



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 21- , ADOPTED 2/16/2021

TO: Members of the Authority

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

COPY: Matthew J. Doherty, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application #2021-01-2910
Showboat Renaissance, LLC
Preliminary and Final Major Subdivision Approval with Variances
Pursuant to N.J.S.A. 40:55D-70(c)
801 Boardwalk,
800, 804 & 810 Pacific Avenue,
160 & 170 S. New Jersey Avenue
Block 61, Lots 22 through 28
Resort Commercial (RC) Zoning District

DATE: February 8, 2021

EXECUTIVE SUMMARY

On February 4, 2021, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Showboat Renaissance, LLC (the "Applicant"), seeks Preliminary and Final Major Subdivision Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. Specifically, the Applicant proposes a realignment of property lines and consolidation of seven (7) existing lots into five (5) lots (proposed lots A, B, C, D and E). The subdivision is being sought to facilitate financing for the repurposing of the properties. No construction is proposed in connection with the application.

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 are warranted. Therefore,



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

for the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.

INTRODUCTION

Application Information

Showboat Renaissance, LLC
Preliminary and Final Major Subdivision Approval with Variances Pursuant to N.J.S.A.
40:55D-70(c)
801 Boardwalk
800, 804 & 810 Pacific Avenue
160 & 170 S. New Jersey Avenue
Block 61, Lots 22 through 28
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 Major Subdivision Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. Specifically, the Applicant proposes a realignment of property lines and consolidation of seven (7) existing lots into five (5) lots (proposed lots A, B, C, D and E). The subdivision is being sought to facilitate financing for the repurposing of the properties. No construction is proposed in connection with the application.

Evidence List

A-1

Application Materials

B-1 Letter from ARH Associates dated February 1, 2021

FINDINGS OF FACT

The Applicant seeks Preliminary and Final Major Subdivision Approval with variances pursuant to N.J.S.A. 40:55D-70(c) for the subject properties in the city of Atlantic City. Specifically, the Applicant proposes a realignment of property lines and consolidation of seven (7) existing lots into five (5) lots (proposed lots A, B, C, D and E). The subdivision is being sought to facilitate financing for the repurposing of the properties. No construction is proposed in connection with the application.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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

The Applicant presented the testimony of Arthur Ponzio, P.L.S., P.P., who was qualified as an expert in the fields of professional land surveying and professional planning. He described the location of the site, existing conditions and site layout. Mr. Ponzio explained that the purpose of the application is to subdivide the lots so that the properties can be separately financed and repurposed as a multi-faceted family and adult resort.

He testified that the subdivided lots will be improved as follows:

- Lot A. Proposed Water Park.¹
- Lot B. Original Showboat Premier light Tower.
- Lot C. Original Showboat Orleans Tower.
- Lot D. Future development.
- Lot E. Original Showboat Ocean Tower and parking structure.

Mr. Ponzio testified that the following “bulk” variances pursuant to N.J.S.A. 40:55D-70(c) are required:

Lot Depth

- A variance to permit a lot depth of 100.86’ where 150’ is required for Lot C.

Building Coverage

- A variance to permit building coverage of 77.9% where a maximum building coverage of 70% is permitted for lot B.
- A variance to permit building coverage of 74.8% where a maximum building coverage of 70% is permitted for lot C.
- A variance to permit building coverage of 76.8% where a maximum building coverage of 70% is permitted for lot E.

Impervious Coverage

- A variances to permit 91.5% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot A.
- A variances to permit 95.6% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot B.
- A variances to permit 99.4% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot C.

¹ The Authority previously granted Preliminary and Final Major Site Plan approval for the construction of the proposed Water Park. The current application does not affect the layout and construction of the proposed Water Park.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

- A variances to permit 98.6% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot E.

Side Yard

- A variance to permit a 0' side yard where a minimum of 20' is required for structures taller than 35' for Lot B.
- A variance to permit a 0' side yard where a minimum of 20' is required for structures taller than 35' for Lot C.

Mr. Ponzio provided testimony in support of the requested variances. He noted that the subdivision is being sought for financing purposes to facilitate the repurposing of the overall property, and that no actual development is proposed on the individual lots at this time.

He opined 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, morals and general welfare (Purpose A) facilitating financing for the repurposing of the properties. He further opined that approval of the application would encourage the efficient expenditure of public funds and the coordination of public development with land use policies (Purpose F). Finally, he opined that the approval of the application would encourage the coordination of public and private procedures that shape land with a lessening of the cost for the more efficient use of land (Purpose M). He testified that proposed subdivision to facilitate the financing of the repurposing of the properties constitutes the efficient use of land.

With respect to the negative criteria, Mr. Ponzio testified that the grant of the variances would advance the purposes of the Tourism District Master Plan and would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Director of Planning for Atlantic City, Barbara Allen Woolley-Dillon appeared and spoke in support of the Application.

Stuart Wiser, P.P., and Katherine Cornforth, P.E. were qualified as experts in professional planning and engineering, respectively, and provided testimony on behalf of the Authority. The Applicant agreed to comply with all conditions and comments in the ARH Associates review letter dated February 1, 2021. Mr. Wiser and Ms. Cornforth testified that the Applicant had provided sufficient testimony to support approval of the Application.

CONCLUSIONS OF LAW

Preliminary and Final Major Subdivision Approval



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

A land use agency's authority in reviewing an application for subdivision 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 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).

Here, the Applicant seeks the following variances pursuant to N.J.S.A. 40:55D-70(c):

Lot Depth

- A variance to permit a lot depth of 100.86'' where 150' is required for Lot C.

Building Coverage

- A variance to permit building coverage of 77.9% where a maximum building coverage of 70% is permitted for lot B.
- A variance to permit building coverage of 74.8% where a maximum building coverage of 70% is permitted for lot C.
- A variance to permit building coverage of 76.8% where a maximum building coverage of 70% is permitted for lot E.

Impervious Coverage

- A variances to permit 91.5% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot A.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

- A variances to permit 95.6% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot B.
- A variances to permit 99.4% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot C.
- A variances to permit 98.6% impervious coverage where a maximum impervious coverage of 80% is permitted for Lot E.

Side Yard

- A variance to permit a 0' side yard where a minimum of 20' is required for structures taller than 35' for Lot B.
- A variance to permit a 0' side yard where a minimum of 20' is required for structures taller than 35' for Lot C.

The Applicant presented testimony that the application would advance the purposes of the Municipal Land Use Law by promoting the public health, safety, morals and general welfare (Purpose A) by facilitating financing for the repurposing of the properties. In addition, approval of the application would encourage the efficient expenditure of public funds and the coordination of public development with land use policies (Purpose F). Finally, the Applicant presented testimony that the approval of the application for development would encourage the coordination of public and private procedures that shape land with a lessening of the cost for the more efficient use of land (Purpose M).

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 zone plan and the zoning ordinance.

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 Preliminary and Final Major Subdivision 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.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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.