

1 CASINO REINVESTMENT DEVELOPMENT AUTHORITY  
2 LAND USE REGULATION ENFORCEMENT DIVISION

3 APPLICATION: 2025-01-3772  
4 SECAA, LLC  
5 d/b/a COCORICO, f/k/a CHELSEA BEACH BAR -  
6 BEACH LEASE AREA BETWEEN MORRIS AVENUE AND  
7 MONTPELIER AVENUE, SITE PLAN FOR EXPANSION

8 APPLICANT SEEKS SITE PLAN APPROVAL FOR  
9 EXPANSION OF EXISTING BEACH BAR.

10 THE PROPERTY IS LOCATED ON THE BEACH BETWEEN  
11 MORRIS AVENUE AND MONTPELIER AVENUE, ALSO KNOWN AS  
12 BLOCK 1, LOTS 43-47 ON THE TAX MAP FOR THE CITY OF  
13 ATLANTIC CITY, LOCATED WITHIN THE BEACH DISTRICT  
14 (B).

15 THURSDAY, MARCH 6, 2025

16 10:17 A.M.

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21  
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1           Public Hearing in the above-referenced matter  
2 conducted at the CASINO REINVESTMENT DEVELOPMENT  
3 AUTHORITY, 15 South Pennsylvania Avenue, Atlantic  
4 City, New Jersey, taken before Michelle Gruendel, a  
5 Certified Court Reporter and Notary Public of the  
6 State of New Jersey, on Thursday, March 6, 2025  
7 commencing at 10:17 a.m.

8  
9 A P P E A R A N C E S:

10 CASINO REINVESTMENT DEVELOPMENT AUTHORITY:

11           LANCE D. LANDGRAF, JUNIOR  
12           CHAIRMAN  
13           DIRECTOR, PLANNING DEPARTMENT

14           ROBERT L. REID  
15           LAND USE ENFORCEMENT OFFICER

16 PROFESSIONALS TO THE BOARD:

17           SCOTT G. COLLINS, ESQ.  
18           RIKER DANZIG

19           CHRISTINE COFONE, PP  
20           COFONE CONSULTING GROUP, LLC

21           CAROLYN FEIGIN, PE, PP  
22           ARH ASSOCIATES

23 COUNSEL FOR APPLICANT AND OBJECTORS:

24           LISA JOHN-BASTA, ESQ.  
25           CHIESA, SHAHINIAN & GIANTOMASI  
              FOR THE APPLICANT

              STUART LIEBERMAN, ESQ.  
              FOR THE OBJECTOR, OCEAN CLUB CONDOMINIUMS

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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 last  
6 application for the morning, I'm guessing is what  
7 everyone is here for, Application 2025-01-3772,  
8 SECAA, LLC, doing business as Cocorico --  
9 Cocorico -- I don't -- I'm not pronouncing that  
10 correctly, also known as the Chelsea Beach Bar,  
11 beach lease area between Morris and Montpelier  
12 Avenue. Site plan for expansion of the beach bar.  
13 The applicant seeks site plan approval for  
14 expanding the existing beach par. Property is  
15 located on the beach between Morris Avenue and  
16 Montpelier and it's Block 1, Lots 43 to 47. It's  
17 located in the Beach District.

18 Rob, we have proper notice on the  
19 application?

20 ROBERT REID: Yes. I reviewed the proof  
21 of service provided by the applicant and we do have  
22 jurisdiction to hear the application.

23 LANCE LANDGRAF: Okay. You guys have  
24 already been sworn in so I don't need to do that  
25 again.

1 Review for completeness?

2 CAROLYN FEIGIN: We are good.

3 LANCE LANDGRAF: Before I let these guys  
4 come up, we're gonna mark the application as A-1.

5 SCOTT COLLINS: Yup.

6 LANCE LANDGRAF: Anything else that's  
7 brought to notice today, we'll be notified by the  
8 applicant.

9 So will the applicant please step  
10 forward?

11 SCOTT COLLINS: They may be in the other  
12 room.

13 LANCE LANDGRAF: Can you go see? Give  
14 us a minute. They may be waiting in the other --  
15 the other room.

16 SCOTT COLLINS: Go ahead and mark B-1  
17 while we're at it.

18 LANCE LANDGRAF: We can do that.

19 SCOTT COLLINS: Can I just have the date  
20 of your --

21 CAROLYN FEIGIN: Yes.

22 LANCE LANDGRAF: I have it.

23 CAROLYN FEIGIN: Completeness letter  
24 dated January 24th. And you want the technical --

25 LANCE LANDGRAF: Technical review is --

1 CHRISTINE COFONE: January 31st --

2 LANCE LANDGRAF: -- January 31st.

3 CHRISTINE COFONE: -- is the technical  
4 review.

5 SCOTT COLLINS: That would be B-1 and  
6 B-2.

7 LANCE LANDGRAF: Yup.

8 LISA JOHN-BASTA: Hello.

9 LANCE LANDGRAF: Hello.

10 LISA JOHN-BASTA: Where should we --  
11 here?

12 LANCE LANDGRAF: I had hoped to keep  
13 that front row open for you guys but that seems --  
14 didn't seem to work out for us.

15 All the public is in here, correct? Is  
16 anybody waiting outside? We do have this running  
17 in our 1A. All the public is in? Okay.

18 Okay. You guys are on.

19 LISA JOHN-BASTA: Okay. Great. So for  
20 the record, my name Lisa John-Basta. I'm with the  
21 law firm Chiesa, Shahinian & Giantomasi on behalf  
22 of the applicant.

23 The applicant is the operator of an  
24 existing beach bar operating as Cocorico Beach Bar.  
25 It occupies two beach lots identified as Lot 17 and

1 18. The applicant -- the application that's before  
2 you today is seeking site plan approval and  
3 variance relief for improvements proposed to Beach  
4 Lot 18. That's generally between city blocks  
5 Chelsea Avenue and Morris Avenue. There's an  
6 existing beach bar there today. The applicant's  
7 proposing to expand the decking of the beach bar by  
8 approximately 1,300 square feet and to place a  
9 sitting pool on top of the decking, which will be  
10 another amenity seating area for the beach bar  
11 patrons, to attract more tourism down to this area  
12 of the beach and the boardwalk, which needs some  
13 rejuvenation down on this end. Additionally,  
14 they're proposing a food concession stand on the  
15 Morris Pavilion -- the Morris Pavilion, which is  
16 within their beach block area which, again, is  
17 going to attract more visibility down to this end  
18 of the boardwalk and attract patrons down to the  
19 beach bar, which is barely visible from the  
20 boardwalk itself.

21 So in connection with today's  
22 application we intend to call a few witnesses, Jon  
23 Barnhart, our civil engineer, as well as Matt  
24 Seckler, who's going to be testifying in the  
25 capacity of civil engineering with a concentration

1 towards traffic, as well as planning testimony.

2 So if it's okay with you, I'll call our  
3 first witness, Jon Barnhart.

4 LANCE LANDGRAF: Sure. Swear him in  
5 again.

6 LISA JOHN-BASTA: Sorry. I'm out of  
7 breath. I wasn't ready to start.

8 LANCE LANDGRAF: So the first two  
9 applications went very quick so --

10 LISA JOHN-BASTA: Yeah. Quicker than I  
11 expected.

12 LANCE LANDGRAF: Mr. Barnhart, you've  
13 already been sworn and recognized as a professional  
14 engineer and planner.

15 LISA JOHN-BASTA: So we accept his  
16 qualifications as a civil engineer and planner?

17 LANCE LANDGRAF: Yes.

18 LISA JOHN-BASTA: Okay. Great.

19 All right. Jon, your office did prepare  
20 the civil engineering plans that were submitted to  
21 the board in advance of today's meeting?

22 JON BARNHART: That's correct.

23 LISA JOHN-BASTA: Okay. All right. If  
24 you can, then, start off by discussing the general  
25 location of the subject area, as well as the



1 existing conditions.

2 JON BARNHART: Sure. So I think we're  
3 all pretty familiar with this location and the site  
4 but it -- the parcel was formerly known as the  
5 Chelsea Beach Bar. It is now known as Cocorico.  
6 It is -- if you were to drive down Chelsea Avenue  
7 to the terminus of the -- at the Boardwalk and walk  
8 up the ramp, it would be -- you'd walk across the  
9 Boardwalk, it would be -- you'd be headed to the  
10 north and you could go down either the Chelsea or  
11 the Morris Avenue dune crossovers and you would be  
12 arriving at the beach bar area.

13 The plan that I have up on the screen  
14 right now is the existing conditions plan that was  
15 submitted with the application. There's no changes  
16 to it and it essentially shows what exists today.  
17 You see the decking area in the hatched area that  
18 is just beyond the dune. The edge of the decking  
19 sits just under 180 feet from the edge of the  
20 Boardwalk, and if you're familiar with the contours  
21 of the area, I'm sure everybody is, but just to  
22 give you some context, the Boardwalk sits at  
23 approximate elevation 10.5. The top of the dune is  
24 roughly elevation 14.5 and then has dune grass on  
25 top of it, and then the sand area where the decking

1 sits for the beach bar is approximately elevation  
2 9. If you're on the Boardwalk and you're walking  
3 down the Boardwalk and looking toward the beach  
4 bar, the only thing you actually see over the dune  
5 is the elevated roof structures and posts that are  
6 the cover for the DJ booth areas. The balance of  
7 it you cannot see from the Boardwalk as a  
8 pedestrian or passerby. As I mentioned, the access  
9 comes from two dune crossovers. The main -- the  
10 main access point is more toward Morris Avenue. It  
11 has -- it has timber decking along -- (Technical  
12 interruption. Unintelligible.) It has lighting  
13 along it for customers coming to and from the  
14 Boardwalk and out to the beach bar facility.  
15 Looking at this exhibit a little further, you see  
16 there are various structures, all very, very  
17 similar to all the other beach bars in the City of  
18 Atlantic City. You have the -- you have what we  
19 call the principal structure, which is the bar  
20 element itself, and then there are a number of  
21 other accessory structures. There's some sheds for  
22 storage, bathroom facility, trailer. There are a  
23 number of different sun shade options throughout  
24 the facility, the sail types and then some hard  
25 canopy -- hard canopy types, sun shades, and then

1 there is -- there are -- there are two structures  
2 on the site that have kind of a rooftop with a  
3 cover on top of it for use by DJs, but we'll talk  
4 about one of those actually being eliminated for  
5 use as a DJ as we get further into the testimony.  
6 That's the extent of what exists on the property  
7 today. What you see on this plan right now has a  
8 DEP approval as -- for under a Coastal General  
9 Permit 22. That permit, as we all know, is good  
10 for five years. I believe this permit that we  
11 currently have active expires in 2027, but I want  
12 to show you the proposed conditions. We do have to  
13 go back in for an amendment to that because of the  
14 additional amenities that are proposed as part of  
15 this morning's application.

16 LISA JOHN-BASTA: And just for the  
17 record, what's being shown on the screen today is  
18 the -- your sheet of the existing conditions of the  
19 current property, correct?

20 JON BARNHART: That is correct, yes.  
21 This was in the plan set submitted. There are no  
22 changes to it.

23 LISA JOHN-BASTA: Okay.

24 JON BARNHART: A couple other quick  
25 elements there. As our attorney mentioned, there

1 are three different locations on the site that --  
2 or on this area of the beach that have containers  
3 there for concessions, for chair concessions and  
4 such. There's no change proposed to those in any  
5 fashion.

6 LANCE LANDGRAF: Just one note on that  
7 existing conditions plan. The volleyball court is  
8 existing, correct?

9 JON BARNHART: Yes. Well, it's not  
10 there right now, but yes.

11 LANCE LANDGRAF: Comes up every spring.

12 JON BARNHART: Yes.

13 LANCE LANDGRAF: So you might want to  
14 just amend that plan because it says proposed.

15 JON BARNHART: Yeah. Okay.

16 LANCE LANDGRAF: That's all.

17 JON BARNHART: Okay.

18 LISA JOHN-BASTA: Okay.

19 JON BARNHART: So moving on to the  
20 proposed conditions.

21 LISA JOHN-BASTA: And Jon, also, just  
22 for the record, the zoning for the property, is it  
23 located in the beach zoning district?

24 JON BARNHART: That is correct.

25 LISA JOHN-BASTA: And permitted within

1 the beach zoning district are beach bars?

2 JON BARNHART: That is correct. It is a  
3 permitted use in the zone, and as we know, a number  
4 of facilities very, very similar to this exist  
5 along the Atlantic City beachfront. Let me zoom  
6 this out just a little bit more.

7 So this is -- there, we go. This is the  
8 site plan that was, again, submitted with the  
9 application. There have been -- sorry, guys. I'm  
10 just trying to get it zoomed in as I can so you can  
11 see it. There have been no changes to this plan as  
12 compared to what was submitted. This is just an  
13 electronic version of that package.

14 So the changes to the -- to the site are  
15 essentially the institution of additional decking  
16 and a sitting pool area. The -- we are -- as part  
17 of this application there are a number of signs and  
18 elements that were not part of the prior approval  
19 for this so we are -- we have documented all of  
20 those elements and requesting -- are requesting  
21 approval for the signage package that's there, as  
22 well as the addition of the pool area and then also  
23 the addition of the concession amenity on the  
24 pavilion up adjacent or attached to the Boardwalk,  
25 planned north here, which is a trailer to be

1 sitting on the pavilion area.

2           Again, I'll just kind of walk through  
3 the facility. If you're walking down the Boardwalk  
4 coming from Chelsea Avenue heading to the north,  
5 you would hit the pavilion, the existing sitting  
6 pavilion. That is the location where there is  
7 seating, existing public seating now. We are  
8 proposing a trailer to be sitting on that for  
9 concessions. If you were to keep walking further  
10 you would enter the main entry of the Coco Beach --  
11 or Cocorico facility. You would walk down that --  
12 that timber pathway. If it's in the evening that  
13 timber pathway, as I said, does have lighting.  
14 There was a question with regard to lighting. The  
15 pedestrian lighting requirement is only 0.5 foot  
16 candles and there is adequate lighting to achieve  
17 that, to achieve that lighting level as you walk  
18 down that path. If you visited it you'll see  
19 there's an interval of lights throughout the entire  
20 length of that path area. When you get to the  
21 facility -- the majority of the facility will  
22 function as it has for a number of years now, but  
23 if you were -- when you get to the facility you  
24 would also have the ability to sit along the side  
25 of this -- of this sitting pool. The pool is only

1 anticipated to be a maximum of 36 inches deep. It  
2 is essentially to create another amenity or area  
3 for folks to sit, stand in the water, stay cool.  
4 It is not really intended to be a pool for swimming  
5 or having games and such. It's really just -- it's  
6 just a very shallow area for folks to sit while  
7 they're having a drink or, you know, enjoying  
8 the -- enjoying the scenery around them.

9           The other main element of this, as I  
10 mentioned, is the signage. There are a number of  
11 signs. Some of them are -- or many of them are  
12 existing and I believe were not part of the prior  
13 approval, and I'll just kind of go through them.  
14 At each of the entry points, the one by Morris  
15 Avenue and the one by Chelsea Avenue there is a  
16 pole sign. It is on two posts. It is into the  
17 sand adjacent to the walkway areas. We measured  
18 them earlier this week. They have -- because the  
19 sand is very much different depending on what --  
20 even from side to side on this sign, they average  
21 at about 10 feet in total height above the sand as  
22 they sit right now today, which for a pole sign I  
23 do believe complies with the maximum sign height.  
24 There is a proposed sign -- there is a proposed  
25 wall sign on the concession trailer that is going

1 to be on the Atlantic City pavilion. If you  
2 calculate the wall area of that concession trailer,  
3 those proposed signs would actually comply to the  
4 25 percent rule with regard to sign area on that  
5 concession trailer. As you come into the site  
6 there are signs at each one of the main entry  
7 points. They are above your head. They say  
8 Cocorico on them. They're the main entry points.  
9 To the bottom of those signs is approximately 7  
10 feet and then you -- that puts you into the  
11 facility. Throughout the facility there are  
12 signs -- there are signs on each side of the bar  
13 and then there are also signs on the sun -- one of  
14 the center sun shade that is furthest towards the  
15 beach and then there is also a sign on the second  
16 level of the -- what we're calling the DJ, covered  
17 DJ area. That's the sign I mentioned that you can  
18 see from -- from the Boardwalk.

19 The sign package in its totality does  
20 require a number of variances, largely because the  
21 types of structures that are at these beach bars  
22 really don't lend themselves well to trying to  
23 understand how you would -- how you would fit these  
24 signs into one of the -- one of the identified sign  
25 types, and you'll hear more testimony about that



1 from Mr. Seckler but, you know, just as an example,  
2 we're talking about wall signs but some of these  
3 were wall signs that are attached to two posts  
4 because there's no actual wall behind them, so the  
5 characterization of these signs is difficult and  
6 it's -- we've dealt with this on really every beach  
7 bar, but I think what you'll hear in the planning  
8 testimony is that the signs are all appropriate in  
9 their scope, size and scale as compared to the  
10 beach bar itself, but the signs are all enumerated  
11 on our plan. We take no exception to how the signs  
12 were characterized in the professional report and  
13 you, as I mentioned, you will hear testimony with  
14 regard to their approvability.

15 Other items that I just want to point  
16 out, from a landscaping perspective, over the  
17 years -- and actually, let me just -- let me go to  
18 a different exhibit because we took -- this is an  
19 aerial shot of the existing condition.

20 LISA JOHN-BASTA: And what you're  
21 showing on the screen, that was also part of the  
22 site plan package that was submitted to the board?

23 JON BARNHART: That is correct.

24 LISA JOHN-BASTA: Okay.

25 JON BARNHART: So there was a question

1 that was brought up with regard to the landscaping.  
2 There is no landscaping beyond the decking area, as  
3 you can see, but they do provide, like many of the  
4 beach bars do, palm trees throughout the facility,  
5 both into the sand within the decking areas and  
6 then also in pots to create that island feel, that  
7 beachy feel, so that will continue to be  
8 implemented each season, assuming we're fortunate  
9 enough to receive the approval to move forward.  
10 The pool area, which obviously is not shown on this  
11 plan because it has not been constructed, will also  
12 have that same type of feel and landscaped element.

13           While I have this plan sheet up the one  
14 thing I do want to point out, you'll see the three  
15 sun shades that are at the bottom of this photo.  
16 Our original plan had identified that one of those  
17 sun shades was at 11 feet and would require a  
18 variance for an accessory structure. I actually  
19 went out as recently as yesterday morning and  
20 remeasured them and the center one is actually the  
21 one we identified as being too high and it actually  
22 is not. It's only 9 feet to its peak above the  
23 decking. And then the two on either side also  
24 comply. They are just shy of 10 feet above the  
25 decking, so that variance is actually not

1 necessary. In fact, if you measure -- if you  
2 measure those structures as compared to the  
3 adjacent sand, because the sand is actually higher  
4 than some of the beach -- some of the beach decking  
5 around the perimeter. If you were to measure -- if  
6 you were a passerby or pedestrian not in the beach  
7 bar facility, those structures only appear to be  
8 about 8 feet high, because the sand is that much  
9 higher around the perimeter at this point. I just  
10 want to get that clear. There was a variance  
11 requested in the report and it was correct because  
12 that's how our plan identified it, but we did  
13 remeasure those yesterday and all three of them do  
14 comply.

15 LANCE LANDGRAF: You'll amend that on  
16 the plans?

17 JON BARNHART: Absolutely. Yes.

18 SCOTT COLLINS: Jon, what did you call  
19 those structures?

20 JON BARNHART: Sun shades.

21 SCOTT COLLINS: Sun shades.

22 CAROLYN FEIGIN: Okay. I think I wrote  
23 it as sun shelters or something.

24 LISA JOHN-BASTA: Open air sun shelters  
25 I think is what I said on the --

1 JON BARNHART: Yes. I mean, yeah.

2 CAROLYN FEIGIN: Okay. Thank you.

3 JON BARNHART: The entire structure or  
4 the entire area, as required by their liquor  
5 licensing, does have a fence around it. That fence  
6 will continue to be maintained. That fence will  
7 have to continue around the pool. The fence is --  
8 the existing fence, I measured that yesterday, as  
9 well. It's 48 inches high and I believe that  
10 height does comply with the pool requirements, but  
11 the sitting pool area will have to comply with all  
12 the local and state building codes with regard to  
13 operation of the pool for fencing and safety and  
14 all the things that come along with a -- with a  
15 structure like that.

16 LISA JOHN-BASTA: Jon, another  
17 clarification point that was on the plans. If  
18 you're looking at the screen, the bottom left-hand  
19 corner, that's the existing food concession trailer  
20 that has a covered roof on it, as well; is that  
21 correct?

22 JON BARNHART: Yes.

23 LISA JOHN-BASTA: And on the plans it  
24 was identified that this was a proposed DJ booth.  
25 Is that being retracted? It won't be used for a DJ

1 booth; is that correct?

2 JON BARNHART: That is correct. We  
3 discussed that with our client and there is no  
4 intention for that to be a DJ booth at this point.  
5 It would just be used for seating.

6 LISA JOHN-BASTA: And the height of that  
7 structure I believe is 16.5 feet in height; is that  
8 accurate?

9 JON BARNHART: That is correct.

10 LISA JOHN-BASTA: And we are seeking a  
11 variance to exceed the maximum permissible  
12 accessory structure height, which is 10 feet?

13 JON BARNHART: We are, out of an  
14 abundance of caution. I mean, I would take -- you  
15 know, and we've had this discussion on many of the  
16 beach bar facilities, what's an accessory structure  
17 and what's a principal structure. Really, the bar  
18 I guess is the principal structure and that does  
19 comply being under the 20 feet. I would argue that  
20 this also should be classified as a principal  
21 structure because it's the food concession, but  
22 having said that, we are requesting the variance  
23 for that accessory structure standard to be applied  
24 to this, which this building with the -- with that  
25 second level roof area would not comply.

1           LANCE LANDGRAF: I think we've been  
2 consistent with considering the bar itself as the  
3 principal.

4           JON BARNHART: Correct.

5           LANCE LANDGRAF: And then everything  
6 else around it is accessory, all the other  
7 applications.

8           JON BARNHART: I would agree with that,  
9 yes.

10          LISA JOHN-BASTA: So we are requesting a  
11 variance and our planner will testify to that.

12                   And then with respect to any necessary  
13 outside governmental agency approvals such as DEP  
14 approval that might ne needed for the expanded  
15 decking and the lights, the applicant would  
16 certainly agree to obtain those approvals and would  
17 have to legally obtain those approvals by law in  
18 order for the approvals to be constructed; is that  
19 accurate?

20          JON BARNHART: That is correct. As I  
21 mentioned, the site does have a Coastal General  
22 Permit 22 that is currently valid and active, but  
23 again, if we are fortunate enough to receive an  
24 approval, we will be amending that permit to -- to  
25 match the approval that we're seeking this morning.

1                   LISA JOHN-BASTA: And you've had an  
2 opportunity to review the CRDA review letter. Is  
3 there any issues with that letter?

4                   JON BARNHART: No. The only thing I do  
5 want to mention is there was a note about removal  
6 of a sewer line, which that -- that note will be  
7 removed. That was not correct.

8                   LISA JOHN-BASTA: I believe those are  
9 all the questions that I have. Thank you.

10                  JON BARNHART: Okay. Thank you.

11                  LANCE LANDGRAF: Okay. Want to just let  
12 them finish their whole -- their whole  
13 presentation?

14                  SCOTT COLLINS: Yeah.

15                  LANCE LANDGRAF: All right. Please  
16 proceed.

17                  LISA JOHN-BASTA: Okay. Our next  
18 witness is Matthew Seckler with Stonefield  
19 Engineering.

20                  LANCE LANDGRAF: Mr. Seckler, can you  
21 spell your last name for me?

22                  MATTHEW SECKLER: S-E-C-K-L-E-R.

23                  LANCE LANDGRAF: Swear him in, please.

24                  SCOTT COLLINS: Good morning, Matt.

25 MATTHEW SECKLER, PP, having been first duly sworn

1 according to law, testified as follows:

2 SCOTT COLLINS: And you're being offered  
3 as?

4 MATTHEW SECKLER: Traffic engineer and  
5 planner.

6 SCOTT COLLINS: Traffic engineer and  
7 planner.

8 LISA JOHN-BASTA: Matt, briefly, can you  
9 give your educational and professional background  
10 to the board?

11 MATTHEW SECKLER: Sure. Bachelor of  
12 Science in Civil Engineering from Union College in  
13 Schenectady, New York. I have a Master's in City  
14 and Regional Planning from Rutgers University.  
15 Licensed professional engineer and professional  
16 planner in the state. Also recognized as a  
17 professional traffic operations engineer by the  
18 Institute of Transportation Engineers and accepted  
19 by over 150 boards in the state.

20 LANCE LANDGRAF: Okay. Credentials are  
21 accepted. You're an expert in traffic engineering  
22 and planning.

23 LISA JOHN-BASTA: In advance of your  
24 testimony this morning can you discuss with the  
25 commission what you did to prepare for your



1 testimony?

2 MATTHEW SECKLER: Absolutely. I  
3 reviewed the site plan and the -- that was  
4 submitted. I also visited the site, reviewed the  
5 CRDA regulations, along with, you know, conducted  
6 some general review of the area in terms of  
7 parking, circulation, and obviously participated in  
8 some calls with the operator to get an  
9 understanding for what the goals are of the  
10 project.

11 LISA JOHN-BASTA: Thank you.

12 And we didn't discuss this during the  
13 civil testimony, but we are also requesting a  
14 parking variance related to the proposed  
15 improvements; is that correct?

16 MATTHEW SECKLER: Correct. There is no  
17 parking provided on site. We're obviously on the  
18 beach here so we are seeking a parking variance, an  
19 increase in the existing shortfall that we have by  
20 77 spaces.

21 LISA JOHN-BASTA: And there was stated  
22 in the application materials that there's an  
23 existing grandfathering, there was a beach bar that  
24 was approved by the CRDA in a certificate of land  
25 use approval with decking at 5,000 square feet

1 before a parking need was set forth within the  
2 regulations; is that correct?

3 MATTHEW SECKLER: Correct. I think back  
4 in 2015, yes.

5 LISA JOHN-BASTA: So the shortfall is  
6 above and beyond that 5,000 square feet?

7 MATTHEW SECKLER: Yes.

8 LISA JOHN-BASTA: Okay. And can you  
9 discuss what you did in your observations for the  
10 testimony related to the parking variance?

11 MATTHEW SECKLER: Absolutely. And  
12 obviously, you know, our engagement on this project  
13 has not been during the summer so in terms of doing  
14 counts of actual spaces and lots, we are unable to  
15 do so, however, what we did observe is there's a  
16 large number of spaces that are available, you  
17 know, spaces for purchase for hourly fees in the  
18 general area. Understanding that, you know, during  
19 the beach season the on-street parking is very,  
20 very difficult to find, especially on the dead-ends  
21 of Chelsea and Morris Avenue closest to our site,  
22 there are obviously a number of garage -- a number  
23 of surface spaces that are available on Sovereign  
24 Avenue, Chelsea Avenue, Morris Avenue in private  
25 lots, either \$8 for a certain amount of hours, \$5

1 for a certain amount of hours, \$10, but at least  
2 there is the ability for people that would come to  
3 our site and drive to have parking spaces that they  
4 could purchase when they visit.

5 LANCE LANDGRAF: Those are off-season  
6 fees.

7 MATTHEW SECKLER: Correct. Yes.  
8 They're off-season fees.

9 LANCE LANDGRAF: You get that in August,  
10 I want --

11 (Multiple parties speaking.  
12 Unintelligible.)

13 MATTHEW SECKLER: They knock it up. No.  
14 In the -- (Technical interruption.  
15 Unintelligible.) -- as well, you have those  
16 extensive parking garage where people would be able  
17 to park and walk to -- walk through their casino,  
18 obviously, to the beach and get to the beach that  
19 way. So again, while there is not I would say  
20 sufficient on-street parking, there is private lots  
21 available to the public for purchase and they would  
22 come to the site. Also, it's important to note  
23 that the -- you know, not every person that is  
24 coming to the beach bar either currently or  
25 potentially in the future are driving themselves to

1 the site. Obviously with the amount of ride share  
2 that exists, especially when you're -- when you  
3 have a bar where there's drinking involved, there's  
4 a lot of people that are responsible and do not  
5 drive themselves and get dropped off by any type of  
6 ride share facility. Also, there is -- the  
7 ultimate destination of the beach bar is not always  
8 the sole purpose why somebody's coming to Atlantic  
9 City. They may be staying at a nearby hotel,  
10 nearby casino and just walking over, so it's not  
11 like we expect every customer to be driving their  
12 own car, and again, that's pretty customary with  
13 the industry. As we've seen ride share keep going  
14 up and up and up in terms of its popularity, we  
15 have seen uses like bars, banquet halls see less  
16 and less parking demand, again, because people are  
17 being responsible and utilizing the ride share. So  
18 overall, while we clearly are seeking a variance,  
19 we do believe that there is sufficient parking,  
20 again, in pay lots in the area and that would be  
21 able to support the additional parking demand, not  
22 that every single customer would be driving to this  
23 location. I think that's also somewhat the  
24 purpose, when I talk a little more about the  
25 planning, the purpose of this district, again, as a

1 Tourism District is to provide more than one  
2 purpose for someone to come down to Atlantic City,  
3 give them the beach bar, give them a casino, give  
4 them a show and that type of operation, so this is  
5 not necessarily, you know, a one-stop shop for  
6 someone to come into Atlantic City to visit.

7 LISA JOHN-BASTA: And to that end, the  
8 available parking within the area in lots, are you  
9 aware of a letter that the applicant received from  
10 B&B Parking dated February 20th, 2025 indicating  
11 that there was 80 parking spaces for it to lease at  
12 the facility located at 14 South Mississippi  
13 Avenue?

14 MATTHEW SECKLER: Correct. That is --  
15 I'm aware of that agreement.

16 LISA JOHN-BASTA: And I would like to  
17 enter this into exhibit as exhibit A-1 and this  
18 is -- we're still asking for the full parking  
19 variance. It's just to demonstrate that there is  
20 sufficient parking and 80 spaces within that  
21 particular lot when we're indicating a shortfall of  
22 77 parking spaces.

23 LANCE LANDGRAF: We're going to mark  
24 that as A-2 because we marked the whole application  
25 as A-1.

1 LISA JOHN-BASTA: Thank you.

2 LANCE LANDGRAF: This is a letter from  
3 B&B Parking, Inc. dated February 20, 2025. It does  
4 talk about -- it agrees to lease 80 parking spaces  
5 to SECAA, LLC.

6 LISA JOHN-BASTA: Thank you.

7 LANCE LANDGRAF: Mark that as A-2.  
8 That's -- we'll scan that before we --

9 SCOTT COLLINS: Thank you.

10 LANCE LANDGRAF: Please continue.

11 LISA JOHN-BASTA: Thank you.

12 Matt, please proceed on to the planning  
13 testimony.

14 MATTHEW SECKLER: Absolutely. And from  
15 a planning testimony standpoint, it's important to  
16 understand the district rules of what's permitted  
17 within the B District, which is the district that  
18 we're in, and also understanding the goals of this,  
19 you know, overall district in its whole. So again,  
20 the purpose of the B District is to capitalize on  
21 the unique land use attributes inherent to the  
22 proximity of the Atlantic Ocean through  
23 promotion -- (Technical interruption.  
24 Unintelligible.) -- that maximize the value of the  
25 district. So clearly the goal of this B

1 District -- you've got the ocean, you've got  
2 attractions and you have tourism as the forefront.  
3 In terms of the permitted uses, I'm not gonna go  
4 through all of them, but just some of the permitted  
5 uses, beach bars, restaurants, entertainment  
6 venues, amusement piers, retail that could include  
7 carnival games, arcades, bars, restaurants. So  
8 again, this B District is a district that clearly  
9 has, you know, this type of use in mind. Again,  
10 it's explicitly mentioned as one of the permitted  
11 uses of beach bars. What we're here is basically  
12 the expansion of decking, increasing the capacity  
13 for this beach bar and providing an accessory  
14 structure or another place for people to sit or  
15 enjoy their drinks, music out on -- out on the  
16 beach here, so really, we're talking about an  
17 expansion of a little over -- about 1,300 square  
18 feet on to the existing site and giving, again,  
19 another place for people to sit and enjoy their  
20 summer afternoons and evenings on the Jersey Shore  
21 here in Atlantic City. So overall we do have a set  
22 of variances and they were definitely outlined  
23 within the review letter that we received from the  
24 CRDA. In it -- you heard from the civil engineer.  
25 There are a number of variances we need. I grouped

1 them. We have a set that's related to some heights  
2 of some structures, some signs and obviously that  
3 parking variance that we're seeking. And again,  
4 it's important to note that for a C(1) perspective  
5 or kind of a uniqueness or a hardship perspective,  
6 we are on a beach and we do not have really any  
7 walls, so as it relates to certain of those, you  
8 know, regulations, and I know this board has  
9 taken -- you know, has been consistent with how  
10 they've evaluated this application, again, this  
11 ordinance wasn't written necessarily for structures  
12 without walls on the beach that don't have parking  
13 or, you know, really have no street frontage at  
14 all. So again, I think there is a clear C(1)  
15 hardship as it relates to a number of the variances  
16 that we're seeking here. Just going through  
17 them -- again, there is also the topography that  
18 we're dealing with this site, and I think that  
19 helps mitigate a number of the variances that we're  
20 seeking, especially as it relates to items such as  
21 the height of some of the accessory structures  
22 that -- the beach bar itself sits, again, on the  
23 low side of the dune so when you're on the  
24 Boardwalk you basically see, you know, maybe the  
25 top, a little bit of the top of some of those



1 structures, but the majority of the beach bar you  
2 do not see because of the dune and the grass. When  
3 you're looking at any of the other adjoining  
4 buildings on the other side of the Boardwalk,  
5 again, all of them have no basically living  
6 quarters within the first floor, at least, and some  
7 of those buildings and structures have, you know,  
8 two or three levels of parking. So all of those  
9 structures around us, all of those permanent  
10 structures around us, all of those units, they all  
11 sit clear and -- clear above any type of height  
12 variance that we're seeking. So in terms of the  
13 view of any type of portion of the beach, the  
14 ocean, the skyline, we're still sitting well, well  
15 below that even with the variances that we're  
16 seeking as it relates to, you know, some of the  
17 sitting areas that are above the -- above the  
18 maximum height of the accessory structure, which is  
19 10 feet. I would note that, again, the aspects of  
20 this application as it relates to height, again,  
21 are mitigated because of where we're located,  
22 sitting lower on the beach than the dunes. In  
23 addition, I would also discuss the fact that the  
24 goal of this district is to promote -- is to  
25 promote visitors and tourism and it's very

1 difficult to do that if you're basically tucked  
2 below a dune where no one can see you, so we do  
3 think we're trying to strike the balance of trying  
4 to follow along with the goals of this district and  
5 providing a use that can be successful and continue  
6 to draw people and tourism to this portion of the  
7 Boardwalk and this portion of the city, while also  
8 trying to make sure we're not creating a nuisance  
9 with this -- with this site. So when I do review  
10 the nuisances as it relates to items such as the  
11 height variances that we're seeking, I do not see  
12 an issue as it relates to light, air and open  
13 space. I don't see the height creating any type of  
14 noise variance -- noise issues. I do not see the  
15 height relating or having any issues as it relates  
16 to light spillage off our property that may be a  
17 nuisance. When I evaluate the negative potential  
18 that this -- the variances that we're seeking as it  
19 relates to the height of some accessory structures,  
20 I do not believe that we're having a substantial  
21 negative impact specific to those height issues.  
22 As it relates to signage, again, and just kind of  
23 looking at the goals and intent and just kind of  
24 speaking to the CRDA goals, you know, I think that  
25 what we're trying to do here is meeting a

1 substantial number of these purposes and intent,  
2 such as enhance the Boardwalk, beach and nearby  
3 street through extensive entertainment and event  
4 programming, create and improve street level  
5 experience and major thoroughfares, offer new  
6 dynamic retail offering, cleanliness and safety,  
7 and take advantage of the Tourism District's  
8 frontage on the ocean. So again, clearly what  
9 they're looking for is entertainment, programming,  
10 street level experience, in our case it's Boardwalk  
11 level experience, and taking advantage of the  
12 ocean, which I think we clearly are with this  
13 application. We also are looking at, you know, one  
14 of the goals which is to continue to use practical  
15 and flexible development controls to spur market  
16 friendly development and promote desirable and  
17 visual environment that protects natural forces.  
18 Obviously this is the balance that the city has.  
19 This is the balance we have with the -- with the  
20 DEP. We have these natural forces. We have some  
21 regulations, some strict regulations we need to  
22 comply with, but on top of that we also are  
23 constructed through your purposes to have market  
24 friendly development and have desirable visual  
25 environment, which we think we have here and we're

1 trying to strike that balance. In addition,  
2 another one of the goals is to encourage innovative  
3 land uses to stimulate new markets and strengthen  
4 and diversify the Tourism District economic base.  
5 Again, this is innovative land use. This is adding  
6 a small wading pool or sitting pool to this beach  
7 bar. Again, trying to strengthen and diversify the  
8 Tourism District's economic base, because, again,  
9 clearly this district is looking at, you know, not  
10 only, you know, benefitting those people that live  
11 here but also trying to, again, promote and  
12 encourage reinvestment into this area for tourism  
13 purposes, which is what we have as part of this  
14 application. It goes hand in hand with the signage  
15 that we're seeking in terms of the relief. The  
16 signage we are providing proposing we think strikes  
17 that balance. It's not obtrusive. It's not, you  
18 know, 75 feet up in the air, being seen, you know,  
19 up against someone's residential window. It's  
20 still down below near the beach but is enough, we  
21 believe, to create a draw to get some people from  
22 the Boardwalk and people that are walking by to,  
23 you know, visit this -- the site, and again, help  
24 promote the local business. In addition, on top of  
25 that we do have the -- we have the C(1) aspect with

1 the fact that we really have no cars here. Some  
2 signage that would typically let's say be inside a  
3 bar is now an exterior sign because we have no  
4 inside with this bar, so we do think that we are  
5 also seeking C(1) variance as it relates to that.  
6 And then lastly, the parking variance that we're  
7 seeking, again, we do not believe that this is a  
8 site where everyone -- when we add this additional  
9 1,310 square feet, we're not necessarily filling  
10 that up all with people that will be driving to the  
11 site. We believe this is an additional amenity for  
12 this use and also will be, you know, frequented by  
13 people that are already in the city, already in  
14 nearby restaurant -- already in nearby hotels and  
15 resorts and maybe coming by other means than just  
16 driving their own car, and there is sufficient  
17 parking, you know, in lots. You have to pay for  
18 it. Again, help stimulate the economy in other  
19 ways by having those businesses and those parking  
20 lots be able to stay in business.

21 Overall, I do believe that this  
22 application and the variances can be granted. We  
23 do believe we have both C(1) and C(2) justification  
24 with this. In terms of some other purposes of  
25 zoning that we're promoting here beyond just the,

1 you know, CRDA specific purposes, we do believe we  
2 are promoting purpose (i), which is promoting the  
3 visual environment. We believe the scale of the  
4 structures and signs are appropriate. We also  
5 believe that we are advancing purpose (g), which is  
6 providing sufficient space and location for a  
7 variety of uses. Again, this is a unique location.  
8 It's something that Atlantic City has sought to  
9 take advantage of, this kind of beach space, and  
10 kind of is -- aligns with the goals of the CRDA, to  
11 have uses like this in these unique spaces and take  
12 advantage of this unique environmental location.

13 LISA JOHN-BASTA: With respect to the  
14 parking, there's also other purposes of the  
15 Municipal Land Use Law. If there's any --  
16 (Technical interruption. Unintelligible.) --  
17 parking, there's no need to create additional  
18 impervious coverage for that. Purposes (h), for  
19 instance, related to transportation routes and  
20 avoidance of congestion?

21 MATT SECKLER: Correct. And again, I  
22 think it's -- you know, from a C(2) perspective  
23 there's a clear benefit than having to create  
24 another surface parking lot with, you know,  
25 70-some-odd spaces or 150 spaces just for this use

1 when there is the ability to kind of share these  
2 existing parking lots in the community. Clearly  
3 this is a location where you shouldn't be looking  
4 to create more and more and more impervious  
5 coverage and taking advantage of, you know, for  
6 purchase parking that's available for all --  
7 (Technical interruption. Unintelligible.) --  
8 advance purpose (h).

9 LISA JOHN-BASTA: And would you say that  
10 goes hand in hand with purpose (j), as well, for  
11 the conservation and prevention of urban sprawl and  
12 degradation?

13 MATTHEW SECKLER: Correct. Yes.  
14 Obviously, again, new parking lots I don't think is  
15 the answer to Atlantic City. I think taking  
16 advantage of the existing parking lots and parking  
17 decks is really the best use of space and in this  
18 environment.

19 LISA JOHN-BASTA: And I believe you went  
20 through this already, but as to the negative  
21 criteria, in your opinion is there any substantial  
22 detriment to the public good, zone plan or zoning  
23 ordinance if the variances requested are granted?

24 MATTHEW SECKLER: No. And again, I  
25 think we're looking specifically at the variances

1 that we're seeking here. The variances that we're  
2 seeking here, again, are related to accessory  
3 height, signage and parking. I don't believe  
4 there's substantial negative impact as it relates  
5 to noise, lighting, traffic and those type of  
6 threshold issues, light, air, open space as it  
7 relates to those specific issues that we're seeking  
8 relief from before this board.

9 LISA JOHN-BASTA: With respect to noise,  
10 there is a noise ordinance within the City of  
11 Atlantic City, as well as the key regulations  
12 related to decimal levels and the applicant's fully  
13 aware that they need to comply with those and  
14 that's an outside agency governmental regulation;  
15 is that correct?

16 MATTHEW SECKLER: Correct, and I believe  
17 there are sonometers that are already installed  
18 within the speakers, and again, nothing that this  
19 application is specifically seeking relief for has  
20 any impact on those sound aspects.

21 LISA JOHN-BASTA: Thank you. I have no  
22 further questions.

23 LANCE LANDGRAF: Okay. Thank you.  
24 Any other witnesses?

25 LISA JOHN-BASTA: That was our last



1 witness. Thank you.

2 LANCE LANDGRAF: Okay. Let's go through  
3 your reports first and then we'll go to the public  
4 after that.

5 STUART LIEBERMAN: Sorry. I just want  
6 to make sure you know I'm here. I represent the  
7 Ocean Club.

8 LANCE LANDGRAF: Understood.

9 STUART LIEBERMAN: I'm Mr. Lieberman and  
10 I have two witnesses in addition.

11 LANCE LANDGRAF: Thank you, sir.

12 STUART LIEBERMAN: Can I just have one  
13 other question, point of order?

14 LANCE LANDGRAF: Sure.

15 STUART LIEBERMAN: Most of these people,  
16 if not all of them, are from -- they live in there.  
17 I represent the board of directors. I don't  
18 represent them individually. They all want to  
19 speak. How do you want to handle it? Some boards,  
20 they say if I represent a nonprofit I have to call  
21 them up, in which case I'll just call them up one  
22 by one or just let them up in public comment. It's  
23 up to you. I just want --

24 LANCE LANDGRAF: We'll handle them in  
25 public comment, but I will say this, for all you

1 folks, if you're all going to say the same thing  
2 we're going to have a few of you say that. We're  
3 not going to stand here and have you all say I  
4 don't think like the noise. We're not --

5 STUART LIEBERMAN: They are going to say  
6 they don't want the noise but I want a count. I  
7 don't want -- I don't want them to be --

8 LANCE LANDGRAF: Well, you don't  
9 represent them so they are --

10 STUART LIEBERMAN: I understand that,  
11 but for the --

12 LANCE LANDGRAF: -- part of the public.

13 STUART LIEBERMAN: I know. I don't --

14 LANCE LANDGRAF: We'll handle our part  
15 of it and you handle your part of it.

16 STUART LIEBERMAN: I want to make it  
17 clear that if they have a problem with the noise,  
18 they should say I'm relying on what he said. They  
19 shouldn't have to sit down. I don't want the  
20 record to look like just two people said it.

21 LANCE LANDGRAF: We'll handle that. I  
22 understand that. We'll handle that part when we  
23 get to it. I understand your point.

24 STUART LIEBERMAN: Okay.

25 LANCE LANDGRAF: You want to go to

1 public first and then have you guys go or --

2 CAROLYN FEIGIN: That sounds good.

3 LANCE LANDGRAF: All right. We'll do  
4 that. All right. So we'll open up to the public.  
5 Mr. Lieberman, I think you can start us off if you  
6 would like.

7 STUART LIEBERMAN: All right. Thank  
8 you, very much. It's a little -- it's a little.

9 SCOTT COLLINS: Mr. Lieberman, just to  
10 be clear, what we're doing first is questioning of  
11 the witnesses and then public comment will be  
12 after, will be separate and later.

13 LANCE LANDGRAF: I misspoke. So if you  
14 had any questions for the applicant's  
15 professionals, why don't you do that now.

16 STUART LIEBERMAN: Okay.

17 LANCE LANDGRAF: And then we'll -- and  
18 then you can put on your part of the case.

19 STUART LIEBERMAN: Sure. I expected  
20 that. That's what I understood you to say but  
21 that's not what you said.

22 LANCE LANDGRAF: Yeah. My attorney  
23 sometimes interprets what I meant to say.

24 STUART LIEBERMAN: And I've got the  
25 whole world interpreting what I say, so it sort of

1 works out.

2 Jon, if you can come up, please.

3 JON BARNHART: Sure.

4 STUART LIEBERMAN: I don't like seeing  
5 you on the other side.

6 How ya doing?

7 JON BARNHART: Good. How --

8 STUART LIEBERMAN: Come on over here by  
9 the mike if you'd be so kind.

10 Jon, thank you for your testimony  
11 before. You made reference to the liquor license  
12 in your testimony. You remember commenting on the  
13 liquor license?

14 JON BARNHART: I did.

15 STUART LIEBERMAN: And have you seen  
16 this applicant's liquor license?

17 JON BARNHART: I have not.

18 STUART LIEBERMAN: Do you know whether  
19 or not this applicant has a liquor license?

20 JON BARNHART: I am not an expert in  
21 that field and I do not know the disposition of his  
22 liquor license.

23 STUART LIEBERMAN: Do you have an  
24 understanding why an OPRA review for liquor license  
25 indicated there isn't any? Do you know why that

1 would be the case?

2 JON BARNHART: I cannot answer that  
3 question.

4 STUART LIEBERMAN: I see.

5 Do you have an understanding that  
6 there's a lease between Atlantic City and the  
7 applicant to operate this pool bar?

8 JON BARNHART: I understand that there  
9 are beach leases that are required in order to  
10 operate beach bars.

11 STUART LIEBERMAN: Do you understand  
12 that as part of that lease they're required to have  
13 a liquor license?

14 LISA JOHN-BASTA: I -- excuse me. I  
15 want to object to relevance related to the  
16 application. So we're here for a specific zoning  
17 application. If you can address the point of the  
18 questioning.

19 STUART LIEBERMAN: Sure. Not a problem.

20 They're operating without a liquor  
21 license already and it's in violation of their  
22 lease agreement as far as we know. Now, if there  
23 is a liquor license, we'd like to see it.

24 LISA JOHN-BASTA: Excuse me.

25 (Multiple parties speaking.)

1 Unintelligible.)

2 LISA JOHN-BASTA: There's blanket  
3 statements that are being stated that have not been  
4 proven here.

5 LANCE LANDGRAF: I'm gonna -- I'm gonna  
6 put a stop to the liquor license comments. That's  
7 not our jurisdiction. Even if it's a jurisdiction  
8 with the city, that is their jurisdiction.

9 STUART LIEBERMAN: Well --

10 LANCE LANDGRAF: The beach lease aspect  
11 of it, we are here to talk about the land use.

12 STUART LIEBERMAN: Okay. Well, except  
13 for there was testimony about a liquor license.  
14 That was part of Jon's testimony, so he opened the  
15 door.

16 SCOTT COLLINS: I think you're --

17 JON BARNHART: Beach bar.

18 SCOTT COLLINS: He was talking about --  
19 (Multiple parties speaking.

20 Unintelligible.)

21 JON BARNHART: If you'd like me to  
22 qualify that, I'm happy to do that.

23 LANCE LANDGRAF: Yeah.

24 STUART LIEBERMAN: Well, I don't mind  
25 it, but there was testimony. He opened the door

1 and I want to know what liquor license he's talking  
2 about. He specifically made reference to a liquor  
3 license. Which liquor license was Jon referring  
4 to? It's a reasonable question since he opened the  
5 door.

6 LANCE LANDGRAF: Well, he doesn't have  
7 any information on that.

8 STUART LIEBERMAN: Then I don't know why  
9 he said it.

10 LANCE LANDGRAF: Miss, do you have --

11 LISA JOHN-BASTA: Yeah. To the extent  
12 being necessary, although I think it's irrelevant,  
13 I have a copy of the applicant's liquor license  
14 from the State of New Jersey, so I can enter that  
15 into exhibit A -- as A-3.

16 STUART LIEBERMAN: I'd like to see that,  
17 please.

18 LANCE LANDGRAF: Sure.

19 STUART LIEBERMAN: Thank you for walking  
20 past me and not showing it to me.

21 LANCE LANDGRAF: Take a look at it and  
22 I'll give you a chance.

23 STUART LIEBERMAN: Thank you.

24 LANCE LANDGRAF: Valid 3-24-25.

25 SCOTT COLLINS: Yup.

1 LANCE LANDGRAF: Mr. Lieberman, there,  
2 you go.

3 STUART LIEBERMAN: Thank you.

4 LANCE LANDGRAF: Take a look at it.  
5 We're gonna take that back because that is our  
6 copy.

7 STUART LIEBERMAN: Okay. Is this the  
8 liquor license -- so is this -- let's mark this in,  
9 then, please.

10 LANCE LANDGRAF: It will be A-3.

11 STUART LIEBERMAN: Okay. So I'm gonna  
12 mark A-3 on this, Counselor. You mind?

13 LISA JOHN-BASTA: No problem.

14 STUART LIEBERMAN: Thank you.

15 Okay. This is the liquor license that  
16 you were making reference to when you discussed the  
17 liquor license marked as A-3?

18 JON BARNHART: Mr. Lieberman, as I  
19 already described, I'm not an expert in liquor  
20 licenses. I made a reference to liquor license  
21 because there is an assumption as a land planner if  
22 a land use is serving liquor, that they're going to  
23 have to meet the requirements of the state as far  
24 as serving liquor is concerned. Whether our client  
25 is in the proper -- (Technical interruption.



1 Unintelligible.) -- in that regard, I can't speak  
2 to that. I'm a planner and engineer. I don't  
3 handle liquor license applications.

4 STUART LIEBERMAN: I understand that.

5 JON BARNHART: If you're going to keep  
6 asking me questions with regard to the liquor  
7 license, my answer is going to remain the same, I  
8 do not know.

9 STUART LIEBERMAN: No. I only raised it  
10 because you opened the door.

11 This liquor license is made out to  
12 Celebrity Corners. Is that your applicant? Is  
13 that your client, Celebrity Corners?

14 JON BARNHART: Our client -- the  
15 applicant in this application is SECAA, LLC.

16 STUART LIEBERMAN: Okay. So --

17 LISA JOHN-BASTA: Excuse me. Can I have  
18 that back, please?

19 STUART LIEBERMAN: I -- (Technical  
20 interruption. Unintelligible.) We're marking this  
21 into evidence.

22 LISA JOHN-BASTA: Yes.

23 STUART LIEBERMAN: Thank you.

24 LANCE LANDGRAF: Thank you.

25 LISA JOHN-BASTA: I just would like for

1 the record to indicate that that indicates that  
2 it's a liquor license for Beach Lot 18, which is  
3 where this subject development is being located.  
4 It's on the second page, Mr. Landgraf.

5 LANCE LANDGRAF: It's on the first page.  
6 It says Block -- Beach Block 18, Beach of Atlantic  
7 City, Atlantic City, New Jersey.

8 LISA JOHN-BASTA: Thank you.

9 STUART LIEBERMAN: We have no evidence  
10 that there's any relation between that entity and  
11 the operators of that club. There's no evidence of  
12 that whatsoever.

13 Let me ask you this. Part of your plan  
14 concerns installing a swimming pool here; is that  
15 correct?

16 JON BARNHART: A sitting pool, but there  
17 is a pool.

18 STUART LIEBERMAN: It's a swimming pool;  
19 yes?

20 JON BARNHART: It's a sitting pool.

21 STUART LIEBERMAN: You could sit, you  
22 could swim, whatever it is, it has a pump, a  
23 filter?

24 JON BARNHART: Yes, it does.

25 STUART LIEBERMAN: It's going to have

1 chlorine?

2 JON BARNHART: That's correct.

3 STUART LIEBERMAN: It's a swimming pool;  
4 yes?

5 JON BARNHART: It is a sitting pool.

6 STUART LIEBERMAN: I see. And the --  
7 what's the size of that sitting pool?

8 JON BARNHART: 18 by 40, I believe were  
9 the dimensions. I don't have the plan up in front  
10 of me right now. I think that's -- bear with me  
11 one second, Mr. Lieberman.

12 STUART LIEBERMAN: Sure.

13 JON BARNHART: 12 by 40. I apologize.

14 STUART LIEBERMAN: It's a 12 by 40 pool.  
15 How deep is it?

16 JON BARNHART: Maximum depth of 36  
17 inches.

18 STUART LIEBERMAN: It's 3 feet and you  
19 could -- people are gonna sit in 3 feet of water?

20 JON BARNHART: Certainly.

21 STUART LIEBERMAN: I see. So that's  
22 your plan, you're gonna have 3 feet of water,  
23 people are gonna swim.

24 Are these people going to have been  
25 going to the bar first? Are they going to be

1 getting drinks and then going to the pool? Is that  
2 how this is going to work?

3 JON BARNHART: There is a presumption  
4 that they would be utilizing all of the amenities  
5 that are in the beach bar facility.

6 STUART LIEBERMAN: Okay. And how many  
7 people can that pool take? What did you plan it  
8 for? From an engineering standpoint what's the  
9 capacity of that pool?

10 JON BARNHART: I did not plan a capacity  
11 of that pool. Our client requested a pool that  
12 size and that's what we are proposing. We are site  
13 engineers. We are not architects. We are not  
14 mechanical engineers. We're site engineers and  
15 planners.

16 STUART LIEBERMAN: Okay. So you don't  
17 know how many people can fit in the pool?

18 JON BARNHART: I don't know what the  
19 regulation is on the quantity of people.

20 STUART LIEBERMAN: Did you make a  
21 determination of -- did you -- were you at all  
22 involved in determining how many people might drive  
23 to this pool? Have you had any discussions about  
24 that as part of the work you've done?

25 JON BARNHART: No.

1                   STUART LIEBERMAN: So you've had nothing  
2 -- so the parking isn't part of your testimony, you  
3 have nothing to do with that?

4                   JON BARNHART: We are aware of the  
5 parking variance request. I'm very familiar with  
6 the parking in the City of Atlantic City and how it  
7 operates and how it functions, but you heard the  
8 planning testimony in that regard.

9                   STUART LIEBERMAN: Okay. I'll ask him  
10 those questions.

11                   Now, did you review the current permit  
12 that's in place for this, the R22 permit?

13                   JON BARNHART: The GP-22?

14                   STUART LIEBERMAN: Yeah. The GP-22.

15                   JON BARNHART: I'm familiar with it,  
16 yeah.

17                   STUART LIEBERMAN: So GP is general  
18 permit from the Department of Environmental  
19 Protection?

20                   JON BARNHART: That's correct.

21                   STUART LIEBERMAN: Under CAFRA, right?  
22 It's a CAFRA general permit; is that correct?

23                   JON BARNHART: That's correct.

24                   STUART LIEBERMAN: And you've read it;  
25 yes?

1 JON BARNHART: Yes.

2 STUART LIEBERMAN: You've seen it? Now,  
3 that requires that structures be removed during  
4 certain -- certain structures have to be removed;  
5 is that correct?

6 JON BARNHART: That is correct.

7 STUART LIEBERMAN: Okay. Do you know  
8 whether or not they are -- they have been complying  
9 with the requirement that structures be removed,  
10 that the required structures that have to be  
11 removed, do you know whether, in fact, they have  
12 been removed over the last one or two years?

13 LISA JOHN-BASTA: Again, relevant to  
14 this board's jurisdiction. This is essentially, in  
15 our minds, a -- CRDA is here for institution of the  
16 zoning regulations that are applicable. What is  
17 being discussed right now is an outside DEP  
18 governmental permit and within its jurisdiction,  
19 not this board.

20 STUART LIEBERMAN: It's been raised  
21 several times in their testimony. They opened the  
22 door. They acknowledged they need to it. They  
23 said they need it to operate. They opened the  
24 door. I want to know if they're complying with it  
25 right now.

1           LANCE LANDGRAF: That question is  
2 reasonable, I would say. Have they been compliant  
3 with the DEP regulations?

4           LISA JOHN-BASTA: Are you aware of any  
5 violations that have been issued --

6           STUART LIEBERMAN: I'm not -- I'll ask  
7 the witness questions. Thank you, though.

8           Are you -- do you know whether or not  
9 the structures that have to be removed under the  
10 R22 permit have been removed?

11          JON BARNHART: I'm not aware of any  
12 violations that have been issued.

13          STUART LIEBERMAN: Okay. Did you ask  
14 the applicant whether -- I didn't ask you that  
15 they've been issued. That wasn't my question.

16          My question is, do you know whether they  
17 have complied with the requirements that after  
18 October 31st certain structures be removed? That's  
19 all I asked. Not whether they --

20          JON BARNHART: The answer to that  
21 question would be no, I do not.

22          STUART LIEBERMAN: You do not know,  
23 okay.

24          Now, the swimming pool, you're aware  
25 that under -- obviously you have to amend the GP-22

1 permit in order to put in the pool, correct?

2 JON BARNHART: That's correct.

3 STUART LIEBERMAN: Okay. You understand  
4 that GP-22 permits are tourism permits? In other  
5 words, the whole GP permit is one that's designed  
6 for tourism, correct?

7 JON BARNHART: That is correct.

8 STUART LIEBERMAN: Okay. And you  
9 understand that the GP permit always requires that  
10 structures be removed after October 31st? You have  
11 that understanding; is that correct?

12 JON BARNHART: Certain structures, that  
13 is correct.

14 STUART LIEBERMAN: Okay. Do you know  
15 whether or not, if it's amended, the swimming pool  
16 that you're proposing would have to be removed  
17 after October 31st?

18 JON BARNHART: I don't know the  
19 disposition or the opinion of the DEP specific to a  
20 pool.

21 STUART LIEBERMAN: Do you know how --  
22 well, by the way, in Atlantic City -- in New  
23 Jersey, in New Jersey are you aware of how many  
24 bars have swimming pools?

25 JON BARNHART: I don't know across the



1 entire state. I am aware of at least one other  
2 that does.

3 STUART LIEBERMAN: There's one other  
4 that you know of in Atlantic City that has it,  
5 right? That's it, right?

6 JON BARNHART: That's correct.

7 STUART LIEBERMAN: And so you're not  
8 aware of a custom based on your engineering  
9 practice to associate swimming pools with bars, are  
10 you?

11 LISA JOHN-BASTA: I don't think that's  
12 an engineering question. I would object to  
13 relevance and defer it to our planner, if this  
14 question's going to be asked.

15 LANCE LANDGRAF: I don't know about  
16 that. There's one other --

17 STUART LIEBERMAN: It's relevant because  
18 they're claiming it's an accessory use and in order  
19 for it to be an accessory use it has to be  
20 customary and that's why I'm asking.

21 LISA JOHN-BASTA: To clarify the record,  
22 we are not claiming it's an accessory use. We're  
23 claiming it's an accessory structure. There's a  
24 distinction.

25 STUART LIEBERMAN: I understand that.

1 So he's claiming it's an accessory structure.  
2 Under our case law there needs to be an  
3 establishment that it's customary and routine  
4 and --

5 LANCE LANDGRAF: Sir, we have already  
6 approved another site with a pool on the beach.

7 STUART LIEBERMAN: I understand that,  
8 and we can -- but my question -- my point is that I  
9 don't want you to make the same mistake again and I  
10 want -- (Multiple parties speaking.  
11 Unintelligible.)

12 LISA JOHN-BASTA: Again, incorrect legal  
13 characterization. The case law that Mr. Lieberman  
14 is citing relates to accessory uses, not accessory  
15 structures.

16 STUART LIEBERMAN: Okay. Do you -- but  
17 in terms of the pool, though, is the pool going to  
18 be a structure that will be removable after  
19 October 31st, to your knowledge, as you've designed  
20 it, as you've engineered it?

21 JON BARNHART: So we have not designed  
22 or engineered the pool structure. We are here  
23 as -- from a land planning and regulatory  
24 perspective. Assuming that we are fortunate enough  
25 to receive an approval for it, our client would go

1 into the engineering and design of that structure,  
2 which is not something that my firm does.

3 STUART LIEBERMAN: Sure. I understand  
4 that. And you'll probably go to DEP and I can  
5 assure you we'll be right there with you.

6 Now, are you putting in -- there's also  
7 some talk about a variance for a trailer, a food  
8 trailer up near where the pavilion is; is that  
9 correct?

10 JON BARNHART: There is a proposed  
11 trailer up on the proposed -- on the pavilion of  
12 the city, that's correct.

13 STUART LIEBERMAN: Yes. And that  
14 pavilion is right along the Boardwalk, that's not  
15 by -- that's on the other side of the dune, right  
16 by the Boardwalk; isn't that?

17 JON BARNHART: That is correct.

18 STUART LIEBERMAN: Okay. And is there a  
19 proposal -- you understand that there are seats  
20 right now in that pavilion, right?

21 JON BARNHART: Yes.

22 STUART LIEBERMAN: Did you see this  
23 yourself? Did you see the seats?

24 JON BARNHART: Have I ever seen the  
25 pavilion?

1                   STUART LIEBERMAN: Yes.

2                   JON BARNHART: Yes.

3                   STUART LIEBERMAN: Okay. And your -- is  
4 it correct that your proposal is to remove some  
5 seats in order to house this food structure?

6                   LISA JOHN-BASTA: If you want to flip  
7 back to the proposed conditions plan.

8                   JON BARNHART: I don't recall the need  
9 to remove seats.

10                  STUART LIEBERMAN: Where on -- okay. Go  
11 ahead. Take a look, please.

12                  JON BARNHART: I believe that it's going  
13 behind the seats that are there.

14                  LISA JOHN-BASTA: Correct. Yup.

15                  LANCE LANDGRAF: To be clear, there's no  
16 seats being -- because that was one of my  
17 questions. Are there any seats being removed from  
18 that pavilion to place that --

19                  JON BARNHART: I do not believe --

20                  LANCE LANDGRAF: -- food truck?

21                  JON BARNHART: -- there are any seats  
22 being removed.

23                  LANCE LANDGRAF: How are you going to  
24 get it there?

25                  STUART LIEBERMAN: Can you zoom in

1 further?

2 JON BARNHART: There might be --

3 (Technical interruption. Unintelligible.)

4 STUART LIEBERMAN: Can you just zoom in?

5 I want to see that a little further.

6 Kevin, where, please?

7 UNIDENTIFIED SPEAKER: It's overlaid on

8 the benches. Zoom in really far.

9 STUART LIEBERMAN: Okay. There, you go.

10 Can you read -- it's very hard to read that.

11 JON BARNHART: Whoops. I'm sorry. I

12 keep hitting it.

13 STUART LIEBERMAN: That's all right.

14 That's all right. It's not a --

15 JON BARNHART: Bear with me one second.

16 STUART LIEBERMAN: It's not a -- it's

17 not a test. It's a test of my eyesight, though,

18 I'll tell you that. I can't read that. Oh, look,

19 at the parens, Jon. Are you able to read what

20 those parens say, by any chance?

21 JON BARNHART: Yeah. Public access with

22 bench seating. Benches to be removed.

23 STUART LIEBERMAN: Benches to be

24 removed.

25 JON BARNHART: That is for -- that is

1 for installation of the trailer.

2 LISA JOHN-BASTA: Oh, so even though it  
3 says benches to be removed, it's your testimony  
4 that they'll be removed just to put it in the  
5 trailer, then you're gonna put them back?

6 JON BARNHART: Yeah. They're just  
7 benches.

8 LISA JOHN-BASTA: And for the record, we  
9 would stipulate to that as a condition of approval.  
10 Clearly we would have to coordinate with the City  
11 of Atlantic City, if necessary, for that.

12 LANCE LANDGRAF: That's what I looked  
13 at, too. Yeah. So there's -- and Mr. Reid just  
14 showed me an aerial. I don't know the date of it,  
15 but the back portion of that does not have seats in  
16 it. So the only removal during the installation --  
17 will that trailer stay there all summer?

18 JON BARNHART: I don't know the intent  
19 of that but --

20 LISA JOHN-BASTA: The intent is, yes.

21 LANCE LANDGRAF: Okay.

22 STUART LIEBERMAN: Now --

23 LANCE LANDGRAF: Just because I'm  
24 following my questions, and the city is okay with  
25 the temporary removal of that? Because it does --

1 it will sit in the license area, license -- Beach  
2 License 18, I believe, correct?

3 LISA JOHN-BASTA: That has not been  
4 coordinated to date, but in the event that we  
5 received a favorable approval, that would certainly  
6 be -- we would agree as a condition of approval to  
7 coordinate that with any sort of city approvals  
8 that are necessary.

9 LANCE LANDGRAF: Okay.

10 STUART LIEBERMAN: Now, on -- Jon, what  
11 is the occupancy of this structure? Do you know  
12 the occupancy?

13 JON BARNHART: From a land use  
14 perspective or from a fire code? I mean, occupancy  
15 can be calculated many ways.

16 STUART LIEBERMAN: Okay. Would it shock  
17 you if I were to tell you that the facility  
18 indicates itself that the occupancy is 720?

19 JON BARNHART: I saw that sign on the  
20 face of the structure.

21 STUART LIEBERMAN: I see. And let's  
22 pass this out, by the way. If we could mark these  
23 exhibits.

24 LANCE LANDGRAF: O-1.

25 STUART LIEBERMAN: We'll mark them

1 sequentially. Yeah, I guess 0-1, 2, 3.

2 LANCE LANDGRAF: 0-1.

3 STUART LIEBERMAN: Yeah.

4 Okay. Well, then, for the record let me  
5 indicate that 0 -- oh, Madam, let me give you a  
6 copy.

7 LISA JOHN-BASTA: Thank you, sir.

8 STUART LIEBERMAN: It's a pleasure, and  
9 I'll give you a copy, Jon. Here, you go.

10 Now, that's 0-1. 0-1 consists of a  
11 picture taken March 24th with a sign that says  
12 occupancy and then there are -- two, three -- four  
13 other photos that are attached. I want to see if  
14 Jon can provide me some testimony.

15 So that 720 that's on there, that's  
16 occupancy?

17 LISA JOHN-BASTA: Just for the record,  
18 who took the photos?

19 STUART LIEBERMAN: I don't know.

20 But did you -- let me ask you this. You  
21 saw that yourself, didn't you, Jon?

22 JON BARNHART: That sign does exist.

23 STUART LIEBERMAN: Yes. So that is a  
24 fair replication of exactly what you saw with your  
25 own two eyes; yes?



1 JON BARNHART: That is correct.

2 STUART LIEBERMAN: Okay. Now, the 720,  
3 is that -- is that before the swimming pool is  
4 built or is that after the swimming pool is built?

5 JON BARNHART: I don't know. I don't  
6 know where that number came from or what the basis  
7 of the calculation is, so I can't speak to it.

8 STUART LIEBERMAN: Okay. But you --

9 JON BARNHART: It's a sign on a fence.

10 STUART LIEBERMAN: But you have no  
11 reason to question the validity of the occupancy  
12 limit being 720 as posted on the fence, do you?

13 JON BARNHART: I have no reason to --  
14 to -- I have no opinion on it.

15 STUART LIEBERMAN: Okay.

16 JON BARNHART: I don't know where the  
17 number came from.

18 STUART LIEBERMAN: That's fine.

19 Take a look at the second picture. If  
20 we're looking at Exhibit 1, the second picture.  
21 Okay. So I represent to you that this is a side of  
22 the -- of my client's structure, which is, you  
23 know, it's the Ocean Club Condominiums. You know  
24 who they are, don't you?

25 JON BARNHART: I do.

1                   STUART LIEBERMAN:  And does this depict  
2  the -- does this accurately depict how close this  
3  bar with the proposed swimming pool is to the Ocean  
4  Club Condominium?  Does this accurately depict the  
5  closest?

6                   LISA JOHN-BASTA:  Again, I'm gonna  
7  object.

8                   JON BARNHART:  I don't know the --

9                   LISA JOHN-BASTA:  We don't know the  
10 authentication of this photo or who took it and  
11 from what perspective or vantage point or the  
12 distance that you're referring to in a photo.

13                   STUART LIEBERMAN:  Does this accurately  
14 depict the distance?

15                   LANCE LANDGRAF:  We'll note the  
16 objection.

17                   JON BARNHART:  I don't understand the  
18 question, Mr. Lieberman.

19                   STUART LIEBERMAN:  Okay.  All right.  
20 What this does is it depicts the distance -- you  
21 see the side of the building; yes?

22                   JON BARNHART:  I see the side of a  
23 building.

24                   STUART LIEBERMAN:  Okay.  And then as  
25 you go towards the ocean, you see your client's

1 existing structure, right?

2 JON BARNHART: As you go towards the  
3 ocean I see structures in the background on this  
4 photo that are on the beach.

5 STUART LIEBERMAN: Okay. And go to the  
6 next page, the third page. Just tell me what that  
7 depicts based on your own personal observations.

8 JON BARNHART: I can't tell where this  
9 picture was taken from.

10 STUART LIEBERMAN: I understand, but  
11 it's a picture of your client's project, isn't it?  
12 It's the beach club, isn't it?

13 JON BARNHART: Can you give me a minute  
14 to look at it, Mr. Lieberman? That would be great.  
15 Thanks.

16 I'm seeing in this picture -- I guess  
17 you're taking it from a deck of some, of some --

18 STUART LIEBERMAN: Yes.

19 JON BARNHART: -- part on your client's  
20 property.

21 STUART LIEBERMAN: Yes.

22 JON BARNHART: I'm seeing the lifeguard  
23 station and then in the background I'm seeing the  
24 beach bar.

25 STUART LIEBERMAN: Okay. Thank you.

1                   And if you look at the last picture,  
2 that is the DJ booth; is that correct?

3                   JON BARNHART: That is correct.

4                   STUART LIEBERMAN: And you're telling me  
5 that you're not gonna use it as a DJ booth any  
6 longer; is that -- is that your testimony or was  
7 that the other gentleman's testimony?

8                   JON BARNHART: That was not any of our  
9 testimony.

10                  STUART LIEBERMAN: Is that booth going  
11 to still be used as a DJ booth?

12                  JON BARNHART: It was the other second  
13 level structure that we identified as not being  
14 used.

15                  STUART LIEBERMAN: Okay.

16                  JON BARNHART: This is still intended to  
17 be used.

18                  STUART LIEBERMAN: From an engineering  
19 standpoint is there any reason why the DJ booth  
20 can't be level with the deck?

21                  JON BARNHART: From an engineering  
22 standpoint?

23                  STUART LIEBERMAN: Yeah. You're an  
24 engineer.

25                  JON BARNHART: I don't think the

1 location of an engineer -- of a -- of a DJ is an  
2 engineering topic.

3 STUART LIEBERMAN: Do you know  
4 whether -- from an engineering standpoint is there  
5 any reason that you're aware of why the DJ booth  
6 can't be flush with the deck?

7 JON BARNHART: Again, the location of a  
8 DJ is not an engineering topic in my opinion.

9 STUART LIEBERMAN: Okay.

10 LISA JOHN-BASTA: Yeah. We're all  
11 standing so you're in a better position than us.

12 STUART LIEBERMAN: Just wait one second,  
13 please.

14 Are you aware that the current permit  
15 provides that the development shall occupy the  
16 maximum 33 percent of the total width of beach  
17 berm?

18 JON BARNHART: I am, yes.

19 STUART LIEBERMAN: Did you take any  
20 efforts to measure to determine if that is  
21 currently -- if there's compliance with that  
22 requirement as we -- as we currently speak?

23 LISA JOHN-BASTA: Again, relevance.  
24 We're here seeking CRDA approval related to zoning  
25 and to my understanding, per the zoning regulations

1 that are enacted by this agency, there is no  
2 coverage issue.

3 LANCE LANDGRAF: Anything under the --  
4 (Technical interruption. Unintelligible.) -- will  
5 be reviewed by them.

6 STUART LIEBERMAN: Well, no. I  
7 understand that, except for you wouldn't want to  
8 approve something that's inconsistent with the DEP  
9 regulations, would you?

10 LANCE LANDGRAF: We don't review the DEP  
11 regulations as part of our review of this  
12 application.

13 STUART LIEBERMAN: I see. So it  
14 wouldn't matter if you approved something that was  
15 inconsistent or not?

16 SCOTT COLLINS: Anything that we approve  
17 is always subject to all other outside agencies.

18 STUART LIEBERMAN: Well, we'll be there,  
19 I can assure you.

20 Jon, thank you, very much. I don't have  
21 any other questions for you. I would like to ask  
22 questions of the other witness.

23 Good after -- good morn -- I don't know  
24 what it is. Thank you, very much. I have some  
25 questions about your testimony. Thank you, very

1 much, for providing your testimony.

2 Now, you indicated that the -- that  
3 there was a parking variance that's required and  
4 you provided testimony as to why, in fact, the  
5 parking variance should be granted; yes?

6 MATTHEW SECKLER: Yes.

7 STUART LIEBERMAN: And one of the things  
8 you said is that there is an agreement with a  
9 facility to lease certain spaces; yes?

10 MATTHEW SECKLER: I believe counsel  
11 provided that lease agreement.

12 STUART LIEBERMAN: Have you seen the  
13 lease agreement --

14 MATTHEW SECKLER: Yes.

15 STUART LIEBERMAN: -- yourself?

16 MATTHEW SECKLER: Yes.

17 STUART LIEBERMAN: Okay. Does the lease  
18 agreement guarantee that there will be 80 spaces at  
19 any given time, even during prime season, or what  
20 does it say?

21 MATTHEW SECKLER: Do you want me to read  
22 it into the record?

23 STUART LIEBERMAN: Or just answer the  
24 question. Whatever you choose. However you want  
25 to answer that question. It's up to you.

1                   MATTHEW SECKLER: It says B&B Parking,  
2 Inc. agrees to lease 80 parking spaces to SECAA,  
3 LLC at our facility located at 14 South Mississippi  
4 Avenue. The agreement shall begin June 1st, 2025.  
5 Should you have any further questions, please feel  
6 free to contact me at the above captioned phone.

7                   STUART LIEBERMAN: So to your knowledge  
8 during prime season if other people take the spots,  
9 will -- are they going to stop people from taking  
10 those spots or are they going to restrict people  
11 from taking those spots or if the spots are taken  
12 by people during the season they just won't be  
13 available? Do you know?

14                   LISA JOHN-BASTA: To clarify the record,  
15 we said we're still seeking the complete parking  
16 variance relief. This was just a demonstrative of  
17 the fact that there's 80 parking spaces available.

18                   STUART LIEBERMAN: That has nothing to  
19 do with what I'm asking, but thank you.

20                   What I want to know is -- because the  
21 response you gave and the defense you gave was  
22 this -- one of the things you raised in order to  
23 get your variance was this lease. So my question  
24 is, is the lease exclusive, such that they will  
25 guarantee during the summer that all 80 spots



1 remain open?

2 MATTHEW SECKLER: I'm only aware of what  
3 is written on this lease. I am unaware if it's  
4 exclusive or not.

5 STUART LIEBERMAN: And you can't tell me  
6 -- have you done any analysis as a -- so you're a  
7 traffic planner, correct?

8 MATTHEW SECKLER: Yes.

9 STUART LIEBERMAN: Okay. And so you  
10 know that generally speaking, and you know better  
11 than I do, that generally speaking when a traffic  
12 planner comes in and gives testimony, there's a  
13 standard that they use, it's a published standard  
14 and you sort of work off that, right? That's  
15 generally what happens, right?

16 MATTHEW SECKLER: Generally that's --  
17 that's where we'd start.

18 STUART LIEBERMAN: But we can't do that  
19 here because there is no criteria, published  
20 standards for something like this; is that  
21 accurate?

22 MATTHEW SECKLER: I mean, there are for  
23 restaurants and bars, but not specific to this, you  
24 know, this location.

25 STUART LIEBERMAN: Are there standards

1 for swimming pools?

2 MATTHEW SECKLER: There's no standard I  
3 know of for a swimming pool.

4 STUART LIEBERMAN: Okay. So --

5 MATTHEW SECKLER: We're also not  
6 proposing a swimming pool. We are proposing an  
7 accessory standing or sitting pool.

8 STUART LIEBERMAN: Yeah. You and I  
9 could disagree about that, but thank you.

10 Now, my question to you is this. When  
11 you opine that a variance should be granted, how --  
12 what was the deficit of parking that you determined  
13 based on your calculation of how many new users  
14 there will be because of that sitting pool, big  
15 pool, swimming pool, whatever you want to call it?  
16 What deficit did you determine exists that needs to  
17 be compensated somehow?

18 MATTHEW SECKLER: I believe it is shown  
19 on this plan.

20 STUART LIEBERMAN: Okay.

21 MATTHEW SECKLER: I'm gonna slide over  
22 to the right so you can see it. It says 134 spaces  
23 is what is now required and previously it was 117.

24 STUART LIEBERMAN: I understand what the  
25 -- what you're doing is you're just reading the

1 ordinance and what it requires, right?

2 MATTHEW SECKLER: Yes.

3 STUART LIEBERMAN: That's not what I'm  
4 asking. We can all read the ordinance, and I  
5 appreciate it. What I'm asking you is, based on  
6 your experience and your professional judgment as a  
7 traffic engineer, how many people -- how many trips  
8 do you expect to be associated with this pool?

9 MATTHEW SECKLER: How many trips or how  
10 many --

11 STUART LIEBERMAN: Yes.

12 MATTHEW SECKLER: Okay. So you're  
13 asking trips.

14 STUART LIEBERMAN: Probably three trips.

15 MATTHEW SECKLER: Okay.

16 STUART LIEBERMAN: Because if they trip  
17 they're gonna have to park. So how many trips?  
18 Let's do it that way. How many trips?

19 MATTHEW SECKLER: All right. So --  
20 well, not necessarily, because people may be  
21 driving, being dropped off in a -- in a ride share.  
22 They're not parking so --

23 STUART LIEBERMAN: Let's start with  
24 something. Anything. Let's do trips. How many  
25 trips did you anticipate will now occur if this

1 swimming pool, wading pool, big pool, whatever you  
2 want to call it, is built?

3 LISA JOHN-BASTA: Mr. Lieberman, I need  
4 to clarify. Are you stating just solely to come to  
5 the beach bar itself how many trips?

6 STUART LIEBERMAN: This is a structure.  
7 Did you understand my question? Because if you  
8 don't, I'll repeat it.

9 MATTHEW SECKLER: You're asking --

10 SCOTT COLLINS: I don't understand your  
11 question.

12 STUART LIEBERMAN: I'll explain it. If  
13 you don't understand it, then I will start again.

14 There is a swimming pool that's  
15 proposed, right?

16 MATTHEW SECKLER: A pool but --

17 LISA JOHN-BASTA: Well, okay.

18 STUART LIEBERMAN: And my question to  
19 you is, how many trips will be generated as a  
20 result of the swimming pool that's proposed?

21 MATTHEW SECKLER: All right. Now,  
22 again, the fact that it's a pool to me is not  
23 impactful on necessarily the number of trips. It's  
24 the additional people that would be able to fit in  
25 the space, whether it's a pool or a deck, people

1 would be able to -- more people would be able to  
2 come to the site than previously.

3 STUART LIEBERMAN: Okay. So let's count  
4 that number, then. How many extra people did you  
5 figure during your engineering will now be on this  
6 site because of this swimming pool, sitting pool,  
7 whatever you to want to call it? How many extra  
8 people?

9 MATTHEW SECKLER: Again, to come up with  
10 that number I looked at what the engineer has  
11 indicated on the plan in terms of the occupancy of  
12 the space. The occupancy of the space, I believe  
13 they have it going from 390 at 446 on the plan, per  
14 the zoning, so that would be a total of 56 more  
15 people.

16 STUART LIEBERMAN: Do you know why there  
17 is an occupancy limit of 720 at the very facility?

18 MATTHEW SECKLER: No idea.

19 STUART LIEBERMAN: So that wasn't taken  
20 into account?

21 MATTHEW SECKLER: I was looking at the  
22 difference per the zoning that is shown on the  
23 plan.

24 STUART LIEBERMAN: And how many extra  
25 people, because you looked at capacity, but how

1 many extra people do you or does your plan  
2 anticipate coming to this the property if this  
3 proposed pool is approved, which I hope it isn't?

4 MATTHEW SECKLER: I don't know what my  
5 client or what the applicant know -- what he's  
6 figuring. I would go off the fact that we'd be  
7 expecting 56 more people in number of cars. I  
8 probably would divide that by four or five to come  
9 up with the number of new cars, because not  
10 everyone is being driven. Not everyone is driving  
11 to the site. We have typically about two to three  
12 people per car would be coming to a bar/restaurant.

13 STUART LIEBERMAN: How many -- during  
14 the day -- now, during the day how many extra  
15 shifts -- how many extra parking obligations or  
16 requirements will -- during a full 24 hour day,  
17 full day?

18 MATTHEW SECKLER: How many more people  
19 over the entire day, you're asking --

20 STUART LIEBERMAN: Yeah.

21 MATTHEW SECKLER: -- instead of just in  
22 an hour?

23 STUART LIEBERMAN: All day. How many  
24 extra people are going to be driving and requiring  
25 parking?

1                   MATTHEW SECKLER: Well, again, as  
2 someone leaves --

3                   LANCE LANDGRAF: Wait a second. We have  
4 a couple of questions here.

5                   So our ordinance -- our regulations -- I  
6 went back in the ordinance. I haven't done that in  
7 10 years.

8                   SCOTT COLLINS: Yeah, right.

9                   LANCE LANDGRAF: Ours are regs, not  
10 ordinances, require a certain amount of parking  
11 spaces.

12                   STUART LIEBERMAN: Correct.

13                   LANCE LANDGRAF: Whether or not you  
14 think there's more coming to the site or whether or  
15 not he thinks there's more coming to the site, the  
16 ordinance -- again.

17                   CAROLYN FEIGIN: Regulations.

18                   LANCE LANDGRAF: Regulations -- we're  
19 gonna have to change that -- require a certain  
20 amount, so that's what they should be testifying  
21 to, not whether you think there's more, whether he  
22 thinks it's more.

23                   STUART LIEBERMAN: Sir, what I think is  
24 irrelevant.

25                   CHRISTINE COFONE: I have a question. I

1 just need a time-out here. We refer to this as a  
2 swimming pool, so I just want to make sure that I  
3 understand what this structure is.

4 This structure is a -- was it 12 by 480,  
5 approximately, square feet of a uniform depth of 3  
6 feet, 36 inches. So three of these, one, two,  
7 three, that's the swimming pool we're talking  
8 about?

9 LISA JOHN-BASTA: Umm-hum.

10 CHRISTINE COFONE: I don't consider that  
11 a swimming pool but I just want to make sure we're  
12 all talking about the same structure.

13 STUART LIEBERMAN: Miss Cofone, is that  
14 a planning concept, where the swimming pool is and  
15 isn't? Is there a standard?

16 CHRISTINE COFONE: Anything is a  
17 planning concept, I think, of what he --

18 STUART LIEBERMAN: So my question is --

19 CHRISTINE COFONE: So I'm not done with  
20 my questions. May I finish?

21 STUART LIEBERMAN: Sure.

22 CHRISTINE COFONE: Thank you.

23 So my second question, Mr. Seckler, is  
24 the area that we're talking about, you just said 56  
25 additional trips. So is that for the additional



1 13,010 square feet of decking area? How did we get  
2 to 56?

3 MATTHEW SECKLER: So I got to that  
4 number through -- I actually think there's a slight  
5 misprint on this plan and I'll kind of get there.  
6 So shown on the plan, your parking requirement  
7 requires us to look at floor area and then building  
8 capacity. Obviously we -- (Technical interruption.  
9 Unintelligible.) -- not building, but capacity, and  
10 taking larger of the two calculations for the  
11 parking determination.

12 CHRISTINE COFONE: Okay. So what I'm  
13 trying to understand is if I took that sitting pool  
14 off, right, and I put this same area and left it  
15 vacant or I put -- (Technical interruption.  
16 Unintelligible.) -- there. Are we getting to the  
17 same 56?

18 MATTHEW SECKLER: Correct. Yes.

19 CHRISTINE COFONE: So we're not getting  
20 to the 56 because we're asking for a pool, however  
21 you want to qualify it, we're asking for that -- we  
22 could technically take that structure out and  
23 you're gonna get to the same parking calculation?

24 MATTHEW SECKLER: Yes. If it was just a  
25 deck of 1,300 square feet, the calculations would

1 be the same.

2 CHRISTINE COFONE: Thank you. That was  
3 my question. You answered my question and asked it  
4 more artfully than I did.

5 So my question was, the 1,310 that is  
6 predicated on those 56 spaces that you testified  
7 to, regardless that there's a pool in any way or  
8 shape or form sits on top of it or not, you get to  
9 the same parking calculation?

10 MATTHEW SECKLER: Correct.

11 CHRISTINE COFONE: Okay. Thank you.

12 STUART LIEBERMAN: So you get to the  
13 same calculations independent of how successful  
14 that pool is?

15 MATTHEW SECKLER: Correct. Your -- the  
16 regulations, not ordinances, the regulations do not  
17 look at success or not successful business. It  
18 provides a number.

19 STUART LIEBERMAN: All right. Now, you  
20 did testify as to the negative criteria when you  
21 gave your testimony concerning why these variances  
22 should be granted. Do you remember that testimony?

23 MATTHEW SECKLER: Yes.

24 STUART LIEBERMAN: And you talked  
25 about -- one of the things you talked about was

1 noise?

2 MATTHEW SECKLER: Correct.

3 STUART LIEBERMAN: Do you know whether  
4 or not people that have lived by have already made  
5 complaints about noise?

6 MATTHEW SECKLER: I'm only aware from  
7 conversations with the applicant that they've  
8 indicated to me that they have not received a  
9 violation in the past, let's say few years. I  
10 don't know what the -- (Multiple parties speaking.  
11 Unintelligible.)

12 LANCE LANDGRAF: Excuse me. Keep it  
13 quiet during the testimony, please. Thank you.

14 STUART LIEBERMAN: So whether or not  
15 Atlantic City chooses to enforce its noise  
16 ordinance isn't my question. My question is, do  
17 you know whether or not people who reside in my --  
18 in the condominium that I represent have over the  
19 last three years made noise complaints?

20 MATTHEW SECKLER: I haven't seen any so  
21 I am unaware. I'm not saying they don't exist.

22 STUART LIEBERMAN: Stay tuned.

23 Now, the next question I have is, do you  
24 know if there have been parking complaints by  
25 people who reside in this area in the current

1 state?

2 MATTHEW SECKLER: I'm unaware of that,  
3 but may exist, may not exist.

4 STUART LIEBERMAN: You'll find that.

5 MATTHEW SECKLER: Okay.

6 STUART LIEBERMAN: At this time -- let  
7 me just check my notes to see if I have any other  
8 questions, but I think that's it. I'm gonna want  
9 to put my witnesses on when I have an opportunity  
10 and, of course, they'll be subject to cross  
11 examination, which I look forward to, but let me  
12 see if there's anything else here.

13 Is it your -- so it's your testimony  
14 that this pool is an accessory structure; is that  
15 correct?

16 MATTHEW SECKLER: Yes, accessory  
17 structure.

18 STUART LIEBERMAN: What -- how do you  
19 reach that conclusion? In other words, what is  
20 it -- what regulations or what's -- what's in Cox  
21 or what do you use to conclude that this is an  
22 accessory structure? Would you tell me, please?

23 MATTHEW SECKLER: Well, the question  
24 could be whether it's an accessory structure or  
25 accessory use, so I went to seek whether this use

1 can stand on its own, would it be its own  
2 individual use, would a 3 foot pool of this  
3 dimension, can it survive on its own, can it be  
4 used on its own. I did not determine that that is  
5 a use that would be able to survive on its own in  
6 its size and location and, therefore, I was looking  
7 at whether it's an accessory structure. Again,  
8 this clearly is, and this board has considered many  
9 of the items on this site as accessory structures,  
10 the various cabanas and things like that. I see  
11 this no different if this was -- if they put a hot  
12 tub on the site for people to sit in. I would,  
13 again, consider that an accessory structure. If  
14 they put another set of, you know, shelters and  
15 another couch out there to sit in and for people to  
16 enjoy the food and drinks that are being provided  
17 to everyone, I would also consider that accessory  
18 structure, so I'd put that --

19 STUART LIEBERMAN: Appreciate your  
20 answer.

21 And so your first analysis in making  
22 this determination was whether or not this could  
23 with -- be a viable independent business? Isn't  
24 that what you just said?

25 MATTHEW SECKLER: At the size and

1 location.

2 STUART LIEBERMAN: Yes.

3 And what experience do you have in  
4 determining the viability of swimming pools to be  
5 independent businesses? What experience do you  
6 have?

7 MATTHEW SECKLER: Well, again, I've seen  
8 indoor pool operations and outdoor pool operations,  
9 again, of this size. This is not a recreational  
10 size pool. It doesn't have laps. It doesn't  
11 provide those aspects that would make it a, I would  
12 say a standalone use or possible standalone use.

13 STUART LIEBERMAN: Okay. But you've  
14 never taken any business class or you've never been  
15 in the pool business or anything --

16 MATTHEW SECKLER: Correct.

17 STUART LIEBERMAN: -- is that right?

18 MATTHEW SECKLER: Correct.

19 STUART LIEBERMAN: Thank you.

20 CHRISTINE COFONE: I've spent many, as a  
21 Division III swim parent, decades on pool decks,  
22 decades, so I do have some thoughts on if this is a  
23 swimming pool.

24 STUART LIEBERMAN: I know that you and  
25 your husband are good parents and you've probably

1 done a lot of that and I appreciate that.

2 The food trailer, or whatever you want  
3 to call it, the food structure --

4 MATTHEW SECKLER: Yes.

5 STUART LIEBERMAN: -- that's going to be  
6 in front of the complex, isn't it?

7 MATTHEW SECKLER: In front of the  
8 complex but on the area leased by the applicant.

9 STUART LIEBERMAN: And isn't it true  
10 that accessory uses under the ordinance have to be  
11 in the back, not in the front?

12 MATTHEW SECKLER: Again, the food and  
13 drink at a bar I wouldn't consider accessory. I'd  
14 say this is still the same use that the rest of the  
15 building -- the rest of the site is.

16 STUART LIEBERMAN: So when you say it's  
17 the same, let's focus on that a little bit, because  
18 it's actually an important point and my experts are  
19 gonna have their own thing to say about it, but  
20 when you say it's a continuation of what's there,  
21 you understand that there's a dune, a fairly large  
22 dune in between where the pool and all that is and  
23 where this trailer's gonna be, right?

24 MATTHEW SECKLER: Yes.

25 STUART LIEBERMAN: Okay. And so you

1 understand that the anticipated customers for this  
2 trailer are people on the Boardwalk, not  
3 necessarily people at this facility because they  
4 have to go over the dune to get there, right?

5 MATTHEW SECKLER: Well, again, I think  
6 anywhere on the Boardwalk is a potential customer,  
7 whether it's of the bar or the, you know, food  
8 concession, but anyone's a potential customer.

9 STUART LIEBERMAN: Right. And this  
10 is -- anybody's a potential customer but this is  
11 much closer to the Boardwalk than to the balance of  
12 the bar?

13 MATTHEW SECKLER: Yes. It is closer to  
14 the Boardwalk.

15 STUART LIEBERMAN: It's -- in fact, it's  
16 on the Boardwalk?

17 MATTHEW SECKLER: Connected to the  
18 Boardwalk.

19 STUART LIEBERMAN: Right. So you  
20 understand that you can't have, by regulation, by  
21 ordinance -- or I don't know what you call it  
22 anymore.

23 LANCE LANDGRAF: Regulations.

24 STUART LIEBERMAN: By regulations --

25 LANCE LANDGRAF: I'm still stumbling



1 with it so --

2           STUART LIEBERMAN: You've been stumbling  
3 with it longer than me. This is my first time ever  
4 being here. I'm really behind.

5           You understand that we can't have two  
6 principal uses on the same property, right?

7           MATTHEW SECKLER: Correct, but again,  
8 I'm saying this is the same use that is elsewhere.  
9 They're just not physically connected.

10          LANCE LANDGRAF: We have one comment  
11 from our planner on that.

12          STUART LIEBERMAN: Yes.

13          CHRISTINE COFONE: So I'm looking at our  
14 CRDA regulations, right, and that's what we are  
15 governed by here. In other towns one would call it  
16 an ordinance. Because we're an authority, we go by  
17 the regulations.

18          STUART LIEBERMAN: Sure.

19          CHRISTINE COFONE: So they function like  
20 an ordinance would, if you were reviewing a zoning  
21 ordinance. So when I look at Section 19:66-2.1,  
22 which is definitions -- as planners we often go to  
23 those -- the first actual definition in our  
24 regulations is accessory use or structure means a  
25 structure or use that is subordinate to --

1 (Technical interruption. Unintelligible.) --  
2 principal building or a principal use; is  
3 subordinate in area, extent and purpose to the  
4 principal structure or building use served;  
5 contributes to the comfort, convenience or  
6 necessity of the occupants, business, or industry  
7 of the principal structure or principal use served;  
8 or is located on the same lot as the principal  
9 structure or principal use served, except as  
10 otherwise or expressly authorized by the provisions  
11 of this chapter. So that's how the CRDA regulates  
12 an accessory use or structure and when it defines  
13 them it puts them in together, so it might be a bit  
14 of a difference without a distinction here based on  
15 how our regulations are set up at the CRDA.

16 STUART LIEBERMAN: Could be. Could be,  
17 but you understand that Section 19.66 provides  
18 specifically, there shall be no more than one  
19 principal building or use on any lot or parcel  
20 unless otherwise permitted under the -- (Technical  
21 interruption. Unintelligible.)

22 MATTHEW SECKLER: I'm not debating that,  
23 yes.

24 STUART LIEBERMAN: Right. I think  
25 that's it. Thank you, very much. I have my

1 witnesses I have to bring up.

2 LANCE LANDGRAF: Okay.

3 IRIS PINCUS: Mr. Landgraf, can I  
4 address the court, please?

5 LANCE LANDGRAF: One second, please.

6 IRIS PINCUS: Sure.

7 LANCE LANDGRAF: Ma'am, what's your  
8 name?

9 IRIS PINCUS: Sure. It's Iris Pincus,  
10 P-I-N-C-U-S.

11 LANCE LANDGRAF: Okay.

12 IRIS PINCUS: I'm an attorney. I have a  
13 Pennsylvania license, still active. I did have a  
14 New Jersey license before I retired. I gave that  
15 up, but I think it's important for the board to  
16 hear about the Ocean Club's \$20 million multi-year  
17 construction project that we're in the midst of  
18 that involves all sides of the building, both  
19 Chelsea Avenue and Montpelier Avenue. I can  
20 testify. You can swear me in, because I live there  
21 and I have some working knowledge. There's other  
22 people, but I think this impacts all of the  
23 testimony to understand what's going on at the  
24 Ocean Club. We have legends of workers. We have  
25 several contracts. We have all kinds of equipment

1 on the building. We have -- and I don't know what  
2 to call them -- cherry pickers, high reachers going  
3 up every day of the week.

4 LANCE LANDGRAF: What does that have to  
5 do with this application?

6 IRIS PINCUS: I think it impacts the  
7 traffic, for one thing. I don't know that people  
8 are going to have a safe place to park because of  
9 our construction and I don't know if they're going  
10 to have a safe place to access the beach if they  
11 choose to use --

12 LANCE LANDGRAF: You're telling me the  
13 construction on your building is making it unsafe  
14 to walk down that street?

15 IRIS PINCUS: Well, we have structures  
16 over the sidewalk --

17 LANCE LANDGRAF: Okay.

18 IRIS PINCUS: -- metal structures over  
19 the sidewalk --

20 LANCE LANDGRAF: So that makes it --

21 IRIS PINCUS: -- and we have men going  
22 up and down the side of the building. We have  
23 workers. We have --

24 LANCE LANDGRAF: Again, how does that  
25 affect the application of a permitted use on the

1 beach in Atlantic City?

2 IRIS PINCUS: People have to get there.  
3 They have to walk in a safe place or park in a safe  
4 place.

5 LANCE LANDGRAF: You just said they have  
6 covered sidewalks so people can walk down the  
7 sidewalk.

8 IRIS PINCUS: But there's workers -- I'm  
9 sorry. I didn't mean to interrupt you. I'm sorry.

10 LANCE LANDGRAF: That's all right.

11 IRIS PINCUS: There are multitudes of  
12 construction people working there now five days a  
13 week, perhaps seven days a week in the summertime  
14 because we want to get this project done. It  
15 involves the balconies. It involves --

16 LANCE LANDGRAF: Again, I'm having a  
17 difficult time understanding how construction on  
18 your site is going to be affected by a beach bar.

19 IRIS PINCUS: Because -- I don't want to  
20 repeat myself.

21 LANCE LANDGRAF: I'm not saying --

22 IRIS PINCUS: There has to be a safe  
23 place for people to park and walk. It's not safe  
24 if you have construction equipment, I'm calling  
25 them cherry pickers, high reachers.

1 LANCE LANDGRAF: Okay.

2 IRIS PINCUS: There's men who have --

3 LANCE LANDGRAF: But shouldn't your  
4 contractor be making it safe for people to walk by  
5 there?

6 IRIS PINCUS: But they have to do their  
7 job and their job involves movement of materials,  
8 movement of --

9 LANCE LANDGRAF: And while they're doing  
10 all that are they --

11 IRIS PINCUS: -- in a safe place for  
12 people walking there.

13 LANCE LANDGRAF: -- are they following  
14 standard practices for OSHA? For the city's --  
15 (Multiple parties speaking. Unintelligible.)

16 IRIS PINCUS: Of course they are. Of  
17 course they are.

18 LANCE LANDGRAF: So then it should be  
19 safe for people to walk by there.

20 UNIDENTIFIED MEMBER: Parking. Parking.

21 IRIS PINCUS: Right. And then -- well,  
22 we're not up to parking but I'll address that.

23 LISA JOHN-BASTA: Just for a point of --  
24 I'm just confused. I'm sorry. What's your name  
25 again?

1 IRIS PINCUS: Iris Pincus.

2 LISA JOHN-BASTA: Iris Pincus.

3 Are you representing the Ocean Club, as  
4 well as Mr. --

5 IRIS PINCUS: No. I'm representing  
6 my -- I'm a lawyer. I live there. I'm  
7 representing myself.

8 LANCE LANDGRAF: All right. This is  
9 part of public comment, then, so we're gonna take  
10 your --

11 IRIS PINCUS: Okay. I'll break it all  
12 apart, then. No problem.

13 SCOTT COLLINS: Yeah. Procedurally --  
14 and this may be helpful for everybody -- what we're  
15 gonna do next is open it for public questioning --

16 IRIS PINCUS: Okay.

17 SCOTT COLLINS: -- not public comment,  
18 public questioning that's specific to the testimony  
19 that was offered by either of the witnesses.

20 IRIS PINCUS: Perfect. Perfect.

21 SCOTT COLLINS: If you have questions  
22 regarding that, now will be your time. If you have  
23 a general comment that you want to make or  
24 testimony that you want to present, there will be  
25 another time for that. It's the general public

1 comment period. So you don't -- just procedurally,  
2 I'm just trying to keep things organized.

3 STUART LIEBERMAN: I want to make sure,  
4 they will have -- because I've had hearings where  
5 it gets very confused, you know, because what board  
6 attorneys have told people, they don't know what  
7 they can talk about, so --

8 LANCE LANDGRAF: We'll give the public  
9 ample time to make their comments.

10 IRIS PINCUS: May I also be  
11 presenting -- I will also be presenting legal  
12 argument, because I believe there's a legal  
13 impediment.

14 LANCE LANDGRAF: You can do that --

15 IRIS PINCUS: Thank you.

16 LANCE LANDGRAF: -- in the public  
17 comment.

18 IRIS PINCUS: No problem. Thank you.

19 SCOTT COLLINS: Is that clear, Mr.  
20 Lieberman, just so everyone knows?

21 STUART LIEBERMAN: That's -- what I  
22 understand you just said is the following, that  
23 right now if people have questions of any of the  
24 people who testified, they can come up and ask  
25 questions but you don't want comments. Afterwards,



1 when everything is done, everybody here will have  
2 an opportunity to make whatever comments and offer  
3 an opinion on the application. Did I say it right?

4 SCOTT COLLINS: Yes, and at that time if  
5 you have -- when you want to present witnesses,  
6 that will also happen at that point.

7 STUART LIEBERMAN: Sure. Thank you, and  
8 I do appreciate you clarifying it. My life, I've  
9 had it where it's not been clear sometimes and it's  
10 caused problems, so thank you for doing that.

11 SCOTT COLLINS: Understood. Lance, if  
12 you want to open it up for public.

13 LANCE LANDGRAF: Did you want to take a  
14 minute?

15 SCOTT COLLINS: Yeah. Actually, we're  
16 gonna take a short break.

17 LANCE LANDGRAF: We're gonna take a five  
18 minute break.

19 (A brief recess was taken.)

20 SCOTT COLLINS: We're gonna start with  
21 direct questioning from the general public.

22 LANCE LANDGRAF: Is there anybody who  
23 has any questions for either Mr. Barnhart or the  
24 applicant's attorney or the applicant, I should  
25 say? If you have any direct questions of that,

1 please raise your hand and -- Mr. Powell.

2 MICHAEL POWELL: Yes, sir.

3 LANCE LANDGRAF: Come on forward. State  
4 your name and ask your questions.

5 MICHAEL POWELL: My name is Michael  
6 Powell. I own the Chelsea Inn on Morris Avenue and  
7 I've been wondering if anybody was aware of the  
8 problems that we have with parking in the  
9 neighborhood. It sounded like the gentleman did a  
10 report on it. I've had nothing but problems with  
11 my parking lot.

12 LANCE LANDGRAF: Just one thing. This  
13 is for -- if you want to ask questions of them.  
14 We're gonna take your --

15 MICHAEL POWELL: Oh, direct question.

16 LANCE LANDGRAF: Sure. If you have a  
17 question of their consultant you can do that.

18 MICHAEL POWELL: Are you aware of all  
19 the times we've had to call the police to the  
20 Chelsea in the last, say three years.

21 MATTHEW SECKLER: I'm not personally  
22 aware of that, but again --

23 MICHAEL POWELL: It's like 450 times.

24 Are you aware that we've had violent  
25 fights? Are you aware that people steal our

1 parking? Somebody said, well, just call the tow  
2 truck, but they don't have 20 tow trucks.  
3 Sometimes when you call a tow truck the guys are on  
4 something else, he's up on the parkway or something  
5 and we can't get this out of here. Are you aware  
6 that I spent \$150 on Friday and Saturday nights to  
7 guard my parking? Are you aware that somebody --

8                   STUART LIEBERMAN: Let him answer your  
9 question, please.

10                   MICHAEL POWELL: Okay. One at a time.

11                   STUART LIEBERMAN: Yeah.

12                   MATTHEW SECKLER: No. I'm not aware.

13                   MICHAEL POWELL: Are you aware that  
14 somebody who was towed went back and got their car,  
15 they came back and tried to run over the guy who he  
16 saw --

17                   LISA JOHN-BASTA: Again, I just want to  
18 put on the record, I don't know what the relevance  
19 of this questioning is. We don't know who is  
20 parking in his lot, if it has anything related to  
21 the applicant's business at all.

22                   MICHAEL POWELL: We can tell you exactly  
23 who's parking in our lot.

24                   LANCE LANDGRAF: All right. All right.  
25 He has the floor.

1 (Multiple parties speaking.

2 Unintelligible.)

3 MICHAEL POWELL: We have videos of the  
4 fighting and we have videos of the parking. We  
5 have videos of the police.

6 STUART LIEBERMAN: There was an  
7 objection made, sir, if you just -- I'm sorry, sir.  
8 Hearing Officer, I'm sorry. I don't mean to --

9 LANCE LANDGRAF: That's all right.

10 STUART LIEBERMAN: I just want to  
11 respond. It goes to negative criteria.

12 LISA JOHN-BASTA: Excuse me. Another  
13 question. I'm sorry. Are you representing this  
14 gentleman?

15 STUART LIEBERMAN: I'm -- yeah. I think  
16 you know who I'm representing.

17 LISA JOHN-BASTA: No. Are you  
18 representing this gentleman in particular?

19 STUART LIEBERMAN: An objection was made  
20 and I have a right to respond.

21 LISA JOHN-BASTA: Not related -- does it  
22 relate to what this man's saying and do you  
23 represent him?

24 STUART LIEBERMAN: It absolutely relates  
25 to what he's saying and you know I don't represent

1 him.

2 LISA JOHN-BASTA: Okay. Then let --  
3 (Multiple parties speaking. Unintelligible.)

4 MICHAEL POWELL: Do I have a right to  
5 tell people what's going on in my neighborhood?

6 LISA JOHN-BASTA: Unless you're his  
7 counsel --

8 STUART LIEBERMAN: You do.

9 MICHAEL POWELL: Thank you.

10 LISA JOHN-BASTA: -- I would say that  
11 you object for the -- whoever you're representing.  
12 You're not his counsel.

13 MICHAEL POWELL: Could you not interrupt  
14 me? That would be nice. Thank you.

15 LISA JOHN-BASTA: I'm sorry. I don't  
16 mean to be rude or discourteous to you.

17 MICHAEL POWELL: That's okay.

18 LISA JOHN-BASTA: I'm just putting it on  
19 the record so that it's clear when there's an  
20 appeal --

21 MICHAEL POWELL: I'm just trying to get  
22 clear --

23 LISA JOHN-BASTA: -- the objection  
24 that's being made.

25 MICHAEL POWELL: -- on the record what's

1 going on in my parking lot. Okay. This is my  
2 experience.

3 LANCE LANDGRAF: Let me ask you a  
4 question.

5 MICHAEL POWELL: Yes, sir.

6 LANCE LANDGRAF: How do you know that  
7 these folks are coming from the Chelsea Beach Bar?

8 MICHAEL POWELL: They tell my doormen  
9 and my security guards and my bartenders where  
10 they're coming from.

11 LANCE LANDGRAF: Okay. Thank you.

12 MICHAEL POWELL: Okay. When they cuss  
13 us out when we -- first we go out and warn them  
14 that they can't park there, and we have a thousand  
15 dollars worth of signs telling them they can't park  
16 there, they park there. They walk right up to the  
17 beach bar. Then they get all riled up, they get in  
18 fights. The police throw them off of the  
19 Boardwalk, they come down in front of my place.  
20 Are you aware that the city attorney has written me  
21 a letter threatening my liquor license and my hours  
22 of operation because of the gangs of people that  
23 show up in the parking lot and fight and scream and  
24 yell?

25 MATTHEW SECKLER: I'm not aware, no.

1                   MICHAEL POWELL: And again, I got a  
2 thousand more questions related to this. I never  
3 do anything in the business to draw 60 or 70 or 80  
4 people all at one time. My parking, it cost me  
5 \$7,000 a month, is for 100 people or 120 people  
6 that occupy my building. I don't know how we're  
7 going to have parking for 720 people. That's my  
8 biggest concern.

9                   The safety of my employees. Are you  
10 aware that my servers have quit because they're  
11 afraid of the people that are drawn by this beach  
12 bar? I've had difficulty getting security guards.

13                   STUART LIEBERMAN: Let him answer,  
14 please.

15                   MATTHEW SECKLER: No. I'm not aware.

16                   MICHAEL POWELL: These things are all  
17 something that somebody should be aware of. I  
18 would never come and stop anybody from building a  
19 bar, because it's the business I'm in, but the  
20 security issues that are being glossed over here,  
21 they make no sense to me, and it hasn't been my  
22 experience, nor has it been the experience of the  
23 people that work for me who have to fear coming to  
24 work. And then you can sit back down and look at  
25 the public record of how many times we've called

1 the police.

2 LANCE LANDGRAF: Do you have any of  
3 those records?

4 MICHAEL POWELL: I didn't bring them  
5 with me, no, but I could probably go get them. We  
6 stopped filling out reports because this has  
7 happened so often and then nothing's been done  
8 about it. There's security up on the Boardwalk.  
9 Evidently they have a substation on the Boardwalk  
10 in the Ocean Club, but a block away, where we're  
11 all under the gun. I asked another bar owner to  
12 come. She couldn't come today because she's not  
13 feeling well. She said the same situation. My  
14 business has been closed down and my late night  
15 shift probably costed me \$3- or \$4,000 each time it  
16 happens. What, 25 times, 30 times we've had the  
17 police come in and tell us we have to close our bar  
18 because of the crazy stuff that's going on in front  
19 of it.

20 LISA JOHN-BASTA: Just as a point -- a  
21 point of order, we're here for questions of our  
22 professionals, and I know --

23 LANCE LANDGRAF: He went over that line  
24 a little bit, but this might save time later  
25 because he's already come up and made some of his



1 comments.

2 LISA JOHN-BASTA: Sure. Okay. That's  
3 fine. I just want to make sure that --

4 MICHAEL POWELL: (Multiple parties  
5 speaking. Unintelligible.)

6 LISA JOHN-BASTA: So all the public --  
7 because there's a lot of people here and I just  
8 want to make sure that we do it correctly.

9 LANCE LANDGRAF: Mike, have you said  
10 pretty much what you wanted to -- at least ask  
11 questions?

12 MICHAEL POWELL: Yes. I think, you  
13 know, again, like I said, I have nothing against  
14 any kind of a bar operating, but the things that  
15 are -- these guys are talking about make no sense  
16 to me at all. It's not been my experience that  
17 there's been no traffic. Of course there's been a  
18 lot of traffic, and people just don't seem to be  
19 aware of all the things that are going on in the  
20 neighborhood, not just in my business. You're  
21 affecting the 7-Eleven. You're affecting the  
22 Dunkin' Donuts. You're affecting the Quality Inn.  
23 You're affecting the EconoLodge. You're affecting  
24 the Days Inn. All of these businesses are down in  
25 revenue. I deal with these people every day.

1 LANCE LANDGRAF: Okay. Thank you.

2 MICHAEL POWELL: Good deal. Thank you.

3 LANCE LANDGRAF: I'm just conferring  
4 with him to get some continuity on how we're going  
5 to handle this.

6 LISA JOHN-BASTA: If I can make a  
7 suggestion, if it's okay with you, because there is  
8 a lot of public.

9 LANCE LANDGRAF: Right.

10 LISA JOHN-BASTA: Could we do questions  
11 and comments at the same time, perhaps?

12 LANCE LANDGRAF: That's what I'm --  
13 that's what I'm asking for, yeah. I think we  
14 should do that.

15 SCOTT COLLINS: Yeah.

16 LISA JOHN-BASTA: Oh, yeah. That's  
17 right. I'm sorry.

18 SCOTT COLLINS: (Multiple parties  
19 speaking. Unintelligible.) -- with the questions.

20 LISA JOHN-BASTA: There is an  
21 affirmative case that's going to be put on by the  
22 objector, so if there's any public comment, maybe  
23 it should come after that.

24 LANCE LANDGRAF: Yeah. Why don't we  
25 have -- Mr. Lieberman, why don't you put on your

1 professionals that you said you brought with you,  
2 to do that now.

3 STUART LIEBERMAN: My only problem with  
4 not letting them ask questions now is they may  
5 forget what happened and -- they heard a lot of  
6 testimony. I think they should be asked -- right  
7 after the testimony they should be given an  
8 opportunity to ask questions, otherwise they may  
9 have questions and they may forget them.

10 LANCE LANDGRAF: But if they have  
11 questions again for your side of the application,  
12 then we're gonna have to bring them back up again.  
13 I don't know that I can -- we're not going to be  
14 here till 7:00 tonight with folks coming back up  
15 multiple times so --

16 STUART LIEBERMAN: Well, they have a lot  
17 to say and they're very concerned.

18 LANCE LANDGRAF: I understand that.

19 STUART LIEBERMAN: Very concerned.

20 LANCE LANDGRAF: That's why I don't want  
21 to have them come up twice. I'd rather them ask  
22 the questions. Why don't you proceed with your  
23 witnesses.

24 STUART LIEBERMAN: Thank you. I will.  
25 Thank you.

1 Carlos Rodriguez. Wait a second. Where  
2 is Carlos? I thought he was here.

3 All right.

4 CARLOS RODRIGUEZ: You have to swear me  
5 in?

6 LANCE LANDGRAF: Yes. Are you a  
7 professional?

8 CARLOS RODRIGUEZ: I am. I'm a  
9 professional planner.

10 LANCE LANDGRAF: Okay. Mr. Rodriguez,  
11 why don't you put your credentials on the record,  
12 we'll have you sworn in.

13 CARLOS RODRIGUEZ: Sure. I have a  
14 Master's in City and Regional Planning from  
15 Rutgers. I've been a licensed professional planner  
16 in New Jersey for over 30 years. I was former  
17 adjunct faculty in the graduate planning program at  
18 the Bloustein School. I am a past president of the  
19 New Jersey Chapter of the American Planning  
20 Association. I'm a member of the College of  
21 Fellows of the American Institute of Certified  
22 Planners and I'm the editor of the 2019 edition of  
23 the Complete Guide to Planning in New Jersey.

24 LANCE LANDGRAF: Okay. And you're  
25 currently licensed as a planner in the State of New

1 Jersey?

2 CARLOS RODRIGUEZ: I am.

3 LANCE LANDGRAF: Certainly accept Mr.  
4 Rodriguez's credentials as an expert in the field  
5 of professional planning.

6 CARLOS RODRIGUEZ: Okay. So --

7 STUART LIEBERMAN: Mr. Hearing Officer,  
8 if I could ask, you've never been disciplined and  
9 your license is in good order, right? It's  
10 currently in good order?

11 CARLOS RODRIGUEZ: Yes. The license is  
12 in good order. I renewed it recently.

13 STUART LIEBERMAN: I had one give the  
14 whole testimony. Afterwards found out his license  
15 was taken.

16 LANCE LANDGRAF: Good question.

17 STUART LIEBERMAN: You have to. You  
18 have to.

19 LANCE LANDGRAF: Mr. Rodriguez, could  
20 you be sworn, please?

21 SCOTT COLLINS: Raise your right hand.

22 CARLOS RODRIGUEZ, having been first duly sworn  
23 according to law, testified as follows:

24 SCOTT COLLINS: Thank you.

25 STUART LIEBERMAN: Mr. Rodriguez, thank

1 you, very much.

2 THE VIDEOGRAPHER: I'm sorry. For the  
3 sake of the -- (Technical interruption.  
4 Unintelligible.) -- I need you to -- I can't hear  
5 you.

6 LANCE LANDGRAF: So you can be heard you  
7 have to stand up.

8 STUART LIEBERMAN: Oh, okay. That's  
9 right.

10 THE VIDEOGRAPHER: The microphone is  
11 longer. Thank you.

12 STUART LIEBERMAN: Thank you. It's a  
13 pleasure.

14 Mr. Rodriguez, you had an opportunity to  
15 review the applicant's materials; is that correct?

16 CARLOS RODRIGUEZ: I did.

17 STUART LIEBERMAN: And did you have an  
18 opportunity to determine within a reasonable degree  
19 of planning certainty as to whether or not in your  
20 opinion the relief requested, the land use relief  
21 requested by the applicant should be granted or  
22 denied?

23 CARLOS RODRIGUEZ: I think it should be  
24 denied.

25 STUART LIEBERMAN: Okay. Would you

1 provide the -- would you provide to the hearing  
2 officer and to counsel and to Mr. Reid, as well,  
3 and to the other professionals, please, sorry,  
4 would you provide the factual and legal basis for  
5 your contentions?

6 CARLOS RODRIGUEZ: I will.

7 STUART LIEBERMAN: Thank you.

8 CARLOS RODRIGUEZ: And some of this is  
9 going to sound a little bit repetitive because I'm  
10 going to be covering topics that have already been  
11 brought up more than once and Mr. Lieberman has  
12 stolen a little bit of my thunder so -- but anyway,  
13 so the first question that I would like to address  
14 is the question of whether the pool -- that pool on  
15 the beach, the proposed pool on the beach is  
16 legitimately an accessory use to the beach bar.  
17 It's been affirmed that it is but we haven't really  
18 had any evidence of how many pools are associated  
19 with beach bars in the Casino District or anywhere  
20 else. It seems like the fundamental question. And  
21 unless the applicant can produce some kind of an  
22 inventory that suggests that -- that indicates that  
23 pools and beach bars generally go together, I am  
24 skeptical that it should be considered an accessory  
25 use. Now, if I understood correctly, the pool is

1 going to be limited to the patrons of the beach  
2 bar. Is that right? Is that everybody's  
3 understanding? It's not a separate --

4 LANCE LANDGRAF: It's up to the  
5 applicant to answer that question.

6 CARLOS RODRIGUEZ: Well, I'm not asking  
7 the applicant.

8 STUART LIEBERMAN: Why don't you testify  
9 why that is.

10 CARLOS RODRIGUEZ: I mean, I don't know.  
11 I -- it was sort of implied that it might be but it  
12 wasn't stated outright whether the beach bar -- the  
13 pool would be a separate attraction, a separate  
14 attraction with controlled entrance or whether it's  
15 part of the package. You go to the beach bar, you  
16 have access to the pool. That's sort of also a  
17 fundamental question, in my mind. If it's a  
18 separate attraction, then it needs to be treated as  
19 a separate attraction, so we'll -- maybe the  
20 applicant can clarify that later.

21 So let me read to you, and your planner  
22 already read these earlier but I'm going to  
23 reiterate -- reiterate. It's from your rules,  
24 19:66-2.1, the definition of accessory use or  
25 structure. Number one, it has to be subordinate to



1 and serve a principal building or a principal use.  
2 Number two is subordinate in area, extent, and  
3 purpose to the principal structure or principal  
4 use. Number three, contributes to the comfort,  
5 convenience or necessity of the applicant's  
6 business or industry of the principal structure or  
7 principal use. And number four is located on the  
8 same lot. So will the proposed pool contribute to  
9 the comfort, convenience or necessity of the  
10 occupants of the beach bar? I'm not sure what  
11 comfort, convenience or necessity of the beach bar  
12 patrons the proposed pool will be addressing.

13 Now, 19:66-5.4 governs accessory uses in  
14 the Casino District. It provides that accessory  
15 uses are permitted in connection with any principal  
16 use that is permitted. No accessory use shall be  
17 constructed, moved, remodeled, established, altered  
18 or enlarged unless it complies with the  
19 requirements of this subchapter. Accessory  
20 structures shall be subordinate in size and  
21 intensity to the principal structures. Accessory  
22 uses shall be customary and incidental to the  
23 principal use, and (d), no accessory use or  
24 structure shall be permitted in any required front  
25 yard. So unless this applicant can demonstrate

1 that the proposed pool is customary and incidental  
2 to the beach bar, I don't think it can be  
3 considered as such. Certainly there are many beach  
4 bars that have no pools. I would argue that the  
5 proposed pool should be considered a second  
6 principal use, not an accessory use, and for that  
7 the applicant needs separate relief, which they, by  
8 the way, didn't notice for.

9 Now, the Cox book, New Jersey Zoning and  
10 Land Use Administration, which has already been  
11 referenced here today -- thank you, very much --  
12 which is widely referred to by land use  
13 professionals in the state states at page 543 of  
14 the 2023 edition that an accessory use is usually  
15 defined as one which is incident and subordinate to  
16 the main use and is customarily so, and this  
17 requires two separate determinations, whether the  
18 use is incident and subordinate, which, by the way,  
19 are almost the same words that are used in your  
20 regs, and whether it is customary, so I would ask  
21 this body to consider this definition. Is a  
22 swimming pool or a wading pool on a beach really  
23 customarily associated with a beach bar? Now,  
24 again, referring back to your rules, it's  
25 19:66-5.9(a)1i --

1                   STUART LIEBERMAN: Excuse me. Before  
2 you proceed, can you answer the question based on  
3 your view as an expert?

4                   CARLOS RODRIGUEZ: I mean, unless  
5 evidence is provided that these two uses are tied  
6 at the hip and are customary -- customarily show up  
7 together, I would have to say no.

8                   STUART LIEBERMAN: Based on your opinion  
9 as a planner for the last 30 years or whatever, do  
10 you have an opinion as to whether or not a swimming  
11 pool should be considered an accessory use for a  
12 beach bar?

13                   CARLOS RODRIGUEZ: I mean, you're on the  
14 ocean. There's plenty of water right in front of  
15 you.

16                   Okay. Let's continue here. Now, let's  
17 turn to the proposed concession stand and the  
18 question of whether that is a legitimate accessory  
19 use to the beach bar, and we're gonna follow a  
20 similar line of reason here. How many beach bars  
21 are there in the Casino District and how many of  
22 those beach bars have concession stands? That  
23 seems like a fundamental question. Will access to  
24 the concession stand be limited to patrons of the  
25 beach bar, and, if so, how will that be enforced?

1 If access to the concession stand is not limited to  
2 patrons of the beach bar, then clearly the  
3 concession stand should not be considered an  
4 accessory use. The proposed location of the  
5 concession stand next to the Boardwalk clearly  
6 suggests that the intention is for it to serve the  
7 general population traveling on the Boardwalk, not  
8 the patrons of the beach bar, which will continue  
9 to utilize the existing concession stand on the  
10 beach. And if that's the case, the proposed  
11 concession stand on the Boardwalk cannot be  
12 considered an accessory use and requires its own  
13 level of relief. In addition, again, referring to  
14 your rules, 19-66 -- I mean :66-5.4(d), no  
15 accessory use or structure shall be permitted in  
16 any required front yard, and it's obvious that the  
17 proposed concession stand is clearly located in the  
18 front yard of Lot 46, or it is most accessible to  
19 anybody on the Boardwalk and less accessible to the  
20 users of the beach bar or the proposed pool. The  
21 applicant has not requested a variance from this  
22 provision but I believe one is needed. And then,  
23 in addition, Section 19:66-5.9(a)1i(8) of the -- of  
24 the zoning indicates that retail uses only on  
25 existing piers, only on existing piers. The

1 proposed concession stand would qualify as a retail  
2 use but it's not located on an existing pier, so  
3 that means that it can't be considered a permitted  
4 use.

5 I don't think we need to belabor the  
6 issue of the parking and I think the residents of  
7 the condominium will speak to that in their own  
8 words. There are many ways to solve a parking  
9 problem, parking problems, including off sites, the  
10 provisional off-site parking, which is not  
11 disallowed under your regulations, but completely  
12 ignoring it I think is not -- is not a good idea.  
13 Not a good idea.

14 And let me touch on the master plan and  
15 the zoning and the surrounding neighborhood part of  
16 this. So again, referring to your regs, Section  
17 19:66-1.2 describes the general purpose and intent  
18 for the Casino District. Item (a)6 provides that  
19 the Casino District should guide future residential  
20 and non-residential growth in a coordinated and  
21 managed approach and to provide for logical  
22 transitional uses between residential and  
23 non-residential areas of the Tourism District.  
24 Now, the existing beach bar is directly across the  
25 street from these condominiums. It's a large

1 residential project on Lot 28. The existing bar  
2 already occupies an area of approximately 10,000  
3 square feet. This proposal would add another 4,000  
4 and further intensify the use. I think even though  
5 the proposed bar is in the Beach District and the  
6 condominiums are in their own district, there has  
7 to be some sensitivity here about the proximity  
8 between these two uses. The intent of the Casino  
9 District is not to promote attractions for visitors  
10 at the expense of the residents. Maintaining a  
11 quiet and peaceful residential environment is  
12 absolutely essential for the well-being of  
13 long-time residents whose presence is critical for  
14 the future success of the district. So the master  
15 plan recognizes that it's not just tourism that's  
16 going to bring back Atlantic City. It's the  
17 residents, as well, especially if they're already  
18 existing residents, and they have to be treated  
19 with respect and your master plan, the Atlantic  
20 City Tourism District master plan recognizes that  
21 housing is an integral ingredient in the adopted  
22 revitalization strategy for the city and places an  
23 emphasis on family-centered tourism related  
24 activities. I found this in Volume III, page 19.  
25 I actually read all through -- or skimmed, I

1 shouldn't say read, skimmed all four volumes.

2 LANCE LANDGRAF: It's a long document.

3 CARLOS RODRIGUEZ: Beach bars and  
4 associated recreational activities were added as  
5 permitted uses in the Beach District in 2017.  
6 Unfortunately, without, in my opinion, appropriate  
7 performance standards or measures to safeguard  
8 against potential negative impacts on residential  
9 uses located outside the Beach District but  
10 directly adjacent to it.

11 I think I'm gonna leave it at that. I'm  
12 happy to answer any questions.

13 LANCE LANDGRAF: Okay. You mentioned  
14 one thing, that they're adding 4,000 square feet.  
15 The testimony that I heard was only 1,310 square  
16 feet being added. Can we get that clarified for  
17 the record?

18 LISA JOHN-BASTA: Correct. The total  
19 decking proposed is 10,000 square feet and change.

20 LANCE LANDGRAF: So that's an increase  
21 over the 9,300 that exists?

22 LISA JOHN-BASTA: Yeah. We're proposing  
23 an additional 1,310 square feet of decking --

24 LANCE LANDGRAF: Okay. Just want to  
25 make that clear.

1                   LISA JOHN BASTA: -- from what it is  
2 today.

3                   LANCE LANDGRAF: Mr. Rodriguez testified  
4 that 4,000 --

5                   CARLOS RODRIGUEZ: I pulled that number  
6 from somewhere but I stand corrected if that's the  
7 case.

8                   LANCE LANDGRAF: Okay.

9                   STUART LIEBERMAN: Mr. Rodriguez, before  
10 you sit down I have follow-up -- some follow-up  
11 questions.

12                   LANCE LANDGRAF: Just so it gets picked  
13 up on our --

14                   STUART LIEBERMAN: I was waiting for  
15 you, to see if you had any other questions.

16                   LANCE LANDGRAF: No. I'll wait. I'll  
17 let you finish first.

18                   STUART LIEBERMAN: Okay. You heard the  
19 planner with the applicant speak and then -- you  
20 heard his testimony, correct?

21                   CARLOS RODRIGUEZ: I did.

22                   STUART LIEBERMAN: Okay. I just want to  
23 ask you some questions about that.

24                   He indicated in his testimony that in  
25 terms of the purposes under the MLUL, the purposes



1 advanced, he indicated, number one, that it  
2 advanced the visual environment. Do you have an  
3 opinion as to whether you agree or disagree with  
4 that assertion?

5 CARLOS RODRIGUEZ: I mean, the -- you're  
6 referring to which part of the application, the  
7 pool, the additional decking, the concession stand?

8 STUART LIEBERMAN: The testimony was --  
9 the testimony generally applied to all of the  
10 requested variances.

11 CARLOS RODRIGUEZ: Well, I mean, to be  
12 honest, I don't consider that beach bar to be a  
13 great asset to begin with and so I don't consider  
14 that expanding it makes it any better.

15 STUART LIEBERMAN: How about his  
16 testimony that it -- under letter (g), it enhances  
17 the -- provides a variety of uses in the city area,  
18 how about that testimony? Did you agree with that  
19 or disagree?

20 CARLOS RODRIGUEZ: Providing a variety  
21 of uses, is that in the Municipal Land Use Law?

22 STUART LIEBERMAN: Well, it was (g).

23 CARLOS RODRIGUEZ: Oh, you mean -- so  
24 the only use that is being -- that would be added  
25 here is that wading pool, that wading pool.

1           STUART LIEBERMAN: How about (h),  
2 avoidance of congestion, does that make sense to  
3 you --

4           CARLOS RODRIGUEZ: No.

5           STUART LIEBERMAN: -- as a professional  
6 planner?

7           CARLOS RODRIGUEZ: No.

8           STUART LIEBERMAN: Well, that was  
9 offered by the applicant. Do you agree or  
10 disagree?

11           CARLOS RODRIGUEZ: I -- no. I disagree.  
12 I disagree.

13           STUART LIEBERMAN: Okay. I don't have  
14 any other questions.

15           CARLOS RODRIGUEZ: I think I have  
16 difficulty finding legitimate purposes in the  
17 Municipal Land Use Law in support of this  
18 application.

19           STUART LIEBERMAN: I don't have any  
20 other questions for this witness. Thank you.

21           LANCE LANDGRAF: Just going through my  
22 notes real quick to see if I have anything.

23           Do you guys have any questions of Mr.  
24 Rodriguez while we're --

25           CHRISTINE COFONE: I have one question

1 on the inventory comment.

2 So just to understand your testimony,  
3 was it that in order to be an acceptable accessory  
4 use you're suggesting the applicant should have  
5 inventoried if other uses have this use, as well?

6 CARLOS RODRIGUEZ: To validate the  
7 notion that the pool is a valid accessory use to a  
8 beach bar, I would like to see empirical  
9 demonstration that that's the case. Show me all of  
10 the -- all of the beach bars that have pools  
11 associated with them in Atlantic City. Give me an  
12 inventory. And if you can show me that this is  
13 something that the two uses are commonly considered  
14 together, then I will accept, but in the absence of  
15 that, it's just -- it's just an assertion with no  
16 backup.

17 CHRISTINE COFONE: It's just an  
18 interesting way to categorize it, in my opinion,  
19 the permissibility of a use by taking inventory of  
20 other uses, but I understand your testimony. Thank  
21 you.

22 CARLOS RODRIGUEZ: It's an empirical  
23 based approach.

24 CHRISTINE COFONE: I understand.

25 LANCE LANDGRAF: Maybe to throw some of

1 the questions that Mr. Rodriguez put out there,  
2 I'll ask them of the applicant.

3 So is the pool a separate attraction?

4 LISA JOHN-BASTA: No. It is part of the  
5 beach bar. It will be enclosed -- as was testified  
6 to previously, it will be enclosed with fencing, as  
7 is the current beach bar. There will be one  
8 admission. Anybody that goes to the beach bar can  
9 use it. There's no separate fee for the pool.  
10 It's all part and parcel to the beach bar use  
11 itself. It's an amenity, just like if you go to a  
12 bar there can be a pool table, a ping-pong table,  
13 et cetera. It's another amenity for the patrons of  
14 the bar.

15 CHRISTINE COFONE: So to take that  
16 further, if I were coming off the beach and I  
17 wanted to access the pool, would I have to pay a  
18 cover if I can use the pool or I can just walk up  
19 to it and get a drink and use the pool?

20 LISA JOHN-BASTA: Not a separate cover  
21 for the pool if you're coming to the beach bar. If  
22 there's a cover, which I don't know if there is,  
23 but it's all part and parcel. There would be a --  
24 never a separate cover for --

25 CHRISTINE COFONE: For just the pool?

1 LISA JOHN-BASTA: -- use of the pool.

2 CHRISTINE COFONE: Right. You get in  
3 and you can use anything that's there?

4 LISA JOHN-BASTA: Correct.

5 CHRISTINE COFONE: You can get snacks,  
6 use the bar?

7 LISA JOHN-BASTA: You can light the  
8 cabana. You can sit on the couches.

9 CHRISTINE COFONE: I got it.

10 LANCE LANDGRAF: Okay. Mr. Rodriguez,  
11 you did raise a question that raises a good  
12 question to me. The concession stand, that is  
13 distinctly separate from this use, to me, looking  
14 at it and it is in the front yard so there is a  
15 concern. Now, we have just recently for the  
16 LandShark Beach Bar, tied to the LandShark  
17 Restaurant, they do have a -- and we approved that  
18 I think last year for that. They have a little  
19 cocktail bar that will be between the dune and the  
20 Boardwalk. We didn't require that to get a front  
21 yard setback along the Boardwalk, but there's also  
22 been approvals of many other retail uses.  
23 Actually, I think the Showboat got approval to  
24 actually expand the Boardwalk on the ocean side to  
25 allow for retail uses along there. We didn't

1 require front yard setbacks for any of those. So  
2 you raise an interesting question is what I'm  
3 trying to bring up and through our hearing officer  
4 report we'll kind of look at those and see how we  
5 can categorize them or require that variance.

6 SCOTT COLLINS: This is one lot?

7 LANCE LANDGRAF: It is one lot, yeah.

8 SCOTT COLLINS: Okay.

9 LANCE LANDGRAF: It's one lot and it's  
10 all beach lease, too, so it's got that. Would have  
11 been nice if they named it the Beach Lease 47 or  
12 whatever the lot number is to make it consistent,  
13 but it's not.

14 Okay. I think that's all I have.  
15 Questions for you? Mr. Lieberman, anything else?

16 STUART LIEBERMAN: I don't have anything  
17 else. Thank you.

18 LANCE LANDGRAF: Miss John-Basta, do you  
19 have any comments?

20 LISA JOHN-BASTA: Yes, please. I have  
21 some questions.

22 So -- I'm sorry. Mr. Rodriguez, did you  
23 hear the applicant's testimony stating that in his  
24 opinion the proposed decking and the pool is an  
25 accessory structure?

1 CARLOS RODRIGUEZ: Well, the regs say  
2 use or structure, so they don't distinguish between  
3 the two.

4 LISA JOHN-BASTA: Is there a distinction  
5 in law whether they're -- something is an accessory  
6 use or an accessory structure?

7 CARLOS RODRIGUEZ: I'm guessing you're  
8 about to educate me.

9 LISA JOHN-BASTA: Well, do you know?  
10 You're a planner.

11 CARLOS RODRIGUEZ: Well, there's clearly  
12 a distinction between -- otherwise we wouldn't need  
13 two separate words to describe it, right?

14 LISA JOHN-BASTA: Correct. Right.

15 CARLOS RODRIGUEZ: All right. So -- but  
16 you could have a use without a structure and you  
17 could have a structure without a use.

18 LISA JOHN-BASTA: But there's a  
19 distinction in law, I think we agree, between  
20 accessory structure and accessory use; is that  
21 correct?

22 CARLOS RODRIGUEZ: Maybe. What I can  
23 tell you is that here they're bundled together and  
24 no distinction is made.

25 LISA JOHN-BASTA: Well, I dispute that

1 on behalf of the applicant because we're saying the  
2 pool is an accessory structure with the decking,  
3 but under the law, Municipal Land Use Law, you're  
4 familiar with it?

5 CARLOS RODRIGUEZ: I am.

6 LISA JOHN-BASTA: Section (d)(1), are  
7 you familiar with that provision?

8 CARLOS RODRIGUEZ: I don't --

9 LISA JOHN-BASTA: Which relates to a use  
10 or principal structure in a district restricted  
11 against such use or principal structure. It's a  
12 (d)(1) standard, correct?

13 CARLOS RODRIGUEZ: Right.

14 LISA JOHN-BASTA: Would you need any  
15 sort of variance relief if you're doing an  
16 accessory structure that's not permissible or  
17 violates the regulation? Would it be a D variance  
18 or would it be a C variance?

19 CARLOS RODRIGUEZ: I think it would be a  
20 D variance.

21 LISA JOHN-BASTA: So you don't -- you're  
22 not following the black letter of the actual law  
23 itself? You're providing a separate opinion?

24 CARLOS RODRIGUEZ: No. I am. I am.  
25 Isn't that what you just read to me?



1                   LISA JOHN-BASTA: I just read (d)(1), a  
2 use or principal structure in a district restricted  
3 against such use or principal structure. It was  
4 testified today that what is being proposed is an  
5 accessory structure. So there's a distinction in  
6 the law is what I'm trying to say between an  
7 accessory structure and a principal use or an  
8 accessory use.

9                   CARLOS RODRIGUEZ: Yes.

10                  LISA JOHN-BASTA: Okay. So there is a  
11 distinction?

12                  CARLOS RODRIGUEZ: There is.

13                  LISA JOHN-BASTA: Okay. Now, you did go  
14 through the criteria in the CRDA definitions  
15 related to accessory structures so let's go through  
16 them one by one.

17                         Is subordinate to and serves a principal  
18 building or principal use. Is there agreement that  
19 the proposed decking in totality is approximately  
20 10,000 square feet and change?

21                   CARLOS RODRIGUEZ: Yeah. I would agree  
22 that it's -- that it's subordinate.

23                   LISA JOHN-BASTA: Okay. And the  
24 proposed pool is approximately 400 square feet and  
25 change or the additional decking is 1,300 square

1 feet and change?

2 CARLOS RODRIGUEZ: I mean, it's  
3 subordinate for a number of reasons, right.

4 LISA JOHN-BASTA: Umm-hum.

5 CARLOS RODRIGUEZ: Nobody would go to  
6 that pool if -- in the absence of the beach bar.

7 LISA JOHN-BASTA: Correct. I think  
8 we're in agreement on that.

9 CARLOS RODRIGUEZ: So it's definitely  
10 subordinate.

11 LISA JOHN-BASTA: Right.

12 Okay. And is it also subordinate in  
13 area, extent and purpose to the principal structure  
14 or use?

15 CARLOS RODRIGUEZ: It is.

16 LISA JOHN-BASTA: And in your opinion  
17 does it contribute to the comfort and convenience  
18 of the patrons to the business?

19 CARLOS RODRIGUEZ: That, I personally  
20 find a stretch, but I suppose it's a matter of  
21 opinion.

22 LISA JOHN-BASTA: But you did hear the  
23 testimony that there's not going to be separate  
24 entrance or a separate fee, it's all part and  
25 parcel to the beach bar itself?

1 CARLOS RODRIGUEZ: I -- I -- I did hear  
2 that today.

3 LISA JOHN-BASTA: Okay. And in that  
4 definition there's also an or, I'll just note for  
5 the record it's an or, and in the fourth criteria,  
6 is located on the same lot as the principal  
7 structure or principal use. As was stated during  
8 the testimony, this is all being proposed on Beach  
9 Lot 18; is that correct?

10 CARLOS RODRIGUEZ: Correct.

11 LISA JOHN-BASTA: Okay. And also, with  
12 respect to the concession stand that's being  
13 proposed on the Morris Pavilion, you gave some  
14 testimony related to accessory structures in the  
15 front yard. Do you know what zoning district the  
16 subject property's located in?

17 CARLOS RODRIGUEZ: B.

18 LISA JOHN-BASTA: B.

19 And is there a front yard requirement at  
20 all on the B zoning district?

21 CARLOS RODRIGUEZ: You mean a front yard  
22 setback?

23 LISA JOHN-BASTA: A front yard setback  
24 requirement, yeah.

25 CARLOS RODRIGUEZ: I don't know that

1 there is.

2 LISA JOHN-BASTA: Yeah.

3 CARLOS RODRIGUEZ: I mean, I haven't  
4 memorized the -- I might even have it here or you  
5 may have it.

6 LISA JOHN-BASTA: Yeah. I do have it,  
7 actually.

8 CARLOS RODRIGUEZ: Is that relevant?

9 LISA JOHN-BASTA: Yeah. I think it's  
10 relevant to the testimony that you provided because  
11 you said that we -- there can be no accessory  
12 structure in a front yard, but there is no front  
13 yard setback requirement within the B zoning  
14 district, and I'll cite the provision that I'm  
15 referring to, which is N.J.S.C. 19:66-5.9.

16 CARLOS RODRIGUEZ: Well, that would --  
17 that would make sense, but the fact that there's no  
18 setback requirement doesn't invalidate the fact  
19 that it's still a front yard. It may not have a  
20 setback requirement but it's still the front yard.

21 LISA JOHN-BASTA: It says -- but then  
22 where do you define where the front yard begins or  
23 ends if there's no requirement?

24 CARLOS RODRIGUEZ: The front yard faces  
25 the Boardwalk.

1                   LISA JOHN-BASTA: So how -- like, in  
2 your -- how would you -- how would one possibly be  
3 able to determine where a front yard ends or begins  
4 if there's no regulations and the code provisions  
5 don't require one?

6                   CARLOS RODRIGUEZ: The front yard is the  
7 front -- it's not a distance. The front yard is  
8 the front yard. It's a condition. It's a  
9 condition.

10                  LISA JOHN-BASTA: Okay.

11                  CARLOS RODRIGUEZ: That frontage on the  
12 Boardwalk is clearly the front of that parcel.  
13 It's the front yard of the parcel.

14                  LISA JOHN-BASTA: I will just say that  
15 the regulations speak for itself and there's no  
16 front yard requirement, which Mr. Landgraf's  
17 testimony is the reason why you guys never granted  
18 the front yard setback requirement.

19                  LANCE LANDGRAF: The full regs --  
20 (Technical interruption. Unintelligible.)

21                  CAROLYN FEIGIN: Our letter actually  
22 says it shall be noted there are no setback  
23 requirements for the below-mentioned structures  
24 since they are proposed directly on the beach.  
25 Only -- (Technical interruption.)

1 Unintelligible.) -- requirements are applicable, so  
2 that's --

3 LANCE LANDGRAF: Okay. That's why we  
4 never had to do it.

5 CAROLYN FEIGIN: Yeah.

6 LANCE LANDGRAF: Because there are --  
7 we've approved numerous.

8 CAROLYN FEIGIN: Yeah. All of a sudden  
9 we're going -- yeah.

10 LANCE LANDGRAF: That's what struck me  
11 so --

12 CAROLYN FEIGIN: Yes.

13 LANCE LANDGRAF: -- thank you for  
14 looking that up.

15 LISA JOHN-BASTA: Additionally, did you  
16 hear the testimony that the purpose for this  
17 concession stand in -- along Morris Pavilion is to  
18 provide visibility for the beach bar and that would  
19 be part of the beach bar itself?

20 CARLOS RODRIGUEZ: I'm sorry. Explain.

21 LISA JOHN-BASTA: I'm sorry. Did you  
22 hear that there was ever going to be a separate  
23 operator at that concession stand or would it be  
24 part of the beach bar?

25 CARLOS RODRIGUEZ: I don't know that --

1 that the -- I don't know that I heard testimony  
2 about who the operator would be.

3 LISA JOHN-BASTA: Well, if there's  
4 any --

5 CARLOS RODRIGUEZ: But even if it's --  
6 even if it's operated by the same operator of the  
7 beach bar, it's clearly intended to serve a  
8 different public.

9 LISA JOHN-BASTA: And what brings you to  
10 that opinion?

11 CARLOS RODRIGUEZ: Because there's  
12 another concession stand that's part of the beach  
13 bar so why would somebody who's at the beach bar go  
14 all the way up to the Boardwalk to get something  
15 that they could get right there?

16 LISA JOHN-BASTA: You don't think that  
17 visibility on the Boardwalk with Cocorico labeling  
18 and food service would attract additional people  
19 and let them know that the beach bar is there?

20 CARLOS RODRIGUEZ: Well, it would  
21 attract people to the concession stand. Now, it  
22 might also attract people to the bar but it might  
23 just attract people to the concession stand  
24 unrelated to the bar.

25 LISA JOHN-BASTA: But if it's one

1 operator of both the concession stand -- it's all  
2 Cocorico, how could it possibly be a separate use?

3 CARLOS RODRIGUEZ: Because it's a  
4 separate -- it's serving a different population.

5 LISA JOHN-BASTA: Just so that the  
6 record is clear, I will put on the record that it's  
7 going to be one operator, just having another food  
8 service component that is in the location being  
9 proposed. It is all part and parcel to the  
10 Cocorico Beach Bar use.

11 CARLOS RODRIGUEZ: But are you telling  
12 us that if somebody walks up to it on the  
13 Boardwalk, makes a purchase and continues and does  
14 not go to the beach bar, are you -- are you telling  
15 us that they will refuse to serve somebody in those  
16 conditions?

17 LISA JOHN-BASTA: I'm saying they've  
18 already been served by the beach bar use if they  
19 bought a drink or food from that concession stand.  
20 They have visited the beach bar.

21 UNIDENTIFIED MEMBER: No. No.

22 LANCE LANDGRAF: Sir, you'll have your  
23 chance to speak. You'll have your chance to speak.

24 LISA JOHN-BASTA: So you stated that  
25 there -- you read the master plan of the CRDA; is



1 that correct?

2 CARLOS RODRIGUEZ: I mean, all four  
3 volumes, I skimmed the four volumes, which I only  
4 have digitally, and I focused if on those sections  
5 that I thought were most pertinent.

6 LISA JOHN-BASTA: How about the  
7 executive summary, have you read that?

8 CARLOS RODRIGUEZ: I don't remember. I  
9 don't think so.

10 LISA JOHN-BASTA: Does it sound familiar  
11 to you that under the master plan, page 1,  
12 executive summary, it states that the master plan  
13 seeks to reinvigorate the Atlantic City experience  
14 by enhancing the Boardwalk and beach by nearby  
15 streets through extensive entertainment, event  
16 program, creating an improved street level  
17 experience on major thoroughfares, offering new and  
18 dynamic retail offerings, increasing the  
19 cleanliness and safety. The plan offers strategies  
20 for the formation of inspired districts,  
21 contemporary entertainment, enthralling attractions  
22 to activate and energize the entire Tourism  
23 District?

24 CARLOS RODRIGUEZ: That's all fine and  
25 dandy. That's all fine and dandy, but there's no

1 question that the master plan also indicates that  
2 the residential component of Atlantic City needs to  
3 be protected and preserved and respected.

4 LISA JOHN-BASTA: We can talk about  
5 that, too, so --

6 CARLOS RODRIGUEZ: And the two things  
7 are not incompatible necessarily unless there's a  
8 heavy hand.

9 LISA JOHN-BASTA: Sure. So the  
10 regulations, zoning regulations, they're --  
11 (Technical interruption. Unintelligible.) -- by  
12 the State of New Jersey; is that correct?

13 The CRDA land --

14 CARLOS RODRIGUEZ: It's part of the  
15 Administrative Code.

16 LISA JOHN-BASTA: Administrative Code,  
17 okay.

18 And when a governmental body zones and  
19 they allow permitted uses such as a beach bar,  
20 they -- are they -- have they looked at the  
21 adjacent zoning districts? Was that all considered  
22 to be taken into account?

23 STUART LIEBERMAN: I object. I don't  
24 understand the question.

25 LISA JOHN-BASTA: Sir, you're familiar

1 with case law related to land use and zoning and  
2 planning, correct?

3 CARLOS RODRIGUEZ: Theoretically they  
4 should. In practice they may not, or -- maybe you  
5 need to rephrase the question. Are you saying that  
6 when the beach zoning was adopted that it was  
7 adopted in such a way that it recognized the  
8 zoning, the adjacent zoning?

9 LISA JOHN-BASTA: Correct.

10 CARLOS RODRIGUEZ: So I don't know. I  
11 wasn't part of that. I can't -- if I were doing it  
12 it certainly would, but I wasn't part of that. I  
13 can't testify to that, but what I did testify to is  
14 that the beach bar provision was the latter  
15 addition.

16 LISA JOHN-BASTA: Okay.

17 CARLOS RODRIGUEZ: Was not part of the  
18 original package and it was added without any  
19 performance measures.

20 LANCE LANDGRAF: Excuse me. You're  
21 saying that the beach zone added beach bars at a  
22 different time?

23 CARLOS RODRIGUEZ: Correct.

24 LANCE LANDGRAF: We adopted all of our  
25 regulations in 2018. We had not -- we're in the

1 process of amending them now. They have not been  
2 changed since 2018. The process to change our  
3 regulations is massive.

4 SCOTT COLLINS: Arduous.

5 LANCE LANDGRAF: Arduous is a good word.  
6 It is not like a municipality where we can go and  
7 have two public hearings and change our ordinances.  
8 We have to go through the Administrative -- Office  
9 of Administrative Law and ask for a rule change.  
10 So we started that process last fall. We hope to  
11 finish it by this June. So we haven't changed  
12 anything since 2018 so I'm -- I just want  
13 clarification as to what you said, we added.

14 CARLOS RODRIGUEZ: Well, if you give me  
15 a moment -- okay. According to my notes, the beach  
16 bar was added in 2017.

17 LANCE LANDGRAF: So we used the City of  
18 Atlantic City's regulations up until 2018. You may  
19 be talking about the master plan that -- well, we  
20 did an element of the master plan that was a land  
21 use element and basically created the basis for us  
22 to create our land use regulations in 2016, 2017.  
23 Miss Cofone did that for us, so that was --

24 CARLOS RODRIGUEZ: I saw that.

25 LANCE LANDGRAF: That was the fourth

1 volume or fourth section, so maybe that's what  
2 you're referring to.

3 CARLOS RODRIGUEZ: Probably.

4 LANCE LANDGRAF: That was added into the  
5 master plan, so --

6 CARLOS RODRIGUEZ: Probably.

7 LANCE LANDGRAF: -- yes, that is  
8 correct.

9 LISA JOHN-BASTA: But regardless, I  
10 think you gave an opinion before that you're not a  
11 fan of beach bars, but I think we can all agree,  
12 under the current regulations in the beach zoning  
13 district, beach bars are a permitted use; is that  
14 correct?

15 CARLOS RODRIGUEZ: Yes.

16 LISA JOHN-BASTA: And you made another  
17 statement related to the expanded decking. There  
18 is no sort of coverage requirements in the beach  
19 zoning district, is there?

20 CARLOS RODRIGUEZ: I'm not entirely sure  
21 but I'm guessing there isn't if you're asking me  
22 that question.

23 LISA JOHN-BASTA: Thank you. I have no  
24 further questions.

25 LANCE LANDGRAF: Okay. I'm sorry.

1 CAROLYN FEIGIN: That's a CAFRA.

2 LANCE LANDGRAF: Yeah. That's --

3 (Multiple parties speaking. Unintelligible.)

4 CARLOS RODRIGUEZ: Can I go now?

5 STUART LIEBERMAN: Do you have any other  
6 questions for this witness?

7 LANCE LANDGRAF: I do not. Do you have  
8 any --

9 STUART LIEBERMAN: I don't have any  
10 follow up or anything, no.

11 LANCE LANDGRAF: All right. Any other  
12 witnesses? Thank you, Mr. Rodriguez. Nice seeing  
13 you.

14 CARLOS RODRIGUEZ: You're welcome.

15 STUART LIEBERMAN: Garrett, please come  
16 up.

17 LANCE LANDGRAF: Do you need an easel?  
18 I have one in the back. We have an easel if you  
19 need one.

20 GARRETT ESLER: That would be great.

21 LANCE LANDGRAF: Why don't we get him  
22 qualified and sworn in.

23 STUART LIEBERMAN: Sure. I can't swear  
24 him in.

25 LANCE LANDGRAF: Your name, please?

1 GARRETT ESLER: Garrett Esler.

2 LANCE LANDGRAF: Can you spell the last  
3 name?

4 GARRETT ESLER: E-S-L-E-R.

5 SCOTT COLLINS: Good afternoon. Could  
6 you raise your right hand, please?

7 GARRETT ESLER, having been first duly sworn  
8 according to law, testified as follows:

9 SCOTT COLLINS: All right. I'm sorry.  
10 Could you just repeat the spelling of your last  
11 name?

12 GARRETT ESLER: It's E-S-L-E-R.

13 SCOTT COLLINS: Got it. Thank you.

14 GARRETT ESLER: No problem.

15 STUART LIEBERMAN: I guess like this for  
16 everyone.

17 LANCE LANDGRAF: We brought that one out  
18 of the archives, didn't we?

19 (Multiple parties speaking.

20 Unintelligible.)

21 LANCE LANDGRAF: I think we found that  
22 in the basement of Boardwalk Hall.

23 STUART LIEBERMAN: Sir, why don't you --  
24 what is your current job title, please?

25 GARRETT ESLER: So I'm a senior

1 project --

2 STUART LIEBERMAN: Look that way.

3 GARRETT ESLER: Sorry. I'm a senior  
4 project manager at Envirotactics, LLC.

5 STUART LIEBERMAN: And how long have you  
6 been with that company?

7 GARRETT ESLER: So I've been with  
8 Envirotactics for three years now.

9 STUART LIEBERMAN: Okay. And -- and  
10 what did you do before then? Did you work for the  
11 DEP before then?

12 GARRETT ESLER: Yeah. So I worked for  
13 the NJ DEP and their watershed land use management  
14 program, specifically for their Coastal Permitting  
15 Bureau. I was in that capacity for five years and  
16 I was an environmental specialist two.

17 STUART LIEBERMAN: Okay. And so your  
18 job was an environmental specialist; is that  
19 correct?

20 GARRETT ESLER: Environmental specialist  
21 but also issuing and reviewing different permits in  
22 reference to coastal zone management rules, fresh  
23 water wetlands and flood hazard area.

24 STUART LIEBERMAN: And is environmental  
25 specialist a term of art at the DEP?



1                   GARRETT ESLER:   Correct.  Most -- most  
2 project managers at the DEP are referred to as an  
3 environmental specialist.

4                   STUART LIEBERMAN:  And when you were  
5 there did you review CAFRA permit applications?

6                   GARRETT ESLER:  I did.

7                   STUART LIEBERMAN:  And how many -- about  
8 how many CAFRA permit applications would you say  
9 you reviewed?

10                  GARRETT ESLER:  You know, over 200 CAFRA  
11 permit applications.

12                  STUART LIEBERMAN:  I see.

13                  Okay.  And did you -- do you consider  
14 yourself to be knowledgeable with the DEP  
15 regulations as they apply --

16                  GARRETT ESLER:  Yes.

17                  STUART LIEBERMAN:  -- to CAFRA?

18                  Okay.  Did you have a chance to  
19 review -- did you have a chance to visit the site  
20 that's the subject of this application?

21                  GARRETT ESLER:  Yes.  I did get a chance  
22 to --

23                  LANCE LANDGRAF:  Mr. Lieberman, one  
24 pause.  We just want to qualify him.  Environmental  
25 specialist would be his title?

1                   STUART LIEBERMAN:  Yes.  Yes.

2                   LANCE LANDGRAF:  All right.  We will  
3 accept him as a --

4                   SCOTT COLLINS:  I mean, are you offering  
5 him as an expert?

6                   STUART LIEBERMAN:  Yes, I am.

7                   SCOTT COLLINS:  As an expert in what  
8 exactly?

9                   STUART LIEBERMAN:  Environmental  
10 specialist.

11                   SCOTT COLLINS:  Based on having been  
12 employed at DEP?

13                   STUART LIEBERMAN:  And his current  
14 employment.

15                   LANCE LANDGRAF:  There's no licensing of  
16 that that I'm aware of.

17                   SCOTT COLLINS:  Yeah.  That's what I'm  
18 getting at.  I don't know what that --

19                   STUART LIEBERMAN:  It doesn't have a  
20 license.  There is no licensing.  It's education  
21 experience.

22                   SCOTT COLLINS:  All right.  Well, what's  
23 the education, then?

24                   STUART LIEBERMAN:  Well, as you know, to  
25 be an expert you need either have to have

1 educational experience or -- either experience or  
2 education. We'll do both, but he's got both so --

3 SCOTT COLLINS: Well, you offered him.  
4 I just want to know what it is so I could put it in  
5 the report.

6 STUART LIEBERMAN: Sure.

7 What is your -- would you describe what  
8 your education and experience is?

9 GARRETT ESLER: Right. So I graduated  
10 Elon University with a Bachelor's of Arts Degree in  
11 Environmental Sciences and the environmental  
12 specialist position that I held at the DEP  
13 specifically was understanding the DEP's rules and  
14 regulations and applying those to different permit  
15 applications and understanding whether or not  
16 projects would meet the DEP requirements, both the  
17 science based level and the policy level.

18 STUART LIEBERMAN: And at your current  
19 employment -- it's Enviro --

20 GARRETT ESLER: Envirotactics.

21 STUART LIEBERMAN: At Envirotactics did  
22 you review CAFRA applications?

23 GARRETT ESLER: Yes. So rather than be  
24 in the public sector, Envirotactics handles the  
25 private sector. So we represent clients when

1 applying for different CAFRA or any NJ DEP  
2 application.

3 STUART LIEBERMAN: Have you had any  
4 experience -- when you were at DEP did you have --  
5 so I request that he be accepted as an expert.

6 LANCE LANDGRAF: Yes. As an  
7 environmental specialist, very narrow testimony, so  
8 thank you.

9 STUART LIEBERMAN: Sure.

10 When you were at the DEP -- or since you  
11 left the DEP did you have a chance to review  
12 swimming pool applications?

13 GARRETT ESLER: When I was at the DEP  
14 and after I left the DEP, yes. I've reviewed  
15 swimming pool applications in terms of CAFRA.

16 STUART LIEBERMAN: Okay. And any  
17 applications on the beach?

18 GARRETT ESLER: Very rarely did we ever  
19 see an application for approval in a beach area.

20 STUART LIEBERMAN: Okay. In the time  
21 that you were at the DEP did you ever approve a  
22 pool on a beach?

23 GARRETT ESLER: Personally, I did not.

24 STUART LIEBERMAN: Are you aware of any  
25 pools being approved on a beach?

1           GARRETT ESLER: To my knowledge I --  
2 when I was at the DEP no pools were ever proposed  
3 or approved on a beach.

4           STUART LIEBERMAN: So you had an  
5 opportunity to review this project. You also had  
6 an opportunity to review the permits that the  
7 applicant has; is that correct?

8           GARRETT ESLER: Correct. Yeah. From my  
9 understanding they received a CAFRA General Permit  
10 22 for the tourism related structures. That was  
11 authorized on July 29th, 2002.

12           STUART LIEBERMAN: Now --

13           GARRETT ESLER: 2022. Excuse me.

14           STUART LIEBERMAN: Before we get into  
15 what's proposed, let's talk about what's there now.

16           GARRETT ESLER: Correct.

17           STUART LIEBERMAN: Okay. What's there  
18 now is licensed under the General Permit 22; is  
19 that correct?

20           GARRETT ESLER: That is correct.

21           STUART LIEBERMAN: Does that license  
22 require that certain things be removed to your  
23 knowledge --

24           GARRETT ESLER: Yes.

25           STUART LIEBERMAN: -- after

1 October 31st?

2 GARRETT ESLER: Yeah. So as part of the  
3 General 22 requirement, certain structures must be  
4 removed from the site from October 31st to May 1st.  
5 The only structures that are allowed to remain on  
6 the site are specifically the underground  
7 utilities, decking and the open shelves of any food  
8 concession stands, stage areas and the like.

9 STUART LIEBERMAN: Do you know whether  
10 or not the removal requirement has been satisfied  
11 to date based on your understanding.

12 GARRETT ESLER: From my last site visit  
13 I did with Miss -- that -- you know, other than the  
14 food concession stand, the open sun shelters, there  
15 were other structures on the property that may not  
16 have been removed.

17 STUART LIEBERMAN: Like, for example,  
18 what?

19 GARRETT ESLER: Seatings, tables,  
20 planters, those all -- are all supposed to be  
21 temporary in nature and removed from the site  
22 between the dates specified under the general  
23 permit.

24 STUART LIEBERMAN: All right. You did  
25 an exhibit. Why don't you show everybody what the

1 exhibit is and --

2 GARRETT ESLER: Sure.

3 STUART LIEBERMAN: -- explain why you  
4 did it.

5 GARRETT ESLER: So --

6 STUART LIEBERMAN: I don't know what to  
7 take from you but I'll --

8 GARRETT ESLER: That's -- well, it's to  
9 cover it because it was raining yesterday.

10 STUART LIEBERMAN: Okay.

11 GARRETT ESLER: So this is the first  
12 exhibit. So what's here is the plans that were  
13 submitted to the CRDA, that is shown in green, and  
14 then the red is the plan that was approved by the  
15 NJ DEP.

16 SCOTT COLLINS: This is a new exhibit,  
17 right?

18 GARRETT ESLER: Right.

19 STUART LIEBERMAN: Yes.

20 SCOTT COLLINS: Okay. So this --

21 STUART LIEBERMAN: Yes. What is it? O  
22 what?

23 LANCE LANDGRAF: We're at O-5.

24 STUART LIEBERMAN: O-5, okay. I'm  
25 writing O-5 in the top right-hand corner. Okay?

1 LANCE LANDGRAF: Yeah. We had the  
2 photographs that were O-1 through O-4.

3 STUART LIEBERMAN: Right.

4 GARRETT ESLER: And I just want to state  
5 for the record, by no means is this like a  
6 professional plan or stamped or approved. This is  
7 just taking the information that was provided to  
8 the CRDA and the previous permit that was accessed  
9 through an OPRA request with the state.

10 STUART LIEBERMAN: What does this  
11 exhibit, in your view, demonstrate?

12 GARRETT ESLER: Right. This exhibit is  
13 supposed to demonstrate basically what is approved  
14 or what was supposed to be approved on the NJ DEP  
15 permit and what is existing now. As I stated  
16 before, what is in red is the NJ DEP permit. What  
17 is in green is existing on the property.

18 STUART LIEBERMAN: Okay. And what  
19 information did we yield or can we conclude based  
20 on what we're looking at?

21 GARRETT ESLER: Sure. I'll flip to the  
22 second section to make it easier.

23 STUART LIEBERMAN: This is O-6. What is  
24 O-6?

25 GARRETT ESLER: So this is an overlay --



1           LANCE LANDGRAF: Can you angle that a  
2 little bit so the applicant can see it? Careful  
3 with that antique stand.

4           GARRETT ESLER: This overlay is with  
5 call-outs specifying what was required under the  
6 previous NJ DEP permit versus what is existing now.  
7 The blue line across this plan is what is defined  
8 as the usable beach limit under the General Permit  
9 22. Per the requirements of the General Permit 22,  
10 all structures have to be within what they deem the  
11 upper one-third of the beach, and you would get to  
12 that calculation by measuring the total width of  
13 the beach from the toe of the dune to the mean high  
14 water line and then you would divide that into  
15 thirds. All structures under the General Permit 22  
16 would have to be within the upper one-third.

17           STUART LIEBERMAN: Do you have an  
18 opinion as to whether the 33 percent has been  
19 satisfied?

20           GARRETT ESLER: Based on the plan that  
21 was submitted to the CRDA, currently they do not  
22 meet that 33 upper percent limit.

23           STUART LIEBERMAN: What -- how do you  
24 conclude that?

25           GARRETT ESLER: So as you can see on the

1 plan here, here in red are the food concession  
2 stand and the three sun shelters that were supposed  
3 to be removed from the 33 percent limit and just  
4 moved landward toward --

5 STUART LIEBERMAN: What are you pointing  
6 out exactly?

7 GARRETT ESLER: Here.

8 STUART LIEBERMAN: These green -- what's  
9 in green?

10 GARRETT ESLER: So -- so what's in red  
11 was what was approved and what was supposed to be  
12 the location --

13 STUART LIEBERMAN: Why don't you circle  
14 it. Just circle it.

15 GARRETT ESLER: Sure.

16 STUART LIEBERMAN: So that's what was  
17 approved, what you're circling?

18 GARRETT ESLER: This is what was  
19 approved, and what's in green is currently what's  
20 existing there now. So these structures and the  
21 associated decking is not within the restricted or  
22 the allowable area of the upper one-third. They're  
23 currently in the restricted area.

24 STUART LIEBERMAN: Now, from the  
25 perspective of an environmental specialist, do you

1 have an opinion based on the permitting  
2 requirements -- and you know the general permit  
3 applies to everybody, right?

4 GARRETT ESLER: Yes.

5 STUART LIEBERMAN: Do you have an  
6 opinion as to whether or not that pool should be  
7 approved in light of the permitting requirements?

8 GARRETT ESLER: Right. So if you have  
9 noncompliance with an NJ DEP permit -- you know, in  
10 order to apply for an NJ DEP permit all structures  
11 have to be in compliance existing on the site. You  
12 know, the DEP has had issues with bad actors in the  
13 past. I'm not claiming this is a bad actor now,  
14 but it is something to consider, that if you're not  
15 in compliance with your current DEP regulations,  
16 are you going to be considered in compliance with  
17 future DEP regulations.

18 STUART LIEBERMAN: Okay. And under the  
19 DEP permit is it true that temporary structures --  
20 that structures have to be removed by a certain  
21 date?

22 GARRETT ESLER: Yes. So I stated  
23 earlier, all temporary structures have to be  
24 removed from October 31st to May 1st, but it's also  
25 important to note that per the requirements of the

1 General Permit 22, whenever there is a National  
2 Weather Service alert for an area, whether that be  
3 a coastal storm, flooding or any other type of  
4 major storm event, all structures from the site  
5 must be removed except for underground utilities.

6 STUART LIEBERMAN: Do you have an  
7 understanding as to how a swimming pool could be  
8 removed, if this was approved, if the National  
9 Weather Service gives that announcement?

10 GARRETT ESLER: To my knowledge --

11 LANCE LANDGRAF: That's a little bit far  
12 off here.

13 STUART LIEBERMAN: Well --

14 LANCE LANDGRAF: Let me make a  
15 statement.

16 So these are all DEP approvals. If he's  
17 not in compliance with the DEP approvals, then he's  
18 not gonna be able to do what he wants to do with  
19 this application.

20 STUART LIEBERMAN: Sure.

21 LANCE LANDGRAF: So that's outside of  
22 our jurisdiction.

23 STUART LIEBERMAN: But it's not, though,  
24 because it's the negative criteria. He's required  
25 to empty that pool if -- under the DEP --

1           LANCE LANDGRAF: But that's not our  
2 rule.

3           STUART LIEBERMAN: Except for it's a  
4 negative criteria. How are you gonna approve  
5 something --

6           LANCE LANDGRAF: I don't know that I  
7 agree with that.

8           STUART LIEBERMAN: -- that can't be  
9 emptied? Where are they gonna empty it? I want to  
10 know what -- how they're gonna empty it. I just  
11 want to know how they're gonna do that.

12           LANCE LANDGRAF: Well, that's a question  
13 you can ask them, but to -- and I get that if he's  
14 outside of compliance with the DEP, then he's gonna  
15 be in violation and they will not let him open.  
16 They will not let him expand. That is not our  
17 jurisdiction.

18           STUART LIEBERMAN: I understand that,  
19 but it's a negative criteria.

20           LANCE LANDGRAF: So what I want to say  
21 is wrap this up, ask the question of the applicant,  
22 how they're gonna empty the pool.

23           STUART LIEBERMAN: Well, okay. Well,  
24 there's no witness here for the applicant right now  
25 but -- and there was no testimony provided. I'd

1 like to know how they are going to empty the pool  
2 if the National Weather Service declares an  
3 emergency, which is a requirement of the general  
4 permit. Where is the water gonna go? Where is the  
5 pool gonna go?

6 LANCE LANDGRAF: Okay.

7 STUART LIEBERMAN: I think that --

8 LANCE LANDGRAF: So you can ask that  
9 question. The applicant is standing in front of  
10 you.

11 STUART LIEBERMAN: I'd like an answer to  
12 that question. I think it's important.

13 LISA JOHN-BASTA: He said he will see us  
14 at DEP when we submit our permit and we will  
15 address it there.

16 STUART LIEBERMAN: Are you not able to  
17 tell me how you're gonna empty the pool?

18 LISA JOHN-BASTA: I don't need to tell  
19 you how I am emptying or not emptying it. It will  
20 be a nonpermanent structure and we will comply with  
21 NJ DEP regulations and submit the appropriate  
22 application.

23 STUART LIEBERMAN: So the pool is not  
24 going to be a permanent structure?

25 LISA JOHN-BASTA: I'm not a witness.

1           No.  It's not going to be a permanent  
2 structure.

3           STUART LIEBERMAN:  Well, I think you  
4 just said --

5           LISA JOHN-BASTA:  That was the  
6 testimony.  It's not going to be a permanent  
7 structure.

8           STUART LIEBERMAN:  I don't remember  
9 actually anybody saying that.

10           You also -- there was a question --  
11 there's a request for a variance for parking.  As  
12 an environmental specialist do you have a position  
13 as to whether the variance for parking should be  
14 granted, from the perspective of an environmental  
15 specialist?

16           LANCE LANDGRAF:  I don't know that  
17 that's within his expertise.

18           STUART LIEBERMAN:  It might be.  It  
19 depends on what the -- on what DEP would require  
20 and whether or not it's consistent with the permit.  
21 It's a negative criteria.

22           SCOTT COLLINS:  If it's negative  
23 criteria we should hear it from a planner, right?

24           LANCE LANDGRAF:  Right.

25           STUART LIEBERMAN:  Well, except for he

1 has a scientific basis for addressing the negative  
2 criteria.

3 SCOTT COLLINS: Maybe he can give  
4 factual testimony and the planner can comment on  
5 that.

6 STUART LIEBERMAN: Sure.

7 Based on your testimony -- based on your  
8 understanding of the environmental law, is it  
9 consistent with environmental law to have a  
10 structure on the beach that's open to the public  
11 without parking? Is that a problem?

12 GARRETT ESLER: Right. So I think it  
13 more kind of turns into whether or not public  
14 access is provided, you know. Part of the GP 22 is  
15 related to the tourism industry. It's supposed to  
16 be open to the public. It can be a privatized  
17 structure but, you know, it's open to the public  
18 and for the use of the public, for everyone to  
19 utilize that. Specifically, the General Permit 22  
20 leans into the special areas as defined under the  
21 Coastal Zone Management Rules and one of those is  
22 the Public Trust Doctrine, so parking is important  
23 when it comes to these types of tourism structures  
24 because you want to be able to provide the public  
25 with access and use of the site. If there is no



1 parking available to them, what's to say that  
2 people who are driving to Atlantic City can  
3 actually utilize the pool and the facilities  
4 provided by the bar.

5 STUART LIEBERMAN: Is that something  
6 that the DEP would consider to be important in  
7 determining whether --

8 GARRETT ESLER: Yeah. I think the DEP  
9 would consider parking as important in relation to  
10 whether or not public access is being able to be  
11 provided on the site.

12 STUART LIEBERMAN: On direct testimony  
13 there was some testimony concerning Green Acres.  
14 Do you remember hearing that testimony?

15 GARRETT ESLER: You would -- I don't  
16 think so.

17 STUART LIEBERMAN: There was. It was  
18 mentioned as a permit requirement by the applicant.

19 GARRETT ESLER: Okay.

20 STUART LIEBERMAN: Do you know whether  
21 or not there are any Green Acres issues associated  
22 with this application?

23 GARRETT ESLER: I can't say whether or  
24 not Green Acres is an issue. That's not my area of  
25 expertise.

1                   STUART LIEBERMAN: Okay. Let me look at  
2 my notes.

3                   How certain are you that that 30  
4 percent -- 33 percent requirement isn't being  
5 satisfied? How certain are you?

6                   GARRETT ESLER: I'm fairly certain.  
7 Over 50 percent. I would say close to 99 percent.  
8 Obviously in science we can't have 100 percent  
9 certainty but I'm fairly certain that they're not  
10 in compliance.

11                   STUART LIEBERMAN: Are you making that  
12 opinion within a reasonable degree of professional  
13 certainty?

14                   GARRETT ESLER: Yes, I am.

15                   STUART LIEBERMAN: And do you understand  
16 what that means?

17                   GARRETT ESLER: Yes, I do.

18                   STUART LIEBERMAN: Do you know whether  
19 or not you're allowed to take pool water and dump  
20 it in the ocean?

21                   GARRETT ESLER: I would have to  
22 assume --

23                   LISA JOHN-BASTA: I mean, relative --  
24 this is getting crazy. Nobody testified to dumping  
25 pool water in the ocean.

1                   STUART LIEBERMAN:  It's got to go  
2  somewhere.

3                   LANCE LANDGRAF:  I understand that.  
4  That is, again, outside of our jurisdiction.  The  
5  DEP will review that.  They will have a plan, I'm  
6  assuming.

7                   STUART LIEBERMAN:  It goes to negative  
8  criteria.  You don't want to approve something --

9                   LANCE LANDGRAF:  You keep saying that.

10                  STUART LIEBERMAN:  I am, because it's a  
11  variance.

12                  LANCE LANDGRAF:  So if you don't  
13  understand --

14                  STUART LIEBERMAN:  (Multiple parties  
15  speaking.  Unintelligible.) -- and so unlike a  
16  regular board where I have a whole board, I've got  
17  you.  You're it.

18                  LANCE LANDGRAF:  Correct.

19                  STUART LIEBERMAN:  And so, you know, I  
20  want to make sure that you understand that one of  
21  the things that's being alleged is that if this is  
22  approved, where they gonna put the water?  It has  
23  to be removed.

24                  LANCE LANDGRAF:  So what I heard from  
25  the applicant's attorney, they will comply with DEP

1 regulations.

2 STUART LIEBERMAN: Okay. I want to know  
3 where they're gonna put the water.

4 LANCE LANDGRAF: Then you would ask that  
5 question when you're at the DEP hearing. We  
6 don't -- we don't control where they put the water.

7 STUART LIEBERMAN: So you would approve  
8 an application where the variance is required even  
9 though it's not technically feasible?

10 LANCE LANDGRAF: What's not technically  
11 feasible?

12 STUART LIEBERMAN: Having a -- the DEP  
13 requires --

14 LANCE LANDGRAF: You understand there's  
15 already a pool and a bar right up the street?

16 STUART LIEBERMAN: And I think it  
17 absolutely should never been approved so -- and  
18 that's not before us here, so that has nothing to  
19 do with what we're talking about.

20 LANCE LANDGRAF: But you asked the  
21 question.

22 STUART LIEBERMAN: And it's the only  
23 one, by the way.

24 LANCE LANDGRAF: There's also other bars  
25 in the city that have pools.

1                   STUART LIEBERMAN: In the beach?

2                   LANCE LANDGRAF: No, but other bars have  
3 pools.

4                   STUART LIEBERMAN: But this is a beach  
5 and it's different. It's different. They're in  
6 condominiums or if they're in other -- in casinos,  
7 that has nothing to do with anything that we are  
8 talking about.

9                   SCOTT COLLINS: What we're here today to  
10 talk about is zoning. It's not DEP, like I said  
11 earlier. Any approval that's granted is subject to  
12 compliance with all the --

13                   STUART LIEBERMAN: No. I --

14                   SCOTT COLLINS: -- whether it's a liquor  
15 license or a CAFRA permit.

16                   STUART LIEBERMAN: Right. I just  
17 wouldn't want to see you approve something that  
18 makes no sense at all in real life and waste  
19 everybody's time.

20                   SCOTT COLLINS: If they couldn't get  
21 that approval, then our approval would be  
22 invalidated.

23                   STUART LIEBERMAN: I understand.

24                   LANCE LANDGRAF: This is the first step  
25 in their process.

1                   So I have a question for your witness  
2 here.

3                   STUART LIEBERMAN: Sure.

4                   LANCE LANDGRAF: Has the DEP approved  
5 other beach bars without parking?

6                   GARRETT ESLER: To my knowledge, I'm not  
7 sure.

8                   LANCE LANDGRAF: So you know there's how  
9 many other beach bars in the city?

10                  ROBERT REID: I think there would be  
11 four others and I'm trying to --

12                  LANCE LANDGRAF: Do any of them have  
13 parking?

14                  GARRETT ESLER: To my knowledge, I don't  
15 know the answer to that question.

16                  LANCE LANDGRAF: Okay. None of them do.

17                  GARRETT ESLER: I'm sorry.

18                  LANCE LANDGRAF: None of the other beach  
19 bars have parking.

20                  GARRETT ESLER: So -- yeah. I, again,  
21 to my knowledge, I don't know. When I was at the  
22 DEP I did not handle Atlantic City. I was mostly  
23 Ocean and Monmouth County, but we did see similar  
24 applications to this and when considering different  
25 types of public access for a site, parking is one

1 of the major concerns for providing the public with  
2 access to a beach --

3 LANCE LANDGRAF: Okay.

4 GARRETT ESLER: -- or the amenities to  
5 the beach.

6 LANCE LANDGRAF: Similar to this  
7 application, they provide off-site parking, whether  
8 it's in a casino or surface parking.

9 GARRETT ESLER: Yeah. As long as  
10 there's parking provided.

11 STUART LIEBERMAN: What do you mean,  
12 similar to this application? What did you mean by  
13 that?

14 LANCE LANDGRAF: Their application is  
15 that they have off-site parking. I have questions  
16 on that myself.

17 STUART LIEBERMAN: 10 blocks away.

18 LANCE LANDGRAF: Understood that.

19 STUART LIEBERMAN: 10 blocks away.

20 LANCE LANDGRAF: Right. That was my  
21 question.

22 STUART LIEBERMAN: It's 10 blocks.

23 LANCE LANDGRAF: All right. So that's  
24 how it's been handled in the city, there's off-site  
25 parking. Is the off-site parking here appropriate,

1 I'm not certainly sure on that just yet. I need  
2 more testimony on that.

3 STUART LIEBERMAN: We should get more,  
4 because I'd like to hear more on it, as well.

5 I think, sir, at this time I don't have  
6 any other questions for you.

7 GARRETT ESLER: Great. Thank you.

8 LANCE LANDGRAF: Anybody have any  
9 questions of the witness?

10 CHRISTINE COFONE: I do not.

11 LANCE LANDGRAF: Miss Basta.

12 LISA JOHN-BASTA: So just so we're  
13 clear, are you a licensed civil engineer?

14 GARRETT ESLER: I am not a licensed  
15 civil engineer.

16 LISA JOHN-BASTA: And are you currently  
17 employed by NJ DEP?

18 GARRETT ESLER: I am not currently  
19 employed by NJ DEP, but through my job I have close  
20 coordination with NJ DEP project managers through  
21 permit applications and different on-line meetings.

22 LISA JOHN-BASTA: Okay. Are you -- you  
23 mentioned that there's some noncompliance here.  
24 I'm not exactly sure what all this is, but are you  
25 aware of any existing NJ DEP violations that have



1     been issued to the site?

2                   GARRETT ESLER: To my knowledge, no  
3     notice of violations have been issued to the site.

4                   LISA JOHN-BASTA: Okay. Are you  
5     familiar with the fact that the applicant will have  
6     to submit and testify to and there's a condition  
7     within the regulations that receive outside agency  
8     approvals?

9                   GARRETT ESLER: Correct. And to our  
10    knowledge, you know, no NJ DEP permit application  
11    has been applied to the DEP yet.

12                  LISA JOHN-BASTA: Correct. We agree.  
13    We would say that would be a condition of approval  
14    and DEP would review it.

15                  Does DEP have any parking regulations,  
16    like X number of parking spaces per square footage?

17                  GARRETT ESLER: I would have to review  
18    the Coastal Zone Management Rules again, but to my  
19    knowledge, you know, parking is always a  
20    consideration but there is no hard and fast rule on  
21    how many parking spaces need to be provided.

22                  LISA JOHN-BASTA: But in the event that  
23    the applicant -- the commission here has approved  
24    this application, they would have to seek NJ DEP  
25    approval and that would take into account the

1 various things that factor into the G -- what's the  
2 name of the permit again?

3 GARRETT ESLER: GP 22.

4 LISA JOHN-BASTA: -- GP 22, including  
5 access to the beach, correct?

6 GARRETT ESLER: Correct, and that would  
7 be up to the, you know, DEP's discretion on whether  
8 or not they know there's adequate parking provided.

9 LISA JOHN-BASTA: And DEP also requires,  
10 then, an evacuation plan be provided; is that  
11 correct?

12 GARRETT ESLER: I believe that might be  
13 part of the General Permit 22 requirements, but I  
14 do know that for any type of National Weather  
15 Service event, again, all the structures would have  
16 to be removed from the site except for the ones  
17 that they call out on permit which typically are  
18 the underground utilities.

19 LISA JOHN-BASTA: Okay. Thank you. I  
20 have no further questions.

21 GARRETT ESLER: Thank you.

22 LANCE LANDGRAF: We're good. Do you  
23 have anything?

24 CAROLYN FEIGIN: No.

25 LANCE LANDGRAF: Mr. Lieberman.

1                   STUART LIEBERMAN: No. I would want to  
2 close at some time but we're done with our  
3 witnesses. Thank you.

4                   LANCE LANDGRAF: Okay. Go to the public  
5 at this point?

6                   SCOTT COLLINS: Do you have any response  
7 to --

8                   LANCE LANDGRAF: Do you have any  
9 response before I open to the public?

10                  LISA JOHN-BASTA: If there's any  
11 additional questions on parking, we're happy to  
12 address them. I heard a comment.

13                  LANCE LANDGRAF: So the question does  
14 come up. The lease that you've obtained for  
15 parking is eight or nine blocks away. Is that  
16 reasonable for someone to park that far away to  
17 come to this site?

18                  LISA JOHN-BASTA: Well, your CRDA  
19 regulations state that off-street parking may be  
20 located in any commercial district and that is  
21 within a commercial district. There's no distance  
22 requirement that I'm aware of.

23                  LANCE LANDGRAF: Right. But you're not  
24 gonna give an opinion because you're the attorney,  
25 but I'll ask your planner. Is it reasonable to

1 have someone park seven blocks away to come to the  
2 site?

3 MATTHEW SECKLER: It is a 15 minute  
4 walk. There are multiple other lots between our  
5 location and there that if customers wish, they  
6 obviously could pay for parking at those locations,  
7 as well.

8 LANCE LANDGRAF: Question on the -- you  
9 said they pay for. Would those leased spaces be --  
10 would the person coming to the -- I don't want to  
11 call it the Chelsea Beach Bar -- the Cocorico,  
12 would they have to pay for that parking or are  
13 those spaces reserved with either a validation  
14 ticket or anything like that?

15 MATTHEW SECKLER: All I know is what  
16 that letter indicates.

17 LANCE LANDGRAF: Okay. So they would be  
18 charging for it, as well?

19 MATTHEW SECKLER: Possibly. I don't  
20 know.

21 LANCE LANDGRAF: Okay. All right.

22 LISA JOHN-BASTA: And I just want to  
23 clarify, Matt, your previous testimony is in your  
24 professional opinion you do not believe that this  
25 will be a one stop shop. Can you discuss how this

1 will interplay with the existing uses on the  
2 Boardwalk and the casinos?

3 MATTHEW SECKLER: Yes. You know,  
4 obviously they'll be some portion of customers that  
5 come to Atlantic City just to go to Cocorico, but  
6 the other aspect of it is that people are gonna  
7 stay at the Trop, other hotels, coming in for a  
8 show at night, maybe come in here during the day.  
9 Just like the tourist destination, you get some  
10 people that are here for three hours, you get some  
11 people that are here for three days, so again, that  
12 helps drive down, you know, the need for parking,  
13 because they may be parked elsewhere and then  
14 taking a taxi.

15 LISA JOHN-BASTA: And again, based on  
16 your opinion, the lot that was submitted into  
17 evidence, that's not the only available parking in  
18 the area as far as surface parking lot, street  
19 parking, structured parking.

20 MATTHEW SECKLER: No.

21 LISA JOHN-BASTA: Have you done a rough  
22 survey of the amount of parking lots and/or parking  
23 structures that are available in the immediate  
24 vicinity?

25 MATTHEW SECKLER: Correct. Because we

1 were retained at a time where it was not in season,  
2 we did not do occupancy counts, but there are, you  
3 know, at least, you know, between our site and, you  
4 know, the three or four block radius, there's got  
5 to be at least seven lots or parking garages, and  
6 I'm estimating, with probably at least 500 or 600  
7 parking spaces when you count the Tropicana  
8 garages, as well as the surface spaces in the area.

9 LANCE LANDGRAF: Just to bring that to a  
10 -- more concise, in a three block area there's  
11 about seven surface lots or garages in the area?

12 MATTHEW SECKLER: Correct.

13 LANCE LANDGRAF: Okay. Just for my  
14 notes. That's all.

15 Anything else? Should I go to the  
16 public?

17 STUART LIEBERMAN: I have a question on  
18 cross. I want to cross him on that.

19 LANCE LANDGRAF: Okay.

20 STUART LIEBERMAN: Okay. During season  
21 what is the occupancy rate of those several other  
22 garages that are in the vicinity that you just  
23 described?

24 MATTHEW SECKLER: Again, I did not study  
25 them during the season so I stated that.

1                   STUART LIEBERMAN: So you can't testify  
2 under oath that there's a realistic probability  
3 that during season any of those lots will be open?

4                   MATTHEW SECKLER: Open, available?

5                   STUART LIEBERMAN: Available.

6                   MATTHEW SECKLER: Available, I can't  
7 speak to whether they're available or not.

8                   STUART LIEBERMAN: Is there any reason  
9 why the only lot that your client made a deal with  
10 is eight or nine blocks away and not closer?

11                   MATTHEW SECKLER: I was not involved in  
12 the negotiation. I have no idea.

13                   STUART LIEBERMAN: And you don't know  
14 whether or not those lots are paid for and you  
15 don't know if they're exclusive?

16                   MATTHEW SECKLER: Correct.

17                   STUART LIEBERMAN: So it could be  
18 they're available but if they're taken they're not  
19 gonna be available?

20                   MATTHEW SECKLER: I don't know.

21                   STUART LIEBERMAN: You don't know and  
22 you can't testify, okay.

23                   Thank you. Nothing else. Thank you.

24                   LANCE LANDGRAF: One other question that  
25 I have, I'm not sure who to ask it to. The food

1 truck, will that be -- so food trucks are permitted  
2 accessory uses in the Tourism District. They have  
3 to be tied to a physical restaurant. So is this  
4 food truck tied to the restaurant, the beach bar  
5 restaurant?

6 LISA JOHN-BASTA: Yes. So actually,  
7 we're not stating that this is a conditional use.  
8 We're stating that it's an accessory structure  
9 that's associated with the beach bar itself. The  
10 same food and beverage of the beach bar will be  
11 provided from the food concession stand and it will  
12 be operated by the beach bar operator, under the  
13 same name and flag.

14 LANCE LANDGRAF: Okay. So then it is  
15 tied to a restaurant that is --

16 LISA JOHN-BASTA: Correct. The beach  
17 bar restaurant, yes.

18 LANCE LANDGRAF: Yes, ma'am.

19 Okay. I think we're gonna open -- Mr.  
20 Lieberman, I'm gonna open it up to the public.

21 STUART LIEBERMAN: Thank you.

22 LANCE LANDGRAF: Anyone wishing to have  
23 comment or statement, please step forward, state  
24 your name and ask your questions or make your  
25 comment.



1           IRIS PINCUS: My name's Iris Pincus. I  
2 introduced myself before.

3           LANCE LANDGRAF: Yes, ma'am. Welcome  
4 back.

5           IRIS PINCUS: Thank you.

6           When counsel filed the application there  
7 was a certification by counsel that all related  
8 documents were filed with the application. I did  
9 seek access to the file before I came here today.  
10 Relying on the PDFs that were provided with the  
11 application, I can tell you I did not see two  
12 related, very much related documents, a lease, the  
13 original lease which gives the applicant the right  
14 to be here in the first place, as well as the  
15 settlement agreement that was signed in -- on July  
16 12th of 2019 between Gaggiano, Inc., Celebrity  
17 Corners, SECAA and the Ocean Club. Well, there's a  
18 legal impediment involved here and this is black  
19 letter law. You first -- you can't simply ignore  
20 that there was a settlement agreement which became  
21 part of a court order from Judge Blee. It's part  
22 of the docket entries and I would like to introduce  
23 both the lease and the settlement agreement as part  
24 of the record, because I think this is an important  
25 legal issue that controls the outcome of this case.

1                   LISA JOHN-BASTA:  Again, this is a  
2 private settlement agreement between the Ocean Club  
3 and my client.  There have been communications  
4 between myself and the attorney for the Ocean Club  
5 related to this settlement agreement that have been  
6 addressed.  This is not within the purview of this  
7 board.  I don't think it should even be accepted as  
8 an exhibit.

9                   IRIS PINCUS:  Excuse me.  I didn't  
10 interrupt you.  I would ask you not to interrupt  
11 me.

12                   There was an order from Judge Blee  
13 dismissing the case on the basis of a settlement.  
14 If you go -- I couldn't get access to the original  
15 file.  I'm not a New Jersey lawyer.  I'm a  
16 Pennsylvania lawyer, but I am telling you that  
17 there was a consent order at which this settlement  
18 agreement was a part of the record and it is not a  
19 private agreement.  If you check the file I'm sure  
20 it's there, because it's referenced not only in the  
21 settlement agreement but it's been filed of record,  
22 but I'm sure if the file was complete it's in the  
23 file.

24                   LISA JOHN-BASTA:  I have --

25                   IRIS PINCUS:  Excuse me.  I didn't

1 interrupt you. I don't expect you to interrupt me.

2 LANCE LANDGRAF: Hold on.

3 LISA JOHN-BASTA: I have no objection  
4 for you entering it for -- I don't think it has any  
5 evidentiary value and I actually think that there's  
6 a violation from the Ocean Club related to that  
7 settlement agreement, so if you want to enter it, I  
8 think it has no value to the proceedings.

9 IRIS PINCUS: Just with the -- (Multiple  
10 parties speaking. Unintelligible.)

11 LANCE LANDGRAF: I'm gonna ask my  
12 attorney what the law is.

13 IRIS PINCUS: Yeah. Yeah. I want to  
14 give you cases.

15 LANCE LANDGRAF: Does this have any  
16 bearing on this at all?

17 IRIS PINCUS: Can I be heard?

18 SCOTT COLLINS: As I understand it,  
19 there's a litigation between the parties that is  
20 separate and apart from what we're doing today,  
21 which is zoning, and if you have a problem with  
22 that or if there's a settlement agreement that has  
23 not been enforced or has been violated, that's part  
24 of that litigation. That's not part of what we're  
25 doing here today.

1                   IRIS PINCUS: Here's my point. Here's  
2 my point, if you hear me. In order to have that  
3 settlement agreement negated and all the provisions  
4 in it you first have to go to a judge to vacate it.  
5 You can't simply act on a variance petition and not  
6 mention the fact that there's prior litigation in  
7 which a settlement was reached. You have to go  
8 before a judge, whether it's Judge Blee or some  
9 other judge and say Judge, I was -- there was  
10 fraud, misrepresentation or mistake when I signed  
11 that settlement agreement. If you can't prove that  
12 in front of a judge that settlement agreement is  
13 binding today, it's binding --

14                   LANCE LANDGRAF: All right. That issue  
15 is not going to be adjudicated here or by our  
16 board. That's gonna be taken to a court of law and  
17 dealt with there. That is not our jurisdiction.  
18 They have an application pending for land use  
19 approval. Whether that violates an agreement  
20 between -- a settlement agreement between yourself,  
21 your condo association and the applicant, that's  
22 not relevant to us.

23                   IRIS PINCUS: Except it -- the actual  
24 settlement agreement contains an agreement as to  
25 future restrictions on what they can do with

1 this -- with this property.

2 LANCE LANDGRAF: And you'll have to  
3 argue that before -- well, it won't be Judge Blee  
4 anymore because he's moved up to a different seat,  
5 but you'll have to argue that before a judge.  
6 We're not going to adjudicate that.

7 IRIS PINCUS: I understand that. I hear  
8 you.

9 SCOTT COLLINS: We're not governed by  
10 the terms of the settlement agreement. That's a  
11 completely different issue.

12 IRIS PINCUS: Okay. Well, I am speaking  
13 as a representative of -- there is a group, Protect  
14 our Beachfront, and they did have a statement that  
15 they wished to offer into evidence. Over 182  
16 businesses and people strong and if you're going to  
17 allow comments from the public, I would hope you  
18 could admit that into evidence.

19 LANCE LANDGRAF: Comments from the  
20 public have to -- they have to be here to make that  
21 comment.

22 IRIS PINCUS: I hear -- I understand. I  
23 understand.

24 LANCE LANDGRAF: There's no way to cross  
25 examine them if they're not here.

1 IRIS PINCUS: I understand that.

2 LANCE LANDGRAF: So we can certainly  
3 take any documents that you have --

4 IRIS PINCUS: Yes.

5 LANCE LANDGRAF: -- and put it in the  
6 file. We're not going to read it.

7 IRIS PINCUS: No. I understand. I hear  
8 you.

9 LANCE LANDGRAF: Did I say that right?

10 SCOTT COLLINS: Yup.

11 IRIS PINCUS: Counsel.

12 LISA JOHN-BASTA: Thank you.

13 And again, just for the record, I know  
14 you're going to accept it into evidence but I would  
15 just ask that you give it no value since there's no  
16 person here to cross examine as to the --

17 IRIS PINCUS: Well, some -- some of the  
18 people are here. It's not that everyone's not  
19 here. Not all 182 people.

20 LANCE LANDGRAF: Understood. And most  
21 folks can make their statement when they get up to  
22 speak.

23 IRIS PINCUS: And I don't want to step  
24 on anybody's rights so I'm just going to hand this  
25 up, if I may.

1 LANCE LANDGRAF: Please do.

2 IRIS PINCUS: Thank you.

3 LANCE LANDGRAF: What are we gonna mark  
4 this? Is this multiple copies of the same thing?

5 IRIS PINCUS: Yes. I just wanted to  
6 make sure everybody had a copy.

7 LANCE LANDGRAF: What do you want to  
8 mark this?

9 SCOTT COLLINS: We're on 0-6. I mean,  
10 it's different than Mr. Lieberman but it's still  
11 objections.

12 LANCE LANDGRAF: I think I had -- we're  
13 at 0-7.

14 SCOTT COLLINS: Oh, 0-7.

15 LANCE LANDGRAF: I'm gonna mark it 0-7.  
16 Was it Iris, Iris Pincus?

17 IRIS PINCUS: Right. P-I-N-C-U-S.

18 LANCE LANDGRAF: All right. Next  
19 person. Ma'am, come on up. State your name.

20 LAURIE CARSON: My name is Laurie  
21 Carson. I'm a part-time resident at Ocean Club and  
22 I had no intention of speaking today. I wrote part  
23 of that document. Would I be permitted to read it?

24 LANCE LANDGRAF: She wrote it. Is she  
25 okay?

1           SCOTT COLLINS: I mean, it's your public  
2 comment. I mean, it's --

3           LAURIE CARSON: I mean, I wrote part of  
4 it. I can't say I wrote every word but I did  
5 read -- wrote part of it.

6           It's just these are the feelings of not  
7 only Ocean Club residents --

8           SCOTT COLLINS: Well, just to be clear,  
9 you can say whatever you want. It's public  
10 comment.

11          LAURIE CARSON: Okay.

12          SCOTT COLLINS: The weight it's afforded  
13 based on however many other people may or may not  
14 believe it is irrelevant, but you are free to say  
15 whatever you would like.

16          LAURIE CARSON: I would also like to  
17 point out for -- please forgive my sore throat.

18          We kind of got together as an ad hoc  
19 group through Facebook, as you would imagine -- and  
20 this group is not just exclusively Ocean Club  
21 residents. There are other people that joined it  
22 from the neighborhood. So I'm just gonna read what  
23 we put on Facebook and what everybody kind of  
24 signed on to.

25          In response to the CRDA notice to



1 property owners concerning the Chelsea Beach Bar  
2 expansion application, a rapidly group -- rapidly  
3 growing group of such owners would like to provide  
4 you with some background information. We are  
5 Atlantic City residents and homeowners at Ocean  
6 Club Condominium who have been joined by other area  
7 residents and businesses. At Ocean Club we are in  
8 the midst of \$20 million dollar construction  
9 project involving our balconies and closets. Mass  
10 climbers presently surround our buildings. We are  
11 also in the midst of a major renovation and  
12 beautification of our interior and surrounding  
13 exterior space. We have made a substantial  
14 investment in the restoration of Ocean Club  
15 Condominium. Please, do not allow this proposed  
16 beach bar expansion. A beach bar with a heightened  
17 disc-jockey stand -- I'm not sure if that's still  
18 true. I heard that --

19 LANCE LANDGRAF: It's my understanding  
20 that's been removed.

21 LISA JOHN-BASTA: Just to clarify, there  
22 is an existing DJ stand that's above the existing  
23 bar which is going to remain. Above the food  
24 concession stand which is located within the beach  
25 bar decking, there is also a covered area there.

1 That will not be used for a DJ. We're still  
2 proposing the structure there but that will be used  
3 more as a, you know, amenity space, VIP space or  
4 what have you by -- for the patrons of the beach  
5 bar.

6 LANCE LANDGRAF: Okay. Thank you.

7 Sorry to interrupt. I just wanted to  
8 make that clear.

9 LAURIE CARSON: That's okay. Thank you.

10 As you know, most residents complain  
11 mostly about the noise violation.

12 LANCE LANDGRAF: Right.

13 LAURIE CARSON: And that's been ongoing  
14 for years. Last year apparently was better than  
15 years prior. I don't know why, but thank God.  
16 I -- my first summer here I was jolted out of bed.  
17 I went to Amazon, I bought some of those  
18 headphones, you know, that you have to buy in order  
19 to get -- in order to go to the range to shoot a  
20 gun, so that's what I have to put up with. And a  
21 unit that maybe I want to sell one day. This is  
22 not helpful to any of our property value. I mean,  
23 I don't know how much you care about that, but  
24 we're putting a lot of money -- most residents have  
25 been put under an assessment. It's doubled my --

1 my condo fee every month. It's doubled it. So,  
2 you know, we're highly invested in the area. I'm  
3 sorry. I'm deviating from this.

4 LANCE LANDGRAF: It's okay. This is off  
5 the cuff. It's better, actually.

6 LAURIE CARSON: It's definitely off the  
7 cuff. I just know that, you know, we don't call  
8 the police every time. When I was jolted out of  
9 bed at 4 in the morning my first thought was not to  
10 call the police. I think they have enough to deal  
11 with. And I think that the burden to the police  
12 department should be taken into consideration by  
13 this -- by this group. I also think that -- I  
14 haven't heard much about it -- safety of a swimming  
15 pool. You can call it a sitting pool if you'd like  
16 but I think you can drown in 6 inches of water, it  
17 doesn't have to be 36, and when people that are  
18 drinking and have been behaving -- I mean, they're  
19 all drinking and drinking and drinking, and the  
20 noise level -- I think maybe just get rid of the  
21 base, we would probably get, I mean, some relief,  
22 but it literally is noise that's invading our homes  
23 and it's involuntary. There's nothing you can do  
24 to turn it off. You close the door, it doesn't  
25 matter. I'm just saying that once -- I understand

1 Atlantic City wants to be a great place for  
2 tourists and we were somehow included in the  
3 tourist district and that means that the interests  
4 of the promotional properties seem to take  
5 precedence over those of the residents and there's  
6 not much we can do except show up at these meetings  
7 and voice our concerns, but there have been people  
8 that have really been affected by the noise levels.  
9 There was a -- one woman who was a doctor who  
10 couldn't even get sleep at night and had to change  
11 her schedule. I'm sure you're aware of how people  
12 feel about this and how strongly people feel about  
13 this and I just hope that -- I just don't  
14 understand how you can have a beach bar and a pool  
15 and all that drinking going on and think that  
16 that's safe. Whose job is safety? I don't know.

17 LANCE LANDGRAF: So the city building  
18 code and things of that nature address that part of  
19 it. We don't deal with -- we deal with land use.  
20 I want to say regarding the noise, so we have no  
21 jurisdiction over the noise. The City of Atlantic  
22 City has a Health Department and has a health  
23 officer that has a noise meter. That is under  
24 their jurisdiction solely.

25 LAURIE CARSON: I've heard the word

1 jurisdiction kicked around a lot --

2 LANCE LANDGRAF: Okay.

3 LAURIE CARSON: -- but this is step one  
4 in their application.

5 LANCE LANDGRAF: That's true.

6 LAURIE CARSON: That is true. And maybe  
7 the bottom line is, is this a good idea or a bad  
8 idea. Maybe that's what you're here to decide.

9 LANCE LANDGRAF: So not necessarily. It  
10 is a permitted use. The beach zone permits this  
11 type of development on the beach. There is four to  
12 five other beach bars, I think one is -- Bally's  
13 closed or the Atlantic Club is closed, but there's  
14 several beach bars in the beach zone. It is a  
15 permitted use.

16 LAURIE CARSON: Most of the those beach  
17 bars are maintained by casinos, by large  
18 corporations. This one is run by --

19 LANCE LANDGRAF: There is no  
20 distinction.

21 LAURIE CARSON: I understand that --

22 LANCE LANDGRAF: And that's why --

23 (Multiple parties speaking. Unintelligible.)

24 LAURIE CARSON: -- but this one is being  
25 run by individuals or corporate entities, whatever

1 you want to call them, that have a history of  
2 disregarding the rights of the residents at Ocean  
3 Club and are simply disregarding the law with  
4 respect to the noise.

5 LANCE LANDGRAF: And I will say this --  
6 I will say this to you. This area is subject to a  
7 beach lease from the City of Atlantic City. If  
8 there are issues with them operating in that beach  
9 lease area, then I would say you take this to your  
10 local representative, and I see Councilperson Marie  
11 Lacca is here, that is the person where you should  
12 take those concerns to and, you know, I did speak  
13 to her beforehand because she's new as a council  
14 member -- congratulations to her -- and she doesn't  
15 understand land use with -- we are the only entity  
16 in the State of New Jersey that has local land use  
17 approval oversight of anything, so we're a little  
18 different, so I had a conversation with her to  
19 explain that to her. I told her the same thing.  
20 The City of Atlantic City, if you -- if the  
21 operator's in violation of any of their codes, they  
22 can withdraw that beach lease. If the noise is too  
23 much of a violation, if they are not operating --  
24 if they're outside of the area that the objectors  
25 have said, the area that they're allowed to be with

1 DEP, the city can withdraw that beach lease. That  
2 is outside of our jurisdiction. The only thing  
3 that we can look at here is the land use and the  
4 associated accessory uses. Parking is something  
5 that they're coming to us for relief from, but  
6 other than that, the noise that you guys are --  
7 have -- and I would agree, I didn't hear the  
8 complaints this past summer so hopefully they were  
9 better at operating that portion of it. The  
10 parking seems to be a concern, so those are the  
11 things that we can deal with. The noise and the  
12 operation within that beach area is outside of our  
13 jurisdiction.

14 LAURIE CARSON: Let me just present one  
15 last thought, which is you -- if you can only  
16 decide what is a permitted use and a beach bar is a  
17 permitted use, then maybe you should take a look at  
18 redefining what a beach bar is. Because when I  
19 hear the words beach bar, I don't think of what  
20 goes on down there. I think of little tiki  
21 torches, I think of maybe some Jimmy Buffett or  
22 some nice reggae music. I don't think about having  
23 an open area nightclub outside of my home. Nobody  
24 would want that. Maybe that's what the problem is.  
25 It's really not a beach bar. I have said enough.

1 LANCE LANDGRAF: Okay. Thank you.

2 Anyone else? Ma'am, come forward.

3 Please state your name.

4 HARRIET DIAMOND: Harriet Diamond and I  
5 live at the Ocean Club, and I had three short  
6 points but they get longer.

7 The master plan you referred to talked  
8 about a coordinated approach with residents. I  
9 remember being here in the beginning of the beach  
10 bar. We didn't get coordinated in. And then I was  
11 here about the noise after that. When the beach  
12 bar was first built I was living in the Ocean Club  
13 and I was on the board. I found myself very  
14 involved with the Health Department and the  
15 Licensing Department. We would -- at 3:00 in the  
16 morning I would go down in my bath robe to wait for  
17 the Health Department representative to come with  
18 his monitor to go up to the condo that called me  
19 because they were complaining about the noise.  
20 Ultimately we bought our own front desk people to  
21 monitor so that we could check the level before we  
22 bothered the Health Department, but it was always  
23 above the level that was required or allowed, and  
24 whatever the allowed level is, the wind carries the  
25 noise up. And living in the Ocean Club, I live in



1 the front of the building but there are people  
2 farther back from me. It was impossible, and as  
3 was said, last summer was the only time we didn't  
4 have a problem, and I think the reason we didn't  
5 have a problem was Domenic had his plans so he  
6 didn't want people to say we had a horrible summer.  
7 And Domenic's phrase has always been he just has  
8 90 days, he only has 90 days to make a living.  
9 During those 90 days we have people who live in the  
10 Ocean Club which, by the way, pays the largest  
11 taxes after the casinos and those people come in  
12 the summer. Everybody is not a full-time resident.  
13 And you made reference to other bars and -- I'm  
14 sorry. I don't remember your name. Laurie, she  
15 referenced that the others are beach bars. There  
16 is a difference. The beach bars are in front of  
17 casinos. The noise is there. They are not in a  
18 private area. And we all pay a lot of money in  
19 taxes and here, we are, waiting for the next shoe  
20 to drop every summer and it's not fair and -- just  
21 trying to think of where I want to go before I have  
22 to shut up.

23 LANCE LANDGRAF: Take your time.

24 HARRIET DIAMOND: I just want you to  
25 know how hard it was. I mean, I spent years

1 fighting that. Oh, and here's another point.  
2 Three violations and then he got closed down.  
3 Well, we were finally at the point one summer, he  
4 had the two violations. We reported to the police  
5 twice. We called the Health Department on the  
6 third time. The guy who came with the thing was  
7 out so we didn't get the third violation that year.

8 And you keep explaining what is not your  
9 job, this belongs to the next level and this  
10 belongs to the city, but it doesn't have to get  
11 there. If you don't approve this project, it's  
12 done. We're still gonna have the beach bar that's  
13 there blasting music and he'll probably take it out  
14 on us worse.

15 That's all I have to say. Thank you.

16 LANCE LANDGRAF: Thank you for coming  
17 in.

18 Sir.

19 GREG STRATOTI: Greg Stratoti. I'm an  
20 owner at the Ocean Club.

21 LANCE LANDGRAF: Can you spell that last  
22 name for us?

23 GREG STRATOTI: Sure. Took me 10 years.

24 S-T-R-A --

25 LANCE LANDGRAF: 10 years? Wait a

1 minute.

2 GREG STRATOTI: -- T-O-T-I. I'm a  
3 little slow.

4 LANCE LANDGRAF: Go ahead, sir.

5 GREG STRATOTI: So I have a couple quick  
6 questions -- and I think your name is Matt.

7 MATTHEW SECKLER: Yeah.

8 GREG STRATOTI: Okay. So I just want to  
9 confirm, did you do any traffic survey during the  
10 summertime on the beach bar?

11 MATTHEW SECKLER: No.

12 GREG STRATOTI: Okay. And do you have  
13 any pictures of the view from the Boardwalk looking  
14 at the beach bar that you can show us? Because you  
15 said you can't see it except for this little piece  
16 at the top. Do you have anything to show us that  
17 proves that one person cannot see it from the  
18 Boardwalk?

19 MATTHEW SECKLER: I don't have any  
20 pictures, no. I believe maybe one of the attorneys  
21 had pictures. I had visited the site not during  
22 the summer, obviously, and looked out and saw,  
23 again, some structure above but not I'd say where  
24 the people necessarily are standing.

25 GREG STRATOTI: I heard that. I have to

1 go back sometimes. You know, you walk and you see  
2 the same thing all the time, you just don't  
3 remember. It would be interesting to see pictures  
4 to see how much you actually see or to take  
5 somebody's word, you can't see anything from the  
6 Boardwalk. Just wanted to throw that out there.

7 The food truck -- can you pull that down  
8 or is it another thing?

9 LANCE LANDGRAF: Jon, can you help him  
10 pull that?

11 GREG STRATOTI: The food truck.

12 LANCE LANDGRAF: Your side bar there and  
13 slide it down.

14 GREG STRATOTI: There, we go. Is that  
15 actually on a piece of the Boardwalk or is that  
16 below the Boardwalk on the sand?

17 MATTHEW SECKLER: What's the question?  
18 That is -- that's on the pavilion spot.

19 GREG STRATOTI: So that's above the  
20 sand?

21 MATTHEW SECKLER: Yeah. It's level with  
22 the Boardwalk.

23 GREG STRATOTI: Right. And you're gonna  
24 take out some chairs to put it in and then put the  
25 chairs back. Would you agree that once you put the

1 chairs back, that you're gonna block the view of  
2 the ocean from those chairs with that food truck?

3 MATTHEW SECKLER: Again, that was  
4 testified to by the engineer so you might want to  
5 ask --

6 JON BARNHART: I can answer that. You  
7 can't see the ocean from that pavilion because  
8 you're being blocked by the dune.

9 GREG STRATOTI: Okay. You're saying you  
10 can't see anything from that pavilion even though  
11 you're sitting there, sitting there or standing  
12 there?

13 JON BARNHART: You can see the dune.

14 GREG STRATOTI: Okay. But you can't see  
15 the ocean?

16 JON BARNHART: You can't see the ocean.

17 GREG STRATOTI: And again, do you have a  
18 picture of that?

19 JON BARNHART: I actually do, if you  
20 want to see it, but it's on my phone and I don't  
21 know that --

22 LANCE LANDGRAF: I don't know.

23 JON BARNHART: Here's what I can testify  
24 to. I took these pictures standing on the  
25 Boardwalk facing the beach bar position, standing

1 center on the beach bar and two elements that you  
2 see on -- I'm a 6 foot tall person. The two  
3 elements that I saw and I have a photograph of is  
4 the top -- the top roof structure of each of the  
5 second level areas that are -- one being used by --  
6 as a DJ stand and the others being used as we  
7 explained. It's not going to be DJ. It's going to  
8 be seating. You do see those rooftops areas but  
9 that is the limit of what you see if you were  
10 standing up on the Boardwalk and you do not see the  
11 ocean from the Boardwalk.

12 LANCE LANDGRAF: Thank you.

13 GREG STRATOTI: The food truck itself,  
14 is that included in the additional 1,300 square  
15 feet that you're asking for a variance or is that  
16 in addition to that?

17 LISA JOHN-BASTA: There's no variance  
18 that's being requested for the square footage of  
19 what's being proposed. Well, actually, I take that  
20 back. Based on the square footage we're requesting  
21 a parking variance. No. That's not accounted for  
22 there.

23 GREG STRATOTI: Okay. So we're asking  
24 for a variance of 1,300 square feet even though we  
25 have another structure in a different area that's

1 not a part of this, because we're not asking for a  
2 variance so how do we get to use -- put another  
3 structure on?

4 LISA JOHN-BASTA: I'm sorry. I missed  
5 that.

6 GREG STRATOTI: Okay. I'm just not sure  
7 if I understand. We're asking for a variance of  
8 1,300 square feet of the area attached to the beach  
9 bar.

10 LISA JOHN-BASTA: Right.

11 GREG STRATOTI: But we're not asking if  
12 we can put another structure that's on the  
13 Boardwalk. Do we just allow to do that, anyway,  
14 without any kind of variance? We're allowed --  
15 anybody's allowed to put structures on the  
16 Boardwalk?

17 LANCE LANDGRAF: So we do allow food  
18 trucks to be placed along the Boardwalk, not --  
19 unless they get a license from the city to place it  
20 in the right-of-way. The Boardwalk, and you guys  
21 know this, it's a street --

22 GREG STRATOTI: Okay.

23 LANCE LANDGRAF: -- for all intents and  
24 purposes.

25 GREG STRATOTI: So anybody could put one

1 on there?

2 LANCE LANDGRAF: Not anybody. There's a  
3 couple -- it's a conditional use, and that's why I  
4 asked the question earlier, is it tied to the  
5 restaurant that is on the site. That's one of the  
6 conditions. The other is get a license from the  
7 city. They have that already.

8 GREG STRATOTI: Okay.

9 LANCE LANDGRAF: So I don't believe --  
10 I'll ask Rob or Christine. Do food trucks require  
11 a parking requirement? I don't think they do.

12 CHRISTINE COFONE: I don't think so.

13 LANCE LANDGRAF: I don't believe they  
14 do. Not a bad question, though.

15 GREG STRATOTI: Yeah.

16 LANCE LANDGRAF: It was actually a very  
17 good question.

18 LISA JOHN-BASTA: I think our planner to  
19 could testify to some of that.

20 MATTHEW SECKLER: Again, I agree with  
21 the fact that there is no parking requirement for  
22 the actual food structure, and again, it's on  
23 decking that already exists. Potentially if we were  
24 adding decking, maybe we would have to provide  
25 parking for that square footage, but again, it's on



1 decking that already exists.

2 GREG STRATOTI: Okay. And I think you  
3 indicated that they're gonna serve food and liquor  
4 there, at that food truck, the same as the food and  
5 liquor that's at the beach bar. So is it correct  
6 in assuming that now the person who's running  
7 these, the place that's on the Boardwalk, Celebrity  
8 Corner, this food truck and the beach bar, all  
9 three places are serving liquor under the same  
10 liquor license?

11 LISA JOHN-BASTA: We don't have  
12 information on the liquor license. We -- you  
13 will -- obviously as a condition of approval to  
14 operate and expand the way that it's being  
15 proposed, if there's necessary for a liquor license  
16 amendment, that would be something that would have  
17 to be done.

18 GREG STRATOTI: Okay. Because I thought  
19 the others were saying -- was that they'd have to  
20 be adjacent structures to have the same liquor  
21 license used on two different places and obviously  
22 none of these are adjacent to each other.

23 LANCE LANDGRAF: The food truck or food  
24 whatever we're calling it, concession stand, is on  
25 the same lot as the beach bar.

1           GREG STRATOTI: But I think the rules  
2 say they had to be connected, adjacent and  
3 connected.

4           LANCE LANDGRAF: On the same parcel I  
5 think is what -- is my understanding. I'll defer.

6           GREG STRATOTI: Again, I'm not a lawyer  
7 so --

8           LANCE LANDGRAF: Nor am I.

9           GREG STRATOTI: -- I just read it and it  
10 seemed like they had to be here, not, you know, a  
11 block away.

12          LANCE LANDGRAF: They would have -- in  
13 order to open that up, they would have to get that  
14 licensure approved by the ABC.

15          GREG STRATOTI: Right. Okay.

16          LANCE LANDGRAF: I will say this, that  
17 the city during Covid, and it's been made permanent  
18 through action that the CRDA has taken, has created  
19 the Boardwalk as an open alcohol, so it's allowed  
20 on the Boardwalk, so --

21          GREG STRATOTI: Okay. There was another  
22 section up there that showed something about --

23          LANCE LANDGRAF: Jon, can you help him?

24          GREG STRATOTI: Sorry.

25          MATTHEW SECKLER: What are you looking

1 for?

2 GREG STRATOTI: The section that shows  
3 something about --

4 MATTHEW SECKLER: Parking?

5 GREG STRATOTI: Yeah. About the 350  
6 people thing.

7 LANCE LANDGRAF: The parking requirement  
8 to the right.

9 GREG STRATOTI: Sorry.

10 LANCE LANDGRAF: Parking counts.

11 GREG STRATOTI: Okay. So when you --  
12 when you did your survey for the parking  
13 requirements, it says here 390 person occupancy.

14 MATTHEW SECKLER: Yeah. So I did not  
15 prepare this plan. I think the engineer prepared  
16 the plan. In talking with him, the 390 that is on  
17 the lower one, that should be 446, and that's where  
18 I got the 56 additional people, because that's the  
19 difference between 446 and the 390 and that's  
20 basically capacity that's being -- (Technical  
21 interruption. Unintelligible.) -- with additional  
22 decking around the pool area.

23 GREG STRATOTI: Okay. How would your  
24 numbers change given the fact that it was testified  
25 that the other gentleman saw a sign that said 720

1 people maximum? So now we're gonna be double that  
2 number. What would your parking number estimates  
3 be?

4 MATTHEW SECKLER: Well, again, we're  
5 talking about the delta, the increase that this is  
6 generating. So again, even if in existing there  
7 was 1,000 people, we're adding 50 -- 56, you know.  
8 I'm caring about the 56 in my parking study.

9 GREG STRATOTI: So we're starting at  
10 390.

11 MATTHEW SECKLER: Right. No. No. No.  
12 I think the premise was it shouldn't be 390, it  
13 should be 720, whatever that sign says today in the  
14 existing condition, I think was what the premise  
15 was.

16 GREG STRATOTI: Why does it say 390  
17 here? Is that all that's permitted and yet the  
18 sign is allowing 720 and nobody monitors it?

19 MATTHEW SECKLER: I have to ask the  
20 engineer who prepared this and where the 390  
21 occupancy came from.

22 GREG STRATOTI: Okay. Can you find that  
23 out? Why do we have 390 on here and yet the sign  
24 on the beach bar says 720 and how does that impact  
25 on the amount of parking that you say we should

1 have.

2 CHRISTINE COFONE: The capacity, perhaps  
3 a fire code capacity for that and I think we're  
4 conflating that with parking requirements. It's  
5 not meant to be a one for one parking ratio. You  
6 could have 790 persons in there but that's not a  
7 one to one correlation to parking, because the  
8 parking standards -- and I can let the applicant's  
9 witness answer, as well, but as a planner, the  
10 intention of parking regulations is not to be one  
11 per one per occupancy, right. Occupancy and  
12 parking are two very different things, and that's  
13 because if you go to a restaurant, the restaurant  
14 might have an occupancy of 250 people but you're  
15 not gonna park it for 250 cars because there's an  
16 expectation that people are gonna ride together --

17 GREG STRATOTI: Right.

18 CHRISTINE COFONE: -- and as was  
19 testified to earlier, what we're seeing -- you  
20 know, I've been doing this for 29 years now. What  
21 we're seeing is less of a reliance on parking  
22 demand for these type of uses because people will  
23 take an Uber, they'll take a Lift, they'll use some  
24 type of ride sharing. So I appreciate the concern  
25 about the 720 and how we're backing into that, but

1 we are not trying to park and the regulations don't  
2 require that the applicant park for the occupancy.

3 GREG STRATOTI: Okay. I just didn't  
4 understand the difference in the numbers.

5 CHRISTINE COFONE: I understand. I'm  
6 just trying to help you understand the difference  
7 between occupancy -- (Multiple parties speaking.  
8 Unintelligible.)

9 GREG STRATOTI: That makes sense.

10 CHRISTINE COFONE: -- and parking  
11 demand. I hope it makes -- sometimes I do make  
12 sense.

13 GREG STRATOTI: I just wanted to clarify  
14 that the only letter we have for some kind of a  
15 parking permit or whatever is 10 blocks away from  
16 this structure and yet they testified that there's  
17 four, five, six or seven within three blocks, yet  
18 none of them were submitted, either that's because  
19 you can't get it or for whatever reason, but we got  
20 one that's 10 blocks away and people would have to  
21 walk 15 minutes. Just wanted to make sure that was  
22 clear what they said.

23 LISA JOHN-BASTA: If we can just address  
24 the parking again to his question.

25 LANCE LANDGRAF: Okay.

1                   MATTHEW SECKLER:  So I know that I  
2 provided some testimony -- I think your planner  
3 maybe kind of alluded to really what is the parking  
4 demand.  Obviously there's a zoning requirement for  
5 parking and that's where we come up with, you know,  
6 the spaces that we need and that's the difference  
7 between the 134 and the 117 as kind of our  
8 requirement here, but I wanted to also bring up,  
9 looking at the ITE, that's the Institute of  
10 Transportation Engineers, they publish a manual  
11 called a Parking Generation Manual and it provides  
12 studies for how much different uses -- how many  
13 parking spaces different uses may need in real  
14 life, not from a zoning perspective, based on real  
15 life.  Now, they don't unfortunately have a land  
16 use that says beach bar in Atlantic City so I have  
17 to use kind of general terms.  So looking at what  
18 I'm gonna call like a mixed use area, meaning it's  
19 not just a restaurant on a highway somewhere that  
20 you can't walk to if, you know, you're only going  
21 there.  If you look at dense mixed use areas, which  
22 I would consider the Boardwalk area because there's  
23 different destinations and different types of uses  
24 on the block, if we were to add a 1,300 square foot  
25 kind of restaurant/bar, that would generate eight

1 cars of parking. So again, that's not your  
2 ordinance requirement, but based on the ITE in a  
3 dense mixed use area, 1,300 square feet of space  
4 would generate a need for eight cars. So that's  
5 what I'm expecting for the amount of people that  
6 are parking for this site, again, because we talked  
7 about some people may take an Uber, some people  
8 take Lyfts, some people are walking. I would  
9 assume that eight people would be -- eight cars are  
10 driving. That might be 16 people if there are two  
11 to a car. It could be, you know, 24 people if it's  
12 three to a car, but eight cars is what we'd expect  
13 from a parking demand perspective. And the  
14 question is -- I think there's clearly eight spaces  
15 somewhere between here and that lot that we're  
16 renting, you know, 10 to 15 minute walk away that  
17 someone could park in, but again, we do have that  
18 agreement for that lot that's, you know, like a 13  
19 to 15 minute walk away.

20 GREG STRATOTI: And just to make it  
21 clear, it's eight additional spaces on top of --

22 MATTHEW SECKLER: Correct.

23 GREG STRATOTI: -- the spaces that you  
24 would need, that you already got a variance for  
25 that nobody can park, they have to use these other



1 lots?

2 MATTHEW SECKLER: Correct. That's  
3 basically, like, that is the impact of what we're  
4 proposing today, not --

5 GREG STRATOTI: The fact that we already  
6 have a traffic issue and we're just adding to the  
7 traffic issue --

8 MATTHEW SECKLER: Correct. It would be  
9 eight cars.

10 GREG STRATOTI: -- that you didn't look  
11 at during the summer.

12 MATTHEW SECKLER: I was not --

13 GREG STRATOTI: Right? I just want to  
14 make sure that nobody's looked at it during the  
15 summer to see how much traffic goes down there.

16 MATTHEW SECKLER: Great. Thank you.

17 LANCE LANDGRAF: Anything else?

18 GREG STRATOTI: Just two -- I'm sorry.  
19 I apologize. Two more questions.

20 LANCE LANDGRAF: Go ahead.

21 GREG STRATOTI: Trash, we have three  
22 locations here. How do they get rid of the trash  
23 in this -- these three places?

24 MATTHEW SECKLER: It's probably the  
25 engineer.

1                   LISA JOHN-BASTA:  There's a private  
2   hauler that disposes of the trash.

3                   GREG STRATOTI:  So I just want to make  
4   sure it's on the record, that the trash from this  
5   beach bar and the trash from that food truck are  
6   not being brought to the Ocean Club and dumped in  
7   that trash?

8                   LISA JOHN-BASTA:  Not to our knowledge,  
9   no.  That's -- no.  The applicant wouldn't do that.

10                  LANCE LANDGRAF:  There's private hauler.  
11   Jon, maybe you can show us on the site plan.  Where  
12   is trash temporarily stored, Jon?

13                  Domenic, you're not sworn in.

14                  JON BARNHART:  Sorry.

15                  GREG STRATOTI:  Sorry about that.

16                  JON BARNHART:  That's my fault.

17                  So our client explained that there is  
18   a -- let me see if I can -- our client explained  
19   the trash is stored around the shed area at the  
20   beach bar and then it's picked up by a private  
21   hauler and taken away from that point.

22                  LANCE LANDGRAF:  Is it in a covered area  
23   where it's stored?

24                  JON BARNHART:  He said it's inside of a  
25   fenced area.

1           LANCE LANDGRAF: Is it covered, though?  
2 The issue we have is birds.

3           JON BARNHART: Yes. It's covered, he's  
4 saying.

5           LANCE LANDGRAF: Okay. If it's not  
6 we're gonna -- that's going to be a condition of  
7 any approval.

8           LISA JOHN-BASTA: No problem.

9           GREG STRATOTI: So we are stating for  
10 the record that it is not being dumped at the Ocean  
11 Club? Either these two new locations, the trash  
12 does not go to the Ocean Club trash?

13           LISA JOHN-BASTA: No.

14           GREG STRATOTI: It does not?

15           UNIDENTIFIED MEMBER: No.

16           LANCE LANDGRAF: You can't answer that  
17 without being sworn in.

18           GREG STRATOTI: Somebody, I just want to  
19 make sure somebody answers it.

20           LANCE LANDGRAF: Right. Can somebody  
21 answer his question, please?

22           LISA JOHN-BASTA: We can state, no, it  
23 would not be placed in their Ocean Club's trash.

24           GREG STRATOTI: And my -- basically my  
25 last question is if there were any changes to this

1 as they're doing it, would they still have to come  
2 back in front of this board to make those changes  
3 and have another hearing so that the plans might  
4 say, well, some modifications may have to be made  
5 but we don't want to find out that their  
6 modifications are significant?

7 LANCE LANDGRAF: Right. So if they  
8 change this plan at all after -- should our board  
9 approve this, if they make any changes at all it  
10 has to come back before us. If the DEP requires  
11 them to make any change, it has to come back to us.

12 GREG STRATOTI: Okay. Yeah. Because  
13 all we're trying to do is show --

14 LANCE LANDGRAF: Let me say, if they  
15 move something a foot within that fenced in area,  
16 they wouldn't have to come back, but if it's a  
17 significant change, the pool flips to the other  
18 side or they have to move everything back, they  
19 have to come back to us for that.

20 GREG STRATOTI: Looking at the negative  
21 impact to our community and all these things, the  
22 traffic, the parking, the trash, everything that  
23 we're concerned about, we want to make sure that  
24 it's clear, it's having a negative impact on one of  
25 the largest complexes right there in that area, and

1 all the other beach bars, somebody had said are in  
2 front of casinos and everything else, not in front  
3 of residential --

4 LANCE LANDGRAF: Not all of them.  
5 Bungalow is right in front of The Ritz, same thing.

6 GREG STRATOTI: Yeah.

7 LANCE LANDGRAF: Same exact thing, so --  
8 and they've had the same issues.

9 GREG STRATOTI: Yeah.

10 LANCE LANDGRAF: So don't --

11 GREG STRATOTI: We just need to get them  
12 to come together.

13 (Multiple parties speaking.  
14 Unintelligible.)

15 GREG STRATOTI: Thank you, very much,  
16 for your time.

17 LANCE LANDGRAF: Thank you. Thank you  
18 for coming out.

19 Mr. Lieberman, your environmental  
20 specialist, he had a plan. We're gonna need to  
21 keep that here.

22 GARRETT ESLER: I just put it out in the  
23 hallway, just so that it doesn't get --

24 LANCE LANDGRAF: Great. Thank you. We  
25 need to keep that. I didn't see it sitting in here

1 and I got a little nervous.

2 Ma'am.

3 NANCY GOLDSCHMIDT: Hi. My name is  
4 Nancy Goldschmidt. I'm an owner at the Ocean Club  
5 and I want to talk about the atmosphere at the  
6 Ocean Club in the summer time on Chelsea Avenue  
7 because of the beach bar. We have a dog and we  
8 need to walk our dog at night. We have been  
9 harassed. There are drunk people all over Chelsea  
10 Avenue. There is not a large police presence there  
11 on a Saturday night in the summer, even though we  
12 have, as a community, provided a room for the  
13 police department to be there. I'm not a young  
14 woman. I don't want to be harassed at 11:30 or  
15 12 at night when I'm out walking my dog in my  
16 neighborhood where I pay \$7,000 a year in taxes to  
17 the City of Atlantic City, to walk outside and be  
18 greeted by drunk people. They lay all over the  
19 steps by that Tropicana building where they took  
20 all the furniture out of the lobby because people  
21 are hanging out there. There is the fireworks from  
22 the Tropicana which draws a large crowd at  
23 10 o'clock at night and they're drunk and  
24 there's -- where is the responsibility of the bar  
25 to make sure that their patrons don't aggravate the

1 neighborhood? There's no accountability for that.  
2 We spend a lot of money in Atlantic City as a  
3 community, both in taxes, in supporting the  
4 businesses. They're not a good neighbor. We  
5 should be entitled to have a good neighbor, where  
6 they don't draw in a bad element, like the man from  
7 the Chelsea Inn. We also go there to eat and to  
8 walk there, to walk through a crowd of drunk people  
9 is not a pleasant thing, and we support -- we don't  
10 live in New Jersey but we support Atlantic City by  
11 owning there. We love this town, but on a Saturday  
12 night for eight weeks I should not have to deal  
13 with drunk people every single Saturday night,  
14 Friday night, Thursday night, and I'm not even  
15 talking about the sonic boom -- and I'm on the 31st  
16 floor. I'm pretty high up, and my taxes are higher  
17 because I'm high up, and it is an awful environment  
18 on a Saturday night, on a Friday night, all  
19 throughout the summer. I pay to be there, too, in  
20 the summer, but not to encounter and be harassed by  
21 drunk patrons. And they're sitting in their cars  
22 and their -- their stereos are blasting on top of  
23 the sound from the beach bar. Where are our rights  
24 being protected, because you know what, I spend a  
25 lot more in Atlantic City every year than those

1 patrons in that bar do and we should have --  
2 entitled to a safe, nice community in the summer,  
3 not drunk people and parking and laying all over  
4 the street.

5 LANCE LANDGRAF: Ma'am, I understand  
6 your passion for this, but everything you've  
7 mentioned is outside of our jurisdiction.

8 NANCY GOLDSCHMIDT: But you know what,  
9 you can stop this project and it should be part of  
10 your jurisdiction because you represent us, too.

11 UNIDENTIFIED MEMBER: Would you want  
12 that done at your house?

13 NANCY GOLDSCHMIDT: Yeah. Would you  
14 want drunk people --

15 LANCE LANDGRAF: If you're not gonna  
16 stand up and speak, you have to be quiet. Okay?  
17 We're not gonna let this go into a gang discussion  
18 here. You're gonna stand up here. You're gonna  
19 treat this board with decorum. You were fine,  
20 ma'am. I understand your points. What I will do  
21 is I'm gonna reach out to Chief Sarkos and talk to  
22 him about, if they have a presence there, why  
23 aren't they enforcing the rules. So I will make  
24 that note in the file and we will talk to Chief  
25 Sarkos.



1                   NANCY GOLDSCHMIDT: I mean, our staff  
2 who work in the -- in the front door, they're  
3 constantly telling people that they have to leave  
4 because it's private property.

5                   LANCE LANDGRAF: Understood.

6                   NANCY GOLDSCHMIDT: These drunk people  
7 hang out at the fountain, they hang out in the  
8 porte-cochere all the time.

9                   LANCE LANDGRAF: Okay. Thank you.

10                  NANCY GOLDSCHMIDT: And it's from that  
11 bar.

12                  MICHAEL TENUTO: I missed the first  
13 hour. I got here an hour late. My name is Michael  
14 Tenuto, T-E-N-U-T-O. I'm at the Island Club  
15 Condos, right next door to the Ocean Club.

16                         And everything that these people are  
17 saying -- they got a beautiful place in Atlantic  
18 City. It's a -- it's spotlight, lifestyle of the  
19 rich and famous. They had it all. It's a  
20 magnificent place and they're going through some  
21 upgrades and everything. We have major problems  
22 with the Celebrity. Talking about that trash,  
23 there's a dumpster across the street from our 72  
24 condos. We have to call all the time to close the  
25 door because it smells like garbage. He has a

1 speaker that's 30 feet from our condo. From 9:30  
2 in the morning --

3 LANCE LANDGRAF: Are you talking about  
4 the beach bar? Are you talking about --

5 MICHAEL TENUTO: I'm talking about the  
6 Celebrity, when it's all put together.

7 LANCE LANDGRAF: That's not --

8 MICHAEL TENUTO: But the trash is where  
9 they put it at. He takes the trash from the beach  
10 bar and goes there and dumps it in his container.  
11 We call all the time to close the door. You just  
12 were talking about it. The congestion is  
13 unbearable. We are a dead-end street to the  
14 whatchacallit, to the Boardwalk. We have an  
15 entrance and we have an exit gate. Trucks there  
16 all the time. We have seniors. We have aides  
17 coming in. We have nurses. They tell them wait  
18 20 minutes when we get done. You can't do that to  
19 people. That's commerce. This is what we deal  
20 with all the time. I've been in touch for the last  
21 three years with Harold Green with the meters. He  
22 comes out, they stop. Once he leaves, they go  
23 back. The code enforcement now has guys on-call  
24 with the meters. We also have riparian rights from  
25 the beach. Nobody wants to hear about it. Michael

1 Scaleria represents us. He rented the beach from  
2 Atlantic City. He puts his chairs and his  
3 umbrellas on our beach. We sent letters. We did  
4 everything. Okay? We are tired of it. I agree  
5 with all these people here. It is the worst. I'd  
6 like to come -- I live here all year round. I've  
7 been in this town 46 years. Okay? This is the  
8 worst that I ever seen, and I hope you take into  
9 consideration and do this for the people here in  
10 Atlantic City that do pay these high taxes and  
11 support it. We live here. We eat here. We drink  
12 here. We spend our money here. We pay our taxes  
13 here.

14 LANCE LANDGRAF: He's not one of the  
15 guys you're complaining about, though, is he?

16 MICHAEL TENUTO: No. I get along good  
17 with --

18 LANCE LANDGRAF: He said he drank there.  
19 I'm just --

20 MICHAEL TENUTO: We were -- (Multiple  
21 parties speaking. Unintelligible.)

22 LANCE LANDGRAF: Little humor. Long  
23 day.

24 MICHAEL TENUTO: (Multiple parties  
25 speaking. Unintelligible.) Andy, your board

1 member, we stay in touch with Andy. We have a good  
2 neighbor policy with them.

3 LANCE LANDGRAF: I was being funny.  
4 Sorry.

5 MICHAEL TENUTO: They have major  
6 construction. We have cranes coming down the  
7 street, which they are taken care of, but the  
8 construction is going to come this summer, there's  
9 no way you can do it with all these -- I will --  
10 anybody on this board, I will pick you up with my  
11 car any time, any day. Please come down. I would  
12 love to show you what we're facing, just from my  
13 place, the Island Club, 72 units. I'd be happy to  
14 pick you up. Just give me 10 minutes of your time  
15 and I'll bring you back to wherever your office is.

16 LANCE LANDGRAF: I walk the Boardwalk  
17 all the time.

18 MICHAEL TENUTO: Well, then I'll meet  
19 you.

20 LANCE LANDGRAF: Okay.

21 MICHAEL TENUTO: I'll give you my  
22 number. I'll meet you. I want to expose this.

23 All right. Thank you for your time.

24 LANCE LANDGRAF: Thank you for coming  
25 out today.

1                   Anyone else? Ma'am, you seem like  
2 you're itching to get up.

3                   LYNN KESSELMAN: Mine's well. Okay.  
4 Two pages. They're single sided.

5                   LANCE LANDGRAF: Okay.

6                   LYNN KESSELMAN: Thank you all for being  
7 here.

8                   First of all, my name is Lynn Kesselman.  
9 I'm a unit owner at the Ocean Club. Formerly owned  
10 3104-2 on the 31st floor and currently own two  
11 units on the other side, as we call it, on the  
12 quiet side, but it's really not the quiet side.  
13 It's the quieter side.

14                   Anything else you need to know from me?  
15 Do you need my expert -- my resume like everybody  
16 else?

17                   LANCE LANDGRAF: Your --

18                   LYNN KESSELMAN: I got a -- I got a  
19 Bachelor of Arts from Stockton in Business, so I'm  
20 looking at this as -- reading some of the --

21                   LANCE LANDGRAF: You're providing public  
22 comments so you don't need to be sworn in. You  
23 don't need to be qualified.

24                   LYNN KESSELMAN: There, you go. That's  
25 me.

1           Now, the first thing I need to ask,  
2 which is really important to me, I did not hear  
3 your first comment when we started the meeting and  
4 you said, like, called it to order. I couldn't  
5 hear what you said about the notice.

6           LANCE LANDGRAF: So what they're  
7 required to do is provide notice of this hearing.

8           LYNN KESSELMAN: Yes.

9           LANCE LANDGRAF: And what I do is -- Mr.  
10 Reid is our land use regulation officer and he gets  
11 those --

12          LYNN KESSELMAN: Okay.

13          LANCE LANDGRAF: -- proof of notices.

14          LYNN KESSELMAN: Right. But could you  
15 repeat what your words were? Because I couldn't  
16 hear --

17                   (Technical interruption. Break in  
18 proceedings.)

19          LANCE LANDGRAF: Come back to order,  
20 please.

21           All right. At this point we're gonna go  
22 to our professional consultant's reports. We have  
23 marked that as B-1 and it's dated January 31st,  
24 2025 from ARH Associates. Carolyn, you want to go  
25 first?

1                   CAROLYN FEIGIN: Yes. I just -- Jon, I  
2 just wanted to go through it. We didn't get to do  
3 this earlier so very few comments. I don't want to  
4 circle back on anything that we've already covered,  
5 which there's been a lot of it. But just to go --  
6 looking at the letter, there were a couple things  
7 that I just want to make sure we answered. Did you  
8 have a location for the -- I'm sorry if this was  
9 said and I just didn't hear it. The pool  
10 equipment, is there any filtration and any  
11 equipment that's going to be associated with the  
12 pool? Do you have any idea where that would be?  
13 Is it covered? Is it --

14                   JON BARNHART: It will be. It will be  
15 covered. It will be in the corner of the decking,  
16 the same decking that's around the pool.

17                   CAROLYN FEIGIN: Okay.

18                   JON BARNHART: An exact location hasn't  
19 been determined, but it will be in that, in that  
20 new expanded deck area.

21                   CAROLYN FEIGIN: In the footprint of  
22 that expanded, okay. That was just one thing. I  
23 have so many notes. I've been typing all over it  
24 this whole time so -- okay. No objection to that.  
25 Okay. We know you're gonna go to CAFRA so that

1 would be -- you said the sewer line is staying.  
2 That's not being removed. Okay. You did go  
3 through the -- clarifying the height of the pole  
4 signs because I know you said that was --

5 JON BARNHART: Yes.

6 CAROLYN FEIGIN: That's all good?

7 JON BARNHART: And all the signs as far  
8 as I'm concerned are not above any roof. They're  
9 either --

10 CAROLYN FEIGIN: Okay.

11 JON BARNHART: -- you know, on a wall,  
12 so there's -- there would be no variance as related  
13 to a roof sign.

14 CAROLYN FEIGIN: Right. Okay. And the  
15 only other two things were landscaping and lighting  
16 and you already touched on both of those so,  
17 actually, that was quicker than I thought. It was  
18 really only the pool equipment, so thank you.

19 JON BARNHART: Thank you.

20 CAROLYN FEIGIN: Okay.

21 CHRISTINE COFONE: I've been chiming in  
22 all day so most of my questions have been answered.  
23 You know, I agree with the summation given by the  
24 counsel for the applicant, Miss John-Basta, as to  
25 the relief that's required. This is all C relief



1 in my opinion, C variance relief because the beach  
2 bars are a specifically permitted use in this B  
3 District that they sit in. So the variance relief  
4 is limited to the height of the one structure, the  
5 signs and the parking. There was parking relief  
6 previously granted so the parking that's required  
7 will -- certainly have heard all the testimony on  
8 the adequacy of parking, you know, on both sides.  
9 The parking review is limited to the increase in  
10 the -- in conjunction with this application, which  
11 I understand to be 1,310 square feet.

12 LANCE LANDGRAF: Okay. Thank you.

13 I had a couple questions that didn't get  
14 answered through the whole thing so I'm going to go  
15 through them now. They were on my first page and I  
16 went to five or six pages.

17 Hours of operation, do we have any hours  
18 of operation?

19 LISA JOHN-BASTA: In accordance with  
20 city code.

21 LANCE LANDGRAF: I know we have DJ  
22 music. Is there any live music proposed?

23 LISA JOHN-BASTA: There's a host of  
24 agreements between the applicant and the City of  
25 Atlantic City, as well as, actually, I believe with

1 the Ocean Club, as well, with regard to what's  
2 permitted and there is certain restrictions related  
3 to live music. I believe it's between certain  
4 hours, which, if you give me a moment, it's in the  
5 clarification of the beach lease.

6 LANCE LANDGRAF: That's all right.

7 LISA JOHN-BASTA: But it would be in  
8 conformance with the beach lease agreement and if  
9 there's any other outstanding agreements related to  
10 noise with any other private party.

11 LANCE LANDGRAF: Okay. Jon, I may have  
12 asked you this or not but I'm not sure. Where is  
13 Jon?

14 The deck around the pool will be at  
15 beach grade and then the pool will be above that,  
16 no decking at the top of the pool, just steps going  
17 up to get in?

18 JON BARNHART: Correct.

19 LANCE LANDGRAF: Okay. Right?  
20 That's -- you're looking quizzical.

21 JON BARNHART: When you say no decking,  
22 I mean, they may have, like, a little bench seat  
23 around -- like, as a coping around the top.

24 LANCE LANDGRAF: But no --

25 JON BARNHART: But there's not gonna be

1 a walkable deck.

2 LANCE LANDGRAF: That's what I was  
3 getting at.

4 JON BARNHART: Right. It's not going to  
5 appear as an in-ground pool. It's gonna -- you'd  
6 be walking up to the pool and if you're outside the  
7 pool -- you know, the pool's gonna be waist high on  
8 you.

9 LANCE LANDGRAF: Right. Okay. Thank  
10 you.

11 My others were just comments that have  
12 already been answered.

13 Okay. That's all I have. So you guys  
14 are complete?

15 CHRISTINE COFONE: Yes.

16 CAROLYN FEIGIN: I'm good.

17 LANCE LANDGRAF: All right. With that,  
18 we'll close the public portion. Let me go back to  
19 my notes, make sure we got everything done here.

20 Do you have anything else you need to  
21 say?

22 SCOTT COLLINS: Nope. I'm all set.

23 LANCE LANDGRAF: All right. With that,  
24 we'll close the testimony on this matter. As we  
25 always do, we try to get this on our board meeting.

1 It will not be on our March meeting. This  
2 transcript is gonna be extensive. So, at best, it  
3 will be at our April board. We'll let you guys  
4 know. You won't -- as the property owners you will  
5 not get a notice for that, because this is the  
6 public hearing for the application, but it will be  
7 on our agenda listed at least 10 days prior to that  
8 point.

9 STUART LIEBERMAN: That will be the  
10 April meeting?

11 LANCE LANDGRAF: No.

12 STUART LIEBERMAN: It depends.

13 And who gets the transcript? Does the  
14 objectors get it, too, or how does that work?

15 LANCE LANDGRAF: So we will -- we get it  
16 and we post it on our website.

17 STUART LIEBERMAN: Okay.

18 LANCE LANDGRAF: Once we get it,  
19 probably -- well, it's not gonna be Tuesday. We  
20 usually get them the Tuesday after the hearing. I  
21 don't think we're getting this one after Tuesday.  
22 We post it as soon as we get it on our website.

23 STUART LIEBERMAN: Is this recorded and  
24 you have a transcriber, is that how you do it? Oh,  
25 is there -- oh.

1           LANCE LANDGRAF: You didn't see that  
2 camera all day? Come on.

3           STUART LIEBERMAN: Oh, okay. No. No.  
4 Because I didn't realize that you're also the --  
5 recording the video. I didn't know.

6           LANCE LANDGRAF: Yeah. And they'll  
7 transcribe it and then that will be open to the  
8 public. We don't -- we don't take the video.  
9 That's for their purposes. So that will be done --  
10 give us 10 days to put it up on the website. So  
11 it's on -- just go to the website and type in the  
12 application and it will take you right to it.

13          STUART LIEBERMAN: Got it. Thank you.

14          LANCE LANDGRAF: All right. That's all  
15 I have.

16                   For the public's benefit, our next  
17 scheduled land use hearing is March 20th at 10 a.m.  
18 No more matters being discussed, we'll close this  
19 hearing and we are adjourned.

20          STUART LIEBERMAN: Thank you, very much.

21          LISA JOHN-BASTA: Thank you.

22                   (At 2:47 p.m. proceedings were  
23 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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