

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCE PURSUANT TO N.J.S.A. 40:55D-70(d)(1) TO PERMIT CONSTRUCTION OF 29 SINGLE-FAMILY ATTACHED TOWNHOUSES ON THE SUBJECT PROPERTIES LOCATED AT 105, 107, 117, 123, 125, 127 AND 177 S. NEW HAMPSHIRE AVENUE; 105, 107 AND 109 WESTMINSTER AVENUE; AND 1514, 1514RR, 1516 AND 1520 PACIFIC AVENUE, BLOCK 50, LOTS 1-4 AND BLOCK 51, LOTS 1-10, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2023-08-3512

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, 107 S. Kentucky Avenue LLC (the “Applicant”), seeks Preliminary and Final Site Plan Approval with Variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject properties located at 105, 107, 117, 123, 125, 127 & 177 S. New Hampshire Avenue; 105, 107 & 109 Westminster Avenue; 1514, 1514RR, 1516 and 1520 Pacific Avenue, Block 50, Lots 1-4, located in the Kentucky Avenue Renaissance (KAR) Zoning District and Block 51, Lots 1-10, located in the Resort Commercial (RC) Zoning District, on the Tax Map of Atlantic City; and

WHEREAS, on October 5, 2023, the Authority’s Land Use Regulation and Enforcement Division convened a public hearing on Application 2023-08-3412 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 October 25, 2023 (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 October 25, 2023.

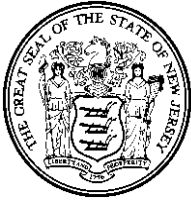
NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.
2. Based on the record in this matter, Preliminary and Final Site Plan Approval with Variance pursuant to N.J.S.A. 40:55D-70(d)(1) under Application 2023-08-3512 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated October 25, 2023.
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 23-168 of the Casino Reinvestment Development Authority.


MICHAEL BESON, SECRETARY

MEETING OF NOVEMBER 21, 2023



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 23- , ADOPTED 10/17/2023

TO: Members of the Authority

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

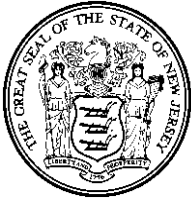
COPY: Sean Pattwell, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application #2023-08-3512
107 S. Kentucky Ave. LLC
Preliminary and Final Site Plan Approval with Variance Pursuant to
N.J.S.A. 40:55D-70(d)(1)
105, 107, 117, 123, 125, 127 & 177 S. New Hampshire Avenue
105, 107 & 109 Westminster Avenue
1514, 1514RR, 1516 and 1520 Pacific Avenue
Block 50, Lots 1-4
Kentucky Avenue Renaissance (KAR) Zoning District
Block 51, Lots 1-10
Resort Commercial (RC) Zoning District

DATE: October 25, 2023

EXECUTIVE SUMMARY

On October 5, 2023, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, 107 S. Kentucky Avenue LLC (the "Applicant"), seeks Preliminary and Final Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject properties. Although high-rise multi-family residential uses are permitted in the zoning districts, single-family attached townhouses are not permitted pursuant to the Authority's Tourism District Land Development Rules. A variance pursuant to N.J.S.A. 40:55D-70(d)(1) is required to permit single-family attached townhouses. Variances pursuant to N.J.S.A. 40:55D-70(c) are subsumed by the variance pursuant to N.J.S.A. 40:55D-70(d)(1).



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the site plan 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.

INTRODUCTION

Application Information

107 S. Kentucky Ave. LLC
Preliminary and Final Site Plan Approval with Variance Pursuant to N.J.S.A. 40:55D-70(d)(1)
105, 107, 117, 123, 125, 127 & 177 S. New Hampshire Avenue
105, 107 & 109 Westminster Avenue
1514, 1514RR, 1516 and 1520 Pacific Avenue
Block 50, Lots 1-4
Kentucky Avenue Renaissance (KAR) Zoning District
Block 51, Lots 1-10
Resort Commercial (RC) Zoning District

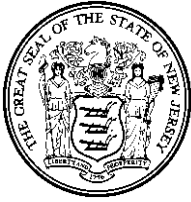
A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

The Applicant seeks Preliminary and Final Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject properties. Although high-rise multi-family residential uses are permitted in the zoning districts, single-family attached townhouses are not permitted pursuant to the Authority's Tourism District Land Development Rules. A variance pursuant to N.J.S.A. 40:55D-70(d)(1) is required to permit single-family attached townhouses. Variances pursuant to N.J.S.A. 40:55D-70(c) are subsumed by the variance pursuant to N.J.S.A. 40:55D-70(d)(1).

Evidence List

- A-1 Application Materials
- A-2 Architectural Rendering consisting of 13 pages
- A-3 Revised Site Plan

- B-1 Letter from ARH Associates dated October 2, 2023.



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FINDINGS OF FACT

The Applicant seeks Preliminary and Final Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject properties. Although high-rise multi-family residential uses are permitted in the zoning districts, single-family attached townhouses are not permitted pursuant to the Authority's Tourism District Land Development Rules. A variance pursuant to N.J.S.A. 40:55D-70(d)(1) is required to permit single-family attached townhouses. Variances pursuant to N.J.S.A. 40:55D-70(c) are subsumed by the variance pursuant to N.J.S.A. 40:55D-70(d)(1).

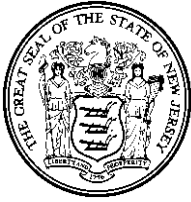
The attorney for the Applicant, Keith Davis, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.

The Applicant presented the testimony of Brian Zoubek, who is an owner of the properties. Mr. Zoubek testified as to his experience in residential developments in the area generally and the Atlantic City specifically. He testified that the Applicant's goal is the construct long-term rental units that will "put lights and eyes on the street" and create a vibrant and safe residential community that supports nearby commercial uses. Finally, he opined that it would be difficult for any developer to construct commercial uses on the subject properties due to location, access and visibility.

The Applicant presented the testimony of Brett Harman, R.A., who was qualified as an expert in the field of architecture and prepared the architectural plans for the development proposal. The Applicant presented the testimony of Rustin Ohler, who assisted in the preparation of the architectural plans. Mr. Ohler described the location of the site, development proposal and site layout. He testified as to architectural features of the proposed improvements, building materials, floor-plans, parking, operational features and signage. Mr. Ohler opined that the development proposal constitutes good civic design and arrangement.

The Applicant presented the testimony of Jason Sciallo, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Sciallo described the location of the site, existing conditions, development proposal and site layout and circulation. He noted that the proposed parking exceeds IRIS requirements and that all trash will be stored within the garages of the individual units. Mr. Sciallo identified several bulk deficiencies associated with the application that are subsumed into the "(d)(1)" variance.

With respect to the variance pursuant to N.J.S.A. 40:55D-70(d)(1), Mr. Sciallo explained that the RC Zoning District permits multi-family high-rise uses and mixed use buildings,



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and the KAR Zoning District permits mixed use buildings. However, single-family attached townhouses are not permitted pursuant to the Authority's Tourism District Land Development Rules. Mr. Sciullo opined that the opportunity for commercial development on the subject properties is limited by location, access and visibility, making the properties particularly suitable for the development proposal. Moreover, he opined that residential development at the proposed intensity would constitute a better planning alternative to strict compliance with the Authority's Tourism District Land Development Rules and would meet market demand.

Mr. Sciullo opined that the development proposal will promote the purposes of the Municipal Land Use Law (the "MLUL"). Specifically, he opined that the development proposal will promote the public health, safety and welfare (Purpose A) by creating an safe and vibrant walkable neighborhood; secure safety from fire. Flood and natural disaster (Purpose B) by providing housing built above flood hazard standards; provide adequate air, light and open space (Purpose C) by creating a neighborhood on a less intense scale and height than permitted under the Authority's Tourism District Land Development Rules; provide appropriate population densities for a variety of uses (Purpose E) by providing residential uses that are in demand; provide sufficient space for a variety of uses (Purpose G) by providing a use that will compliment existing and proposed commercial uses in the neighborhood; and create a desirable visual environment (Purpose I) through the use of creative techniques.

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.

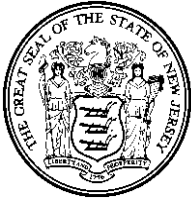
Christine Cofone, P.P., was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that the proposed density is consistent with the way that the neighborhood is developing and that she supports approval of the Application.

Christopher Morris, P.E., was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. Mr. Morris testified that he supports approval of the Application.

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).

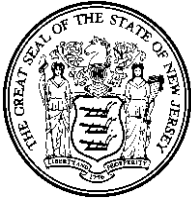
Here, based on the evidence and testimony, the Applicant has demonstrated that development plan generally conforms to the site plan standards and technical requirements of the Tourism District Land Development Rules.

Variance Pursuant to N.J.S.A. 40:55D-70(d)(1)

It is well-established that “[v]ariations to allow new nonconforming uses should be granted only sparingly and with great caution since they tend to impair sound zoning.” Burbridge v. Twp. of Mine Hill, 117 N.J. 376, 385 (1990) (quoting Kohl v. Mayor & Council of Fair Lawn, 50 N.J. 268, 275 (1967)). Consequently, although deference must be given to any decision by a board of adjustment, a reviewing court gives less deference to a grant than to a denial of a use variance. Funeral Home Mgmt., Inc. v. Basralian, 319 N.J. Super. 200, 208 (App. Div. 1999). In reviewing the grant of a use variance, a court must consider whether a board of adjustment “in the guise of a variance proceeding, [has] usurp[ed] the legislative power reserved to the governing body of the municipality to amend or revise the [zoning] plan....” Vidal v. Lisanti Foods, Inc., 292 N.J. Super. 555, 561 (App. Div. 1996) (quoting Feiler v. Fort Lee Bd. of Adjustment, 240 N.J. Super. 250, 255 (App. Div. 1990), certif. denied, 127 N.J. 325 (1991)) (internal quotations omitted). To sustain a use variance, a reviewing court must find both that the “Board’s decision comports with the statutory criteria and is founded on adequate evidence.” Burbridge, *supra*, 117 N.J. at 385.

A board of adjustment is authorized to grant a use variance only “[i]n particular cases and for special reasons.” N.J.S.A. 40:55D-70(d). This is sometimes referred to as the positive criteria for the grant of a use variance. Smart SMR of New York, Inc. v. Borough of Fair Lawn Bd. of Adjustment, 152 N.J. 309, 323 (1998). “Special reasons” is not specifically defined, but has been broadly interpreted to mean reasons which advance the purposes of the MLUL. New Jersey case law recognizes three categories of circumstances in which the “special reasons” required for a use variance may be found: (1) where the proposed use inherently serves the public good, such as a school, hospital or public housing facility, see Sica v. Bd. of Adjustment of Wall, 127 N.J. 152, 159-60 (1992); (2) where the property owner would suffer “undue hardship” if compelled to use the property in conformity with the permitted uses in the zone, see Medici v. BPR Co., 107 N.J. 1, 17 n.9 (1987), and (3) where the use would serve the general welfare because “the proposed site is particularly suitable for the proposed use.” Smart SMR, *supra*, 152 N.J. at 323 (quoting Medici, *supra*, 107 N.J. at 4).

In addition, an applicant for a variance must show that the variance “can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” N.J.S.A. 40:55D-70. This is sometimes



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referred to as one of the “negative” criteria for the grant of a variance. Smart SMR, supra, 152 N.J. at 323.

Positive Criteria

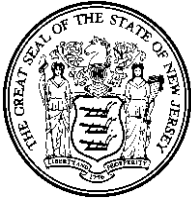
The Applicant seeks a variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject properties. Although high-rise multi-family residential uses are permitted in the zoning districts, single-family attached townhouses are not permitted pursuant to the Authority’s Tourism District Land Development Rules. The evidence and testimony demonstrate that special reasons exist for the grant of the requested variance. The property is particularly suitable for the proposed use because the density is appropriate to the size of the property and meets market demand.

The development proposal will promote the purposes of the Municipal Land Use Law (the “MLUL”). Specifically, the development proposal will promote the public health, safety and welfare (Purpose A) by creating an safe and vibrant walkable neighborhood; secure safety from fire. Flood and natural disaster (Purpose B) by providing housing built above flood hazard standards; provide adequate air, light and open space (Purpose C) by creating a neighborhood on a less intense scale and height than permitted under the Authority’s Tourism District Land Development Rules; provide appropriate population densities for a variety of uses (Purpose E) by providing residential uses that are in demand; provide sufficient space for a variety of uses (Purpose G) by providing a use that will compliment existing and proposed commercial uses in the neighborhood; and create a desirable visual environment (Purpose I) through the use of creative techniques.

Negative Criteria

To assure that a land use agency does not usurp the governing body’s statutory authority to determine the municipality’s zoning, an applicant for a use variance must show by “an enhanced quality of proof...that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance[,]” and the Board must make “clear and specific findings” that this showing has been made, Medici, 107 N.J. at 21. “The applicant’s proofs and the board’s findings...must reconcile the proposed use variance with the zoning ordinance’s omission of the use from those permitted in the zoning district.” Ibid.

Here, the evidence and testimony demonstrate that the grant of the requested variance will not create any detriment to the public good, and 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.



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RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Preliminary and Final Site Plan Approval with a variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction of 29 single-family attached townhouses on the subject property where single-family attached townhouses are not permitted in the zoning districts 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 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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4878-2101-9270, v. 1



Principals
Richard Rehmann, GISP
Richard Heggan, PLS, PP
Jeffery MacPhee, PLS

October 2, 2023

Lance B. Landgraf, Jr., P.P., AICP
Casino Reinvestment Development Authority
Division of Land Use and Regulatory Enforcement
15 S Pennsylvania Avenue
Atlantic City, NJ 08401

Re: Land Use Application
107 S. Kentucky Avenue LLC
105, 107, 117, 123, 125, & 127 S. Kentucky Avenue,
1514, 1514RR, 1516, & 1520 Pacific Avenue, and
105, 107, & 109 Westminster Avenue
Block 50, Lots 1-4 & Block 51, Lots 1-10
Atlantic City, NJ 08401
CRDA Application #: 2023-08-3512
ARH File: 24-10089

Dear Mr. Landgraf:

ARH ASSOCIATES has received the above captioned Application for review. The Applicant seeks Minor Site Plan approval, "d" Use Variance and "c" Bulk Variance Relief.

Block 50, Lots 1-4 and Block 51, Lots 1-10 are located in Atlantic City's Kentucky Avenue Renaissance (KAR) (Block 5) and Resort Commercial (RC) (Block 51) Zoning Districts. It is proposed that 19 townhouses on Block 50 and 10 townhouses on Block 51 are to be constructed.

This report consists of a review of the Subject Application for conformance with Casino Reinvestment Development Authority checklists as well as NJAC19:66, the CRDA Tourism District Land Development Rules. Comments are limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing on this matter.

I. OWNER & APPLICANT INFORMATION

OWNER/APPLICANT
107 S. Kentucky Avenue, LLC
faron@traxpartners.com
1650 Limekiln Pike, Suite B19-1043, Dresher, PA 19025
610-737-4855

ARH Associates

Corporate Headquarters – 215 Bellevue Avenue – PO Box 579 – Hammonton, NJ 08037 – 609.561.0482 – fax 609.567.8909
Tinton Falls Office – 97 Apple Street – Suite 1 – Tinton Falls, NJ 07724 – 609.561.0482 – fax 609.567.8909

www.arh-us.com

Land Use Application
 107 S. Kentucky Ave., LLC
 105, 107, 117, 123, 125, & 127 S. Kentucky Avenue,
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 ARH File: 24-10089
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II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
CRDA Land Use Application	Applicant	Undated	
Escrow Setup Information			
Ownership Interests			
Deeds to Block 50 Lots 1-4 and Block 51 Lots 1-10		06/16/2023	
Major Preliminary Site Plan Checklist	Jason T. Sciuillo, P.E., P.P.	Undated	
Major Final Site Plan Checklist			
"d" Variance Checklist			
"c" Variance Checklist			
Site Plan		09/05/2023	
Architectural Plan	Harman, Deutsch, Ohler Architecture	08/28/2023	
Variance Justification Report	Nehmad Davis & Goldstein	09/06/2023	
Tax Map	City of Atlantic City	01/2016	
Proof of Taxes Paid Block 50, Lots 1-4		07/26/2023	
Proof of Taxes Paid Block 51, Lots 1-10			
200' Property Owners List		09/06/2023	

III. CHECKLISTS

The following addresses conformance with the CRDA's list of Required Application items for Major Preliminary Site Plan, Major Final Site Plan, "d" Variance and "c" Variance Checklists (forms #6, #7, #11 & #12) and does not reflect adequacy of submissions for review purposes. The correct number of copies are assumed to have been submitted. Column entries reflect **ARH's** review of Applicant's submissions.

Major Preliminary Site Plan Checklist (Form #6)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
17	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X		X	"Project is for rental properties"
21	Stormwater management plans and drainage calculations. (19:66-7.5).	X		X	"(not required pursuant to NJAC 7:8-1.6)"

Land Use Application
 107 S. Kentucky Ave., LLC
 105, 107, 117, 123, 125, & 127 S. Kentucky Avenue,
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Major Final Site Plan Checklist (Form #7)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
17	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X		X	"Project is for Rental Properties."
21	Stormwater management plans and drainage calculations. (19:66-7.5).	X		X	"(not required pursuant to NJAC 7:8-1.6)"
34	Performance guarantee [19:66-3.4 (b)]	X		X	
35	Maintenance guarantee (19:66-16.3)	X		X	
36	Inspection Fees (19:66-16.1)	X		X	

"d" Variance Checklist (Form #11)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
18	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X		X	"Project is for rental properties."

"c" Variance Checklist (Form #12)

ITEM	TITLE / DESCRIPTION (Subdivision Application)	Required	Submitted	Waiver Requested by Applicant	Comments
17	List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.	X		X	"Project is for rental properties."

Land Use Application
 107 S. Kentucky Ave., LLC
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IV. BULK REQUIREMENTS, KENTUCKY AVENUE RENAISSANCE (KAR) BLOCK 50

Standard	Required	Existing	Proposed	Complies?
Maximum Height (measured from BFE), Principal Structure (FT)	300	N/A	45.7	C
Minimum Lot Area (SF)	7,500	26,250	NC	C
Minimum Lot Depth (FT)	150	210	NC	C
Minimum Lot Width (FT)	50	125	NC	C
Minimum Lot Frontage (FT)	50	125	NC	C
Maximum Building Coverage (%)	70	N/A	62	C
Maximum Impervious Coverage (%)	80	57.7	91.5	V
Minimum Front Yard (FT)	20	N/A	3	V
Minimum Rear Yard	20	N/A	N/A	N/A
Minimum Side Yard	20	N/A	4	V
Parking (Spaces)	50	N/A	57	C

C = COMPLIES

ENC = EXISTING NON-CONFORMING CONDITION

V = VARIANCE REQUIRED

N/A = NOT APPLICABLE

NC = NO CHANGE FROM EXISTING

VG = VARIANCE GRANTED

V. BULK REQUIREMENTS, RESORT COMMERCIAL (RC) BLOCK 51

Standard	Required	Existing	Proposed	Complies?
Maximum Height (measured from BFE), Principal Structure (FT)	300	35	45.7	C
Minimum Lot Area (SF)	7,500	39,990	NC	C
Minimum Lot Depth (FT)	150	210	NC	C
Minimum Lot Width (FT)	50	194.71	NC	C
Minimum Lot Frontage (FT)	50	194.71	NC	C
Maximum Building Coverage (%)	70	N/A	23	C
Maximum Impervious Coverage (%)	80	78.9	78.5	C
Minimum Front Yard (FT)	20	N/A	3	V
Minimum Rear Yard	20	N/A	N/A	N/A
Minimum Side Yard	20	N/A	0	V
Maximum Density (DU/A)	50	N/A	10.9	C
Parking (Spaces)	25	N/A	29	C

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C = COMPLIES

ENC = EXISTING NON-CONFORMING CONDITION

V = VARIANCE REQUIRED

N/A = NOT APPLICABLE

NC = NO CHANGE FROM EXISTING

VG = VARIANCE GRANTED

VI. REVIEW OF PLANS

a. Checklists

1. Major Preliminary Site Plan Checklist

a. The applicant has requested waivers on the following items:

- i. Item 17: List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.**
- ii. Item 21: Stormwater management plans and drainage calculations. (19:66-7.5)**

2. Major Final Site Plan Checklist

a. The applicant has requested waivers on the following items:

- i. Item 17: List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.**
- ii. Item 21: Stormwater management plans and drainage calculations. (19:66-7.5)**
- iii. Item 34: Performance guarantee [19:66-3.4 (b)]**
- iv. Item 35: Maintenance guarantee (19:66-16.3)**
- v. Item 36: Inspection Fees (19:66-16.1)**

3. "d" Variance Checklist

a. The applicant has requested waivers on the following items:

- i. Item 18: List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.**

4. "c" Variance Checklist

a. The applicant has requested waivers on the following items:

- i. Item 17: List of any existing or proposed deed restrictions, easements, covenants, Homeowners Association Agreements, etc. as recorded or in recordable form if proposed.**

b. Zoning (KAR)

1. The applicant requires the following variances:

- a. Maximum Impervious Coverage – 91.5% is proposed, where 80% is required per NJAC 19:66-5.20(a)1.iv.(7)**
- b. Minimum Front Yard – 3 FT is proposed, where 20 FT is required per NJAC 19:66-5.20(a)1.iv.(8).**
- c. Minimum Side Yard – 4 FT is proposed where 20 FT is required per NJAC 19:66-5.20(a)1.iv.(9).**
- d. Use Variance relief – where Low-rise multi-family residential use is not permitted in the KAR Zone.**

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- c. Zoning (RC)
 - 1. The applicant requires the following variances:
 - a. Minimum Front Yard – 3 FT is proposed, where 20 FT is required per NJAC 19:66-5.10(a)1.iv.(8).
 - b. Minimum Side Yard – 0 FT is proposed where 20 FT is required per NJAC 19:66-5.10(a)1.iv.(9).
 - c. Use Variance relief – where Low-rise multi-family residential use is not permitted in the RC Zone.
- d. Parking
 - 1. Per RSIS Section 5:21-4.14, 4- and 5-bedroom single-family residential units require 2.5 and 3.0 parking spaces, respectively. Each townhome unit provides three (3) 9'x18' parking spaces as part of the garage; therefore, the parking requirement is satisfied.
- e. Grading/Drainage
 - 1. The project does not qualify as a “major development” as classified by N.J.A.C. 7:8, as it does not increase motor vehicle surfaces by ¼ acre or disturb over one (1) acre of land area; therefore, our office acknowledges that no stormwater attenuation is required for this project. The Applicant’s Engineer shall provide testimony that the proposed increase in impervious coverage will not negatively impact the surrounding properties or downstream drainage facilities. In addition, although not specifically required, the applicant shall consider drywells to mitigate the increase in impervious area.
 - 2. The project is not subject to the NJ Coastal Zone Management Rules (N.J.A.C. 7:7) for CAFRA since proposed work is greater than 500 feet from the landward limit of dunes and proposes less than 75 units.
 - 3. The entire project is located in the Tidal Flood Hazard Area (Flood Zone AE, Base Flood Elevation 10). The lowest finished floor elevation is set at Elevation 18.19
- f. Landscaping & Lighting
 - 1. The Applicant shall confirm landscaping meets the requirements set forth in NJAC 19:66-7.6.
 - 2. The Landscaping and Lighting Plan provided does not indicate any proposed light fixtures. The Applicant shall provide testimony to confirm the internal driveways will be adequately illuminated and/or if additional fixtures are required.
 - 3. The demolition plans indicates that two (2) existing light poles are to be removed along Kentucky Avenue. The Applicant shall provide testimony to confirm that the elimination of these fixtures will not negatively impact visibility along the property frontage and surrounding areas.

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g. Utilities

1. The plans indicate that public sewer and water connections will be made to the existing mains within Westminster Ave for each unit. Copies of all applicable sewer and water permits shall be submitted to our office prior to final approval.
2. It shall be confirmed that the proposed sanitary sewer laterals from the townhome units provide a minimum of three (3) feet of cover (as measured from the top of the pipe to the grade elevation).
3. The Applicant shall provide construction details for pavement repair for the proposed utility connections within the City ROW.

h. Miscellaneous

1. The Applicant shall confirm that all proposed sidewalks are ADA compliant. Safe pedestrian circulation shall be provided to each unit.
2. The Applicant shall provide testimony regarding the method of trash collection for the proposed units.
3. A construction detail for a Wood Panel Fence is included on Sheet C1101; however, the limits of the fence are not clearly identified on the plans. The Applicant shall clarify where the fencing is proposed.

COFONE CONSULTING PLANNING REVIEW

Zoning Compliance

Block 51, Lots 1-10 are located in the Resort Commercial (RC) District. As stated at CRDA Land Development Rules Section at N.J.A.C. 19:66-5.10, the purpose of the RC District is as follows:

The purpose of the RC Resort Commercial District is to provide an array of land uses that will capitalize on the zoning district's geographical advantages of the zoning district's proximity to the boardwalk and the Atlantic Ocean. The Resort Commercial District also offers the highest intensity residential offerings within the Tourism District with a variety of supportive commercial and services uses. The vision is to create an environment where residential and resort offerings seamlessly integrate.

Block 50, Lots 1-4 are located within the Kentucky Avenue Renaissance (KAR) District. As stated at CRDA Land Development Rules Section at § 19:66-5.20, the purpose of the KAR District is as follows:

The purpose of the Kentucky Avenue Renaissance District is to honor the deep music and entertainment history in the neighborhood and provide land use controls that seek to spur an economic engine for the area.

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Attached single-family dwellings (townhouses) are not a permitted use in the KAR and RC Districts. Accordingly, a Special Reasons Use Variance is required pursuant to N.J.S.A. 40:55D-70(d)(1). In addition, as specified in the engineering portion of this review, various bulk variances are required for deviation from the KAR and RC District regulations.

Master Plan Review

The subject property is located within the Atlantic City Tourism District. Pursuant to the New Jersey CRDA Atlantic City Tourism District Master Plan, the overall intention and vision is to “reinvigorate Atlantic City in the near-term as the leading resort destination in the Northeast and beyond (Page 4, New Jersey CRDA Atlantic City Tourism District Master Plan). Among others, overarching objectives are to “develop an economically viable and sustainable tourism district” and “[expand] Atlantic City’s tourism and economic bases” (Id, Page 1-2).

Planning Analysis and Issues for Consideration by the Board

In regard to the “d(1)” variance, the Municipal Land Use Law (MLUL) at NJSA 40:55D-70.d sets forth the standards for variances from the use regulations of a zoning ordinance. A “d(1)” variance is required when an applicant submits an application for a use that is not permitted in the list of permitted uses within a specific zoning district. The applicant must satisfy the *Medici* proofs:

- Is the site particularly suited for the proposed use?
- Does the proposed use advance special reasons and further the purposes of the Municipal Land Use Law (MLUL)?
- Does the proposal substantially impair the purpose and intent of the master plan, zone plan, and zoning ordinance? Does the proposal satisfy the enhanced quality of proof that the variance sought is not inconsistent with the intent of the master plan and zoning ordinance, proof which must reconcile the proposed use variance with the zoning ordinance's omission of the use from those permitted in the district?
- Can a variance for this use be granted without substantial detriment to the public good?

In regard to the “c” variance, the Municipal Land Use Law (MLUL) at NJSA 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance application also must address the “negative criteria.”

We offer the following for your consideration in reviewing the Application:

- 1) The Applicant’s professional planner shall provide the required statutory proofs for the proposed

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variances.

- 2) While the Applicant's engineer has identified various "c" variance relief, since the zones do not contemplate the use and thus does not contain bulk requirements applicable to single-family attached residential, any identified "c" variances are subsumed by the "d" variance in accordance with *Price V. Himeji*.
- 3) The Applicant's architect shall provide detailed testimony relative to the proposed design, materials, lighting, landscape architecture, and curb appeal elements.
- 4) The Applicant's Engineer shall discuss the impacts of the reconfigured parking lot on Block 51, Lot 1 and if the reduction in parking spaces will have a negative impact on any of the surrounding uses for which it serves.
- 5) The Applicant shall provide information relative to whether the residential units will be rentals (site managed by the owner-operator) or sales. If sale, testimony shall be provided regarding property maintenance responsibilities.
- 6) The Applicant shall discuss all proposed exterior alterations and should provide elements that will enhance curb appeal.
- 7) The Applicant shall discuss how the application will advance the intent of the New Jersey CRDA Atlantic City Tourism District Master Plan and the Tourism District.

POST APPROVAL CONSIDERATIONS

Should the Board grant the desired approval for this Application, Applicant, and/or its professionals must:

- A. Submit any required revisions to the Board as outlined above for review.**
- B. Obtain approvals from all outside agencies, if necessary. Provide copies to the Board.**
- C. Contact the Board Secretary to reconcile any outstanding review escrow accounts prior to Final Plan Certification, Signature, or the issuance of building permits, as applicable.**

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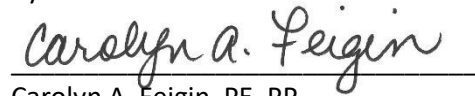
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Any resubmissions in response to this report should be accompanied by a point-by-point response to all items. To facilitate the Board's decision-making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

Respectfully Submitted,

ARH ASSOCIATES

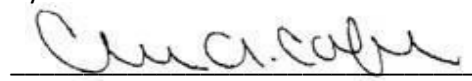
By



Carolyn A. Feigin, PE, PP
CRDA Consulting Engineer

COFONE CONSULTING GROUP

By



Christine A. Nazzaro-Cofone, AICP, PP
CRDA Consulting Planner



DATE: November 21, 2023

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY
GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCE
PURSUANT TO N.J.S.A. 40:55D-70(d)(1) TO PERMIT CONSTRUCTION OF 29
SINGLE-FAMILY ATTACHED TOWNHOUSES ON THE SUBJECT PROPERTIES
LOCATED AT 105, 107, 117, 123, 125, 127 AND 177 S. NEW HAMPSHIRE AVENUE;
105, 107 AND 109 WESTMINSTER AVENUE; AND 1514, 1514RR, 1516 AND 1520
PACIFIC AVENUE, BLOCK 50, LOTS 1-4 AND BLOCK 51, LOTS 1-10, IN THE CITY
OF ATLANTIC CITY UNDER APPLICATION #2023-08-3512

Motion:	<u>MB</u>	
Second:	<u>JT</u>	
Paulina Banasiak		<u>Y</u>
Michael Beson		<u>Y</u>
Daniel Cosner		<u>Y</u>
Ed Gant		<u>Y</u>
Michael Hanley		<u>Y</u>
Michael Laughlin		<u>Y</u>
Alicia Magee		<u>Y</u>
Brett Matik		<u>Y</u>
William Mullen		<u>Y</u>
James Plousis		<u>Y</u>
Dave Rebuck for the State Attorney General		<u>Y</u>
Mayor Marty Small		<u>Absent</u>
William Sproule		<u>Y</u>
Jacquelyn Suárez, Acting DCA Commissioner (CB)		<u>Y</u>
Robert Tighue for the State Treasurer		<u>Absent</u>
Joseph Tyrrell		<u>Y</u>
Chairman Mo Butler		<u>Y</u>