

**ORDINANCE
(AS AMENDED)
CITY OF NEW ORLEANS**

CITY HALL: July 28, 2005

CALENDAR NO.: 25,840

NO. 22,053 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER BATT

AN ORDINANCE to administratively amend Ordinance No. 10,406 M.C.S. (Zoning Docket 76/84), as amended, an existing conditional use, to permit construction of a building to house a 700 slot machine gaming floor and additions to the existing facility and site improvements in an RD-2 Two Family Residential District, on multiple squares and multiple lots, in the Third Municipal District, bounded by Fortin Street, Gentilly and Desaix Boulevards, and Belfort and Esplanade Avenues (Municipal Address: 1751 Gentilly Boulevard); and otherwise to provide with respect thereto.

WHEREAS, Zoning Docket Number 33/05 was initiated by Churchill Downs Louisiana Horseracing Co., LLC and referred to the City Planning Commission; and

WHEREAS, the City Planning Commission held a public hearing on this zoning petition and recommended approval, in its report to the City Council dated May 16, 2005, of the Administrative Amendment presented in Zoning Docket Number 33/05; and

WHEREAS, the recommendations of the Planning Commission were upheld and the changes were deemed necessary and in the best interest of the City of New Orleans and were approved, subject to three (3) waivers and twenty (21) provisos in Motion Number M-05-372 of the Council of the City of New Orleans, adopted on June 16, 2005.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS** that Ordinance No. 10,406 M.C.S. (Zoning Docket 76/84) is hereby amended, to
3 permit construction of a building to house a 700 slot machine gaming floor and additions to
4 the existing facility and site improvements in an RD-2 Two Family Residential District, on
5 multiple squares and multiple lots, in the Third Municipal District, bounded by Fortin Street,
6 Gentilly and Desaix Boulevards, and Belfort and Esplanade Avenues (Municipal Address:
7 1751 Gentilly Boulevard); subject to the following waivers and provisos as specifically set forth
8 herein:

9 **WAIVERS:**

- 10 1. The applicant shall be granted a waiver to Article 15, Section 15.2 of the Comprehensive
11 Zoning Ordinance (CZO) waiving forty (40) of the required 440 parking spaces required
12 for the slot machine facility.
- 13 2. The applicant shall be granted a waiver to Article 4, Section 4.5.7 of the Comprehensive
14 Zoning Ordinance (CZO) limiting the maximum height to forty (40) feet to allow a height
15 of forty-seven (47) feet.
- 16 3. The applicant shall be granted a waiver of Article 15, Section 15.6.1 to allow for a
17 maximum fence height of eight (8) feet.

18 **PROVISOS:**

19 No person shall use any of the properties described herein or permit another to use any of those
20 properties described herein for the use authorized by this ordinance, unless the following
21 requirements are met and continue to be met:

- 22 1. The applicant shall comply with all previous zoning requirements including but not
23 limited to the requirements stated within Ordinance Numbers 10026, 10406, 12332, and
24 15667 M.C.S. unless otherwise in conflict with the following provisions.

- 25 2. The applicant shall comply with all requirements of Article 13, Sections 13.10.4 *Existing*
26 *Commercial Amusement or Recreational Development* and 13.10.5 *Racetrack Operation*
27 and requirements as directed in Article 4, Section 4.5.5 (6) of the Comprehensive Zoning
28 Ordinance (CZO).
- 29 3. There shall be no wagering on telecasts of other sporting events other than horse racing
30 and only then as provided for in R.S. 4:222 as approved by the acts of the Louisiana
31 Legislature approved in 1987.
- 32 4. The applicant shall obtain approval of their Traffic Impact Analysis (TIA) from the
33 Department of Public Works. Subject to the approval and recommendation of the New
34 Orleans Police Department, the applicant shall be required to ensure that a security patrol
35 officer or traffic control personnel shall direct traffic exiting the Fair Grounds during the
36 hours of 11:30 p.m. – 12:30 a.m.
- 37 5. The applicant shall limit hours of operation for their slot machine gaming floor to 9 a.m.
38 to 12 midnight Monday – Saturday, and 10 a.m. to midnight Sunday year round.
- 39 6. Notwithstanding any other proviso, the applicant shall be permitted to conduct slot
40 machine gaming and off-track wagering commencing at 9:00 a.m. on the following
41 important race dates: Florida Derby, Kentucky Oaks, Triple Crown Races, Breeders Cup
42 Day, Thanksgiving Opening Day, and the Louisiana Derby.
- 43 7. The applicant shall indicate on the site plans a bus parking/waiting area at a location that
44 does not disturb adjacent residential properties. Off-street parking shall be provided on the
45 site free of charge.
- 46 8. The applicant shall submit for review and approval a detailed landscaping plan that
47 includes a variety of shade trees, shrubs, and groundcovers. The revised site plans shall

48 include the type, quantity, size, and location, of all plant materials. Existing trees displaced
49 by the construction shall be relocated onsite.

50 9. A portion of the existing chain link fence material surrounding the site shall be replaced
51 with ornamental security fencing with landscaped screen provided to a minimum height of
52 thirty (30) inches. The portion of the existing fence that shall be replaced is the perimeter
53 fence commencing at the Mystery Street Gate continuing to the corner of Gentilly
54 Boulevard and Fortin Street, and from the corner of Gentilly Boulevard and Fortin Street
55 continuing to the Historic Main Gate located on Gentilly Boulevard.

56 10. The applicant shall submit a detailed signage plan. Any proposed signage shall be subject
57 to the approval of the City Planning Commission staff.

58 11. The applicant shall provide exterior lighting and illumination systems in a manner so as to
59 minimize glare on the neighboring residential properties. The parking lot lights nearest
60 Mystery Street and Verna Street shall not be turned on during OTB operations. The
61 remaining parking lot lights shall be turned off within 45 minutes of the last OTB event
62 except those minimally required for security and safety. The infield track lights will not be
63 turned on for use in OTB operations. This restriction does not affect the use of the infield
64 lights during Twilight Racing, as set forth in Ordinance No. 10406 M.C.S. The City
65 Planning Commission staff and the applicant shall cause a mutually agreed upon expert to
66 examine and inspect any such lighting system, so as to insure compliance with this
67 provision, the cost for which shall be paid by the applicant. The report and recommendation
68 of such expert shall be conclusive as to whether or not there has been compliance with this
69 provision.

70 12. The Fair Grounds Enhanced Patrol-

71 Thirty (30) days prior to the commencement of slot machine gaming operations at the Fair
72 Grounds that applicant shall give notice to the Citizen's Advisory Committee (see proviso #18),
73 the applicant shall comply with the following security measures as recommended by the New
74 Orleans Police Department (NOPD) to supplement and enhance police service in area surrounding
75 the Fair Grounds. The applicant shall provide 24 hours a day and 7 days per week New Orleans
76 Police patrol with the applicant funding two marked new police cruisers and 1 officer per cruiser;
77 replacing the cruisers every 4 years. The marked vehicles shall be donated by the applicant to the
78 NOPD via a signed contract with the City of New Orleans and the applicant. The NOPD will
79 assume all insurance, repairs, maintenance and fuel for the vehicles.

80 a. Function of Patrol

81 The NOPD vehicles are to be used exclusively for patrol in the designated Fair Grounds patrol
82 area. The NOPD security patrol shall respond to criminal activity within the designated boundary,
83 and not to routine dispatch calls. Residents in the designated area shall be provided a phone
84 number to the officers on patrol in the designated patrol area to report criminal activity and to
85 request security while entering their homes.

86 b. Designated Boundaries

87 The NOPD security patrol shall patrol the area bounded by Desaix Boulevard to Moss Street to
88 Ursulines Avenue to North Broad Avenue to St. Bernard Avenue to Desaix Boulevard. These
89 boundaries can only be amended by the Fair Grounds with approval of a simple majority of the
90 Citizens Advisory Committee (see proviso # 18).

91 c. Fair Grounds Police Detail Coordinator

92 The applicant shall hire a NOPD Ranking Officer to coordinate and supervise the Fair Grounds
93 enhanced police patrol. The Detail Coordinator shall be equal or higher than the highest Ranking
94 officer who works the detail. The coordinator's duties shall include the following:

- 95 i. The scheduling of officers to work the detail.
- 96 ii. Supervision of those officers and rank when working the detail.
- 97 iii. To develop any policies and procedures the coordinator feels necessary for
- 98 the improvement of the detail.
- 99 iv. To be accessible by phone number or pager to the Fair Grounds governing
- 100 body and the Citizens Advisory Committee.
- 101 v. To attend regular and special meetings called by the Fair Grounds and
- 102 neighborhood groups.
- 103 vi. To provide the Fair Grounds documentation as it relates to crime stats in
- 104 the designated areas and the Citizens Advisory Committee.

105 Additional issues such as rate of pay and cost of NOPD purchased vehicles shall be addressed in
106 an agreement with the City of New Orleans and the applicant.

107 13. The applicant shall provide to the City Planning Commission (CPC) staff a letter outlining
108 a litter abatement program, inclusive of the location of litter/trash storage, the frequency and
109 method of litter/trash pickup, the clearing of all litter from the sidewalks and parking areas,
110 and the periodic clearing of litter in the adjacent street rights-of-way, as necessary. The
111 name and phone number of the applicant shall be kept on file and made available to the
112 Citizen's Advisory Committee (see proviso #18) in case of any violation.

113 14. There shall be no amplified outdoor sound (including but not limited to live music,
114 recorded music, D.J. services, and public address announcements) other than the regularly
115 held events of horse racing and the Jazz and Heritage Festival. As the primary use of the
116 Fairgrounds is horse racing, any use of the facility for special events (including but not
117 limited to receptions, weddings, and fundraising events) will restrict all amplified sound for
118 such events to building interiors. Outdoor events after 8:00 p.m. shall be prohibited

119 excluding the paddock area. A representative of the Fair Grounds shall be available during
120 the Fair Grounds operating hours for residents to report infractions.

121 15. Construction hours shall be limited to no earlier than 7 a.m. and no later than 6 p.m. as set
122 forth in Article IV, Section 66-138 (7) of the New Orleans City Code.

123 16. The applicant shall submit a plan showing pedestrian and vehicular circulation within and
124 adjacent to the site. All Fortin Street gates (vehicular and pedestrian) shall remain closed,
125 except that these gates shall be used for the Jazz and Heritage Festival.

126 17. The applicant shall submit a master plan for the remainder of the anticipated
127 improvements to the Fairgrounds.

128 18. A citizen's advisory committee shall be formed to meet quarterly and review issues in
129 regards to security, compliance of provisos and other matters pertaining to the Fair Grounds'

130 impact on the surrounding neighborhood. The advisory committee shall be limited to nine
131 (9) members and shall be comprised of the following; a representative of the Mayor's
132 office; three (3) representatives from the surrounding neighborhood appointed by the
133 councilmember of the district where the Fair Grounds resides; one member appointed by
134 Councilmember at Large A; one member appointed by Councilmember-at-Large B; a staff
135 representative from the district councilmember's office of the district where the Fair
136 Grounds resides; a representative from the Fair Grounds and; a representative from the New
137 Orleans Police Department. The terms of the members shall be four years and members
138 shall be allowed to succeed themselves for consecutive terms. The committee shall hold
139 quarterly meetings during the second week of February, May, August, and November.
140 Infractions of these provisos shall be reported directly to the Fair Grounds representative on
141 the committee. Minutes of the meetings shall be provided to the members of the New
142 Orleans City Council.

143 19. Churchill Downs Louisiana shall invest not less than \$4 Million in capital improvements
144 to the backside conditions of the racetrack known as Fair Grounds, the Facility, prior to the
145 commencement of the 2008-2009 race meet. Prior to October 31st, 2005, Churchill Downs
146 Louisiana shall submit a conditional use application to City Planning Commission for back
147 side improvements.

148 20. The applicant shall use its best efforts to comply with the City's open access policies,
149 regarding contracts in the area of construction in order to encourage meaningful
150 participation of Orleans Parish based businesses in the construction and operation of the
151 facility, provided that Churchill shall have the right to approve and qualify any business
152 with which it is to contract.

153 21. The applicant shall display the abovementioned provisos at the Fair Grounds site in an
154 area accessible to the public.

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS** that whoever does anything prohibited by this Ordinance or fails to do anything
3 required to be done by this Ordinance shall be guilty of a misdemeanor and upon conviction shall
4 be subject to a fine or to imprisonment or both, such fine and/or imprisonment set by Section 1-13
5 of the 1995 Code of the City of New Orleans, or should alternatively be subject to whatever civil
6 liabilities, penalties or remedies the law may prescribe. Conviction shall be cause for the
7 immediate cancellation of the Use and Occupancy permit of the premises.

1 **SECTION 3.** This ordinance shall have the legal force and effect of authorizing this
2 conditional use only after all the provisos listed in Section 1 of this Ordinance which impose a
3 one-time obligation have been completely fulfilled and complied with, and only after all the
4 provisos listed in Section 1 which impose a continuing or on-going obligation shall have begun to
5 be fulfilled, as evidenced by the Planning Commission's approval of a final site plan (which shall

6 be incorporated into this ordinance by reference) and its subsequent recordation, and no use or
7 occupancy certificates or permits (other than the building permits needed to fulfill the provisos)
8 shall be issued until all the provisos which impose a one-time obligation have been completely
9 fulfilled and complied with, and only after all the provisos listed in Section 1 which impose a
10 continuing or ongoing obligation shall have begun to be fulfilled, as evidenced by the Planning
11 Commission's approval of a final site plan (which shall be incorporated into this ordinance by
12 reference) and its subsequent recordation.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS AUGUST 18, 2005

OLIVER M. THOMAS, JR.
PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON AUGUST 19, 2005

APPROVED:

DISAPPROVED: AUGUST 23, 2005

C. RAY NAGIN
MAYOR

RETURNED BY THE MAYOR ON AUGUST 24, 2005 AT 10:50 AM

PEGGY LEWIS
CLERK OF COUNCIL

**YEAS: BATT, CLARKSON, GILL PRATT, HEDGE-MORRELL, SAPIR,
THOMAS, WILLARD-LEWIS - 7**

NAYS: 0

ABSENT: 0

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**THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY**


CLERK OF COUNCIL