

CASINO REINVESTMENT DEVELOPMENT AUTHORITY

LAND USE REGULATION and ENFORCEMENT DIVISION

CELEBRITY CORNERS, LLC

SEEKING SITE PLAN APPROVAL FOR CELEBRITY CORNERS
RESTAURANT AND BAR TO EXPAND DECKING IN MONTPELIER
AVENUE RIGHT-OF-WAY FOR OUTDOOR SEATING AREA AND
VARIANCE RELIEF FOR NUMBER OF OUTDOOR SEATING,
SIGNAGE AND PARKING.

BLOCK 28, LOT 1.01

Boardwalk and Montpelier Avenue,
Atlantic City, New Jersey

Thursday - July 18, 2019

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1 Public hearing in the
2 above-referenced matter, conducted in the
3 meeting room of the CASINO REINVESTMENT
4 DEVELOPMENT AUTHORITY, City of Atlantic City
5 Council Chambers, 1301 Bacharach Boulevard,
6 Atlantic City, New Jersey, before Karen A.
7 Haworth, a New Jersey Certified Court Reporter
8 (CCR), nationally certified Registered
9 Professional Reporter (RPR), nationally
10 certified Certificate of Merit holder (CM),
11 nationally certified Certified Realtime Reporter
12 (CRR), a Delaware Certified Shorthand Reporter
13 (CSR), nationally certified Certified LiveNote™
14 Reporter (CLR), and Notary Public of the State
15 of New Jersey, on the above date, commencing at
16 10:00 A.M., there being present:

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APPEARANCES:

CASINO REINVESTMENT DEVELOPMENT AUTHORITY:

PAUL G. WEISS, ESQUIRE
Chief Legal Officer

1 CASINO REINVESTMENT DEVELOPMENT AUTHORITY

2 (CONTINUED):

3

4 ROBERT L. REID
5 Land Use Enforcement Officer

6

7

8

9

10 PROFESSIONALS TO THE BOARD FOR THIS HEARING:

11

12 SCOTT G. COLLINS, ESQUIRE
13 RIKER, DANZIG, SCHERER, HYLAND & PERRETTI

14 CHRISTINE COFONE, PP
15 COFONE CONSULTING

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1 COUNSEL FOR THE APPLICANT:

2

3 NICHOLAS F. TALVACCHIA, ESQUIRE
4 COOPER, LEVENSON, APRIL, NIEDELMAN
& WAGENHEIM

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I N D E X

WITNESS(ES)	PAGE NO.
ARTHUR PONZIO	
By: Nicholas Talvacchia	54

EXHIBITS MARKED AND/OR REFERRED TO:

- A-1
- A-2
- A-3
- A-4
- A-5
- A-6
- A-7
- A-8
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1 EXHIBITS MARKED AND/OR REFERRED TO (CONTINUED):

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3 B-1

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1 (Time noted: 10:00 A.M.)

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3 PAUL WEISS: I'd like to call to
4 order the Casino Reinvestment Development
5 Authority Land Use Regulation & Enforcement
6 Division hearing for July 18th, 2019.

7 Please stand and join me in the
8 Pledge of Allegiance.

9 (The Pledge of Allegiance was
10 recited at this time.)

11 PAUL WEISS: Thank you.

12 On this morning's docket is
13 Application 2018-03-2364, Celebrity Corners,
14 LLC.

15 And this hearing is being conducted
16 in accordance with the Municipal Land Use Law
17 and the Open Public Meetings Act and the
18 regulations of the Casino Reinvestment
19 Development Authority.

20 The applicant is here, seeking site
21 plan approval for their restaurant and bar to
22 expand decking in the Montpelier Avenue
23 right-of-way for outdoor seating and variance
24 relief for a number of outdoor seating, signage
25 and parking.

1 The property is located at 3119
2 Boardwalk. It's Block 28, Lot 1.01. Boardwalk
3 and Montpelier Avenue. And it's in the RC,
4 Resort Commercial, Development District.

5 Is the applicant represented by
6 counsel?

7 NICHOLAS TALVACCHIA: Yes.

8 PAUL WEISS: Okay. Mr. Talvacchia,
9 unless there's any further introductory remarks
10 from anyone on the panel here, the floor would
11 be yours to present the application.

12 NICHOLAS TALVACCHIA: Thank you.

13 Good morning, members of the
14 Authority, outside consultant.

15 Nick Talvacchia, Cooper Levenson,
16 on behalf of the --

17 UNKNOWN SPEAKER FROM THE AUDIENCE:
18 Can't hear.

19 UNKNOWN SPEAKER FROM THE AUDIENCE:
20 We can't hear a word either one of you are
21 saying. Sorry.

22 NICHOLAS TALVACCHIA: Is this not
23 working? The green button is on.

24 PAUL WEISS: Rob, do you know how
25 to --

1 ROBERT REID: If the green button's
2 on, it should be working.

3 NICHOLAS TALVACCHIA: Testing.
4 I'll start over.

5 PAUL WEISS: Time out.

6 (Discussion held off the record.)

7 PAUL WEISS: You can hear us now,
8 ma'am?

9 UNKNOWN SPEAKER FROM THE AUDIENCE:
10 You, barely. I'll see if we could hear him.

11 PAUL WEISS: Barely. Okay. Well,
12 just let us -- just let us know. We want you to
13 hear us. Okay? So, if for some reason during
14 the course of the presentation you can't hear,
15 either -- ma'am, either please come forward, if
16 you wish.

17 UNKNOWN SPEAKER FROM THE AUDIENCE:
18 I will. Thank you.

19 PAUL WEISS: That might be -- that
20 might be convenient for all of us.

21 UNKNOWN SPEAKER FROM THE AUDIENCE:
22 I'll have to sit on your lap.

23 PAUL WEISS: I'm afraid that's not
24 permissible. I'm flattered.

25 But, in any event, -- but, in any

1 event, hopefully, you'll be able to hear.

2 UNKNOWN SPEAKER FROM THE AUDIENCE:

3 I hear you now perfectly. I guess that was too
4 far away.

5 PAUL WEISS: All right. Thank you.

6 All right. Mr. Talvacchia, again.

7 NICHOLAS TALVACCHIA: Again, for
8 the record, Nick Talvacchia, Cooper, Levenson,
9 on behalf of the applicant.

10 We're pleased to be here.

11 With me is the principal of

12 Celebrity Corners, Domenic --

13 Why can't I pronounce your --

14 UNKNOWN SPEAKER FROM THE AUDIENCE:

15 Domenico Gaggiano.

16 NICHOLAS TALVACCHIA: After 30
17 years, I can't pronounce his name.

18 And then our planner, Arthur
19 Ponzio.

20 This is a site plan application, as
21 you mentioned, to expand the outdoor seating
22 area.

23 So, the seating area that had been
24 previously approved by the city over a series of
25 licenses over a series of years, commencing as

1 far back as the early 2000s, was about -- it got
2 to 1,200 plus square feet.

3 The license expansion in 2017 that
4 the city approved expanded it to just over 2,000
5 square feet. Mr. Ponzio will provide the exact
6 numbers.

7 It's that additional 800 square
8 feet which is the subject of the site plan
9 application.

10 To be conservative, we asked for 80
11 seats to be approved. However, we have
12 documentary evidence that at least 52 outdoor
13 seats were approved by city license and, really,
14 as high as 92.

15 That's important for a couple of
16 reasons. One is the Authority, in its
17 regulations, administratively could determine --
18 you could determine that some of this is
19 grandfathered as an administrative matter. So,
20 that could be done between now and the board's
21 formal action.

22 We are gonna ask for full variance
23 relief as if there were 80 new seats, but there
24 has always been seating out there. We have
25 various licenses that I'm just going to put into

1 the record that can be reviewed.

2 I also have a couple of letters
3 from Scott Silver, attorney, to various city
4 officials as far back as 2003, when the city
5 first authorized alcohol service on the
6 boardwalk.

7 In one of those letters,
8 Mr. Silver, Scott Silver, says we've been
9 seating for a number of years, serving food on
10 the boardwalk, but now that the city, as of
11 2003, permits alcohol, we want to get an alcohol
12 license. And that started it.

13 The key document, though, is the
14 2013 city license, because it -- it shows not
15 only the boardwalk; it shows the number of seats
16 that were approved.

17 And then in 2014, there was an
18 amendment that added seating on the side, the
19 street end and the side. If you combine --

20 And that also has an exhibit that
21 shows the number of seats. If you add those up,
22 it's 52 seats.

23 Then, as you also know, in 2014,
24 CRDA authorized a -- authorized the expenditure
25 of funds to build what we'll call the street end

1 extension. That was done specifically for
2 Celebrity. It's in the RFP. I have a document
3 and I'll submit that into the record, where it
4 says built for their outdoor seating. That
5 added 40 more seats.

6 We don't have a plan that shows the
7 40 seats, but that's what we're using.

8 So, the point I'm making is, if you
9 add the 52 and the 40, that's 92 seats. And we
10 put that in our notice and our amended
11 application.

12 That -- all of that was approved by
13 the city prior to January 2nd, 2018, when the
14 CRDA regulations went into effect.

15 The City of Atlantic City, in
16 interpreting its zoning ordinance, did not
17 require land use approval for outdoor seating.
18 They did it via the license process.

19 I say that as an officer of the
20 court. I confirmed it with Joe Dougherty, who
21 was a city solicitor at the time. But, on a
22 personal level, I did many licenses on the
23 boardwalk.

24 The city did not -- did not ever
25 require a zoning approval for seating on the

1 boardwalk. What they required is you get a
2 license and you show your plan to the Planning
3 Department. There's no resolution, no Planning
4 Board, no Zoning Board, no CLUC for peak
5 boardwalk seating.

6 So, under your regulations,
7 anything that was legally existing prior to
8 January 2nd, 2018 is grandfathered. Prior
9 nonconforming uses instructions can continue.

10 Atlantic City, essentially, had the
11 right of -- rights of way unzoned. Unzoned.
12 And that's their right. There's no requirement
13 for zoning, it's purely optional, and they could
14 zone whatever they choose to zone.

15 CRDA has interpreted its
16 regulations to include a rights of way, but the
17 city did not interpret its.

18 So, our position is that we're
19 grandfathered for up to those 50 -- 92 seats.

20 And that would eliminate the
21 parking variance and the variance that goes to
22 the issue of more outdoor seating than indoor.
23 It does not eliminate the need for site plan for
24 the expansion. We agree with that.

25 So, just so we have --

1 I'm going to give each of you --

2 We'll mark it --

3 PAUL WEISS: Mr. Talvacchia, just
4 to be clear, what relief are you seeking, then?

5 NICHOLAS TALVACCHIA: We're going
6 to ask for it as a matter of caution.

7 We -- we went to this approach last
8 year, a prior nonconforming, and we were told
9 just go, get the approval, it will be cleaner.
10 There's potential opposition. So, we asked for
11 it, but I don't -- I'm not waiving my rights to
12 the prior nonconforming use status. That's what
13 I'm doing to now. I'm going to ask for
14 everything. I'm going to cover all the bases.

15 CHRISTINE COFONE: So I just --
16 just so I understand from a planning point of
17 view, your position is that you are entitled to
18 the 92 seats as a matter of a prior legal
19 pre-existing nonconforming use.

20 NICHOLAS TALVACCHIA: Correct.

21 CHRISTINE COFONE: In the
22 alternative, you want to bootstrap your record
23 and that you'll supplement with testimony, such
24 that if it were found that you weren't to be a
25 lawful prior existing nonconforming use, you

1 believe that the variance for the parking and
2 for the additional outdoor seating, which would
3 be beyond the CRDA regulations, you will put in
4 testimony for those two things.

5 NICHOLAS TALVACCHIA: We will
6 support this as if it's 80 new seats, 80 new
7 seats that never existed, and the sign for the
8 additional front sign and for the greater seats
9 outside than inside, we'll provide that
10 testimony in the alternative.

11 PAUL WEISS: And looking --

12 And, Mr. Talvacchia, --

13 NICHOLAS TALVACCHIA: Yeah.

14 PAUL WEISS: -- and you made
15 reference to the fact that the Authority
16 expanded the street end there for the express
17 purpose of benefiting your client?

18 NICHOLAS TALVACCHIA: Yes.

19 PAUL WEISS: And where in the
20 solicitation does it say that?

21 NICHOLAS TALVACCHIA: Page 47. I
22 have it attached.

23 UNKNOWN SPEAKER FROM THE AUDIENCE:
24 Excuse me. Now that the mics are on, could you
25 please use them? Because --

1 NICHOLAS TALVACCHIA: Yeah. Sorry.

2 UNKNOWN SPEAKER FROM THE AUDIENCE:

3 Thank you.

4 NICHOLAS TALVACCHIA: At the last
5 page of -- of what I handed you, there --

6 I didn't copy all 90-something
7 pages of the solicitation, but I copied the
8 first two pages and then page 47.

9 And this was done in July of 2014.
10 And it says preserve -- "Existing Conditions."
11 Let me find the exact language here. Oh. Here
12 it is.

13 Under 630.2, "Existing Conditions.
14 The project consists of constructing extension
15 of the north end of the boardwalk between the
16 existing pedestrian ramp and the existing" --

17 UNKNOWN SPEAKER FROM THE AUDIENCE:
18 You're getting lower and lower.

19 NICHOLAS TALVACCHIA: -- "and the
20 existing auto ramp" -- "and the existing auto
21 ramp of Montpelier Avenue for use of Celebrity
22 "Corner" [pronounced incorrectly] restaurant for
23 outdoor seating."

24 And that is my recollection of what
25 happened when the events were occurring. But --

1 So, anyway, that just establishes
2 that that was built with the intent and purpose
3 by the CRDA to expand the outdoor seating.

4 PAUL WEISS: Yeah. I mean --

5 Well, I'd like --

6 I guess, I want to be able to mark
7 these documents --

8 NICHOLAS TALVACCHIA: Yeah. Yeah.

9 PAUL WEISS: -- as exhibits --

10 NICHOLAS TALVACCHIA: I was going
11 to start at the top --

12 PAUL WEISS: -- so that it's clear
13 --

14 NICHOLAS TALVACCHIA: -- and just
15 briefly describe what they are.

16 PAUL WEISS: -- it's clear to us
17 and, also, for the record exactly what we are
18 reviewing.

19 So, yes, if you would please start.

20 NICHOLAS TALVACCHIA: Okay. So, in
21 your packets that I gave you is a letter of May
22 25, 2003 to Joseph Dougherty, who's a -- as you
23 probably know -- we're in Atlantic City -- he
24 was the assistant city solicitor at the time.

25 PAUL WEISS: Well, then, if I may,

1 the very first document in this package is a
2 letter dated August 21st, 2003 --

3 NICHOLAS TALVACCHIA: Oh. That's
4 --

5 PAUL WEISS: -- to Mr. --

6 NICHOLAS TALVACCHIA: You know
7 what? That's out of order. Do you have the May
8 25th one?

9 PAUL WEISS: I do. Okay.

10 NICHOLAS TALVACCHIA: Yeah. I'm
11 sorry. That just got out of order. I'm doing
12 it, you know, in chronological order.

13 PAUL WEISS: Okay. Thank you.

14 NICHOLAS TALVACCHIA: So, the May
15 25th, 2003 simply acknowledges that there was
16 outdoor seating prior to 2003. The city amended
17 its ordinance to allow alcohol.

18 I'm only trying to establish the
19 long history of outdoor seating, because it goes
20 to any potential parking variance and the
21 impact.

22 So, that's what that letter talks
23 about.

24 Then there's an August 21 letter.
25 And these letters are --

1 PAUL WEISS: So, we're going to
2 list this as A-1, --

3 NICHOLAS TALVACCHIA: Sure.

4 PAUL WEISS: -- the May 25th, 2003
5 letter.

6 NICHOLAS TALVACCHIA: Thanks.

7 SCOTT COLLINS: Moving on to the
8 August 21, 2003 letter, we will call that A-2.

9 NICHOLAS TALVACCHIA: Right. And
10 that letter is to the city's assistant planning
11 director Keith Mills and, again, to Joe
12 Dougherty, from Mr. Silver. And it talks about
13 tables and chairs and the requirements to have
14 alcohol on the boardwalk.

15 And it really --

16 Again, just establishing the long
17 history of outdoor seating at Celebrity
18 "Corner."

19 I then provide a license that was
20 signed in 2000--and -- not 2000 -- in '09.
21 6/9/09 is the signature. It's a Revocable
22 License Agreement. This talks about seating on
23 the -- on the boardwalk. There's no map
24 attached to it. But, note the consideration's
25 \$2,400.

1 PAUL WEISS: Just one second,
2 Mr. Talvacchia.

3 NICHOLAS TALVACCHIA: Yeah.

4 PAUL WEISS: There --

5 A-1 and A-2, it's your --

6 You want to be heard for the
7 proposition that these letters are copies of
8 original letters that were submitted --

9 NICHOLAS TALVACCHIA: Yeah. I -- I
10 --

11 PAUL WEISS: -- by Mr. Silver?

12 MR. TALVACCHIA: Yes.

13 PAUL WEISS: Because they are
14 unsigned.

15 NICHOLAS TALVACCHIA: Yeah. And
16 here's what happened.

17 PAUL WEISS: And they're on blank

18 NICHOLAS TALVACCHIA: I will -- I
19 will --

20 PAUL WEISS: -- stationery.

21 NICHOLAS TALVACCHIA: I will make a
22 representation as an officer of the court. I
23 asked Mr. Silver to look at his file. And what
24 he sent me, he said these are computer printouts
25 of what was sent. He doesn't have the actual

1 photocopies from 2003, but he's able to get
2 these.

3 And he represented to me that they
4 were letters that he sent to the city at that
5 time. That's why they're not on letterhead.
6 They're computer saved.

7 It's a very simple proposition.
8 We're seeking a liquor license with outdoor
9 seating in '03.

10 PAUL WEISS: I just want to make
11 sure that the veracity of the documents we're
12 looking at are --

13 NICHOLAS TALVACCHIA: Understood.
14 And to the extent that the -- that you, as the
15 land use administrator, if, indeed, your role --
16 if you wanted to review any -- because you have
17 a separate role you can exercise under the regs,
18 and that is to determine prior nonconformities.
19 That can be done without the board to 2003.
20 That could be done administratively in the regs.
21 You can go back and see what's nonconforming.
22 So...

23 PAUL WEISS: I'm familiar with --

24 NICHOLAS TALVACCHIA: Yes.

25 PAUL WEISS: -- the regulations.

1 NICHOLAS TALVACCHIA: So...

2 PAUL WEISS: But, I just want to
3 make sure that -- again, that the documents that
4 you're --

5 NICHOLAS TALVACCHIA: Yeah.

6 PAUL WEISS: -- presenting today
7 for this hearing, you're certifying that these
8 are valid copies of original documents that
9 were, in fact, delivered to the parties that
10 they are addressed to.

11 NICHOLAS TALVACCHIA: Yeah. I am
12 certifying that Scott Silver sent me a letter --
13 at my request to look at his file -- and sent me
14 a letter that says these are copies from my
15 computer of letters I sent to the city. I'm
16 certifying that.

17 PAUL WEISS: Do you have a copy of
18 Mr. Silver's letter with you?

19 NICHOLAS TALVACCHIA: I don't have
20 it with me. I brought a lot of stuff out and I
21 did not.

22 And there's some attorney/client
23 privileged material in that letter, but I could
24 probably redact it and provide it to you as
25 evidence to supplement the record at your

1 request.

2 PAUL WEISS: I am requesting.

3 NICHOLAS TALVACCHIA: Hum?

4 PAUL WEISS: I am requesting that.

5 NICHOLAS TALVACCHIA: Okay. We'll
6 get that to you.

7 All right. The --

8 I note, on one of the licenses, the
9 top corner, the pencil, that's from my firm just
10 to make it easier to identify the document.
11 That document is a license executed in 2009 for
12 \$2,400.

13 PAUL WEISS: And this is the
14 document entitled Revocable License Agreement
15 Extension?

16 NICHOLAS TALVACCHIA: Yes. And
17 6/9/09.

18 There are many of these. I didn't
19 give you all of them. I just wanted to give an
20 illustration.

21 Why that 2,400's important is, if
22 you go to, then -- to the next document,
23 handwritten at the top right's 7/29/13. I
24 skipped a few years. This is the first one that
25 I could find, the first license that actually

1 has a map for an exhibit. That exhibit shows
2 four tables in front of the restaurant with 16
3 chairs. Four times four is 16. And that was
4 also for \$2,400.

5 PAUL WEISS: And this is what we're
6 marking as A-4?

7 NICHOLAS TALVACCHIA: Is that what
8 we're up to? Yes.

9 SCOTT COLLINS: Yeah. Let's just
10 step back and get the 6/9/09 --

11 NICHOLAS TALVACCHIA: That's A-3.

12 SCOTT COLLINS: -- as A-3.

13 And this would be the 7/29/13 --

14 NICHOLAS TALVACCHIA: Yes.

15 SCOTT COLLINS: -- Revocable
16 License Agreement, A-4.

17 NICHOLAS TALVACCHIA: Right. And
18 then, again, if you could focus on the dollar
19 amount of the license, 2,400.

20 Then go to 6/24/14, which, I guess,
21 will be A-5, Amended Revocable License
22 Agreement, this was signed in '14. I call your
23 attention to the exhibit, which shows outdoor
24 seating. This one says, in the very front of
25 the restaurant -- I don't know if you found it

1 yet. This is what it looks like. It says
2 "Existing License." And then it has two
3 references to proposed. This is where the
4 licensed areas were expanded on the side of the
5 restaurant and what we'll call the street end.
6 This was before the CRDA built its street end
7 extension.

8 This exhibit shows nine additional
9 tables; four per. That's 32. So, 32, plus the
10 other 16 is 52. That's where we got the 52.

11 PAUL WEISS: And again, your
12 testimony is that what we're marking as A-5,
13 entitled Amended Revocable License Agreement,
14 expands the permitted seating to 52 seats.

15 NICHOLAS TALVACCHIA: Correct.

16 PAUL WEISS: Okay.

17 NICHOLAS TALVACCHIA: And again,
18 that just goes to the issue that the city
19 approved this.

20 And by the way, they were out there
21 for years. No one ever shut them down. No
22 notice of violation. And, in fact, each year,
23 they had to go to the Atlantic City ABC Board,
24 approved site control. Now, I didn't handle
25 this, but they had to get a liquor license

1 approved, renewal, every year.

2 I did go to the one last year. And
3 one of the criteria for approval of a liquor
4 license renewal is you have to show you actually
5 have control of the property. So, we served
6 alcohol there.

7 We then had the '15 extension, the
8 '16. These do not show -- these do not show any
9 area. But, I note, if you look at A-5, the
10 dollar amount is a thousand dollars. If you
11 look at A-4, the original amount was 2,400. So,
12 the expanded area cost an additional thousand
13 dollars.

14 So, now we go to '15 and the price
15 is a combined is 3,400; 24 plus a thousand.

16 PAUL WEISS: We'll be marking that
17 A-6?

18 NICHOLAS TALVACCHIA: Yes.

19 SCOTT COLLINS: That would be the
20 5/4/15 --

21 NICHOLAS TALVACCHIA: Correct.
22 A-6.

23 SCOTT COLLINS: -- license
24 agreement.

25 NICHOLAS TALVACCHIA: And, really,

1 the same thing for the next one, the 3/17/16
2 license agreement. That's A-7. That also shows
3 the \$3,400. No map, but it jives with the
4 numbers, in terms of a annual license payment.

5 The same thing for 5/16/17 license,
6 at A-8. That also shows a \$3,400.

7 And then we have -- and this was
8 already part of the record but we can mark it if
9 you want. This is the license that the city
10 approved by resolution 311 in 2017. It was
11 signed in, I think, September of 2017.

12 And then Karl Timbers, the
13 assistant city solicitor, in June of 2018,
14 provided clarification as to the license. And
15 that was done because issues were raised at the
16 ABC relicensing in 2018. So, he wrote that
17 letter.

18 PAUL WEISS: So, just take a step
19 back, --

20 NICHOLAS TALVACCHIA: Sure.

21 PAUL WEISS: -- Mr. Talvacchia.

22 From, you know --

23 You presented it at A-5 --,

24 NICHOLAS TALVACCHIA: Mm-hmm.

25 PAUL WEISS: -- when your client

1 received an amended license agreement from the
2 city, --

3 NICHOLAS TALVACCHIA: Right.

4 PAUL WEISS: -- that was for 52
5 seats.

6 NICHOLAS TALVACCHIA: That was --
7 No. It's an additional --

8 PAUL WEISS: But, the cumulative --

9 NICHOLAS TALVACCHIA: -- the
10 cumulative.

11 Yes. That --

12 PAUL WEISS: -- number of seats was
13 52.

14 NICHOLAS TALVACCHIA: Correct.

15 PAUL WEISS: Right?

16 Then from A-6 through A-8, which
17 are all revocable license agreements extensions,
18 --

19 NICHOLAS TALVACCHIA: Right.

20 PAUL WEISS: -- did the number of
21 seats increase?

22 NICHOLAS TALVACCHIA: They did.

23 PAUL WEISS: To what?

24 NICHOLAS TALVACCHIA: Well, when
25 the city built the -- not the city. The CRDA

1 built that extension, that allowed the --

2 UNKNOWN SPEAKER FROM THE AUDIENCE:

3 We can't hear you --

4 NICHOLAS TALVACCHIA: When the CRDA
5 built that extension and that went into
6 operation in 2015, again, the understanding of
7 the parties was it was for their use for
8 seating.

9 The city acknowledged it because
10 they let them use it. The liquor license was
11 expanded to that area.

12 And, of course, the CRDA, that's
13 when they went out to bid, to build that.

14 So, that expanded area added about
15 -- added exactly 40 seats. That's where we get
16 the 92; the 52 plus the 40.

17 PAUL WEISS: But, I guess my
18 question to you is simply because the Authority
19 builds an extension for the boardwalk doesn't
20 give your client the right to have additional
21 seats.

22 NICHOLAS TALVACCHIA: Correct. And
23 --

24 PAUL WEISS: So, where in the
25 documentation do we have --

1 NICHOLAS TALVACCHIA: The 2017
2 approval expanded the license to what we have
3 today. And including the areas we're proposing
4 to expand.

5 In other words we went from 1,200
6 and plus square feet to over 2,000 square feet
7 with the 2017 license extension. That expressly
8 included the area that CRDA built.

9 CHRISTINE COFONE: How are you
10 quantifying that as 40 seats, though? That's my
11 --

12 NICHOLAS TALVACCHIA: Well, that's
13 -- that

14 CHRISTINE COFONE: -- question, is
15 how are you quantifying --

16 NICHOLAS TALVACCHIA: We don't --

17 CHRISTINE COFONE: I understand
18 what you're saying, in that you now have a
19 liquor license that encumbers additional area
20 beyond what your 52 original seats were, --

21 NICHOLAS TALVACCHIA: Yeah. And --

22 CHRISTINE COFONE: -- but how are
23 you getting -- help us understand how you get to
24 40.

25 NICHOLAS TALVACCHIA: It's just

1 that's how many seats we used there.

2 And you're right. We don't have an
3 exhibit that shows --

4 We have two exhibits that show the
5 52. I don't have an exhibit that shows the 40.

6 I do have a lease that encompasses
7 that area from the city, the 2017 lease, added
8 that area, plus the ramp, plus the new area that
9 was built. So...

10 PAUL WEISS: And that's -- and
11 that's what we've marked as A-8.

12 NICHOLAS TALVACCHIA: I don't think
13 you've gotten to --

14 That's A-9.

15 PAUL WEISS: So, that's the --

16 NICHOLAS TALVACCHIA: A-9 is --

17 PAUL WEISS: That's the document
18 that there's a cover memo from Mr. Timbers to --

19 NICHOLAS TALVACCHIA: Yeah. And,
20 Paul, if you look at the third page -- and this
21 is the second exhibit that's now part of the
22 license -- this shows --

23 What the city did is they took the
24 two previous licenses and then they expanded the
25 license, as you can see here. So, it went from,

1 again, about 1,200 square feet to just under
2 2,100 square feet.

3 That's what we have today. It's in
4 force. It's, I think, a 15-year term.

5 PAUL WEISS: All right. So, you're
6 --

7 The document that's entitled
8 Revocable License Agreement --

9 NICHOLAS TALVACCHIA: Which is
10 behind it. Correct.

11 PAUL WEISS: -- that is behind it,
12 --

13 NICHOLAS TALVACCHIA: Mm-hmm.

14 PAUL WEISS: -- you're saying that
15 that license agreement between your client and
16 the city --

17 NICHOLAS TALVACCHIA: Yes.

18 PAUL WEISS: -- expanded the area
19 of use that your client was entitled to use?

20 NICHOLAS TALVACCHIA: Correct. In
21 fact, the --

22 PAUL WEISS: But, where -- but,
23 where in the document does it expand the number
24 of seats that your client is --

25 NICHOLAS TALVACCHIA: Well, --

1 PAUL WEISS: -- permitted to have
2 in that area?

3 NICHOLAS TALVACCHIA: -- it
4 doesn't.

5 PAUL WEISS: Or doesn't.

6 NICHOLAS TALVACCHIA: The city
7 never cared about the number of seats because
8 they did not apply their parking standard to
9 seats. They didn't care.

10 PAUL WEISS: Right.

11 NICHOLAS TALVACCHIA: They wanted
12 -- they wanted to see a layout, but not for
13 zoning purposes. That's why we didn't go to
14 zoning. They wanted to see a layout. They
15 wanted to see if you had planters or --

16 They wanted it to look nice and
17 they didn't want it to be overcrowded.

18 So, you're correct. There was no
19 -- no --

20 But, the point is, so, even if you
21 discard the 40 seats because we can't prove the
22 number, --

23 PAUL WEISS: Right.

24 NICHOLAS TALVACCHIA: -- I still
25 think we have 52.

1 PAUL WEISS: Okay. Help me
2 understand one thing. The license that was
3 issued by the city, I guess it's, really, the
4 last license issued by the city for this area --

5 I'm trying to see what date exists
6 on this document.

7 NICHOLAS TALVACCHIA: It's --
8 I think the license was signed
9 September of '17.

10 PAUL WEISS: Yes. Okay. And then
11 there's a -- you said, a memorandum from
12 Mr. Timbers clarifying --

13 NICHOLAS TALVACCHIA: Yes.

14 PAUL WEISS: -- the license?

15 NICHOLAS TALVACCHIA: That's --

16 PAUL WEISS: What was he clarifying
17 --

18 NICHOLAS TALVACCHIA: Okay. At --

19 PAUL WEISS: -- that city council
20 couldn't get right, I guess, --

21 NICHOLAS TALVACCHIA: We were -- we
22 --

23 PAUL WEISS: -- the first time they
24 did it?

25 NICHOLAS TALVACCHIA: Well, we went

1 to city council, --

2 UNKNOWN SPEAKER FROM THE AUDIENCE:

3 We can't hear you.

4 NICHOLAS TALVACCHIA: We went to
5 city council, the committee, the planning and
6 development committee, --

7 PAUL WEISS: Yeah.

8 NICHOLAS TALVACCHIA: -- and we
9 said questions have been brought up about
10 whether -- about the license.

11 And Mr. Shabazz, Councilman
12 Shabazz, said I don't think we need to go back
13 to council, it's clear it was what we approved,
14 we'll have the solicitor's office handle it.
15 That's what happened.

16 And the solicitor's office issued
17 that memo after there was some objection at the
18 license renewal for the alcohol; about whether
19 or not we had control of that area.

20 The board voted to approve the area
21 for the license in '18. I was there for the
22 vote. Scott Silver handled it.

23 And Mr. Timbers, really, at my
24 request, I said, Karl, we have to clarify this
25 area to make sure people understand what the

1 city approved in 2017. That's what generated
2 that -- that memo.

3 PAUL WEISS: So, the clarification
4 was to what, exactly?

5 NICHOLAS TALVACCHIA: Well, okay.
6 What --

7 PAUL WEISS: What was the question
8 that was left?

9 NICHOLAS TALVACCHIA: Fair point.
10 The exhibit attached to the 2017 license was
11 incorrect. It didn't show that -- well, it
12 didn't show that. It was just --

13 What it tried to do is it had the
14 first license, the second license, some other
15 area. It was very confusing.

16 The intent was to get rid of the
17 other licenses and replace one, two and,
18 potentially, a third license with one
19 comprehensive license for \$4,800 a year. And
20 that's what we accomplished. I say that to you
21 because I'm the one who negotiated that with
22 Elizabeth Terenik, the planning director at the
23 time.

24 So, when I saw the final license in
25 the exhibit, I said, that exhibit is wrong.

1 The exhibit that is now attached to
2 the memo is the correct exhibit. That's what we
3 have site control over.

4 PAUL WEISS: And so instead of
5 going back and correcting the -- what I'll call
6 the public record of the approval, the city
7 solicitor's office wrote this memorandum at your
8 request, clarifying the licensed area.

9 NICHOLAS TALVACCHIA: Again,
10 because the council committee planning committee
11 did not think it was necessary to go back. They
12 didn't see an issue with it. They thought that
13 --

14 So, you can dispute how it was
15 resolved, but we have official --

16 PAUL WEISS: I'm not disputing --

17 NICHOLAS TALVACCHIA: I'm not just
18 saying that.

19 PAUL WEISS: I'm just trying to --

20 NICHOLAS TALVACCHIA: Yeah.

21 PAUL WEISS: I'm trying to
22 understand what happened and why.

23 NICHOLAS TALVACCHIA: Yeah. That's
24 what --

25 PAUL WEISS: Okay.

1 NICHOLAS TALVACCHIA: Yeah. If you
2 go --

3 Maybe this will be helpful. If you
4 go to the back, the actual lease attachment that
5 was initially included, the c(1), prepared by
6 Mr. Ponzio, you'll see it's not really clear
7 what's being added, what's not being added.
8 That was a mistake. That was the wrong exhibit.
9 It was never intended to be the exhibit. When I
10 saw it, I said, this is wrong.

11 What happened is, the city drafted
12 the agreement. I didn't review the agreement.
13 It went right to the clients. They signed it.
14 Later on, I said, that exhibit is not -- it's as
15 clear as mud, we have to get it clarified.

16 We went back to the committee.
17 They said, yeah, we'll just have the solicitor's
18 office --

19 Because the intent -- the intent,
20 if you read the resolution of city council, was
21 to give us that whole section.

22 And it talks about -- let me find
23 it here. The resolution of city council talks
24 about we currently -- "Celebrity currently
25 occupies an area licensed to it by the city

1 adjacent to the boardwalk on Montpelier for a
2 deck for outdoor seating. Celebrity is seeking
3 to expand the existing deck area located in the
4 street end along Montpelier so as to connect its
5 restaurant and bar with the existing licensed
6 area.

7 "Celebrity is proposing to convert
8 and utilize one of the two ramps of the
9 boardwalk" -- which is what we've raised --
10 that's part of the proposed site plan -- and to
11 -- "and part of the Montpelier Avenue street end
12 for an expanded license area." That's the part
13 we constructed.

14 So, to me -- and that's a 15-year
15 term -- it's clear what their intent was. We
16 presented to them. We met with them. We said
17 this is what we want to do. They said, sure,
18 that's fine. Okay.

19 But, I will -- I will confess that
20 the exhibit that made it to the licensed
21 agreement itself was a little unclear. Hence,
22 the clarification.

23 PAUL WEISS: Okay. So, the exhibit
24 that made it to the license agreement that's
25 entitled Approved Public License Delineation,

1 that is wrong?

2 NICHOLAS TALVACCHIA: Let me look,
3 make sure I'm looking at the same one you are.

4 PAUL WEISS: It's c(1).

5 NICHOLAS TALVACCHIA: Yeah.

6 PAUL WEISS: It looks like it's
7 dated --

8 NICHOLAS TALVACCHIA: Yeah. That
9 is --

10 PAUL WEISS: -- 6/19 of '17.

11 NICHOLAS TALVACCHIA: I can't --
12 I don't even know what it's trying
13 to portray. But, it's -- it was clearly wrong.

14 PAUL WEISS: And is there -- was
15 there a revised Approved Public License
16 Delineation prepared for --

17 NICHOLAS TALVACCHIA: Yes.

18 PAUL WEISS: -- this license
19 agreement?

20 NICHOLAS TALVACCHIA: That's
21 attached -- that's attached to Mr. Timbers'
22 letter.

23 PAUL WEISS: Okay. It says
24 expanded license area.

25 NICHOLAS TALVACCHIA: Right. And

1 see the number 2,086 square feet?

2 So, the very first one was the
3 first license. Then there was the frontage on
4 the boardwalk. There's some on the side, but
5 essentially -- not essentially. What is shown
6 here is the licensed area. And that's what is
7 the subject of this application today; the
8 expanded parts of that.

9 Again, part of this was already --
10 most of this was already built. Most of it was
11 already licensed.

12 And it also incorporated into it
13 that area that was built by CRDA.

14 PAUL WEISS: And you also indicated
15 your client also did some construction?

16 NICHOLAS TALVACCHIA: Yes. Toward
17 --

18 Art can explain it better. But,
19 when the ramp was raised, the ramp would have
20 been longer than what CRDA built going toward
21 Pacific Avenue. So, part of the proposal was to
22 kind of square off the back part; in other
23 words, expand the area CRDA built. It's only a
24 340 or 60 square foot expansion.

25 The ramp area was already there,

1 which was lifted up to be flat.

2 PAUL WEISS: And just for the
3 record, your client had all of his governmental
4 approvals prior to constructing that area?

5 NICHOLAS TALVACCHIA: He had a
6 building permit, yes, from the City of Atlantic
7 City.

8 PAUL WEISS: What about any other
9 governmental approvals?

10 NICHOLAS TALVACCHIA: Did not.

11 And we have talked to CAFRA. We
12 have a CAFRA notice of violation for the
13 construction. We've talked to CAFRA. There's
14 no penalties. They told us to go ahead and get
15 a CAFRA permit. And we've talked to Janet
16 Stewart and we're going to get that permit. And
17 she confirmed for us that, other than the ramp
18 area and the 300 plus square feet, the rest of
19 the area is good to be used by the applicant.
20 And I have that in writing, if you want it, in
21 an email from DEP.

22 PAUL WEISS: That would be helpful.
23 Yes. If you would provide that for the record.

24 NICHOLAS TALVACCHIA: I only have
25 one copy of this.

1 What are we up to? Ten, A-10?

2 SCOTT COLLINS: Ten would be next.

3 Yes.

4 NICHOLAS TALVACCHIA: All right.

5 This is an email from Art Ponzio, sitting here,

6 to Janet Stewart, talking about the two areas.

7 I couldn't find a map, but the sloping area is

8 identified as number two.

9 Number one is the 300 plus square
10 feet. This is what we'll call the new area.

11 And you'll see Janet Stewart
12 confirms that only those two areas need a CAFRA
13 permit.

14 By the way, we confirmed that CRDA
15 did check with the DEP when it built its
16 expansion, and DEP determined that a CAFRA
17 permit was not required for what CRDA built.
18 So, I'm glad you checked.

19 PAUL WEISS: Okay. So, we'll mark
20 an exhibit --

21 NICHOLAS TALVACCHIA: A-10.

22 SCOTT COLLINS: That will be A-10.

23 NICHOLAS TALVACCHIA: And Art is
24 sitting here if you have any questions. He's
25 the one that initiated the contact with DEP.

1 So...

2 PAUL WEISS: And --

3 NICHOLAS TALVACCHIA: I don't -- I
4 really don't want to belabor this. I just want
5 to get it into the record to show that there's a
6 long history of outdoor seating that got
7 expanded several times, and that's where we are
8 today.

9 PAUL WEISS: Right. And the --
10 what you're proposing as the -- what I'll call
11 the corrected public licensed delineation that
12 currently exists with the City of Atlantic City
13 for this area is --

14 NICHOLAS TALVACCHIA: Was attached
15 to Mr. Timbers' letter.

16 PAUL WEISS: -- attached to
17 Mr. Timbers' memorandum.

18 And the schematic or drawing is
19 dated May 10, 2018. And you're suggesting, I
20 guess, that this is a simpler reflection of the
21 licensed area than what was --

22 NICHOLAS TALVACCHIA: Right.

23 PAUL WEISS: -- attached to the
24 license agreement.

25 NICHOLAS TALVACCHIA: Yeah. And

1 again, in my discussions with Director Terenik,
2 I said, you know, they have one license for the
3 front, they have a second license for those two
4 other areas, and I said, I don't want to do a
5 third license, all with different dates, let's
6 just do one combined license.

7 PAUL WEISS: Well, maybe, at some
8 point, what you considered to be simple, maybe
9 I'm just challenged by these two drawings here.
10 But, they look substantially similar.

11 NICHOLAS TALVACCHIA: The intent of
12 the first one --

13 PAUL WEISS: Both of which are not
14 simple.

15 NICHOLAS TALVACCHIA: It calculates
16 it at 2,086 square feet.

17 And when Art gets up, he'll show
18 you graphically.

19 Once you show what was there and
20 then you move the ramp up, --

21 PAUL WEISS: Mm-hmm.

22 NICHOLAS TALVACCHIA: -- the CRDA
23 portion did not match the end of the ramp, as
24 elevated.

25 So, we then built --

1 That was where the 300 plus square
2 feet is. It was really just kind of squared off
3 so we built -- you didn't have this kind of
4 extension that went further toward Pacific than
5 what CRDA had built. And it just squared it
6 off.

7 So, that's the genesis of it.
8 Frankly, if the ramp had matched up with the end
9 of the CRDA piece, that's where we would have
10 stopped.

11 PAUL WEISS: Well, all right.
12 Well, let's go on. We'll, hopefully, clarify
13 that later in the testimony.

14 NICHOLAS TALVACCHIA: Okay. So,
15 anyway, and then finally, A-11 is the portion of
16 the CRDA Request For Bid package for the street
17 end construction for the --

18 And page 40 --

19 42 pages that are identifying the
20 project, and then through to page 47, which
21 describes its purpose as additional seating for
22 Celebrity "Corner."

23 So, that's it for that.

24 PAUL WEISS: All right. And again,
25 just -- I mean, for the record, Mr. Talvacchia,

1 it doesn't say additional seating; it says for
2 outdoor seating.

3 NICHOLAS TALVACCHIA: Right. But,
4 we already had a license from the city prior to
5 that for seating on the boardwalk. So, it was
6 semantics. It wasn't intended for additional
7 seating. The CRDA would not have spent \$160,000
8 not to have seating. It says for seating.

9 PAUL WEISS: Well --

10 NICHOLAS TALVACCHIA: We already
11 had -- we already had seating in the front and
12 around that area.

13 PAUL WEISS: Right. Under a
14 licensed agreement that the city has the right
15 to revoke.

16 NICHOLAS TALVACCHIA: Absolutely.
17 We're not saying that.

18 PAUL WEISS: Right. So, again,
19 just to --

20 NICHOLAS TALVACCHIA: Now, I will
21 tell you. The city's never revoked one for an
22 outdoor seating in my 30 years of doing this.
23 But, they could.

24 PAUL WEISS: No. I understand
25 that. But, the city certainly has the right to

1 do so.

2 NICHOLAS TALVACCHIA: They do.
3 But, they're very pro development, as is CRDA,
4 and they like the outdoor seating, per your
5 master plan. Everybody promotes it. The
6 governor's task force, they also promote the
7 outdoor seating, as you know.

8 PAUL WEISS: Thank you. Go ahead.

9 NICHOLAS TALVACCHIA: That's it for
10 the exhibits. Now I want to get to the fun
11 stuff, the actual application. That's just by
12 way of background.

13 SCOTT COLLINS: Can I just
14 interrupt for a second, --

15 NICHOLAS TALVACCHIA: Yeah.

16 SCOTT COLLINS: -- Mr. Talvacchia?

17 NICHOLAS TALVACCHIA: Sure.

18 SCOTT COLLINS: Just for purposes
19 of the record, we've just gone through a
20 tremendous number of documents, and the purpose
21 of this is showing -- correct me if I'm wrong --
22 the applicant has control of the entirety of the
23 public right-of-way, where they propose to
24 develop by way of a licensed agreement --

25 NICHOLAS TALVACCHIA: That is

1 correct.

2 SCOTT COLLINS: -- that's currently
3 valid.

4 NICHOLAS TALVACCHIA: Correct.

5 SCOTT COLLINS: And the other
6 documents that you submitted show that the
7 applicant had 52 --

8 NICHOLAS TALVACCHIA: 52.

9 SCOTT COLLINS: -- had approvals
10 from the city for 52 and up to, possibly, 92
11 seats --

12 NICHOLAS TALVACCHIA: But, I can't
13 prove the other 40.

14 SCOTT COLLINS: -- within that
15 area, and those approvals were issued by the
16 city, not the CRDA.

17 NICHOLAS TALVACCHIA: Right. And
18 they predate the effective date of your
19 regulations, which was January 2nd, 2018.

20 SCOTT COLLINS: And you're asking
21 the CRDA to recognize those prior approvals
22 which were not zoned.

23 NICHOLAS TALVACCHIA: Right. Which
24 will --

25 Yeah. Which will only go to the

1 issue of reducing the parking requirement and
2 the seating issue with more inside versus --
3 more outside versus inside. It only goes to
4 those two issues. It does not go to use or the
5 permissibility of the use. The use is
6 permitted.

7 SCOTT COLLINS: Okay. And now
8 we're moving on to the application, which --

9 NICHOLAS TALVACCHIA: Yeah. And I
10 failed to submit -- and I should have done this
11 at the beginning.

12 As you know, the Ocean Club
13 Condominium Association had objections to this.
14 After a long negotiation, there's been a
15 settlement agreement signed. It was provided to
16 the Authority. I'm going to call this, I think,
17 A-12, is where we're at, Scott?

18 SCOTT COLLINS: Yes.

19 NICHOLAS TALVACCHIA: Okay. A-12
20 is a letter from Ansell, Grimm & Aaron, the
21 attorneys for --

22 Paul -- Mr. Weiss, this was
23 actually sent to you via email it looks like on
24 July -- yesterday.

25 That law firm is counsel to Ocean

1 Club condominiums. And the association
2 withdraws its opposition and/or objection to the
3 pending applications, referring to the
4 application now being heard.

5 In addition to that, attached to
6 that was a letter from the Ocean Club
7 Condominium Association, itself, on its
8 letterhead, dated July 12th, 2019, talking about
9 the amicable resolution of disputes between my
10 client and the Association and further says, "By
11 this letter, the Ocean Club formally withdraws
12 its objection to the application."

13 And, basically, that's it.

14 So, I'd like to put this into the
15 record, although I think you have it already,
16 but let's get it in.

17 PAUL WEISS: I have the email, but
18 let's put it in.

19 SCOTT COLLINS: This is page what?

20 And then, if I may, while we're
21 coming back to it, as we get started here, the
22 application, which I would have marked A-1, but
23 we jumped right in, we will mark that A-13. And
24 acknowledge that what we've done here, so far,
25 is, essentially, context. The applicant is here

1 today seeking 82 --

2 NICHOLAS TALVACCHIA: We're seeking
3 80 -- approval for 80 seats. Whether or not you
4 credit the 52 --

5 When it's all said and done, we
6 want to have 80 outdoor seats, which is less
7 than we've had historically, in a
8 restaurant/lounge/bar configuration. We're
9 seeking to have the ramp that was lifted up and
10 the square foot added as a matter of land use
11 approval or the whole deck, whatever you think's
12 appropriate. Probably, technically --

13 I don't know how you view the --

14 We're seeking the whole thing to be
15 clean. We were advised let's just get a CRDA
16 approval for the whole thing so we have all
17 that.

18 I am not giving up the argument
19 that we're grandfathered for some of it, but I
20 think it would be better, going forward, if we
21 get an approval that acknowledges everything.
22 We have a record going forward. Mr. Reid has
23 taught me that, ten years from now, when people
24 are looking at this, instead of it being a
25 puzzle, we have one document that says what was

1 approved, what was not approved, what we can do,
2 what we can't do.

3 PAUL WEISS: Okay.

4 NICHOLAS TALVACCHIA: Are you
5 ready?

6 PAUL WEISS: Yep.

7 NICHOLAS TALVACCHIA: I'd like to
8 have Mr. Ponzio come up.

9 Art, if you could first be sworn.

10 ARTHUR PONZIO: Yes.

11 SCOTT COLLINS: Good morning.

12 ARTHUR PONZIO: Good morning.

13 SCOTT COLLINS: Do you swear to
14 tell the truth and nothing but the truth in your
15 testimony here today?

16 ARTHUR PONZIO: Yes, I do.

17

18

19

20 ARTHUR PONZIO,

21 sworn.

22

23 DIRECT EXAMINATION

24 BY NICHOLAS TALVACCHIA:

25 Q. Mr. Ponzio -- Art, you're a

1 New Jersey licensed planner?

2 A. I am.

3 Q. You've been practicing in
4 Atlantic City for decades?

5 A. Yes.

6 Q. He doesn't want to say how long.
7 Have you been qualified by this
8 board as a planning expert in the past?

9 A. I have.

10 NICHOLAS TALVACCHIA: Based on his
11 prior qualifications by this board, Mr. Weiss, I
12 offer Mr. Ponzio as a planning expert. Plus,
13 his licensure.

14 PAUL WEISS: That's fine. Please
15 proceed.

16 BY NICHOLAS TALVACCHIA:

17 Q. All right. Art, you've been
18 engaged by the applicant to prepare a site plan
19 and, really, to process this application. Is
20 that correct?

21 A. Correct.

22 Q. Okay. So, what do you bring up
23 there? We'll call this A-14?

24 A. Yes.

25 NICHOLAS TALVACCHIA: This is the

1 amended site plan rendered with some color that
2 we submitted a couple weeks ago. The amended
3 site plan only differs from the one submitted in
4 January, in that we added some landscaping, we
5 added the decorative lighting over the top of
6 the seating area, and we added an eight-foot
7 windshield on the Pacific Avenue side to kind of
8 reduce the wind impacts.

9 So, that's the only changes from
10 the plan.

11 And Miss Cofone's office did do an
12 amended review letter reflecting that amended
13 site plan. But, this change has been really
14 very simple. The area's exactly the same. The
15 number of seats are exactly the same. The
16 configuration's exactly the same.

17 BY NICHOLAS TALVACCHIA:

18 Q. I think the signage is the same,
19 too, or did we eliminate that?

20 A. It's just updated, --

21 Q. Updated. Okay.

22 A. -- but it's the same thing -- the
23 same, yes.

24 Q. Coming up, Art -- Mr. Ponzio, if
25 you could walk the Authority through what,

1 historically, has been there.

2 UNKNOWN SPEAKER FROM THE AUDIENCE:

3 We can't see this.

4 NICHOLAS TALVACCHIA: Well, I --

5 Art, maybe you can orient it a

6 little bit that way so they can --

7 PAUL WEISS: That's fine. Let's

8 try to orient it so the public can also view the

9 document, as well.

10 NICHOLAS TALVACCHIA: Let's try to

11 move it this way so it's more at an angle.

12 THE WITNESS: What if I go back

13 there?

14 UNKNOWN SPEAKER FROM THE AUDIENCE:

15 Thank you.

16 NICHOLAS TALVACCHIA: You're

17 welcome.

18 Mr. Weiss can you still see that?

19 PAUL WEISS: That's fine. We're

20 good.

21 THE WITNESS: I have the plan

22 somewhere, so just bear with me. Whatever.

23 NICHOLAS TALVACCHIA: Mark this as

24 A-14, which is the amended site plan but with

25 color added.

1 BY NICHOLAS TALVACCHIA:

2 Q. All right. Art, walk us through
3 this. Orient everybody to Celebrity "Corner,"
4 the Ocean Club condominium, the streets, the
5 boardwalk, the beach.

6 A. So, there's been some conversation
7 about what the proposal is and the expansion.

8 So, the light-shaded area here
9 represents the 799 -- you call it 800 -- square
10 feet or so. Seven hundred and 99 square feet of
11 expansion.

12 I don't know if you can see it at
13 that distance.

14 The darker-shaded area was a prior
15 license. Twelve hundred -- 1,287 square feet.

16 When you add the two together, the
17 entirety is 2,086 square feet. Essentially,
18 that's --

19 Q. So, the plan represents what was
20 previously constructed --

21 A. Correct.

22 Q. -- and used.

23 Right?

24 A. Correct.

25 Now, the two parts of this

1 expansion, this narrow, rectangular shape, that
2 was the former ramp, sloping ramp. It was
3 elevated flat so that it met the elevation of
4 the dark-shaded area, the remainder of the deck.

5 This other area, the square area,
6 essentially, on the upper left corner of the
7 platform, if you will, that is a new expanded
8 area. And a photograph of that --

9 Nick, do you want to show that
10 little trap back here?

11 Q. And, Art, when you said "new
12 expanded," that's part of the licensed area the
13 city approved?

14 A. A-16. That's the deck that was
15 built.

16 NICHOLAS TALVACCHIA: I'm going to
17 offer A-16 so you can visualize what happened
18 with the area that was --

19 THE WITNESS: To square off the
20 area after the ramp was elevated.

21 BY NICHOLAS TALVACCHIA:

22 Q. And that was the main purpose; to
23 square it off?

24 A. That's correct.

25 So, in total, the expansion is

1 relatively minor; 799 square feet.

2 PAUL WEISS: So, just if I may, a
3 question.

4 THE WITNESS: Yes, sir.

5 PAUL WEISS: The area that you're
6 suggesting is merely to square off something?

7 UNKNOWN SPEAKER FROM THE AUDIENCE:
8 Stop. Stop.

9 Thank you.

10 UNKNOWN SPEAKER FROM THE AUDIENCE:
11 He'll give you a copy when --

12 PAUL WEISS: We're on -- we're on
13 --

14 This photograph that's marked A-16
15 is this area that was --

16 NICHOLAS TALVACCHIA: Art, if you
17 could identify --

18 PAUL WEISS: -- purportedly to
19 square off something.

20 NICHOLAS TALVACCHIA: Yeah.

21 THE WITNESS: That platform right
22 there.

23 PAUL WEISS: So, that was added --

24 THE WITNESS: That was added.

25 PAUL WEISS: -- onto the decking.

1 THE WITNESS: The ramp was --

2 PAUL WEISS: Yeah. I'm familiar
3 with the building --

4 THE WITNESS: Yeah. Extended --

5 PAUL WEISS: -- and I'm familiar
6 with the ramp.

7 THE WITNESS: Right. And the
8 elevated ramp flat. And on the toe of the ramp
9 --

10 PAUL WEISS: So, in order to -- in
11 order to tie in with what was a ramp to the rest
12 of the area that existed prior to that, your
13 client, essentially, built an extension.

14 THE WITNESS: Correct.

15 PAUL WEISS: Got it.

16 NICHOLAS TALVACCHIA: Well, and,
17 Mr. Weiss, if not, there would have been a part
18 of that elevated ramp that was just a ramp width
19 that had nothing adjacent to it. So, we said --

20 PAUL WEISS: Mm-hmm.

21 NICHOLAS TALVACCHIA: -- it's not
22 that functional.

23 NICHOLAS TALVACCHIA:

24 Q. Because the ramp is, what, eight or
25 ten feet, Art?

1 A. That ramp is --

2 The square footage is 300.

3 Q. Width, the width.

4 A. The width of that, maybe it's a
5 little bit more than that, Nick. Twelve to 14
6 feet.

7 The area's 327 square feet, that
8 platform that you're looking at. 327.

9 Q. And you have, just for -- because I
10 showed him the letter of Janet Stewart, you had
11 sent this plan to DEP in terms of a discussion
12 about what kind of approval would be required to
13 legalize it?

14 A. Correct.

15 Q. And while we did receive a notice
16 of violation, has a fine actually been imposed
17 against Celebrity?

18 A. No.

19 Q. And that's with the understanding
20 that we will apply for a permit?

21 A. Correct.

22 Q. And we've discussed that issue with
23 Janet Stewart; --

24 A. Yes.

25 Q. -- that you and I were in a --

1 A. Yes. And I've been retained by the
2 applicant to do so.

3 Q. Okay. Is it your belief, based
4 upon your discussion with DEP, that that permit
5 will be issued?

6 A. I would say. I'm pretty -- pretty
7 sure that it will be, yes.

8 Q. The other important point is, other
9 than the yellow area, the gray area, did DEP
10 confirm to you in writing that the other area
11 does not need a CAFRA permit, it's good to go as
12 is?

13 A. They did, yes.

14 Q. And that's in that email I provided
15 you?

16 A. Correct.

17 Q. Okay. So, continue on.

18 A. Okay. I got it. I'm sorry. I
19 have to turn this a little bit here. I have to
20 see what I'm looking at.

21 Okay. So, the proposal, as has
22 been described by Mr. Talvacchia, is to expand
23 this existing platform by 799 square feet. It
24 takes it up to a total of 2,086 square feet.
25 That's comprised of three areas. One is the

1 licensed area in front of the restaurant
2 building, on the boardwalk. The second is the
3 CRDA platform that was constructed at the street
4 end a few years back, as Mr. Talvacchia
5 mentioned. And the third is the expanded area
6 of 799 square feet. That's the elevation of the
7 ramp so that it's flush with the platform and
8 the construction of the small 327 square foot
9 rectangular -- or square area in the upper left
10 corner at the street end at Montpelier.

11 Q. Art, just a little clarification.

12 A. Yep.

13 Q. Before the CRDA built the deck,
14 this part of the boardwalk was also licensed?

15 A. It was, correct.

16 Q. This was actually boardwalk area.
17 Right?

18 A. It was a small -- or --
19 Compared to the area in front of
20 the building, there was also an extension of the
21 license at that time, whatever the dates were.

22 Q. That was a 2014 amendment that
23 added --

24 A. All right. To -- to incorporate
25 some seating along -- in the boardwalk

1 right-of-way at the street end, but,
2 essentially, on the frontage of the boardwalk.

3 Q. Okay.

4 A. Okay. So, the -- what other
5 improvements are there in addition to the deck
6 area itself? Of course, there will have to be a
7 safety and security fence around the deck. It's
8 elevated. The ground is about three or four
9 feet lower. So, by code, there is a -- there
10 would be a fence placed around the perimeter of
11 the deck, for safety, for security.

12 There's some lighting. The
13 lighting's going to be somewhat ornamental and
14 improve the overall atmosphere, if you will, and
15 the experience. Some ornamental rope lighting.
16 They have an out of town designer that -- I
17 believe it's from Florida -- that came through
18 and designed that system. It's going to be very
19 attractive, very nice. It's depicted on the
20 drawing. You'll see the light lines on the
21 drawing for that.

22 There will be some canopies added,
23 awnings, if you will, over the tables, again,
24 overall, to improve the experience of the
25 outdoor dining area.

1 There is a bar that's proposed to
2 be added in this location; rather close to the
3 boardwalk, at the street end.

4 And in the rear of the property,
5 this entire area becomes a lounge, essentially,
6 the latter, if you will, about half of what you
7 see here. That's a lounge area dedicated to the
8 restaurant, the bar, strictly to the other side.

9 The restaurant seating out front
10 and the restaurant seating that exists here will
11 be modified a little bit, as you see on the
12 drawing here.

13 Q. But, all told, between restaurant,
14 lounge, bar seating, 80 outdoor seats?

15 A. Total of 80 seats on the outside.
16 Correct.

17 There's one other improvement.
18 Because of the --

19 We see this on many of the street
20 ends in the city. The tall buildings, they
21 create a wind tunnel effect. So, when you have
22 a northwest wind blowing, the wind comes down
23 the street very -- very strong, and it does
24 impact the potential to dine outside. So, on
25 the fence -- at the fence in the rear, there

1 will also be a clear plastic shield about eight
2 foot in height just to block the wind, not the
3 visibility. It's going to be clear so you can
4 see through it. So it will block the wind that
5 comes from the northwest, down the street and,
6 hopefully, decrease the issues that they deal
7 with, you know, very frequently because of the
8 winds and the nature of the tall building next
9 door; that is, the Ocean Club constructed
10 directly next door.

11 The inside part of the restaurant,
12 we'll talk about that a little bit later on.
13 But, the inside part of the restaurant is here.
14 That's existed for many, many years that the
15 applicant has been in operation.

16 There was a time when they used
17 this. We call it the bubble. It's an
18 attachment on the side of the building that was
19 constructed many, many years ago. Then, for a
20 short period of time, it was lost.

21 Mr. Talvacchia, did you mention
22 that?

23 Q. Under the settlement agreement,
24 there will be a new lease for the bubble.

25 UNKNOWN SPEAKER FROM THE AUDIENCE:

1 We can't hear you.

2 NICHOLAS TALVACCHIA: Under the
3 settlement agreement, the Ocean Club will,
4 again, lease that to us. It hasn't been
5 executed yet, but we will get that space back.

6 PAUL WEISS: Once that settlement
7 agreement is executed by the parties, I'd like
8 to have it part of this record.

9 DOMENICO GAGGIANO: We got -- we
10 got it settled. We signed up.

11 NICHOLAS TALVACCHIA: Did you do
12 the lease yet, though?

13 DOMENICO GAGGIANO: Yes. We got --

14 NICHOLAS TALVACCHIA: Okay.

15 Oh. I'm sorry. That was Mr. --
16 the applicant. Sorry.

17 DOMENICO GAGGIANO: Sorry about
18 that.

19 NICHOLAS TALVACCHIA: Yeah. I
20 didn't know it was --

21 I'm not handling that part. That's
22 Evan Labov. I will check --

23 I don't know if there's any
24 confidentiality provisions, but I'll check. And
25 as long as it's not confidential between the

1 parties, I would provide it to the Authority.
2 But, I would ask, then, the Authority make -- we
3 would assert an exception under the Open Public
4 Records Act. But, that's a different issue.

5 PAUL WEISS: That's fine. And,
6 normally speaking, the Authority recognizes
7 those exceptions. But, given the significance
8 of the dispute between the parties and the
9 number of months, I would say over a year, that
10 they've been haggling with each other and the
11 Authority's been asked to evaluate this
12 application, I'd like to do it in its totality.
13 And that would include the resolution between
14 the parties.

15 NICHOLAS TALVACCHIA: Yeah.

16 PAUL WEISS: As a matter of the
17 record.

18 NICHOLAS TALVACCHIA: I mean, it's
19 significant that they wrote a letter saying
20 they're withdrawing their objection. Beyond
21 that, I don't know what else is relevant. They
22 know about the application. They had counsel
23 prepared to come here and object on various
24 grounds that -- submitted. But, you know what?
25 If there's no problem with releasing it, we'll

1 release it. It doesn't matter to me.

2 PAUL WEISS: Good.

3 BY NICHOLAS TALVACCHIA:

4 Q. Art?

5 A. There are --

6 In addition to the improvements
7 that we've discussed, there are three variances
8 that we're here seeking today, notwithstanding
9 all the conversation that was had a few moments
10 ago. You kind of confused me with all that a
11 little bit, but that's okay.

12 The first variance would be
13 signage. We are permitted to have 25 percent on
14 a wall sign, 25 percent of the facade
15 calculation and we're allowed to encompass
16 signage up to that limitation.

17 So, on the boardwalk side of the
18 sign -- of the property and on the side; that
19 is, the -- call it the west side, as well as on
20 the rear of the property, the north side, in
21 total, you add up the signage for the property
22 and we're at 176 square feet, with a total that
23 we're permitted to have with the facade, doing
24 the calculation, is 245 square feet.

25 So, the total signage area is well

1 under the allowance. So, there's no variance
2 for that whatsoever.

3 And it's important I mention that
4 because I'll come back to that later.

5 The variance comes in in that, on
6 any face -- outside face of a property, we would
7 be permitted to have two wall signs. There are
8 three wall signs proposed, and they are along
9 the boardwalk frontage.

10 There are three signs along the
11 front of the building that we are proposing.
12 There's one small sign that's being removed.
13 And --

14 So, instead of the two that would
15 be permitted, we have three.

16 Q. Art, isn't there a sign actually on
17 the fence?

18 A. No. That's -- that's out here,
19 Nick. That's a -- if you will, a ground sign --

20 Q. Okay.

21 A. -- that we're permitted.

22 A ground sign, there's those around
23 the perimeter. I'm just talking about the
24 variance issues for the three signs on the front
25 facade of the building where are -- where two

1 were permitted.

2 So, in total, all of the signs
3 equate to 176 square feet where the wall --
4 where we're permitted to have 245 square feet
5 just for the facade because of the 40 feet by 24
6 foot -- .5 foot length structure that we have.

7 Q. We're only talking about Celebrity;
8 not the bubble. Correct?

9 A. Celebrity. Just the 24.5 feet.

10 Q. Right. We not even counting the
11 bubble, --

12 A. Yeah.

13 Q. -- because we don't have control of
14 it now.

15 A. Correct.

16 Q. And with this application, we
17 didn't. So, we didn't -- we excluded that from
18 calculating the sign. It's just on the frontage
19 of the --

20 Which is a commercial condominium,
21 by the way, of the Ocean -- of the Celebrity
22 "Corner" restaurant.

23 A. So, again, identifying the
24 variance, trying to clear it up, is we have
25 three wall signs. We're allowed two. I'll come

1 back to the justifications for that. And that's
2 the second variance.

3 The third variance is the outdoor
4 seating versus the indoor. I'm not absolutely
5 certain what the intent of the Authority's
6 ordinance is when it comes to that, why they
7 would want to limit outdoor versus indoor.
8 However, I have some theories about that, which
9 I'll mention in a moment. But, the variance is
10 -- is required because we will -- we are
11 proposing more outdoor seats than we have
12 inside. Inside, we have 24 restaurant seats.
13 We're not permitted to count the bar, we're not
14 permitted to count the lounge. So, it's just
15 the restaurant seats on the inside, 24. On the
16 outside, 52.

17 Q. That's restaurant seats.

18 A. Restaurant seats only.

19 And if you add in the bubble,
20 that's going to change that formula somewhat.
21 It's going to be just about a wash, just about
22 50/50, if you will. But, for the testimony
23 today, 24 seats on the inside, 52 seats on the
24 outside for the restaurant only. That is the
25 third variance.

1 They're the only variances in
2 addition to site plan approval that we're asking
3 for today.

4 Q. Well, parking. Parking.

5 A. What's that?

6 Q. Parking.

7 A. Oh. I'm sorry. I -- I'm sorry.

8 The parking total that was
9 discussed, briefly, by Nick, it's questionable
10 which -- which criteria you apply. However, if
11 you abandon all the thoughts of the pre-existing
12 use, we have a total count of 80 -- I believe
13 it's 80 seats --

14 Q. Eighty. Correct.

15 A. -- in total.

16 We have no parking on the property
17 whatsoever. So, the variance would be required
18 for the 80 seats with no parking.

19 Applying the logic of the ordinance
20 standard, if you do the math, it's 30 percent of
21 the allowance, which, at 24 parking spaces
22 required where we have none. So, that's the --
23 that's the third variance.

24 Thank you for that.

25 If you go to the --

1 If you take into consideration the
2 pre-existing use of 52, you just make that
3 reduction, it would bring the parking
4 requirement down, I believe, to eight spaces if
5 you --

6 Q. I round up to nine, but okay.

7 A. If you allow --

8 8.4. If you'll allow the 52 --

9 Q. If you credit the 52 spaces --

10 A. Yeah.

11 Q. -- of the prior nonconforming, the
12 additional seats would translate to a need for
13 nine spaces.

14 So, it's either nine or 24.

15 UNKNOWN SPEAKER FROM THE AUDIENCE:

16 I'm sorry. I have a question. You said --

17 PAUL WEISS: Ma'am, ma'am, ma'am,
18 ma'am, there will be an opportunity for public
19 question and comment. We want the applicant to
20 get through their application. If you would
21 please just bear with us, I would appreciate it.

22 THE WITNESS: Okay. Just a little
23 explanation of the three variances.

24 The signage in particular, I think
25 it's pretty minimal. There are three signs.

1 Because of the dimension that we're permitted,
2 although we have three individual signs, we
3 could, essentially, lop them together, make them
4 larger, up to 69 square feet larger, and have
5 two signs instead of three and meet the
6 ordinance and not require a variance. It's just
7 because there's three individual signs and the
8 ordinance only allows two which kicks in the
9 variance. So, I think that it's very well --
10 pretty well justified when you look at it that
11 way.

12 If the board saw fit to have the
13 signage reduced to only two wall signs, we can
14 very easily accommodate that. One would be
15 molded into -- two signs would be molded into
16 one and it would be reduced to two signs. I
17 don't see the logic in that. I think that it's
18 appropriate the way it is. The signs are
19 relatively -- relatively small size; 2 X 12,
20 3 X 12, things like that. They fit right
21 on the wall of the building. I don't see any
22 difficulty or issues associated with that at
23 all.

24 Q. Do you think, from a c(2)
25 perspective, it's a better planning alternative

1 to have three smaller signs than two larger
2 signs, --

3 A. I do.

4 Q. -- from an aesthetic standpoint?

5 A. For a building such as this, I do.

6 If you look at the -- if you look
7 at the facade, it's quite large and quite tall,
8 if you will, above the profile of the building.
9 To me, it doesn't make sense to re-evaluate the
10 signage, add to the signage. It just doesn't
11 seem like it's appropriate for this location.

12 I think the smaller signs, the
13 three versus the two, I think, is, well, better.

14 CHRISTINE COFONE: So, just to ask
15 you a question, Mr. Ponzio, just to clarify, you
16 could actually conform with the ordinance, but
17 in order to do so, you would actually have to
18 make your signs bigger --

19 THE WITNESS: Bigger. Yes.

20 CHRISTINE COFONE: -- and attach
21 them.

22 NICHOLAS TALVACCHIA: Yes.

23 THE WITNESS: Yep.

24 NICHOLAS TALVACCHIA: And they
25 could still be bigger still.

1 CHRISTINE COFONE: So, less signage
2 -- less signage in this particular application
3 is less conforming with the ordinance, but,
4 perhaps, more aesthetically-pleasing to the
5 area.

6 I agree with you. I think it's a
7 classic c(2); where, in the absence of any
8 hardship --

9 There's no real hardship to
10 compliance here.

11 THE WITNESS: Right.

12 CHRISTINE COFONE: But, in the
13 absence of any hardship, if you advance one or
14 more purposes of the land use law, then you're
15 entitled to the c(2) variance.

16 Here, I think that your purpose
17 would be a desirable visual environment.

18 I don't understand a method where
19 you would have to increase the signs to comply
20 with the ordinance and that being better for the
21 character of the area.

22 So, I would agree with you. And I
23 think reliance on criteria "I", promoting a
24 desirable visual environment, would be
25 appropriate to the c(2) criteria.

1 THE WITNESS: Thank you.

2 BY NICHOLAS TALVACCHIA:

3 Q. And for that variance, do you see
4 any substantial detriment -- any substantial
5 detriment to the zone plan or public good if the
6 sign variance were to be granted?

7 A. No. I think it's a benefit, in my
8 opinion.

9 Q. Okay.

10 A. Let's see. That's signage.

11 So, I guess we'll talk about the
12 parking next. We'll go with the 80 space?

13 Q. We're going to ask for a variance
14 for 80, but if the hearing officer, in his
15 review of the documents, determines that we are
16 grandfathered for 52, it will reduce the
17 requirement to nine.

18 A. Okay. I think --

19 Q. But, either way, I think we can
20 justify it.

21 A. Yeah. This use, like many others
22 that are similar up and down the boardwalk, if
23 we look at the -- we look at the clientele that
24 comes to the building, where they come from and
25 the preponderance of it. And also, in talking

1 to the applicant. Many, many years I've worked
2 for them and with them.

3 The preponderance of their business
4 is directly from the boardwalk. And we can all
5 understand that. Folks come to the city. They
6 walk up and down the boardwalk and maybe they're
7 attracted to this particular location.

8 The point is, this restaurant, a
9 relatively small restaurant, if you will, is
10 not, in itself, a traffic generator. People
11 come here as they come -- walk down the
12 boardwalk. Perhaps some are in the building
13 next door, which has a multitude of residential
14 units in it. I'm sure some of those habit this
15 restaurant, as well as other folks coming up and
16 down the boardwalk.

17 So, you start with the premise that
18 it's somewhat significantly different from a
19 typical restaurant that we would all get with
20 our families, get in our cars and go to. These
21 boardwalk restaurants are far definitely
22 different from that. And experience tells us
23 that. By discussions with the applicant tells
24 us that. And who are his customers. Where do
25 they come from.

1 In the mornings, those of us that
2 happen to be on the boardwalk -- I'm up there
3 quite a bit in the mornings, early -- and the
4 bikers and the joggers and the Rollerbladers and
5 everyone, you see them stopping in the
6 restaurant and having whatever their choice is
7 for the morning. You see that goes on every
8 day. And not one of those folks has got a
9 vehicle with them. Every one of them are on the
10 boardwalk.

11 Evening --

12 CHRISTINE COFONE: So, what you're
13 saying is this a not a destination restaurant.
14 Most of the patrons are not driving there,
15 having their meal and driving home.

16 THE WITNESS: Correct.

17 CHRISTINE COFONE: Not to say that
18 that couldn't happen. The CRDA planner could be
19 down, doing a site visit and need to park a
20 vehicle --

21 THE WITNESS: Yep.

22 CHRISTINE COFONE: -- and go in.

23 But, you have some parking to
24 accommodate.

25 What you're saying is, a small

1 percentage of the restaurant's clientele,
2 meaning that most of the people who are using
3 the restaurant are there, perhaps, for the day
4 or whatever they're there. But, if they're
5 there, they're parked elsewhere, whether it's
6 utilizing the beach and the boardwalk or they're
7 residents of the adjoining residential
8 community, where they would have them parking
9 for their other --

10 THE WITNESS: Correct. And that's
11 our experience.

12 CHRISTINE COFONE: So I understand
13 your argument.

14 THE WITNESS: And it's a good
15 conversation to have.

16 CHRISTINE COFONE: I would agree
17 with you.

18 THE WITNESS: Yeah.

19 CHRISTINE COFONE: I think most
20 people are --

21 This is not a destination-type
22 restaurant.

23 THE WITNESS: It's not. And the
24 truth is, the experience of the applicant tells
25 us that.

1 And this has been going on for
2 many, many, many years, and we hope it continues
3 in the future, similarly.

4 And his customers are, essentially,
5 boardwalk folks, neighborhood area people and
6 things of that nature.

7 CHRISTINE COFONE: Historically --

8 NICHOLAS TALVACCHIA: One --

9 CHRISTINE COFONE: I just have one
10 more question, Mr. Talvacchia.

11 Historically, as the client has
12 operated the restaurant here, how much parking
13 has he had available just for the restaurant
14 use?

15 THE WITNESS: Yeah. I don't
16 believe he has any parking whatsoever.

17 NICHOLAS TALVACCHIA: No.

18 CHRISTINE COFONE: None. So, it's
19 operated here for, --

20 THE WITNESS: Many, many years.

21 CHRISTINE COFONE: -- presumably,
22 decades --

23 THE WITNESS: Mm-hmm.

24 CHRISTINE COFONE: -- with zero
25 parking.

1 THE WITNESS: Mm-hmm.

2 CHRISTINE COFONE: And what you're
3 proposing now is a situation where you have nine
4 off-street parking spaces for potential
5 restaurant-only customers who may decide to park
6 --

7 NICHOLAS TALVACCHIA: We don't have
8 any spaces. We're not --

9 CHRISTINE COFONE: You're not
10 providing any?

11 NICHOLAS TALVACCHIA: Yeah. Nine
12 would be the variance of --

13 CHRISTINE COFONE: Nine would be
14 the variance and you're not providing any.

15 NICHOLAS TALVACCHIA: Yeah. Based
16 upon a --

17 And thanks. That's the right
18 point. That's part of the reason for the
19 history of the use.

20 It's been there for decades and
21 there's no --

22 CHRISTINE COFONE: Zero off-street
23 parking.

24 NICHOLAS TALVACCHIA: Zero.

25 There's never been an issue.

1 BY NICHOLAS TALVACCHIA:

2 Q. Art, transportation is by tram, by
3 Uber, by people just walking down the boardwalk.

4 A. Yeah. The --

5 You mentioned the Uber/Lyft
6 situation. And all us planners and others do it
7 in the business.

8 It's an interesting phenomenon. I
9 mean, you look at places that are very, very
10 busy; downbeach, the island communities during
11 the summer, I'm sure, you know, your area.

12 The Uber/Lyft system that people
13 can use really is -- is beneficial. And on all
14 these island communities --

15 And Atlantic City, some years back,
16 parking was very tight. There's a street for --
17 busy and whatever. It's loosened up because of
18 the nature of the business and whatever. But,
19 still, in the summer season, a lot of people
20 come to their residence, wherever it happens to
21 be. Parking is so tight on these communities --

22 So, say you wanted to come here.
23 They pick up their phone and they hit that app
24 and they're using Uber and Lyft. We see it
25 constantly. I've testified to this many times

1 in other situations downbeach and other
2 communities where parking is so tight during the
3 summer.

4 And let's say you had a new
5 business that wanted to come in and a board is
6 going to deliberate on that, you tell the
7 business you can't come to our town because
8 there's no parking?

9 Well, there are other avenues to
10 pursue. And people do that. Okay? We do it
11 constantly, ourselves, in the summertime. When
12 I come to Atlantic City, sometimes you don't
13 want to go into a parking garage and -- if you
14 want to go here or wherever you happen to want
15 to visit in the city, you know parking's going
16 to be tight, you use that other facility.

17 That also ameliorates the need for
18 parking in a situation like this, where you're
19 in a seasonal -- essentially, a seasonal
20 operation where parking sometimes is difficult
21 to find.

22 Not only at your location, but
23 where you're coming from. Many people have
24 units downbeach here and you have your two
25 parking spaces. And you don't move your car

1 when you come here, because if you -- if you
2 look for a space on the street that is, you're
3 not going to find it. So, people, if they have
4 a third car out front, they leave it and they'll
5 use the Uber and Lyft. It's just a phenomenon
6 people have been doing more and more and more.
7 And I see it in use. And I think it does
8 ameliorate -- in additional to all the other
9 things we spoke about today, I think that also
10 ameliorates the need for parking.

11 One other is, in Atlantic City, we
12 have the jitney service. It's a half a block
13 away. Essentially, it's right down the end of
14 Pacific Avenue.

15 Also, people -- you'll see them
16 during the summertime, people that come to the
17 city, staying in one of the hotels, want to go
18 to the Knife & Fork or whatever, that jitney
19 service becomes very important to them. And
20 that also reduces the need for parking not only
21 for this site, but in general for many of our
22 uses in and throughout the city and the shore
23 area.

24 Q. Art, so --

25 And also, the city's really

1 re-enforced -- or been enforcing strongly the
2 metered parking. So, there are more and more
3 available spaces.

4 A. That helps. Yeah. That also
5 helps. Throughout the city, we're all very
6 aware of that. We use it all the time
7 ourselves.

8 Q. So, in your opinion as a planner,
9 is it a better planning alternative to not waste
10 resources on more asphalt for parking when it's
11 not necessary? Is it a better planning
12 alternative not to have --

13 A. Well --

14 Q. -- that parking and simply have
15 vacant parking lots?

16 A. Let me try to answer it this way.
17 In Atlantic City, we have significant resources
18 for parking throughout the city. There are open
19 lots, many of which are unused now,
20 unfortunately, in the city. There are huge
21 parking garages. Some of those are unused
22 throughout the city. So, the opportunities for
23 parking, should the need arise, are there. It's
24 not as if there's no availability to park
25 anywhere. There are plenty of options to park.

1 The question arises, does a site
2 like this, not a destination location, does it
3 really require or need the parking. Is it -- is
4 it a make-or-break it for this business. And
5 the proof is that the business has been
6 operating for so long without the parking. So,
7 it's obvious that it's not necessary for this
8 particular property.

9 Q. And isn't it the case, in your
10 personal experience, that many, many boardwalk
11 businesses have no parking?

12 A. I'm going to say most do not have
13 it.

14 Q. And that they've been successful?

15 A. Well, yeah. I mean, essentially,
16 they've been there for over a hundred years and
17 are still operating.

18 Q. So, from a appropriateness of using
19 land efficiently and appropriately, is not
20 having parking in this case the better planning
21 alternative?

22 A. I think it is in this case.
23 Because of the nature of this business, the
24 experience that we have gained through many
25 years and the availability of parking, should

1 there be a need for it, in the immediate area, I
2 think all those are justifications for the
3 reason why not to supply additional parking for
4 something where it's just not needed.

5 Q. And so on the negative criteria,
6 would a variance -- parking variance be a
7 substantial detriment to the zone plan or public
8 good?

9 A. No, it certainly would not, for the
10 reasons stated.

11 MR. TALVACCHIA: All right.

12 Mr. Weiss --

13 CHRISTINE COFONE: I just want to
14 back up. So, just to be clear as to what
15 statute -- what section of the statute you're
16 arguing a parking variance here, are you arguing
17 under c(1) and c(2) --

18 NICHOLAS TALVACCHIA: Not hardship.

19 CHRISTINE COFONE: -- for the --

20 NICHOLAS TALVACCHIA: No. Because
21 CRDA'S regulations would allow us to lease
22 off-space parking in spaces two, three, four,
23 five, six blocks away, which really would not be
24 practical, but we could avoid the variance by
25 entering into a parking contract.

1 CHRISTINE COFONE: Right.

2 NICHOLAS TALVACCHIA: And we think
3 that's not --

4 I mean, what purpose that serves if
5 it's a block away when --

6 I mean, we could do it.

7 CHRISTINE COFONE: Right.

8 NICHOLAS TALVACCHIA: And, in fact,
9 --

10 CHRISTINE COFONE: I was thinking
11 more about the c(1) statutory. One of the
12 criteria is -- for a hardship is lack of
13 pre-existing structures on a property and the
14 fact that this -- whether the number of seats
15 may be at odds, this is clearly operating as a
16 restaurant with a bar and seating for a number
17 of years.

18 NICHOLAS TALVACCHIA: Absolutely.
19 And we're not talking about parking for the
20 inside; we're just talking about --

21 CHRISTINE COFONE: The bar outside.

22 NICHOLAS TALVACCHIA: If you assume
23 all 80 spaces are brand new, never existed, we
24 would need 24 spaces. If you delete the credit,
25 the 52 seats that we can prove were approved by

1 the city, the prior nonconformity, --

2 CHRISTINE COFONE: You need nine.

3 NICHOLAS TALVACCHIA: -- the
4 parking requirement goes down to nine.

5 We think, based on the testimony,
6 that we don't really need any. As a practical
7 matter, there's no detriment to the city.

8 People simply --

9 This is not the kind of place -- no
10 offense, Dom, but you call up for a reservation
11 and say a dinner for four tonight. Not that it
12 can't be done, but it's just not that kind of
13 place. Anybody familiar with a boardwalk
14 experience knows that you're in town and you go
15 up to the boardwalk and you're going to visit
16 multiple places, not necessarily one stop. And
17 you can park someplace, whether it's your hotel,
18 a parking garage, and then you walk up and down
19 the boardwalk.

20 So, that's the reality of a shore
21 town boardwalk experience.

22 Mr. Weiss, I discussed with
23 Mr. Collins and Miss Cofone the idea that
24 because we don't have a dialogue with the board
25 at this time -- that happens at a later date --

1 if the board were not inclined to grant a
2 parking variance, the ordinance -- the
3 regulations, I mean, allow us to just rent
4 spaces. I would like that as an option. In
5 other words, I would not want the application to
6 be denied in toto --

7 PAUL WEISS: Right.

8 NICHOLAS TALVACCHIA: -- if they
9 deny that.

10 So, I would ask for a separate vote
11 on the parking from the site plan other
12 variances.

13 PAUL WEISS: When you say "separate
14 vote," what do you mean, "separate vote"?

15 NICHOLAS TALVACCHIA: Well, I would
16 not want the whole application to fail for the
17 parking variance. That's all I'm saying.

18 PAUL WEISS: You know, again, I'll
19 note for the record, if there's ample parking --
20 I think, as your expert has testified, there's
21 ample parking in the City of Atlantic City.

22 NICHOLAS TALVACCHIA: Absolutely.

23 PAUL WEISS: It's not as if the
24 applicant would have to go out and build a
25 parking lot.

1 NICHOLAS TALVACCHIA: No, no, no.

2 I'm just saying it would --

3 PAUL WEISS: And so --

4 NICHOLAS TALVACCHIA: Yeah.

5 PAUL WEISS: So, to the extent that

6 -- to the extent that the determination of the

7 Authority is that parking -- the parking

8 variance would be denied, then the applicant --

9 NICHOLAS TALVACCHIA: We would make
10 that a condition.

11 PAUL WEISS: -- then the applicant
12 would have to obtain some sort of contractual
13 arrangement --

14 NICHOLAS TALVACCHIA: Right.

15 PAUL WEISS: -- for parking.

16 NICHOLAS TALVACCHIA: We would do
17 that.

18 PAUL WEISS: Fine. That's fine.

19 NICHOLAS TALVACCHIA: Thank you.

20 BY NICHOLAS TALVACCHIA:

21 Q. And then, Art, we have the final
22 variance. This is what we call the
23 outside/inside.

24 And we've gotten variances from
25 this before from the Authority. The best we can

1 figure is that the requirement that there not be
2 more outdoor seats than indoor seats is to
3 ensure there's legitimate restaurants,
4 year-round restaurants, that are enclosed that
5 can serve the public and somebody's not simply
6 opening up an outdoor restaurant and then, after
7 the season's over, they're gone and -- and that
8 restaurant amenity is gone.

9 And that certainly doesn't apply to
10 us. This has been a restaurant since the early
11 '80s. I've been going there since the early
12 '80s. I knew the former owners well. I became
13 friends with Domenic when he bought it from my
14 prior client --

15 In 1995, Dom, you bought it?

16 UNKNOWN SPEAKER FROM THE AUDIENCE:
17 Sir. Please.

18 DOMENICO GAGGIANO: '92.

19 NICHOLAS TALVACCHIA: '92. Okay.
20 Sorry.

21 So, anyway, it has a long history
22 as a restaurant, legitimate restaurant.

23 It was the City of Atlantic City,
24 when it started to authorize beach bars and the
25 outdoor seating in the late -- early 2000 --

1 2002. That's why the Scott Silver letter is
2 important in 2003, where he talks about the city
3 amending its ordinance to allow alcohol on the
4 seating areas.

5 It was the intent to kind of expand
6 that -- that policy.

7 And then when the governor's report
8 task force came out on Atlantic City a few years
9 ago, one of the statements was to expand the out
10 -- the traditional boardwalk view, get people
11 outside.

12 And the CRDA's own master plan
13 shows a lot of outdoor activity on the
14 boardwalk.

15 So, why I talk about that, the
16 whole point of outdoor seating is to enliven the
17 boardwalk, to provide an amenity.

18 Art?

19 THE WITNESS: Yeah. You mentioned
20 we're trying to understand further the reason
21 for that requirement in the ordinance. And the
22 more you think about it, it makes some sense as
23 what you said, about creating more opportunity
24 for year-round activity and not just focused on
25 the short summer season.

1 In addition to that, I thought
2 about that a little bit more. By having a
3 requirement of indoor and outdoor, not just
4 outdoor, you take some of these buildings along
5 the boardwalk, the older buildings that sit
6 vacant, I mean, it requires adaptive reuse of a
7 -- of a structure. It requires more capital
8 investment if you have an inside restaurant
9 together with an area outdoors, such as adjunct
10 to the restaurant.

11 So, I think it does promote,
12 overall, the general welfare of the community.
13 It helps the city. It helps use older
14 buildings. And again, it promotes the
15 year-round -- more year-round usability of the
16 facility. If this were just an outdoor
17 restaurant, it would be wonderful, but come the
18 end of September, it's going to shut down and
19 you're going to have the dark space for the
20 entire -- entire winter.

21 It gives an opportunity, at least,
22 to use these buildings. Even maybe not with
23 business climate the way it is today in the dead
24 of winter, if you will, but the shoulder
25 seasons, which are very important. We're busy

1 here. September through mid-October, a lot of
2 folks come to the seashore. Others that come in
3 May, let's say before the summer starts, the
4 indoor aspect of it enables you to use your
5 facilities, not only this, but the other places
6 along the boardwalk. So, I think that's also
7 important.

8 That could, perhaps, be one of the
9 intents that the -- that CRDA had or one of the
10 purposes of zoning -- of the ordinance that they
11 had in mind at that time.

12 Q. The bottom line is, this is a
13 legitimate indoor restaurant with a proposed
14 outdoor seating.

15 A. Yeah. In our case, we -- I think
16 we had both of those marks, assuming that would
17 be a standard, where there is additional
18 investment on the inside that's more promoting
19 like the shoulder seasons and, hopefully, the
20 year-round if the business is there. And it
21 also -- it reinvigor -- or invigorates the
22 outdoor space adjacent to the -- to the
23 building.

24 The street ends throughout the city
25 -- and we all walk up and down that boardwalk

1 all the time, and you come to these street ends
2 and, for the most part, they're kind of dead
3 areas. And whenever an opportunity arises
4 similar to this case to utilize those areas and
5 make that seamless look all along the boardwalk
6 rather than have every -- every 250 feet a dead
7 spot, I mean, I think it inures to the benefit
8 of everyone, everybody using the city -- the
9 boardwalk. The visitors and residents alike all
10 want to see activity along that boardwalk.

11 I mean, there's nothing worse than
12 going up to a dead area and walking up and down,
13 doing your business or whatever. The more
14 activity, it breeds more people coming to the
15 city, which is, I think, what we all want.

16 There's some -- one thing. In your
17 --

18 The stated purpose in the Casino
19 District, the RC District, which this is located
20 within, and the Tourism District, of course,
21 I'll just read this one quick paragraph. And
22 Mrs. Cofone had this in her report. I thank her
23 for that.

24 The stated purpose of the RC
25 District is, "to provide an array of land uses

1 that will capitalize on the zoning district's
2 geographical advantages and proximity to the
3 boardwalk and ocean.

4 "The district also offers the
5 highest intensity residential use" -- the Ocean
6 Club in particular -- "with a variety of
7 supportive commercial and service uses.

8 "The vision is to create an
9 environment where the residential and resort
10 offerings seamlessly integrate."

11 It's wonderful. And I'd love to
12 see that and on the boardwalk. And in my
13 opinion, that is exactly what this application
14 proposes.

15 Let's invigorate -- invigorate the
16 outside. Let's take advantage of the
17 geographical location of this site; that is,
18 proximate to the boardwalk, beach and ocean.
19 And let's also make it a seamless environment,
20 together with the adjoining residential and
21 other commercial buildings. As you walk right
22 down the boardwalk, you know, the cadence is
23 there one after the other. And this just
24 completes the block, if you will.

25 So, I think, if you look at that

1 stated purpose of this zoning district stated by
2 the CRDA in its ordinance, it is exactly what
3 this application emulates, in my opinion.

4 As far as the other purposes of
5 zoning, I just want to throw that on real
6 quickly, a couple others. Mrs. Cofone mentioned
7 the aesthetics, beautification, if you will, or
8 the aesthetics derived by reducing the overall
9 dimensions of the sign. And, however, having
10 the three signs versus the two, I completely
11 agree with that. And I thank her for that.

12 But, the two others I mentioned
13 very briefly. The general welfare. And I think
14 the general welfare purpose of zoning is well
15 advanced by this application. It's a modest
16 expansion. I see no significant negative
17 derived from this whatsoever.

18 This is, I think, just what the
19 Authority thought about when the stated purpose
20 of the ordinance was put into play.

21 This use and the expansion that
22 we're talking about also follows other similar
23 very successful uses in and along the boardwalk.

24 Land Shark comes to mind. An
25 application was before this board a short time

1 ago. There was an expansion to Land Shark.
2 They actually have additional seats on the
3 outside, perhaps slightly more than you do on
4 the inside. That is a magnificent project for
5 this city and, essentially, has become a
6 landmark for folks out of town to come and visit
7 our city.

8 So, I think, to -- for an
9 application like this to further advance that
10 idea and bring these type of uses to the city is
11 very important for the overall general welfare.

12 The last purpose of zoning, and I
13 think this --

14 In this particular case, this one
15 is very important. And I just -- it's a
16 sentence or two. Is to "encourage coordination
17 of public and private procedures shaping land
18 development with a view of lessening costs of
19 such development to a more efficient use of
20 land."

21 It goes to your point about the
22 parking and increased costs; going out and
23 buying a parking lot, which is unnecessary.

24 The public/private cooperation in a
25 case like this, we have a space we don't own.

1 We went to the -- to the agent -- to the city
2 agency, the council. They approved us a
3 license. There was a lot of cooperation. They
4 want to help us expand our license. I think
5 that -- that purpose of zoning hits the mark
6 right on in this particular case.

7 Q. So, in your opinion, do you believe
8 the Authority has the --

9 Do you believe we have met the
10 requirements for all the variance relief we have
11 requested today?

12 A. Yes, I do.

13 Q. And in terms of the site plan,
14 there's really minimal, but from a site plan
15 perspective, are there any negative issues or --

16 A. Yeah. It's a very negative minimal
17 site plan. The deck area is what it is. You
18 see the size of it that I mentioned; --

19 Q. And --

20 A. -- 799 square feet, total.

21 And, essentially, nothing
22 constructed from the deck up other than placing
23 the tables and the bar.

24 Q. And, in fact, Mr. England declined
25 to even do a site plan review engineer's report

1 for this application --

2 A. Yeah. Correct.

3 Q. -- because of the minimal nature of
4 the site plan.

5 A. Right. There are, essentially, no
6 engineering items to think about.

7 Q. And I called him to see if he was
8 doing a report and said for -- that was the
9 reason, and he said there's really nothing to
10 review --

11 UNKNOWN SPEAKER FROM THE AUDIENCE:
12 Microphone.

13 NICHOLAS TALVACCHIA: -- there was
14 really nothing to review from an engineer's
15 standpoint.

16 So, having said all of that, I
17 think that concludes our application.

18 And, of course, we're available for
19 any questions. We know there's a public comment
20 period.

21 PAUL WEISS: Sure. The applicant
22 testified as to this -- it's an eight-foot
23 plastic shield that's going to be installed.
24 Where exactly and how is it going to be
25 installed?

1 THE WITNESS: Okay. I'll show you
2 exactly, Mr. Weiss.

3 All right. In this location, at
4 the northerly end of the platform of Pacific
5 Avenue being to the -- up above on the page to
6 the north side. It goes --

7 Side-to-side will be a small metal
8 rail and a roll-down plastic, roll-down plastic
9 shield, if you will, clear.

10 PAUL WEISS: How is it going to be
11 adhered?

12 THE WITNESS: With a metal rail at
13 the top, with like a two-inch diameter metal
14 rail side-to-side. Like an awning-type rail, if
15 you know what I'm talking about. And then just
16 have a portable roll-down. That's it. Clear.

17 PAUL WEISS: And then once it's
18 installed, it will stay installed? It doesn't
19 have to be rolled back up?

20 THE WITNESS: You roll it up and
21 down as needed.

22 PAUL WEISS: I see.

23 You had talked about the signage.
24 Does the applicant have a signage package that
25 they provided to the Authority that shows the

1 actual signs; dimensions, --

2 NICHOLAS TALVACCHIA: Yeah.

3 PAUL WEISS: -- what they're going
4 to say?

5 NICHOLAS TALVACCHIA: Yeah. The
6 dimensions were shown on --

7 THE WITNESS: Here. It's this one
8 here. Yeah. I'll go through that.

9 NICHOLAS TALVACCHIA: The dimension
10 of the signs.

11 THE WITNESS: On A-15, Mr. Weiss,
12 quickly, "existing two foot by three foot sign
13 to be removed."

14 There's a sign on this end of the
15 facade coming down.

16 Existing 10 foot by two foot sign
17 here on the facade. Existing 12 foot by two
18 foot sign on the facade.

19 There's a sign in the front, called
20 a ground sign, if you will. Proposed backlit.
21 Four by eight sign. It will be mounted to the
22 fence.

23 There's a blade sign, a very small
24 one, up off the building. Existing 2 x 2 sign
25 right here in this location.

1 So, essentially, the signs are
2 completely identified. This was submitted as
3 part of the record. They're dimensioned with
4 the arrows pointing to the locations.

5 PAUL WEISS: And what are they
6 going to say?

7 THE WITNESS: They advertise the
8 business. One says pizza, I think. One is a
9 pizza sign.

10 DOMENICO GAGGIANO: Yeah. One sign
11 said --

12 THE WITNESS: Celebrity "Corner."
13 The main sign in the front. Celebrity "Corner."
14 And others just advertising whatever was being
15 sold or, you know, what you're offering at the
16 facility.

17 PAUL WEISS: Okay. And then there
18 are other signs, or are those the --

19 THE WITNESS: The other, there's a
20 --

21 On the fence on the westerly side,
22 for folks coming down the boardwalk, there's a
23 similar backlit 12 X 4 sign right in that
24 location on this facade -- this part of the
25 property.

1 And in the rear of the building,
2 rear of the property; that is, on the Pacific
3 Avenue side, one similar 12 X 4 sign here
4 mounted to the fence, same as -- the same as the
5 sign on the side.

6 PAUL WEISS: Okay.

7 THE WITNESS: So, the sign on the
8 side, the sign on the west side, and one on the
9 front, together with the three signs on the
10 building.

11 PAUL WEISS: Okay. Thank you.

12 Mr. Talvacchia, any other testimony
13 from the applicant at this point?

14 NICHOLAS TALVACCHIA: We do not.

15 PAUL WEISS: Okay. I'll turn to
16 the Authority's planning professional.
17 Ms. Cofone prepared a letter dated July 10, 2019
18 addressing the issues in this application. I
19 would ask her to, you know, please put her
20 testimony in the record concerning her review of
21 the application.

22 SCOTT COLLINS: And we'll just mark
23 that B-1, that letter.

24 CHRISTINE COFONE: Thank you,
25 counselor.

1 And may we also mark my July 16,
2 2019 report, which is the second review based on
3 the revised plans. If we can mark that as well.

4 UNKNOWN SPEAKER FROM THE AUDIENCE:
5 Can you turn the mic on?

6 CHRISTINE COFONE: Is that better?

7 UNKNOWN SPEAKER FROM THE AUDIENCE:
8 Yes.

9 CHRISTINE COFONE: I just said, may
10 we also mark my second report, which is dated
11 July 16th, 2019, entitled second review of this
12 application.

13 So, thank you, Mr. Ponzio. You
14 have addressed the lion's share of the comments
15 in my July 16th, 2019 report.

16 I don't disagree with any of the
17 positive criteria that you offer in conjunction
18 with any of the variances.

19 What I would suggest, also, though,
20 is that I think it could be considered that
21 criteria "G" of the land use law, which talks
22 about sufficient space in appropriate locations,
23 could also be advanced in conjunction with this
24 application, just given the fact that this is
25 the type of use that people will utilize when

1 they're going to the boardwalk.

2 If you could put your rendered
3 exhibit -- I forgot what we have it marked, but
4 if you could take what's on the easel down and
5 put your rendered exhibit back up --

6 THE WITNESS: Right. Mm-hmm.

7 CHRISTINE COFONE: -- just for a
8 second, because I do have a question on this.

9 THE WITNESS: Mm-hmm.

10 CHRISTINE COFONE: One of the
11 things that you testified to was that you were
12 going to be introducing some landscaping, which
13 you can see clearly on the exhibit, but you also
14 testified to some decorative lighting. You
15 referred to a rope lighting and some other types
16 of ornamental lighting.

17 THE WITNESS: Okay. On --

18 It's very difficult from that
19 distance.

20 This was submitted to -- in the
21 package.

22 So, there are rope lights shown
23 throughout the lounge area and overhead in the
24 seating area adjacent to the bar, as well as the
25 lounge area in the center of the property.

1 CHRISTINE COFONE: Right.

2 THE WITNESS: There are individual
3 stand light -- lights mounted to the ground --
4 to the deck that will also be used as more
5 atmospheric-type lighting or a subdued lighting
6 to improve the overall experience.

7 So, we'll have some deck-mounted
8 lighting and the rope lighting where it's
9 appropriate.

10 CHRISTINE COFONE: I see them on
11 the plans. But, I didn't see any details
12 provided of that, I just --

13 That's something that I think will
14 enhance the ambience of this area and I think
15 it's something that will add architectural
16 elegance to the location. I think it will
17 increase curb appeal and I think it will be
18 attractive.

19 So, I just would not like it --

20 I don't want it to get lost in
21 translation in the process here. So, if you
22 could provide --

23 NICHOLAS TALVACCHIA: We'll be
24 happy to make --

25 THE WITNESS: Yeah.

1 NICHOLAS TALVACCHIA: -- if you
2 want to make that a condition -- to submit for
3 review by the Authority.

4 CHRISTINE COFONE: It would be my
5 recommendation, yes, that you provide a -- that
6 that be a condition --

7 THE WITNESS: We have it.

8 CHRISTINE COFONE: Just because, if
9 not, there's no way for the CRDA to enforce that
10 that element continues. As you testified, it's
11 a decorative part of the project that hasn't
12 existed previously. So, we would just like to
13 have some insurance --

14 NICHOLAS TALVACCHIA: Happy to do
15 that.

16 CHRISTINE COFONE: -- as to what
17 it's going to look like and how it will continue
18 in the future.

19 NICHOLAS TALVACCHIA: We will do
20 that. Thank you.

21 CHRISTINE COFONE: Thank you.

22 I have nothing further.

23 PAUL WEISS: Thank you,
24 Miss Cofone.

25 At this point in this hearing, I'd

1 like to open the hearing to public comment for
2 members of the public to express their opinion,
3 concern and comments on this application.

4 Please come to the microphone at
5 the dais and state your name and address for the
6 record and provide your testimony.

7 UNKNOWN SPEAKER FROM THE AUDIENCE:

8 I have to read from my laptop what I --

9 I don't have a paper copy.

10 PAUL WEISS: That's fine. That's
11 fine. Just give your name and address for the
12 record, sir.

13 UNKNOWN SPEAKER FROM THE AUDIENCE:

14 Yep. My name is John DiGiulio. I'm president
15 of the condo association of the Island Club
16 Condominium Association, which is at 108 South
17 Montpelier Avenue, and it is directly across the
18 street from Celebrity "Corner" and closer to the
19 expansion that was recently completed.

20 And just a couple of opening things
21 before I get started.

22 I -- I'm appalled, actually, that
23 -- that -- that we've gotten this far into the
24 process, a year and a half since the
25 construction was started, and, all of a sudden,

1 for whatever reason, the Ocean Club withdraws
2 their application to -- or opposition --
3 application for opposition to this particular
4 case. I don't know what happened. I -- I think
5 we need to find out, because what I want to know
6 -- and I think we all want to know --

7 We're 72 unit owners in this
8 building. We're tiny compared to the Ocean
9 Club. But, in effect, we're actually closer, as
10 a resident, to any of the units than any Ocean
11 Club unit. Whether it's parking, whether it's
12 any kind of enforcement or regulation, we're
13 actually closer.

14 So, we're not going to just like
15 walk away because the Ocean Club withdrew their
16 opposition to this application. But...

17 So, we're very, very disappointed
18 at how this has -- how this has come about so
19 far.

20 We're not represented by counsel.
21 You know, quite frankly, in a case that -- that
22 went a year and a half, I don't think we could
23 ever afford to do that in any capacity. So,
24 we're going to do our best to be heard today.
25 And --

1 So, let me just read here. And it
2 says to CRDA. It says, "Today, the Island Club
3 Condo Association is here to oppose the
4 variances requested by Celebrity "Corner"
5 restaurant. It is not the noted variances
6 themselves that we are opposing, in particular,
7 the parking, because there's no way to provide
8 parking unless the Ocean Club provided the
9 required parking to satisfy the variances. But,
10 everything else is -- everything else about this
11 development.

12 "The additional outdoor seating,
13 signage, and most intriguing is the section for
14 any other variance relief the board deems
15 necessary. What -- what does that mean?" I
16 mean, you know, like anything can just happen
17 just to satisfy a condition that may be -- that
18 may be suggested as being necessary to someone?

19 "So, if he wants to add more
20 seating and wants to take away their boardwalk
21 ramp on the Island Club side of the boardwalk,
22 that will be permitted. Who knows what is
23 included in variance relief for any other
24 reason?

25 "This project started on Martin

1 Luther King, Jr. holiday, on January 15th, 2018.
2 The project started with no notice or postings,
3 at all. This project started with no formal
4 notice to the near neighbors, like we
5 occasionally get now.

6 "On January 18th, 2018, I sent a
7 letter directly to Mayor Frank Gilliam, which
8 I'm also going to read for the record, and I
9 copied the directors in construction and
10 engineering, as well as the councilmen and the
11 property manager at the time for the Ocean Club.
12 Basically, I wanted to know -- basically, what I
13 wanted to know was, what was going on and how
14 did something like this project happen without
15 any notice. I have copies of this letter
16 available today.

17 "When I contacted the Ocean Club
18 condos, they said they were also not aware of
19 this work until the day it started. How does
20 this happen? Work being completed that is
21 attached or mere inches from your property, the
22 owner does not know or is not aware of the
23 development.

24 "The work started on January 15th,
25 2018 caused our residents a great inconvenience.

1 Our exit driveway was blocked for several days,
2 the street was completely blocked for several
3 days, and the noise, banging, vibration and
4 other inconveniences were intolerable,
5 especially considering this was completed with
6 no notice or postings.

7 "How does a boardwalk ramp just
8 disappear? How does a large addition to the
9 boardwalk just appear and all with no notices or
10 postings?

11 "The restaurant as it is -- as it
12 existed prior and now is a very big
13 inconvenience for us. The music that is played
14 is loud and annoying. Delivery trucks that park
15 in a No Parking street, constantly blocking our
16 exit gate, sometimes our entrance gate, is very,
17 very inconvenient.

18 "To grant relief for the variance,
19 the applicant must show a hardship."

20 Now, that was discussed quite a
21 bit, but, you know, I know -- I know this.

22 "Where is this applicant's
23 hardship? If parking is a hardship, let the
24 Ocean Club give or rent space in their garage
25 dedicated to the Celebrity "Corner" restaurant.

1 "Why does the applicant need more
2 outdoor seating than he has now?

3 "I submitted a request for
4 information from CAFRA and received the links to
5 large amounts of data. Frankly, going through
6 those documents was confusing to me because I
7 only wanted to know how did this development
8 happen without notice," capitalized, "postings,
9 mailings and any other way we should have
10 received information about this project.

11 "I never received a call back or
12 reply to my letter to the mayor, Frank Gilliam,
13 until I called again about one or two months
14 later. I have seen the mayor on tape before at
15 a CRDA hearing basically saying that no matter
16 what you say -- and he was speaking to residents
17 of the Ocean Club -- about the beach bar being
18 requested, something is going to go there."

19 So, I don't think he's a friend to
20 this process, at all.

21 Our owners pay over a hundred
22 thousand dollars in taxes and we support the
23 restaurants and other businesses while we are
24 here. We deserve to know what is happening mere
25 feet from our property and our investment at all

1 times, and not only when it is convenient to
2 someone or some group.

3 "The inconveniences -- the
4 inconveniences we have now will only increase
5 with more people, more loud and annoying music
6 and any other negative effects of this
7 development.

8 "Sincerely, John DiGiulio.
9 President, Island Club."

10 Before I --

11 I have other comments that came up
12 during this hearing, but I'd like to read the
13 letter that I wrote to the mayor. I sent this
14 letter on January 18th. It's smaller print, so
15 I have to hold it a little closer.

16 "I am an owner, resident and
17 president at the Island Club condominiums at
18 Montpelier and the boardwalk. My property
19 address is...

20 "This past Monday, on January 15,
21 2018, which also happened to be the Martin
22 Luther King holiday, significant because there
23 was no one to call. The city was closed. No
24 one to report any activity to or whatever was
25 going on. I didn't want to call the police.

1 The police have a lot of other things to do
2 other than come out and watch somebody banging
3 into the -- into the ground.

4 "This past Monday, on January 15th,
5 which also happened to be the Martin Luther King
6 holiday, the restaurant in the Ocean Club,
7 Celebrity "Corner," had some major construction
8 work done just off of the boardwalk. This work
9 is extending the outdoor seating -- outdoor
10 restaurant seating they have next to their main
11 restaurant.

12 "I received no notice and there was
13 no notice from either the city or the owner of
14 the restaurant posted about any work that was
15 scheduled to take place.

16 "They had very large equipment on
17 site that was delivered by a flatbed truck that
18 blocked our exit driveway for the entire day, as
19 well as access to a portion of the driveway of
20 the Ocean Club. The contractors were asked on
21 several occasions by both the management of the
22 Ocean Club and another board member of ours to
23 move their vehicles from the exit gate to allow
24 us to exit the Island Club as expected. We paid
25 \$25,000 for our gates. We expect to be able to

1 use them at our convenience, not when somebody
2 -- not when somebody has to be asked to move
3 constantly.

4 "The contractors refused to move
5 their vehicles blocking our gate, but they also
6 had material in the street blocking all traffic.

7 "As it turned out, the owner of the
8 restaurant picked the right day when they chose
9 the day to do work when all city offices were
10 closed. There was no one to report this
11 activity to until the next day.

12 "Most of the work completed that
13 day was driving multiple poles into the ground
14 with a pile driver. This caused a significant
15 amount of vibration that could, in fact, have
16 caused damage to our property and at least was a
17 very big unexpected nuisance to our residents.
18 It is my understanding that whenever this type
19 of work is completed, the contractor should have
20 had a vibration monitor in place while the poles
21 were being driven into the ground. To my
22 understanding, the contractor had no vibration
23 monitor in place or prior authorization from the
24 city to close the street or start the work.
25 They certainly had no authorization from the

1 Island Club to completely block our exit gate or
2 disrupt our residents at all.

3 "The way the work was completed was
4 a complete disappointment from a notification
5 perspective. At the least, there should have
6 been notice, as a close proximity property, that
7 this work was approved by some city agencies and
8 when the work was scheduled to start. Their
9 construction vehicles should not have been able
10 to completely block our exit gate and the street
11 for" any day -- "for an entire day or any part
12 of the day.

13 "It is frustrating enough when, on
14 a regular basis, their delivery trucks block our
15 exit gate for 30 or 45 minutes and more during
16 the day.

17 "On some evenings, the Celebrity
18 "Corner" restaurant has music entertainment" --
19 now, this is almost two years ago -- "where the
20 volume can be almost intolerable to our
21 residents." The way -- most of the time, the
22 setup of the speakers are like directed almost
23 right towards our angle, you know, right towards
24 the property.

25 "On most evenings, we try to ignore

1 the noise because, you know, business is needed
2 to bring something different to the table." We
3 understand business. You want to generate
4 activity. You want to have -- you want to have
5 -- you want to have, yes, a place that's
6 successful, but not at the -- not at the, you
7 know, --

8 UNKNOWN SPEAKER FROM THE AUDIENCE:
9 Expense.

10 SPEAKER FROM THE AUDIENCE (JOHN
11 DiGIULIO): -- expense of -- of your neighbors.
12 Thank you.

13 "Try to ignore because you need to
14 bring something different to the table to
15 survive.

16 "On a going forward basis, if we
17 believe their activity is too loud or
18 disturbing, we will bring this to your
19 attention.

20 "Recently, the Ocean Club had a
21 major work completed that impacted our property
22 quite significantly. The management of the
23 Ocean Club -- the management of the Ocean Club
24 -- Ocean Club approached us about two weeks in
25 advance to let us know what was going to happen

1 and what was needed from us. In this case,
2 knowing what was happening in advance, I
3 notified our residents, and we were very
4 accommodating to each other to make their
5 project work as quickly and efficiently as
6 possible.

7 "We would appreciate your office,"
8 so forth and so on.

9 So, this is a letter that I wrote
10 to the mayor January 19th, 2018. And never
11 heard from him, at all. I don't know that I
12 really expected to.

13 But, I just have a couple of other
14 comments. And some, actually, were addressed
15 that we made note of during the hearing.

16 One was, I'm certainly no expert.
17 I'm not a lawyer, I'm not --

18 You know, I was on a -- zoning
19 chair in Philadelphia. I was the zoning chair
20 in Philadelphia for five or six years. So, I've
21 gone through a lot of these processes, you know,
22 in the area.

23 But, the contiguous space. The
24 space about the lease for the bubble area. It
25 was our -- my understanding from a board member

1 of ours, he said they can't use the space
2 because they no longer lease that space, and
3 that's why they can't serve outside and things
4 like this. But, now I understand that a lease
5 has been negotiated for this space, which,
6 basically, voids that requirement.

7 You know, the requirement was that
8 there had to be ownership -- contiguous
9 ownership to be able to do this.

10 But, to continue on in the vein of
11 -- of the settlement that took place between the
12 Ocean Club and the applicant, I want to know
13 what that settlement was, because I want to know
14 if there's any negative impact that's going to
15 result from that settlement to us, as the
16 nearest neighbor, the nearest resident. We are
17 a couple hundred feet and probably less to this
18 location. An Ocean Club resident is, maybe, a
19 thousand feet, you know, because of the floor
20 and so forth and so on. So, I need to know what
21 that settlement is. And I'd like to have that
22 information well in advance before -- before you
23 cast your final vote for -- for this
24 application.

25 Why, all of a sudden, after a year

1 and a half? After a year and a half, why, all
2 of a sudden, is there a settlement? What
3 changed? He still --

4 He didn't change his variance --

5 He didn't change the request, you
6 know. We're get --

7 Sometimes we get notices, sometimes
8 we don't get notices. You know, what -- what --

9 The notice is the same all the time
10 that comes out. There's no change to the
11 application, as far as I could tell.

12 And I -- from --

13 And I'm just going to go through
14 some comments as a result of what was heard
15 earlier today.

16 It says squaring off that --
17 squaring off that deck area was done because it
18 extended before the end of the boardwalk ramp
19 that was raised.

20 Now, any architect, planner, any
21 person looking at this ramp would know that once
22 you raise that ramp, there's no doubt it's going
23 to be beyond that platform that was existing.
24 So, it wasn't to match it; it was knowing that
25 it was going to extend beyond this space that

1 they had to extend the boardwalk section to meet
2 the raised boardwalk ramp. I mean, would --
3 what would that look like? That -- that would
4 look horrible, aesthetically. To me, I wouldn't
5 care, but, aesthetically, that would look
6 terrible. And I'm sure that somebody looking at
7 it, hopefully, a city agency looking at it,
8 would say, no, you have to conform with
9 something that looks reasonable. So -- so, you
10 had to build out that ramp.

11 Talk about all of these conditions
12 that took place; 2002, 2003, 2004. Well, yes,
13 as reasonable neighbors, if you want to do
14 something to improve your property that's not
15 going to negatively impact, you know, or -- or
16 --

17 You know, there was no notices. I
18 have never received any notice or notification.
19 I've been there 40 years. My wife and I have
20 been at the Island Club for 40 years. I've been
21 president not all that time, but I've been
22 around long enough to -- to know if these
23 notifications or postings or something were
24 never issued before. And there's never been
25 one. Whether it's required or not --

1 I think, even to post a permit.
2 You should at least post a permit, even if you
3 don't have a variance request. I think, if
4 there's something that's going to go up, you
5 have to post your building permits. I never saw
6 one.

7 You'll have to be just patient with
8 me for a second as I go through this.

9 Signage. The signage that --

10 You know, I -- I believe that, at
11 the end, that there was going to be some signage
12 that was going to be added to this glass
13 section. Well, is any of the signage going to
14 be flashing? Is any of the signage going to be
15 disturbing to -- to our residents? Is any of
16 the signage going to, you know, generate an
17 annoying position or anything like that? I
18 think we need -- I think we need to know that.

19 I thought that there was no
20 permitted use on these areas until it was
21 approved, and there's been work done on the
22 boardwalk ramp.

23 And how a boardwalk ramp gets
24 built, built -- taken away. How does a --

25 We're just amazed at some of the

1 things. I don't -- I don't understand.

2 How does a boardwalk ramp get taken
3 away and another section of the boardwalk get
4 added with --

5 I mean, it's -- it's a common ploy
6 when I'm in -- in a position that I was in, as a
7 zoning chair, to build something and then ask
8 for relief afterwards? It's -- it's so easy.

9 You know, so, in some cases, you
10 get it, in some cases, you don't. But,
11 sometimes, the owner, developer, planner,
12 whoever it is, is willing to take that risk.

13 So, in this case, the risk was I'm
14 going to build it and I'm going to hope that
15 somebody gives me relief afterwards. It's just
16 -- it's just not right.

17 All of the other things that
18 occurred; the expansion of the boardwalk, that
19 was -- that was done.

20 And I --

21 We saw all the stuff. You know,
22 one year was the -- one year was the bamboo
23 thing to stop the wind. You did everything
24 possible to stop that wind. And it's correct.
25 There's a lot of wind that comes up that street

1 and blows everything all over the place.

2 But, all those other expansions
3 that took place; the planters, the outdoor
4 seating, go for it. You know, do what you want
5 to try to generate some business, some activity.

6 But, over the years, there's been,
7 you know, music. There's nobody there to play
8 music to. You pass by, there's one person, you
9 know, that might be listening to the music
10 besides the musicians, whether it's a deejay,
11 whether it's live music, whether it's somebody
12 passing by for a minute or two.

13 I mean, there's been a lot of
14 different types of activities taking place. And
15 I don't really think that we've ever formally
16 complained.

17 Part of the -- part of the argument
18 here was provide outdoor seating and provide
19 indoor seating so that the business, when the
20 outdoor seating element closes, there's indoor
21 seating. I think -- I'm pretty sure that the
22 business has been closed in the winter for the
23 past four or five years for at least four or
24 five months. I'm pretty sure. Now, I'm not
25 here all the time. I don't live here.

1 UNKNOWN SPEAKER FROM THE AUDIENCE:

2 He's correct.

3 SPEAKER FROM THE AUDIENCE (JOHN

4 DiGIULIO): But, it's closed.

5 So, it isn't open. It isn't a
6 restaurant that stays open, you know, after the
7 summer season. It does close.

8 The dialogue that took place
9 between your panel and the attorney, to me, was
10 very concerning because it appeared that you had
11 a lot of questions, which was great. You had a
12 lot of questions. He had a lot of answers that
13 were like, well, if we knew and if we could and
14 we tried and if you go back and you look and --

15 How does that -- how does this
16 letter from Mr. "Silverman" [stated
17 incorrectly], because it was copied on a
18 computer, why is there no letterhead and why is
19 there no signature? I mean, that doesn't -- I
20 mean, I don't know. I mean, did he -- did he
21 cut-and-paste it? You know, I don't know. But,
22 why wouldn't there be -- why --

23 His letter's there. So, why isn't
24 it on letterhead? Why isn't it signed?

25 The -- you know, the -- the

1 approvals that -- the approvals that should have
2 been gotten beforehand from the DEP. I thought
3 that these were very strict agencies. You know,
4 the Hilton didn't get some approvals in the past
5 because of, you know, some -- some requirements
6 that they had to do; building over the dunes or
7 building before the dunes, whatever it was. I
8 thought that these were very strict agencies.
9 He's putting his hands at the -- at the -- his
10 business at risk with the DEP.

11 I would hope they wouldn't grant,
12 you know, something that was built like that.

13 I mean, I look at this and I say,
14 okay, maybe one of the other relief or variances
15 that he's gonna get in the all-inclusive is he's
16 gonna take the boardwalk ramp away from the
17 Island Club side and just use the middle ramp.
18 So, is that -- is that okay if he takes our
19 boardwalk ramp away? I don't know. Maybe it
20 is. You know, maybe that will happen some day.

21 He mentioned something about a
22 smoking area. Where is the smoking area gonna
23 be? I'm sure it's not gonna be on the
24 restaurant side of the business. Is it gonna be
25 on our side of the street, to say, okay, you

1 have to go across the street and stand in front
2 of the Island Club to smoke, whether it's a
3 cigar, a pipe, a cigarette, marijuana? You
4 know, I -- I really don't know exactly where --
5 where the marijuana thing is in New Jersey, but,
6 you know, maybe they're gonna, you know, smoke
7 their marijuana on our side of the Island Club
8 and go back and have a beer? I don't know.
9 But...

10 Quite frankly, I, myself -- and I
11 think there's gonna be a couple of other people
12 come up -- very, very disappointed at how this
13 has all unfolded.

14 I -- I know for certain that we
15 have -- we --

16 We've had neighbors call about the
17 loud music, call the city. And sometimes they
18 come out and monitor and do whatever. Sometimes
19 they don't.

20 But, like formally oppose anything
21 or formally say what are you doing here, we've
22 never done that before. You know, people take a
23 little, people take a little, people take a
24 little and it's okay. And then you go for
25 gusto; you take away, you add, you do whatever.

1 It's not right.

2 You had major construction going on
3 with no information. It's not right. There has
4 to be -- there has to be a place where you stop,
5 where you entertain --

6 We're residents. We live here.
7 This is -- this is our home. We know we're in a
8 tourist district. We know -- we bought there.
9 We know what's going on. But, there's
10 limitations to everything. You have to consider
11 the people that are in place, the people that
12 come down to use and enjoy their place sometimes
13 in a quiet level, sometimes with no disturbance.

14 Constantly -- I'm out there
15 constantly moving delivery trucks. They're his
16 delivery trucks. He never goes out there and
17 says, hey, don't block that person's driveway.
18 You know, and the common -- the answer is we're
19 only going to be five minutes, we're only going
20 to be ten minutes. No way. You're not -- you
21 don't have a 40-foot trailer that you're
22 unloading, even if it was only half, and you're
23 going to be there ten minutes. It doesn't
24 happen. So, I mean, they actually park in front
25 of the driveway. They actually park their car.

1 So, now we had to get -- we had to buy two
2 signs, a hundred dollars, to put up on our -- on
3 our fence No Parking Any Time and in use 24
4 hours a day. We have big yellow Xs in the
5 street. Now we put out cones. I was going to
6 buy these plastic bollards, you know, \$500 for
7 four of them so we kept our section. It's BS.
8 You know, we don't have \$500 to spend to stop
9 your trucks from parking in front of our
10 driveway or our parking lot. We don't want to
11 expend that. We -- we want you to come out and
12 be the conscientious person that you are and say
13 don't park in front of that person's driveway.

14 It happens every day all day long.
15 Yhoa, buddy, yhoa, buddy, you parked in front of
16 the -- oh, I didn't know. You didn't see that
17 big X and the sign and the -- and the cones?
18 No, I didn't notice. So...

19 And it's only going to get worse,
20 because now he has the delivery not only for the
21 store, but for the beach bar, too.

22 Go park on Chelsea Avenue. Don't
23 -- don't park on Montpelier Avenue. Go park
24 someplace else. There's no five-minute like run
25 in and out.

1 Anything else, Deb, that I can
2 think of? Did I do it all?

3 PAUL WEISS: Thank you, sir.

4 SPEAKER FROM THE AUDIENCE (JOHN
5 DiGIULIO): Thank you.

6 PAUL WEISS: I appreciate --

7 SPEAKER FROM THE AUDIENCE (JOHN
8 DiGIULIO): I'm sorry to take up so much of your
9 time, but, you know, like there's just like, you
10 know, you get to -- you get to the point and
11 it's enough.

12 PAUL WEISS: I appreciate your
13 comment.

14 Any other members of the public who
15 wish to comment and to add to the testimony that
16 this gentleman has provided, please, if you
17 would, step forward to the microphone, state
18 your name and address for the record.

19 UNKNOWN SPEAKER FROM THE AUDIENCE:
20 Good morning. Sharon Zappia. 2811 Fairmount
21 Avenue, in Atlantic City.

22 I have a question. Is Celebrity
23 "Corner" open year-round?

24 NICHOLAS TALVACCHIA: No, it's not.
25 It used to be, but there's simply not enough

1 business right now to support it. And it's
2 capable and they would love to do it if the
3 business were there.

4 SPEAKER FROM THE AUDIENCE (SHARON
5 ZAPPIA): So, what months are they open?

6 NICHOLAS TALVACCHIA: I don't know.
7 Domenic?

8 DOMENICO GAGGIANO: It's from --

9 NICHOLAS TALVACCHIA: He's going to
10 be sworn in.

11 DOMENICO GAGGIANO: March --

12 NICHOLAS TALVACCHIA: Domenic, you
13 have to be sworn in.

14 PAUL WEISS: Yeah. Sir -- sir,
15 please, if you're going to provide testimony,
16 please step up. State your name and address,
17 please.

18 DOMENICO GAGGIANO: Domenico
19 Gaggiano. 7202 --

20 PAUL WEISS: You'd do the court
21 reporter a big favor. Spell your last name.

22 DOMENICO GAGGIANO: Gaggiano,
23 G-a-g-g-i-a-n-o.

24 PAUL WEISS: Okay. And do you
25 swear the testimony you're about to give is the

1 truth and nothing but the truth, so help you
2 God?

3 DOMENICO GAGGIANO: Yes.

4 PAUL WEISS: Thank you. Please
5 proceed.

6 There's a question on the floor
7 that you were going to answer.

8 DOMENICO GAGGIANO: Yes. I'm open
9 from March 20 to, the way its going lately, to
10 the end of October.

11 SPEAKER FROM THE AUDIENCE (SHARON
12 ZAPPIA): Okay. Thank you.

13 And I have another question you may
14 answer. The planters and the decorative items,
15 are they going to be within the footprint or
16 outside of the footprint?

17 DOMENICO GAGGIANO: When it's
18 closed?

19 NICHOLAS TALVACCHIA: Of the leased
20 area? Is that what you're talking about?

21 SPEAKER FROM THE AUDIENCE (SHARON
22 ZAPPIA): Yes.

23 NICHOLAS TALVACCHIA: Yeah. In the
24 inside. Yeah.

25 SPEAKER FROM THE AUDIENCE (SHARON

1 ZAPPIA): It's going to be within the footprint?

2 NICHOLAS TALVACCHIA: Yeah.

3 SPEAKER FROM THE AUDIENCE (SHARON

4 ZAPPIA): And, Art --

5 No offense to Art here, but making
6 a comparison of the Land Shark to Celebrity
7 "Corner" is --

8 I don't know where the nearest
9 residential is to the Land Shark.

10 I just can say this: Everyone
11 wants our businesses to be successful. And it
12 -- it is wonderful to be able to ride down the
13 boardwalk and stop and get some orange juice and
14 some breakfast at the Celebrity "Corner." It's
15 nice for the residents. However, in this
16 situation, we have to consider the residents.

17 You know, we have the Seashore
18 Club, we have the residents of the Ocean Club.

19 And I think it's wonderful that
20 they've come to an agreement and they are trying
21 to work together. But, we have to take into
22 consideration that we do not want to encroach on
23 the rights of the residents that are also paying
24 taxes and association fees and trying to enjoy,
25 sometimes, just hearing the ocean and the quiet

1 and some of the other reasons that they may live
2 at the beach, in addition to the excitement and
3 the lights and wanting to have somewhere to go
4 downstairs and get a piece of pizza and enjoy
5 themselves. And I think there has to be a
6 balance here. And I just wanted to make that
7 comment.

8 Thank you.

9 PAUL WEISS: Thank you, ma'am.

10 UNKNOWN SPEAKER FROM THE AUDIENCE:
11 Can I clarify?

12 PAUL WEISS: Sure

13 UNKNOWN SPEAKER FROM THE AUDIENCE:
14 She said Seashore Club. I just want to clarify
15 that we're the Island Club.

16 SPEAKER FROM THE AUDIENCE (SHARON
17 ZAPPIA): Right.

18 UNKNOWN SPEAKER FROM THE AUDIENCE:
19 The Seashore Club is on the other side of the
20 Hilton. Just for --

21 SPEAKER FROM THE AUDIENCE (SHARON
22 ZAPPIA): Thank you. Thanks for --

23 I stand corrected. Thank you.

24 PAUL WEISS: Thank you.

25 Any other members of the public who

1 wish to provide additional testimony on this
2 application?

3 UNKNOWN SPEAKER FROM THE AUDIENCE:
4 Hi. My name is Linda Lewis, and I own a unit at
5 the Island Club.

6 And this has been, for me, a
7 lifelong dream to always -- to have a place by
8 the ocean. And it has become a -- gradually
9 become a nightmare because of this situation.

10 I have a couple questions before I
11 have my statement.

12 Was --

13 Did I understand that was -- there
14 was no proof of approval for the additional
15 seats? Did I hear that?

16 PAUL WEISS: Does the applicant
17 want to address the question?

18 NICHOLAS TALVACCHIA: Yeah. The
19 new construction did not get a CAFRA permit. We
20 thought it was -- it could meet an exemption.
21 DEP said it cannot. So, we're going to apply
22 for that permit. They are not taking any
23 enforcement action.

24 SPEAKER FROM THE AUDIENCE (LINDA
25 LEWIS): So, as of now, it hasn't been approved?

1 NICHOLAS TALVACCHIA: And then the
2 -- only the two parts that were -- the ramp area
3 and the 330 --

4 ARTHUR PONZIO: 27.

5 NICHOLAS TALVACCHIA: 322 square
6 foot area.

7 SPEAKER FROM THE AUDIENCE (LINDA
8 LEWIS): Okay. All right. So, there's no --

9 NICHOLAS TALVACCHIA: The rest of
10 it is --

11 SPEAKER FROM THE AUDIENCE (LINDA
12 LEWIS): -- no official approval as of now.

13 NICHOLAS TALVACCHIA: Only for
14 those portions.

15 SPEAKER FROM THE AUDIENCE (LINDA
16 LEWIS): Okay. All right. And -- and there's
17 no permit for the additional seating? Is that
18 correct?

19 NICHOLAS TALVACCHIA: Our position
20 is we had 92 and a minimum of 52 seats. And
21 we're seeking approval --

22 And by the way, the number of seats
23 is permitted. It's just it goes to whether or
24 not we need a parking variance or a variance for
25 indoor versus outdoor. But, there's really no

1 limit on the outdoor seating.

2 SPEAKER FROM THE AUDIENCE (LINDA
3 LEWIS): Okay. I --

4 The gentleman, the planner,
5 mentioned the general welfare of the community.
6 We are part of the community. It's not just the
7 Celebrity "Corner." We're an important part of
8 the community. We come here, we do business
9 here, we support the city. And we're entitled
10 to the peace and quiet of our own residence.

11 When I sit in my unit -- and this
12 has happened in the past --

13 And I have met, over and over
14 again, with the Health Department about the
15 sound coming into my -- through my window,
16 closed doors and windows, that I can't even --

17 I keep my TV on just to -- to
18 interfere with that noise coming through.

19 There was a time that, for six
20 hours at a time, there was a constant thumping,
21 thumping, thumping beat coming from there. That
22 is not taking into account the welfare of the
23 community. So...

24 It was also mentioned about
25 integrating, the integrated residential and

1 commercial use. Well, we're the residential
2 part and we're being driven out.

3 I go home and talk to my husband
4 about this, and he says just get rid of it.
5 It's not worth the aggravation, just sell it,
6 just -- just dump it. And I --

7 That's not good for bringing people
8 down and getting them to invest in property
9 here.

10 In addition to our initial
11 investment, we put in a new bathroom. That was
12 expensive. But, we did it because we invested
13 in that property so that we could enjoy its use.
14 And we're being deprived of that enjoyment
15 because of the noise.

16 They mentioned having a bar on the
17 outdoor seating. They have a bar on the inside
18 that can serve the people on the outside. If
19 they put a bar out there, the noise is just
20 going to be incredible because I'm sure they'll
21 put music out there with the bar.

22 I'm not worried about the sound of
23 people being out there, enjoying themselves, I'm
24 worrying about this constant music.

25 And in case you think I'm ultra

1 sensitive to music, for over 30 years I taught
2 9, 10, 11 and 12-year-olds to play trumpets and
3 drums and saxophones. I was an elementary band
4 director. So, I'm not over sensitive to noise.

5 But, this is just intolerable.

6 Again, I'm --

7 We do have increased activity now
8 at that end of the boardwalk, thanks to Stockton
9 and some other things that are going on down
10 there. And I'm grateful for that. I'm not
11 against activity. It's just the noise, the
12 constant disturbing of my peaceful enjoyment of
13 my residence that I am against.

14 I have talked to the owner in the
15 past and said, please, I'm not trying to hurt
16 your business, but could you please do something
17 about the noise. His reply to me was, well, you
18 live in Atlantic City, you have to expect that.
19 Basically -- pardon my French, but suck it up.
20 That's the kind of reply. He wants --

21 We need him to understand our
22 position and -- and for you to please understand
23 our position about this.

24 I drove three and a half hours
25 multiple times to these hearings because I care

1 so much about this.

2 Thank you.

3 PAUL WEISS: Thank you, ma'am.

4 Any other members of the public who
5 wish to provide comment on this application,
6 please come to the microphone and state your
7 name and address for the record.

8 UNKNOWN SPEAKER FROM THE AUDIENCE:

9 Hi. Good afternoon, now. My name is Deb
10 DiGiulio. 108 South Montpelier Avenue.

11 I'm going to be very brief. My
12 husband did all the talking he possibly could, I
13 think. But --

14 And -- and I understand --

15 You have to understand the
16 frustration of the residents. John is the
17 president of the association. He gets, you
18 know, well, why did this happen. He gets all
19 the questions. So, you have to understand his
20 frustration in speaking and -- and letting you
21 guys know what -- how he feels and whatever.

22 I heard several things today that

23 --

24 The ramp was built without
25 approval. Am I correct? Yes. Right? It is --

1 it was built without approval.

2 NICHOLAS TALVACCHIA: We had a
3 building permit.

4 SPEAKER FROM THE AUDIENCE (DEB
5 DiGIULIO): Excuse me?

6 NICHOLAS TALVACCHIA: We had a
7 building permit.

8 SPEAKER FROM THE AUDIENCE (DEB
9 DiGIULIO): It was an approved permit?

10 NICHOLAS TALVACCHIA: By the city.
11 It didn't have a CAFRA permit.

12 SPEAKER FROM THE AUDIENCE (DEB
13 DiGIULIO): So, then -- so, then it is an
14 approved --

15 What you're saying was, that ramp
16 -- addition -- was approved.

17 NICHOLAS TALVACCHIA: Not with all
18 the approvals. I said it had --

19 SPEAKER FROM THE AUDIENCE (DEB
20 DiGIULIO): So, then it wasn't -- so that it
21 didn't have the stamp of approval --

22 NICHOLAS TALVACCHIA: That was --

23 SPEAKER FROM THE AUDIENCE (DEB
24 DiGIULIO): -- from everyone.

25 Correct?

1 NICHOLAS TALVACCHIA: Yeah. But,
2 that --

3 SPEAKER FROM THE AUDIENCE (DEB
4 DiGIULIO): Additionally, you added --

5 CRDA gave you -- CRDA gave you "X"
6 amount of space. We decided we wanted to be
7 larger and so that's what you do. I mean,
8 that's just the way it goes?

9 I don't get it. I don't get how
10 members of CRDA sit there and say this guy just
11 built extra space for him -- for his -- his
12 enterprise.

13 I get it. Enterprise is wonderful.
14 That's what America's all about.

15 But, this is beyond anything I
16 could comprehend.

17 I heard about Land Shark. Land
18 Shark is wonderful. It's not in a residential
19 area. I mean, am I the right bar, the Land
20 Shark bar? It's -- it's across from the casino?
21 Girasole -- however you say it correctly -- I'm
22 really not sure, pardon my mispronunciation --
23 they don't have parking for their guests and
24 their restaurant attendees. They park wherever.
25 They walk to that restaurant. Why does someone

1 need parking for the -- the restaurant on the
2 boardwalk? Why is that an approvable thing when
3 that business has been there forever? There's
4 no parking.

5 There's a huge parking lot on the
6 corner of Pacific Avenue. Huge.

7 So -- so, that's what I wanted to
8 say. I wanted to say how do you do this? How
9 do you just come up --

10 CRDA gives you a -- a ramp -- a
11 thing. You add because you feel like you want
12 to be "equidistance" [pronounced incorrectly] to
13 the new ramp you're going to take away.

14 It's very sad. It's a very sad
15 state of affairs how this has been run and how
16 things have been going in this.

17 Cancellation after cancellation of
18 meetings.

19 Why Ocean Club pulled out? Beyond
20 me. Something is not -- something is not
21 rolling the right way. I can't figure it out.
22 Hopefully, we'll find out.

23 But, hopefully, you guys hear our
24 frustration and -- and --

25 I don't know. I don't know.

1 Hopefully, you hear our frustration and don't
2 give the stamp of approval for everything this
3 gentleman -- this man wants.

4 That's all I want to say. Thank
5 you for letting me speak.

6 I'm like -- I'm like a crazy woman
7 also, but that's just my nature.

8 Thank you. Thank you.

9 PAUL WEISS: We appreciate your
10 comments, ma'am.

11 Any other members of the public who
12 wish to address this application, please come to
13 the microphone, state your name and address for
14 the record.

15 UNKNOWN SPEAKER FROM THE AUDIENCE:
16 Can I have one -- one more quick thing?

17 PAUL WEISS: In a minute, ma'am.

18 UNKNOWN SPEAKER FROM THE AUDIENCE:
19 Oh. I'm sorry.

20 PAUL WEISS: In a minute.

21 UNKNOWN SPEAKER FROM THE AUDIENCE:
22 I'm sorry.

23 UNKNOWN SPEAKER FROM THE AUDIENCE:
24 Hello. Thank you for having us.

25 My name is Jocelyn Sparkle Earle,

1 and I'm at 220 North New Hampshire Avenue. I
2 don't live on the premises. However, I am the
3 agent and publicist of one of the entertainers
4 that are at the Celebrity "Corner."

5 Number one, I'd like to say,
6 Miss Angela Burton has not only been given the
7 city to the key -- the key to the City of
8 Atlantic City, she's also been the opening act
9 for all the major headliners at the Club Harlem,
10 which was a upscale club that used to be in
11 Atlantic City with headliners. Sammy Davis, Jr.
12 Even the Rat Pack has gone down there to see
13 her. Again, she's opened up for the acts there.

14 She's traveled to 35 different
15 countries. She has a corner at the -- what is
16 it, the museum down on -- I'm sorry, I'm -- bear
17 in mind I am a little nervous.

18 I'm here to say that, number one,
19 Atlantic City has been dead for the last five
20 years until the Hard Rock came to replace the
21 Trump Taj Mahal and the Ocean Casino replaced
22 the Revel. That's down at that end. Now the
23 city is alive again.

24 There's an ordinance in
25 Atlantic City, I believe, of 10 P.M. Am I

1 correct? A noise ordinance?

2 Okay. I find it hard to believe
3 that, in such a small room, unless you're at a
4 mic, people can't hear and yet, up in their
5 apartments, the noise is disconcerting.

6 These are professional, seasoned --

7 Okay? She was called the Jewel of
8 Atlantic City for a reason. She'll be
9 performing at the Kentucky Avenue Renaissance,
10 at the --

11 They're having -- Saturday they're
12 having the Gardner's Basin concerts, which she
13 will also be performing at.

14 You also have, on the beaches
15 during the summer and during the summer months,
16 you have all of the -- the free concerts that
17 are going on.

18 The Celebrity club is now bringing
19 the entertainment further down the boardwalk
20 because Atlantic City, it's holding true to its
21 name. You have the -- the Easter parade that
22 goes up and down the boardwalk during that time,
23 the St. Patty's Day parade, you have the
24 Miss America Pageant.

25 And everything is an ordinance to

1 -- the noise ordinance, which ends at
2 10 o'clock. Her sets are over at 9 o'clock.

3 It's a respectable crowd and,
4 again, professionals. There's not drums.
5 There's a piano player, three singers, and a
6 keyboard artist, and you have two guitarists.
7 Sometimes you have guest guitar -- guest singers
8 and guest entertainers. All of them have
9 performed professionally in the entertainment
10 industry.

11 What I'm here to say is, I think
12 that maybe because it's been so quiet for so
13 many years because Atlantic City did go dead for
14 a minute, it might take getting used to, but
15 you've never had any kind of out --

16 Number one, to even bring up a
17 smoking area and pot and all that, it's
18 completely, I guess, just speculation. Okay?
19 Because the crowd, it's an older crowd.

20 Well, Miss -- Miss Angela does
21 jazz. And so her sets of jazz --

22 And it's tranquil music and it's --

23 And if you're up on the Ocean Club,
24 then that's all essential music. You know,
25 because, basically, we don't have a whole bunch

1 of mics and -- and there's actually -- there's
2 just three mics.

3 So, I'm wondering --

4 I -- I just needed you folks to
5 know that these aren't just kids coming off the
6 street. All right? And -- and Atlantic City is
7 coming alive again. And the Celebrity "Corner"
8 is trying to bring that flavor.

9 Because we do pull people off the
10 boardwalk that are walking. Oh, come on in.
11 Al fresco.

12 I'm originally from New York, and I
13 went to Stockton University. That's what
14 brought me down here.

15 And al fresco, it's -- it's lovely.

16 And so I just need folks to know
17 that -- well, good intentions, you know, paves
18 the way to hell, but -- that this is what
19 Atlantic City stands for. Okay?

20 And there's going to be activities.

21 And during the summer months, you
22 know, you should want this because this is
23 making our city alive again, quite frankly.

24 And again, you have the jewel of
25 Atlantic City. Maybe you should come down and

1 listen to the set before you judge -- you know,
2 make a quick judgment just because you see folks
3 out there.

4 PAUL WEISS: Thank you for your
5 comment, ma'am.

6 Mr. Talvacchia, can you just
7 clarify for me and, maybe, hopefully, for the
8 public and the record? The application today
9 before the Authority is for site plan and
10 variances for the Celebrity "Corner" restaurant
11 that sits on and adjacent to the boardwalk. Is
12 that correct?

13 NICHOLAS TALVACCHIA: It's --

14 PAUL WEISS: We're not talking
15 about a beach bar, --

16 NICHOLAS TALVACCHIA: Oh. No, no,
17 no.

18 PAUL WEISS: -- we're not talking
19 about -- we're not talking about --

20 NICHOLAS TALVACCHIA: No.

21 PAUL WEISS: -- any sort of music
22 being played on the beach.

23 We're talking about a site plan for
24 --

25 NICHOLAS TALVACCHIA: We have a

1 separate beach bar. It has a separate issue.

2 PAUL WEISS: Okay. I just want --

3 NICHOLAS TALVACCHIA: This
4 application is limited to what's shown on that
5 plan.

6 PAUL WEISS: Okay.

7 NICHOLAS TALVACCHIA: We'll have to
8 address the -- the president's concern about any
9 --

10 PAUL WEISS: Well, hang on. Before
11 you start addressing public comment, --

12 NICHOLAS TALVACCHIA: I'll just --

13 PAUL WEISS: -- let's just make
14 sure that we can finish public comment.

15 NICHOLAS TALVACCHIA: Yes.

16 PAUL WEISS: To be clear for the
17 public and for the record, the Authority's
18 hearing an application for site plan relief for
19 variances for a restaurant that's on the
20 boardwalk. We are not entertaining an
21 application or any other approval for a beach
22 bar.

23 UNKNOWN SPEAKER FROM THE AUDIENCE:
24 There's a bar in that plan, sir.

25 NICHOLAS TALVACCHIA: On the beach?

1 UNKNOWN SPEAKER FROM THE AUDIENCE:

2 No.

3 NICHOLAS TALVACCHIA: Oh. Yeah.

4 On the deck. Yes, there is a bar.

5 PAUL WEISS: Okay. All right. So,
6 again, any other members of the public who
7 haven't already presented their testimony who
8 wish to testify, please come to the microphone,
9 state your name and address for the record.

10 Yes. And again, to help our court
11 reporter keep names and folks straight, if you
12 provided testimony today, if you would please
13 sign in so that she can maintain an accurate
14 record of who provided testimony today.

15 UNKNOWN SPEAKER FROM THE AUDIENCE:
16 Okay. Barbara Allen, with an A-l-l-e-n,
17 Woolley, W-o-o-l-l-e-y, hyphen Dillon,
18 D-i-l-l-o-n. I am the director of planning and
19 development for the City of Atlantic City.

20 Just a few brief things.

21 I recently arrived in the city
22 January of this year. It is my understanding
23 that this has been going on prior to my arrival.
24 It is --

25 PAUL WEISS: What has been going

1 on, ma'am?

2 SPEAKER FROM THE AUDIENCE (BARBARA
3 WOOLLEY-DILLON): Whatever has happened at this
4 site, meaning --

5 PAUL WEISS: Oh.

6 SPEAKER FROM THE AUDIENCE (BARBARA
7 WOOLLEY-DILLON): -- there are allegations about
8 part of the permit process being obtained,
9 et cetera.

10 So, it is my understanding that
11 this has been ongoing for quite some time.

12 One of the things that I -- I do
13 have a question for Mr. Talvacchia. Has the
14 police, fire, emergency services for the City of
15 Atlantic City reviewed this with regard to the
16 ramp, et cetera?

17 NICHOLAS TALVACCHIA: Actually, we
18 did.

19 SPEAKER FROM THE AUDIENCE (BARBARA
20 WOOLLEY-DILLON): I just want to make sure of
21 that.

22 NICHOLAS TALVACCHIA: Three --
23 three years ago, --

24 SPEAKER FROM THE AUDIENCE (BARBARA
25 WOOLLEY-DILLON): Great.

1 NICHOLAS TALVACCHIA: -- when we
2 first proposed the license with the city.

3 We'll check with the --

4 We met with the police, as a matter
5 of fact.

6 SPEAKER FROM THE AUDIENCE (BARBARA
7 WOOLLEY-DILLON): Excellent. I just want
8 clarity and make sure that that's on the record.

9 There may be follow-up required.
10 We would certainly ask that if CRDA is going to
11 consider approving this, that the applicant
12 obtain all permits that would be required,
13 including those from the city, any other agency
14 --

15 PAUL WEISS: Well, if I may, ma'am.
16 And again, you're new to the city and may be new
17 to this process.

18 All of the Authority's approvals,
19 all of them, are subject to any other applicable
20 governmental approval, including the City of
21 Atlantic City.

22 SPEAKER FROM THE AUDIENCE (BARBARA
23 WOOLLEY-DILLON): Exactly.

24 The only other thing that I'd ask
25 as part of this, because we did issue a permit

1 for the use on the boardwalk for the area for
2 the tables, we don't have a sketch for our file.
3 This is something different, perhaps, from what
4 was envisioned. We would need to have whatever
5 might be approved by this agency submitted to
6 the city so that we have an official record of
7 this to make sure that everything is consistent.

8 NICHOLAS TALVACCHIA: Director,
9 assuming CRDA approves whatever they approve, we
10 will certainly make a copy available. And I
11 believe -- I don't think you were there yet --
12 we did supply a copy of the application to the
13 city as our standard practice, but I'll verify
14 that.

15 SPEAKER FROM THE AUDIENCE (BARBARA
16 WOOLLEY-DILLON): And -- and it's just -- it's a
17 different process that it goes through for the
18 permits for the boardwalk. That's the only
19 reason why I'm asking.

20 PAUL WEISS: Understood.

21 SPEAKER FROM THE AUDIENCE (BARBARA
22 WOOLLEY-DILLON): That's all.

23 PAUL WEISS: Thank you.

24 SPEAKER FROM THE AUDIENCE (BARBARA
25 WOOLLEY-DILLON): Okay. Great.

1 PAUL WEISS: Thank you.

2 NICHOLAS TALVACCHIA: Thanks,
3 Director.

4 PAUL WEISS: Any other members of
5 the public who have not yet spoken who wish to
6 speak?

7 UNKNOWN SPEAKER FROM THE AUDIENCE:
8 I spoke, but may I --

9 Okay. I just want to make sure
10 that I could just --

11 PAUL WEISS: I just want to make
12 sure that we give everybody an opportunity,
13 ma'am.

14 UNKNOWN SPEAKER FROM THE AUDIENCE:
15 That's absolutely fair.

16 PAUL WEISS: So, if --

17 Anyone else who has not yet spoken
18 on this application who wishes to provide
19 testimony, please come to the microphone and
20 state your name and address.

21 UNKNOWN SPEAKER FROM THE AUDIENCE:
22 Good afternoon, everyone.

23 My name is Fransa, "F," as in
24 Frank, r-a-n-s-a Gatlin. I am a resident of
25 Atlantic City, New Jersey. I've been here for

1 many years.

2 I just would like to say that I
3 understand all the concerns of all the
4 residents. I understand the concerns of the
5 owner. I also understand the concerns of the
6 residents, such as myself, and, of course,
7 tourists and people who come to visit.

8 Long story short. I know that
9 sometimes it can be a problem, but this is not
10 just a resort city. This is a casino city.
11 There is music all up and down the boardwalk.

12 I worked at Resorts for nine years
13 and I worked at Taj Mahal after helping build
14 it.

15 There are resident buildings there
16 for senior citizens and everybody. So, I
17 understand your concerns.

18 But, when you're living in a city,
19 in the vicinity of this area, you're going to
20 know, during this time, from like March or April
21 through October, this -- this boardwalk is
22 coming -- it comes alive and with a lot of
23 entertainment. It is to be expected.

24 The thing that I love about
25 Celebrity "Corner" -- and I am also a singer and

1 I have, also, a background for Angela Burton on
2 tour, when we went to perform for the soldiers
3 on the DOD -- DOD tours -- is that it's -- it's
4 -- it's important.

5 You know, it makes people feel
6 good. And it doesn't have rap, the loud rap.
7 And I'm not being partial. I know they enjoy
8 their type of music. But, it's mellow.

9 "Casino" [stated incorrectly]
10 "Corner" is the only one place that I have found
11 that I really enjoy going to where it has a
12 touch of class. It's very relaxing and kind of
13 laid back. It's nostalgic. It plays music from
14 the '50s, you know, these people who are
15 performing, and up.

16 And I have been to the -- that
17 outdoor café. I love the Sidewalk Café nearby
18 Bally's. They have a lovely deep set, though,
19 outside café with entertainment. But, it's
20 still not the mellow type like Angela Burton and
21 others who perform.

22 So, it's gonna happen, this is
23 gonna happen, and it's gonna go on until about
24 October and then it dies down.

25 The city needs it. We have been

1 dead for a long time.

2 And I just want to say that I -- I
3 hope that we can come to some kind of conclusion
4 because, to me, it is very much needed and I
5 love going there because I know I can hear the
6 mellow type of music that I enjoy. And I love
7 the outside setting and the atmosphere.

8 So, I really hope that we can come
9 to some kind of agreement, because I would love
10 to see Casino -- Celebrity "Corner" continue to
11 exist there like that.

12 He stops his music, I think, 9:30?

13 UNKNOWN SPEAKER FROM THE AUDIENCE:
14 9:00.

15 SPEAKER FROM THE AUDIENCE (FRANSA
16 GATLIN): -- because of --

17 Excuse me. 9 o'clock.

18 -- because of the complaint.

19 I would love to be able to sit out
20 there past 9 o'clock and listen to some mellow
21 music, but it is what it is.

22 So, I'm just praying that there's
23 gonna be some kind of good result from all of
24 this.

25 Thank you.

1 PAUL WEISS: Thank you, ma'am.

2 SPEAKER FROM THE AUDIENCE (FRANSA
3 GATLIN): Thank you.

4 PAUL WEISS: Any other members of
5 the public who have not already provided
6 testimony, if you wish to speak, please come
7 forward and provide your name and address for
8 the record. Thank you.

9 UNKNOWN SPEAKER FROM THE AUDIENCE:
10 Good afternoon. My name is Angela Burton. My
11 address is 645 Howard Street, Atlantic City,
12 New Jersey.

13 I am a former --

14 I've been singing all my life. I
15 sang in 35 countries for our troops.

16 I love the Celebrity club. I've
17 also gotten a chance to sing at the Hard Rock
18 since it's been open.

19 And when I went down to the
20 Celebrity "Corner," it was -- it was -- to me,
21 it was like dead. It was dead.

22 And I brought life down there. And
23 I thank God for that.

24 My PA system is a very small PA
25 system, so you're not hearing it like that.

1 I live on Howard Street. When they
2 have the concerts on the boardwalk, I could hear
3 it on my street.

4 I love music. I don't complain.
5 You know, if you love music, you love music.
6 I'm not using profanity. I'm singing love
7 music. That's why we're here today, because of
8 the songs that were made that I sing. I'm being
9 honest. I sing nothing but love songs.

10 And a lot of people from the Ocean
11 Club come down. I have not seen, yet, you come
12 down. They come to me. They thank me. They
13 meet me. I meet them. And I thank them for
14 coming down.

15 And if you get a chance, please
16 come. I'll be there July the 28th. And hear it
17 for yourself.

18 And everyone's having fun from the
19 boardwalk, just walking. The tourists are
20 enjoying themselves. And I bring local,
21 keeping your place packed. Not --

22 I don't bring riffraff. I'm a
23 classy woman and I bring class with me whenever
24 I walk in the door.

25 Thank you.

1 PAUL WEISS: Thank you, ma'am.

2 Anyone else who hasn't already
3 provided testimony who wishes to do so, please
4 step forward and state your name and address for
5 the record.

6 UNKNOWN SPEAKER FROM THE AUDIENCE:
7 Mary Jane Halligan. Ocean Club.

8 I'd like to find out why the Ocean
9 Club withdrew, too. I was at a meeting two
10 weeks ago, the board meeting. They had, oh, I'd
11 say 150 to 200 residents there. They were
12 screaming and yelling about Celebrity Corners.

13 The board made this decision. We
14 have no idea why, but the general residents are
15 not happy at all.

16 People complain about not sleeping.
17 The noise keeps them up to the wee hours of the
18 morning. I'm talking about 2 A.M. I don't know
19 who thinks it stops at 9, but it doesn't.

20 So, I think you really have to look
21 at why they backed down.

22 Thank you.

23 PAUL WEISS: Thank you, ma'am.

24 Any other members of the public who
25 have not already testified who wish to do so?

1 Okay. All right. Again, if you
2 want to testify, if you have additional
3 testimony that has not already been stated in
4 some shape or form, you're welcome to state it.

5 SPEAKER FROM THE AUDIENCE (DEB
6 DiGIULIO): May I, please?

7 PAUL WEISS: Yes, ma'am.

8 SPEAKER FROM THE AUDIENCE (DEB
9 DiGIULIO): I'm sorry.

10 I want to say this: I may look
11 like an old woman, but I'm very young at heart,
12 and I love music. I --

13 As well as you've been invited to
14 hear, come to my apartment. I would like you --

15 It's -- it's loud. It's
16 thunderous.

17 They're respected musicians. I
18 have -- don't have to go to the bar, because
19 it's right at my door.

20 So, please understand. Your music
21 is lovely. It is loud in the apartments.

22 I have no disrespect for you. I
23 enjoy music. But, please don't say that you
24 doubt what we're saying, because I invite you --

25 You said I doubt it very much. All

1 I'm saying is I invite you to come to my
2 apartment while the music --

3 And, additionally, let me just say
4 this also. This lovely group -- lovely group of
5 people. Before this group of people, there were
6 deejays that played obnoxious music, loud,
7 obnoxious music.

8 So, it's no disrespect to the
9 musicians that are here, it's no disrespect to
10 the music that we're hearing. That's not it.
11 It is loud in our apartments. That's a fact.
12 Okay?

13 Additionally, I just have one last
14 question. Then I really will go home. Who paid
15 for the -- who paid for that ramp to be raised
16 and for the additional --

17 Did CRDA pay for that?

18 PAUL WEISS: I'll have the
19 applicant answer that.

20 NICHOLAS TALVACCHIA: No. My
21 client did.

22 SPEAKER FROM THE AUDIENCE (DEB
23 DiGIULIO): The applicant paid for it.

24 Okay. So, I think --

25 I just want you to know that we are

1 not disrespecting you. I don't have to come to
2 your venue because I hear you quite well. But
3 --

4 And it's not a complaint against
5 them.

6 UNKNOWN SPEAKER FROM THE AUDIENCE:
7 It's other potential music.

8 PAUL WEISS: Thank you, ma'am.

9 SPEAKER FROM THE AUDIENCE (DEB
10 DiGIULIO): That's it.

11 PAUL WEISS: Any other members of
12 the public who wish to testify, please come to
13 the microphone and state your name and address
14 for the record.

15 Okay. Seeing none, I'll close the
16 public session comment period for this
17 application and invite the applicant to provide
18 further testimony to address public comment.

19 NICHOLAS TALVACCHIA: I just want
20 to hit a few points.

21 One, there will not be flashing
22 signs. They'll be backlit or uplit with lights,
23 but it's nothing --

24 PAUL WEISS: Make sure you're --

25 UNKNOWN SPEAKER FROM THE AUDIENCE:

1 Speak into the mic, please.

2 NICHOLAS TALVACCHIA: Oh. Sorry.

3 As I stated, the signage will not
4 be flashing, but will be either backlit or uplit
5 with lighting or downlit, but it will be --

6 It's not going to be --

7 CHRISTINE COFONE: It conforms to
8 the ordinance requirements.

9 NICHOLAS TALVACCHIA: Absolutely.
10 Yeah.

11 We're not asking for any variance
12 relief on that.

13 So, I also --

14 To the president of the Island
15 Club. The language that we put in the notice,
16 which is standard lawyer language, and any other
17 relief, that does -- that does not mean we can
18 do whatever we want; it just means that, during
19 the course of this hearing, if the board
20 professionals, for example, said, Nick, you
21 missed a variance, you have to grant that
22 variance, that's all that means. It does not
23 give us carte blanche to do anything else. The
24 city would never agree and we would never ask to
25 have the other ramp removed.

1 So, that's not gonna happen.

2 In terms of noticing, we got a
3 building permit to build what we built. I don't
4 know what the city procedure is to notify
5 residents or not, but we had a building permit
6 to do that.

7 PAUL WEISS: And, Mr. Talvacchia,
8 if I could interrupt.

9 NICHOLAS TALVACCHIA: Yeah.

10 PAUL WEISS: For purposes of this
11 hearing, you provided notice in accordance with
12 the Municipal Land Use Law.

13 NICHOLAS TALVACCHIA: Several
14 times.

15 PAUL WEISS: Okay.

16 NICHOLAS TALVACCHIA: Several.

17 And, in fact, I had a discussion
18 with Mr. Collins. Technically, the 200-foot
19 list starts at the building property line, not
20 the street right-of-way. We, with Mr. Ponzio's
21 office, did our own 200-foot list to expand the
22 list, and we picked up about four more
23 properties --

24 PAUL WEISS: Okay.

25 NICHOLAS TALVACCHIA: -- going

1 westerly, toward Ventnor City, just to make sure
2 we didn't miss anybody.

3 PAUL WEISS: Okay. Thank you.

4 NICHOLAS TALVACCHIA: And what
5 else? I just want to try to hit --

6 No flashing.

7 I understand the noise issue. I
8 hear it all the time. The zone that they're in
9 is the same zone that, you know, every casino --

10 It's all the same zone. It's a
11 commercial -- high-intensity commercial zone.
12 And that doesn't mean anybody can violate the
13 state noise code. There is a state noise code,
14 and it has to be enforced. That's a performance
15 standard. But, that's not a reason to deny an
16 application. That's an enforcement issue.

17 No flashing.

18 Oh. In terms of the settlement
19 agreement, we are not gonna provide that to the
20 Island Club. They have no right to that.

21 That's a confidential document between two
22 parties. So, we're not going to provide that.

23 And I think that's it. I think --

24 And I want to make a point here.

25 If we eliminated the restaurant seats and had

1 all bar and lounge, we would not need a variance
2 from the requirement that restaurant seats
3 outside, not to seat inside.

4 And if we simply leased parking
5 spaces, we'd get rid of the parking variance.

6 And if we combined the two small
7 signs into one big one, there'd be no sign
8 variance.

9 There'd be no variances, in other
10 words. There would still be outdoor activity
11 and seating. That's permitted in the zone.

12 So, we don't -- we don't want to
13 get rid of restaurant seating. We think that's
14 important. But, that's what's driving the
15 variance; the excess of outdoor restaurant
16 seats. Bar and lounge seats are excluded from
17 the requirement.

18 So, I'm not saying that's our plan,
19 but denying those variances would not achieve
20 the goal of eliminating the outside activity.
21 It just won't.

22 It's encouraged by the city. It's
23 encouraged -- well, by the CRDA, it's encouraged
24 by the city, because they granted this license.
25 They knew what they were doing.

1 At the hearing where the city
2 approved the license, there was objections from
3 Ocean Club people -- I don't know about Island
4 Club, but Ocean Club people objecting to the
5 license. The city still approved it. So, it
6 was well known.

7 That's all I have to say. Thank
8 you for your time and attention.

9 PAUL WEISS: Thank you.

10 Okay. So, the applicant has closed
11 its testimony?

12 NICHOLAS TALVACCHIA: We are -- we
13 are closed. Yes.

14 PAUL WEISS: Okay. Any other
15 testimony from the Authority's experts?

16 CHRISTINE COFONE: Not at this
17 time.

18 PAUL WEISS: Okay. Seeing that
19 there's no further testimony and public comment
20 has ended as well, we're going to adjourn this
21 hearing.

22 NICHOLAS TALVACCHIA: Thank you.

23 PAUL WEISS: Thank you.

24

25 (This public hearing concluded at

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