



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

### **EXHIBIT "A" TO RESOLUTION 25- , ADOPTED 6/17/2025**

**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 #2025-04-3813  
Caring, Inc.  
Preliminary and Final Major Site Plan Approval with Variance Pursuant to  
N.J.S.A. 40:55D-70(c)  
2712-2714 Atlantic Avenue  
Block 174, Lots 3, 4 & 8  
Resort Commercial ("RC") Zoning District

**DATE:** June 3, 2025

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### **EXECUTIVE SUMMARY**

On May 15, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Caring, Inc. (the "Applicant"), seeks preliminary and final site major plan approval with bulk variances pursuant to N.J.S.A. 40:55D-70(c) to construct façade improvements to the existing building and related site improvements, together with a variance pursuant to N.J.S.A. 40:55D-70(c) for rear yard setback. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

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. Moreover, 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

Caring, Inc.

Preliminary and Final Major Site Plan Approval with Variance Pursuant to N.J.S.A.

40:55D-70(c)

2712-2714 Atlantic Avenue

Block 174, Lots 3, 4 & 8

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 preliminary and final site major plan approval with bulk variances pursuant to N.J.S.A. 40:55D-70(c) to construct façade improvements to the existing building and related site improvements, together with a variance pursuant to N.J.S.A. 40:55D-70(c) for rear yard setback. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

### Evidence List

A-1 Application Materials

A-2 Google Earth Aerial

B-1 Letter from Environmental Solutions, Inc. dated May 8, 2025

## FINDINGS OF FACT

The Applicant seeks preliminary and final site major plan approval with bulk variances pursuant to N.J.S.A. 40:55D-70(c) to construct façade improvements to the existing building and related site improvements, together with a variance pursuant to N.J.S.A. 40:55D-70(c) for rear yard setback. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

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

The Applicant presented the testimony of Tom Dase, P.E., who was qualified as an expert in the field of professional engineering. Mr. Dase described the location of the site, existing conditions and the development proposal. He testified that the Applicant proposes upgrades to the existing building by way of façade improvements, as well as the repaving



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and reconfiguration of the parking lot. He further testified that the applicant proposes landscaping and drainage improvements, a 30" ornamental perimeter fence, as well as a storage shed and screening of the trash and recycling storage area.

Mr. Dase testified that the property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. He testified that the Applicant requests variance pursuant to N.J.S.A. 40:55D-70(c) to permit the following: a rear yard setback of 2.5' for the storage shed where a minimum rear yard setback of 20' is required.

Mr. Dase testified that the characteristics of the property and the structures lawfully existing thereon present a hardship in complying with the Tourism District Land Development Rules. Specifically, he opined that the only place that the storage shed could be located on the site while complying with the setback requirement would be in the center of the parking lot. He noted that the storage shed will be tucked into the corner of the property and will not interfere with the air, light and open space of adjoining property owners. With respect to the negative criteria, Mr. Dase 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.

Jeffrey Hanson, P.E., was qualified as an expert in the field of professional engineering and provided testimony on behalf of the Authority. Mr. Hanson noted that the site will have 47 parking spaces, including 3 EV charging spaces, and testified that he supports the approval of the Application subject to plan revisions requested during the course of the hearing.

The Applicant presented the testimony of Joseph Dougherty, who is a representative of the Applicant. Mr. Dougherty testified that the hours of operation for the Applicant and all tenants in the building will be 8 am to 5 pm Monday through Friday. He noted that the security cameras on site will be connected to the Atlantic City Police Department for monitoring and review. In response to questioning from Mr. Hanson, Mr. Dougherty agreed that the Applicant will provide a sight triangle along Iowa Avenue, a fence detail, and an EV charger detail as a condition of any approval. In addition, the Applicant will obtain any necessary licensing agreements from the City required for work along the public sidewalk.

### **CONCLUSIONS OF LAW**

#### **Preliminary and Final Major 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



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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 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 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, the Applicant requests variance pursuant to N.J.S.A. 40:55D-70(c) to permit the following: a rear yard setback of 2.5' for the storage shed where a minimum rear yard setback of 20' is required. The characteristics of the property and structures lawfully existing thereon present a hardship in complying with the Tourism District Land Development Rules.

#### 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 variance 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 preliminary and final site major plan approval to construct façade improvements to the existing building and related site improvements, together with a variance pursuant to N.J.S.A. 40:55D-70(c) for rear yard setback 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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