, 2025

DUCKTOWN TAVERN, INC. – RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING MINOR SITE PLAN APPROVAL WITH VARIANCES PURSUANT TO N.J.S.A. 40:55D-70(c) TO PERMIT THE CONSTRUCTION OF A POLE-BARN GARAGE TO PROVIDE STORAGE ON THE SUBJECT PROPERTY LOCATED AT 2400 ATLANTIC AVENUE AND 8, 14, 16, 18, 20 S. GEORGIA AVENUE, BLOCK 164 LOTS 30-34 AND 36-37, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2024-12-3759

Motion:	<u>MB</u>	
Second:	<u>PO</u>	
Michael Beson		<u>Y</u>
Chris Brown for the DCA Commissioner		<u>Y</u>
Daniel Cosner		<u>N</u>
Mary Jo Flaherty for the State Attorney General		<u>Y</u>
Michael Hanley		<u>Y</u>
Michael Laughlin		<u>Y</u>
Brett Matik		Recused
William Mullen		<u>Y</u>
William Mullen		<u>Y</u>
William Mullen Paulina O'Connor		<u>Y</u> <u>Y</u>
William Mullen Paulina O'Connor James Plousis		<u>Y</u> <u>Y</u> <u>Y</u>
William Mullen Paulina O'Connor James Plousis Mayor Marty Small, Sr.		Y Y Y N
William Mullen Paulina O'Connor James Plousis Mayor Marty Small, Sr. William Sproule		Y Y Y M Y