

1 CASINO REINVESTMENT DEVELOPMENT AUTHORITY
2 LAND USE REGULATION ENFORCEMENT DIVISION HEARING
3

4 APPLICATION NO: 2024-12-3768

5 IMCMV ATLANTIC CITY, LLC
6 LANDSHARK BEACH BAR
7 1100 BOARDWALK
8 SITE PLAN FOR SEASONAL AMENITIES
9

10 APPLICANT SEEKS PRELIMINARY AND FINAL AMENDED
11 SITE PLAN FOR SEASONAL AMENITIES, INCLUDING COVERED
12 ENTERTAINMENT STAGE.

13 THE PROPERTY IS LOCATED AT 1100 BOARDWALK,
14 ALSO KNOWN AS BLOCK 1, LOT 137, 138, 139, 140, 141,
15 142, 142.01 ON THE TAX MAP FOR THE CITY OF ATLANTIC
16 CITY, LOCATED WITHIN THE BEACH DISTRICT (B).
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21

22 THURSDAY, JANUARY 16, 2025

23 10:41 A.M.
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Public Hearing in the above-referenced matter
conducted at the CASINO REINVESTMENT DEVELOPMENT
AUTHORITY, 15 South Pennsylvania Avenue, Atlantic
City, New Jersey, taken before Michelle Gruendel, a
Certified Court Reporter and Notary Public of the
State of New Jersey, on Thursday, January 16, 2025,
commencing at 10:41 a.m.

A P P E A R A N C E S:

CASINO REINVESTMENT DEVELOPMENT AUTHORITY:

LANCE D. LANDGRAF, JUNIOR
CHAIRMAN
DIRECTOR, PLANNING DEPARTMENT

ROBERT L. REID
LAND USE ENFORCEMENT OFFICER

PROFESSIONALS TO THE BOARD:

SCOTT G. COLLINS, ESQ.
RIKER DANZIG

CAROLYN FEIGIN, PE, PP
ARH ASSOCIATES

PROFESSIONALS FOR THE APPLICANT:

NICHOLAS TALVACCHIA, ESQ.
COOPER LEVENSON

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EXHIBITS MARKED AND/OR REFERRED TO:

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1 [COURT REPORTER'S NOTE: THE FOLLOWING
2 TRANSCRIPT WAS PRODUCED FROM THE
3 AUDIO/VIDEO TAKEN BY THE VIDEOGRAPHER
4 PRESENT AT THE HEARING.]

5 LANCE LANDGRAF: All right. Our next
6 application is that of 2024-12-3768, IMCMV Atlantic
7 City, LLC, LandShark Beach Bar, 1100 Boardwalk,
8 site plan for seasonal amenities. The applicant
9 seeks preliminary and final site plan -- amended
10 site plan for seasonal amenities, including covered
11 entertainment stage. Property is located at 1100
12 Boardwalk, known as Block 1, Lots 137, 138, 139,
13 140, 141, 42 and 42 -- 142.01. This is located
14 within the Beach District.

15 Rob, we're good on notice?

16 ROBERT REID: Yes. I reviewed the proof
17 of service provided by the applicant and we have
18 jurisdiction to hear the application.

19 LANCE LANDGRAF: Carolyn, we're okay on
20 completeness?

21 CAROLYN FEIGIN: Yes, sir, we are.

22 LANCE LANDGRAF: All right.
23 Mr. Talvacchia, I don't mess that name up. I mess
24 everybody else's up.

25 NICHOLAS TALVACCHIA: Good morning,

1 Members of the Authority and Staff. Thank you for
2 having us. We're really pleased to be here.

3 We were here two years ago and we got
4 some interim approval to expand the LandShark Beach
5 Bar. As you may know, behind LandShark has been a
6 beach bar for many years. It was approved as a
7 part of the original site plan application for
8 LandShark. In 2023 we came back to get a beverage
9 trailer approved, a temporary stage approved and
10 some additional seating. Because of beach erosion
11 some of the original beach bar had eroded away. We
12 had always planned to do the application we're
13 speaking of now. We actually planned to have done
14 it last summer but there was no beach. So as you
15 know, the beach fill is ongoing as we speak and we
16 expect to have a full beach this summer and so we
17 plan to restore the original beach bar that was
18 destroyed by erosion and expand it to add a new
19 tiki bar. We already have pre-approval for the
20 beverage trailer and we're adding a new stage. We
21 have a temporary stage approved in '23, but a new
22 stage, much more seating. Jon will go through
23 this, but beach seats, just beach seats we expect
24 to have about 700 seats, all seats, whether it's
25 tables, cabanas, just sit alone. We think that's

1 great, to have 700 within this beach bar. It
2 covers a fair amount of real estate. It covers an
3 entire city beach lot, Lot 33, which, just for the
4 record, this application, Resorts controls Lots 33
5 and 34 as designated under the beach map but it's
6 the block and lots that you had mentioned that are
7 a part of that. Beach Lot 34, there's no changes.
8 In '23 the board formalized an approval for Resorts
9 for chair concession, to store chairs and
10 umbrellas. That had been licensed by the city for
11 many years but when we were here in '23 we got site
12 plan approval for that. No change for that.
13 That's Beach Lot 34. So this is Beach Lot 33
14 immediately adjacent to the existing LandShark.
15 There's no changes approved for the LandShark
16 building. Last summer we got some changes
17 approved, as you recall. That was done. The
18 kitchen was expanded and we relocated the bathrooms
19 and it's more functional now. So the client's very
20 excited about doing this expansion. The tiki bar,
21 as I mentioned, we think the look of it is exactly
22 what Atlantic City wants. It's classic LandShark,
23 Margaritaville, beach look, and Jon will go through
24 that.
25 Variance relief, we have enough parking.

1 The way parking is calculated for casinos, it's
2 based upon square footage, and we did the
3 calculation and we -- with this expansion we have
4 enough parking. Another expansion we'll probably
5 need a parking variance, but for right now we're
6 good. We will need a variance for signage. We are
7 proposing multiple roof signs primarily to allow
8 people from the Boardwalk to see over the dune and
9 see what's going on here and, you know, it's a
10 unique design, a tiki bar, so we think we can
11 justify the roof signage. We think it's
12 attractive. We think it's what you're looking for
13 in a resort. Number of signs, we're gonna need a
14 variance on, which is typical. So we think -- and
15 the other variance is to exceed the number of
16 outdoor seats. The board granted approval in '23
17 to allow for, I believe it's 240 outdoor seats.
18 180 was permitted. We increased it by 64. We're
19 increasing it again, so that's another variance
20 from that requirement, which I understand they go
21 away in the future, but right now we still have it
22 so we do need a variance to have more outdoor seats
23 than we would have inside and for signage. That's
24 the only variance relief. Other than that, it's
25 all compliant. Jon will go through it. I'd like

1 to bring Jon up to walk you through it. And we
2 looked at the ARH report and we have no, you know,
3 no -- we have no comments about that. We will try
4 to address all the comments in it. Jon, if you
5 could be sworn again, I guess.

6 SCOTT COLLINS: Good morning, Jon.
7 Raise your right hand.

8 JON BARNHART, PE, PP, having been first duly sworn
9 according to law, testified as follows:

10 NICHOLAS TALVACCHIA: And I assume
11 you'll accept him as a licensed planner and
12 engineer.

13 LANCE LANDGRAF: We do.

14 NICHOLAS TALVACCHIA: All right. Jon,
15 so what do we have?

16 JON BARNHART: So the exhibit I have up
17 right now, which is part of the application
18 package.

19 LANCE LANDGRAF: We'll mark that as A-1.

20 SCOTT COLLINS: Yeah. The whole
21 package. Anything that's new that you have that
22 wasn't submitted --

23 JON BARNHART: There won't be anything
24 new, but yeah.

25 SCOTT COLLINS: Okay.

1 LANCE LANDGRAF: Great.

2 MR. BARNHART: So the exhibit I have up
3 right now, this was -- this was the plan the last
4 time we came in for an approval for beach
5 amenities. The dashed line area is the beach bar
6 that was previously approved, as well as the
7 beverage trailer up by the Boardwalk and -- and a
8 couple of different signage elements pretty much
9 mostly up by the Boardwalk area. As Nick pointed
10 out, erosion has not been kind to Atlantic City
11 over the last few years so some of the beach bars,
12 specifically this one, Hard Rock and some others
13 really were not able to operate. This -- this
14 facility took a beating two seasons back and so
15 this project that we're moving forward this morning
16 really was not possible until now. If you're -- if
17 you're -- if you're aware or not, they are
18 currently in the operation of filling the beach.
19 They started at the north end of the island,
20 thankfully, so -- I haven't been down there in a
21 little bit but they are either right here or
22 getting close to being right here. So the timing
23 of this project is spectacular because this season
24 coming up we should have a very, very plentiful
25 beach in this area.

1 Interest -- also, interestingly enough,
2 if you look at the original project that we did for
3 the LandShark Bar and Grill when it was
4 constructed, what we're proposing this morning is
5 very similar to what they had planned way back when
6 with regard to what they wanted to do on the beach.
7 It was a much more grandiose operation than what
8 they had ever been able to do from the time that
9 they opened, but now they're trying to move that
10 forward and they're hopeful that it's going to be
11 very, very successful.

12 The plan before you, as I mentioned,
13 what we got approved was a small stage area with
14 some seating. The existing bar, which has been
15 approved down on this beach for many, many years,
16 was part of that operation and then there was a
17 beverage trailer up at the Boardwalk. The proposal
18 is to maintain all of those elements and then
19 take -- take it to another level. They are still
20 planning for the beverage trailer at the Boardwalk.
21 You would come off of the Boardwalk through that
22 previously approved entry portal area, which is yet
23 to be constructed but will be, we believe, as part
24 of this. You come down the stairs and you would
25 have the opportunity to hit the beverage truck, if

1 you can't -- if you need that beverage before you
2 walk your next 100 feet but --

3 LANCE LANDGRAF: Immediate
4 gratification.

5 JON BARNHART: That's right. Similar to
6 very -- to most resorts, to be honest with you,
7 but -- so come down the access point, come in and
8 the facility will be kind of separated because of
9 their requirements of the NJDEP to keep public
10 access that currently exists over the dune to what
11 I'm gonna call the right side, as you can see the
12 existing configuration of the bar area that's down
13 in the beach that's right up against the pier
14 structure.

15 NICHOLAS TALVACCHIA: Jon, for
16 clarification, that is owned by Resorts? That's
17 not the city's property, right behind the pier?

18 JON BARNHART: That is correct, yes.
19 From -- the pier property goes from the Boardwalk
20 all the way out into the ocean and is privately
21 owned, that is correct.

22 So that bar will remain. They're
23 proposing to expand their cabanas and their lounge
24 chairs, add a bunch of fashion umbrellas, which
25 presumably will have little standing -- standing

1 tables underneath of them going towards the beach
2 because of the fact it will be from hopefully this
3 season and a few seasons into the future they're
4 gonna have the space for that. As you can see the
5 way it's laid out, the more -- although none of
6 them are permanent, but the harder structures to
7 install, I should say, are all towards the back.
8 They're tight toward the dune, toward the building,
9 because we know as time goes on they will start to
10 lose some of the space for these cabanas and the
11 thatched umbrellas and the lounge chairs, but
12 that's -- that's the nature of the business with
13 these beach bars. Each year we adjust them as the
14 high-water line and the wave run-up line comes --
15 starts to recede toward the dune. They're also
16 proposing a stage area, which is that half moon
17 shape there or half circle and they're going to put
18 some decking down in front of that for some
19 dancing. Behind that area you see a number of
20 additional tables and cabanas, as well. On the
21 opposite side of the public access area is where
22 they're proposing what's really kind of the -- I'll
23 say the principal element of this application and
24 that's a new tiki bar. It is a -- it is a thatched
25 roof type of tiki bar. That's a -- that's a

1 schematic of the tiki bar. I know there were a
2 number of schematics that were submitted with the
3 application package. They're a number of years
4 old. If you looked at the dates on them, they are
5 kind of -- we're gonna call them design intent, but
6 some of the things that are inconsistent, as was
7 pointed out in the ARH report, will obviously be
8 addressed, but the layout of the beach bar will
9 look like -- or the tiki bar will look like that.
10 It is a thatched roof structure with a bar
11 underneath of it. You'll be able to sit around
12 that and there will also be tables around the
13 perimeter of it.

14 They're proposing signage. It's a
15 four-sided structure obviously. They're
16 proposing -- the signage that you see in that -- in
17 that concept would be on all four sides. That's
18 where, if you look at -- if you look at our
19 numbers, so there'd be four tiki bars done at the
20 top and then four sand bar signs on each side of
21 that thatched roof structure.

22 And then just to -- while I have it up,
23 the upper left is the entry portal sign that was
24 approved with the prior application, when we were
25 here before.

1 NICHOLAS TALVACCHIA: And the city did
2 grant a license for that? That was a condition of
3 the '23 approval, so we do have a license for that
4 Boardwalk sign.

5 LANCE LANDGRAF: Okay.

6 JON BARNHART: That's the site plan on
7 the tiki bar side. You can see just the mixture of
8 cabanas, thatched umbrellas, lounge chairs, fire
9 pits, cornhole, even beer pong.

10 LANCE LANDGRAF: That's got to be the
11 first I've ever seen that on a site plan --

12 JON BARNHART: Yeah. And by the way --

13 LANCE LANDGRAF: -- beer pong.

14 JON BARNHART: -- I'm gonna have a beer
15 pong player. It's gonna be rough in this wind
16 but --

17 LANCE LANDGRAF: Question for you on the
18 fire pits.

19 JON BARNHART: Yes.

20 LANCE LANDGRAF: We would ask and put it
21 as a condition that they get some kind of review by
22 the fire department.

23 JON BARNHART: Yes.

24 LANCE LANDGRAF: Are they gas? Are they
25 wood-fired?

1 JON BARNHART: They are, just from my
2 experience --

3 LANCE LANDGRAF: Propane?

4 JON BARNHART: The health department and
5 the fire department will not permit wood fire pits
6 on the beach. They are -- they either need to be
7 tied to natural gas or propane. The fire pit that
8 they've had on this side for a number of years has
9 been -- was tied into the natural gas of their
10 facility.

11 LANCE LANDGRAF: Right.

12 JON BARNHART: I'm not sure,
13 Mr. Landgraf, what they're gonna do on that side.
14 It's kind of remote. They might do it by way of
15 propane.

16 LANCE LANDGRAF: Just thinking how close
17 that is to that wave run-up line.

18 JON BARNHART: Yeah. Understood. And
19 again --

20 LANCE LANDGRAF: Gas line.

21 JON BARNHART: -- they're all portable
22 so --

23 LANCE LANDGRAF: Gotcha.

24 JON BARNHART: -- you know, there's no
25 intention of these fire pit areas to be any kind of

1 a permanent structure. They're not allowed to be.
2 They're likely gonna be propane on that side.

3 LANCE LANDGRAF: What I would ask is
4 that if you could finalize that and put that on the
5 plan, just a note that these fire pits will be
6 propane-fired and not hard-wired.

7 JON BARNHART: Yeah. That shouldn't be
8 a problem. That shouldn't be a problem.

9 LANCE LANDGRAF: Okay. I would assume
10 they're gonna be small propane tanks and done that
11 way.

12 JON BARNHART: Agreed. Agreed. But
13 yeah, wood-fired -- I know one of the facilities, I
14 forget who it was, was trying to do a wood-fired
15 and the -- and the -- I don't remember if it was
16 the fire department or the health department would
17 not allow it.

18 ROBERT REID: But the fire department
19 will review and approve that use.

20 JON BARNHART: Yes. Yes.

21 LANCE LANDGRAF: Good.

22 JON BARNHART: So that addresses the
23 balance of the elements.

24 So just to put some numbers on the
25 record, what we did -- because it's kind of hard to

1 really get a count, a true count of what we're
2 talking about in people or seats or what have you
3 for a use like this, but what we did, so that we
4 have some clarity on what the application is, is
5 we -- you know, we identified all the seats, the
6 lounge chairs, the tables that show four chairs,
7 the hammocks, obviously they're easily -- easily
8 counted. All the bars around -- or all the seats
9 around the bar are easily counted. What we then
10 did is we said, okay, each of the cabanas is likely
11 gonna have a couch or something under it so the
12 cabanas would be up to six people. We anticipate
13 that the thatched umbrellas will probably have,
14 like, a little high-top table underneath of them.
15 People probably will just be standing there with
16 their drink, but we anticipated up to four people
17 under the thatched umbrellas. And based on that,
18 that scenario of how we calculated, we actually
19 came up to 700 -- 697 or 700 seats. Again, they're
20 not all gonna be seats. This is a very fluid
21 operation because it is beach sand and people will
22 grab their lounge chair and they will move it and
23 in some cases the lounge chairs won't all get put
24 out and -- but we wanted to -- you know, we're
25 trying to make this a very grand operation and

1 really, really have it, you know, become a huge
2 success for the facility, obviously. So we just
3 wanted to get some numbers onto the record so you
4 understand what the goals are with regard to the
5 number of customers.

6 That's pretty much it with how the site
7 will operate. The site will be -- will be
8 surrounded by an enclosure. In past times it's
9 been a rope style fence here. I don't know that
10 they've selected the fence element yet. It's
11 required because -- I believe because of the
12 alcohol, their alcohol license. They have to have
13 an enclosure area that is -- that is manned, so the
14 areas will be cordoned off.

15 The site does meet the maximum
16 requirement. DEP requires that you're only allowed
17 to max -- at a maximum extent, cover one -- up to
18 one acre of the beach. We are just below that
19 threshold so we are meeting that requirement with
20 regard to the DEP standards. Just continuing the
21 DEP topic, we are in the process of making the DEP
22 application to gain approval for this -- for this
23 facility.

24 NICHOLAS TALVACCHIA: What kind of
25 approval is that, Jon?

1 JON BARNHART: It's a general permit for
2 seasonal beach amenities, GP 20 --

3 ROBERT REID: 2.

4 JON BARNHART: Yeah, GP 22. The site
5 already has a GP 22 and it's a current one. It's
6 just that we've expanded the operation so much
7 that -- as opposed to an amendment, we've gone in
8 for a new -- a new permit.

9 LANCE LANDGRAF: With the Army Corps
10 doing the beach replenishment, is there any
11 requirement to talk to those guys, get anything
12 from the Army Corps?

13 JON BARNHART: So the requirement is --
14 and that's the status that we are in right now.
15 The requirement is that we have to go to the NJDEP
16 Bureau of Coastal Engineering, who is the partner
17 with the Army Corps for the dune and the beach
18 replenishment. They have to review the application
19 and sign off actually as an applicant because
20 they're the easement holder of the dune and beach
21 area.

22 LANCE LANDGRAF: Right.

23 JON BARNHART: So that's the trigger
24 to -- for them to have acknowledged this and allow
25 it to move forward. It's a -- it's a step that

1 they put into the general permit process, I'm gonna
2 say about two years ago.

3 LANCE LANDGRAF: Two, three years ago,
4 yeah.

5 JON BARNHART: It slows things down a
6 little bit but it is something that we have to do
7 on all the applications.

8 LANCE LANDGRAF: Better than dealing
9 directly with the Army Corps.

10 JON BARNHART: I'll give you that, yeah.
11 I'll give you that.

12 LANCE LANDGRAF: Just saying.

13 JON BARNHART: Depends on who you get,
14 actually, but yeah.

15 So the DEP signs off on behalf of the
16 Army Corps because technically the DEP is the owner
17 of the --

18 LANCE LANDGRAF: Right. Yeah.

19 JON BARNHART: -- of the easement.

20 And we've had times in the past where
21 the beach fill is going on while we were trying to
22 install the beach bars, too. That was an
23 interesting year. I don't know if you remember
24 that, Nick, but we're gonna be -- in this case,
25 anyway, we'll -- they'll be well past us by the

1 time they're ready to start installing these
2 amenities.

3 NICHOLAS TALVACCHIA: So Jon, just for
4 the record, the DEP permits a five year permit with
5 an annual update?

6 JON BARNHART: That's correct.

7 NICHOLAS TALVACCHIA: Okay.

8 JON BARNHART: Yeah. So -- and each
9 year we have to submit a new survey showing where
10 the wave run-up limit is. If the wave run-up limit
11 has impacted the usable space, that's when you --
12 that's when we start retreating with the
13 application plan. So the idea here is that we get
14 the full thing approved from you as part of this
15 process and then as we have to peel things away, it
16 really wouldn't trigger an amendment for you
17 because we're just eliminating --

18 LANCE LANDGRAF: It's a reduction in
19 what you're doing.

20 JON BARNHART: Correct.

21 LANCE LANDGRAF: Yeah. I mean, last
22 summer the water was up where the current bar is.

23 JON BARNHART: Right.

24 LANCE LANDGRAF: Right up to the
25 building.

1 JON BARNHART: Yeah, it was. Well, it
2 ripped the bar to pieces.

3 So that's the application. So we are --
4 you know, we are requesting approval this morning.
5 There are a number of items in the report that are
6 identified that I just want to go through and just
7 clarify.

8 First of all, we are -- from a roof --
9 or from a structure standpoint on height, the
10 maximum height of that tiki bar structure will be
11 20 feet to the top of the sign. I don't know how
12 you want to classify that sign, as a roof sign or a
13 wall sign. I guess it's technically on the roof.

14 LANCE LANDGRAF: Really --

15 JON BARNHART: Actually, they're all on
16 the roof because the whole structure is just a
17 roof, but that structure will max out at 20 feet.
18 All of the accessory structures, the cabanas, the
19 shed, the thatched umbrellas, we don't anticipate
20 that they would -- they would extend beyond the 10
21 foot requirement of an accessory structure so from
22 a height perspective we intend to comply.

23 LANCE LANDGRAF: Question on that.

24 JON BARNHART: Yes.

25 LANCE LANDGRAF: Is the -- it's

1 considered the tiki bar an accessory structure or
2 is that the principal use?

3 NICHOLAS TALVACCHIA: It's a good
4 question. We talked about that.

5 JON BARNHART: Yeah. I mean, that's
6 what I said. In this application that's kind of
7 the principal element of the application.

8 LANCE LANDGRAF: Because it's on a
9 separate beach lease.

10 JON BARNHART: Right.

11 LANCE LANDGRAF: So that's the principal
12 use of that beach lease area.

13 JON BARNHART: Yeah, but it -- and it --
14 but it serves LandShark, the existing pier, so --

15 ROBERT REID: It's an accessory to the
16 pier.

17 LANCE LANDGRAF: What I want to make
18 sure we don't have a problem with, and we might
19 need to add a variance to it, if the tiki bar is an
20 accessory to the LandShark facility, then 20 foot
21 would be too high, right?

22 JON BARNHART: Correct. If we want to
23 look at it that way, then we would like to request
24 a variance for that.

25 NICHOLAS TALVACCHIA: That would be a D

1 variance, but aren't we allowed to have multiple
2 principal uses on one lot?

3 LANCE LANDGRAF: Well, accessory
4 structures don't --

5 JON BARNHART: That's not a D, Nick.

6 NICHOLAS TALVACCHIA: Oh, you're right,
7 it's not. Yeah.

8 LANCE LANDGRAF: I would suggest we
9 include that, just to be safe.

10 SCOTT COLLINS: Okay.

11 LANCE LANDGRAF: Because the way I would
12 look at this, as a whole property, like you have.

13 JON BARNHART: Right.

14 LANCE LANDGRAF: Almost -- jeez.

15 LandShark is an accessory to Resorts. Let's not
16 open that can of worms. We'll call LandShark as a
17 principal use. This would be an accessory
18 structure and I think that way -- look, I think
19 it's justifiable. It's a reasonable request. It's
20 subsid -- secondary to the principal use and that's
21 what you look at, so I don't have an issue with
22 recommending that variance be granted.

23 JON BARNHART: Okay.

24 LANCE LANDGRAF: You're good with that?

25 ROBERT REID: Yeah.

1 LANCE LANDGRAF: Better way to do it.

2 ROBERT REID: Yeah.

3 LANCE LANDGRAF: All right. Please
4 proceed.

5 JON BARNHART: Sure. So with regard to
6 signage, it's hard to categorize these signs as per
7 the way the regulations read, but just -- I'm gonna
8 just put some numbers on the record so you know
9 what signs are proposed, what their areas are and
10 then, you know, we're requesting an approval for
11 the package as a whole. So the signage that's new
12 as part of this application includes -- it includes
13 the four tiki bar signs that are at the top of the
14 structure, which are 48 square feet each. It
15 includes the four sand bar signs that are on each
16 of the four sides of the tiki bar structure which
17 are 18 square feet each, and that includes the
18 sign -- the size structure that's on the stage,
19 which is 40 square feet. So the total new signage
20 area in this application is 304 square feet. The
21 prior application had a ground sign at the
22 Boardwalk that was already approved at 9 square
23 feet. It had -- well, it had a trailer wall sign
24 but then as part of that application, if you
25 recall, and it's in the resolution, the discussion

1 was that in all likelihood that trailer would get
2 wrapped with some cool theming, so the deviation
3 for that trailer, which is still in place, was that
4 we -- the trailer could be up to 100 percent of --
5 and considered as signage, so we would like to
6 maintain -- maintain that --

7 LANCE LANDGRAF: Gotcha there.

8 JON BARNHART: And then the Boardwalk
9 entry portal sign, it's about 75 square feet.
10 Again, that was already approved, as well. So the
11 addition of signage that we are asking for this
12 morning is 304 square feet. How you want to
13 categorize those signs, are they roof signs, are
14 they wall signs, I would probably say from a
15 conservative perspective they're all kind of roof
16 signs --

17 LANCE LANDGRAF: I would say they're
18 all -- they're above the --

19 JON BARNHART: -- which are not
20 permitted so they would all require a variance to
21 be roof signs --

22 LANCE LANDGRAF: Right.

23 JON BARNHART: -- based on the -- based
24 on the square footages that I just provided.

25 NICHOLAS TALVACCHIA: But based on the

1 unique design of the tiki bar, there's no walls?

2 JON BARNHART: Yeah. There are no
3 walls. The signage location is appropriate for the
4 type of building or type of structure, I should
5 say. Obviously they're trying -- you're trying to
6 catch a glimpse of these signs over the dunes
7 coming from the ocean. I'm not sure you will, but
8 that's the intent, and then of course if you're on
9 the beach they want -- you want -- the reason for
10 the four-sided is if I'm walking down the beach one
11 direction or other, they want you to be able to
12 catch a glimpse of that signage. I think it's
13 appropriately scaled for the size of the structure
14 and for the size of the overall -- the overall
15 facility. The signage, as you can see -- well, you
16 can't see it there, but as you can see from the
17 site plan, is on the structures which are back
18 toward the dune, so we're not putting, you know,
19 large scale signage right at the area of the public
20 beach. They might seem to be a nuisance to
21 beach-goers that are not within the facility, so we
22 think that the request is minor and it just goes to
23 help compliment the facility as a whole.

24 NICHOLAS TALVACCHIA: You think it's a
25 better planning alternative than what's

1 permitted --

2 JON BARNHART: Yes.

3 NICHOLAS TALVACCHIA: -- under these
4 circumstance?

5 JON BARNHART: Yes. Absolutely.

6 NICHOLAS TALVACCHIA: And no detriment
7 to the zone plan or public good?

8 JON BARNHART: That is correct.

9 LANCE LANDGRAF: Let me ask you this
10 question, Jon. If this tiki bar had walls, how
11 wide is it? Would these signs, the square footage
12 of at least the ones that are at the sand bar sign,
13 would that be consistent with the facade square
14 footage?

15 JON BARNHART: So the structure's
16 40 feet in length. It's about a 10 foot height
17 roughly from the sand up to what I'll call the
18 eave.

19 LANCE LANDGRAF: Right.

20 JON BARNHART: So that would give you --

21 LANCE LANDGRAF: 400.

22 JON BARNHART: That would give you 400
23 square feet and 25 percent of that would be 100 and
24 our -- the tiki bar sign together -- the tiki bar
25 signs are each 48 square feet and the sand bar sign

1 is 18 square feet, so that would only put you
2 at 60 --

3 LANCE LANDGRAF: Per facade, so to
4 speak.

5 JON BARNHART: -- 66 square feet per
6 facade.

7 LANCE LANDGRAF: That was the point of
8 my question.

9 JON BARNHART: Yeah.

10 LANCE LANDGRAF: So if this did have
11 walls --

12 JON BARNHART: If you had walls and you
13 moved the site -- and you moved the signs down to
14 the wall, it would comply.

15 LANCE LANDGRAF: That's what I wanted to
16 hear.

17 JON BARNHART: Good question.

18 There are -- other than the deviations
19 that we just discussed, there are no other
20 deviations from the regulations that are required.

21 NICHOLAS TALVACCHIA: Seating is the
22 other one, right, the number of seats?

23 JON BARNHART: Oh, I'm sorry. Yes.
24 Yeah.

25 We identified 700 seats is what is now

1 proposed as a result of the application. The prior
2 resolution identified that 180 outdoor seats would
3 be permitted, which is based on the actual main
4 structure seating.

5 LANCE LANDGRAF: Right.

6 JON BARNHART: At that time we had 244
7 seats and the prior application had 64 seats.

8 NICHOLAS TALVACCHIA: And that was
9 approved?

10 JON BARNHART: So we are now -- and that
11 was approved. We are -- our addition would be an
12 additional 453 seats to get to the 700 number --

13 LANCE LANDGRAF: Okay.

14 JON BARNHART: -- which would be a
15 deviation.

16 LANCE LANDGRAF: And as you mentioned,
17 the rules that we are contemplating would remove
18 that limitation, at least in part.

19 NICHOLAS TALVACCHIA: And as I
20 understand, the goal of that rule was to make
21 certain that someone didn't just have an outdoor
22 venue without an indoor venue.

23 LANCE LANDGRAF: Right.

24 NICHOLAS TALVACCHIA: We have a
25 substantial indoor venue with over 250 indoor

1 seats.

2 LANCE LANDGRAF: And how many hotel
3 rooms adjacent to it?

4 NICHOLAS TALVACCHIA: Over a thousand.

5 LANCE LANDGRAF: That's the -- the point
6 of the question is this is not just for -- I'm
7 sorry. This is for folks that are at the resort
8 and want to come down to the beach --

9 NICHOLAS TALVACCHIA: Correct.

10 LANCE LANDGRAF: -- and enjoy the beach
11 area, so --

12 JON BARNHART: This is -- a couple other
13 quick things to address that are in the report. We
14 discussed building heights. Stormwater management,
15 obviously this -- this -- there is no stormwater
16 controls proposed. Any stormwater that hits any of
17 the thatched roof structures just goes down into
18 the beach sand.

19 NICHOLAS TALVACCHIA: DEP does not
20 require that.

21 JON BARNHART: DEP does not require it.
22 There is no vehicular surface being constructed
23 that would require stormwater treatment. All the
24 stormwater that would hit any of these structures
25 by DEP standards is considered clean and would

1 just -- would just infiltrate into the dry sand
2 beach area.

3 We already discussed signage.
4 Landscaping and lighting, there is no change
5 proposed to the landscaping that is in and around
6 the LandShark facility. We haven't discussed it in
7 detail with the client but I would not be surprised
8 if these areas get interspersed with some
9 additional palm trees and such. He hasn't -- we
10 haven't really gone through that topic, but as you
11 know, LandShark is really into theming their
12 properties appropriately to -- to create a really
13 unique experience, so I can see that there would be
14 other elements within those -- within those
15 enclosed -- or those fenced-in areas that we show
16 on the plan. Lighting, again, we're not
17 providing -- we're not proposing any large site
18 lighting or anything, but they will definitely have
19 themed lighting, probably some string and rope
20 lighting over the stage, definitely some string and
21 rope lighting around the -- around the bars. The
22 seat areas that are towards the beach in all
23 likelihood are areas that won't get used in the
24 evenings. They're for the daytime, grab a drink
25 and you basically -- it's -- this is -- you're

1 truly just on the beach but you're part of the
2 beach facility is kind of what all of those -- all
3 of that means, the line share of the seating is, so
4 there will be lighting. It won't be a nuisance.
5 It will be what it's been for many years and I
6 don't -- we don't know of any concerns or
7 complaints from a lighting perspective on this
8 facility.

9 The details that were requested we will
10 provide certainly as a condition of approval as
11 part of the compliance plan submission. So as
12 regard to deviations that are proposed, we
13 believe -- again, this is a C(2) type of
14 application where the benefits of the deviation
15 outweigh any of the potential detriments. The
16 benefits in this case, you know, this is a -- this
17 is an absolute amenity to the City of Atlantic City
18 as a whole. It 100 percent supports the purposes
19 of the CRDA Tourism District master plan by
20 creating unique experiences, by helping to increase
21 tourism, by reinvigorating areas that have
22 struggled over the years. This facility has been
23 successful and thankfully this company's willing to
24 continue to reinvest in Atlantic City and grow upon
25 the success that they've already had. So for all

1 those reasons we believe that the Tourism District
2 master plan has been advanced, which helps to
3 establish the positive criteria. With regard to
4 negative criteria, is there a substantial detriment
5 to the zone plan or zoning ordinance. We discussed
6 a few minor deviations. They will have no impact
7 on anyone. The items regarding signage, the items
8 regarding height and the number of seats that we
9 discussed, for the most part you wouldn't be able
10 to see from the Boardwalk. You'll see glimpses of
11 it. Obviously you'll see it from the public beach.
12 The area is cordoned off so that it doesn't become
13 an overspill to the -- just the open public beach
14 for folks that don't want to visit the facility.
15 So for those reasons we believe that there is no
16 substantial detriment to the zone plan and zoning
17 ordinance, and for that matter -- or the public
18 good, so we think the positive and negative
19 criteria are established with the application and
20 that the variances can be granted.

21 LANCE LANDGRAF: Okay. Anything else,
22 Mr. Talvacchia?

23 NICHOLAS TALVACCHIA: Just briefly.
24 Just for the record, the approval resolution in `23
25 was 23-54, just for the record. That was the prior

1 approval. And I just point out that the New Jersey
2 Casino Control Commission issues the --
3 (unintelligible) -- license, the alcohol license,
4 and they impose requirements for security to
5 prevent underage drinking, all of those
6 requirements, so that's all part of that process to
7 get this license, so that's taken care of. DEP has
8 its own rule which we will comply with. So all the
9 other jurisdictional requirements will be met and
10 I -- Jon can tell you that the CEO of the company
11 has been on many, many, many calls about this
12 project. He's very excited about it. He really --
13 he wanted to do it last year. Just couldn't do it.
14 I point out we may not get the beverage cart done
15 this year just because there's so much going on
16 with the company. To do the rest of this, it has
17 to be ordered, it's custom-made. That may not
18 happen this year but we want to preserve that
19 approval. We think a lot is going to happen this
20 year. There's gonna be music, entertainment and we
21 think -- we think the city's going to be pleased
22 and hopefully we get this on for February because I
23 really want to start working March. They have a
24 lot of work to get this up and running.

25 LANCE LANDGRAF: Three of these are C --

1 Cs, so that's on Rob and I. Just have two for
2 Scott this month. We should be all right.

3 NICHOLAS TALVACCHIA: That would be
4 great. Yeah. And they want to open this -- not
5 July -- Memorial Day Weekend.

6 LANCE LANDGRAF: When they do their
7 balloon drop.

8 NICHOLAS TALVACCHIA: Yeah.

9 LANCE LANDGRAF: That will be fun.

10 NICHOLAS TALVACCHIA: Yeah.

11 LANCE LANDGRAF: All right. We already
12 marked the application as A-1.

13 SCOTT COLLINS: Yeah.

14 LANCE LANDGRAF: We'll mark the
15 January 14th ARH report as B-1. Carolyn, you want
16 to go through some of that, if you need to?

17 CAROLYN FEIGIN: Actually, I think as
18 you were giving all your testimony, I am just
19 marking off, marking off. I don't think there's
20 anything you didn't touch on. We did in the
21 beginning of the letter just reference all of the
22 prior or the most recent applications and
23 approvals. Those are there. There's a couple of
24 little details that you would get on the plan and I
25 think it's good to go. So really not too much else

1 that you haven't touched on already. Talked about
2 parking and -- (unintelligible) -- again, agreed
3 with stormwater management.

4 LANCE LANDGRAF: Just a question on that
5 real quick.

6 CAROLYN FEIGIN: Umm-hum.

7 LANCE LANDGRAF: The total parking
8 available at the site?

9 (Technical interruption.
10 Unintelligible.)

11 LANCE LANDGRAF: Is it, okay. It's on
12 the plans. Okay.

13 CAROLYN FEIGIN: Well, they gave us an
14 analysis that was --

15 LANCE LANDGRAF: That's part of the
16 record.

17 CAROLYN FEIGIN: It's in the application
18 package and it indicates a surplus of just under a
19 hundred spaces surplus --

20 LANCE LANDGRAF: Okay.

21 CAROLYN FEIGIN: -- based on the number
22 of rooms, restaurants or anything else, so they're
23 still overparked.

24 LANCE LANDGRAF: All right. Good.

25 NICHOLAS TALVACCHIA: I want to point

1 out, so we have 1,834 spaces. With this use our
2 demand, by the way the city calcu -- like the code
3 calculates parking for casinos, we need 1,740. Two
4 years ago we actually got a parking variance but we
5 have gone back since then and recalculated the
6 actual use in resorts and redid the calculation
7 and, in fact, this summer when we came in with that
8 other application for Chicken Guy, we submitted, so
9 that -- if you see a discrepancy in terms of
10 parking from two years ago, it's because we went
11 back and took a really deep dive in terms of what's
12 actually at Resorts to recalculate the parking
13 demand.

14 LANCE LANDGRAF: So we'll make sure that
15 our records are correct, that this is the most --
16 (unintelligible) -- parking calculation and demand.

17 JON BARNHART: And this is consistent --
18 as Nick said, this is consistent with some of the
19 recent land use certificates that have been issued.
20 So the next application Resorts does will then be
21 keyed off of this, as well, and I think they're
22 gonna have a shortfall.

23 LANCE LANDGRAF: Well, hopefully by that
24 time you won't need parking for the beach bars.

25 JON BARNHART: Oh, there, you go.

1 CAROLYN FEIGIN: There, you go.

2 JON BARNHART: Yeah. If we got all that
3 back, that would be -- that would be --

4 NICHOLAS TALVACCHIA: We still have a
5 surplus of 90-something spaces but --

6 CAROLYN FEIGIN: Yeah.

7 LANCE LANDGRAF: All right. And you're
8 comfortable with the planning testimony for the
9 variance relief they're requesting?

10 CAROLYN FEIGIN: Absolutely agree.

11 LANCE LANDGRAF: Okay.

12 CAROLYN FEIGIN: I think you need to
13 have some, you know, visibility for the signs, to
14 have a place to thrive and they certainly are in
15 keeping with the theme. I don't think anything is
16 egregious or, you know, offensive or anything so --

17 ROBERT REID: Looks inviting, so --

18 CAROLYN FEIGIN: Yeah.

19 LANCE LANDGRAF: With that, I'm gonna
20 open it up to the public. Anyone here with any
21 public comment or questions, please step forward,
22 state your name and ask your questions.

23 Seeing none, we'll close the public
24 portion. Bring it back, any final comments?

25 SCOTT COLLINS: Yeah. Jon, can I just

1 get a clarification? I know you said this but I
2 couldn't write fast enough.

3 In terms of the outdoor seating, the
4 total number that's permit -- there's a number
5 that's permitted and then there was a variance
6 previously granted that upped that?

7 NICHOLAS TALVACCHIA: That's correct.

8 JON BARNHART: That's correct. So the
9 calculated number permitted, and it's in the prior
10 approval, was 180 outdoor seats, which is based on
11 the approved, you know, approved seating that's up
12 in the LandShark facility.

13 SCOTT COLLINS: Okay.

14 JON BARNHART: With the prior approval
15 there was a variance granted to go to 244 seats and
16 that approval included an addition of 64 from
17 the --

18 NICHOLAS TALVACCHIA: Outdoor seats.

19 JON BARNHART: -- from the prior
20 approval.

21 SCOTT COLLINS: Okay.

22 JON BARNHART: So today we're going from
23 what was approved at --

24 LANCE LANDGRAF: 280.

25 JON BARNHART: -- 244 --

1 LANCE LANDGRAF: 244.

2 JON BARNHART: -- we are going up to
3 700.

4 LANCE LANDGRAF: Which is an increase of
5 400.

6 JON BARNHART: It would be 456,
7 actually. I said 453 because that was based on my
8 697 calculation but then Nick rounded me up to 700.

9 SCOTT COLLINS: Yeah. That was my last
10 question.

11 LANCE LANDGRAF: 700.

12 JON BARNHART: So it would be 456
13 additional seats.

14 LANCE LANDGRAF: Okay. If there's
15 nothing further from you, Mr. Talvacchia,
16 Mr. Barnhart --

17 JON BARNHART: No.

18 NICHOLAS TALVACCHIA: No.

19 LANCE LANDGRAF: -- we'll close the
20 testimony on this matter and, again, we'll get this
21 on for February 21st, I think it is.

22 NICHOLAS TALVACCHIA: I know we filed
23 this two days before Christmas. I appreciate, with
24 the holidays, getting this on quickly. Thank you.

25 CAROLYN FEIGIN: Yeah. I think you're

1 getting a letter on Tuesday and the completeness,
2 the technical is the only one we --

3 (Multiple parties speaking.
4 Unintelligible.)

5 ROBERT REID: Thank you, very much,
6 guys.

7 LANCE LANDGRAF: That works.

8 Our next land use hearing is scheduled
9 for February 6th at 10 a.m. With no more matters
10 to be discussed, we'll close this meeting. We are
11 adjourned.

12 (At 11:17 a.m. proceedings were
13 concluded.)

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CERTIFICATE

I, MICHELLE GRUENDEL, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically and digitally at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Michelle Gruendel



MICHELLE GRUENDEL, C.C.R.
C.C.R. License No. 30X100190500
Notary Public of the
State of New Jersey

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