

CASINO REINVESTMENT DEVELOPMENT AUTHORITY

LAND USE REGULATION and ENFORCEMENT DIVISION

2014-04-1030 - CALIFORNIA AVENUE VENTURES, LLC
PRELIMINARY AND FINAL SITE PLAN APPROVAL FOR NEW
RETAIL BUILDING AND ON-SITE PARKING, WITH WAIVERS
AND VARIANCES REQUESTED
BLOCK 32, LOT 8
2701 Boardwalk, Atlantic City, NJ

Thursday - August 21, 2014

Public hearing in the

<p style="text-align: right;">Page 2</p> <p>1 above-referenced matter, taken at the CASINO 2 REINVESTMENT DEVELOPMENT AUTHORITY, 15 South 3 Pennsylvania Avenue, Atlantic City, New Jersey, 4 before Karen A. Haworth, a New Jersey Certified 5 Court Reporter (CCR), nationally certified 6 Registered Professional Reporter (RPR), 7 nationally certified Certificate of Merit holder 8 (CM), nationally certified Certified Realtime 9 Reporter (CRR), a Delaware Certified Shorthand 10 Reporter (CSR), nationally certified Certified 11 LiveNote™ Reporter (CLR), and Notary Public of 12 the State of New Jersey, on the above date, 13 commencing at 10:19 a.m., there being present: 14 15 16 17 APPEARANCES: 18 CASINO REINVESTMENT DEVELOPMENT AUTHORITY: 19 20 LANCE B. LANDGRAF, JR. Chairman 21 22 23 ROSE ANN LAFFERTY Land Use Enforcement Officer 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 COUNSEL FOR THE APPLICANT: 2 3 JACK PLACKTER, ESQUIRE Fox, Rothschild, Esquires 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 PROFESSIONALS TO THE BOARD FOR THIS HEARING: 2 SCOTT G. COLLINS, ESQUIRE Riker, Danzig, Scherer, Hyland & Perretti 3 4 5 TIMOTHY KERNAN Kernan Consulting Engineers Associates 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">I N D E X</p> <p>1 2 3 WITNESS(ES) PAGE NO. 4 ARTHUR PONZIO 10 5 6 MITCHELL GURWICZ 63 7 8 9 10 EXHIBITS MARKED AND/OR REFERRED TO: 11 A-1 12 A-2 13 A-3 14 15 B-1 16 17 18 19 20 21 22 23 24 25</p>

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1 (Time noted: 10:19 a.m.)
 2
 3 LANCE LANDGRAF: All right. The
 4 next application -- well, actually, this will be
 5 the first on our agenda, is 2014-04-1030,
 6 California Avenue Ventures.
 7 I see Mr. Plackter standing up.
 8 Mr. Plackter, would you like to
 9 place your appearance?
 10 JACK PLACKTER: Yes. May it please
 11 the board, my name is Jack Plackter, from Fox,
 12 Rothschild. I'm the attorney for the applicant,
 13 California Avenue Ventures, LLC.
 14 Just as a --
 15 Do we want to swear in our
 16 professionals before I proceed?
 17 LANCE LANDGRAF: Yes.
 18 SCOTT COLLINS: How many do you
 19 have? Is it just going to be Mr. Ponzio?
 20 JACK PLACKTER: Mr. Ponzio and
 21 also, I'd like to swear in, although not a
 22 professional, the owner, Mr. Gurwicz.
 23 SCOTT COLLINS: Okay. I think we
 24 can do them one -- I think we'll do them as we
 25 go.

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1 JACK PLACKTER: Okay. But, I'm
 2 talking about the board professional -- the --
 3 Mr. Landgraf and Mr. Kernan, since he's going to
 4 be testifying. It might be a good idea to swear
 5 them in --
 6 LANCE LANDGRAF: He was sworn in at
 7 the beginning.
 8 JACK PLACKTER: Okay.
 9 SCOTT COLLINS: He was sworn in
 10 previously.
 11 LANCE LANDGRAF: I have not been.
 12 SCOTT COLLINS: You're not
 13 testifying.
 14 JACK PLACKTER: Okay. All right.
 15 May it please the board, this is an application
 16 for preliminary and final site plan approval
 17 with variances and waivers for the construction
 18 of a new retail building along the Boardwalk at
 19 California Avenue for about approximately nine
 20 new retail spaces and other site improvements.
 21 We're very excited about this
 22 application. It's similar to some others. I
 23 think it shows that, in spite of all the
 24 negative news about Atlantic City, these kind of
 25 uses, retail uses -- and we'll describe them,

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1 but the interesting thing is they're going to be
 2 retail uses that are more or less
 3 tourist-oriented and family-oriented.
 4 Mr. Gurwicz is attempting to bring in high
 5 quality tenants that will enhance the area and,
 6 you know, enhance the tourist experience along
 7 the Boardwalk.
 8 The property is shown as Block 32,
 9 Lot 8 on the official tax map of the City of
 10 Atlantic City and commonly known as 2701
 11 Boardwalk, Atlantic City, New Jersey.
 12 The property is located in the RS-C
 13 zone. And the proposed use, that is to say
 14 retail, is permitted in the zone.
 15 We do need some variances and/or
 16 waivers. Among other things, we need a variance
 17 from the shade tree requirement for the parking
 18 lot. No shade trees are proposed.
 19 On-site parking. Devoted to our
 20 retail units, our -- there's a number of spaces
 21 required. In the past, this board has
 22 recommended, in connection with retail uses;
 23 namely, things like Margaritaville and the BET
 24 retail development, which is very similar to
 25 this, no requirement for off-street parking.

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1 And you'll hear testimony. Obviously, these
 2 retail stores are adjacent to a public parking
 3 lot that has more than adequate parking. Plus,
 4 in the area around California Avenue, Tropicana,
 5 there are various public parking lots. There's
 6 a large one on the other side of Pacific Avenue.
 7 Also, a variance from the
 8 requirement of screening loading areas.
 9 Also, a variance from the
 10 requirement that 50 percent of the rooftop
 11 exposed surface area would be landscaped. Here
 12 -- and this has been done traditionally in
 13 Atlantic City -- rather than -- the theory --
 14 the reason for rooftop landscaping is that
 15 people in high-rises looking down, they don't
 16 want to see a flat, ugly, black asphalt kind of
 17 roof. But, in lieu of landscaping, which I
 18 think the board can take -- or the hearing
 19 officer can take notice of, is very difficult to
 20 maintain. We're proposing a graphic design
 21 that's very attractive that we worked out with
 22 the CRDA staff.
 23 And then lastly, some front yard
 24 setbacks from the public streets. That is to
 25 say Belmont and California Avenue. Again,

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1 traditionally, Boardwalk stores go block to
 2 block, and by leaving a space there, it really
 3 doesn't further any purpose of the Atlantic City
 4 zoning ordinance.
 5 As a jurisdiction, on August 4th,
 6 we caused this notice to be sent by certified
 7 mail to all property owners within 200 feet.
 8 And similarly, on August 6th, we caused the
 9 notice of this hearing to be published in The
 10 Atlantic City Press. We did submit an attorney
 11 affidavit. I don't know if you've had a chance
 12 to review it and find it to be in order.
 13 ROSE ANN LAFFERTY: Yes. Yes, I
 14 did.
 15 JACK PLACKTER: Also, municipal
 16 taxes are, in fact, current.
 17 So, we are going to have two
 18 witnesses. The first witness would be
 19 Mr. Arthur Ponzio, who is a licensed land
 20 surveyor and planner in the state of New Jersey.
 21 Could we swear him in?
 22
 23 ARTHUR PONZIO,
 24 having been duly sworn in by Scott
 25 Collins, Esquire, was examined and

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1 testified as follows:
 2
 3
 4
 5 DIRECT EXAMINATION
 6 BY JACK PLACKTER:
 7 Q. Yes. Mr. Ponzio, you were engaged
 8 by the applicant, California Avenue Ventures, to
 9 prepare application materials and plans in this
 10 matter, correct?
 11 A. Correct.
 12 Q. And in connection with that, have
 13 you been on the site on at least one or more
 14 occasions?
 15 A. I have.
 16 Q. Okay. And were the plans that
 17 you're testifying from either prepared by you or
 18 under your direction?
 19 A. They were.
 20 Q. Okay. And have you had an
 21 opportunity to review the planner's report from
 22 Mr. Kernan -- engineering and planning report
 23 from Mr. Kernan?
 24 A. Yes, I have.
 25 Q. Okay. In addition to that, have

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1 you reviewed the Atlantic City ordinance in
 2 preparation for your testimony today?
 3 A. I did.
 4 Q. Okay. Thank you.
 5 SCOTT COLLINS: Mr. Plackter, can I
 6 just interrupt for a second?
 7 JACK PLACKTER: Sure.
 8 SCOTT COLLINS: I know Mr. Ponzio
 9 has testified before this body numerous times.
 10 JACK PLACKTER: Yep.
 11 SCOTT COLLINS: I just wanted to
 12 note for the record, he will be testifying as an
 13 expert. And identify which field he will be
 14 testifying.
 15 JACK PLACKTER: Yes.
 16 BY JACK PLACKTER:
 17 Q. What field?
 18 A. Predominantly, as planning --
 19 planning testimony, and secondarily, some of the
 20 survey items that we're dealing with today, I'll
 21 also testify to that.
 22 SCOTT COLLINS: Okay. Do you
 23 recognize his credentials as an expert?
 24 LANCE LANDGRAF: Absolutely.
 25 JACK PLACKTER: Thank you.

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1 BY JACK PLACKTER:
 2 Q. If you would, Mr. Ponzio, could you
 3 describe the existing site conditions?
 4 A. Certainly.
 5 JACK PLACKTER: And by the way, we
 6 apologize. I guess there are some members of
 7 the public. And is there a way to --
 8 UNIDENTIFIED FEMALE MEMBER OF THE
 9 AUDIENCE: Can I -- can I ask a question?
 10 JACK PLACKTER: Well, you're going
 11 to have an opportunity to -- oh.
 12 UNIDENTIFIED FEMALE MEMBER OF THE
 13 AUDIENCE: I just want to --
 14 I'm not going to wait, but I
 15 thought this was in reference to -- we had some
 16 properties at the California Village that we
 17 used to rent out, and I thought this had
 18 something to do with that and that's not what
 19 we're doing here. So, good-bye.
 20 JACK PLACKTER: No. The reason why
 21 -- just to explain --
 22 Is it okay if I address her
 23 question, --
 24 LANCE LANDGRAF: Yes
 25 JACK PLACKTER: -- Mr. Landgraf?

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1 The reason why -- you got -- you
 2 got certified notice from us?
 3 UNIDENTIFIED FEMALE MEMBER OF THE
 4 AUDIENCE: Yes, we did.
 5 JACK PLACKTER: And the reason why
 6 is because the California Village, which is now,
 7 unfortunately, destroyed, --
 8 UNIDENTIFIED FEMALE MEMBER OF THE
 9 AUDIENCE: Right.
 10 JACK PLACKTER: -- we were
 11 obligated to send certified mailing notices of
 12 this hearing in case you wanted to listen, but
 13 there's nothing -- we're not touching the
 14 California Village property.
 15 UNIDENTIFIED FEMALE MEMBER OF THE
 16 AUDIENCE: I'm not worried about that. Thank
 17 you very much.
 18 JACK PLACKTER: Okay. Well, thanks
 19 for your --
 20 UNIDENTIFIED FEMALE MEMBER OF THE
 21 AUDIENCE: I'm sorry to intrude.
 22 JACK PLACKTER: No, no. That's
 23 okay. Well, I'm glad you asked that question.
 24 And have a great day.
 25 UNIDENTIFIED FEMALE MEMBER OF THE

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1 AUDIENCE: At least it was before you got
 2 started.
 3 LANCE LANDGRAF: Thank you.
 4 JACK PLACKTER: Thanks.
 5 Back to Mr. Ponzio.
 6 THE WITNESS: Just to familiarize
 7 everyone, the property is located along the
 8 Boardwalk between California and Belmont
 9 avenues.
 10 The site, Block 32, Lot 8, contains
 11 a little bit over an acre. It's a pretty
 12 visible site. I'm sure we all know it very
 13 well.
 14 The art exhibit that the Atlantic
 15 City Alliance built a couple of years back on
 16 the Boardwalk, the maze, if you will, is located
 17 right along the Boardwalk frontage, between
 18 California and Belmont. It occupies the
 19 oceanside, I don't know, 15, 20 percent of the
 20 body --
 21 BY JACK PLACKTER:
 22 Q. And Mr. Gurwicz's company gave the
 23 CRDA and ACA a license, for a dollar, with a
 24 clear understanding and, you know, everybody
 25 wanted to encourage this to be developed, that

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1 that would be, you know, removed, you know, --
 2 A. Absolutely.
 3 Q. -- when and if a development became
 4 realistic.
 5 Correct?
 6 A. Correct. Correct.
 7 The remainder of the lot exists as
 8 a surface parking lot. That's the way it's
 9 operated, that's the way it's developed. You
 10 can see it depicted on the drawing. I have an
 11 aerial photograph.
 12 You mentioned, a moment ago, the
 13 California Village. This is a little dated.
 14 There it was; directly adjacent to the property.
 15 So, in the shaded area in the
 16 center of the photograph you can see how the
 17 building is situated, the proposed building.
 18 It's a good fit for the location.
 19 Immediately to the westerly side
 20 you see the Ritz Condominiums, high-rise. You
 21 can see it depicted in the photograph.
 22 LANCE LANDGRAF: Excuse me,
 23 Mr. Ponzio.
 24 THE WITNESS: Yes.
 25 LANCE LANDGRAF: Can we have that

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1 one marked? Because I don't think that was part
 2 of the application.
 3 JACK PLACKTER: Sure. We can mark
 4 that as A-1.
 5 BY JACK PLACKTER:
 6 Q. And then, if you would, would you
 7 identify A-1 for purposes of the record?
 8 A. A-1 is an aerial overlay exhibit of
 9 the subject property and the neighborhood.
 10 LANCE LANDGRAF: The first sheet
 11 was the site plan that was submitted with the
 12 application?
 13 JACK PLACKTER: Yes. We can mark
 14 that, if you want.
 15 THE WITNESS: Survey of the
 16 existing conditions. Why don't we mark that?
 17 LANCE LANDGRAF: Why don't you mark
 18 that A-2?
 19 BY JACK PLACKTER:
 20 Q. Would you just identify A-2 for the
 21 record as well?
 22 A. A-2 is a property survey of the
 23 subject parcel.
 24 Q. Is there a date on that?
 25 A. It is dated -- it is dated January

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1 29th, '14, revised through June 23rd, '14, 2014.
 2 LANCE LANDGRAF: Thank you. Sorry
 3 to interrupt.
 4 BY JACK PLACKTER:
 5 Q. Please continue.
 6 THE WITNESS: That's all right.
 7 Immediately to the westerly side of
 8 the property you see the Ritz. Along the
 9 frontage of the Ritz are the commercial uses,
 10 very similar to what the subject proposal is
 11 today.
 12 As we go to the easterly side, The
 13 Bungalow, formerly the Flame restaurant on the
 14 corner.
 15 Again, all along the Boardwalk, the
 16 commercial uses, again, are very similar to what
 17 the proposal is. So, you can see from the
 18 photograph, clearly, that the proposal is a good
 19 fit for this particular location along the
 20 Boardwalk.
 21 BY JACK PLACKTER:
 22 Q. And just identify what zone we're
 23 in.
 24 A. The RS-C zone, resort commercial
 25 zone, which permits the use that we're proposing

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1 today.
 2 Q. So, discuss, if you would, the site
 3 plan elements.
 4 A. Yep. I will.
 5 I guess we'll mark this A-3. This
 6 may have been in the package.
 7 Q. We're on a roll.
 8 And would you identify A-3 for the
 9 record?
 10 A. A-3 is a site development exhibit.
 11 Essentially, it is the plan that was submitted
 12 in the packet to the board, with the exception
 13 of some color enhancement and some minor
 14 adjustments that I've made as of today and
 15 yesterday afternoon, after hearing some comments
 16 back from the board's professionals.
 17 The proposal is to build, between
 18 Belmont and California avenues, essentially,
 19 property line to property line, for a distance
 20 back, the building that is, about 77 feet along
 21 Belmont and 91 feet along California Avenue.
 22 When you take into consideration the stairs, the
 23 ramps, the sidewalk along California, it
 24 occupied -- this development will occupy about
 25 90 feet, more or less, because it's irregular,

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1 of the frontage along -- along the Boardwalk.
 2 The proposal then is to build the
 3 structure, one building, and then separate it
 4 into nine different retail uses, very similar
 5 and typical to other uses in and along the
 6 Boardwalk. And I'm sure you're all very
 7 familiar with it. As you walk along the
 8 Boardwalk, you see small frontages. There's a
 9 possibility, if you get a tenant who would like
 10 two units or three units, that they could be
 11 bunched together. But, as we're standing before
 12 you, we believe that we'll have the smaller-type
 13 tenants, which could potentially occupy up to
 14 nine individual units.
 15 In addition to that, on the site in
 16 the rear of the building, the backdrop of the
 17 building, we're proposing drive access. We have
 18 nice circulation to the rear of the property,
 19 rear of the buildings, that is, from California
 20 to Belmont, with two driveways, one on each of
 21 the two streets.
 22 Also in that area there is a
 23 loading zone that we're proposing, the
 24 dimensions of which meet the ordinance standard.
 25 It's positioned strategically in the center of

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1 the property as far as we can get it away from
 2 the two perimeter streets. I'll testify more to
 3 that in a moment. And it's directly proximate
 4 to the building, which is going to serve the
 5 building very well.
 6 In the rear of the building,
 7 because the elevation of the Boardwalk is up
 8 significantly higher than the site itself and
 9 the two perimeter streets, in the rear of the
 10 building there's a series of stairs and ramps
 11 which take any of the users of the site down
 12 from the grade of the buildings to the finish
 13 surface grade of the adjacent parking lot.
 14 Q. With respect to utilities, are
 15 there adequate utilities, in terms of electric,
 16 water, sewer, and so forth to service the
 17 premises?
 18 A. We have the advantage here that we
 19 are surrounded by two and essentially -- I call
 20 the Boardwalk a street because, technically, it
 21 is three streets, if you will. There are
 22 utilities existing to service this building in
 23 either of those streets -- in both of those
 24 streets as well as some additional utilities;
 25 predominantly, high-pressure water main, things

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1 of that nature, along the Boardwalk frontage.
 2 So, the utilities are no issue and Mr. Gurwicz,
 3 once we, hopefully, get through this step and we
 4 go into the preconstruction step, if you will,
 5 will be meeting with the utility companies and
 6 signing contracts with each one of those
 7 companies, as required.
 8 Q. How about stormwater? How is that
 9 being addressed?
 10 A. Stormwater. In this particular
 11 case, surface drains from the parking facility,
 12 it's going to continue to do so. There is a
 13 high spot just about right where my pen is
 14 marked. It is in the center of the lot at the
 15 rear of the buildings that water -- surface
 16 pitches to both side streets. We're going to
 17 continue that with no interruption. We will be
 18 discussing this with the city engineer because
 19 there are certain improvements within the city
 20 right-of-way that we need to implement beyond
 21 the purview of this board, that being the
 22 driveways and things of that nature. We're
 23 going to meet with the city engineer and work
 24 out any questions he has relative to the
 25 stormwater.

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1 Q. Now, you've already indicated that
 2 this use complies with the zoning requirements
 3 in terms of the use. Are there certain at al.
 4 and other bulk requirements; for example, meets
 5 the height, meets the coverage, those kinds of
 6 things. However, there are some variances or
 7 other relief required. Could you identify those
 8 --
 9 A. Sure.
 10 Q. -- for the hearing examiner?
 11 A. Certainly.
 12 We've gone through that together
 13 with Mr. Plackter and our client, as well as
 14 we've reviewed the reports from Mr. Kernan, and
 15 we concur with the items that you have -- that
 16 are listed in the report. I'll go through them
 17 one-by-one.
 18 Should I do the justifications all
 19 at one time at the end or do them each --
 20 Q. You can do them individually.
 21 A. Okay. Fine.
 22 Q. Whatever you feel --
 23 A. All right. Let's do it that way.
 24 The front yard setback.
 25 Technically, we have three front yards. We have

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1 no rear yard. And in Atlantic City's ordinance,
 2 if you have more than one front and you have no
 3 rear, you have a side yard. So, technically,
 4 that rear of the building, that is, technically,
 5 a side yard setback.
 6 Side yard setbacks are existing
 7 from California and Belmont as well as from the
 8 Boardwalk. We -- you're permitted to be zero
 9 setback -- actually, required to be -- let me
 10 say it another way -- zero setback on the
 11 Boardwalk up to a height of 35 feet, in which
 12 case, you camp back and go back 20 and up
 13 another height.
 14 Q. These buildings, by the way, are
 15 all west --
 16 A. Yeah. This building meets the
 17 requirement completely along the Boardwalk
 18 frontage. Along the two side streets we're
 19 asking for -- I'm going to call it a zero
 20 setback. It's not really that when it's built
 21 just a tad back, maybe a tenth or so back, so
 22 there's no encroachment into the public
 23 right-of-way. We'll make sure of that when we
 24 stake it out, if we do it right. And the
 25 requirement is to have a ten-foot setback from

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1 each side -- each of the frontages along
 2 California and Belmont. It's a good
 3 requirement, and normally, it's met.
 4 In this case and in many, many
 5 other cases along this Boardwalk frontage, we
 6 have these dead-ends. What ends up happening
 7 and has happened in some cases where the
 8 building is required to set back the ten feet,
 9 we create a bit of a no man's land, if you will.
 10 You have a ramp on both sides of the street in
 11 both street frontages; that is, at California
 12 and Belmont. And imagine if they're building
 13 the setback ten feet. In a dead-end situation,
 14 like we have it, at a lower elevation than the
 15 Boardwalk. With the building up high with a
 16 wall straight up, you have a ramp sloping down
 17 from the Boardwalk, you have a low area between
 18 the two. It's been proven the landscaping will
 19 grow in there. You're certainly not just going
 20 to pave it with concrete. That serves no
 21 purpose whatsoever. And again, it becomes a no
 22 man's land. And the boards have held and I
 23 believe, maybe, this board in another case had
 24 held in the past that it's not really a
 25 desirable thing to do; where you have exposure

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1 to the ramp on the inside. People can,
 2 technically, hide -- you know, they can hide
 3 under that ramp. It's going to be up in the
 4 air, the ground down low, open. It's not a good
 5 situation and it's not a situation that adds any
 6 aesthetic or anything of that nature to the
 7 property.
 8 By expanding the building out to
 9 the property line, it does away with all those
 10 problems. It really is the right thing to do.
 11 And if you recall that photograph just a moment
 12 ago, you can see the other properties in this
 13 particular area, and I would testify most of the
 14 properties along the Boardwalk frontage all
 15 enjoy that setback just about to zero. So, you
 16 come to the Boardwalk, you turn, you come down
 17 whichever street you happen to be on. You have
 18 a little flat area of the Boardwalk extension
 19 and then the ramp down to slope to whatever the
 20 sidewalk grade happens to be, and you are
 21 directly alongside of the building. And in most
 22 cases, the buildings actually have openings on
 23 the side, as we are proposing as well. So, it
 24 just gives a better feeling, a better pedestrian
 25 feel, much more safe, and the right thing to do.

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1 So, in my opinion, that variance is certainly
 2 well justified.
 3 Q. And also that area, by leaving that
 4 type of space, it could be places for trash to
 5 collect, debris, and it could become unsightly.
 6 A. That is what happens.
 7 Q. In addition to security.
 8 A. It is a maintenance issue. That is
 9 what happens.
 10 Q. Please continue.
 11 A. The second one, on-site parking.
 12 Maybe -- maybe possibly the most important thing
 13 today. We --
 14 If you go through the ordinance and
 15 you calculate the square footage, there's two
 16 calculations for parking. One is, for retail
 17 spaces, there's a calculation of the amount of
 18 square footage. Applying the ordinance to that,
 19 if you have, in this particular case, 46 spaces
 20 to be added for this particular use.
 21 And the second part of that, the
 22 second component of that is for parking for the
 23 employees. We don't have the exact uses here.
 24 We can only estimate that. We believe if you
 25 take it --

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1 I think a good estimate would be,
 2 perhaps, six employees per unit. If there's
 3 nine, there's 54 employees. I would think
 4 somewhat of a maximum number for these
 5 relatively minimal uses. So, if you add the two
 6 together.
 7 And then there's one other clause
 8 in the ordinance that states if you have a site,
 9 a retail site like this is and it's within 300
 10 feet of a public transportation route, which
 11 Pacific Avenue is a jitney route, we are within
 12 300. Our property line is 220 feet from Pacific
 13 Avenue. So, we comply with that requirement.
 14 You can take up to an 85 percent reduction.
 15 And incidentally, that was
 16 something put into the ordinance years ago.
 17 Mr. Crane and Jay Fiedler and those fellows, Ken
 18 Platt, in those days when we talked about that.
 19 It was really there to promote the use of public
 20 transportation, where you have these sites like
 21 this or any of the other sites that have been
 22 developed through the years, the city would --
 23 at that time, was promoting that because parking
 24 was such an issue as the city developed and got
 25 very, very busy. So, they wanted to take

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1 developers such as this and say look, if you
 2 encourage the use -- if you're within a certain
 3 distance and you encourage the use of public
 4 transportation, we're going to reduce your
 5 parking requirement by 85 percent is the number
 6 they picked. And I guess it was done after they
 7 had studied that pretty well, they came up with
 8 that number. It seems like a little bit of an
 9 odd number, maybe, but it is what it is.
 10 So, in that particular case, if you
 11 apply that to this lot, to this site, and using
 12 the numbers I just testified to, the 46 and the
 13 54, that would require parking totals of eight
 14 spaces for the -- for the employees and seven
 15 spaces for the retail space, applying the 85
 16 percent reduction. A total of 15.
 17 We're not proposing any new
 18 parking. We're asking the board for relief from
 19 the parking requirement. And there's a few
 20 reasons for that. One, the site itself, the
 21 remainder of the site, is a parking lot. There
 22 are more than 250 spaces available on that lot,
 23 directly on our site.
 24 Secondly, in the immediate
 25 vicinity, I'm going to say within a one-block

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1 area, there are four other parking lots, surface
 2 parking lots, available.
 3 I noticed today, coming down here,
 4 that one of those lots, which is directly across
 5 from the site on Pacific Avenue has a sign on
 6 it; \$60 a month to park your car. That's \$2 a
 7 day. If you're an employee, for \$60 a month,
 8 you could park your car right across the street,
 9 on Pacific Avenue.
 10 I think it's reasonable that we
 11 should ask -- we can ask the board for this
 12 variance.
 13 In addition to that, we are
 14 situated here a block -- just off the site --
 15 Belmont, Iowa Avenue, to the Tropicana, one of
 16 the largest parking garages in the City of
 17 Atlantic City. When they built The Quarter
 18 project, which we had worked on, they added
 19 2,700 parking spaces to what already was a very
 20 large parking count.
 21 So, I don't want to say that we
 22 could count their spaces, believe me, I'm not
 23 saying that, but I'm saying, reasonably, if you
 24 look at where we are, what's on our lot, what's
 25 available as a parking inventory within a

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1 one-block radius of this site, I wish, and I
 2 hope I live that long, that parking becomes a
 3 problem in Atlantic City.
 4 We all know the situation we're
 5 dealing with here in the city. There is not a
 6 parking problem in the city. I hope and pray
 7 there will be one soon.
 8 So, I think, for this particular
 9 property, in my opinion, this variance for the
 10 reduction from the 15 spaces that is down to a
 11 zero, essentially, because of the conditions we
 12 have here, these specific conditions.
 13 And one other thing. The use that
 14 we're proposing. These are Boardwalk retail
 15 spaces. I've lived here my whole life. And I
 16 walk up and down that Boardwalk, as you all do.
 17 They're not destinations. You don't come to
 18 park your car in a space and go to that store.
 19 If you do, you're one in a million. You park
 20 your car wherever you happen to park it, you
 21 walk -- take that nice stroll down the
 22 Boardwalk, and if you have it, one of these
 23 places, that's great, we'd love to have your
 24 business, but you're not coming to Atlantic
 25 City, go to that store and occupying one space,

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1 leaving that store and going home. The person
 2 that does that is very, very unusual.
 3 We did --
 4 We worked on and this board
 5 previously approved Margaritaville. We know
 6 what that generates. There wasn't a parking
 7 space added for that. And that site generates a
 8 tremendous amounts of traffic. Is it a problem
 9 for Resorts? It's not. I wish it was. But, if
 10 you go to that lot even on just about the most
 11 busy times, you will see there's still spaces
 12 available. And Resorts has a lot across the
 13 street. Really, that facility really generated
 14 a need for two or 300 parking spaces.
 15 So, we have some history here. It
 16 really works.
 17 And again, that could even be a
 18 destination in that example, by the way.
 19 But, for these non-destination
 20 sites, the parking we have available with the
 21 uses we're proposing, I really think the
 22 variance is well justified and very reasonable
 23 for us to ask the board for that variance.
 24 Q. And Mr. Ponzio, are you familiar --
 25 although you may not have handled it -- with the

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1 BET application, which is retail stores in front
 2 of the West Hall?
 3 A. Yes.
 4 Q. And are you aware whether a
 5 variance for both employee and customer parking
 6 was granted -- or recommended by this body and
 7 ultimately approved by the CRDA board?
 8 A. It was applied for, recommended and
 9 ultimately approved.
 10 And I will say that nothing's -- in
 11 planning, Mr. Plackter, nothing is identical,
 12 one site to the other. That's pretty close to
 13 identical to this site, if you will.
 14 Q. Okay. Please continue.
 15 A. Okay. Loading. The ordinance
 16 requires loading areas to be screened from
 17 public view. Now, that's a bit of a challenge.
 18 We tried to do that, but it's a bit of a
 19 challenge on this site because when you think of
 20 Pacific Avenue, which is off the site -- off the
 21 screen here, we have four frontages. So, to get
 22 access to the building area and yet screen it
 23 from all the public, it's virtually impossible
 24 to do that.
 25 But, what we've done was we've

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1 tried to make the loading area as inaccessible
 2 to the public from a visual perspective as
 3 possible. We could have easily moved the
 4 loading down to Belmont or California. It might
 5 have made it easier for us and for operators,
 6 but that's not really what we want to do. We're
 7 trying to meet the ordinance. We think we do,
 8 actually, meet the ordinance.
 9 Loading areas, as I testified to a
 10 few moments ago, are directly adjacent to the
 11 building, more or less just about in the center
 12 of the block. So, we've got the loading area as
 13 far from the public frontages as possible.
 14 But, in addition to that, along
 15 both frontages there is going to be a locking
 16 gate. That gate is going to be for our use, for
 17 our tenants and for the service vehicles that
 18 could utilize this aisle, if you will, behind
 19 the buildings for servicing the building.
 20 So, we have the buffering effect of
 21 the fence on both sides; a gate. We have the
 22 buffering effect of the distance separation.
 23 And thirdly, there is about a five-foot wide
 24 planted area along both streets, which is a
 25 street.

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1 Now, the planting is in pretty good
 2 shape, but some of it needs to be upgraded,
 3 which Mr. Gurwicz would do as part of this
 4 application. There will be some missing areas
 5 where the shrubs have died.
 6 And, by the way, it's very tough to
 7 keep the landscaping growing in these beach
 8 blocks, and we're all -- we've all had to deal
 9 with that for many, many years, and it's a
 10 constant ongoing maintenance situation, but that
 11 maintenance will be taken care of as a part of
 12 this application.
 13 So, I think, though, technically,
 14 we're not screened, if you will, from all sides.
 15 The setback from Pacific Avenue, the gate
 16 effect, the setback from both side streets, the
 17 buffering effect with the planters, we're doing
 18 everything we can possibly do to meet that
 19 requirement.
 20 And again, I think, technically, if
 21 the board believes that still is a variance,
 22 we're asking for it. I think it's reasonable.
 23 And I believe we have done all that we could
 24 possibly do with that.
 25 There's a little bit more here.

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1 Okay. There's another --
 2 Part and parcel with the loading is
 3 the question of it being in a drive aisle. As I
 4 mentioned a couple of times here, the drive
 5 aisle is a full 24 feet in width, which is very
 6 generous, full, two-way, spanning the property
 7 from street to street.
 8 The loading area occupies, per
 9 ordinance, a ten-foot wide -- width, that is, in
 10 that -- in that driveway. It leaves --
 11 Even if vehicles happen to be
 12 circulating in the parking lot at the time that
 13 there would be a service vehicle here, there's
 14 14 feet of width of access to get by. 14 feet
 15 for, essentially, a one-way drive is adequate,
 16 very adequate, and it shouldn't be any problem.
 17 Now, I will also tell you that the
 18 loading is controlled by the owner and the
 19 operators of each of the units. And in
 20 discussing that with Mr. Gurwicz over the last
 21 few days, that control is such that they're
 22 going to require the loading to be done in
 23 off-peak hours.
 24 Now, that said, there could be a
 25 weekend, there could be an evening where someone

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1 runs out of a product and they have to call a
 2 local distributor, you've got to run over here
 3 with this or that or whatever the case may be,
 4 and there is the occasion that that loading area
 5 would be in use at a peak time, if you will, but
 6 it would be for a specific purpose, an isolated
 7 circumstance; in, do your business, out.
 8 I don't believe, in my opinion --
 9 and I can testify with certainty -- that would
 10 not be a problem for the operation and
 11 circulation of this lot. We're not blocking the
 12 aisle at the end of these strips of parking.
 13 We're retaining 14 feet of space.
 14 I drive a pretty big pickup truck.
 15 The 14 feet of space, I drove that lot many
 16 times. I drove it again this morning. I went
 17 around and around that lot and tried to envision
 18 that building being there, and I could testify,
 19 again, with certainty, that would not be a
 20 problem.
 21 So, I think we've ameliorated any
 22 of the issues relative to that. In my opinion,
 23 that variance is also justified.
 24 Q. And also with respect to the type
 25 of vehicles that are going to bring goods,

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1 they're not going to be 70 -- they're unlikely
 2 to be large, large semitrailers; they're most
 3 likely to be panel trucks. That's typically
 4 what you see for these kind of stores?
 5 A. Local -- yeah. Typically.
 6 And, Mr. Plackter, in the event a
 7 semi happened to come in, we have full access to
 8 both streets and down California, come down
 9 Belmont, whichever way, and then full access in
 10 and out. There is no turning movement or backup
 11 or anything that would be necessary on that
 12 site.
 13 Q. Which is really a way better
 14 situation than the majority of other Boardwalk
 15 applications, where you load and unload. I
 16 mean, I know, if you go to South Carolina
 17 Avenue, --
 18 A. I know where they are.
 19 Q. -- those stores, they load and
 20 unload right in the street.
 21 A. Yeah. Right in the street.
 22 Q. And, you know, they park, you know,
 23 in the fire zone and they -- you know, they use
 24 their -- you know, they load up and go up the
 25 ramps to the Boardwalk.

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1 A. Mr. Plackter --
 2 Q. So, this is a much better
 3 situation?
 4 A. Historically, in the city, Atlantic
 5 Avenue, Pacific Avenue, most of the side streets
 6 and especially in the Boardwalk block, that
 7 loading is done in the street. It's not a good
 8 situation.
 9 We're not asking to continue --
 10 We want to make that better, which
 11 is why we're going to the lengths we are. We
 12 should all try to make all these projects
 13 better, and we do every day if we work on it.
 14 Q. I think there was one other
 15 variance you did not address and that was just
 16 the shade trees.
 17 A. Oh. Yeah. I missed that.
 18 The requirement is for one parking
 19 stall for every ten --
 20 Q. One shade tree?
 21 A. One shade tree for every ten -- if
 22 I had to go backwards, that would be good -- one
 23 shade tree for every ten parking spaces.
 24 Notwithstanding the fact this is an
 25 existing lot -- I discussed that with your

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1 planner and engineer -- we're touching the lot.
 2 When we touch the lot, essentially everything is
 3 in play, if you will. And we're okay with that.
 4 Now, normally, you would like those
 5 trees to be in the center of the property, and
 6 Mr. Landgraf mentioned to try to break up the,
 7 quote, sea of asphalt. I agree with that.
 8 This is a little bit of a twist in
 9 this case in that we have an existing lot.
 10 We're not building the lot.
 11 And the issue I had with that is
 12 really one of security. I think that's my
 13 primary concern.
 14 The lighting for this lot, the
 15 security lighting, which is very, very
 16 important, happens to be in the planter all
 17 along the side -- sides of the property. So,
 18 those lights are situated -- they're about 20
 19 feet in height. They shine the glare -- the
 20 light pattern down to the lot from both sides.
 21 My concern is, the trees on the
 22 interior, A, they would, perhaps, somewhat
 23 interfere with the parking layout. But, let's
 24 say you could get a tree in the corner and you
 25 put the little diamond that you see, you go to

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1 Home Depot, whatever, to try to do that. It
 2 could work. It's a little bit of a hazard.
 3 People end up hitting the curbs and things like
 4 that.
 5 But, let's say we can get past
 6 that. But, the trees, when they grow to
 7 maturity and you have a big canopy up there --
 8 we all see it. You go along any one of the
 9 streets in Atlantic City with that situation,
 10 they block the light. It's a problem. And the
 11 city actually goes back in later on and starts
 12 cutting trees out because blocking the lighting,
 13 it's a security issue.
 14 So, in that our light standards are
 15 out here, I don't want to cast that light toward
 16 the lot in both directions and have that light
 17 interrupted by that big, huge tree canopy, which
 18 is going to be as high or higher than the light
 19 standards themselves.
 20 So, we don't want to redo all the
 21 lighting on the lot. That would be a burden on
 22 the applicant.
 23 So, alternatively, we could space
 24 the ten trees along the perimeter, in the
 25 landscape strip. We can easily do that. I

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1 think it's a better plan. We could space them
 2 appropriately to miss the light standards. And
 3 what --
 4 I think what adds a little bit of a
 5 better situation is that folks walking along
 6 California or Belmont or folks that happen to
 7 reside across the street or occupy that area,
 8 you're going to look at that nice tree canopy
 9 right along the street frontage in the planter
 10 with a backdrop of the fence. I think it's a
 11 nice situation.
 12 So, we're not asking for complete
 13 relief; we're asking for the board to grant us
 14 the opportunity to install the trees, let's put
 15 them in the buffer. I think it's -- in this
 16 particular case, I think it's a better play.
 17 Q. Based on the testimony that you
 18 gave us, did you find that the benefits of the
 19 grant of these variances outweigh any
 20 substantial detriment that might be occasioned
 21 by of the grant of these variances?
 22 A. Yeah. I think -- you know --
 23 I'll say it this way: Times are
 24 what they are. And we know what needs -- I
 25 believe we all know what needs to be done in

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1 Atlantic City to help us continue to grow the
 2 city, hopefully. So, it's a -- the answer is
 3 pretty easy. I mean, there's no question that
 4 the positive benefits of this particular
 5 development filling up a void space along the
 6 Boardwalk with new retail uses, I think, without
 7 question, that's a significant positive benefit
 8 to the community, far outweighing these
 9 variances and, in my opinion, any other
 10 variances that we asked you for.
 11 So, I say it's an easy answer, but
 12 let --
 13 So, if I even backed up to the good
 14 times, when we didn't have -- weren't faced with
 15 the situation we're facing today. Back up, back
 16 up to 2005, 2006 or whatever. We still have
 17 this void space. It really lends nothing to the
 18 Boardwalk -- the beauty of the Boardwalk, the
 19 use of the city, the activities or whatnot.
 20 Even then I would have the same opinion; that
 21 this is definitely a very beneficial project to
 22 the city. And I think there's a few other
 23 spaces along the Boardwalk. I'd love to see
 24 every one of them filled in.
 25 Q. If the variances are granted, do

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1 you find there to be any substantial detriment
 2 to either the public good or to the zone plan or
 3 zoning ordinance of the City of Atlantic City?
 4 A. I don't.
 5 And there's been a lot of thought
 6 into this project. It's relatively minor of a
 7 project that it is and it appears like a very
 8 simple project. You have a piece of property,
 9 go street to street and put stores on the
 10 Boardwalk. It's pretty simple when you think
 11 about it. However, that said, there is a lot of
 12 other thought that went into it, and you could
 13 hear it in the depth of my testimony and in the
 14 plans that were submitted. Because the Gurwicz
 15 family has been here a long time. I've known
 16 them myself for many, many, many years. It's
 17 such a quality family. And they have such a
 18 stake not only in the area but in Atlantic City,
 19 a larger stake than many of us in the room might
 20 even realize, with a very, very large stake in
 21 this community. And they want to make sure and
 22 they've told us to make sure this is done right.
 23 They want this to be something that they will be
 24 proud of.
 25 Saying all that, I think, without

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1 question, that the -- again, the benefits of
 2 this project far outweigh any perceived
 3 negative. I think the negative criteria here is
 4 well met, especially when we've attempted to
 5 ameliorate any of the variance issues, as per my
 6 testimony.
 7 Q. And did you have occasion to review
 8 Mr. Kernan's report?
 9 A. I did.
 10 Q. Is there anything you want to
 11 comment on?
 12 A. A couple little things in there.
 13 Yes. Thank you.
 14 One, there was a question about
 15 site grading. A good question. Assuming if we
 16 get past today, you know, we get the approval
 17 for the project, Mr. Kernan, in the rear of the
 18 site elevation shown, there was a drawing
 19 submitted with the set. There was a high point
 20 where the site would then pitch down to the
 21 areas.
 22 Now, when we build the building,
 23 we're going to chop out that asphalt. We are
 24 going to then transition, as I mentioned before,
 25 from this grade down to grade with a series of

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1 stairs and ramps. Whatever that transition
 2 would require, we would do that. But, no
 3 question, from this point back a few feet, maybe
 4 30, 40 feet or so, there will be a transition.
 5 The site is a bit up and down. I'm sure you've
 6 looked at it. So, there will be some minor
 7 grading. I call it "minor" because I think the
 8 general pattern of the high spot in the middle,
 9 low to the outside, it's already there. If this
 10 was the other way and we had a low spot and we
 11 had to deal with drainage or something, there
 12 would be significant grading involved here.
 13 It's not the case. So, we'll remove the
 14 asphalt, build the buildings and then transition
 15 to grade in the rear of the site. We will
 16 submit a grading plan for your review and
 17 approval. I don't envision that to be any
 18 significant issue at all.
 19 Secondly, there was a question
 20 raised -- I'm not sure if it was from Mr. Kernan
 21 or Mr. Landgraf -- about can you add some
 22 handicapped parking spaces. Four, I think, was
 23 the number that was discussed. We can do that.
 24 We will do that. I use this lot myself. I --
 25 my father is handicapped. I find my way around

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1 the lot, but I think it's a good -- it's a good
 2 thing to add the spaces. We can do it very
 3 simply at no loss of parking. It just happens
 4 to work out.
 5 At the edge of the -- this double
 6 aisle, if you will, we can put the two parking
 7 spaces with the handicapped access space -- the
 8 van access space in the center, total length of
 9 24 feet. It fits right in there very well. If
 10 the board would like us to do that, we will add
 11 that to the drawings when we submit the final
 12 plan certification.
 13 Q. Okay. Anything else?
 14 How about the restriping? Wasn't
 15 there a question of the restriping?
 16 A. Yes. This will require some
 17 restriping. When we remove the parking that's
 18 in the Boardwalk side of the lot, there will be
 19 some restriping to these end cap aisles, if you
 20 will, here, here and here. There will be
 21 striping for the handicapped I just mentioned,
 22 the blocking out of the loading area. We'll
 23 also paint arrows on the ground at the driveways
 24 so you can know where the ins and outs are on
 25 the property.

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1 I think that was it.
 2 Q. Anything else?
 3 Okay. Based upon your testimony
 4 and your review of Mr. Kernan's report, subject,
 5 obviously, to the comments, do you believe that
 6 the applicant has presented an application to --
 7 that is compliant and can, subject to the grant
 8 of the variances, would qualify for preliminary
 9 and final site plan approval?
 10 A. I think, for all the reasons
 11 stated, I certainly do. Yes.
 12 Q. Thank you.
 13 A. Thank you.
 14 JACK PLACKTER: No further
 15 questions.
 16 LANCE LANDGRAF: Thank you,
 17 Mr. Plackter.
 18 JACK PLACKTER: Thank you very
 19 much, Mr. Landgraf.
 20 LANCE LANDGRAF: I'd like to turn
 21 to our expert, Mr. Kernan, for his planning and
 22 engineering report.
 23 I know Mr. Ponzio threw some of it
 24 out. If you could hit some of the highlights.
 25 Do we need to swear him in?

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1 SCOTT COLLINS: No. I just didn't
 2 know if you wanted to let Mr. Plackter present
 3 his other witness before Mr. Kernan testifies.
 4 JACK PLACKTER: Well, I think that
 5 Mr. Gurwicz is here. If you had a question --
 6 SCOTT COLLINS: Oh. Okay.
 7 JACK PLACKTER: -- about tenants or
 8 anything about the -- you know, the look and
 9 feel of the buildings, he could probably address
 10 that because he's been intimately involved.
 11 I know he's been to a number of
 12 meetings with CRDA staff and so forth and is
 13 very familiar with the process.
 14 So, I didn't really intend to
 15 introduce him unless somebody wanted to ask a
 16 question.
 17 SCOTT COLLINS: Okay. Okay. One
 18 second, please.
 19 LANCE LANDGRAF: Just for the
 20 record, Mr. Kernan has been previously sworn as
 21 an expert in planning and engineering for the
 22 CRDA.
 23 And I'd like to enter his report,
 24 and that is dated July 17th, as Exhibit B-1.
 25 Mr. Kernan.

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1 TIMOTHY KERNAN: Yes, please. And
 2 that report is a second report based upon a
 3 resubmission from Mr. Ponzio.
 4 The first thing I reviewed with the
 5 first and the second report were the submission
 6 requirements in the city code.
 7 I list on pages 2, 3 and 4 the
 8 outstanding submission items, and I do recommend
 9 that they all be either waived or made a
 10 condition of approval, with a couple exceptions,
 11 which were testified to; the grading and the
 12 stormwater, as well as, I guess, there's an
 13 agreement on item 24 of the preliminary site
 14 plan checklist, which is providing documentation
 15 of the presence or lack of underground storage
 16 tanks.
 17 JACK PLACKTER: Yes.
 18 TIMOTHY KERNAN: Okay. So, that
 19 would be made a condition.
 20 LANCE LANDGRAF: Okay.
 21 TIMOTHY KERNAN: So, with those two
 22 conditions and other conditions as far as like
 23 for final site plan and bonds, estimates and
 24 posting of performance guarantees and outside
 25 agency approvals would be made a condition, I

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1 would recommend completeness for this
 2 application.
 3 LANCE LANDGRAF: Okay.
 4 TIMOTHY KERNAN: Moving on,
 5 certainly under zoning, it is a permitted use,
 6 as was testified to.
 7 And on page 5, I list the bulk
 8 requirements, which have all been met, with the
 9 exception of the front yard setbacks that
 10 Mr. Ponzio testified to. And I accept his
 11 testimony. I believe it warrants a variance. I
 12 believe that would be a c(2) variance because he
 13 was talking more about the benefits outweighing
 14 detriments and the hardship. So, I would
 15 support the request for that variance. I think
 16 it -- it does make sense to go up to the ramps
 17 on both frontages.
 18 Moving on to, I guess, as Mr.
 19 Ponzio stated, the most difficult aspect of the
 20 application is the off-street parking and
 21 loading requirements in the city code. And that
 22 begins on page 6 of my report.
 23 The first comment deals with the
 24 setback for the parking lot. We require a
 25 ten-foot setback. The existing setback is in

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1 the neighborhood of four to five feet. That
 2 isn't changing. I noted that that's a
 3 pre-existing non-conforming condition, although
 4 there is some discussion as to whether or not a
 5 variance might be required if that parking is
 6 being changed either in the elevation or with
 7 restriping.
 8 I think the safe thing to do would
 9 be to grant a variance. I do support a
 10 variance. I think, when we get a regrading -- a
 11 new grading plan, we're going to see some
 12 changes in elevation along the parking to
 13 remain, especially, you know, at the new drive
 14 aisles. We're either going to be looking at
 15 some retaining walls between the drive aisle and
 16 the existing parking lot or the existing parking
 17 lot is going to have to come down and meet the
 18 elevation of the new drive aisles and transition
 19 back, as he said, some feet. I don't think it's
 20 a major issue, but I think, to be safe,
 21 variances ought to be sought. And I do support
 22 those.
 23 THE WITNESS: I would agree with
 24 that.
 25 TIMOTHY KERNAN: Okay. So, that's

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1 item 1.
 2 Item 2 deals with the screening of
 3 the parking lots. There, we require a five-foot
 4 landscaped area. And we have, essentially,
 5 that. In some cases, it's a little less; maybe
 6 four feet. But, there is also an alternative.
 7 If it's less than five feet, a well maintained
 8 solid wall, fence, Evergreen hedge has to be
 9 maintained. And there is an Evergreen hedge and
 10 there is a fence. And I would just like --
 11 So, I believe the spirit of the
 12 code is met. I would just like some
 13 confirmation that those hedges -- actually, we
 14 heard it through testimony that the hedges that
 15 are missing or that are not thriving would be
 16 replaced.
 17 JACK PLACKTER: Yes. I'm happy to
 18 confirm, on behalf of the applicant, that we're
 19 amenable. And if it involves, you know, Tim
 20 meeting with our site engineer on the site and
 21 seeing which areas need to be replaced, we're
 22 more than willing to do that.
 23 TIMOTHY KERNAN: All right. And
 24 does the same go for the existing fencing?
 25 JACK PLACKTER: If it's in

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1 disrepair.
 2 TIMOTHY KERNAN: Yeah. I noticed
 3 there are some sections that are leaning or cars
 4 have, you know, kicked the bottom out. And a
 5 lot of it is really from salt air. I guess it's
 6 not aluminum because it looks like it's getting
 7 pretty rusty. Maybe it needs to be painted or
 8 something. It needs a little bit of --
 9 JACK PLACKTER: We'll work with you
 10 to make it --
 11 TIMOTHY KERNAN: Okay.
 12 JACK PLACKTER: -- to take care of
 13 those areas.
 14 I think the best thing, if it's
 15 okay, is, if we're fortunate enough to get the
 16 approval, to go out on site and identify them.
 17 And then we would just take care of them.
 18 TIMOTHY KERNAN: Okay.
 19 JACK PLACKTER: If that works for
 20 you.
 21 TIMOTHY KERNAN: Yeah.
 22 LANCE LANDGRAF: That would be
 23 acceptable.
 24 TIMOTHY KERNAN: Yes.
 25 LANCE LANDGRAF: One question.

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1 The gates that are being proposed
 2 that Mr. Ponzio mentioned, are they solid gates?
 3 ARTHUR PONZIO: By "solid," you
 4 mean you can't see through them?
 5 LANCE LANDGRAF: Right. Are they
 6 going to match the SID fencing that's --
 7 ARTHUR PONZIO: Yeah. My guess is,
 8 for aesthetics, you would probably want to match
 9 what's there.
 10 JACK PLACKTER: The SID.
 11 ARTHUR PONZIO: And secondly, to
 12 put something solid like that is a security
 13 issue.
 14 LANCE LANDGRAF: That's what my
 15 concern is. Match what's out there.
 16 ARTHUR PONZIO: Yeah. Good point.
 17 JACK PLACKTER: We're fine with
 18 that.
 19 TIMOTHY KERNAN: All right. Good.
 20 I agree.
 21 LANCE LANDGRAF: All right. The
 22 third comment deals with the shade tree
 23 requirement that was testified to. The proposal
 24 from the applicant is --
 25 Are there ten shade trees?

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1 JACK PLACKTER: Yes. Add ten shade
 2 trees around the perimeter.
 3 TIMOTHY KERNAN: Okay. I had
 4 calculated possibly even eight, but eight, ten
 5 --
 6 JACK PLACKTER: Well, we'd rather
 7 have eight.
 8 TIMOTHY KERNAN: You know, we'll
 9 have to work out the spaces because you don't
 10 want them too close together. So, if it allows
 11 for a little less than ten because of the
 12 spacing, we'll work with that.
 13 JACK PLACKTER: That's fine.
 14 TIMOTHY KERNAN: I'm satisfied with
 15 the location proposed. There may be an
 16 opportunity to put one or two in the parking
 17 lot, but --
 18 You know, the parking lot is bigger
 19 than what's before us. There's other lots that
 20 make up the entire parking lot out to Pacific.
 21 So, I'm just -- I'm kind of struggling; would it
 22 look odd if one or two trees were in the parking
 23 lot and the balance were out on the street
 24 frontages.
 25 So, I believe I accept your

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1 proposal, but I want to defer also to the
 2 planning director.
 3 You know, if trees were in where
 4 the double row of parking is, facing each other,
 5 which is kind of centrally located, if they were
 6 -- if one or two were put there, I don't think
 7 you have the same lighting concern, because by
 8 the time the lights from the streets hit the
 9 parking lot, --
 10 ARTHUR PONZIO: It's in the center.
 11 TIMOTHY KERNAN: -- it's in the
 12 center.
 13 And it's not going to be
 14 complicated, by the way.
 15 But, I don't feel that strongly
 16 that they need to be there. The only reason, I
 17 guess, perhaps one tree in that area, maybe in
 18 that handicapped area, would be to help screen
 19 the loading area a little bit. I don't feel
 20 that strongly that --
 21 LANCE LANDGRAF: The only -- your
 22 concern, it's not going to match the rest of the
 23 parking lot. Yeah, I get that. The perimeter
 24 might work very well.
 25 The only concern I would have, we

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1 have to look at where the lights are. Your
 2 concern about security, we don't want the lights
 3 being blocked by the perimeter trees, either.
 4 ARTHUR PONZIO: No.
 5 LANCE LANDGRAF: So, that's just a
 6 concern that I would have; to make sure we don't
 7 want to have the site lighted.
 8 TIMOTHY KERNAN: So, if we can
 9 treat that as an item that we would work out so
 10 it's not so exactly determined here and now.
 11 JACK PLACKTER: But, it's feasible.
 12 TIMOTHY KERNAN: Okay. All right.
 13 Comment number 4 deals with the requirement for
 14 the size of the parking spaces, the clearance
 15 for the parking spaces and the size of the drive
 16 aisles. I note that the current condition of
 17 the parking lot does not conform to all of these
 18 standards, primarily with the width of the
 19 driveways. They're not all 24 foot wide.
 20 Again, I noted these are
 21 pre-existing non-conforming conditions, which in
 22 this case really aren't changing. The new drive
 23 aisle will conform to the 24 feet.
 24 When we had a conversation
 25 yesterday, there was the discussion about the

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1 handicapped parking spaces also being required,
 2 and I now see the proposal and the testimony for
 3 four spaces. So, that's appreciated. We had
 4 discussed perhaps that a variance might be
 5 required, but I'm not sure.
 6 LANCE LANDGRAF: For this one, I
 7 don't think so. I think -- it's an existing
 8 non-conformity, I think.
 9 TIMOTHY KERNAN: Yeah.
 10 Okay. Moving on to page 7. The
 11 fifth comment deals with the number of
 12 off-street parking spaces that are required. I
 13 did a calculation for the square footage. I
 14 wasn't familiar with exactly how many employees
 15 were proposed. I know there was a note on the
 16 plan. I heard testimony that that may actually
 17 be higher.
 18 So, the calculation Mr. Ponzio put
 19 forth this morning was with the caveat that you
 20 can reduce it by 85 percent, that a total of 15
 21 spaces would be required, eight for the
 22 employees, seven for retail, and they're seeking
 23 no parking for employees or for customers.
 24 I certainly agree with the second
 25 part; that -- the variance for no customer

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1 parking. I understand, you know, the character
 2 of the Boardwalk stores.
 3 For the employee parking, I'm not
 4 sure I agree a hundred percent that no parking
 5 should be provided. And in this case, the
 6 applicant does own the parking lot that abuts
 7 the back of the stores. I just wonder if it
 8 would be attractive to get tenants for your
 9 stores if, you know, each store had one space
 10 devoted to the store, where the owner would have
 11 his own or her own parking spot or could assign
 12 that to the general manager for the store. It
 13 may be a better way to find tenants. Perhaps
 14 the owner -- the applicant already has tenants
 15 for all the stores and doesn't feel that that is
 16 necessary to lease the space up.
 17 So, it's more of an operational
 18 thing, I guess, for me than, you know, applying
 19 the code literally.
 20 JACK PLACKTER: The only thing I
 21 would say is that that is a public parking lot,
 22 but it is rented. You know, it's rented to
 23 Mr. Boland, who operates it. It's available for
 24 the --
 25 TIMOTHY KERNAN: Oh, it's not

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1 operated by the Gurwicz family?
 2 JACK PLACKTER: No. We own it, but
 3 it's --
 4 You know, the whole thing --
 5 TIMOTHY KERNAN: It looks to be
 6 split up between the front, off of Pacific
 7 Avenue has access for --
 8 JACK PLACKTER: Public.
 9 TIMOTHY KERNAN: -- public, and
 10 then --
 11 JACK PLACKTER: Well, I think
 12 Mr. Boland, like for the summer, has some deal
 13 with the Trop that he made where they use it for
 14 valet.
 15 TIMOTHY KERNAN: You can see it
 16 coned off.
 17 JACK PLACKTER: Yeah. So, I mean,
 18 we would respectfully request --
 19 Look. Employees, it's a good
 20 issue, but there is a lot of parking in the area
 21 and typically, most of the existing conditions
 22 in Atlantic City is employee parking, although,
 23 you know, other places, it's not really provided
 24 because you can -- you can -- you know,
 25 employees can pay for it.

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1 TIMOTHY KERNAN: Right.
 2 JACK PLACKTER: We're certainly
 3 sympathetic about it, but I --
 4 TIMOTHY KERNAN: Regardless, a
 5 variance is required no matter if the number is
 6 --
 7 LANCE LANDGRAF: A variance is
 8 required.
 9 TIMOTHY KERNAN: -- whether it's
 10 nine for -- one per store or down to zero.
 11 Perhaps I can refer somewhat to the
 12 director and that can be something worked out,
 13 but --
 14 LANCE LANDGRAF: So, the parking
 15 for the employees was somewhat of a -- you know,
 16 a plus that I would think would add to the --
 17 like Tim was talking about; you know, the
 18 viability of having manager space or the owner
 19 space. I certainly understand there's a lot of
 20 parking in the area. Maybe that's something --
 21 JACK PLACKTER: Well, I'll tell
 22 you. We could talk to Mr. Boland.
 23 The only reason why we didn't want
 24 to do it, because once you start doing that, it
 25 becomes like an encumbrance on the property and

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1 it could have an impact on --
 2 Let's suppose, you know, these
 3 stores are really successful and somebody says I
 4 want to do a hotel here, you know. Now we have
 5 a situation where we agreed to make, you know,
 6 seven or nine spaces in this lot, you know, it
 7 could prevent the development of the lot. And
 8 that's why, you know --
 9 Because there's so much public
 10 parking, we felt like --
 11 We're not saying that --
 12 Mr. Gurwicz would like to address
 13 it, too. We're not saying that it's impossible,
 14 but it just seems, to me, to be impractical.
 15 That's why we're asking for the variance.
 16 Mr. Gurwicz would like to --
 17 LANCE LANDGRAF: It would be
 18 cumbersome --
 19 The cumbersome of it is a concern
 20 of mine. I wouldn't want to restrict the future
 21 of that lot for future development for nine
 22 parking spaces.
 23
 24 MITCHELL GURWICZ,
 25 having been duly sworn in by Scott

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1 Collins, Esquire, was examined and
 2 testified as follows:
 3
 4
 5
 6 MITCHELL GURWICZ: Thank you.
 7 Just a brief comment to just round
 8 out. And I absolutely --
 9 LANCE LANDGRAF: For the record,
 10 just state your name.
 11 THE WITNESS: Mitchell Gurwicz,
 12 G-U-R-W-I-C-Z, a member of California Avenue
 13 Ventures, LLC.
 14 Thank you.
 15 Just to round out the conversation,
 16 I'm sympathetic as well to the parking ease that
 17 may be necessary; that we own other Boardwalk
 18 stores. We've had experience doing Boardwalk
 19 renting in addition to owning other properties
 20 in this area when it comes to parking and having
 21 other parking lots.
 22 The benefit to the store, I would
 23 respect -- I would respectfully request the
 24 board let me deal with that on the leasing part,
 25 because I might have to do a lot of tenant fit

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1 out. If I have to include parking, then I'll go
 2 out and buy the parking.
 3 But, I have a tenant on the site
 4 who is paying per space and who has different
 5 ways of parking it and if I start to make --
 6 The parking lot itself becomes an
 7 economic issue on both sides as I start doing
 8 any kind of encumbrance on that lot.
 9 So, that's why I respectfully
 10 request that we grant the variance at zero.
 11 But, I'm not going to let a tenant slide
 12 because, well, I'd go in there but you don't
 13 have a parking space for my manager. Then we'll
 14 go and make an arrangement. I'm not going to
 15 let a tenant leave Atlantic City because of lack
 16 of the parking because the zoning wasn't
 17 approved for that.
 18 TIMOTHY KERNAN: Good point.
 19 MITCHELL GURWICZ: So, I'm going to
 20 deal with that on the economic side of the store
 21 rental rather than on the land use side.
 22 TIMOTHY KERNAN: Point taken.
 23 Yeah. I kind of pretty much summed that up when
 24 I said it was more of an operational concern.
 25 So, I'm leaving that in your hands.

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1 LANCE LANDGRAF: I'm satisfied with
 2 that.
 3 TIMOTHY KERNAN: All right. The
 4 last two comments that are underlined are 6 and
 5 8. They go together. That's the loading area.
 6 A variance is required for not screening. I
 7 support that variance. And I heard the
 8 testimony from Mr. Ponzio about how traffic can
 9 still flow around if a vehicle, single unit
 10 delivery truck, what have you, is parked along
 11 the curb line there, how cars can still navigate
 12 through the parking lot. And I'm satisfied with
 13 that testimony. So, I support the variance.
 14 And we did hear testimony on item
 15 8. Under signage, you agree that you'll conform
 16 to the city code with regard to signage. If
 17 not, you'll have to seek a variance.
 18 JACK PLACKTER: Absolutely.
 19 Absolutely.
 20 TIMOTHY KERNAN: Okay. I don't
 21 believe --
 22 Under performance standards, I
 23 heard any testimony -- not that I'm concerned
 24 that there's anything noxious or injurious.
 25 JACK PLACKTER: Well, they're going

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1 to be -- they're going to be, you know, standard
 2 retail tenants.
 3 TIMOTHY KERNAN: Okay.
 4 JACK PLACKTER: Like we're talking
 5 to like some upscale ice cream vendors, you
 6 know, that kind of thing, so I don't think --
 7 I mean, we would testify -- or I
 8 can represent that we'll comply with --
 9 We're not going to have any
 10 radioactive material or any noxious type of
 11 things that are --
 12 TIMOTHY KERNAN: Any noise
 13 ordinance, if you have a restaurant with music
 14 or what have you.
 15 JACK PLACKTER: Correct.
 16 And if you look at the size of
 17 these stores, they're not set up, at least --
 18 I guess if we combine them and if
 19 we were lucky enough to get like a national
 20 restaurant, that would be good, but right now,
 21 we don't anticipate those kind of tenants.
 22 But, in any event, we would comply
 23 with those conformance standards that you cited.
 24 TIMOTHY KERNAN: Okay. I'm
 25 satisfied with that.

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1 Page 8, urban design standards.
 2 There was testimony about the treatment of the
 3 roof, which I support. I support that waiver --
 4 or that variance.
 5 I believe that's all I have.
 6 LANCE LANDGRAF: Okay. Thank you,
 7 Tim.
 8 Any other testimony from the CRDA
 9 panel?
 10 ROSE ANN LAFFERTY: I have a
 11 question.
 12 Mr. Ponzio, you stated that you
 13 talked to the city already? Have you -- has a
 14 plan been submitted to the Planning and the
 15 Engineering Department?
 16 ARTHUR PONZIO: Not to my
 17 knowledge. Nothing yet -- no submittals.
 18 ROSE ANN LAFFERTY: It's supposed
 19 to be by the applicant. So, I would advise that
 20 you get a copy of all of this application to the
 21 -- those departments. And if, in fact, they
 22 submit a report to you, I would appreciate it if
 23 you would submit that here into the office for
 24 the file.
 25 JACK PLACKTER: I think we may have

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1 submitted it to the city.
 2 MITCHELL GURWICZ: I'll have to
 3 take a look. The CC is on the cover letter.
 4 JACK PLACKTER: I think we may have
 5 submitted it to the city.
 6 LANCE LANDGRAF: If you could just
 7 confirm that for us.
 8 JACK PLACKTER: Yeah.
 9 But, the other -- the other --
 10 obviously, the other mitigating factor was when
 11 we -- the informal meetings with Elizabeth
 12 Terenik, who was going to comment on it, --
 13 LANCE LANDGRAF: Right.
 14 JACK PLACKTER: -- was here in your
 15 position -- well, not exactly.
 16 She was the planner for the CRDA.
 17 And she gave us a lot of input into the design
 18 of this plan.
 19 But, we'll -- if we didn't do that,
 20 I apologize. We'll take care of it.
 21 ROSE ANN LAFFERTY: Mr. Gurwicz is
 22 right. It does say that he did.
 23 JACK PLACKTER: Okay.
 24 ROSE ANN LAFFERTY: If there's any
 25 correspondence, any documentation coming back

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1 from the city with their suggestions, I would
 2 appreciate it if we could have copies of that as
 3 well.
 4 JACK PLACKTER: I'll touch base
 5 with the planning director over there.
 6 ROSE ANN LAFFERTY: And the other
 7 thing is that once new plans and everything else
 8 are developed, they need to be submitted in CD
 9 form. All of the exhibits need to be submitted.
 10 JACK PLACKTER: Yes.
 11 ARTHUR PONZIO: That would be the
 12 final -- for the final set. That's what you
 13 need?
 14 LANCE LANDGRAF: Yes.
 15 Thank you, Rose Ann. Is there
 16 anything else?
 17 ROSE ANN LAFFERTY: I'm good.
 18 SCOTT COLLINS: I think we should
 19 note for the record that there are no members of
 20 the public in the room.
 21 LANCE LANDGRAF: I was just about
 22 to do that.
 23 SCOTT COLLINS: Okay.
 24 LANCE LANDGRAF: At this point, I'd
 25 like to open up to the public for public

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1 comment. Anybody hiding behind the board back
 2 there? No?
 3 JACK PLACKTER: I don't think so.
 4 LANCE LANDGRAF: Seeing none, I'll
 5 bring it back to -- I'll close the public
 6 portion and bring it back to the CRDA.
 7 Anything else from us?
 8 Okay. With no additional
 9 testimony, I believe it is necessary, from the
 10 application before the CRDA, we'll close the
 11 testimony in this application and --
 12 Do you have anything else, Jack?
 13 JACK PLACKTER: I have a detailed
 14 closing statement. No.
 15 Just on behalf of Mr. Gurwicz and
 16 California Ventures, we really appreciate the
 17 cooperation from staff and, you know, getting
 18 back to us and letting us know what the issues
 19 were in advance of the hearing. We appreciate
 20 that. And some of the suggestions you made
 21 about having sit down -- you know, more sit down
 22 meetings, you know, after the application was
 23 submitted I think were very good. We worked
 24 through a lot of these issues in advance.
 25 But, again, we thank you for your

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1 time and indulgence. And have a great day.
 2 LANCE LANDGRAF: Thank you very
 3 much.
 4 We'll reserve our decision and
 5 prepare a written report and recommendations to
 6 the CRDA, the governing body.
 7 Thank you, guys, for being here
 8 today.
 9 We'll send a copy of the hearing
 10 officer report to you, Jack, when it's filed.
 11 JACK PLACKTER: Okay. Thank you.
 12 LANCE LANDGRAF: And that's all we
 13 have.
 14 Our next meeting is September 4th,
 15 at 10 a.m.
 16 We'll close this meeting at this
 17 point.
 18
 19 (This public hearing concluded at
 20 11:15 a.m.)
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