Mississippi Gaming Commission Regulations

II. LICENSING
A. APPLICATIONS.

Section 3. Licenses And Other Commission Actions.

(a) No Changes
(b) No Changes
(c) No Changes
(d) No Changes
(e) No Changes
(f) No Changes
(g) No Changes

(h) ~~Preliminary~~ Gaming Site Approval ~~of Gaming Sites; Site Development Plans~~ and Approval to ~~p~~ Proceed with ~~d~~Development. The Commission may, in its discretion, grant ~~preliminary~~ approval of gaming sites ~~and site development plans~~. The Commission has divided the ~~preliminary~~ approval process into ~~three~~ two separate phases:

~~(1)~~ Gaming site approval; and

~~(2) Approval of the applicant's site development plans; and~~

~~(3)~~ Approval to proceed with development.

Gaming Site Approval

With respect to gaming site approval, ~~preliminary~~ approval constitutes only the Commission's finding that the location complies with applicable gaming laws and regulations. ~~Preliminary~~ ~~g~~Gaming site approval does not entitle the ~~person receiving~~ recipient to ~~preliminary~~ approval to ~~approval of site development plans~~ proceed with development, nor does it constitute a license to engage in gaming or a right to a gaming license. ~~Preliminary~~ ~~g~~Gaming site approval is a revocable privilege, and no holder acquires any vested right therein. The Mississippi Gaming Commission reserves the right to revoke any site approval should the circumstances change that would make the site illegal or unsuitable. ~~Preliminary site approval is not subject to sale, assignment or transfer.~~

New sentence adopted to replace the ... version

When presenting for approval the applicant's application for gaming site approval, the following information, together with evidence satisfactory to the Commission in support thereof, must be included:

1. A survey indicating the specific location of the property.

2. The current use of any adjacent property as well as the location of the nearest residential area, church and school.

3. Evidence that all applicable zoning ordinances allow gaming at the proposed site.

4. A survey establishing the mean high water line must be provided at the time gaming site approval is given which is performed by a qualified surveyor for performance of tidal surveys. This provision is only applicable for proposed gaming sites located in the three (3) most southern counties in the State of Mississippi.

Gaming establishments in the three (3) most southern counties in the State of Mississippi are permitted to be permanent inland structures. No point in the gaming area may be more than eight hundred (800) feet from the nineteen (19) year mean high water line. Harrison County establishments south of Highway 90 may exceed the eight hundred (800) foot measurement up to the southern boundary of Highway 90. All public easements and rights-of-way for public streets and highways shall be excluded from the eight hundred (800) foot measurement. Any point of reference used to determine the 800 foot distance from the mean high water line must be located on the applicant or licensee's premises. The applicant or licensee must own and /or lease the land that is contiguous both to the parcel used to conduct gaming and the point of reference used to determine the mean high water line, and this land must be shown to be an integral part of the project. The Commission has final authority in reviewing and approving each site as it pertains to meeting the requirements of this regulation.

~~Preliminary gaming site approval may be granted for a period not to exceed two (2) years; however, preliminary gaming site approval will automatically expire six (6) months from the date granted by the Commission if site development plans have not been approved by the Commission within that time.~~

~~**Site Development Plan Approval**~~

~~With respect to gaming site development plans the Commission's approval constitutes only the approval of the plan in concept. The applicant may not proceed with actual development until it receives Approval to proceed with development from the Commission. When presenting for approval the applicant's site development plans, the plan must include the following information, together with documentation to support this information:~~

Approval to proceed with development

With respect to obtaining the Commission's approval to proceed with development, the following information, together with documentation to support this information, shall be submitted to the Commission:

(1) Architectural plans or renderings showing details of all proposed construction and renovation for the project, together with a footprint of the project. Include a description of the construction and type of parking facilities, as well as parking lot capacity.

Commission approval ~~of site development plans~~ requires that the facility include a 500 car, or larger parking facility in close proximity to the casino complex and infrastructure facilities which will amount to at least 100% of the higher of the appraised value or construction cost of the casino. Such infrastructure shall include any of the following: 250 room, or larger hotel of at least a two star rating as defined by the current edition of the Mobil Travel Guide, a theme park, golf course, marinas, tennis complex, entertainment facilities, or any other such facility as approved by the Commission as infrastructure. As used herein, infrastructure facilities are not such items as parking facilities, roads, sewage and water systems, or civic facilities normally provided by cities and/or counties. The Commission may in its discretion reduce the number of rooms required, where it is shown to the Commission's satisfaction that sufficient rooms are available to accommodate the anticipated visitor load and parking spaces may also be reduced as needed for small casinos, provided that the 100% infrastructure requirement is otherwise met.

The qualifying infrastructure must be owned or leased by (i) the holder of the site approval, or (ii) an affiliated company of the holder of the site approval where both the affiliated company and the holder of the site approval have identical direct or indirect equity ownership.

In cases where casinos that are not in operation are purchased which do not meet the parking and infrastructure requirements subsequent to February 20, 1999, the infrastructure requirement will be calculated on the higher of the appraised value of the casino barge or acquisition cost of the casino barge. For the purpose of determining compliance with this regulation, the Commission will, in its discretion, determine a fair and equitable method for calculating the construction cost of new casinos and acquisition costs for existing casinos. This regulation shall apply to any new applicant for a gaming license for a new gaming facility and to the acquisition or purchase of a licensee for which gaming operations have ceased prior to the time of acquisition or purchase. This regulation, however, shall not apply to any licensee which has been licensed by the

Commission, or received a finding of site suitability from the Commission, prior to February 20, 1999 (or to any such licensee upon any licensing renewal after such date). For purposes of compliance with this regulation, the appraised value of any casino will be determined by an appraisal completed by an appraiser approved by the Executive Director prior to the appraisal. The Commission may require more than one appraisal and may obtain its own appraisal with the reasonable cost of same to be paid by the applicant.

Any change to the ~~site development~~ plan, or placement or design of the establishment, cruise vessel or vessel, shall be submitted in advance to the Executive Director for a determination of whether such change constitutes a material change. If the Executive Director determines that a material change has occurred, Commission approval is required for same.

~~**Approval to proceed with development**~~

~~With respect to obtaining the Commission's approval to proceed with development, the following information, together with documentation to support this information, shall be submitted to the Commission:~~

~~(1)~~(2) Statements reflecting the total estimated cost of construction or renovation of the establishment, vessel, or cruise vessel and shore and dock facilities, distinguishing between known costs and projections, and separately identifying:

i. Facility design expense;

ii. Land acquisition costs;

iii. Site preparation costs;

iv. Construction costs or renovation costs;

v. Equipment acquisition costs;

vi. Cost of interim financing;

vii. Organization, administrative and legal expenses;

viii. Projected permanent financing costs;

ix. Qualified infrastructure costs; and

x. Non-qualifying infrastructure costs.

~~(2)~~ (3) A construction schedule for completion of the project, including an estimated date of project completion. Indicate whether a performance bond will be required by the applicant to be furnished by the contractor.

~~(3)~~(4) Current financial statements, including, at a minimum, a balance sheet and profit and loss statement for the proposed licensee.

~~(4)~~ (5) A detailed statement of the sources of funds for all construction and renovation proposed by the site development plans. Any funding, whether equity or debt, to be obtained must be supported by firm written commitments satisfactory to the Commission.

~~(5)~~ (6) Evidence that the following agencies (if applicable) were notified of the development and/or do not oppose the site development:

a. U.S. Corps of Engineers

b. U.S. Coast Guard

c. Mississippi Department of Transportation

d. Mississippi Department of Environmental Quality

e. Department of Marine Resources

f. Port and Harbor Commission

g. Levee Board

h. City and County government

i. Such other agencies as the Executive Director deems appropriate.

The application for a Gaming Operator's License shall be filed no later than ninety (90) days after the Commission grants approval to proceed with development. The gaming site approval will expire three (3) years from the date approval to proceed with development is granted unless the Commission grants an extension. Approval to proceed with development is not subject to sale, assignment or transfer.

Opening of a Casino

Before any gaming facility may open to the public, all infrastructure requirements must be fully operational. ~~Site~~ The development shall be completed in accordance with the approved ~~site development~~ plan and be ready for operation

within the ~~preliminary~~ gaming site approval time period. Gaming site approval may be extended, within the discretion of the Commission.

These amendments shall apply to all existing, pending, renewal and new applicants for ~~a license~~ gaming site approval and approval to proceed with development.

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(i) No Changes