



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 23- , ADOPTED 2/21/2023

TO: Members of the Authority

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

COPY: Sean Pattwell, Executive Director

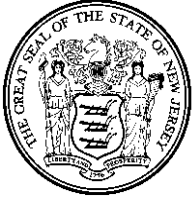
SUBJECT: Hearing Officer's Report and Recommendation
Application #2022-12-3334
High Rollers Dispensary, LLC
Preliminary and Final Major Site Plan Approval with a Variances Pursuant
to N.J.S.A. 40:55D-70(c)
112, 116 & 12 Park Place, 1804 & 1800 Pacific Avenue, 106 & 120 South
Indiana Avenue
Block 44, Lots 1, 2, 3 & 6
Block 46, Lots 1, 2, 3 & 4
Resort Commercial (RC) Zoning District
Green Zone Redevelopment Area

DATE: February 6, 2023

EXECUTIVE SUMMARY

On January 19, 2022, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, High Rollers Dispensary, LLC (the "Applicant"), seeks Preliminary and Final Major Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to renovate an approximately 10,000 square foot portion of the Claridge Hotel and convert it into a Class 5 cannabis dispensary and lounge. Variances are required for building coverage, setback and signage.

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.



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INTRODUCTION

Application Information

High Rollers Dispensary, LLC

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

112, 116 & 12 Park Place, 1804 & 1800 Pacific Avenue, 106 & 120 South Indiana Avenue

Block 44, Lots 1, 2, 3 & 6

Block 46, Lots 1, 2, 3 & 4

Resort Commercial (RC) Zoning District

Green Zone Redevelopment Area

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 Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to renovate an approximately 10,000 square foot portion of the former Claridge Hotel and convert it into a Class 5 cannabis dispensary and lounge. Variances are required for building coverage, setback and signage.

Evidence List

A-1 Application Materials

B-1 Letter from ARH Associates dated January 13, 2023

FINDINGS OF FACT

The Applicant seeks Preliminary and Final Major Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to renovate an approximately 10,000 square foot portion of the Claridge Hotel and convert it into a Class 5 cannabis dispensary and lounge. Variances are required for building coverage, setback and signage.

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

The Applicant presented the testimony of Jon Cohn, an operator of High Rollers Dispensary, LLC. Mr. Cohn testified that the proposed use is a combination of a cannabis dispensary and consumption lounge. He provided an overview of operations generally,



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and described security procedures. He specifically described sales procedures for purchase, curb-side pickup and delivery. Mr. Cohn noted that there will not be any “cannabis trash” associated with the operation and that any product that has been returned will be transported back to the manufacturer. Hours of operation will be 8 am to 7 pm.

The Applicant presented the testimony of Michael Salerno, who was qualified as an expert in the field of architecture. He described the location of the site, existing conditions, development proposal and site layout. He testified as to architectural features, building materials, floor plans and operational features.

The Applicant presented the testimony of Jon Barnhart, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. He described the location of the site, existing conditions and site layout. He noted that the only changes to the site being proposed is the construction of the front vestibule.

Mr. Barnhart testified that the Applicant seeks variances pursuant to N.J.S.A. 40:55D-70(c) to permit the following:

- A setback for a freestanding sign of 1 foot where 5 feet is required;
- A building coverage of 77% where a maximum building coverage of 70% is permitted; and
- A roof-mounted sign where roof-mounted signs are not permitted.

Mr. Barnhart testified that the location of the freestanding sign will not obstruct traffic or sight triangles. He noted that the increase in lot coverage is de minimis and triggered by the addition of the approximately 500 square foot vestibule. Finally, he testified that the roof-mounted sign looks and functions more as a façade sign than a roof-mounted sign.

Mr. Barnhart opined that the that the grant of the variances would advance the purposes of the Municipal Land Use Law (“MLUL”) by promoting the public health, safety, morals and general welfare (Purpose A) by creating activity on the street. In addition, he testified that the grant of the variances would create a desirable visual environment (Purpose I) based on the use of attractive architectural design.

Mr. Barnhart 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.

In response to questions by Authority staff and consultants, the Applicant agreed to cooperate with Authority staff to ensure that crowds do not form outside of the facility in the mornings before it opens as a condition of any approval. The Applicant further agree to cooperate with Authority staff in the implementation of appropriate ventilation of the



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facility as a condition of any approval. The Applicant further agreed to consider the need for installation of accessible parking spaces and EV charging stations in the existing parking garage as a condition of any approval. The Applicant agreed to provide a detail of the designated pick-up location and signage as a condition of any approval. Finally, the Applicant agreed to coordinate with the City of Atlantic City's Planning Office to address Green Zone design standards applicable to the development proposal.

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.

Christine Cofone, P.P., was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that she 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 applicable provisions of the site plan ordinance. See Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216 (1994).

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

Variances Pursuant to N.J.S.A. 40:55D-70(c)

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) and c(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

Positive Criteria

The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) is satisfied if relief can be granted for a specific piece of property upon the finding of hardship arising out of the exceptional narrowness, shallowness, shape, or exceptional topographic conditions of specific piece of property or from a structure lawfully existing thereon. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999). The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the



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zoning ordinance requirements and the benefits of that deviation would substantially outweigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

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

- A setback for the freestanding sign of 1 foot where 5 feet is required;
- A building coverage of 77% where a maximum building coverage of 70% is permitted; and
- A roof-mounted sign where roof-mounted signs are not permitted.

The grant of the variances would advance the purposes of the MLUL by promoting the public health, safety, morals and general welfare (Purpose A) by creating activity on the street. In addition, the grant of the variances would create a desirable visual environment (Purpose I) based on the use of attractive architectural design.

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 Site Plan 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.

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



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obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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