

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL FOR CONSTRUCTION OF AN OUTDOOR EVENT AREA AT THE BORGATA HOTEL, SPA AND CASINO LOCATED AT LOTS 1.05, 1.07, 1.08, 1.10 AND 1.12 OF BLOCK 576, UNDER APPLICATION 2014-12-1307

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the "Act"), the Casino Reinvestment Development Authority (the "Authority"): (i) designated the Atlantic City Tourism District by Resolution 11-25 adopted April 19, 2011, (ii) established the Land Use Regulation and Enforcement Division to, among other matter, hear applications for development in the Tourism District by Resolution 11-33 adopted April 19, 2011, and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34 adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14 dated February 1, 2012, the Authority adopted the "New Jersey CRDA Atlantic City Tourism District Master Plan" prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the "Master Plan") (as affirmed and readopted pursuant to Resolution 12-23 adopted February 21, 2012), subject to further comment and revision, which master plan shall become effective upon the adoption of design, development and land use regulations consistent therewith, and in accordance with N.J.S.A 5:12-220a, the Atlantic City Master Plan dated September of 2008 (as adopted by the CRDA pursuant to Resolution 11-34 dated April 19, 2011) shall remain effective for development applications received by the CRDA until adoption of such regulations; and

WHEREAS, Marina District Development Company, LLC (the "Applicant") seeks preliminary and final site plan approval pursuant to the Municipal Land Use Law P. L. 1975, c. 291 (C.40:55D-1 *et seq.*) for a proposed outdoor event area that will include a performance stage, viewing area, seating, and food and beverage service on the property located at lots 1.05, 1.07, 1.08, 1.10 and 1.12 of block 576, under application 2014-12-1307 (the "Application"); and

WHEREAS, on February 19, 2015, the Authority's Land Use Regulation and Enforcement Division convened a public hearing on the Application in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered the Hearing Officer's Report and Recommendation dated March 19, 2015 (the "Report"), incorporated herein by this reference and appended hereto as Exhibit "A"; and

WHEREAS, the Authority intends to adopt the findings, conclusions and recommendations of the Hearing Officer, as detailed in the Report; and

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.
2. Based on the record in this matter, Application 2014-12-1307 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated March 19, 2015.
3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 15-43 of the Casino Reinvestment Development Authority.



HOWARD J. KYLE, SECRETARY

MEETING OF APRIL 21, 2015

EXHIBIT "A" – HEARING OFFICER REPORT FOR APPLICATION 2014-12-1307



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 15-43 ADOPTED 4/21/2015

TO: Members of the Authority

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

COPY: John F. Palmieri, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application 2014-12-1307
Marina District Development Company, LLC
Block 576, Lots 1.05, 1.07, 1.08, 1.10 & 1.12
Preliminary and Final Site Plan

DATE: March 19, 2015

EXECUTIVE SUMMARY

On February 19, 2015, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Marina District Development Company, LLC (the "Applicant"), seeks preliminary and final site plan approval for the construction of an outdoor event area at the existing Borgata Hotel, Spa and Casino, together with landscaping and related site improvements on the property located at Block 576, Lots 1.05, 1.07, 1.08, 1.10 & 1.12 in the city of Atlantic City. The outdoor event area will include a performance stage, viewing area, seating, and food and beverage service.

During the hearing, the Applicant presented adequate evidence and testimony to satisfy the requirements of the Municipal Land Use Law for the grant of the requested relief. Specifically, the evidence and testimony demonstrated that the development proposal generally conforms to the site plan standards and technical requirements of the land use ordinances of the city of Atlantic City. Therefore, as more fully outlined below, the

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

Applicant has met its burden for the relief requested under the Municipal Land Use Law and the Hearing Officer recommends that the Application be approved by the Authority.

INTRODUCTION

Application Information

Marina District Development Company, LLC
Block 576, Lots 1.05, 1.07, 1.08, 1.10 & 1.12
R-Resort District
Huron North Redevelopment Area

A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

Applicant seeks preliminary and final site plan approval for the construction of an outdoor event area at the existing Borgata Hotel, Spa and Casino, together with landscaping and related site improvements on the property located at Block 576, Lots 1.05, 1.07, 1.08, 1.10 & 1.12 in the city of Atlantic City. The outdoor event area will include a performance stage, viewing area, seating, and food and beverage service.

Evidence List

- A-1 Video Presentation of Development Proposal
- A-2 Rendered Version of Site Plan, Sheet C-01
- A-3 Review Letter dated February 13, 2015 from PS&S

- B-1 Letter from Adams, Rehman & Heggan Associates, Inc. dated February 2, 2015

FINDINGS OF FACT

Applicant seeks preliminary and final site plan approval for the construction of an outdoor event area at the existing Borgata Hotel, Spa and Casino, together with landscaping and related site improvements on the property located at Block 576, Lots 1.05, 1.07, 1.08, 1.10 & 1.12 in the city of Atlantic City. The outdoor event area will include a performance stage, viewing area, seating, and food and beverage service.

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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

The Applicant presented the testimony of Michael P. Cohen, P.E., who was qualified as an expert in the field of professional engineering. Mr. Cohen described the location of the site, as well as development proposal, site layout and design. He explained that the outdoor event area will include a large performance stage, a smaller stage, a bar for food and beverage service, a "beach" area in the center of the development, landscaping and fire pits. The outdoor event area can accommodate approximately 4,800 people and will host concerts, festivals and other large public gatherings.

Mr. Cohen testified as to all proposed lighting, drainage, access, site circulation, landscaping and utilities. He noted that electrical and plumbing utility service will be extended from the existing Borgata structure. As no sanitary sewer service is proposed, the improvements will also include portable outdoor restrooms. He testified that the outdoor event space will be used during the summer season only, and will be closed up for the winter.

Mr. Cohen testified that the development proposal complies with all requirements of the Huron North Redevelopment Plan and the land use ordinances of the city of Atlantic City. Specifically, the proposed use is permitted and all bulk zoning requirements are met. Finally, Mr. Cohen testified that the Applicant agrees to comply with comments in the review letter from Adams, Rehman & Heggan Associates, Inc. dated February 2, 2015.

Christine Cofone, P.P. of Cofone Consulting Group was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Cofone introduced the letter from Adams, Rehman & Heggan Associates, Inc. dated February 2, 2015 and noted that she was a co-signatory on the letter, which was marked as Exhibit B-1. Ms. Cofone opined that the development proposal is consistent with the Huron North Redevelopment Plan and advances the purposes of the tourism district master plan.

William England of Adams, Rehman & Heggan Associates, Inc. was qualified as an expert in professional engineering and provided testimony on behalf of the Authority. Mr. England testified that the Applicant had responded to all of the issues in the Adams, Rehman & Heggan review letter by correspondence dated February 13, 2015, which was

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

marked as Exhibit A-3. Mr. England supported the development proposal and the grant of the requested relief.

CONCLUSIONS OF LAW

Preliminary and Final Site Plan Approval

A land use agency's authority in reviewing an application for site plan approval is limited to determining whether the development plan conforms to the zoning ordinance and the applicable provisions of the site plan ordinance. See Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216 (1994).

Here, based on the evidence and testimony, the Applicant has demonstrated that development proposal generally conforms to the site plan standards and technical requirements of the land use ordinances of the city of Atlantic City.

RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for preliminary and final site plan approval be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions of prior approvals, satisfying all representations made by the Applicant or by others on its behalf during the course of the hearing on this matter before the Hearing Officer.

The grant of approval shall be further conditioned upon compliance with all applicable requirements of the city of Atlantic City Land Use Ordinances, or other City Ordinances, and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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CRDA BOARD TALLY

April 21, 2015

MARINA DISTRICT DEVELOPMENT COMPANY, LLC (1 Borgata Way, Block 576, Lots 1.05, 1.07, 1.08, 1.10, 1.12, Huron North Redevelopment Area) – Preliminary and final site plan approval of the Borgata Outdoor Event Area (LL)

MOTION

HK

SECOND

ML

Tom Ballance

recused

Bob Bartolone for Charles A. Richman

Y BB

Debra DiLorenzo

Y

Edward Gant

A

Mark Giannantonio

Y

Mayor Don Guardian

Y

Gary Hill

Y

David Rebeck for John Hoffman

Y DR

Howard Kyle

Y

Matthew Levinson

Y

Robert Mulcahy

Y

William Mullen

Y

Gary Puma

Y

Bob Shaughnessy for Andrew Sidamon-Eristoff

Y BS

Frank Spencer

A

Richard Tolson

Y

Chairman James Kehoe

Y