

June 17, 2014

Paul Weiss, Esquire
CASINO REINVESTMENT DEVELOPMENT AUTHORITY
15 South Pennsylvania Avenue
Atlantic City, NJ 08401

Re: *Site Plan (2nd Review)*
Block 386, Lots 3 & 4; Block 387, Lots 9 & 10
Sunset Avenue
Applicant: Robert Boselli, Jr.
Zone: MUR, Mixed Use Recreation District
Application No 2013-12-897
Our File No CRDA13009



Dear Mr. Weiss:

The above referenced application is a request for site plan review.

1.0 Project Description

1.1 Applicant's Proposal

The applicant has revised his previous application submitted on December 5, 2013. The applicant now proposes a 2-stage development plan. Stage 1 is to demolish the existing warehouse structures and reconstruct new ones using the same exact footprint on a temporary basis until feasible to implement Stage 2 of the development. Stage 1 will require a certificate of non-conformity and use and bulk variance approval. Stage 2 will remain as originally proposed, as follows:

The applicant seeks site plan approval to construct a five-story, mixed use building with parking at-grade both inside the building and across Sunset Avenue. The structure will include eight residential units on the upper three floors and three commercial units including 2 bar/restaurants and a water taxi service on the first and second floors. Waterfront improvements are also proposed, including a new bulkhead and floating dock. In order to achieve this development the applicant proposes to demolish the existing warehouses and other improvements.

1.2 Existing Conditions

The property in question is Block 386, Lots 3 and 4 and Block 387, Lots 9 and 10 and is located on Sunset Avenue. The property is zoned MUR, Mixed Use Recreation District. The property contains a one-story brick building consisting of garages on the south side of Sunset Avenue and a frame and stucco structure on the north side. Otherwise, the property is vacant and possibly contaminated from an adjacent, former manufactured gas plant. The applicant has

entered into a remediation agreement with South Jersey Gas Company, the adjoining property owner, who has entered into an Administrative Consent Order with the New Jersey Department of Environmental Protection.

1.3 Adjacent Land Uses

Next to the garages are apartments above storage units and behind these structures is the former manufactured gas plant which may have caused the contamination. To the southwest is a residential neighborhood and to the north the Beach Thorofare.



2.0 Materials Reviewed

We have reviewed the referenced submission, received by our office on February 25, 2014 and subsequently on April 24, 2014 and May 23, 2014, consisting of the following:

<u>Sheet</u>	<u>Title</u>	<u>Date</u>
---	Cover letter from Raymond J. Went, Esq.	February 7, 2014
---	Response from Raymond J. Went, Esq.	February 25, 2014
---	Response from Raymond J. Went, Esq.	April 24, 2014
---	Response from Raymond J. Went, Esq.	May 23, 2014
---	Application Form	February 6, 2014
---	Narrative	February 6, 2014
---	Application Form	Revised to February 21, 2014
---	Narrative	---
---	List of Requested Variances	---
---	Atlantic City Zoning Code and Schedules for Both Stages of Proposed Development	---
---	Leica Geosystems Map of Property in Question	February 25, 2014
---	200' Property Owners Request	March 21, 2014
---	Parcel Owners, Block 386, Lots 3 & 4 and Environmental Webmap	March 21, 2014
---	Parcel Owners, Block 387, Lots 9 & 10 and Environmental Webmap	March 21, 2014
---	Proposed Affidavit of Service	---
---	Deed, Block 386, Lot 3	October 3, 2003
---	Deed, Block 386, Lot 4	October 3, 2003
---	Deed, Block 387, Lot 9	October 3, 2003
---	Deed, Block 387, Lot 10	October 3, 2003
---	Statement of Compliance with Code	---
---	NJDEP Permit (expired 12/19/10)	December 19, 2005



---	Amended CAFRA/Waterfront Development Plan	September 27, 2005
---	Sanborn Map	---
---	Property Record Cards for 2420, 2422, 2425 & 2441 Sunset Ave.	November 13, 1990
---	Color Property Photos (7)	---
C-1	Title Sheet	Last Revised May 23, 2014
C-2	Property Survey	Last Revised May 23, 2014
C-3	Previously Approved Application Plan	Last Revised April 17, 2014
C-4	Site Development Plan	Last Revised April 17, 2014
C-5	Site Details	Last Revised April 17, 2014
C-6	Grading, Drainage & Utility Plan	Last Revised May 23, 2014
C-7	Soil Erosion & Sediment Control Plan	Last Revised May 23, 2014

The plans are signed and sealed by Arthur W. Ponzio, Jr., P.P., P.L.S. and Jon J. Barnhart, P.E. of Arthur W. Ponzio Co. & Associates, Inc. (AWP).

3.0 Submission Requirements

3.1 Requirements for Completeness are included in Chapter 163 of the Code of the City of Atlantic City, Land Use and Development. Based upon our review of the submitted items, we have determined that the site plan application is incomplete unless the following submission item(s) are granted a waiver for completeness or deferred by the Land Use Regulation and Enforcement Division (LURED) to be provided as a condition of approval:

§ 163-97 - Application for Preliminary Site Plan/Subdivision Plan

C. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the Land Use Administrator, but shall in all instances, unless an order of the LURED entered pursuant to § 163-82C or 163-90B provides otherwise, contain at least the following information and documentation, which information and documentation, taken together, shall constitute a preliminary site plan/subdivision plat:

(8) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed development, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or commitment for title insurance.

Note: The applicant has submitted deeds of all four (4) lots and requests a waiver from the requirement to submit an up-to-date abstract of title or commitment for title insurance.



- (15) Evidence of the financing plan the applicant proposes to use to complete the proposed development. Evidence of the applicant's prior successful completion of projects of similar scope may, if found sufficient by the Planning Board, be accepted in satisfaction of this requirement.

Note: The applicant has requested a waiver.

- (16) Traffic, transit and pedestrian circulation studies indicating the relationship of the proposed development to existing and projected transit, vehicular and pedestrian traffic volumes and use in the immediate area, based upon both existing and proposed or planned traffic, transit and pedestrian systems and use and indicating any proposals of the applicant for upgrading those systems.

Note: The applicant has requested a waiver.

- (17) Studies indicating the adequacy of existing or proposed public improvements, public sites and rights-of-way and essential public or quasi-public facilities and services, such as transportation, police and fire protection, social and health services, education, recreation, sanitation and energy facilities and supplies, and indicating any proposals of the applicant for upgrading those improvements, sites, services and facilities. Such studies shall, when required by the Planning Board, include a full energy impact assessment prepared in accordance with the Board's regulations pertaining thereto.

Note: The applicant has requested a waiver.

- (21) A preliminary site plan or subdivision plat based on the latest Tax Map information and of a standard size not less than 15 x 21 inches as required by the Map Filing Act. (Editor's Note: See N.J.S.A. 46:23-9.9 et seq.) drawn to a scale of not more than 100 feet to the inch, on one or more sheets, illustrating the proposed development and use and including the following:

- (b) Identification and Tax Map information. The plan or plat shall have clearly indicated on it the following information:

[9] Existing zoning classifications of the subject property and properties within 200 feet of the subject property and any proposed changes in such classifications.

Note: The correct zone is MUR, Mixed Use Recreation District.

- (l) Storm drainage. The plan or plat shall also show or be accompanied by plans and computations for any storm drainage systems, including the following:

[1] Drainage patterns: existing and proposed overland drainage patterns.

Note: The applicant's engineer indicated during a meeting on January 16, 2014 that a compliance narrative for flood hazard area and stormwater management was prepared for a previous CAFRA permit application. At

a minimum, this narrative should be provided and updated. Additionally, drainage calculations for the piping system should be provided.

- (q) Surrounding development. The plan or plat shall show the location, use, size and height, in stories and feet, of structures and other land uses on properties within 200 feet of the subject property and all access points to such uses.

Note: The applicant has requested a waiver.

- (22) Energy impact statement. Such statement shall include the following:

- (a) An analysis, with documentation, of the annual energy demand anticipated to be generated by the proposed development in terms of Btu's, the type and quantity of fuels and the energy systems which would meet this demand.
- (b) Information on energy conservation measures which the proposed project would employ and other pertinent data as needed for the assessment of the energy-conserving potential of the project.
- (c) Identification of the constraints, if any, which would restrict the energy conservation potential of the development.

Note: The applicant has requested a waiver.

- (23) A certificate from the City Tax Collector certifying that no taxes or assessments are due or delinquent on the subject property. [Added 6-15-1988 by Ord. No. 1-1988]

Note: The applicant has requested waivers of the above items which I support with the exception of item number(s) C.(16), (21)(b)[9], (21)(l)[1] and (23).

4.0 Zoning Requirements

4.1 Permitted Uses

1. In accordance with § 163-59A(4), the Mixed Use Recreation District has been established to integrate residential, commercial, cultural, transportation and transient oriented uses. Water-based uses that provide alternative modes of transportation to other locations throughout the City are encouraged. Public access along the waterfront is a major component of the district plan, to provide a scenic venue and pedestrian links to The Walk.
2. In accordance with § 163-59B, Schedule III, multiple-family dwellings at second floor or above (163 Attachment 8), restaurants (163 Attachment 12) and marinas (163 Attachment 25) are principal permitted uses in the MUR District.





3. The applicant should be prepared to address whether the proposed water taxi use is considered a marina and/or accessory to the restaurant/apartment uses.
4. In accordance with § 163-59B, Schedule III, general warehouses and storage facilities enclosed (163 Attachment 21) are not principal permitted uses in the MUR District. As proposed, the reconstruction of the existing warehouses requires a use variance.
5. The applicant must demonstrate sufficient “special reasons” why the proposed use carries out a purpose of zoning, or how the refusal to allow the project would impose on the applicant an undue hardship. In addition, the applicant must demonstrate that the requested use 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.

4.2 Bulk Requirements

1. **Maximum Height:** The maximum permitted principal building height is 60 feet and accessory building height is 15 feet. The plan conforms to this requirement, proposing a 5-story building at a height of 60 feet.
2. **Minimum Front Yard Setback:** The minimum required front yard setback is 5 feet to a height of 35 feet and 10 feet above a height of 35 feet. The plan conforms to this requirement for the proposed 5-story mixed-use building, proposing a front yard of 10 feet, but not the reconstruction of the existing warehouses, proposing no front yard. As proposed, a variance is required.
3. **Minimum Side Yard Setback:** The minimum required side yard setback is 10 feet. The plan conforms to this requirement for the proposed 5-story mixed-use building, proposing side yards of 10.0 and 10.9 feet, but not the reconstruction of the existing warehouses, proposing no side yards. As proposed, a variance is required.
4. **Minimum Rear Yard Setback:** The minimum required rear yard setback is 10 feet. The plan conforms to this requirement for the proposed 5-story mixed-use building, proposing a rear yard of 10.1 feet, but not the reconstruction of the existing warehouses, proposing no rear yard. As proposed, a variance is required.



5. **Maximum Lot Coverage:** The maximum permitted lot coverage is 90%. The plan conforms to this requirement for the proposed 5-story mixed-use building, proposing coverage of 61%, but not the reconstruction of the existing warehouses, proposing 100% coverage. As proposed, a variance is required.
6. **Maximum Floor Area Ratio:** The maximum permitted floor area ratio is 4.0. The plan conforms to this requirement.

4.3 Off-Street Parking and Loading

1. In accordance with § 163-70A(1)(c)[4], 100% of required parking shall be provided on-site. The plan does not conform to this requirement. As proposed, a variance is required.
2. In accordance with § 163-70A(2)(a)[2][a], no part of any parking lot, other than driveways for ingress and egress, shall be located closer to a street than the minimum front yard setback required for a one-story principal building in the relevant district or the face of the principal building on the lot in question facing such street, whichever is greater. The plan does not conform to this requirement, proposing parking on the property line of Lots 9 and 10. As proposed, a variance is required.
3. In accordance with § 163-70A(2)(a)[2][b], no part of any parking lot other than driveways for ingress and egress, shall be located in any required side yard or between a side lot line and the side of any principal building on such lot, unless located to the rear of the rear of such building. The plan does not conform to this requirement, proposing parking within 3 feet of the side lot lines on the south side of Sunset Avenue and within 5 feet on the north side. As proposed, a variance is required.
4. In accordance with § 163-70A(2)(b)[1][a], a perimeter landscaped open space of a width of at least 10 feet shall be provided along every street line. The plan does not conform to this requirement, proposing approximately 2 feet of landscaping along Lots 3 and 4 and no landscaping along Lots 9 and 10. As proposed, a variance is required.
5. In accordance with § 163-70A(2)(b)[1][d], shade trees shall be provided at a ratio of one tree for every 10 parking spaces. The plan does not conform to this requirement, as only 2 ornamental trees and no shade trees are proposed. As proposed, a variance is required.
6. In accordance with § 163-70A(2)(b)[2], a perimeter landscaped open space of a width of at least 15 feet is required for parking lots adjoining residential uses. The plan does not conform to



this requirement, proposing parking within 3 feet of a lot line to a residential use. As proposed, a variance is required.

7. In accordance with § 163-70A(2)(c)[1], each required off-street parking space shall have a vertical clearance of at least 6 ½ feet. For 90° parking, a minimum width of 9 feet, length of 19 feet and aisle width of 24 feet are required. The plan does not conform to these requirements. The parking spaces on Lots 9 and 10 do not have a 24 foot aisle width and the parking spaces in the garage are 18 foot long. As proposed, a variance is required.
8. In accordance with § 163-70A(2)(c)[3], each parking space shall be provided with a sufficient backup area to permit egress in one maneuver consisting of one backward and one forward movement. The plan does not conform to this requirement, proposing perpendicular parking on Lots 9 and 10 where the driver must backup into the public right-of-way which has only a 12 to 13 foot cartway. As proposed, a variance is required.

Note: During the meeting on January 16, 2014 angled parking was discussed.

9. In accordance with § 163-70A(2)(c)[7], car stops or curbs shall be provided. The parking on Lots 9 and 10 conforms to this requirement. The parking in the garage does not indicate curbs or car stops. As proposed, a variance is required.
10. In accordance with § 163-70A(3)(a), off-street parking spaces shall be provided in accordance with the required off-street parking spaces set forth in Schedule IV, Schedule of Required Off-Street Parking Spaces. In addition to the number of spaces shown on the schedule, each use having employees on the premises shall provide one space for each 1 ½ employees. Eight (8) apartment units are proposed. In accordance with the RSIS, two-bedroom apartments require 2.0 spaces per unit. Therefore, 16 spaces are required for the residential aspect of the project. The applicant proposes a restaurant and bar and water taxi service as well as the residences. The applicant must provide the proposed restaurant capacity in order to calculate the number of parking spaces required (1 space per 30% of the capacity). However, considering only 4 spaces over the spaces devoted to the residents are proposed it is clear that the plan does not conform to the minimum parking requirements. In addition, the water taxi business will also require some number of parking spaces. The applicant should be prepared to address the lack of parking proposed. As proposed, a variance is required.

11. In accordance with Schedule V, one (1) loading space is required. A loading area is not shown on the plans. The applicant should be prepared to address where loading/unloading will occur and how the plan conforms to Schedule V and §163-70B. As proposed, a variance is required.

4.4 Signs

1. Two (2) business signs are indicated on the provided plans. Details of the signs should be provided to address conformance with §163-71D.
2. A total area of 84 square feet of signage is proposed on the southern façade. The plans indicated that the sign area is 3.3% of the wall area and therefore conforms to the requirements of §163-71I(4)(c).

4.5 Performance Standards

1. In accordance with § 163-59J(1), all uses established in any commercial district shall comply with the performance standards set forth in § 163-73.
2. No outdoor display or storage of merchandise or equipment shall be permitted in any commercial district unless located to the rear of the principal building on the lot in question.
3. In accordance with § 163-73H(1), in no event shall the sound-pressure level of noise radiated continuously from a use or activity in any district exceed, at the lot line, the values given in the Maximum Sound Level Table (found in the code) in any octave band of frequency. However, where the lot line adjoins or lies within 25 feet of the boundary of a residential district, the sound-pressure levels of noise radiated shall not exceed, at the lot line, the values given in the Residential Sound Level Table (found in the code) in any octave band of frequency.

Note: The applicant and applicant's engineer should be prepared to provide testimony as to the proposed sound levels anticipated including, but not limited to, sounds originating from music (live or recorded), water taxi, outdoor crowd noise, etc.

4.6 Urban Design Standards

1. In accordance with § 163-74G(1), at least 50% of the total exposed surface of all flat roofs, including but not limited to decks, balconies and parking garage roofs, shall be landscaped



as roof gardens. The landscaping may be either distributed on every exposed roof surface or concentrated in selected areas.

Note: The applicant should be prepared to address this requirement.

2. In accordance with § 163-74G(3), side surfaces should be treated with nonreflective materials. The use of reflective materials may be allowed, provided that reflective surfaces do not have adverse impacts on surrounding uses, such as increasing the cooling loads of the structures upon which they reflect heat, causing visual discomfort and the like.

Note: The applicant should be prepared to address this requirement.



5.0 Design Standards

5.1 Stormwater Management

The applicant does not propose an increase in impervious area greater than $\frac{1}{4}$ acre nor a total disturbance of more than 1 acre. Therefore, the project does not fall under the jurisdiction of the NJDEP Stormwater Management Rules (NJAC 7:8).

Note: The applicant's engineer indicated during a meeting on January 16, 2014 that a compliance narrative for flood hazard area and stormwater management was prepared for a previous CAFRA permit application. At a minimum, this narrative should be provided and updated. Additionally, drainage calculations for the piping system should be provided.

5.2 Street Improvements

The pavement cross section detail does not conform to RSIS and should be revised.

5.3 Other

The applicant's engineer should contact me to arrange a meeting to discuss design concerns.

6.0 Certificate of Nonconformity Analysis

- 6.1 The provided property and building record cards indicate the garages existed dating back to at least 1966. The provided Sanborn Map indicates buildings existed in this location as early as 1921.
- 6.2 As late as 2006 the subject property was zoned HC, Heavy Commercial at which time general warehouses and storage facilities enclosed were permitted.



6.3 In accordance with NJSA 40:55D-68, any nonconforming use or structure existing at the time of the passage of an ordinance (rendering the use or structure nonconforming) may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof. Based upon the submitted information, it appears the use existed before the adoption of the ordinance which rendered the use nonconforming; namely the zoning change from HC to MUR in 2009. The applicant shall have the burden of proof.

7.0 Fees, Contributions and Obligations

7.1 Approval Process

Upon receipt of CRDA approval, resolution compliance and outside agency approvals, copies of the approvals along with eleven (11) sets of the site plan should be submitted to this office for signature.

7.2 Performance Bond and Inspection Escrow

The applicant's engineer should submit a schedule of quantities to be reviewed and utilized for the purpose of preparing a cost estimate for the installation of all improvements. Such estimate shall be the basis for the applicant to furnish performance and maintenance guarantees in accordance with § 163-136. In addition, an inspection escrow account shall be established.

7.3 Escrow

The applicant must contact the CRDA Land Use Regulation & Enforcement Officer to settle any outstanding review escrow accounts prior to the plans being signed.

8.0 Outside Agency Approvals

This application is subject to the review and approval of the following outside agencies with jurisdiction, if not already received, including but not limited to the following. Evidence of these approvals must be submitted to LURED.

- Atlantic City Municipal Utilities Authority;
- Atlantic City Fire Official;
- Cape-Atlantic Soil Conservation District;
- Atlantic County Planning Board;
- Atlantic County Utilities Authority;
- New Jersey Department of Environmental Protection; and
- Any others as may be required.

The above comments and/or recommendations are submitted for your review and consideration. Should you have any questions with regard to this matter or require additional information, please do not hesitate to contact our office at (856) 251-9500.

Best regards,

J. TIMOTHY KERNAN, INC.



A handwritten signature in black ink, appearing to read "J. Timothy Kernan", is written over a horizontal line.

J. Timothy Kernan, P.E., P.P., C.M.E.
President

JTK/rld

cc: Rose Ann Lafferty, Land Use Regulation & Enforcement Officer
Scott Collins, Esquire
Robert Boselli, Jr.
Raymond J. Went, Jr., Esq.
Arthur W. Ponzio, P.L.S., P.P.
Stephen J. Fenwick, R.A.