



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

## EXHIBIT "A" TO RESOLUTION 18- , ADOPTED 1/30/2018

**TO:** Members of the Authority

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

**COPY:** Christopher M. Howard, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
Application #2018-02-2328  
Boardwalk 1000, LLC  
Preliminary and Final Site Plan Approval and Variances Pursuant to  
N.J.S.A. 40:55D-70(c)  
1000 Boardwalk at Virginia Avenue  
Block 61, Lots 1-20, 30-32 (air rights) & 33  
RC Resort Commercial Zoning District

**DATE:** April 4, 2018

---

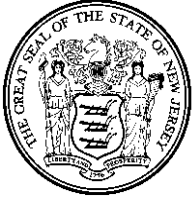
### EXECUTIVE SUMMARY

On March 15, 2018, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Boardwalk 1000, LLC (the "Applicant"), seeks Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to permit signage at the existing Hard Rock Hotel and Casino Atlantic City. The signage plan consists of 80 separate signs of six varieties as follows: four (4) off-site wayfinding signs; nine (9) governmental signs; 25 on-site information signs; twenty-five (25) identification signs on the hotel, casino and parking garage; three (3) business signs on the hotel, casino and parking garage; and fourteen (14) identification signs on the convenience store, gas station and car wash.

Page 1 of 6

*CONFIDENTIALITY NOTICE: This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*

Error! Unknown document property name.



# Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

The Applicant demonstrated by evidence and testimony that the development proposal generally conforms to the site plan standards and technical requirements of the Authority's Tourism District Land Development Rules. In addition, the Applicant demonstrated by evidence and testimony that the grant of the requested variances is warranted. Therefore, for the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.

## INTRODUCTION

### Application Information

Boardwalk 1000, LLC  
Preliminary and Final Site Plan Approval with Variances Pursuant to N.J.S.A. 40:55D-70(c)  
1000 Boardwalk at Virginia Avenue  
Block 61, Lots 1-20, 30-32 (air rights) & 33  
RC Resort Commercial Zoning District

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 with variances pursuant to N.J.S.A. 40:55D-70(c) to permit signage at the existing Hard Rock Hotel and Casino Atlantic City. The signage plan consists of 80 separate signs of six varieties as follows: four (4) off-site wayfinding signs; nine (9) governmental signs; 25 on-site information signs; twenty-five (25) identification signs on the hotel, casino and parking garage; three (3) business signs on the hotel, casino and parking garage; and fourteen (14) identification signs on the convenience store, gas station and car wash. allow the construction of a service station, convenience store and car wash on the subject property.

### Evidence List

- A-1 Application Materials
- A-2 Digital Presentation
  
- B-1 Letter from Cofone Consulting Group, LLC dated March 7, 2018

Page 2 of 6

***CONFIDENTIALITY NOTICE:** This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*

**Error! Unknown document property name.**



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

### FINDINGS OF FACT

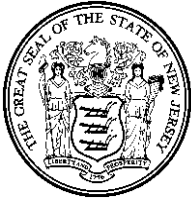
The Applicant seeks Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) to permit signage at the existing Hard Rock Hotel and Casino Atlantic City. The signage plan consists of 80 separate signs of six varieties as follows: four (4) off-site wayfinding signs; nine (9) governmental signs; 25 on-site information signs; twenty-five (25) identification signs on the hotel, casino and parking garage; three (3) business signs on the hotel, casino and parking garage; and fourteen (14) identification signs on the convenience store, gas station and car wash.

The attorney for the Applicant, Jack Plackter, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. Mr. Plackter explained that the signage package will serve the Hard Rock Hotel and Casino Atlantic City and proposes a total of 80 signs of six (6) varieties.

The Applicant presented the testimony of Thomas Sykes, a licensed architect and professional planner in the State of New Jersey, who was qualified as an expert in architecture and professional planning. He described the size, type and location of all proposed signs, and indicated that not all proposed signs require variance relief. Mr. Sykes testified that the goal of the signage package is the safety and convenience of patrons navigating the site. He noted that the total square footage of proposed signage is approximately 50% of the approved signage previously located on the property when it was operated as the Trump Taj Mahal. Mr. Sykes testified that the grant of the requested relief advances the purposes of the Authority's Tourism District Land Development Rules by creating a "world-class tourism destination" and implementing practical development controls to spur market-friendly development that creates a desirable visual environment. Finally, he noted that the development proposal is consistent with the pattern of development of other hotel casinos in the Tourism District and will not cause any detriment.

The Applicant presented the testimony of John Barnhart, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. With respect to the variances to pursuant to N.J.S.A. 40:55D-70(c), Mr. Barnhart testified that, as the development proposal is a comprehensive and cohesive signage package for the entirety of the Hard Rock Hotel and Casino Atlantic City, the same justifications are applicable to all requested variances.

*CONFIDENTIALITY NOTICE: This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

Mr. Barnhart testified that the approval of the application for development would advance the purposes of the Municipal Land Use Law by promoting the public health, safety, morals and general welfare (Purpose A) because the site is adequately-sized to accommodate the number, type and size of the proposed signs. He further testified that the development proposal will promote the free flow of traffic (Purpose H) because the proposed signs will direct patrons and the traveling public throughout the approximately 30-acre site. Finally, Mr. Barnhart testified that the development proposal will promote a desirable visual environment (Purpose I) based on the signage package appropriately “brands” the site as a destination.

With respect to the negative criteria, Mr. Barnhart testified that the grant of the variance would advance the purposes of the Tourism District Master Plan and would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Finally, Mr. Barnhart noted that the Applicant will comply with comments set forth in the March 7, 2018 Cofone Consulting Group, LLC review letter as a condition of approval.

Christine Cofone, P.P. was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that the Applicant had provided sufficient testimony to support approval 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).

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 Tourism District Land Development Rules.

*CONFIDENTIALITY NOTICE: This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

### Variances Pursuant to N.J.S.A. 40:55D-70(c)

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

#### Positive Criteria

The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of that deviation would substantially out-weigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

Here, the Applicant seeks variances pursuant to N.J.S.A. 40:55D-70(c) to permit signage at the existing Hard Rock Hotel and Casino Atlantic City. The signage plan consists of 80 separate signs of six varieties as follows: four (4) off-site wayfinding signs; nine (9) governmental signs; 25 on-site information signs; twenty-five (25) identification signs on the hotel, casino and parking garage; three (3) business signs on the hotel, casino and parking garage; and fourteen (14) identification signs on the convenience store, gas station and car wash.

The Applicant presented testimony that the application would advance the purposes of the Municipal Land Use Law by promoting the public health, safety, morals and general welfare (Purpose A) because the site is adequately-sized to accommodate the number, type and size of the proposed signs; promote the free flow of traffic (Purpose H) because the proposed signs will direct patrons and the traveling public throughout the approximately 30-acre site; and promote a desirable visual environment (Purpose I) based on the signage package appropriately "brands" the site as a destination.

#### Negative Criteria

Relief under N.J.S.A. 40:55D-70(c)(2) cannot be granted unless the negative criteria is satisfied. The negative criteria required for all "C" variances is that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance.

***CONFIDENTIALITY NOTICE:** This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

The evidence and testimony demonstrate that the grant of the requested variances will not create any detriment to the public good, and will not substantially impair the purpose and intent of the Tourism District Mast Plan and the Tourism District Land Development Rules.

### RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for Preliminary and Final Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(c) 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.

*CONFIDENTIALITY NOTICE: This Memorandum may contain confidential information that is subject to the attorney-client privilege or is attorney work product. Any disclosure, copying, distribution or use of any of the information contained in or attached to this Memorandum is strictly prohibited. If you receive this Memorandum in error, please immediately contact the CRDA Law Department at 609-347-0500.*

**Error! Unknown document property name.**