

VARIANCE JUSTIFICATION REPORT

Application of 107 S Kentucky Ave LLC Block 50, Lots 1-4 and Block 51, Lots 1-10

(105, 107, 117, 123, 125, 127 & 177 S. Kentucky Avenue; 105, 107 & 109 Westminster Avenue; and 1514, 1514RR, 1516 & 1520 Pacific Avenue)
Atlantic City, New Jersey

Applicant seeks preliminary and final major site plan approval with use variance and bulk variance relief pursuant to *N.J.S.A. 40:55D-70(d)* and (c), respectively, to construct a rental community, consisting of nineteen (19) townhouses on Block 50, Lots 1-4 and ten (10) townhouses on Block 51, Lots 1-10 (the “Site”).

The Casino Reinvestment Development Authority (“CRDA”) Land Use Regulation and Enforcement Division (“LURED”) has jurisdiction over this application, because the blocks and lots at issue are located within the Atlantic City Tourism District as established by Volume 4 of the Atlantic City Tourism District Masterplan, adopted on April 18, 2017. *See N.J.A.C. 19:66-3.5.*

In addition to being located within the Tourism District, Block 50, Lots 1-4 are within the Kentucky Avenue Redevelopment (KAR) Zone, and Block 51, Lots 1-10 are in the Resort Commercial (RC) Zone.

- **Kentucky Avenue Redevelopment (KAR) Zone**

Permitted uses in the KAR Zone include hotels, casino hotels, professional office and medical office, general office, recreation, retail sales, indoor and outdoor restaurants, including sidewalk cafés, bars, entertainment, recreation, amusement rides; educational, college, and instructional uses; institutional uses; mixed-use; catering services; hospitals; parks; recording studios; concert halls; and personal services, except for secondhand goods shops, cash for gold shops, and pawn shops. *See N.J.A.C. 19:66-5.201i.*

- **Resort Commercial (RC) Zone**

Permitted uses in the RC Zone include hotels, including condotels; casino hotels; professional and medical offices, except narcotic/psychiatric/alcohol treatment facilities; general offices; recreation; retail sales; indoor and outdoor restaurants, including sidewalk cafés; bars and craft breweries and distilleries; entertainment; recreation; amusement rides; educational uses, college, and instructional uses; institutional uses; catering services; hospitals; parks; a combination of one or more of the above; personal services, except for secondhand goods shops, cash for gold stores, and pawn shops; pop-up uses; multi-family residential mid-rises and high-rises; and mixed uses. *See N.J.A.C. 19:66-5.101i.*

“D” Variance Relief

A low-rise multi-family residential use consisting of attached two-story townhouses is not a permitted use in the KAR Zone or the RC Zone, though the RC Zone does contemplate multi-

family residential uses. Because townhouses are not specifically permitted, the planned development of 19 townhouses on Block 50, Lots 1-4 and 10 townhouses on Block 51, Lots 1-10, requires a use variance pursuant to *N.J.S.A. 40:55D-70(d)(1)*. Applicant therefore seeks use variance relief pursuant to *N.J.S.A. 40:55D-70d(1)*.

The Site is particularly suitable for the development of townhouses. Both the KAR Zone and the RC Zone include a variety of intensive uses that encourage walkability in the neighborhood, including retail sales, personal services, restaurants and cafes, recreation and educational facilities. Townhouses provide for less density than multi-family, residential mid-rises and high-rises, yet still utilize space efficiently, including providing the required off-street parking for each unit. Moreover, the proximity to the uses identified above will assist in reducing vehicular traffic, thereby promoting the Tourism District Goal of reducing congestion in the public streets, and also will create support for the local neighborhood businesses. The proposed townhouses also will replace unsightly, empty parking lots with new, modern structures to help revitalize the neighborhood.

Additionally, the location of the units primarily abut Westminster Avenue, which has diminished visibility to pass-by traffic and would not be an ideal location for retail sales, personal services, restaurants and cafes and the like, making residential development much more suitable for the location.

The proposed townhouses on the Site also meet the negative criteria because their construction will not pose a substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance. To the contrary, as discussed above, the townhouses will have a positive impact on the public good, provide support for the uses in the KAR and RC Zones, and are consistent with the mid and high-rise multifamily uses which are permitted in the RC Zone.

C” Variance Relief

Applicant also seeks “c” variance relief in connection with the bulk requirements or the KAR Zone and the RC Zone, which is subsumed into the use variance relief requested above. Thus, if the CRDA LURED grants the use variance relief sought above, then all deviations from the bulk restrictions are subsumed into the use variance as those bulk standards are not tailored to the proposed townhouse use.

Specifically, the proposed construction of 19 townhouses on Block 50, Lots 1-4, which are in the KAR Zone, deviate from the Ordinance’s requirements concerning maximum impervious coverage (80% pursuant to *N.J.A.C. 19k:66-5.20(a)1.iv(7)*), the minimum front yard setback (20’ for structures greater than 35’ in height, pursuant to *N.J.A.C. 19k:66-5.20(a)1.iv(8)*), and the minimum side yard setback (20’ for structures greater than 35’ in height, pursuant to *N.J.A.C. 19k:66-5.20(a)1.iv(9)*).

The proposed construction of 10 townhouses on Block 51, Lots 1-10, which are in the RC Zone, deviates from the required minimum front yard setback (20’ for structures greater than 35’

in height, pursuant to *N.J.A.C. 19k:66-5.10(a)1.iv(8)*), and minimum side yard setback (20' for structures greater than 35' in height, pursuant to *N.J.A.C. 19k:66-5.10(a)1.iv(9)*).

In terms of the minimum front yard setback and side yard setback requirements, which are the same for both the KAR Zone and the RC Zone, the height of the townhouses, 44', 8.875", mandates a 20' front yard setback and a 20' side yard setback. Because these zoning districts contemplate hotels, condotels, casino hotels and mid-rise to high-rise multi-family buildings, the bulk standards provide for a significant increase in the front yard and side yard setbacks for much taller buildings. The proposed townhouses are still low-rise structures for which such large setbacks are not necessary. Moreover, with the location of the townhouse structures as proposed, a more urban streetscape, consistent with the surrounding area is promoted and literal compliance with the front and side yard setback requirements would detract from the design.

In terms of the maximum impervious coverage of 80%, Applicant requires variance relief to develop the townhouses on Block 50, Lots 1-4. The townhouses account for the majority of the lot coverage, totaling 62%. The additional coverage, consisting of asphalt, is necessary to allow for vehicular access to off-street parking. Applicant will provide testimony at the hearing that the proposed development fully addresses all required stormwater management onsite despite not meeting the impervious coverage requirement. The proposed development also provides an appropriate population density as indicated above, warranting a deviation from this requirement.

Accordingly, if the use variance relief above is granted, deviations from bulk standards in the KAR Zone and RC Zone likewise should be incorporated into any use variance granted.

Applicant reserves the right to rely upon professional planning and/or other expert testimony at the time of the hearing before the CRDA LURED.

Prepared by Nehmad Davis & Goldstein
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