

**City of Coral Gables
 Planning and Zoning Board Meeting
 Wednesday, October 8, 2014
 Coral Gables City Commission Chambers
 405 Biltmore Way, Coral Gables, Florida**

MEMBERS	J9	F12	M12	A9	M14	J11	J9	A13	S10	O8	N8	D10	APPOINTMENT
	'14	'14	'14	'14	'14	'14	'14	'14	'14	'14	'14	'14	
Eibi Aizenstat - Chair	P	P	P	P	P	P	C	P	C	P			City Manager Patrick Salerno
Marshall Bellin	P	P	P	P	P	P	C	P	C	P			Commissioner Vince Lago
Anthony Bello	-	P	P	P	P	P	C	P	C	P			
Jeffrey Flanagan - Vice Chair	P	P	P	P	P	P	C	P	C	P			Commissioner Pat Keon
Julio Grabiell	P	P	P	P	E	P	C	P	C	P			Mayor Jim Cason
Maria A. Menendez	P	P	P	P	P	P	C	P	C	P			VM William H. Kerdyk, Jr.
Alberto Perez	P	P	P	P	P	E	C	P	C	P			Commissioner Frank C. Quesada

**P = Present
 E = Excused
 C = Meeting Cancelled**

City Staff and Consultants:

Charles Wu, Asst. Development Services Director
 Ramon Trias, Planning & Zoning Director
 Walter Carlson, Asst. City Planner
 Scot Bolyard, Principal Planner
 Megan McLaughlin, City Planner
 Craig E. Leen, City Attorney
 Jane Tompkins, Development Services Director
 Michael Miller, Asst. Police Chief
 Carlos Mindreau, City Architect
 Yamilet Senespleda, City Engineer

**Court Reporter:
 Joan Bailey**

Susan Trevarthen, Esq.
 Special Counsel to the City

City Commissioner Frank C. Quesada

Attachments:

- A. 10 08 14 Planning and Zoning Board Workshop Verbatim Minutes
- B. Comment submitted by Ms. Mary Lou Winker.

1 CITY OF CORAL GABLES
 2 LOCAL PLANNING AGENCY (LPA)/
 3 PLANNING AND ZONING BOARD MEETING
 4 VERBATIM TRANSCRIPT
 5 CORAL GABLES CITY HALL
 6 405 BILTMORE WAY, COMMISSION CHAMBERS
 7 CORAL GABLES, FLORIDA
 8 WEDNESDAY, OCTOBER 8, 2014, COMMENCING AT 6:08 P.M.

9 Board Members Present:
 10 Eibi Aizenstat, Chairperson
 11 Jeffrey Flanagan, Vice-Chairperson
 12 Marshall Bellin
 13 Anthony Bello
 14 Julio Grabiell
 15 Maria Alberro Menendez
 16 Alberto Perez

17 City Staff and Consultants:
 18 Charles Wu, Assistant Development Services Director
 19 Ramon Trias, Planning Director
 20 Craig E. Leen, City Attorney
 21 Jane Tompkins, Development Services Director
 22 Walter Carlson, Assistant City Planner
 23 Scot Bolyard, Principal Planner
 24 Megan McLaughlin, City Planner
 25 Michael Miller, Assistant Police Chief
 Yamilet Senespleda, City Engineer
 Carlos Mindreau, City Architect
 Susan Lanelle Trevarthen, Esq.
 Weiss Serota Helfman Pastoriza Cole & Bonisre
 Special Counsel to the City

Also Participating:
 City Commissioner Frank C. Quesada
 Mario Garcia-Serra, Esq.
 Alberto Cordoves, of Corwil Architects, Inc.
 Hugh Johnson, of Architectural Alliance
 Robert Behar, AIA
 Roney Mateu, AIA
 Public Speaker:
 Edgar Jones

1 THEREUPON:
 2 The following proceedings were had:
 3 CHAIRMAN AIZENSTAT: Okay, if everybody
 4 will please take a seat, we're going to go
 5 ahead and start.
 6 Good evening. This Board is comprised of
 7 seven members. Four members of the Board shall
 8 constitute a quorum, and the affirmative vote
 9 of four members of the Board present shall be
 10 necessary for the adoption of any motion. A
 11 tie vote shall result in the automatic
 12 continuance of the matter to the next meeting,
 13 which shall be continued until a majority vote
 14 is achieved. If only four members of the Board
 15 are present, which is not the case tonight, an
 16 applicant shall be entitled to a postponement
 17 to the next regularly scheduled Board meeting,
 18 I'd also like to ask if any person who acts
 19 as a lobbyist, pursuant to the City of Coral
 20 Gables Ordinance Number 2006-11, they must
 21 register with the City Clerk prior to engaging
 22 in lobbying activities or presentations before
 23 City Boards, Staff, Committees and/or City
 24 Commission. A copy of this ordinance is
 25 available in the Office of the City Clerk.

1 Failure to register and provide proof of
 2 registration shall prohibit your ability to
 3 present to the Board.
 4 I now call the City of Coral Gables
 5 Planning and Zoning Board of Wednesday, October
 6 8th, 2014, to order. The time is 6:10.
 7 Will you please call the roll?
 8 MR. BOLYARD: Marshall Bellin?
 9 MR. BELLIN: Here.
 10 MR. BOLYARD: Anthony Bello?
 11 MR. BELLO: Here.
 12 MR. BOLYARD: Jeffrey Flanagan?
 13 MR. FLANAGAN: Here.
 14 MR. BOLYARD: Julio Grabiell?
 15 MR. GRABIEL: Here.
 16 MR. BOLYARD: Maria Menendez?
 17 MS. ALBERRO MENENDEZ: Here.
 18 MR. BOLYARD: Alberto Perez?
 19 MR. PEREZ: Here.
 20 MR. BOLYARD: Eibi Aizenstat?
 21 CHAIRMAN AIZENSTAT: Here.
 22 Charles?
 23 MR. WU: Yes, sir. Thank you, Chair.
 24 Please be advised that this Board is a
 25 quasi-judicial Board and the items on the

1 agenda are quasi-judicial in nature, which
 2 requires Board members to disclose all ex-parte
 3 communications and site visits.
 4 An ex-parte communication is defined as any
 5 contact, communication, conversation,
 6 correspondence, memorandum or other written or
 7 verbal communication that takes place outside a
 8 public hearing between a member of the public
 9 and a member of the quasi-judicial Board
 10 regarding matters to be heard by the Board.
 11 If anyone made any contact with a Board
 12 member regarding an issue before the Board, the
 13 Board member must state on the record the
 14 existence of the ex-parte communication and the
 15 party who originated the communication. Also,
 16 if a Board member conducted a site visit
 17 specifically related to the case before the
 18 Board, the Board member must also disclose such
 19 visit. In either case, the Board member must
 20 state on the record whether the ex-parte
 21 communication and/or site visit will affect the
 22 Board member's ability to impartially consider
 23 the evidence to be presented regarding the
 24 matter. The Board member should also state
 25 that his or her decision will be based on

1 competent, substantial evidence and testimony
 2 presented on the record today.
 3 I'll just ask a generic question, if any
 4 members of the Board have such communication or
 5 site visit to disclose at this time. Anyone?
 6 Let the record show there's been none.
 7 Thank you, Chair.
 8 CHAIRMAN AIZENSTAT: Thank you.
 9 Everybody that wishes to speak, if they
 10 could please register. I just want to make
 11 sure everybody has gone ahead and registered,
 12 over at the podium, with the exception of the
 13 presentation and attorneys.
 14 At this time, everybody who is going to go
 15 ahead and speak, if they would please stand up
 16 to be sworn in.
 17 (Thereupon, all who were to testify were
 18 duly sworn by the court reporter.)
 19 CHAIRMAN AIZENSTAT: Thank you. Also, I
 20 ask at this time, if you would please put your
 21 cell phones either on silent or vibrate and so
 22 forth, so we don't get disturbed, I'd
 23 appreciate it. Thank you very much.
 24 The first item, we're going to do the
 25 approval of the minutes. We have both of June

1 11th, 2014, and August 13th, 2014. Is there a
 2 motion, any comments?
 3 MR. BELLO: So moved.
 4 CHAIRMAN AIZENSTAT: We have a motion.
 5 Second?
 6 MR. PEREZ: Second.
 7 MR. WU: Does the record show both minutes
 8 are approved?
 9 CHAIRMAN AIZENSTAT: We're doing -- First
 10 let's go ahead and do the June 11th. We have a
 11 motion and the second was by --
 12 MR. PEREZ: I'll second.
 13 CHAIRMAN AIZENSTAT: Albert. Perfect. Any
 14 questions, comments?
 15 Call the roll, please.
 16 MR. BOLYARD: Anthony Bello?
 17 MR. BELLO: Here.
 18 MR. BOLYARD: Jeffrey Flanagan?
 19 MR. FLANAGAN: Yes.
 20 MR. BOLYARD: Julio Grabiell?
 21 MR. GRABIEL: Yes.
 22 MR. BOLYARD: Maria Menendez?
 23 MS. ALBERRO MENENDEZ: Yes.
 24 MR. BOLYARD: Alberto Perez?
 25 MR. PEREZ: Yes.

1 MR. BOLYARD: Marshall Bellin?
 2 MR. BELLIN: Yes.
 3 MR. BOLYARD: Eibi Aizenstat?
 4 CHAIRMAN AIZENSTAT: Yes.
 5 The second is the minutes from the August
 6 13th meeting. Is there a motion?
 7 MR. GRABIEL: I move.
 8 CHAIRMAN AIZENSTAT: Thank you. Second?
 9 MR. BELLIN: I'll second.
 10 CHAIRMAN AIZENSTAT: We have a second. Any
 11 comments, questions?
 12 Please call the roll.
 13 MR. BOLYARD: Jeffrey Flanagan?
 14 MR. FLANAGAN: Yes.
 15 MR. BOLYARD: Julio Grabiell?
 16 MR. GRABIEL: Yes.
 17 MR. BOLYARD: Maria Menendez?
 18 MS. ALBERRO MENENDEZ: Yes.
 19 MR. BOLYARD: Alberto Perez?
 20 MR. PEREZ: Yes.
 21 MR. BOLYARD: Marshall Bellin?
 22 MR. BELLIN: Yes.
 23 MR. BOLYARD: Anthony Bello?
 24 MR. BELLO: Yes.
 25 MR. BOLYARD: Eibi Aizenstat?

1 CHAIRMAN AIZENSTAT: Yes. Thank you.
 2 We are going to go ahead and go a little
 3 bit out of order. The last item, which is Item
 4 Number 11, we're going to go ahead and move
 5 that first. The reason for this is because we
 6 have outside counsel that's with us here today
 7 and they're basically on an hourly rate, so if
 8 we can just get that done first and then
 9 outside counsel will be free to leave.
 10 The item that we'll review first is an
 11 Ordinance of the City Commission of Coral
 12 Gables, Florida, providing for text amendments
 13 to the City of Coral Gables Official Zoning
 14 Code, amending Article 8, "Definitions," by
 15 providing definitions related to medical
 16 marijuana uses, amending Article 4, "Zoning
 17 Districts," to restrict the location of medical
 18 marijuana uses, amending Article 5,
 19 "Development Standards," by providing
 20 development standards for medical marijuana
 21 uses; affirming that the City will only approve
 22 uses that are legal under Federal law;
 23 providing for severability, repealer,
 24 codification and an effective date.
 25 MR. LEEN: Thank you, Mr. Chair. I'm going

1 to be calling up Susan Trevarthen -- and could
 2 you come up, Susan -- who's our special
 3 counsel.
 4 The reason why -- I'm going to turn it over
 5 to Charles in a second. The reason why we
 6 wanted this to be taken out of order, not only
 7 because Ms. Trevarthen is outside counsel, but
 8 also, this matter needs a recommendation from
 9 this Board so it can go before the City
 10 Commission and be decided prior to the upcoming
 11 November election for the constitutional
 12 amendment.
 13 Is that correct, Susan?
 14 MS. TREVARTHEN: Prior to January.
 15 MR. LEEN: Pardon me, prior to January,
 16 when the constitutional amendment, if it's
 17 approved, would go into effect. So I have some
 18 comments on this matter, but first I'd like to
 19 turn it over to Charles and to Susan, to give
 20 you an introduction and discussion of it.
 21 MR. WU: If Aaron can pull up the
 22 PowerPoint.
 23 This is to address a couple things that the
 24 Florida Legislature had approved, which is the
 25 Charlotte's Web. That is scheduled today and

1 So, importantly, it does not authorize
 2 violations of Federal law, which at this time,
 3 even though we do have not only medical
 4 marijuana but also recreational marijuana
 5 across the States, it is still federally
 6 illegal, and marijuana is listed as what's
 7 called a Schedule I drug, and that means that
 8 the Federal Government has made a determination
 9 that there's no potential medical use that
 10 could be beneficial of the drug. So we have
 11 this kind of unusual situation, where the
 12 Federal law says no, but the states, one by
 13 one, are saying yes. We're up to -- I believe
 14 we're Number 23 or 24, going down the medical
 15 marijuana path, but you'll hear a little bit
 16 more later from Craig about this anomaly of the
 17 fact that it's still a federally illegal thing
 18 that we're doing here.
 19 The constitutional amendment also does not
 20 address non-medical use. It is purely for
 21 medical marijuana, and the current polling
 22 projects that the amendment will pass. Earlier
 23 in the year, it was overwhelming. It was like
 24 88 percent. As there's been more campaigning
 25 on both sides, I think it's narrowed, but

1 Susan will give you a little history of the
 2 steps we are going through to effectuate that.
 3 At the same time, there's a proposed
 4 referendum that's going to be on the ballot in
 5 November, which will also be somewhat related
 6 to this exercise, so I'll just turn it over to
 7 Susan.
 8 MS. TREVARTHEN: Thank you. Susan
 9 Trevarthen, Weiss Serota Helfman, for the City,
 10 2525 Ponce. Good to see you this evening. If
 11 we can move forward -- Oh, there we go. I'm in
 12 control of my own destiny.
 13 So there's a couple of things we're talking
 14 about today, and the first of them is one of
 15 them that you're going to be faced with in the
 16 voting booth on November 4th. It's a
 17 constitutional amendment that is about the use
 18 of medical marijuana, and in summary, it allows
 19 the medical use of marijuana for individuals
 20 with debilitating medical conditions. It also
 21 allows caregivers to assist patients' medical
 22 use of the marijuana and makes the Department
 23 of Health responsible for rulemaking and
 24 implementation of the provision for the medical
 25 marijuana. It only applies to Florida law.

1 everything I've heard suggests that it will go
 2 forward.
 3 So how will this work? A patient will be
 4 required to obtain a physician certification, a
 5 note. It's a certification, not a
 6 prescription, because prescriptions is a thing
 7 that exists under Federal law, and doctors
 8 could lose their licenses if they prescribe
 9 something that's federally illegal, so it's a
 10 certification, and it's got to be a physician
 11 who's licensed in the State of Florida. That
 12 person must examine the person, do a full
 13 assessment, determine that the person has a
 14 debilitating medical condition as defined by
 15 the Constitution, and find that the potential
 16 benefits of the medical use of the marijuana
 17 would likely outweigh the health risks for the
 18 patient.
 19 And here's that definition of debilitating
 20 medical condition. What is concerning about
 21 this definition is that at first blush, when
 22 you hear that phrase, you might think the kinds
 23 of things that you see earlier in the list,
 24 cancer, glaucoma, very significant illnesses
 25 that we understand why there might be a medical

1 use of marijuana involved, but the final part
 2 of the definition is a catch-all, that allows
 3 your physician to basically, on a health basis,
 4 do kind of a cost-benefit analysis, and if he
 5 or she finds that the benefit to you medically
 6 exceeds the cost to you medically, that's
 7 enough for that physician to issue the
 8 certification. So the breadth of the
 9 constitutional amendment is real; it is much
 10 broader than you might think at first glance.
 11 Once a patient obtains that physician
 12 certification, they will apply for a
 13 State-issued patient identification card, and
 14 that makes them a qualified patient who can
 15 purchase and use the drug. Also, the amendment
 16 provides for personal caregivers to provide an
 17 ID, and the idea behind this is, some of these
 18 people are very, very sick and they may not be
 19 able to personally be involved in the process
 20 of going and getting their drugs. They may
 21 need aid from someone else to do that. Then
 22 either qualified patients or personal
 23 caregivers, those are the two classes of
 24 people, they each have to have an ID card.
 25 Those are the people who can actually buy the

1 medical marijuana for the qualifying patient's
 2 use. The caregiver is not allowed to use.
 3 Where will they get this substance?
 4 They'll get it from what the constitutional
 5 amendment calls a medical marijuana treatment
 6 center, and that medical marijuana treatment
 7 center is defined in the Constitution to
 8 encompass the entire supply chain, from the
 9 seed to the growth to the processing to the
 10 refinement to the manufacture, and ultimately
 11 to the sale to the end user. All of those
 12 activities that, as a Planning and Zoning
 13 Board, you understand have potentially very
 14 different land use implications, are packed
 15 into this one definition of a treatment center.
 16 The amendment allows any kind of marijuana.
 17 So it is not a very specific kind of
 18 non-euphoric, as is discussed in the statute.
 19 It is anything that qualifies as marijuana,
 20 whether it be for smoking, for edibles, for
 21 tinctures, for vaporizing. It is completely
 22 open-ended as to the form of the marijuana and
 23 the form in which it's taken.
 24 It does not protect anyone involved in this
 25 process from prosecution under Federal law, and

1 as I said, it's implemented by the Department
 2 of Health. The amendment specifically
 3 contemplates legislative action, and it says
 4 the Florida Legislature can meet and
 5 potentially enact laws on this topic, but it's
 6 not required to do so for the constitutional
 7 amendment's provisions to come into effect.
 8 The duties are placed at the feet of the
 9 Department of Health.
 10 So the DOH must develop regulations that
 11 have procedures for the issuance and renewal of
 12 these identification cards, procedures to
 13 register these treatment centers that are going
 14 to be the source of the drug, and finally,
 15 regulations that define the amount of marijuana
 16 that could reasonably be presumed to be an
 17 adequate supply for that person's medical
 18 needs.
 19 Within nine months of the effective date of
 20 the amendment -- and that effective date is
 21 January of 2015, it's January 6, so that's the
 22 date that I was referring to with Craig -- the
 23 Department must begin to issue these ID cards
 24 and register medical marijuana treatment
 25 centers. If the State decides to drag its feet

1 or things happen that prevent this from
 2 happening in a timely way, the constitutional
 3 amendment is self-effectuating, or
 4 self-executing is what lawyers would call it,
 5 with regard to an individual's ability to use
 6 the drug. So, even if the DOH has missed its
 7 deadlines and even if that person has not been
 8 able to get an ID card by that time frame, if
 9 that person gets the drug and uses it, they
 10 will be protected for the medical use as
 11 outlined in the amendment.
 12 However, the provision for the supply chain
 13 of this drug is not self-executing. So we have
 14 the situation, we're not quite sure where it's
 15 coming from, but if this patient ends up in
 16 possession of it and using it, they're
 17 protected from prosecution in the event the
 18 State fails to move forward with an
 19 implementation of the amendment.
 20 Now, separate from the amendment, which is
 21 a maybe, and it's something you're going to
 22 have a say on, on November 4th, over whether
 23 that becomes the law, we have also medical
 24 marijuana in a different form that is the law
 25 today in Florida. Our Legislature met this

1 past spring and they enacted a law that's been
 2 referred to in the media as the Charlotte's Web
 3 Law. There are actually different strains of
 4 marijuana. That's just one. But the defining
 5 nature of Charlotte's Web marijuana is that
 6 it's non-euphoric. You you don't get high from
 7 it. It's something that you take, that it
 8 controls seizures, and so the statute is much
 9 more narrowly crafted to provide medical
 10 marijuana for a subset of patients and a subset
 11 of uses, and a very precise kind of marijuana.
 12 No smoking is allowed. They've limited the
 13 qualifying illnesses so much that, from what
 14 I've read, they're even qualifying illnesses
 15 that would benefit from Charlotte's Web that
 16 aren't eligible to use it, and the patient must
 17 be a permanent resident of Florida, under the
 18 statutory scheme.

19 So the statute is somewhat similar in that
 20 you have a physician involved and there's a
 21 process of certifying whether an individual is
 22 eligible for the use of the drug. Under the
 23 statute, though, the physician must find that
 24 there's no other satisfactory treatment option
 25 that exists and that the risks are reasonable

1 is also implemented by the Department of
 2 Health, and they have been charged with
 3 developing rules and they've been in that
 4 process. There were several rulemaking
 5 hearings held. They issued a final draft rule.
 6 That rule was challenged. So, at this time,
 7 even though the statute calls for the
 8 Charlotte's Web system to start to go
 9 operational in January of 2015, because of the
 10 rule challenge, it's going to be difficult for
 11 that to happen, and it will just be like any
 12 other kind of litigation; we'll have to see how
 13 things unfold, what the positions the courts
 14 take are, in terms of whether the process can
 15 proceed without the rule in place and so forth.

16 The bill encourages State university
 17 participation, and as I said, there's that
 18 January deadline, but it's in doubt because of
 19 the challenge to the rule.

20 So, just to sum up the differences between
 21 the existing State law, which is very narrow,
 22 and the Constitution, which is not yet law, but
 23 if it becomes law, is much broader, the
 24 existing State law is much narrower and it
 25 limits the types of marijuana that can be

1 in light of the potential benefit. The doctor
 2 must be registered as the orderer of marijuana
 3 for the patient and must maintain a patient
 4 treatment plan, and then there's this whole
 5 aspect of the statute that forces all of the
 6 records associated with this to be centralized
 7 and sent to U.F.'s College of Pharmacy so that
 8 there can be data kept and we can learn from
 9 what happens under the statute.

10 The statute only provides for up to five
 11 dispensing organizations, and dispensing
 12 organizations are required to be responsible
 13 for the entire supply chain, from the seed to
 14 the commercial sale to the patient. They must
 15 be a registered grow facility that's licensed
 16 for the cultivation of more than 400,000
 17 plants, and they must be operated by a
 18 State-licensed nurseryman who's been in
 19 business for more than 30 years in Florida.

20 So, if you've been following this in the
 21 papers, you know there's a list of about 40
 22 nurseries across the state that qualify for
 23 these criteria, and that list is eligible from
 24 the Department of Agriculture -- or available.

25 This statute, similarly to the amendment,

1 grown, as well as who may grow it, much more
 2 narrowly. It prohibits smoking completely, it
 3 integrates this whole process into research
 4 studies, and it greatly limits the qualifying
 5 conditions of individual patients. It is not
 6 broad enough to implement the amendment. So
 7 there are some ways which on the face of it,
 8 the activities, the provisions of the rule,
 9 from the Department of Health, are in direct
 10 conflict with the constitutional amendment.
 11 The type of marijuana is first and foremost.

12 So there are ways in which these things are
 13 not going to co-exist if the voters approve the
 14 amendment, but there are other aspects to the
 15 process that's being discussed for Charlotte's
 16 Web that potentially could be integrated into a
 17 system for amendment, too, things about the
 18 distribution network and how the treatment
 19 centers are handled, and so we would be seeing
 20 legislation in the spring to address those
 21 anomalies and potentially revise the approach
 22 that the Department of Health came up with this
 23 year.

24 There's also a statute that was enacted
 25 this last year to provide a public records

1 exemption to protect documents related to the
 2 use of medical marijuana for patient privacy.
 3 Importantly, there are some cases that look at
 4 whether those attempts to protect patient
 5 privacy are effective against the Federal
 6 system, and at least one case, which I've cited
 7 here, says no, that if the Feds want that
 8 information, they can obtain it, regardless of
 9 what the State law says.

10 So let's talk a little bit more about that
 11 interaction with Federal law. The specific
 12 Federal law we're talking about is the Federal
 13 Controlled Substances Act, which prohibits the
 14 production, distribution and use of marijuana
 15 for medical or for recreational purposes, and
 16 this Act and the Federal Government still have
 17 the regulatory and enforcement standing to be
 18 active throughout this country, despite what
 19 individual states are trying to do with this
 20 issue. And the issue is such that it really
 21 makes things gray in terms of how we go
 22 forward.

23 As I mentioned, neither the statute nor the
 24 amendment protect you from Federal prosecution.
 25 At this time, the Federal Government is in a

1 potentially drag on forever and ever. We're
 2 reaching a point where half the states and over
 3 half the population of the country may be
 4 agreeing to this, so this tension in the law is
 5 going to have to be resolved at some point.

6 Oh, and on the issue of locally, our fate
 7 locally would be determined by the U.S.
 8 Attorney's Office for the Southern District of
 9 Florida, and at this point they have not taken
 10 a position. So they are not yet on record as
 11 to what they would do if the constitutional
 12 amendment passes.

13 As I mentioned, there are many other
 14 experiences out there, some of them going back
 15 up to 20 years, looking at California. What
 16 we've learned from looking across the board at
 17 these other states, with other cities, is that
 18 preparation is key and that those cities who
 19 came out of the block early with a regulatory
 20 strategy, whatever that may be, tight or loose,
 21 have generally fared better than those that
 22 just sat back and let the industry do what they
 23 will. So that's what led us to the ordinances
 24 that are being presented to you tonight.

25 I'll also talk a little bit about revenue,

1 place where the laws haven't been changed, but
 2 there are administrative policies that have
 3 been announced by the Department of Justice,
 4 and so the U.S. Attorney's Office and the other
 5 law enforcement activities of the Federal
 6 Government are influenced by these
 7 interpretations, and they -- if I were to
 8 summarize it for you, you know, if you're
 9 engaging in medical or recreational marijuana
 10 in a state that has it legal and you're
 11 committing violent acts at the same time,
 12 you're doing other dastardly deeds, they're
 13 going to enforce and they're going to cite you
 14 on the marijuana as well as everything else.
 15 If, on the other hand, you know, you're a
 16 cancer patient, you're doing exactly what you
 17 should under the State scheme, and you're not
 18 getting into anybody else's business with it,
 19 then they're leaving it alone, and so for
 20 example, the Colorado scheme, the Feds have
 21 indicated they're not going to interfere
 22 because they feel that the State laws are
 23 sufficient to make sure that it is carried out
 24 in a reasonable manner.

25 But this is not a situation that will

1 mainly because I always get questions about
 2 this. There are a lot of claims out there for
 3 potential significant government revenue
 4 associated with this activity. What's
 5 important to understand is, we see these state
 6 numbers from California -- I mean, from
 7 Colorado, and they really are amazing, I mean,
 8 two million dollars in a month. But it's very,
 9 very different, because the Colorado scheme
 10 says specifically, local governments can levy
 11 sales taxes, the State can levy sales taxes,
 12 and they have. It's essentially, when you add
 13 it all up, it's like 25 percent on top of the
 14 cost of the drug, so of course they're seeing
 15 these kinds of revenues.

16 In Florida, we have a different situation.
 17 We have a constitutional amendment that's
 18 completely silent on the roll of local
 19 regulation, doesn't say a word about it,
 20 doesn't empower revenue-raising, doesn't
 21 empower anything else. The statute, similarly,
 22 is completely silent, and the general rules
 23 that apply to cities are going to apply here.
 24 So, in our state, our powers to raise revenue
 25 are limited. We can't just make up ways to

1 create taxes. We have the ability to have ad
 2 valorem taxes. We have the ability to enact
 3 fees, which meets the requirements of case law
 4 and in some cases statutes that limit how
 5 burdensome those fees can be, and that's it.
 6 We can't just make up a new sales tax.

7 So, from the revenue perspective, it may
 8 play out significantly differently here,
 9 depending on what happens statewide. The
 10 Legislature could take action, they could enact
 11 a statute that said cities have the power to
 12 tax, and then we would be in a different
 13 position. But, you know, I can't read the
 14 crystal ball and tell you if that's going to
 15 happen or not.

16 So we talked a little bit about
 17 implementation time frames. The vote is on
 18 November 4th, and January 6th is the effective
 19 date of the amendment. In the summer of next
 20 year, if the amendment is approved, the
 21 Legislature is likely to have acted, and so new
 22 statutes would take effect, generally, by July,
 23 or May. The DOH rulemaking must be complete by
 24 July 6th, 2015, and by October 6th, 2015, the
 25 DOH must start issuing the actual ID cards and

1 As I mentioned, the statute and the
 2 amendment are silent and the rules are also
 3 silent, although there were some limited
 4 efforts to place requirements in the rule about
 5 spacing, which would be a local siting type of
 6 issue.

7 So, under the general law in Florida, where
 8 State law is silent, Florida municipalities can
 9 regulate in any manner that is not inconsistent
 10 with State law. We have a long and robust body
 11 of case law that says we don't have to read the
 12 minds of the Legislature. If they want to
 13 preempt us, they've got to say something.
 14 They've got to be more direct about it and not
 15 just have silence in a regulatory scheme. The
 16 general rule, however, is also that
 17 municipalities cannot do anything that is
 18 inconsistent with Federal law. So it puts us
 19 in this murky legal situation. Federal
 20 supremacy certainly supports the local
 21 government deciding to conform to Federal law
 22 and have prohibition, but there are some cases
 23 out there where cities have enacted
 24 prohibitions on the basis of, "No, because
 25 you're illegal under Federal law," and their

1 registering the treatment centers under the
 2 amendment.

3 So what does this mean for local
 4 government? All that is kind of interesting,
 5 that's what's happening at other levels of
 6 government, but we're a city. What can we do
 7 about this? And the number one question I get
 8 is, "Can we say no?" And my answer to that is
 9 arguably yes, for a city. So how do we get
 10 ready to say no? We look at, first of all, the
 11 legal landscape, and some people point to other
 12 states where cities have said no and prohibited
 13 these uses within their city and been upheld by
 14 courts. The problem with doing that is, each
 15 and every one of these medical marijuana
 16 schemes is different. The wording of the
 17 statute in one state is different from the
 18 wording of a constitutional amendment in the
 19 other state, and what's more, they're enacted
 20 against the backdrop of a whole body of common
 21 law and statutes about what cities are and what
 22 cities can do, and that varies in every state
 23 of our country. So it is hard to say that what
 24 happens elsewhere is going to be directly
 25 predictive of what's going to happen here.

1 state courts have said that that was invalid,
 2 that the city was obligated to find a way to
 3 balance both the Federal law and State law, and
 4 I think this is a good point to stop and let
 5 Craig present -- I see he's interested in
 6 bringing up his take on this, because it will
 7 affect what you're looking at in your
 8 ordinance.

9 MR. LEEN: So we're going to be asking
 10 today, and Susan is going to be talking about
 11 this, to adopt or to consider adopting some
 12 regulations of, you know, one of these medical
 13 marijuana treatment center's dispensaries in
 14 the City of Coral Gables, and there are
 15 benefits to the City for regulating them and
 16 even allowing them in certain areas, and Susan
 17 is going to explain that.

18 However, I just want you to know my view on
 19 this issue. My view is that the City follows
 20 Federal law, and that Federal law is very clear
 21 on this issue, and it preempts anything the
 22 State does, in my opinion. So -- and in my
 23 view, as well, if we were to be challenged on
 24 this sort of issue, I would, you know, seek to
 25 remove that case to Federal Court and I would

1 argue this issue in Federal Court.
 2 That being said, I want to be clear, in no
 3 way am I saying that we disagree with or that
 4 we have a problem with someone who really needs
 5 medical marijuana using it. That's not what
 6 I'm saying, and we're not seeking to prohibit
 7 that in Coral Gables. We're talking more about
 8 the affirmative action of the City to allow a
 9 medical marijuana dispensary and all the
 10 problems that will come along with that in our
 11 Downtown area, and I do believe that we can say
 12 no to that, and what I've put -- what I've
 13 asked to be put and what Susan has put into
 14 this resolution -- pardon me, into this
 15 proposed ordinance, is a clause that says that
 16 even though we're going to adopt all these
 17 regulations, it's being done in contemplation
 18 of the idea that one day the Federal Government
 19 may change the law, because of what's
 20 happening. But at least as of now, my office
 21 would have to agree to allow one of these
 22 dispensaries in the City of Coral Gables and I
 23 would have to make a finding that Federal law
 24 permits it. Until that day, they would be
 25 illegal in the City of Coral Gables, and I

1 would defend that if we were challenged.
 2 MS. TREVARTHEN: Okay, so it's holding two
 3 ideas in your head at once. It's a little bit
 4 complicated, but once you understand why, I
 5 think that helps to understand where we are.
 6 So what our ordinances do is, they affirm
 7 the City's commitment to the enforcement of
 8 State and Federal law, and they allow a medical
 9 marijuana retail center. Now, this is a
 10 definition that we have created and tried to
 11 separate out this notion that the treatment
 12 center has to be everything. You know, from a
 13 local land use and zoning perspective, that
 14 doesn't necessarily make a lot of sense. There
 15 are different impacts that flow from those
 16 stages in the process. And so what the
 17 ordinance does is, it defines a medical
 18 marijuana treatment center consistent with the
 19 constitutional amendment, but then it creates a
 20 separate concept, which is a medical marijuana
 21 retail center, and that's the only one that we
 22 make provision for within the City of Coral
 23 Gables, just the retail end of the supply
 24 chain. And so the ordinance allows it only if
 25 it's permitted under State and Federal law, and

1 at that point it would be as a conditional use,
 2 subject to a two-year renewal. So these uses
 3 would be coming in, getting a two-year
 4 conditional use, and in two years they come
 5 back and get another two-year conditional use.
 6 The ordinance also establishes land use
 7 controls and business regulations to safeguard
 8 the City, in the event that those Federal rules
 9 change, as Craig just said.
 10 So what are we doing to be prepared? We
 11 have land use requirements. First of all, the
 12 retail only, as I mentioned, not cultivation,
 13 not processing. We've identified the C zoning
 14 district, but we're also identifying some other
 15 locational restrictions for this use. Those
 16 include not allowing it within the CBD, just
 17 generally.
 18 Also, spacing is an important thing. This
 19 was discussed in the State rulemaking process,
 20 and it's also part of current statutory law
 21 about drug enforcement, that when you're using
 22 certain drugs within a certain distance of
 23 protected uses, the criminal penalties are
 24 enhanced, so this is why we talk about the
 25 spacings, and in your packet is an ordinance

1 that proposes a 600-foot spacing from Single-
 2 Family Residential or MF1 zoning district, and
 3 a thousand foot spacing from schools, day care,
 4 parks and places of worship, as well as a
 5 thousand foot spacing from another medical
 6 marijuana retail center, so you don't have two
 7 of them, side by side. The regulation calls
 8 for on-site parking in the amount of one space
 9 per 150 square feet of floor area, plus one per
 10 full-time employee and one space for every two
 11 part-time employees. What we're hearing from
 12 the states that have these uses is, they're
 13 relatively intense. This is not like a card
 14 store that has one or two clerks and maybe
 15 somebody in the back, in the room. They tend
 16 to have many different varieties of product,
 17 and certainly in the beginning, customers who
 18 need a lot of education, and people who are
 19 coming into these institutions are staying a
 20 while and they're having a lot of one-on-one
 21 interaction with staff, so that suggests a
 22 high-stance staffing level, and that's why your
 23 Staff has made the recommendation for the
 24 parking standards that they have listed here.
 25 Also, as a procedure, as I mentioned, it would

1 be a conditional use. So there's a number of
 2 protections.
 3 Stepping out of the land use ordinance,
 4 which is what is in front of you, because you
 5 have a role always in recommending on the Land
 6 Development Code of the City of Coral Gables,
 7 there's a separate ordinance. It's not before
 8 you this evening, because it's not a land use
 9 ordinance, it's a business regulation, but I
 10 want to make you aware that it's out there,
 11 because it completes the discussion of what
 12 we're doing to protect the City from the
 13 impacts of this use. So there will be an
 14 annual license, a medical marijuana permit,
 15 requirements for Level 2 background screening
 16 of applicants, owners and employees, specified
 17 hours of operation, requirements that are
 18 generally increased for the maintenance of the
 19 business premises and surrounding areas. This
 20 is from the experiences that we've heard about
 21 from states that have these uses, where, you
 22 know, every day before the business opens,
 23 people are lining up down the sidewalk and down
 24 the street, or cars are, you know, overflowing
 25 the parking lot and blocking the street,

1 potentially, those kinds of situations, so
 2 saying out loud that you need to manage your
 3 property so that you're not having these
 4 externalities that will affect either public
 5 property or neighboring private property.
 6 Also, the business regulations say there
 7 will be no on-site consumption. That's also in
 8 the constitutional amendment, for no on-site
 9 consumption of marijuana, but we add to it, no
 10 on-site consumption of alcohol. We don't want
 11 to see that happening, either. No outdoor
 12 activities; this is an internal use. There's a
 13 lot more control when it's happening inside.
 14 Also, reportedly, odor is a very significant
 15 aspect of this use, and so if it's happening
 16 outside, that's going to have impacts on
 17 surrounding properties. Odor mitigation is one
 18 of the business regulations, signage
 19 requirements, and the no queuing and loitering,
 20 as I mentioned previously.
 21 A security plan would be an element of the
 22 site plan and the business license approval.
 23 You would have an operations plan, video
 24 surveillance, requirements for how the display
 25 of the product and the storage of the product

1 is handled. Basically, you're dealing with a
 2 very valuable product here, if you think of a
 3 high-end jewelry store and how careful they are
 4 in how they handle their inventory, as well as,
 5 you're dealing with a cash-only business, and
 6 so it becomes a very attractive target from a
 7 public safety standpoint of potential crimes.
 8 MR. LEEN: If I may, the reason it's cash
 9 only is because it violates Federal law. So,
 10 you know, if it stops violating Federal law,
 11 then there's less of a concern about having it,
 12 plus it would be legal at that point, but as
 13 long as it violates Federal law, there's a lot
 14 of issues that come with allowing it in our
 15 City, including that a different
 16 administration, different Federal
 17 administration, might take a different view of
 18 the matter and decide to prosecute.
 19 MS. TREVARTHEN: So when we say cash only,
 20 it's because the banks are literally risking
 21 their Federal Deposit Insurance and their
 22 status as financial institutions. This is
 23 basically seen as money laundering and as
 24 tainted money involved in criminal acts. So
 25 it's been a very big problem in the states that

1 have these uses, and the industry would love to
 2 use the banking system for their own safety,
 3 but they've been unable to do so in most cases.
 4 So what are we doing with all that cash, as
 5 well as all that inventory? Is it safe? Also
 6 providing for alarm systems, and then we added
 7 this requirement for a crime prevention through
 8 environmental design review. This is something
 9 that police departments have people who are
 10 certified, that they can go on the premises and
 11 say, you know, "If you change this landscaping,
 12 you change this layout, you make it inherently
 13 easier to police use," and so we thought that
 14 was a useful idea for the site plan review.
 15 Also, we provide for fees for application
 16 and licensing, not, you know, a million
 17 dollars, the kind of fees that you can have
 18 under Florida law for any use.
 19 So that takes me through the presentation,
 20 with one additional thought, which is that
 21 we've been looking at these criteria about how
 22 to regulate the use and trying to figure out
 23 what might be the best, from the standpoint of
 24 a planning opinion, of where this is least
 25 impactful on the community, and Charles is

1 going to hand you a revised map. The map
2 that's in your backup has a 600-foot spacing
3 from residential. The one he's handing you is
4 a 500-foot spacing from residential. We're
5 just looking at finer and finer detail of what
6 that means in terms of the sites that result
7 and how they might be able to be used, but
8 everything I have said is subject to, as Craig
9 said -- this is written so that as long as it's
10 illegal under Federal law, we're not going to
11 be issuing approvals, and only when the City
12 Attorney has said it's legal under Federal law
13 would we be actually issuing these approvals.

14 So that concludes my presentation, and I'm
15 happy to answer any questions.

16 CHAIRMAN AIZENSTAT: Any questions for
17 Susan?

18 MR. BELLIN: I have a couple of questions.

19 MS. TREVARTHEN: Sure.

20 MR. BELLIN: Could you define caregiver for
21 me? Is that anybody who takes care of a person
22 with Alzheimer's? Is it a doctor, is it --

23 MS. TREVARTHEN: It's defined in the
24 constitutional amendment, and it doesn't have a
25 lot of constraints on it, but the function of

1 that person is, ideally, supposed to be someone
2 who's aiding someone who's ill, in receiving
3 their medicine. The dark view of it and the
4 view in some other states that have had a
5 caregiver provision is, governments see it as
6 basically a licensed drug dealer. But in
7 Colorado, caregivers have the ability to grow
8 their own, so that's been a real problem for
9 them. In Florida, we don't have in the
10 constitutional amendment an ability for the
11 caregiver to grow their own, so hopefully we
12 wouldn't have as many problems related to that.

13 MR. BELLIN: So a child who's taking care
14 of a parent who has Alzheimer's then becomes a
15 caregiver, under this definition?

16 MS. TREVARTHEN: Yes. It doesn't have to
17 be a medical professional.

18 MR. BELLIN: Okay. Another question. Why
19 is the requirement for a retail establishment
20 selling marijuana for one parking space for
21 every 150 square feet? That's not the
22 normal retail.

23 MS. TREVARTHEN: I'll take a shot at it,
24 and I'll also ask Charles to chime in. We
25 looked at your existing set of parking

1 standards and we tried to predict as best we
2 could with incomplete knowledge about what this
3 would be most like, would it be most like
4 retail or would it be more like restaurant or
5 like medical.

6 So do you want to chime in with the thought
7 pattern on that?

8 MR. WU: We wanted to err on the side of
9 having sufficient parking, because if there is
10 going to generate a lot of interest within the
11 parameters of where this retail center is going
12 to be, we would be concerned about any
13 backed-up cars pulling up the right-of-way,
14 queuing to get in and they can't get in because
15 there's not enough parking. So we err on the
16 side of having more parking, and also, in rare
17 cases, we wanted to provide parking for the
18 full-time employees, in addition to the
19 part-time employees. So it's a regulation that
20 we don't know how it's going to work, frankly,
21 because there's no experience in the State of
22 Florida, but we'd like to take a more
23 conservative approach for parking purposes, and
24 can always revisit it if we have experience
25 showing that the parking is excessive, but we

1 would like to take this approach, one space per
2 150 square feet of -- gross square feet of
3 building, in addition -- to the employees and
4 part-time employees.

5 MS. TREVARTHEN: If I could also build on
6 that, I've given Staff the advice that we can
7 always loosen. We can also always amend. It's
8 always harder to go more strict. So that has
9 influenced their view.

10 MR. BELLIN: All right, my question is,
11 where do you find a retail establishment that
12 can sell marijuana and still provide one space
13 for every 150 square feet? It's not the normal
14 requirement for retail. So any retail space is
15 not going to be able to provide that.

16 MS. TREVARTHEN: My understanding is that
17 there's some pretty significant capital
18 improvements involved in converting to this
19 use. This is just learning from other states.
20 But the kinds of safety and security
21 mechanisms, the environmental controls, it
22 doesn't really function -- at least at this
23 point. I mean, maybe 50 years from now, it
24 will be very normal and it will be legal
25 everywhere and it will be more like a retail

1 use, but what we're learning anecdotally -- and
 2 by the way, we did look for studies. There
 3 aren't any. It's kind of chaos out there.
 4 It's just examples from other states. What
 5 we're learning is that they tend to be very
 6 high intensity, much more than your average
 7 retail use.
 8 MR. WU: If I can direct the Board to the
 9 maps, clearly the direction we were given from
 10 the City Commission is to make this
 11 regulation -- if we do allow it, to make it
 12 very restrictive, and hence, we started out
 13 with the 1,000-foot buffer from churches, day
 14 cares -- places of worship, day cares, parks
 15 and schools, and with the revised buffer of 500
 16 feet from Single-Family and MF1. We excluded
 17 the CBD. So, with the combination of that, the
 18 southern part of the City pretty much will not
 19 allow this use.
 20 Looking in the first page of the new map.
 21 We have a handful of properties at the
 22 intersection of Salzedo and 8th Street that
 23 just turned out to be outside the buffer
 24 proposal that we are suggesting today. So
 25 that's what we have on the table. The 600-foot

1 only allowed one property. This circled out to
 2 make it two or three more properties.
 3 The exercise is not to allow a property
 4 that can be -- that can allow this use. The
 5 exercise is to allow opportunities; if they
 6 want to go in there, we have properties that
 7 will be able to do it. So whether the property
 8 can meet the Code requirement is not our
 9 obligation. That is really what the private
 10 industry will have to do in this. If they
 11 don't have enough parking, they will have to
 12 find parking, et cetera, et cetera.
 13 MS. TREVARTHEN: And I agree with Charles;
 14 it doesn't have to be purpose-built for them, I
 15 mean, and what we're seeing elsewhere is, it's
 16 not. Frequently there's substantial
 17 improvements made to these premises.
 18 CHAIRMAN AIZENSTAT: Why are you reducing
 19 it from 600 to 500? What's the purpose of this
 20 exercise, in reality? It's not just the
 21 hundred feet.
 22 MS. TREVARTHEN: Staff raised the question
 23 of how the measurement works, and if any
 24 portion of the lot is excluded, does that mean
 25 the whole lot is excluded, and we were

1 looking -- as you blow it up, you see more, you
 2 know, and we're looking at very fine-grained
 3 here. So the effect of this change is, you
 4 have two lots on either side of that
 5 intersection that are clearly in the --
 6 CHAIRMAN AIZENSTAT: Next to 8th Street?
 7 MS. TREVARTHEN: (Nods head).
 8 CHAIRMAN AIZENSTAT: Is there any other
 9 property within the City boundaries, whether
 10 you go 500 or 600, that fall --
 11 MS. TREVARTHEN: Not with this zoning
 12 strategy, no.
 13 MR. WU: Not with this buffer scheme.
 14 CHAIRMAN AIZENSTAT: So, either way, it
 15 pertains back to only those properties on
 16 either side?
 17 MS. TREVARTHEN: And exactly how they're
 18 defined.
 19 CHAIRMAN AIZENSTAT: Okay. So we don't
 20 have the ability here to blow this up? If I
 21 were to --
 22 MS. TREVARTHEN: You have the ability to
 23 recommend whatever you see fit. This is a
 24 Staff recommendation.
 25 CHAIRMAN AIZENSTAT: I understand, but

1 let's just go with what the recommendation is.
 2 If I go with the 500 and I blow that up, am
 3 I -- or the 600, tell me where I'm cutting out
 4 a property or I'm not.
 5 MR. WU: I can try. If you go 600, you'd
 6 only have the north -- I'm sorry, the southwest
 7 corner of Salzedo and 8th Street. That is,
 8 today, a stand-alone commercial building. The
 9 use is called Amscot Financial, which is a
 10 financial services, cash checking, et cetera.
 11 CHAIRMAN AIZENSTAT: Right.
 12 MR. WU: That building will be the only
 13 building allowed.
 14 MS. TREVARTHEN: No, the lot, not the
 15 building.
 16 MR. WU: I'm sorry, the property.
 17 CHAIRMAN AIZENSTAT: The property.
 18 MR. WU: Will meet the buffering
 19 requirements.
 20 CHAIRMAN AIZENSTAT: That's with 600, you
 21 said?
 22 MR. WU: 600 feet. If you go 500 feet, it
 23 will allow the adjacent 7-Eleven, along with
 24 the laundromat.
 25 MS. TREVARTHEN: And since there's a

1 separation, you would never get both of them,
 2 but it creates two opportunities instead of
 3 one.
 4 CHAIRMAN AIZENSTAT: Can I open up multiple
 5 locations?
 6 MS. TREVARTHEN: Not in the City of Coral
 7 Gables, because we have a requirement that
 8 these centers be at least a thousand feet from
 9 each other.
 10 CHAIRMAN AIZENSTAT: Okay. So you can open
 11 one up there and that's it.
 12 Now, just looking at this area, isn't that
 13 the area where we have actually had problems
 14 with crime and so forth within our City lately,
 15 that has been hampering --
 16 MS. TREVARTHEN: I don't know if I could
 17 address that.
 18 CHAIRMAN AIZENSTAT: Could we -- Is there a
 19 representative from the Police Department?
 20 MS. TREVARTHEN: This is 8th Street. We've
 21 looked at that before, so you know where we're
 22 talking about.
 23 ASSISTANT CHIEF MILLER: Good evening. I'm
 24 Michael Miller. I'm the Assistant Chief of
 25 Police here in Coral Gables. So, specifically,

1 I don't have the crime numbers that we can talk
 2 about this area --
 3 CHAIRMAN AIZENSTAT: Without crime numbers,
 4 but --
 5 ASSISTANT CHIEF MILLER: Without crime
 6 numbers, I can say that generally, our big
 7 thoroughfares that border our City with other
 8 cities are typically higher in crime. So the
 9 8th Street corridor, for example, is an area
 10 that we see and we focus on quite a bit. We
 11 see quite a bit of activity there, especially
 12 on the other side of the road.
 13 MR. LEEN: Mr. Chair, if I may, one the
 14 issues that came up is that we would
 15 normally -- Most of our uses that have
 16 problematic uses are put in our industrial
 17 area, which is a -- which still exists on the
 18 map, but is largely taken up by Merrick Park.
 19 It's also right next to a high school.
 20 CHAIRMAN AIZENSTAT: Yes.
 21 MR. LEEN: So that poses a lot of issues,
 22 about having a marijuana dispensary right next
 23 to a high school. So Staff looked at other
 24 locations where this -- where we might allow
 25 this. I will say, though, that, you know, the

1 issue that's come before the Commission
 2 involves the North Gables, but this would
 3 not -- just because we're saying that these
 4 locations would be where it could be in our
 5 City -- and because there's a benefit to doing
 6 that, because the concern is that if we are too
 7 restrictive or we don't allow it, or if a
 8 court, for example, disagreed with my opinion
 9 that this was not preempted by Federal law,
 10 they might allow it anywhere in the City, so
 11 that's the concern, but I would -- I do want to
 12 emphasize that this ordinance as drafted would
 13 not allow these dispensaries anywhere in Coral
 14 Gables until my office made a finding that it
 15 was permitted by Federal law. So this is
 16 very -- This is hypothetical, but it protects
 17 the City in the event Federal law changes or a
 18 court finds that that position is not correct.
 19 CHAIRMAN AIZENSTAT: Okay.
 20 MS. TREVARTHEN: Could I also address the
 21 crime question, just based on what I've heard
 22 some other police agencies saying, because I
 23 have other cities talking about this? You
 24 know, there's two theories. If you put this in
 25 an area that already is engaging in enhanced

1 police protection, they're already there. If
 2 you put it in an area that is not having
 3 enhanced police protection, then now they're
 4 having new staffing requirements. So there are
 5 pros and cons on that, but I just wanted to
 6 share, I've heard some police chiefs look at it
 7 that way.
 8 CHAIRMAN AIZENSTAT: Okay, fine.
 9 MS. ALBERRO MENENDEZ: A question -- I'm
 10 sorry.
 11 MR. BELLIN: No, go ahead.
 12 CHAIRMAN AIZENSTAT: Go ahead, Maria.
 13 MS. ALBERRO MENENDEZ: If we were to annex
 14 Little Gables, that even goes away, from what I
 15 can tell.
 16 MS. TREVARTHEN: If we were to annex, we
 17 would have to revisit our regulations. I mean,
 18 there are a number of scenarios that we might
 19 have to revisit our regulations. There might
 20 be a decision a year from now by the Florida
 21 Supreme Court that says Federal law doesn't
 22 matter, or Federal law might change, and it
 23 might say further that local governments have
 24 no ability to regulate. I mean, we just don't
 25 know.

1 MS. ALBERRO MENENDEZ: Right.
 2 MS. TREVARTHEN: But as things change, we
 3 can revisit. If it's necessary to repeal or to
 4 modify, we will do so. That would certainly be
 5 changed circumstances.
 6 MS. ALBERRO MENENDEZ: Okay.
 7 MR. WU: I just want to add one thing. If
 8 one was established there and then we annexed
 9 them, then that establishment could stay, just
 10 to clarify that.
 11 MS. TREVARTHEN: That's true. The way that
 12 the ordinance is written is, if the protected
 13 use comes after the treatment center, or the
 14 retail center, it doesn't prevent the retail
 15 center from staying, very similar to how our
 16 alcoholic beverage licensing works.
 17 MS. ALBERRO MENENDEZ: Right, but if it's
 18 not established as of the annexation, then it
 19 goes away?
 20 MS. TREVARTHEN: Yes, that's true.
 21 MR. BELLIN: Susan, does that one location
 22 have sufficient parking to support --
 23 MS. TREVARTHEN: That's not really a
 24 question that we can answer, because that
 25 presumes that they're moving into that

1 particular building and that particular land
 2 and that particular number.
 3 MR. BELLIN: They can't move in with any
 4 other building. That's the only one they can
 5 move into.
 6 MS. TREVARTHEN: Well, no, there's
 7 opportunities on either side of the street, and
 8 what I'm saying to you is, our -- the way we
 9 look at it is not as a developer. We look at
 10 it as the City, and we've learned anecdotally
 11 from the industry across the country that
 12 people don't just move in and put up a sign.
 13 There's a significant amount of modification to
 14 the premises. And so they could tear down and
 15 start over. Who knows what what they would do?
 16 And then the real issue becomes not what's
 17 striped there from 30 years ago, but what the
 18 book regulations would allow for a commercially
 19 zoned property in that location. That would be
 20 the effective limit.
 21 MR. WU: Just to add some more information
 22 on what the Board member raised, the property
 23 on the west side of Salzedo is 2,000 square
 24 feet and change. Based on the parking
 25 requirement for this medical use, it would

1 require 14 spaces plus employee parking. We
 2 estimate that 24 spaces exist, so in theory,
 3 they might just make it, in terms of the
 4 parking requirement. Again, that is just
 5 hypothetical. So there is a use that may have
 6 sufficient parking, just for the purposes of
 7 analyzing what's there. On the east side, it's
 8 a different story.
 9 CHAIRMAN AIZENSTAT: That's the financial
 10 building.
 11 MR. WU: No. The west side is the
 12 financial.
 13 CHAIRMAN AIZENSTAT: Okay.
 14 MR. WU: The east side is 7-Eleven and
 15 laundromat.
 16 CHAIRMAN AIZENSTAT: That's if we go the
 17 600 feet?
 18 MR. WU: That's if we go 500 feet.
 19 CHAIRMAN AIZENSTAT: I'm sorry, 500. With
 20 the 600 feet, they wouldn't be able to do that,
 21 so --
 22 MR. WU: Correct.
 23 MS. TREVARTHEN: Well, the issue becomes
 24 how you treat it if the lot line is split, and
 25 we could still interpret it to be included.

1 It's just a measurement rule. But we wanted to
 2 debate this notion of just going to 500 feet
 3 and having the entire lot included, being as it
 4 doesn't open up new places for people to
 5 locate. It doesn't really change the outcome.
 6 MR. BELLO: Mr. Chairman?
 7 CHAIRMAN AIZENSTAT: Anthony.
 8 MR. BELLO: If we follow the City
 9 Attorney's line of reasoning, then there will
 10 not be anything like this until Federal law
 11 changes.
 12 MS. TREVARTHEN: Correct.
 13 MR. LEEN: True.
 14 MR. BELLO: And is that view, of following
 15 Federal law, a policy decision that the
 16 Commission makes?
 17 MR. LEEN: It's an interesting question. I
 18 view it as a legal question. It's a legal
 19 question. I have to sign any ordinance that
 20 goes to the Commission for form and legal
 21 sufficiency. I view that, as the City Attorney
 22 of Coral Gables, as I have to say that that
 23 would be lawful, what we are doing. I do
 24 believe that Federal law -- I don't really
 25 think it's debatable. I do believe Federal law

1 preempts in this area. It is illegal.
 2 Now, the President, through the Justice
 3 Department, has taken the position that they
 4 are not enforcing Federal law in certain areas,
 5 but it's really -- It's more of a guideline
 6 that's being provided to U.S. Attorneys, and it
 7 doesn't affect that Congress has passed this
 8 statute, that it is in effect, that it is a
 9 Schedule I drug, and that it would be illegal,
 10 and that in my view, then, we do not have to
 11 have a dispensary that gives this drug out
 12 within our City, and I feel strongly about
 13 that.

14 Ultimately, I take direction of the
 15 Commission. If we can make a legal argument
 16 that is permissible, the Commission could
 17 direct me to do that. But in terms of my
 18 opinion as City Attorney, and whether I believe
 19 it's legally sufficient, I don't. I think that
 20 at this point it is not lawful.

21 Now, we're not applying that to use,
 22 because that's a different issue, use. We're
 23 not really the ones sponsoring the use, and I'm
 24 not saying we're sponsoring anything here, but,
 25 you know, if someone is using it, State law

1 legal sense.

2 I'd also note that there's a second reason
 3 for doing this, and I think it's equally or
 4 even more important. We are communicating to
 5 our community and to the industry at large
 6 about what we, as the City of Coral Gables,
 7 believe. We're giving them a message that
 8 we're not interested in being inundated with
 9 this use, we will accommodate it in a very
 10 strict manner, and right now there are people
 11 all over Florida signing options on space,
 12 investigating their due diligence on whether
 13 spaces can be used for this use. Sending them
 14 that message now is very effective, rather than
 15 a year from now, they've invested millions of
 16 dollars in your community, you say no to them,
 17 and they're very motivated to litigate with
 18 you. So I think there's a legal reason and
 19 there's this practical reason, also, to
 20 announce what our policy position is.

21 MR. LEEN: Now, I will also say, though,
 22 if -- I am asking you or we've suggested it be
 23 placed in the ordinance, and that was at the
 24 request of the City Attorney's Office. Now, of
 25 course, you don't have to put that in the

1 allows it, there seems to be a movement toward
 2 that in the United States, and it's done for
 3 compassionate reasons. But this is a little
 4 different. This is, we're acting as a
 5 regulatory agency in a zoning matter and we're
 6 making the determination that this can be
 7 placed in our City, and in that respect, I
 8 believe that we can rely on Federal law, and
 9 that's the opinion I plan to give to the
 10 Commission, and that's why I asked that it be
 11 written into the ordinance.

12 MR. BELLO: But if we rely on Federal law,
 13 then nothing will happen.

14 MR. LEEN: Well, unless it changes.

15 MS. TREVARTHEN: That's correct, and the
 16 reason that we have this fall-back regulatory
 17 status -- You may say it's a waste of time. It
 18 may ultimately be a waste of time, but we are
 19 aware, as City attorneys, of situations where
 20 we thought we had a regulatory basis, a court
 21 announces the law, changes the law, and you
 22 have a "Wild, Wild West" that results, that
 23 until you can get regulations on the book,
 24 theoretically that use goes anywhere, and that
 25 is what we're trying to avoid in a technical

1 ordinance if you didn't want. That is a policy
 2 choice, to some extent. I do think --

3 MS. TREVARTHEN: By that, he means the
 4 statement that it's prohibited.

5 MR. LEEN: Putting it in the actual
 6 ordinance, because I'm asking you and the
 7 Commission to consider placing that into the
 8 ordinance. So, in fact, the City Commission
 9 and you, by recommendation, would be taking the
 10 position that this would not be allowed until
 11 the City Attorney gives an opinion it's
 12 permitted under Federal law.

13 Now, as long as -- if, for example, you
 14 didn't adopt that, and I planned it, and let's
 15 say the Commission was fine with me taking that
 16 position but didn't put it into the ordinance,
 17 if at another time the Commission wanted me to
 18 take the position that this should be allowed,
 19 in good faith, as long as I can make the
 20 argument in good faith, I can take that
 21 position. But I think it's -- My legal counsel
 22 is that it's wise to make that clear now. It's
 23 much less likely we will get challenged if we
 24 are very clear with our position and they know
 25 that we plan to -- that it has the support of

1 the Commission and the Planning & Zoning Board.
 2 CHAIRMAN AIZENSTAT: In the ordinance that
 3 you have written, Craig --
 4 MR. LEEN: Yes.
 5 CHAIRMAN AIZENSTAT: -- which boundary did
 6 you use?
 7 MR. LEEN: Well, this --
 8 MS. TREVARTHEN: The ordinance was 600.
 9 MR. LEEN: The ordinance was drafted by
 10 Planning Staff, which is typical with planning
 11 ordinances. I asked that these clauses be
 12 included, so, just to be perfectly clear. I
 13 did review the ordinance, though, and find it
 14 to be legally sufficient with that clause
 15 included.
 16 CHAIRMAN AIZENSTAT: But if it's written
 17 here with the 600, if it's changed to the 500,
 18 for example --
 19 MR. LEEN: I would still view that as
 20 legally sufficient.
 21 Do you have any different view, Susan?
 22 MS. TREVARTHEN: I think it's a detail and
 23 it works either way. It's a policy choice. If
 24 you look at Section 4, on Page 9, Line 265,
 25 that's the uncodified statement of our position

1 that it's federally barred, but we've also
 2 written into the portions that will be codified
 3 in your Zoning Code a statement that it has to
 4 be legal under State and Federal law before we
 5 would allow it to proceed, and I'm just hunting
 6 for it, because it escaped. Where did that go?
 7 Do you recall offhand where we added that?
 8 MS. ALBERRO MENENDEZ: It's in the title, I
 9 mean.
 10 MS. TREVARTHEN: It is in the title, and we
 11 did that on purpose, to put people on notice.
 12 MR. WU: Susan, on Page 5 in the definition
 13 of medical marijuana --
 14 MS. TREVARTHEN: Is that where we put it?
 15 MR. WU: -- I think that says unless
 16 prohibited.
 17 MS. TREVARTHEN: There we go, Line 144.
 18 MS. ALBERRO MENENDEZ: 144?
 19 MS. TREVARTHEN: Uh-huh.
 20 MR. WU: And while you're looking at that,
 21 I just want to pose a question to Susan for
 22 consideration. We have on the proposed
 23 ordinance 1,000 foot from adjacent medical
 24 marijuana retail center. What is your thoughts
 25 about considering that buffer for facilities

1 outside the City, as well?
 2 MS. TREVARTHEN: We could consider that.
 3 It's not something that is currently written
 4 into this ordinance. So, if you want the
 5 Board's recommendation on that, you could
 6 debate that.
 7 MR. WU: I'd just like to put that on the
 8 table.
 9 CHAIRMAN AIZENSTAT: So, in other words, if
 10 across the street, which is City of Miami --
 11 MR. WU: Exactly.
 12 CHAIRMAN AIZENSTAT: -- allows a
 13 location --
 14 MR. WU: Because you border four different
 15 jurisdictions. We have a very long City border
 16 that crosses jurisdiction that -- We just need
 17 to be aware of that.
 18 MS. TREVARTHEN: So, in Line 167, it could
 19 say within a thousand feet of another medical
 20 marijuana retail center located in the City or
 21 outside the City. We could --
 22 CHAIRMAN AIZENSTAT: What happens if, let's
 23 just say it opens in the City of Coral Gables
 24 first. The City of Miami's Code says it's okay
 25 to open another one right across the street in

1 the City of Miami. What do you do at that
 2 point? When the two years are up, you --
 3 MS. TREVARTHEN: That would be City of
 4 Miami's decision.
 5 CHAIRMAN AIZENSTAT: Right, but what do you
 6 do at that point? You revoke the license after
 7 two years?
 8 MS. TREVARTHEN: No.
 9 MR. WU: No.
 10 MS. TREVARTHEN: No.
 11 CHAIRMAN AIZENSTAT: So how do you --
 12 MS. TREVARTHEN: It's not a guarantee.
 13 MR. WU: Right.
 14 MS. TREVARTHEN: It's just a suggestion
 15 that Charles is making.
 16 CHAIRMAN AIZENSTAT: No, I understand. I
 17 just want to understand how you enforce it.
 18 MS. TREVARTHEN: Because, you know, there's
 19 a reason why alcohol beverage spacing works
 20 that way. It's really not practical to make it
 21 work the other way. When somebody has
 22 invested, opened a business, and five years
 23 later, a church moves next door, what, do you
 24 kick them out? Certainly we're building this
 25 to have maximum discretion, and you're right to

1 point that out, but I just hesitate to say that
 2 that's the proper rule to have in that case.
 3 CHAIRMAN AIZENSTAT: But I'm just curious
 4 what would happen in that case, because we
 5 don't control what the City of Miami does.
 6 MS. TREVARTHEN: Well, nothing would
 7 happen. The effect of Charles's rule would
 8 only be if it came to the City of Miami first
 9 and ours came second.
 10 CHAIRMAN AIZENSTAT: Correct. Okay.
 11 MR. BELLIN: Susan, you can't have a
 12 location, as it stands now, in Coral Gables, to
 13 sell medical marijuana. There's no place you
 14 can do it, because Federal law prohibits it.
 15 Is that the case?
 16 MS. TREVARTHEN: Yes.
 17 MR. BELLIN: And if Federal law changed
 18 their mind and said it's now permitted, then
 19 what happens? Then --
 20 MS. TREVARTHEN: Then these are the places
 21 where it's allowed.
 22 MR. BELLIN: That little, one little --
 23 MS. TREVARTHEN: That little area, yeah.
 24 MR. BELLIN: Yeah.
 25 MS. TREVARTHEN: That is what's before you.

1 MS. ALBERRO MENENDEZ: Valuable land, then.
 2 MS. TREVARTHEN: And it allows you to be in
 3 a posture -- I mean, you could also try to
 4 prohibit it just generally under State law, but
 5 that is something that ultimately will end up
 6 in the courts, and it's -- In my judgment as a
 7 local government attorney, which could be
 8 wrong, because a lot's going to happen before
 9 we're in that courtroom, I think the court's
 10 going to look at the effect of that
 11 prohibition, factually, on the ability of
 12 people to use the drug as intended by the
 13 constitutional amendment, and they might find
 14 that we could do it and they might find that we
 15 can't. So this is a way to avoid having to
 16 fight that fight and say we've made some
 17 provision for the use, but, you know, not have
 18 a major impact in our community.
 19 MR. BELLIN: But the bottom line is, you
 20 really don't want it in Coral Gables?
 21 MS. TREVARTHEN: That's the direction we
 22 received from the City Commission when we took
 23 this idea of what to do about the medical
 24 marijuana issue to them in workshop form in
 25 August. We got feedback from them and asked

1 them how they wanted us to proceed, and so this
 2 reflects that general input. Now, they haven't
 3 seen this yet, because it's got to go through
 4 you and they'll see this and the business
 5 regulations on first reading -- Is it later
 6 this month or November?
 7 MR. LEEN: I believe later this month. Is
 8 that true, Jane?
 9 MS. TREVARTHEN: I can't remember.
 10 MR. LEEN: Do you plan --
 11 MS. TOMPKINS: October.
 12 MR. LEEN: Yeah, so --
 13 MS. TREVARTHEN: So it is later this month.
 14 MR. LEEN: -- October 28th.
 15 MS. TREVARTHEN: So that will be the first
 16 time they'll be able to see all these details.
 17 They heard the more general presentation of
 18 what this issue is.
 19 CHAIRMAN AIZENSTAT: Jeff, any comments?
 20 MR. FLANAGAN: I've got some technical
 21 comments or suggestions, if you want them now,
 22 or I can sit with you and Craig later, or
 23 e-mail them, whatever you prefer.
 24 MR. LEEN: Whatever you prefer.
 25 MS. TREVARTHEN: It's fine with me.

1 MR. LEEN: I'm happy to work with you
 2 individually or --
 3 MR. FLANAGAN: Okay, I'll just red line it
 4 or something.
 5 MS. TREVARTHEN: Good.
 6 MR. FLANAGAN: I mean, they're just minor
 7 things.
 8 MS. TREVARTHEN: Okay.
 9 MR. LEEN: We'd be happy to sit with you.
 10 CHAIRMAN AIZENSTAT: Any other comments to
 11 Susan, because I'd like to ask if there's
 12 anybody from the audience that would like to
 13 comment.
 14 Thank you, Susan.
 15 Is there anybody from the audience that
 16 would like to come up and speak about the
 17 subject? Not everybody at once. Okay, thank
 18 you.
 19 At this point, I'll go ahead and close the
 20 floor for Board discussion.
 21 MS. ALBERRO MENENDEZ: I'm ready to make a
 22 motion in favor of it, with the 500 feet.
 23 CHAIRMAN AIZENSTAT: With the 500 feet?
 24 MS. ALBERRO MENENDEZ: Yeah, as recommended
 25 by Staff.

1 CHAIRMAN AIZENSTAT: Now, the 500 feet as
 2 recommended by Staff is so you don't cut any
 3 properties; is that correct, so you don't split
 4 off any properties?
 5 MR. WU: Correct.
 6 CHAIRMAN AIZENSTAT: Okay.
 7 MR. WU: And my question, just for
 8 clarification, whether you want to include
 9 1,000 feet from medical retail -- marijuana
 10 retail use outside the City, as well.
 11 CHAIRMAN AIZENSTAT: Say that one more,
 12 please.
 13 MR. WU: Whether to consider a thousand
 14 foot buffer for a medical marijuana retail
 15 center outside the City, as well.
 16 CHAIRMAN AIZENSTAT: But that -- Isn't that
 17 in here already?
 18 MR. WU: No. This is just strictly the 500
 19 foot --
 20 MS. ALBERRO MENENDEZ: No, it's something
 21 he just brought up.
 22 MR. WU: The 500-foot buffer is within the
 23 City limits.
 24 CHAIRMAN AIZENSTAT: You're talking about
 25 from another city?

1 MR. WU: Outside the City, yes. If someone
 2 is already there first, can they preempt
 3 someone coming into the City.
 4 MR. FLANAGAN: If I were to read this, I
 5 could easily read it to say -- I mean, your
 6 radius, your buffer, is a radius because it
 7 doesn't say within a thousand feet either of a
 8 retail center or of a school located within the
 9 corporate limits of the City, unless if that
 10 were somewhere else.
 11 MS. TREVARTHEN: Mr. Chair, if I could
 12 address that.
 13 CHAIRMAN AIZENSTAT: Please.
 14 MS. TREVARTHEN: This is important, because
 15 it affects your whole Zoning Code. Throughout
 16 your Zoning Code, you say all sorts of things
 17 and you don't say in each section, within the
 18 City, within the City, within the City. It's
 19 presumed that our regulatory scope is within
 20 the City. So, you know, I think the better
 21 interpretive rule is to specify if we are
 22 counting something outside of the City. That's
 23 the abnormal thing, not the normal thing, but
 24 Craig may have a view on that, as well.
 25 MR. LEEN: I mean, I'd want to look at it

1 in any individual case, but I generally agree
 2 with that. I think that that's probably the
 3 wiser way to proceed, because generally your
 4 authority is within the City. That doesn't
 5 mean that Coral Gables hasn't and won't, in
 6 certain circumstances, if there is something
 7 outside the City that harms us or violates one
 8 of our provisions and we have a special injury,
 9 that we won't seek to enforce even our Code in
 10 certain circumstances, against that. I want to
 11 make that clear. But generally, that's my view
 12 of the matter, too.
 13 CHAIRMAN AIZENSTAT: But Craig --
 14 MR. LEEN: Yes.
 15 CHAIRMAN AIZENSTAT: By adding what Charles
 16 said, within a thousand feet, if it's within
 17 another city, wouldn't that restrict the City
 18 with not allowing it anywhere at all and then
 19 couldn't somebody litigate that?
 20 MR. LEEN: It could. I mean, if we ended
 21 up having it so that it couldn't be anywhere?
 22 CHAIRMAN AIZENSTAT: I mean, if --
 23 MR. LEEN: We would have an argument
 24 against that, in that, well, one, there's
 25 obviously one nearby, because of that, and --

1 I mean, what do you think, Susan?
 2 MS. TREVARTHEN: The other thing I would
 3 say is that these spacings are dynamic. In the
 4 moment, they're frozen --
 5 MS. ALBERRO MENENDEZ: Right.
 6 MS. TREVARTHEN: -- but churches come and
 7 go; other types of uses come and go.
 8 MR. LEEN: That's true.
 9 MS. TREVARTHEN: And so while it looks
 10 frozen in time, over time there could be a
 11 different impact from these spacings.
 12 MR. LEEN: I mean, generally, they're going
 13 to look at whether it was reasonable at the
 14 time that we adopted the ordinance. If it
 15 becomes completely prohibitive and someone asks
 16 to come in, it may be required by the law and I
 17 might have to give an interpretation, or I
 18 might ask Susan to give her opinion.
 19 MS. TREVARTHEN: Or we tweak the ordinance.
 20 MR. LEEN: We might have to tweak the
 21 ordinance or I might have to find that we have
 22 to follow the preemptive law, which is State
 23 law or Federal law, in that circumstance.
 24 So, for example, if we had a law that --
 25 really quickly, if we had a law that abolished

1 a use that we had to have, per the
 2 Constitution, and someone wanted to come in,
 3 per the Constitution, you know, we might have
 4 to allow it in that instance. So it's better,
 5 though, to have an ordinance that addresses it,
 6 which is actually -- That's precisely why we're
 7 presenting this today, so that we do have an
 8 ordinance that allows it, so no one could say,
 9 "Well, you have no ordinance addressing it,
 10 thus it can go anywhere in this area of the
 11 City," or something like that.
 12 CHAIRMAN AIZENSTAT: So, Maria, is your
 13 motion -- just to be clear, is it with what
 14 Charles said, with the thousand feet?
 15 MS. ALBERRO MENENDEZ: No.
 16 CHAIRMAN AIZENSTAT: It is not?
 17 MS. ALBERRO MENENDEZ: No.
 18 CHAIRMAN AIZENSTAT: Okay.
 19 MR. GRABIEL: I have a question for --
 20 CHAIRMAN AIZENSTAT: Please.
 21 MR. GRABIEL: What happens with medical
 22 facilities within the City limits, say, a
 23 thousand foot? Would this be --
 24 MS. TREVARTHEN: Medical marijuana
 25 facilities?

1 MR. GRABIEL: No, no. Hospitals, Doctors
 2 Hospital, as an example, within the City
 3 limits, within the City of Coral Gables, and
 4 would this regulation not permit them to use
 5 medical marijuana to serve their patients?
 6 MS. TREVARTHEN: It's a good question, and
 7 let me tell you what I've learned about that.
 8 I'm having a little feedback.
 9 We have -- we've talked about it a little
 10 bit here, but I had already been through this
 11 process in another city that had a very
 12 substantial medical presence, and the first
 13 thing we did was, we called them and said, you
 14 know, "Are you going to be doing clinical
 15 trials and testing and is there going to be a
 16 whole, like, economic development angle of this
 17 that's very proper and part of your medical use
 18 that we want to consider," and they said, "We
 19 are not touching this with a 10-foot pole,"
 20 because they have a lot of things that are at
 21 risk, in terms of Federal grant funding,
 22 approvals for their operations. So I have not
 23 seen anyone, even in the State University
 24 System, where the statute is assigning this.
 25 The universities are like, "We have Federal

1 grants. We don't want anything to do with
 2 this. We're not touching it."
 3 I mean, so if we reach a point where those
 4 entities are wanting to be involved with actual
 5 production and retailing, which is, after all,
 6 what we're talking about, not just giving a
 7 patient a drug. We're talking about the
 8 production and the retailing of the product.
 9 If we reach that point, that's something we
 10 could look at as a future change.
 11 MR. GRABIEL: Perhaps giving a variance
 12 or --
 13 MR. LEEN: Yeah. Yeah, We would look at
 14 that. There would have to be some other
 15 action taken to address that.
 16 MR. GRABIEL: I'll second it.
 17 CHAIRMAN AIZENSTAT: We have a motion. Is
 18 there a second?
 19 MR. GRABIEL: I'll second.
 20 CHAIRMAN AIZENSTAT: We have a second. Any
 21 further discussion? And that is with the 500
 22 feet?
 23 MS. ALBERRO MENENDEZ: Yes, sir.
 24 MR. LEEN: That's right.
 25 CHAIRMAN AIZENSTAT: No further discussion?

1 Call the roll, please.
 2 MR. BOLYARD: Julio Grabiel?
 3 MR. GRABIEL: Yes.
 4 MR. BOLYARD: Maria Menendez?
 5 MS. ALBERRO MENENDEZ: Yes.
 6 MR. BOLYARD: Alberto Perez?
 7 MR. PEREZ: Yes.
 8 MR. BOLYARD: Marshall Bellin?
 9 MR. BELLIN: Yes.
 10 MR. BOLYARD: Anthony Bello?
 11 MR. BELLO: Yes.
 12 MR. BOLYARD: Jeffrey Flanagan?
 13 MR. FLANAGAN: Yes.
 14 MR. BOLYARD: Eibi Aizenstat?
 15 CHAIRMAN AIZENSTAT: Yes.
 16 Susan, thank you for being so informative.
 17 MS. TREVARTHEN: Thank you.
 18 CHAIRMAN AIZENSTAT: Okay, the next item,
 19 the next two items, are related and we'll go
 20 ahead and read them into the record together.
 21 The first one is an Ordinance of the City
 22 Commission of Coral Gables, Florida, requesting
 23 a change of zoning pursuant to Zoning Code
 24 Article 3, "Development Review," Division 14,
 25 "Zoning Code Text and Map Amendments," from

1 Multi-Family 2 District, known as MF2, to
 2 Commercial District, known as C, for the
 3 construction of a commercial office building
 4 referred to as "Ofizzina," including a
 5 drive-through bank facility, for the portion of
 6 the property legally described as Lots 6 and 7,
 7 Block 26, Douglas Section, whose address is
 8 1200 Ponce de Leon Boulevard, Coral Gables,
 9 Florida; and providing for severability,
 10 repealer and an effective date.

11 Also, an Ordinance of the City Commission
 12 of Coral Gables, Florida, requesting
 13 conditional use site plan review pursuant to
 14 Zoning Code Article 3, "Development Review,"
 15 Division 4, "Conditional Uses," and Article 5,
 16 "Development Standards," Division 1, "Accessory
 17 Uses," Section 5-115, "Drive-throughs, walk-up
 18 windows, and automatic teller machines," known
 19 as ATMs, for a drive-through bank facility on
 20 property designated Commercial District, known
 21 as C, adjacent to a Multi-Family 2 District,
 22 known as MF2 zoned district, and legally
 23 described as Lots 6-10, Block 26, Douglas
 24 Section, whose address is 1200 Ponce de Leon
 25 Boulevard, Coral Gables, Florida; and including

1 required conditions; providing for
 2 severability, repealer and an effective date.

3 At this time, I would actually like to ask
 4 the applicant to go first and do their
 5 presentation.

6 MR. LEEN: Mr. Chair, we would also -- the
 7 City would also ask that these be consolidated
 8 for purposes of the public hearing, and that
 9 they be voted on separately, though.

10 CHAIRMAN AIZENSTAT: Voted on separately?

11 MR. LEEN: Yes, following the public
 12 hearing.

13 CHAIRMAN AIZENSTAT: That's why I read them
 14 in together.

15 MR. LEEN: I knew that. I just wanted to
 16 say that for the record. Thank you, Mr. Chair.

17 MR. FLANAGAN: Can I just ask, real quick?

18 CHAIRMAN AIZENSTAT: Yes, go ahead, please.

19 MR. FLANAGAN: Sorry.

20 Charles, I don't know if anybody else does,
 21 I have two of these at my seat tonight.
 22 They're slightly different. One has 11 pages;
 23 one has 12 pages. I just want to make sure I'm
 24 going to use the right one.

25 MS. ALBERRO MENENDEZ: Is it different from

1 our package? We got one tonight. Is the one
 2 that we got tonight different from the one
 3 that's in the package? Because the package one
 4 has 12.

5 MR. GRABIEL: This one has 11.

6 MS. ALBERRO MENENDEZ: All right, so --

7 MR. WU: If there is a variation, it's very
 8 slight. If there is, the variation is very
 9 slight.

10 MR. FLANAGAN: I don't know which my
 11 package was.

12 MS. ALBERRO MENENDEZ: Yeah, one's within
 13 your package.

14 MR. FLANAGAN: Okay. Maybe one was from my
 15 package. I'm sorry. I've gotten the papers
 16 mixed up. What was the one we got tonight?

17 MS. ALBERRO MENENDEZ: Eleven pages.

18 MR. FLANAGAN: Eleven, okay.

19 CHAIRMAN AIZENSTAT: Please proceed.

20 MR. GARCIA-SERRA: Good evening, Mr. Chair,
 21 Members of the Board. My name is Mario
 22 Garcia-Serra, with offices at 600 Brickell
 23 Avenue, representing this evening the property
 24 owner and applicant, Ofizzina 1200, LLC, which
 25 is the owner of the property located at 1200

1 Ponce de Leon Boulevard, between Antilla and
 2 Sidonia Avenues, on the west side of Ponce, as
 3 you can see indicated on that aerial photograph
 4 on the left-hand side.

5 I'm joined this evening by Jose Boschetti
 6 and Camilo Lopez, the principals of Ofizzina
 7 1200; as well as Lester Garcia; Alberto
 8 Cordoves, from Corwil Architects, our project
 9 architect; Johanna Mead, of Witkin Design
 10 Group, our landscape architect; Juan Espinosa,
 11 of David Plummer & Associates, our traffic
 12 engineer; and Hugh Johnson, our Art in Public
 13 Places consultant.

14 The project that we're proposing is a
 15 17-story, 96,000-square-foot, Class A office
 16 building, with an accompanying six-story
 17 parking garage. The portion of the property
 18 which fronts Ponce de Leon Boulevard is already
 19 zoned Commercial. The two back lots, which
 20 have historically been used for parking uses,
 21 are right now zoned Multi-Family.

22 We're requesting that these two back lots
 23 be rezoned Commercial, which would be
 24 consistent and correct an inconsistency that
 25 there is right now between the zoning and the

1 Future Land Use Map of the City's Comprehensive
2 Plan.

3 We're also requesting conditional use
4 approval for a bank drive-through, to be
5 accessed off Antilla Avenue. Later in the
6 presentation, I'll go more into our sort of
7 legal justifications for each of these
8 proposals, but right now I think it would be
9 best if Alberto could come up and walk through
10 the plans and show you exactly the project it
11 is that we're proposing.

12 MR. CORDOVES: Thank you, Mario.

13 Good evening, Mr. Chair, Members of the
14 Board. Albert Cordoves, with Corwil
15 Architects, 4210 Laguna Street, Coral Gables,
16 Florida.

17 First and foremost, I want to thank you for
18 your time today and reviewing and considering
19 our application. We're extremely happy to be
20 here today. This is a project that from the
21 outset of its design, we started working very
22 closely with City Staff, with our clients, and
23 what has culminated in what we truly, strongly
24 believe is an incredible project for the City
25 and the end-users.

1 I'd like to briefly take you through just a
2 brief explanation of the design and the
3 envelope of the project, if I may.

4 Starting with our ground floor, as Mario
5 alluded to, this is an approximately 97,000
6 square feet of office use, in 16 stories.

7 So, starting with our ground floor plan,
8 which essentially has the major frontage on
9 Ponce Boulevard, what we have on that
10 particular ground floor is obviously some of
11 the ground floor office uses, our main lobby,
12 and it's fully colonnaded against the major
13 thoroughfare of Ponce de Leon.

14 Again, the drive-through facility that is
15 mentioned is totally internalized within the
16 exterior envelope of the building. We have
17 internalized also our loading and unloading
18 spaces, which are easily accessible to the
19 central elevator core, and we've kept our
20 vehicular ramp with access to our levels of
21 parking above this, and obviously a great
22 distance from the inner section and also from
23 the entrance to the drive-through. We also
24 have accommodated the drive-through with almost
25 20 car positions for stacking purposes, and

1 it's, again, totally internalized itself.

2 Our second floor is where we begin to have,
3 behind the office envelope, some of the
4 parking, which we count with 335 spaces
5 throughout, in five stories, six levels. The
6 second floor is a combination of parking and
7 office use, again, with a very urban feel
8 characteristic, fronting the colonnade and
9 Ponce.

10 This is our typical parking level, which
11 again has a centralized core, required means of
12 egresses, and as you can see from our
13 elevations, on every single facade of these
14 elevations, the parking system has been, what
15 we feel, very well articulated and integrated
16 into what becomes the actual uses above for
17 office. Everything that you see here is an
18 actual fenestration of window or storefront, so
19 it is not open to any kind of viewing of
20 automobiles from any of the facades whatsoever.

21 Okay, that parking facility essentially
22 culminates at the sixth level -- sixth, seventh
23 level, which is this top view, which we have a
24 few parking spots on the very last level, and
25 you'll see in some of our renderings and

1 elevations that again, what we have is a vine
2 pergola over it. 60 percent of all the cars
3 that are on that particular level, at the roof.
4 Again, this is where we start having our office
5 use, again, at the seventh level, and you'll
6 notice from our elevations that we have stepped
7 the building back at that particular level and
8 we've created beautiful terraces for the users,
9 that come around and actually accentuate that
10 particular level at the seventh floor.

11 This was greatly considered. We wanted to
12 have a beautiful building, something that we
13 could -- from every one of the angles, you
14 could actually feel that it was in good context
15 and in good proportion to the base. So,
16 instead of essentially spreading out the tower,
17 we created a small floor plate, what we feel is
18 a small floor plate, with again an internalized
19 core, and this happens from Floors 7 through
20 12, as you can see here, again, and then again
21 at Floors 14, 15 and 16, again, we step back
22 the building into very small penthouse levels,
23 as you can see here, and again, the building
24 steps back and it has features, Mediterranean
25 features, such as the barrel tile roofs, the

1 railings, the fenestrations, and again
2 culminating in the very small penthouse terrace
3 that you see up here, and that is essentially
4 our envelope, as we have it today, 335 parking
5 spaces, all in 97,000 square feet of office.

6 I'll take you through some of the
7 elevations, as you can see. This is the
8 frontage elevation on Ponce, and you can see
9 our colonnade, our pedestal, and you can see
10 the tower as you can see it from Antilla. This
11 is our entrance to the drive-through facility.
12 This is our entrance to the parking facility
13 and parking levels above.

14 Again, our elevation from the south.
15 Again, notice that we have provided essentially
16 the same treatment throughout, regardless if
17 it's a side elevation or a rear elevation.

18 And I want to leave you with some of our
19 3-D renderings from Ponce, and I'll be open to
20 any questions, I'll answer any questions.

21 CHAIRMAN AIZENSTAT: I'd like to take a
22 moment just to recognize Commissioner Frank
23 Quesada and welcome him to our Board. Thank
24 you.

25 MR. GARCIA-SERRA: As you are aware, a

1 this park. We've met the Art in Public Places
2 requirement through the use of sculptures,
3 through the use of mosaic patterns in the parks
4 and park walls and in the paving in the park,
5 through botanics in the park. Our artist's
6 statement is based on the fact that this is
7 Ponce de Leon Park. Ponce de Leon named
8 Florida and called it La Florida, "Place of
9 Flowers." That was our starting point, and if
10 you read our artist's statement, that's how we
11 arrived at that, the design that we have.

12 Within the park, with the Art in Public
13 Places, we're working with the existing
14 sculpture of Ponce de Leon. That will be
15 refurbished. There's a plaque there that will
16 also be refurbished. There are mosaics
17 throughout the pedestrian walkways in the park
18 here. Down here we're creating a secondary
19 plaza within the park that has a sculpture, a
20 large sculpture, that will have bougainvillea
21 based on it and will be seen -- as you're
22 traveling on Ponce de Leon from the south, it
23 will be a -- Sorry. It will be a beacon in the
24 road and a long focal point as you're driving
25 down the street.

1 project of this scope has to comply with the
2 City's Art in Public Places Ordinance, which
3 permits one of two ways to comply; either you
4 pay one percent of construction costs in cash
5 to the City's Art in Public Places Fund, or you
6 incorporate a work of public art of equivalent
7 value into the project.

8 In this case, what we're doing, because of
9 the unique location of the office building,
10 across the street from Ponce de Leon Park,
11 which is pretty much on the median there of
12 Ponce de Leon Boulevard, we're proposing to
13 incorporate the public art into the park.

14 So I want Hugh Johnson, who's our Art in
15 Public Places consultant, to just talk to you
16 about that proposal and how it's going to look,
17 because it is something indeed unique that this
18 project is doing that few other projects have
19 done before.

20 MR. JOHNSON: Hi, I'm Hugh Johnson, from
21 Architectural Alliance, in Fort Lauderdale,
22 Florida. I'm very pleased to be before you
23 tonight.

24 We have three objectives in meeting the Art
25 in Public Places requirement and in designing

1 Another objective to this plan was to
2 satisfy the tree mitigation requirements for
3 the development and for the office tower. We
4 needed to mitigate 68 trees and palms on the
5 site. We're mitigating them in the park and in
6 the surrounding right-of-ways along the park.

7 Our third objective was to improve the park
8 and the surrounding vehicular and pedestrian
9 circulation. We've met several times with
10 Staff. They had concerns about crosswalk
11 connections, about pedestrian circulation,
12 about vehicular circulation around the park.
13 The way that we've done this is to take what
14 was on this edge of the park --

15 CHAIRMAN AIZENSTAT: If you turn your
16 microphone on, sorry.

17 MR. JOHNSON: Oh, I'm sorry.

18 CHAIRMAN AIZENSTAT: That's okay.

19 MR. JOHNSON: Is that better? Okay, sorry.

20 This is the proposed development. On this
21 side of the park, this is a two-way travelway,
22 at the current time. At Staff's suggestion, we
23 have made that a one-way travelway, preserved
24 the angled parking, made it a one-way
25 travelway, added a lane -- what would be the

1 width of a lane of traffic into the park, into
 2 the park, so enhancing the park, enhancing the
 3 pedestrian circulation on this edge of the
 4 park, creating crosswalks into the park from
 5 various points around, which don't exist now.
 6 We created this plaza with sculpture down at
 7 this end of the park, which also serves as a
 8 focal point as you're coming down Sidonia
 9 Avenue in either way. So those roads both
 10 dead-end into the park, and now you've got a
 11 nice focal point that will light up at night
 12 and really beautify the park.

13 We added landscape improvements to the
 14 park. Another thing that was important to this
 15 plan was, in the new development we're creating
 16 a new mid-block crosswalk into the plaza, which
 17 aligns with the front entry to the building and
 18 leads you into this plaza, into the park, and
 19 also at Staff's suggestion, we created
 20 paved -- a paved plaza here on this side of
 21 the road and on this side of the road.

22 This plan also reflects the proposed new
 23 plan for Ponce de Leon Boulevard, with the
 24 divided median and the landscaping.

25 MR. GARCIA-SERRA: Excellent. Thank you,

1 ask that you follow that recommendation and
 2 recommend approval of this application to the
 3 City Commission.

4 The whole team, of course, is here, ready
 5 for any questions or concerns that you might
 6 want us to address.

7 CHAIRMAN AIZENSTAT: Thank you, Mario.
 8 Staff?

9 MR. GARCIA-SERRA: And I'll reserve any
 10 time, if necessary, for rebuttal.

11 CHAIRMAN AIZENSTAT: Charles?

12 MR. WU: Thank you. If Aaron can pull up
 13 our PowerPoint, I'll just try to hit the points
 14 that are not covered.

15 It's a two-part request; this is a
 16 conditional use and a rezoning. This is the
 17 property. I just want to highlight the
 18 surrounding area. You are aware the east side
 19 is the park, which is about .3 acres. To the
 20 northeast, we have a three-story hotel. To the
 21 north are a slew of one-story commercial,
 22 fronting on Ponce. Across the street, to the
 23 north, we do have a parking lot, but also a
 24 two-story multi-family, and immediately west,
 25 also, two-story and one-story multi-family

1 Hugh.

2 One other thing to note about this
 3 proposal, too, is that indeed it is a proposal
 4 at this stage. Assuming that we do get our
 5 zoning approvals from the City Commission for
 6 this project, we would then proceed to go
 7 through the Art in Public Places, Public Works
 8 and Parks' approval processes that would be
 9 necessary in order to actually build those
 10 improvements.

11 Now we'll just talk briefly about the
 12 relevant criteria that we have to comply with.
 13 Staff's already done a pretty extensive
 14 analysis of the rezoning and conditional use
 15 criteria that we have to comply with, and the
 16 conclusion has been that we meet those for many
 17 reasons, but principally because the lots where
 18 we're requesting the rezoning are already
 19 designated Commercial High Intensity on the
 20 Future Land Use Map of the Comprehensive Plan,
 21 and the fact that the drive-through has been
 22 designed in such a way so as to minimize any
 23 negative impacts.

24 We're in agreement with all of Staff's
 25 recommended conditions of approval, and would

1 products. To the south, we have a recently
 2 completed Salamanca Tower, which is between an
 3 11 and 12-story mixed-use project. Immediately
 4 south, along Ponce, is a one-story commercial
 5 building. South is a four-story apartment
 6 complex, and variation between one and two
 7 stories.

8 Here is a visual of -- the pictorial. This
 9 is -- The circular property is where the
 10 subject property is, the Salamanca Tower. The
 11 one on the bottom of that is going north along
 12 Ponce, the commercial frontage. This is the
 13 park, and to the left is an image where the
 14 parking lot is and the two-story multi-family.
 15 This is where the drive-through bank facility
 16 will be looking into, for what it's worth.

17 And to the lower right is a four-story
 18 apartment complex, immediately adjacent and
 19 south of the subject property. So that's just
 20 to give you an image of what's surrounding it
 21 immediately.

22 We touched upon that they're requesting a
 23 rezoning from Multi-Family 2 to a Commercial --
 24 to a Commercial zoning, and just for your
 25 information, in 1971 and 1973, both lots, Lots

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1 6 and 7, got zoning to change to a particular
 2 kind of zoning, which also is residential use,
 3 but to allow off-street parking for a
 4 proposed credit union located along Ponce. So
 5 that was done in anticipation that it was going
 6 to be commercialized.

7 As you can see, and mentioned earlier, the
 8 land use and zoning are not compatible. The
 9 land use is now Commercial High, and the zoning
 10 still retains the Multi-Family 2, which is one
 11 of the close to 40 land use and zoning
 12 inconsistencies we identified between our land
 13 use and zoning maps. So this zoning change
 14 will rectify one of the inconsistencies.

15 I want to go through the site plan. This
 16 is where the vehicular access is, this is where
 17 the loading, and this is where the
 18 drive-through bank facility entrance is. As
 19 you can see, it's fairly secluded from public
 20 view. We do have an arcade fronting on Ponce.
 21 The landscape plan is proposing five mahoganies
 22 on Antilla, two Bismarck palms at the corner,
 23 and 10 Alexander palms along Ponce. I'll show
 24 the visual, and this is the elevation.

25 For your information, the FAR as proposed

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1 is a 3.43 FAR, which is slightly lower than the
 2 3.5 that's allowed with architectural bonuses.
 3 You've seen the elevations. They're proposing
 4 Confederate jasmine along the walls.

5 This particular south elevation is where
 6 the adjacent commercial building will be
 7 facing. On the left-hand side is where the
 8 four-story multi-family structure will be
 9 facing. This is the west elevation, where the
 10 residential structure will be facing, also.

11 They discussed extensively about the design
 12 concepts for the park. We thought it was a
 13 very creative solution. Just for your
 14 information, as you are aware, it requires
 15 approval from the Art Advisory Panel, Cultural
 16 Development Board, also Board of Architects and
 17 City Commission, prior to getting a building
 18 permit.

19 Okay, we went through that the FAR is
 20 slightly lower than 3.5. They're proposing
 21 97,650 square feet, all office space, and they
 22 meet the parking requirement, providing nine
 23 extra spaces.

24 Findings of fact. We find the conditional
 25 use satisfies Section 5-115 of the Zoning Code.

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1 The drive-through facility will be enclosed
 2 within the building and they're proposing a
 3 triangular public park to satisfy and mitigate
 4 the loss of landscaping and comply with the Art
 5 in Public Places requirement. More
 6 importantly, they have sufficient stacking of
 7 the drive-through bank facility within the
 8 building so it will not interfere with
 9 pedestrian and vehicular circulation. At this
 10 time, an ATM is not proposed.

11 Findings of fact for the rezoning. It is
 12 consistent with the Comprehensive Plan. We
 13 mentioned that this will rectify an
 14 inconsistency between the Land Use Plan and the
 15 zoning map. It will continue the high quality
 16 development along the North Ponce corridor, and
 17 the Commercial District is consistent with the
 18 proposed uses.

19 This project received preliminary approval
 20 from the Board of Architects at its July 3rd
 21 meeting, and they held a neighborhood meeting
 22 August 25th, all within the 1,000-foot property
 23 owners.

24 The Staff recommends approval, based on
 25 conditions at Pages 26 and -- between 26 and

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1 28. That concludes Staff's presentation.

2 CHAIRMAN AIZENSTAT: Okay. Are there any
 3 speakers at this time?

4 MR. BOLYARD: No, not for this project.

5 CHAIRMAN AIZENSTAT: I'm sorry?

6 MR. BOLYARD: No, we don't have any
 7 speakers for this project.

8 CHAIRMAN AIZENSTAT: There are no speakers.
 9 At this time, I'd like to close the floor
 10 and open up for comments.

11 Charles, let me ask you a question, please.
 12 Why is -- Do you know why there is no ATM
 13 proposed at this time on the project?

14 MR. WU: I think it's something the
 15 applicant would have to answer.

16 CHAIRMAN AIZENSTAT: Mario?

17 MR. GARCIA-SERRA: It's a product of what
 18 tenant we're going to ultimately get. Right
 19 now there is no tenant committed for that
 20 ground floor space, so it's going to be up to,
 21 you know, a subsequent tenant to decide whether
 22 they would want an ATM on the outside of that
 23 building.

24 CHAIRMAN AIZENSTAT: But in your
 25 drive-through, you're not -- Most institutions

1 today have ATMs at the drive-through. So
 2 you're not going to have an ATM on your
 3 drive-through, either?
 4 MR. GARCIA-SERRA: Right now, at least, not
 5 proposed. If a tenant comes along and wants to
 6 have an ATM there, then we'll have to go
 7 through the approval process.
 8 CHAIRMAN AIZENSTAT: Is there any special
 9 requirement that would be needed at that time
 10 for an ATM? Does it change anything with the
 11 overall --
 12 MR. WU: Other than the signage we would
 13 look at.
 14 CHAIRMAN AIZENSTAT: Okay.
 15 MR. WU: And the Police Department look at
 16 some accepted concerns about lighting, whether
 17 they have the adequate cameras, that kind of
 18 thing. It would definitely have to come
 19 through a permitting process.
 20 CHAIRMAN AIZENSTAT: Okay, and the other
 21 question I have, Charles, for you, on the site
 22 plan information, what you have under permitted
 23 or proposed, the permitted and the FAR times
 24 the total site area is with the zoning change
 25 or it's --

1 MR. WU: It's with the zoning change,
 2 correct.
 3 CHAIRMAN AIZENSTAT: As is the property
 4 today, without the zoning change, what would be
 5 permitted?
 6 MR. WU: It would be residential.
 7 CHAIRMAN AIZENSTAT: But what about the
 8 entire project, overall? Because you're taking
 9 into account -- You're saying permitted, but
 10 you're taking into account that the zoning
 11 change has already taken place.
 12 MR. WU: Yes. This is concurrent
 13 application. It is advised that you take up
 14 the zoning, along with the conditional use,
 15 together.
 16 CHAIRMAN AIZENSTAT: But if the
 17 Single-Family was not changed, do you know what
 18 would be allowed on the existing property,
 19 as-of-right?
 20 MR. WU: Along the Ponce property or along
 21 the Antilla property?
 22 CHAIRMAN AIZENSTAT: The Ponce property.
 23 MR. WU: It would be allowed Commercial, I
 24 believe --
 25 CHAIRMAN AIZENSTAT: But what would the FAR

1 be? How much would be allowed there?
 2 MR. WU: 3. 3 and 3.5 with architectural
 3 bonus, times the area of where the Commercial
 4 is.
 5 CHAIRMAN AIZENSTAT: Which would be what
 6 number? Right now you've got 99,834 square
 7 feet.
 8 MR. WU: I don't have the size for the
 9 three lots in front of me. Do you have that?
 10 MR. GARCIA-SERRA: No. You know, off the
 11 top of my head, I couldn't tell you, but I
 12 think the answer that you're looking for is
 13 that the Commercial zoned property -- it's
 14 already zoned Commercial fronting Ponce, 3.5,
 15 assuming that you get the Mediterranean bonus.
 16 The two MF2 zoned lots that we're looking to
 17 rezone to Commercial, in the MF2 zoning
 18 district, the FAR is a product of your height
 19 and I think the highest you could max it out,
 20 probably, is around a 2.0, or maybe a 2.5 plus
 21 the --
 22 CHAIRMAN AIZENSTAT: I'm trying to find
 23 out, how much are you gaining in FAR by getting
 24 the zoning on that?
 25 MR. GARCIA-SERRA: There is some gain.

1 There is some gain. There is same gain, and I
 2 would quantify it probably about a 1.0 FAR on
 3 those two lots.
 4 CHAIRMAN AIZENSTAT: Okay. It's just when
 5 I see site plan information, when I see
 6 permitted, to me I would normally think that's
 7 what's permitted today.
 8 MR. WU: Okay.
 9 CHAIRMAN AIZENSTAT: And that's why I asked
 10 that question.
 11 MR. BELLIN: And I think they already
 12 mentioned that there is no Single-Family zoning
 13 involved here.
 14 CHAIRMAN AIZENSTAT: Say that again.
 15 MR. BELLIN: There is no single-family
 16 zoning.
 17 MR. WU: It's Multi-Family 2.
 18 MR. BELLIN: It's Multi-Family.
 19 CHAIRMAN AIZENSTAT: Oh, it's Multi-Family.
 20 MR. BELLIN: Yes.
 21 CHAIRMAN AIZENSTAT: Yes, please.
 22 MR. FLANAGAN: Mario, does the -- Let's say
 23 Floors 7 and above of the building, do those
 24 sit on what is currently the commercial
 25 property fronting Ponce?

1 MR. GARCIA-SERRA: Yes, they do.
 2 MR. FLANAGAN: They do?
 3 MR. GARCIA-SERRA: Uh-huh.
 4 MR. FLANAGAN: So the higher elevation part
 5 of the building is on the existing
 6 Commercial --
 7 MR. GARCIA-SERRA: Right.
 8 MR. FLANAGAN: -- and you are accommodating
 9 the parking, the seven stories of parking, on
 10 what is currently the residential.
 11 MR. GARCIA-SERRA: Right. Correct.
 12 MR. FLANAGAN: So, if we look at this and
 13 we look at the site plan, the parking, what
 14 I'll call the parking structure, give or take a
 15 hundred feet --
 16 MR. GARCIA-SERRA: Of height?
 17 MR. FLANAGAN: No, width, front to back,
 18 basically.
 19 MR. GARCIA-SERRA: Alberto would probably
 20 be better --
 21 MR. FLANAGAN: Or depth along -- What is
 22 that, Antilla? You might be able to extract it
 23 separately. The residential lots might be 50
 24 feet wide apiece.
 25 MR. GARCIA-SERRA: Right. Some of the

1 parking garage might be on the Commercial zoned
 2 area, too.
 3 MR. CORDOVES: Correct. That's correct.
 4 That's approximately a hundred feet in depth.
 5 MR. FLANAGAN: Okay, and while you're up
 6 there, on the seventh floor parking, I was
 7 concerned about how that would look to the
 8 residential to the west, but I heard you
 9 mention something about some kind of lattice
 10 work or design structure helping to cover
 11 those?
 12 MR. CORDOVES: Sure.
 13 MR. FLANAGAN: Could you just go over that
 14 again for me?
 15 MR. CORDOVES: Yeah.
 16 MR. FLANAGAN: The concern with the
 17 visibility of the vehicles plus the lighting
 18 and the overflow of the lighting.
 19 MR. CORDOVES: All right. This is
 20 actually -- it's actually six stories, seven
 21 levels, because we're using the roof, but these
 22 six stories, what we've gone, and gone to great
 23 length, is to find a system, which is called
 24 GSky System; it's a green wall system. We're
 25 cognizant of the proximity to the multi-family,

1 so as you see, we've incorporated that not only
 2 on the side elevation or rear elevation facing
 3 that property, but also on the ones that
 4 actually step in from a building, throughout
 5 the entire facade of the building.
 6 The light levels above here, I believe
 7 we've provided a photometric plan that has the
 8 light levels to the maximum permitted by Code
 9 above that parking facility, as well, and all
 10 the light fixtures have been internalized and
 11 placed inside the columns that actually carry
 12 the pergola, so you don't actually have, you
 13 know, the outsource of light into the --
 14 MR. FLANAGAN: The vehicles that are on the
 15 roof deck up there, are they covered by lattice
 16 work or something?
 17 MR. CORDOVES: Yes, they are.
 18 MR. FLANAGAN: Okay.
 19 MR. GARCIA-SERRA: And one thing important
 20 to note on that issue, too, is that those two
 21 lots, while zoned Residential right now, have a
 22 zoning approval dating back, in the case of one
 23 lot, to 1971, and another one to 1973,
 24 permitting the surface parking that indeed is
 25 there today for the office building --

1 MR. FLANAGAN: Right.
 2 MR. GARCIA-SERRA: -- for the existing
 3 office building.
 4 MS. ALBERRO MENENDEZ: May I?
 5 CHAIRMAN AIZENSTAT: Yes, please, go ahead,
 6 Maria.
 7 MS. ALBERRO MENENDEZ: I have a question.
 8 That elevation that faces the back, what's the
 9 height?
 10 MR. CORDOVES: This one here?
 11 MS. ALBERRO MENENDEZ: Uh-huh. About 65
 12 feet?
 13 MR. CORDOVES: The height is actually 63
 14 feet, 10 inches --
 15 MS. ALBERRO MENENDEZ: Okay.
 16 MR. CORDOVES: Yes, very close.
 17 MS. ALBERRO MENENDEZ: And do you have any
 18 elevations that show the height and the
 19 distance from the surrounding properties,
 20 anything that would show us -- I know you had a
 21 perspective there, but it really didn't give us
 22 an idea.
 23 MR. CORDOVES: I'm not sure --
 24 MS. ALBERRO MENENDEZ: I guess what I'm
 25 getting at is, what is the space between the

1 proposed building and the existing buildings
 2 surrounding it?
 3 MR. CORDOVES: The existing building here
 4 is -- I don't have that particular elevation,
 5 but it's probably in the neighborhood of 15 to
 6 20 feet from what's existing today. What could
 7 be existing --
 8 MS. ALBERRO MENENDEZ: So your building is
 9 going to be about 15 feet from that existing
 10 building?
 11 MR. CORDOVES: Which happens, essentially,
 12 right here.
 13 MS. ALBERRO MENENDEZ: Okay. So, if it has
 14 windows, if it has anything like that, because
 15 of the side setbacks, or their side setbacks,
 16 they're protected?
 17 MR. CORDOVES: Correct, and that's why
 18 we --
 19 MS. ALBERRO MENENDEZ: Is that the case on
 20 the other sides, and, you know, the other
 21 buildings that surround your building?
 22 MR. CORDOVES: Pretty much so, yeah. The
 23 only case that is adjacent is a small
 24 commercial building that its frontage -- that
 25 it has a frontage on Ponce, which I think it's

1 a small, one-story bank building.
 2 MS. ALBERRO MENENDEZ: And that one is up
 3 against each other?
 4 MR. CORDOVES: That's up against -- That's
 5 up against the building itself, yeah.
 6 MS. ALBERRO MENENDEZ: Okay. With no space
 7 in between?
 8 MR. CORDOVES: There's a small space.
 9 We've left actually about a foot and a half
 10 between the actual building walls and the
 11 property line, in order to service the lattice
 12 or service any of the, you know, painting that
 13 we had to do in the future and the maintenance
 14 of the building itself.
 15 MS. ALBERRO MENENDEZ: Right, and how are
 16 you going to treat that space? What are you
 17 going to put down so it doesn't become --
 18 MR. CORDOVES: Okay, so that's why we've
 19 instituted the system --
 20 MS. ALBERRO MENENDEZ: Okay.
 21 MR. CORDOVES: -- which is a very
 22 sophisticated system. It's actually -- It's
 23 called GSky. It has --
 24 MS. ALBERRO MENENDEZ: I'm familiar with
 25 it.

1 MR. CORDOVES: -- a self-propulsion
 2 irrigation system, and it's maintained by the
 3 same company who --
 4 MS. ALBERRO MENENDEZ: So you're going to
 5 put that around?
 6 MR. CORDOVES: Yes.
 7 MS. ALBERRO MENENDEZ: Oh, great. Okay.
 8 That's it. Oh, just one more question. The
 9 plaza, is that a historic plaza? Is the plaza
 10 historic?
 11 MR. JOHNSON: Dedicated historic? I'm not
 12 sure.
 13 MS. ALBERRO MENENDEZ: You're not sure?
 14 MR. GARCIA-SERRA: The Ponce de Leon Park,
 15 we're talking about, right, in the --
 16 MS. ALBERRO MENENDEZ: Where the
 17 improvements are.
 18 MR. GARCIA-SERRA: Right. Where the
 19 improvements are -- are proposed for? There is
 20 definitely -- I believe there's a historic bust
 21 there of Ponce de Leon, a fountain. Whether
 22 it's actually designated historic in the City's
 23 Register of Historic Places, I don't know.
 24 CHAIRMAN AIZENSTAT: Charles, would you
 25 know that answer?

1 MR. WU: No, I don't, and that's a good
 2 question to follow up before City Commission.
 3 MR. JOHNSON: In our plans with the City
 4 and our park plan, we are keeping the historic
 5 bust.
 6 MS. ALBERRO MENENDEZ: Right.
 7 MR. JOHNSON: And there's a historic
 8 plaque, as well, and if any restoration, we've
 9 agreed to restore them.
 10 MS. ALBERRO MENENDEZ: Right. It just has
 11 to go through another step, though.
 12 MR. GARCIA-SERRA: If it is, yeah.
 13 MS. ALBERRO MENENDEZ: If it is.
 14 MR. JOHNSON: If it's --
 15 MS. ALBERRO MENENDEZ: One more question,
 16 since I have you up. The crosswalks, are they
 17 going to be signaled, or it just textured on
 18 the pavement? In other words, will you be able
 19 to push a button or -- I'm not advocating one
 20 way or the other. I'm just wondering for --
 21 MR. JOHNSON: For the mid-block crosswalk
 22 only.
 23 MS. ALBERRO MENENDEZ: Okay.
 24 MR. JOHNSON: Uh-huh.
 25 MS. ALBERRO MENENDEZ: All right. Thank you.

1 MR. JOHNSON: Yeah.
 2 CHAIRMAN AIZENSTAT: Julio?
 3 MR. GRABIEL: Don't sit down. I've got
 4 some questions.
 5 I want to say that it's a very well thought
 6 out project. I think the team should be
 7 commended, starting with the architects, their
 8 staff and the owner. I love the idea of having
 9 the glass on the parking area so you don't see
 10 it. I like the idea that there's offices on
 11 the second floor, so from the street you really
 12 see activity and not just dead spaces, so
 13 that's -- and the building works very well with
 14 our Mediterranean Ordinance, and I know that
 15 Staff worked very hard with you.
 16 My questions are on the park, and I love
 17 the idea. I work around that area and I've
 18 taken Sidonia and a couple of times I've almost
 19 been hit by cars crossing, so I think bringing
 20 those two triangles together and eliminating
 21 Sidonia is going to improve conditions in that
 22 area completely, create more green area. I
 23 love the idea of expanding the park.
 24 Now, my question is on the art. Who is the
 25 artist who will be working on this project?

1 MR. JOHNSON: The artist that we're working
 2 with is a gentleman called Victor Arias. He's
 3 done public -- I've done public art projects
 4 with him in the past. He's done public art
 5 projects for the City of Miami. He's done
 6 public art projects for Miami Beach. He's done
 7 public art projects in Fort Lauderdale, in
 8 Lauderdale-By-The-Sea.
 9 MR. GRABIEL: Has this gone through the
 10 City's Art in Public Places review yet?
 11 MR. JOHNSON: No.
 12 MR. GRABIEL: No?
 13 MR. JOHNSON: But we have been working with
 14 the Assistant City Manager and the Planning
 15 Director. We've had several meetings, and
 16 we're moving into that process.
 17 MR. GRABIEL: As impressed as I am with the
 18 building and the architecture and everything
 19 you've done, I'm under-impressed with the
 20 artwork. I think there's goals within the City
 21 to really push the quality of our Art in Public
 22 Places Program to a higher level than we've had
 23 to date. So my only caveat is, please make
 24 sure -- For example, the tree that you show us,
 25 the sculpture, that's something that's been

1 done already. Miami Beach has one in the
 2 middle of its park and it's beautiful, but why
 3 do we have to copy something that the City of
 4 Miami Beach has? There's other ways of working
 5 something unique that is unique Coral Gables,
 6 that will make that park something special.
 7 MR. JOHNSON: And that is certainly our
 8 intent, for that to be --
 9 MR. GRABIEL: Okay, I --
 10 MR. JOHNSON: -- to be a very large
 11 sculpture and to be a focal point.
 12 MR. GRABIEL: I want to encourage opening
 13 the idea of raising the quality of Art in
 14 Public Places. I know the Commission is very
 15 much interested in doing that, so it would
 16 benefit you.
 17 The other point, and this is to the Staff,
 18 there's parking on the west side of the new
 19 park, parallel parking on Ponce, which I don't
 20 know who is it serving, because you already
 21 have all the parking, diagonal parking, on
 22 Ponce, the other Ponce, East Ponce.
 23 MR. GARCIA-SERRA: East Ponce.
 24 MR. JOHNSON: On East Ponce.
 25 MR. GRABIEL: I wonder if there's an

1 opportunity for eliminating that parallel
 2 parking and actually expanding the new park so
 3 it's even wider, so we steal from not only the
 4 east side of the park, but also from the west
 5 side, and I'm just putting that out there as
 6 something that maybe you might want to explore
 7 with the City, as something --
 8 MR. GARCIA-SERRA: Understood. I believe --
 9 MR. GRABIEL: -- that I think will benefit
 10 your property, plus the park itself.
 11 MR. JOHNSON: We will continue to work with
 12 Staff and take their --
 13 MR. GRABIEL: Okay, great. Thank you.
 14 MR. PEREZ: I have a few questions. Number
 15 one, going back to -- I have a few questions.
 16 Number one, the first question has to do with
 17 the non-ATM at this point. I'm nobody to tell
 18 you how to run a business, but should they, at
 19 some point in the future, want to add an ATM,
 20 don't they have to now amend the site plan, at
 21 a future date?
 22 MR. WU: I don't believe so.
 23 MR. GARCIA-SERRA: I believe the nature of
 24 the ATM is a relatively minor modification to
 25 the plans, so I don't think you'd have to go

1 back through the public hearing process. It
 2 would be a revision.
 3 MR. PEREZ: You would have to --
 4 MR. GARCIA-SERRA: No, it would not. It
 5 would not have to go through the public hearing
 6 process.
 7 MR. PEREZ: So that's just administrative?
 8 MR. GARCIA-SERRA: Correct.
 9 MR. WU: Ramon is coming to the podium.
 10 MR. TRIAS: The anticipated location is
 11 within the building. If it was outside of the
 12 building, then there would be an issue and the
 13 amendment of the site plan. So in this case,
 14 they wouldn't have to.
 15 MR. PEREZ: But my understanding is, if
 16 they want to put a drive-through ATM, you would
 17 have to amend the site plan, right?
 18 MR. TRIAS: But it's anticipated to be
 19 inside the parking garage, in the design. The
 20 the architect can explain it, so --
 21 MR. PEREZ: Okay.
 22 MR. TRIAS: There's really no amendment.
 23 It would be an amendment if it was affecting
 24 the outside.
 25 MR. PEREZ: Okay.

1 Going to Staff's presentation, under
 2 Findings of Fact, the rezoning for Lots 6 and 7
 3 will correct the land use and zoning
 4 inconsistency.
 5 MR. GARCIA-SERRA: Yes.
 6 MR. PEREZ: Okay. I'm just a little
 7 confused on that. Can you walk me through how
 8 6 and 7 being MF2 and going to C, how would
 9 that correct land use and zoning
 10 inconsistencies?
 11 MR. WU: The land use is now Commercial
 12 High. The zoning is still MF2 for Lots 6 and
 13 7. So it's got a Commercial land use, but a
 14 Residential zoning.
 15 MR. PEREZ: But the lots behind, at 12 and
 16 13, will remain MF2.
 17 MR. WU: Yes. That is also inconsistent,
 18 by the way. It's a very similar situation for
 19 6 and 7; also there's a problem on the rear
 20 lots. So you're correct.
 21 MR. PEREZ: So it doesn't really --
 22 MR. WU: It rectifies these two lots. It
 23 doesn't rectify all four lots.
 24 MR. PEREZ: So the statement isn't correct.
 25 MR. WU: Well, we're rectifying two lots,

1 Lots 6 and 7, the inconsistency for the two
 2 lots.
 3 MR. PEREZ: I'm not sure I'm -- I mean,
 4 right now, if 6 and 7 is MF2, fronted by a C
 5 district, which is Commercial, then the two
 6 lots abutting it to the south will remain
 7 MF2 --
 8 MR. WU: Yes.
 9 MR. PEREZ: -- but yet we're changing 6 and
 10 7 to C, so how are we correcting an
 11 inconsistency?
 12 MR. WU: Because the land use is C, but
 13 Lots 6 and 7, the zoning is Multi-Family.
 14 Ideally, you'd want to have the Commercial land
 15 use and the Commercial zoning.
 16 MR. GARCIA-SERRA: Albert, if you like, I
 17 can maybe weigh in here a little bit here,
 18 so --
 19 MR. PEREZ: No, no, I saw it. Never mind.
 20 All right, and the last question has to do
 21 with the improvements to the plaza. Who's
 22 going to maintain that?
 23 MR. GARCIA-SERRA: The improvements to the
 24 plaza, that would be -- Well, we would be
 25 responsible for installing the improvements,

1 and then maintenance of the art would be our
 2 responsibility, also. That's a standard part
 3 of the Art in Public Places, you know,
 4 Ordinance, but the operations of the park would
 5 still continue to be under the purview of the
 6 City Parks & Recreation Department.
 7 MR. PEREZ: But even if there's a -- So I
 8 understand from your consultant that there's a
 9 shortfall within your parcel and you're
 10 planting more trees in the plaza --
 11 MR. GARCIA-SERRA: Right.
 12 MR. PEREZ: -- so that the trees that are a
 13 shortfall within your piece, which are being
 14 installed across the street --
 15 MR. GARCIA-SERRA: Correct.
 16 MR. PEREZ: -- would still be maintained by
 17 the City?
 18 MR. GARCIA-SERRA: The City, yes.
 19 MR. WU: It's an off-site improvement. But
 20 ultimately, it's a City park. The City will be
 21 maintaining it.
 22 MR. PEREZ: Okay.
 23 CHAIRMAN AIZENSTAT: Marshall?
 24 MR. BELLIN: I'm wondering if we can't
 25 rectify the zoning situation with regard to the

1 two lots that are not being addressed by this
2 application.

3 MR. WU: It's something if the City
4 Commission directs us to do, we can take it as
5 a City-initiated, but at this time we have an
6 applicant-driven rezoning application. That's
7 what we have at hand. We certainly can point
8 it out to the City Commission. Typically, we
9 react to a development proposal, and a question
10 will come up. We do have a four-story
11 residential apartment on one of those
12 inconsistent land use and zoning, so I think we
13 probably will just take a wait-and-see
14 approach.

15 MR. BELLIN: Okay.

16 MR. WU: Because it's always possible that
17 the single-story commercial building on the
18 south may want to come in together and just
19 have an expansion of that adjacent to this
20 project. That would be a logical redevelopment
21 opportunity.

22 MR. FLANAGAN: And I think if you -- if the
23 City were to rezone the four-story apartment
24 building, you would end up creating a legal
25 non-conforming use, which I think could cause

1 some problems for that property owner down the
2 road.

3 MR. WU: In terms of refinancing and --

4 MR. FLANAGAN: If there's a hurricane or,
5 you know, you end up with a 50 percent rule
6 problem at some point.

7 CHAIRMAN AIZENSTAT: Mario, let me ask you
8 a question, please. I notice on the second
9 floor of your plan, you've got some tandem
10 parking spaces. Is there any other area that
11 you have tandem parking spaces besides the
12 second floor?

13 MR. CORDOVES: No, that is the only area.

14 CHAIRMAN AIZENSTAT: That was the only
15 area?

16 MR. CORDOVES: That was the only one.

17 CHAIRMAN AIZENSTAT: So it's minimal
18 parking --

19 MR. CORDOVES: Correct.

20 CHAIRMAN AIZENSTAT: What's your idea,
21 what's your plan with that tandem? Because I
22 notice it's maybe five times two, ten spots, or
23 roughly.

24 MR. CORDOVES: Correct, and they were done
25 because of the proximity of the ramp on the

1 other side. We're actually inclining up, so we
2 can't park from the other side. But the idea
3 is to actually assign those parking spaces to
4 one of the tenants, in their offices, where
5 people come into their office maybe usually at,
6 you know, early or at different times, and we
7 can assign. It will definitely be assigned to
8 the same tenant.

9 CHAIRMAN AIZENSTAT: Now, this is being
10 done as a rental project?

11 MR. CORDOVES: No, this is a fully
12 condominium project.

13 CHAIRMAN AIZENSTAT: Oh, because you said
14 tenants, so that's why --

15 MR. CORDOVES: I'm sorry, owners.

16 CHAIRMAN AIZENSTAT: That's okay. Yeah,
17 but I didn't know if it was a rental office or
18 if it was a condominium office. Thank you.

19 Any other questions? No? Anybody like to
20 make a motion?

21 MR. BELLO: Move approval.

22 CHAIRMAN AIZENSTAT: As presented, with
23 Staff's recommendations?

24 MR. BELLO: Yes.

25 MR. PEREZ: I'll second.

1 MR. WU: Which application? Can we clarify
2 for the motion? Both applications or the
3 conditional use or the rezoning? We have two
4 applications before you.

5 MR. BELLO: We're voting on them
6 separately, right?

7 CHAIRMAN AIZENSTAT: Yes. We're going to
8 do it -- Actually -- Craig's not here.

9 MR. WU: I suggest you take up the rezoning
10 first.

11 CHAIRMAN AIZENSTAT: The rezoning first, so
12 go backwards.

13 MR. WU: Yes.

14 MR. BELLO: So moved.

15 MR. PEREZ: I'll second.

16 CHAIRMAN AIZENSTAT: As presented, you'll
17 second?

18 MR. BELLIN: Yeah, I'll second it.

19 CHAIRMAN AIZENSTAT: Any comments or
20 questions?

21 Call the roll, please.

22 MR. BOLYARD: Maria Menendez?

23 MS. ALBERRO MENENDEZ: Yes.

24 MR. BOLYARD: Alberto Perez?

25 MR. PEREZ: Yes.

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1 MR. BOLYARD: Marshall Bellin?
 2 MR. BELLIN: Yes.
 3 MR. BOLYARD: Anthony Bello?
 4 MR. BELLO: Yes.
 5 MR. BOLYARD: Jeffrey Flanagan?
 6 MR. FLANAGAN: Yes.
 7 MR. BOLYARD: Julio Grabiél?
 8 MR. GRABIEL: Yes.
 9 MR. BOLYARD: Eibi Aizenstat?
 10 CHAIRMAN AIZENSTAT: Yes.
 11 Now, on Item Number --
 12 MR. GARCIA-SERRA: Thank you very much.
 13 CHAIRMAN AIZENSTAT: On Item Number 5,
 14 which is the first part of this, is there a
 15 motion?
 16 MR. BELLIN: I'll make a motion to approve
 17 it.
 18 MR. PEREZ: I'll second.
 19 CHAIRMAN AIZENSTAT: We have a motion, we
 20 have a second. Any comments or questions? No?
 21 Call the roll, please.
 22 MR. BOLYARD: Alberto Perez?
 23 MR. PEREZ: Yes.
 24 MR. BOLYARD: Marshall Bellin?
 25 MR. BELLIN: Yes.

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1 MR. BOLYARD: Anthony Bello?
 2 MR. BELLO: Yes.
 3 MR. BOLYARD: Jeffrey Flanagan?
 4 MR. FLANAGAN: Yes.
 5 MR. BOLYARD: Julio Grabiél?
 6 MR. GRABIEL: Yes.
 7 MR. BOLYARD: Maria Menendez?
 8 MS. ALBERRO MENENDEZ: Yes.
 9 MR. BOLYARD: Eibi Aizenstat?
 10 CHAIRMAN AIZENSTAT: Yes.
 11 MR. GARCIA-SERRA: Thank you very much.
 12 Appreciate it tremendously.
 13 CHAIRMAN AIZENSTAT: You're welcome. Thank
 14 you.
 15 We'll just wait a --
 16 Let's go ahead and take just a very short
 17 break, if we can, maybe just five minutes, and
 18 then we'll continue. Thank you.
 19 (Thereupon, a brief recess was taken.)
 20 CHAIRMAN AIZENSTAT: Let's go ahead and
 21 move forward, please, if everybody would sit
 22 down.
 23 The next three items are related, so we'll
 24 go ahead and read them in together.
 25 The first is an Ordinance of the City

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1 Commission of Coral Gables, Florida, requesting
 2 an amendment to the Future Land Use Map of the
 3 City of Coral Gables Comprehensive Plan,
 4 pursuant to Zoning Code Article 3, "Development
 5 Review," Division 15, "Comprehensive Plan Text
 6 and Map Amendments," and Small Scale amendment
 7 procedures, as Florida Statutes 163.3187, from
 8 "Residential Multi-Family Medium Density" to
 9 "Commercial Mid-Rise Intensity" for the
 10 property legally described as Lots 11-16, Block
 11 203 of the Riviera Section Part 14, whose
 12 address is 1500 Venera Avenue, Coral Gables,
 13 Florida; and providing for severability,
 14 repealer and an effective date.
 15 The next item, also, is an Ordinance of the
 16 City Commission of Coral Gables, Florida,
 17 requesting a change of zoning pursuant to
 18 Zoning Code Article 3, "Development Review,"
 19 Division 14, "Zoning Code Text and Map
 20 Amendments," from Multi-Family 2 District,
 21 known as MF2, to Commercial District, known as
 22 C, for the property legally described as Lots
 23 11-16, Block 203, Riviera Section Part 14,
 24 whose address is 1500 Venera Avenue, Coral
 25 Gables, Florida; and providing for

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1 severability, repealer and an effective date.
 2 And the final item on that is a Resolution
 3 of the City Commission of Coral Gables,
 4 Florida, requesting mixed use site plan review
 5 pursuant to Zoning Code Article 4, "Zoning
 6 Districts," Division 2, "Overlay and Special
 7 Purpose Districts," Section 4-201, "Mixed Use
 8 District," for the mixed use project referred
 9 to as "Shoma Park Tower," on the property
 10 legally described as Lots 11-16, Block 203, of
 11 the Riviera Section Part 14, whose street
 12 address is 1500 Venera Avenue, in Coral Gables,
 13 Florida; including required conditions;
 14 providing for an effective date.
 15 At this time, I would like to ask the
 16 applicant to make their presentation.
 17 MR. GARCIA-SERRA: Good evening, Mr. Chair,
 18 Members of the Board. My name, again, for the
 19 record, Mario Garcia-Serra, with offices at 600
 20 Brickell Avenue, representing Sunset Place
 21 Luxury Holdings, the owner of the property
 22 located at 1500 Venera Avenue, which you see
 23 indicated on the aerial photograph, which is
 24 the middle board that's up right now, just
 25 immediately west of Riviera Park and north of

1 Sunset Drive -- Sunset Road.
 2 I'm accompanied tonight by Masoud Shojaee
 3 and Anibal Duarte, of Sunset Place Luxury
 4 Holdings; Robert Behar, our project architect;
 5 Johanna Mead, of Witkin Design Group, our
 6 landscape architect; and Juan Espinosa of David
 7 Plummer & Associates, and Tim Plummer, our
 8 traffic engineers.
 9 We're proposing a nine-story, 65-unit mixed
 10 use residential and retail project, with ground
 11 floor retail. In order to develop this
 12 project, we need the three following approvals:
 13 A change in the Future Land Use Map of the
 14 Comprehensive Plan from Residential
 15 Multi-Family Medium to Commercial Medium
 16 Density; a rezoning of the property which right
 17 now is MF2 to C; and a mixed use site plan
 18 approval, also.
 19 I'll discuss those requests further, later
 20 on in the presentation, but right now I hand it
 21 over to Robert Behar so as to give a
 22 presentation of the plans.
 23 MR. BEHAR: Good evening. For the record,
 24 Robert Behar, 135 San Lorenzo Avenue, Suite
 25 610.

1 very limited. The idea is to create a small
 2 coffee shop in the corner to serve the
 3 neighborhood. That's basically it.
 4 Craig, is that fast enough?
 5 MR. LEEN: Oh. Mr. Chair, I had just --
 6 Thank you, Mr. Behar.
 7 I had just asked that they try to expedite
 8 this. Of course, if you have any questions,
 9 please feel free to -- It's ultimately your
 10 decision on how much information you would
 11 like, but we do have another matter that we
 12 have, Number 10, which I told the applicant,
 13 through an opinion, that they're entitled to be
 14 heard tonight, so I just wanted to make sure
 15 that this was completed in time, because under
 16 the Code, at nine o'clock, you have to do a
 17 motion.
 18 CHAIRMAN AIZENSTAT: Understood.
 19 MR. LEEN: But ask whatever questions you
 20 would like.
 21 CHAIRMAN AIZENSTAT: At this time, I'd like
 22 to go ahead and open up -- Actually, no. City
 23 Staff, please make your presentation. I
 24 apologize.
 25 MR. WU: If Aaron can pull up our slides,

1 CHAIRMAN AIZENSTAT: Welcome back.
 2 MR. BEHAR: Huh?
 3 CHAIRMAN AIZENSTAT: Welcome back.
 4 MR. BEHAR: Thank you. I miss you guys.
 5 You know, the project, as Mario stated, is
 6 on Venera. It's going to be actually about 60
 7 units, nine stories. You have mixed use. On
 8 the ground floor, you will consist of a fitness
 9 center -- for the commercial component, a
 10 fitness center, a little cafe, which we're
 11 creating a plaza, and overlooking the park, you
 12 have the office, administrative offices. Very
 13 little retail component. The total is about
 14 8,000 square feet, so it's not a lot of retail
 15 commercial. You have three levels of parking,
 16 and then you have -- sorry, two levels of
 17 parking, and then you have 65 units above.
 18 What we're doing is, we're stepping the
 19 building back, as you see from the rendering.
 20 We want to create -- break the massing up a
 21 little bit. Obviously, the building is done in
 22 the Mediterranean style, to be able to get up
 23 to the 3.5 bonuses. It's very simple. It's,
 24 you know, between 60 and 65 units, and mixed
 25 use because we have to provide that, but it's

1 I'll just try to skim through them.
 2 You see the aerials for the project, and I
 3 just wanted to touch upon the adjacent
 4 properties. To the upper right -- upper left
 5 is the property, a three-story office product
 6 north of Venera. Of course, west we have the
 7 seven-story office and retail which constitutes
 8 Whole Foods on the bottom floor, immediately
 9 west of the project. Immediately south is a
 10 three-story condo, which is one of the holdouts
 11 for the entire area, and south of San Remo is a
 12 project owned by Baptist Health, which is a
 13 very intense office project.
 14 You mentioned the change of the land use
 15 and zoning to Commercial. As you can see, it
 16 is surrounded by Commercial uses, and it serves
 17 as a buffer where Riviera Park is to the east,
 18 so we believe the land use and zoning change is
 19 appropriate.
 20 I won't dwell on some of the design
 21 concepts. They've met the review criteria.
 22 They've met the FAR to the T. They're
 23 proposing 65 dwelling units, and it satisfies
 24 the standards of 3-1506, to change the land
 25 use, satisfies Standards 3-408 for the mixed

1 use site plan, and satisfies the changing of
 2 zoning of 3-1404, for the rezoning.
 3 What I'd like to pass out is some
 4 housekeeping matter. The applicant has
 5 consented to this new condition, which relates,
 6 as you can see on the screen here -- They're
 7 proposing extensive arcades and plazas. My
 8 question here is how the western paseo is going
 9 to be done. The condition was silent.
 10 We're proposing this new condition to read
 11 as: The applicant agrees, subject to consent
 12 and cooperation of the neighboring property
 13 owners at 6705 Red Road to consolidate the
 14 pedestrian walkway it is proposing for the
 15 western edge of the property with the existing
 16 pedestrian walkway located at the eastern end
 17 of the property at 6705 Red Road, with all
 18 improvements being installed and worked on at
 19 the applicant's expense.
 20 In other words, they're not only improving
 21 their side; they'll be working with the
 22 adjacent property, to improve that side, as
 23 well, to make a well-coordinated designed paseo
 24 to connect, in anticipation if the southern
 25 property comes for redevelopment, they will

1 understood, and that is the maintenance of the
 2 green wall in the parking garage, and we just
 3 want to make sure that it's enforceable down
 4 the road; when they're gone and the project is
 5 10 years down the road, or five years down the
 6 road, we just want to make sure it's taken care
 7 of, and one of the other residents in our
 8 project was concerned about noise during
 9 construction, and I don't know what the rules
 10 and regulations of that are, but just wanted to
 11 go on record as expressing some concern about
 12 it. Other than that, we're supportive of the
 13 project.
 14 MS. ALBERRO MENENDEZ: I'm sorry, sir,
 15 where did you say your building is?
 16 MR. JONES: It's the building -- oh, you
 17 don't have it up there. It's --
 18 MR. BEHAR: Right behind here.
 19 MR. JONES: Yes, directly to the south,
 20 contiguous and to the south.
 21 MS. ALBERRO MENENDEZ: The address, again,
 22 I'm sorry?
 23 MR. JONES: It's 1515 San Remo.
 24 MS. ALBERRO MENENDEZ: Okay, 1515 San Remo.
 25 MR. BEHAR: There it is. That project

1 have the connection through the two streets.
 2 If such consolidated walkway is not
 3 feasible, then the applicant agrees to provide
 4 a five-foot-wide pedestrian walkway at the
 5 western end of the property, and we would like
 6 to put into the record, the applicant has
 7 agreed to this condition, subject to the City
 8 Attorney's review.
 9 That concludes Staff's presentation.
 10 CHAIRMAN AIZENSTAT: Thank you.
 11 At this time, I'd like to open it up for
 12 any public comment.
 13 Did you sign up?
 14 MR. JONES: Yes, I did.
 15 CHAIRMAN AIZENSTAT: Thank you.
 16 MR. JONES: My name is Edgar Jones. I
 17 reside at 515 Tivoli Avenue, in Coral Gables,
 18 Florida. I'm also an owner in the condo
 19 project to the south of this project,
 20 contiguous to the south, 1515 San Remo, and I'm
 21 also the president of the homeowners'
 22 association.
 23 We just wanted to speak on behalf of the
 24 project. We were supportive of it. We had a
 25 couple concerns that we wanted to make sure we

1 would be right here.
 2 MS. ALBERRO MENENDEZ: Okay. Thank you.
 3 MR. GRABIEL: And the green wall --
 4 CHAIRMAN AIZENSTAT: And that's a
 5 residential condominium?
 6 MR. JONES: Yes, it is, 47 units.
 7 Thank you.
 8 MR. GRABIEL: And the green wall that
 9 you're referring to is --
 10 MR. JONES: There's a green wall in the
 11 parking garage.
 12 MR. GRABIEL: The green wall that you're
 13 referring to.
 14 MR. BEHAR: May I?
 15 CHAIRMAN AIZENSTAT: Please.
 16 MR. BEHAR: When we met with the
 17 neighborhood, they asked us to -- on the back
 18 side, to put a green wall there and maintain
 19 it, and we have done that. In addition to
 20 that, we met with the residents a couple weeks
 21 ago, and the parcel between our building -- the
 22 portion between our building and their
 23 building, we agree that we would landscape and
 24 enhance it, whatever necessary, that will
 25 comply and adhere to their requirements, you

1 know, so that was one of the comments that we
 2 had in the meeting.
 3 CHAIRMAN AIZENSTAT: Are you satisfied with
 4 with that, sir?
 5 MR. JONES: Yes, uh-huh.
 6 CHAIRMAN AIZENSTAT: Thank you.
 7 MR. JONES: Thank you.
 8 CHAIRMAN AIZENSTAT: Thank you.
 9 MR. WU: And just for the record, you
 10 received a communication from a resident
 11 outside the City. Thank you.
 12 CHAIRMAN AIZENSTAT: And you'll enter that
 13 into the record.
 14 MR. WU: Yes.
 15 MR. LEEN: Mr. Chair?
 16 CHAIRMAN AIZENSTAT: Yes.
 17 MR. LEEN: I've reviewed the condition, the
 18 added condition. It is legally sufficient. I
 19 would just want to confirm on the record with
 20 the applicant that you do agree to this
 21 condition and you're proffering it?
 22 MR. GARCIA-SERRA: Yes, we are in agreement
 23 with that condition.
 24 CHAIRMAN AIZENSTAT: Is there anybody else
 25 that has signed up to speak?

1 Commercial component, but this is just an
 2 avenue availed by the applicant. This is an
 3 area of transition. It's been in transition
 4 throughout the years. The two or three
 5 residential properties left are the only ones
 6 left west of Yumuri, west of Riviera Park, so
 7 it's ripe for opportunity for redevelopment.
 8 MS. ALBERRO MENENDEZ: Let me ask you, if
 9 this was not a mixed use but a Multi-Family,
 10 how high up, how intense would the FAR be?
 11 MR. WU: Give me a minute. I have that
 12 information. The building height, ironically,
 13 is the same. It would be allowed the same,
 14 under the same zoning today. So, if it did not
 15 go Commercial, they're allowed the same
 16 building height. It's just the density would
 17 be a lot less.
 18 MS. ALBERRO MENENDEZ: How much less?
 19 MR. WU: It will be allowed 40 dwelling
 20 units per acre. With the Med Bonus, they can
 21 go up to 50 dwelling units per acre, and the
 22 building height can go up to 97 feet. So the
 23 building height is the same. What they're
 24 requesting for the Commercial Land Use and
 25 Zoning is just to get more density out of it.

1 MR. BOLYARD: No, that's it.
 2 CHAIRMAN AIZENSTAT: Okay. At this time,
 3 I'm going to go ahead and close the floor.
 4 Any comments, any questions? Maria?
 5 MS. ALBERRO MENENDEZ: I have comments. I
 6 have a comment to Staff. The mixed uses, are
 7 they allowed everywhere or just in Commercial
 8 areas?
 9 MR. WU: it's commercially-zoned
 10 properties.
 11 MS. ALBERRO MENENDEZ: Okay. So this mixed
 12 use is for a Multi-Family zone. Is that why
 13 we're --
 14 MR. WU: I'm sorry?
 15 MS. ALBERRO MENENDEZ: This mixed use
 16 proposal is in Multi-Family zone.
 17 MR. WU: Yes, but they're changing the land
 18 use and zoning to a Commercial.
 19 MS. ALBERRO MENENDEZ: To accommodate it?
 20 MR. WU: Yes.
 21 MS. ALBERRO MENENDEZ: Was that the intent
 22 of the mixed use concept?
 23 MR. WU: I wouldn't say that's the intent.
 24 The intent is to allow a variety of uses, for
 25 instance, to add a Residential component on a

1 CHAIRMAN AIZENSTAT: And by doing the
 2 Commercial end of it, is that what allows them
 3 to have the retail stores downstairs, also,
 4 or --
 5 MR. WU: Yes. Yes.
 6 CHAIRMAN AIZENSTAT: To service the area,
 7 if they want to do a coffee shop or anything
 8 like that to service the area?
 9 MR. WU: And the retail. They have a
 10 retail component, as well. And I think that
 11 from a land use and a planning perspective, we
 12 would like to have like use face each other.
 13 For instance, Venera does have an office
 14 building on the north side. We would like a
 15 commercial use on the south side, as well.
 16 MS. ALBERRO MENENDEZ: Okay.
 17 CHAIRMAN AIZENSTAT: So it complements it.
 18 MR. WU: Complement across the street.
 19 MS. ALBERRO MENENDEZ: The use --
 20 MR. GARCIA-SERRA: If I could just --
 21 MS. ALBERRO MENENDEZ: Sure.
 22 MR. GARCIA-SERRA: If I could, if you don't
 23 mind, expand on that point a little bit. If
 24 you look at the zoning map of the City, of this
 25 area right here, you'll see our property is the

1 north half of this sort of brown MF2, basically
2 an island of MF2 within a Commercial area.

3 So, going to your question, I think you're
4 also asking, independent of what our project
5 is, is a Commercial rezoning justified for this
6 area?

7 MS. ALBERRO MENENDEZ: Right.

8 MR. GARCIA-SERRA: And we would say that
9 yes, it is justified, when you consider the sea
10 of red, really, that's around here, and that
11 this is really the standout that's on the
12 zoning map, and everything around it is
13 Commercial.

14 MS. ALBERRO MENENDEZ: Does a mixed use
15 provide for more than a commercial use, as far
16 as density -- as far as FAR?

17 MR. BEHAR: No, FAR is the same.

18 MS. ALBERRO MENENDEZ: Always the same?

19 MR. BEHAR: Always the same.

20 MS. ALBERRO MENENDEZ: Okay.

21 MR. BEHAR: FAR is the same. The density
22 increases, but as Charles Wu was saying, the
23 height would be the same. We're proposing to
24 be at --

25 MR. GARCIA-SERRA: 97 feet to the top of --

1 inserted the building. You see this building,
2 which is the Whole Foods building, for lack of
3 a better word; you know, it actually goes up to
4 114, and the roof structure goes to 129, okay?

5 A building that was completed recently, the
6 Riviera Health Spa --

7 CHAIRMAN AIZENSTAT: The health care.

8 MR. BEHAR: The health care, it goes up to,
9 the top of the roof, 65; to the top of the
10 feature, 85.

11 MS. ALBERRO MENENDEZ: And yours -- Yours
12 is 97?

13 MR. BEHAR: 97.

14 MS. ALBERRO MENENDEZ: With the towers or
15 without?

16 MR. BEHAR: No, without, the roof.

17 MS. ALBERRO MENENDEZ: The roof.

18 MR. BEHAR: With the tower, I go up to 117,
19 just the tower element, okay, which is not
20 going to be tallest. The tallest is going to
21 be, you know, right adjacent to us. So you do
22 have already, you know, where the Baptist --
23 6855, you go up to 70 with 89. So its
24 massing-wise is contextually within the same
25 area. Obviously, the newer the building, you

1 MR. BEHAR: -- 97 feet, okay? So you would
2 allow the same thing. It would not go any
3 higher. And if you see the adjacent property,
4 like, you know, that the Red Road goes up to --
5 even to 104 feet. So you're really within the
6 sea of red there, so it should really -- What
7 it does is, it cleans it up, for this to be
8 consistent.

9 MS. ALBERRO MENENDEZ: Okay, and the
10 gentleman that spoke, or resident, he lives
11 right behind you, right? That's the remaining
12 Multi-Family?

13 MR. BEHAR: That's correct, and as a matter
14 of fact, you know, they're even contemplating
15 the possibility of getting theirs, as well,
16 so this -- you know, rezoning theirs, as well,
17 so --

18 MS. ALBERRO MENENDEZ: Okay. Can I see the
19 one that has the buildings adjacent to it? You
20 know, we used to -- I remember, some time ago,
21 we used to have like massing, like an elevation
22 that would show the surrounding properties so
23 that we can visualize the massing.

24 MR. BEHAR: What I did here, Maria, it's
25 three-dimensional. We took the photograph and

1 know, a little bit higher, but 97 is
2 consistent, and it would not be any taller than
3 otherwise permitted.

4 MR. GARCIA-SERRA: And an important point
5 to point out, if you look at the land use map,
6 today's land use map, the property under
7 discussion here is designated Residential
8 Medium Density, which with Mediterranean
9 bonuses permits up to 97 feet, to the top of
10 the roof.

11 MS. ALBERRO MENENDEZ: Okay. Thank you.

12 MR. BEHAR: And 65 units is not the maximum
13 density. You could go higher. But we're not
14 maximizing density, either, by the rezoning.

15 MS. ALBERRO MENENDEZ: Okay. Thank you.

16 CHAIRMAN AIZENSTAT: Jeff?

17 MR. FLANAGAN: Mario, you just said you can
18 go up to 97 feet today under the Multi-Family?

19 MR. GARCIA-SERRA: Under the Residential
20 Medium, Multi-Family density that the property
21 has.

22 MR. FLANAGAN: So why -- The colors of a
23 map are always telling, and I don't have a
24 problem with the rezoning to Commercial. I
25 think that's appropriate. But when I look at

1 the rest of this block and the blocks to the
2 south, they're designated as Commercial Low
3 Rise.

4 MR. GARCIA-SERRA: Correct.

5 MR. FLANAGAN: You're trying to hang a
6 slice of red across the street of Venera for a
7 Commercial High-Rise Intensity.

8 What's the difference between -- What would
9 be the difference between those two land use
10 designations?

11 MR. BEHAR: Jeff, it's Commercial Mid-Rise,
12 not High-Rise. We asked for Mid-Rise, not
13 High-Rise.

14 MR. FLANAGAN: Sorry. You're right.
15 You're asking for Commercial Mid-Rise.

16 MR. GARCIA-SERRA: And if you notice, on
17 the north side of Venera, there is Commercial
18 Mid-Rise, so we're proposing to designate this
19 Commercial Mid-Rise, also, which is also
20 functionally equivalent to the Residential
21 Mid-Rise designation.

22 MR. BEHAR: And here --

23 MR. FLANAGAN: But what would a Commercial
24 Low-Rise Intensity end up allowing?

25 MR. GARCIA-SERRA: The height is where you

1 MR. FLANAGAN: No, that abuts -- No, that
2 abuts -- There's a bank building on the south
3 side of it and you've got the school to the
4 west, on the Riviera Health Care Center, I
5 think. Right. It doesn't abut Residential.

6 MR. GARCIA-SERRA: Here's the school and
7 then the Single-Family. I think what Robert is
8 trying to say, it's closer to the Single-Family
9 Residential.

10 MR. BEHAR: It's closer to the Single-
11 Family, and remember, we have the park, which
12 is a buffer. You've got Publix on the other
13 side, so you're not adjacent to a Residential,
14 per se, okay? And keep in mind, Jeff, that,
15 you know, even though this property is zoned
16 Commercial, you know, that's where the Whole
17 Foods building is, which is also --

18 MR. FLANAGAN: Well, let's address that.
19 Whole Foods, you said, is like 114 feet, on Red
20 Road. How tall is the parking structure that
21 comes to the west? How tall is the Whole Foods
22 building where it abuts this project?

23 MR. BEHAR: This is six stories.

24 MR. FLANAGAN: Okay.

25 MR. BEHAR: Okay? We are nine stories.

1 see the biggest difference. The maximum height
2 under the Commercial Low-Rise would be 77 feet
3 with the Med bonuses.

4 MR. FLANAGAN: So as I look at the map,
5 yes, I know north of Venera, that block is red,
6 where you have the three-story office
7 buildings. Then you go west on Red Road, which
8 is appropriate, and you've got the Commercial
9 Mid-Rise Intensity along the Red Road corridor.

10 When I look at the map as you go west,
11 you've got the Venera buildings, which are
12 three stories; you've got the San Remo building
13 that Baptist recently bought is four stories.
14 You then are approaching the park, which is
15 some significant open space. You've got the
16 school to the south of the park, and I forget
17 what you said, how many stories the new health
18 care center is, which is on a -- It's close --
19 You said -- I think you said, Robert, top of
20 the roof maybe was 85 feet on that one?

21 MR. BEHAR: Right, but keep in mind, that
22 is abutting the Residential, you know,
23 immediately. We're not there. We're much
24 further away, and by the way, just to go back,
25 Jeff --

1 MR. FLANAGAN: So that's about six-- Would
2 we agree that's about --

3 MR. BEHAR: Six, seven stories.

4 MR. FLANAGAN: -- 60, 65 there, and you
5 are, you said, what, 115?

6 MR. BEHAR: 97, 97 to the top.

7 MR. FLANAGAN: Plus plus.

8 MR. BEHAR: Just the tower element is the
9 one that goes up, but, you know, what you're
10 looking at -- and then keep in mind that about
11 89 feet or so, or 88 feet, I step the building
12 back, so there is a transition at that point.

13 MR. FLANAGAN: A question for Staff,
14 Charles.

15 MS. ALBERRO MENENDEZ: May I see that board
16 a little closer?

17 MR. FLANAGAN: Part of your analysis of
18 whether it complies with the Code -- Where did
19 it go? I'm sorry. Bear with me. There's a
20 provision in the Code that says that the
21 apartment buildings -- Page 9 of my Staff
22 recommendation, Section A-89 says the height of
23 buildings, no apartment building should be more
24 than four stories or 45 feet in height --

25 MR. WU: Yes.

1 MR. FLANAGAN: -- for these lots and block?
 2 MR. BELLIN: If you have over 20,000, that
 3 doesn't apply.
 4 MR. FLANAGAN: No, I think this is Riviera
 5 Section Part 14 specific.
 6 MR. WU: Yes, and this is not -- we take
 7 the position this is not an apartment building
 8 itself. This is a mixed use project.
 9 MR. FLANAGAN: I would posit that I think
 10 that's a big reach --
 11 MR. BELLIN: Okay.
 12 MR. FLANAGAN: -- by saying that that
 13 section doesn't apply, because this is no
 14 longer an apartment building.
 15 MR. BELLIN: You're talking about site
 16 specifics --
 17 MR. WU: Yes.
 18 MR. BELLIN: -- for that site. When you
 19 put an MXD, site specifics don't apply anymore.
 20 MR. FLANAGAN: I'm just talking about
 21 Staff's rec. right now that help to justify the
 22 approval of the application, and I'm just
 23 saying, when I see an analysis that says -- I
 24 mean, it's good lawyering, if you ask me, to
 25 say, well, because this is not an apartment

1 building, therefore that regulation doesn't
 2 apply, when -- It would be well before my time,
 3 when this was written, but it was written that
 4 way, I would imagine, because it's designated
 5 and zoned for Multi-Family, and you would have
 6 put an apartment building on there.
 7 I was surprised to see, I think, such a
 8 stretch in the analysis, to declare that
 9 because this project is not an apartment
 10 building, that that site-specific restriction
 11 would not apply.
 12 CHAIRMAN AIZENSTAT: Now, that whole area
 13 there is changing. In other words, from what I
 14 take -- I don't live far from there. That
 15 whole area, everything is becoming commercial.
 16 There's a construction project that's going on
 17 right now on Red Road itself, where the flower
 18 shop used to be.
 19 MR. FLANAGAN: Sunset.
 20 CHAIRMAN AIZENSTAT: On Sunset.
 21 MR. BEHAR: On Sunset. That's an office
 22 building, and it's about, you know, a six,
 23 seven-story building there -- taller, because
 24 office, floor to floor, is much higher.
 25 CHAIRMAN AIZENSTAT: So that project is

1 taller than yours?
 2 MR. BEHAR: No, no, I don't say that, but
 3 it's probably very close to ours.
 4 CHAIRMAN AIZENSTAT: Okay.
 5 MR. GARCIA-SERRA: If I could, just to try
 6 to help address your concerns, one thing I
 7 would point out is that the Comprehensive Plan,
 8 which is supposed to be sort of the guide for
 9 how we want to see development develop in the
 10 City, again, permits -- or pursuant to the
 11 Comprehensive Plan, you would be permitted 97
 12 feet in height, and that --
 13 MS. ALBERRO MENENDEZ: But it's not 97.
 14 It's really not 97. I mean, you have -- you
 15 have features here that brings it up further
 16 than 97.
 17 MR. BEHAR: But, Maria, you're allowed
 18 architectural features --
 19 MS. ALBERRO MENENDEZ: Yeah, I know.
 20 MR. BEHAR: --- to go 25 beyond the roof.
 21 MS. ALBERRO MENENDEZ: I know. I know, I
 22 know.
 23 MR. BEHAR: You know, that's --
 24 MS. ALBERRO MENENDEZ: But we keep on
 25 saying 97, but it's really not 97.

1 MR. BEHAR: Well, but you could
 2 theoretically take those tower elements, which
 3 are part of the --
 4 CHAIRMAN AIZENSTAT: Mediterranean.
 5 MR. BEHAR: -- Mediterranean, you know,
 6 that has been imposed, and you could take those
 7 out. It doesn't do anything. There's no
 8 units, there's no density, there's nothing
 9 there.
 10 MS. ALBERRO MENENDEZ: No, I know.
 11 MR. BEHAR: There's no FAR. It's just --
 12 MS. ALBERRO MENENDEZ: But the massing of
 13 it, it's --
 14 MR. BEHAR: You know?
 15 MS. ALBERRO MENENDEZ: It looks a little
 16 bigger than --
 17 MR. BEHAR: Listen, I don't mind taking the
 18 roof off this building and I'm okay with it,
 19 but that I have to comply with the
 20 Mediterranean.
 21 MR. GARCIA-SERRA: And the other item that
 22 I would put forward is the fact that these
 23 Mixed Use District regulations, when they were
 24 adopted, consciously were adopted not only for
 25 the Mixed Use District that we have around the

1 Village of Merrick Park, but also for
 2 individual sites, with the idea of trying to
 3 foster some sort of redevelopment on these
 4 areas by permitting the increased density that
 5 you have, and indeed, you know, we have an
 6 interesting problem here in the Gables. It's
 7 that buildings that are pretty outdated, I
 8 think, and already sort of losing a lot of
 9 their functionality, are still being able to
 10 exist and maintain because they are in Coral
 11 Gables, and people want to live in Coral
 12 Gables, and they're willing to live here even
 13 if the unit isn't as nice of a unit as you
 14 could potentially get somewhere else, and so
 15 part of the reason for the Mixed Use District
 16 regulation was to try to encourage
 17 redevelopment, and this is part of it.
 18 MR. FLANAGAN: And I don't think it's a bad
 19 project. It's very nicely designed. I think
 20 it's appropriate for the site. I think the
 21 mixed use is fine. But you hear me, I'm
 22 struggling with the height, because to me, the
 23 higher stuff should be on Red Road. As you're
 24 coming west and approaching the residential
 25 corridor, it really should step down. What

1 we've done now is create a bowl. We're high up
 2 on Red Road, we've come down a little bit, and
 3 now we're back up at the park, and that's
 4 really what I struggle with. How many units
 5 are in the existing apartment building?
 6 MR. GARCIA-SERRA: That existing apartment
 7 building is about 40 some units.
 8 MR. FLANAGAN: Because I read a lot in the
 9 recommendation about this bringing in
 10 residential units to the City, but in fact,
 11 those units are -- There are -- Two thirds of
 12 them are already there.
 13 MR. GARCIA-SERRA: Yeah, but they're small
 14 units.
 15 MR. BEHAR: They're small units, Jeff.
 16 They're very small units.
 17 MR. FLANAGAN: Are they?
 18 MR. BEHAR: They're outdated. You know,
 19 what this will do, the unit size here is
 20 about -- probably between 15 and 1800 square
 21 foot units, so they're nice units.
 22 MR. GARCIA-SERRA: And we have some
 23 pictures of the existing facility, if you want
 24 to look at them.
 25 MR. FLANAGAN: No, no, I mean, I know. My

1 office used to be right there. I know the area
 2 well. Not that it matters from my perspective,
 3 but anticipated to be rental or condominium?
 4 MR. GARCIA-SERRA: This is condominium.
 5 MR. BEHAR: Condominium.
 6 MR. FLANAGAN: I mean, the redevelopment is
 7 good, but you've got three stories on the
 8 north; you've got four stories on the south.
 9 MR. GARCIA-SERRA: You know, let's talk
 10 about that four-story, which you're referring
 11 to this building here, right? It's
 12 interesting, and I didn't realize it until we
 13 started doing the research for this exhibit.
 14 This building has a fairly significant
 15 penthouse, which stretches almost the entire
 16 length of the building, and when you measure up
 17 to the penthouse, it's 62 feet, so it's --
 18 MR. BEHAR: It's four stories, but it's
 19 really like six stories.
 20 MR. FLANAGAN: Okay, but it's still not --
 21 MR. BEHAR: But that building was built in,
 22 what, 1976, you know?
 23 MR. FLANAGAN: But you've got the building
 24 on Sunset, which is a much more intense street,
 25 I think, and more appropriate for maybe a

1 higher structure. That's, you're thinking, 60
 2 to 70 feet.
 3 MR. BEHAR: Yeah, but that building is for
 4 a self-use. Bacardi is doing the building, the
 5 family, for themselves. So, I mean, it's
 6 not -- They want to be there. They have that,
 7 you know, location. So they're not maximizing
 8 the potential of that site. That building
 9 could have gone, you know, 97 feet, if they
 10 chose to build all the FAR they're allowed to
 11 do. So that's -- It's a little bit different
 12 there.
 13 MR. FLANAGAN: The Code may allow it. I
 14 think, from a compatibility standpoint, that's
 15 my big hang-up right now, from the height,
 16 compatibility from the height standpoint.
 17 MR. GARCIA-SERRA: And I suppose your
 18 concern with the height probably has to do,
 19 also, with what's the effect on the
 20 single-family residences to the east, or --
 21 MR. BEHAR: No, that's too far.
 22 CHAIRMAN AIZENSTAT: No, because there's
 23 the open space. You've got quite a large park
 24 there. So, to me, it doesn't affect me that
 25 much.

1 MR. GARCIA-SERRA: What I think is --
 2 CHAIRMAN AIZENSTAT: If you had homes next
 3 to it or so forth, it would.
 4 MR. FLANAGAN: Right. I'm sorry, how tall
 5 is the Kendar, or what used to be called the
 6 Kendar Building? Do we know how tall that is?
 7 MR. GARCIA-SERRA: These here?
 8 MR. FLANAGAN: Do you know? Can you
 9 comment? I'm sorry, Mario, the other way. Go
 10 north. Yes.
 11 MR. GARCIA-SERRA: You know, we didn't call
 12 out that building. We called out this one,
 13 which --
 14 MR. FLANAGAN: How tall is the school?
 15 MR. GARCIA-SERRA: That's 55.
 16 MR. BEHAR: 55.
 17 MR. FLANAGAN: 55?
 18 MR. GARCIA-SERRA: And, you know, I think,
 19 something very important, too, as you saw
 20 during the public hearing, the residents who
 21 indeed live right behind it have no objection
 22 to this building.
 23 MS. ALBERRO MENENDEZ: No, and plus I
 24 notice that you notified single-family
 25 residents across, and nobody's here.

1 MR. BEHAR: And we --
 2 CHAIRMAN AIZENSTAT: Right, and I'm
 3 actually surprised the Riviera Homeowners
 4 Association isn't here.
 5 MS. ALBERRO MENENDEZ: Right.
 6 CHAIRMAN AIZENSTAT: Which I think --
 7 MR. BEHAR: We went through that.
 8 CHAIRMAN AIZENSTAT: You know, which
 9 means that they're satisfied with it.
 10 MR. BEHAR: No, they're okay with it.
 11 CHAIRMAN AIZENSTAT: Yeah, which means
 12 they're okay.
 13 MR. LEEN: Mr. Chair?
 14 CHAIRMAN AIZENSTAT: Yes.
 15 MR. LEEN: I just -- for purpose of the
 16 record, I did want to say one thing about the
 17 site-specific --
 18 CHAIRMAN AIZENSTAT: Yes, please.
 19 MR. LEEN: -- which came up. In our Code,
 20 Section 1-108, C, does indicate that
 21 site-specifics take precedence over the
 22 remainder of the Zoning Code. It does say
 23 that. But the thing is, because they are
 24 different than the Zoning Code, they're
 25 generally strictly construed. That's the idea

1 behind them, because they're basically
 2 exceptions to the otherwise applicable portion
 3 of the Code.
 4 So I understand what you're saying, in the
 5 sense that obviously they're saying an
 6 apartment building because that's what could go
 7 there under that land use. However, you know,
 8 under that doctrine that you specifically
 9 construe them, you would apply it just to an
 10 apartment building.
 11 Now, if you're concerned about the height
 12 of this building, and it may be hard or
 13 impossible to impose a condition that would
 14 cure that issue, but you are allowed to
 15 consider conditions -- it is a conditional use
 16 review -- to address the concern that that
 17 raises with you. I just wanted to make that
 18 clear about the site-specific.
 19 MR. BELLIN: Craig, another point. The
 20 site-specifics, when you put an MXD on a piece
 21 of property, the whole purpose of this is to
 22 change the zoning so you can put the MXD on it.
 23 MS. ALBERRO MENENDEZ: Right.
 24 MR. LEEN: Yes.
 25 MR. BELLIN: So, when you put the MXD,

1 site-specifics don't apply anymore. It's
 2 specific in there, if you go to the MXD --
 3 MR. LEEN: I understand.
 4 MR. BELLIN: So it's immaterial. They
 5 don't apply anymore.
 6 MR. LEEN: Well, first of all, this is --
 7 My understanding is, this is not going to be a
 8 Mixed Use District. We're talking about a
 9 Mixed Use use in a Commercial District. It's a
 10 little different.
 11 MR. BELLIN: But you put an MXD openly on
 12 an individual building, and that allows you --
 13 MR. LEEN: I'd have to look at that. I'm
 14 just reading to you from the Zoning Code
 15 itself. It does say it takes precedence over
 16 the other regulations. I don't think we need
 17 to resolve that issue, because it specifically
 18 says apartment building, and generally, you
 19 strictly construe site-specifics, because
 20 they're different than the remainder of the
 21 Zoning Code. I just -- That's the -- Now, you
 22 could amend the site-specific if you want it to
 23 apply more generally. You have a lot of
 24 authority in terms of recommending, but because
 25 it says apartment building, I don't think you

1 have to be worried that you're setting any sort
 2 of precedent by not applying it to something
 3 that's not an apartment building.
 4 MR. GARCIA-SERRA: And I think I pointed it
 5 out already, but just in case I didn't, across
 6 the street, this parcel right here has the same
 7 land use and zoning designations that we're
 8 asking for tonight.
 9 MS. ALBERRO MENENDEZ: But they're not
 10 tall.
 11 MR. GARCIA-SERRA: Right now, they aren't
 12 tall. Right now.
 13 MS. ALBERRO MENENDEZ: That's very true.
 14 Can I ask a simple question? The fitness
 15 component, the fitness center, is that just for
 16 the occupants or is it --
 17 MR. BEHAR: It's for the occupants.
 18 MS. ALBERRO MENENDEZ: So what retail do
 19 you have, to call it a mixed use?
 20 MR. BEHAR: Under the mixed use, you're
 21 allowed to put fitness center, the offices, as
 22 part of the permitted uses. What we've done is
 23 located that -- The real retail, Maria, would
 24 be just in the corner, a small portion, that
 25 the idea was, working with the plaza we're

1 creating, it perhaps becomes a little coffee
 2 shop, cafe, and that's it. This is all really
 3 meeting Code requirement, because it's a part
 4 of the Code, but it's really for the uses of
 5 the building. So you're going to have -- the
 6 fitness center is going to have, you know,
 7 constant people coming there.
 8 MS. ALBERRO MENENDEZ: But in a mixed use,
 9 don't you have to have a certain percentage of
 10 retail?
 11 MR. BEHAR: Eight percent, and this gives
 12 you the eight percent.
 13 MS. ALBERRO MENENDEZ: And that corner
 14 gives you the --
 15 MR. BEHAR: Well, this, remember, under the
 16 permitted uses, you've got office,
 17 administrative --
 18 MS. ALBERRO MENENDEZ: They allow for the
 19 offices?
 20 MR. BEHAR: Yes.
 21 MS. ALBERRO MENENDEZ: Okay.
 22 MR. BEHAR: You could even do, if I'm not
 23 mistaken, residential on the bottom, because
 24 that was changed, you know, some years ago, to
 25 allow those uses.

1 MS. ALBERRO MENENDEZ: Okay. Thank you.
 2 CHAIRMAN AIZENSTAT: Marshall, do you have
 3 any other comments?
 4 MR. BELLIN: No.
 5 CHAIRMAN AIZENSTAT: Anthony?
 6 MR. BELLO: No.
 7 MR. BELLIN: Alberto.
 8 MR. PEREZ: Yeah, I have a quick question.
 9 What's the plan for the Art in Public Places?
 10 Does it --
 11 MR. GARCIA-SERRA: Say that again?
 12 MR. PEREZ: The Art in Public Places, do
 13 you need something there?
 14 MR. GARCIA-SERRA: For the Art in Public
 15 Places, we would be making the financial
 16 contribution of the one percent of construction
 17 costs to the City.
 18 MR. BEHAR: Maybe some of that could be
 19 used in the park, maybe some artwork in the
 20 park.
 21 CHAIRMAN AIZENSTAT: So it would benefit
 22 the neighborhood.
 23 MR. BEHAR: Absolutely.
 24 CHAIRMAN AIZENSTAT: Any other comments,
 25 any questions? Julio?

1 MR. GRABIEL: I don't have a problem with
 2 the height. If it were neighbors across the
 3 street, but not the park --
 4 CHAIRMAN AIZENSTAT: Right.
 5 MR. GRABIEL: -- I think it would be
 6 objectionable, but with that large amount of
 7 green space, I think that would fit well -- It
 8 fits well in the neighborhood. It adds
 9 additional residential to what's become really
 10 an urban area.
 11 CHAIRMAN AIZENSTAT: Right.
 12 MR. GRABIEL: Because with everything
 13 that's happening there, it's a walkable
 14 surface. My wife saw it the other day and
 15 said, "Oh, let's move over there." I said,
 16 "No, we're not moving over there." But she
 17 likes the idea of going to an apartment
 18 building that is walkable to shops and retails
 19 and everything else. So, even though we're not
 20 part of South Miami there, it's really an
 21 extension of that whole urban neighborhood.
 22 CHAIRMAN AIZENSTAT: But that's the idea of
 23 the overall Master Plan for the City, if I
 24 remember, when we went through that --
 25 MS. ALBERRO MENENDEZ: Yeah.

1 CHAIRMAN AIZENSTAT: -- to do that.
 2 Any other comments? Anybody want to make a
 3 motion?
 4 MR. GRABIEL: I'd move for approval. Move
 5 for approval.
 6 MR. WU: Can I ask for just the land use
 7 change first?
 8 MR. GRABIEL: Sorry?
 9 MR. WU: There are three applications
 10 before you. To change the land use first.
 11 CHAIRMAN AIZENSTAT: Take the land use
 12 first?
 13 MR. WU: Yes.
 14 CHAIRMAN AIZENSTAT: And we don't have to
 15 go ahead and put any of the -- what they did
 16 the PowerPoint for, we don't have to do at this
 17 point.
 18 MR. WU: The conditions are the very last
 19 motion.
 20 CHAIRMAN AIZENSTAT: Correct, okay.
 21 MR. GRABIEL: So I move approval for the
 22 land use.
 23 MR. BELLO: Second that.
 24 CHAIRMAN AIZENSTAT: Second. Any
 25 discussion?

1 Call the roll, please.
 2 MR. BOLYARD: Marshall Bellin?
 3 MR. BELLIN: Yes.
 4 MR. BOLYARD: Anthony Bello?
 5 MR. BELLO: Yes.
 6 MR. BOLYARD: Jeffrey Flanagan?
 7 MR. FLANAGAN: No.
 8 MR. BOLYARD: Julio Grabiell?
 9 MR. GRABIEL: Yes.
 10 MR. BOLYARD: Maria Menendez?
 11 MS. ALBERRO MENENDEZ: Yes.
 12 MR. BOLYARD: Alberto Perez?
 13 MR. PEREZ: Yes.
 14 MR. BOLYARD: Eibi Aizenstat?
 15 CHAIRMAN AIZENSTAT: Yes.
 16 The next item, Charles, would you like
 17 any --
 18 MR. WU: That's the rezoning. That's the
 19 rezoning one. There's no conditions for that.
 20 CHAIRMAN AIZENSTAT: On the rezoning, is
 21 there a motion?
 22 MR. BELLO: I move approval.
 23 MR. PEREZ: I'll second.
 24 CHAIRMAN AIZENSTAT: Moved and seconded.
 25 Any comments? Any questions?

1 Call the roll, please.
 2 MR. BOLYARD: Anthony Bello?
 3 MR. BELLO: Yes.
 4 MR. BOLYARD: Jeffrey Flanagan?
 5 MR. FLANAGAN: Yes.
 6 MR. BOLYARD: Julio Grabiell?
 7 MR. GRABIEL: Yes.
 8 MR. BOLYARD: Maria Menendez?
 9 MS. ALBERRO MENENDEZ: Yes.
 10 MR. BOLYARD: Alberto Perez?
 11 MR. PEREZ: Yes.
 12 MR. BOLYARD: Marshall Bellin?
 13 MR. BELLIN: Yes.
 14 MR. BOLYARD: Eibi Aizenstat?
 15 CHAIRMAN AIZENSTAT: Yes.
 16 Did they call you?
 17 MR. FLANAGAN: Yeah.
 18 CHAIRMAN AIZENSTAT: And then on the final
 19 item, is there a motion?
 20 MR. WU: With the added condition.
 21 CHAIRMAN AIZENSTAT: Well, let's see if
 22 there's a motion. Anybody like to make a
 23 motion?
 24 MR. GRABIEL: I'd make a motion, with the
 25 new added condition as read. Do I have to read

1 it or -- Should I read it?
 2 CHAIRMAN AIZENSTAT: No, we can enter it --
 3 MR. WU: We have the record.
 4 CHAIRMAN AIZENSTAT: -- in the record as
 5 written. And Staff recommendations?
 6 MR. GRABIEL: And Staff recommendations,
 7 yes.
 8 CHAIRMAN AIZENSTAT: Okay.
 9 MR. PEREZ: I'll second.
 10 CHAIRMAN AIZENSTAT: We have a second. Any
 11 comments or questions?
 12 Call the roll, please.
 13 MR. BOLYARD: Jeffrey Flanagan?
 14 MR. FLANAGAN: No.
 15 MR. BOLYARD: Julio Grabiell?
 16 MR. GRABIEL: Yes.
 17 MR. BOLYARD: Maria Menendez?
 18 MS. ALBERRO MENENDEZ: Yes.
 19 MR. BOLYARD: Alberto Perez?
 20 MR. PEREZ: Yes.
 21 MR. BOLYARD: Marshall Bellin?
 22 MR. BELLIN: Yes.
 23 MR. BOLYARD: Anthony Bello?
 24 MR. BELLO: Yes.
 25 MR. BOLYARD: Eibi Aizenstat?

1 CHAIRMAN AIZENSTAT: Yes.
 2 MR. GARCIA-SERRA: Thank you very much, and
 3 have a good night. Appreciate it.
 4 MR. BEHAR: Thank you.
 5 MR. FLANAGAN: Unrelated to this
 6 application, but it deals with the park,
 7 unfortunately, Mr. Kinney is not here. I
 8 noticed, probably going back about a year, the
 9 parking stalls along the west side and the
 10 south side of the park were public parking.
 11 These are the only two residential developments
 12 in the neighborhood, yet out of the blue, signs
 13 went up that said the on-street parking along
 14 the park is residential permit parking only,
 15 beginning at 5:00 p.m.
 16 Now, the position, I guess I could call
 17 Kevin Kinney, but it would be interesting to
 18 know, as this area redevelops and becomes more
 19 intense, there are only two apartment buildings
 20 there, those are the only two residences. They
 21 both accommodate all their on-site parking now,
 22 and this project will continue to accommodate
 23 all the necessary parking. I question why it
 24 is that the City put up residential parking
 25 signs from 5:00 p.m. for that park, on the west

1 side and the south side. On the north side,
 2 that abuts or is adjacent to the Publix, those
 3 got left as metered spaces. There's no public
 4 parking on the west side, but by the school and
 5 then by this development right now, it's only
 6 resident parking after 5:00 p.m., which I found
 7 very odd to have occurred.
 8 And I wasn't bringing it up because
 9 Commissioner Quesada was here. We're talking
 10 about this area, I've seen these signs
 11 sprouting across the City constantly, and a lot
 12 of areas that say residential parking only. We
 13 seem to also have become sign happy about No
 14 Parking, No Left, No Standing, No Loitering.
 15 You go by Gables High School and the canal,
 16 we've got signs on the north side of the rock
 17 wall, in the middle of the rock wall, on the
 18 south side of the rock wall, and it's sign
 19 pollution. But that wasn't intended to be a
 20 conversation tonight.
 21 COMMISSIONER QUESADA: If it's not
 22 procedurally improper for me to speak at this
 23 meeting --
 24 MR. LEEN: No, it's not.
 25 COMMISSIONER QUESADA: -- and if it's okay

1 with the Chair --
 2 CHAIRMAN AIZENSTAT: Please.
 3 COMMISSIONER QUESADA: I'm glad you bring
 4 that up, and I will bring it up at our
 5 Commission meeting on Tuesday so that we can
 6 discuss it, because sometimes you have
 7 different departments working together and
 8 before you know it, you've got a million signs
 9 and some don't make sense and some do, so
 10 sometimes it's good, you know, to call us out
 11 on that. So we'll take a look at that.
 12 I also want to mention one more thing. You
 13 may not realize it, but we always read the
 14 minutes of all your meetings before our
 15 Commission meetings, when we're voting on big
 16 issues, and I wanted to come today to get a
 17 little bit more perspective. It's a little bit
 18 different, reading it on a piece of paper, than
 19 actually being here.
 20 Thank you so much for all the thought and
 21 energy that you guys put into the meetings.
 22 You probably think I'm just, you know, giving
 23 you some fluff right now, but I understand how
 24 difficult it is after a long day and maybe not
 25 being able to see your kids tonight because

1 they're going to sleep by the time you get
 2 home, my experience tonight. So thank you so
 3 much for the service and keep on questioning
 4 everyone and making our City a better place.
 5 Thank you.
 6 MS. ALBERRO MENENDEZ: Thank you.
 7 CHAIRMAN AIZENSTAT: Thank you for coming.
 8 Okay, let's go ahead and move on to our
 9 final item, and that is a Resolution of the
 10 City Commission of Coral Gables, Florida,
 11 requesting mixed use site plan review, pursuant
 12 to Zoning Code Article 4, "Zoning Districts,"
 13 Division 2, "Overlay and Special Purpose
 14 Districts," Section 4-201, "Mixed Use
 15 District," for the mixed use project referred
 16 to as 4311 Ponce, on the property legally
 17 described as Lots 36-43, Block 5, Industrial
 18 Section, 4225 and 4311 Ponce de Leon Boulevard,
 19 Coral Gables, Florida; including required
 20 codifications; providing for an effective date.
 21 At this point, if the applicant can please
 22 make their presentation.
 23 MR. BELLO: Mr. Chairman, a point of order.
 24 I see that the Staff is not able to give us a
 25 recommendation.

1 CHAIRMAN AIZENSTAT: On this item.
 2 MR. BELLO: Is it -- Should we continue
 3 with the hearing, or can we make a motion for a
 4 continuance?
 5 MR. LEEN: Well, procedurally, Mr. Chair --
 6 CHAIRMAN AIZENSTAT: Yes.
 7 MR. LEEN: -- a motion for continuance can
 8 be made at any time. I would say that we have
 9 told Mr. Mateu, who has waited through this
 10 proceeding, that he would be able to present
 11 his perspective on this matter. Staff is
 12 recommending continuance because of certain
 13 prerequisites that Staff has opined is not
 14 here. One of them, I think, is clear, which is
 15 a community meeting, which will have to be had.
 16 So, ultimately, my recommendation to you
 17 legally would be, you have to continue this
 18 matter, as well. But I would suggest that you
 19 hear from the applicant, because there's
 20 certain areas where he and Staff don't agree,
 21 and you may be able to give some guidance so
 22 that when it comes back to you after this
 23 community meeting is heard, we don't have the
 24 same issue come up again, and then another
 25 recommendation of continuance. That would be

1 my recommendation to you, as your counsel.
 2 MS. ALBERRO MENENDEZ: Can I ask you, is
 3 there a rush? Because it's not only the issues
 4 with Staff, but there's also traffic concerns
 5 that haven't been addressed. It seems to be
 6 like an incomplete application.
 7 MR. LEEN: There's an underlying issue
 8 related to step-backs and setbacks that would
 9 probably be useful to receive your guidance, if
 10 you're willing to provide it.
 11 CHAIRMAN AIZENSTAT: But --
 12 MR. LEEN: Even if you hear it in an
 13 abbreviated way.
 14 CHAIRMAN AIZENSTAT: But at this point, the
 15 only thing we can do is hear the applicant make
 16 his presentation, but we can't go any further
 17 than that, really.
 18 MR. LEEN: Well, I don't believe you can
 19 recommend approval at this point.
 20 CHAIRMAN AIZENSTAT: Right.
 21 MR. LEEN: You could either recommend
 22 continuance or denial. I don't think that
 23 anyone is asking you to recommend denial,
 24 though, so --
 25 CHAIRMAN AIZENSTAT: No, right.

1 MR. LEEN: -- you would recommend
 2 continuance. But I would recommend that you
 3 hear him and that you also hear from Staff.
 4 CHAIRMAN AIZENSTAT: Okay, the reason I'm
 5 saying that is because we're five of nine
 6 o'clock.
 7 Could I ask the applicant, your
 8 presentation is about how long, please?
 9 MR. MATEU: It probably wouldn't be as long
 10 as the marijuana one.
 11 CHAIRMAN AIZENSTAT: Well, the reason I'm
 12 saying it is because we're supposed to stop at
 13 nine o'clock, unless there's a vote to
 14 continue, and it would be for a time certain,
 15 and that's why I'm just trying get -- I'm just
 16 trying to get an idea.
 17 MR. MATEU: I understand. I just -- The
 18 problem that we have is that --
 19 CHAIRMAN AIZENSTAT: Well, can you state
 20 your name and address, please?
 21 MR. MATEU: Okay. My name is Roney Mateu.
 22 I am president of Mateu Architecture, 8887
 23 Southwest 131 Street, Miami, Florida.
 24 We asked the City Attorney about presenting
 25 today, because one of the things that we are

1 concerned about is the time that this whole
 2 process has taken. As you all very well know,
 3 money is -- time is money. This whole
 4 presentation process, as it has been created at
 5 the City of Coral Gables, especially in the MXD
 6 District, is a very time-consuming one, and we
 7 also wanted to air some concerns about how this
 8 particular project has been handled by Staff,
 9 particularly in the Planning and Zoning
 10 Department, which we feel have added to the
 11 reasons, like Ms. Menendez mentioned, where's
 12 the Staff -- I mean, the traffic report. Well,
 13 there is a traffic report and there is a
 14 response to the traffic report, and there was a
 15 reason why the traffic report was not as early
 16 as it could have been, because things were
 17 delayed. And we can get into all of that if
 18 you wanted me to, but I was going to just gloss
 19 over that, but the two reports that have been
 20 given to us from Staff, after we submitted
 21 these books, we responded to.
 22 Now, maybe it didn't get back to you, but
 23 we did, in the time that we got them. So --
 24 MS. ALBERRO MENENDEZ: Can I just ask you,
 25 though, what would you want to achieve tonight,

1 outside of perhaps telling us what Staff has
 2 done wrong?
 3 MR. MATEU: Well, it's not that I wanted to
 4 say just what Staff has done wrong. What I was
 5 hoping for is that we would be heard and that
 6 this body could say, for example -- I would
 7 have said, Mr. Attorney, and I'm not an
 8 attorney, nor do I have one in this group here
 9 tonight, but what I would have thought that
 10 could have happened is that there may be --
 11 this body could have also had the option to
 12 say, "Approved, but it doesn't go to the
 13 Commission until you have had your City
 14 meeting," for example, because I also pointed
 15 out, if I may, that the process of approvals of
 16 an MXD project that has a mixed use -- because
 17 this whole thing of going -- even in coming
 18 here and going to the Commission, is due
 19 that -- because we have a residential piece in
 20 here. If we didn't have the residential piece,
 21 we wouldn't need to be here.
 22 CHAIRMAN AIZENSTAT: Let me just stop you
 23 one second, only because of timing, and
 24 legally.
 25 MR. MATEU: Yes.

1 MR. LEEN: Mr. Chair, I'd recommend that
 2 you hear him, you give him 15 or 20 minutes.
 3 We did reach an agreement with him to resolve,
 4 basically, a dispute that was going on, that
 5 said that he could come and that he would be
 6 heard, that there would be a recommendation of
 7 continuance. You're not bound to what I'm --
 8 CHAIRMAN AIZENSTAT: I understand.
 9 MR. LEEN: -- telling you, but I would
 10 recommend it.
 11 MR. BELLIN: Craig, I'd like to make a
 12 motion. Let's go to 9:30, and I think that
 13 there are some issues that don't really need to
 14 be brought up. I don't care about the parking
 15 at this point. But there are some issues with
 16 respect to the approach to the design that I
 17 think need to be heard, and I really would like
 18 to hear Staff's rationale, as well as Roney's,
 19 so we can sort of get an idea of where they're
 20 both coming from.
 21 MR. LEEN: Well, it's not up to me. It's
 22 up to the Board. I would think that that's
 23 worth having.
 24 CHAIRMAN AIZENSTAT: How does the Board
 25 feel? Is there a motion to extend the time,

1 and if so, to what time?
 2 MR. BELLIN: I'll make a motion to extend
 3 it to 9:30.
 4 CHAIRMAN AIZENSTAT: Is there a second?
 5 MR. PEREZ: I'll second.
 6 CHAIRMAN AIZENSTAT: A motion and a second.
 7 Any comments?
 8 Call the roll. Now, before you do that --
 9 Well, we have a motion and second.
 10 My question is, can we go to 9:15 and then
 11 we're allowed to extend again? Because we've
 12 done that in the past.
 13 MR. LEEN: You can include that in the
 14 motion. It could be that you could decide at
 15 9:15 whether you wanted to continue it to 9:30.
 16 I wouldn't put it as part of the motion.
 17 CHAIRMAN AIZENSTAT: We just need to see
 18 where it goes and how it's going.
 19 MR. LEEN: You can always end by unanimous
 20 consent.
 21 CHAIRMAN AIZENSTAT: I understand.
 22 MR. LEEN: So at 9:15, you could end.
 23 MR. BELLIN: I'll make a motion --
 24 CHAIRMAN AIZENSTAT: But you're --
 25 MR. BELLIN: -- we go to 9:15, with the

1 option to extend another 15 minutes.
 2 CHAIRMAN AIZENSTAT: Then we'll take it up
 3 after 9:15 -- you know, as we get closer to
 4 9:15.
 5 MR. PEREZ: I'll second.
 6 CHAIRMAN AIZENSTAT: We have a motion,
 7 9:15, and a second.
 8 Call the roll, please.
 9 MR. BOLYARD: Maria Menendez?
 10 MS. ALBERRO MENENDEZ: Yes.
 11 MR. BOLYARD: Alberto Perez?
 12 MR. PEREZ: Yes.
 13 MR. BOLYARD: Marshall Bellin?
 14 MR. BELLIN: Yes.
 15 MR. BOLYARD: Anthony Bello?
 16 MR. BELLO: Yes.
 17 MR. BOLYARD: Jeffrey Flanagan?
 18 MR. FLANAGAN: Yes.
 19 MR. BOLYARD: Julio Grabiell?
 20 MR. GRABIEL: Yes.
 21 MR. BOLYARD: Eibi Aizenstat?
 22 CHAIRMAN AIZENSTAT: Yes.
 23 Go ahead, please.
 24 MR. MATEU: Thank you. So I also -- again,
 25 I would like that one of the options that's

1 available to you is approval with the condition
2 that the public presentation on the side of the
3 owners be held prior to going to the
4 Commission, because that's really the only
5 thing that has not happened yet.

6 But I want to say this. This process of
7 approvals in the MXD, when you have a
8 residential component in it -- because if we
9 did not have a residential component in this
10 building, we wouldn't be here. We could build
11 by right. But that process that makes us do
12 all of these meetings, every one of the
13 meetings, the DR -- Development Review
14 Committee, the Board of Architects, this
15 meeting, and the next meeting, which is the
16 Commission meeting, all of these are public
17 hearings. They're noticed, they're publicized,
18 and I, as an architect who's been practicing
19 for the last 34 years, am not quite sure what
20 this fifth meeting accomplishes, when all of
21 these meetings that we're having are all public
22 meetings.

23 MR. BELLIN: But Roney, let's boil it down
24 so we don't waste a lot of time.

25 MR. MATEU: Okay. So --

1 MR. MATEU: Okay.

2 CHAIRMAN AIZENSTAT: -- as opposed to
3 questions and answers --

4 MR. MATEU: Thank you. I will. By way of
5 history --

6 CHAIRMAN AIZENSTAT: Please.

7 MR. MATEU: -- I was the architect of a
8 building that was designed on this same site,
9 back in the year 2006/2007. Same exact zoning,
10 MXD. We had the same kinds of components, that
11 that were residential, commercial and office.
12 The only difference in that design and this
13 design was that the lot that we were working
14 with at the time was 150-foot frontage on
15 Ponce, versus this one, which is 200.

16 The project that was designed at the time
17 was this one. This is Ponce, San Lorenzo, and
18 this project had a retail component on the
19 bottom, parking and offices, with residential
20 units along San Lorenzo.

21 This project went through the whole process
22 and it in fact went and got a building permit.
23 It suffered from the recession. It did not get
24 built. But it went through and was permitted.
25 I have here the zoning analysis that was done

1 MR. BELLIN: You have a residential
2 component. You can't have a residential
3 component in the C zoning unless you put an MXD
4 on it. So that's the reason for the MXD.

5 MR. MATEU: I don't have a problem with
6 that. What I'm making a statement is that
7 there's five public hearings.

8 MS. ALBERRO MENENDEZ: What's the fifth one
9 you're talking about, the one with the
10 neighbors? What's the fifth one that you're --
11 You mentioned a fifth.

12 MR. MATEU: The one with the neighbors, the
13 one that has to come.

14 MS. ALBERRO MENENDEZ: The one with the
15 neighbors. But that benefits you, from my
16 experience, because that --

17 MR. MATEU: No, no, listen, I'm just saying
18 that if that's the one reason that we're --
19 that Staff is asking for --

20 CHAIRMAN AIZENSTAT: Can I suggest
21 something? I would suggest that you make your
22 presentation --

23 MR. MATEU: Yes.

24 CHAIRMAN AIZENSTAT: -- so we can
25 understand your project --

1 on this project at the time, and some of the
2 folks that are still in the Planning and Zoning
3 Division, Mr. Carlson and others, participated
4 in the analysis of this project and this
5 creation of this analysis of this report. I
6 say that because one of the issues that is a
7 problem here today is the interpretation of --
8 at the DRC, which is when we first heard of
9 this dispute that has been brought up, is in
10 Page --

11 CHAIRMAN AIZENSTAT: Do we have a copy of
12 that, to follow you?

13 MR. MATEU: You have the -- on Tab 21 --

14 CHAIRMAN AIZENSTAT: Okay.

15 MR. MATEU: -- of the book that we
16 prepared --

17 CHAIRMAN AIZENSTAT: Okay.

18 MR. MATEU: -- behind the handwritten notes
19 is a DRC zoning review that was prepared by
20 Mr. Ramon Trias and his Staff, where on Page 4,
21 Section 4-201, E-14, and Section 4-201, E-15,
22 which is the basis --

23 CHAIRMAN AIZENSTAT: I'm trying to follow
24 you. I have everything handwritten that's in
25 here.

1 MR. MATEU: No, the next --
 2 CHAIRMAN AIZENSTAT: I don't see Page 4, so
 3 where --
 4 MR. MATEU: I'm sorry, after the
 5 handwritten notes, there's a report, the DRC
 6 report.
 7 CHAIRMAN AIZENSTAT: One, two -- Ours goes
 8 two pages and the next ones are handwritten,
 9 also.
 10 MR. MATEU: No, keep going. There's a DRC
 11 report.
 12 MS. ALBERRO MENENDEZ: By who? By who, I'm
 13 sorry?
 14 CHAIRMAN AIZENSTAT: Where it says
 15 Memorandum?
 16 MS. ALBERRO MENENDEZ: Oh, that.
 17 CHAIRMAN AIZENSTAT: Is that what you're
 18 talking about? Only because there's no number
 19 on here, I'm sorry. I just want to follow with
 20 it.
 21 MS. ALBERRO MENENDEZ: Oh, okay. I'm
 22 sorry. I've got it.
 23 CHAIRMAN AIZENSTAT: On ours, it doesn't
 24 have a number, so that's why I've got to see
 25 it.

1 MR. MATEU: When we designed the first
 2 building, we had an analysis done, a zoning
 3 analysis done at the time, by the Zoning
 4 Department, and at the time they also used an
 5 outside consultant, and the commentary and the
 6 design direction that we were given was based
 7 on the analysis, and specifically on Section
 8 E-14, where it talks about the setbacks of the
 9 building, and it specifically says front, which
 10 is the front setback, which in this case is on
 11 Ponce de Leon Boulevard, is up to 45 feet in
 12 height; there's no setback. If over 45 feet in
 13 height, there's 10 feet setback. Side,
 14 interior side, there's no setback. Side
 15 street, 15 foot. Rear, abutting a dedicated
 16 alley or street, none. And it talks about
 17 balconies; cantilevered open balcony may
 18 project into the setbacks a maximum of six
 19 feet.
 20 The comments from the Staff on the original
 21 design says front complies, 10-foot setback
 22 provided above the parking garage. In other
 23 words, that building goes up 45 feet at zero,
 24 then it steps back 10 feet, and it goes up
 25 continuous.

1 MR. MATEU: Okay. Well, the pages aren't
 2 numbered after that.
 3 CHAIRMAN AIZENSTAT: Okay.
 4 MR. MATEU: Page 4 --
 5 CHAIRMAN AIZENSTAT: Thank you.
 6 MR. MATEU: -- Section 4-201, E-14 and
 7 Section 4-201, E-15 are basically the issues
 8 that we have a debate about. I don't know if
 9 you have been copied properly there.
 10 CHAIRMAN AIZENSTAT: I can't find that, and
 11 I'm sorry.
 12 MS. ALBERRO MENENDEZ: It's here.
 13 CHAIRMAN AIZENSTAT: I just want to get to
 14 where you are.
 15 MS. ALBERRO MENENDEZ: Keep going.
 16 CHAIRMAN AIZENSTAT: Okay. It's out order
 17 a little bit, that's why. Two --
 18 MR. MATEU: There it is, I'm sorry.
 19 CHAIRMAN AIZENSTAT: One, two -- Okay. I
 20 just -- Like I said, I'd like for us to follow
 21 you, what you're looking at.
 22 MR. MATEU: Right, right, right. Everybody
 23 else have it?
 24 CHAIRMAN AIZENSTAT: Yes, thank you. Go
 25 ahead, please.

1 The side street at San Lorenzo is a 15-foot
 2 setback. The interior side is zero, which is
 3 the north side of the building, and the rear
 4 alley complies, zero. Okay?
 5 We designed this building in a similar
 6 exact setback fashion, where our building on
 7 the front is at zero setback up to 45 feet,
 8 then it steps back, and then the office floors
 9 and the apartments are farther back, stepped
 10 back 10 feet, and then it goes up. On the
 11 side, it's 15 feet setback. On the alley, it's
 12 zero, and on the interior property line, it's
 13 zero.
 14 Our building, compared to the old design --
 15 The old design took advantage of Mediterranean
 16 bonuses, FAR expansion and all kinds of things
 17 that we were asking for, and we got all of
 18 those bonuses and we were able to increase the
 19 FAR and all of these things on the original
 20 building.
 21 On this building, we are asking for
 22 nothing. We're asking for no bonuses. We're
 23 not asking for any reductions of any setbacks.
 24 We're asking for absolutely zero. We're asking
 25 for no Mediterranean anything.

1 Section 15 says setback reductions -- In
 2 the original analysis of the first building, it
 3 says setback reductions is not applicable,
 4 because Section 15, in our interpretation of
 5 the Code and in the way it was interpreted on
 6 the original design, was that unless you were
 7 asking for certain setback reductions, Section
 8 15 does not come into play. And it says it
 9 very clearly on the bottom of Section 14.
 10 Applicants and property owners desiring to
 11 develop pursuant to these regulations may not
 12 seek a variance for relief or reduction in
 13 building setbacks. Reductions are only
 14 permitted subject to the below-listed
 15 regulation.

16 I think that's pretty clear. So that if I
 17 want to build up my building above 45 feet, for
 18 example, at Ponce, with zero setback, and keep
 19 going up, I would then be subject to Section
 20 15, which says that a step-back is required on
 21 all sides of the building. But that's not what
 22 we asked for. We didn't require it. We didn't
 23 ask for anything. We are not asking for any
 24 reductions of any setback whatsoever.

25 In Mr. Trias's analysis at the DRC, which

1 So, after the DRC, I asked him if he
 2 prepared this and I asked him if the City
 3 Architect, which would be the person in charge
 4 of the Board of Architects, prepared this, and
 5 he said no, he did.

6 So I went after the meeting and I went and
 7 asked the City Architect if he, in fact, had
 8 anything to do with these "Does not comply,"
 9 "Does not comply," "Does not comply," to which
 10 he said, "I didn't have anything to do with
 11 that. In fact, I was told not to be at this
 12 Development Review Committee meeting," and he
 13 was asked not to be there.

14 So Mr. Trias played Architect, Zoning
 15 Director, Planning Director, and in my review
 16 of the job description of the City Architect,
 17 the City Architect has to be at the Design
 18 Review Committee. It's one of his job
 19 description duties. The Planning and Zoning
 20 Director does not have to be there.
 21 Specifically, it does not say he has to be
 22 there. So --

23 CHAIRMAN AIZENSTAT: If I may, is there a
 24 motion to extend the additional 15 minutes,
 25 please, to give Mr. Mateu his time?

1 he chaired, and he wrote this analysis, he
 2 writes on Section 14, "1500 square feet of
 3 publicly accessible street level open space and
 4 landscape area are provided along San Lorenzo
 5 Avenue to comply with front setback reduction
 6 on Ponce de Leon Boulevard." This is a
 7 statement that he made up, because we didn't
 8 ask for it, and therefore, it is partly a
 9 reason, I believe, to justify his decision that
 10 Section 15 applies. What he is telling us,
 11 that we do not comply with the Code, because he
 12 believes that this building above the 45 feet
 13 needs to be like a wedding cake, where all
 14 sides need to be set back 10 feet.

15 He further, then, goes through this whole
 16 report, and I'll point out to you, Page 14, for
 17 example, Section 5-602, A, where the reference
 18 and the provision of the Code says, "The Board
 19 of Architects shall determine if an application
 20 satisfies the following design review
 21 standards." Now, this is at the DRC. He
 22 writes, "Does not comply," "Does not comply,"
 23 "Does not comply." He goes on down the list,
 24 "Does not comply," "Does not comply," "Does not
 25 comply," "Does not comply."

1 MR. BELLIN: I'll make the motion, but --
 2 CHAIRMAN AIZENSTAT: Is there a second?
 3 MR. PEREZ: I'll second.
 4 CHAIRMAN AIZENSTAT: Call the roll, please.
 5 MR. BOLYARD: Alberto Perez?
 6 MR. PEREZ: Yes.
 7 MR. BOLYARD: Marshall Bellin?
 8 MR. BELLIN: Yes.
 9 MR. BOLYARD: Anthony Bello?
 10 MR. BELLO: Yes.
 11 MR. BOLYARD: Jeffrey Flanagan?
 12 MR. FLANAGAN: Yes.
 13 MR. BOLYARD: Julio Grabiell?
 14 MR. GRABIEL: Yes.
 15 MR. BOLYARD: Maria Menendez?
 16 MS. ALBERRO MENENDEZ: Yes.
 17 MR. BOLYARD: Eibi Aizenstat?
 18 CHAIRMAN AIZENSTAT: Yes.
 19 I'm sorry, it's just a formality.
 20 MR. MATEU: I understand.
 21 MR. LEEN: Mr. Chair --
 22 CHAIRMAN AIZENSTAT: Yes.
 23 MR. LEEN: Mr. Mateu, if I may, just
 24 briefly, because of the statements being made,
 25 you will have to give Mr. Trias a chance to

1 respond.
 2 MR. MATEU: Absolutely.
 3 CHAIRMAN AIZENSTAT: Of course.
 4 MR. LEEN: Also, just to -- you know,
 5 ultimately, and I don't mean to make your
 6 argument for you in any way, but ultimately,
 7 the issue here is, there's a change in
 8 interpretation. I mean, that's basically what
 9 it is, and the question is, will we ultimately
 10 go with the first one or the second one?
 11 Staff, in their professional judgment, has
 12 given the second. Mr. Mateu believes -- he
 13 relied on the first, has indicated he relies on
 14 the first, that's really what's being
 15 presented, but I don't --
 16 You know, also remember to please present
 17 your item, too, because --
 18 MR. MATEU: Yes.
 19 MR. LEEN: -- I want them to see, you
 20 know --
 21 MR. MATEU: Right.
 22 MR. LEEN: Remember that.
 23 MR. MATEU: So that -- but I wanted to
 24 point that out, because I felt that Mr. Trias
 25 stepped over his area of expertise, where he

1 you not able to do that?
 2 MR. MATEU: Yes. I -- We have no objection
 3 to having the neighborhood meeting.
 4 CHAIRMAN AIZENSTAT: That's the last step?
 5 You've done everything else?
 6 MR. MATEU: Yes.
 7 CHAIRMAN AIZENSTAT: Okay, go ahead,
 8 continue.
 9 MR. MATEU: We were -- It was pointed out
 10 to us that the meeting had not taken place, and
 11 it is in our court. I don't --
 12 CHAIRMAN AIZENSTAT: Okay.
 13 MR. MATEU: -- withdraw responsibility, but
 14 it was pointed out to us eight days prior to
 15 this meeting --
 16 CHAIRMAN AIZENSTAT: I understand.
 17 MR. MATEU: -- when other things were being
 18 delayed and postponed, et cetera, and that was
 19 like, this is a good reason why not to go here.
 20 So --
 21 MS. ALBERRO MENENDEZ: Can I ask a
 22 question? I'm sorry to interrupt you, but who
 23 did the original zoning review for the first
 24 project?
 25 MR. MATEU: It was under the direction of

1 played architect, planner, et cetera, and made
 2 decisions that I do not believe were in his
 3 area of responsibility as Planning and Zoning
 4 Director, and therefore set a tone which I
 5 believe was inappropriate for this project,
 6 which prompted me to write a letter, which is
 7 included in this packet, responding to his
 8 comments, and then prompted me to meet with the
 9 City Attorney and the City Manager, the Acting
 10 City Manager, et cetera, which then the City
 11 Architect was asked to prepare his analysis of
 12 this project, and it is in the back here, and
 13 you can see the disparity of the commentary.
 14 So --
 15 CHAIRMAN AIZENSTAT: Let me ask you a
 16 question, if I may. Couldn't you bring it
 17 before the Board, even if the recommendation is
 18 to deny it by City Staff, and present your
 19 project, but complying with all the steps? Are
 20 you not able to comply, let's say, with the
 21 neighborhood meeting, because Mr. Trias said
 22 no? Does that stop you, or are you able to
 23 comply with all the steps, let the Planning
 24 Department, if their decision is a no or to
 25 deny, but still present everything to us? Are

1 Martha Salazar-Blanco, but this was written by
 2 Ricardo Herran.
 3 MS. ALBERRO MENENDEZ: Okay. Now, when you
 4 brought up this issue. I'm just -- It's hard
 5 for me to understand, having worked here prior,
 6 why you didn't have a -- why Staff wasn't
 7 directed to have a second review from another
 8 person that's an expert in zoning, that would
 9 have either agreed with Ramon or agreed with
 10 yourself or had perhaps another opinion. It's
 11 just hard for me to understand why you're here
 12 in front of us today, discussing what I
 13 consider to be an administrative matter.
 14 MR. MATEU: Well, let me go back, and
 15 again, the discussion that was always had at
 16 all of the pre-application -- We had three or
 17 four pre-application, pre-submittal meetings
 18 with Staff. We had a meeting recently with the
 19 City Attorney, to see if we could iron these
 20 things out. The commentary that we received
 21 was originally, the back, at the alley, at the
 22 street, had to step in. That's the only thing
 23 that we ever heard, okay?
 24 Then, at a meeting that we had with the
 25 owner, the City Attorney and Staff, Mr. Trias

1 and Mr. Bolyard, a couple of weeks ago, at that
 2 meeting, it started off with, "The back needs
 3 to be stepped in, that needs to be stepped in,"
 4 and then during the middle of the meeting, it
 5 became -- the statement was made, "The back is
 6 not the problem anymore, it's the front. The
 7 front doesn't meet the setback," and they are
 8 referring -- they were referring to this wall
 9 and this eyebrow across the front, which is not
 10 actually the building; that is another --
 11 because that is not the building. That is an
 12 architectural feature. It's an architectural
 13 element that has gone already to the Board of
 14 Architects and has been approved. But at that
 15 time, that was the issue that was being
 16 discussed, at the meeting.

17 MR. LEEN: Mr. Chair, just for purposes of
 18 the record, I view that as an architectural
 19 element. I believe that Ramon views that as an
 20 architectural element, as well. I don't think
 21 that that ultimately would prevent this
 22 building from going forward.

23 I think the issue that's come up, just to
 24 get to the heart of it, is that under Staff's
 25 interpretation, which, looking at the Code,

1 which requires a step-back on all sides, if
 2 there's any setback relief here, it would
 3 require it on all sides. The problem is, this
 4 building cannot be approved under that
 5 interpretation.

6 CHAIRMAN AIZENSTAT: Okay.

7 MR. LEEN: There is a prior interpretation,
 8 which I've been told is from Martha
 9 Salazar-Blanco, and I've read it, and under
 10 that interpretation, this building could be
 11 improved -- could be approved.

12 Ultimately, it's going to come to you and
 13 then to the Commission, whether to apply the
 14 prior interpretation or not. It would be under
 15 a reliance estoppel theory, which I'm still
 16 analyzing at this point, but I wanted to get
 17 your thoughts on it. It would be under an
 18 estoppel theory, basically, that he had a prior
 19 interpretation, he's gone forward with this
 20 design, through this process. It's here before
 21 you now. Do we apply this prior
 22 interpretation, this one last time?

23 CHAIRMAN AIZENSTAT: Is it an
 24 interpretation letter from the head of Zoning?

25 MR. LEEN: Well, my understanding is Martha

1 Salazar -- We've been told by the applicant, he
 2 said the name, but that this was one that
 3 Martha Salazar-Blanco --

4 CHAIRMAN AIZENSTAT: We have a written,
 5 signed interpretation letter?

6 MR. LEEN: We have a written interpretation
 7 letter.

8 CHAIRMAN AIZENSTAT: Just a question.
 9 Okay.

10 MR. LEEN: Yes.

11 CHAIRMAN AIZENSTAT: Okay.

12 MR. LEEN: And he's saying that he has
 13 relied on it. I don't think, ultimately, you
 14 have to -- When you read this, if there is a
 15 setback relief that's been provided here, the
 16 step-back is on all four sides. I think you
 17 would agree, it says on all facades. I think
 18 the issue here you're raising is --

19 MR. MATEU: I'm sorry, forgive me. I'm
 20 sorry, I don't believe that it even applies,
 21 because I think --

22 MR. LEEN: If it applies.

23 MR. MATEU: I think we read --

24 MR. LEEN: If it applies.

25 MR. MATEU: -- Section 14, and we comply

1 with Section 14. We do not -- Section 15 does
 2 not apply.

3 MR. LEEN: You deny the setback relief,
 4 that's what you're saying?

5 MR. MATEU: We do not -- We're not seeking
 6 any setback relief.

7 MR. LEEN: That's the opinion that needs to
 8 be resolved, basically.

9 MS. ALBERRO MENENDEZ: Is there anybody
 10 else in the City that could review it in on a
 11 zoning basis to be able to determine whether --
 12 It's Ramon or Ricardo, you said?

13 MR. MATEU: Well, he was the zoning
 14 technician. It would be under Martha's --

15 MS. ALBERRO MENENDEZ: Yeah.

16 MR. LEEN: Ultimately, I would hear from --
 17 My recommendation is to hear from Ramon
 18 regarding why he thinks there's setback relief.
 19 Ultimately, either you or the Board of
 20 Adjustment, and then ultimately the City
 21 Commission, would make that decision.

22 MR. MATEU: And --

23 MS. ALBERRO MENENDEZ: But it's the Board
 24 of Adjustment that rules on administrative --

25 MR. LEEN: Appeals.

1 MS. ALBERRO MENENDEZ: -- appeals. So
 2 that's why I'm trying to figure out what we can
 3 accomplish for you today, you know, because we
 4 don't have most of what's required of this
 5 application. So I'm just trying to figure this
 6 out. It seems as though we're being put in the
 7 middle of a dispute, and I just think that
 8 there's other solutions that administratively
 9 can be taken.

10 MR. LEEN: That could be taken.

11 CHAIRMAN AIZENSTAT: Possibly one solution,
 12 though, could be for Mr. Mateu to complete his
 13 process, come back to our Board with Staff's
 14 recommendation, whether it's approval or
 15 denial. We look at it independently, and at
 16 that time, we can make a finding ourselves.
 17 But I think what's going on is, at this stage,
 18 without having your process completed, I myself
 19 at least don't feel comfortable making any
 20 findings or any recommendations.

21 MS. ALBERRO MENENDEZ: Right.

22 CHAIRMAN AIZENSTAT: I'm not saying you're
 23 right, I'm not saying you're wrong.

24 MR. MATEU: I understand.

25 CHAIRMAN AIZENSTAT: My suggestion, and

1 And I don't want to make this personal. I
 2 mean, my name has been mentioned many times by
 3 Mr. Mateu in a context that I don't agree with,
 4 and this is not about me. This is simply about
 5 the Code and the fact that several people have
 6 looked at it and they all share the same
 7 opinion, and Mr. Mateu requested to be here
 8 before you, to be able to make his point, and I
 9 agreed to it. In fact, I signed that agenda so
 10 he could be here and say exactly what he said
 11 to you.

12 So I think that you all are in agreement
 13 pretty much that there are some things that are
 14 missing. I think that Mr. Mateu is a very
 15 capable architect and he'll be ready next time,
 16 I'm sure, and that's the recommendation that I
 17 would propose to you.

18 CHAIRMAN AIZENSTAT: Would anybody like to
 19 make a recommendation for a continuance to the
 20 next Board meeting?

21 MR. BELLIN: Eibi?

22 CHAIRMAN AIZENSTAT: Yes, please.

23 MR. BELLIN: It's a matter of
 24 interpretation. Somebody's got to interpret
 25 it. And the fact that the interpretation was

1 this is only my suggestion, is to complete your
 2 process in a timely fashion, as fast as you
 3 can, and I would ask the Board if, in our next
 4 meeting, if you could actually come up, be the
 5 first item, if you have everything completed,
 6 and make your actual presentation, along
 7 with -- like you heard today. The applicant
 8 makes their presentation, Staff makes their
 9 presentation, any comments, close the floor, we
 10 go ahead and have a discussion, and hopefully
 11 we can reach some kind of agreement between
 12 this Board. That's just a suggestion.

13 Now, if you don't mind, I'd like to hear
 14 Mr. Ramon Trias.

15 MR. TRIAS: Mr. Chairman, I think that --

16 CHAIRMAN AIZENSTAT: Thank you.

17 MR. TRIAS: Thank you, Mr. Chairman. I
 18 think your recommendation is very appropriate.

19 As far as Ms. Menendez's comment, I've
 20 asked all of my Staff to review this issue. In
 21 fact, I have avoided personally getting too
 22 involved in it. I had one person from Zoning,
 23 two people from Planning -- well, actually,
 24 three people from Planning, and then I asked
 25 Mr. Leen, also, for his opinion on this issue.

1 made five years ago doesn't mean it was right.

2 CHAIRMAN AIZENSTAT: I agree with that.

3 MR. BELLIN: Okay, so we can't rely on
 4 that.

5 CHAIRMAN AIZENSTAT: Right, but I think at
 6 this point, it's up to him whether he wants to
 7 go before the Board of Adjustments or he wants
 8 to come to us.

9 MR. BELLIN: I think he needs to come back
 10 to us.

11 CHAIRMAN AIZENSTAT: I agree with you. But
 12 what I'm saying is, my suggestion would be for
 13 Mr. Mateu to complete the process, because you
 14 cannot -- I couldn't hear -- I couldn't hear a
 15 case or make a determination and it would not
 16 be correct if he doesn't complete the process,
 17 when we require everybody else to do it.

18 Now, whatever you're missing, if you can
 19 get that done for the next meeting, I would ask
 20 the City Staff to actually put you as the first
 21 item on the agenda, at the next presentation,
 22 if the Board members agree, I would, for a
 23 continuance.

24 MR. TRIAS: Mr. Chairman, just from a
 25 procedural point of view, there's also a

1 process to appeal a decision by Staff. So he
 2 could do that, too.
 3 CHAIRMAN AIZENSTAT: Yes, but I think, from
 4 what I'm hearing from Mr. Mateu, I think he'd
 5 like to go forward --
 6 MR. MATEU: Yes.
 7 CHAIRMAN AIZENSTAT: -- and make his
 8 presentation, but we also need Staff to make
 9 their presentation, and right now we don't have
 10 a presentation from Staff. So, if it is that
 11 last fifth step, you know, Staff is here to
 12 help you. That is really their role, is to go
 13 ahead -- That is their role. Their role,
 14 Staff's role, is to help you along in the
 15 process, and I have to assume that.
 16 Is there any comments?
 17 MR. GRABIEL: One comment, which I actually
 18 would like to apply to everything that comes in
 19 front of the Board. I see, always, floor
 20 plans, elevations, but I don't see any
 21 sections. We're talking about an issue now,
 22 which is how the building sits on the sidewalk
 23 and how it steps -- sets back or not. I would
 24 like Staff to consider that all projects coming
 25 to us include sections through the buildings,

1 through the neighborhood, so that questions
 2 that come up of how does the building sit next
 3 to the house next door or to the rear or to
 4 whatever -- and I think for you to be able to
 5 explain to this Board how the building fits and
 6 what is your points, as far as the setback is
 7 concerned, it would be very useful.
 8 CHAIRMAN AIZENSTAT: We're approaching the
 9 time. Is there a motion?
 10 MR. FLANAGAN: I'll move to continue the
 11 item to the next regularly scheduled meeting.
 12 MR. GRABIEL: Second.
 13 CHAIRMAN AIZENSTAT: We have a first and a
 14 second. Any comments?
 15 MR. PEREZ: I just have one quick comment,
 16 based on the City Attorney's.
 17 So, based on what Martha and her Staff had
 18 recommended for approval, way back when,
 19 whenever it was, '06, '08, what I would like to
 20 see, and I assume that it would be part of
 21 Staff's presentation, is what has changed from
 22 the time that they approved it, back in '06 or
 23 '08, and what has changed until now, and where
 24 is there a difference in interpretation, based
 25 on Martha and her Staff, way back when, and

1 Ramon and his Staff, now, just to get a -- from
 2 a very simplistic perspective, just to see
 3 where the variance lies.
 4 CHAIRMAN AIZENSTAT: It's a great
 5 suggestion, but I have to assume that Staff is
 6 going to do that report, because they have to
 7 back up what their recommendation is or where
 8 they're coming from.
 9 MR. TRIAS: Yeah, and just to give you a
 10 preview of that, the Code was being changed at
 11 that time, so we can probably give you some
 12 context of why, perhaps, some of these things
 13 happened.
 14 CHAIRMAN AIZENSTAT: We have a motion and
 15 we have a second, so --
 16 MR. FLANAGAN: Did somebody from the
 17 audience want to speak? Oh, we don't want to
 18 do that.
 19 CHAIRMAN AIZENSTAT: No, we have a motion
 20 and second. Let's go ahead and call the roll.
 21 Now, I will ask -- I'm sorry. I will ask for
 22 it to be placed first on the next item. I
 23 don't know if I need to make it part of the
 24 continuance, but I would ask Staff.
 25 MR. WU: We take that direction.

1 CHAIRMAN AIZENSTAT: Thank you.
 2 Call the roll, please.
 3 MR. BOLYARD: Julio Grabiell?
 4 MR. GRABIEL: Yes.
 5 MR. BOLYARD: Maria Menendez?
 6 MS. ALBERRO MENENDEZ: Yes.
 7 MR. BOLYARD: Alberto Perez?
 8 MR. PEREZ: Yes.
 9 MR. BOLYARD: Marshall Bellin?
 10 MR. BELLIN: Yes.
 11 MR. BOLYARD: Anthony Bello?
 12 MR. BELLO: Yes.
 13 MR. BOLYARD: Jeffrey Flanagan?
 14 MR. FLANAGAN: Yes.
 15 MR. BOLYARD: Eibi Aizenstat?
 16 CHAIRMAN AIZENSTAT: Yes.
 17 Now, Mr. Mateu, it is up to you, if you
 18 want to go before the Board of Adjustments or
 19 you want to come here, but I just want to give
 20 you that opportunity, and thank you for
 21 bringing it to our attention.
 22 MR. MATEU: Thank you. Can I ask -- Can I
 23 say one more thing?
 24 CHAIRMAN AIZENSTAT: Yes.
 25 MR. MATEU: I think the issue for us, for

1 me as an architect, is Section 14 and Section
 2 15, and I would prefer that someone other than
 3 Staff make the determination of whether this
 4 applies or not, because persons on Staff now
 5 were on Staff at the time, and they had no
 6 issue with it at the time, and all of a sudden,
 7 they have an issue with it now.
 8 CHAIRMAN AIZENSTAT: What I would suggest
 9 is, talk to the City Attorney.
 10 MR. LEEN: They are our professional Staff,
 11 Mr. Mateu. The option is, you can appeal to
 12 the Board of Adjustment, and the Board of
 13 Adjustment can look at the matter. I'm also
 14 looking at the matter, and I'm also going to
 15 look at whether there could be an estoppel
 16 theory that could be applied here, that would
 17 allow this to be applied by either you or the
 18 City Commission. I will look at that. We will
 19 be -- You know, our goal is to treat you
 20 fairly, sir, I just want to assure you of that,
 21 but that is our professional Staff and we could
 22 need to stand behind them in making their
 23 professional judgments, even sometimes when the
 24 applicant doesn't agree. It doesn't mean we
 25 won't look at your objections or that there's a

1 right to take an appeal.
 2 MR. MATEU: Thank you.
 3 CHAIRMAN AIZENSTAT: It will be a good
 4 point for you make your presentation at that
 5 time. Thank you for taking the time.
 6 Is there a motion to adjourn?
 7 MR. BELLIN: So moved.
 8 CHAIRMAN AIZENSTAT: Our next meeting is --
 9 I'm sorry, before we do that, our next meeting
 10 is set for when? Hold on. We didn't adjourn.
 11 MR. BOLYARD: November 12th.
 12 CHAIRMAN AIZENSTAT: November 12th.
 13 There's a motion. Second?
 14 MR. BELLO: Second.
 15 CHAIRMAN AIZENSTAT: All adjourned.
 16 (Thereupon, the hearing was adjourned at
 17 9:31 p.m.)
 18
 19
 20
 21
 22
 23
 24
 25

1 CERTIFICATE
 2
 3 STATE OF FLORIDA:
 4 SS.
 5 COUNTY OF MIAMI-DADE:
 6
 7 I, JOAN L. BAILEY, Registered Diplomate
 8 Reporter, Florida Professional Reporter, and a Notary
 9 Public for the State of Florida at Large, do hereby
 10 certify that I was authorized to and did
 11 stenographically report the foregoing proceedings and
 12 that the transcript is a true and complete record of my
 13 stenographic notes.
 14 I hereby certify that all public speakers were
 15 duly sworn by me.
 16
 17 DATED this 14th day of October, 2014.
 18
 19
 20 SIGNED COPY ON FILE
 21
 22 _____
 23 JOAN L. BAILEY, RDR, FPR
 24
 25 Notary Commission Number EE 083192.
 My Notary Commission expires 6/14/15.

Bolyard, Scot

From: Wu, Charles
Sent: Monday, October 06, 2014 3:53 PM
To: Bolyard, Scot
Cc: Planning
Subject: Shoma

Please make note that a Ms. Mary Lou Winker of 6127 SW 26th Street Miami, requests that the developer provide open air ground level parking for the public. Please put this into the record.

Thank you.

charles

Bolyard, Scot

From: McLaughlin, Megan
Sent: Tuesday, October 07, 2014 8:04 AM
To: Wu, Charles; Bolyard, Scot
Subject: RE: Shoma

Hi Charles,

Ms. Winker also called our office yesterday – her request is made on behalf of the Cocoplum Women’s Club at 1375 Sunset Rd, Coral Gables. Their building is three blocks away from the Shoma project and they rely on street parking for their membership meetings.

Take care,
Megan

Megan McLaughlin, AICP
City Planner
City of Coral Gables
(305)460-5214

From: Wu, Charles
Sent: Monday, October 06, 2014 3:53 PM
To: Bolyard, Scot
Cc: Planning
Subject: Shoma

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Thank you.

charles