



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## EXHIBIT "A" TO RESOLUTION 15- , ADOPTED 3/23/2015

**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 10, 2015

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### 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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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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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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