

Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 9/16/2024

TO: Members of the Authority

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

COPY: Eric Scheffler, Executive Director

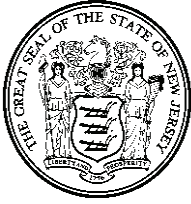
SUBJECT: Hearing Officer's Report and Recommendation
Application #2024-04-3637
1517-1519 Boardwalk QOZB, LLC
Preliminary and Final Site Plan Approval with Variances Pursuant to
N.J.S.A. 40:55D-70(c)
1517 Boardwalk, 1519 Boardwalk & 1523 Boardwalk
Block 51, Lots 27, 28 & 29
120 S. New York Avenue
Block 51, Lot 19.01
Resort Commercial (RC) Zoning District

DATE: August 14, 2024

EXECUTIVE SUMMARY

On June 20, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, 1517-1519 Boardwalk QOZB, LLC (the "Applicant"), proposes to convert the former James Candy Company Building to a 32-room boutique hotel and 442-seat restaurant and bar. The restaurant will share some services with the existing adjacent restaurant, Loteria, and other uses in the vicinity. The Applicant seeks Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for parking, signage and building 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.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

INTRODUCTION

Application Information

1517-1519 Boardwalk QOZB, LLC

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

1517 Boardwalk, 1519 Boardwalk & 1523 Boardwalk

Block 51, Lots 27, 28 & 29

120 S. New York Avenue

Block 51, Lot 19.01

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.

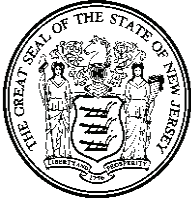
The Applicant proposes to convert the former James Candy Company Building to a 32-room boutique hotel and 442-seat restaurant and bar. The restaurant will share some services with the existing adjacent restaurant, Loteria, and other uses in the vicinity. The Applicant seeks Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for parking, signage and building coverage.

Evidence List

- A-1 Application Materials
- A-2 Architectural Renderings
- A-3 Google Earth Image of Site
- A-4 Signage Image
- A-5 Signage Image
- A-6 Signage Image
- B-1 Letter from ARH Associates dated May 29, 2024

FINDINGS OF FACT

The Applicant proposes to convert the former James Candy Company Building to a 32-room boutique hotel and 442-seat restaurant and bar. The restaurant will share some services with the existing adjacent restaurant, Loteria, and other uses in the vicinity. The Applicant seeks Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for parking, signage and building coverage.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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

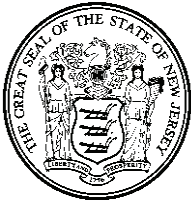
The Applicant presented the testimony of Jason Sciullo, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Sciullo described the location of the site, existing conditions, development proposal and site layout.

Mr. Sciullo testified that the Applicant proposes to convert the James Candy Company Building to a 32-room boutique hotel and 442-seat restaurant and bar. Mr. Sciullo explained there is extensive public parking in the vicinity of the site, and that 33 parking spaces will be designated for use by the proposed hotel on Block 51, Lot 19.01. He noted that the intent of the development is to create a pedestrian-oriented neighborhood within the Orange Loop where uses will share services such as parking. He testified that a loading dock will be modified and a trash enclosure constructed to serve both the development proposal and the existing Loteria restaurant. The Applicant also proposes to create an entrance along Westminster, together with an elevated seating area. The balance of the development proposal consists primarily of extensive renovation of the James Candy Company Building.

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

- A building coverage of 75.9% where 70.2% is existing and a maximum of 70% is permitted.
- 0 parking spaces for where a minimum of 165 parking spaces are required.
- Four wall signs where a maximum of two wall signs are permitted.
- Three awning signs and two projecting signs where a maximum of one is permitted.
- A projecting sign height of 23 feet where a maximum projecting sign height of 20 feet is permitted.
- A setback of a pole sign of 0 feet from the property line where a minimum setback of a pole sign from the property line of 5 feet is required.

With respect to the variance for building coverage, Mr. Sciullo testified that nonconformity is the result of the consolidation of the James Candy Company Building lot, with an existing building coverage of 100%, with two other conforming lots. With respect to the variance for parking, he noted that there is a grandfathered parking shortfall of 90 parking spaces. He further noted that 33 parking spaces are being dedicated to the hotel use on a remote lot controlled by the Applicant. Accordingly, the Applicant seeks a variance to provide 0 parking spaces where 42 parking spaces are required. He opined that the parking needs can be met by existing parking opportunities in the vicinity of the site. With respect to the variances for signage, Mr. Sciullo testified that the four building signs, awning signs



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

and projecting signs are existing and proposed to be refaced. He noted that the location of the pole sign at the property line is necessary for it to be elevated above the service drive.

Mr. Sciullo testified that the same proofs support the grant of all of the requested variances. 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 the diversity of a non-casino hotel along the Boardwalk. He further testified that the development proposal will promote a desirable visual environment (Purpose I) through the preservation of the architectural character of a well-known structure along the Boardwalk. Finally, he opined that the development proposal will promote the efficient use of land (Purpose M) through the adaptive reuse of an existing structure. Mr. Sciullo opined that the grant of all 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.

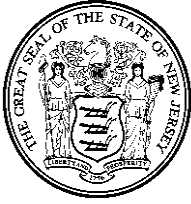
The Applicant presented the testimony of William McLees, R.A., an architect licensed in the State of New Jersey, who was qualified as an expert in the field of professional architecture. Mr. McLees described the location of the site, development proposal and site layout. He provided testimony regarding exterior improvements, floor plans, architectural features, materials, mechanical systems and signage. He noted that kitchen/restaurant/banquet space will be located on the first floor, and the hotel rooms will be located on upper floors.

Christopher Morris, P.E., was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. Mr. Morris questioned the Applicant's witnesses regarding trash pick-up, landscaping and lighting. The Applicant agreed to provide planters along the sidewalk, remove any proposed bollards from the plan and comply with all requirements of the letter from ARH Associates dated May 29, 2024. Mr. Morris testified that the Applicant had provided sufficient testimony to address all issues raised in the letter and that he supports approval of the Application.

CONCLUSIONS OF LAW

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



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

of the Tourism District Land Development Rules and the grant of Preliminary and Final Site Plan approval is appropriate.

Variance 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).

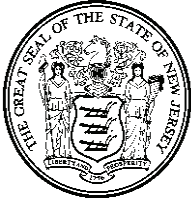
The Applicant seeks variances pursuant to N.J.S.A. 40:44D-70(c)(2) to permit the following:

- A building coverage of 75.9% where 70.2% is existing and a maximum of 70% is permitted.
- 0 parking spaces for where a minimum of 165 parking spaces are required.
- Four wall signs where a maximum of two wall signs are permitted.
- Three awning signs and two projecting signs where a maximum of one is permitted.
- A projecting sign height of 23 feet where a maximum projecting sign height of 20 feet is permitted.
- A setback of a pole sign of 0 feet from the property line where a minimum setback of a pole sign from the property line of 5 feet is required.

The evidence and testimony demonstrate that the development proposal will promote the purposes of the MLUL by promoting the public health, safety and welfare (Purpose A) by providing the diversity of a non-casino hotel along the Boardwalk; promote a desirable visual environment (Purpose I) through the preservation of the architectural character of a well-known structure along the Boardwalk; and promote the efficient use of land (Purpose M) through the adaptive reuse of an existing structure.

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



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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 Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c)(2) 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.

4875-2282-5421, v. 1