

**CITY OF SEA ISLE CITY
PLANNING BOARD**

Municipal Services – 2nd Floor
233 John F. Kennedy Boulevard
Sea Isle City, NJ 08243
(609) 263-1166

Location: 118 40th Street

APPLICATION FORM
Date Received: _____

Block: 40.03

Lot: 1.04, 4, 12, 20, 21, 22, 23 & 24

APPLICATION FOR DEVELOPMENT :

ATTENTION: Applicants must read and comply with all the instructions on this application form and the accompanying sheets of instructions. It is the applicant's responsibility to comply with all requirements of this form, and all other applicable requirements of Local, State and Federal Law. Failure to comply with all such requirements shall constitute grounds for refusal to certify the application as complete, for dismissal or denial of the application. All information requested in this application must be provided. There is no exception to this requirement.

1. Name of Application (s): **42nd Place LLC**
Address: **409 Landis Avenue, Sea Isle City, NJ**

Phone Number: **609 - 432 - 9036** or _____ - _____ - _____
Owners (s) Name: **Same as Applicant**
Owner (s) Address: **Same as Applicant**

Note: Pursuant to N.J.S.A. 40:55D-3-3 and D-4, Applicant must be the legal or beneficial owner of the property, or the holder of an option or contract to purchase the property, or other person having and enforceable proprietary interest in the property. The applicant must be present at the hearing.

2. If the applicant is not the legal owner of the record, state whether applicant has contracted to purchase the subject property or holds a lease on the subject property, or has another enforceable Proprietary interest in the property. (Documents evidencing the ownership or other status of the applicant must be attached hereto. N/A)
3. The applicant is (check one) a: _____ Corporation _____ Partnership _____ Individual
 LLC _____ Other

Note: If the applicant is a Corporation, it must be represented at the hearing by an attorney. In addition, an officer of the corporation, in addition to the attorney, must be present at the hearing to present testimony.

4. Pursuant to N.J.S.A. 40:55D-48.2, if the applicant is a corporation or partnership, the applicant must list below the names and addresses of all persons having a 10% or more interest and the percentage of interest held by each. Failure to comply with this requirement will subject the applicant to denial or dismissal of the application and a fine of \$1,000.00 to \$10,000.00

See attached Disclosure Statement

5. Has there ever been another application made before the Planning Board concerning this property: (check one): Yes No

If yes, what was the nature of the application: See Application Rider.

Was application (check one): Granted Denied

6. Have there ever been applications made for governmental approval concerning this property: See Application Rider.

If yes, what was the nature of the application: See Application Rider.

7. SUBJECT PROPERTY: Street Address: 118 40th Street
Block: 40.03 Lot: 1.04, 4, 12, 20, 21, 22, 23 & 24
Zone: C-5

8. If applicant is represented by an attorney, state name, address and phone number of the attorney:

Michael J. Malinsky, Esq., Fox Rothschild LLP

1301 Atlantic Avenue, Suite 400, Atlantic City, New Jersey 08401

(609) 572 - 2331 e-mail: MMalinsky@foxrothschild.com

9. Preliminary site plan approval
 Final site plan approval
 Minor Subdivision approval
 Classification of sketch plat for major subdivision
 Preliminary approval of major subdivision
 Final approval of major subdivision
 Hardship variance – N.J.S.A. 40:55D-70 © (1)
 Benefits variance – N.J.S.A. 40:55D-70 © (2)
 Issuance of building permit in bed of street, public drainage way, flood control basis or required public area – N.J.S.A. 40:55D-34
 Issuance of permit for building or structure not related to street – N.J.S.A. 40:55D-36
 Conditional use approval

10. If a variance is sought, state the section (s) of the ordinance from which applicant requests relief
Please see attached List of Variances

11. Said property is (give dimensions and area) 49,500 SF

And has the following structures (if known, so indicate; or indicate whether dwelling or building, stating use thereof) Ludlam Bar & Grill, Shorebreak Cafe and twenty-four (24) unit hotel

12. Size of Proposed Building:

At Street Level: <u>13,085 square feet</u>	Feet front: <u>>50'</u>
Feet deep: <u>250'</u>	Height: <u>Existing: 32' ABV+ 12 Proposed: 43.01 ABV+ 12</u>
Stories: <u>3</u>	Feet: <u>49,500 SF</u>

13. Setbacks of Building:
40th-.3'; Landis-14.4';
Front: JFK-58.6'
Side: Existing: 4.45'; Proposed: 2'
% of Building Coverage: Existing: 32.5%
Proposed: 70.61%

Rear yard residential: existing: <u>21.79'</u> proposed <u>10'</u>
Rear: <u>Rear yard commercial: existing: .9'</u> proposed <u>5'</u>
Side: <u>N/A</u>

14. Parking: Number of Existing Spaces: 56
Number of Proposed Spaces: 88
Number of Required Spaces: 74

15. Date property acquired: May 25, 2018, see Deed attached.

16. If a variance(s) would be requested for hardship – N.J.S.A. 40:55D-70 © (1), state the exceptional conditions of property supporting the granting of the variance.
N/A

17. If a variance(s) would be requested based upon the public benefits resulting from the variance – N.J.S.A. 40:55D-70 © (2), state the public benefits and explain how the benefits will substantially outweigh any detriments.
See attached Application Rider.

18. If applicant is requesting any variance (under #9, #16, #17 above) supply a statement of facts showing why relief 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.

See attached Application Rider.

19. All applicants must attach to this application a schedule showing the following information (if applicable)

Type of construction (check one): Frame Stone Brick Cement

Present use of existing building(s) and premises: Ludlam Bar & Grill, Shorebreak Cafe and twenty-four (24) unit hotel

Describe any deed restrictions affecting this property: Deed restriction per Deed Book 1151, Page 101, amended per Deed Book 1495, Page 797, on JFK Blvd imposed by the City which requires that a 60 foot portion of the property fronting on JFK Boulevard be used only for surface parking.

Total proposed dwelling units:	<u>26 Hotel Units and 20 Condominiums</u>
Total proposed professional and/or business and/or commercial units:	<u>3</u>
Total proposed floor area:	<u>N/A</u>
Total proposed parking spaces:	<u>88</u>

A photograph(s) of land and building involved in the application. Names and addresses of all expert witnesses proposed to be used.

Please see attached Google Earth image of commercial building. Andrew C. Bechtold
Somers Manor, 599 Shore Road
Somers Point, New Jersey 08244

Proof of payment of all taxes due and owing on the premises: Please see attached.

20. A legible plot plan or survey to scale (not less than 1" = 50' or the property) indicating the existing and/or proposed structure with adjoining property and structures accompanying this application. Scale drawing of not less than 1/4" = 1' of the proposed building(s) of the existing structure indicating the changes, alterations or additions contemplated will be presented at the hearing, if relevant. **Attached.**

21. If applicant requests that the Planning Board waive any requirements of site plan review required under Ordinance No. 858 (1986) applicant shall state each requirement for which it seeks waiver, and state the reasons for the waiver. (Required fees may not be waived). Site Plan review requirements will not be waived for new construction. Rather, it will only be considered for modification or expansion or existing structures or improvements. A grant or your request will only resulting a waiver of those requirements that the Planning Board feels are appropriately waived, and in no way relieves you of any other responsibilities or requirements which may pertain, such as for example, the need to obtain subdivision approval or the grant of any variances. Furthermore, all the usual requirements of obtaining a building or construction permit must also be complied with.

Please see attached list of Requested Variances.

APPLICANT must sign the following certification:

I certify that the foregoing statements made by me are true and complete. I am aware that
If any of the foregoing statements made by me are willfully false, I am subject to punishment.



Michael J. Malinsky, Esq.
Attorney for Owner/Applicant

SEA ISLE CITY PLANNING BOARD
SURVEY/PLAN/PLAT AFFIDAVIT

State of New Jersey :
County of Atlantic : ss.

Name of Appellant/Applicant: 42nd Place, LLC

Address of Subject Property: 118 40th Street

Tax Block: 40.03 Lot(s): 1.04, 4, 12, 20, 21, 22, 23, & 24

Michael J. Malinsky, being duly sworn according to law, upon his/her oath, deposes and says:

***the attorney to**

1. I am ***the owner** of the property identified above, located in the City of Sea Isle City, New Jersey. I am the ***appellant/applicant** for development in this matter.

***the attorney to**

2. I verify that the attached sealed survey/plan/plat prepared by George Wray Thomas, PE, PP, RA and dated 11-17-23 accurately reflects the physical condition of the property as of the date of this affidavit, and there have been no changes or alterations to the property since the date of the signed survey/plan/plat.

3. I make this affidavit in support of an appeal / application for development before the Sea Isle City Planning Board and understand that said Board shall rely on this Affidavit and the current accuracy of the said survey/plan/plat in considering the appeal/application for development of the property.

42nd Place, LLC

BY: [Signature]

Michael J. Malinsky, Esquire
Attorney for Owner/Applicant

Sworn and subscribed to before me this 29 day of December, 2023.

[Signature]
Notary Public



SEA ISLE CITY ZONING BOARD OF ADJUSTMENT / SEA ISLE CITY PLANNING BOARD
SCHEDULE OF APPLICATION FEES AND ESCROW FEES

NAME of Appellant/Applicant: **42nd Place, LLC**

Address of Subject Property: **118 40th Street**

Tax Block: **40.03**

Lot(s): **1.04, 4, 12, 20, 21, 22, 23 & 24**

Please review the following schedule*, check ALL types of approvals sought, and total the amount due. At the time of filing your appeal or application, submit this completed form along with separate checks for total Application Fee(s) and total Escrow Fee(s), each check along with separate checks for total Application fee(s) and total Escrow Fee(s), each check made payable to "City of Sea Isle City". You must also submit a completed W-9 form. Thank you.

[*per Sea Isle City Land Use Ordinance No. 1598 (2016) Chapter XXVIII]

DESCRIPTION or TYPE of APPROVAL(S) SOUGHT	x	APPLICATION FEE	+	ESCROW FEE (ESTIMATES)	AMOUNT DUE
VARIANCES					
1. Appeals (40:55-70a)		\$ 350.00	+	\$ 1,000.00	
2. Interpretations (40:55D-70b)		\$ 350.00	+	\$ 1,000.00	
3. Hardship or Bulk (40:55D-70c)	X	\$ 500.00	+	\$ 1,500.00	\$2,000.00
4. Use Variance (40:55D-70d) (Incl. floor area ratio)		\$ 200.00	+	\$ 1,500.00	
5. Permits (40:55D-34 & 35)		\$ 200.00	+	\$ 1,000.00	
6. Appeals (City Ordinances)		\$ 250.00	+	\$ 1,000.00	
PLANNING BOARD					
Each informal review		\$ 100.00	+	\$ 1,500.00	
SUBDIVISION					
1. Preliminary plat (major subdivision)		\$ 500.00	+	\$ 600.00 per lot	
2. Final plat (major subdivision)		\$ 450.00	+	\$ 1,500.00	
3. Minor subdivision (no more than 3 lots)		\$ 350.00	+	\$ 2,000.00	
4. Tax Map Maintenance Fee (per line)		\$ 100.00		n / a	
SITE PLANS					
1. Preliminary	X	\$ 500.00	+	\$ 3,000.00	\$3,500.00
2. Final Plan	X	\$ 750.00	+	\$ 1,500.00	\$2,250.00
3. Minor Site Plan		\$ 250.00	+	\$ 1,200.00	
OTHER					
Any special meeting at request the of appellant/applicant		\$ 400.00	+	\$ 1,200.00	
TOTALS					
		\$ 1,750.00	+	\$ 6,000.00	= \$ 7,750.00

** Special meetings are held only with prior Board approval and solely at the Board's discretion **

[SICPB/ZB Fees Form effective 2/21/17 as per Ordinance No. 1598 (2016) Page 1 of 1]

PLEASE NOTE: When calculating fees, one payment will be for TOTAL APPLICATION FEES only and one payment will be for TOTAL ESCROW FEES only. Application fees and Escrow fees are separate, handled individually, and therefore should not be added together.)

**SEA ISLE CITY PLANNING BOARD
CERTIFICATION OF PAYMENT OF TAXES AND MUNICIPAL LIENS**

Name of Appellant/Applicant: 42nd Place LLC

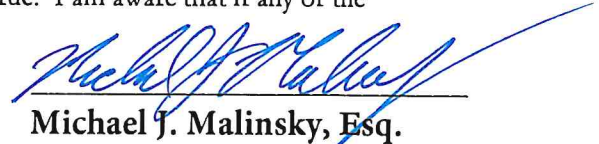
Address of Subject Property: 118 40th Street

Tax Block: 40.03

Lot(s): 1.04, 4, 12, 20, 21, 22, 23, & 24

The above-named appellant or applicant hereby certifies as follows:

1. I am the attorney to the owner of the property identified above, located in the City of Sea Isle City, New Jersey. I am the appellant/applicant for development in this matter.
2. I verify that all real estate taxes for the property are current as of the date of this appeal or application, and that they will be current as of the date of the Planning Board hearing.
3. I verify that all municipal charges against the property, such as water and sewer charges are current as of the date of this appeal or application, and that they will be current as of the date of the Planning Board hearing.
4. I have requested a certification from the Sea Isle City Tax Collector, attached hereto, attesting to the status of real estate taxes and municipal charges against the property.
5. I understand that I have a continuing obligation to satisfy any municipal lien against this property.
6. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing is willfully false, I am subject to punishment.



Michael J. Malinsky, Esq.
Attorney for Applicant/Owner

*Attach the certification of paid taxes provided by the
Sea Isle City Tax Collector to this form.*

42ND PLACE, LLC, a New Jersey limited liability company

December 2023

DISCLOSURE STATEMENT

LIST OF NAMES AND ADDRESSES OF MEMBERS OR
INDIVIDUALS OWNING 10% INTEREST IN CORPORATION
PURSUANT TO
N.J.S.A. 40:55D-48.1 AND 48.2

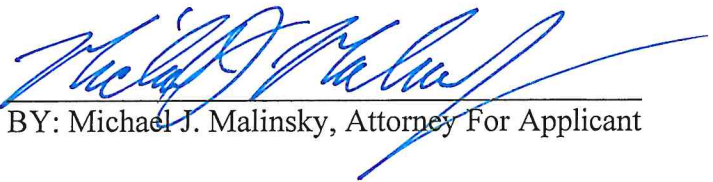
The members of 42nd Place LLC are:

1. TI Land Holdings, LLC, a New Jersey limited liability company, having an address of 4009 Landis Avenue, Sea Isle City, New Jersey 08243.

The members of TI Land Holdings, LLC having a 10% or greater interest are:

- i. Christopher Glancey, having an address at 4009 Landis Avenue, Unit 3, Sea Isle City, New Jersey 08243.
 - ii. Robert Morris, having an address of 108 Cathcart Road, Gwynedd Valley, Pennsylvania 19437.
2. William Rhoda, having an address at 66 Cedar Hill Lane, Media, Pennsylvania 19063

42ND PLACE, LLC


BY: Michael J. Malinsky, Attorney For Applicant

LIST OF REQUESTED VARIANCES

The Applicant, 42nd Place, LLC, requests the following variances:

1. §26-56.5(a)(2) – to allow a front yard setback of 60 feet from JFK Boulevard, where a maximum of 5 feet is permitted;
2. §26-28.3(a) – to permit a sign area of 243 square feet, where 80 square feet is the maximum permitted;
3. §26-28.3(j)(2) - to allow a free standing sign setback of 1.75 feet, where 5 feet is required;
4. §26-25.7(d) - to allow 8 shade trees along 40th street, where 13 are required;
5. §26-25.7(d) – to allow 4 shade trees along JFK Boulevard, where 10 are required;
6. §26-28.3(j)(1) – to allow 2 freestanding signs (1 on JFK Boulevard and one facing JFK Boulevard and Landis), where 1 is permitted;
7. §26-28.3(j)(1) – to allow the freestanding signs to have a sign area of 180 square feet (60 square feet and 120 square feet), where 30 square feet is maximum permitted per freestanding sign;
8. §26-25.7(d) – to allow 10 shade trees along Landis Avenue, where 11 are required;
9. §26-25.4(b) – to allow 13 shade trees along JFK Boulevard, where 17 are required;
10. §26-42.3(d)(1) – which requires 33% of the ground level façade to be glass;
11. §26-42.3(d)(3) – to allow window sills greater than 3 feet above the sidewalk along 40th street;
12. §26-56.9(a) – to permit a building height of 43.01 feet, where 40 feet is the maximum height permitted

APPLICATION RIDER
42ND PLACE, LLC
118 40th Street
Block 40.03, Lots 1.04, 4, 12, 20, 21, 22, 23 & 24

Applicant, 42nd Place, LLC (“Applicant”) is the owner of the above referenced property (the “Property”) in the City of Sea Isle City. The Property is presently developed with the Ludlam Bar & Grill, Shorebreak Cafe and twenty-four (24) unit hotel. Applicant seeks preliminary and final Major Site Plan approval with variances to demolish the existing structures and develop the Property with a mixed-use property, which will consist of twenty-six (26) one bedroom hotel units, twenty (20) fee simple condominiums and hotel amenities including a restaurant with indoor/outdoor bar, pool, and bakery/coffee shop (the “Hotel Amenities”). The Applicant previously received approval to allow a fifty-eight (58) unit hotel and the Hotel Amenities at the Property (the “Prior Planning Board Approval”). See Sea Isle Planning Board Resolution SICP 2022 - 03 – 01 attached hereto.

The Property is located in the C-5 Motel Business District which, permits hotels. Section 26-56.1 of the City of Sea Isle Zoning Ordinance (the “Zoning Ordinance”) also permits mixed nonresidential use and residential use buildings and hotels. More than one principal use on the same lot is permitted. Therefore, the proposed use of the Property is permitted. Applicant requires the following bulk variance relief:

1. §26-56.5(a)(2) – to allow a front yard setback of 60 feet from JFK Boulevard, where a maximum of 5 feet is permitted;
2. §26-28.3(a) – to permit a sign area of 243 square feet, where 80 square feet is the maximum permitted;
3. §26-28.3(j)(2) - to allow a free standing sign setback of 1.75 feet, where 5 feet is required;
4. §26-25.7(d) - to allow 8 shade trees along 40th street, where 13 are required;
5. §26-25.7(d) – to allow 4 shade trees along JFK Boulevard, where 10 are required;
6. §26-28.3(j)(1) – to allow 2 freestanding signs (1 on JFK Boulevard and one facing JFK Boulevard and Landis), where 1 is permitted;
7. §26-28.3(j)(1) – to allow the freestanding signs to have a sign area of 180 square feet (60 square feet and 120 square feet), where 30 square feet is maximum permitted per freestanding sign;
8. §26-25.7(d) – to allow 10 shade trees along Landis Avenue, where 11 are required;
9. §26-25.4(b) – to allow 13 shade trees along JFK Boulevard, where 17 are required;
10. §26-42.3(d)(1) – which requires 33% of the ground level façade to be glass;
11. §26-42.3(d)(3) – to allow window sills greater than 3 feet above the sidewalk along 40th street; and
12. §26-56.9(a) – to permit a building height of 43.01 feet, where 40 feet is the maximum height permitted

Applicant is now requesting twelve (12) bulk variances. Applicant was previously granted twenty (20) bulk variances in relation to the Prior Planning Board Approval, therefore the proposed development is more consistent with the Zoning Ordinance than the previously approved development. Further, the proposed development will improve the aesthetics of the Property and represents a better design scheme. The design of the development promotes the free flow of traffic,

removes a dangerous condition of off-street parking along Landis Avenue, and provides an off-street loading area on-site.

The overall development is a modern and aesthetically pleasing attraction in the center of Sea Isle City, which promotes a desirable visual environment, provides for the appropriate use of land for diverse uses and encourages tourism. Moreover, the proposed development encourages appropriate and innovative land uses to stimulate new markets and strengthen and diversify the economic base.

There is an existing deed restriction imposed by the City of Sea Isle on a 60 foot portion of the Property fronting on JFK Boulevard, limiting use of that portion of the Property to surface parking which significantly mitigates any impact the development would have on air, light and open space for surrounding properties.

Dorothy F. McCrosson, Esquire
Attorney ID 023041986
McCrosson & Stanton, P.C.
200 Asbury Avenue
Ocean City, New Jersey 08226
(609) 399-2411
dmccrossonlaw@comcast.net
Conflict Attorney for City of Sea Isle City Planning Board

City of Sea Isle City Planning Board

Sea Isle Planning Board Resolution SICP 2022 - 03 - 01

APPLICATION OF: 42nd Place, LLC

PROPERTY: 4000 Landis Avenue
Block: 40.03, Lots: 1.04, 4, 12, 20, 21, 22, 23 & 24

WHEREAS, 42nd Place, LLC (the “applicant”), with principal offices at 4009 Landis Avenue, Sea Isle City, New Jersey, is the owner of Block: 40.03, Lots: 1.04, 4, 12, 20, 21, 22, 23 & 24, as the same is designated on the Tax Map of the City of Sea Isle City, commonly known as 4000 Landis Avenue; and

WHEREAS, the property is located in the C-5, Motel Business District; and

WHEREAS, the Applicant submitted a complete application for a Preliminary and Final Site Plan Review with variance relief; and

WHEREAS, the application was accompanied by the following documents which have been considered in the review of this application:

<u>Drwg.</u>	<u>Title</u>	<u>Prepared By</u>	<u>Date</u>	<u>Revision</u>
1 of 7	Cover and Information Plan	Kevin J. Dixon, PE	11/29/21	2/25/22
2 of 7	Existing Conditions Plan	Kevin J. Dixon, PE	11/29/21	---
3 of 7	Demolition Plan	Kevin J. Dixon, PE	11/29/21	---
4 of 7	Site Plan	Kevin J. Dixon, PE	1/29/21	2/25/22

5 of 7	Drainage Plan	Kevin J. Dixon, PE	11/29/21	2/25/22
6 of 7	Utility Plan	Kevin J. Dixon, PE	11/29/21	2/25/22
7 of 7	Detail Sheet	Kevin J. Dixon, PE	2/1/22	2/25/22
L1	Preliminary Landscape Study	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L2	Landscape Plan	Joseph P. Adamson, LLA, PP	11/29/21	2/25/22
L3	Streetscape Plans	Joseph P. Adamson, LLA, PP	11/29/21	2/25/22
L4	Planting Plan	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L5	Lighting Plan	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L6	Site Details	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L7	Site Details	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L8	Site Details	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
L9	Planting Details	Joseph P. Adamson, LLA, PP	11/11/21	2/25/22
A-100	Architectural Site Plan	Mark Petrella, AIA	11/29/21	2/25/22
A-101	Level 01 Floor Plan	Mark Petrella, AIA	11/29/21	2/25/22
A-102	Level 02 Floor Plan	Mark Petrella, AIA	11/29/21	2/25/22
A-102.5	Level 02.5 Floor Plan	Mark Petrella, AIA	11/29/21	2/25/22
A-103	Level 03 Floor Plan	Mark Petrella, AIA	11/29/21	2/25/22
A-301	Exterior Elevations	Mark Petrella, AIA	11/29/21	2/25/22
A-302	Exterior Elevations	Mark Petrella, AIA	11/29/21	2/25/22
Exhibit A	Set of color renderings Presented at meeting (16 pages)	Mark Petrella, AIA	3/11/22	None

WHEREAS, the Board has considered the plans submitted and the testimony of, and on behalf of, the applicant, and it makes the following findings of fact:

1. The parcel is a conforming lot with two hundred (200) feet of frontage on John F.

Kennedy Boulevard and Landis Avenue, two hundred twenty (220) feet of lot frontage on Landis Avenue and two hundred fifty (250) feet of frontage on 40th Street.

2. The site is located in the C-5 Motel Business Zone.
3. The site is currently developed with a bar, a bakery/coffee shop, a restaurant and a twenty-four (24) unit hotel.
4. The applicant proposes to renovate and expand the existing structure. The new project will include the following:
 - a. A new hotel addition with thirty-four (34) additional one-bedroom units, six of which will be one-bedroom suites located on a new fourth floor over the existing hotel rooms. The renovated hotel will include fifty-eight (58) one-bedroom units.
 - b. A restaurant.
 - c. An indoor/outdoor bar.
 - d. A roof deck bar over the existing restaurant.
 - e. A swimming pool.
 - f. A renovated bakery/coffee shop.
 - g. Sixty-one (61) parking space.
5. The proposed project requires the following variances and waivers:

<u>Parameter</u>	<u>Required or Permitted</u>	<u>Proposed</u>	<u>Code Variance</u>	<u>Section</u>
1. Maximum Front Yard Setback	5 ft. ENC	58.6 ft.	53.6 ft.	26-56.5a.2
2. Total Sign Area	80 s.f. ENC	170 s.f.	90 s.f.	26-28.3.a
3. Max Area of Free Standing Signs	30 s.f. ENC	170 s.f.	140 s.f.	26-28.3.j.1
4. Setback of Free	5 ft.	On Property	5 ft.	26-28.3.j.2

Standing Signs	ENC	Line		
5. Standard Parking Space Size	9'x18'	9' x 17.3' (29 Spaces Adjacent to JFK Blvd)	0.7 ft. in length	26-23.1.b
6. Off-Street Loading Area Size	15' x 30'	10' x 50'	5 ft. in width	26-24.2.b
7. Screening & Landscaping Of Loading Area	Required	None Proposed	No Screening or Landscaping	26-24.1.c
8. Massing Build Offsets	Required when Building wall is 50ft or greater	No offsets for 149' Building Wall	149' Building Wall with no Offsets	26-42.3.a
9. Roof Line	No More Than 50% of Roofline can be flat Including Mansard Roofs	Flat Roof Line Greater than 50% Including Mansard Roofs	Flat Roof Line Greater than 50%	26-42.3.c.5
10. Transparency	33% Glass For Ground Floor	No Large Pane Windows Proposed	No Large Pane Windows	26-42.3.d.1
11. Transparency	Item d.2 thru d.7	None Proposed	Requirements of Items d.2 thru d.7	26-42.3.d
12. Number of Driveways For Each Street Frontage	1 ENC	2 (40th Street)	1	26-23.4.a.1
13. Street Trees (JFK Blvd)	5 Trees	0	5 Trees	26-25.4.b
14. On-Site Shrubs in Commercial District	5 Shrubs/1,000 s.f. of Lot Area 248 Shrubs	144	104 Shrubs	26-25.5.d
15. Buffer Shade Trees	a. 40th St. – 13 Trees	8 Trees	5 Trees	26-25.7.d
	b. JFK – 10 Trees	4 Trees	6 Trees	26-25.7.d
	c. Landis Ave. – 11 Trees	10 Trees	1 Tree	26-25.7.d
16. Buffer Width	5 ft.	3 ft. JFK Blvd.	2 ft.	26-25.7.a
17. Tree Grates	Required with Street Trees along Public R.O.W. (City) a. 40th St. - 8	0	8 Grates	26-25.40.b.1(a)

ENC = Existing Nonconformity

6. The Applicant was represented Michael J. Malinsky, Esquire.
7. The following professionals were recognized by the Board as experts in their respective fields and testified, under oath, on behalf of the applicant:
 - a. Mark Petrella, A.I.A. of SOSH.
 - b. Joseph P. Adamson, L.L.A., P.P. of J. Adamson and Associates, LLC.
 - c. Kevin J. Dixon, P.E. of Dixon Associates Engineering, LLC
8. Christopher Clancy also testified under oath on behalf of the applicant.
9. During the public portion of the meeting two members of the public spoke.
10. The variances and waivers sought should be granted pursuant to N.J.S.A. 40:55D-70(c)(2) because the benefits of the project will substantially outweigh any detriment. More specifically:
 - a. The Board agrees with the undisputed expert testimony that project will provide improved aesthetics, while incorporating into the design historic elements unique to Sea Isle City.
 - b. The project will provide improved pedestrian safety.
 - c. The project will provide a far superior parking arrangement resulting in more orderly parking and traffic flow through an expanded and re-designed parking lot and the elimination of back-out parking on the Landis Avenue, thereby enhancing the safety of this high-traffic corner.
 - d. The project will increase open space.
 - e. The projecting will lower the impervious surface coverage and bring it into conformity with the requirements of the Zoning Ordinance.
 - f. The architectural design will bring scale to the site.

g. The drainage plan will reduce water run-off from the site.

These benefits substantially outweigh any detriment to which could be said to result from the proposed deviation from the zoning requirements.

11. Further, the variances and waivers sought should be granted pursuant to N.J.S.A. 40:55D-70(c)(1) because the property is unusually shaped, being surrounded by streets on three sides. This condition, coupled with the applicant's efforts to preserve the existing structure, impacts many of the site plan elements.

12. The Board accepts and agrees with the undisputed expert testimony that the following purposes of zoning would be advanced by this project: N.J.S.A. 40:55D-2(a), (e), (g), (h) and (i).

13. The Board accepts and agrees with the undisputed expert testimony that granting the requested variances and waivers would not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

14. The applicant stipulated that the Variance Chart in the March 3, 2022 report of Andrew A. Previti, P.E., the Board's Professional Engineer, is correct and stipulated to the following enumerated sections of said report:

- a. **III. Site Plan Review:** 1, 8, 15(b)(1), 15(b)(3), 15(b)(4), c(1), c(2), c(3), c(4), 18(a), 18(b), 21(a), 21(d), 23(a), 23(b), 23(c), 24(c), 25(c), 25(d), 25(e), 25(f), 26(d), 26(g), 26(i), 26(j), 27(a), 33(a), 34(a), 34(b) and 34(c).
- b. **IV. Additional Comments:** 1, 3, 4, 6, 7, 8.

NOW, THEREFORE, BE IT RESOLVED by the City of Sea Isle City Planning Board at its meeting on March 14, 2022, that the application for preliminary and final major site plan

approval with the variances and waivers set forth above is hereby **GRANTED** subject to the following terms and conditions:

1. The Applicant shall comply with all terms and conditions of the March 4, 2022 report of Andrew A. Previti, P.E., the Board's Professional Engineer (Colliers Engineering & Design) and shall submit plans revised accordingly.
2. The Applicant will provide cost estimates for the on-site improvements in the event the Board Engineer deems same appropriate as well as providing adequate performance guarantees if required.
3. The Applicant shall provide seventy-two-hour notice to the Board Engineer for all inspections.
4. The Applicant shall arrange a pre-construction meeting with the Police department and Municipal Engineer before any site activity, including foundation, for the new building is undertaken. The Applicant's builder must be present at any preconstruction meeting.
5. All specific conditions not contained within this Decision and Resolution but which were otherwise set forth in the record of the hearing, all of which are incorporated herein by reference though not set forth at length herein.
6. The curbed planting bed along the 40th Street frontage shall be removed. There shall be no encroachment into the public right-of-way on the 40th Street side unless the City agrees to an encroachment agreement to permit same. This approval is not conditioned upon such an agreement.
7. The lights in the public rights-of-way will match the existing streetlights.
8. The hours of operation of the various amenities shall be as set forth on page A-101

of the plan prepared by Mr. Petrella.

9. The proposed parking areas will be reconstructed following the Typical Full Depth Pavement Section found on Dixon sheet 7.

10. The green wall details shall be added to Adamson plan per enumerated section 22 of Mr. Previti's report.

11. All encroachment agreements regarding this project which the Applicant may entered into with the County of Cape May will indemnify and hold the City harmless from liability for the encroaching condition(s).

12. The entire buildings will be ADA compliant.

13. The Applicant shall comply with Chapter 6-4.4 of the City Code.

14. The development shall meet the new standards for Electric Vehicle Supply/Service Equipment and Parking Space Requirements. The applicant has agreed to provide four (4) charging spaces, each of which shall include Electric Vehicle Parking Signs.

15. The Applicant shall comply with all provisions of the City of Sea Isle City Land Development Ordinance and shall obtain any and all municipal, County, State and/or Federal Laws or Regulations relating or applicable to the proposed project including, but not limited to, the Sea Isle City Department of Public Works relative to connection to the City's utilities as well as the acceptability of the proposed solid waste and recycling plan.

16. Signature lines for the Board Chairperson, Secretary and Engineer shall be added to the Adamson Plans.

17. The Applicant shall comply with Code Section 26-43.4 Non-Residential Affordable Housing Development Fees.

Jack McCusker made the motion to grant preliminary and final site plan approval with the associated sign variance and Donna Miller seconded the motion.

Dated: 4/11/22

City of Sea Isle City Planning Board

/s/ Patricia Urbaczewski
Patricia Urbaczewski, Chairperson

/s/ Antimo Ferrilli
Antimo Ferrilli, Vice Chairperson

The foregoing is a true copy of the Resolution adopted by the City of Sea Isle City Planning Board at its meeting on the 11th day of April, 2022 as held at said meeting.

Dated: 4/12/2022

Genell Ferrilli
Genell Ferrilli, Secretary
City of Sea Isle City Planning Board

CITY OF SEA ISLE CITY - ZONING BOARD OF ADJUSTMENT

COUNTY OF CAPE MAY
STATE OF NEW JERSEY

RESOLUTION NO. 2020 - 02 - 01

A RESOLUTION OF FINDINGS AND CONCLUSIONS OF THE ZONING BOARD OF
ADJUSTMENT OF THE CITY OF SEA ISLE CITY

WHEREAS, 42ND PLACE, LLC ("the applicant") is the owner of property known as Block 40.03, Lot(s) 1.04, 4, 12,20,21,22,23 & 24 in Sea Isle City, New Jersey, also known as 4000 Landis Avenue ("the property"); and

WHEREAS, the site is in the C-5 Motel Business Zoning district and currently supports multiple uses including the La Costa Lounge, Casino Pizza, and a motel facility along with two (2) outdoor bar areas; and

WHEREAS, the application is proposing to demolish the existing facilities and construct new four (4) story facility containing forty-six (46) hotel suites ranging in size from one (1) to three (3) bedrooms with twenty (20) of the suites having cooking facilities. Hotel amenities include a restaurant on the ground floor, an indoor and outdoor bar facility, retail shop, and an outdoor pool area; and

WHEREAS, the applicant submitted a request for Preliminary and Final Site Plan Review which included both a "D" variance

for exceeding the height requirements more than 10% and "C" variances for various site conditions; and

WHEREAS, the applicant appeared at a special meeting of the Zoning Board of Adjustment of Sea Isle City on January 21, 2020, to present the application; and

WHEREAS, the board held a hearing, including a public comment, on the application at that time; and

WHEREAS, the board continued hearing on the application at the next regularly scheduled meeting of the Zoning Board on February 3, 2020; and

WHEREAS, the board held a hearing, including a public comment, on the application at that time; and

WHEREAS, the board, having considered the evidence presented by the applicant, the plans, the testimony of the applicant and their professionals, the application, the evidence and testimony presented by those objecting to the application, and having considered as well the comments of its engineer and solicitor, has made and hereby memorializes the following findings of fact and/or conclusions of law:

1. The applicant has standing to present this application by virtue of its status as owner of the property.

2. The Zoning Board of Adjustment exercised jurisdiction to hear this application because of the "D" variance relief requested by the applicant and the ancillary powers provided to

the Zoning Board pursuant to N.J.S.A. 40:55D-76. The applicant applied for "D" variance relief for height exceeding 10% in connection with Preliminary and Final Site Plan review. In addition, as part of this application, the board was required to determine whether the inclusion of cooking facilities in hotel rooms required a "D" or "C" variance under the Sea Isle City Code. To the extent a "D" variance was required, only the Zoning Board of Adjustment could consider such approval.

3. A majority vote of qualified members of the board is required for approval of Preliminary and Final Site Plan and any variances and waivers sought pursuant to N.J.S.A. 40:55D-70(c). A supermajority of five votes is required for the variances sought pursuant to N.J.S.A. 40:55D-70(d).

4. The application is deemed complete for purposes of the land use law.

5. The applicant has given all notices required under law.

6. The property is in the C-5 Motel Business Zoning District.

7. The property is located at the corner of John F. Kennedy Boulevard and Landis Avenue in the center of the City's main business district.

8. The property has 200 ft. of frontage on John F. Kennedy Boulevard, 220 ft. of frontage on Landis Avenue, and 250

ft. of frontage along 40th Street. The property is surrounded on three sides by County and Municipal Right of Ways. The property has a lot area of 49,500 SF, and therefore complies with the minimum lot area requirement of 5,000 SF in the C-5 Zoning District.

9. The applicant appeared at a Special Meeting on January 21, 2020 to present the application and was represented by their attorney Michael Malinsky, Esq., their Architect Andrew C. Bechtold, R.A., and their Engineer George Wray Thomas, III, P.E., R.A.

10. Christopher Glancey, Member of 42ND PLACE, LLC, also appeared on behalf of the application.

11. Mr. Malinsky indicated the applicant is requesting waivers for site plan checklist item 2, subsection 3, and item 2, subsection 6. Mr. Malinsky indicated a signed and sealed survey will be provided as a condition of any approval.

12. Mr. Malinsky summarized the variance relief being requested as follows:

The Applicant seeks a D(6) height variance to permit the height of the principal structure at 47.3 feet where 40 feet is permitted in the zone. The Applicant also seeks C(2) bulk variances for: (1) §26-28.3(a) – to allow a total sign area of 243 square feet, where 80 square feet is max permitted; (2) §26-28.3(j)(1) – to allow three freestanding signs (two on JFK Boulevard and one on Landis Avenue), where one is permitted; (3) §26-28.3(j)(1) – to allow the freestanding signs to have a sign area of 60 square feet each (180 square feet total), where 30 square feet is max permitted per freestanding sign; (4) §26-28.3(j)(2) – to allow the freestanding signs to be 1.5 feet from the property line, where 5 feet is required; (5) §26-23.5 – to allow 44 stacked parking spaces, where none are permitted; (6) §26-24.1(a) – to allow no off-street loading space, where 1 is required; (7) §26-56.4 – to permit kitchens with cooking facilities in twenty (20) of the forty-six (46) hotel suites identified on ZB-7 and ZB-8 of the plans as HS201-HS210 and HS301-HS310; (8) §26-56.5(a)(2) – to allow a 60 foot front yard setback along JFK Boulevard, where 5 feet is max permitted; (9) §26-42.3(d)(1) – to permit the 40th Street ground level facade to contain 5% glass, where 33% is required; (10) §26-42.3(d)(3) – to allow the window sills to be 6 feet above the sidewalk on Landis Avenue and 8 feet above the sidewalk on JFK Boulevard, where 3 feet above the sidewalk is the max permitted; and (11) §26-25.4 – to allow 6 street trees, where 17 are required.

13. The applicant, their experts, and Andrew Previti, the board engineer, were all sworn in by the board attorney, Christopher Gillin-Schwartz, Esq.

14. Doreen Corino, Esq. appeared on behalf of Amy and Dan Procaccino who appeared to object to the application. Vincent Orlando, P.E. appeared with Ms. Corino as the objectors' expert.

15. Mr. Bechtold placed his credentials on the record and was offered as an expert in the field of architecture and design.

16. Mr. Bechtold stated the existing site has 100% impervious coverage and no storm water recharge. The proposed plan calls for an improvement of that condition by increasing pervious coverage and installing a storm water recharge system. Mr. Bechtold indicated that the worst-case scenario in terms of

drainage is already present on the site and the proposed plan will result in an improvement to that condition.

17. The applicant provided the following additional exhibits at the time of hearing:

- A-1: Series of (4) Photos of the existing site;
- A-2: "Ludlam Hotel" Handout showing 3D architectural rendering of the proposed building;
- A-3: Plan Showing Existing Site Conditions;
- A-4: Agreement between City of Sea Isle City and applicant's predecessor in title, reserving an area for parking on the site, Recorded in the Office of the Cape May County Clerk, Deed Book 1495, Page 797;

18. Mr. Bechtold stated the building is taller to provide space for various hotel amenities and that the architectural elements are designed to give the new building a "landmark" appearance. Mr. Bechtold indicated that although the building will be higher than the code permits, it will be a less intense use than the current configuration of the site.

19. Mr. Bechtold stated the noise of the "outdoor amphitheater" existing on the current site will be reduced by the proposed enclosed structure, reducing the existing bar area by roughly 2/3rds.

20. Mr. Bechtold stated the proposed parking and circulation associated with the plan are an improvement and

described the benefit of eliminating the lengthy curb cut along Landis Avenue which will provide for safer pedestrian travel.

21. Mr. Bechtold stated the building will have multiple points of emergency access and include a modern fire suppression system.

22. Mr. Malinsky and Mr. Bechtold acknowledged the proposed hotel rooms could not be converted to condominium units or residential use without applying for change in use and amended site plan approval.

23. Mr. Bechtold stated the elevated parking on JFK Blvd will have a retaining wall and that the entire site is designed to provide more drainage opportunities than currently exist to help flooding conditions which are present throughout the City.

24. Mr. Bechtold stated the plan for street trees and landscaping was made after receiving input from the County.

25. Mr. Bechtold stated that the height of the building promotes a desirable visual environment. Mr. Bechtold indicated that in large part the red areas shown in A-2 are the areas exceeding the height requirements and include the cupolas, dormers, and aesthetic design elements offering the look of a "landmark" structure.

26. Mr. Bechtold stated the variances for size, number, and location of signs were necessitated by the uniquely large area of the site, with three street frontages and multiple

access points. Mr. Bechtold indicated the variances will provide sufficient space in appropriate locations for signage, and in proper proportion to the unique size and characteristics of the site.

27. Mr. Bechtold indicated the variance for ground level glass façade is required but the application substantively advances the purpose of the regulation by providing more open area at the ground level, instead of glass, and therefore preserving adequate light, air, and open space along 40th Street.

28. Mr. Bechtold indicated the variance for height of the windowsills is the practical result of raising the structure to meet parking, storm water design, and flooding concerns.

29. Mr. Bechtold stated the cooking facilities will be consistent with hotel efficiency unit kitchens and not intended to be massive cooking facilities. There will be small fridges, dishwashers, microwaves, and stove tops. However; there will be no oven provided. Mr. Bechtold indicated these types of efficient kitchens are a common amenity in current hotel rooms.

30. Mr. Bechtold indicated the outdoor bar on Landis Ave, will be a casual space for people to enjoy after the beach. The area on JFK Blvd will be "fancier" fare. Mr. Thomas testified that he listened to the testimony of Mr. Bechtold and concurred with his prior testimony.

31. On cross examination by Ms. Corino, Mr. Bechtold acknowledged the building could be built to strictly conform to the code but that the architectural elements contribute to the character of the downtown area, the design of the proposed structure results in a less intense use and better zoning alternative, and the height is not out of character with the relative height of other buildings in the area.

32. Mr. Bechtold indicated the plan for the restaurant and bar areas show the proposed occupancy limit not the tables. Mr. Bechtold indicated the restaurant along JFK Blvd. shows 160 occupancy, not tables and that the layout of these commercial spaces would be fully developed in a later plan.

33. Mr. Orlando was sworn and testified to his opinion that the definition of "Hotel" under the code states that no cooking facilities will be provided and for that reason the board was required to view the variance for cooking facilities as a "D" variance. Mr. Orlando acknowledged that cooking facilities were not entirely prohibited, indicating that they are limited to efficiency units.

34. Mr. Malinsky argued that cooking facilities are permitted in efficiency units and echoed Mr. Bechtold's testimony that the proposed facilities are consistent with the limited cooking facilities associated with efficiency units and that the board should view the relief as a "C" variance.

35. Mr. Malinsky called David Shorten as a certified flood plains manager. Mr. Shorten indicated that the application provides the opportunity for more pervious coverage and will have the effect of decreasing water flow into the City's storm water runoff system. In his opinion, approximately 14,000-15,000 gallons will be redirected away from the City's system. Ms. Corino declined cross examination of Mr. Shorten.

36. Mr. Previti reviewed his report dated April 29, 2019 which includes the comments and conditions on the variances requested and the site plan checklist items associated with the plan.

37. Mr. Bechtold indicated the street trees proposed were designed based on feedback from the County and City. After discussion, the applicant proposed adding 2 more street trees to make a total of 8 street trees where 17 are required.

38. Mr. Previti indicated the applicant should provide a construction plan indicating the applicant's plan for each phase of the project and coordinate a pre-construction meeting with the City prior to work commencing at the site to address any health, safety, or general welfare concerns.

39. The board opened the matter for public comment.

40. Tom Corrigan owns condominium property across from the site. He stated he is in favor of the application because it will improve the noise and safety issues associated with the

current site. He stated that he took the photos of the current site depicted in A-1.

41. Bill Baker indicated that congestion in this area is a concern and that the proposed development will increase congestion and parking issues.

42. Frank Speziali lives in the Four Winds Condominium indicated he was not speaking against or for the project. He voiced concern on the proposed location of the loading dock taking up space off-site with delivery trucks creating congestion. He questioned the method of demolition and pile driving and whether those activities would impact his building. He questioned the drainage system proposed and how that would function.

43. Mr. Bechtold responded that there will pile driving and an on-site monitor of the vibrations and estimated 18-months for development on the project. Mr. Bechtold indicated that the plan is not creating any additional storm water runoff and is creating a storm water management system where none exists now and reducing impervious coverage.

44. Greg O'Brien owns property at Seaview Condominiums and voiced concern over runoff and flooding.

45. Debbie Brown owns property at Four Winds Condominium and voiced concern over the proposed parking and loading zones.

46. Michael Carr owns property on 40th Street and voiced concern over the amount of variances requested.

47. Amy Procaccino owns property on 40th Street and voiced concern over the proposed parking issues and loading zone causing further congestion in the area. Ms. Corino submitted a series of photos marked as O-1 depicting the area of Ms. Procaccino's property.

48. Dan Procaccino voiced concern over stacked parking and that the building should conform to the code.

49. John Fee owns property on 43rd Street and spoke in favor of the application because the City is in need of short-term rentals.

50. John Divney spoke in favor of the application echoing Mr. Fee's comments and stating that the application will enhance the town and bring a "wow" factor to the City.

51. Rick Houseworth owns property on 40th Street and spoke in favor of the application because it will be an improvement to the neighborhood.

52. Andy Ferrilli owns property on 38th Street stated he is not in favor or opposed but questioned the parking on site and the height of the building from Landis Avenue.

53. Beth Mog objected to the project because of the height and the parking issues in the area. She also objected to the nature of the cooking facilities.

54. Jonn Simoncini spoke in opposition to the entire project.

55. The board closed public comment.

56. Mr. Malinsky indicated in response to the comments made, the applicant would relocate the loading zone on-site and revised the plans to eliminate the requirement for a variance for that item.

57. Ms. Corino offered Mr. Orlando as an expert in his capacity as a professional engineer. Mr. Orlando echoed the concerns of Mr. Previti. He indicated the loading and unloading zone is a concern as well as the location of the trash enclosure. Mr. Orlando indicated the intensity of the uses present on site requires more parking than is proposed, even if technically compliant with the code. Mr. Orlando stated the stacked parking will not be utilized effectively and it will impact parking and congestion already present in the area.

58. Mr. Orlando discussed his opinion that cooking facilities are prohibited in hotels by the code but acknowledged that kitchens are permitted in efficiency units under the code. He indicated his opinion that it is not the efficiency of the kitchen but the efficiency of the unit that should control the determination for the board. Mr. Orlando stated his opinion that a "D" variance was required for this item.

59. Mr. Orlando indicated that the applicant could build a conforming structure that did not require a height variance. Mr. Gillin-Schwartz indicated that the board was not limited only to considering whether a conforming structure could be built to code in connection with the request for a "D" height variance. Mr. Gillin-Schwartz indicated an applicant may demonstrate "undue hardship" in connection with a "D" height variance by showing the height restriction prohibits use of the property for a conforming structure, or, in the alternative by demonstrating the increased height does not offend the purpose of the height restriction focusing on light and air concerns as well as being another method of controlling density, citing Grasso v. Bor. Of Spring Lake Heights, 375 N.J. Super. 41, 52 (App. Div. 2004).

60. Board members provided their comment on the issues raised during the hearing including concerns over height, parking, and the loading zones.

61. The applicant indicated their intent to revise the plan to address the concerns raised at the special meeting and return at the next regularly scheduled meeting to resume consideration of the application.

62. The board announced that the application would be continued to the February 3, 2020 regular meeting of the board and that no additional notice would be made under the

circumstances where the applicant was proposing to address or reduce variances which were previously noticed.

63. On February 3, 2020, the application resumed at the Zoning Board's regular monthly meeting.

64. At that time, the applicant submitted revised plans intending to address comments from the January 21, 2020 meeting. The applicant included a revision to reduce the height of the proposed structure to less than 10% of the permitted height but still more than permitted by code. This amendment had the effect of converting the "D" height variance to a "C" variance. The applicant previously noticed for an on-street loading zone. This variance was eliminated by revising the plan to show the loading zone now on-site. The applicant proposed eliminating the variance for stacked parking by removing that element from the plan.

65. Ms. Corino indicated her understanding that revised plans were submitted later than 10 days before the date the application was to be continued and indicated her objection to the same. Ms. Corino also requested the board consider the question of the cooking facility variance and whether that required a "C" or "D" variance. Ms. Corino argued that if the board determines only "C" variance relief is required, the board should decline jurisdiction to continue hearing the application.

66. Mr. Malinsky indicated the applicant hand delivered revised plans 10 days prior to the continuation of the hearing. The amendments were made in response to comments and concerns raised as part of the prior hearing. Mr. Malinsky indicated his opinion that ancillary jurisdiction is not lost because of these amendments. He indicated his opinion that the board properly exercised jurisdiction at the outset because "D" variance relief was requested as part of the application, amendments were made to address comments from the board, and that the purposes of zoning and ancillary powers are designed to avoid requiring an applicant to "ping-pong" between the zoning board and planning board. Mr. Malinsky cited to Amato v. Randolph Tp. Planning Bd., 188 N.J. Super. 439 (App. Div. 1982) in support of his position.

67. The board provided the objector's counsel Ms. Corino and their expert Mr. Orlando the opportunity to comment. Mr. Orlando reiterated his prior testimony regarding the code and his opinion that the cooking facility variance be considered a "D" variance. Ms. Corino argued that the code prohibits cooking facilities in Hotels and therefore a "D" variance was required. Ms. Corino echoed Mr. Orlando's comments and argued that if the board decides the variance is a "C" that the board must decline jurisdiction of the application.

68. Mr. Previti reiterated his prior comments and opinion that the cooking facilities be considered a "D" variance. He

indicated cooking facilities are prohibited in the definition of "Hotels".

69. Mr. Gillin-Schwartz indicated his opinion that Section 26-11 does define "Hotel" as lodging "without provisions for cooking in any individual rooms" but that the standards for Hotel and Motel Rooms in Section 26-56.4 also provides that kitchens may be provided in efficiency rooms. Mr. Gillin-Schwartz indicated his opinion that these two sections can be read *In Para Materia* - meaning that they should be construed together because they pertain to the same subject matter. He noted there is no separate definition of "efficiency unit" in the code. Mr. Gillin-Schwartz indicated that under that analysis, cooking facilities are not a completely prohibited use but limited to the nature and style of the hotel unit. He stated that the code is unclear as to the intent and that the board had the discretion to employ common sense and the possible intent that hotel rooms permit limited "efficiency" style kitchen facilities and not full residential kitchens with ovens and major facilities. As a result, Mr. Gillin-Schwartz indicated the board had the discretion to view the variance for kitchens in a limited number of suites as a "C" variance.

70. Mr. Gillin-Schwartz also indicated his opinion that under these circumstances, even if the board determines the variance for cooking facilities is a "C" variance, the board was

not required to decline jurisdiction. He indicated that the Zoning Board has exclusive authority over "D" variances. He indicated the application properly came before the board with a request for "D" variance relief for height and that the determination of whether the cooking facilities required "D" variance relief also developed during the hearing. Mr. Gillin-Schwartz indicated that one of the most important purposes of the Municipal Land Use Law is to "encourage prompt consideration and disposition of land use applications, avoid unnecessary delays and repetition of effort, and to encourage coordination of the various public and private procedures and activities shaping land development with a view toward lessening the cost of such development and to achieve a more efficient use of land," reading from TWC Realty Partnership v. Zoning Board of Adjustment of the Twp. Of Edison, 315 N.J. Super. 205, 217 (Law. Div. 1998), aff'd o.b., 321 N.J. Super. 216 (App. Div. 1999). Mr. Gillin-Schwartz indicated for those reasons, the board had the following options available: If they determined a "D" variance was required for the cooking facilities, they must retain jurisdiction; Alternatively, if they determined the cooking facilities required only "C" variance relief the board has the discretion to either decline jurisdiction, or, retain jurisdiction to avoid the "ping-pong" effect of applying to two different boards recognized by the Municipal Land Use Law after

all parties, including the board, already expended significant time, effort, and expense to begin consideration of an application where jurisdiction was properly exercised when the board commenced hearing on the application.

71. Mr. Gillin-Schwartz advised the board that the ultimate decision on whether a "C" or "D" variance is required for cooking facilities and the jurisdictional question were both determinations left to the sound discretion of the board, and that the board may consider all the evidence and arguments made by the professionals in order to render a decision. Mr. Gillin-Schwartz inquired whether the attorneys for the applicant and the opposition wished to add anything further before the board took a vote on the issue. Ms. Corino and Mr. Malinsky both declined to add anything further.

72. The board first considered a motion in favor of treating the cooking facilities as a "D" variance. The motion failed 3-2.

73. The board next considered a motion in favor of treating the cooking facilities as a "C" variance and to retain jurisdiction. The motion passed unanimously 5-0. The board noted the fact that the application properly commenced before the Zoning Board and that at this point all parties, including the board and the public, had invested significant time, effort, and expense to consider the application, and that it did not serve

the purposes of zoning to simply decline jurisdiction and require repetition of those efforts.

74. The applicant resumed presentation. Mr. Glancey, Mr. Bechtold and Mr. Thomas were sworn in.

75. Mr. Malinsky summarized the nature of the revisions and the impact on variance relief requested. The applicant amended their plan to reduce, but not eliminate, the height variance, eliminate off-street loading, and eliminate stacked parking.

Based on the revisions, the applicant is requesting relief pursuant to N.J.S.A. 40:55D-70(c) from the following conditions:

C-5 ZONE				
STANDARD	SECTION	REQUIRED	PROPOSED	STATUS
Max. Building Height *Amended plans result in "c" variance instead of "d"	26-56.9.a	40' max	43' 11''	Non-Conforming
Kitchens with Cooking Facilities in Hotel *Determined by the board to require "c" variance instead of "d"	26-56.4	Permitted in efficiency units not suites	Kitchens with cooking facilities in twenty (20) suites	Non-Conforming
Total Sign Area	26-28.3(a)	80 SF	243 SF	Non-Conforming

Freestanding Signs For each street frontage	26- 28.3(j) (1)	1 sign	2 signs	Non- Conforming
Sign area per sign	26- 28.3(j) (1)	30 SF per sign	60 SF per sign (x3)	Non- Conforming
Setback from Sign to Property Line	26- 28.3(j) (2)	5 ft.	1.75 ft.	Non- Conforming
Front Yard Setback (JFK Blvd)	26- 56.5(a) (2)	5 ft. Max	60 ft.	Non- Conforming
Ground Level Glass Facade	26- 42.3(d) (3)	33%	5%	Non- Conforming
Max. Height of Windowsills above sidewalk	26- 42.3(d) (3)	3 ft. Max	6 ft. (Landis Ave.) 8 ft. (JFK Blvd)	Non- Conforming
Street Tree Requirement	26-25.4	17 street trees	8 street trees	Non- Conforming
Onsite Trees	26-25.5(c)	25 trees	4 trees	Non- Conforming

76. The applicant proposes variance relief for the requested "C" variances under both N.J.S.A. 40:55D-70(c) (1) for hardship and (c) (2) for flexible variance relief.

77. Mr. Previti reviewed his revised report dated April 29, 2019 and revised January 29, 2020. Mr. Previti noted the

reduction in parking from the previously proposed ninety-five (95) spaces to seventy-four (74) spaces. Mr. Previti requested the applicant provide an explanation for the reduction in rooms and how that relates to the proposed parking.

78. Mr. Bechtold indicated the revised plan reduces the number of "Bookable Rooms" from eighty-six (86) to seventy-four (74) through a single "lockout" of certain rooms. In other words, where in the previous plan certain areas of the hotel could have been booked as either one suite with three rooms, or, as three individual rooms, the revised plan now limits the ability of certain areas to be booked in that manner. Mr. Bechtold indicated the effect of the single "lockout" plan results in a visitor being forced to book the entire suite and that reduces the total amount of bookable rooms. Mr. Bechtold testified that this amendment informs the revised parking calculation and was made in response to concerns raised at the prior meeting.

79. Mr. Thomas indicated that there are no stacked parking spaces proposed. Mr. Previti questioned the proposal for a space measuring 9' x 36' in the area previously dedicated to stacked parking. Mr. Malinsky confirmed the applicant is not requesting stacked parking.

80. Mr. Previti noted safety concerns with the three (3) parking spaces proposed in the area of the drive isle. Mr.

Thomas indicated the applicant would revise the plan to address those safety concerns. Mr. Previti indicated a speed hump should be added for safety in the drive isle.

81. Ms. Corino questioned the nature of the lockout and whether that impacted parking considerations. Mr. Bechtold indicated the single "lockout" limits the use of the space from three single units to one single unit containing three rooms. Mr. Bechtold indicated all parking spaces would be code compliant in size and dimension.

82. Mr. Orlando testified regarding the three (3) parking spaces proposed in the area of the drive isle. He indicated a retaining wall in the area of those spaces makes their design impractical. He indicated that the proposed parking is inadequate for the relative intensity of use proposed for the site.

83. In response to board comment, the applicant indicated that they would revise the plan to include additional bike racks in the areas previously dedicated to stacked parking.

84. The board opened the matter for public comment.

85. Bill Baker questioned the height of the building and stated that he does not see the applicant's hardship.

86. John Fee spoke in favor of the application because of the need for quality short term rentals in the City.

87. Steven Decredico spoke in favor of the application because it will bring in quality rentals and move the town forward.

88. John Divney spoke in favor of the application indicating it will bring a "wow" factor to the City.

89. Angel Dalrymple questioned the calculation of the total rooms and the parking proposed. She indicated the project proposes 126 rooms and parking is a problem in town.

90. Henry Walton stated stacked parking is a bad idea. He also questioned the ability of delivery trucks to pass through the drive isle.

91. Walt Zakorchemny indicated his concern with the height of the building and parking impacting 40th Street.

92. John Simoncini opposed the application and indicated his concern that the project may sit vacant for some time if development stalls and the project is too big for that area.

93. Michael Carr questioned the design and location of the loading dock and trash areas. He added that he did not view the application demonstrated an unusual hardship. Mr. Previti indicated the Department of Public Works was consulted in the plan for trash pickup.

94. Dan Proccacino questioned the impact of trash trucks and parking.

95. Joe Roberts indicated trash trucks and delivery trucks will create noise in the area and the location of the curb cut.

96. The board closed public comment.

97. Mr. Glancey indicated the intensity of the proposed use will be a net reduction compared to the existing use, including the trash generated by the site.

98. Mr. Bechtold indicated the curb cut along Landis is being eliminated to provide a better environment for pedestrian traffic. He indicated the curb cuts along 40th Street will also be reduced which will provide more area for on-street parking. He indicated loading and unloading will be on site.

99. Mr. Bechtold indicated that many of variances for signs and location of building elements are necessitated by the size of the site in relation to the code requirements which were designed to apply to a much smaller site.

100. Ms. Corino argued that the applicant's need for variances is the result of self-created hardship. She indicated the height variance is the result of the applicant not desiring to reduce the room count.

101. Mr. Malinsky argued that the variances requested should be considered under both the c(1) and c(2) criteria and that the application represents a better zoning alternative.

102. Mr. Gillin-Schwartz summarized the conditions proposed as part of the application: (a) speed hump in drive isle; (b)

all parking spaces will be code compliant; (c) the revised plans will make clear the hotel will have forty-six (46) suites, individually bookable as seventy-four (74) units, and containing a total of one hundred twenty-six (126) individual bedrooms; (d) the applicant will request to add two additional street trees for a total of eight (8) street trees; (e) the applicant will comply with the non-residential development fee pursuant to Section 26-43.4C; (f) any approval will be subject to CAFRA, County or other government approval; and (g) the applicant will also address all comments, revisions, and conditions as indicated in the engineering review letter by Board Engineer Andrew A. Previti, P.E. dated April 29, 2019 and revised January 29, 2020, incorporated herein by reference.

103. Mr. Gillin-Schwartz confirmed and summarized the variances requested in accordance with the revised plan:

C-5 ZONE				
STANDARD	SECTION	REQUIRED	PROPOSED	STATUS
Max. Building Height *Amended plans result in "c" variance instead of "d"	26-56.9.a	40' max	43' 11''	Non-Conforming
Kitchens with Cooking Facilities in Hotel	26-56.4	Permitted in efficiency units not suites	Kitchens with cooking facilities in twenty	Non-Conforming

*Determined by the board to require "c" variance instead of "d"			(20) suites	
Total Sign Area	26-28.3(a)	80 SF	243 SF	Non-Conforming
Freestanding Signs For each street frontage	26-28.3(j) (1)	1 sign	2 signs	Non-Conforming
Sign area per sign	26-28.3(j) (1)	30 SF per sign	60 SF per sign (x3)	Non-Conforming
Setback from Sign to Property Line	26-28.3(j) (2)	5 ft.	1.75 ft.	Non-Conforming
Front Yard Setback (JFK Blvd)	26-56.5(a) (2)	5 ft. Max	60 ft.	Non-Conforming
Ground Level Glass Facade	26-42.3(d) (3)	33%	5%	Non-Conforming
Max. Height of Windowsills above sidewalk	26-42.3(d) (3)	3 ft. Max	6 ft. (Landis Ave.) 8 ft. (JFK Blvd)	Non-Conforming
Street Tree Requirement	26-25.4	17 street trees	8 street trees	Non-Conforming
Onsite Trees	26-25.5(c)	25 trees	4 trees	Non-Conforming

104. Mr. Gillin-Schwartz instructed the board that standard for evaluating a "C" variance requires the board to weigh the positives against the negatives. The positive criteria may be satisfied by either undue hardship, or, by demonstrating the purposes of zoning will be advanced by deviation from the code. The negative criteria may be met when there is no substantial detriment to the public good or the zone plan. He instructed the board that they should weigh the positive criteria against the negative criteria as it relates to each variance requested and that decision is within their discretion based on the testimony provided.

105. With regard to the applicant's requested relief pursuant to N.J.S.A. 40:55D-70(c) for height, the board carefully considered and weighed the testimony concerning the positive and negative criteria from the applicant and all professionals. The board considered the improvement to the visual environment and the preservation of adequate light, air, and open space with a site-appropriate design. The height proposed in the amended plan is more consistent with the character and height of structures in the surrounding neighborhood. The board considered the need for hotel rooms as an alternative to home rentals and the height of the building provides sufficient space in an appropriate location for a hotel and commercial use in order to meet the needs of all citizens.

In addition, the height of the proposed building will be a more flood compliant and resilient structure. For those reasons, the board finds that this variance advances the purposes of zoning and meets the positive criteria. The board finds the applicant considered and addressed the comments and concerns of the board, the professionals, and the public, and presented a revised plan reducing the need for variance relief. Therefore, the impact of the variance relief is minimal, and the variances can be granted without substantial detriment to either the public good or the zoning scheme. The board voted 3-2 in favor of this variance.

106. With regard to the applicant's requested relief pursuant to N.J.S.A. 40:55D-70(c) for kitchens in twenty (20) hotel suites, the board carefully considered and weighed the testimony concerning the positive and negative criteria from the applicant and all professionals. The board considered the changing needs of citizens in relation to hotel room amenities, including storage of medicine such as insulin and preparing formula for young children. The board finds that permitting a limited number of kitchens on the site will provide a sufficient space in an appropriate location to accommodate these uses in order to meet the needs of all citizens. The board also finds that having these limited "efficiency" kitchen facilities available will promote the public health, safety, and general welfare. For those reasons, the board finds that this variance

advances the purposes of zoning and meets the positive criteria. The board finds the applicant considered and addressed the comments and concerns of the board, the professionals, and the public, and presented a revised plan reducing the need for variance relief. Therefore, the impact of the variance relief is minimal, and the variances can be granted without substantial detriment to either the public good or the zoning scheme. The board voted 4-1 in favor of this variance.

107. With regard to the applicant's requested relief pursuant to N.J.S.A. 40:55D-70(c) for the remaining variances pursuant to the zoning chart and waivers, the board carefully considered and weighed the testimony concerning the positive and negative criteria from the applicant and all professionals.

With regard to the number, location, and size of the signs proposed, the board considered the relative size of the site in relation to the sign regulations contained in the code. The board finds that the proposed conditions preserve adequate light, air, and open space in the area and provide sufficient space in appropriate locations for signage on a commercial site of this size.

The board finds that the number of trees proposed in connection with the application provide sufficient space in appropriate locations for those site elements.

The board finds that the proposed glass façade and height of windowsill variances are required but can be viewed as elements of the overall design of the structure to be flood compliant and accommodate on-site parking, which when viewed in totality promotes public health, safety, and general welfare, as well as promoting a desirable visual environment.

For those reasons, the board finds that these variances advance the purposes of zoning and meets the positive criteria. The board finds the applicant considered and addressed the comments and concerns of the board, the professionals, and the public in presenting their revised plan. Therefore, the impact of the variance relief is minimal, and the variances can be granted without substantial detriment to either the public good or the zoning scheme. The board voted unanimously 5-0 in favor of these variances.

108. With regard to the applicant's request for Preliminary and Final Site Plan with conditions, the board carefully considered and weighed the testimony from the applicant and all professionals regarding the proposed site conditions. The board engineer carefully reviewed the application and provide comments and proposed conditions for the applicant to address the site plan requirements contained in the Sea Isle City Code. The applicant agreed to conditions in connection with the proposed site plan. The board finds the

application and conditions meet the purposes of the Sea Isle City Code regarding site plan and the needs of public health, safety, and general welfare, and that the benefits of the application including conditions, outweigh any detriments. The board voted unanimously 5-0 in favor of approving Preliminary and Final Site Plan Review with conditions.

NOW THEREFORE, on this 2nd day of March 2020, be it resolved by the Zoning Board of Adjustment of Sea Isle City as follows:

1. The applicant's request for variances, pursuant to N.J.S.A. 40:55D-70(c) from the requirements set forth in the below table, are hereby GRANTED:

C-5 ZONE				
STANDARD	SECTION	REQUIRED	PROPOSED	STATUS
Max. Building Height	26-56.9.a	40' max	43' 11''	Non-Conforming
Kitchens with Cooking Facilities in Hotel	26-56.4	Permitted in efficiency units not suites	Kitchens with cooking facilities in twenty (20) suites	Non-Conforming
Total Sign Area	26-28.3(a)	80 SF	243 SF	Non-Conforming

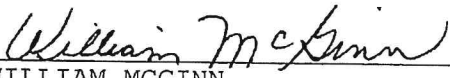
Freestanding Signs For each street frontage	26- 28.3(j) (1)	1 sign	2 signs	Non- Conforming
Sign area per sign	26- 28.3(j) (1)	30 SF per sign	60 SF per sign (x3)	Non- Conforming
Setback from Sign to Property Line	26- 28.3(j) (2)	5 ft.	1.75 ft.	Non- Conforming
Front Yard Setback (JFK Blvd)	26- 56.5(a) (2)	5 ft. Max	60 ft.	Non- Conforming
Ground Level Glass Facade	26- 42.3(d) (3)	33%	5%	Non- Conforming
Max. Height of Windowsills above sidewalk	26- 42.3(d) (3)	3 ft. Max	6 ft. (Landis Ave.) 8 ft. (JFK Blvd)	Non- Conforming
Street Tree Requirement	26-25.4	17 street trees	8 street trees	Non- Conforming
Onsite Trees	26-25.5(c)	25 trees	4 trees	Non- Conforming


2. The grant of approval is subject to the following conditions:

A. The applicant shall submit revised plans including a "speed hump" in drive isle;

- B. There is no parking variance requested or granted. The size, number, and dimension of all parking spaces shall be code compliant;
- C. The revised plans will make clear the hotel will have forty-six (46) hotel units, with a maximum bookable potential of seventy-four (74) individual hotel rooms. The hotel rooms range in the number of bedrooms provided from one to three. The site will contain a grand total of one hundred twenty-six (126) individual bedrooms, but these are not permitted to be individually rented. The proposed parking (74 spaces) is based on the number of individual rooms proposed by the applicant (74 hotel rooms);
- D. The applicant shall submit a request to the County to add two additional street trees for a total of eight (8) street trees;
- E. The applicant shall comply with the non-residential development fee pursuant to Section 26-43.4C;
- F. Applicant shall comply with all applicable Sea Isle City Codes and obtain any and all other governmental approvals.
- G. The applicant will address all comments, revisions, and conditions as indicated in the engineering review letter by Board Engineer Andrew A. Previti, P.E. dated April 29, 2019 and revised January 29, 2020, incorporated herein by reference.

This resolution is adopted in full memorialization of the Decision made by the Zoning Board of Adjustment of Sea Isle City at its regular meeting held on February 3, 2020.


WILLIAM MCGINN


NATHANIEL DEAL

This is to certify that this is a true copy of a Resolution adopted verbally by the Zoning Board of Adjustment of Sea Isle City at its regular meeting held on February 3, 2020 at 7:00 p.m. at the Sea Isle City Municipal Building and memorialized on March 2, 2020.


GENELL FERRILLI, SECRETARY

FOX ROTHSCHILD LLP

Formed in the Commonwealth of Pennsylvania

By: Michael J. Malinsky, Esq. (031572004)

Midtown Building, Suite 400

1301 Atlantic Avenue

Atlantic City, New Jersey 08401

Tel: (609) 348-4515

Fax: (609) 348-6834

Attorneys for Defendant, 42nd Place, LLC

JOHN SIMONCINI

Plaintiff,

v.

ZONING BOARD OF ADJUSTMENT OF
SEA ISLE CITY, PLANNING BOARD OF
SEA ISLE CITY, CITY OF SEA ISLE CITY,
42ND PLACE, LLC

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CAPE MAY COUNTY

Civil Action

DOCKET NO.: CPM-L-113-20

**ORDER VACATING RESOLUTION
NUMBER 2020-02-01 AND DISMISSING
ALL CLAIMS WITH PREJUDICE**

THIS MATTER having been brought before the Court by Fox Rothschild, LLP,
appearing as counsel for defendant, 42nd Place, LLC, by way of Order and the Court for good
cause shown:

IT IS on this 4th day of December, 2020, **ORDERED** and **ADJUDGED**
as follows:

1. The February 3, 2020 approvals granted by the Zoning Board of Adjustment of
Sea Isle City which were memorialized on March 2, 2020 in Resolution No. 2020-02-01 are null
and void and of no further effect.

2. 42nd Place, LLC, and any subsequent owner of the Property, shall submit a new
application before the appropriate Sea Isle City Land Use Board for any development that
requires site plan, subdivision and/or variance approval. The Property is 4000 Landis Avenue,

more particularly identified as Block 40.03, Lots 1.04, 4, 12, 20, 21, 22, 23 & 24 on the current tax map of the City of Sea Isle (the "Property").

3. This matter, and all claims and cross-claims set forth in this matter, are dismissed with prejudice and without costs against all parties.

IT IS FURTHER ORDERED that plaintiff shall serve a copy of this Order upon defendants within seven (7) days of receipt.


HONORABLE MARY C. SIRACUSA, J.S.C.

EXHIBIT A

SITE PLAN CHECKLIST REQUIREMENTS

(No application will be deemed complete until all of the following has been provided except for which waiver has been sought and granted)

- | | |
|---|---|
| 1. Completed application forms with all information provided. | <u> X </u> |
| 2. Site Plan with the following requirements: | <u> X </u> |
| 1. Give title and location of development and the name and address of record owner and/or development applicant, and site planner preparing the site development plan. | <u> X </u> |
| 2. Indicate proposed use or uses of the land and buildings. | <u> X </u> |
| 3. Site plans should be presented at a scale no smaller than 1" = 50', nor larger than 1" = 20'; size of sheets should not exceed 36 inches x 24 inches. | <u> X </u> |
| 4. Scale and graphic scale. | <u> X </u> |
| 5. North arrow in same direction on all sheets. | <u> X </u> |
| 6. Submit survey of the property prepared by a licensed surveyor of New Jersey, showing boundaries of properties, line of all existing streets and roads, easements, rights-of-way and areas dedicated to public use within 200 feet of the development. Also indicated on this sheet will be the north arrow, scale feet and graphic scale, name and address and professional license number and seal of the surveyor who prepared the survey. | <u> X </u> |
| 7. Give names of all owners of record of all adjacent properties with lot and block number, parcel number, tax map number, within 200 feet of the property. | <u>X-Applicant has also requested an updated list</u> |
| 8. Show existing and proposed buildings with dimensions; showing, with first floor elevation, present and finished grade elevations at all corners and entrances. Present buildings and structures to be removed are to be indicated. | <u> X </u> |
| 9. Submit topographic map to delineate existing contours at two foot intervals, up to ten feet beyond property lines, as well as proposed grading and contours, wooded areas, trees (where six inches or greater in diameter), flood plains, ponds, streams and drainage ditches, etc. | <u> X </u> |

- | | |
|---|-----------------------|
| 10. Indicate the location of all existing and proposed structures, i.e., walls, fences, culverts, bridges, roadways, etc., with grade elevations for each structure. | <u> X </u> |
| 11. Indicate existing zones of the development site and of zones within 200 feet of the property. | <u> X </u> |
| 12. Show all existing schools and special district boundaries within 200 feet of the property. This should be shown on a separate map or as a key map on the site plan map itself. | <u> N/A </u> |
| 13. Indicate the distance of the property line (measured along the centerline of existing streets abutting the property) to the nearest intersection which should be shown. | <u> X </u> |
| 14. Show the boundaries of the property, building and setback lines, lines of existing streets, lots, reservations, easements and areas dedicated to public use. | <u> X </u> |
| 15. Indicate locations of all utility structures and lines, existing and proposed stormwater drainage on site and off site and from buildings and structures, as well as telephone, power and light, water hydrant locations, sewer, gas, etc., whether privately or publicly owned, with manholes, inlets, pipe sizes, grade inverts and directions of flow. | <u> X </u> |
| 16. Show location, size and nature of the entire lot or lots in question of contiguous lots owned by the applicant or owner of record, or in which the applicant or owner of record, or in which the applicant has a direct interest even though a portion of the entire property is involved in site plan development. Provide on a key map, if necessary. | <u> X </u> |
| 17. Show all proposed elements and public and community areas. | <u> X </u> |
| 18. Indicate all means of vehicular ingress and egress to and from the site on to public streets, showing the size and location of driveways, curb cuts and curbing, and site lines. | <u> X </u> |
| 19. Show location and design of off-street parking areas, showing their size, and the location of internal circulation, traffic patterns, parking space, aisles, driveways, curbing, barriers, and wearing surface finishes and construction. | <u> X </u> |
| 20. Show location, arrangement and dimensions of truck loading and unloading platforms and docks. | <u> X </u> |

SITE PLAN REVIEW

EXH. A

- | | |
|---|--|
| 21. Indicate provisions for refuse and garbage disposal. Insure that such areas are not exposed to view, are unpolluting, covered from weather and are secure from vandalism. Incineration or burning units will be of such design and construction as to be approvable by the State Department of Health and Environmental Protection. Compactor units will ensure completely sealed operation. Open dump areas for garbage or refuse should be prohibited but where they are deemed necessary they must be enclosed and constructed with view to sight, fire protection, sanitation and security. | X
_____ |
| 22. Show provisions for screening or storage of equipment, attached or separate from buildings. | X
_____ |
| 23. Indicate all existing or proposed exterior lighting (freestanding and/or building) for size, nature of construction, lumens, heights, area and direction of illumination, footcandles produced, as well as time controls proposed for outdoor lighting and display. | X
_____ |
| 24. Note all existing and proposed signs and their sizes; nature of construction and locations, height and orientation, including all identification signs, traffic and directional signs and arrows, freestanding and facade signs and time control for sign lighting. | X
_____ |
| 25. Indicate locations, dimensions and construction of off-site sidewalks, on-site exits, walks and sidewalks. Provision should be made for pedestrian safety, access ways and, where necessary, a bicycle system and racking. | X
_____ |
| 26. Show proposed screening of green areas and landscaping and fencing, including a planting plan and schedule, and trees, off site and along road, etc. Provision should be made for maintenance. | X
_____ |
| 27. Show improvements to adjoining streets and roads, and traffic control devices necessary in streets or highways. Acceleration and deceleration lanes, paving, land dedication or acquisition for roads should be considered. | X
_____ |
| 28. Copies of any covenants and deed restrictions intended to cover any of the development site should be submitted. | N/A existing deed
restriction to remain |
| 29. A detailed written description, sketch, rendering or picture of any new buildings or structures should be presented. | X
_____ |

EXH. A

CITY OF SEA ISLE CITY CODE

- | | |
|--|-----------------------|
| 30. Preliminary architectural floor plans and elevations should be submitted, with the name, address, professional number and seal of the architect. | <u> X </u> |
| 31. Supply appropriate places for signature and date of approval of the Chairman and Secretary of the Board and its engineer. | <u> X </u> |
| 32. In fire prevention, consideration must be shown for service lines, hydrants, Siamese connections, automatic sprinkler system, fire zones, "no parking fire zones" and pavement and wall signs. | <u> X </u> |
| 33. Flood zone and base flood elevation. | <u> X </u> |
| 34. Final lot grading plan. | <u> X </u> |
| 35. Show house numbers for each building lot on the final site plan plot only. | <u> N/A </u> |
| 36. A detailed written list of any additional permits required from the municipality, County, State or Federal agencies. | <u> X </u> |
| 37. Show proposed art (murals, sculptures, etc.) that would be visible from a public street. (Ord. No. 1510 (2011) § 38) | <u> N/A </u> |
| 38. Show all requirements under the Americans with Disabilities Act of 1990 for parking and pedestrian and vehicular movement. (Ord. No. 1510 (2011) § 38) | <u> X </u> |



← 118 40th St

Q X

4005 County Hwy 619
 Sea Isle City, New Jersey
 Google Street View
 Nov 2022 See more dates

Windy Blvd
 Ocean City
 The Bait
 Sea Isle

Google





Cape May County
Document Summary Sheet

2018057071 Bk D3795 Pgs 177-181
Recorded County of Cape May, NJ
Consideration \$7,300,000.00
Realty Transfer Fee \$158,805.00
Date 06/01/2018 09:48:32 By JK
Rita Maria Fuliniti, County Clerk
Recording Fees \$83.00

CAPE MAY COUNTY CLERK PO BOX 500 7 NORTH MAIN STREET CAPE MAY COURT HOUSE NJ 08210-5000	Return Name and Address State Line Title Agency of Sea Isle City 4110 Landis Avenue, Suite C Sea Isle City, NJ 08243 609-486-5427 SLSI-1198-18
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Official Use Only

Submitting Company	State Line Title Agency of Sea Isle City
Document Date (mm/dd/yyyy)	5/25/2018
Document Type	Deed
No. of Pages of the Original Signed Document (including the cover sheet)	4
Consideration Amount (if applicable)	\$7,300,000.00

First Party <i>(Grantor or Mortgagor or Assignor)</i> <i>(Enter up to five names)</i>	Name(s)	<i>(Last Name First Name Middle Initial Suffix)</i> <i>(or Company Name as written)</i>	Address (Optional)
	TO-GLO, CORPORATION, a Corporation of New Jersey		

5
Julia

Second Party <i>(Grantee or Mortgagee or Assignee)</i> <i>(Enter up to five names)</i>	Name(s)	<i>(Last Name First Name Middle Initial Suffix)</i> <i>(or Company Name as written)</i>	Address (Optional)
	42nd Place, LLC, a Limited Liability Company		

Parcel Information <i>(Enter up to three entries)</i>	Municipality	Block	Lot	Qualifier	Property Address
	City of Sea Isle	40.03	20, 21, 22, 23, 24, 1.04, 4, 12		118 40th Street, Sea Isle City, NJ 08243

Reference Information <i>(Enter up to three entries)</i>	Book Type	Book	Beginning Page	Instrument No.	Recorded/File Date

***DO NOT REMOVE THIS PAGE.**
COVER SHEET [DOCUMENT SUMMARY FORM] IS PART OF CAPE MAY COUNTY FILING RECORD.
RETAIN THIS PAGE FOR FUTURE REFERENCE.

Prepared by:

DONALD A. WILKINSON, ESQUIRE

DEED

This Deed is made on _____, 2018.

BETWEEN TO-GLO, Inc., New Jersey Corporation, whose address is 17720 Gulf Boulevard, Apartment 804, Reddington Shores, Florida 33708, referred to as the Grantor,

AND 42nd PLACE, LLC, a New Jersey Limited Liability Company, whose address is P.O. Box 48, Sea Isle City, New Jersey 08243 referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) her interest in the property described below to Grantee. This transfer is made for **SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS** (\$7,300,000.00). The Grantor acknowledges receipt of said consideration.

Tax Map Reference. (N.J.S.A. 46:26 A-3(a)(5)(b) Municipality of the **City of Sea Isle City**

Block No.40.03 Lot No(s) 20, 21, 22, 23, 24, 1.04, 4 & 12 Qualifier No. Account No.

Property. The property consists of the land and all the buildings and structures on the land in the **City of Sea Isle City**, County of Cape May and State of New Jersey. The legal description is:

TRACT #1- BEGINNING at the intersection of the Southwesterly line of 40th Street with the Northwesterly line of Landis Avenue; thence

1. Southwestwardly along said line of Landis Avenue a distance of 160 feet to the division line between lot 1 and Lots 12, 4 ½ & 4; thence
2. At right angles to said Landis Avenue, Northwestwardly along said division line a distance of 200 feet; thence
3. Northeastwardly along the division line between lot 3 and Lot 4, which is parallel to said Landis Avenue, a distance of 50 feet; thence
4. Northwestwardly along the division line between lot 3 and Lot 20, which is parallel to 40th Street, a distance of 50 feet; thence
5. Northeastwardly along the division line between Lot 19 and Lot 20, which is parallel to Landis Avenue, a distance of 110 feet to said side of 40th Street; thence
6. Southeastwardly along said line of 40th Street a distance of 250 feet to the place of BEGINNING.

BEING Lots 4, 12, 20, 21, 22, 23 & 24, Block 40.03 on the Official Tax Map of Sea Isle City, New Jersey, 1939.

TRACT #2- BEGINNING at the intersection of the Northwesterly line of Landis Avenue with the Northeasterly line of John F. Kennedy Blvd. (formerly 41st Street); extending thence Northeastwardly, along said Northwesterly line of Landis Avenue, 60 feet in front or breadth and of that width extending Northwestwardly, between parallel lines, one being said Northeasterly line of John F. Kennedy Blvd, 200 feet in length or depth.

BEING Lot 1.04, Block 40.03 as shown on the Official Tax Map of the City of Sea Isle City.

PURSUANT to Public Laws of 2011, Chapter 217 (N.J.S.A. 46:26 A-3(a)(5)(b) the above premises are also known as **Lot(s) 20, 21, 22, 23, 24, 1.04, 4, 12** in **Block 40.03** on the Official Tax Map of the **City of Sea Isle City**, New Jersey.

UNDER AND SUBJECT to any and all covenants, conditions, rights, reservations, restrictions and easements of record, if any.

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY BUYER
(Chapter 49, P.L.1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)
PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM BEFORE COMPLETING THIS AFFIDAVIT.

STATE OF NEW JERSEY } SS County Municipal Code
COUNTY CAPE MAY 0509

FOR RECORDER'S USE ONLY
Consideration \$ 7,300,000.00
RTF paid by Buyer \$ 73,000.00
Date 6-1-18 By [Signature]

MUNICIPALITY OF PROPERTY LOCATION; City of Sea Isle *Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3 and #4 on reverse side)
Deponent, 42nd Place, LLC, a Limited Liability Company, being duly sworn according to law upon his/her oath,
deposes and says that he/she is the Christopher Glancey in a deed dated 5/25/2018 transferring
(Grantee, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)
real property identified as Block number 40.03 Lot number 20, 21, 22, 23, 24, 1.04, located at
118 40th Street, Sea Isle City and annexed thereto.

(2) CONSIDERATION \$7,300,000.00 (See Instructions #1, #5 and #11 on reverse side)
Entire consideration is in excess of \$1,000,000:

PROPERTY CLASSIFICATION CHECKED BELOW SHOULD BE TAKEN FROM THE OFFICIAL ASSESSMENT LIST (A PUBLIC RECORD) OF THE MUNICIPALITY WHERE THE REAL PROPERTY IS LOCATED IN THE YEAR THAT THE TRANSFER. REFER TO N.J.A.C. 18:12-2.2 ET SEQ.

- (A) When Grantee is required to remit the 1% fee, complete (a) by checking off appropriate box or boxes below
- Class 2 - Residential
 - Class 3A- Farm property (Regular) and any other real property transferred to same grantee in conjunction with transfer of Class 3A property
 - Class 4A - Commercial Properties (if checked, calculation in (E) required below)
 - Cooperative unit (four families or less) (See C. 46:8D-3.) Cooperative units are Class 4C.

(B) Grantee is not required to remit the 1% fee (one or more of following classes being conveyed), complete (b) by checking off appropriate box or boxes below:

- Property Class. Circle applicable class(es): 1 3B 4B 4C 15
Property classes: 1-Vacant Land; 3B Farm property (Qualified) 4B-Industrial properties; 4C-Apartments; 15 Public Property, etc. (N.J.A.C. 18:12-2.2 et seq.)
- Exempt Organization determined by federal Internal Revenue Service/Internal Revenue Code of 1986, 26 U.S.C. s. 501.
- Incidental to corporate merger or acquisition; equalized assessed valuation less than 20% of total value of all assets exchanged in merger or acquisition. If checked, calculation in (E) required and MUST ATTACH COMPLETED RTF-4.

(C) When grantee transfers properties involving block(s) and lot(s) of two or more classes in one deed, one or more subject to the 1% fee (A), with one or more than one subject to the 1% fee (B), pursuant to N.J.S.A 46:15-7.2, complete (C) by checking off appropriate box or boxes and (D).

Property class. Circle applicable class or class 1 2 3B 4A 4B 4C 15

(D) EQUALIZED VALUE CALCULATION FOR ALL PROPERTIES CONVEYED, WHETHER THE 1% FEE APPLIES OR DOES NOT APPLY
Total Assessed Valuation + Director's Ratio = Equalized Valuation

Property Class 4A	\$4,994,900.00	÷	101.15	% = \$	5,052,341.35
Property Class	\$	÷		% = \$	
Property Class	\$	÷		% = \$	
Property Class	\$	÷		% = \$	

(E) REQUIRED CALCULATION OF EQUALIZED CALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS: (See Instructions #6 and #7 on reverse side)

Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation
\$4,994,900.00 ÷ 101.15 % = \$ 5,052,341.35

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed valuation. If Director's Ratio is equal to or exceeds 100%, the assessed valuation will be equal to the equalized value.

(3) TOTAL EXEMPTION FROM FEE (See Instruction #8 on reverse side)
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through Chapter 33, P.L. 2006, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

(4) Deponent makes Affidavit of Consideration for Use by Buyer to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith pursuant to the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this 05 Day of May 2018
Signature of Deponent: [Signature]
Deponent Address: 42nd Place, LLC, a Limited Liability Company
Grantee Name: 42nd Place, LLC, a Limited Liability Company
Grantee Address at Time of Sale: 118 40th Street, Sea Isle City
State Line Title Agency of Sea Isle City.
Name/Company of Settlement Officer: [Signature]

County recording officers: forward one copy of each RTF-1EE to:
STATE OF NEW JERSEY- DIVISION OF TAXATION
PO BOX 251
KATHLEEN M. SUTTON, 8695-0251
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 20, 2019

FOR OFFICIAL USE ONLY
Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION

GIT/REP-3
(9-2015)

(Please Print or Type)

SELLER'S INFORMATION

Name(s)

TO-GLO, Inc., by Anthony Giampietro, President

Current Street Address

17720 Gulf Blvd, Apt 804

City, Town, Post Office Box

Reddington Shores

State

FL

Zip Code

33708

PROPERTY INFORMATION

Block(s)

40.03

Lot(s)

20, 21, 22, 23, 24, 1.04, 4 & 12

Qualifier

Street Address

118 40th Street

City, Town, Post Office Box

Sea Isle City

State

NJ

Zip Code

08243

Seller's Percentage of Ownership

100%

Total Consideration

\$7,300,000.00

Owner's Share of Consideration

\$7,300,000.00

Closing Date

SELLER'S ASSURANCES (Check the Appropriate Box) (Boxes 2 through 14 apply to Residents and Nonresidents)

1. Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident gross income tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not an individual, estate, or trust and is not required to make an estimated gross income tax payment.
6. The total consideration for the property is \$1,000 or less so the seller is not required to make an estimated income tax payment.
7. The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale and report the recognized gain.
 Seller did not receive non-like kind property.
8. The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. The deed is dated prior to August 1, 2004, and was not previously recorded.
11. The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. The property transferred is a cemetery plot.
14. The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.

SELLER'S DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

5/25/2018

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney In Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney In Fact

BEING THE SAME PREMISES which Gustave Frederick, Inc., a Corporation of New Jersey, in a deed dated September 22, 1972 and recorded September 25, 1972 in the Office of the Clerk of Cape May County in Deed Book 1290 at page 488, granted and conveyed unto TO-GLO, Inc., in fee.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:

TO-GLO, Inc.

km jr

Anthony Giampietro
By: Anthony Giampietro, President

Nicholas Giampietro
By: Nicholas Giampietro, Vice President

STATE OF N.J. :
COUNTY OF Cape May } S.S.

I CERTIFY that on May 25, 2018, Anthony Giampietro personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this Deed as President of TO-GLO, Inc., the Corporation named in this Deed.
- (b) this Deed was signed and made by the Corporation as its voluntary act and deed by virtue of authority from its Members
- (c) made this Deed for \$7,300,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 45:15-5)

km jr
NOTARY PUBLIC

KATHLEEN M. SULLIVAN
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 20, 2019

STATE OF NJ :
COUNTY OF Cape May } S.S.

I CERTIFY that on May 25, 2018, Anthony Giampietro personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this Deed as Vice President of TO-GLO, Inc., the Corporation named in this Deed.
- (b) this Deed was signed and made by the Corporation as its voluntary act and deed by virtue of authority from its Members
- (c) made this Deed for \$7,300,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 45:15-5)

km jr
NOTARY PUBLIC

KATHLEEN M. SULLIVAN
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 20, 2019

Record and Return To:

NOTICE OF HEARING
SEA ISLE CITY PLANNING BOARD

PLEASE TAKE NOTICE that upon the application of 42nd Place, LLC, (“Applicant”), the Sea Isle City Zoning Board of Adjustment shall conduct a public hearing on February 13, 2024, commencing at 7:00 p.m., or as soon thereafter as the matter may be reached, at the City Hall of Sea Isle City, Council Chambers, located on the Third Floor, 233 John F. Kennedy Boulevard., Sea Isle City, NJ 08243, to consider the Applicant’s request for preliminary and final Major Site Plan approval together with variances for the property located at 118 40th Street and more particularly identified as Block 40.03, Lots 1.04, 4, 12, 20, 21, 22, 23 & 24 on the official tax map of the City of Sea Isle (the “Property”). The Property is located in the “C-5” Motel Business District.

The Property is presently developed with the Ludlam Bar & Grill, Shorebreak Cafe and twenty-four (24) unit hotel. Applicant seeks preliminary and final Major Site Plan approval with variances to demolish the existing structures and develop the Property with a mixed-use property, which will consist of twenty-six (26) one bedroom hotel units, twenty (20) fee simple condominiums and hotel amenities including a restaurant with indoor/outdoor bar, pool, and bakery/coffee shop (the “Hotel Amenities”) The use is permitted in the C-5 zone.

Applicant requires the following bulk variance relief:

1. §26-56.5(a)(2) – to allow a front yard setback of 60 feet from JFK Boulevard, where a maximum of 5 feet is permitted;
2. §26-28.3(a) – to permit a sign area of 243 square feet, where 80 square feet is the maximum permitted;
3. §26-28.3(j)(2) - to allow a free standing sign setback of 1.75 feet, where 5 feet is required;
4. §26-25.7(d) - to allow 8 shade trees along 40th street, where 13 are required;
5. §26-25.7(d) – to allow 4 shade trees along JFK Boulevard, where 10 are required;
6. §26-28.3(j)(1) – to allow 2 freestanding signs (1 on JFK Boulevard and one facing JFK Boulevard and Landis), where 1 is permitted;
7. §26-28.3(j)(1) – to allow the freestanding signs to have a sign area of 180 square feet (60 square feet and 120 square feet), where 30 square feet is maximum permitted per freestanding sign;
8. §26-25.7(d) – to allow 10 shade trees along Landis Avenue, where 11 are required;
9. §26-25.4(b) – to allow 13 shade trees along JFK Boulevard, where 17 are required;
10. §26-42.3(d)(1) – which requires 33% of the ground level façade to be glass;
11. §26-42.3(d)(3) – to allow window sills greater than 3 feet above the sidewalk along 40th street; and
12. §26-56.9(a) – to permit a building height of 43.01 feet, where 40 feet is the maximum height permitted

The Applicant is also seeking any and all waivers, variances, ordinance interpretations, and/or any other relief which may be deemed necessary by the City of Sea Isle Zoning Board in order to allow the proposed use and development of the Property.

At the public hearing on February 13, 2024, at 7:00 PM, when the application is called, you may appear either in person, or by agent or attorney, and present any objection which you may have to granting the application. Copies of the application, plans, supporting documentation, and reports

are on file with the Secretary of the City of Sea Isle Zoning Board and may be reviewed during normal business hours at the City Hall of Sea Isle City, 233 John F. Kennedy Boulevard., Sea Isle City, NJ 08243.

This Notice is sent to you in compliance with the requirements of the Zoning Ordinance of the City of Sea Isle and the New Jersey Municipal Land Use Law.

MICHAEL J. MALINSKY, ESQUIRE
FOX ROTHSCHILD LLP
1301 Atlantic Avenue
Suite 400
Atlantic City, NJ 08401
ATTORNEYS FOR APPLICANT
(609) 348-4515

NOTICE OF HEARING TO PROPERTY OWNERS WITHIN 200 FEET
SEA ISLE CITY ZONING BOARD OF ADJUSTMENT

PLEASE TAKE NOTICE that upon the application of 42nd Place, LLC, (“Applicant”), the Sea Isle City Zoning Board of Adjustment shall conduct a public hearing on February 13, 2024, commencing at 7:00 p.m., or as soon thereafter as the matter may be reached, at the City Hall of Sea Isle City, Council Chambers, located on the Third Floor, 233 John F. Kennedy Boulevard., Sea Isle City, NJ 08243, to consider the Applicant’s request for preliminary and final Major Site Plan approval together with variances for the property located at 118 40th Street and more particularly identified as Block 40.03, Lots 1.04, 4, 12, 20, 21, 22, 23 & 24 on the official tax map of the City of Sea Isle (the “Property”). The Property is located in the “C-5” Motel Business District.

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7. §26-28.3(j)(1) – to allow the freestanding signs to have a sign area of 180 square feet (60 square feet and 120 square feet), where 30 square feet is maximum permitted per freestanding sign;
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11. §26-42.3(d)(3) – to allow window sills greater than 3 feet above the sidewalk along 40th street; and
12. §26-56.9(a) – to permit a building height of 43.01 feet, where 40 feet is the maximum height permitted

The Applicant is also seeking any and all waivers, variances, ordinance interpretations, and/or any other relief which may be deemed necessary by the City of Sea Isle Zoning Board in order to allow the proposed use and development of the Property.

You are receiving this notice because you own property located within 200 feet of the Subject

Property. At the public hearing on February 13, 2024, at 7:00 PM, when the application is called, you may appear either in person, or by agent or attorney, and present any objection which you may have to granting the application. Copies of the application, plans, supporting documentation, and reports are on file with the Secretary of the City of Sea Isle Zoning Board and may be reviewed during normal business hours at the City Hall of Sea Isle City, 233 John F. Kennedy Boulevard., Sea Isle City, NJ 08243.

This Notice is sent to you in compliance with the requirements of the Zoning Ordinance of the City of Sea Isle and the New Jersey Municipal Land Use Law.

MICHAEL J. MALINSKY, ESQUIRE
FOX ROTHSCHILD LLP
1301 Atlantic Avenue
Suite 400
Atlantic City, NJ 08401
ATTORNEYS FOR APPLICANT
(609) 348-4515

AFFORDABLE HOUSING COMPLIANCE ADDENDUM

This Application is to permit 20 fee simple condominiums and 26 hotel units consisting of 18 three (3) bedroom suites, 4 two (2) bedroom suites, and 4 one (1) bedroom suites. I shall address both the Residential Portion of the Project and Commercial Portion of the Project as defined below separately.

In reference to the 26 hotel suites as well as the additional hotel amenity improvements consisting of a restaurant, indoor/outdoor bar, pool, and bakery/coffee shop (hereinafter collectively referred to as the “Commercial Portion of the Project”), the Applicant shall be required to comply with the Statewide Non-residential Development Fee Act set forth at N.J.S.A. 40:55D-8.1 et. seq. The Statewide Non-residential Development Fee Act addresses mixed use developments and specifically sets forth that, “[a] developer of a mixed use development shall be required to pay the Statewide non-residential development fee related to the non-residential development component of a mixed use development....” N.J.S.A. 40:55D-8.4. Moreover, the definition of Non-residential development set forth in N.J.S.A. 40:55D-8.3, specifically includes “hotels, motels, vacation timeshares, and child-care facilities.” As such, the Applicant shall comply with its affordable housing obligations related to the Commercial Portion of the Project by paying the required fee set forth in N.J.S.A. 40:55D-8.4.

In reference to the 20 fee simple condominiums (hereinafter referred to as the “Residential Portion of the Project”), the Applicant shall satisfy its affordable housing obligations by making a payment in lieu of providing the required affordable units in accordance with Ordinance §26-43.2.3(b). In accordance with Sea Isle City Ordinance §26-43.2.2(a-c), the Applicant, based on the 20 proposed fee simple condominiums, is required to provide four (4) affordable for sale units. In accordance with Ordinance §26-43.2.3, the Applicant has the right to satisfy this requirement by making a payment in lieu of unit development. Specifically, Ordinance §26-43.2.3(b) sets forth that:

The payment-in-lieu amount shall be as recommended by the Council on Affordable Housing formulas, which in the past has resulted in an amount of \$182,859 per unit. This would require any developer **who chooses not to**, or is not able to, provide all or part of the required affordable units to make a payment to the City in the amount of \$182,859 per unit, to be deposited into the City’s Affordable Housing Trust Fund. The affordable housing requirement shall not be rounded. Id.

As such, the Applicant’s affordable housing obligations related to the Residential Portion of the Project shall be satisfied by the payment of \$731,436.00, in accordance with Ordinance §26-43.2.3(b).



Ludlam Hotel

by Shorebreak Resorts

42nd Place LLC
Christopher Glancey

The Project

4000 Landis Avenue, Sea Isle City NJ

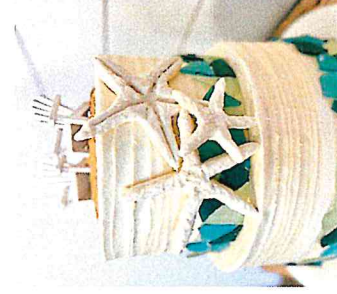
This hotel project is located on the most iconic corner of Sea Isle. The finished project will include 26 rooms and suites, 20 residential condominiums, multiple food and beverage venues plus an event facility. The Hotel guests will check in at the reception area on the mezzanine level. Hotel guest will only have access to the common areas and hotel rooms. The residential floors will be separated from the hotel floors.



Shorebreak Cafe

OVERVIEW

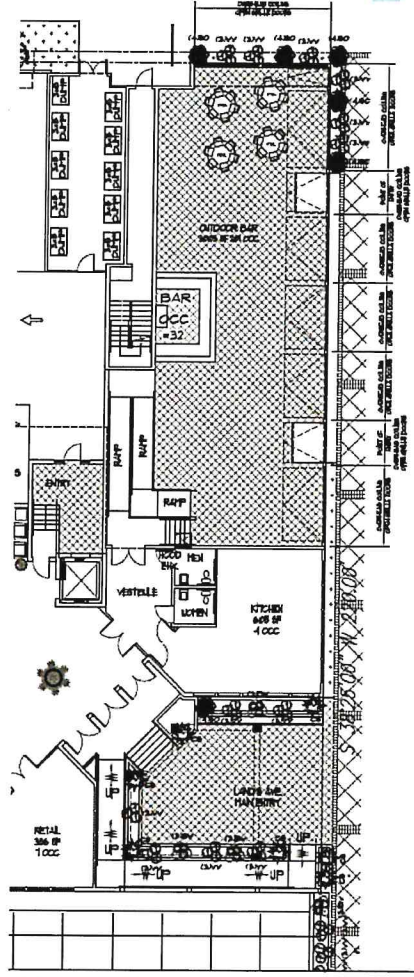
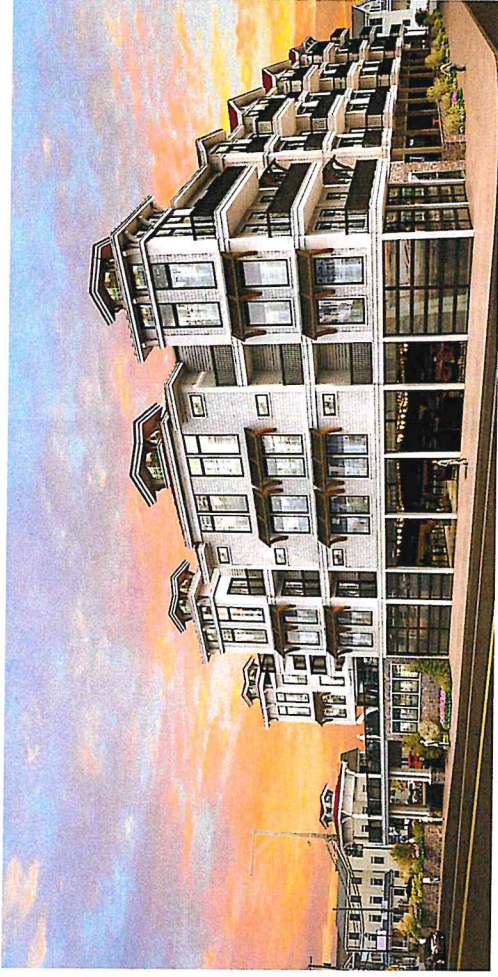
The Shorebreak Cafe opened July 2021. This beautiful cafe gives everyone a chance to see the future of what is to come of the overall property. Shorebreak Cafe has quickly become a Sea Isle City favorite stop for sweat treats and morning coffee. Currently open 11 months of the year and closing every January for a winter break which is typical for Jersey shore businesses. During peak season the cafe is open 7 days a week and off-season the cafe is open 4 days a week. The cafe will be reopened inside the hotel lobby of the new building.



Ludlam Bar & Grill

NEW FRONT BAR ON LANDIS AVENUE

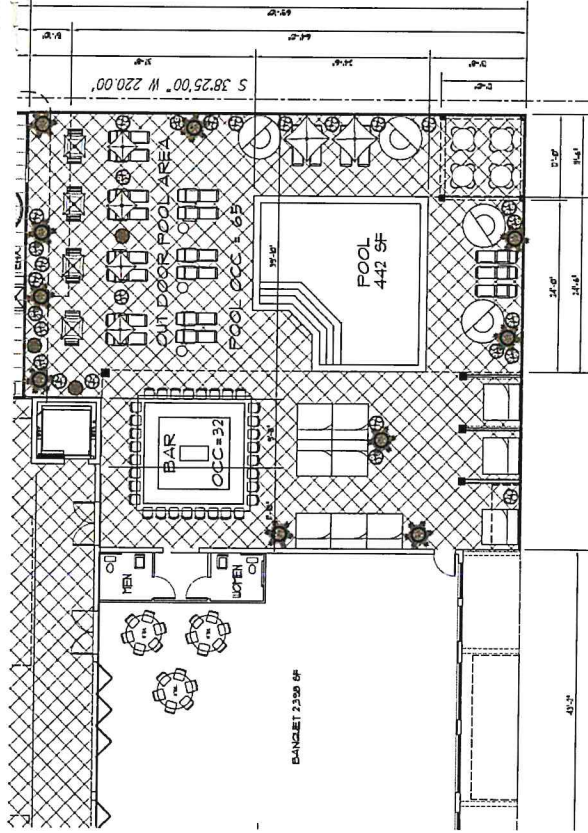
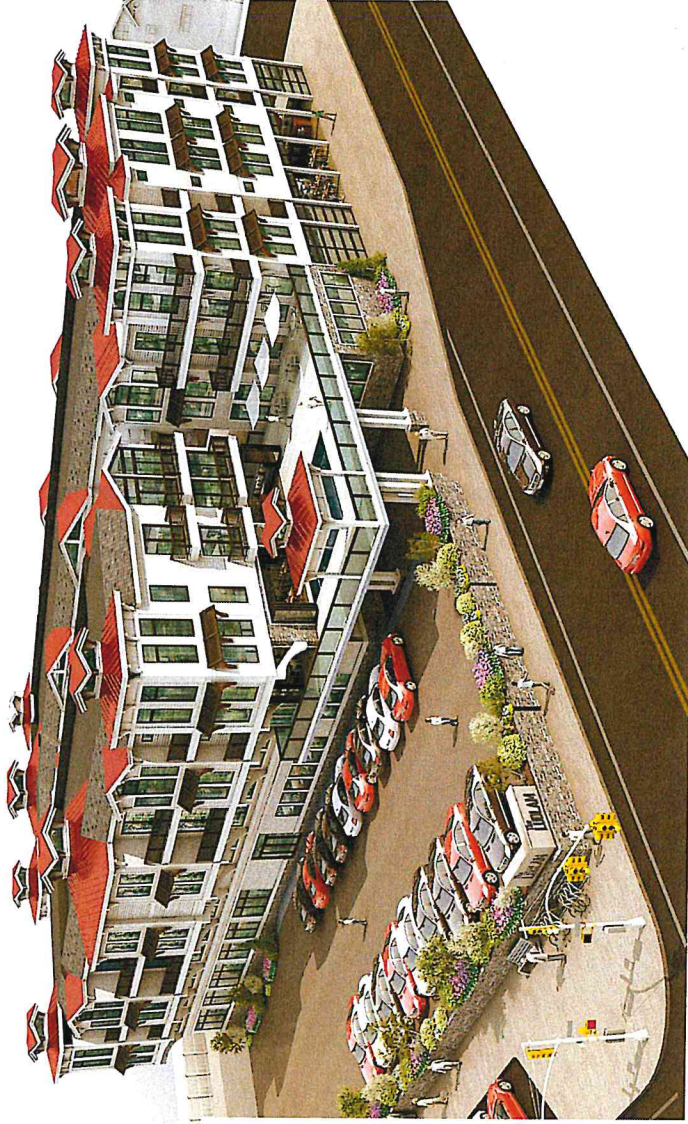
The Ludlam Bar & Grill will receive a major upgrade with a new year-round indoor/outdoor bar on the ground level of Landis Avenue.



Ludlam Pool Bar

ELEVATED POOL EXPERIENCE

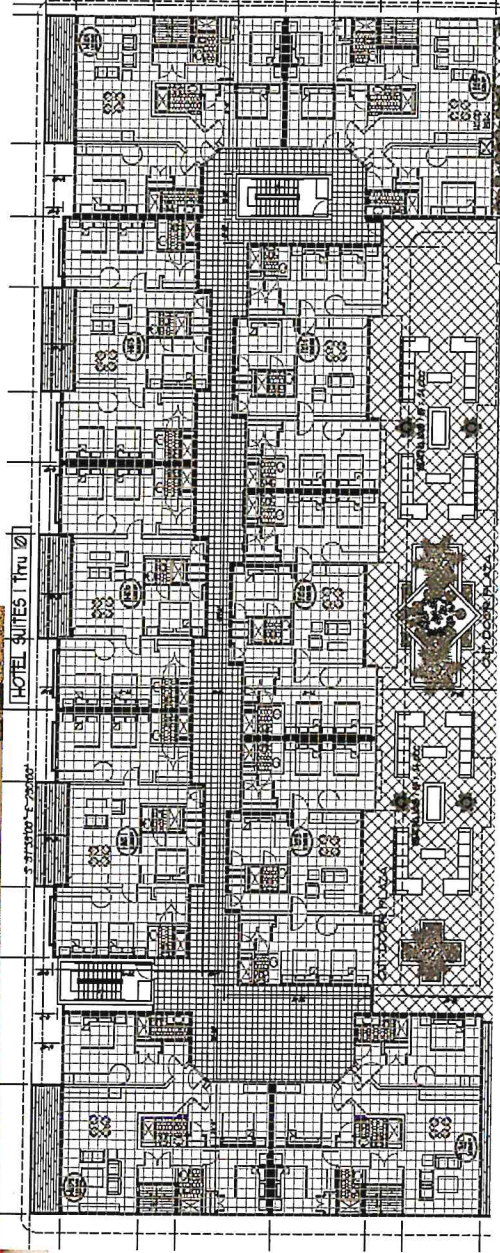
Coming in Summer 2026, our pool and pool bar area are for hotel guests and residents only.



Ludlam Hotel

26 ROOMS AND SUITES

The current renovated Ludlam Hotel with 24 rooms has been fully occupied for the last two seasons. This demonstrates the demand for additional rooms in the new building.



Shorebreak Resorts

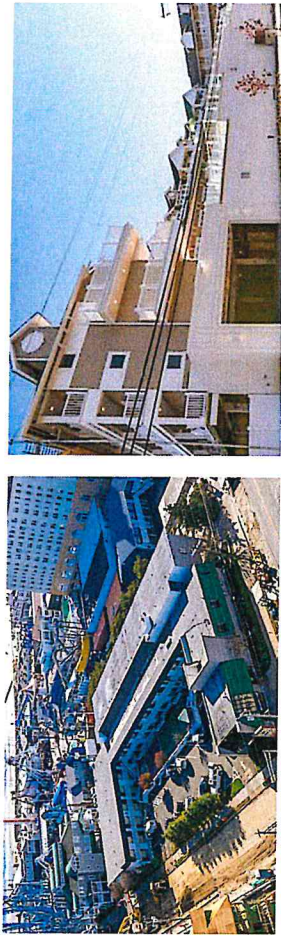
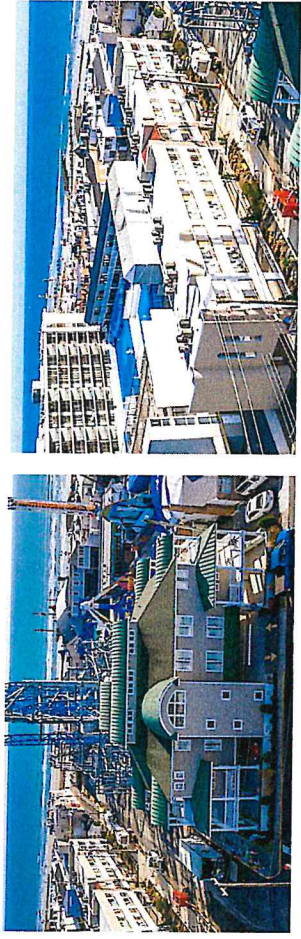
OVERVIEW OF OUR AFFILIATED HOTELS

Shorebreak Resorts is the parent company that manages and operates over 160 rooms./ suites across 6 property locations in Ocean City and Sea Isle City.

Cape May County's finest resorts built for seaside living. Located by the shorelines of Sea Isle City and Ocean City, our goal is to give guests an experience like no other. Our accommodations range from quaint inns to upscale suites and are designed to provide that comfortable feeling of being home, with all of the perks that your favorite shore town can offer. Each property that is a part of Shorebreak Resorts is ideally located within 1-2 blocks of the beach. Utilize your free parking space(s), check-in with our welcoming staff, and walk into a room or suite with fully equipped amenities, where the beds are made, towels and toiletries are set, and enjoy a relaxing space to call home by the beach.



WWW.SHOREBREAKRESORTS.COM



**EBB TIDE SUITES • WILD DUNES INN
IMPALA ISLAND INN • IMPALA SUITES
THE DUNES • LUDLAM HOTEL**

Thank You

Chris Glancey

609.432.9036

