

CASINO REINVESTMENT DEVELOPMENT AUTHORITY
LAND USE REGULATION AND ENFORCEMENT DIVISION
PUBLIC HEARING

RE: DGMB Casino LLC, dba Resorts Casino Hotel
2017-09-2257

Thursday - October 19, 2017

CASINO REINVESTMENT DEVELOPMENT AUTHORITY
PUBLIC HEARING, taken in the offices of CASINO
REINVESTMENT DEVELOPMENT AUTHORITY, 15 South
Pennsylvania Avenue, Atlantic City, New Jersey,
before, Karen Winkler, a Certified Court Reporter
of the State of New Jersey, on the above
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1 APPEARANCES :

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LANCE B. LANDGRAF JR.,
Hearing Officer

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RYKER, DANZIG, SCHERER, HYLAND
& PERRETTI, LLP

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BY: SCOTT G. COLLINS, ESQUIRE
Attorney for CRDA

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ROBERT L. REID,
Land Use Regulation Enforcement
Officer

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JASON L. FICHTER, PE, PP, CFM, CME
InSite Engineering, LLC

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1 APPEARANCES - CONTINUED:

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COOPER LEVENSON, P.A.

BY: NICHOLAS F. TALVACCHIA, ESQUIRE

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Attorney for DGMB Casino, LLC, dba

Resorts Casino Hotel

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JASON T. SCIULLO, P.E., P.P.

Marathon Engineering & Environmental

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Services

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1 MR. LANDGRAF: Good morning. Welcome.
2 We've got the October 19th, 2017, CRDA Land Use
3 Regulation Enforcement Division Hearing.

4 If we could all, please, rise for the
5 Pledge of Allegiance.

6 (At this time the Pledge of Allegiance
7 is being recited.)

8 MR. LANDGRAF: So when my mayor does
9 that in Ventnor, she doesn't wait for you to get up.
10 She pops right up and starts. Like everyone else is
11 trying to stand up and turn to face.

12 MR. MERRILL: Who's that, Beth?

13 MR. LANDGRAF: Yeah. I give her grief
14 on it all the time.

15 So this meeting is being held in
16 accordance with the Senator Byron M. Baer Open Public
17 Meetings Act. We have one item on the agenda,
18 application number 2017-09-2257. DGMB Casino, LLC,
19 doing business as Resorts Casino Hotel.

20 I see Mr. Talvacchia's here. I'll let
21 you go through the details of the submission and the
22 block and lot and all that for the record.

23 MR. TALVACCHIA: Thank you.

24 MR. LANDGRAF: You have one witness
25 or --

1 MR. TALVACCHIA: Unless there's an
2 operational question we can't answer, just one
3 witness.

4 MR. LANDGRAF: We'll have Jay sworn.
5 Rob, why don't you chime in?

6 MR. REID: For the record, I reviewed
7 the proof of service provided by the applicant and
8 we have jurisdiction to hear this application.

9 MR. TALVACCHIA: Good morning, Mr.
10 Landgraf, and rest of the members of the authority
11 here. Again, we're here on behalf of Resorts DGMB
12 and this is just one more investment by the company.
13 Since the property was purchased in 2011 there have
14 been significant investments in this property. As
15 you know, it's completely been turned around and as
16 another sign of commitment to Atlantic City, faith
17 in Atlantic City, making a further investment in
18 enhancing an existing surface parking lot that's
19 adjacent to the boardwalk. They have found that
20 surface parking lots are valued by customers over
21 garages to some extent. Some people like them. It
22 certainly helps the Landshark pier.

23 So, anyway, back in 2013, the city
24 granted a vacation of certain streets. Chalfonte
25 Avenue's one of them. And we're now taking advantage

1 of that location. Mr. Sciullo can identify the
2 precise location on Chalfonte Avenue. They vacated
3 because Resorts owns lands on various sides of
4 Chalfonte. By vacating the lots, we now have an
5 opportunity to consolidate property into one large
6 lot that'll have about 641 parking spaces. Moreover,
7 it'll make the current lot configuration more
8 efficient in operation. Because right now they're
9 separated to some extent by Chalfonte. Chalfonte is
10 vacated. This will eliminate the portion of
11 Chalfonte that was vacated.

12 So the idea here was, to the extent
13 feasible, add more parking, so we got about 41
14 spaces. But one of the major goals here was to
15 really improve the way the lot works, because the lot
16 is used in three different ways. One, it's used for
17 valet parking; two, it's used for self-parking;
18 three, it's used by some employees.

19 Also, there's the brown brick building.
20 That's being demolished as a part of this project.
21 So that goes away and, again, adds to the area. So
22 this will be a much more efficient, usable, friendly
23 lot. With this project there is associated --

24 MR. LANDGRAF: Excuse me, Nick, that's
25 on the corner of Chalfonte?

1 MR. TALVACCHIA: Yeah, exactly. That's
2 an old building that years ago was used as an office
3 space by Resorts that's been vacant for many years,
4 right, and it's been used for some storage, but
5 it'll be demolished at the beginning of the year,
6 end of this year, for this project.

7 Anyway, it's a good project. We think
8 it hits all the right spaces. In and of itself it is
9 not a traffic generator. Not adding new rooms, not a
10 new restaurant, but it will accommodate to a better
11 extent what's there.

12 So we do need what we consider to be
13 some minor variance relief. We need height variance
14 for the fence. Instead of four feet, which is
15 permitted, we have four and a half. The reason for
16 that, the existing fence is four and a half feet. We
17 want to match the existing. We also are seeking
18 five-foot rather than 10-foot setback along the
19 perimeter of the parking lot. That is also to match
20 existing conditions and also to maximize the
21 functionality of the lot. Five feet is fairly common
22 in Atlantic City, so we think that's relatively
23 minor. And we are asking for a variance to allow for
24 stacked parking. The variance there is from the
25 requirements necessary for the size of the stalls and

1 aisle widths and all of that.

2 A part of this lot is used for valet,
3 but all of it could be used. We're seeking for the
4 maximum flexibility to use the entire lot. To
5 maximize the functionality of a valet lot, stacked
6 lot, you really don't want to have the same aisle
7 requirements or parking space size requirements. You
8 want those to be adjusted, because then you're having
9 professional drivers drive. Public's not involved in
10 a valet lot and that variance has been granted many
11 times in Atlantic City for many lots and, to my
12 knowledge, it's worked perfectly well, because you're
13 using, again, professional drivers. It's similar to
14 what car dealerships do. They pack in every car.
15 Not that that's necessarily the plan, but it gives
16 the flexibility on peak times to maximize the spaces.

17 So they're the three variances we need,
18 right?

19 MR. SCIULLO: There may have been one
20 other one identified as an existing nonconforming.

21 MR. TALVACCHIA: At the boardwalk
22 that's called as a variance. Because it's existing,
23 we don't think you need a variance for existing
24 condition. It's grandfathered under the section 168
25 of the MLUL as a nonconforming condition. Jay will

1 talk about that.

2 With that, let me bring Jay up.

3 I also want to note, for the record, we
4 have two executives from Resorts here, Mark Sachais,
5 vice president of hotel operations, and Rocky
6 Merrill, who's in charge of facilities on the
7 property. They'll be in charge of this job when it's
8 under construction.

9 So I'd like to introduce Jay Sciullo,
10 have him qualified and sworn.

11

12 JAY SCIULLO, sworn.

13

14 MR. TALVACCHIA: Jay, for the record,
15 you're a licensed engineer in the state of New
16 Jersey?

17 MR. SCIULLO: Engineer and planner,
18 yes.

19 MR. TALVACCHIA: And licensed planner.
20 Have you been qualified with this board before as an
21 expert?

22 MR. SCIULLO: I have.

23 MR. TALVACCHIA: I offer him as an
24 expert.

25 MR. LANDGRAF: We accept his

1 credentials.

2 MR. TALVACCHIA: Thank you.

3 BY MR. TALVACCHIA:

4 Q. Mr. Sciullo, your firm undertook this
5 project, correct?

6 A. Right.

7 Q. And you're fully familiar with the
8 site?

9 A. Yes.

10 Q. So what I'd like you to do is start out
11 with what you have on the board and I guess we have
12 to mark --

13 A. If you want to do it, there's going to
14 be three plan views that I'm going to show. It's
15 only one file and one exhibit, or three, but I'll go
16 through them and identify them.

17 MR. LANDGRAF: Were they submitted with
18 the application?

19 MR. SCIULLO: A form of them, yes.
20 This is colorized versions of what was submitted.

21 MR. LANDGRAF: Okay.

22 MR. COLLINS: I'm okay if we just mark
23 the application and materials itself A-1 and then as
24 you proceed through here, if you could just identify
25 it as whatever sheet it is.

1 MR. TALVACCHIA: And then A-2, A-3?

2 MR. COLLINS: If they're different,
3 yeah.

4 MR. TALVACCHIA: So, if the application
5 submission is A-1, this will be A-2.

6 BY MR. TALVACCHIA:

7 Q. What are we showing?

8 A. The first slide up on the screen now is
9 an aerial of existing conditions and that's a 2015
10 aerial photo that's released by DEP and it shows --
11 you'll see in the dark blue, which I'm pointing now,
12 the dark blue that surrounds our work area and plus
13 another lot that's incorporated into the application
14 because there is a connection to it. You'll see the
15 alleys that Nick had mentioned. This alley that
16 runs east/west is unnamed and the alley that runs
17 north/south one way south towards the boardwalk is
18 Chalfonte Avenue.

19 Q. Clarify, all of that was vacated.

20 A. Up to the border of our work, that's
21 the point where the vacation ends. So the T-shape
22 heading south from that point has been vacated, as
23 you mentioned, in 2013.

24 Q. Mr. Sciullo, just for the record, can
25 you identify the Resorts Casino Hotel itself and

1 Landshark, just for orientation purposes?

2 A. North Carolina Avenue here, South
3 Carolina there. Resorts proper is up here. The
4 porte-cochere which is a vacation portion of a
5 former right of way of North Carolina Avenue is here
6 and Landshark up in the corner. Boardwalk there,
7 and the beach and the ocean.

8 Q. The current lot, how is that lot used
9 now? Is a portion used for valet and self-park?

10 A. See if I can zoom in. So the existing
11 condition, you'll see that the alley Chalfonte
12 bisects the existing parking area, so the lot that's
13 closest to North Carolina, the eastern lot, that one
14 is used right now for valet and there's an access
15 gate that's on the northern side of it. It also has
16 the remainder of what we call Chalfonte building,
17 what was part of the Chalfonte Hotel office is still
18 on the corner. That will be demoed, as Nick
19 mentioned, prior to any of the other work being
20 undertaken.

21 Right now there's a fence surrounding
22 this site running along the former right of way. So
23 that lot's used for valet and only valet. The lot
24 to the south of Chalfonte, you'll see that there's
25 cars parked, stacked, partially off the alley,

1 partially in the lot, and going towards South
2 Carolina there's pavement over on the northern half
3 of it that's underutilized, but the majority of the
4 parking in here is employee. Just employee parking
5 on the other side of South Carolina. They're
6 connected. They walk right now. Pedestrian route
7 is through the alley to get up to Resorts. So right
8 now it's split generally valet on the east and
9 employee on the west.

10 The lot that we term J&L -- let me back
11 up. This lot we call the C lot. This lot over here
12 is termed J&L. This one right now is fenced off, so
13 on the south side of the alley, that's enclosed.
14 This one is self-park. You'll notice if you go
15 during the week, most of the time it's free and
16 that's one of the things Resorts does to serve their
17 patrons. The entrance for that is this driveway
18 here where there's a guard booth. The exit is down
19 here on South Carolina. The proposed condition, get
20 to that one.

21 Is there anything else in the existing
22 condition?

23 Q. Just show closer to the boardwalk for
24 completeness, although we're not touching that.

25 A. For the existing nonconformity?

1 Q. Yeah. Toward the ocean there's a
2 portion that's valet today?

3 A. Yeah. This driveway that's on the
4 southern end of the porte-cochere area, you'll see
5 over here is where taxis stage. This is a valet
6 driveway here and guard booth there. This is sort
7 of flexible. Resorts uses movable barriers and
8 depending on the valet load, the majority of the lot
9 from this point here that's fenced is used for
10 valet, right? Most of that? And the existing
11 nonconformity would be -- I'm surmising. I didn't
12 look into detail, but the setback along the
13 boardwalk here where we have a stand of pine trees
14 that's been there for eons. None of that, as we
15 mentioned previously, is changing as part of this
16 application.

17 MR. LANDGRAF: Pardon me. There was
18 discussion about redoing that landscaped area? I
19 think you and I had that conversation?

20 MR. TALVACCHIA: We just trimmed it
21 instead.

22 MR. MERRILL: Cleaned up the
23 underbrush.

24 MR. SCIULLO: It's not irrigated.
25 We're looking into some ways to fix it up a bit.

1 MR. LANDGRAF: Looks good now.

2 MR. TALVACCHIA: Yeah, it looks a lot
3 better.

4 BY MR. TALVACCHIA:

5 Q. Jay, you've described the current lots
6 and how they're used.

7 A. One other item. You mentioned the
8 increase, but to put numbers to it, in this existing
9 configuration on the north side of the alleys,
10 outside the J&L lot, those two lots amount to
11 approximately 174 parking spaces. About a third of
12 them isn't striped. They're kind of as we figured
13 out we could fit them in there. So it's
14 underutilized, as I mentioned, and as Nick
15 mentioned, in the proposed condition we have an
16 increase.

17 Q. Jay, but overall, if you look at all of
18 those lots together, it's about 600 spaces?

19 A. Including J&L, yeah.

20 Q. You mentioned 174 spaces on the two
21 lots and then there's -- this is in our submission,
22 426 spaces on the balance. We'll add about 41, so
23 it'll bring us up to approximately 641 spaces.

24 A. All right. To go back as requested.
25 The first slide I showed was existing overall

1 location plan. We had term sheet C-29-01.

2 Q. So that's A-2?

3 A. That would be A-2. And then the next
4 one I have it here for clarification. C-29-02, this
5 is the proposed overall location plan. I'm just
6 going to glance over that one, and then we have
7 C-29-03 which is the rendered version of the site
8 plan as submitted to CRDA.

9 Q. Okay. So to the right, that is not
10 being touched as a part of this application?

11 A. No. You'll see shown on this that
12 everything colorized is the proposed work. So the
13 limit of it is where I'm running the cursor.

14 Q. So the vacated alley and street
15 essentially disappear visually?

16 A. Yes. That's the intent. When the
17 vacation was issued or adopted in 2013, there was a
18 condition within that vacation ordinance that we
19 provide an access for anyone that used Chalfonte
20 Avenue, because only a portion of it was being
21 vacated and it was one way south, so it would
22 effectively be dead-ended. You'll see on the plan
23 we have an easement area showing Chalfonte Avenue
24 being realigned and running up to North Carolina is
25 what the vacation required.

1 Q. Right. That's in the vacation
2 ordinance, that requirement.

3 A. So that will be -- we'll call it public
4 area. You'll see there are parking spaces shown
5 there because they have to face -- with the geometry
6 needed to make a turn around that corner. So to
7 utilize the space effectively, we are adding parking
8 spaces there. There will be signs to make sure the
9 public doesn't try to use it frequently. It's
10 Resorts property within the edge of an easement.

11 Q. The easement is not for parking.

12 A. Access. It is -- actually, you'll see
13 there's a blue line that runs where I'm running the
14 cursor that's the limits of the easement. So the
15 parking spaces to the north side of that are Resorts
16 property.

17 Q. Outside of the easement area?

18 A. Yes. So it's the same as what would be
19 street parking generally, just on their property.
20 So you'll see the reconfiguration. The lot creates
21 an efficient layout that utilizes all the space,
22 removes the alleys and the area that was
23 underutilized to the north side where I'm hanging
24 over the cursor now that's not really being utilized
25 because there's no striping. It's getting upgraded

1 with typical pavement striping, lighting,
2 landscaping. The total amount of parking that ends
3 up on the lots that are right now the C lot and the
4 employee lot are 174 -- I'm sorry. 206 from 174 and
5 we're also adding nine parking spaces on the lot,
6 J&L lot, that's block 59, lot 1. That's why that
7 lot was included in the application. Because right
8 now with the odd shape of the former right of way,
9 there were some parking spaces that you could see
10 there's some striping in the existing condition that
11 could be added very easily because of the geometry,
12 so we added those, and there was an island by the
13 gate up here that we could pop a couple spaces in.
14 So, again, to maximize the yield we added those
15 nine, so the total increase is 41 parking spaces.

16 Q. Jay, can you explain how circulation
17 works for this lot?

18 A. Sure. We mentioned previously
19 flexibility that we want to have worked into this.
20 In the existing condition the C lot has an unmanned
21 automatic gate for valet. That same configuration
22 is proposed here in this driveway. The existing
23 driveway falls very close to where the easement for
24 the realigned Chalfonte alley comes out, new
25 driveway south of that, unmanned gates, automatic,

1 as well as a new driveway out to South Carolina.
2 We're eliminating a driveway that was the alley
3 here, along with the other one on the eastern side
4 and adding the driveway to South Carolina farther
5 north, so now the connectivity between the lots, if
6 this were used for valet and employee, there are
7 driveways shown between the J&L lot and the C lot
8 that have gates for the purpose of if we are
9 valeting, they stay closed so it doesn't
10 intermingle. If we open this up, those gates get
11 open, so the main entrance would be used that comes
12 off Resorts property here and these two unmanned
13 gates would still be usable by employees, but not
14 the public. So the exit would still be the same
15 place on South Carolina, the same thing up on the
16 North Carolina side. Just be able to interconnect
17 between the two.

18 The pedestrian connection that was the
19 alley we're now realigning from the other side of
20 South Carolina where Resorts employees right now
21 walk through that lot. We're going to have a
22 pedestrian corridor that runs on the north side of
23 the lot and it runs along the realigned Chalfonte
24 alley to a crosswalk we're proposing that I know is
25 not completely under purview here. We need to go to

1 the city for part of that, but the employee entrance
2 to Resorts is right next to the driveway here next
3 to the garage. So this is a straighter, closer shot
4 to get into the employee entranceway having it
5 realigned on the side. It also makes it so the
6 employees using the C lot, or the South Carolina
7 side, those lots on the other side of South Carolina
8 have an easier route.

9 MR. LANDGRAF: And that's different
10 from the plan that's in front of us.

11 MR. SCIULLO: The crosswalk had to be
12 moved. When we discussed it, I misinterpreted where
13 the entrance was. I thought it was on the edge of
14 the other building. So we do have to slide that
15 crosswalk over. You're right, that is different.

16 MR. TALVACCHIA: We're going to need an
17 approval by the city and we started discussing with
18 the city some additional crosswalks and they're
19 receptive to it, but we're not done that process
20 yet.

21 BY MR. TALVACCHIA:

22 Q. So, Jay, will this parking lot generate
23 additional traffic?

24 A. No. The parking need is already there.
25 We're not expanding any services or facilities at

1 Resorts beyond what's there now to create more
2 parking demand. This is just a more efficient use
3 of the land available.

4 Q. Do the exit routes or traffic patterns
5 change in any material way?

6 A. No. If anything, what ends up
7 happening with this arrangement, it does change, but
8 in a positive way, in that right now if the public
9 were traveling down Chalfonte Avenue, they come
10 down, hit the T intersection, go left or right on
11 North Carolina or South Carolina and they end up
12 coming out on the North Carolina side in what ends
13 up being between two of Resorts' driveways. With
14 the realignment of Chalfonte Avenue, that potential
15 intermingling of public and Resorts traffic will go
16 away, because now the Chalfonte alley will be
17 exiting -- or the people on Chalfonte will be
18 exiting north of Resorts, so they won't get near the
19 porte-cochere. The two driveways that are proposed
20 generally replace what was the driveway openings on
21 the alley, but now they're for use by Resorts
22 patrons and employees. So the -- I should have
23 mentioned too, there is another driveway on the
24 South Carolina side today that's just south of the
25 one we proposed, so two driveways existing. Now

1 we're going to have one.

2 The traffic pattern or the arrangement
3 is set up so that today if someone comes in looking
4 for a parking space and they don't find one, they
5 traverse the block, whatever. Now there's more
6 parking for them to maybe not make that second
7 wrap-around trip. They come in once, they park and
8 do their thing. I think it'll reduce traffic
9 overall and definitely conflicts.

10 Q. You already talked about pedestrian
11 traffic use.

12 A. Yes.

13 Q. So are the existing improvements we're
14 proposing adequate for the development?

15 A. Absolutely, yes.

16 Q. We don't need water, but what about
17 electricity or any other public services?

18 A. Yeah. For service to this project
19 there's plenty. We have power that runs to the
20 existing building that will be utilized for a
21 portion of the lighting out here. There's already
22 lighting in the parking lot. We'll just pick up
23 that same power for the part of the lighting in this
24 condition.

25 Q. We currently have an application

1 pending with the New Jersey Department of
2 Environmental Protection for a flood hazard permit?

3 A. We do, submitted a couple weeks ago,
4 yes.

5 Q. How are you handling stormwater?

6 A. Well, let me back up a little bit. For
7 the utilities overall --

8 MR. LANDGRAF: Before you get into
9 that, let me ask you a couple questions on the
10 easements. I'm a little confused. The former
11 Chalfonte right of way that was vacated, the plans
12 show in that highlighted -- in an orange crosshatch.
13 That says that's going to remain as a public access
14 easement to the city of Atlantic City to include the
15 continuation of Chalfonte Avenue alley.

16 MR. SCIULLO: It's intended to be for
17 utilities.

18 MR. LANDGRAF: I think the colors are
19 flipped on the plan.

20 MR. SCIULLO: Does the blue say
21 utilities?

22 MR. LANDGRAF: The blue says utilities.

23 MR. REID: The color's flipped.

24 MR. LANDGRAF: Because I'm reading it.

25 MR. SCIULLO: Sorry. That's a good

1 segue into what I was about to bring up.

2 MR. LANDGRAF: The left turn off of
3 Chalfonte is what you just talked about. That's
4 going to be the public access.

5 MR. SCIULLO: That's access.

6 MR. LANDGRAF: There's parking spaces
7 all up and down this easement so that can't be an
8 access. Just flipped the colors, that's all.

9 MR. SCIULLO: Somebody's going to have
10 to buy me lunch after that.

11 MR. TALVACCHIA: I think you're buying
12 lunch.

13 MR. LANDGRAF: Not for anyone on this
14 board.

15 MR. REID: He's talking about his
16 staff.

17 MR. SCIULLO: I apologize. Thank you,
18 Lance.

19 For the easement, what's shown in
20 orange, as you pointed out just now, should be and is
21 intended to be for utilities. We're in the process
22 of working through the utility arrangement with the
23 utility companies, because the vacation law requires
24 that an easement be provided so the utilities that
25 remain in place will be in that easement. Some of

1 the utilities that are here were for the purpose of
2 serving the building that's being demolished and
3 former buildings that are no longer here, so some of
4 it can be abandoned. We're in the process of working
5 that out. Some of the utilities can remain. Most
6 will be abandoned and one or two may be rerouted to
7 go into the new realigned easement of Chalfonte
8 Avenue.

9 BY MR. TALVACCHIA:

10 Q. And there's existing electricity there
11 for --

12 A. We're going to connect to the existing
13 Resorts system for those things.

14 The question of stormwater management.
15 Today the drainage on Chalfonte Avenue, everything
16 runs from Pacific towards the beach and hits the T
17 alley and runs out to north and South Carolina
18 avenues. When we realign the alley, we will put in
19 a stormwater management conveyance system that will
20 be a bubbler inlet system to pick up drainage at the
21 bend in the alley, pipe into the corner of the
22 parking lot closest to South Carolina so that the
23 drainage that's generally blocked by the new
24 arrangement of the alley will be able to be conveyed
25 toward South Carolina Avenue. The reason we are

1 pushing most of it to South Carolina is there's an
2 existing drainage issue at North Carolina that we
3 don't want to have exacerbated. There's a pump
4 station project in the process of being put in at
5 the boardwalk to direct that. We don't want to add
6 more to it. So we are rerouting to take a good bit
7 of it and it's only just the alley that we're
8 sending towards South Carolina, which right now half
9 of it goes there already.

10 The compliance with the state
11 stormwater rules -- well, as incorporated in the
12 city ordinance there's three numeric standards that
13 have to be met if you qualify as a major
14 development. This site disturbs more than an acre
15 of land. It's about an acre and a half. So it's
16 considered a major development. There will be a
17 stormwater management review as part of the DEP
18 process, review process. We are a major
19 development, so we have three numeric standards.
20 Runoff quality, runoff quantity and groundwater
21 recharge. Runoff quantity and groundwater recharge
22 is not applicable. We don't have to address that.
23 We only have to address water quality if we have a
24 quarter acre. We have less than a quarter acre
25 increase in impervious surface, meaning we're exempt

1 for the water quality standard in the regulations.
2 If we're going off quantity, because we're in a
3 tidal flood hazard area, we do not have to address
4 that either. So we're exempt for the rule, not the
5 total rule, but the provisions in it.

6 What we request in the review letter
7 from InSite, which I'm going to start hitting some
8 of the points in that shortly. One of the items was
9 potential for documentation to demonstrate that.
10 Rather than me writing a letter stating exactly what
11 I just said, I would request that the board or that
12 you accept the testimony to address that
13 requirement. We can still provide it in a response
14 letter. We will and it will be a short version, but
15 I don't want to have to put together a separate
16 document that's lengthy and add a little bit of cost
17 to the job for what we feel is really no benefit,
18 being that we're exempt. When DEP reviews it,
19 they'll agree.

20 Q. Do you want to talk about lighting and
21 there was a comment by InSite?

22 A. I have an outline I put together. I
23 want to make sure that I hit a couple of them. We
24 do propose pole mounted lighting. Typical parking
25 lot lighting that wasn't shown in detail in the

1 plans. It was still being worked out. We will
2 provide it as a condition of approval for sure and
3 it will be LED fixtures that are within the painted
4 island, in between parking spaces in the lot that
5 will make sure it is lit to meet the minimum
6 security and city standard, as is typical in the
7 lots we do.

8 We will probably place trash
9 receptacles in the parking lot for public parking
10 that will be in the painted islands near those
11 lights I just mentioned.

12 Q. And Resorts would obviously empty the
13 trash receptacles?

14 A. Yes.

15 Q. And they do that currently in the front
16 part of the lot where they have receptacles that's
17 self-park today?

18 A. Correct. There was a question in the
19 review letter about loading operations within the
20 lot. We propose no loading within this project.

21 Q. There's a separate loading area Resorts
22 has. This area is not used for loading at all.

23 A. The outside agency approvals. We
24 mentioned Flood Hazard Area Control Act permit from
25 DEP. Soil Erosion Sediment Control Plan, which we

1 will submit shortly, and then a general stormwater
2 permit, 5G3, which is the RFA. That's the extension
3 of the soil erosion standards.

4 And we are exempt for county review and
5 then, of course, construction permits for electrical
6 and whatever on the back end we will get from the
7 city.

8 Q. We didn't supply an energy impact
9 statement. It's typically not done in Atlantic
10 City. Is it necessary in this case?

11 A. No. I mentioned LED lights. Any
12 lighting we put in will use less energy than the
13 current lighting and other than that, there's really
14 no power use, no energy use except during
15 construction.

16 MR. TALVACCHIA: While we're at it,
17 because I'm looking at Jason's letter. We could not
18 get a certification to pay taxes because we're in
19 the pilot. The city doesn't issue that.
20 Technically we're tax exempt, but we're trying to
21 get a certification that we paid the pilot. I can
22 assure you it was paid. We're working with Mr.
23 Chiesa's office. We understand that's the gateway
24 for the pilot. I have a call into their tax
25 attorney, John Lloyd, about how they certified that

1 we paid the pilot. This is going to be a future
2 issue coming up. But you're not going to get
3 anything from the city anymore for a casino, because
4 there are no taxes paid. We don't have that. We
5 will get it. I talked to the company, the CFO.
6 We've paid the pilot, so you can be assured of
7 jurisdiction. Actually, I think they could shut us
8 down if we don't pay the pilot.

9 MR. LANDGRAF: Right. I'm sure it's
10 been paid.

11 MR. TALVACCHIA: So we --

12 MR. LANDGRAF: Finding a way to
13 document that is going to be a challenge.

14 MR. TALVACCHIA: I'm working on that.
15 There's got to be somebody who accepted the paper.
16 I think it's done through DCA.

17 MR. LANDGRAF: I recall that as well.

18 MR. TALVACCHIA: Somebody's going to
19 have to write a piece of paper saying paid and the
20 date.

21 MR. LANDGRAF: Well, more than a piece
22 of paper.

23 MR. TALVACCHIA: Well, certification.
24 That's what the city gives you that says you paid.
25 All right. So I just wanted to address that point.

1 MR. SCIULLO: I want to real quick add
2 before -- I was in the early part of my outline. I
3 don't want to miss it.

4 Some of the comments in the review
5 letter also discuss compliance with barrier-free
6 standards for parking. We have, as I mentioned, an
7 increase of 41 parking spaces. In totality Resorts
8 has an enormous amount of parking and a couple years
9 ago Resorts had to undertake a study to show
10 compliance with ADA standard or barrier-free
11 standards for parking. This lot itself does not have
12 to contain any handicapped parking because it is
13 contained within the other parking facilities at
14 Resorts and to put numbers to it, the total --
15 because of the amount that they have, the total ADA
16 parking has to be two percent of that total. The
17 increase of 41 spaces that we show here would total
18 less than one potential additional ADA space being
19 necessary and we have more than that as an overage on
20 the existing condition. Having to provide that
21 detail, I'm not sure that it's going to be that easy.
22 If it gets to that point we'll just, I guess, paint a
23 space ADA just to make it compliant without having to
24 go through that, but it's a pretty large document
25 that I haven't been able to get my hands on.

1 If this lot is used for valet, as we
2 plan for it to be, valet doesn't need ADA. Surely
3 more than 41 spaces will be used for valet at any one
4 point, so I think we wouldn't have a need to provide
5 any additional ADA parking spaces.

6 BY MR. TALVACCHIA:

7 Q. Any other points you want to hit?

8 A. No more on the design unless anybody
9 has any questions. We want to get into the waivers
10 and variances next.

11 Q. There was a question we should get on
12 the record about whether we need CAFRA or not. Did
13 your firm undertake an analysis, look at the files
14 of CAFRA in person for this property and did you
15 also have a conversation with Janet Stewart at DEP?

16 A. I did. When we first were putting
17 together the scope of the project to make sure that
18 we didn't miss anything, because we were unsure if
19 there was a previous CAFRA permit, because there's a
20 couple things that trigger CAFRA permitting. Number
21 of -- says rental units, which isn't applicable
22 here. Number of parking spaces or if there's
23 previous jurisdiction where they would maintain that
24 whatever we do. So I called Janet Stewart. She's
25 one of the supervisors at DEP, the coastal section

1 that reviews CAFRA permits here in Atlantic City.
2 She said that she went through the database, went
3 looking to see if there was any previous CAFRA
4 permitting done for anywhere in Resorts based on all
5 the information we gave her, and the only thing that
6 came up was for the pier and Landshark being an
7 extension of the former Steeplechase Pier or
8 reconfiguration of it. The main Resorts properties
9 had no CAFRA permitting in the history of Resorts.
10 Part of Resorts existed because, if you remember, it
11 was the hotel before it came the casino, so --

12 Q. Preexisting. So, for the record, to
13 the extent that there's pre-CAFRA development,
14 either residential, hotel rooms or parking, they
15 count as a credit against any current CAFRA
16 requirement to the extent you have new development,
17 correct?

18 A. That's true, yes.

19 Q. So the site of the parking lot is the
20 old Chalfonte Hotel, right?

21 A. That's right.

22 Q. Your office also went to look at the
23 files of DEP personally?

24 A. Yes, we did. I didn't personally, but,
25 yes, we did.

1 Q. I meant your firm.

2 A. Yes, sorry.

3 Q. And there's no record and that is
4 consistent with what we have understood to be the
5 case with Resorts since 1978. In fact, where this
6 parking lot sits was the site of a tower approved 10
7 years ago that's not going to be built.

8 A. Yeah.

9 Q. And there was no CAFRA associated with
10 that?

11 A. There was not, that's correct.

12 Q. And the conclusion is that from all we
13 can put together and our discussion with DEP is that
14 there's enough credits from pre-CAFRA development
15 that we don't need CAFRA and this 41 spaces would
16 not in and of itself be a trigger.

17 A. It would not.

18 Q. So CAFRA's not applicable here?

19 A. That's correct.

20 Q. And we did submit to the DEP for the
21 flood hazard.

22 A. To clarify how that goes. In the
23 coastal region here in Atlantic City, it's a barrier
24 island. In many cases you have CAFRA or flood
25 hazard permit. If you need a CAFRA permit, then the

1 flood hazard requirements within that permitting
2 standard is incorporated with the CAFRA review. In
3 this case we submitted for a flood hazard permit.
4 It was accepted administratively, so that on its own
5 says that a CAFRA permit is not necessary.

6 Q. Item 40 asks for either CAFRA approval
7 or jurisdictional determination. We ask that that
8 not be required based upon the testimony we
9 provided.

10 A. In lieu of that that we just provide
11 the flood hazard permit when it's issued.

12 Q. Okay. Now, we did -- do you have any
13 more planning or technical comments?

14 A. Waivers and variances.

15 Q. Why don't you go through the waivers?

16 A. I'm not going to steal your thunder, if
17 you want to go through your letter. Good deal.

18 What I wanted to do, we have -- in the
19 beginning of the letter you'll notice, which is the
20 one dated October 16 from InSite, does a very good
21 job of listing all the submission waivers based on
22 the checklist. Many of them were asking for a
23 waiver to defer as a condition of approval which
24 I'll hit those in minute, but the submission waivers
25 when we asked to be waived in their entirety, only a

1 couple of them. Depiction of water bodies within
2 200 feet. Clearly everyone knows the ocean is to
3 the south of the site.

4 MR. LANDGRAF: Maybe we can cut through
5 that a little bit. Are you okay with all the
6 submission waivers?

7 MR. FICHTER: I don't think there was
8 anything in here. The letter pretty much says
9 there's nothing catastrophic in here as long as some
10 information is backfilled prior to final --

11 MR. SCIULLO: Some of it's -- I think I
12 address most of it, but the ones that we're going to
13 provide --

14 MR. LANDGRAF: I don't think you have
15 to go through each one of those.

16 MR. SCIULLO: Okay. Now, the design
17 waivers that we have requested. Nick had mentioned
18 it as a variance in the beginning of his intro, but
19 I think it's a waiver. I think that's how it was
20 listed, too. It's up to you. The stacked parking
21 to be permitted. That's a waiver of variance?

22 MR. LANDGRAF: I think it's a design
23 waiver. That's where it falls in the ordinance.

24 MR. TALVACCHIA: Everything in Atlantic
25 City is one zoning ordinance, so I've traditionally

1 treated everything as a variance based on the Wawa
2 case. I'm fine if you want to call it a design
3 waiver.

4 MR. LANDGRAF: Okay. We'll go with it
5 as a waiver. That's how it's listed here.

6 MR. SCIULLO: That waiver in particular
7 which is from section 163-70A(2)(c)[4] for stacked
8 parking to be permitted. Again, that's not shown on
9 the plans how that stacked parking will be arranged,
10 but it's for the purpose of valet so they have
11 flexibility and everyone's seen it. If they need to
12 park cars differently than how the striping is set
13 up, they'll make it work and we ask for that
14 flexibility.

15 MR. LANDGRAF: Well, I'm a little
16 uncomfortable with just a free-for-all there.

17 MR. SCIULLO: Example. They would park
18 in the spaces that are shown, possibly stacked, so
19 that the middle corridor is taken up with cars that
20 are parked in the drive direction, so you have cars
21 parked in the spaces and cars parked in the drive
22 aisle so they can move them around as they need to.

23 MR. TALVACCHIA: Jockey them.

24 MR. LANDGRAF: Is there a way to show
25 that on the plan as a valet option?

1 MR. TALVACCHIA: Yeah. We can do that.

2 MR. LANDGRAF: Just so we know what's
3 going on out there.

4 MR. TALVACCHIA: We'll do a plan that
5 shows all of it as valet, but we want to be clear
6 that it might be part stacked, part valet.

7 MR. LANDGRAF: You open the gates, this
8 is how it's going to function as an open lot. If
9 you close the gates, this is how it can function as
10 a valet lot.

11 MR. SCIULLO: Won't be a problem.

12 MR. REID: And anything in between.

13 MR. SCIULLO: If ever there's a mix,
14 talking about the potential to have movable barriers
15 to make sure that employees and valet aren't
16 intermingled. We'll give you what you need for
17 valet. No problem.

18 Then the other design waiver is to
19 use -- section 163-131 is for use of AASHTO clear
20 sight areas. As everyone, knows, AASHTO's the
21 industry standard accepted nationwide and previously
22 here in Atlantic City and we just request that it be
23 accepted. No obstructions are proposed within the
24 areas other than sign poles and trees that are limbed
25 to seven feet, which is also permitted. It's to be

1 cleared from two and a half feet to seven feet below
2 grade, so low shrubs may be there and trees or signs
3 are permitted. That's what we propose.

4 MR. TALVACCHIA: Jay, did you hit
5 number 17, the waiver from -- where we actually have
6 more aisle width? We don't think that's a waiver.
7 So --

8 MR. SCIULLO: Actually, the question
9 was raised in the letter, too. This driveway that
10 runs from the driveways between north and South
11 Carolina comes down and when it gets close to South
12 Carolina it widens up and that is a product of both
13 the lot geometry, because it's wider there, and also
14 because we are trying to match the location of the
15 driveway across South Carolina which we feel is more
16 important than trying to make the driveways through
17 the lot be completely straight. So the way the
18 ordinance is written, in our eyes, is 24-foot
19 minimum for the drive aisle. We don't know the
20 waiver is necessary to exceed it.

21 MR. LANDGRAF: That painted island I'm
22 looking at -- well, it's the other direction.

23 MR. SCIULLO: We're not running into an
24 island. It's open.

25 MR. LANDGRAF: If you're running into

1 it, it's bothersome, but if you're coming in on that
2 side --

3 MR. TALVACCHIA: We don't think it's a
4 waiver to get larger than 24.

5 MR. LANDGRAF: What you may want to do,
6 just to make sure the cars that are -- I don't
7 necessarily know if we need it on the site plan. If
8 I was paying the insurance on this, I would put a
9 center line, just paint a center line down that
10 area, so cars going -- because it does jog to the
11 right. I would suggest and, again, I don't need to
12 see it on a plan. I'm just saying that might be an
13 idea for the guys operating the parking lot to guide
14 these cars coming in from that direction. The valet
15 guys will know how to do it. People just keep
16 driving straight and they'll drive into somebody
17 else's car, so you might want to -- I'm not going to
18 require that as something, but it's just a
19 suggestion.

20 MR. TALVACCHIA: Okay.

21 MR. LANDGRAF: From my recollection,
22 they're usually minimums. Aisle widths are
23 typically minimums.

24 MR. TALVACCHIA: Yeah, we don't think
25 it's a waiver.

1 MR. SCIULLO: We have experienced in
2 other areas, parking, there's a waiver, depending on
3 where it is, but that's very odd. If you think a
4 waiver's necessary --

5 MR. LANDGRAF: Voorhees requires you to
6 get a variance to go over six spaces. It's
7 ridiculous. We digress.

8 BY MR. TALVACCHIA:

9 Q. The last one was AASHTO. Do you have
10 any further, Jay, after 19?

11 A. No.

12 Q. Do you want to -- just for the record,
13 we don't have a need for loading spaces at this
14 site, right?

15 A. No.

16 Q. The 21 -- there's a note about sight
17 triangle note on the plans, identifies obstructions.

18 A. Yeah, I mentioned that there's signs
19 and trees within it, but they're allowed to be --
20 allowed to be there as long as they're cleared from
21 two and a half to seven feet above grade.

22 Q. And we'll comply with that, correct?

23 A. Yes.

24 Q. And although the plans don't show that,
25 you do have bicycle safety grates, correct?

1 A. I meant to actually look at that. I
2 think there's a detail that might have been missing
3 from the plans that Jason pointed out.

4 Q. We'll add that.

5 A. Yeah, it'll be clear. No problem.

6 Q. Okay. So are you ready to talk about
7 the variances?

8 A. Yeah.

9 Q. So the fence height six inches higher
10 than what's permitted. What is the rationale for
11 that?

12 A. In the section that was mentioned the
13 fence height of four and a half feet where four
14 feet's permitted in section 163-68E(8)(a)[1].
15 Rationale behind that is we want to match the
16 existing fence height and if we were to comply with
17 the ordinance, we would have a section of
18 four-and-a-half foot fence that then would connect
19 to a four-foot fence and the visual break would be
20 odd.

21 Q. So from a visual standpoint, it's a
22 benefit to zoning to have consistent fencing?

23 A. I think so. And it's de minimis
24 anyway. You wouldn't be able to notice a difference
25 between a four-foot fence and a four-and-a-half foot

1 fence.

2 Q. No impact to the public?

3 A. No, not at all.

4 MR. LANDGRAF: And it's the SID fence?

5 MR. SCIULLO: It's white SID fence.

6 BY MR. TALVACCHIA:

7 Q. Another variance.

8 A. One for the proposed parking setback of
9 five feet in lieu of the requirement of 10 feet and
10 that's from section 163-70A(2)(a)[2][a], which
11 states that we have to comply with the parking
12 setback being the front setback of principal
13 structure, but in this case we have five feet which
14 is for the majority of the area an existing
15 condition, which we're matching. Similar to the
16 fence height, to now make it a portion of it 10 feet
17 would be an odd configuration, create traffic
18 hazard, potentially running into other spaces and,
19 second, if we were asked to make the entirety of it
20 comply, we would lose parking spaces and lose the
21 grandfather allowance of that encroachment. We
22 mitigated by planning -- with the fences previously
23 mentioned and landscape plantings as shown on the
24 rendering on the screen. I feel it's a public
25 benefit and the benefit outweighs the detriments

1 actually.

2 MR. TALVACCHIA: Thank you.

3 MR. LANDGRAF: I believe our new regs
4 are reducing that to five anyway.

5 MR. TALVACCHIA: Okay.

6 MR. SCIULLO: Since they're proposed,
7 hopefully going to be adopted, we can reply on that
8 for justification going forward.

9 MR. TALVACCHIA: Yeah, there's case law
10 on that.

11 MR. SCIULLO: Right on.

12 MR. TALVACCHIA: There's some case law
13 that suggests that the zoning is changing anyway and
14 the preference is to apply what's going to be the
15 law.

16 MR. LANDGRAF: I'm pretty sure that's
17 one of them.

18 MR. TALVACCHIA: In this case we can
19 justify it anyway.

20 MR. LANDGRAF: Five-foot area is plenty
21 of area to landscape.

22 MR. SCIULLO: Anywhere else in town
23 requires five foot for parking. Most of the
24 buildings in the area are set back anyway. So we're
25 not encroaching on any power sources.

1 BY MR. TALVACCHIA:

2 Q. So it's your opinion as a planner that
3 that's a grandfathered condition?

4 A. It is.

5 Q. There was an item brought up about the
6 possible need for a use variance because there was
7 no principal use on some of the lots where there's
8 the accessory parking. Does the Atlantic City
9 ordinance specifically allow accessory parking off
10 site?

11 A. It does within three blocks.

12 Q. And, therefore, the fact that the
13 accessory lots don't have a principal use, has it
14 ever been deemed to be a use variance situation?

15 A. No, not in my experience.

16 Q. In fact, many casinos have garages
17 across the street. There is no principal --

18 A. Almost every one, yeah.

19 Q. And there's never been a use variance
20 associated with those garages?

21 A. No.

22 Q. So, in your opinion, would a use
23 variance be required for the parking lots that are
24 on stand-alone lots, so to speak?

25 A. No, and I think the context of the

1 comment was the potential for consolidation of the
2 lots to avoid that issue. We want to make sure that
3 the consolidation understood by the board right now,
4 there's three different blocks that are going to be
5 put together. We wouldn't be able to make them all
6 one block, all one lot, because they're three
7 separate blocks and lots right now. That's how
8 they're going to remain.

9 MR. TALVACCHIA: Resorts may
10 consolidate what it can. They're looking at it.

11 MR. LANDGRAF: The ordinance will
12 clearly -- as will the new ordinance when they're
13 adopted, they will allow off-site parking in
14 neighborhood uses. It doesn't require a D1
15 variance.

16 MR. SCIULLO: Thank you.

17 MR. TALVACCHIA: So we've talked
18 internally about, just going forward, doing a deed
19 of consolidation just to minimize the tax bills, but
20 we have to run it through management. So we'd like
21 that not to be any kind of a condition, but it will
22 probably end up happening.

23 MR. LANDGRAF: I think it's certainly
24 necessary in this case. Off-site parking is not
25 permitted, as I said, in the ordinance.

1 MR. TALVACCHIA: Jay, is there anything
2 else before we get to Jason's report?

3 MR. SCIULLO: I think I hit most of the
4 testimony. There's a couple items that we'll agree
5 to add information and more details that were
6 requested in item 27 in the review letter. We'll
7 add those. There's 31, request that we coordinate
8 with the fire official about the fire hydrant we're
9 pulling out. I'm sorry. That was for the fence and
10 gates. That won't be an issue. Utility company
11 information we'll provide. 37 is related to the
12 removal of fire hydrant. That fire hydrant was
13 there to serve the preexisting buildings. I don't
14 know if a fire hydrant will be necessary to serve a
15 parking lot. If they require it --

16 MR. LANDGRAF: Make sure that's cleared
17 with the fire official. You never know when they're
18 going to need a fire hydrant if there's an issue
19 with one of the hotels.

20 MR. SCIULLO: Location maybe -- okay.

21 MR. LANDGRAF: If I can go back to
22 concrete wheel stops. I see them on some spaces,
23 not all. I'm old school like Jerry Canter. I hate
24 wheel stops. They're tripping hazards that cause
25 you guys grief with plowing the lots.

1 MR. SCIULLO: We proposed them along
2 the pedestrian route so they didn't hit the fence.
3 We'll take them out if you want.

4 MR. LANDGRAF: They're in the areas
5 where people aren't going to be walking.

6 MR. TALVACCHIA: Our client prefers to
7 eliminate them where possible.

8 MR. LANDGRAF: People aren't going to
9 be walking through this. That was Jerry Canter's
10 pet peeve.

11 MR. TALVACCHIA: I don't like them
12 either. Item 41, we assume because it's been a
13 tradition in Atlantic City that the performance
14 guarantees be limited to improvements on the public
15 right of way, not on-site. I just want to clarify
16 that. In other words, we're not bonding for the
17 parking lot itself, but to the extent we're doing
18 landscaping -- not landscaping. Paving.

19 MR. LANDGRAF: Landscaping, paving.

20 MR. TALVACCHIA: On-site?

21 MR. LANDGRAF: Yeah.

22 MR. TALVACCHIA: Very unusual.
23 Galloway just got rid of that.

24 MR. LANDGRAF: Atlantic City never
25 collected bonding for site improvements.

1 MR. TALVACCHIA: Oh, I did. I turned
2 it in many times. In the public right of way
3 always.

4 MR. LANDGRAF: This is a way to make
5 sure it gets done the way it's on the plan and
6 that's the way we've been doing it at least for the
7 last three and a half years since I've been here.

8 MR. TALVACCHIA: So within the parking
9 lot itself, fencing, lighting and landscaping.

10 MR. LANDGRAF: If you're going to pave
11 the areas, that should be part of your engineer's
12 estimate.

13 MR. SCIULLO: For sure for the
14 inspection, but for the actual bond, too?

15 MR. LANDGRAF: Right. We've been
16 asking --

17 MR. TALVACCHIA: You're not bonding
18 buildings, are you?

19 MR. LANDGRAF: No.

20 MR. TALVACCHIA: Thank God.

21 MR. LANDGRAF: You're not building any
22 buildings.

23 MR. TALVACCHIA: No, but in general.

24 MR. SCIULLO: In this case we
25 definitely wanted to bond the alley reconfiguration

1 and the sidewalks on the outside clearly and
2 landscape along the frontage. Stuff inside, it's
3 interesting that, obviously, the CRDA won't go in
4 and finish that work, right?

5 MR. LANDGRAF: We wouldn't do it. We'd
6 pay for it to get done out of your bond.

7 MR. TALVACCHIA: But the thing is we --

8 MR. LANDGRAF: I've been consistent
9 since I've been here requesting bonds for site
10 improvements. Unless we decided to change it with
11 the new regs and I don't believe we have.

12 MR. TALVACCHIA: There may be a comment
13 about that coming in.

14 MR. LANDGRAF: Okay. Get it in before
15 the 17th.

16 MR. TALVACCHIA: I know. I've got
17 plenty of time.

18 MR. LANDGRAF: You've been saying that
19 for a month.

20 MR. SCIULLO: I have two copies in my
21 bag. I'm going through them, promise.

22 MR. LANDGRAF: If you get them the
23 17th, these meetings are going to get a lot longer.
24 That's on the record.

25 MR. TALVACCHIA: All right.

1 MR. SCIULLO: That was 37, the fire
2 hydrant. 38, gutter elevations on the west side of
3 North Carolina Avenue indicate a low point. There
4 is an existing stormwater inlet over there. If it's
5 separate from that, we'll work that out.

6 MR. FICHTER: The gutter actually flows
7 to the inlet, but there's a low point in that. I
8 think it's just a typo.

9 MR. SCIULLO: There might be some
10 damage to the gutter. We'll fix that.

11 Number 39. Cross slope along North
12 Carolina, South Carolina avenues for the sidewalk
13 shall comply with ADA requirements. The stuff we
14 install absolutely will be -- are you asking us to --

15 MR. FICHTER: What called my attention
16 to that was the same spot with the low point.
17 Because of that low point, it was a foot lower,
18 which is why I think it was a typo. There was a
19 huge grade increase going up to the parking lot
20 which made the sidewalk very steep, so I think when
21 you fix that low point, I think you'll be fine.

22 MR. SCIULLO: We'll take care of that.

23 MR. LANDGRAF: Skateboard ramps.

24 MR. SCIULLO: The rest of it we're good
25 with.

1 MR. FICHTER: Couple comments, if I
2 may.

3 MR. LANDGRAF: Yes, please.

4 MR. FICHTER: Regarding the --

5 MR. COLLINS: Couple administrative
6 things. You've been previously sworn and qualified
7 as an expert in the field of professional
8 engineering and professional planning.

9 It's been referenced a few times here
10 today. But, for the record, let's mark your review
11 letter of this application dated October 16th, 2017,
12 as B-1.

13 Proceed.

14 MR. FICHTER: All right. Regarding
15 your testimony on the stormwater, I agree with
16 everything you said. It really comes down to the
17 quantity. And you're right, in tidal areas
18 quantity's not required, but that reg goes on to say
19 you have to prove no downstream impact. In this
20 case, much like what you described has happened on
21 North Carolina Avenue, you want to make sure it
22 doesn't happen on South Carolina, that you don't end
23 up with a drainage problem for the water to get from
24 the site to the tidal water body. But the DEP is
25 going to take jurisdiction on this since you're

1 going for a flood hazard permit, so they're going to
2 kind of take the reins for us effectively. I think
3 they're going to look for that gap between the site
4 and the tidal water body to make sure there's no
5 impact, but that's something that we should keep an
6 eye on to make sure that water can get there. I
7 don't know if you want to be proactive and handle
8 that and send something to us or if you want to copy
9 us on the DEP application.

10 MR. SCIULLO: Rob, we sent a copy of
11 the flood hazard app to you?

12 MR. REID: Yes.

13 MR. SCIULLO: We'll talk through it.
14 I'll provide what is needed.

15 MR. FICHTER: Okay. The other thing
16 about the CAFRA, you had a lot of testimony, and we
17 talked earlier about CAFRA, whether it's required or
18 not. I tend to agree with you that it's not
19 required, but I think the right thing to do is to
20 get a jurisdictional determination from the DEP,
21 which the process in and of itself is pretty simple.
22 I understand the concern is that they disagree and,
23 as for a CAFRA permit, we don't want that, so I
24 would defer to your judgment on this, the right
25 thing to do is get the jurisdictional determination

1 from CAFRA. Short of that, I would suggest that
2 they submit a detailed letter as to why it is not
3 required so we have that on file.

4 MR. LANDGRAF: When you guys -- you
5 already have applied for the flood hazard permit.
6 Won't they give you a determination?

7 MR. SCIULLO: It's the very first thing
8 they do.

9 MR. FICHTER: That has not been my
10 experience. Those two people don't always talk. I
11 think there's even a line in the flood hazard permit
12 that you're responsible for all the other stuff. We
13 need to check on that.

14 MR. SCIULLO: Here in town the coastal
15 region manager, Janet Stewart. She has people
16 review the work for her. What we're concerned with,
17 as you mentioned, the potential -- if you ask most
18 of the time, do we need this, they say yes. We know
19 it won't be that in this case. It's not a priority
20 for them. Not that we will have it any later than
21 the flood hazard permit, but when they accept a
22 flood hazard permit application and send us the
23 acknowledgment of that, that will serve in our eyes
24 as the JD. If it's something you're adamant about,
25 we'll try to work something out to get something

1 from writing in them.

2 MR. FICHTER: That would be great.

3 MR. SCIULLO: Just saying since the
4 flood hazard permit's accepted, CAFRA's not
5 necessary.

6 MR. FICHTER: That's fine. If she
7 would agree to that, that's great.

8 MR. LANDGRAF: We hope -- won't be with
9 this set of rules that are coming in, but hopefully
10 in the next year, there may be a CAFRA version
11 that'll help the situation a little bit, I hope.
12 What scares me is it looks like the Pineland
13 process. Nobody wants to add that down here. So it
14 looks a whole lot like it, if you read through Long
15 Branch and what they proposed to us.

16 MR. FICHTER: I have oodles of
17 experience with them.

18 MR. LANDGRAF: It doesn't work?

19 MR. FICHTER: No.

20 MR. SCIULLO: Nightmares for DEP.

21 MR. LANDGRAF: Meetings we had about
22 our regulations, they said, look, we understand Long
23 Branch has its issues. We're going to fix them as
24 we implement them here in Atlantic City.

25 So that's the hope, that in the next

1 eight to 12 months that happens with our regs that
2 they can fix that process. Hopefully that stops
3 multiple shopping around. You submit an application
4 to us, there's a requirement to submit some notice to
5 DEP and CAFRA and they review it quickly, if it's not
6 an application that pertains and give us a quick
7 letter. If it has to go through their process,
8 there's still that process to get the CAFRA permit,
9 but if it's a smaller application similar to this,
10 then it may not need the formal full CAFRA review.

11 MR. SCIULLO: You mentioned Pinelands,
12 filing process, like front end with them and then
13 having to come here?

14 MR. LANDGRAF: It's an awful lot like
15 that and that's what scared me.

16 MR. SCIULLO: I thought they would make
17 it so that the owners would then fall under review.

18 MR. LANDGRAF: It does partly, but
19 there's a notice you have to send to DEP that says
20 we applied for this in Atlantic City. They will
21 kick that application back to us if they don't want
22 jurisdiction, but they can pull that jurisdiction
23 in.

24 MR. FICHTER: In Long Branch, what
25 they've done, it's basically the city becomes the

1 applicant, so the applicant gives the city stuff and
2 the city has to put the application together and
3 submit it.

4 MR. LANDGRAF: Yeah, we're not doing
5 that.

6 MR. FICHTER: Right.

7 MR. LANDGRAF: We will not be doing
8 that. That's just not going to happen.

9 MR. FICHTER: And it doesn't seem to
10 speed the timeline up at all. It's great in theory.

11 MR. SCIULLO: We imagine, too, the
12 staff doesn't want to do anything differently up
13 there. It wouldn't be something, yeah, it's
14 Resorts, it's easy. They still want to do every
15 other one that comes over their desk the same.

16 MR. FICHTER: It's a general permit.

17 MR. LANDGRAF: They're working through
18 those details and when you make smaller applications
19 like this, to me, this shouldn't need that. It's
20 reconfiguring a parking lot, you know. This isn't
21 building a large structure, things of that nature.

22 MR. TALVACCHIA: There's no traffic
23 generation, nothing that really intensifies the use.

24 MR. LANDGRAF: Exactly. All right.

25 Jason, do you want to go through

1 anything else you have in your letter or --

2 MR. FICHTER: They've done a great job
3 of being thorough with the letter. Nothing left.
4 They hit it all.

5 MR. LANDGRAF: Good. All right. Go
6 through my stuff.

7 With that, Nick, do you have anything
8 else relevant to the public?

9 MR. TALVACCHIA: No.

10 MR. LANDGRAF: Okay. With that we'll
11 open this hearing up to the public. Anyone here,
12 please, stand and state your name. Open to the
13 public.

14 We'll now close it, seeing no one here
15 from the public.

16 Anything from your end, Rob?

17 MR. REID: No.

18 MR. LANDGRAF: Scott?

19 MR. COLLINS: Nothing from me.

20 MR. LANDGRAF: Jason?

21 MR. FICHTER: I'm good.

22 MR. LANDGRAF: Nick?

23 MR. TALVACCHIA: No, we're good. Thank
24 you.

25 (The hearing was concluded at 11:01

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A.M.)

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