

1 CASINO REINVESTMENT DEVELOPMENT AUTHORITY
2 LAND USE REGULATION AND ENFORCEMENT DIVISION
3 NEW YORK ORANGE DEEDS, LLC

4 THE APPLICANT SEEKS TO AMEND THE PREVIOUSLY
5 APPROVED SITE PLAN TO ADD THIRD FLOOR TO THE
6 PROPOSED APPROXIMATELY 10,000 SF BUILDING, FOR A
7 TOTAL OF APPROXIMATELY 15,000 SF. THE SECOND FLOOR
8 BEING CONVERTED FROM RETAIL USE TO 4 RESIDENTIAL
9 UNITS (4 2-BEDROOM APARTMENTS. THE NEW THIRD FLOOR
10 WILL ALSO BE 4 RESIDENTIAL UNITS (4 2-BEDROOM
11 UNITS). THE FIRST FLOOR OF THE BUILDING
12 (APPROXIMATELY 5,000 SF) WILL REMAIN FOR RETAIL
13 USE. BULK VARIANCES PREVIOUSLY GRANTED FOR THE
14 FENCE IN THE FRONT YARD & FOR PARKING. THERE WAS A
15 PREVIOUS VARIANCE GRANTED FOR REAR YARD SETBACK
16 PURSUANT TO RESOLUTION NO. 19-117. THE AMENDMENT
17 WILL REQUIRE BULK VARIANCE RELIEF FROM MINIMUM REAR
18 YARD SETBACK. A VARIANCE FOR MAXIMUM IMPERVIOUS
19 COVERAGE IS ALSO REQUIRED (80% PERMITTED, 84.7%
20 PROPOSED) AND ANY OTHER VARIANCES, WAIVERS OR OTHER
21 RELIEF THAT IS DEEMED NECESSARY AND/OR APPROPRIATE.

22
23 CSR COURT REPORTING SERVICES, LLC
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2	<p>1 BLOCK 52, LOTS 11-18, 30-39 2 161-205 New York Avenue 3 Atlantic City, New Jersey 4 5 Thursday, June 17, 2021 6 7 Public hearing in the above-referenced matter 8 taken via the videoconference software program 9 Zoom, with all participants in separate locations 10 due to the State of New Jersey's COVID-19 lockdown, 11 before Michelle Gruendel, a New Jersey Certified 12 Court Reporter (CCR) and Notary Public of the State 13 of New Jersey, on the above date commencing at 14 10:01 a.m., there being present: 15 A P P E A R A N C E S: 16 CASINO REINVESTMENT DEVELOPMENT AUTHORITY: 17 LANCE B. LANDGRAF, JR. 18 Chairman 19 Director, Planning Department 20 ROBERT L. REID 21 Land Use Enforcement Officer 22 23 PROFESSIONALS TO THE BOARD FOR THIS HEARING: 24 SCOTT G. COLLINS, ESQUIRE 25 Riker, Danzig, Scherer, Hyland & Perretti CHRISTINE COFONE, PP Cofone Consulting Group, LLC KATHRYN CORNFORTH, PE Adams, Rehmann & Heggan ALSO PRESENT FOR THE CDRA: LIZA BARRICK, HOST COUNSEL FOR THE APPLICANT: NICHOLAS TALVACCHIA, ESQUIRE COOPER, LEVENSON 22 23 24 25</p>	4	<p>1 [COURT REPORTER'S NOTE: 2 THIS PUBLIC HEARING WAS CONDUCTED VIA 3 THE VIDEOCONFERENCE SOFTWARE PROGRAM 4 ZOOM. 5 DURING THE TIME OF THIS PUBLIC HEARING 6 THE STATE OF NEW JERSEY WAS UNDER LOCKDOWN 7 RESTRICTION DUE TO THE COVID-19 PANDEMIC. 8 ALL ATTENDEES TO THIS PUBLIC HEARING 9 WERE PARTICIPATING FROM THEIR OWN WORKSPACE 10 THROUGH THEIR COMPUTER OR CELLULAR TELEPHONE. 11 THE COURT REPORTER WILL ACKNOWLEDGE 12 WITHIN THIS TRANSCRIPT ANY POOR INTERNET 13 CONNECTION AND VIDEOCONFERENCE PLATFORM 14 CUTOUTS WHERE TESTIMONY DID NOT CEASE.] 15 LANCE LANDGRAF: As you can see, we have 16 a change today. We have Liza running the meeting 17 for us. Dan Donohue, my GIS Coordinator, who used 18 to help us with that has taken a different position 19 outside the CRDA so he is, he's gone as of last 20 week, so Liza's gonna step in and fill his shoes a 21 little bit for us, help me manage these meetings. 22 With that, I will call to order the -- 23 Scott, you ready, and Michelle, you ready? 24 Okay. With that, I will call to order 25 the --</p>
3	<p>1 I N D E X 2 3 WITNESS(ES) PAGE 4 5 PATRICK FASANO 11 6 7 JASON SCIULLO, PP, PP 16 8 9 WILLIAM McLEES 43 10 11 E X H I B I T S 12 A-1 13 A-2 14 A-3 15 A-4 16 A-5 17 P-1 18 19 20 21 22 23 24 25</p>	5	<p>1 LIZA BARRICK: I just want to start it 2 for you. 3 LANCE LANDGRAF: Okay. Go ahead. Thank 4 you. 5 -- call to order the June 17th, 2021 6 CRDA Land Use Regulation Enforcement Division 7 Hearing. We typically do the Pledge of Allegiance 8 but I've seen boards not do that remotely because 9 it's kind of odd. I don't know. 10 Scott, what do you feel about that? 11 SCOTT COLLINS: I think with the camera 12 it's odd. 13 LANCE LANDGRAF: Yeah, all right. We 14 will dispense with the Pledge of Allegiance today 15 because it kind of gets all jumbled up, anyway. 16 This hearing has been noticed in 17 accordance with the Senator Byron M. Baer Open 18 Public Meetings Act. We have just one item on our 19 agenda today and that is the Application Number: 20 2021-04-2981, New York Orange Deeds, LLC at 161-205 21 New York Avenue, Block 52, Lots 11 to 18 and 30 to 22 39 on the tax map in the City of Atlantic City. 23 The site is zoned Resort Commercial and the 24 proposed uses are permitted in that zone. 25 Before I go to the applicant, Rob, can</p>

<p style="text-align: right;">6</p> <p>1 you confirm that we have proper notice on the 2 application? 3 ROBERT REID: Yes. I reviewed the proof 4 of service provided by the applicant and we have 5 jurisdiction to hear this application. 6 LANCE LANDGRAF: Okay. I'll also jump 7 to Kathryn and Christine on completeness. We good 8 for completeness? 9 CHRISTINE COFONE: We are, yes. In our 10 May 24th, 2021 joint letter the application was 11 recommended to be deemed complete. 12 LANCE LANDGRAF: Okay. With that, I'll 13 introduce or ask Mr. Talvacchia to introduce his 14 application and his clients and move the 15 application forward. 16 NICHOLAS TALVACCHIA: Good morning, 17 everyone. Nick Talvacchia for the applicant. With 18 me is Pat Fasano, the principal. Also is Jason 19 Sciuillo, our engineer and planner, and Bill McLees, 20 our architect. 21 So, we're pleased to be here today. 22 This is the third application for this project. 23 The first was in January of 2019. There was an 24 amendment in 2019, in October, and now this 25 amendment. So part of this project, original proof</p>	<p style="text-align: right;">8</p> <p>1 they're relatively minor. The front yard setback 2 is allowed to be zero but above 35 feet it has to 3 be set back 20 feet. Same for the side yards. I 4 want to point out we went back and there was a 5 discrepancy in the plans between whether or not 6 we're supporting the 43. They were both wrong. As 7 measured from base flood elevation, which is how we 8 measure the height under the ordinance, it's 38.5 9 feet. We still need a variance but it's less. So 10 to be clear, the variance is only for the area 11 above 35, 35 feet, so 3.5 feet setback and we'll 12 talk about why it's not feasible to do that and why 13 it disturbs the overall look and functionality of 14 the third floor of this building after the setback 15 of 20 feet and between 35 feet, 38.5 feet and on 16 the side yard. We also -- Mr. Fasano, as a 17 condition of this approval, will consolidate the 18 properties. That would eliminate the side yard 19 variance on the ocean side of the property. The 20 ocean side of the property abuts to the parking 21 lots and so the measurement, you know, for setbacks 22 to the property line, if we consolidate and make 23 the property line, so we think that setback 24 variance goes away. We still need one on the north 25 side, the Pacific Avenue side, and so we'll request</p>
<p style="text-align: right;">7</p> <p>1 was, in fact, implemented. The parking lot that 2 was proposed, 51 spaces, is built. The outdoor 3 recreation is in place. The stage is in place. We 4 note today that we do plan to come back and 5 relocate the container hotel to the site across the 6 street that Mr. Fasano has acquired. Not here for 7 today, that's more informational. The subject of 8 this application is the building, it's the new 9 building. It was approved as a two story, 10,000 10 square foot retail building. Today's application 11 changes that to a three story building, first story 12 retail, approximately 5,000 square feet, and two 13 floors of residential, four two-bedroom units for a 14 total of eight units. In evaluating the market Mr. 15 Fasano thought there was more than opportunity to 16 have the residential user do quite well and this is 17 somewhat consistent with existing patterns of 18 development with the commercial at the ground floor 19 and residential above. In fact, right behind this 20 Mr. Fasano is part owner of a building that has 21 residential upstairs, newly renovated, and 22 commercial downstairs, so this is -- this building 23 will back right up to that. As noted, the use is 24 permitted. 25 We do have some variances. We think</p>	<p style="text-align: right;">9</p> <p>1 that. Jay Sciuillo, as our planner, will point out 2 that in the front what we need, a setback variance 3 above 35 feet. Below that we're allowed to be 4 zero, but we're much more than zero, we're 6 to 5 10 feet, depending what part of the building you're 6 looking at. Overall, we think, if you look at the 7 architecture of building, I think Bill McLees did a 8 really good job, a modern look, great urban look. 9 There's articulation. It's beach residential. 10 It's what he wanted to have and he developed in 11 Asbury Park and this is what they're doing there, 12 so I think that will appeal to a lot of people and 13 I think the -- what's proposed there is exactly 14 what the city is looking for, commercial on the 15 first level, some commercial, and new residential 16 in that zone. I also want to point out that while 17 we're a little bit over on coverage, impervious, 18 84 percent versus 80 permitted, and 82 historic, 19 building coverage is exceptionally low, it's 20 27.3 percent, where the zone permits 70 percent, so 21 we don't think we're overbuilding here, which is 22 how the property used to be configured. Finally, 23 we do not believe we need a parking variance. The 24 removal of the 5,000 square foot of retail and the 25 addition of eight residential units actually</p>

<p style="text-align: right;">10</p> <p>1 results in a net increase of two parking spaces. 2 In 2019 the board granted variance relief to allow 3 53 spaces to serve a project that required 120 4 spaces. This currently configured project required 5 118 spaces, not 120. We still have the 53 spaces, 6 and just by background, the new parking lot was 51 7 spaces and the Bourre Restaurant had an existing 8 two spaces. That's where we get the two spaces. 9 We think that we do not need a parking variance 10 with this amendment. 11 And so to summarize the variances, front 12 setback variance above 35 feet -- 13 (Technical disruption. The court 14 reporter seeks clarification.) 15 NICHOLAS TALVACCHIA: The summary, the 16 front setback variance above 35 feet only and one 17 side yard variance above 35 feet. Rear yard, rear 18 yard setback of 5 feet but only for a distance of 19 29 feet of building. 71 feet of the building we 20 have the setback of 16.5 feet, 20 is required, but 21 I note Mr. Fasano owns -- is part owner of the 22 building behind it so no objection to that variance 23 from Mr. Fasano, as the owner of the adjacent 24 building, and we think the benefits of pulling the 25 building back a little bit from St. James will</p>	<p style="text-align: right;">12</p> <p>1 here today in terms of what you see in the 2 marketplace, retail and then the two floors above, 3 the residential? 4 A. Absolutely. 5 Well, certainly we could all agree that the 6 world has changed after COVID. You know, the 7 commercial space is less desirable to residential 8 space, which is more desirable. Certainly, people 9 are able to work from home now so we're trying to 10 create more residential units and follow the path 11 of Live Work Play in Atlantic City. 12 So the, you know, first floor retail, 13 certainly we want to keep the mixed use building, 14 I think it's more appropriate, if we're gonna build 15 a downtown area in the Orange Loop, to use mixed 16 use buildings, but rather than have the entire 17 building commercial we wanted to be more cohesive 18 with the neighboring buildings, especially 19 buildings directly behind us, so 159 South New York 20 that I own with Evan and Zenith, we have eight 21 apartments and three retail spaces, so we want to 22 build a similar scale but a more modern looking 23 building so, you know, it's nice that we're 24 renovating a lot of buildings there. We're going 25 to be renovating the old model mods, which was</p>
<p style="text-align: right;">11</p> <p>1 compensate for that variance relief and, of course, 2 the overall project, so -- and we have the 3 impervious coverage variance, so that's, I think, 4 the variances. 5 I'm going to have Mr. Fasano talk about 6 his continued vision for Atlantic City. He's 7 actually put his money where his mouth is and he's 8 doing a lot in Atlantic City, so now I would ask he 9 be sworn in. Mr. Collins will swear you in. 10 SCOTT COLLINS: Good morning. 11 PATRICK FASANO, having been first duly sworn 12 according to law, testified as follows: 13 SCOTT COLLINS: Could you just spell 14 your name for me, please? 15 PATRICK FASANO: It's Patrick Fasano, F, 16 as in Frank, A-S-A-N-O. 17 SCOTT COLLINS: Thank you, very much. 18 DIRECT EXAMINATION BY NICHOLAS TALVACCHIA: 19 Q. So, Mr. Fasano, New York Orange Deeds, LLC, 20 you're 100 percent owner of that? 21 A. Yes. 22 Q. And this is your project? 23 A. Yes. 24 Q. And I tried to describe accurately the 25 history, but why don't you talk about why we're</p>	<p style="text-align: right;">13</p> <p>1 previously approved by the board into a restaurant, 2 Cardinal Bistro, the hotel rooms upstairs. We 3 included the lot next door to this building in that 4 project that you previously approved, because we 5 understand the importance of outdoor space, and 6 also, we want communication between St. James and 7 New York. We want it to be very friendly to walk 8 between the Orange Loop blocks. So your Orange 9 Loop lots, Tennessee, St. James and New York, are 10 very long blocks and we needed to create 11 communication between those blocks to make it more 12 pedestrian friendly. That's why we situated that 13 parking lot the way we did. It's quite convenient 14 for people. Everyone seems to use that as a great 15 cut-through, which we're happy with, and yeah, so 16 we have communication between the blocks. 17 Certainly the eight apartments with the two retail 18 spaces I believe is the appropriate scale building 19 for this block. I'm gonna remain ever hopeful that 20 lumar prices will continue to come down to make 21 this financially feasible for me, but either way, 22 we're gonna just, you know, bite the bullet and 23 plow on through. I think it's important that we 24 get at least one new building up in the Orange Loop 25 to really get people's, you know, interest to keep</p>

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1 going. So, you know, originally when I came here
2 in 2019 I thought that -- you know, I was trying to
3 put all our ideas into one block, because we only
4 had the one block, 52, so the entertainment portion
5 of Bourre, the container court is constructed and
6 operating, it's working well, and we've decided
7 that, you know, trying to squeeze that hotel on to
8 that property would really diminish my outdoor
9 space so we've learned how valuable outdoor space
10 is right now in Atlantic City, and all across the
11 country, for that matter. People who had outdoor
12 space with the restaurants certainly did a lot
13 better than people that were trying to put tables
14 on the sidewalks and on the streets, so, you know,
15 we want to continue that and we made a further
16 commitment to Atlantic City and we've recently
17 purchased Block 51 across the street, so now we own
18 300 parking spaces, an 18,000 square foot building
19 and all those buildings except the one so far on
20 Westminster, so we'll be coming back to you very
21 soon with our vision for the block across the
22 street, which will then be pushing that container
23 hotel on to that, on to that block, which we think
24 is going to be more appropriate, so, you know, we
25 have -- our game plan is block by block

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1 development. This is how we can make a difference
2 in Atlantic City, is by tackling block by block,
3 you know. Certainly do it -- one building on the
4 street is nice but if you can do the whole block,
5 then you can really change the neighborhood and
6 drive the way things are going. So the vision is
7 the same, restaurants, entertainment and tourism.
8 So our tourism, you know, vision would include
9 Airbnb and hotel rooms that would be above Cardinal
10 Bistro and along Westminster, as well as the
11 entertainment portion with the summer stage and,
12 you know, continued restaurant use, so that's,
13 that's what I got for you. Hopefully you like our
14 vision and we can keep it.

15 Q. Thank you.

16 NICHOLAS TALVACCHIA: Any questions of
17 Mr. Fasano? He'll be here the whole time so --

18 SCOTT COLLINS: Everybody's muted.

19 LANCE LANDGRAF: I just want to confirm
20 with our consultant, that we agree that no parking
21 variance is needed because they reduced that
22 number. We're good with that, Christine and --

23 CHRISTINE COFONE: Yeah.

24 LANCE LANDGRAF: -- Kathryn?

25 CHRISTINE COFONE: I would agree with

16

1 that, yes.

2 KATHRYN CORNFORTH: Yeah.

3 LANCE LANDGRAF: All right. Thank you.

4 NICHOLAS TALVACCHIA: Mr. Landgraf, if
5 you're ready I'll bring my first professional
6 witness.

7 LANCE LANDGRAF: Sure. Absolutely.

8 NICHOLAS TALVACCHIA: I'd like to have
9 Mr. Sciuлло sworn, and I know he's been qualified
10 before as a planner and engineer so if you want to
11 dispense with that, I'm fine with it, of course,
12 but we'll --

13 LANCE LANDGRAF: We'll stipulate to
14 that, absolutely.

15 NICHOLAS TALVACCHIA: Thank you.

16 SCOTT COLLINS: Good morning, Jack.

17 JASON SCIULLO: Good morning.

18 JASON T. SCIULLO, PE, PP, having been first duly
19 sworn according to law, testified as follows:

20 SCOTT COLLINS: Okay. And have you had
21 a lot of coffee?

22 JASON SCIULLO: Just for you.

23 SCOTT COLLINS: Thank you.

24 DIRECT EXAMINATION BY NICHOLAS TALVACCHIA:
25 Q. Mr. Sciuлло, you've been the engineer for the

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1 original first amendment, now the second amendment;
2 is that correct?

3 A. Yeah. I've been fortunate enough to be part
4 of this from the beginning, yes.

5 Q. And so you're fully familiar with this
6 application?

7 A. Correct.

8 Q. I think you're gonna display -- what are you
9 gonna display, Jay, from your previous plan and by
10 your proposed plan today?

11 A. Yeah. So I'm gonna warn you guys, I don't
12 know what, what's happening but I'm having issues
13 with pdf stuff. I'm gonna try to show at the very
14 least the two renderings comparing what was last
15 approved with what we propose now. If it's all
16 right if I could share my screen.

17 SCOTT COLLINS: Nick, before we get into
18 that, is anything going to be shown today that
19 wasn't a part of the application, the submission
20 package?

21 NICHOLAS TALVACCHIA: Unless Jay wants
22 to show the previously approved site plan, which
23 was not submitted.

24 Q. Jay, do you plan to show the old site plan?
25 A. Well, see, so they've all been -- all right.

<p style="text-align: right;">18</p> <p>1 The rendering that I'm gonna show for today's 2 meeting for this application, the new one, has not 3 been submitted yet. That's the only thing that 4 would be new. The other rendering was part of the 5 last app and any other documents that we get into, 6 being plan work or other renderings, were all part 7 of the submission documents.</p> <p>8 Q. What we submitted with this application. So 9 just identify what's not part of this submission.</p> <p>10 SCOTT COLLINS: We'll call A-1 the 11 application package and anything that wasn't 12 submitted with that, we'll just get it as they go 13 through.</p> <p>14 JASON SCIULLO: Okay.</p> <p>15 SCOTT COLLINS: This one, can you just 16 give me a description of what it is?</p> <p>17 JASON SCIULLO: Yeah. So the one I'm 18 going to put up first is the rendering of the 19 current site plan application, rendered version of 20 the current site plan.</p> <p>21 SCOTT COLLINS: Okay. Thank you.</p> <p>22 NICHOLAS TALVACCHIA: So Scott, this 23 will be A-2, because we don't have the rendered 24 ones submitted.</p> <p>25 SCOTT COLLINS: Okay.</p>	<p style="text-align: right;">20</p> <p>1 recall not only that this application has been 2 before you multiple times, we also have the 3 original and current application set up in phases. 4 The original phasing was, first phase, Phase A we 5 were calling it, was the 51 space parking lot in 6 the middle of the site here, and as Nick had 7 mentioned, that has been installed, constructed and 8 it is in operation. Phase B was going to be the 9 retail, originally retail building now proposed as 10 mixed use that's not yet built. Phase C is the 11 outdoor entertainment complex associated with 12 Bourre fronting New York Avenue. That is just 13 about entirely installed. Phase D was going to be 14 the container hotel that's shown fronting St. James 15 adjacent to Bourre. That has not been installed 16 and will likely not be based on what you heard from 17 Pat a few minutes ago. Right now it's functioning 18 as additional outdoor space for Bourre, and it's 19 been mentioned, with the onset of COVID, things 20 change and the outdoor space has become an 21 enormously popular and important amenity for 22 functionality of this site and we intend to leave 23 that in place as an outdoor stage area and 24 gathering area for outdoor entertainment. 25 So again, the only thing changing with this</p>
<p style="text-align: right;">19</p> <p>1 JASON SCIULLO: Yeah. That's correct. 2 This is new.</p> <p>3 Q. Jay, the site plan, other than the color, is 4 exactly the same as what we submitted?</p> <p>5 A. Correct.</p> <p>6 Q. Okay.</p> <p>7 A. And I'll use -- right behind this you'll see 8 the tab, the other tab in this pdf that's open 9 here, that's the rendering from the last amendment 10 that was done in October of 2019, so for comparison 11 purposes I'll refer to that shortly.</p> <p>12 JASON SCIULLO: I don't know, Scott, if 13 you want to enter that as an exhibit, because it 14 was part of the previous app. For this application 15 it was not submitted.</p> <p>16 SCOTT COLLINS: I think we should, we 17 should mark that, yes.</p> <p>18 JASON SCIULLO: So that will be current 19 rendering, site rendering from September, 2019.</p> <p>20 Q. Jay, is that what you're showing now?</p> <p>21 A. That's the one now. So you'll see, as I flip 22 between them, the differences between the two which 23 I'm going to create on the one for the current 24 application.</p> <p>25 So for a little bit of additional background,</p>	<p style="text-align: right;">21</p> <p>1 application is what was and is Phase B, as in boy, 2 which is this building here on the north side of 3 the project site. I should probably also make sure 4 it's clear that when I reference this, St. James 5 Place is the road that's on the top of the sheet, 6 New York Avenue, South New York Avenue is on the 7 bottom, the beach side is the right of the sheet to 8 the south and north is Pacific Avenue off the 9 sheet. You heard Pat mention it's a long block. 10 As everyone hopefully is familiar, these blocks are 11 generally about twice as long as other city blocks 12 and this arrangement, as Pat mentioned, was to 13 allow for pedestrian connectivity between the 14 different blocks of the Orange Loop and we're 15 continuing that with, you know, the work across the 16 street on Block 51, on New York Avenue, so you'll 17 see this theme continue hopefully in the 18 foreseeable future permanently.</p> <p>19 The -- for the application specifics for this 20 I'm going to zoom in a little bit on to the Phase B 21 area. So -- hopefully this loads -- the project 22 itself made the change from the last application, 23 as Nick had mentioned, is simply to take this mixed 24 use building -- or, sorry, what was previously 25 fully a retail building and convert it to a mixed</p>

<p style="text-align: right;">22</p> <p>1 use. The footprint changes slightly. I apologize. 2 I don't know why it's not showing up when I do 3 that, but the footprint of the building -- I'm 4 going to have to leave it full size. Sorry. So 5 the building itself has changed slightly. It's 6 shifted back from the road slightly from the 7 original application -- or, I'm sorry, the last 8 approval so I'm going to flip between the two so 9 you can see the differences that are slight. 10 You'll see in this one from 2019, it's generally a 11 box with really just stairs against the frontage. 12 Then when you see the new one it pulls back a 13 little bit and there's a mixture of stairs and 14 ramps and landscaping in the front to be able to 15 access that ground floor. You'll also see in the 16 rear of the building in the current application 17 it's a wall along the back with no exterior stairs. 18 In the previous application the wall is pulled in 19 but there were stairs and decks in the back that 20 were fire escapes and access to the second floor of 21 that building on the out, on the outside. You may 22 recall from that previous testimony that that 23 building was more or less the same one that Pat 24 built in Asbury Park in another location. He 25 pretty much has intended to take that footprint and</p>	<p style="text-align: right;">24</p> <p>1 here, and Nick had mentioned that that 29 feet is 2 at a 5 foot setback. The remainder of the 71 feet 3 of building or 72 feet or so of lot width, the 4 building is at 16 feet and we are required to be at 5 20 due to building height. So again, it's more or 6 less the same building, just the front's pulled in 7 a little bit off the road and the rear, we enclosed 8 the stairs and it takes the building out to what 9 was the load of those stairs. We also have a need 10 for side setback relief on the north side of the 11 building. You'll see here, it has a 5 foot setback 12 to that side. This is the same location as the 13 building used to be. The difference between the 14 two is the old or the previously approved building 15 was less than 35 feet in height. This one is at 16 38-and-a-half feet in height. Pursuant to the 17 rules, the first 35 feet have to be -- the first 35 18 feet of setback area would have -- or, sorry, 19 20 feet of setback area is allowed and the building 20 height's only allowed to be 35 feet, so we have a 21 3-and-a-half foot height exceedance in that setback 22 area, so we do need relief to do a -- to have a 5 23 foot side setback instead of 20. Similar in the 24 front, as I mentioned, that same 20 feet is 25 required for a building above 35 feet in height.</p>
<p style="text-align: right;">23</p> <p>1 drop it on this site. As time has gone on and we 2 realize now that a fully commercial building isn't 3 what's probably gonna fit best here, we have a 4 custom design building by McLees, that he'll go 5 through in his testimony, that takes advantage of, 6 you know, the opportunities at the site a little 7 better than that old building did. A little more 8 work, fine, but this one is better. What I want to 9 point out, the important part of the differences in 10 the two buildings is that although the previous 11 approval was for setback relief along this short 12 section in the rear to be 9 feet to the building 13 wall, it was 5 feet to the back of those stairs 14 that were full height of the rear of the building. 15 What we propose now is for the building wall to be 16 in that location and those stairs on the exterior, 17 so they're pulled inside. On this current 18 application you'll see the stairwell here and 19 another one in the front, which Bill will get into 20 in more detail, but that's the egress route from 21 the upper floors down to the ground, so instead of 22 being on the outside, now they're on the inside and 23 the building wall will slide out but the building 24 mass stays more or less the same. What we have 25 along the remainder, that was the short section</p>	<p style="text-align: right;">25</p> <p>1 We propose zero feet to a canopy on the front and 2 Bill will have to get into more detail about that. 3 It's 6 feet to some overhangs from the second and 4 third floors. The main mass of the building is 10 5 feet off the right-of-way line. So although we 6 don't meet the 20 feet, we are pulled back 7 substantially from the right-of-way when you 8 compare it to other buildings along this section of 9 the roadway. 10 Q. Jay, if I could interrupt a second. Below 11 35 feet in the front it's permitted to be zero 12 feet, correct? 13 A. I'm sorry. So yeah, zero feet if we're less 14 than 35 feet in height. 20 feet if we're above 15 35 feet. 16 Q. Thank you. 17 A. Sure. 18 So Nick, is there anything else about the 19 layout that you want me to get into? The change is 20 that simple. Just a little bit more building 21 height and enclosing the stairs in the back, 22 generally. 23 Q. Jay, I'd like you to touch on the four 24 variances. So the front yard you started to talk 25 about so we mine as well start there.</p>

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1 So we're allowed to be zero from grade up to
2 35 feet in height. More than that, we're up 10
3 feet at the main building. Above 35 feet but only
4 for 3-and-a-half feet we should be 20 feet but
5 we're not, we're, you know, I think 10 feet,
6 10 feet instead of 20. In your opinion, then, when
7 you look at the overall design of the building, the
8 aesthetics, the general, generality of development
9 in the area, the fact that the building has
10 substantially less on the site building coverage
11 than permitted, those kind of facts, and again, the
12 aesthetics, do you think there's justification for
13 really a 10 foot variance just between 35 feet and
14 38.5 feet in height on the front yard setback?

15 **A. Yeah. I also think we should, you know, be**
16 **mindful that, you know, the ordinance -- or, I'm**
17 **sorry. I keep saying ordinance. The land use**
18 **rules are set up such that in this zone the minimum**
19 **lot depth, 150 feet is what's required. We are**
20 **that or at least half of that, a 75 foot deep lot**
21 **for this area. Part of the site, as you can see,**
22 **between the two different rooms we can't get wider**
23 **but in this location, where this building is**
24 **proposed, we have 75 foot available lot depth, so**
25 **if you were to be compliant with a slightly taller**

27

1 **building, 20 feet were taken from both sides or**
2 **front and rear of this, it would leave 35 feet of**
3 **variated instead of building and that's an**
4 **inefficient depth. Most every retail complex is**
5 **60 feet to 80 feet. That's ideal for retail use,**
6 **and from a residential perspective, certainly**
7 **something could be done within the 35 feet but it**
8 **would be difficult. So in addition to the**
9 **character and the surrounding areas, you can see on**
10 **this aerial pretty clearly, in this block fronting**
11 **both St. James and New York you can see the**
12 **buildings are running into the right-of-way. On**
13 **the other side of St. James we have -- the Flanders**
14 **you can see directly in the middle, the other side**
15 **off the sheet is Columbus Hotel, then we have a**
16 **couple other residential buildings on the way down**
17 **towards the beach. You can see all of them have**
18 **balconies and porches and the buildings are right**
19 **against the right-of-way and they're taller than**
20 **what we propose. The building behind us on New**
21 **York Avenue is also three story and similar height.**
22 **I don't know the exact height of that building, but**
23 **again, what we propose is not out of character with**
24 **the surrounding area and it doesn't create a large,**
25 **imposing building on the right-of-way, being that**

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1 **we're 10 feet off it at that height, so, you know,**
2 **to put it another way, if we had a building that**
3 **was 35 feet in height directly against the**
4 **right-of-way, that first 20 feet would be**
5 **completely swallowed by building, and that's not a**
6 **bad thing but it is what it is, a large mass of**
7 **building. We have half of that area with an**
8 **encroachment of this building and it's only**
9 **3-and-a-half feet taller than what's permitted in**
10 **that section, so we have a lot less building in**
11 **that first 20 feet of the roadway than what would**
12 **be permitted if we were at 35 feet in height, so**
13 **although it is over what's permitted, it's not**
14 **overdevelopment of the site. It's not engrossing**
15 **the site with a massive building right against the**
16 **road that, that far exceeds what's expected, and**
17 **just to be quite clear, although the rules have the**
18 **standard in it, all over towns have are just much**
19 **larger buildings running into the right-of-way that**
20 **have been here for years and function just fine.**
21 **So again, I think what we propose is completely**
22 **reasonable and given the constraints of this lot**
23 **depth, I think that it's something that can be**
24 **justified based on those reasons I've just stated.**
25 **Q. So Jay, under the (c)2 criteria I believe**

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1 that the project's aesthetic benefits outweigh the
2 detriments and the overall design, partial
3 pull-back from the property line and the aesthetic
4 design compensates for the slight encroachment
5 above 35 feet?

6 **A. I think so, yeah, and to be specific, the**
7 **purposes of zoning that I think are advanced are**
8 **purpose (c), to provide adequate light, air and**
9 **open space. Although we are over the allowable**
10 **coverage, some of that, as you'll see in this**
11 **rendering, is related to -- well, it's not clear in**
12 **the rendering but I'll explain it. There's gravel**
13 **that we propose around the container hotel and the**
14 **backyard of Bourre that although it's included in**
15 **the impervious cover calculation, the reality of it**
16 **is it's not really impervious, it's more or less --**
17 **you know, the purpose of impervious coverage**
18 **limits, as you guys know, is to limit development**
19 **intensity and to reduce potential stormwater**
20 **run-off. We don't have an issue with stormwater**
21 **run-off in this case because we're in a tidal flood**
22 **hazard area. On top of that, the area that's**
23 **exceeding the impervious cover is not that which**
24 **creates potential pollution. The parking lot in**
25 **the middle of the site, as you can see looking at**

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1 this, is well below the total permitting coverage
2 and the impact of that parking run-off is slight,
3 that we're below threshold requiring any kind of
4 stormwater review, as previously mentioned. The
5 development intensity, even though we are over by
6 that small amount of square footage, the
7 development intensity is going to increase as a
8 result of this. The building is the same as what
9 was proposed previously, it's just slid back a
10 little bit. The previous application to subdivide
11 off a piece of the ground to the north of that
12 building adds to that, that potential or to that
13 non-conformity, so in the end the overall
14 development scheme of what was approved, of what
15 was approved originally is more or less exactly the
16 same here, it's just lot lines have shifted and
17 buildings have slid a little bit, so I believe
18 because of that, that purpose (c) is advanced.
19 Also, purpose (h), to promote a desirable
20 visual environment through creative development
21 techniques, good civic design arrangement. Aside
22 from the building architecture itself, as
23 mentioned, being that we're surrounded by lots that
24 are owned by affiliated entities, the only lots
25 that are impacted by the relief are those that this

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1 applicant owns. We purposely leave open space on
2 the sides of these building. As you'll see, we
3 don't jam them together. We don't crowd them on
4 the neighboring property that we don't own. I
5 think that for that reason that purpose is
6 advanced.
7 And then, lastly, purpose (m), which includes
8 the efficient use of land, redevelopment of any
9 ground in town, so long as vacant, is an efficient
10 use of land, and as previously mentioned, being
11 that we're arranging this such that we're not
12 imposing setback encroachments on the neighboring
13 properties that we don't own, I think that that's
14 an efficient way of laying this out. It minimizes
15 impact to the neighbors on the public roads.
16 For the negative criteria, I feel like this
17 coverage setback relief we request for sure will
18 not impact the public good. It's not out of
19 character with the majority of the surrounding area
20 and it doesn't impact the, you know, life, safety
21 measures related to building separation and access
22 to any of the public roads or the buildings and
23 open space, as mentioned, is generally preserved
24 around these facilities even if it has a little bit
25 of pavement on it, it appears this is an open

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1 outdoor recreation complex. That's what it looks
2 like. That's how it functions. It's not enclosed
3 buildings. Everybody going inside. There's a lot
4 of activity which is exactly what we want for this
5 section of town, so for sure, I don't think it will
6 negatively impact the public good. It's a positive
7 impact. It does -- also doesn't impair the purpose
8 or intent of the zone plan or zoning ordinance.
9 Being this is a unique situation with that
10 deficient lot depth, as I mentioned, for those
11 setbacks and that condition creates practical
12 difficulties for which complies with the rules, so
13 I feel like a variance is appropriate. For those
14 reasons it's my professional opinion that this
15 relief could be granted, since the benefits will
16 outweigh the potential detriments, advances
17 multiple purposes of zoning and it will not
18 negatively impact the general public, surrounding
19 area of zone plan or zoning ordinance.
20 Q. Hey, Jay, I know you alluded to it earlier.
21 I think you also are saying that (c)1 applies,
22 hardship, because of the lot depth in terms of the
23 setback relief and the negative criteria also
24 applied to that?
25 A. It would.

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1 Q. So (d)1 and (d)2 variance apply, (c)2 we
2 discussed the specific purpose of zoning that are
3 advanced when you talk about the negative criteria,
4 so that was with respect to front yard setback and
5 I think you applied that to the coverage,
6 impervious coverage variance, too.
7 A. Yes.
8 Q. All right. We have a side yard variance.
9 We're eliminating one side yard variance on the
10 south side of the boardwalk side of the building by
11 consolidating. We still have a side yard on the
12 Pacific Avenue side of the building but only above
13 30 feet to 35.8 feet, 3.5 feet. Should be a 20
14 foot setback. We don't have a 20 feet setback. We
15 have a 5 foot. Can you talk about -- in terms of
16 what you've already discussed, is that also, when
17 you look at the aesthetics of the overall project
18 in conformity with the zone plan and the intent for
19 the redevelopment in this area as being applicable
20 to that variance, also?
21 A. Yeah. I -- and, you know, I don't mean to
22 say this, I'm not trying to be funny when I say it,
23 but the reality of it is, the only people that will
24 know that that setback relief was necessary are us
25 on this call. When you look the site, you'll see

<p style="text-align: right;">34</p> <p>1 the sliver of ground here, I'm hovering over it 2 with my cursor, that's between the side lot line of 3 the lot that's also owned by the affiliated entity 4 and the restaurant complex fronting New York Avenue 5 and our building, that lot line in red here, when 6 you stand on the street and look at it, it's going 7 to look like a large open yard on the side of this 8 building and that small sliver of ground can't be 9 developed with another building, or won't be, I 10 should say, with us, so we -- it won't have a 11 negative impact on anyone except the ground we own, 12 and even that won't be negative because it's open 13 space affiliated with neighboring entity that's 14 going to be related and a pedestrian amenity and 15 walkable space for the residents of this building, 16 for the people from the restaurant to come through 17 the back to go to this commercial space, that 18 pedestrian connectivity that we had talked about 19 earlier.</p> <p>20 Q. And Jay, on that side yard the building could 21 be, from grade to 35 feet height, could be zero 22 foot setback, right?</p> <p>23 A. Yes.</p> <p>24 Q. And it's 5 foot, I believe?</p> <p>25 A. It's 5 feet, yup.</p>	<p style="text-align: right;">36</p> <p>1 Q. Go ahead, Jay, finish the thought.</p> <p>2 A. I was saying even if we ignore what's out 3 there in reality, the additional building height, 4 3-and-a-half feet of building height within the 20 5 foot side setback is indiscernible and won't impose 6 a large structure on the lot line that would look 7 much different than what would be permitted at a 8 zero setback.</p> <p>9 Q. Okay. So --</p> <p>10 LANCE LANDGRAF: Just a point of 11 clarification, if I could, Nick and Jay.</p> <p>12 The red line shown on the plan is an 13 existing lot line, that was already created when 14 they did the Cardinal Bistro site and --</p> <p>15 NICHOLAS TALVACCHIA: Correct.</p> <p>16 JASON SCIULLO: Correct.</p> <p>17 LANCE LANDGRAF: Okay. Just to make 18 sure that this isn't a subdivision, as well.</p> <p>19 NICHOLAS TALVACCHIA: No. That was the 20 subdivision, just for the record, that we did in 21 October of 2019.</p> <p>22 LANCE LANDGRAF: Thank you.</p> <p>23 Q. All right. Jay, the same negative criteria 24 would apply to that side yard variance that you 25 articulated for the other two variances?</p>
<p style="text-align: right;">35</p> <p>1 Q. All right. And then the only area that's 2 actually in -- so that's more than what's required. 3 The only area that's not compliant is that small 4 area, between 35 and 38 feet, an area of 3.5 feet 5 and what I think you were alluding to, also, was 6 that no one's going to be able to really see the 7 difference between 35 feet and 38.5 feet?</p> <p>8 A. Yeah. I can -- we do this for a living. I 9 can't stand on the street and tell you what height 10 that building is once it's built. I don't think it 11 would be noticeable.</p> <p>12 Q. Okay. So when you look at what's below 13 35 feet, the fact that there's 5 foot set back with 14 zero permitted, you probably have more than what's 15 here, but you think that makes up for the variance 16 above 35 feet?</p> <p>17 A. I do, and in this specific situation of that 18 extra area that's owned by affiliated entities 19 that's next to us.</p> <p>20 Q. Even if you disregard what's next door.</p> <p>21 A. Yeah.</p> <p>22 Q. Just in terms --</p> <p>23 A. Disregarding -- 24 (Multiple parties speaking. The court 25 reporter seeks clarification.)</p>	<p style="text-align: right;">37</p> <p>1 A. Yes.</p> <p>2 Q. All right. And the final variance is really 3 rear yard, which the board had previously granted 4 twice before. The last time where the red line is 5 in the back, it was originally 9 feet, it's now 5 6 feet. Where the green area was, it actually was 7 compliant the last go-around at 20 feet, it's now 8 16.51. You noted before that the building's pulled 9 back for aesthetic reasons in the front so do you 10 believe that with the building back in the front 11 helps compensate for the, the addit -- rear yard 12 setback and the fact that also there's an 13 affiliated entity that actually owns the building 14 right behind this building and he's sitting here 15 and he's not objecting?</p> <p>16 A. Yeah. I hope he wouldn't. Yes. The -- in 17 between -- I want to go back to that rendering from 18 September and October of 2019. Again, those -- 19 that same alignment was previously stairwells or 20 outdoor stairs, fire escapes, decks that now will 21 just be building walls, so the actual arrangement 22 isn't much different, but yes, it -- as you said, 23 it's an affiliated entity and the relief will not 24 negatively impact that affiliated entity.</p> <p>25 Q. And do you see benefits to having the</p>

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1 building pulled back a little bit from St. James,
2 which is to some extent causing the rear yard
3 setback, so the benefits, the aesthetics in the
4 front with the landscaping and all the
5 articulation, all the other things that Mr. McLees
6 has integrated into the design?
7 **A. Yeah. Yes, I do, and I want to be clear,**
8 **too, and I've said this before in other**
9 **applications, one of the things that we're going to**
10 **see a lot moving forward, it's going to be very**
11 **difficult to do buildings with zero setback**
12 **independent of their height because of flood hazard**
13 **requirements and access to these buildings, so**
14 **we're going to lose, if that's the right way to put**
15 **it, building mass against the road in almost every**
16 **application just because of that access**
17 **requirement. You see we've done in other**
18 **applications some, you know, aggressive inventive**
19 **things with ramps and stairs and licensing,**
20 **right-of-way encroachments and we want to avoid a**
21 **lot of that and, you know, the building is pulled**
22 **back because of the access requirements but it also**
23 **is an opportunity for us to create that setback**
24 **requirement or maybe closer to that setback**
25 **requirement, but again, because of the deficient**

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1 **lot depth, the whole building has to move and**
2 **that's about where we end up in this arrangement,**
3 **so it's the same building approved before, just**
4 **pulled off the right-of-way slightly.**
5 Q. So again, in terms of the (c)2 criteria, do
6 you see benefits to the zone plan if the board
7 grants the authority, grants the rear yard setback?
8 **A. Yeah, I do. The -- being that this is the**
9 **range such that it doesn't negatively impact any**
10 **neighbors other than those who are affiliated, I**
11 **think this is the best arrangement for this, and it**
12 **definitely meets that purpose (h) for that and the**
13 **negative criteria, again, it doesn't impact the**
14 **surrounding area negatively. It's in character**
15 **with what you see in the area, those buildings**
16 **behind there, zero setbacks with no usable rear**
17 **yards. What we probably anticipate is they're**
18 **gonna, you know, probably walk through this**
19 **backyard to get around and into the parking lot, as**
20 **they do now.**
21 Q. Jay, also, the limited lot depth, the
22 existing, that creates some design challenges and
23 hardships also under (c)1. Do you agree with that?
24 **A. I do, yes.**
25 Q. All right. And so in summing up, in terms of

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1 the negative/positive criteria for the rear yard
2 setback, can you just reach a conclusion on that?
3 **A. Yeah. It will -- setback relief will not**
4 **negatively impact the public good. It's not out of**
5 **character with the majority of the surrounding area**
6 **and doesn't impact any life safety access or open**
7 **space. Also, it doesn't impair the intent and**
8 **purpose of the zone plan or zoning ordinance with**
9 **the unique situation of this deficient lot depth**
10 **and the practical difficulties that it creates.**
11 Q. I think you've covered all the variances. If
12 we missed something, let us know. Jay talked, I
13 think he talked about the justifications, the
14 two -- the three setbacks, really, front, one side
15 and the rear and the overall impervious coverage.
16 Parking, there's no variance for parking.
17 **NICHOLAS TALVACCHIA:** So unless there's
18 anything further, I'm done with Mr. Sciuлло, unless
19 there's a question of him now or he's available
20 later, too.
21 **LANCE LANDGRAF:** Okay. Christine or
22 Kathryn, do you have any questions for Jay?
23 **CHRISTINE COFONE:** No questions. I just
24 wanted to clarify one point in the record because
25 you know I'm a stickler for the positive criteria.

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1 I believe, Mr. Sciuлло, you did an
2 excellent job, I appreciate you walking through all
3 of the testimony, but I think you had indicated
4 that you were going to rely on a desirable visual
5 environment, and I'm not sure if I heard you
6 incorrectly, but I believe I heard you refer to
7 that as criteria (h) and I just want the record to
8 be clear, that it's criteria (i), desirable visual
9 environment, so if I misheard, I --
10 **JASON SCIULLO:** I misspoke. I'll amend
11 my testimony to the clarification.
12 **CHRISTINE COFONE:** That's (i), but I
13 take no exception. I even agree with the reliance
14 on the (c)1 and the (c)2 statutory criteria,
15 whereas the (c)1, I mean, clearly this is a 75
16 foot -- a 35 foot dimension. There's no way to
17 correct it so I think it's perfectly appropriate to
18 apply the (c)1 statutory criteria here. I agree
19 with Mr. Sciuлло's testimony as to the character of
20 the area and these variances are consistent with
21 that. I also think that when you look at what the
22 vision for the Resort Commercial District is, to
23 create an environment where residents and resort
24 offers and offerings seamlessly integrate, I think
25 this applicant actually did a very good job of that

<p style="text-align: right;">42</p> <p>1 and I also think from a planning point of view, and 2 Mr. Sciullo touched on this, touched on this a 3 little bit, is that residential density is a gift 4 given area that's invigorating and I believe Mr. 5 Fasano also said earlier, you know, he's looking to 6 get things going in the Orange Loop area, so I 7 think generally when you put residents in those 8 areas, it helps to bring about some of the other 9 uses, so I take no exception to any of the 10 testimony that was offered this morning. Just to 11 correct that, for the record, that it was criteria 12 (i) and that I agree with the statutory application 13 of (c)1 and (c)2. 14 LANCE LANDGRAF: Okay. 15 NICHOLAS TALVACCHIA: We also have Bill 16 McLees to look at the architecture before we're 17 done, so would you like me to do that now, Mr. 18 Landgraf? 19 LANCE LANDGRAF: Yes, please. 20 NICHOLAS TALVACCHIA: And I also want to 21 point out that Mr. Sciullo's planning testimony was 22 partly based on his knowledge of the architecture, 23 the aesthetics. We'll go through that now and I 24 think, for the record, that will support the 25 aesthetic enhancement argument by the statute.</p>	<p style="text-align: right;">44</p> <p>1 Pat's vision, as he talked and in seeing what's 2 been done in Asbury, so can you walk us through 3 your plans? I think they're really exciting. 4 A. Sure. Sure. 5 So as Pat pointed out, you know, we were 6 looking to do a mixed use facility with the 7 residential above and retail and commercial space 8 down the first floor and that's pretty much what 9 we're looking at here. Just starting with our 10 first floor plan, which was submitted in the 11 application, so along the top of the page here -- 12 LANCE LANDGRAF: Hold on, Bill. We're 13 not seeing anything. We're seeing your -- 14 CHRISTINE COFONE: I see a great 15 vacation destination. I mean, that's amazing. 16 WILLIAM McLEES: Yeah. Isn't that cool? 17 LANCE LANDGRAF: Exactly. 18 WILLIAM McLEES: I had -- let's do this. 19 Here, we go. How's that? 20 LANCE LANDGRAF: There, we go. 21 CHRISTINE COFONE: Thank you. 22 A. So along the top of the page here is St. 23 James Place. So you see the sidewalk here, we have 24 the stair and ramp access to the elevated walkway 25 in front of the building, which serves the -- each</p>
<p style="text-align: right;">43</p> <p>1 So Bill, if you could be sworn. 2 SCOTT COLLINS: Sure. 3 WILLIAM McLEES, having been first duly sworn 4 according to law, testified as follows: 5 DIRECT EXAMINATION BY NICHOLAS TALVACCHIA: 6 Q. Bill, for the record, you're a New Jersey 7 licensed architect? 8 A. That's correct. 9 Q. And you've testified before planning and 10 zoning boards, including this board in the past, 11 correct? 12 A. Correct. 13 LANCE LANDGRAF: I'm very, very familiar 14 with Mr. McLees' background and licensure. He's 15 certainly an expert in architecture in the State of 16 New Jersey. 17 NICHOLAS TALVACCHIA: Thank you, very 18 much. 19 Q. There's no height variances today, Bill? 20 A. No. I had enough of them. 21 Q. We're actually way under, 300 feet with 22 appropriate setbacks. 23 So, anyway, Bill, when I looked at these 24 plans I really thought, wow, this is exactly what 25 would be -- Atlantic City needs and I know this is</p>	<p style="text-align: right;">45</p> <p>1 of the commercial spaces, as well as the 2 residential vestibule, which you see right here, 3 which provides access to the residential units 4 above. This space is not allocated yet to a tenant 5 so there's a certain amount of flexibility that's 6 built into the overall space. It could be divided 7 into three or two units at that first floor. Also, 8 you see the rear. Jay touched on the rear exits 9 there, which is our second means of egress for the 10 residential uses above. So as a resident you're 11 coming -- if I'm coming in, I'm coming up either 12 the stairs for that ramp, I'm coming into the 13 vestibule, which will be controlled access, and 14 then we have elevator lobby for residential and a 15 set of stairs that gets you up to the upper floors. 16 So moving through that set that was submitted, this 17 would be what amounts to a typical floor. This is 18 the second floor, third floor similar. So what you 19 see is we have apartments which span front to back 20 on the ends or sides of the building and then one 21 apartment interior on the front face or frontage 22 and one apartment on the rear frontage of the 23 building. Again, you see the stair which brings 24 you up, the elevator access to the corridor and 25 rear stairs, as well, so again, there's two means</p>

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1 of egress. Each of the apartments provides two
 2 bedrooms. You know, in addition to the living
 3 space, I think we -- they worked out to roughly
 4 1,250 square feet each. To activate the front
 5 facade of the building what we did was a number of
 6 accommodation design features, as well as
 7 programmatic features. We tried to recess decks in
 8 each of the units that are fronting the space and
 9 that's the same for both floors. Certainly, with
 10 this unit we cut the corner to take advantage of
 11 that view corridor down St. James and, you know,
 12 get a view of the boardwalk and ocean there.
 13 You'll see, again, the same on the third floor. If
 14 we go to -- I'm gonna skip past that. If we go to
 15 the elevations, which were also submitted, and
 16 maybe you want to mark these as an exhibit because
 17 these are colorized in the submission.

18 Q. Well, I didn't want to interrupt you but what
 19 you're showing, is that identical to what we --

20 A. It's colorize -- it's rendered. The
 21 submission was not rendered.

22 NICHOLAS TALVACCHIA: All right. So you
 23 want to just call this, Scott, the submitted could
 24 be A-4 and the colorized could be A-5, or we could
 25 call it, the colorized, A-4?

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1 SCOTT COLLINS: Well, if this was part
 2 of the package, then it was -- then it's actually
 3 A-1, correct?

4 NICHOLAS TALVACCHIA: Oh, right. The
 5 non-colorized was A-1 so you're right, so this
 6 would be -- I think we're up to A-4, the colorized,
 7 then.

8 SCOTT COLLINS: Yeah.

9 NICHOLAS TALVACCHIA: All right. We're
 10 going to call the colorized package A-4.

11 Q. Go ahead, Bill. Sorry.

12 A. Sure.

13 So as you see, to the north, what we're
 14 calling the north elevation or east elevation
 15 facing St. James would be the front elevation of
 16 the building. You see, you know, large amount of
 17 glass areas which would, you would come to expect
 18 for retail or commercial uses there. You see the
 19 ramp here in the stairs so that elevated walkway
 20 that's in an effort to get the building somewhat
 21 out of the flood plain there, and then up above the
 22 building you see it's clad largely with cement
 23 board siding, mimicking like a wood look but
 24 obviously not the maintenance and wear of a wood
 25 material. Another one of the features we were

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1 trying to do as we had those setbacks, as you saw
 2 on plan for the balconies, we also started breaking
 3 down the materiality of the building and that's
 4 kind of a little bit of an abstract gesture towards
 5 the overall development pattern in the district
 6 where you have a variety of different architectural
 7 styles or building types, kind of almost as a
 8 collage on the street wall, up and down the
 9 different streets in the Orange Loop, so we're kind
 10 of trying to react to that somewhat, but given a
 11 little bit of a contemporary flare and really kind
 12 of activate the facade. So you see that carries
 13 around the east or south elevation which faces the
 14 boardwalk. That's that wrap-around deck you see
 15 there. Jay had pointed out in his testimony that
 16 we are zero feet at one point per projection. That
 17 projection is actually shown right here. That's a
 18 canopy that we've located, if I zoom in, over the
 19 residential entrance, so that really kind of
 20 pronounces the entrance for the residents above,
 21 helps to get the weather off people as they're
 22 going into the vestibule or if you're waiting to be
 23 buzzed in, so that was the logic behind that.

24 Taking you around, if we go to the next page,
 25 again, we have a colorized version of what was

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1 submitted, so I guess we're up to, say A-6 or --

2 SCOTT COLLINS: I think this one would
 3 be A-5.

4 WILLIAM McLEES: A-5, yeah.

5 A. Here you see the elevation facing Pacific
 6 Avenue, again, carrying that, that design aesthetic
 7 around with a side access to -- for one of the
 8 commercial units, and then this would be the rear
 9 facade, which is actually facing New York Avenue
 10 and the adjacent properties, which are also under
 11 Pat's ownership. So one last visual that we had
 12 for you, which is the perspective from the street
 13 view, which I guess this would be A-6, this is a
 14 little bit dark but at least gives you a sense of
 15 how the building sits on the street and you see
 16 there that, that setback which we're showing --
 17 this is a little bit of an earlier version. This
 18 is prior to elevating it. So you see the planting
 19 strip there, which is somewhat reduced now compared
 20 to what was shown here. That's kind of the
 21 approach that we took. The parapet walls you see
 22 up there, that's our 3-and-a-half feet that's,
 23 that's encroaching in what would be that setback,
 24 and really, where that's coming from, quite simply,
 25 is if we're doing the commercial units, obviously

<p style="text-align: right;">50</p> <p>1 there's certain critical dimensions, as Jay's 2 already pointed out, that you really want to hit 3 for commercial space and we're trying to make sure 4 we can deliver, you know, a 10 or 12 foot ceiling 5 to a commercial tenant there, while also still 6 having to gather the utilities and mechanicals 7 which are coming down from the stack residential 8 units and then transferring over into columns and 9 basins, so we'll need some vertical depth there and 10 we have some vertical depth in each of the 11 residential floors to transfer that, those same 12 HVAC systems across each of the units, so as you 13 stack that up, you know, it just pushes us up over 14 that 35 feet. That's kind of where we arrived at. 15 So that kind of takes you straight to the building 16 and the architecture of it and if anybody has any 17 questions, I'm happy to answer.</p> <p>18 Q. Bill, could you just describe those other 19 structures on the -- I assume that's an elevator.</p> <p>20 A. Right. So this is the elevator overrun. 21 This is a mechanical unit, mechanical units, and 22 actually, if you zoom in here, this is a roof hatch 23 scuttle, which is in the open position, so that's, 24 that's -- those are the items that are sticking up 25 above that parapet wall.</p>	<p style="text-align: right;">52</p> <p>1 NICHOLAS TALVACCHIA: Okay. If there's 2 no further questions, that completes our 3 presentation and notice of -- well, on May 24th 4 we're available to try to address any questions 5 that we didn't address on testimony.</p> <p>6 LANCE LANDGRAF: Okay. Any questions 7 for Mr. McLees from either Christine or Kathryn or 8 Scott?</p> <p>9 CHRISTINE COFONE: I just had one quick 10 question, Lance, about the screening of the 11 mechanical equipment. If Mr. McLees could just 12 comment on -- because I know Mr. Sciuillo offered 13 some testimony and we know there are other 14 buildings of similar scale in the area. As you -- 15 if we're confident that from all vantage points, 16 that that mechanical equipment will be screened 17 from the adjoining uses.</p> <p>18 WILLIAM McLEES: Certainly, it will be 19 screened from view by the parapet wall from 20 properties that are taller than our building. 21 Obviously it will not be screened so you'll be able 22 to look down on the roof and see it, however, the 23 adjacent properties will not be able to discern 24 mechanical units from their vantage based on the 25 parapet wall construction that we have the way it's</p>
<p style="text-align: right;">51</p> <p>1 NICHOLAS TALVACCHIA: All right. Are 2 there any questions of Mr. McLees at this time?</p> <p>3 LANCE LANDGRAF: Bill, those units in 4 the elevator overrun themselves, they're set back 5 in the building, correct?</p> <p>6 WILLIAM McLEES: That's right. They're 7 pretty much -- yeah. They're set back for a couple 8 reasons. Number one, obviously we want to get it 9 away from the building entrance from a safety 10 standpoint, OSHA standpoint, but also, the impact 11 is less and then it's more visually screened the 12 further it is into the building, so we tried to 13 locate them as close to the center of the building 14 as possible.</p> <p>15 Q. Bill, would you say they're at least 20 feet 16 from the front property line, almost 10 feet from 17 the building?</p> <p>18 A. They're absolutely 20 feet from the -- they 19 probably might be 30 feet from the property line.</p> <p>20 Q. Okay. And you allow 300 for -- so that would 21 be compliant?</p> <p>22 A. We didn't need that much mechanical 23 equipment.</p> <p>24 Q. Well --</p> <p>25 A. In terms of the setback, yeah.</p>	<p style="text-align: right;">53</p> <p>1 currently designed.</p> <p>2 CHRISTINE COFONE: Okay. Good. 3 Certainly somebody on the street walking 4 by won't be able to see it?</p> <p>5 WILLIAM McLEES: Certainly not.</p> <p>6 CHRISTINE COFONE: Okay. Thank you for 7 clarifying that.</p> <p>8 WILLIAM McLEES: Sure.</p> <p>9 LANCE LANDGRAF: That was the purpose of 10 my question, to get through that.</p> <p>11 All right. With that, I think we're 12 gonna lead right into our professional report from 13 Christine and then Kathryn. You guys want to 14 enter, I guess P-2 -- P-1, excuse me. Scott?</p> <p>15 SCOTT COLLINS: P-1. 16 And what's the date of the letter?</p> <p>17 KATHRYN CORNFORTH: May 24th, 2021.</p> <p>18 SCOTT COLLINS: Okay. Thank you.</p> <p>19 LANCE LANDGRAF: Kathryn, why don't you 20 start off with the letter.</p> <p>21 KATHRYN CORNFORTH: Sure. 22 So we didn't really have a lot of 23 comments. The -- pretty much our first, our first 24 set of comments was addressed in terms of the 25 variance request. The only thing I would ask,</p>

<p style="text-align: right;">54</p> <p>1 which I'm sure Jay will do, is just update the 2 zoning schedule based off of the, I think there was 3 one or two variances that may have been missed but, 4 more importantly, the building height, making sure 5 that all of that is conforming between the various 6 documents. And then from an engineering 7 perspective the only other question I have was, you 8 guys do have a lighting plan, but clarifying that, 9 I saw -- I see the decorative street lights. Is 10 there any additional building mounted lights or 11 anything like that because, also, the foot candle 12 footprints were missing around the building for -- 13 on the lighting plan.</p> <p>14 WILLIAM McLEES: We'll have building 15 mounted lighting certainly at all of the entrances. 16 The signage will more than likely be illuminated, 17 as well. We haven't gotten into building lighting 18 at this point with Pat yet but that's the 19 potential, as well.</p> <p>20 KATHRYN CORNFORTH: So then the only 21 thing that I would ask is, just as a condition as 22 it gets finalized, to show that -- to make sure 23 your foot candles, the illumination just falls 24 within the acceptable standard, which could be 25 handled as a compliance issue.</p>	<p style="text-align: right;">56</p> <p>1 back to the Panel for any other comments. 2 Scott, you good? 3 SCOTT COLLINS: I'm good. 4 LANCE LANDGRAF: Okay. Rob, you're 5 good? 6 ROBERT REID: I just wanted to confirm 7 that the package doesn't include signage. I assume 8 that the intent is to comply with their current 9 signage requirements as that becomes known with the 10 end user of the unit. 11 NICHOLAS TALVACCHIA: We would submit 12 for the CLUC for signage once we have an 13 understanding of what's required, or the variance, 14 again, if it gets to that. 15 ROBERT REID: There's no variance relief 16 being requested for signage. 17 NICHOLAS TALVACCHIA: Correct. 18 ROBERT REID: And I guess the other 19 comment I wanted to make was certainly the setback 20 in the front and the side setback of 5 feet 21 mitigates the variance needed for the building over 22 35 feet. The purpose of that is to control 23 building mass, and I did a quick calculation, if 24 they were to comply with the 35 feet and the zero 25 setback, they would add over 40,000 cubic feet to</p>
<p style="text-align: right;">55</p> <p>1 WILLIAM McLEES: Yes. 2 NICHOLAS TALVACCHIA: We have foot -- 3 that's absolutely fine. 4 KATHRYN CORNFORTH: That was it from 5 engineering. 6 LANCE LANDGRAF: Thanks, Kathryn. 7 Christine, I know you spoke earlier. I 8 don't know if you have anything to follow-up. 9 CHRISTINE COFONE: Nope. I've been kind 10 of chiming in as we go here this morning so nothing 11 further to add. 12 LANCE LANDGRAF: Okay. With that, I 13 will one note that I think the person on the call 14 is actually Jane Fontana, our Deputy General 15 Counsel. I don't know if there's anyone else from 16 the public, Liza, but we will open it up to the 17 public. If anybody's out there, please raise your 18 hand or make it known that you want to speak. 19 LIZA BARRICK: We have one attendee but 20 they have not raised their hand to speak. 21 LANCE LANDGRAF: I believe that's Jane. 22 LIZA BARRICK: It says George. 23 LANCE LANDGRAF: Oh, okay. All right. 24 If he wants to speak, make yourself known now. If 25 not, we will close the public portion, bring it</p>	<p style="text-align: right;">57</p> <p>1 the building with what they're doing. They're only 2 adding about 6,000 cubic feet to the building, so 3 certainly meets the intent of controlling building 4 mass so it's something that just -- 5 LANCE LANDGRAF: Good. Okay. 6 NICHOLAS TALVACCHIA: I would like the 7 record to reflect that Mr. Reid is a licensed 8 planner. 9 LANCE LANDGRAF: The record will so be, 10 so be noted. Thanks, Rob. Good, good input. 11 With that, I don't have anything else 12 from our end. Nick, are you satisfied with your 13 presentation? 14 NICHOLAS TALVACCHIA: We are. I want to 15 thank everybody for their time and attention and 16 the board and all the comments, as always, you guys 17 do a good job in getting this done, so thank you. 18 LANCE LANDGRAF: Thank you, Nick. 19 Appreciate that. 20 Good seeing everybody. Hopefully soon 21 we'll be back in person. Good seeing you, Pat, 22 even in your shorts. Something I didn't need to 23 see on a Thursday morning. 24 NICHOLAS TALVACCHIA: Could be worse, 25 Lance.</p>

1 **LANCE LANDGRAF:** This is true. This is
2 true.

3 We will close the testimony on this
4 matter. Our next land use hearing is July 1st at
5 10:00 a.m. At this time, Rob, do we have anything
6 on that agenda?

7 **ROBERT REID:** No, we do not.

8 **LANCE LANDGRAF:** Okay. So that hearing
9 may or may not be held. We anticipate that this
10 application will be on our July 20th, 2021 full
11 board meeting to take action on the matter.

12 So with that, I will close the meeting.

13 We are adjourned. Thank you, all.

14 (AT 11:11 a.m. proceedings were
15 concluded.)

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1 CERTIFICATE

2
3 I, MICHELLE GRUENDEL, a Certified Court
4 Reporter and Notary Public of the State of New
5 Jersey, do hereby certify that the foregoing is a
6 true and accurate transcript of the testimony as
7 taken stenographically and digitally at the time,
8 place and on the date hereinbefore set forth, to
9 the best of my ability.

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

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Michelle Gruendel



MICHELLE GRUENDEL, C.C.R.
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Notary Public of the
State of New Jersey

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