



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 16- , ADOPTED 2/16/2016

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 2015-12-1763
ACB Ownership, LLC
Boardwalk and MLK Boulevard Redevelopment Area
Block 48, Lots 13, 18 & 19
Preliminary and Final Site Plan

DATE: February 6, 2016

EXECUTIVE SUMMARY

On January 21, 2016, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, ACB Ownership, LLC (the "Applicant"), seeks Preliminary and Final Site Plan approval for the development of a multi-level amusement/entertainment complex located along the Boardwalk at Block 48, Lots 13, 18 and 19 in the city of Atlantic City.

The complex will have a total area of approximately 110,000 square feet and be comprised of a roller coaster attraction commercially known as the "Polercoaster", which will consist of an approximately 350-foot tall tower with the roller coaster rail attached. The complex will also include a two-car drop ride, a surf club and wave pool, other rides and attractions, amusements, games, event space, retail and food service. The Application does not require any variances or design waivers.

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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. 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 and no variances are required. Therefore, as more fully outlined below, the 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

ACB Ownership, LLC
Boardwalk and MLK Boulevard Redevelopment Area
Block 48, Lots 13, 18 & 19
Preliminary and Final Site Plan

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.

The Applicant seeks Preliminary and Final Site Plan approval for the development of a multi-level amusement/entertainment complex located along the Boardwalk at Block 48, Lots 13, 18 and 19 in the city of Atlantic City.

Evidence List

- A-1 Application
- A-2 Revised Electronic Submission

- B-1 Letter from INSITE Engineering, Inc. dated January 19, 2016

FINDINGS OF FACT

The Applicant seeks Preliminary and Final Site Plan approval for the development of a multi-level amusement/entertainment complex located along the Boardwalk at Block 48, Lots 13, 18 and 19 in the city of Atlantic City. The complex will have a total area of

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approximately 110,000 square feet and be comprised of a roller coaster attraction commercially known as the “Polercoaster”, which will consist of an approximately 350-foot tall tower with the roller coaster rail attached. The complex will also include a two-car drop ride, a surf club and wave pool, other rides and attractions, amusements, games, event space, retail and food service. The Application does not require any variances or design waivers.

The attorney for the Applicant, Nicholas Talvacchia, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. He noted that the development proposal represents an attractive tourism destination facility.

The Applicant presented the testimony of Bernie Friedman, who is a 1/3 owner of the development project. He testified as to the market study noting the appropriateness of the location of the development project, and the likelihood that the development project will promote tourism to such location. He also testified that the development project will create approximately 200 new full-time jobs for local residents.

The Applicant presented the testimony of Arthur Ponzio, P.P., who was qualified as an expert in the field of professional planning. Mr. Ponzio described the location of the site, existing conditions and development proposal. He testified that the development proposal complies with all applicable land use and site plan standards and that no variances or design waivers are required. He noted that the site plan will be revised to add a loading space to obviate the need for any variance or waiver related to loading. He further testified as to the availability of off-site parking in the vicinity of the Property that the Applicant will enter into a parking agreement to provide off-site parking as a condition of any approval granted by the Authority. Finally, Mr. Ponzio testified that signage will be the subject of a future application, and will conform to all zoning requirements.

The Applicant presented the testimony of Jon Barnhart, P.E., P.P., who was qualified as an expert in the field of professional engineering. Mr. Barnhart provided testimony regarding drainage, lighting, landscaping and site plan design issues. He noted that the structure will occupy approximately 97% of the site and that site planning issues are minimal. He testified that all existing infrastructure is adequate to support the development proposal, and that any new infrastructure installations will comply with city requirements. Finally, he testified that the development proposal complies with all

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applicable land use and site plan standards and that no variances or design waivers are required.

The Applicant presented the testimony of David Shropshire, who was qualified as an expert in the field of transportation planning. Mr. Shropshire testified as to loading movements at the site, and that no 18-wheelers will make deliveries to the site, but smaller trucks could make the turns necessary to enter the loading area. He opined that the site is primarily designed for pedestrian access, and that existing transportation infrastructure in the vicinity of the site can support the development proposal. Finally, he opined that the traffic circulation to and from the site will be safe and efficient and that the development proposal complies with all of the requirements of the zoning and site plan ordinances.

The Applicant presented the testimony of John Fotiadis, a licensed architect in the State of New Jersey, who was qualified as an expert in architecture. Mr. Fotiadis testified that the ride commercially known as the "Polercoaster" is the centerpiece of the development proposal, but that it also includes other rides, amusements, entertainment components, a wave pool, retail and food and beverage service. Mr. Fotiadis testified as to the architectural features of the development proposal, as well as the building floor plans and layout. He explained the schematics and elevations of each of the six proposed levels in detail.

Jason L. Fichter, P.E., P.E. provided expert testimony in the field of professional planning on behalf of the Authority. Gregory B. Domalewski, P.E. provided expert testimony in the field of professional engineering on behalf of the Authority.

Brian Callahan, who represents the land owners and partners on the project offered comments in support of the Application.

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).

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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 be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions set forth in the professionals reports and must satisfy 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.