

CASINO REINVESTMENT DEVELOPMENT AUTHORITY
LAND USE REGULATION AND ENFORCEMENT DIVISION
PUBLIC HEARING

RE: CORY PARKING, LLC
2016-06-1945

Thursday - June 30, 2016

CASINO REINVESTMENT DEVELOPMENT
AUTHORITY PUBLIC HEARING, taken in the offices
of CASINO REINVESTMENT DEVELOPMENT AUTHORITY, 15
South Pennsylvania Avenue, Atlantic City, New
Jersey, before Karen Winkler, a Certified Court
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1 above date, commencing at 10:46 A.M., there
2 being present:

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6
7
8 APPEARANCES:

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11 LANCE B. LANDGRAF, JR.,
 Hearing Officer

12
13
14
15 RYKER, DANZIG, SCHERER, HYLAND
 & PERRETTI, LLP

16 BY: SCOTT G. COLLINS, ESQUIRE
 Attorney for CRDA

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18
19
20 ROBERT REID,
 Land Use Regulation and
21 Enforcement Officer
22
23
24
25

1 APPEARANCES - CONTINUED:

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5 JUSTIN AUCIELLO, PP, AICP
COFONE CONSULTING GROUP, LLC

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7
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10
11
12 CALLAGHAN, THOMPSON & THOMPSON,
P.C.

13 BY: BRIAN J. CALLAGHAN, ESQUIRE
Attorney for Applicant

1 LANCE LANDGRAF: So, this
2 application is for 2016-06-1945, Cory Parking,
3 LLC. The address is 147 South Martin Luther
4 King Boulevard. That's block 48, lots 12, 13
5 and 14.

6 Mr. Callaghan?

7 BRIAN CALLAGHAN: Good morning.
8 Brian Callaghan, law firm of Callaghan, Thompson
9 & Thompson, on behalf of Cory Parking, LLC.

10 Mr. Reid, I presume all notices
11 have been properly noticed?

12 ROBERT REID: That's correct.

13 BRIAN CALLAGHAN: This is a parking
14 lot in the beach block. We believe that this is
15 an RS-C zone. 1979 test year.

16 And going through Miss Cofone's
17 report, she indicates lot 12 was the Traymore
18 parking garage. So, it was a parking facility
19 which was then torn down and turned into a
20 parking lot in 1982.

21 Lot 13 preexisted the 1979 test
22 year, and then lot 14 was a combination of the
23 Lombardi Motel and then the Village Motel, which
24 was knocked down in 1990 and turned into
25 parking.

1 So, as a stand-alone parking lot,
2 lot 13 would appear to be qualified for a
3 certificate of nonconformity, and lots 12 and 14
4 don't meet the test year. We believe, however,
5 it's under common ownership and that it can be
6 used as an accessory to our stores, which are on
7 the front part of the property.

8 And I'll have Mr. Barnhart sworn
9 in, and he can walk you through the map to show
10 you how we're laid out.

11 LANCE LANDGRAF: Okay.

12 BRIAN CALLAGHAN: We also, as part
13 of our exhibit package --

14 I guess you had mercantile history
15 once again. Mr. Boland probably had about eight
16 or 10 years of mercantile history, where the
17 property's been --

18 He was our tenant for the last
19 three years that we've owned it, operating it
20 for us as a parking lot facility, before we
21 decided to become owner/operators in that sense.

22 Mr. Barnhart?

23 SCOTT COLLINS: Before we start --

24 We're jumping around a lot. Let's
25 mark A-1, which you referred to just now.

1 BRIAN CALLAGHAN: That's fine.

2 SCOTT COLLINS: You also referred
3 to the Cofone review letter, dated --

4 JUSTINE AUCIELLO: That's June 22nd
5 of this year.

6 BRIAN CALLAGHAN: Yes.

7 SCOTT COLLINS: Call that B-2, if
8 we're going to be talking about it.

9 Are you going to be referring to a
10 plan?

11 JON BARNHART: Yes.

12 JUSTIN AUCIELLO: That's not
13 submitted with the application materials?

14 JON BARNHART: This plan is
15 slightly different than the one that was
16 submitted, because I expand out so you can see
17 the parcels on the Boardwalk frontage.

18 SCOTT COLLINS: I can't see from
19 here.

20 JON BARNHART: Well, parking lot
21 plan for land use certificate.

22 LANCE LANDGRAF: What's the date on
23 that, Jon?

24 JON BARNHART: We actually prepared
25 it this morning. So, today's date.

1 LANCE LANDGRAF: June 30th.

2 SCOTT COLLINS: Before you start,
3 note for the record that Mr. Barnhart was sworn
4 in and qualified as an expert in the fields of
5 professional planning AND professional
6 engineering, moments ago, if you want to
7 continue recognizing his credentials.

8 LANCE LANDGRAF: I need to take two
9 minutes, because I need to let some people know
10 that I'm not going to be at an 11:00 meeting.
11 So, if I could take two minutes.

12 BRIAN CALLAGHAN: Sure.

13 (Brief recess from 10:50 A.M. until
14 10:51 A.M.)

15 LANCE LANDGRAF: Thank you.

16 We'll reconvene. Thank you. All
17 right. Proceed.

18

19 (JON BARNHART, previously sworn.)

20

21 JON BARNHART: Okay. Mr. Callaghan
22 identified the property.

23 This site runs from Martin Luther
24 King, Jr. Boulevard and the Boardwalk block --
25 you see the Boardwalk to the right -- over to

1 Kentucky Avenue.

2 As pointed out, the parking -- the
3 surface parking facility, basically, sits on
4 three lots. Lot 12, which is the lot that's
5 about 75 feet wide, a little over 150 feet in
6 depth. As Mr. Callaghan pointed out, it was the
7 prior site of a parking garage structure.

8 Lot 13, which is the balance of the
9 frontage on Martin Luther King Boulevard, is a
10 surface parking lot. And as we understand it
11 from Miss Cofone's report and the information
12 provided as part of the application, it meets
13 the test year requirements for a surface parking
14 facility.

15 So, that's that rectangle that I'm
16 outlining with my finger.

17 And then the balance sits on 14,
18 which is a square-shaped parcel up on Kentucky
19 Avenue, which we understand does not meet the
20 test year requirements.

21 So, what we're seeking this morning
22 is acknowledgment of the certificate of
23 nonconformity for lot 13.

24 And the owner of these properties
25 -- there's one owner of these properties -- also

owns lots 16, 17, 18, and 19 Boardwalk stores.

And then he also owns lots 23, 24 and 25 Boardwalk stores. So, he owns that entire parcel and that entire parcel.

So, what we would like to do is to acknowledge certificate of nonconformity for that parcel and classify -- or utilize the balance of the parking as accessory to those principal uses that are on the Boardwalk frontage.

What we had talked about was the possibility of obtaining a land use certificate on that basis and then coming back, Brian, if I'm correct, for a site plan to address any site plan comments.

But, what we would like to do to continue to utilize the parcel would be similar to what we had talked about before, like a proceed-at-your-own-risk, so they can keep the lot clean and utilize it in the short term.

Because it is, as you heard from Mr. Santoro, a very popular lot. Even when it was a pay lot, it was always very popular.

This is a heavily traveled area of the Boardwalk, heavily used beach area. And

1 this specific parking facility provides some
2 very convenient parking. So, people are always
3 flocking to it, even when it is for fee.

4 So, we're trying to come up with a
5 solution to allow the lot to continue to be
6 utilized, but, obviously, still within the
7 guidelines of the requirements of the land use
8 ordinance. And we think that we can do that
9 with a certificate of nonconformity for this
10 parcel, utilizing the other parcels as accessory
11 structures to the Boardwalk stores. And then,
12 as Brian pointed out, we would be willing to
13 come back for site plan for the entire parcel
14 and whatever conditions would be necessary at
15 that time.

16 LANCE LANDGRAF: Okay. Because the
17 discussion we had yesterday was lot 13 meets the
18 requirements under the CNC.

19 JON BARNHART: Correct.

20 LANCE LANDGRAF: The other two
21 parcels would be an accessory parking to the
22 Boardwalk stores.

23 The only hitch there was that if
24 you look at the entire site, it's over the two
25 acres that requires the site plan.

1 JON BARNHART: Correct.

2 LANCE LANDGRAF: I guess it's
3 difficult to split up, especially lot 12,
4 because it's really -- you can't access that
5 without coming through lot 13.

6 The thought was, if you could take
7 them apart and operate them as, technically,
8 separate parking lots, then you wouldn't need a
9 site plan.

10 JON BARNHART: Then you're under
11 the two acres. Correct.

12 LANCE LANDGRAF: But, that doesn't
13 happen to say really --

14 BRIAN CALLAGHAN: On the other
15 hand, if lot 13 has a certificate of
16 nonconformity, which is a vested right,
17 statutorily, and you take that out of the
18 equation, you're under the two acres.

19 LANCE LANDGRAF: Correct. Correct.
20 And that's what I'm saying. But, how do you
21 operate lot 12 as a separate --

22 14 you can do, because it has
23 access to Kentucky. You put a chain across and
24 up and function and pull that down. The fact
25 that people cross that line doesn't bother me,

1 if they have separate access points.

2 Lot 12, is there access? Is that
3 where the access is?

4 BRIAN CALLAGHAN: Yes.

5 LANCE LANDGRAF: So, that one can
6 function by itself. It's all interconnected.

7 I'm trying to find a way to do it
8 without --

9 JON BARNHART: Understood. That's
10 what we're trying to accomplish, too.

11 There's a number of different ways
12 to look at it. I guess my question would be --

13 LANCE LANDGRAF: Do you see what
14 I'm trying to get at?

15 ROBERT REID: Lot 13 would require
16 its own access to be a stand-alone entity to
17 comply with the certificate of nonconformity.

18 LANCE LANDGRAF: And that doesn't
19 have its own access point, does it? It comes
20 through lot 12?

21 JON BARNHART: Correct.

22 BRIAN CALLAGHAN: The other
23 question that you also have to consider, in the
24 sense of, you know, lot 12, technically, it was
25 demolished and turned into a surface parking lot

1 in 1982, but it was a parking facility prior to
2 '80, because it's the Traymore parking garage.
3 So, is there really a substantial difference
4 between a parking garage and a parking lot when
5 it comes to a certificate of nonconformity? It
6 was all parking.

7 ROBERT REID: The tax records show
8 it as first-floor garage parking, second-floor
9 storage for the hotel. So, it wasn't purely for
10 parking.

11 BRIAN CALLAGHAN: But, first floor
12 was.

13 ROBERT REID: Right.

14 BRIAN CALLAGHAN: So, it's no
15 longer there. So, first floor still is.

16 JUSTIN AUCIELLO: Rob, was that the
17 accessory parking to the hotel? That wasn't
18 stand-alone?

19 ROBERT REID: That's correct.

20 BRIAN CALLAGHAN: The hotel wasn't
21 contiguous. The hotel was across the street.

22 ROBERT REID: It was still an
23 accessory to the hotel. It wasn't a stand-alone
24 parking. Accessory to the hotel, which was
25 across the street.

1 JUSTIN AUCIELLO: So, it couldn't
2 have existed without the hotel.

3 ROBERT REID: That's correct.

4 BRIAN CALLAGHAN: So, that becomes
5 our question, as to why can't that lot then
6 become accessory to the Boardwalk stores?

7 LANCE LANDGRAF: To the solicitor's
8 question to me, based on --

9 Is it really fair to say that the
10 parking is accessory to these stores? Because
11 the parking number far exceeds the requirement
12 of those stores. But, I would ask the question,
13 you know, people park in casino garages all the
14 time, and that's accessory parking to the
15 casino, and don't go to that casino. They go to
16 the beach, go to the Boardwalk. I did it last
17 night. I parked in Resorts and went to
18 Landshark. That's part of their facility, I
19 guess, but it's not in their building. I parked
20 on their surface lot, which is accessory to
21 their casino.

22 I don't know if we split those
23 hairs within the city. As long as it's tied to
24 a business, you don't necessarily have to go to
25 that business if you park there. Because it's a

1 charge. It's not a free lot if you're going to
2 that store.

3 JON BARNHART: Correct. That's not
4 unusual. You've got new projects that are doing
5 that.

6 Bass Pro Shops. They have a
7 parking lot that's accessory, but you can go
8 park and pay and never go into the Bass Pro
9 Shops and pay your hourly rate, just like you
10 were to pay --

11 LANCE LANDGRAF: They do park there
12 for The Walk. It's not invalid.

13 But, I guess the accessory part of
14 it --

15 BRIAN CALLAGHAN: That's why, if we
16 took out the CNC --

17 Because we have 300 spaces. And
18 lot 13 is about --

19 MR. NAGELBERG: About 180.

20 BRIAN CALLAGHAN: Then you're down
21 to accessory.

22 Technically, 120 spaces, for 15,000
23 square feet of storefront, now you're in the
24 ballpark.

25 ROBERT REID: You've got to

1 understand. The ordinance defines the two acres
2 as being all owned by the same entity. And this
3 is all owned by the same entity. So, whether
4 it's separated or not, it's still adjoining and
5 owned by the same entity, the way the ordinance
6 is written. So, it's still two acres.

7 BRIAN CALLAGHAN: Once again, if
8 you have a certificate of nonconformity, it's
9 statutorily vested. So that the site plan
10 conditions technically don't apply to that
11 particular piece.

12 ROBERT REID: Just to that tract.

13 BRIAN CALLAGHAN: Yes.

14 ROBERT REID: But, it doesn't
15 eliminate the description of the two-acre limit,
16 in terms of continuous ownership.

17 LANCE LANDGRAF: How much area is
18 involved with lot 12, 14 and the Boardwalk
19 stores?

20 ROBERT REID: Well, this right here
21 is 2.48 acres. And then, when you add the
22 Boardwalk stores, that's over an acre.

23 LANCE LANDGRAF: So, we take out --
24 How much is lot 13? How big is lot
25 14? How many acres, Jon?

1 You know what? I think we're
2 probably getting --

3 It's 1.12 acres.

4 BRIAN CALLAGHAN: If you take the
5 Boardwalk stores, plus 12 and 14, you're back
6 over two, as a combined site.

7 LANCE LANDGRAF: One of the things
8 you said, when you first started this
9 application, is that you'd be willing to submit
10 a site plan for these.

11 BRIAN CALLAGHAN: Correct.

12 LANCE LANDGRAF: Maybe that's the
13 way we go, instead of trying to split these
14 things up. Maybe that's the easy way to go.

15 I don't want to lose 300 parking
16 spaces the weekend before or two days before the
17 holiday weekend.

18 BRIAN CALLAGHAN: Needless to say,
19 either do we. Neither does Mr. Santoro want to
20 come out with a cleaning crew.

21 MR. SANTORO: One way or another,
22 people will be parking there, even if you
23 barricade it.

24 JON BARNHART: You have an operator
25 there. Now you have someone to yell at, too.

1 LANCE LANDGRAF: Rick doesn't yell.

2 I think we get away from splitting
3 this thing up into four different hairs and look
4 at it as a whole site, that it's been operating
5 as a parking lot.

6 Whether or not there's some legal
7 paperwork that needs to fine-tune this thing,
8 you know --

9 Lot 13 has existed well before the
10 date that it had to exist by. The question is,
11 on the other two parcels, they're willing to
12 submit a site plan to show us some landscaping.

13 And it looks like five foot is
14 being shown on your plan around there?

15 JON BARNHART: Those lots were
16 already set up to meet those requirements when
17 they were built.

18 LANCE LANDGRAF: Okay. Good.

19 BRIAN CALLAGHAN: They were built
20 in conjunction with the Sands Hotel Casino, as
21 accessory parking to the Sands. So, when the
22 Sands got knocked down, those parking lots were
23 done.

24 So, they were built, generally
25 speaking, based on the requirements back in the

1 early '80s as to parking, landscaping, et
2 cetera. So, they're in pretty good shape.

3 LANCE LANDGRAF: Okay. So, I guess
4 -- what I guess we need to decide is that we're
5 okay, that we can operate these two as accessory
6 to the Boardwalk stores, as well as with the
7 condition that there will be a site plan
8 submitted for them at some subsequent time.
9 Hopefully, in July. Maybe not for the 7th,
10 obviously, but for that second meeting.

11 We could give them a letter, like I
12 did it for Borgata, to get up and operating, get
13 started with their Festival Park, that they
14 could operate this parking lot. It's been
15 operating. It's built, for all intents and
16 purposes, for the Sands, as they just indicated,
17 to meet certain criteria.

18 Are you done with us being able to
19 --

20 SCOTT COLLINS: You don't have to
21 make your decision now.

22 LANCE LANDGRAF: Right.

23 SCOTT COLLINS: If you think that
24 you have information that you have to make your
25 decision --

1 LANCE LANDGRAF: Okay.

2 BRIAN CALLAGHAN: Off the record,
3 we can talk about --

4 LANCE LANDGRAF: The machinations
5 of it.

6 BRIAN CALLAGHAN: Mr. Landgraf, I
7 would also, just for the record --

8 I mean, as you know, we have filed
9 a redevelopment plan. And, at least according
10 to Mr. Kaufman, now I'm on City Council for
11 July 13th for a referral to the board. I'm on
12 the planning board for August 2nd.

13 I haven't responded to some of your
14 comments, so we would then, God willing, go back
15 to City Council for final approval.

16 As part of that redevelopment plan,
17 stand-alone parking lots have now become a
18 permitted -- we've added it as a permitted use
19 in our category.

20 ROBERT REID: Subject to the site
21 plan approval.

22 BRIAN CALLAGHAN: Correct.

23 LANCE LANDGRAF: So, yeah. But, by
24 August, this whole thing will be a permitted use
25 and we'll all be happy with it. But, you want

1 to be up and running before that.

2 BRIAN CALLAGHAN: Correct.

3 LANCE LANDGRAF: I get that.

4 I don't want to lose, like I said,
5 300 parking spaces the week before July 4th, 145
6 feet from the Boardwalk and beach. So, I
7 think --

8 Let's do this. Do you have
9 anything else on this?

10 BRIAN CALLAGHAN: Nothing else.

11 LANCE LANDGRAF: We'll open this to
12 the public at this time. Does anybody have any
13 comments on application 2016-06-1945, 147 South
14 Martin Luther King Boulevard?

15 Rick, anything on this one?

16 RICHARD SANTORO: The same general
17 comments. Operator seal it up.

18 And I'll add, anything that we can
19 help you with, if you move forward and have
20 something of an emergent need, anything that we
21 can help you do to make sure, we'll help you.

22 BRIAN CALLAGHAN: We'll call if we
23 need you.

24 LANCE LANDGRAF: Mr. Santoro was
25 sworn during the previous application, just for

1 the record.

2 No one else from the public. We'll
3 close the public portion.

4 And anything else back from us?

5 JUSTIN AUCIELLO: I would tend to
6 agree that, you know, subject to a site plan
7 that shows landscaping, that shows some of the
8 improvements that were discussed, I would be
9 comfortable, at this point, in moving forward,
10 you know, to the next stage, to allow them to
11 operate for the holiday weekend, but only
12 subject to that site plan being submitted in the
13 next month.

14 BRIAN CALLAGHAN: That's fine.

15 LANCE LANDGRAF: Okay. With
16 nothing else --

17 Nothing else, Rob?

18 ROBERT REID: No. Nothing to add.

19 LANCE LANDGRAF: We'll close this
20 application as well.

21 And, like I said, we'll discuss,
22 afterwards, how we can move this thing forward a
23 little bit. You are going to submit a site
24 plan, but I think we're comfortable enough that
25 we can make a hearing officer recommendation to

1 move this one forward.

2 BRIAN CALLAGHAN: We have
3 prepared --

4 In speaking with Mr. Finch, he had
5 said that anything --

6 We have a mercantile package turned
7 in to the Mercantile Department. And we can
8 withdrawal the 18 South Martin Luther King. I
9 think what he's looking for from your department
10 is just some type of able to
11 proceed-at-your-own-risk, pending these things
12 happening. We could turn that in. He'll issue
13 the mercantile license on a temporary basis,
14 pending final letters from you.

15 At least we would then be
16 operational.

17 And, Mr. Santoro, Cory has your
18 card, so we'll make sure we have all of your
19 contact information.

20 Once again, thank you very much.

21 ROBERT REID: Thank you.

22 LANCE LANDGRAF: Thank you.

23 For the public's benefit, our next
24 scheduled meeting is July 7th, at 10:00 A.M.

25 This applicant will be back at that

1 date. We anticipate the applications will be on
2 the board agenda.

3 With no other public comment, we'll
4 close this public hearing today.

5 Thank you.

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7 (The hearing was concluded at 11:08
8 A.M.)
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