

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, JANUARY 14, 2009, 6:10 P.M.

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8 Board Members Present:

9 Tom Korge, Chairman  
10 Eibi Aizenstat, Vice-Chairman  
11 Robert Behar  
12 Jack Coe  
13 Jeffrey Flanagan  
14 Pat Keon  
15 Javier Salman

13

14 City Staff:

15 Eric Riel, Jr., Planning Director  
16 Walter Carlson, Assistant Planning Director  
17 Jill Menendez, Administrative Assistant  
18 Lourdes Alfonsin Ruiz, Assistant City Attorney  
19 Martha Salazar-Blanco, Zoning Official  
20 Ricardo Herran, Zoning Technician  
21 Elizabeth Gonzalez, Zoning Technician  
22 Carlos Mindreau, City Architect  
23 Kara Kautz, Historic Preservation Officer

20

21 Also Participating:

22 Zeke Guilford, Esq.

23

24

25



1           THEREUPON:

2           (The following proceedings were had.)

3           THE CHAIRMAN:  Shall we get started?

4           Would you call the roll, please?

5           MS. MENENDEZ:  Eibi Aizenstat?

6           MR. AIZENSTAT:  Here

7           MS. MENENDEZ:  Robert Behar?

8           MR. BEHAR:  Here.

9           MS. MENENDEZ:  Jack Coe?

10          MR. COE:  Here.

11          MS. MENENDEZ:  Jeff Flanagan?

12          MR. FLANAGAN:  Here.

13          MS. MENENDEZ:  Javier Salman?

14          Pat Keon?

15          Tom Korge?

16          THE CHAIRMAN:  Here.

17          First item on the agenda is the approval

18          of the --

19          MR. BEHAR:  Motion to approve.

20          THE CHAIRMAN:  -- minutes -- minutes from

21          December 10th.

22          MR. BEHAR:  Motion to approve.

23          THE CHAIRMAN:  Motion.  Is there a second?

24          MR. AIZENSTAT:  Second.

25          THE CHAIRMAN:  Any changes or discussion?

1           Hearing none, we'll call the roll.

2           MS. MENENDEZ: Robert Behar?

3           MR. BEHAR: Yes.

4           MS. MENENDEZ: Jack Coe?

5           MR. COE: Not here.

6           MS. MENENDEZ: Jeff Flanagan?

7           MR. FLANAGAN: Yes.

8           MS. MENENDEZ: Eibi Aizenstat?

9           MR. AIZENSTAT: Yes.

10          MS. MENENDEZ: Tom Korge?

11          THE CHAIRMAN: Yes.

12                 So I guess the motion passes. We have a  
13 majority, right?

14          MR. AIZENSTAT: Two, three, four, right.

15          THE CHAIRMAN: Yeah, okay. The next item  
16 on the agenda is Application Number 07-08-072-P,  
17 Building Site Separation and Tentative Plat  
18 Review, 1800 LeJeune Road.

19          MR. CARLSON: Good evening, and Happy New  
20 Year to all.

21                 The application is with -- regarding the  
22 property located at 1800 LeJeune Road, and you  
23 have before you two -- two items. One is a copy  
24 of the PowerPoint presentation which I'm about  
25 to give you -- you can follow along if you'd

1           like -- and the second is the updated list of  
2           comments which the City received regarding  
3           this -- this application, and that is on the  
4           blue sheets.

5                     If the people upstairs would, please, bring  
6           up my PowerPoint presentation.

7                     Thank you very much.

8                     Again, this application is regarding the  
9           property at 1800 LeJeune Road. The applicant is  
10          making two requests this evening. The first is  
11          a separation of the property into three building  
12          sites, that would create two new building sites  
13          for single-family homes and one building site  
14          for the existing duplex.

15                    The second request, which is before you, is  
16          a re-plat of the property into three plated  
17          lots, and each of the plated lots would be a  
18          separate building site, one for each of the  
19          new -- new homes and one for the existing  
20          duplex.

21                    The property currently consists of eight  
22          plated lots and is -- is about 7/10th of an acre  
23          in size. The property has both, single-family  
24          and duplex land use and zoning designations.  
25          The existing historic duplex, which is what's

1           currently on the property, was constructed in  
2           1924 and -- and is -- occupies the east portion  
3           of the property. An existing coral rock wall  
4           and swimming pool occupies the west portion of  
5           the property.

6           The entire property has been designated  
7           historic by the Historic Preservation Board. At  
8           the request of the City Commission, the Historic  
9           Presentation Board reviewed the request for the  
10          building site separation, which is similar to  
11          what is before you tonight. The Historic  
12          Preservation Board recommended the separation of  
13          the property into three building sites, as is  
14          being proposed by the applicant.

15          Any construction on the property would  
16          require review and approval by the Historic  
17          Preservation Board.

18          There are six review criteria, which are  
19          contained in the Zoning Code, of which a minimum  
20          of four criteria must be met for satisfaction --  
21          for Staff's recommendation of approval.

22          (Thereupon, Ms. Pat Keon entered the  
23          meeting room.)

24          MR. CARLSON: Staff has reviewed each of  
25          the criteria and has determined the following:

1 First --

2 THE CHAIRMAN: Excuse me for interrupting.  
3 Let me just note, for the record, that Pat Keon  
4 has arrived.

5 Thank you. Go ahead.

6 MR. CARLSON: The first criteria is that  
7 exceptional or unusual circumstances exist.

8 This proposal satisfies this criteria. The  
9 property has two different land use and zoning  
10 designations, those being single-family  
11 residential and duplex, and this proposal is in  
12 accordance with those designations.

13 That the building sites created would be  
14 equal to or larger than the majority of  
15 surrounding building site frontages of the same  
16 zoning designation.

17 This proposal satisfies this criteria. The  
18 frontages of the proposed building sites would  
19 be equal to or greater than the existing  
20 surrounding single-family residences and duplex  
21 building sites.

22 That the building site separation would not  
23 result in any existing structures becoming  
24 non-conforming.

25 This proposal satisfies this criteria. The

1 existing historic residence would remain and  
2 each of the new single-family homes would occupy  
3 a separate plated lot, as a result of the  
4 proposed re-plat of the property which is before  
5 you this evening.

6 That no Restrictive Covenants,  
7 encroachments, easements or the like exist.

8 This proposal does not satisfy this  
9 criteria. An existing coral rock wall and  
10 swimming pool currently ties the entire site  
11 together as a single building site.

12 That this proposal maintains and preserves  
13 open space, historic character, property values  
14 and visual attractiveness and promotes  
15 neighborhood compatibility.

16 This proposal does not satisfy this  
17 criteria. Construction of the two new  
18 single-family homes on this property would  
19 result in the loss of existing open space.

20 The final review criteria is that the  
21 property was purchased by the current owner  
22 prior to September of 1977.

23 And the property -- this proposal satisfies  
24 this criteria, as the property was purchased in  
25 1963.

1           Therefore, Staff is recommending approval  
2           of this building site separation and the  
3           tentative re-plat based on the following  
4           findings of fact:

5           First, the applicant satisfies four of the  
6           six criteria for review contained in the Zoning  
7           Code for a building site separation.

8           There are no changes requested to the  
9           property's existing land use or zoning  
10          designations.

11          The Historic Preservation Board recommended  
12          the proposed building site separation as  
13          proposed by the applicant.

14          Any proposed plans for the property would  
15          require review and approval by the Historic  
16          Preservation Board.

17          And the tentative plat has been reviewed by  
18          City Staff and the affected utility companies,  
19          and no objections have been made.

20          The Planning Department recommends  
21          approval, with one -- with one condition.

22          And that condition being, all proposed  
23          plans for construction on the property,  
24          including any modifications to the existing  
25          historically designated duplex and the two new

1 single-family homes, shall require review and  
2 approval by the Historic Preservation Board  
3 prior to the issuance of a building permit.

4 THE CHAIRMAN: Can I ask you a quick  
5 question about that?

6 When you say, "Approval of the Board for  
7 the property -- construction on the property,"  
8 does that mean after the property is separated,  
9 it would include all three sites?

10 MR. CARLSON: That is correct.

11 THE CHAIRMAN: Thank you.

12 MR. CARLSON: That concludes Staff's  
13 presentation. If you have any questions, the  
14 applicant is here.

15 MR. COE: Yes, Mr. Carlson, I have a couple  
16 of questions.

17 The existing duplex, how many lots does  
18 that comprise?

19 MR. CARLSON: Eight.

20 MR. COE: No, the existing structure  
21 itself, how is it going to be divided up?  
22 You're going to have two new building sites,  
23 which lots are they going to comprise, and  
24 what's left of the old site?

25 MR. GUILFORD: I can answer that.

1 MR. CARLSON: I believe --

2 MR. COE: I think maybe -- maybe Zeke wants  
3 to chime in.

4 MR. CARLSON: Sure.

5 MR. GUILFORD: Good evening.

6 MR. COE: How is the property being divided  
7 up with these three building sites?

8 MR. GUILFORD: The property actually  
9 consists of --

10 MR. COE: Right.

11 MR. GUILFORD: -- of eight lots, five  
12 across LeJeune and then three single-family  
13 lots.

14 THE CHAIRMAN: Would you state your name  
15 and address, for the record, Mr. Guilford?

16 MR. GUILFORD: I'm sorry. Zeke Guilford,  
17 offices at 2222 Ponce de Leon Boulevard,  
18 representing James and Shocky Pilafian.

19 Mr. Coe, the way it's being divided up is,  
20 the house and the apartment -- the house itself  
21 sits on the duplex zoned lots.

22 The -- actually, the garage apartment,  
23 actually straddles the duplex and the -- and the  
24 single-family.

25 So what we're doing is, the

1 single-family -- the current single-family house  
2 that's existing today sits on the duplex lots.  
3 The garage apartment, which will become part of  
4 that, would be basically non-conforming, because  
5 it would straddle those two zoning districts and  
6 land use designations, and then we'll have the  
7 two single-family lots, where the three lots  
8 were, more or less, give or take.

9 MR. COE: Thank you.

10 (Thereupon, JAVIER SALMAN entered the  
11 meeting room.

12 THE CHAIRMAN: For the record, Javier  
13 Salman has arrived.

14 Mr. Guilford, did you have any presentation  
15 you wanted to make?

16 MR. GUILFORD: Mr. Chairman, just real  
17 quickly, to go over what Mr. Coe just said, the  
18 existing house and the -- the two-story building  
19 sits on the duplex lot.

20 MR. COE: Zeke -- Zeke -- I don't mean to  
21 interrupt you, but we can't see it over here.

22 (Simultaneous speaking.)

23 MR. GUILFORD: I should go to this one  
24 first. This is just the survey of the property.

25 Where -- where the duplex lot sits, there's

1 five feet -- 25 feet across along LeJeune Road,  
2 and it goes right to about the corner of -- of  
3 this section here, a little over a hundred feet,  
4 and then we have three, essentially, 50-foot  
5 lots.

6 What the Historic Preservation Board  
7 recommended was to create this as one building  
8 site and then have two 60-foot lots behind it.

9 When we did the analysis, that still came  
10 out to -- to meet the requirements that set  
11 forth one of the criteria of the six.

12 Now, Mr. Chairman and Members of the Board,  
13 I'm going to keep this extremely short, because,  
14 I think, in 19 years of doing this and  
15 presenting multiple building site separations, I  
16 think this is the first time Staff has ever  
17 recommended approval, and I should -- should  
18 really just shut up and sit down.

19 THE CHAIRMAN: Yeah. Yeah, you could.

20 MR. GUILFORD: You know, I could argue -- I  
21 could argue with Staff about one condition. I'm  
22 not going to. However, if there's any question  
23 regarding this property, this has been -- I  
24 looked back, when I originally intended to file  
25 this application, was actually February 2005, so

1           this has been beating around between us and  
2           Historic and all over the place. We're really  
3           happy to get it here before you all.

4           MR. COE: Does the applicant accept the  
5           condition?

6           MR. GUILFORD: Yes, absolutely. As a  
7           matter of fact, Judge, we actually have -- what  
8           happened, and a little bit of the history, when  
9           we originally started to file with Planning, we  
10          got the letter from Historic that -- that --  
11          that they -- that it met the criteria for  
12          Historic significance. We appealed that.

13          It bounced back to Historic for  
14          designation. We appealed that.

15          It went to the Commission. The Commission  
16          sent it back to Historic, to ask -- to say, "See  
17          if you can come up with some -- some type of  
18          compromise."

19          This is the compromise that was recommended  
20          by Historic, and -- and obviously, here --  
21          here -- here it comes back.

22          So we do accept that. As a matter of fact,  
23          any historic property must go to the Historic  
24          Preservation Board, no matter what you do.

25          So, clearly, even if we didn't accept the

1 condition, it's a requirement of the City.

2 THE CHAIRMAN: Any more questions of the  
3 applicant?

4 MS. KEON: I have one.

5 THE CHAIRMAN: Uh -- go ahead, yes.

6 MS. KEON: The remaining lots, then are --  
7 they're designated as single-family, right?

8 MR. GUILFORD: Yes. What you're -- yes,  
9 that's exactly what they're doing.

10 MS. KEON: They are? I just want to  
11 confirm that they're single-family, they're not  
12 duplex?

13 MR. GUILFORD: They're not duplex. I  
14 understand that a couple of the comments --

15 MS. KEON: Yeah.

16 MR. GUILFORD: -- did not understand, they  
17 thought we were creating a duplex lot, but it's  
18 already zoned, and it's not duplex, yes, ma'am.

19 MS. KEON: Okay.

20 MR. AIZENSTAT: And if I see it correctly,  
21 your garages are actually facing inward toward  
22 each other, as opposed to the street?

23 MR. GUILFORD: That's correct.

24 MR. AIZENSTAT: Nice design.

25 MR. GUILFORD: Yeah.

1 THE CHAIRMAN: Is there anybody from the  
2 public who wishes to speak about this particular  
3 application?

4 No?

5 Then I'll -- I'll open it for a motion and  
6 discussion.

7 MR. COE: I'll move Staff's approval.

8 MR. BEHAR: I'll second it.

9 THE CHAIRMAN: There's a motion and a  
10 second for Staff's approval. Is there any  
11 discussion on the motion?

12 There's no discussion. Then I'll call --

13 MR. RIEL: Mr. Chair, I just want to note,  
14 as a part, when you recommend approval, it also  
15 includes the Zoning Code amendment, where we  
16 amend the site specific standards to indicate  
17 these are each separate building sites, just as  
18 a matter of clarification.

19 THE CHAIRMAN: Okay.

20 Mr. Guilford --

21 MR. COE: I'll amend -- I'll amend my  
22 motion to conform with Mr. Riel's explanation,  
23 unless you're objecting to that.

24 MR. GUILFORD: That's fine. We accept  
25 that. No, we're not objecting to that.

1 MR. COE: Okay. So I'm amending, in  
2 accordance with what the Director suggested.

3 THE CHAIRMAN: Then I assume that the  
4 second accepts that as a friendly amendment?

5 MR. BEHAR: I accept it, as well.

6 THE CHAIRMAN: And is there any discussion  
7 on the motion as so amended?

8 No discussion? We'll call the roll.

9 MS. MENENDEZ: Jack Coe?

10 MR. COE: Yes.

11 MS. MENENDEZ: Jeff Flanagan?

12 MR. FLANAGAN: Yes.

13 MS. MENENDEZ: Pat Keon?

14 MR. KEON: Yes.

15 MS. MENENDEZ: Javier Salman?

16 MR. SALMAN: Yes.

17 MS. MENENDEZ: Eibi Aizenstat?

18 MR. AIZENSTAT: Yes.

19 MS. MENENDEZ: Robert Behar?

20 MR. BEHAR: Yes.

21 MS. MENENDEZ: Tom Korge?

22 THE CHAIRMAN: Yes.

23 MR. GUILFORD: Thank you very much.

24 MR. AIZENSTAT: Happy New Year, Zeke.

25 MR. GUILFORD: Thank you. Likewise.

1           THE CHAIRMAN: The next items on our agenda  
2           are various Zoning Code text amendments,  
3           Articles 4 and 5.

4           Should we go -- how do you want to take  
5           this, Eric? Do you want to go through them one  
6           by one?

7           MR. RIEL: Actually, 6 and 7, go through  
8           separately, and then 8 through 13 are all  
9           considered basically -- they're in one Staff  
10          report, so we will discuss all those at one  
11          time.

12          THE CHAIRMAN: Okay. Okay.

13          MS. SALAZAR-BLANCO: Good evening. Martha  
14          Salazar-Blanco, Zoning Official for the City.

15          We have Items 6 through 13, text  
16          amendments, and for Items 6 and 7, I have  
17          Ricardo Herran to be presenting those two text  
18          amendments, and from 8 through 13, I will have  
19          Elizabeth Gonzalez presenting the text  
20          amendments, and if you have any questions, I'll  
21          be here to answer them, and they will also be  
22          here.

23          MR. BEHAR: Thank you.

24          MR. HERRAN: Good evening. Ricardo Herran,  
25          Zoning Technician, Building and Zoning

1 Department.

2 The text amendment before you is to update  
3 our triangle of visibility requirements, so  
4 they're consistent with Dade County standards.

5 A little bit of background. These changes  
6 are only for residential and special use  
7 districts, and the idea behind the triangle of  
8 visibility is to ensure the safety of  
9 pedestrians on the sidewalk or on the swale  
10 area.

11 If you turn to your text amendment requests  
12 in your packets, I'll go over it with you.

13 Starting with letter B, Staff recommends  
14 that we update our triangle of visibility so we  
15 have a ten-by-ten-foot triangle, which is  
16 consistent with Dade County standards, and I'll  
17 pass by -- I'll pass out a diagram, so you can  
18 get an idea of what we're talking about.

19 MR. AIZENSTAT: Did you say, letter E as in  
20 Edward?

21 MR. FLANAGAN: B.

22 MR. HERRAN: Letter B.

23 MR. AIZENSTAT: B?

24 THE CHAIRMAN: Letter B.

25 MR. COE: B, boy.

1 MR. AIZENSTAT: Because I was looking for  
2 it, and I said, "I don't have any" -- I'm sorry.

3 MR. HERRAN: Actually, if I can get a copy  
4 for myself, as well. Thank you.

5 So Staff is requesting that we update our  
6 triangle to a ten-by-ten-foot triangle that you  
7 have in front of you.

8 Right now our code has two triangles,  
9 depending on whether or not the property has a  
10 sidewalk or it does not have a sidewalk.

11 In cases where the property has a sidewalk,  
12 we have a fifteen-by-fifteen-foot triangle, and  
13 in cases where there's no sidewalk, we have a  
14 twenty-by-twenty-foot triangle.

15 Staff is recommending that we are  
16 consistent with Dade County standards and change  
17 it to a ten-by-ten-foot triangle.

18 MR. BEHAR: And this is taken from the  
19 property line?

20 MR. HERRAN: Correct. It's right -- it's  
21 up to the edge of the property line, on private  
22 property, correct.

23 MR. FLANAGAN: That includes all  
24 landscaping, as well or --

25 MR. HERRAN: This -- yes. Basically the

1 requirement is that there's a visual  
2 clearance -- a visual clearance within that  
3 triangle between a height, right now, of three  
4 feet to eight feet.

5 MR. FLANAGAN: Three feet to eight feet?

6 MR. HERRAN: Right.

7 Now, the other change that we're  
8 requesting, which is letter A, we're requesting  
9 that that visual clearance be -- start at  
10 two-and-a-half feet, which is consistent with  
11 Dade County Standards, as well.

12 MR. AIZENSTAT: What was it before?

13 MR. HERRAN: Three feet. Right now it's  
14 three feet to eight feet. We're requesting that  
15 we're consistent with Dade County, which starts  
16 at two-and-a-half feet.

17 MR. FLANAGAN: To eight feet?

18 MR. HERRAN: The current Miami-Dade code  
19 says, "Two-and-a-half feet and above." That's  
20 what it says. We would amend it to say,  
21 "Two-and-a-half to eight feet."

22 MR. FLANAGAN: Okay. Have we had problems  
23 with it being three feet in the past?

24 MR. HERRAN: We haven't had any problems.  
25 We -- there are a lot of complaints from the

1 residents saying that, you know, our triangles  
2 are a little bit too restrictive, and that's one  
3 of the reasons that we're here to talk about the  
4 triangle.

5 The Commission requested that Staff  
6 research what is done in other municipalities,  
7 and we researched City of Miami, Dade County,  
8 Miami Beach, and we believe that Dade County  
9 standards are -- are what we should be  
10 consistent with.

11 MR. FLANAGAN: And are we taking it from --  
12 the language here says it's -- "leading to a  
13 public right-of-way." Are we going to the  
14 public right-of-way or are we going to the edge  
15 of pavement?

16 MR. HERRAN: It's going to -- edge of the  
17 property line.

18 MR. COE: Edge of the property line.

19 MR. FLANAGAN: No, from property line --  
20 bear with me.

21 MR. HERRAN: Sure.

22 MR. FLANAGAN: So, basically, everybody's  
23 driveway has to have a ten-foot triangle  
24 clearance, that's it, because everybody's  
25 driveway abuts a public right-of-way --

1 MR. HERRAN: Correct.

2 MR. FLANAGAN: -- or just about, I would  
3 imagine.

4 MR. HERRAN: Right.

5 MR. BEHAR: But it goes further, it goes  
6 from the property line. This diagram may not be  
7 consistent throughout the whole City. If your  
8 right-of-way is a swale area --

9 MR. FLANAGAN: Right.

10 MR. BEHAR: -- it doesn't count. This is  
11 taken from your actual property line.

12 MR. HERRAN: Correct.

13 MR. BEHAR: So actually you're going to end  
14 up with a much larger --

15 MR. FLANAGAN: Well, what you end up  
16 with -- what you have right now all over the  
17 City is, you have paved roadway and then you  
18 have significant stretches of swale, which are  
19 actually right-of-way, and my understanding is  
20 that the way the City has been enforcing the  
21 provisions in the past is that the visibility  
22 triangle has actually been from edge of  
23 pavement, not from property line.

24 MR. BEHAR: Well --

25 MR. FLANAGAN: So if we change it to

1 property line, and I've been through this with  
2 my neighbor several months ago, who got one of  
3 those relatively notorious tickets, I think,  
4 when this whole issue came about, she's out  
5 there chopping down her -- her hedges, and I  
6 said, "What are you doing?"

7 You end up, I think, in a City, at this  
8 point, with, I'm going to venture, almost every  
9 homeowner having to lop off their hedges, their  
10 palm trees, their flower plants, whatever it may  
11 be, 'cause if you go down any street, almost  
12 everybody, and especially in -- in the districts  
13 of the fifty by a hundred foot lots and the  
14 smaller -- have hedges or rows of palm trees  
15 that act as a landscape divider between  
16 properties, that go right up to the property  
17 line, and many driveways are within five feet.

18 MR. BEHAR: To the driveway.

19 MR. FLANAGAN: So at this point,  
20 everybody's going to be lopping landscaping off  
21 like no tomorrow, and I have a hard time with  
22 that.

23 MR. HERRAN: Well, we already have that  
24 requirement in our code. We have a  
25 15-by-15-foot triangle in cases where there's a

1 sidewalk. So --

2 MR. FLANAGAN: But my understanding is that  
3 the interpretation of the way the code had been  
4 drafted and the way it's been implemented or  
5 enforced is that -- it's the visibility triangle  
6 has been from edge of pavement --

7 MR. HERRAN: We have --

8 MR. FLANAGAN: -- not from edge of  
9 right-of-way.

10 MR. HERRAN: Well, the way that our Zoning  
11 Code reads is, we have two different scenarios.  
12 We have a case where there's no sidewalk, in  
13 which case you're right, the triangle goes to  
14 edge of pavement -- pavement, and we have a  
15 case -- case where we have a sidewalk, where the  
16 triangle goes to the edge -- the front edge of  
17 the sidewalk, closest to the property line.

18 MR. FLANAGAN: And -- and I think, from a  
19 rationality standpoint, that makes sense,  
20 because what you want is to make sure that  
21 somebody walking or driving down the street and  
22 pulling up, can see each other.

23 So if you have a sidewalk, that well could  
24 have a pedestrian on it, you need that.

25 When you have pavement that stops and then

1           you have 20 feet of swale area, before you hit  
2           somebody's property line, I really don't see the  
3           need for having an additional -- the site  
4           triangle, on top of that 20-feet, 'cause you  
5           have more than sufficient back out room or pull  
6           out room, once you get in front of your hedge,  
7           and you have 20 feet in front of you before you  
8           actually hit edge of pavement.

9           So I think this needs a lot further  
10          discussion and further --

11          MR. BEHAR: And you're right, a lot of  
12          the -- the existing conditions, you know, will  
13          be in -- in violation of that triangle.

14          MR. HERRAN: Well, the idea is for us to be  
15          consistent with Dade County. This is the way  
16          Dade County does it. They take their triangle  
17          to the edge of the property line, and in  
18          reality, our swale areas are already covered by  
19          our City Code.

20          Swale areas are supposed to be completely  
21          clear of any visual obstruction as is, unless  
22          they get some sort of landscape encroachment --

23          MR. COE: But don't they have trees --

24          MR. FLANAGAN: And most of the swales, I  
25          think, are clear. It's that when you have this

1           10, 15, 20, 25-foot swale between edge of  
2           pavement and the property line, you have a clear  
3           site area, which is what the intent is. I  
4           mean --

5           MR. HERRAN: Uh-huh.

6           THE CHAIRMAN: And the -- the -- the  
7           existing codes refers to, in the case of -- of  
8           no sidewalk, to the edge of the pavement of the  
9           abutting street, which is what you were  
10          referring to.

11          So by changing that, even though the County  
12          may have different language, we're now placing a  
13          lot of people in a position where maybe, you  
14          know, the visibility isn't a problem, but  
15          they're going to have to comply.

16          That's -- I think that's what we're saying  
17          or what -- what Jeff is saying here.

18          MR. FLANAGAN: Right.

19          MR. HERRAN: The other idea is also to  
20          protect pedestrians walking in the swale area,  
21          which we don't have right now. That's the  
22          other thing.

23          MR. BEHAR: Well, then, let me ask a  
24          question. Is the City going to go and cut all  
25          the trees that are in that portion between the

1 right-of-way and the property line?

2 MR. HERRAN: Well, trees and -- and tree  
3 trunks are allowed within that triangle. What  
4 is not allowed is a hedge, a wall, a fence,  
5 anything that is within that two-and-a-half to  
6 eight feet height.

7 THE CHAIRMAN: You're sure a tree trunk is  
8 allowed?

9 MR. COE: Yeah.

10 MR. HERRAN: Tree trunks are allowed.

11 THE CHAIRMAN: Okay. I didn't read it that  
12 way, but I -- I don't know.

13 MR. COE: It's designed to attack hedges.

14 When I sat on the Code Enforcement Board,  
15 this was the major problem, and the most fines  
16 and the most complaints from residents, because  
17 they really had to severely restrict their --  
18 their hedges, and -- however, right before that  
19 became a controversy, there was a child in a  
20 tricycle that was killed, because of the -- the  
21 hedge wasn't cut down. So you -- you have a  
22 conflicting issue here.

23 THE CHAIRMAN: Well, I just wanted to  
24 emphasize that if there's a tree trunk where --  
25 where a hedge shouldn't be, that tree trunk also

1 blocks visibility, just the same as the hedge  
2 would. So I'm not sure I agree that -- that  
3 this is not applicable to trees, as well.

4 I guess -- let me just go back to a more  
5 basic question, and -- what -- what is driving  
6 this decision to conform to the County?

7 Is it that we -- our visibility is not good  
8 enough, is our visibility too much or is it just  
9 complaints, we're trying to address complaints?

10 MR. HERRAN: I -- I think that the  
11 Commission asked Staff to -- to review what --  
12 some of the other municipalities, due to a lot  
13 of complaints that were generated by residents  
14 in the City saying that our standards are too  
15 strict.

16 So in this -- in this way, in this fashion,  
17 we'll be consistent with Dade County, which has  
18 less strict requirements.

19 MR. BEHAR: You know, I understand it, but  
20 I'm looking and I'm thinking, and you're  
21 absolutely right, the tree trunk -- I'm looking  
22 at conditions in my street. There are 36-inch  
23 wide, you know, trunks, that -- that becomes a  
24 barrier, a visibility problem.

25 MR. HERRAN: Within this text amendment, we

1           also address issues where there's site  
2           conditions that doesn't allow the property owner  
3           to abide by these requirements, and in that  
4           case, we're recommending the Building & Zoning  
5           Director allow for the use of convex mirrors.

6           So that will cover any site situations,  
7           non-conforming usage --

8           MR. BEHAR: No, I don't want the trees to  
9           be cut down, on the contrary.

10          MR. FLANAGAN: Those look nice.

11          MR. COE: Is it easier to shape a hedge  
12          than cut down a tree?

13          MR. FLANAGAN: I have -- if this said if it  
14          was from edge of pavement or from edge of  
15          sidewalk, I think I can live with it better, but  
16          I think, as drafted, being from right-of-way,  
17          there's absolutely no way.

18          I mean, it's the City Beautiful. We pride  
19          ourselves in our landscaping. We don't live in  
20          the County for various reasons, and probably  
21          some obvious reasons. I don't think we need to  
22          necessarily comply with the County, and our  
23          landscaping is beautiful, and people put a lot  
24          of time, energy and money into it. I think to  
25          go start chopping down all these -- I don't know

1           what kind of palm it is, those real thin palms  
2           that make a really good divider, and, you know,  
3           you just start knocking those down and all that  
4           -- it's not even the hedges in the front of the  
5           house. It's the hedges in between the property  
6           lines. I mean, those all have to start getting  
7           cut back.

8           THE CHAIRMAN: Yeah, I mean, I -- I kind of  
9           agree with you. If this was to address a  
10          visibility problem that we have, causing  
11          accidents and so forth, then maybe we need to --  
12          to -- to expand the visibility triangle, but if  
13          it's just to address the complaints of  
14          residents, that they're required, you know, to  
15          chop down hedges, this proposal, I think, may  
16          not solve that problem, it may even exacerbate  
17          that problem.

18          I think that's what Jeff's saying. I don't  
19          -- I, for one, am not comfortable that I  
20          understand how this would actually affect  
21          everybody, compared to what exists right now.  
22          That's -- that would be my concern.

23          Any other comments? Is there -- is there a  
24          motion to --

25          MR. COE: So if I understand the Chair, you

1 want to have -- you want to keep in place the  
2 more restrictive ordinance that currently  
3 exists?

4 THE CHAIRMAN: I just --

5 MS. KEON: You mean, less restrictive? I  
6 mean, I think --

7 MR. COE: The -- the City is liberalizing  
8 the whole -- the whole issue. Do you want to  
9 keep it more restrictive? Is that -- is that  
10 the Chair's position?

11 THE CHAIRMAN: I'm telling you, I don't  
12 understand whether this -- this increases the  
13 visibility or decreases the visibility or leaves  
14 it unchanged.

15 MR. BEHAR: The current condition is not  
16 more restrictive, because the current condition  
17 goes from the edge of pavement.

18 MR. HERRAN: Yeah.

19 MR. FLANAGAN: Where there's no sidewalk,  
20 it goes from edge of payment.

21 MR. BEHAR: When there's no sidewalk.

22 MR. HERRAN: When there's no sidewalk, and  
23 you're -- you're right, in the cases where there  
24 is no sidewalk, this will be more restrictive.

25 MR. BEHAR: Right.

1           MR. CHAIRMAN: So that's a good portion of  
2 the City.

3           MR. BEHAR: You're not correct in stating  
4 that we're making --

5           MR. COE: But when there's a sidewalk, it's  
6 less restrictive.

7           MR. BEHAR: Correct.

8           MR. FLANAGAN: Correct, and I said, if it  
9 went from it -- if this language said, "From  
10 edge of pavement or from edge of sidewalk, if it  
11 exists," I could live with that, definitely, but  
12 this says, "From edge of right-of-way," no  
13 matter what.

14          MR. BEHAR: Well, this -- this -- property  
15 line. Property line, which makes it more  
16 restrictive.

17          MR. AIZENSTAT: Property line.

18          MR. COE: Property line.

19          MR. FLANAGAN: Correct.

20          MR. COE: We're not talking about the  
21 swale. We're talking about property line.

22          MR. FLANAGAN: Well, the swale is  
23 right-of-way, and that's why to me --

24          MR. COE: It's property line.

25          MR. FLANAGAN: Property line goes up to the

1 right-of-way.

2 MS. KEON: Right. Is it going to be  
3 changed to be edge of pavement?

4 MS. SALAZAR-BLANCO: Staff doesn't have a  
5 problem if we change it to edge of pavement. We  
6 just wanted to be consistent with the County,  
7 and if -- if the Board recommends to -- for it  
8 to go to the edge of pavement, we're okay with  
9 that. Staff is okay to do it at edge of  
10 pavement.

11 It's a -- I understand where you're coming  
12 from, and it's -- it's a little bit less  
13 restrictive, but --

14 MR. BEHAR: Well --

15 MS. SALAZAR-BLANCO: -- we were just trying  
16 to be consistent with the County standards, but  
17 if the Board recommends for it to be at the edge  
18 of pavement, that's fine.

19 THE CHAIRMAN: Well, would someone like to  
20 make a motion to modify it, and approve as  
21 modified, we could discuss that motion, too?

22 MR. FLANAGAN: Okay. I'll make a motion to  
23 approve the request as modified, such that the  
24 site visibility triangle, with ten-foot legs, be  
25 from edge of sidewalk, if one exists, and where

1           there is no sidewalk, from edge of pavement.

2           MR. BEHAR: I'll second the motion.

3           THE CHAIRMAN: The motion is seconded.

4           MR. FLANAGAN: And I think that makes  
5           sense.

6           THE CHAIRMAN: Is there any discussion on  
7           this or questions on this? No discussions or  
8           questions, we'll call the roll.

9           MS. MENENDEZ: Jeff Flanagan?

10          MR. FLANAGAN: Yes.

11          MS. MENENDEZ: Pat Keon?

12          MS. KEON: Yes.

13          MS. MENENDEZ: Javier Salman?

14          MS. SALMAN: Yes.

15          MS. MENENDEZ: Eibi Aizenstat?

16          MS. AIZENSTAT: Yes.

17          MS. MENENDEZ: Robert Behar?

18          MR. BEHAR: Yes.

19          MS. MENENDEZ: Jack Coe?

20          MR. COE: Yes.

21          MS. MENENDEZ: Tom Korge?

22          MR. CHAIRMAN: Yes.

23          MR. HERRAN: There is one thing within the  
24          text amendment that I did not get to address,  
25          Item D.

1 THE CHAIRMAN: Are we talking about the one  
2 we just voted on?

3 MR. HERRAN: Yes.

4 MR. COE: The one we just voted -- do you  
5 want us to rescind our vote?

6 MR. HERRAN: It's just a minor amendment to  
7 Item D, just a change in the language.

8 THE CHAIRMAN: Okay.

9 MR. HERRAN: Item D, right now, in the  
10 second line, reads "Zoning Director may approve  
11 the use of convex mirrors."

12 We would like to change that so it reads,  
13 "Zoning Director may approve and/or require the  
14 use of convex mirrors," and this is for cases  
15 where a Code Enforcement Officer cites a  
16 property that has no visibility or very poor  
17 visibility, and this would allow the Building &  
18 Zoning Director to require that property owner  
19 to install convex mirrors.

20 MR. AIZENSTAT: Well, if -- if you cite a  
21 property that has no visibility, are you saying,  
22 "Put up a mirror and you're okay to leave it  
23 there?"

24 MR. HERRAN: Well, there -- there are a lot  
25 of existing conditions, non-conforming

1 structures, that there is no way for them to  
2 conform to these requirements, unless it was  
3 torn down.

4 MR. AIZENSTAT: The structure itself,  
5 you're talking about?

6 MR. HERRAN: The structure itself.

7 MR. AIZENSTAT: So the actual house is  
8 built all the way up to the property line?

9 MR. HERRAN: This is in cases for -- mostly  
10 for urban areas, in the commercial, commercial  
11 limited and industrial areas, where you have a  
12 lot of properties that go right to the edge of  
13 the property line.

14 MR. AIZENSTAT: Can you give me an example  
15 where?

16 MR. HERRAN: For example, right across the  
17 street, we -- we have an alley where the Keyes  
18 building is --

19 MR. AIZENSTAT: Right.

20 MR. HERRAN: -- and that alley -- both --  
21 both of those structures go to the property line  
22 and there's no visibility right there.

23 MR. FLANAGAN: And then, Eibi, I think the  
24 Black's -- I think it's Black's Copy building  
25 now, on Ponce, comes right up to that -- right

1 up the sidewalk and corner.

2 MR. BEHAR: In the commercial situation, I  
3 don't have a problem. I -- I mean, that doesn't  
4 happen in the residential --

5 MR. COE: No.

6 MR. BEHAR: -- neighborhood, right?

7 MR. HERRAN: I can't think of any cases.  
8 Well, actually that's not true. There are cases  
9 in residential properties where you have, for  
10 example, a driveway that abuts up against  
11 somebody else's property, where they have an  
12 existing four-foot wall or five-foot wall. So  
13 in that case, that would obstruct the required  
14 triangle.

15 MR. AIZENSTAT: Yeah, but if that's the  
16 case, then that wall -- you're saying, you don't  
17 have to lower that wall, you can just put a  
18 mirror there?

19 MR. HERRAN: This is a -- the adjacent  
20 property owner's wall.

21 MR. AIZENSTAT: Right. But the adjacent  
22 property owner has a wall that's high, that  
23 obstructs the triangle, what you're saying is  
24 they can put up a mirror and not have to reduce  
25 that wall?

1           MR. HERRAN: Well, the wall probably was  
2 permitted. So if it was permitted, it's a non  
3 -- it would be a non-conforming --

4           MR. AIZENSTAT: But then wouldn't --  
5 wouldn't the wall have -- should not have been  
6 permitted, because of the visibility triangle --

7           MR. HERRAN: It could have been that it was  
8 permitted when this requirement was different.

9           MR. COE: It's grandfathered in.

10          MR. HERRAN: Correct, grandfathered in.

11          MR. AIZENSTAT: How old would that have to  
12 be, to be grandfathered?

13          MR. BEHAR: It doesn't matter --

14          MR. FLANAGAN: Existing non-conforming.

15          MR. BEHAR: -- if you get approved.

16          MR. HERRAN: Existing non-conforming.

17          MR. AIZENSTAT: I mean, the reason I'm  
18 asking is, because if you've got people with  
19 hedges and you're making them cut it down, but  
20 you've got somebody that has a wall and they can  
21 put a mirror, so can the person that has a hedge  
22 not cut it down, and put a mirror, if that's  
23 what they want to do?

24                 I mean, I'm asking, because of that,  
25 because when you fall into that, what's --

1 THE CHAIRMAN: Well, it's up -- that's up  
2 to the Zoning Director to decide.

3 MS. SALAZAR-BLANCO: That's correct.

4 MR. AIZENSTAT: Okay.

5 MS. SALAZAR-BLANCO: That's up to the  
6 Building & Zoning Director.

7 MR. COE: It's the tentative discussion --

8 MS. SALAZAR-BLANCO: If the Building &  
9 Zoning Director sees that there's a legally  
10 non-conforming structure or if there's issues  
11 that for no reason, nothing can be done about  
12 the triangle of visibility, then, at that time,  
13 he may require or approve a mirror there.

14 MR. BEHAR: I would hate to see mirrors  
15 all, you know, around.

16 MR. AIZENSTAT: Yeah, me, too.

17 Just I'd hate to see mirrors going around  
18 in the area. That's my only --

19 MR. BEHAR: That's my problem, you know,  
20 those mirrors.

21 MR. AIZENSTAT: I agree.

22 MS. KEON: I agree.

23 THE CHAIRMAN: Well, by inserting required  
24 or -- after --

25 (Simultaneous speaking.)

1           MR. BEHAR: Well, that -- come on, Jack,  
2           don't -- that's nonsense.

3           THE CHAIRMAN: By inserting the words "or  
4           required" after "approve," we're giving the  
5           Zoning Director the authority to force the use  
6           of -- of the convex mirrors, then, even if the  
7           property owner does not want to use the convex  
8           mirror.

9           The way it's written now, as I understand  
10          it, the Zoning Director could approve the use of  
11          it, but couldn't force them to use it if they  
12          didn't want to. So the only way they -- I  
13          guess, the Zoning Director would be able to  
14          force them otherwise, would be to tell them  
15          "Tear down the structure or the shrub" or  
16          whatever and if they then said, "We don't want  
17          to do that," well, your alternative is to -- to  
18          put the mirror, but now we can just go in and  
19          say, "In lieu of that requirement of tearing  
20          down the structure," you just go in and say,  
21          "I'm not going to require you to tear down the  
22          structure, I'm going to require you to put up  
23          the mirror."

24          So it's a slight difference in the way that  
25          -- it gives a little bit more authority to the

1           Zoning Director to decide how to solve the  
2           problem.

3           MR. COE: Is that a good idea, so much  
4           discretion?

5           THE CHAIRMAN: I don't know, that it's that  
6           bad an idea. I'm just pointing out the --

7           MR. COE: I'm just saying, is that a good  
8           idea, to give the Zoning Director that much  
9           discretion?

10          THE CHAIRMAN: I don't know that it's a lot  
11          more discretion, to be candid with you.

12          MS. SALAZAR-BLANCO: Well, if the Building  
13          & Zoning Director decides that it's required,  
14          and they don't feel that it's required, they can  
15          always appeal that to the Board of Adjustment --  
16          appeal that decision to the Board of Adjustment

17          MR. FLANAGAN: But in the case of a wall or  
18          a building -- I mean, if it's there, and it was  
19          permitted, then it's a legal non-conforming use  
20          and you can't make them chop it down. And so --  
21          and we all -- I don't think we like the idea of  
22          the mirrors.

23          MS. SALAZAR-BLANCO: This is really more  
24          for legal non-conforming structures than  
25          anything, any existing buildings or anything

1           like that.

2           THE CHAIRMAN: Right. So then -- then it  
3           does become -- it becomes material, the change  
4           in the discretion, because the Zoning Director  
5           could then force something that otherwise the  
6           Zoning Director couldn't -- couldn't force, and  
7           that's basically it.

8           MR. COE: Uh-huh. Uh-huh. Uh-huh.

9           THE CHAIRMAN: So, I mean, really it's a  
10          question of whether we think the Zoning Director  
11          should have that power and it's a -- really, a  
12          life safety issue. That's the reason that he  
13          would do that.

14          Any thoughts?

15          MR. BEHAR: I don't have a problem with  
16          the -- you know, the Building Director having  
17          that authority to do that, absolutely.

18          THE CHAIRMAN: Is there a motion to amend  
19          that Paragraph D?

20          MR. SALMAN: So moved.

21          MS. KEON: I'll second.

22          THE CHAIRMAN: There's a motion and a  
23          second. Is there any further discussion on  
24          that?

25          Let's call the roll on that motion, please.

1           MR. FLANAGAN:  What was the motion on that  
2           Paragraph D?

3           THE CHAIRMAN:  The motion on Paragraph D  
4           would be to insert, also, after "approve," the  
5           words "or require," so that it would read,  
6           "The -- the Zoning Director may approve or  
7           require the use of convex mirrors."

8           MR. COE:  Are we calling the roll?

9           THE CHAIRMAN:  Would you call the roll,  
10          please?

11          MS. MENENDEZ:  Pat Keon?

12          MS. KEON:  Yes.  Yes.

13          MS. MENENDEZ:  Javier Salman?

14          MR. SALMAN:  Yes.

15          MS. MENENDEZ:  Eibi Aizenstat?

16          MR. AIZENSTAT:  Yes.

17          MS. MENENDEZ:  Robert Behar?

18          MR. BEHAR:  Yeah.

19          MS. MENENDEZ:  Jack Coe?

20          MR. COE:  Yes.

21          MS. MENENDEZ:  Jeff Flanagan?

22          MR. FLANAGAN:  Yes.

23          MS. MENENDEZ:  Tom Korge?

24          THE CHAIRMAN:  Yes.

25          MR. COE:  Are there any more paragraphs

1           that we have to discuss?

2           MR. HERRAN: We're done. Thank you.

3           The next amendment is to update the title  
4           of Zoning Administrator to its current title,  
5           which is Zoning Official, and that's consistent  
6           with other titles in the Building & Zoning  
7           Department, such as Building Official.

8           THE CHAIRMAN: Any discussion or questions  
9           or motions for this?

10          MR. AIZENSTAT: Does that include a pay  
11          raise?

12          MR. FLANAGAN: So moved.

13          MR. BEHAR: Second.

14          MR. COE: Second.

15          THE CHAIRMAN: There's a motion, and a  
16          second. Any discussion on this? Let's call the  
17          roll, please.

18          MS. MENENDEZ: Javier Salman?

19          MR. SALMAN: Yes.

20          MS. MENENDEZ: Eibi Aizenstat?

21          MR. AIZENSTAT: Yes.

22          MS. MENENDEZ: Robert Behar?

23          MR. BEHAR: Yes.

24          MS. MENENDEZ: Jack Coe?

25          MR. COE: Yes.

1 MS. MENENDEZ: Jeff Flanagan?

2 MR. FLANAGAN: Yes.

3 MS. MENENDEZ: Pat Keon?

4 MS. KEON: Yes.

5 MS. MENENDEZ: Tom Korge?

6 THE CHAIRMAN: Yes.

7 MR. HERRAN: Thank you.

8 MR. BEHAR: Congratulations.

9 MR. SALMAN: Now and forever, the new  
10 Zoning Official.

11 MS. GONZALEZ: Good evening, Elizabeth  
12 Gonzalez with the Building & Zoning Department,  
13 and I will be presenting Items 8 through 13,  
14 which deals, basically, with the screening of  
15 mechanical equipment, either on commercial  
16 buildings or residential properties in the City.

17 Would you like to take them individually  
18 or --

19 MR. BEHAR: Yes.

20 MR. FLANAGAN: Yes.

21 MS. GONZALEZ: Okay.

22 MR. FLANAGAN: To the Chair.

23 THE CHAIRMAN: Well, if the architects want  
24 to take them individually, I would certainly  
25 agree.

1           MS. GONZALEZ: Okay. The Zoning Code  
2 requires mechanical equipment on rooftops of  
3 buildings to be screened with a wall.

4           MR. COE: That's someone's telephone.

5           MS. GONZALEZ: This is noted throughout  
6 the code, in several sections.

7           One of the reasons we are proposing a  
8 change is because that -- we found that in older  
9 buildings that were undergoing extensive  
10 remodeling, they could support the wall, but  
11 when -- they could not retrofit to propose a  
12 masonry wall that is required by the Code in  
13 order to screen the equipment, by the additional  
14 loads imposed by the screened wall.

15           So after reviewing this with Zoning, and  
16 Structural and the City Architect, we found that  
17 it was best that the screening, if necessary, be  
18 up to the purview and the discretion of the  
19 Board of Architects, as well as the material.

20           THE CHAIRMAN: Is there a motion on this?

21           MR. BEHAR: Let me ask a question.

22           MR. FLANAGAN: I've got one.

23           MR. BEHAR: Currently the screening has to  
24 cover up to the top of the equipment, correct?

25           MS. GONZALEZ: That is correct.

1           MR. BEHAR:  If we're talking on a  
2           commercial building and we're building a  
3           ten-story building, would that be for -- the  
4           visibility that it -- creates, because to -- to  
5           screen a unit on the -- on the tenth floor, that  
6           is not visible from the street, is -- this will  
7           address that?

8           MS. MENENDEZ:  Yes.

9           MR. BEHAR:  Okay.

10          MS. GONZALEZ:  This is what -- this is  
11          why we want to leave this issue to the  
12          discretion of the Board of Architects,  
13          because in one section you'll note that it  
14          was noted at -- from the horizontal plane  
15          of view, which we found it -- was  
16          unnecessary, at -- at some point.

17          Pardon me.

18          MR. BEHAR:  Okay.  I'll make a motion to  
19          approve.

20          THE CHAIRMAN:  Is there a second?

21          MR. COE:  Second the motion.

22          THE CHAIRMAN:  There's a second.

23          Is there any discussion on the motion?  No  
24          discussion?  Let's call the roll, please.

25          MS. MENENDEZ:  Javier Salman?

1 MR. SALMAN: Yes.

2 MS. MENENDEZ: Eibi Aizenstat?

3 MR. AIZENSTAT: Yes.

4 MS. MENENDEZ: Robert Behar?

5 MR. BEHAR: Yes.

6 MS. MENENDEZ: Jack Coe?

7 MR. COE: Yes.

8 MS. MENENDEZ: Jeff Flanagan?

9 MR. FLANAGAN: Yes.

10 MS. MENENDEZ: Pat Keon?

11 MS. KEON: Yes.

12 MS. MENENDEZ: Tom Korge?

13 THE CHAIRMAN: Yes.

14 MS. GONZALEZ: And under Item 9, this one  
15 deals with mainly a -- the residential areas  
16 where we want to delete the screening of the  
17 mechanical equipment with -- by meeting two, a  
18 wall and landscaping, and just requiring a  
19 wall -- I'm sorry, just landscaping.

20 MR. COE: Where are we reading from?

21 MS. GONZALEZ: We found that the  
22 landscaping was sufficient and it was less  
23 of a burden for the property owner when he  
24 was doing a change out of the mechanical  
25 equipment, such as a/c's or gas --

1 MR. BEHAR: Number 9. Number 9.

2 THE CHAIRMAN: Which attachment -- excuse  
3 me for interrupting, but which attachment are we  
4 looking at here?

5 MR. AIZENSTAT: Article 4, Section 4-201.

6 MS. GONZALEZ: Number 9.

7 MR. RIEL: I think it's our Attachment C,  
8 but it's not matching up.

9 Yeah, we're backwards.

10 THE CHAIRMAN: Oh, okay. I've got it -- my  
11 next item on it was Attachment C.

12 MR. RIEL: Okay.

13 THE CHAIRMAN; Which attachment are we  
14 looking at?

15 MS. GONZALEZ: We're looking at 5 --  
16 Section 5-603.

17 MS. KEON: It should be Attachment E.

18 MR. RIEL: Yes.

19 THE CHAIRMAN: Okay.

20 MR. RIEL: Number 9 is Attachment E.

21 MS. KEON: I think it's E.

22 THE CHAIRMAN: Thank you. Thank you.  
23 Go ahead. I apologize for interrupting.

24 MR. BEHAR: Are you proposing to do away  
25 with the wall, just landscaping would be

1 sufficient to --

2 MS. GONZALEZ: That's correct. We found  
3 that it was more in keeping with the idea of the  
4 open landscape that Coral Gables is known for,  
5 the green areas, instead of providing with walls  
6 that sometimes were not aesthetically pleasing  
7 to the surrounding neighborhood.

8 MR. SALMAN: Why can't we just make it wall  
9 or landscaping, may I ask?

10 MS. GONZALEZ: Well, that's why we're  
11 leaving just landscaping, and we're leaving  
12 the discretion up to the Board of  
13 Architects. If they feel that a wall is  
14 required or -- or it would enhance the  
15 property or screen it better, they have  
16 that discretion.

17 THE CHAIRMAN: I don't think -- that's not  
18 the question.

19 MR. SALMAN: That's not my question. Wall  
20 or landscaping.

21 THE CHAIRMAN: The question is, wall or  
22 landscaping. If you just did wall, without the  
23 landscaping, that would conform or if you did  
24 the landscaping, without a wall, that would  
25 conform?

1 MR. SALMAN: And let the Board of  
2 Architects decide which is the most proper.

3 MS. GONZALEZ: We could do that.

4 MR. AIZENSTAT: Okay. Can I ask you a  
5 question?

6 MS. GONZALEZ: Yes.

7 MR. AIZENSTAT: Let me give you a  
8 hypothetical example.

9 Most of these air conditioners are screened  
10 by ficuses, that I've seen. There is a bug  
11 going around right now that's attacking a lot of  
12 ficuses. As a result, these ficuses are  
13 becoming bald, losing all their leaves, and  
14 they're dead, and now you'll be able to see all  
15 the equipment that's back there.

16 If that happens, is there something in the  
17 code that the City can go in and say, "You need  
18 to replant this right away"?

19 MS. GONZALEZ: Yes. We have our Code  
20 Enforcement Division that could cite the  
21 property owners to make the -- the  
22 screening better or enhanced or provide  
23 some other form of plant material.

24 THE CHAIRMAN: Because when it's bare,  
25 it's really not screened.

1 MR. AIZENSTAT: Right.

2 MS. GONZALEZ: Pardon me?

3 THE CHAIRMAN: When it's -- the -- there's  
4 no leaves on the plant, then it's really not  
5 screening the equipment --

6 MS. GONZALEZ: Correct.

7 THE CHAIRMAN: -- as required by the Code.

8 MS. GONZALEZ: Exactly.

9 MR. CHAIRMAN: All right.

10 MR. BEHAR: And going back to Javier's  
11 comment, if you left wall or landscaping, that  
12 gives you the flexibility to just have  
13 landscaping by itself or have a wall, if the --  
14 if the owner -- property owner chooses to have a  
15 wall.

16 MS. GONZALEZ: Yes.

17 THE CHAIRMAN: Because that -- that would  
18 allow the homeowner to install a wall without  
19 landscaping the wall.

20 MS. GONZALEZ: Right.

21 THE CHAIRMAN: I don't know if that's a  
22 problem, but that --

23 MR. SALMAN: Well, it's a Board of  
24 Architects issue.

25 MS. GONZALEZ: Right.

1           MR. SALMAN: That's what I'm saying,  
2           just give me options.

3           MR. FLANAGAN: You want and/or?

4           MR. SALMAN: Yeah, and/or.

5           (Simultaneous speaking.)

6           MR. AIZENSTAT: But does it go back to the  
7           Board of Architects or does it go to the  
8           architect who is with the City?

9           MR. SALMAN: No, the Board.

10          MS. GONZALEZ: Sometimes it will go  
11          before the City Architect and sometimes it  
12          will be presented to the Board of  
13          Architects, if it's a major renovation or  
14          addition or a new residence.

15          Sometimes the change out of a/c's -- well,  
16          the majority of change out, just the mechanical  
17          equipment, does not go to the City Architect or  
18          Board of Architects, it just comes through  
19          Zoning and different divisions, whether  
20          electrical --

21          THE CHAIRMAN: Well, the way I read this,  
22          it doesn't -- I mean, maybe in the context of  
23          the entire code it becomes clear that the -- the  
24          City Architect or the Board of Architects could  
25          require, you know, something different, but the

1 way I read it is, if you -- if we wrote it, for  
2 example, wall or landscaping, that if they put  
3 up the wall, they -- they conformed, and the --  
4 the City could not, you know, require them also  
5 to landscape. If it -- if it was the current  
6 language, the City would require both, a wall  
7 and landscaping in all instances.

8 MS. GONZALEZ: That's correct, and that  
9 was --

10 THE CHAIRMAN: I don't -- so you have to  
11 revise this. If you wanted this to be a  
12 decision by the Board of Architects, then you'd  
13 have to revise it to say that, because it  
14 doesn't say that.

15 MR. BEHAR: Elizabeth, let me ask you a  
16 question.

17 MS. GONZALEZ: Uh-huh.

18 MR. BEHAR: Does it require now -- the City  
19 requires that you have a wall and landscaping or  
20 either or?

21 MR. COE: Yes, both.

22 MS. GONZALEZ: Yes, there's -- now it  
23 requires a wall and landscaping.

24 MR. SALMAN: Both.

25 MR. COE: And it should be, really, or.

1           MR. BEHAR: Or. Yeah, I'm comfortable with  
2 or. If I get a wall, I'm comfortable. If I get  
3 the landscaping, I'm comfortable.

4           MR. COE: It should be "or."

5           MS. KEON: Can I ask a question?

6           Is there ever an issue with -- I know this  
7 covers -- this covers visibility from the  
8 street. Is there ever an issue -- is there  
9 ever -- does it ever come up that someone's,  
10 air-conditioning or this equipment is maybe  
11 visible in an adjacent property and is  
12 particularly unattractive? Is that ever an  
13 issue?

14          MS. GONZALEZ: That the equipment is  
15 unattractive?

16          MS. KEON: I mean, that it may be in your  
17 neighbor's yard, and it's, you know, close to  
18 you and is like you're looking at it. It's --  
19 you know, is there ever -- I've -- I've heard  
20 people complain of that, I think. Is it ever an  
21 issue?

22          I ask of the architect. Did you -- I  
23 mean --

24          MR. SALMAN: I've heard about it --  
25 I've heard about it in a couple of different

1 contexts in -- again, in Code Enforcement.

2 MS. KEON: Yeah. Right.

3 MR. SALMAN: One is noise. That's usually  
4 the first one. And then attached to it is a  
5 visibility issue.

6 MS. KEON: Right. I mean, I know I've  
7 been in people's homes where if you're -- you  
8 may be in the yard or something and it's -- you  
9 know, on some of the smaller lots, where someone  
10 was putting in that equipment and it -- it  
11 really abuts someone else's -- it's screened  
12 from the home that -- where it's at, but it  
13 isn't from the adjacent property owner, and  
14 it -- it really is unsightly.

15 Do we address that or do we deal with that  
16 at all?

17 MS. GONZALEZ: Well, the Code only  
18 addresses it when it's visible to the  
19 street, water view or golf view, but I do  
20 understand your position, as far as from  
21 the adjacent neighbor, when it's close by  
22 and there isn't any landscaping. We do not  
23 have a provision for that, no.

24 MS. KEON: Yeah. It would -- is there a  
25 need for one?

1           MR. FLANAGAN: Isn't that coming up in  
2 Attachment 10?

3           MS. KEON: Let me see. I think I saw that.

4           MS. GONZALEZ: No, we're only requiring  
5 either a wall or landscaping if it's visible to  
6 the street or water or golf view.

7           MS. KEON: Yeah, it's only the street and  
8 it's only the public view, not from --

9           MR. FLANAGAN: But I think Attachment K,  
10 later on, says, "Any a/c unit or equipment,  
11 except for window wall units, shall be screened  
12 from view with landscaping."

13          MR. SALMAN: From view.

14          MR. FLANAGAN: "Any a/c unit shall be  
15 screened from view.

16          THE CHAIRMAN: So why don't we address that  
17 when we get -- your concern when we get to that  
18 area?

19          MS. KEON: Okay. If that's what that  
20 intent was. You know, I think I just read it as  
21 view from the street, also. Okay.

22          THE CHAIRMAN: Yeah. Well, is there -- is  
23 there any motion on --

24          MR. SALMAN: I'll make a motion to accept  
25 the change, with the following amendment, to

1 change the words -- leave "a wall" and insert  
2 the word "or" instead of "and."

3 MR. COE: Second as amended.

4 THE CHAIRMAN: There's a second for that.  
5 Is there any discussion -- further discussion on  
6 this?

7 No more discussion. We'll call the roll,  
8 please.

9 MS. MENENDEZ: Eibi Aizenstat?

10 MR. AIZENSTAT: Yes.

11 MS. MENENDEZ: Robert Behar?

12 MR. BEHAR: Yes.

13 MS. MENENDEZ: Jack Coe?

14 MR. COE: Yes.

15 MS. MENENDEZ: Jeff Flanagan?

16 MR. FLANAGAN: Yes.

17 MS. MENENDEZ: Pat Keon?

18 MS. KEON: Yes.

19 MS. MENENDEZ: Javier Salman?

20 MR. SALMAN: Yes.

21 MS. MENENDEZ: Tom Korge?

22 THE CHAIRMAN: Yes.

23 MS. GONZALEZ: Item Number 10 is just an  
24 error in the number noted under "Division," that  
25 it should be Number 17.

1 THE CHAIRMAN: Will you -- will you tell us  
2 what -- which section that is?

3 MR. RIEL: Attachment C.

4 THE CHAIRMAN: Attachment C?

5 MR. RIEL: Yes.

6 THE CHAIRMAN: Thank you.

7 MS. GONZALEZ: Article 5, Section  
8 5-603-H-6.

9 THE CHAIRMAN: Thank you.

10 MR. COE: It's just a numerical mistake,  
11 right?

12 MS. GONZALEZ: Pardon me?

13 MR. FLANAGAN: A scrivner's error?

14 MR. COE: Is that a scrivner's error?

15 MS. GONZALEZ: Yes, Number 10 is a  
16 scrivner's error.

17 MR. BEHAR: Okay. Motion to approve.

18 MR. COE: Second.

19 THE CHAIRMAN: A motion and a second.

20 Any discussion? No discussion, we'll call  
21 the roll, please.

22 MS. MENENDEZ: Jack Coe?

23 MR. COE: Yes.

24 MS. GONZALEZ: Jeff Flanagan?

25 MR. FLANAGAN: Yes.

1 MS. MENENDEZ: Pat Keon?

2 MS. KEON: Yes.

3 MS. MENENDEZ: Javier Salman?

4 MR. SALMAN: Yes.

5 MS. MENENDEZ: Eibi Aizenstat?

6 MR. AIZENSTAT: Yes.

7 MS. MENENDEZ: Robert Behar?

8 MR. BEHAR: Yes.

9 MS. MENENDEZ: Tom Korge?

10 MR. CHAIRMAN: Yes.

11 MS. GONZALEZ: Item 11 is similar to Item  
12 8. It's in reference to mechanical equipment.  
13 This particular one specifies hot water storage  
14 tanks, and we were having the same situation,  
15 where screening it with a wall was becoming very  
16 difficult for some of these older buildings and  
17 therefore we -- we wanted to leave it up to the  
18 purview of the Board of Architects.

19 MR. SALMAN: We have a situation where we  
20 have exterior mounted hot water tanks?

21 MS. GONZALEZ: Not that I'm aware of,  
22 but it's in the code. I don't know if the  
23 City Architect knows of the (inaudible)  
24 modern storage tank on top.

25 MR. SALMAN: Do you -- do you ever see

1           that?

2           THE CHAIRMAN:  This isn't dealing with  
3           the -- the solar collectors, is it?

4           MR. SALMAN:  No, this -- this is water  
5           storage for solar pressure

6           MR. COE:  It says, "solar water" here.

7           (Simultaneous speaking)

8           MS. GONZALEZ:  Solar panels.

9           MR. AIZENSTAT:  Is this for solar panels or  
10          actual water heaters that are outside?

11          MR. MINDREAU:  I think this is really  
12          intended to deal with the issue of solar water  
13          heaters -- I mean, water -- yeah, water heaters  
14          that are rooftop mounted.

15          In some cases, these have external tanks.  
16          They're not always -- they're not always  
17          concealed inside the -- the structure, and so I  
18          think that it's an attempt to deal with that.  
19          It's probably one of those old remnants that  
20          were in the code, and it's just been passed on.

21          And so I -- so I --

22          MR. BEHAR:  You're proposing it to be at  
23          the discretion of the Board of Architects?

24          MR. MINDREAU:  Right.  And that's the  
25          reason that we're doing a lot of these things at

1 the discretion, because to -- to put a fast hard  
2 set rule, you know, you -- I can think right  
3 away of a hundred exceptions that should not  
4 happen, so we're leaving it at the discretion of  
5 the Board.

6 MR. BEHAR: Uh-huh. I don't have a problem  
7 with that one.

8 MR. FLANAGAN: If I may say something.

9 THE CHAIRMAN: Is there a motion to  
10 approve?

11 MR. BEHAR: Yeah, I'll make a motion.

12 MR. FLANAGAN: Wait. Do we need to take  
13 out the language that's been in there all along?

14 MR. MINDREAU: We should.

15 MR. FLANAGAN: If you strike out "or  
16 incorporating some other architectural feature,"  
17 I read it to be that now you can incorporate it.  
18 If we leave -- if you can incorporate it, then  
19 you should be, I think, allowed to incorporate  
20 it, and if you can't, and you want to screen it  
21 some other way, leave it up to the discretion of  
22 the Board of Architects, maybe. So that you've  
23 stricken through language that maybe it  
24 shouldn't be stricken through it, it should  
25 merely be an addition.

1           THE CHAIRMAN:    We have a motion.  Do you  
2           want to withdraw the motion or amend the motion?

3           Who made the motion?

4           MR. BEHAR:  I made the motion, but I -- I  
5           feel comfortable with the Board of Architects  
6           making the decision of what it should be.  I  
7           don't want -- I don't feel that we should, at  
8           this point, make -- you know, recommend any  
9           method of concealing that -- that equipment.

10          I rather have, on a case by case, the Board  
11          of Architects recommend for that particular  
12          situation the best, you know, mechanism.

13          MR. COE:  I'll second the motion.

14          THE CHAIRMAN:  I think what Joe -- Jeff is  
15          asking is whether the deletion of the language  
16          "or shall be incorporated in some architectural  
17          feature, such as cupolas, chimneys, et cetera,"  
18          would be interpreted or perhaps misinterpreted  
19          to preclude hiding or screening the -- the  
20          rooftop storage tanks by incorporating it into  
21          an architectural feature, such as a copula or  
22          chimney?  You -- you don't read it that way?

23          MR. BEHAR:  No.

24          THE CHAIRMAN:  Okay.

25          MS. KEON:  If it -- if it was -- if it was

1 design and/or screening material, does that make  
2 -- does that, "by design," include all of these  
3 items that are down here, that you're striking?

4 THE CHAIRMAN: I don't know. I don't know.

5 MR. COE: I think we've beaten this to  
6 death.

7 THE CHAIRMAN: I was comfortable with --  
8 with the amendment proposed, but if you think  
9 that is more restrictive in some way --

10 MR. BEHAR: I -- I think that you will  
11 restrict, and you will have forced them, you  
12 know, to -- to incorporate, One, a solution that  
13 may not be --

14 THE CHAIRMAN: May not be what's best.

15 MR. BEHAR: -- appropriate for that, and I  
16 think that the Board of Architects will have the  
17 discretion to approve and recommend a solution,  
18 an adequate solution, that will conceal the --  
19 you know, that equipment.

20 My personal feelings.

21 THE CHAIRMAN: Yeah. Yeah. I see. So you  
22 don't have that alternative, it will all -- the  
23 Board has final say?

24 MR. BEHAR: Right.

25 THE CHAIRMAN: Yeah.

1 MR. FLANAGAN: They just want the power.

2 THE CHAIRMAN: Is there a second for the  
3 motion?

4 MR. COE: I've already seconded the motion.

5 THE CHAIRMAN: I'm sorry, I didn't hear the  
6 second.

7 There's a motion and a second. Any more  
8 discussion on the motion?

9 No discussion, let's call the roll, please.

10 MS. MENENDEZ: Jeff Flanagan?

11 MR. FLANAGAN: Yes.

12 MS. MENENDEZ: Pat Keon?

13 MS. KEON: Yes.

14 MS. MENENDEZ: Javier Salman?

15 MR. SALMAN: Yes.

16 MS. MENENDEZ: Eibi Aizenstat?

17 MR. AIZENSTAT: Yes.

18 MS. MENENDEZ: Robert Behar?

19 MR. BEHAR: Yes.

20 MS. MENENDEZ: Jack Coe?

21 MR. COE: Yes.

22 MS. MENENDEZ: Tom Korge?

23 THE CHAIRMAN: Yes.

24 MR. COE: Now we're moving.

25 THE CHAIRMAN: Two to go.

1 MS. GONZALEZ: Item 12 is very similar,  
2 again, to Items 8 and the one we just reviewed.

3 Section 5-1802 is also referring to  
4 screening of rooftop equipment. We deleted the  
5 wording of "parapet or some other type of  
6 masonry wall or screening," so it could be up to  
7 the discretion of the Board of Architects,  
8 again, for the design and the material.

9 And we also took out what Mr. Behar was  
10 referring to originally, of "on a horizontal  
11 plane of observation."

12 MR. BEHAR: I'll make a motion to approve.

13 MR. COE: Second it.

14 THE CHAIRMAN: There's a motion, and a  
15 second.

16 Let me just ask a quick question. Does any  
17 of this deal with solar collectors or portable  
18 takes -- photovoltaic cells that, you know --

19 MR. SALMAN: Apparatus. Apparatus  
20 installed on the roof.

21 MR. COE: That's the next one, is  
22 apparatus.

23 THE CHAIRMAN: Are we -- are we addressing  
24 -- are we giving the Board of Directors -- the  
25 Board of Architects a decision on how those

1 items can be installed or are we placing  
2 restrictions on the installation of solar cells,  
3 for example?

4 MR. MINDREAU: That's the -- like the  
5 \$64,000 question. They're just now coming into  
6 the scene heavily and we're getting into having  
7 to address that.

8 By Federal -- I mean, by State statute, we  
9 have to -- we cannot deny them. Now, we can  
10 require them to install them in a manner that is  
11 compatible with the requirements of the City  
12 aesthetically, and that's where we are right  
13 now, and I don't think that you can, you know,  
14 simply amend or pass legislation without  
15 seriously studying this. So I think that it's  
16 best to leave it up to the Board of Architects.

17 You know, we are -- we are taking the  
18 position of being very careful, to make sure  
19 that we prevent the City from becoming an  
20 industrial community, in the -- in the sense of  
21 those elements.

22 So when they are not visible from the  
23 street, there's very little problem in approving  
24 almost any of them, as long as they're  
25 installed -- architecturally well installed,

1           and -- from a technical aspect.

2           When they face the street, it's a whole  
3           different scenario. There are some of the  
4           historic homes that are either on -- on  
5           Greenway -- North and South Greenway, that have  
6           the original solar collectors, and, you know,  
7           quite honestly, when they're installed well,  
8           they're not that objectionable, when they're in  
9           view, and so, you know, it's -- it's a technical  
10          element and well-installed, it works well.

11          When you have to be careful is when you  
12          begin to look like you just strapped them up  
13          there with Scotch tape and -- and bolted them.

14          THE CHAIRMAN: So this will give the Board  
15          of Architects the authority to decide how --

16          MR. MINDREAU: Right.

17          THE CHAIRMAN: -- and to what extent they  
18          can be installed, and, then, if later you want  
19          to set more specific standards, you're going to  
20          bring it back to us?

21          MR. SALMAN: To the Chair, we keep saying  
22          that the Board of Architects is going to design  
23          it. They don't design it. All they do is  
24          approve the design that is submittal --  
25          submitted by the owner's architect.

1 THE CHAIRMAN: Correct.

2 MR. COE: Right.

3 MR. SALMAN: And -- and the way it reads  
4 right now, it says, "Subject to the discretion  
5 and approval from the Board of Architects for  
6 design and screening material," that's the  
7 intent. At least that's how I read it. Am I  
8 correct, because we keep talking about them  
9 designing it, and I have a problem with that?

10 MR. COE: Well, they're approving it.

11 MR. SALMAN: But they're approving it.  
12 They're approving the design that's submitted.

13 MR. MINDREAU: No, we -- right. The  
14 architect involved with the application would be  
15 the designing architect. The Board of  
16 Architects can recommend a direction. We -- we  
17 really make it clear that we are not designing  
18 for the clients.

19 (Simultaneous speaking.)

20 MR. BEHAR: Well, this is -- in some cases,  
21 they've even set up guidelines for the architect  
22 to follow.

23 MR. MINDREAU: That's right. Computer  
24 guidelines -- you know, if I -- if I come up  
25 with specifications that I can -- you know, hard

1           copies that I can -- that I can give them, I  
2           will certainly guide them in that direction,  
3           "Look at this particular website."

4           THE CHAIRMAN: Well, I mean, this raises a  
5           real question in my mind about whether we could  
6           even install solar panels that are on the roof,  
7           because how are you going to screen them from  
8           view?

9           MR. MINDREAU: That was a problem, that  
10          they couldn't. You know, the technicians that  
11          were reviewing were -- some -- if you take a  
12          literal approach, you know, you -- you kill  
13          yourself. You have to have the flexibility of  
14          balancing the issue aesthetically and the  
15          technical aspects of it.

16          MR. SALMAN: Well, it's the same way you  
17          would hide a -- a solar water heater collector.  
18          If it's on the north side of the building, and  
19          your building faces -- on the south side of the  
20          building, if your building faces north, you put  
21          it on the south eave, you can't see it from the  
22          street, you're done.

23          MR. MINDREAU: Right. Right.

24          MR. SALMAN: Okay. Where it's the  
25          opposite, you put it on a flat foot, with a

1 parapet around it, and you don't see it.

2 THE CHAIRMAN: What if it's not a flat  
3 roof?

4 MR. MINDREAU: In a flat roof, sure.

5 MR. FLANAGAN: Well, then -- then you've  
6 got to be creative.

7 THE CHAIRMAN: No, I'm not asking how to do  
8 it, I'm really asking whether under this  
9 language it -- it would flatly prohibit the  
10 Board of Architects even from approving it,  
11 because it can't really be screened.

12 In other words, is it -- are we saying that  
13 under no circumstances can you see at all the --  
14 you know, within reason, of course, the -- the  
15 solar panel or is it, you know, we just want it  
16 to look nice? Because it doesn't say we want it  
17 to look nice, it says you can't see it.

18 MR. MINDREAU: No, it has to -- it has to  
19 be -- it has to look well. That's why I believe  
20 that at the discretion of the Board, we can make  
21 that decision, hopefully between -- there are  
22 enough professionals on the Board, that that  
23 decision can be made relatively -- I mean,  
24 within reason, very appropriately.

25 The problem is that you -- I don't think

1           you can -- you can't screen them. There are  
2           certain circumstances that are very readily  
3           available to us, you know, when you're -- when  
4           you're facing -- when your house faces to the  
5           south, that's where the collector has to be and  
6           if you don't have a flat roof, there you are.  
7           You're exactly in this scenario.

8           So what you have to do then is you have to  
9           install it very well, making sure to take the  
10          precautions that the -- that the straps or the  
11          anchors are not too -- too mechanical, that  
12          they're concealed well.

13          If you have a -- a tile roof, then you --  
14          then you flash out and install it prior to the  
15          tile --

16          THE CHAIRMAN: Right

17          MR. MINDREAU: -- and that you bring the  
18          tile up to the sides, so that the application  
19          doesn't look like -- you know, like -- I use the  
20          term orthopedic shoes, just because -- not  
21          because they're undesirable, because they --

22          THE CHAIRMAN: I don't have a problem with  
23          that, but I guess what I'm asking is, does this  
24          language allow the Board of Architects to make  
25          that decision, because it talks about being

1 screened from view and not really, you know,  
2 attractive if -- if viewed? Do you see the --  
3 the difference in what I'm saying?

4 MR. MINDREAU: I see your point.

5 THE CHAIRMAN: And I'm -- you know, five  
6 years from now, people reading this, or even a  
7 year from now, aren't going to remember our  
8 discussion.

9 So I don't know if this language is  
10 adequate for that particular purpose, and I  
11 think this is going to become more and more  
12 common practice, to incorporate photo -- you  
13 know, the solar cells into the roofs.

14 MR. MINDREAU: The photovoltaic tank  
15 systems are even more expensive than --

16 THE CHAIRMAN: Yeah.

17 MR. MINDREAU: -- the hot water collectors.  
18 I mean, you have a much larger --

19 THE CHAIRMAN: And I think they could be  
20 installed so that they're not unattractive --

21 MR. MINDREAU: Sure.

22 THE CHAIRMAN: -- but this doesn't really  
23 address -- this is really dealing with different  
24 issues, and now we're talking about these cells.  
25 They're going to be popular very soon. So we

1           need to address them in some way. I don't know  
2           if this the time or place.

3           MR. COE: That -- that would be a separate  
4           ordinance, I would think.

5           THE CHAIRMAN: But right now this would  
6           seem to cover it.

7           MR. SALMAN: Well, and at that point, if  
8           we're going to have solar collective roofing  
9           materials, that's going to have to be a material  
10          that's going to have to be approved, and there's  
11          mechanisms and processes for that.

12          I can -- I can foresee a time when the --  
13          when the actual tiles that we use to protect us  
14          from the rain might actually -- might actually  
15          also collect electricity for us --

16          THE CHAIRMAN: Yeah.

17          MR. SALMAN: And at that point, it becomes  
18          an aesthetic question.

19          Right now, the state of technology is such  
20          that these panels, the only way they work, and  
21          they're not very efficient, by the way, is that  
22          they're assembled in groups and they're big  
23          panels, like a solar water heater collector.  
24          They look almost exactly the same. It's kind of  
25          -- except they're much bigger, to get any kind

1 of real voltage out of them, and they're pretty  
2 much a contraption.

3 I can't see how you're going to be able to  
4 get it tastefully incorporated into a roof that  
5 you can see from the street right now, and I  
6 don't have a problem.

7 THE CHAIRMAN: I've seen pictures -- I've  
8 seen pictures of them where they're actually --  
9 as you've described, they're -- they're  
10 installed on the roof, before any tiles are  
11 installed, and the tiles are installed around  
12 it, so that it appears to fit within -- it's not  
13 just a big box sitting on top of your roof.

14 Having said all that --

15 MR. FLANAGAN: Still, but even with tile  
16 around it, you've got this big black thing  
17 sitting on the middle of your roof, visible from  
18 the street.

19 MR. BEHAR: But by the same token, under  
20 the State law, you cannot prohibit a person from  
21 installing it.

22 MR. MINDREAU: Right.

23 MR. SALMAN: But we're not prohibiting,  
24 we're just limiting the visibility of it.

25 MR. BEHAR: Well, but with this -- what I

1 take from this is that the Board of Architects  
2 will find a -- a method that will conceal it to  
3 the best possible way.

4 MR. SALMAN: They're responsible for it.  
5 That's why I don't have an objection to the --  
6 to the statement the way it is.

7 MR. AIZENSTAT: Isn't that why we have the  
8 Board of Architects?

9 MR. SALMAN: Yes.

10 THE CHAIRMAN: Yes, and this doesn't say  
11 that -- it does say that. It says that it has  
12 to be concealed --

13 MR. SALMAN: Uh-huh.

14 THE CHAIRMAN: -- and what I'm telling you  
15 is that -- that if you've got a sloped roof,  
16 then you're not going to be able to conceal it.  
17 That's a fact. I mean --

18 MR. MINDREAU: Perhaps the change should be  
19 from -- from concealed to installed -- installed  
20 appropriately or, you know, installed in  
21 accordance with --

22 MR. SALMAN: No.

23 MR. CHAIRMAN: I don't know what the  
24 language should be. I'm just suggesting that in  
25 dealing with this particular type of equipment,

1           if you will, the solar cells, that this -- I  
2           don't think this is thought through from that  
3           perspective.

4           It covers everything else, I think, great.  
5           I mean, I don't have a problem with that. I  
6           don't know whether, you know, maybe we just pass  
7           this and then maybe you all come back later with  
8           some suggestions on how to deal with solar  
9           cells, and even the hot water solar panels.

10          MR. SALMAN: Yeah, Tom, I think that --  
11          honestly, if you have -- if you -- let's say you  
12          have a south facing house, okay, where you have  
13          to have the stuff -- whether the water heater or  
14          the electrical collector, facing south, to get  
15          the sun. You're not going to make it face  
16          north, it ain't going to work. You put it on  
17          the back side of the roof.

18          MR. BEHAR: Put it on the back side, up.

19          MR. SALMAN: And have it face north -- face  
20          south, but below the eave -- the ridge line.

21          MR. BEHAR: Ridge line.

22          MR. SALMAN: And you won't even see it. All  
23          I'm saying is, we don't have to necessarily see  
24          it. There's lots of ways to do it. Let the  
25          Board of Architects work it out.

1 MS. SALAZAR-BLANCO: Mr. Chair, let me  
2 clarify your concerns. First of all, these --  
3 this text amendment that Elizabeth was  
4 presenting was not including the solar water  
5 panels that -- that you are discussing.

6 There is a separate section in the Zoning  
7 Code for that.

8 THE CHAIRMAN: Okay. Then I don't need to  
9 bother you anymore. I thought this would cover  
10 it.

11 MS. SALAZAR-BLANCO: And -- so it is -- it  
12 says, "Solar water heaters and equipment," and  
13 it is under a separate section, and it has its  
14 -- its requirements, the size of the locations,  
15 the way its attached. So this is not included  
16 as part of this text amendment.

17 THE CHAIRMAN: Then can I ask you a real  
18 quick question?

19 Does that other provision deal with the  
20 solar cells, the photovoltaic cells, as well?

21 MS. SALAZAR-BLANCO: "Rooftop water storage  
22 tank (inaudible) shall be screened from view or  
23 shall be incorporated in some architectural  
24 feature, such as copulas, chimneys, et cetera."

25 So it does say it -- it does say that for

1 the solar water heaters and equipment.

2 MS. KEON: Is your concern, Tom, that  
3 requiring them to be screened, that eventually  
4 you could prohibit them from -- from being  
5 installed?

6 THE CHAIRMAN: Yeah, and I don't want to  
7 make a big deal out of it now. I don't want to  
8 hold this up anymore.

9 MS. KEON: Correct. Yeah.

10 MR. CHAIRMAN: What I'm trying to suggest  
11 is that you all should look at that separately,  
12 and, then, if you think we need --

13 MS. SALAZAR-BLANCO: Yes.

14 THE CHAIRMAN: I don't know. I don't want  
15 to beat a dead horse here.

16 MS. SALAZAR-BLANCO: It would be. It would  
17 be. It would be a separate text amendment, a  
18 separate ordinance, that we can come back with  
19 that, if you wish, later on.

20 THE CHAIRMAN: Okay. Because right now,  
21 the way I read this, it could -- it could create  
22 -- it could be read to create a problem with  
23 that. Okay.

24 MS. SALAZAR-BLANCO: I understand.

25 THE CHAIRMAN: All right. We have a motion

1 and a second?

2 MR. COE: I think we already did that.

3 THE CHAIRMAN: Yes. And any further  
4 discussion than mine?

5 Let's call the roll, please.

6 MS. MENENDEZ: Pat Keon?

7 MS. KEON: Yes.

8 MS. MENENDEZ: Javier Salman?

9 MR. SALMAN: Yes.

10 MS. MENENDEZ: Eibi Aizenstat?

11 MR. AIZENSTAT: Yes.

12 MS. MENENDEZ: Robert Behar?

13 MR. BEHAR: Yes.

14 MS. MENENDEZ: Jack Coe?

15 MR. COE: Yes.

16 MS. MENENDEZ: Jeff Flanagan?

17 MR. FLANAGAN: Yes.

18 MS. MENENDEZ: Tom Korge?

19 THE CHAIRMAN: Yes.

20 MS. GONZALEZ: The final item, 13, is  
21 Section 5-1804, and also in keeping with  
22 the rest of the text amendments. We wanted  
23 to make this section applicable to all  
24 sections within the City, and we also  
25 wanted to -- to delete the specific feet

1           that was being required, and we wanted to  
2           delete Section B, which refers to  
3           generators, because generators have a  
4           section of their own within the Zoning  
5           Code, with different criteria.

6           MR. COE: Move to approve it, Mr. Chairman.

7           MR. BEHAR: Second.

8           THE CHAIRMAN: A motion and a second. Any  
9           discussion, questions?

10          MS. KEON: Can I ask a question? This is  
11          where -- this isn't just visible from the  
12          street, this is required, regardless of where  
13          it's placed in someone's yard or whatever, it  
14          has to be screened?

15          MS. GONZALEZ: No. This is -- it is always  
16          been the procedure that it's either visible from  
17          the street, the water or the golf -- or the  
18          golf -- golf.

19          MS. KEON: Okay. Because it doesn't say  
20          that. It says, "Shall be visually screened from  
21          view." That view is not -- there's lots of  
22          different views.

23          MS. GONZALEZ: And -- and it also goes  
24          on to say, "In addition to the requirements  
25          of Article 5, Division 6, Section" -- which

1 is the one that we did a little while ago,  
2 which talks about being screened from the  
3 street, waterway, bay or golf course.

4 MS. KEON: Okay. So that would -- I -- I  
5 really think that we should look at sort of the  
6 protection -- I mean, I don't know whether it's  
7 an issue or not.

8 MR. SALMAN: There's nothing to stop you,  
9 the property owner, from putting a hedge on your  
10 side to block your neighbor's view -- your view  
11 of the neighbor's equipment.

12 MR. FLANAGAN: But I think this requires  
13 the homeowner to -- I read it, I think, the way  
14 Pat read it. Subparagraph D says, "Any air  
15 conditioning unit, except for window wall units,  
16 shall be visually screened from view," period.

17 MS. KEON: But they're saying view only  
18 from the street, golf course or waterway.

19 MR. FLANAGAN: Because it says -- but, see,  
20 this says, "It shall be screened from view,"  
21 which is in addition to the requirements of --

22 THE CHAIRMAN: That would be your  
23 neighbor's view, on the side yard.

24 MR. FLANAGAN: Correct.

25 MS. KEON: That's -- that's -- I would read

1           that to be your neighbor's view --

2           MR. FLANAGAN: From the side or the back.

3           MS. KEON: -- in addition to, you know, the  
4           street or whatever, whatever, that would also  
5           be from your neighbor's view.

6           MR. FLANAGAN: And for those people that  
7           live on larger lots, whatever it may be -- I  
8           mean, if you've got your a/c unit in the back of  
9           your house, in the middle of your yard, and now  
10          you're forced -- you've being told what to do, I  
11          mean, to screen your a/c unit, when nobody --  
12          when nobody's around for however many hundreds  
13          of feet --

14          THE CHAIRMAN: Well, that's -- that's a  
15          current requirement, except that it's changed --  
16          they deleted the -- they've changed the -- the  
17          requirements from the setback and it allowed  
18          the -- the change that I was going to ask about  
19          was the deletion of the 15 feet of any street or  
20          waterway property line.

21          So that, I guess, is going to create some  
22          non-conforming uses now?

23          MR. SALMAN: Well, actually, it resolves a  
24          lot of the problems.

25          (Simultaneous speaking.)

1 MS. SALAZAR-BLANCO: No. It's actually  
2 unclear, because of the side street setbacks.  
3 Some setbacks are at 15, some were at 25 feet  
4 and it was not clear, so people were taking it  
5 as, "Well, the Code says 15, and my -- my set --  
6 front setback is 25, so I can go up to 15."

7 THE CHAIRMAN: That's what it does say.

8 MR. FLANAGAN: Sure.

9 THE CHAIRMAN: That's why I'm asking.

10 MS. SALAZAR-BLANCO: Right, and that's --  
11 and -- and then --

12 THE CHAIRMAN: But you never interpreted it  
13 that way?

14 MS. SALAZAR-BLANCO: No.

15 THE CHAIRMAN: Okay. So you're -- this is  
16 clarifying language, it's not really a  
17 substantive change?

18 MS. SALAZAR-BLANCO: That is clarifying.

19 That's correct. That's correct.

20 MR. CHAIRMAN: Okay.

21 MS. KEON: Does the Code require that --  
22 that pool pumps and all of that be housed?

23 MS. SALAZAR-BLANCO: Not housed, but  
24 that -- screened.

25 MR. SALMAN: Separated.

1 THE CHAIRMAN: Screened.

2 MR. SALMAN: Screened.

3 MS. KEON: Be screened.

4 So I mean, I think that's the same thing.  
5 To me, that's the same issue. If you're going  
6 to require pool pumps and mechanical equipment  
7 in somebody's yard, associated with a pool, to  
8 be screened, I would think it would be for the  
9 same reason you would screen air conditioning  
10 and other equipment.

11 I think it's noise and visibility, and I  
12 don't think we should force if somebody puts it  
13 there, out near the -- I think they should also  
14 be required to deal with the issues that it  
15 creates for their neighbor, not the neighbor  
16 having to then build walls or whatever to  
17 maintain, you know, their quality of living.

18 MR. FLANAGAN: But I go back, if it's -- at  
19 this point, no matter where it is on your  
20 property, it has to be screened.

21 MS. KEON: Well, they're saying, "No."  
22 Their interpretation is that that's not the  
23 case. Their interpretation is that it's from --

24 MS. SALAZAR-BLANCO: We were just focusing  
25 on street view, golf course and waterway.

1           However, if the Board feels that it -- that it  
2           should be screened from the neighbor's view,  
3           such as side property lines, that's okay. I  
4           don't think it's necessary, but --

5           MR. FLANAGAN: That's not where I was  
6           going.

7           No, and that's not -- I'm sorry, that's not  
8           where I was going. I mean, if -- if you want to  
9           screen it from your neighbors, then I would  
10          leave where -- when it's closer than 15 feet --  
11          I would leave the 15 or 25 feet requirements in  
12          there, because then you're getting awfully close  
13          to your neighbor's property and maybe it is  
14          appropriate to screen it, as I read it as  
15          drafted.

16          MS. SALAZAR-BLANCO: Well, the -- the  
17          a/c units, they're never going to be any  
18          closer than five feet, and normally even at  
19          five feet, they normally do put screening  
20          anyway, landscape. They don't like to have  
21          it right there so close to the property  
22          line -- side property line.

23          MS. KEON: I just think they --

24          MR. FLANAGAN: Now, Martha, help me  
25          understand as is -- I'm sorry -- as is drafted.

1 I think I read it the way, Pat, you read it.

2 MS. KEON: Right.

3 MR. FLANAGAN: That you have to -- that no  
4 matter where it is, it now needs to be screened.

5 MS. KEON: Right. I would have thought  
6 that it would be consistent with pool equipment  
7 and all of that. I would think that you would  
8 see -- you should see consistency in your Code  
9 of screening from mechanical equipment, such as  
10 you now have for pools.

11 I don't know why you wouldn't. You know,  
12 you're going to require people to screen the  
13 mechanical equipment for pools, why wouldn't you  
14 require them to screen the mechanical equipment  
15 associated with other stuff?

16 MR. FLANAGAN: Well, let's take out the  
17 requirement for pools, I mean, rather than  
18 continue to impose more requirements.

19 MS. KEON: Yeah. One or the other. I  
20 mean, I think it should be -- there should be  
21 consistency between -- with mechanical  
22 equipment.

23 MS. SALAZAR-BLANCO: Let me -- let me ask  
24 you, you're asking -- are you trying to clarify  
25 or would like for us to clarify as far as pool

1 pumps and things like that, that they should  
2 also be screened from view? Is that --

3 MS. KEON: I'm asking you if they are  
4 currently.

5 MS. SALAZAR-BLANCO: Yes, and where we get  
6 that from is where it says, "And any other types  
7 of mechanical equipment or apparatus," and with  
8 the word apparatus, that's where we get the  
9 screening for that.

10 MS. KEON: Right. And so when you talk  
11 about -- in -- in -- with regard to pool pumps,  
12 their screening from view, is that also only  
13 from the street, waterway, golf courses,  
14 whatever, or is it that they have to be screened?

15 MS. SALAZAR-BLANCO: Only -- right now it's  
16 only from street, waterway or golf course.

17 MR. FLANAGAN: From the right-of-way.

18 MS. KEON: Is that right?

19 MR. FLANAGAN: Yes.

20 MS. KEON: Oh, I thought you were required  
21 now --

22 MR. FLANAGAN: No, the way it reads is, it  
23 looks like it's in conflict with your  
24 interpretation.

25 MS. KEON: Yeah, that's all.

1           THE CHAIRMAN: Well, I'm just having  
2           problems with the 15 feet, because are you  
3           saying that it's never going to be allowed  
4           within fifteen feet of any street or waterway,  
5           property line, going forward?

6           MS. SALAZAR-BLANCO: That's correct.

7           THE CHAIRMAN: And so that language  
8           should've never been in there and you've  
9           never -- and you interpreted it as never having  
10          been in there?

11          MS. SALAZAR-BLANCO: That's right. That's  
12          correct.

13          THE CHAIRMAN: How can you interpret that  
14          as not having been in there? I don't understand  
15          that.

16          MS. SALAZAR-BLANCO: Well, there was  
17          discrepancies or there was -- actually, when  
18          this was written, there was -- since it was not  
19          clear, there was an interpretation in the  
20          Department that it would be allowed to have air  
21          -- a/c condensing units in the 15-foot setback.  
22          So we might see one or two out there. When they  
23          realized that we were -- that that was being  
24          allowed, then it was interpreted that, no, they  
25          must meet the -- they must meet the setbacks for

1           25 feet.

2           So that was not --

3           THE CHAIRMAN: Because if -- if --

4           MS. SALAZAR-BLANCO: -- that was not  
5           written actually correct, so there was an  
6           interpretation that it needed to meet the  
7           25-foot setback, and all we're trying to do is  
8           clarify it and just put it that -- first of all,  
9           the a/c units can never be closer than 25 feet,  
10          because the setbacks for that house or whatever  
11          they are, it's -- that's what they need to meet,  
12          no matter what structure it is, whether it's an  
13          a/c, whether it's the house, whatever it is,  
14          they need to meet the setback. So we don't --

15          THE CHAIRMAN: So if -- if the --

16          MS. SALAZAR-BLANCO: -- we do not need to  
17          put 25 feet or 15 feet.

18          THE CHAIRMAN: Well, let's continue with  
19          that for a second, because it -- it's a 25-foot  
20          setback for the house, let's say, a side setback  
21          is 25 feet --

22          MS. SALAZAR-BLANCO: Uh-huh.

23          THE CHAIRMAN: -- then you're saying that  
24          the house can't be built up to the setback,  
25          because the house has to be set back from the

1 setback, in order to fit the mechanical  
2 equipment? Is that what we're saying?

3 MS. SALAZAR-BLANCO: Correct.

4 THE CHAIRMAN: Is that the way -- is that  
5 the practice? Javier, is that the way --

6 MR. SALMAN: No. That's not the way it's  
7 been interpreted.

8 MS. GONZALEZ: No, not necessarily.  
9 The house does not have to be set back in  
10 order to accommodate the a/c. It could be,  
11 if designed to be set back off the setback  
12 line to accommodate the equipment, but  
13 the -- if you are proposing a residence or  
14 a building built to the setback line, and  
15 the alternative were to be -- is to find  
16 another location for the a/c, but we are  
17 not requiring that you build the building  
18 set back off the property line to  
19 accommodate the mechanical equipment.

20 THE CHAIRMAN: Yeah, but most -- most  
21 houses, I'm not really an expert on  
22 architecture, but I think most houses prefer to  
23 have the air -- the a/c on -- on the side, not  
24 in the back, because then it intrudes into the  
25 backyard. Nobody really uses their side yard,

1           so, you know, neighbor-to-neighbor, you've got  
2           air conditioning units facing each other, and  
3           nobody really cares.

4           So I'm -- what I'm concerned about is, this  
5           is going to move structures and effectively  
6           change the -- the -- the setback for the  
7           structure, because now you've got to move the  
8           structure and I -- the way I read this, again --

9           MS. SALAZAR-BLANCO: We're not asking for  
10          them to move the structure. It's more of a  
11          design issue, when they're going to -- if it's a  
12          new house, of course.

13          MR. BEHAR: Well, you know, that's --  
14          that's been the case, because in my  
15          particular house, I had to say, in order --  
16          because I'm very tight to the side, I moved  
17          part of the structure of the house, to  
18          accommodate the air conditioning unit to be  
19          within the setback. So, yeah, I mean,  
20          it -- it happens. It's not new. It's  
21          always been there.

22          MR. SALMAN: Yeah.

23          MS. SALAZAR-BLANCO: It doesn't happen  
24          very often, but it does happen sometimes.

25          MR. BEHAR: It happens.

1 THE CHAIRMAN: The flip -- okay. I just --  
2 okay. Well, I'm just -- I'm surprised that --

3 MR. BEHAR: You're right --

4 THE CHAIRMAN: -- that nobody reads 15 feet  
5 to mean 15 feet, except me. I mean, it says it  
6 right there. It wasn't like it just came up all  
7 of a sudden. How can you interpret it not to  
8 mean what it says? I don't understand that.

9 Was it just, somebody put it in  
10 inadvertently and they didn't want to change it,  
11 and that's why we're here now, many years later?

12 Well, it's surprising. Well, anyway, I  
13 have nothing else to add. Any --

14 MR. FLANAGAN: Yeah. Can I make -- can I  
15 make -- go ahead.

16 MS. KEON: Yeah, I --

17 THE CHAIRMAN: Go ahead.

18 MR. FLANAGAN: I want to ask if I can make  
19 an amendment. I think we have a motion and a  
20 second out there.

21 MR. BEHAR: I'll accept a friendly  
22 amendment.

23 MR. FLANAGAN: I would just suggest that  
24 Subparagraph 2 read, "Any a/c unit or equipment,  
25 except for window wall units, shall be visually

1 screened from view from the street, waterway,  
2 bay or golf course with landscaping," which  
3 shall be in addition to, and it mirrors the  
4 language from the last one that we did.

5 If that's still -- if that was the  
6 interpretation that I heard, from my  
7 understanding, and correct me, and that's the  
8 way it is interpreted.

9 MS. SALAZAR-BLANCO: With wall and  
10 landscaping or just landscaping?

11 MR. FLANAGAN: Shall be screened from view  
12 from --

13 MS. SALAZAR-BLANCO: We changed the other  
14 one to wall or landscaping.

15 MR. FLANAGAN: I'd say, wall or  
16 landscaping, yeah.

17 MR. BEHAR: I will go with that.

18 MR. FLANAGAN: Thank you.

19 MR. BEHAR: I'll accept your amendment.

20 MR. FLANAGAN: Thank you, Mr. Behar.

21 THE CHAIRMAN: Did the movant accept the  
22 amendment, too?

23 MR. COE: Yes. Yes.

24 THE CHAIRMAN: One more quick question. We  
25 deleted Subparagraph B of that section, which

1 deals with the -- the permanent generators?

2 MS. SALAZAR-BLANCO: That's correct.

3 There's a separate section for generators.

4 THE CHAIRMAN: Okay. So this is conforming  
5 to that?

6 MS. SALAZAR-BLANCO: That's right.

7 THE CHAIRMAN: Okay. Thank you.

8 Any other questions or discussion?

9 MR. AIZENSTAT: Javier.

10 MR. SALMAN: I had -- I had just a  
11 recollection, when we had this discussion during  
12 the -- the zoning re-write, the original  
13 requirement was that all mechanical equipment  
14 had to be set back the 25 feet, same as the  
15 building, and on really narrow lots, when you  
16 have, you know, your 50 by 100-foot lots or 50  
17 by 125, that can be a hardship, because your  
18 side setbacks are so restrictive, and -- and we  
19 looked at that as -- if I recall correctly, as a  
20 possible solution to let them -- avoid Robert's  
21 problem, and let them put the a/c within an  
22 enclosure within -- in the front, that it would  
23 be screened. That was the intent.

24 Do you recall that?

25 MS. KEON: Yeah, it went in the side yard

1           and they allowed them to -- to build a wall  
2           around it or somehow incorporated --

3           MR. SALMAN:   Exactly.

4           MS. KEON:   -- into the design of the house  
5           so it could be --

6           THE CHAIRMAN:  And that's what this  
7           currently says, but now we're changing that and  
8           taking that out.

9           MR. SALMAN:  Well, that's -- I haven't  
10          voted on it yet --

11          THE CHAIRMAN:  Well, I'm just saying --

12          MR. SALMAN:   -- I'm just letting you know.

13          THE CHAIRMAN:  That's what it says, and I  
14          -- I'm at a loss to understand why, but anyway,  
15          any further discussion?

16          MR. BEHAR:   No, I do have a question,  
17          generators.  The -- that particular section  
18          would allow a generator to be within the  
19          setback; is that correct or --

20          MR. COE:   No, it's a separate, generators.

21          MR. BEHAR:   Yeah, but --

22          MS. SALAZAR-BLANCO:  It's the same setback  
23          as required for the residence.

24          THE CHAIRMAN:  So you can't screen it  
25          anymore?

1 MS. SALAZAR-BLANCO: And it says it does  
2 not need to be screened, either --

3 THE CHAIRMAN: We're rewriting all of this.

4 MS. SALAZAR-BLANCO: -- for generators.  
5 Generators has a totally different type of  
6 requirements from this.

7 THE CHAIRMAN: Okay.

8 MS. SALAZAR-BLANCO: Where generators  
9 cannot be put at the front yard whatsoever. It  
10 has to be at the rear. It needs to be at the  
11 side. So it does have different --

12 MR. BEHAR: Okay. Let -- let me ask you a  
13 question, because I'm -- I'm -- I'm using a  
14 house that is on the street in the front, but  
15 you have, let's say, the golf course or the  
16 water behind, and the -- the house is from --  
17 you know, from the sides, it's on the setback.  
18 So that particular, you know, house cannot  
19 incorporate a generator, because that -- if the  
20 -- the front is the street, the back is the golf  
21 course or a waterway, and then on both sides is  
22 to be -- built to the setback, you cannot  
23 incorporate a generator, correct?

24 MS. SALAZAR-BLANCO: Well --

25 MR. FLANAGAN: You can do it on the roof,

1 as long as you can't see it.

2 MR. COE: Put it on the roof. Hide it in  
3 the structure.

4 MR. BEHAR: Hide it with a chimney.

5 MR. AIZENSTAT: Or in the copula.

6 MR. BEHAR: I -- I thought that the  
7 generator would have a different requirement for  
8 side setback.

9 MS. SALAZAR-BLANCO: They do. They do.

10 MR. BEHAR: Okay.

11 MR. COE: Separate.

12 MR. FLANAGAN: Taking out of this  
13 section --

14 MR. BEHAR: I know, I understand. I'm just  
15 -- you know, that brought up another question  
16 that I had.

17 MR. COE: Call the question, Mr. Chairman.

18 THE CHAIRMAN: We cannot -- well, I want to  
19 see if I understanding this, one more time. We  
20 cannot move -- we cannot place an air  
21 conditioning unit within 15 feet of the rear or  
22 side property line or closer than 25 feet to any  
23 street or waterway property line with the visual  
24 screening and so forth? From now on, the visual  
25 screening would be required for everything, but

1           they all have to be within the setback?

2           MR. AIZENSTAT: And the visual screening  
3           can either be landscaping or --

4           MS. SALAZAR-BLANCO: That's correct.

5           MR. FLANAGAN: Landscaping or a wall.

6           THE CHAIRMAN: Right. Right.

7           MR. FLANAGAN: Okay. That pretty much  
8           covers all the amendments we just discussed.

9           THE CHAIRMAN: Right. I think this is  
10          going to change -- it's got -- a lot of people  
11          are going to be affected by this. Now, I think  
12          there are a lot of people who've put them more  
13          than 25 feet from the --

14          MR. SALMAN: I think it's -- it's overly  
15          restrictive. I think that we need to be able to  
16          let them use some of that setback area, in the  
17          case of adjacency to a right-of-way, because  
18          otherwise you're limiting the use of the  
19          building land within the setback, and you're  
20          further restricting their ability to build. So  
21          I'm probably going to vote against.

22          THE CHAIRMAN: Any -- any more discussion?

23          Then let's call the roll, please.

24          MS. MENENDEZ: Eibi Aizenstat?

25          MR. AIZENSTAT: Yes.

1 MS. MENENDEZ: Robert Behar?

2 MR. BEHAR: Yes.

3 MS. MENENDEZ: Jack Coe?

4 MR. COE: Yes.

5 MS. MENENDEZ: Jeff Flanagan?

6 MR. FLANAGAN: Yes.

7 MS. MENENDEZ: Pat Keon?

8 MS. KEON: No.

9 MS. MENENDEZ: Javier Salman?

10 MR. SALMAN: No.

11 MS. MENENDEZ: Tom Korge?

12 THE CHAIRMAN: No. The motion passes.

13 MR. AIZENSTAT: Yes.

14 THE CHAIRMAN: Nothing else on the agenda?

15 MR. RIEL: No. I've said enough for

16 tonight.

17 MR. COE: Move adjournment, Mr. Chairman.

18 THE CHAIRMAN: Adjourned.

19 MR. SALMAN: Second.

20 (Thereupon, the meeting was concluded at

21 7:30 p.m.)

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C E R T I F I C A T E

STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

I, NIEVES SANCHEZ, Court Reporter, and a  
Notary Public for the State of Florida at Large, do  
hereby certify that I was authorized to and did  
stenographically report the foregoing proceedings  
and that the transcript is a true and complete  
record of my stenographic notes.

DATED this 21st day of January, 2009.

\_\_\_\_\_  
NIEVES SANCHEZ