

1 CITY OF CORAL GABLES
 2 PLANNING AND ZONING BOARD MEETING
 3 VERBATIM TRANSCRIPT
 4 CORAL GABLES CITY HALL
 5 405 BILTMORE WAY, COMMISSION CHAMBERS
 6 CORAL GABLES, FLORIDA
 7 Wednesday, October 8, 2008, 6:00 p.m.

8 Board Members Present:

9 Tom Korge, Chairman
 10 Robert Behar
 11 Jack Coe
 12 Jeff Flanagan
 13 Pat Keon
 14 Javier Salman

15 City Staff:

16 Elizabeth M. Hernandez, City Attorney
 17 Eric Riel, Jr. Planning Director
 18 Walter Carlson, Assistant Planning Director
 19 Kevin Kinney, Parking Director
 20 Jill Menendez, Administrative Assistant

21 Also Participating:	Page
22 Vincent E. Damian, Jr., Esq. Salomon Kanner & Damian	4
23 On behalf of Shirley Maroon and neighbors	
24 Mario Garcia-Serra, Esq. Greenberg Traurig, LLP	6
25 On behalf of the Applicant	
Santiago D. Echemendia, Esq. and	15
Bob De La Fuente, Esq. Tew Cardenas, LLP	24
On behalf of the Claimant	
Fernando Menoyo	28
Teofilio Victoria	43
Maria De La Guardia	45

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27

28

1 THEREUPON:

2 The following proceedings were had:

3 CHAIRMAN KORGE: We have -- Excuse me,
4 everybody, our meeting's called to order, so if want to
5 chat, the place to chat would be outside of the meeting
6 room.

7 We have a new board member replacing
8 Cristina Moreno, Jeff Flanagan. We'd like to welcome
9 Jeff. Jeff, tell everybody a little bit about your
10 background.

11 MR. FLANAGAN: Thank you, Mr. Chairman.
12 Jeff Flanagan. I'm an attorney in Coral Gables. I
13 live in the Gables. I generally do real estate and
14 land use law. I spent some time on the Property
15 Advisory Board, and some time, before that, on the
16 School and Community Relations Board.

17 CHAIRMAN KORGE: Thank you.

18 I guess we can call roll now, please.

19 MS. MENENDEZ: Eibi Aizenstat.

20 Robert Behar.

21 MR. BEHAR: Here.

22 MS. MENENDEZ: Jack Coe.

23 MR. COE: Here.

24 MS. MENENDEZ: Jeffrey Flanagan.

25 MR. FLANAGAN: Here.

1 MS. MENENDEZ: Pat Keon.
2 Javier Salman.
3 MR. SALMAN: Here.
4 MS. MENENDEZ: Tom Korge.
5 CHAIRMAN KORGE: Here.
6 The first item on our agenda is Application
7 Number 06-08-0 --
8 MR. COE: What about the minutes?
9 MR. BEHAR: Minutes.
10 CHAIRMAN KORGE: Oh, I'm sorry. You're
11 absolutely right. I forgot the minutes.
12 I'll take a motion for the --
13 MR. COE: So moved.
14 CHAIRMAN KORGE: -- the approval of the
15 minutes --
16 MS. SALMAN: Seconded.
17 CHAIRMAN KORGE: -- of August 18th.
18 MR. SALMAN: Second.
19 CHAIRMAN KORGE: Second. Moved and
20 seconded. These guys are fast.
21 Is there any discussion of changes on the
22 minutes? None. Let's call roll, please.
23 MS. MENENDEZ: Robert Behar.
24 MR. BEHAR: Yes.
25 MS. MENENDEZ: Jack Coe.

1 MR. COE: Yeah.

2 MS. MENENDEZ: Javier Salman.

3 MR. SALMAN: Yes.

4 MS. MENENDEZ: Tom Korge.

5 CHAIRMAN KORGE: Yes.

6 First item on the agenda, after the minutes,
7 approval of the minutes, is Application Number
8 06-08-070-P, "Mixed use, site plan review and vacation
9 of public alleyway."

10 Is the City going to make a presentation
11 first?

12 MR. RIEL: Mr. Chair, I'm going to make some
13 opening remarks. Mr. Carlson is going to do a --

14 CHAIRMAN KORGE: Excuse me for interrupting.
15 Before we get to that, Liz Hernandez reminded me that
16 anybody who wishes to testify needs to sign in at the
17 desk, here, and we will have everybody sworn in before
18 their testimony, we'll probably do that in mass, as
19 become a practice here.

20 MR. DAMIAN: Mr. Chairman, before we begin,
21 there's a point of order I'd like to bring before the
22 Committee. Unbeknownst to the City Staff and to me,
23 truthfully, I received a lot of telephone calls today
24 reminding me, telling me and protesting to me that at
25 sundown today begins Yom Kippur, and we have dozens of

1 persons living within the noticed area who are
2 observing Yom Kippur this evening.

3 And I feel it would be inappropriate for
4 important business, such as this, affecting residents
5 within the affected area, where they have public
6 notices of public hearing, to have this hearing on the
7 most solemn holiday in the Jewish calendar.

8 I would respectfully request that this
9 hearing be postponed and reset at an appropriate time.
10 I think out of respect to the citizens of Coral Gables
11 and in the spirit of the public notice that was sent,
12 it would be the appropriate thing to do.

13 CHAIRMAN KORGE: Eric.

14 MR. RIEL: I mean, I don't know how I can
15 respond. I mean, the meeting has been set for
16 sometime. I don't know. We've changed meetings in the
17 past. Whatever the pleasure of the Board is. We're
18 certainly prepared to reschedule it. I would only ask
19 that you continue it, so we don't need to re-advertise
20 it, but it's basically up to the Board.

21 MR. KORGE: Did you receive any concerns or
22 complaints or --

23 MR. RIEL: We received one call to the
24 office and, obviously, the one Board member who's not
25 here this evening is in observation of the religious

1 holiday, that's why he's not in attendance. But
2 that's, as far as my discussion and Staff's, it's only
3 one call.

4 CHAIRMAN KORGE: Right.

5 Liz? What are we supposed to do?

6 MS. HERNANDEZ: It's absolutely the
7 discretion of the Board. It's a valid reason to ask
8 for a continuance. They would be preserving a valid
9 due process claim. It is a holy day of obligation in
10 the Jewish faith and, you know, it is the pleasure of
11 the Board. It's absolutely an element that would be
12 preserved on appeal of this matter.

13 CHAIRMAN KORGE: Any discussion from the
14 Board members?

15 MS. HERNANDEZ: I don't know if the
16 applicant has a position that they wish to put on the
17 record. You know, it's up to them to advocate their
18 position.

19 MR. GARCIA-SERRA: Good evening,
20 Mr. Chairman, members of the Board. Mario
21 Garcia-Serra, with offices at 1221 Brickell Avenue
22 representing the applicant on this first application.
23 We will, of course, respect whatever the decision is of
24 the Board on this issue. We, ourselves, have some
25 members of the project team who were not able to attend

1 due to the holiday, but we are here, prepared, and
2 ready to go.

3 The meeting has been scheduled for some
4 time. It's been difficult, of course, to even get
5 on the agenda, to begin with, and you know how
6 difficult it is to perhaps get the Board back
7 together for a special meeting, or anything like
8 that, in order to continue through the application
9 process. Our preference, of course, is to go forward
10 tonight, but we will respect your decision on this
11 matter.

12 MR. COE: Mr. Chairman, I -- I -- I move
13 that we continue this agenda item.

14 MR. SALMAN: I second it.

15 CHAIRMAN KORGE: A motion and a second. Any
16 discussion on this motion?

17 MR. RIEL: Clarification, you said continue
18 the agenda item?

19 CHAIRMAN KORGE: That's what he said.

20 MR. SALMAN: Continue the agenda --

21 MS. HERNANDEZ: Continue it to which --
22 Which is the meeting date that it'll be continued to,
23 so that the members of the public, who are here today,
24 have actual knowledge of when that meeting will take
25 place?

1 MR. COE: Presumably, Eric, it will be at
2 the next meeting.

3 MS. HERNANDEZ: Which is --

4 MR. COE: November what?

5 MS. MENENDEZ: November 12th.

6 MR. RIEL: November 12th.

7 MR. COE: November 12th. Okay.

8 MR. GARCIA-SERRA: Mr. Chair, if I could, is
9 there any possibility for a special meeting?

10 MS. HERNANDEZ: I would ask that -- the
11 Board not to consider that. We're in a very tight
12 budget process and, as you know, opening up City Hall
13 on days, other than on Board meetings, will require
14 additional financial resources of the City, and I would
15 recommend -- there's no emergency. The Board only
16 schedules special meetings and hearings on emergencies,
17 and the public expects that these meetings take place
18 at the appropriate meetings of the Planning and Zoning
19 Board. So my position would be, we should not consider
20 it absent a real emergency.

21 CHAIRMAN KORGE: Right. Okay. Discussion?
22 Javier, did you have something you want to say?

23 MR. SALMAN: Should the applicant wish to
24 have a special meeting, if there's a cost associated
25 with it and they wish to bear that cost, I would

1 entertain that, for that purpose.

2 MR. GARCIA-SERRA: We would be willing to
3 bear the cost of the special meeting.

4 MR. SALMAN: Okay.

5 CHAIRMAN KORGE: Anybody have an idea what
6 that cost would be?

7 MS. HERNANDEZ: No, we do not.

8 MR. RIEL: We -- We do not develop cost. I
9 mean, Staff is basically on an annual salary, I mean,
10 obviously any advertising costs, or anything else, but
11 we've typically continued, you know, to the next
12 meeting.

13 MR. BEHAR: Personally, I don't think we
14 should --

15 MR. COE: No, I don't think we should
16 have any special meeting. We have the next
17 meeting.

18 MS. HERNANDEZ: You have security, you
19 have everything else.

20 CHAIRMAN KORGE: I don't know that we have
21 consensus for that.

22 MR. SALMAN: All right. That's fine.

23 CHAIRMAN KORGE: Any more discussion on
24 continuing this agenda item?

25 I just want to make a comment. We do have a

1 lot of members of the public here who've made a special
2 trip here, for this agenda item, and, you know, it's
3 not a good situation, because then they've got to come
4 back, too.

5 MR. SALMAN: I know, but it's an automatic
6 appeal and we're going -- we're setting ourselves up
7 for a problem, honestly --

8 CHAIRMAN KORGE: Yeah. Yeah.

9 MR. SALMAN: -- in whatever decision we make
10 here.

11 MR. COE: There's a motion to continue this
12 agenda item.

13 CHAIRMAN KORGE: Right, we were discussing
14 it.

15 MR. SALMAN: We were discussing it.

16 MR. COE: Okay. Do we call the question? I
17 mean, either we're going to do it or we're not going to
18 do it.

19 CHAIRMAN KORGE: Well, let me ask, anybody
20 in the public want -- The applicants explained their
21 position. Anybody else in the public want to come
22 forward, at this time and --

23 MR. COE: Why? There's no public input
24 on this, Mr. Chairman. This is a vote of the
25 Board.

1 CHAIRMAN KORGE: Okay. Fine. Let's --
2 Let's -- There's -- The question's called. No further
3 discussion.

4 Call the question, please.

5 MS. MENENDEZ: Jack Coe.

6 MR. COE: Yes.

7 MS. MENENDEZ: Jeffrey Flanagan.

8 MR. FLANAGAN: Yes.

9 MS. MENENDEZ: Javier Salman.

10 MR. SALMAN: Yes.

11 MS. MENENDEZ: Robert Behar.

12 MR. BEHAR: Yes.

13 MS. MENENDEZ: Tom Korge.

14 CHAIRMAN KORGE: Yes.

15 Okay. So this item is continued to the
16 next regularly scheduled Board meeting at what
17 date?

18 (Thereupon, Pat Keon entered the meeting
19 room.)

20 MR. RIEL: It's November 12th.

21 CHAIRMAN KORGE: November 12th.

22 MS. HERNANDEZ: And this will be --

23 MR. DAMIAN: I apologize. I didn't
24 introduce myself.

25 MR. SALMAN: Will this serve as a public

1 notice for the --

2 MS. HERNANDEZ: Yes. Folks, this will be
3 the only notice that you are receiving. Please
4 understand that it is a continuance to the next
5 Planning and Zoning Board meeting.

6 MR. DAMIAN: I'm Vincent Damian,
7 representing Shirley Maroon and neighbors. I forgot to
8 introduce myself.

9 MR. SALMAN: I know who you are.

10 MR. DAMIAN: Thank you.

11 MR. RIEL: Ladies and gentlemen, could you
12 please go? We have other agenda items.

13 CHAIRMAN KORGE: We're still -- We're still
14 in meeting here.

15 Would you please note, for the record, that
16 Pat Keon has arrived.

17 The next item on our agenda -- If you want
18 to chat, outside is the place, please. Thank you.

19 Next item on the agenda is item number
20 six, "Proposed Zoning Code text amendment pursuant
21 to a proposed settlement agreement with Fernando Menoyo
22 and Almeria Row, LLC, represented by Tew Cardenas,
23 LLP."

24 MS. HERNANDEZ: Okay. Mr. Chairman, if I
25 may just do a brief introduction to the Board, so that

1 we can get into this item.

2 This item comes to you as a result of a
3 referral from the City Commission. You are not
4 considering today any settlement discussions that the
5 applicants may have had. This was as a result of a
6 Bert J. Harris claim. The Board is here merely to
7 consider a request on a zoning matter. Issues
8 involving the Bert J. Harris claim will be considered
9 at the City Commission level. But the Board's inquiry
10 really has to do only with zoning issues, at this
11 point.

12 I will tell you that the applicant is here
13 before you today based on a referral of the City
14 Commission. It is Staff's position that sufficient
15 information was not provided for thorough Staff
16 analysis, so we will be requesting today that the Board
17 listen to the input of the applicant, pose any
18 questions that they would like Staff to come back with
19 and direct the applicant to provide to Staff the
20 necessary information, so that Staff can provide a
21 thorough Planning Department review and bring back a
22 recommendation to you.

23 At the conclusion of the presentation and
24 after the discussions by the Board members, we're going
25 to also ask that this specific matter be continued to

1 the next Board meeting, so that we don't have to
2 re-advertise, so that the input is provided to Staff
3 in a timely basis, and so that we can come back to
4 you with final recommendations of professional staff.
5 And I don't know if Mr. Riel has anything to add to
6 that.

7 MR. RIEL: No, I think you pretty much
8 covered everything.

9 MR. SALMAN: Through the Chair, Madam
10 Attorney --

11 MS. HERNANDEZ: Yes, sir.

12 MR. SALMAN: -- could you please explain,
13 for the benefit of the public, what a Bert J. Harris
14 Act is?

15 MS. HERNANDEZ: Yes. A Bert J. Harris claim
16 is a claim that is just below that of a taking. A
17 property owner has a one-year between a zoning action
18 of the City Commission in order to file a claim, to
19 perfect it, claiming that action of the City
20 Commission, in a zoning capacity, has inordinately
21 burdened their property.

22 Again, I don't want to get more into that
23 because I don't want this -- the claim to influence
24 this Board. I just wanted to give it to you for
25 information purposes, so that you understand how it

1 came back to you. Okay?

2 MR. SALMAN: Understood. Thank you.

3 MR. ECHEMENDIA: Good afternoon,
4 Mr. Chairman, Santiago Echemendia, 1441, on behalf of
5 Coral Gables Rentals, Fernando Menoyo, who is here, as
6 well as Maricris Longo, I don't believe she's here.
7 I'm also accompanied by Teofilio De La Guardia, and his
8 wife, Maria De La Guardia, who are the architects on
9 this project.

10 Just very briefly, just to simplify this as
11 much as possible, the reason we filed a Bert J. is, it
12 really -- it's -- though it's \$9,000,000 inordinate
13 burden claim, it was really for purposes of having a
14 discussion to resolve the issue. That's really the
15 predicate or the premise of the Bert J. Harris Property
16 Rights Act, is to avoid litigation.

17 We've had some very successful meetings
18 facilitated by Liz and the City Manager, with the City
19 Commissioners, who we believe have expressed some
20 receptiveness to the concept of changing, on a
21 site-specific, the regulations back to what they were
22 before this language got incorporated regarding
23 adjacent to MFS, adjacent to single family. Bringing
24 it back, it was at 50, it got brought down to 35. We
25 want to bring it back for -- to 45 feet, for a limited

1 number of sites owned by -- by Gables -- Coral Gables
2 Rentals, some of which were under contract at the time.

3 Liz's position, of course, is that as it
4 relates to settling the Bert J. claim, the ones that
5 were under contract at the time do not qualify. What
6 we have suggested, to address her concern, is that
7 those simply be treated legislatively, not to be
8 incorporated as part of the settlement agreement, which
9 would just be for those that we actually owned at the
10 time.

11 So we think we have a fairly -- it's a
12 fairly simple exercise. The as-built environment
13 around it is -- from a transitional perspective, it
14 makes sense to go to 45 feet, because you have 60 feet,
15 up to 110 feet, all the way around.

16 The City -- The Commissioners, after the
17 various meetings, I think what was concluded was, yes,
18 go ahead and send it back to the Planning and Zoning
19 Board. In fact, the City Commission -- The City
20 Commission met, right, Liz, and requested that it be --
21 come back to Planning and Zoning Board, after the
22 various private meetings, because it's required that
23 you all make a recommendation as part of a legislative
24 change.

25 And Bob -- My partner, Bob De La Fuente,

1 really has more of a comprehensive presentation, but
2 because it is Yom Kippur and because you all -- you
3 know, we're the only thing between you all and sunset
4 this evening, I wanted to kind of cut to the chase.

5 One of the things that we do want to get a
6 little bit of direction from -- from you all, or maybe
7 have you all give some direction to Eric is -- The
8 exercise is fairly straightforward. We've identified
9 the parcels. We want to go back to the 45 feet, the
10 regulations, as they were before this adjacency
11 language got incorporated.

12 Eric is requesting a lot of information from
13 us, and maybe we can go through that a little bit,
14 Eric, as to what you're requesting and why we believe
15 that we're being asked for more than what should be
16 provided.

17 Again, it's a very simple exercise. We've
18 identified the properties. We want to go back to the
19 45, which is what it was before, rather than the 35.
20 It's that simple. The Planning Department wants to do
21 a bit of analysis. I don't want to say 3D. I'll let
22 Eric explain. But this isn't an application, per se,
23 this is a settlement of a Bert J. Harris Property
24 Rights Act, where the simple exercise is, we're
25 changing the height from 45 to 35 for these

1 site-specific properties to be appended, hopefully, to
2 a Bert J. Harris settlement agreement, which then goes
3 with the recommendations from Planning and Zoning,
4 whether it's negative, no recommendation or favorable,
5 then to the City Commission, with the intent of
6 hopefully settling this case and bringing the site-
7 specifics up to 45 feet, so that we can move forward
8 with the project.

9 MR. BEHAR: Excuse me a second. Madam
10 Attorney, I've got a question. If we do this, would
11 this not create a spot zoning?

12 MS. HERNANDEZ: No. I mean, obviously,
13 there will -- you know, just about anybody can argue
14 that -- you know, a spot zoning case. I do not believe
15 that anyone who challenges the action of this Board,
16 should this Board adapt site-specific regulations for
17 this property will have a successful spot zoning claim.
18 So I'm very comfortable that you can go either way on
19 this particular request, either approval or denial, and
20 either one will be sufficient, for purposes of
21 defending any claim.

22 CHAIRMAN KORGE: Well, on a typical
23 Bert J. -- and I'm not really familiar with the Act,
24 so I'm not talking with any knowledge, but on a typical
25 Bert J. Harris, it would be for specific properties,

1 would it not, not for the whole community.

2 MS. HERNANDEZ: Correct.

3 CHAIRMAN KORGE: So when you change the
4 zoning as a settlement for those particular properties,
5 even if it were considered spot zoning, that's the only
6 way you're going to settle, isn't it, or do you just
7 pay money?

8 MR. COE: That's correct, Tom.

9 MS. HERNANDEZ: The City -- No, the City
10 cannot -- The City -- No city can engage in spot
11 zoning. Even if there's a Bert Harris claim, the City
12 cannot, because it's a settlement, do something
13 illegal. So if it were spot zoning -- if it were
14 determined to be spot zoning, it would not withstand an
15 appeal.

16 CHAIRMAN KORGE: Good. Then what would
17 constitute spot zoning?

18 MS. HERNANDEZ: If -- Okay. The legal
19 definition of spot zoning is when an area is zoned
20 different from the surrounding areas and it is not
21 consistent with the area -- the adjacent neighborhoods.
22 This is not an issue of spot zoning, and I can provide
23 you with a copy of cases that would explain it better.

24 MR. BEHAR: Does the fact that the adjacent
25 property is zoned with the limitation of 35 feet and

1 these particular three properties are going to have an
2 exception that it be allowed to go up to 45 feet,
3 doesn't that create, by itself --

4 MS. HERNANDEZ: Again, it is not -- it is my
5 opinion, as the City Attorney, that it is not spot
6 zoning. And I believe that it is not an area that you
7 should concern yourself with --

8 CHAIRMAN KORGE: Okay.

9 MS. HERNANDEZ: -- with regard to the issue
10 of --

11 CHAIRMAN KORGE: Gotcha.

12 MS. HERNANDEZ: -- a zoning analysis.

13 CHAIRMAN KORGE: Okay.

14 MR. ECHEMENDIA: Can I add something,
15 Mr. Chair? Spot zoning -- and Madam City Attorney is
16 completely right, but spot zoning typically deals with
17 just that, zoning. It's typically when you have
18 residential surrounded by a sea of commercial, which
19 would be a reverse spot zoning situation. You can't
20 deny the rezoning from residential to commercial
21 because you're surrounded by commercial, or otherwise,
22 you have commercial surrounded by residential. That's
23 a spot zoning situation.

24 A height between 45 and 35 feet doesn't even
25 fall into the case law -- classic case law relative to

1 spot zoning.

2 CHAIRMAN KORGE: Okay.

3 MR. ECHEMENDIA: Moreover, if you balance a
4 possible claim, which doesn't apply, versus the
5 \$9,000,000 Bert J. Harris claim, I think you know where
6 you should land, or at least in our opinion.

7 CHAIRMAN KORGE: Okay. Then we're not
8 concerned with that. It's what Liz was telling us.

9 MS. HERNANDEZ: Correct.

10 CHAIRMAN KORGE: Thank you. Okay. But that
11 was helpful.

12 MR. ECHEMENDIA: Could we get a little --
13 Again, what one of the Commissioners was very adamant
14 about, you know, unfortunately, the Menoyos have been
15 put in this predicament, and to try to do this as least
16 expensively as possible -- you know, unfortunately, I
17 haven't been able to give Fernando my pro bono rate
18 just yet, but what we'd like to do is do this as least
19 painfully as possible. And to that end, we have
20 language which proposes the change to go back to what
21 it was. It's that simple.

22 So, with that, if you all could just
23 maybe -- maybe if we can engage the Planner, in terms
24 of what he's requesting and why, we would be hopeful
25 that it be as simple as going back to that language

1 that was there before.

2 MS. HERNANDEZ: Right. No, I -- I have to
3 object, first of all, I -- I have to, for the record,
4 because I am concerned that Mr. Echemendia is creating
5 a situation where an objecting party is going to
6 indicate that Mr. Echemendia inappropriately is
7 suggesting to you what Commissioners want. So please
8 disregard any statements that he says, "A Commissioner
9 is concerned that Mr. Menoyo was unfairly," or "A
10 Commissioner." That is irrelevant and really should
11 not be part of the discussion. This is purely a zoning
12 analysis, and I would recommend that we not deviate
13 from our standards, at all, because then I'm going to
14 be back in court with a totally different person, an
15 affected neighbor who is saying, "You're circumventing
16 your procedures for this particular property owner,"
17 so --

18 We have facilitated their opportunity to
19 come before this Board and I am recommending and
20 advising that this Board strictly follow its
21 procedures, which include giving the information needed
22 to the Planning Department. It's basic, you know.

23 MR. ECHEMENDIA: Fair enough. I apologize,
24 Madam City Attorney.

25 MS. HERNANDEZ: No, but you can't -- you've

1 go to be careful.

2 MR. ECHEMENDIA: No, no, I do apologize. I
3 was just trying to put it in context, so --

4 MS. HERNANDEZ: I know.

5 MR. ECHEMENDIA: -- I do step back from
6 those comments.

7 CHAIRMAN KORGE: Well, maybe Eric can tell
8 us what he needs, in order to make a recommendation to
9 us.

10 MR. RIEL: Well, I mean, it's kind of
11 difficult for me to tell you, within a five-minute --
12 you know, provide an understanding of what's required.
13 It includes the Building and Zoning Department, as well
14 as the Planning Department. We have corresponded with
15 the applicant. We've requested a minimum amount of
16 information, less than we typically request on a
17 preliminary zoning analysis. We just need the
18 information to provide this Board a recommendation.

19 MS. HERNANDEZ: Right.

20 MR. COE: And the information has not been
21 forthcoming from the applicant?

22 MS. HERNANDEZ: No.

23 MR. RIEL: The Building and Zoning
24 Department has responded and the applicant -- not the
25 applicant, the claimant has not provided the

1 information back to us, regarding some questions that
2 we have.

3 MR. COE: And is --

4 MR. DE LA FUENTE: Can I --

5 MR. COE: -- there a reason why the claimant
6 isn't doing it?

7 MR. DE LA FUENTE: For the record, Bob De La
8 Fuente, I'm Santiago's law partner, 1441 Brickell
9 Avenue.

10 I have to disagree with Mr. Riel because we
11 have even -- We have them here, the responses to
12 everything that they've asked. We've specifically
13 responded with exhibits and correspondence to the City,
14 and we had them hand-delivered, last week, within days
15 of when it was asked for, we've responded.

16 The last time that we responded, there was
17 no response back from the City, so we're a little bit
18 at a loss as to what else is required in order for them
19 to finish the review. If it's a matter of that they
20 didn't have enough time to review it, then that's one
21 thing. But in terms of providing the information and
22 the documents, we've done that.

23 MS. HERNANDEZ: And you believe that
24 whatever Ms. Salazar-Blanco requested you have complied
25 with?

1 MR. DE LA FUENTE: Correct. In fact, we --
2 on September 25th, 2008, we e-mailed and hand-delivered
3 this letter, here, and I can pass it up to you.
4 It's --

5 MR. COE: Hold on. Hold on. We're getting
6 far afield here. I don't think it's the function of
7 the Board to decide whether or not the City has
8 received sufficient information. It's at this -- The
9 function of the Board, in my judgment, Mr. Chairman, is
10 to decide whether not to grant the relief that's being
11 requested.

12 MS. HERNANDEZ: Correct.

13 MR. COE: If the City is unsatisfied with
14 what's been delivered to them, do you want the City to
15 rely on what it has in making its opinions?

16 MR. ECHEMENDIA: No, Mr. Coe --

17 I'm sorry, Bob.

18 -- I think what we'll do is, since we're
19 not -- and as not to prolong the evening, we know you
20 all need to go, we'll work diligently with --

21 MS. HERNANDEZ: With Martha.

22 MR. ECHEMENDIA: -- Liz, and Martha and
23 City -- and the principal planner to reconcile that
24 information, that they think they have not received
25 between now and the 12th. So we'll work it out. We

1 just wanted to bring to your attention that there is a
2 little bit of a debate going on between Bob and Eric as
3 to whether we provided the information or not.

4 MR. COE: I suppose we could appoint a
5 special master to go over everything.

6 MR. ECHEMENDIA: No, that's okay.

7 MS. HERNANDEZ: Bob, Bob.

8 MR. BEHAR: For the record, make sure you
9 work with the Planning Director, not the principal
10 planner, or with the Planning Director.

11 MR. ECHEMENDIA: That's what I meant.

12 MS. HERNANDEZ: Santiago, could you please
13 introduce, then, the properties, you know, go through,
14 so that the Board can provide any questions that they
15 may have.

16 MR. ECHEMENDIA: Thank you, Liz. Yes,
17 absolutely.

18 MR. DE LA FUENTE: Okay. Just very briefly,
19 the two exhibits that are to your right will show you
20 exactly what we're talking about. These are also
21 included in your packet, that we've handed out to you.
22 They're broken down into five different groups, and
23 you'll see which these subject groups are.

24 A small clarification, if you look at Group
25 3, we have not included the already built townhomes. I

1 don't know if you're familiar with the project that has
2 already been built, but those already built townhomes
3 are not part of this plan. So, basically, we start
4 here, it goes along Anderson and then along Almeria,
5 until here, all the way up to here, where Group 3 is.
6 So all these properties are the subject of this claim
7 where we see --

8 MR. COE: These are vacant properties? Is
9 this vacant land?

10 MR. DE LA FUENTE: No.

11 MR. COE: Okay. There's already structures
12 on that that you would demolish?

13 MR. DE LA FUENTE: Correct. Correct. And
14 these are the properties where we seek the
15 reinstatement of the original 45-foot height.

16 CHAIRMAN KORGE: But the properties in that
17 gap area here --

18 MR. DE LA FUENTE: Not part of the claim.

19 CHAIRMAN KORGE: I understand. Are they
20 already developed?

21 MR. DE LA FUENTE: They are already
22 developed.

23 CHAIRMAN KORGE: And so you're not
24 redeveloping them?

25 MR. DE LA FUENTE: No.

1 CHAIRMAN KORGE: What height are they to?

2 MR. DE LA FUENTE: Those are -- I would ask
3 Mr. Menoyo to -- He's -- He's our client --

4 CHAIRMAN KORGE: Sure.

5 MR. DE LA FUENTE: -- and he's very familiar
6 with these, so --

7 MS. HERNANDEZ: Has he been sworn in? Just
8 to --

9 MR. DE LA FUENTE: I don't think --

10 MR. ECHEMENDIA: No.

11 MS. HERNANDEZ: Anybody that's going to
12 testify needs to be sworn in.

13 CHAIRMAN KORGE: State your name and address
14 for the record, then she will swear you in.

15 MR. MENOYO: Fernando Menoyo, 744 Biltmore
16 Way.

17 MS. DE LA GUARDIA: Maria De La Guardia 2508
18 Columbus Boulevard.

19 MR. VICTORIA: Teofilio Victoria, 2508
20 Columbus Boulevard.

21 CHAIRMAN KORGE: Okay. Let's swear
22 everybody in.

23 THE COURT REPORTER: Okay. Do you solemnly
24 swear or affirm to tell the truth, the whole truth and
25 nothing but the truth?

1 MS. DE LA GUARDIA: Yes.

2 MR. VICTORIA: Yes.

3 CHAIRMAN KORGE: Thank you.

4 Now, I guess the question was, in that --
5 that gap area there, I can't read the lot numbers. On
6 Almeria, between the two areas to be developed, what
7 are the heights of the current structures that are
8 already developed on those lots?

9 MR. MENOYO: Correct. This is a project
10 that was built maybe -- a townhouse project that was
11 built about 30 years ago. It's four stories. There
12 are sections of this project that face Almeria, that
13 are four stories high.

14 CHAIRMAN KORGE: Just out of -- They're
15 about 45 feet or --

16 MR. MENOYO: Over 45 feet --

17 CHAIRMAN KORGE: Over 45.

18 MR. MENOYO: Ours are 45 feet, that we're
19 supposed to have, are limited to three stories. We're
20 limited to three stories and we're not arguing that
21 limitation.

22 CHAIRMAN KORGE: Right.

23 MR. MENOYO: Yeah, before the -- before the
24 townhouse ordinance, we had 50 feet in heights.

25 CHAIRMAN KORGE: Okay. But you see what I'm

1 asking about. It's -- So it would be --

2 MR. MENOYO: Yeah. This is -- This is
3 50 feet. This is another condominium here, and this is
4 a historic property.

5 CHAIRMAN KORGE: How tall is the condo?

6 MR. MENOYO: I'm not sure about this one.

7 CHAIRMAN KORGE: Right. Okay.

8 MR. MENOYO: I'm not sure about this one.

9 These are townhomes.

10 CHAIRMAN KORGE: Townhomes. Okay.

11 MR. MENOYO: All this, this is high density.

12 This is the Biltmore 2, the David William is here.

13 CHAIRMAN KORGE: You're referring to -- Is
14 that Block 10, there?

15 MR. MENOYO: Yes.

16 CHAIRMAN KORGE: And how -- I'm sorry.

17 Block 10 is the David William Hotel?

18 MR. MENOYO: That is correct.

19 CHAIRMAN KORGE. Okay. Now I see, yeah.

20 MR. MENOYO: This is the Valencia Grand,
21 that building that was recently built.

22 CHAIRMAN KORGE: Right.

23 MR. MENOYO: All this, this little area, is
24 a multi-unit area, very small, within the residential
25 area, and our properties are the buffer between the

1 higher -- the higher buildings in the back and the
2 single family homes.

3 CHAIRMAN KORGE: Right. I see.

4 MR. MENOYO: And prior to the moratorium, we
5 came up to see -- Because I -- Thirty years ago I met
6 with John Little. John Little used to have Dennis
7 Smith's job here, in the City. I was 24 years old
8 then, and I had just arrived from -- I had gone to
9 school up in Ithaca, New York, at Cornell. I landed a
10 job with GE, and when I came here, I decided this was
11 going to be my home.

12 I met with John Little. He gave me a copy
13 of the zoning map. And ever since, we -- my partners
14 and I have been investing in this area, land banking,
15 carrying negative cash flows in all of our buildings,
16 trying to upkeep them and having beautiful properties,
17 which I believe people are aware of.

18 And, uh -- When we -- Finally, when we
19 decided to take advantage of our land, we came up to
20 see Dennis Smith, and he steered us in the way of the
21 townhomes. What we presented to him, at that time, was
22 a condominium project that was 50-feet tall, what we
23 were allowed to build then, with ground parking,
24 50-feet tall, four stories high. Dennis Smith
25 suggested that -- that a townhouse typology would be a

1 better structure as a buffer between the buildings in
2 the back and the single family homes in the front.

3 So we got our architects involved, we got
4 our attorney involved. We spent thousands of dollars
5 helping the City develop a good ordinance for this --
6 for this land. As a matter of fact, we made
7 suggestions that were really working -- that worked
8 against us, such as making sure that all the garages
9 would be in the alleyways in the back, not in the
10 front, that the main doors would face the street, a
11 whole series of improvements that we suggested for the
12 ordinance. And we got our -- What everyone, at that
13 time, agreed was the correct height, 45 feet. Then,
14 about three months prior to the passing of this
15 ordinance, in January of 2006, right?

16 MR. DE LA FUENTE: Seven.

17 MR. MENOYO: 2007, this change was made. We
18 were never told about the change. Even though we had
19 been involved with the City, spending our money, our
20 time to work with the City, we were never told about
21 the change, not until we submitted our plans for a
22 different project. Almeria was our first project, that
23 we limited to two stories because we had never
24 developed in this City, and we wanted to be
25 conservative, but we wanted to have our right to go to

1 three stories, and we never relinquished our right. We
2 never wanted to relinquish our right.

3 Last year we submitted plans to develop
4 another beautiful project, Beatrice Row, and when we
5 submitted our papers, the City came back to us to tell
6 us that we couldn't go the 45 feet. And we said,
7 "What? Why not?" And then they told, "Well, we made
8 this change." Two months before the final ordi -- You
9 know, the whole rewrite was passed, unbeknownst to us.

10 And we had to rush, hire attorneys, spend
11 another I don't know how many thousands of dollars
12 trying to -- You know, this effort, for a person like
13 me, that I've been here, trying to make a livelihood,
14 for 30 years, trying to do what's right for the City,
15 something like this can put us under. And I don't know
16 if the City is aware of that. This effort, the
17 thousands of dollars that were spent, the way the City
18 has put us in this position, can make us go broke.
19 It's very unfair.

20 CHAIRMAN KORGE: Thank you very much.

21 MR. DE LA FUENTE: Mr. Chair, I believe
22 where Mr. Menoyo was also going with this was trying to
23 explain to you how the original height, that was
24 45 feet, is, in fact, a better planning decision and
25 how that's a more appropriate transition between the

1 taller buildings that are in back of or near his
2 properties, and the single family that's limited to 29
3 feet.

4 If you look at Exhibit C in the handout that
5 we provided, it shows you what the permissible heights
6 are in the properties that are surrounding this
7 property. So we have provided that information, so you
8 have that before you, that shows you why it's logical
9 to have 45 feet rather than 35 feet. In fact, I would
10 like to ask the architects to come and explain to
11 you -- we've prepared a couple of exhibits here, so you
12 can see for yourselves how, from a transition
13 perspective, it makes better sense to have a 45-foot
14 height limit for these properties, rather than 35 feet.

15 MR. COE: Mr. Chairman, before they go
16 into this, I'm going to ask Mr. Riel a question. What
17 we're talking about here was simply part of the master
18 plan redone from last year, when it cropped the heights
19 down, that's what we're are talking about, correct?

20 MR. RIEL: What has happened, to do a brief
21 two-minute overview, the Commission enacted a
22 moratorium, 120-day moratorium to do a special study,
23 the area of Biltmore Way, LeJeune, Bird Road, Granada.
24 Special regulations came up, and they're called MFSA.
25 They were included as part of the rewrite of the Zoning

1 Code.

2 During the finalization of the Code, in
3 October, the Commission asked us to look at properties
4 that are adjacent to single family. If you recall, the
5 shadow studies we did on the duplexes, and all the
6 other studies. They asked us to look at all properties
7 adjacent to single family, which is the subject
8 property. It was reduced, by the Commission, 35 feet
9 for the first 50 feet, and then the remaining portion
10 of the property can be 45 feet.

11 They asked that the definition of adjacent,
12 abutting and contiguous basically be the same.

13 MS. SALMAN: That's the problem.

14 MR. RIEL: And that's the issue.

15 MR. SALMAN: That's the problem.

16 MR. RIEL: And, again, it was a subject of
17 further study as a part the rewrite. The Commission
18 actually referred it back to this Board, with a number
19 of other issues. It went back to the Commission,
20 again, on first reading, and then it was ultimately
21 adopted.

22 MR. COE: And the claimant never got notice?

23 MR. RIEL: I am not -- I mean, we do not
24 send out a notice to every property owner within the
25 City for each public hearing.

1 CHAIRMAN KORGE: But it was -- It was a
2 complete Code rewrite.

3 MR. RIEL: It was a complete Code rewrite.
4 I mean --

5 MR. COE: Ultimately, it was a complete
6 Code -- Well, everybody had notice of the complete Code
7 rewrite.

8 MR. RIEL: I mean, we had an e-mail
9 subscription list.

10 MR. COE: Right.

11 MR. RIEL: We did as much public outreach,
12 you know, as -- we had 56 meetings to the total
13 process.

14 MR. SALMAN: I know Mr. Menoyo because he's
15 been -- when I was on the Board of Adjustment, he came
16 for the original project, and there were some issues
17 there. I remember Dennis presenting, for that
18 particular Board, for those initial Almeria townhouse
19 project, and he's a person who's actually fairly aware
20 of what the City was doing. So if he didn't know about
21 it, it's possible that it wasn't -- it wasn't clear.

22 Likewise, I think that part of the problem
23 here is one of the definition of adjacency. When we
24 extend adjacency to be across the street, that's where
25 we're getting into this particular problem. Where we

1 have a house across the street from a townhouse, we're
2 now limiting it to the 29 feet, when I think the intent
3 was if we had a house next to a townhouse on the same
4 block or the adjacency was along a common property
5 line, as opposed to across the street.

6 CHAIRMAN KORGE: Or divided by an alleyway.

7 MR. SALMAN: Or divided by an alleyway, then
8 perhaps the -- the application of that limitation is
9 really what has led us to where we are today, with
10 Mr. Menoyo, to get to the nut of the situation.

11 CHAIRMAN KORGE: That is. But I don't
12 remember why we ended up merging all those definitions
13 into one.

14 MR. RIEL: Because their height was reduced
15 to 29 feet for single family, and the shadow studies
16 that we did, and I remember this Power Point, you know,
17 vividly, we did discuss the terminology of adjacent,
18 abutting and contiguous. And it was originally Staff's
19 recommendation, to be a little bit more lenient.
20 However, the Commission, when they looked at all the
21 property surrounding single family, as a transitional
22 use, they suggested that abutting, contiguous, adjacent
23 all be the same thing, no matter if it was by an alley,
24 a street or right up against single family.

25 CHAIRMAN KORGE: You know, if memory serves

1 me right, the Board didn't originally think that was
2 necessary and it came back to us from the Commission.

3 MR. RIEL: I know -- No, when the Commission
4 referred all the issues back to the Board. It was
5 about 10 or 15. I'm not sure what the recommendation
6 of the Board was.

7 CHAIRMAN KORGE: I guess what I'm asking,
8 didn't we originally pass it at 45, across the street?

9 MR. RIEL: Yes.

10 CHAIRMAN KORGE: Yeah. So they sent it back
11 and said, "We want to change it.

12 MR. RIEL: Right, they asked for an
13 additional study be completed.

14 CHAIRMAN: Right.

15 MR. RIEL: And that's when we did additional
16 shadow studies and additional --

17 MR. ECHEMENDIA: Tom, if I may, one
18 comment, I think -- Thank you, Eric, because that's
19 precisely the issue. What we're suggesting --
20 Remember, this was a global rewrite, where there was a
21 lot of stuff in front of Commission, relative to the
22 entire City. So I think what we're suggesting is, this
23 is a refinement relative to these properties that
24 really got lumped into everything.

25 MR. BEHAR: But, you know, and that's my

1 problem. And in principle, I agree with the concept.
2 My problem is that we're only picking a certain number
3 of properties to modify, and that's not -- We may have
4 to go back and look at the whole global changed, we did
5 before, and maybe identify --

6 MR. SALMAN: That's precisely right.

7 MR. BEHAR: You know, I cannot -- I -- I --
8 I feel -- I'm very uncomfortable, looking at three
9 pieces of property and just -- And I agree, that
10 perhaps 45 feet was a better -- You know, the way we
11 had it was a better alternative, but to go back and
12 pick three properties and do this, I don't feel
13 comfortable doing that.

14 MR. ECHEMENDIA: What we could do -- What I
15 was suggest, because we were -- we're certainly not
16 adverse to that, but let me posit at the following.
17 We're the only Bert J. Harris claim that emanated from
18 the rewrite. We basically filed on the last day.
19 Nobody else could file a Bert J. claim. So what we're
20 suggesting is, treat us pursuant to the Bert J. claim,
21 correct this inordinate burden, and then you can go on
22 and legislatively correct whatever else you need to do.

23 CHAIRMAN KORGE: That makes more sense to
24 me, too, because this particular area, I mean, it's
25 not -- it wasn't -- The idea of 45 feet wasn't so

1 offensive to us, originally, as the Board -- the
2 then-constituted Board, to bring it down automatically,
3 when it became back to us from the Commission, so it
4 wasn't some clear-cut problem. I would prefer to deal
5 with specific first, and then look at the global, you
6 know, overall, City-wide, because there are other areas
7 that it might -- you know, that were in the 35 feet. I
8 mean, I don't know that I'm anxious to change
9 everything just because of one problem property.

10 So I would be willing, myself, to look at
11 this one property, in that location, bearing in mind
12 the other properties surrounding it, you know, hear
13 from any neighbors that want to object, if they have
14 any objections, and treat it like a site-specific
15 change, and then the Commission will do whatever it
16 wants to do. But I think what they're sen -- sending
17 it back to us for is to make a determination whether in
18 this area, dealing with it on a site-specific basis,
19 this would be otherwise acceptable to the Board under
20 whatever conditions, you know, might normally be
21 negotiated in a site-specific zoning change. So, I
22 mean, that doesn't bother me, to do itt'sitself just
23 for this -- this site-specific area. I mean, it really
24 makes more sense than for us to then go back and talk
25 about doing the whole City-wide -- a City-wide change.

1 MR. COE: Mr. Chairman, could we clarify
2 what we're doing this evening? I -- I think we're --
3 All we're doing is giving Staff input on what we want?

4 MS. HERNANDEZ: Right.

5 MR. COE: That's all we're doing? And then
6 Staff is going to come back, at some point, when it
7 receives all of the information they claim they do not
8 have, from the claimant, and then Staff would make some
9 recommendation. That's the drill tonight, right?

10 MR. RIEL: That's correct.

11 MR. COE: I don't know if we can do anything
12 else.

13 CHAIRMAN KORGE: No, we're not doing
14 anything else. But, I mean, one of the suggestions
15 that's been made by a couple of Board members is,
16 they'd rather look at it on a City-wide basis, which
17 is --

18 MR. COE: Well, I -- I -- The problem --

19 CHAIRMAN KORGE: -- materially -- Let me
20 finish. That's a materially different task than the
21 site-specific changes that have been requested.

22 MR. COE: From what I understand, this is a
23 unique situation. So assuming that is correct, there
24 isn't any other parcels to look at and there's no
25 reason to go beyond this unique exception, this unique

1 problem that we have.

2 Is that the claimant's position, as well?

3 MR. ECHEMENDIA: We don't disagree with
4 that, Mr. Coe. That's not to say I don't disagree with
5 Mr. Behar, that there could conceivably be others
6 that -- that somebody could take the position, also,
7 would be justified at 45 feet, that could be looked at,
8 at some other point --

9 MS. HERNANDEZ: Right.

10 MR. ECHEMENDIA: -- we're not suggesting it
11 be commingled with this. We do agree with you,
12 Mr. Coe.

13 CHAIRMAN KORGE: And -- And more to that
14 point, there are no other Bert J. Harris claims filed.

15 MR. ECHEMENDIA: That's correct.

16 CHAIRMAN KORGE: So, you know, if we deal
17 with this one, we're not prejudicing other people.

18 MR. COE: Correct. That's why I don't think
19 we should get far afield. Let's limit it to this
20 particular, unique parcel.

21 MR. VICTORIA: If I may, there's
22 another consideration which I think is very
23 important.

24 MR. ECHEMENDIA: State your name for the
25 record, please.

1 MR. VICTORIA: Teofilio Victoria, principal
2 at De La Guardia Victoria Architects and Urbanists.

3 And it is that this is -- It's the
4 properties, yes, and I understand the concerns with
5 respect to the property, but it's also a particular
6 building type. I mean, it's a fee simple townhouse,
7 which is a new -- a new -- It's a -- It's a -- It's a
8 new housing product in the City of Coral Gables, and it
9 is very limited, where it can actually be built, and it
10 has a great deal of limitations. In fact, this, the
11 return of the fee simple townhouse to the downtown of
12 Coral Gables, the City center of Coral Gables, was a
13 happy -- a happy working relationship between the City,
14 developers and architects.

15 And, indeed, after the moratorium, we were
16 able to, I think, arrive at what was -- what is an
17 innovative and, indeed, new zoning condition for not
18 just the City of Coral Gables but, to a certain extent,
19 for the -- for the -- for the whole of Dade County. In
20 fact, the Coral Gables Zoning Ordinance, with respect
21 to the townhouse has being adopted by a number of
22 municipalities in the County.

23 So we're looking at a very particular type
24 of building that's not a condominium, it's not an
25 apartment building, but rather something different,

1 that has its own constraints and limitations. And in
2 our two-year work with the City, to develop this
3 ordinance, we arrive at specific dimensions, setbacks,
4 building heights, and general characteristics.

5 And the building height, I think we need to
6 remember, is actually less than it was prior to this --
7 the incorporation of this building type, of this new
8 building type, as well as density. It was -- So it
9 achieved what the City was after, which was a
10 mitigating intermediary building type, between the
11 larger mid-rise apartment building, in some instances
12 highrise apartment buildings, and the single family
13 units, residential across Anderson, in one instance,
14 across Almeria.

15 And for the architect, of course, it was an
16 interesting opportunity to build this building type
17 that has -- that is prevalent throughout American
18 cities, New York City, you might remember, Boston. Of
19 course, in Europe, this building is prevalent and very
20 pertinent to our situation, today, of building proper,
21 domestic housing types for city centers. So that
22 needs to be --

23 What I'm trying to point out and remind you
24 is that one needs to consider is that this not -- this
25 is a different type of building, and we arrived at the

1 45-foot height dimension because it seemed to be the
2 one that worked. We didn't need 50, but we needed 45.
3 The owner, the developers ended up building up to 35
4 feet, but this doesn't mean that the townhouse works
5 best at those dimensions. In fact, it works best at
6 the 45-foot dimension.

7 CHAIRMAN KORGE: Okay. Thank you. Anything
8 else from the Board?

9 MS. DE LA GUARDIA: I think that one of the
10 things that you can see in these diagrams is that when
11 the townhouse happens across the street from the single
12 family residence, you --

13 Okay. Maria De La Guardia, principal, De La
14 Guardia Victoria Architects.

15 So when the townhouse occurs across the
16 street versus next door or -- or -- or across an alley,
17 you have this whole area, you know, you have the whole
18 parkway, the whole right away that also acts as a
19 buffer between -- between the two. In this case, we
20 have, you know, two -- two parkways, the street, the
21 sidewalk, two parkways, the street, the sidewalk and
22 the setbacks that separate these two buildings.

23 And, you know, when we look at the
24 transition of heights that we're going to, from 29 to
25 45, in this case, the Valencia Royal, which is, I think

1 is at about 106, more or less. I mean, we're worried
2 about the shadows in the single family residence, but
3 what about the shadows into the townhouse? I mean,
4 they, you know -- I think 45 feet acts more as a
5 transition than the 35 feet. If I can go to our
6 potential candidates, 35 feet is more of the same. The
7 difference between 29 and 35 feet is not truly a
8 transition to the taller buildings. So, I think,
9 formally, if you look at the City, the 45 feet is
10 more -- is a better transition to what is, in some
11 cases, high density and in other cases mid density.

12 CHAIRMAN KORGE: Thank you. So where are
13 we? I mean --

14 MR. BEHAR: Well, let's then -- Eric, why
15 don't you put together what you think is going to be
16 sufficient material, that needs to be submitted to
17 you --

18 CHAIRMAN KORGE: To make a recommendation.

19 MR. BEHAR: To make a recommendation.
20 Whatever you think is necessary, that's what you've got
21 to submit to the applicant.

22 MR. RIEL: Especially in the Building and
23 Zoning and the Planning.

24 MR. BEHAR: Absolutely.

25 MS. KEON: Right. And to make sure, then,

1 if you will include the shadowing and the distances
2 from the single family homes --

3 MR. SALMAN: What shadow? They're on the
4 north side of the street. They're never going to cast
5 a shadow on the south.

6 MS. KEON: But it isn't just for those. I
7 mean, I have a bigger concern also that maybe this an
8 area that you should look at with respect to the Zoning
9 Code. You know, I mean, and I think it's better if
10 you're going to do it, we ought to go back and look at
11 it, also.

12 MR. SALMAN: We have -- We have a different
13 issue with the Zoning Code. And the problem is one of
14 adjacency, and that's, I think, what th problem is.

15 MS. KEON: Well, but that's what I'm asking
16 you. I think when it's not adjacent and it's not
17 abutting, but when they define it, I think it should be
18 defined more with regard to shadowing than just its
19 proximity to a particular -- the proximity of buildings
20 to one another. It's the effect that the buildings
21 have on one another, and not just that they're there.
22 So I think that I'd like to see that information so
23 that we can --

24 MR. SALMAN: That's a separate issue.

25 MS. KEON: Right.

1 MR. SALMAN: That's a separate issue.

2 CHAIRMAN KORGE: Right.

3 MR. SALMAN: I think that's a direction we
4 should give to Staff with regards to the unintended
5 consequence --

6 MS. KEON: Right.

7 MR. SALMAN: -- to some of these -- some of
8 these definitions. Especially the one where
9 adjacency's across the street --

10 CHAIRMAN KORGE: Right, but again --

11 MR. SALMAN: But that's a separate issue.
12 Just come back to us with the recommendations for --

13 CHAIRMAN KORGE: Exactly.

14 MR. SALMAN: -- for three properties, so
15 that we can make a decision.

16 MR. RIEL: I'll come back with a
17 recommendation based on Building and Zoning input,
18 compliance with the Comp Plan and the Zoning Code.

19 MS. KEON: But I'd like to see that
20 information because I'd like the basis for whatever
21 that recommendation is. And I think that that's an
22 element that should be part of the basis --

23 MR. RIEL: I understand that
24 responsibility --

25 MS. KEON: Yeah.

1 MR. RIEL: -- and we'll provide that
2 recommendation.

3 MR. BEHAR: Just to -- to clarify, for the
4 applicant, when do you feel that you will have the wish
5 list or the necessary tools for you to make --
6 submitted by the applicant? Do you think that sometime
7 next week that will be ready?

8 MR. RIEL: I can't answer that, because I do
9 not -- I do not supervise the Building and Zoning
10 Department. They're responsible for the preliminary
11 zoning analysis. I mean, I rely on them. They
12 interpret the Zoning Code. They need to feel
13 comfortable with the information they've received to
14 provide input to the Planning Department, and then
15 we'll come forward. You know, I can't guarantee you
16 next week.

17 MR. SALMAN: That's where you're going to
18 run afoul, because they're going to provide you an
19 interpretation based on the definitions as they are
20 provided in the code, and that's where you're going to
21 fun afoul. Okay. That's the way it's going to happen,
22 so just get it to us and then we'll make a decision,
23 one way or the other.

24 MR. RIEL: When I am able to make a
25 decision, I will provide --

1 MR. BEHAR: Okay. Fair enough. We'll leave
2 it up to you.

3 MR. SALMAN: We'll leave it up to you.

4 MR. BEHAR: Fair enough.

5 MR. ECHEMENDIA: Thank you, Mr. Chairman. I
6 think -- Are we then continued to November 12th, after
7 a motion and hopefully a second and --

8 MR. COE: Yes.

9 CHAIRMAN KORGE: Is there a motion to
10 continue to the November 12th meeting?

11 MR. SALMAN: Motion.

12 MR. BEHAR: Second.

13 MR. COE: Second.

14 CHAIRMAN KORGE: Moved and seconded. Any
15 discussion?

16 MR. COE: Call the question.

17 CHAIRMAN KORGE: Call the question, please.

18 MS. MENENDEZ: Jeffrey Flanagan.

19 MR. FLANAGAN: Yes.

20 MS. MENENDEZ: Pat Keon.

21 MS. KEON: Yes.

22 MS. MENENDEZ: Javier Salman.

23 MR. SALMAN: Yes.

24 MS MENENDEZ: Robert Behar.

25 MR. BEHAR: Yes.

1 MS. MENENDEZ: Jack Coe.

2 MR. COE: Yes.

3 MS. MENENDEZ: Tom Korge.

4 CHAIRMAN KORGE: Yes.

5 MR. ECHEMENDIA: Thank you so much. We know
6 we're going to be able to work this out.

7 CHAIRMAN KORGE: Hopefully we'll see you in
8 November.

9 The last -- Is this the last item on the
10 agenda, the amendment to the City Code?

11 MR. RIEL: Yes. This is a -- a discussion
12 item. It's under the Planning Director's item.

13 This is an item -- It's actually an
14 ordinance for a text amendment to the City Code. As
15 you know, the Planning and Zoning Board is responsible
16 for the Zoning Code, in terms of text amendments. The
17 ordinance was presented to the City Commission. It's
18 relative to the parking requirements that are in the
19 City Code.

20 As part of the discussion, when I went to
21 the Commission, initially, I believe, about two months
22 ago, the Commission asked that the Parking Director
23 come to the Planning Board for their input regarding
24 the changes in the City Code. So we're looking for
25 recommendations, suggestions, modification to the Code,

1 that will go to Parking Director, the Parking Director
2 will make a recommendation to the City Commission, and
3 the City Commission will take your comments under
4 advisement and recommendations.

5 With that, I'll turn it over to the Parking
6 Director, Mr. Kinney.

7 MR. KINNEY: Mr. Chairman, Kevin Kinney, the
8 Parking Director here, in Coral Gables. As Eric
9 explained, I did a rewrite of the Parking Code, which
10 hadn't been touched for about 50 years, and made some
11 significant changes. And one of those changes
12 generated significant discussion at the Commission
13 level. And the end result of that was that -- present
14 that section to you, and get your comments, and see
15 where we're going to go with that.

16 The specific issue relates to Section 5 in
17 the -- in the proposed code that was distributed to
18 you. It's called a Parking Replacement Assessment. It
19 has two key components. The first component deals with
20 loss of on-street parking.

21 Currently, how the City handles loss of
22 on-street parking is, if a development causes the loss
23 of on-street parking, I calculate the lost revenue, and
24 there's an annual payment for that lost revenue, in
25 perpetuity. In other words, the focus is on getting

1 the revenue back into the system.

2 My philosophy on this is more along the
3 title of Division 5, which is Parking Replacement
4 Assessment. What I proposed was that the assessment be
5 roughly the cost of developing a public space, and that
6 that be put into a fund that can only be used to
7 develop parking infrastructure. But there's two
8 sections to this. That's the first section, the public
9 right-of-way, lost spaces.

10 There's a second section that I drafted,
11 that most of you would be more familiar with as a
12 payment in lieu system. You have established in the
13 Zoning Code, or helped establish in the Zoning Code,
14 the parking requirements for developments. The payment
15 in lieu system, and it's a limited payment in lieu
16 system because it's capped at 50 spaces, we're directly
17 targeting the smaller developments, particularly
18 redevelopment of a historic site or redevelopment of a
19 site that's landlocked and can't develop parking.

20 We're looking at allowing development and
21 redevelopment to happen, and infill to happen, and the
22 only way we can do that is to find another way to
23 provide for the parking, and a payment in lieu system
24 is perfect for that, but ours is capped at 50, so we
25 won't run into the situation where a very large

1 development comes to us and says, "I don't want to
2 build 300 spaces. Here's my \$10,000,000. Build me a
3 garage." We didn't want to get into that situation.
4 We wanted to deal with manageable numbers, and we felt
5 50 was the appropriate level.

6 And that payment in lieu system is -- is
7 what generated most of the discussion. It's a new
8 concept here. But if you look out in the real world,
9 other cities, what the cities that are looking to do
10 best practices, they generally have a payment in lieu
11 system, they have shared parking, they have
12 transportation or parking management systems put in
13 place to kind of deal with the situations that we were
14 trying to deal with in the payment in lieu.

15 In fact, in a number of cities, right now,
16 there's kind of this movement towards unbundling, which
17 means, basically, development and parking are
18 separated. And the developments happen, and through a
19 parking management system, the parking happens. We're
20 not going that way. That's not what we're interested
21 in. What we're interested in is trying to allow some
22 flexibility in how we -- how we develop the
23 relationship or develop the public parking system. And
24 the payment in lieu revenues would also go into a fund
25 that can only be used to develop public parking

1 infrastructure.

2 MR. BEHAR: Mr. Kinney, let me ask you a
3 question, and I think this is a good -- good, really
4 good idea. You mentioned, when the developer comes in,
5 and as a result of the development, you lose parking
6 spaces. Therefore, the developer will pay a one-time
7 fee for the loss of those spaces. But what happens
8 when the developer loses spaces because the City is
9 imposing the bump-outs? How do we address that?

10 MR. KINNEY: Right now -- as the law is
11 right now, it doesn't matter why there's a lost space.
12 That annual payment, in perpetuity, is a liability that
13 the developer has to pay. Proposed, in my ordinance,
14 is that there would be a 50 percent discount if it's
15 because of that --

16 MR. BEHAR: The City-driven loss.

17 MR. KINNEY: -- required improvement. So my
18 proposal is that we give them a 50 percent discount.
19 And I feel that's fair, simply because that bump-out --
20 the amenity, the green space, not only benefits the
21 City and the public, but it also benefits the adjacent
22 property owner. That's my position, and --

23 MR. BEHAR: I agree with you, from the
24 aesthetic point of view, of having landscaped area, and
25 all.

1 MR. KINNEY: Right.

2 MR. BEHAR: But it's really not caused by
3 the developer, it's the City. If we could get, you
4 know, to beautify the whole City with landscaping, we
5 would lose a lot of those existing spaces.

6 MR. KINNEY: From my position, as the
7 Parking Director, though, I'm still losing a space.
8 And there will be at least one person testifying who
9 kind of shares your concern over that particular issue.
10 But that's the issue about losing spaces in the
11 right-of-way.

12 When we go back to the -- losing spa -- our
13 spaces, that a developer may want to buy down, there's
14 many reasons that's -- that's a good direction for us
15 to go.

16 When I came here, we started -- I raised the
17 issue of shared parking a couple of times, and
18 basically was told, "Coral Gables doesn't do shared
19 parking." Well, technically, that's not really true.
20 As soon as you start managing the public spaces, trying
21 to get the right people in the right space, and get a
22 wide range of users, that's the initial stages of
23 shared parking. But, definitely, we do not have the
24 program where you can come in and say, "I have these
25 five uses, so I should be able to discount my parking

1 requirement by 20 percent." We don't have that.

2 What I would say is, the payment in lieu
3 system is a -- is a baby step towards shared parking,
4 but it's not really shared parking, it's another way to
5 satisfy the parking requirement because the money is
6 dedicated to developing public parking infrastructure,
7 that is truly shared parking.

8 There is no space, in the City of Coral
9 Gables, that's privately held that is as efficient as
10 the spaces that I use. I get more vehicles per space,
11 per day, in my facilities, than any private development
12 in the City. So we're looking at an efficiency, and if
13 we can develop a good system for developing public
14 parking infrastructure, then it may be, at some point
15 in the future, that we want to re-look at what our
16 parking requirements are. Not to go to the unbundling
17 or not to go to the cities that say, "If you're under
18 50,000 square feet, you're not allowed to build a
19 space, but to move towards a lower requirement for the
20 public -- or private developments.

21 CHAIRMAN KORGE: So the payment in lieu is
22 basically a way of aggregating funds to build a public
23 space that will serve the -- the properties that have
24 contributed to it, in effect?

25 MR. KINNEY: Right.

1 CHAIRMAN KORGE: So just out of curiosity,
2 what -- how do you handle it when the properties, half
3 a dozen properties contribute, you build the spaces,
4 40 years later the properties are demolished and
5 reconstructed in different density, or whatever? Do
6 they have to pay again, or do they have to pay based on
7 an increase in the requirements for the property? Or
8 how would that work?

9 MR. KINNEY: Well, when there's a
10 redevelopment of a site that's already paid-in -- I
11 mean, there's a lot of unanswered questions there
12 because -- I mean, we don't know what -- what we're
13 going to be requiring, at that point. I mean, the
14 public system is still going to be in existence and
15 being used, so if they help build a garage and they had
16 a right to 20 permits in the garage, that would have to
17 carry -- follow through with the property, I would
18 think.

19 MR. COE: Not if the property was
20 demolished. You'd start all over again.

21 MR. KINNEY: I haven't thought about that --

22 MR. COE: You're not grandfathered in --

23 MR. KINNEY: That's true.

24 MR. COE: -- on a demolished property.

25 MR. KINNEY: That's true.

1 CHAIRMAN KORGE: Well, I would -- I would
2 suggest that you think about how that transition would
3 occur, and I can see two sides to that. And then
4 you've got to think about what happens when that garage
5 becomes obsolete and who's going to pay to replace
6 that.

7 MR. KINNEY: Well, it's a public facility,
8 so that definitely becomes the responsibility of the
9 parking management system, whatever our parking
10 management system is --

11 CHAIRMAN KORGE: No, I understand that. But
12 more to the point, that's an economic -- that facility,
13 the economic cost of that facility was borne,
14 hypothetically, by the surrounding properties, in lieu
15 of them building it on their properties. It makes a
16 lot of sense. So, at some point, that facility becomes
17 obsolete. So I guess you need to price your
18 depreciation into that, as well, so you can replace
19 them.

20 MR. KINNEY: Well, but, you see, there's
21 operational revenue that comes in, also --

22 MR. SALMAN: They charge to park there.
23 It's not a free parking.

24 CHAIRMAN KORGE: -- with that price.

25 So the -- So the fact that you pay to buy

1 down your space doesn't mean you don't have to pay your
2 permit fee monthly.

3 CHAIRMAN KORGE: I see. So the permit fee
4 would build in the depreciation.

5 MR. KINNEY: And that's the responsibility
6 of parking management, to work all that out.

7 CHAIRMAN KORGE: Gotcha. That all makes
8 sense.

9 MR. SALMAN: Through the Chair, my comments
10 with regards to this -- First of all, I applaud you for
11 the effort. I think that this is long overdue. And we
12 certainly have a lot of retail properties up and down
13 Miracle Mile, for example, that will never make the
14 amount of parking that they need for the amount of
15 retail space that they have. And even as they get
16 redeveloped, the activity level of parking on the
17 street is going to be much more than what is going to
18 ever be available.

19 Having said that, the need for public
20 parking and access to public parking is very important,
21 and one way to funding it, I know the City of Miami
22 Beach does it, is that up to a certain percentage of
23 the amount of required parking is available to the
24 developer to basically buy off or purchase, as you're
25 suggesting.

1 My concern here is one of proper indexing at
2 of that price. That if we fix it, it needs to be
3 properly indexed on some sort of periodic basis, so you
4 don't --

5 MR. KINNEY: Right.

6 MR. SALMAN: -- get yourself underwater
7 before you actually get to develop it.

8 MR. KINNEY: It's actually drafted that the
9 fee -- whatever the fee is established by the
10 Commission, and my recommendation, at this time, is
11 \$25,000 per space, is -- is approved annually in their
12 fines and fees budget.

13 MS. SALMAN: Okay.

14 MR. KINNEY: So every year it could be
15 adjusted, based on whatever justification I have, if
16 they accept the justification.

17 CHAIRMAN KORGE: Well, another way to
18 approach that is if you can find an index to adjust
19 automatically, based on real cost, that would be
20 preferable, than having the Commission make that
21 decision, because then it takes it out of the realm of
22 politics and makes it --

23 MR. KINNEY: Right.

24 CHAIRMAN KORGE: -- strictly an economic
25 decision.

1 MR. COE: Yeah.

2 MS. HERNANDEZ: Right.

3 MR. KINNEY: And that -- that gets to be a
4 little problematic. You mentioned the Beach. Right
5 now the Beach is at \$35,000 a space.

6 MS. HERNANDEZ: Right.

7 MR. KINNEY: And they're not covering costs.

8 MR. SALMAN: And they were 16, not that long
9 ago, and then they discovered they were completely
10 underwater, so --

11 MR. KINNEY: But there's also another issue
12 on the pricing, is -- and I have suggested 25,000, so
13 I'm not changing that. But there's many communities,
14 including Miami, where their expectation is not to
15 recover 100 percent of the cost because they calculate
16 into it the capital value after it's built --

17 MS. HERNANDEZ: Right.

18 MR. KINNEY: -- and what the value of it is
19 at 60 years. But -- So there's some places -- Coconut
20 Grove, right now, you pay \$6,000 a space. I can tell
21 you Miami cannot build a garage for \$6,000.

22 MR. BEHAR: Anybody cannot build a garage.

23 MR. SALMAN: Nobody can build a garage.

24 MR. BEHAR: But I think you're right on a
25 realistic number, because the idea here is if the

1 developer is going to put into this bank, you know, you
2 want to encourage them to do it because at the end, the
3 City will benefit.

4 MS. HERNANDEZ: Right.

5 MR. SALMAN: And so will they.

6 MR. BEHAR: And so will they, but you don't
7 want to be going too, too high, either, where --

8 MR. SALMAN: Well, you don't want to
9 unnecessarily penalize.

10 MR. BEHAR -- you know, "It's more feasible
11 for me to build it on my garage than give it to the
12 City."

13 MS. HERNANDEZ: Right.

14 MR. KINNEY: And I will just share with you,
15 part of my vision here is, when I look at our central
16 core, I would like the public system to provide an A
17 level or B level of service from the parking to your
18 final destination. And to do that, we really have to
19 have public facilities located in key areas.

20 Right now, several of our public facilities
21 are in key areas. A couple of them are ready to fall
22 down. I mean, this fund could actually help -- help
23 the redevelopment of those sites. But a level of
24 service, A or B, it means you want to be within 500
25 feet of people's final destination. And to do that, we

1 really need to take the lead. We can't -- We can't get
2 that if -- just from what we require the developers to
3 build.

4 CHAIRMAN KORGE: Are you going to segregate
5 the funds to each location, so that -- excuse me, a
6 contributor on one end of the City, those funds can't
7 be used at the other end of the City?

8 MR. KINNEY: We're starting -- Starting off
9 manageable. Right now it reads you have to be within
10 the Central Business District or on the Ponce Corridor.
11 So basically there's going to be three districts.
12 There's going to be the North Ponce, and at some point,
13 Eric and I, when he gets the North Ponce kind of study
14 going --

15 MR. RIEL: When the City gets it going.

16 MR. KINNEY: Okay, when the City gets it
17 going --

18 MR. SALMAN: Through Eric.

19 MR. KINNEY: Through Eric, then we're going
20 to have to think about, "Okay, those funds that we
21 generate up there, what are we looking at?" I mean,
22 likely it's going to be acquiring small properties that
23 can serve both as green space and parking.

24 In the CBD, obviously, it's going to be
25 building those parking structures in those two or three

1 key locations, where we need them. If we get down
2 towards the south, it may again be just expanding
3 parking lots, or -- or if there's a need somewhere on
4 South Ponce, a structure. But right now, I don't see
5 that. And we haven't included, you know, the area next
6 to South Miami. We're not even worrying about that.
7 We're trying to deal with something fairly manageable,
8 the first time around.

9 MS. KEON: And you're looking at where this
10 would be applicable, and then the proximity near to
11 where those developments are. Do we have public spaces
12 available to build garages?

13 MR. KINNEY: We have at least four parcels
14 where I would say we need to start planning parking
15 facilities. And in the interim, in the next 10 years,
16 there may be something else that pops up, where we need
17 to deal with it, but I don't know that we can get the
18 four built in 10 years. That might be 15, 20 years
19 out, to get those four.

20 And the other thing I was remiss is, I want
21 to make sure everybody understands that the way it's
22 written is, if you're redeveloping the site on the
23 Mile, that's going to need five or ten spaces, the
24 level of review is going to be fairly low because I
25 have lots of space available. I will probably require

1 a parking demand study, but it -- it's not going to
2 have to be that -- it's not going to have to be a
3 50-page document.

4 If a large developer comes in and says, "I
5 want to buy down 50 spaces, then they're going to have
6 to show me, they're going to have to hire parking and
7 traffic engineers to give me the information that I
8 need to say, "Yes, this is feasible." Because if it's
9 not an area where we have supply, then, obviously, I
10 can't approve a buy-down, if it's going to create a
11 parking problem.

12 MR. SALMAN: The other -- Through the Chair,
13 the other issue that you may want to look at is that
14 these parcels are significant, and I know that the City
15 has looked at developing air rights over them, to look
16 at that, also, in the future, to keep something in your
17 mind, because some of these lots are located in very
18 prime locations and the co-development of those lots
19 might be something to the City's benefit, for expanding
20 not only public parking, but also adding to them.

21 MR. KINNEY: We're looking at two options.
22 One is air rights, giving, you know, the 30 feet on
23 top, or the other one is, if we have an adequate sized
24 parcel, maybe what we sell off or what we lease out
25 is --

1 MR. SALMAN: The front portion.

2 MR. KINNEY: -- an adjacent piece that fits
3 onto the parking structure.

4 CHAIRMAN KORGE: Like the CenTrust Building.

5 MR. KINNEY: And -- And the reason that's so
6 important is, right now, if we just build a parking
7 garage, I could probably charge the rates to make it
8 pay for itself, but everybody would hate me.

9 MR. SALMAN: Because you'd have the parking
10 garage on the street --

11 MR. KINNEY: Because of the cost.

12 MR. SALMAN: -- and it would kill the
13 street.

14 MR. KINNEY: Right. So -- So if we have
15 this piece that we can lease out or sell off, it can
16 help fund the public parking infrastructure --

17 MR. FLANAGAN: Mr. Chair --

18 MR. KINNEY: -- as well as the payment in
19 lieu system.

20 MR. FLANAGAN: Mr. Kinney, I think I heard
21 you say that you would only approve a buy-down if it
22 wouldn't create a parking problem, which -- and I was
23 going to ask the question, if there's any concern about
24 a lag time if several developers came and wanted to buy
25 down 50 spaces apiece or 40 spaces or 30 spaces apiece,

1 do we then end up with a parking problem between the
2 development of those projects, collecting the money and
3 then going and building a new parking structure. What
4 happens -- And then you said that you may not approve
5 the buy-down, which then says, okay, maybe, you know,
6 it's not, maybe it's not something that somebody could
7 take advantage of unilaterally, it has to be only what
8 I may call on a space available basis.

9 MR. KINNEY: It's on the approval and
10 recommendation of the Parking Director, so -- I mean,
11 it goes through a couple of steps. I -- I reviewed
12 whatever the parking study, parking demand requirements
13 are, and then if I approve that, that doesn't
14 necessarily mean the project is going to be approved, I
15 mean, it still has to go through the process.

16 MS. KEON: Mr. Kinney, in meeting your --
17 This issue that up to 50 spaces, is all that -- Do
18 you -- Is there -- There's not a percentage of the
19 required, up to 50 spaces, or whatever, you just upped
20 it to 50 spaces. What if only 100 are required, and so
21 they can buy up to 50. There's not a percentage here.

22 MR. KINNEY: I can tell you, there's nothing
23 magic to the 50. I was looking at a number that was
24 manageable for our system.

25 MS. KEON: Right, but, I mean --

1 MR. KINNEY: There is systems out there
2 where it's a percentage, like 20 percent of whatever
3 the requirement is, is what you can buy down.

4 MS. KEON: I would feel more comfortable,
5 personally, with a percentage as opposed to a finite
6 number.

7 MR. SALMAN: To a maximum number.

8 MR. KINNEY: But the issue we run into there
9 is that if you have somebody with a thousand space
10 garage, they can buy down 200 spaces.

11 MS. KEON: No, but you can limit --

12 MR. SALMAN: But you can limit it to an up
13 set amount, a certain amount.

14 MS. KEON: -- up to, with a cap on the
15 number.

16 MR. BEHAR: Well, you can --

17 MR. SALMAN: You take 20 percent of the 50.

18 CHAIRMAN KORGE: There's another side of
19 this. There may be areas where you don't want any
20 parking because you don't want to have breaks in the --
21 in the facade, you don't want cars pulling in there. I
22 mean, there are lots of --

23 MS. KEON: Yeah, but that -- that -- Well, I
24 mean, that would be difficult. I would assume that
25 this is only applicable to projects where parking is

1 required. I mean, so --

2 CHAIRMAN KORGE: Yes, but all I'm saying is,
3 you may want a project, where parking is required, not
4 to have any parking, at all, but instead to have the
5 parking next door or a couple of doors down, in a -- in
6 a garage --

7 MS. KEON: But they --

8 CHAIRMAN KORGE: -- separate from that
9 project.

10 MS. KEON: But then they could --

11 MR. KINNEY: The smaller projects, I would
12 agree completely --

13 CHAIRMAN KORGE: Right.

14 MR. KINNEY: -- if their requirement is 10
15 to 20.

16 MR. BEHAR: But you also have to contemplate
17 something else. I think -- I don't -- If you have a
18 mechanical lift in a project to meet, you know, your
19 requirements and now you have to do a buy-down, they
20 wouldn't -- You know --

21 MS. KEON: They'll have no parking.

22 MR. BEHAR: Right.

23 MS. KEON: Yeah, I think that there -- I
24 mean, I think the program itself is a good thing. It's
25 a good way to develop some --

1 MR. SALMON: Revenue.

2 MS. KEON: -- a trust fund, to be able to
3 develop parking garages, but I do -- I have some
4 concern with the numbers. I'm more comfortable if it
5 is a percentage. I'm more comfortable if those other
6 issues are sort of addressed, with mechanical, so that
7 it's not -- you know, that you can do --

8 MR. BEHAR: One of the two.

9 MS. KEON: -- one or the other, but you
10 can't do --

11 MR. BEHAR: Both.

12 MS. KEON: You can't combine all these
13 programs.

14 MR. KINNEY: What if -- And I'm just
15 thinking out loud, right now. What if a project that
16 was, say, up to 20 spaces required, to do 100 percent,
17 and once you get past 20 spaces, then you could only do
18 a smaller percentage?

19 MS. KEON: Well, possibly, but I think, you
20 know, when it's an absolute number and it's not
21 relative to --

22 MR. KINNEY: The size.

23 MS. KEON: -- the greater number, or any
24 other number, it just --

25 MR. BEHAR: Because if the project requires

1 75 spaces, and you could buy up to 50, then, you know,
2 you're going to have a parking problem in that project,
3 to begin with.

4 MR. KINNEY: Right.

5 MR. BEHAR: I think that we've got to look
6 at it -- I agree, on a percentage, up to a maximum.

7 MR. KINNEY: Okay.

8 MS. KEON: And I know that it's in your
9 discretion, but I would not like it.

10 CHAIRMAN KORGE: With an exception for small
11 projects.

12 MR. KINNEY: Yes, I would like to have an
13 exception for small projects because we have a number
14 of them that come through that can't provide any
15 parking onsite.

16 MR. BEHAR: You're right, on the Mile, you
17 know, you can't provide any parking on the site, and,
18 you know, those should be given a different --

19 CHAIRMAN KORGE: We don't want parking
20 there.

21 MR. BEHAR: No, you don't. You have no
22 choices. So those you may have an exception to.

23 MR. KINNEY: Yeah --

24 MS. KEON: Right.

25 MR. KINNEY: -- we'll do an absolute

1 buy-down on a certain number and then, above that, a
2 percentage.

3 MR. BEHAR: And definitely, I mean, my
4 opinion, you should not be able to use the mechanical
5 lifts provision with a buy-out.

6 MR. COE: Absolutely right.

7 MS. KEON: I don't think we should combine
8 all those kinds of things to reduce the amount of
9 parking.

10 MR. BEHAR: I mean, I'm sure our clients
11 would not be very --

12 MR. KINNEY: Now we're mixing --

13 MR BEHAR: Happy.

14 MR. KINNEY: But now we're mixing the
15 Parking Code and Zoning Code, so we'll have to -- have
16 to figure out how we can --

17 MS. KEON: Right.

18 MR. RIEL: Well, it's going to be a
19 challenge because, you know, not -- I mean, you're
20 understanding that not every project in the City comes
21 to this Board. So the Board of Architects, as a part
22 of their review, is going to have to deal with this
23 issue because that is the authority that provides site
24 plan rules.

25 MR. BEHAR: And this may be the time, Eric,

1 where a revision of some sort to --

2 MR. SALMAN: General parking requirements.

3 MR. BEHAR: You may have to go through it
4 and modify the Code to anticipate, maybe, those issues.

5 MR. RIEL: Are you saying --

6 CHAIRMAN KORGE: At the same time or --

7 MR. BEHAR: Do you see what I'm saying? I
8 mean --

9 MR. RIEL: I think I understand. Are you
10 saying more projects should come to Planning Board
11 or -- I mean --

12 MR. BEHAR: Well, if the projects don't come
13 here, and you said all projects don't come here.

14 MR. RIEL: Ninety-five percent don't.

15 MR. COE: Are you saying we want to get
16 parking?

17 MR. BEHAR: No, no, we don't want to get
18 parking, but my point is, you could get -- you would be
19 able to get the benefit of the mechanical lifts,
20 correct, and we would never see those projects, and I
21 don't want to see those projects. But in addition,
22 you're not going to be able to get the benefit of a
23 buy-down. Now, those projects may go straight to the
24 Board of Architects, and there was no provision to --

25 MR. KINNEY: Possibly --

1 MR. BEHAR: -- control that.

2 MR. KINNEY: Possibly, what we could do is
3 in the payment in lieu section is just state that if
4 you use this section, you're not allowed to use any
5 other --

6 MR. BEHAR: Provisions that will reduce your
7 parking requirement.

8 MR. RIEL: Such as variances, such as this,
9 such --

10 MR. BEHAR: Right. Right.

11 MR. SALMAN: I agree with you 100 percent.

12 MS. KEON: Yeah, yeah.

13 MR. SALMAN: Otherwise they're going to be
14 cherry picking all the way around.

15 MS. KEON: You'll end up like the
16 Mediterranean Ordinance.

17 MR. BEHAR: I hope our clients are not
18 looking today.

19 MS. KEON: Yeah.

20 MR. KINNEY: I do think there's at least one
21 public --

22 MR. BEHAR: And by the way, I really will
23 commend you. I like the idea of the shared parking,
24 because I am doing projects that the shared parking
25 provision is there, especially when we have multiple

1 uses, such as office and residential, and it works very
2 well, if it's done with the right percentages of the
3 required parking.

4 MR. KINNEY: And I think that's something we
5 will look at more and more, as we move along. This
6 is -- This is to give us a manageable -- manageable
7 step towards that concept.

8 One of the things I had mentioned to the
9 Commission, when I spoke with them, is the bank right
10 behind my office -- or the building right behind my
11 office, which is the Regions Bank building, it's never
12 more than 50 percent full, never, and it's a
13 100 percent occupied building.

14 MR. BEHAR: Not only that, after 6:00 p.m.
15 you have a lot of structures that are completely empty,
16 over 90 percent empty, and it's -- it's just there,
17 which if you're doing a mixed use project to benefit
18 from --

19 MR. KINNEY: Right. And one of the
20 provisions that was not necessarily sent to you from
21 the Commission, in the rewrite of the Parking Code, is
22 a provision to allow valet companies and restaurants to
23 go to private developers, private garages, and
24 negotiate valet storage in private garage, across the
25 board, in the evening, but even in the daytime, if they

1 could show me that there was capacity, that I would
2 approve valet storage during the day. That is an issue
3 that the Commission is not sure about, but that was one
4 of my proposals.

5 CHAIRMAN KORGE: Thank you for your time.

6 MR. BEHAR: Thank you.

7 CHAIRMAN KORGE: There's nothing else on the
8 agenda, correct?

9 MR. SALMAN: I think Mario's got something
10 to say.

11 MS. KEON: He wants to speak.

12 CHAIRMAN KORGE: Oh, okay. I'm sorry.

13 MR. GARCIA-SERRA: Mr. Chairman, if you'll
14 excuse me, I know this isn't a public hearing item, per
15 se, but if I could just provide a few comments on the
16 proposed ordinance?

17 CHAIRMAN KORGE: Sure.

18 MR. GARCIA-SERRA: Okay. Mario
19 Garcia-Serra, 1221 Brickell Avenue. I'm not
20 representing any client, in particular, I'm just
21 speaking from my experience as a zoning attorney.

22 Both the concept of the payment in lieu
23 program and the reduction -- the loss of on-street
24 parking fee, I think, are good ideas. I don't have any
25 comments on the payment in lieu program, as proposed.

1 On the loss of on-street parking section,
2 which starts on page 14 of the draft ordinance, I do
3 have some comments, two significant ones and two less
4 significant.

5 On page 15, you'll notice, in Section
6 (b)(1)(a), there is a credit or an exception given for
7 any on-street spaces that are lost as a result of
8 ingress or egress to the site, but that is limited to
9 22 feet of curb space. What my comment would be is
10 that 22 feet of curb space might be appropriate for a
11 fairly small size lot, but once you get into bigger
12 development sites, which, you know, might be
13 20,000 square feet or greater, 22 feet isn't exactly an
14 adequate amount of curb-cut in order to provide
15 sufficient ingress and egress, or reasonable ingress
16 and egress to the site.

17 My other significant comment would be on
18 (b)(1)(3), which deals with a credit that's given when
19 there are parking spaces lost as a result of
20 streetscape or traffic improvements. As you can see,
21 the credit is 50 percent, essentially, of what the fee
22 is. And I would submit that the fair thing to do here
23 would be 100 percent of what the fee is because
24 remember, we are losing that on-street parking space,
25 not because of perhaps any preference of our project,

1 but because of a streetscape plan or traffic
2 improvement that's being required by the City or some
3 other government agency. The City is requesting for us
4 to put the landscape bulb-out there, or whatever other
5 improvement, or putting up the cost of putting the
6 improvement, but then also being penalized for the loss
7 of the same on-street parking space, which we're
8 losing, because the City is asking us to put something
9 over it. The other --

10 CHAIRMAN KORGE: More to that -- More to
11 that point, the City owns the parking space and the
12 City has decided it wants to landscape it as part of
13 the development, the developer's agreeing to incur the
14 cost for the landscaping, but the developer is
15 basically incurring a cost to develop, if you will,
16 some green space that belongs to the City, that the
17 City chooses to give up its parking because it prefers
18 the additional green space, it's really not a choice
19 being made by the developer.

20 MR. BEHAR: Exactly.

21 MR. GARCIA-SERRA: It's actually required by
22 the Code.

23 MS. KEON: But it's there to enhance the
24 quality of the experience of the downtown.

25 MR. BEHAR: And you're absolutely --

1 Anywhere, City-wide, I mean, you're absolutely correct,
2 but I agree with Tom. Why should --

3 MS. KEON: Should we ask the developer to
4 have a setback instead, so that you can.

5 MR. BEHAR: No, it's not a setback.

6 MS. KEON: -- so that they can put some --

7 MR. SALMAN: Green space.

8 MS. KEON: -- green space on their property
9 or do you trade it for a bump-out. I'd rather trade it
10 for a bump-out and, you know what, in the process of
11 your developing, I'm -- I'm certain that it is not a
12 charitable contribution, that development. I think
13 you're there to make money, and if you give up a little
14 to enhance the public experience, I think that's a --

15 MR. BEHAR: But you know what --

16 MS. KEON: -- wonderful thing that you're
17 doing.

18 MR. BEHAR: Pat, you're absolutely right,
19 but if I had a setback and then I am required to put a
20 bump-out --

21 MS. KEON: Well, but I think we've really
22 diminished that. I mean, I think that's where you
23 should look into diminishing the setback.

24 MR. BEHAR: But it's not.

25 MS. KEON: So that you can then provide that

1 space in the street.

2 MR. BEHAR: But this is -- This is as --
3 the -- Dan Keys --

4 MR. GARCIA-SERRA: Public Service
5 Department.

6 MR. BEHAR: Yes. They -- They're requiring
7 that any development, whether you have setback of zero
8 or 15 feet, you've got to improve the right-of-way and
9 you have to incorporate the bump-outs, to incorporate
10 landscaping on the right-of-way, in addition to
11 whatever setback, in addition to whatever landscaping
12 you're providing on your site.

13 MS. KEON: But have we done that here in the
14 City of Coral Gables? Is that the case? I thought we
15 changed -- I thought we dealt with the setback issues.

16 MR. BEHAR: I don't believe --

17 MR. GARCIA-SERRA: Every project has to
18 provide whatever its landscape/open space requirement
19 is onsite and then, aside from that, there's another
20 section of the Code that says on your abutting
21 right-of-way you have to install --

22 MS. KEON: But it's --

23 MR. BEHAR: I'll give you an example. Case
24 in point, the project I'm doing, the townhomes I'm
25 doing on Valencia. On the north -- on the south side

1 of Valencia there's a setback, and we're providing the
2 required landscaping on our side. In addition, we're
3 doing the bump-outs to do the desired landscaping that
4 the City wants us to do, an improvement of the
5 right-of-way.

6 So we're -- Why should the developer pay for
7 those losses that is not benefiting my landscaping?
8 Yes, it's going to beautify the streetscape, I agree
9 100 percent, but it's not something that we're asking
10 to benefit our project. I don't have one egress point
11 on that street. Everything is through the alley,
12 through the back, yet we're being penalized.

13 CHAIRMAN KORGE: Another way -- Another way
14 you can look at it, Pat, what if the City moves forward
15 with its master plan for a streetscape, regardless of
16 whether development occurs, and simply starts building
17 bump-outs wherever they want it to be, as part of the
18 master plan? Certainly, in that situation, the current
19 property owner wouldn't be charged for the loss of
20 parking space due to the bump-outs because they didn't
21 create that -- that -- that change. All they're really
22 doing is, because of the development, they're getting a
23 contribution from the developer to help incur the cost
24 of that bump-out, which you could even argue is really
25 a City cost, not a development cost because it's the

1 development of the City property, but, apparently, that
2 is a pretty common practice. I don't know. I mean,
3 you could do it -- You could argue whatever way.

4 MR. SALMAN: You can argue it both ways.
5 But there's a fundamental concept here, is who owns the
6 City? The people who own the property. So they're
7 going to pay, one way or the other, either through the
8 taxes, through a special assessment or through a direct
9 grant during development. So it's going to come out of
10 whoever is doing something.

11 CHAIRMAN KORGE: But, you know, let's go --
12 Let's take that one step further. What's the
13 purpose of --

14 MS. KEON: (Inaudible).

15 CHAIRMAN KORGE: What's the purpose of the
16 charge for parking? It's to regulate traffic, it's
17 not -- As a matter of law, you can't charge for parking
18 on the street as a revenue source. The reason for
19 charging for parking is to regulate the use of the
20 parking space, so it's not monopolized by the same car
21 all the time.

22 Consequently, I mean, the idea that -- that
23 the revenues that the City receives for lost space that
24 is caused by a streetscape plan set by the City, to be
25 imposed on a particular property owner, as opposed to

1 being charged to the entire tax base, seems, to me, to
2 be, maybe pushing a little bit, but that's just the way
3 I view it.

4 MR. SALMAN: And we can go around and around
5 on that.

6 MS. KEON: (Inaudible) the developer --

7 CHAIRMAN KORGE: No, they didn't.

8 MR. SALMAN: Have you got enough input?

9 CHAIRMAN KORGE: No, they didn't. The City
10 took it. The City -- That's part of the City's plan.

11 MS. SALMAN: Mr. Serra, do you have any
12 other points?

13 MR. GARCIA-SERRA: Two more minor comments.

14 CHAIRMAN KORGE: It wasn't the development
15 plan.

16 MR. SALMAN: Mr. Serra has two more points.

17 MR. GARCIA-SERRA: Two relatively minor
18 comments.

19 CHAIRMAN KORGE: I don't know why we're
20 debating this. It's not going to be decided.

21 MR. GARCIA-SERRA: On section --

22 MS. KEON: (Inaudible).

23 MR. GARCIA-SERRA: (Inaudible).

24 On Section (b)(3), the same one we've been
25 talking about, the term "traffic calming" is used. I

1 think a better term to use would be "traffic
2 improvement" because sometimes we're required to do
3 certain improvements, such as increasing a turning
4 radius on an intersection or something, which causes
5 you to lose a parking space, which isn't necessarily
6 probably traffic calming, but it's traffic improvement,
7 nonetheless, that --

8 CHAIRMAN KORGE: Rather than calming, yes.
9 Yeah.

10 MR. SALMAN: Okay.

11 MR. GARCIA-SERRA: And then the other
12 comment was, it says, "required by the City," and I
13 would add, "or other government regulatory agency,"
14 because in some cases we're doing -- we're losing
15 parking spaces because of FDOT or because of Miami-Dade
16 County Public Works. Those are my comments.

17 CHAIRMAN KORGE: Thank you.

18 MS. KEON: That's very good.

19 MR. BEHAR: Can I ask Mr. Kinney a question?
20 On that curb-cut of 22 feet, what is presently allowed,
21 20 -- 24?

22 MR. KINNEY: Well, no, 22 is --

23 MR. RIEL: I'm sorry, for on-street or --

24 MR. BEHAR: Yeah.

25 MR. KINNEY: The curb-cut -- Basically, a

1 minimum curb-cut is 22 feet.

2 MR. COE: Twenty-two.

3 MR. KINNEY: And the reason I chose that
4 number is just because within the CBD, I wanted to
5 discourage curb-cuts.

6 MR. BEHAR: I understand, but have you
7 thought of what happens if you have a service truck
8 coming out of your development?

9 MR. COE: It's tight.

10 MR. KINNEY: That's -- That's a bigger
11 development and there, if they need 44 feet, if they
12 need 50 feet, they can buy a space and get their
13 50 feet.

14 MR. COE: That's correct. Absolutely right.
15 That's the way it is.

16 MR. KINNEY: But I want to discourage it.
17 If they can live with 22 feet, I want them to live with
18 22 feet.

19 MR. COE: You're right. That's absolutely
20 correct.

21 MR. BEHAR: But this is to provide ingress
22 and egress from the property, from our development,
23 from the development, you're limiting the curb-cut to
24 22 feet.

25 MR. KINNEY: Right. And -- And --

1 MR. BEHAR: Or you're proposing to.

2 MR. KINNEY: But -- But -- No, the Zoning
3 Code, this number came right out of the Zoning Code,
4 the 22 feet, so if that number changes, then I would
5 change the number here.

6 MR. BEHAR: And this is what we presently
7 have in the Zoning Code?

8 MR. COE: Yeah.

9 MR. KINNEY: Yeah.

10 MR. COE: At the max.

11 CHAIRMAN KORGE: You can even cross
12 reference the Zoning Code here, if you wanted to, so it
13 would change automatically if the Zoning Code changed.

14 MR. KINNEY: If the Zoning Code changed.

15 MR. COE: That's -- That's a good idea.
16 That should be cross referenced, I think you're right.

17 MR. SALMAN: I don't think you can do in
18 22 feet, but that's okay, not an ingress and an egress,
19 not and make the turn.

20 MR. FLANAGAN: You get one for free.

21 MR. BEHAR: That's very tight.

22 MR. FLANAGAN: You get one free, and you pay
23 for the other one.

24 MR. COE: Make sure you get a lot of
25 insurance.

1 CHAIRMAN KORGE: Is there anything else?

2 MR. KINNEY: I would just say that some --
3 the two minor comments that were -- Mario made about
4 Section 3, I agree, and I'll make those changes.
5 Obviously, I don't necessarily agree that the cost
6 should be zero.

7 MR. COE: We would think not.

8 MR. BEHAR: Thank you.

9 MR. COE: Is that it, Mr. Chairman? Are we
10 adjourned?

11 MR. RIEL: I need 30 seconds of your time --

12 MR. COE: Eric, go.

13 MR. RIEL: -- to update you on one City
14 project.

15 As you know, the Department is undertaking
16 the rewrite of the Comp Plan. I will tell you, right
17 now, we are behind a month or two. I'm telling you
18 this in advance because at the November 12th meeting we
19 will have scheduled the first review of the Comp Plan.
20 And we have to do that because in April we have to
21 submit it. It has to be in the State by April, so I'm
22 just letting you know, it potentially could be a long
23 meeting that evening.

24 MR. COE: However --

25 MR. RIEL: I had this originally

1 scheduled --

2 MR. COE: As you know -- As you know, Eric,
3 the City requires that we adjourn at nine o'clock, so
4 all this --

5 MR. RIEL: That's why I'm letting you know.

6 MR. COE: All this is going to be done in
7 three hours, right?

8 MR. RIEL: I'm letting you know in advance
9 because this is a City project --

10 CHAIRMAN KORGE: How much will that take, do
11 you think?

12 MR. RIEL: Well, it depends on how many
13 questions you have. I mean, our presentation, probably
14 about 30 minutes. We want to roll it out to you, but,
15 you know, we're on a specific timeline. Unfortunately,
16 two agenda items got continued tonight, but we have a
17 timeline when we have to get this to the State, so I'm
18 just letting you know we're in line, so --

19 MR. COE: If you had told us before we
20 continued to November, maybe we would have continued
21 these other things to the December meeting.

22 MR. RIEL: I'm just letting you know --

23 MR. COE: Because those others --

24 MR. RIEL: -- that we might go beyond 9:00
25 p.m. that evening.

1 MR. COE: -- those others are flexible.
2 But, see, this one is not flexible, you're correct.
3 That has to be done.

4 MR. RIEL: It's not. It's not flexible.

5 MR. COE: Yeah.

6 CHAIRMAN KORGE: Well, we could go beyond
7 9:00 p.m. with a vote --

8 MS. KEON: Right.

9 CHAIRMAN KORGE: -- a majority vote.

10 MR. RIEL: Yes. Yes, you can. I'm must
11 letting you know in advance.

12 CHAIRMAN KORGE: Thank you.

13 MR. BEHAR: How many people -- people do we
14 expect from the public on one of those items next
15 month?

16 MR. RIEL: Seventy people, I believe. I
17 don't know.

18 MR. COE: There were mobs outside. You
19 didn't see them all. There were mobs outside. And
20 then the people -- there's probably another 20 that
21 couldn't show up tonight.

22 MS. HERNANDEZ: But it was two different
23 matters.

24 MR. SALMAN: With clubs and pitchforks, and
25 everything.

1 MR. BEHAR: We've got to make sure we keep
2 our time --

3 MR. COE: Well, you're forgetting all the
4 people that couldn't show up.

5 MS. HERNANDEZ: Right.

6 MR. RIEL: That's all I have, Mr. Chairman.

7 MR. SALMAN: Move to adjourn.

8 CHAIRMAN KORGE: Meeting adjourned.

9 (Thereupon, the meeting was adjourned at
10 7:40 p.m.)

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CERTIFICATE

STATE OF FLORIDA:
SS.
COUNTY OF MIAMI-DADE:

I, MERCY C. BORROTO, Shorthand Reporter and
Notary Public for the State of Florida at Large, do
hereby certify that I was authorized to report the
proceedings had and taken before the City of Coral
Gables Planning and Zoning Board on October 8, 2008,
and the within pages represent a true excerpt record of
my stenographic notes taken at that time.

DATED at Miami, Miami-Dade County, Florida
this 13th day of October, 2008.

MERCY C. BORROTO, SHORTHAND REPORTER

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