

CITY OF CORAL GABLES
PLANNING AND ZONING BOARD MEETING
ZONING CODE REWRITE
VERBATIM TRANSCRIPT

CORAL GABLES CITY COMMISSION CHAMBERS
405 BILTMORE WAY, CORAL GABLES
APRIL 20, 2005, 6:15 P.M.

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Board Members Present:

- Cristina Moreno, Chairwoman
- F. Michael Steffens, Vice-Chair
- Eibi Aizenstat
- Pat Keon
- Tom Korge
- William Mayville
- Michael R. Tein

City Staff:

- Eric Riel, Jr., Planning Director
- Jill Menendez-Duran, Administrative Assistant,
Planning Department
- Martha Salazar-Blanco, Secretary to
Board of Adjustment

Also participating:

- Charles Siemon, Consultant
- Sanford I. Rakofsky, M.D.
- Amado Acosta

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1 THEREUPON:

2 The following proceedings were had:

3 CHAIRWOMAN MORENO: Okay, the Planning &
4 Zoning Board public hearing of Wednesday, April 20th
5 is called to order.

6 Will you call the roll, please?

7 MS. MENENDEZ-DURAN: Eibi Aizenstat?

8 MR. AIZENSTAT: Present.

9 MS. MENENDEZ-DURAN: Pat Keon?

10 MS. KEON: Present.

11 MS. MENENDEZ-DURAN: Tom Korge?

12 MR. KORGE: Here.

13 MS. MENENDEZ-DURAN: Bill Mayville?

14 MR. MAYVILLE: Here.

15 MS. MENENDEZ-DURAN: Michael Tein?

16 MR. TEIN: Here.

17 MS. MENENDEZ-DURAN: Michael Steffens?

18 MR. STEFFENS: Here.

19 MS. MENENDEZ-DURAN: Cristina Moreno?

20 CHAIRWOMAN MORENO: Here.

21 Although I have on my agenda, "Approval of
22 Minutes," I didn't have any minutes to --

23 MR. RIEL: No.

24 CHAIRWOMAN MORENO: So we skip over that?

25 MR. RIEL: Yeah, we don't have any, because

1 we had a meeting last Wednesday, so --

2 CHAIRWOMAN MORENO: Okay. So, then, Mr.
3 Siemon.

4 MR. RIEL: Let me, just before Charlie
5 starts, let me go ahead and hand out -- as you know,
6 each week, as the Board makes recommendations, I'm
7 doing the tracking chart. So this summarizes the --
8 it's in summary form, in terms of what we had all
9 discussed last week. It is not comprehensive, but I
10 just wanted to provide that to you, if you want to
11 fill in what we do this evening, and what's shown in
12 white is what we're going to consider this evening,
13 which is Article 2, Decision Making and
14 Administrative Bodies, and Article 4, Zoning
15 Districts.

16 So, with that, I'll turn it over to Mr.
17 Siemon.

18 MR. SIEMON: I apologize for the leaning on
19 the stool, but my back is killing me, and I don't
20 think I'd last very long.

21 We're going to go through Article 2, which
22 is Decision Making and Administrative Bodies, and
23 then some of the Zoning Districts in Article 4.

24 One of the things that we found to be really
25 useful in a zoning ordinance is to consolidate in a

1 single location all the entities who play a role in
2 various aspects and to establish all the rules of
3 their appointment, the rules that govern their
4 activities, and what their authorities and
5 responsibilities are.

6 Previously, there was some treatment in the
7 prior Code. Some of them were in ordinances that
8 created the entity and then just didn't follow
9 through in the Code, so what we've tried to do is
10 faithfully replicate them and incorporate them in the
11 Code.

12 We've had a number of conversations. There
13 were some changes that we proposed, and we've had a
14 lot of feedback and input, and this represents
15 comments we've gotten, I think from most of the
16 boards that are involved in it.

17 And we tried to standardize some of the
18 things that were inconsistent and seemed to be
19 inconsistent for no good reason other than they were
20 created at different times and had different
21 opportunities.

22 And on the front page of the document which
23 you have is a summary that was prepared in our
24 office, to try to reflect what we did, in the first,
25 for all boards, and then some specific matters that

1 we got from the Board of Architects, and what I would
2 propose to do is to simply go through these, board by
3 board, and answer any questions or point out issues
4 that I think are important.

5 And the first is, Division 1 is the City
6 Commission. This simply recites their roles in the
7 process. There's powers and duties, and applicable
8 standards and provisions, we've tried to provide in
9 each section so that there's a table that identifies
10 what roles they play and in what procedures, and so
11 you see their powers and duties, and then adjacent to
12 that, applicable standards and procedures.

13 And there's -- there was one editorial
14 comment that was added in Line 11, and other than
15 that, there was the text of TDRs -- LDRs and map
16 amendments, Article 3, Division 14, which was
17 deleted, and the -- because we did not -- you see,
18 below, Zoning Code Text Amendments and Zoning Code
19 Map Amendments, we originally called these Land
20 Development Regulations and chose, after some
21 direction, to retreat to the name of the Zoning Code,
22 because that was what was familiar in the community.

23 MR. RIEL: And Madam Chair, if we could, on
24 each division, if I could get a motion, that would be
25 great.

1 CHAIRWOMAN MORENO: Okay.

2 Is there anyone in the public to speak on
3 the powers and duties of the City Commission?

4 If not, we'll close the public hearing.
5 We'll take a motion.

6 MR. STEFFENS: Can we change the powers of
7 the City Commission here?

8 CHAIRWOMAN MORENO: I don't think so.

9 MR. SIEMON: We can change how we present
10 them, but that's --

11 MR. KORGE: We could try.

12 MR. RIEL: If you do, please indicate your
13 reason why.

14 MR. KORGE: I'll move to approve Division
15 1.

16 MR. STEFFENS: Second.

17 CHAIRWOMAN MORENO: Call the roll.

18 MS. MENENDEZ-DURAN: Eibi Aizenstat?

19 MR. AIZENSTAT: Yes.

20 MS. MENENDEZ-DURAN: Pat Keon?

21 MS. KEON: Yes.

22 MS. MENENDEZ-DURAN: Tom Korge?

23 MR. KORGE: Yes.

24 MS. MENENDEZ-DURAN: Bill Mayville?

25 MR. MAYVILLE: Yes.

1 MS. MENENDEZ-DURAN: Michael Tein?

2 MR. TEIN: Yes.

3 MS. MENENDEZ-DURAN: Michael Steffens?

4 MR. STEFFENS: Yes.

5 MS. MENENDEZ-DURAN: Cristina Moreno?

6 CHAIRWOMAN MORENO: Yes.

7 MR. SIEMON: Division 2 is the Planning &
8 Zoning Board. We have broken your powers and
9 authorities -- powers and duties into your two roles,
10 one as a recommending body and then, as a final
11 decision-maker, you are a final decision-maker on
12 appeals of minor conditional uses from Staff
13 decisions.

14 The same amendments were included, and there
15 is a -- I believe what will ultimately be a
16 typographical error in the deletion of streets and
17 alley vacations. As you recall, we originally
18 consolidated all those provisions into one section.
19 Working with the City Attorney, we've taken the non-
20 planning-related aspects of that out of the Code, and
21 that has not been modified, so I believe that this
22 change was an overreaction to that change we were
23 making and you'll see, so I would recommend that you
24 not delete -- that you correct that. The deletion
25 should not be there in the table which is under

1 Subsection A, and in Subsection B, we somehow deleted
2 major conditional uses, which we originally
3 recommended that you all be a decision-maker on, with
4 an appeal to the Commission; you recommended that the
5 Commission make the final decisions, but this should
6 have minor conditional uses and the provision under
7 the table under Subsection B.

8 CHAIRWOMAN MORENO: It does say it in the
9 text.

10 MR. RIEL: It's actually on Line 5. It's
11 on Line 5.

12 MR. KORGE: You just have it in the text.

13 CHAIRWOMAN MORENO: It says that.

14 MR. SIEMON: I'm sorry?

15 MR. RIEL: It's on Line 5. You actually
16 just took it out of the table, rather than just put
17 it in sentence structure.

18 MR. SIEMON: Okay, I understand that, but
19 we've replicated it, though. Well, we don't have to
20 be -- I think we'll come back and put it in the
21 chart, in any event, is what I'm saying to you.

22 Then, I think, Eric, you may want to help me
23 on the rules.

24 MR. KORGE: Before you get to the rules, can
25 we talk about the membership?

1 MR. SIEMON: Yes, sir.

2 MR. KORGE: As I understand this, it's not
3 clear to me, but as I understand it, each
4 Commissioner appoints a member and then the
5 Commission approves that appointment. And I don't
6 think this correctly reflects that. In other words,
7 each Commissioner designates an appointee for this
8 Board. The Commission then votes to approve it, but
9 it's actually designated or appointed by a particular
10 Commissioner.

11 MR. STEFFENS: It says, "subject to approval
12 of the City Commission."

13 CHAIRWOMAN MORENO: No, just with respect to
14 the City Manager and Board appointments.

15 MR. STEFFENS: No, it says --

16 MR. KORGE: It says, "The Planning & Zoning
17 Board" -- excuse me. It says, "The Planning & Zoning
18 Board shall be composed of seven members, five of
19 whom shall be appointed by the City Commission."

20 Elsewhere in here -- Let me see if I can
21 find it --

22 MR. AIZENSTAT: Would that not be within the
23 Charter, though, as to --

24 MS. KEON: He's saying that the language
25 doesn't reflect the Charter.

1 MR. KORGE: I don't think it reflects --
2 well, it doesn't reflect the practice. I haven't
3 read the Charter, so I don't know. But it doesn't
4 reflect the practice. If you look at Section -- Page
5 8, Section 2-502, A1, I think that reflects how we do
6 it on this Board, I think, if I can find the page.

7 MS. KEON: Right.

8 MR. KORGE: It was Page 8. Let's see.

9 Yeah, see, if you look at Line 6, on Page 8
10 of 14, under Section 2-502, "The Historic
11 Preservation Board shall be" comprised -- "composed
12 of nine members, to be confirmed by the City
13 Commission. One member shall be appointed by each
14 member of the City Commission," et cetera. I think
15 that's the way this Board is appointed, as well.

16 So whatever -- whatever the -- however it's
17 done, it needs to be accurately reflected here.

18 MR. STEFFENS: Well, we could just move the
19 line that's at the end of the sentence, "subject to
20 approval of the City Commission," to right after --

21 MR. RIEL: I read that as --

22 MR. STEFFENS: -- "composed of seven
23 members."

24 MR. RIEL: I read that as, Lines 12 through
25 15, that all of those appointments up there are

1 subject to approval by the City Commission.

2 CHAIRWOMAN MORENO: No, because it repeats
3 twice. It repeats once after the City Manager
4 nominee. It says that's subject to approval, and
5 then the Board nominee is subject to approval. By
6 using it twice, that implies it only applies to the
7 two clauses immediately before it.

8 MR. KORGE: As I said, if you look on Page
9 8 --

10 MR. RIEL: Okay.

11 MR. KORGE: -- at Section 5 -- 2-502, sub A,
12 sub 1, I think that accurately describes how this
13 particular Board -- the Commission-appointed members
14 of this Board are, in fact, appointed.

15 CHAIRWOMAN MORENO: Confirmed.

16 MR. KORGE: Yeah, confirmed. We're
17 confirmed by the Commission, but each of us is
18 separately appointed by a member of the City
19 Commission.

20 MR. AIZENSTAT: My understanding is, also,
21 since all the boards are really comprised basically
22 the same way, in that respect, wouldn't it be easier
23 to have all of the language the same, and the only
24 thing we might change is the number of people --

25 MR. RIEL: They're not. They're not all the

1 same. They're not --

2 MR. KORGE: I don't know if they're all the
3 same.

4 MR. RIEL: -- because certain boards have --

5 MR. AIZENSTAT: But the ones that are
6 appointed by the Commission, for example, all have
7 the same --

8 MR. RIEL: They're not the same, because
9 certain boards have certain membership, that they
10 need to represent an engineer, a planner, historic
11 preservation, so they all are different.

12 MR. AIZENSTAT: But I'm talking about the
13 way that they're appointed and confirmed.

14 CHAIRWOMAN MORENO: Well, I think what he's
15 saying is that in all cases, it should say, "subject
16 to confirmation by the City Commission," if the board
17 is appointed like this.

18 MR. KORGE: If that's the way it's done.

19 MS. KEON: But I think he's also saying that
20 it should indicate that each Commissioner -- like in
21 here, it says, "Members shall be appointed by each
22 member of the City Commission." So it's each member
23 has --

24 MR. KORGE: One appointment.

25 MS. KEON: -- an appointment, as opposed to

1 a slate being presented to the Commission and then
2 they're approving the slate.

3 MR. KORGE: Right.

4 MS. KEON: That it's an individual
5 appointment.

6 MR. RIEL: Yes.

7 MS. KEON: So, for those boards --

8 MR. KORGE: Right.

9 MS. KEON: -- where there's an individual
10 appointment like that, it should be -- the language
11 should reflect that.

12 MR. RIEL: We'll go through and we'll
13 clarify it and make sure that this is --

14 MS. KEON: That's how it's said. I mean,
15 that's the language in that. The Item 2-502 is very
16 clear that it's an individual Commissioner, as
17 opposed to a slate approved by them.

18 CHAIRWOMAN MORENO: I think if you just put
19 in, "subject to the approval of the City Commission,"
20 after the first clause, you're okay. Just repeat it
21 each time.

22 MR. SIEMON: I think there are two issues
23 here I want to make sure I understand correctly.
24 Each individual Commissioner selects an appointee --

25 MR. RIEL: Yes.

1 MR. SIEMON: -- who is then confirmed by the
2 City Commission.

3 MR. RIEL: Correct.

4 MR. SIEMON: And that does not say that
5 here.

6 MS. KEON: Right.

7 CHAIRWOMAN MORENO: Right.

8 MR. AIZENSTAT: Correct.

9 MS. KEON: Right.

10 MR. SIEMON: That needs to be right here.

11 MS. KEON: That would go for the
12 confirmation and the selection.

13 MR. AIZENSTAT: But I would take that
14 uniformly throughout --

15 MS. KEON: When that's the case.

16 MR. AIZENSTAT: -- the boards when that is
17 the case. The only difference you might have is the
18 number of individuals on a board or their
19 qualifications.

20 MR. SIEMON: Yeah.

21 MR. KORGE: Or additional members who are
22 elected by a board or appointed by the Manager.

23 MR. AIZENSTAT: Correct.

24 MR. KORGE: Yeah.

25 MR. TEIN: And you also may want to clarify

1 that the Mayor has an appointment, as well, even
2 though he sits on the Commission.

3 CHAIRWOMAN MORENO: Okay, if that's all for
4 Division 2, can I have a motion?

5 MR. KORGE: No, it's not all.

6 MR. STEFFENS: No.

7 CHAIRWOMAN MORENO: That's not all? Then
8 keep on going.

9 MR. STEFFENS: I've got questions, too.

10 MR. KORGE: Unfortunately, I read it.

11 A -- Subsection 2-202, A, Paragraph 2. Is
12 this the current qualification requirements --

13 MR. RIEL: Yes.

14 MR. KORGE: -- exactly as they're written?

15 MR. RIEL: Yes. We did not change the
16 Section 202 at all. This is the way it reads in the
17 current Zoning Code.

18 MR. KORGE: Okay.

19 Let me see. On Paragraph 3, that's in the
20 existing Code? Appointing a non-voting membership to
21 a representative of --

22 MR. RIEL: Yes, this is a part of the
23 interlocal agreement --

24 MR. KORGE: -- the School Board?

25 MR. RIEL: -- that we have to sign with the

1 School Board, pursuant to State legislation.

2 MR. KORGE: Right.

3 CHAIRWOMAN MORENO: Right.

4 MR. AIZENSTAT: While we're actually on that
5 subject, could you take a look at the summary on All
6 Boards? You have, "Suggest five-year residency
7 requirement be modified for legal reasons." What do
8 you mean by that?

9 MR. SIEMON: I'm sorry, I was --

10 MR. AIZENSTAT: On your summary of Article
11 2 --

12 MR. SIEMON: Yes.

13 MR. AIZENSTAT: -- under All Boards, you
14 have, "Suggest five-year residency requirement be
15 modified for legal reasons." Because when I look in
16 here, it does state the five years. So I don't
17 understand what you mean by that statement in the
18 summary.

19 MR. SIEMON: This is a suggestion that we've
20 received from the City Attorney.

21 MR. AIZENSTAT: Modified in which way?

22 MR. SIEMON: I believe to reduce the period
23 of residency. Someone --

24 MR. AIZENSTAT: To --

25 MR. SIEMON: I don't think there was a

1 number.

2 MR. RIEL: I think some had a number and
3 some didn't.

4 MR. AIZENSTAT: Because now that we're going
5 through this, it does state the five years, so what
6 do we do? Do we --

7 MR. STEFFENS: Was it five years before?

8 MR. AIZENSTAT: -- vote on it with five
9 years? It was five years.

10 MR. RIEL: For the Planning Board, it was.

11 MR. SIEMON: Yes.

12 MR. STEFFENS: What's the Board of
13 Architects, Martha?

14 MS. SALAZAR-BLANCO: It's six months for
15 associate and 18 months for permanent.

16 MR. STEFFENS: But you only have to live in
17 the City for a couple months to be a Commissioner or
18 a Mayor.

19 MR. SIEMON: Precisely.

20 MS. KEON: That's a choice that the public
21 gets to choose on. That's a little different, to be
22 elected, than to be appointed. A lot of times, you
23 don't have to move into your district until you're
24 appointed, for State representation.

25 MR. AIZENSTAT: So that in each of the

1 articles in here, for each board, you do have down
2 the amount that it is presently, in the old Code? So
3 is the idea to go ahead and reduce this from five, or
4 to leave it?

5 MR. MAYVILLE: Where is it in here?

6 MR. AIZENSTAT: Because we're taking a vote
7 on it right now.

8 MR. SIEMON: I don't think the five years is
9 consistent. I think that what we intended to say,
10 where there is a five-year residency requirement, it
11 ought to -- you should -- it might be appropriate to
12 consider shortening that. But I don't think, for
13 example, some of the --

14 MR. AIZENSTAT: Other boards?

15 MR. SIEMON: Some of the boards don't have
16 the five-year term.

17 MR. AIZENSTAT: But are we not taking a vote
18 on it right now --

19 MR. SIEMON: Yes.

20 MR. AIZENSTAT: -- as to leave it at five
21 years?

22 MR. SIEMON: Yeah, if there's no action
23 to -- Let's see. Board of Adjustment is five years.

24 CHAIRWOMAN MORENO: It seems to me that
25 there may be differences in the boards with respect

1 to the residency --

2 MR. RIEL: Right.

3 CHAIRWOMAN MORENO: -- requirement, because
4 this Board, in particular, is supposed to protect the
5 character of the neighborhood, and a residency
6 requirement appears to be reasonable so that you're
7 familiar with what is the character of the
8 neighborhoods.

9 MR. RIEL: I can tell you that that issue
10 was debated at the Commission level, and they decided
11 certain requirements should apply for certain types
12 of boards. I know they reviewed it when the Historic
13 Preservation Ordinance came through. They discussed
14 when the issue was Board of Architects, because it
15 was difficult to get persons to serve, and I can't
16 recall, there was one other board where I think you
17 do not need to be a resident of the City to serve on
18 that board, and I'm not sure which board it is.

19 MR. SIEMON: Code Enforcement --

20 MR. KORGE: It used to be the Pension
21 Board.

22 MR. RIEL: It was a board that was trying to
23 encourage business persons to be on the board, that
24 had a business in the City but do not particularly
25 reside in the City, and I can't remember that board.

1 MS. KEON: It's in here.

2 CHAIRWOMAN MORENO: Well, it seems to me
3 that, for example, the Board of Architects has a
4 professional requirement, which is what's important
5 for them. But certainly, for a board like this one,
6 that's considering, you know, changes to what the
7 City looks like, you need to be familiar with the
8 City and have heard the concerns of people and lived
9 in it for a while, to address those issues.

10 So it seems to me that this is a board where
11 a residency requirement is certainly justified, and I
12 would suggest that we leave it at five years, since
13 that is what it has been traditionally, but that --

14 MR. AIZENSTAT: I agree with that statement.

15 CHAIRWOMAN MORENO: But that we look at it
16 with --

17 MR. AIZENSTAT: The reason I brought it up
18 is because I saw --

19 CHAIRWOMAN MORENO: Yeah.

20 MR. AIZENSTAT: -- a difference of opinion
21 on the summary --

22 MR. SIEMON: Right.

23 MR. AIZENSTAT: -- so I was not clear on it.

24 CHAIRWOMAN MORENO: It would seem --

25 MR. AIZENSTAT: But I totally agree with it.

1 CHAIRWOMAN MORENO: You know, with Liz not
2 here, I don't know the answer, but it would seem to
3 me that you have to have a reason for imposing a
4 residency requirement, and I think that this Board
5 certainly has a reason for having a residency
6 requirement. I don't know about other boards, but --

7 MR. AIZENSTAT: I agree.

8 CHAIRWOMAN MORENO: Okay. So, Tom?

9 MR. KORGE: Okay. Concerning removals, I
10 would just suggest, first, that where it says "for
11 any reason," maybe change it to "with or without
12 cause," make it very clear that you don't need any
13 reason whatsoever to remove somebody, that the
14 Commission doesn't need any reason.

15 Also, I have a question. Is it only by a
16 majority vote of the City Commission, or may the
17 Commissioner who appointed a particular member remove
18 that appointee at any time? Does anybody know?

19 MR. SIEMON: As this is written, it's by a
20 majority vote of the City Commission.

21 MR. KORGE: No, I understand that, but is
22 that the practice? Maybe it doesn't -- maybe there's
23 been no practice.

24 MR. SIEMON: I don't think there's been any
25 practice on that.

1 MR. RIEL: Also, I would also note that I
2 will tell you, within the past two or three months,
3 this particular ordinance that deals with this issue
4 has been updated by the Commission, and I believe our
5 consultant doesn't even have that, because this
6 issue, like the other issue, was debated at length.

7 MR. KORGE: Removal?

8 MR. RIEL: Yes, and I don't know what --

9 MR. KORGE: So this is what they want?

10 MR. RIEL: No. This does not reflect what
11 the recent ordinance -- I don't know what the recent
12 ordinance says, so we need to amend this.

13 CHAIRWOMAN MORENO: Well --

14 MR. KORGE: I would recommend that the
15 Commissioner who appointed a member, by him or
16 herself, have the authority to remove that person.

17 MR. RIEL: I'm not certain, but I believe
18 the way the ordinance was restructured is that if
19 there are three unexcused absences, there's no vote
20 required, you're just automatically off the board.

21 CHAIRWOMAN MORENO: That's what it says
22 here.

23 MS. KEON: Well, that says that.

24 MR. RIEL: I think that's what they did,
25 city-wide.

1 MR. SIEMON: I think that's in here.

2 MS. KEON: That's in here.

3 MR. SIEMON: It's "automatically
4 terminated."

5 MS. KEON: But what about for just --
6 removal for reasons other than absence? Who can
7 remove them?

8 MR. RIEL: I don't know the answer, because
9 that's a five or six-page ordinance, and I just can't
10 recall.

11 MR. KORGE: Right.

12 MR. RIEL: And it was just recently updated.
13 So I would suggest that when the Board makes a
14 motion, that you recommend subject to the ordinance
15 that was recently passed, because that's where the
16 issue was actually --

17 MR. KORGE: So they discussed whether an
18 individual --

19 MR. RIEL: Absolutely.

20 MR. KORGE: -- could be removed by the
21 Commissioner himself?

22 MR. RIEL: I think that was --

23 MR. KORGE: So whatever they decided, I
24 think we should have in here.

25 MR. RIEL: Exactly, right.

1 MR. KORGE: Yeah, that -- so --

2 Okay, and so are we on the next section, or
3 are we still on this one?

4 MR. AIZENSTAT: Should we take a vote on
5 this section?

6 MR. STEFFENS: No, we --

7 MR. KORGE: I move to approve Section --

8 MR. STEFFENS: I have a question, Tom.

9 MR. KORGE: Yeah.

10 MR. STEFFENS: On the street and alley
11 vacations, that is staying in, the powers and duties?

12 MR. SIEMON: Yes.

13 MR. STEFFENS: And we review all street and
14 alleys?

15 MR. SIEMON: No, it's only the planning
16 aspects of that, and that's going to be a limited
17 portion of the original draft Code that we provided
18 to you, so that the ultimate disposition on certain
19 matters related to ownership of property will still
20 be -- will be made as before, but where there's a
21 planning implication, there's a class of decisions
22 that you will have a review and recommendation
23 responsibility on.

24 MR. STEFFENS: Isn't there always a planning
25 implication to a street or alley vacation?

1 MR. SIEMON: Not really. There are some
2 vacations that are paper vacations, for example.

3 MR. RIEL: That was another ordinance that
4 was recently updated, and I remember, the City
5 Attorney brought that to the Board for information, a
6 couple months ago, and said from this point forward
7 that you will be reviewing street and alley
8 vacations, because in the past, you had not.

9 So all the ones that are pending or are
10 coming in from this point forward will go here,
11 pursuant to those provisions, except for the one --

12 MS. KEON: Okay, all of them?

13 MR. RIEL: Not all of them. There's certain
14 ones that won't. The ones that have planning
15 implications will, and that's detailed in that
16 ordinance, as well.

17 MR. KORGE: Well, that's --

18 MR. STEFFENS: So we'll be seeing most of
19 them.

20 MS. KEON: I'd like to see that.

21 MR. RIEL: I would say you will be seeing
22 most of them, yes, probably 90 -- 80 or 90 percent.

23 MS. KEON: Is it the Staff that makes the
24 determination as to whether there's planning
25 implications in there?

1 MR. RIEL: No, there's criteria.

2 MR. SIEMON: It's in the --

3 MR. RIEL: There's criteria.

4 MS. KEON: There is criteria?

5 MR. RIEL: There's criteria that's --

6 MS. KEON: Okay, so it's an objective --

7 MR. RIEL: It's basically when it's
8 associated with a development that's adjacent to it,
9 that desires to vacate it.

10 MS. KEON: Uh-huh.

11 MR. RIEL: Now, where there's two parcels
12 that have an alley in between, that are developed,
13 they would not come to this Board, because it doesn't
14 have a planning implication; it's just basically a
15 vacation of that right-of-way.

16 MR. STEFFENS: So if somebody buys both
17 sides of the street -- both sides of an alley, in one
18 block, and they want to close that alley, that would
19 not come to us?

20 MR. RIEL: If it's developed, my
21 understanding, it would not.

22 MR. STEFFENS: I'm sorry?

23 MR. RIEL: It would not, no, if both parcels
24 are developed. If they desire to rip down whatever
25 is on one of those parcels, they would be required to

1 come through a site plan review process and you would
2 see a vacation at the same time.

3 MR. STEFFENS: When you say "rip down,"
4 that's existing buildings?

5 MR. RIEL: Yes.

6 MR. STEFFENS: So, if there's existing
7 buildings on the property and they have to demolish
8 them, we would see it?

9 MR. RIEL: Yes.

10 MR. STEFFENS: So we would only not see
11 something like that if it was completely vacant land
12 on both sides of an alley?

13 MR. RIEL: Only not see --

14 MS. KEON: That's not what he said.

15 MR. STEFFENS: We would not see -- we would
16 not see an application if there was completely vacant
17 land on both sides of an alley?

18 MR. SIEMON: And no development was
19 involved, no new development was involved.

20 MR. RIEL: Correct.

21 MR. STEFFENS: No new development.

22 MS. KEON: But you also said that if a
23 developer purchased a developed piece of property and
24 they did the entire property -- let's say, like where
25 that Hines project is downtown, where they did the

1 square block.

2 MR. RIEL: Right.

3 MS. KEON: If an alley had existed there in
4 the course of their assembling that property and they
5 vacated that alley --

6 MR. RIEL: You would have seen it.

7 MS. KEON: -- we would have seen it?

8 MR. RIEL: Absolutely.

9 MS. KEON: Okay. So you would only see it
10 if it's a totally undeveloped piece of property --

11 MR. RIEL: You would see it if it's --

12 MS. KEON: -- with an alley running down it?

13 MR. RIEL: If the intention of the property
14 owner is to develop it.

15 CHAIRWOMAN MORENO: What if there's two
16 existing buildings, a guy buys the two buildings,
17 there's an alley in between, he's not going to tear
18 down or anything, he's going to keep them, but he
19 wants to get rid of the alley? Would we see that?

20 MR. RIEL: My guess is, you wouldn't see
21 that.

22 CHAIRWOMAN MORENO: So you only see it in
23 connection with a development?

24 MS. KEON: But I was saying --

25 MR. STEFFENS: And then -- and then what if,

1 after he closes the alley, then he tears down his
2 buildings?

3 MR. RIEL: There's so many different
4 scenarios that are in that ordinance, and again, I'm
5 trying to get a recollection of a seven-page
6 ordinance.

7 MR. STEFFENS: I just want to make sure that
8 we see all street and alley vacations.

9 MS. KEON: I do, too.

10 MR. RIEL: If that's your --

11 MR. STEFFENS: I can't imagine there's a
12 reason --

13 MR. RIEL: If that's your recommendation,
14 please provide that, and --

15 MR. KORGE: But that's not in here.

16 MR. SIEMON: But that's not what the City
17 Attorney has recommended.

18 MR. RIEL: Right.

19 MR. STEFFENS: I can't imagine there would
20 be a reason that we wouldn't want to see a street and
21 alley vacation.

22 MR. KORGE: Yeah, but that's not for
23 decision on this article.

24 CHAIRWOMAN MORENO: Okay.

25 MS. KEON: Well, it --

1 MR. KORGE: There's only --

2 CHAIRWOMAN MORENO: Because it already says
3 street and alley vacations, we're keeping it in.

4 MR. STEFFENS: Okay.

5 MR. KORGE: So what I'd like to see --

6 MR. STEFFENS: So we see whatever the other
7 ordinance says we see, right now.

8 MR. RIEL: Unless you desire to do something
9 different. Provide us that direction.

10 MR. KORGE: Have we gotten from the street
11 and -- have we already approved the street and alley
12 vacation provisions of the new Code?

13 MR. SIEMON: No.

14 MR. KORGE: So, when we get to that, we can
15 discuss that.

16 MR. STEFFENS: But as far as this division
17 is concerned, whatever it says someplace else is what
18 we'll see.

19 MR. RIEL: This is just referencing your
20 authority.

21 MR. STEFFENS: So we need to adjust it
22 someplace else.

23 CHAIRWOMAN MORENO: Right.

24 MR. SIEMON: Right.

25 MR. STEFFENS: Okay.

1 MR. SIEMON: But just a footnote, the change
2 that has been made would not -- for example, the
3 abandonment of a right-of-way which currently serves
4 as an alley and access to existing properties, as I
5 recall, is not under the change that has been --

6 MR. STEFFENS: Right, but we can't change
7 that in this section.

8 MR. SIEMON: That's correct.

9 MR. STEFFENS: So we need to wait till we
10 get to one of the other sections and address that.

11 MS. KEON: Right.

12 MR. KORGE: Yeah.

13 MR. STEFFENS: Then this section is
14 acceptable --

15 MR. KORGE: Right.

16 MR. STEFFENS: -- with Tom's comment.

17 MR. KORGE: Once we undeleted that.

18 So I move to approve Section 2-201, but
19 undelete Street & Alley Vacations in the chart and,
20 at the discretion of our draftsman, to use either a
21 chart for minor conditional uses or leave it in text
22 form, for Subsection B, as you see fit.

23 CHAIRWOMAN MORENO: And to make clear that
24 the Commission approves the appointments, right?

25 MR. KORGE: This is just Section 2-201.

1 CHAIRWOMAN MORENO: No, we're doing all of
2 Division 2.

3 MR. RIEL: Right.

4 MR. KORGE: No, I'm just moving on 2 -- I
5 thought it would be better --

6 CHAIRWOMAN MORENO: Do the whole thing. Do
7 Division 2, the whole thing.

8 MR. KORGE: Well, we haven't finished
9 discussing all of Division 2.

10 CHAIRWOMAN MORENO: Yeah, we have.

11 MR. STEFFENS: There's only a little bit
12 left.

13 MR. KORGE: We've got another section left.

14 MR. STEFFENS: Well, let's do it.

15 CHAIRWOMAN MORENO: Let's finish it.

16 MS. KEON: There's a lot of it left.

17 MR. KORGE: Okay, do you want to finish it
18 first?

19 CHAIRWOMAN MORENO: Yeah.

20 MR. SIEMON: I'd just like to -- Al, I don't
21 know that I'm absolutely happy with either of the
22 versions that appear in the Historic Preservation
23 Board, but what I would propose is that you approve
24 subject to -- The substance of it is that there's
25 seven members. Five of those members are appointed

1 by City Commissioners and confirmed, subject to
2 confirmation by the Commission as a whole. One is
3 nominated by the City Manager --

4 MR. KORGE: Right.

5 MR. SIEMON: -- and is --

6 MR. AIZENSTAT: Confirmed.

7 MR. SIEMON: -- appointed -- appointed --

8 MR. RIEL: That's confirmed, as well.

9 MR. SIEMON: -- by the City Commission.

10 MR. AIZENSTAT: Confirmed, as well, by the
11 City Commission.

12 MS. KEON: All members of all boards are
13 confirmed.

14 MR. RIEL: They're all confirmed. All seven
15 members are confirmed. All seven members are
16 confirmed.

17 MR. SIEMON: I don't believe -- I think the
18 language is ambiguous, because I think it goes back
19 and forth between nominated and appointed. If it's
20 nominated, it's appointed by the -- if it's nominated
21 by the Manager, it's appointed by the Commission, and
22 I believe that that's what's existing and I believe
23 that your nomination -- your recommendation is a
24 nomination, as well. So --

25 MS. KEON: Oh, okay. So you're making a

1 distinction between --

2 MR. SIEMON: So the difference is, when a
3 Commissioner appoints, subject to confirmation, you
4 and the Manager nominate --

5 MR. RIEL: I see what you're saying.

6 MR. SIEMON: -- and it's appointed by the
7 Commission --

8 CHAIRWOMAN MORENO: Okay.

9 MR. SIEMON: -- but it's a Commission
10 appointment.

11 MR. RIEL: I see what you're saying.

12 MR. SIEMON: And I think they are the ones
13 that have that authority, under the Charter.

14 MR. TEIN: Charlie, can I ask you -- this is
15 kind of a basic question, but I'm fairly new to the
16 Board, very new. When we make an alteration, a
17 recommendation that something be altered, do we ever
18 see the language again?

19 Eric, maybe you can answer this, as well as
20 anyone else can. In other words, we're making a
21 recommendation this language be altered. Does it
22 ever come back?

23 MR. SIEMON: We're going to bring you
24 back -- when all the pieces are completed, we're
25 going to bring you back a modified Code that is going

1 to reflect the changes that you have recommended as
2 we've gone through that process. We're also tracking
3 it, so that you can confirm each of the changes that
4 you've said is actually in the text. But you will
5 see the text in modified form that identifies those
6 changes, in red line form, one or another, either
7 underscored or whatever.

8 MR. TEIN: So, at some point, we will have
9 the entire Code, and then we'll have a massive
10 meeting or series of Board meetings to then review
11 and make sure that we agree that those changes that
12 we wanted have gotten in, the way we wanted them?

13 MR. SIEMON: Yes.

14 MR. STEFFENS: Yet another series of
15 meetings?

16 MR. TEIN: Right.

17 MR. SIEMON: Well --

18 MR. RIEL: Well, I don't know if we're going
19 to have a series of meetings, but I mean, I think my
20 intention was to basically go back through each of
21 the articles and then get a motion on each of the
22 articles, and if you desire to talk about a
23 particular issue again, we can do that, but I don't
24 really want to go through four more hearings and go
25 through this Code again, because --

1 MR. AIZENSTAT: I think it would be ideal if
2 we would have a reference somehow, whether it's
3 highlighted or it's red-lined, just --

4 MR. RIEL: Well, what we're going to do, I
5 assume, in the next draft, will be what changes are
6 from this draft that you all have recommended. Those
7 changes will be noted, and that's it. We're not
8 going to go back and --

9 MR. AIZENSTAT: As long as it's
10 recognizable.

11 MR. TEIN: Let me tell you why I ask this,
12 and obviously, I don't mean to make -- to prolong any
13 of this. This is a painstaking process and we're
14 spending tremendous time and, I think, being very
15 diligent, and it's a great thing, but the devil is in
16 the details in all of this stuff. I mean, there are
17 times that we debate whether there should be a comma
18 or the word "and," and I know that some of those
19 issues change the way a provision reads, and it's
20 important to the Board and to everyone that that --
21 the existence of that comma or whatever, when it
22 comes back, that it reads right.

23 So it's hard to -- we don't get instant
24 redrafting, and that's why -- nor should we, nor
25 would we expect to.

1 MR. SIEMON: Nor will you.

2 MR. TEIN: But that's why I say --

3 CHAIRWOMAN MORENO: Well, let me make a
4 suggestion. When we get it back, if it's drafting
5 issues, why don't each of us communicate with Charlie
6 as to the drafting issues? Then, when we all meet,
7 we address only those areas where we have questions
8 or further comments, as opposed to going through the
9 Code as a whole. So it's our responsibility to look
10 at it, make sure that our changes got made, that if
11 we have a drafting question, it goes to Charlie so he
12 can fix it, the comma or the "and" or whatever, and
13 that if there is a remaining substantive issue, that
14 is the only thing we will address. Otherwise we'll
15 never be done.

16 MR. TEIN: Well, that sounds like a great
17 idea. I'm wondering, though, will we get it back all
18 at once, or are these revisions being made, for
19 example, things that we did four sessions ago? Do we
20 then -- I mean, will we get everything four months
21 from now, or -- I'm not sure exactly what's the
22 timetable, so that we get an entire book. That will
23 be something that we'll need some time to go through
24 on our own.

25 CHAIRWOMAN MORENO: I think it would be

1 better to wait until the end, because as Michael just
2 pointed out, there's sections that we're going to fix
3 in the future that may affect the past. So, when we
4 get to something and Charlie says, "Yes, and now I
5 have to go back and fix it somewhere else," I don't
6 think it's practical for him to do a redraft now. It
7 won't be a final. Does that make sense to you?

8 MR. RIEL: That's one of the reasons we're
9 doing the tracking chart, also, to highlight those
10 issues, that we need to make sure that if you change
11 something in Article 2 that impacts Article 5, we
12 need to make sure we do that, so -- and our intention
13 is to come back to you with, you know, a -- all eight
14 articles, underlined, strike-out, and then I would
15 offer that if any Board member wants to sit down, I'd
16 be happy to go through each article with you and, you
17 know, explain what changes were made, to try to, you
18 know, assist in terms of moving the process forward,
19 because we've gone through this before. We went
20 through, you know, the policy direction, and we're
21 kind of putting the -- dotting the I's and crossing
22 the T's here.

23 MR. TEIN: Well, the truth is, there may not
24 be that many, because for each section that we have,
25 that we debate virtually every single sentence, there

1 are only a few for each division that we look at
2 where we actually ask Charlie to go back and do some
3 redrafting, so maybe it isn't that massive of a task
4 that we would be called on to do at the end.

5 MR. SIEMON: I think everything that you've
6 directed us to redraft, that you haven't made
7 specific amendments for, I believe will come back to
8 you, if they haven't been signed off on.

9 MS. KEON: I think we deferred those things,
10 yes?

11 CHAIRWOMAN MORENO: We've deferred some
12 things.

13 MR. SIEMON: Yeah.

14 CHAIRWOMAN MORENO: I think everything has
15 to come back to us, but it doesn't make sense to me
16 for it to come back piecemeal. Let's get it at the
17 end, so you can incorporate everything else that --
18 you know, if we make a change, the last day, that
19 affects something we did the first day, I want to see
20 that. I want to see just one project.

21 Okay, anything else on Division 2?

22 MR. KORGE: On 2-203 --

23 CHAIRWOMAN MORENO: Uh-huh.

24 MR. KORGE: First, Subdivision A requires
25 that we hold one regular meeting each month. I'm not

1 sure we always have done that. We skip meetings on
2 occasion, like in August or --

3 MR. RIEL: No.

4 MR. KORGE: No, we've never skipped a
5 meeting?

6 MR. RIEL: Only if there's no agenda items
7 scheduled or we don't have a quorum. That's when we
8 will not have a meeting.

9 MR. KORGE: Okay, and then --

10 MS. KEON: Well, can I ask a question? Then
11 should it be that you hold a meeting or that you
12 schedule a meeting?

13 MR. KORGE: Yeah.

14 MS. KEON: So maybe a scheduled meeting, you
15 don't hold it for various reasons, but you do
16 schedule it.

17 MR. RIEL: We can put the word "may" in
18 there, that would be fine, rather than "shall."

19 MS. KEON: No, but I don't think it's "may."
20 I think "you shall schedule."

21 MR. KORGE: Right.

22 MS. KEON: I mean, I think that's a very --
23 I mean, I think you either -- you are compelled to
24 schedule a meeting every month.

25 MR. KORGE: Right.

1 MS. KEON: It may be scheduled, you may
2 determine that there isn't anything for it, or you
3 may not have a quorum, so it's not held, but, you
4 know, "shall" and "may," I think, are huge --

5 MR. KORGE: Yeah, big differences.

6 MS. KEON: That's huge differences. So I
7 don't think you can --

8 (Inaudible comments between Board Members)

9 MR. KORGE: I'll make that as a part of the
10 motion.

11 MR. STEFFENS: It's not that anybody does.

12 CHAIRWOMAN MORENO: Are we done with
13 Division 2?

14 MR. TEIN: Can I ask one more? I'm sorry,
15 Tom.

16 MR. KORGE: No, go ahead.

17 MR. TEIN: This is another sort of basic
18 question. Were all of these divisions, including the
19 one we're looking at now, in the original Zoning
20 Code? And the reason I ask this is, we're
21 considering making recommendations to the Commission
22 on our own rules and membership and voting
23 procedures, as well as a bunch of other -- the rules,
24 membership and voting procedures for other boards
25 that aren't us, and I'm just wondering, how does

1 this -- how do these other divisions and this
2 division itself, where we're voting on our own
3 regulations and our own composition, as well as the
4 regulation and composition of other boards -- how
5 does that -- how does that interplay with whatever is
6 in the Charter, and why is -- why are those other
7 boards, at least, something that -- these other
8 divisions, concerning other boards, something that's
9 in the Zoning Code?

10 I read the first page, that says it's
11 consolidated all in one place, but if it's already in
12 the City Charter, then why is it also in the Zoning
13 Code and why are we considering our own birthright,
14 as well as the birthright of the other boards?

15 MR. RIEL: I can respond. First off, the
16 Board authority, decision-making administrative
17 bodies that are in this, have to do with land
18 development regulations. That's why they're in these
19 provisions.

20 Regarding whether or not the Planning &
21 Zoning Board's powers and duties have changed from
22 the existing Code, they have not. In fact, we
23 reviewed this in 2001, when we talked about fees,
24 where I raised the fees, so we brought this forward.
25 So this reads as is the current Code.

1 Regarding other boards, the other directors
2 or the secretaries to the board are part of the
3 Zoning Code rewrite team, and they have reviewed
4 this. They have reviewed it with their boards, and I
5 can tell you, the Historic Preservation Ordinance,
6 which Dona Lubin indicated about -- was done about
7 two years ago, that was included in there, so that is
8 probably the most updated version.

9 Building & Zoning reviewed the Board of
10 Adjustment. They reviewed the Board of Architects.
11 I don't know if there's any other powers and duties
12 in here, but -- and then the Development Review
13 Committee was recently an updated ordinance, as well.

14 So, in summary, either the secretary that's
15 responsible for that board or the board itself has
16 reviewed these regulations, and they are the most
17 up-to-date.

18 MR. TEIN: So, for all the other -- I know
19 this is premature, because we haven't gotten to
20 Section 3 yet, but the other boards who we're going
21 to be reviewing and making the recommendation on
22 their rules and regulations, composition, et cetera,
23 they have already looked at --

24 MR. RIEL: Yes.

25 MR. TEIN: -- these divisions and they're

1 satisfied with the way they are?

2 MR. RIEL: Mr. Siemon and I went to the
3 Historic Preservation Board -- actually, I don't know
4 if Charlie had gone, but Wendy had gone, on two
5 occasions. We've gone to the Board of Architects.
6 We've gone to the Board of Adjustment. We went to
7 all those boards and said -- we gave them the same
8 document, and I know the Board of Architects did
9 discuss changes in membership and things of that
10 sort. So those are reflected in here, based upon the
11 Building & Zoning Department's input.

12 So, yes, it does reflect that board's
13 particular input.

14 MR. TEIN: Okay. Thank you.

15 MR. KORGE: Section 2-205, I believe it
16 should be revised to read that, "The Planning &
17 Zoning Board shall conduct its meetings under
18 Robert's Rules of Order and may establish such other
19 rules and procedures it may determine necessary to
20 carry out its duties." I think that's how we
21 operate, and --

22 CHAIRWOMAN MORENO: I don't know Robert's
23 Rules of Order.

24 MR. KORGE: Pardon me?

25 CHAIRWOMAN MORENO: I don't know Robert's

1 Rules of Order.

2 MR. KORGE: We don't have our own rules of
3 procedure on how we conduct our meetings, I don't
4 think.

5 MS. KEON: I think there's something that
6 says all boards should be conducted under --

7 MR. RIEL: You do have rules and procedures.
8 In fact, that has been on the agenda for about two
9 times, and we've delayed it each month,
10 quasi-judicial proceedings.

11 MR. KORGE: Yeah, but that's not for
12 every -- all the meetings, all --

13 MR. RIEL: No, but there are --

14 MR. KORGE: Yeah, those are the extra --
15 This is addressing just, I suppose, those extra rules
16 that we adopt, specific to our Board. But should we
17 say in here, also, that we'll conduct our meetings
18 generally under the Robert's Rules of Order?

19 MR. RIEL: My guess, that's probably in the
20 City Code.

21 MR. KORGE: It's in the City Code? So just
22 don't put that in there at all? Okay.

23 MS. KEON: Yeah, I think so.

24 CHAIRWOMAN MORENO: Okay, does that take
25 care of Division 2?

1 Is there anyone in the audience that needs
2 to speak to Division 2, the Planning & Zoning Board
3 powers, duties, membership, composition, et cetera?

4 Please come up.

5 MR. ACOSTA: Do you need to swear me in?

6 CHAIRWOMAN MORENO: Yes.

7 (Thereupon, Amado L. Acosta was duly sworn
8 by the court reporter.)

9 MR. ACOSTA: My name is Amado L. Acosta.
10 I'm executive director of the Riviera Neighborhood
11 Association. Later on, when we get to zoning, I will
12 be, hopefully, having an opportunity, but you made
13 referral to the matter of vacating alleys.

14 Last meeting, our president came to this
15 Board and talked about the charrette that we held in
16 our area for April 1 and 2, together with the
17 University of Miami School of Architecture. Alleys
18 are a key part for our area, preservation of the
19 neighborhood, and we are delighted to hear that
20 you're expressing an interest on having as many of
21 those applications for vacations to come to this
22 Board. We welcome that, and we appreciate it. Thank
23 you.

24 CHAIRWOMAN MORENO: Thank you.

25 Is there anyone else?

1 MR. AIZENSTAT: That's going to be in a
2 later section?

3 CHAIRWOMAN MORENO: Yes.

4 Can I have a motion on Division 2, please?

5 MR. KORGE: I'll make a motion to approve
6 Division 2, with the following changes. Section
7 2-201, A, in the chart, to undelete Street & Alley
8 Vacations, Article 3, Division 12, and Subsection B
9 of that section, 2-201, to -- if the drafter decides
10 to replace the chart for the minor conditional uses,
11 for Section 2-202, Subsection A1, that the
12 description of the appointment, nomination or
13 whatever of the members of this Board be revised more
14 accurately to reflect the actual practice or
15 ordinances that --

16 MR. SIEMON: As I previously stated it on
17 the record.

18 MR. KORGE: Right.

19 MR. AIZENSTAT: Right.

20 MR. KORGE: And Subsection D of Section
21 2-202 will be conformed to all prior Commission
22 decisions regarding removal. It may already have --
23 may already conform, but you'll double-check to make
24 sure that it conforms to those.

25 Then Section 2-203, Subsection A, on the

1 first line, my motion would replace the word "hold"
2 with the word "schedule," so it would read, "The
3 Planning & Zoning Board shall schedule one regular
4 meeting each month."

5 That's all of the changes I have. I don't
6 have any changes on Section 2-205. So that would be
7 my motion to approve --

8 MR. SIEMON: What about the --

9 MR. KORGE: -- with those changes.

10 MR. SIEMON: What about replacing "for any
11 reason" with "with or without cause"?

12 MR. KORGE: Oh, yeah, I would -- personally,
13 I'd prefer that. Why don't you do that? Instead of
14 "for any reason," substitute "with or without cause,"
15 again, conforming to whatever the Commission decided.
16 So, if the Commission doesn't want that, then that
17 won't be in there.

18 MR. TEIN: Is it clear in your motion that
19 in Section A1 of -- Subsection A1 of Section 2-202,
20 that one of the members also can be appointed by the
21 Mayor?

22 MS. KEON: I think the Charter states that
23 the Mayor is a member of the Commission.

24 CHAIRWOMAN MORENO: Yes.

25 MR. AIZENSTAT: Correct.

1 MR. TEIN: So that's clarified?

2 MR. KORGE: Right.

3 CHAIRWOMAN MORENO: Okay, is a there a
4 second?

5 MR. STEFFENS: Second.

6 CHAIRWOMAN MORENO: Call the roll, please.

7 MS. MENENDEZ-DURAN: Pat Keon?

8 MS. KEON: Yes.

9 MS. MENENDEZ-DURAN: Tom Korge?

10 MR. KORGE: Yes.

11 MS. MENENDEZ-DURAN: Bill Mayville?

12 MR. MAYVILLE: Yes.

13 MS. MENENDEZ-DURAN: Michael Tein?

14 MR. TEIN: Yes.

15 MS. MENENDEZ-DURAN: Michael Steffens?

16 MR. STEFFENS: Yes.

17 MS. MENENDEZ-DURAN: Eibi Aizenstat?

18 MR. AIZENSTAT: Yes.

19 MS. MENENDEZ-DURAN: Cristina Moreno?

20 CHAIRWOMAN MORENO: Yes.

21 (Inaudible comments between Board Members)

22 CHAIRWOMAN MORENO: I'm going to excuse
23 myself for a minute. I'll be back, and Michael will
24 take over for me.

25 (Thereupon, Chairwoman Moreno left the

1 dais.)

2 MR. SIEMON: The principal changes that I
3 want to bring to your attention, there are a number
4 of things that came from the Board of Architects, but
5 as you all recall, we have recommended that the
6 decisions of the Board of Architects need to comply
7 with Florida law with regard to quasi-judicial
8 decisions, and after a series of conversations with
9 them, we have established, as you'll see in 2-303, a
10 procedure whereby they can afford -- we believe
11 satisfy the quasi-judicial requirements, but if there
12 is no objection by an applicant, still be able to
13 break into panels and still be able to make decisions
14 on two out of three signatures of the panel in the
15 form that they have done it, and if someone is
16 unhappy with that decision and they want to have the
17 full Board hear it and hold it through
18 quasi-judicial, they can.

19 So what we've tried to do in this language
20 which you see under Quorum and A and B in 2-303, is
21 to create a process whereby we think we're complying
22 with the quasi-judicial requirements of the law by
23 affording anyone that opportunity to be heard under
24 that, but if they wish to be heard under the panel
25 and still have their rights protected, we've created

1 a process for doing that, and we think it's a good
2 balance between the need to comply with the law and
3 to preserve the way they have performed, to the
4 satisfaction of all concerned, in most cases.

5 MR. KORGE: Now, if they have an absolute
6 right to appeal the decision of the panel, the
7 three-person panel, why do -- why is there a
8 requirement that they first waive their right to
9 consideration initially by the full Board? Is that
10 necessary?

11 MR. STEFFENS: Where does it say that?

12 MR. KORGE: That's -- "If an applicant
13 waives," in Paragraph -- Section 2-303, A, the
14 underscored portion, Line 42, 43, "If an applicant
15 waives the right to consideration of an application
16 by the full Board, the application may be considered
17 by a panel. At the request of an applicant, a panel
18 decision shall be considered by the full Board."

19 It just seemed to me that if they have an
20 absolute right to appeal to the full Board, they
21 don't really -- we really don't need for them to
22 waive their -- you know, their right to be heard by
23 the full Board initially. Do you see what I'm
24 saying?

25 MR. SIEMON: Yes. We talked about this and

1 ultimately concluded, because we're unaware of any
2 other municipal provision that any other municipality
3 has in place that would allow this action, and so it
4 looks -- it is -- because it is different, we thought
5 it was prudent to create a right, have them waive it
6 so they can't complain about it, and then go through
7 the process, and that's the reason we did it. And I
8 still think I'm comfortable that that's the prudent
9 course.

10 MR. KORGE: Okay.

11 MR. SIEMON: I like, I think, having them
12 affirmatively say, "Yes, I waive my initial right to
13 a quasi-judicial proceeding." It gives the City a
14 stronger position.

15 MR. KORGE: Okay.

16 MR. STEFFENS: As part of a quasi-judicial
17 proceeding, are there requirements for public
18 comment?

19 MR. SIEMON: Yes, there are.

20 MR. STEFFENS: Or for the opportunity for
21 public comment?

22 MR. SIEMON: Yes.

23 MR. STEFFENS: Is public comment permitted
24 at the Board of Architects?

25 MR. SIEMON: If there is the quasi-judicial

1 proceeding and if it is a big matter that implicates
2 interests of other persons, other than the
3 applicant --

4 MR. STEFFENS: When you say if it's a big
5 matter --

6 MR. SIEMON: Something that's not a
7 run-of-the-mill matter that really only involves a
8 limited set of interests, the City and the applicant,
9 for example. But we believe that a major decision,
10 a significant decision, which affects an individual's
11 rights, has to be, needs to be, held pursuant to
12 quasi-judicial proceedings, or at least have that
13 opportunity available and have them waive it, but --
14 and we met with the Board of Architects and we went
15 through all the explanation, and despite the
16 anticipation by many that they would not comply with
17 that, they were -- they were agreed that it was
18 appropriate that the rights be available, and if an
19 applicant insists upon taking advantage of them, that
20 they make that available to them.

21 MR. AIZENSTAT: How does -- with the Board
22 of Architects, from what I've seen and my
23 understanding is, the members, they get together in a
24 group of three people and they have certain stations,
25 and then the plans are brought to each person or each

1 station. If it's a large plan or an important
2 matter, do they all get together and review it --

3 MR. SIEMON: Yes.

4 MR. AIZENSTAT: -- as opposed to just
5 certain stations?

6 MR. SIEMON: We're really -- really largely
7 codifying their general practice and giving them
8 specific rules to follow when they do sit as a whole,
9 which they don't really have now.

10 MR. STEFFENS: But if there's a requirement
11 for public comment, wouldn't there be a requirement
12 for a public presentation?

13 MR. SIEMON: Yes. There will be a public --

14 MR. AIZENSTAT: And do they make a
15 presentation?

16 MR. SIEMON: Yeah, there has to be a full --
17 Somebody has to make a presentation, the applicant,
18 and then anybody who wishes to participate and offer
19 countervailing evidence has the right to do so.

20 MR. STEFFENS: But is there -- is the
21 notification on the property, the public
22 presentation, when they put the notice on the
23 property, that a property --

24 MR. RIEL: Are you talking about the current
25 practice or -- current practice?

1 MR. AIZENSTAT: Current practice.

2 MR. STEFFENS: Well, I mean, the current
3 practice doesn't have any type of public display
4 or --

5 MR. KORGE: Isn't there a sign placed on the
6 property?

7 MR. STEFFENS: Well, there's a sign placed
8 on the property, but as far as at the Board of
9 Architects --

10 MR. KORGE: You're talking about other
11 notice, like a mailing to the neighbors?

12 MR. STEFFENS: No, I'm talking about at the
13 Board, when the plans are being reviewed at the
14 Board, like when we are reviewing a plan before us,
15 the developer doesn't come up here and put it in
16 front of us and we look at it. The developer
17 presents it to everybody.

18 MR. KORGE: Actually, they do, and then they
19 also make a public presentation.

20 MR. STEFFENS: Right, but there is no, per
21 se, public presentation at the Board of Architects.
22 It's just a --

23 MR. SIEMON: Well, there's a request, as
24 anyone here, to speak, to address this issue, and if
25 they are, they have an opportunity to speak, whether

1 it's by panel or not.

2 MS. KEON: That's the hearing --

3 MR. RIEL: That's in the quasi-judicial,
4 though --

5 MR. SIEMON: Yeah.

6 MR. RIEL: Not presently.

7 MR. STEFFENS: Not at present.

8 MR. AIZENSTAT: That's what I was getting
9 to.

10 MR. KORGE: Well, I guess the answer would
11 be, if there's a need to make a presentation, because
12 someone is there to speak, then the applicant will
13 have to make some kind of a presentation that the
14 other people present can hear, I suppose. That's
15 what you're getting at, isn't it?

16 MR. STEFFENS: Well, yeah, I'm getting at
17 the problem that the Board of Architects hasn't been
18 conducted like our Board is conducted, where there's
19 a public presentation to people that might want to
20 ask questions. I mean, historically, that has never
21 been done, and my understanding is, historically, it
22 wasn't a public meeting, that the public could only
23 comment on it after the Board of Architects made a
24 decision, and that decision -- if the public didn't
25 like it, someone from the public didn't like it, they

1 could appeal that decision to the City Commission.

2 MR. MAYVILLE: Or to the Board of
3 Adjustment, I thought.

4 MR. STEFFENS: I think it was to the City
5 Commission.

6 MR. AIZENSTAT: What happens if somebody is
7 coming before the Board of Architects for remodeling
8 on their single-family home? Would that be quasi-
9 judicial, also?

10 MR. SIEMON: It is a quasi-judicial
11 decision, unless it's one that's delegated to a Staff
12 City Architect.

13 MR. AIZENSTAT: So, in that case, would they
14 have to make a public presentation?

15 MR. SIEMON: As the rules are drawn, if they
16 did not waive their right to be considered in a
17 quasi-judicial proceeding, they would have to make a
18 presentation. And it would not have to be
19 complicated if it's a simple matter. Anyone who
20 wished to speak in contravention would have a right,
21 and then a decision would be made. I mean, the
22 elaborateness of the proceedings has to do with the
23 scope of the subject matter which is being addressed,
24 but it's still a quasi-judicial proceeding.

25 MR. AIZENSTAT: But, for example,

1 presently -- Michael, correct me if I'm wrong,
2 because I think you've been on the Board. Presently,
3 there are three architects, let's say, that would be
4 in this section right here. I come up and I want to
5 redo my house. I bring up the plans to those three
6 people and they take a look at it. Do they ask the
7 public, "Is there anybody here," for plan such and
8 such and such, or any comments?

9 MR. STEFFENS: No.

10 MR. AIZENSTAT: Would they -- with the new
11 zoning rewrite, would that question be asked and then
12 people, if they want to speak, come up?

13 MR. SIEMON: We have not specified any rules
14 and procedure for the Board of Architects, when they
15 act in a panel, other than --

16 MR. STEFFENS: So they're going to have
17 to --

18 MR. SIEMON: -- other than they have -- two
19 out of three panelists must approve a particular
20 plan.

21 MR. AIZENSTAT: So that will remain the
22 same?

23 MR. SIEMON: Now, I've been there when they
24 have -- when clearly a neighbor and property owner
25 was heard by the panel, while they were reviewing a

1 particular proposal. It wasn't heard by the Board as
2 a whole. And my recollection was that people came in
3 and identified, probably to Staff, that they were
4 here about this item, and the process guided them to
5 be at that particular -- when the panel reviewed it.
6 This will require them to be more organized.

7 Now, there is an issue that I just have
8 observed, sitting here, and I'll just disclose it.

9 MR. AIZENSTAT: Please.

10 MR. SIEMON: If you give -- someone has
11 notice and they come and the applicant waives, the
12 citizen, the objecting citizen or the concerned
13 neighbor, has rights that are protected under the
14 quasi-judicial rulings of the courts, and we will
15 have to make some accommodation to respect their
16 interests, and if they won't waive their rights, it
17 probably has to be done by quasi-judicial.

18 MR. STEFFENS: You know, I'm just thinking
19 about all these issues with these overscaled houses
20 and neighborhood activism and people wanting to see
21 more about what's going on, that, you know, the
22 present procedure -- and I've seen it happen the way
23 you're talking about, where a neighbor will come in
24 and want to speak about a project and they'll come up
25 to the group, and they'll be standing next to the

1 architect or the owner, or the owner and the
2 architect, and talking about the project, and, you
3 know, in a typical public hearing, that's not
4 necessarily a comfortable situation, especially if
5 you don't like what's being presented.

6 And also, you know, if there's going to be a
7 discussion about it, it seems it should be a public
8 discussion, not a private discussion. I mean, those
9 are sort of private discussions going on at those
10 points. But, you know, is that a procedure that the
11 Board of Architects is going to have to address? I
12 mean, that's not something we cover here, but they
13 would set up a procedure --

14 MR. SIEMON: We're going to have --

15 MR. STEFFENS: -- to address that?

16 MR. SIEMON: We're going to have to come
17 back and address the situation where you have a
18 quasi-judicial matter which comes before the Board of
19 Architects, the applicant waives, and if there's
20 someone else there who has received notice and who's
21 interested and they want to have a quasi-judicial
22 proceeding, I believe the law gives them that right
23 in any -- And so, at that point, I think we have to
24 amend this to contemplate that, that circumstance,
25 which --

1 MR. STEFFENS: But on the section on the
2 Planning & Zoning Board in here, it doesn't outline
3 our procedures. It doesn't outline how somebody
4 comes in here and presents to us.

5 MR. SIEMON: No, but, see, here we're
6 modifying the -- we're addressing here the quorum,
7 and the breaking into panels makes it difficult to
8 use the standard quorum, and that's why it has to be
9 addressed here, but --

10 MR. KORGE: I'm confused, and I hate to
11 interrupt you, but -- I guess what I'm confused about
12 is, are you saying that if it's a quasi-judicial
13 proceeding, a full Board must always address it? Why
14 is that? I mean, in a full judicial proceeding, you
15 know, the District Court of Appeal, three judges
16 normally review it, not the whole Board -- not the
17 whole Court.

18 MR. SIEMON: I think that my conversation
19 with the Board of Architects indicated -- was that if
20 someone insisted upon hearing -- having an
21 adversarial proceeding, that they wanted to do it as
22 a Board, not as a panel.

23 MR. KORGE: But I guess what I'm suggesting
24 is this, is the point that I made before. Obviously,
25 dividing into three-member panels is to facilitate

1 the business of the Board, and for most cases that's
2 not a big deal, but I don't see why there needs to be
3 a waiver of any right, because if you have an
4 absolute right, including an objector has an absolute
5 right to appeal to the full Board, there's no --
6 there's no loss of due process for anybody affected
7 by the decision. I just don't -- I fail to grasp why
8 we're getting into these complexities with waivers
9 and stuff. I think it just creates more problems
10 than it solves.

11 MR. SIEMON: I think that unless the
12 property owner and the neighbor object -- I mean,
13 agree to go through the procedure, it is possible,
14 particularly in this district, with this District
15 Court of Appeal, that the process would be
16 invalidated without the waiver provisions. That is,
17 you provide due process under quasi -- due process.
18 I mean, quasi-judicial is derived from the due
19 process laws. You provide due process only on
20 appeal, and I would be very uncomfortable, frankly,
21 in this district in particular, with a regulation
22 that created that position, but I mean, we're
23 charting uncharted ground here, and I'm sure that
24 there's some city attorneys in this State who would
25 say, "You can't do this."

1 But here, there's a historical practice
2 that's worked and it's been relatively effective,
3 without much controversy and litigation, and so we've
4 tried to strike a balance that we think makes sense.

5 MR. KORGE: Well, if it goes to the full
6 Board, do they have a different standard of review,
7 or is it as if you're starting all over, de novo?

8 MR. SIEMON: There is no standard of review
9 when they sit around, as a panel of three, and work
10 it out.

11 MR. KORGE: I understand that. But when it
12 goes to the full Board, if there's -- let's say the
13 panel of three votes no, and the applicant decides he
14 wants to take it to the full Board. When the
15 applicant goes to the full Board, are there any
16 presumptions?

17 MR. SIEMON: Yes.

18 MR. KORGE: Can he bring in new evidence?

19 MR. SIEMON: Yeah, absolutely. The
20 quasi-judicial proceeding will have to be held de
21 novo. It's not an appeal. They have a right to go
22 and have their matter heard.

23 CHAIRWOMAN MORENO: So, if the applicant can
24 do that, the neighbor can do that, as well, and maybe
25 that's the answer to your --

1 MR. SIEMON: Yeah. I mean, I think that's
2 what we have to do, is just make it parallel for a
3 neighbor who appears.

4 MR. KORGE: Right, and that would make it
5 clear that --

6 CHAIRWOMAN MORENO: What if the neighbor --
7 I'm sorry, Tom. What if the panel approves it and
8 the neighbor who did not appear subsequently wants
9 to --

10 MR. SIEMON: They would have no right to do
11 that.

12 CHAIRWOMAN MORENO: Okay.

13 MR. SIEMON: It's only if they appear. And
14 that's both true for the quasi-judicial and the panel
15 proceeding.

16 CHAIRWOMAN MORENO: Okay.

17 MR. KORGE: Then I would suggest, to make it
18 a little more bullet-proof, to make it clear that the
19 full Board review is de novo, et cetera. Then, if it
20 ever gets to the District Court of Appeal, they'll
21 see that nobody has been denied any due process
22 rights at all.

23 MR. MAYVILLE: Charlie, are we saying that
24 the first step is through the three-member panel, if
25 everybody agrees that's it; if not, then it goes to

1 the full Board, it gets a full due hearing, with new
2 evidence that can be presented that wasn't at the
3 first three-panel hearing; that that gets resolved,
4 and that's it; if not, they can then appeal to --
5 what step next? Is it the Commission or the Board of
6 Adjustment?

7 MR. RIEL: The Commission. Appeal? The
8 appeal goes to the Commission.

9 MR. SIEMON: I don't think there is an
10 appeal.

11 MR. KORGE: Any appeal rights are in a
12 different division, different article, aren't they?

13 MS. KEON: I think there's an appeal.

14 MR. RIEL: Appeals go to the Board of
15 Adjustment and the Commission.

16 MR. MAYVILLE: That's what I thought.
17 That's what I was saying before.

18 MR. SIEMON: I'm looking up the language.

19 MR. MAYVILLE: But my understanding, when it
20 goes to the Board of Adjustment, no new evidence can
21 be presented. It only can be a review of what was on
22 the record from the full Board of Architects.

23 CHAIRWOMAN MORENO: Right, because that's an
24 appeal. But what Charlie is saying is, if an
25 applicant or a neighbor doesn't like a panel

1 decision, then either of them can ask that the matter
2 be considered by the full Board, de novo.

3 MR. MAYVILLE: As a full --

4 CHAIRWOMAN MORENO: And not as an appeal.

5 MR. MAYVILLE: Right.

6 MR. STEFFENS: But they have to be at that
7 meeting. That's not something that can occur after
8 that meeting.

9 MR. SIEMON: That's correct.

10 MR. KORGE: Where a neighbor could object to
11 it being considered solely by the panel and require
12 that it come right to the full Board, initially.

13 CHAIRWOMAN MORENO: Right.

14 MR. MAYVILLE: So we're all in agreement,
15 that's what we're looking to put in here?

16 MR. KORGE: Yes, I think so.

17 MR. MAYVILLE: Charlie, that's okay. I
18 mean, it's not that critical. I just was --

19 MR. SIEMON: It's to the Board of Adjustment
20 for general matters and to the Historic Preservation
21 Board for matters under the historic code.

22 MS. KEON: And then if they want to appeal
23 it further, do they go on to the Commission, or just
24 the Board of Adjustment?

25 MR. SIEMON: Then there's an appeal from

1 the Board of Adjustment decision to the City
2 Commission.

3 MS. KEON: Oh, okay. So they may appeal to
4 the City -- Can I ask a question of Michael? I don't
5 really know the Board of Architects, you know, other
6 than paint color. I mean, I'm not sure what they
7 do. This practice of breaking up into panels of
8 three, is that a long-standing practice of the Board
9 of Architects?

10 MR. STEFFENS: Yeah.

11 MS. KEON: And it's just to facilitate
12 getting things through?

13 MR. STEFFENS: Getting through the process
14 faster.

15 MS. KEON: Getting through the process
16 faster. Does it work?

17 MR. STEFFENS: They hear so many items.

18 MR. SIEMON: They have enormous -- they have
19 an enormous docket of matters, and they meet every
20 week.

21 MR. STEFFENS: Every week.

22 MR. AIZENSTAT: How many members are on the
23 Board of Architects?

24 MR. STEFFENS: It's seven.

25 MS. KEON: Seven.

1 CHAIRWOMAN MORENO: Seven.

2 MR. AIZENSTAT: So they split up into --

3 MR. STEFFENS: Two groups.

4 MR. AIZENSTAT: -- two panels and then one
5 person just roams or --

6 MR. STEFFENS: Sometimes it's three,
7 sometimes it's four. They're not necessarily all
8 there, also.

9 MR. AIZENSTAT: So there might really only
10 be one panel --

11 MR. STEFFENS: There might only be one
12 panel.

13 MR. AIZENSTAT: -- available?

14 MR. STEFFENS: Available.

15 MS. KEON: Does everything go to the Board
16 of Architects?

17 MR. STEFFENS: Now, almost everything goes
18 to the Board of Architects. If you want to change --

19 MS. KEON: Is there a provision -- right,
20 but we're changing it, though.

21 MR. STEFFENS: If you want to change a tile
22 on your back patio --

23 MR. AIZENSTAT: The City Architect will --

24 MS. KEON: With the City Architect.

25 You know, I have a concern with breaking up

1 into panels. I always think if you appoint a board
2 and you appoint a board with a certain number of
3 members because you want that many voices -- and
4 that's why you have quorums and whatever else, is so
5 that decisions are not made by small bodies, that
6 they're made by a broader scope, and I think it's --
7 you know, the concern shouldn't always be in making
8 rules to provide for the work load of the Board, but
9 it should be to ensure the protection of the
10 citizenry from government, you know, and I -- I think
11 once you have -- and I don't know that that -- you
12 know, maybe when you have a City Architect and so the
13 work load for the Board of Architects changes, that
14 their breaking up -- I mean, you're codifying their
15 breaking into panels here. Was that codified before?

16 MR. STEFFENS: No. Their ability to break
17 into panels.

18 MS. KEON: Pardon me?

19 MR. STEFFENS: Their ability to break into
20 panels.

21 MS. KEON: Yes, well --

22 MR. KORGE: Well, answering that, dealing
23 with that --

24 MS. KEON: I don't know what I want to do
25 with that.

1 MR. KORGE: Because I had a comment that
2 follows, the section -- the subsection we just dealt
3 with. I had written down here -- the majority of the
4 panel members make the decision, and I have written
5 in here, just as a question, well, why shouldn't --
6 why wouldn't it be unanimous, since there's a right
7 of appeal to the Board, the full Board, and that's
8 not even a majority of the Board, three panel
9 members, why wouldn't --

10 MS. KEON: Yeah.

11 MR. STEFFENS: You don't want to do that,
12 Tom.

13 MR. KORGE: What?

14 MR. STEFFENS: You'll get very few things
15 passing through the Board of Architects.

16 MS. KEON: Well, but I think, if you're
17 going to have a City Architect, that should change
18 the volume that they're going to see, and it should
19 change, in turn, what their practices are, and it
20 should change --

21 MR. STEFFENS: I think that if the City
22 Architect happens, then a lot of the work load is
23 removed, and we have all these issues in the Gables
24 that are fomenting under the surface here --

25 MS. KEON: Right.

1 MR. STEFFENS: -- and this is becoming a
2 quasi-judicial board, I think the whole way that they
3 review things is probably going to change. But I
4 think that if you -- if the work load doesn't change
5 and you say the whole Board has to review things,
6 Martha will probably tell you, it's going to be
7 really difficult to get people to serve on that
8 Board.

9 MS. KEON: I understand that, but where are
10 we with the City Architect? Is that not a -- That
11 still is in flux, also? I mean, is that a --

12 MR. RIEL: That's a decision that the City
13 Manager needs to make, in terms of --

14 MS. KEON: Well, then --

15 MR. KORGE: Well, let me tell you why I put
16 three down here, because I've been thinking about
17 this a little bit and --

18 MR. STEFFENS: Tom, you can't get three
19 architects to agree on anything.

20 MR. SIEMON: Yeah. I mean, mission
21 impossible.

22 MR. KORGE: Okay. I won't say any more,
23 then.

24 MS. KEON: I mean, you know, if you have to
25 keep --

1 MR. KORGE: Then how can you have the
2 majority on the Board?

3 CHAIRWOMAN MORENO: Let me make a
4 suggestion.

5 MR. KORGE: How do you get a majority on the
6 Board?

7 MR. STEFFENS: That's okay, you can get a
8 majority on the Board to do that, but if you've got
9 three --

10 MR. KORGE: You have to get four to agree.

11 MR. STEFFENS: If you have to get a
12 unanimous decision out of any number of them, whether
13 it's two or three or four or five --

14 CHAIRWOMAN MORENO: There will always be
15 somebody who disagrees.

16 MR. STEFFENS: -- that's not --

17 MR. SIEMON: They'll start off -- they'll
18 start off all three talking the same, and one of them
19 will become the dissenter --

20 MR. KORGE: Uh-huh.

21 MR. SIEMON: -- just for intellectual
22 purposes only.

23 MR. AIZENSTAT: Well, remember, that is a
24 Board that has a very restrictive profession. In
25 other words, you have to be an architect to be on

1 that Board. So you have to assume that the people
2 that are on the Board are very qualified for their
3 position and what they're doing, and if you take
4 three professionals within the same field --

5 MS. KEON: I wouldn't make that presumption.

6 MR. AIZENSTAT: -- you're not having two,
7 you're having three, I think it is fine.

8 MR. SIEMON: I think that I would just add
9 one thing to this conversation. I think that Michael
10 is correct that given the -- given the existence --
11 the hoped-for existence of the City Architect and the
12 increasing concern about individual decisions and
13 neighborhoods, the important decisions are going to
14 end up being treated as quasi-judicial proceedings,
15 because people are going to protect their own
16 interests, whether it's an opposing citizen or the
17 applicant, and it really will be almost self-
18 selecting, and I guess that's given me some comfort,
19 and the only thing I want to do is -- I was trying to
20 do, was avoid some attorney then saying, "Well, this
21 is easy picking," in an after-the-case challenge,
22 and -- but I think you'll see over time that the
23 important decisions that they deal with are going to
24 have to be considered as quasi-judicial, because of
25 what the law requires and also because of this

1 emergent concern.

2 MR. AIZENSTAT: Also, isn't the City
3 Architect going to be the secretary now to the Board
4 of Architects? Isn't that the idea?

5 MR. SIEMON: Staff, yes.

6 MS. KEON: Well --

7 CHAIRWOMAN MORENO: Well, let --

8 MR. SIEMON: But we also -- I want to say,
9 we had a lot of input from the Board of Architects on
10 this, and it is their strong desire to be able to --
11 to be able, if everybody agrees to it, to be able to
12 continue the panel process.

13 CHAIRWOMAN MORENO: Well, it seems to me
14 that we need to consider three things. The City
15 Attorney (sic), even though we've recommended it, has
16 not yet been named, nor has the position been funded,
17 nor have we had a period of working with him.

18 On the other hand, the Board of Architects
19 has been functioning in this fashion for a long time,
20 and I, at least, prefer to defer to something that
21 has been happening and has precedence, as long as we
22 can make it legally permissible, and since the only
23 time it can go to a panel is with the consent of the
24 applicant and subject to the right of an interested
25 party to ask for a hearing de novo, I don't see what

1 harm there can be in continuing the panel process,
2 at least until the City Architect is up and running,
3 and then perhaps, once the City Architect is there
4 and we see what is happening, you can revisit this
5 issue and perhaps require more frequent full Board
6 hearings, but as long as the protection is there so
7 someone can request a full Board hearing, whether it
8 be the applicant or the opponent, it seems to me that
9 it's difficult to have the Board decide everything
10 until after the City Architect is in place.

11 So I would suggest that we make the changes
12 that have been suggested, to clarify that not only
13 the applicant but also the interested party can ask
14 for a full Board hearing de novo, but do leave in
15 place the ability of the Board to continue to work
16 with three-member panels.

17 MR. TEIN: I agree with our Chairperson and
18 think especially since the Board itself, of
19 Architects, has already passed on these provisions
20 and said they agree with them -- and so I would move
21 to approve this section.

22 MR. KORGE: Well, I had a couple more --

23 CHAIRWOMAN MORENO: I'm not disregarding
24 your concern. I think that your concern is valid.

25 MS. KEON: Yeah.

1 CHAIRWOMAN MORENO: But as long as people
2 still have the ability to appeal to the Board, or to
3 say at the hearing, "I'm not willing for this matter
4 to be held -- to be heard by the panel," not just the
5 applicant, but also the neighbors, I think that
6 they're protected, and you don't force to go before
7 the full Board matters where there's no dispute,
8 which is what would happen if we didn't have the
9 panels.

10 MS. KEON: I guess the concern I have, also,
11 if it's determined that it is a quasi-judicial issue,
12 that still can go to a panel; is that right?

13 CHAIRWOMAN MORENO: No. He's saying
14 either --

15 MR. SIEMON: It is the quasi-judicial. Any
16 of the authority they exercise is quasi-judicial.

17 MS. KEON: Right, but if it is a
18 quasi-judicial hearing and it requires notice and it
19 requires input and it requires presentation and it
20 requires all of that, you can do that equally as
21 easily by panel as by --

22 MR. SIEMON: Not as this is drafted.

23 MS. KEON: -- as Board? Not as this is
24 drafted?

25 MR. SIEMON: That's correct.

1 MS. KEON: That's the concern I have. If it
2 is, and you can't do it by panel --

3 CHAIRWOMAN MORENO: You can choose to do it
4 by Board.

5 MR. SIEMON: The panel only --

6 CHAIRWOMAN MORENO: Am I missing something?

7 MS. KEON: That's what he said.

8 MR. SIEMON: The panel only operates in the
9 informal manner that it has, historically. If
10 there's a formal proceeding, that's held by the Board
11 as a whole.

12 MR. AIZENSTAT: What determines if there is
13 a formal proceeding?

14 MR. SIEMON: As this is drafted, whether the
15 applicant and any -- and we're -- I'm suggesting it
16 needs to be amended, "any interested person who
17 appears," waives their right to a quasi-judicial
18 proceeding, it may be considered as a panel.

19 CHAIRWOMAN MORENO: So it starts out that it
20 will be considered by the Board unless there's a
21 waiver.

22 MR. SIEMON: Correct.

23 CHAIRWOMAN MORENO: So everything is
24 considered by the Board unless there's a waiver by
25 the applicant and any interested party.

1 MR. AIZENSTAT: And then it goes to a panel.

2 MR. SIEMON: Yes.

3 CHAIRWOMAN MORENO: And then it goes -- if
4 they both waive it, then it goes to a panel.

5 MR. SIEMON: It goes to a panel.

6 MR. KORGE: And they still have a right to
7 appeal to the full Board.

8 MR. SIEMON: But even if the panel -- if
9 someone is unhappy with the panel decision, then
10 there's still a right to have it heard by the full
11 Board.

12 MS. KEON: What do you give up --

13 CHAIRWOMAN MORENO: So the only thing that
14 you're leaving at the panel are undisputed
15 presentations.

16 MR. SIEMON: It's the work-em-out, the ones
17 that people can --

18 MS. KEON: Okay, so what do you give up if
19 you don't have a quasi-judicial hearing, that you
20 would gain if you had a quasi-judicial hearing?

21 MR. KORGE: It is a quasi-judicial.

22 MR. STEFFENS: I don't think we have a
23 choice, do we?

24 MS. KEON: Well, you're saying that --

25 MR. KORGE: You mean, we need to vote for

1 the panel?

2 MS. KEON: Well, yeah, you're saying if you
3 ask for it all -- if you want the full Board, then it
4 is a quasi-judicial hearing.

5 MR. SIEMON: Right.

6 MR. KORGE: It is, in each case, a
7 quasi-judicial hearing.

8 MR. SIEMON: It is always a quasi-judicial
9 hearing.

10 MS. KEON: Okay.

11 MR. SIEMON: However, if I'm an applicant
12 and I come in and it appears that there's nobody here
13 and I want to waive my rights to quasi-judicial
14 proceedings, so I don't have to go through that, and
15 sit down with a panel of architects and work it out,
16 I can do that.

17 MS. KEON: Okay, but what does that mean?
18 What am I waiving? What right am I -- what am I
19 waiving?

20 MR. SIEMON: You are -- you are making a --
21 you are waiving your right to demand a
22 quasi-judicial -- your entitlement to a
23 quasi-judicial --

24 MS. KEON: What does the quasi-judicial
25 hearing give me, that I would benefit from, that I

1 wouldn't have if I waived it?

2 MR. SIEMON: Well, you have a right to offer
3 evidence. You have a right to cross-examine. You
4 have a right to an impartial tribunal. You have a
5 right to these specific due process things, which
6 don't happen when they sit as a panel, because it's
7 really three people, four people, trying -- or five
8 people, working it out.

9 CHAIRWOMAN MORENO: It's kind of the
10 difference between going to trial and having a
11 settlement.

12 MS. KEON: Right.

13 CHAIRWOMAN MORENO: You know, either you go
14 to trial or you have a settlement. The panel is kind
15 of a settlement, and if you don't like the
16 settlement, you can still appeal.

17 MR. KORGE: I'm sorry, I was confused. I
18 thought you made a full presentation. Whatever
19 materials you had, your plans and so forth, all go to
20 the panel? Nothing?

21 MR. SIEMON: Yeah, you just go to the panel
22 and sit down with your plans and work it out.

23 MR. KORGE: It's no different than when they
24 come here with a package, but they don't have to
25 stand up and make a presentation, because nobody else

1 is there to object.

2 MR. AIZENSTAT: Correct.

3 MR. KORGE: But it's still a full
4 quasi-judicial proceeding.

5 CHAIRWOMAN MORENO: No.

6 MR. KORGE: Why is it not?

7 MR. SIEMON: It's going to be -- what
8 we've -- the way we've drafted it is to allow them to
9 perform just as they do today, and have you ever been
10 to one of their meetings?

11 MR. KORGE: No, that's why I'm asking.

12 MR. SIEMON: Okay. Basically, the
13 applicants are here, they're in a row, and when it
14 comes -- when there's a space, if there's two panels
15 sitting, you go up and you put down your plans and
16 you tell them what you want to do, and they tell
17 you -- in some cases, they just turn it over and
18 stamp it and you're on your way.

19 In other cases, they're, "What if you change
20 this or move this," and that's what's going on, and
21 it's -- it's a very unique procedure. But it's been
22 used successfully here. I think it's regarded as
23 successful. I think there's been situations where
24 some people have disagreed with some of the decisions
25 they've made. And so we've tried to preserve, at

1 their request, the opportunity, where nobody
2 objects --

3 MR. KORGE: Well, let me ask you a question.
4 You're going to allow the objectors to waive the
5 right to go to the full Board initially. So let's
6 say they waive it. Are they going to be able to make
7 any presentation to the panel, or are they just going
8 to sit there?

9 MR. SIEMON: No, if they waive --

10 MR. KORGE: The objectors.

11 MR. SIEMON: If they waive --

12 MR. STEFFENS: The objectors?

13 MR. KORGE: Yeah, the objectors.

14 MR. STEFFENS: The objectors can talk to the
15 panel.

16 MR. AIZENSTAT: They can go and talk to the
17 panel.

18 MR. KORGE: It's a quasi-judicial
19 proceeding, because they can make a presentation.

20 MR. SIEMON: No, it's not.

21 CHAIRWOMAN MORENO: Because they don't
22 cross-examine -- it's informal. It's like a
23 mediation or like a settlement talk. It's not a
24 trial.

25 MS. KEON: But the other concern I have is

1 because you're giving the people -- whatever the
2 outcome is, everyone preserves their right to appeal,
3 right? But they appeal to the Board of Adjustment.
4 And now --

5 MR. MAYVILLE: No, they appeal first to the
6 full Board.

7 MR. SIEMON: No, first to the Board, the
8 full Board of Architects.

9 MS. KEON: To the full Board, okay.

10 MR. STEFFENS: I think it's --

11 MS. KEON: So, at that point, then, it would
12 become a quasi-judicial hearing; is that right?

13 MR. AIZENSTAT: Yes.

14 MS. KEON: So then it would become --

15 MR. SIEMON: Yes, then it's a formal
16 quasi-judicial proceeding.

17 MS. KEON: Oh, okay.

18 CHAIRWOMAN MORENO: In reality, what's going
19 to happen is, the ones that are going to go to panels
20 are the ones where there are no objections.

21 MS. KEON: Right. Right, right, right.

22 CHAIRWOMAN MORENO: Ninety percent of them.

23 MS. KEON: Okay.

24 CHAIRWOMAN MORENO: Or where the guy who's
25 objecting says, "Well, what I want is for this roof

1 to be gabled or to be a little different," and he'll
2 work it out right there.

3 MR. SIEMON: Yeah, "And if you'll change
4 this" --

5 CHAIRWOMAN MORENO: "I'm okay."

6 MR. SIEMON: -- "I'm okay with it," and it
7 will go through and there's no delay.

8 MR. AIZENSTAT: Remember, by the same token,
9 any of the larger projects, the first step is the
10 Board of Architects. Then it goes to the Planning &
11 Zoning Board. It goes through different boards,
12 where still the people can come and object.

13 MR. STEFFENS: But all of the larger
14 projects are heard by the full Board. They've always
15 been heard by the full Board.

16 MR. AIZENSTAT: The panels are mainly by the
17 smaller -- if you wanted to add a small addition to
18 your house, paint colors, roof tile --

19 MR. STEFFENS: Houses that are smaller are
20 heard by the panels.

21 MS. KEON: Okay.

22 MR. RIEL: Let me just clarify, not all
23 large projects come to the Planning Board. I just
24 want to make sure --

25 MR. AIZENSTAT: Well, yeah.

1 MR. RIEL: Changes in land use and changes
2 in zoning and planned area developments.

3 MS. KEON: Right.

4 MR. KORGE: I have some more questions.
5 This is related to the membership qualifications. Is
6 it correct the City Manager appoints all the Board of
7 Architects members?

8 MR. RIEL: Yes.

9 MR. STEFFENS: Theoretically.

10 MR. RIEL: Yes.

11 MR. KORGE: Not theoretically. What
12 actually occurs?

13 MR. RIEL: Yes.

14 MR. STEFFENS: Dennis picks them. Dennis
15 calls them and recommends them to the City Manager.

16 MR. KORGE: Okay, so then the Manager --
17 Yeah.

18 MR. STEFFENS: The City Manager --

19 MR. KORGE: So the Commission doesn't -- the
20 Commissioners don't appoint their own --

21 MR. STEFFENS: (Shakes head).

22 MR. KORGE: Okay. I notice that on Page 4,
23 Paragraph 2A --

24 CHAIRWOMAN MORENO: Okay, wait. Let's go
25 back to that. Why is it just Dennis? Why isn't it

1 Dennis and Eric and Dona?

2 MS. KEON: Is that the practice?

3 MR. KORGE: It's the Manager.

4 MR. STEFFENS: Well, it's the Manager --
5 it's the Manager.

6 MR. KORGE: Then the Manager can decide who
7 he wants to hear from, in making that decision; is
8 that it?

9 MS. KEON: He can prepare a slate that goes
10 to the Manager.

11 MR. STEFFENS: It's just that Dennis deals
12 with all the architects, and he knows them.

13 CHAIRWOMAN MORENO: But the Manager has a
14 choice as to who he consults, because the day that
15 Dennis retires -- because Dennis has been telling me
16 he's retiring in 19 months and three days. Okay, the
17 day that Dennis retires --

18 MR. KORGE: And six hours.

19 CHAIRWOMAN MORENO: -- and we have somebody
20 there new, who doesn't know all the architects, the
21 Manager can go and consult somebody else. It's his
22 choice.

23 MR. STEFFENS: Yes.

24 CHAIRWOMAN MORENO: Okay.

25 MR. STEFFENS: But next in line is Martha,

1 and Martha knows all the architects.

2 CHAIRWOMAN MORENO: Okay.

3 MR. KORGE: Okay. Page 4, the
4 qualifications that a member -- a member have been an
5 architect or landscape architect, responsible for the
6 design and construction of projects within the City
7 of Coral Gables during the last five years, and have
8 a minimum of ten years' experience in their
9 profession.

10 I notice they don't have to be registered
11 for the last five years or the ten years' experience,
12 just to have been an architect. I notice that
13 because in Subparagraph c, the architect or landscape
14 architect has to be registered.

15 MR. STEFFENS: Well, I know as far as being
16 an architect, you can't be an architect without being
17 registered.

18 MR. KORGE: I didn't know that.

19 MR. STEFFENS: Well, you can't call yourself
20 an architect or do architecture without being
21 registered.

22 MR. KORGE: Well, then, should we just
23 insert "registered" in --

24 MR. STEFFENS: Yeah.

25 MR. KORGE: In a?

1 MR. STEFFENS: It makes sense to just put it
2 in there.

3 MR. SIEMON: We would have to say
4 "registered in the State of Florida," because it's
5 not --

6 MS. KEON: But can you do projects in the
7 City and be registered outside the State of Florida?

8 MR. AIZENSTAT: But you have it in c.

9 MS. KEON: You have to be registered in the
10 State of Florida?

11 MR. SIEMON: They're just talking about
12 consolidating c and a.

13 CHAIRWOMAN MORENO: Yeah, it says it --

14 MR. AIZENSTAT: Okay, and getting rid of c.

15 CHAIRWOMAN MORENO: -- c says it, "Each
16 member shall be a registered architect or landscape
17 architect in the State of Florida." It says it.

18 MR. KORGE: And you do have landscape
19 architects on the Board?

20 MR. STEFFENS: Rarely.

21 MR. KORGE: Rarely?

22 MR. STEFFENS: It's difficult to get them.

23 MR. KORGE: Okay, and then in Subparagraph
24 D, "with or without cause," instead of "for any
25 reason," probably should be inserted there, as well.

1 MS. KEON: Why do they have the provision
2 that it has to be within the City of Coral Gables,
3 they had to do projects within the City of Coral
4 Gables?

5 MR. STEFFENS: So they're familiar with the
6 rules and regulations of Coral Gables.

7 MS. KEON: With the rules and regulations of
8 the City?

9 MR. TEIN: Tom, removal from this Board, it
10 just says "for any reason."

11 MR. STEFFENS: I think Tom added -- I think
12 he changed that.

13 MR. TEIN: Did we add that?

14 MR. KORGE: Yeah, "with or without cause,"
15 instead of "for any reason."

16 MR. SIEMON: I assume that we're going to do
17 that every place.

18 CHAIRWOMAN MORENO: Yeah.

19 MR. SIEMON: "For any reason" appears in a
20 number of --

21 MR. KORGE: Right, just wherever that
22 appears, I would make -- and I don't mean to be
23 obstinate, and I'll just go to one more time, but
24 Paragraph or Section 2-305, we don't note that we're
25 conducting our meetings under the Robert's Rules of

1 Order. It occurred to me, after we had already
2 discussed it in the prior division, that it might
3 still be useful to have it within each of these
4 divisions, simply because this is the place where
5 everybody is going to go to determine how everything
6 is done. They're not going to be going to other
7 parts of the City Code.

8 CHAIRWOMAN MORENO: What are Robert's Rules
9 of Order? What do they say? I know we always say we
10 conduct everything under Robert's Rules of Order, but
11 I need a copy of them if I'm supposed to be
12 conducting them.

13 MR. RIEL: I think the sentence that says,
14 "All meetings shall be conducted in accordance with
15 Florida law and written records," pretty much covers
16 that.

17 MR. KORGE: It does?

18 MS. KEON: Yeah.

19 MR. KORGE: That deals with the Sunshine
20 Law and things like that.

21 MR. RIEL: It includes Robert's Rules.

22 MR. KORGE: Robert's Rules or Order and the
23 Sunshine Law? Really?

24 CHAIRWOMAN MORENO: Eric, I need a copy.

25 MR. RIEL: We'll get you another one.

1 We've passed them out in the past.

2 MR. STEFFENS: I'll give you mine.

3 MR. RIEL: I mean, I know Liz has passed
4 them out.

5 MR. KORGE: I won't bring it up again.

6 MR. RIEL: No, I know Liz passed it out for
7 the Sunshine. She has pamphlets. I'll be happy
8 to --

9 CHAIRWOMAN MORENO: The Sunshine Law, I
10 read. That I read, but Robert's Rules of Order --

11 MR. KORGE: You've never seen Robert's Rules
12 of Order?

13 CHAIRWOMAN MORENO: Of course, I have seen
14 Robert's Rules of Order. I haven't seen them in the
15 last year.

16 MR. RIEL: I have them in my office. I'll
17 go get them.

18 MR. SIEMON: I just -- I have observed
19 that -- I have not talked to the City Attorney about
20 Robert's Rules, and there are many provisions of
21 Robert's Rules that may be problematic, so I don't
22 think we should do this idly. I need to talk to Liz
23 and see what her perspectives are. Things like
24 calling back decisions when they're reviewed, et
25 cetera, that aren't normally -- There are some real

1 hookers in Robert's.

2 MS. KEON: A parliamentarian, you'd need
3 there, to do that.

4 MR. SIEMON: So I would just --

5 MS. KEON: Just get the proposed --

6 MR. SIEMON: We will have conversation -- I
7 will have that conversation, which I have not had.

8 CHAIRWOMAN MORENO: I don't want it to
9 become more difficult to conduct meetings.

10 MR. KORGE: It's gotten easier.

11 MR. SIEMON: Exactly.

12 MR. STEFFENS: So do we have a motion on
13 this one?

14 MR. TEIN: I move to approve Division 3.

15 MR. STEFFENS: With --

16 MR. TEIN: With the changes that -- What
17 changes have we said to be done?

18 MR. STEFFENS: The --

19 MR. TEIN: With the addition of the phrase
20 "with or without cause," for removal?

21 CHAIRWOMAN MORENO: The most significant
22 change, I think, is at the end of 2-303, A, "At the
23 request of an applicant or of an interested party,"
24 or however Charlie wants to draft it, "a panel
25 decision shall be considered by the full Board, de

1 novo," and I don't know if you also wanted to say,
2 Charlie, that both the applicant and the interested
3 party have to waive the right, to begin with, so --

4 MR. SIEMON: Right.

5 CHAIRWOMAN MORENO: I think that's the
6 substantive change we've made here.

7 MR. KORGE: And also, insert "registered" in
8 front of the word "architect."

9 MR. SIEMON: And eliminate c.

10 MR. KORGE: Yeah.

11 MS. KEON: I'm sorry, can I ask another
12 question? We talked about, last week, about -- when
13 Dona Lubin was here, with giving the power to the
14 Board of Architects to remove for historical
15 significance.

16 CHAIRWOMAN MORENO: Does that go here?

17 MS. KEON: Would that go in here, under
18 Powers and Duties? Is that an issue? Or -- I don't
19 remember exactly how it would be worded, but you --
20 she would, you know, much like to see that --

21 CHAIRWOMAN MORENO: Uh-huh.

22 MS. KEON: -- that provision, the ability
23 to --

24 MR. SIEMON: Yes.

25 MS. KEON: And it should go in here, under

1 Powers and Duties, right?

2 MR. SIEMON: That should go in the table on

3 Powers and Duties --

4 MS. KEON: Okay.

5 MR. SIEMON: -- and it's to recommend --

6 MR. KORGE: Yeah. Good catch.

7 CHAIRWOMAN MORENO: Good job.

8 MR. SIEMON: Good catch.

9 CHAIRWOMAN MORENO: And I very much wanted

10 that.

11 MS. KEON: Yeah.

12 MR. TEIN: So the motion would be what our

13 Chairperson recited and what Pat has also recited.

14 CHAIRWOMAN MORENO: Do I have a second?

15 MS. KEON: I'll second.

16 CHAIRWOMAN MORENO: Okay. Call the roll,

17 please.

18 MS. MENENDEZ-DURAN: Tom Korge?

19 MR. KORGE: Yes.

20 MS. MENENDEZ-DURAN: Bill Mayville?

21 MR. MAYVILLE: Yes.

22 MS. MENENDEZ-DURAN: Michael Tein?

23 MR. TEIN: Yes.

24 MS. MENENDEZ-DURAN: Michael Steffens?

25 MR. STEFFENS: Yes.

1 MS. MENENDEZ-DURAN: Eibi Aizenstat?

2 MR. AIZENSTAT: Yes.

3 MS. MENENDEZ-DURAN: Pat Keon?

4 MS. KEON: Yes.

5 MS. MENENDEZ-DURAN: Cristina Moreno?

6 CHAIRWOMAN MORENO: Yes.

7 Division 4, the Board of Adjustment.

8 MR. SIEMON: I think the single -- the
9 singular change in this from the existing Code is
10 that decisions of administrative officials with
11 regard to -- I mean, the decisions of the Historic
12 Preservation officer are appealed, in this Code, to
13 the Historic Preservation Board and not to the Board
14 of Adjustment, and the City Architect decisions would
15 go to the Board of Architects and not to the Board of
16 Adjustment -- ultimately could, theoretically, get to
17 the Board of Adjustment.

18 CHAIRWOMAN MORENO: But it only goes to the
19 Board of Adjustment if the basis for the appeal is
20 hardship or error? Does that cover everything?

21 MR. MAYVILLE: There's some interpretations,
22 too, that -- I don't know if they still do them, but
23 they used to.

24 MR. SIEMON: The date --

25 CHAIRWOMAN MORENO: If we at the Board --

1 I'm sorry, because we go to the Commission, but if
2 the Board of Architects says, "I don't want this
3 house painted blue," that goes to the Board of
4 Adjustment, or is that final?

5 MR. SIEMON: No, there is an appeal from the
6 Board of Architects to the Board of Adjustment, and
7 then from the Board of Adjustment, that could go to
8 the Commission.

9 MR. RIEL: Yes.

10 CHAIRWOMAN MORENO: But it says here that
11 the basis is hardship or error, so how -- what would
12 be -- if it's just an aesthetic case, that could
13 also -- that could be argued to be hardship or error?

14 MR. STEFFENS: It could be an error, error
15 in aesthetic judgment.

16 CHAIRWOMAN MORENO: Okay.

17 MR. SIEMON: Errors. It's not limited to
18 hardships.

19 MR. KORGE: Or it could be affirmed, you
20 know.

21 CHAIRWOMAN MORENO: Errors in the
22 application of the regulations.

23 Okay, let's go.

24 MR. SIEMON: But the big changes are those
25 two. The City Architect is going to go to the Board

1 of Architects, and the Historic Preservation officer
2 is going to go to the Board of -- Historic
3 Preservation Board.

4 MR. MAYVILLE: But I think --

5 MR. KORGE: Well, in the chart -- excuse me
6 just a second. It says, "Appeals from Staff
7 decisions related to this Code." Well, the Board of
8 Architects' decision wouldn't be a Staff decision,
9 would it?

10 MR. STEFFENS: No, it's not the Board of
11 Architects' decision. It's the City Architect's
12 decision.

13 MS. KEON: The City Architect's decision.

14 MR. KORGE: But this says other than the
15 City Architect and Historic Preservation officer.

16 MR. STEFFENS: Yeah, the City Architect --

17 CHAIRWOMAN MORENO: No, he's right. Tom is
18 right. It says, "Appeals from Staff decisions
19 related to this Code." That doesn't say the Board of
20 Architects.

21 MR. STEFFENS: Yeah, but a Board of
22 Architects' decision is not a Staff decision.

23 CHAIRWOMAN MORENO: Right, and it doesn't
24 say you appeal it there.

25 MR. STEFFENS: Well, it's an appeal. This

1 is only saying what's not appealed, right?

2 CHAIRWOMAN MORENO: No.

3 MR. KORGE: No, this says what is appealed.

4 MR. STEFFENS: "Appeals from Staff decisions
5 related to this Code -- "

6 MR. KORGE: "Related to this Code, other
7 than the City Architect and the Historic Preservation
8 officer."

9 MR. SIEMON: Right.

10 MR. KORGE: But it should be appeals of
11 Board of Architects --

12 MR. STEFFENS: Board decisions.

13 MR. KORGE: All Board decisions or what --

14 CHAIRWOMAN MORENO: No, not ours.

15 MR. KORGE: Which decisions are appealable?
16 What is appealable to the Board of Adjustment?
17 Because it's not clear to me.

18 MR. RIEL: That's what we went over last
19 Wednesday.

20 MS. KEON: And I think -- Did we defer this?

21 MR. RIEL: I don't think we did.

22 MS. KEON: Didn't we defer that?

23 MR. RIEL: No, I don't think so.

24 MS. KEON: Because the table's wrong.

25 (Thereupon, Mr. Mayville left the dais.)

1 CHAIRWOMAN MORENO: You have it in your --

2 MR. RIEL: Article 3, Division 6, Appeals.

3 MR. SIEMON: Yeah.

4 MR. RIEL: That was deferred.

5 MS. KEON: Yeah, we deferred it because it
6 wasn't clear. I think your chart wasn't clear.

7 MR. RIEL: Well, it was suggested -- it was
8 deferred to make changes to the flow chart, to
9 eliminate and modify various items. That's a summary
10 of what the section was.

11 MS. KEON: Yeah, I remember it was --

12 MR. KORGE: Well, should we defer this
13 chart until we get the other one right?

14 MR. SIEMON: I don't believe this needs
15 to -- this one needs to be postponed. I just can't
16 remember, and I don't have the --

17 CHAIRWOMAN MORENO: Article 3, Division 6
18 is all of the appeals? Is that the appeals chart?

19 MR. SIEMON: Yeah.

20 CHAIRWOMAN MORENO: Well, why don't we just
21 take out the parenthetical and just leave Article 3,
22 Division 6? The parenthetical is what's giving us
23 problems.

24 MS. KEON: Uh-huh.

25 MR. KORGE: Well, the other ones, we've said

1 what it's an appeal from. It would be appeals
2 from -- correct me if I'm wrong. It's appeals from
3 decisions of the Board of -- the Board of Architects,
4 the Historic Preservation Board, and Staff decisions
5 related to this Code, other than Staff decisions by
6 the City Architect and the Historic Preservation
7 officer?

8 CHAIRWOMAN MORENO: How about the Code
9 Enforcement Board?

10 MR. KORGE: I don't know.

11 CHAIRWOMAN MORENO: I don't, either. That's
12 why I'm saying it's better just to refer to the
13 appeals provision.

14 MR. KORGE: Maybe that's better. Just take
15 all that out and then --

16 MR. RIEL: I think you're right. Just take
17 it all out.

18 MR. SIEMON: Just take the parenthetical
19 out.

20 CHAIRWOMAN MORENO: Take the parenthetical
21 out and just leave it as Division 6.

22 MR. SIEMON: Because it's governed by --
23 It's those appeals.

24 MS. KEON: It's really a Board decision.

25 CHAIRWOMAN MORENO: Okay, I'm assuming we

1 want the same changes in 2-402, regarding
2 confirmation by the Commission of the five appointed
3 by the Commission, that we want the same change in
4 removals with respect to "with or without cause."

5 MR. SIEMON: Right.

6 CHAIRWOMAN MORENO: And that other than
7 that, that should be it for Board of Adjustment. Can
8 I have a motion?

9 MS. KEON: I'll move it, as amended.

10 CHAIRWOMAN MORENO: Second?

11 MR. AIZENSTAT: I'll second it.

12 CHAIRWOMAN MORENO: Okay. Call the roll,
13 please.

14 MS. MENENDEZ-DURAN: Michael Tein?

15 MR. TEIN: Yes.

16 MS. MENENDEZ-DURAN: Michael Steffens?

17 MR. STEFFENS: Yes.

18 MS. MENENDEZ-DURAN: Eibi Aizenstat?

19 MR. AIZENSTAT: Yes.

20 MS. MENENDEZ-DURAN: Pat Keon?

21 MS. KEON: Yes.

22 MS. MENENDEZ-DURAN: Tom Korge?

23 MR. KORGE: Yes.

24 MS. MENENDEZ-DURAN: Bill Mayville?

25 MR. AIZENSTAT: He stepped out.

1 MS. MENENDEZ-DURAN: Cristina Moreno?

2 CHAIRWOMAN MORENO: Yes.

3 Division 5, Historic Preservation Board.

4 This had better be perfect, because you spent a long
5 time on it.

6 MR. SIEMON: I believe it is perfect.

7 MR. RIEL: Yeah. As I said previously, the
8 Board had reviewed this about six months to 12 months
9 ago, and it's been reviewed by Historic Preservation,
10 and I can assure you it's been verified by the
11 Historic Preservation Director.

12 MR. KORGE: I'd note, in Paragraph D on Page
13 8, "with or without cause," instead of "for any
14 reason."

15 MR. SIEMON: Yeah.

16 MR. STEFFENS: Does the Board's appointment
17 to the Board have to be approved by the City
18 Commission?

19 MS. KEON: Confirmed.

20 CHAIRWOMAN MORENO: Yeah, it's confirmed.
21 This is very clear, all nine members are to be
22 confirmed by the City Commission.

23 MR. KORGE: I'll move to approve with that
24 one change.

25 MR. TEIN: But does it say that in Section

1 A1?

2 CHAIRWOMAN MORENO: Yes, it does.

3 MR. AIZENSTAT: It's there.

4 CHAIRWOMAN MORENO: Okay. Do I have a
5 second?

6 MS. KEON: I have one question, also --

7 CHAIRWOMAN MORENO: Mr. Aizenstat?

8 MS. KEON: -- for this powers and duties, is
9 there anything -- you know, once we added the
10 provision with the Board of Architects to review, is
11 there anything then that comes under their powers and
12 duties that would be related to that, that needed to
13 be included here since it wasn't discussed or wasn't
14 included at the time that you discussed this with
15 Dona, or could you just maybe make note, and if it
16 is, to include it, rather than having to start all
17 over, you know, if there is some provision --

18 MR. STEFFENS: Well, it would probably --
19 it would probably fall under the first one,
20 Designation of Historic Landmarks and Historic
21 Districts --

22 MR. RIEL: Yes.

23 MR. STEFFENS: -- because they would review
24 it, to see if it was designatable (sic).

25 MS. KEON: I would just like her to look at

1 it and confirm that there isn't anything. Just bring
2 it to her attention.

3 CHAIRWOMAN MORENO: Okay, subject to that
4 comment, let's call the roll.

5 MS. MENENDEZ-DURAN: Michael Steffens?

6 MR. STEFFENS: Yes.

7 MS. MENENDEZ-DURAN: Eibi Aizenstat?

8 MR. AIZENSTAT: Yes.

9 MS. MENENDEZ-DURAN: Pat Keon?

10 MS. KEON: Yes.

11 MS. MENENDEZ-DURAN: Tom Korge?

12 MR. KORGE: Yes.

13 MS. MENENDEZ-DURAN: Bill Mayville?

14 CHAIRWOMAN MORENO: I'm sorry, is there
15 anyone in the public on the things that we've
16 approved? I forgot to ask before.

17 Okay, great. Thank you.

18 All right, Item 6, Division 6, Code
19 Enforcement Board.

20 (Thereupon, Mr. Mayville returned.)

21 MR. AIZENSTAT: I don't think we're finished
22 calling the roll.

23 MS. MENENDEZ-DURAN: We still need to
24 continue the roll.

25 CHAIRWOMAN MORENO: Oh.

1 Michael Tein?

2 MR. TEIN: Yes.

3 MS. MENENDEZ-DURAN: Cristina Moreno?

4 CHAIRWOMAN MORENO: Yes. Thank you.

5 MR. AIZENSTAT: You're welcome.

6 CHAIRWOMAN MORENO: I'm on a roll here.

7 Division 6, Code Enforcement Board.

8 MR. MAYVILLE: I saw that.

9 MR. SIEMON: I think the only change that's
10 in this Code now is the change that repeals something
11 that was requested, and then that was that the Board
12 had the authority to recommend the -- if they
13 determined that additional expertise would be
14 beneficial, and that has been eliminated, and if they
15 are unhappy, they should go to the City Manager and
16 try to persuade him that he should take action, and
17 not make that a formal authority.

18 Other than that, I think this is your Code
19 as it exists, and it's the Code that's required by
20 State law.

21 MR. KORGE: I'd move to approve, with the
22 only change being on Page 10, Line 21, deleting "for
23 any reason" and inserting "with or without cause."

24 CHAIRWOMAN MORENO: Do I have a second?

25 MR. STEFFENS: Second.

1 CHAIRWOMAN MORENO: Michael.

2 Call the roll, please.

3 MS. MENENDEZ-DURAN: Eibi Aizenstat?

4 MR. AIZENSTAT: Yes.

5 MS. MENENDEZ-DURAN: Pat Keon?

6 MS. KEON: Yes.

7 MS. MENENDEZ-DURAN: Tom Korge?

8 MR. KORGE: Yes.

9 MS. MENENDEZ-DURAN: Bill Mayville?

10 MR. MAYVILLE: Yes.

11 MS. MENENDEZ-DURAN: Michael Tein?

12 MR. TEIN: Yes.

13 MS. MENENDEZ-DURAN: Michael Steffens?

14 MR. STEFFENS: Yes.

15 MS. MENENDEZ-DURAN: Cristina Moreno?

16 CHAIRWOMAN MORENO: Yes.

17 Division 7.

18 MR. SIEMON: The City Attorney has declined
19 the opportunity to play a role in interpretations of
20 the Code. We had originally recommended, because
21 there sometimes has emerged a difference of
22 perspective between Planning & Zoning and the City
23 Attorney, and we suggested that it would be --
24 particularly in light of a very controversial matter
25 that you all had an opportunity to address, involving

1 an interpretation, that if -- our thought was that if
2 the City Attorney, the Director of Planning and the
3 Building official had sat down and talked it through,
4 it probably would have been resolved and never become
5 a controversy, but instead it was a decision made
6 with Building & Zoning, without really consulting
7 with either of the other, and it then got a life of
8 its own, but that has -- we've eliminated that, at
9 the request of the City Attorney, and so I think the
10 City Attorney --

11 CHAIRWOMAN MORENO: Just for your --

12 MR. SIEMON: -- was brought out of this.

13 CHAIRWOMAN MORENO: For your red-lining, you
14 need to red-line the heading, as well.

15 MR. SIEMON: Yeah, the City Attorney is no
16 longer a participant --

17 CHAIRWOMAN MORENO: Okay.

18 MR. SIEMON: -- at all, so Line 10 is also
19 a strike-through.

20 MS. KEON: So what happens then? There's no
21 legal authority?

22 MR. SIEMON: The interpretation is made by
23 the Building official and then may be appealed, as
24 any other administrative determination, and we were
25 just really trying to address that there are -- under

1 your existing administrative, there are two different
2 perspectives on planning and zoning matters, one for
3 planning and one for zoning, but they ought not to
4 be -- they ought to be working together. That's what
5 we're trying to --

6 MS. KEON: Where are they with the
7 recommendation of combining planning and zoning?

8 MR. RIEL: I don't know the answer to that.

9 MR. SIEMON: The Historic Preservation
10 Department and Board officer, I think, is all
11 that's -- is the existing Code, just renumbered and
12 clarified. The City Architect is obviously new.
13 That's a recommendation that we've made.

14 MR. KORGE: Excuse me, on that, the last
15 sentence, you might want to clarify it a little, to
16 say that the City Architect shall be a licensed
17 architect in the State of Florida.

18 CHAIRWOMAN MORENO: Registered, no?

19 MR. SIEMON: Registered.

20 MR. KORGE: A registered architect in the
21 State of Florida.

22 MR. STEFFENS: It's the same thing.

23 CHAIRWOMAN MORENO: Is it?

24 MR. STEFFENS: Yeah.

25 CHAIRWOMAN MORENO: Well, we don't know

1 that.

2 MR. SIEMON: The Development Review
3 official is a new entity. It's not a new employee.
4 But one of the things we observed when we first
5 examined this Code was the -- who is responsible for
6 making decisions is not clear under the Code, and so
7 we have required the Manager to identify a
8 Development Review officer who is the one who
9 approves -- official who grants and is responsible
10 for making sure that they're in the right form and
11 the right order, but it's not a new person.

12 CHAIRWOMAN MORENO: And who is it?

13 MR. SIEMON: Yet to be designated. The
14 Manager will do that.

15 MR. RIEL: It could be --

16 MR. SIEMON: It could be more than one
17 person.

18 MR. RIEL: It could be two people in a
19 department. It could be one person.

20 MR. STEFFENS: The City Architect, it says
21 he's responsible for reviewing and submitting
22 recommendations regarding the designs of new
23 buildings and structures and modifications to
24 existing structures. Aren't we also looking to him
25 to do administrative approvals of certain items?

1 MR. RIEL: Minor conditional use.

2 MR. STEFFENS: Or a lot of the minor things
3 that the Board has today.

4 MR. RIEL: It's minor conditional use.

5 MR. AIZENSTAT: In order to free up the
6 Board of Architects.

7 MR. SIEMON: Yeah, I think there should be a
8 delegation --

9 MR. RIEL: Yeah, a reference to that.

10 MR. SIEMON: -- at least to have the
11 authority to make decisions delegated to him under --
12 and there's a section of the Code which we reviewed
13 last week.

14 MR. KORGE: Is this division supposed to
15 specify who appoints these individuals to their
16 position?

17 MR. SIEMON: All of these administrative
18 people --

19 MR. RIEL: No.

20 MR. SIEMON: -- are employed by the City
21 Manager --

22 MR. RIEL: Right.

23 MR. SIEMON: -- under your Charter.

24 MR. RIEL: But that's in the City Code.

25 MR. KORGE: That's in the City Code?

1 MR. RIEL: It's in the City Code, yes.

2 MR. AIZENSTAT: Yes.

3 MR. SIEMON: But I think that I failed to --
4 the City Architect should clearly be articulated as
5 having authority to make decisions on those matters
6 delegated to him under -- there's a section, and
7 that's just an omission.

8 I think, other than that --

9 MR. STEFFENS: So the City Architect can
10 grant minor conditional uses?

11 MR. AIZENSTAT: Yes.

12 MR. STEFFENS: And the Development Review
13 official?

14 MR. SIEMON: There are certain matters which
15 are identified.

16 MR. STEFFENS: Do you have a conflict there?

17 MR. RIEL: They could be one and the same.

18 MR. STEFFENS: What do you mean?

19 MR. RIEL: The City Architect could be the
20 DRO.

21 MR. AIZENSTAT: The City Manager would
22 appoint --

23 MR. STEFFENS: But --

24 MR. RIEL: The DRO could be somebody that's
25 responsible for certain types of applications. He

1 might have a DRO that would just review sign permits.

2 MR. STEFFENS: Uh-huh.

3 MR. RIEL: He might have a DRO that will do
4 Board of Architects.

5 MR. STEFFENS: So you couldn't, like, get a
6 minor one by going around the other guy? I mean,
7 let's say one guy won't approve it. You couldn't go
8 to -- if the Development Review official wouldn't
9 approve it, you couldn't go to the --

10 MR. RIEL: That clearly would not be the
11 intent, no. That person would have the authority to
12 obviously grant that approval on that. That's the
13 decision of the department director and, obviously,
14 the City Manager, so --

15 MR. STEFFENS: So each one would have only
16 specific ones that they could approve?

17 MR. RIEL: It could be that way, or one
18 person could be -- the City Architect would be --
19 like, for instance, in my department, I could have
20 Walter do, you know, the administrative reviews on
21 you know, outdoor seating. It's just whatever I feel
22 is appropriate.

23 MR. SIEMON: But what happens -- what
24 historically happened is, there are a number of
25 approvals required, and there are multiple approvals,

1 sometimes not consistent with each other, granted,
2 and it's intended to avoid that.

3 CHAIRWOMAN MORENO: I think the point that's
4 being made, though, is, we don't want to draft what
5 is a solution, but have the practice of multiple
6 approvals take over the drafting. So it's very nice
7 to have it drafted, but the practice that more than
8 one Development Review official may be appointed
9 leaves open the possibility of continuing to have
10 that practice, and there has to be some kind of
11 discipline that that will not happen, since I'm
12 assuming it is essential that we have more than one
13 Development Review official.

14 MR. SIEMON: I have nothing --

15 CHAIRWOMAN MORENO: Are we ready to move on
16 this?

17 MS. KEON: Could I ask one more?

18 MR. SIEMON: I have nothing further to
19 offer, other than that I would like to add to Section
20 2-705, the City Architect, the statement that the
21 City Architect has authority to make decisions under
22 the delegated authority pursuant to section --
23 whatever it is of the article.

24 MS. KEON: Okay. On this part, this
25 Development Review official, like you said, you could

1 have someone do -- you could assign that task to
2 someone. That's a power that you have now, is that
3 right, that you could do that, as the head of that
4 department?

5 MR. RIEL: I mean, it's not written down,
6 but it's assumed -- obviously, if I'm going to
7 designate a DRO, being the Director of the
8 department, I'm ultimately responsible for it, so --
9 I mean, their decision. I just have to entrust them
10 that they will make --

11 MS. KEON: You know what it is? I can
12 understand --

13 MR. RIEL: -- the right decision based upon
14 the, you know, the department's --

15 MS. KEON: I understand the role, and I'm
16 sorry, did you all talk about this at length,
17 earlier?

18 CHAIRWOMAN MORENO: No, keep on going.

19 MS. KEON: No?

20 CHAIRWOMAN MORENO: Keep on going.

21 MS. KEON: That the Development Review
22 official, up until that point where it says "granting
23 approval," is sort of a secretarial sort of role, it
24 seems they get everything together and they make sure
25 everybody has what they need and things are in

1 compliance and things are complete and everything
2 else. So it's like a record-keeping, secretarial
3 sort of function, at one point, and then all of a
4 sudden, it becomes more than that.

5 MR. KORGE: Well, granting minor conditional
6 use is the last part of that sentence, the second
7 sentence of that section. So the Development Review
8 official does all that sort of administrative
9 processing and then can also grant minor conditional
10 use approval, in lieu of the head of the department,
11 for example, granting it. In effect, it allows the
12 delegation of authority by a department head to a
13 subordinate.

14 CHAIRWOMAN MORENO: By the City Manager,
15 actually.

16 MR. KORGE: Actually, by the Manager to
17 anybody, yeah.

18 MR. STEFFENS: Are we going to specify
19 somewhere who has control over each specific minor
20 conditional use?

21 MR. RIEL: In the Zoning Code? No. That
22 would be more administrative rules within the
23 department.

24 MR. KORGE: Because the minor --

25 MR. RIEL: Because it could change.

1 MR. KORGE: Excuse me.

2 MR. RIEL: It could change.

3 MR. KORGE: The minor conditional uses are
4 decided by the administration itself. What this is
5 doing is telling the Manager, you know, "Delegate
6 your authority as you see the most efficient to
7 resolve these issues." So that's --

8 MR. RIEL: Basically, this DRO is a title
9 that provides references throughout the Code, that
10 gives that entity person the authority to do things,
11 which has not been spelled out in the Code. It makes
12 it clear, much more clear, that there's a DRO
13 decision --

14 MS. KEON: Who's supposed to be coordinating
15 these things?

16 MR. RIEL: Basically, yes.

17 MS. KEON: Yeah, and it may be that I'm not
18 understanding the roles here, but I can see the role
19 of having someone that coordinates everything, but if
20 you already have -- as the head of the department,
21 you have rights of --

22 MR. RIEL: It could be somebody that takes
23 in the application, that also does the granting of
24 it, because, for instance, in my department we have
25 four or five people. I don't have the luxury of

1 having somebody to take in the application and assign
2 the DRO the approval of it. It's one and the same
3 person. It can be one and the same person. It's
4 not --

5 MR. KORGE: You mean -- is the question,
6 should each department head sign off on every
7 decision, personally?

8 MS. KEON: No. No, I mean, I think that you
9 can delegate that authority to people, you know, who
10 just sort of know the rules, and if it complies with
11 the rules, then it's okay. See, I guess I don't
12 understand why it's included in here, but that's all
13 right.

14 MR. KORGE: Well, I guess for the same
15 reason --

16 MS. KEON: That's all right, yeah.

17 MR. KORGE: -- that the City Architect and
18 everybody else --

19 MR. RIEL: It basically just assigns the
20 title to the decision-maker that allows reference
21 throughout the Zoning Code for certain authorities.
22 That's basically what it is.

23 CHAIRWOMAN MORENO: Okay.

24 MS. KEON: That's fine.

25 CHAIRWOMAN MORENO: All right, do I have a

1 motion? I think we had a motion, no?

2 MS. KEON: Yeah, Tom had made the other --

3 MR. STEFFENS: Move for approval with the

4 comments that Charlie had to include on the City

5 Architect.

6 CHAIRWOMAN MORENO: Do we have a second?

7 MR. AIZENSTAT: I'll second.

8 CHAIRWOMAN MORENO: Okay. Can we call the

9 roll?

10 MS. MENENDEZ-DURAN: Pat Keon?

11 MS. KEON: Yes.

12 MS. MENENDEZ-DURAN: Tom Korge?

13 MR. KORGE: Yes.

14 MS. MENENDEZ-DURAN: Bill Mayville?

15 MR. MAYVILLE: Yes.

16 MS. MENENDEZ-DURAN: Michael Tein?

17 MR. TEIN: Yes.

18 MS. MENENDEZ-DURAN: Michael Steffens?

19 MR. STEFFENS: Yes.

20 MS. MENENDEZ-DURAN: Eibi Aizenstat?

21 MR. AIZENSTAT: Yes.

22 MS. MENENDEZ-DURAN: Cristina Moreno?

23 CHAIRWOMAN MORENO: Yes.

24 Development Review Committee.

25 MR. KORGE: I had one question. Section

1 2-802, at the end of that section, it includes "other
2 persons as may be necessary." Who decides what other
3 persons may be necessary?

4 MR. STEFFENS: The Development Review
5 official?

6 CHAIRWOMAN MORENO: The DRC.

7 MR. STEFFENS: The Development Review
8 official.

9 MR. KORGE: Who decides --

10 MR. RIEL: It's the City Manager.

11 MR. SIEMON: Ultimately, the City Manager.

12 MR. RIEL: It's the City Manager.

13 MR. KORGE: Would you mind inserting that in
14 there, to be clear?

15 Do you want a motion on this?

16 MS. KEON: I have a question on this one.
17 Under the powers and duties, you say, "is created to
18 act as the first level of review for applications for
19 development" -- oh, okay, approval.

20 You know, oftentimes I have seen people use
21 the decision of the Development Review Committee as
22 an approval, as opposed to just --

23 MR. RIEL: They don't make a decision. They
24 do not make a decision.

25 MS. KEON: Right, that it's only a

1 recommendation as to compliance.

2 MR. RIEL: It's a technical advisory
3 committee that basically makes a recommendation to
4 the department head who has the authority or is the
5 secretary of the board.

6 For instance, on applications, site plans
7 that come before this Board, the DRC will review it,
8 and that recommendation comes to me, and then I
9 utilize it as a part of --

10 MS. KEON: Okay.

11 MR. RIEL: -- the evaluation and my
12 recommendation to you all.

13 MS. KEON: Right. But I think that that
14 needs to be stated --

15 MR. KORGE: Right.

16 MS. KEON: -- that that's exactly what they
17 are, and that it's not approval or whatever.

18 MR. RIEL: There is an eight-page ordinance
19 that does that, as well.

20 MS. KEON: Right, but you just said very
21 succinctly what they do, and I think it should be
22 more than -- you know, because it makes that review
23 committee sound as though it is an approval, and it's
24 not an approval.

25 MR. KORGE: Yes.

1 MR. RIEL: Maybe removing the word
2 "approval" in there, because as you note, it says,
3 "to provide technical advice on applications."

4 CHAIRWOMAN MORENO: That's fine.

5 MR. AIZENSTAT: I feel it's a very nice
6 committee, because it actually gives the opportunity
7 for all the interested departments to meet --

8 MS. KEON: Right.

9 MR. AIZENSTAT: -- and voice their
10 opinions.

11 MS. KEON: Right, but it's a technical
12 review that says that --

13 MR. AIZENSTAT: Right.

14 MS. KEON: -- it is either in compliance or
15 out of compliance, it meets or doesn't meet. It's
16 not an approval, and I think that should be clearly
17 stated.

18 MR. AIZENSTAT: Now, would that mean if --

19 CHAIRWOMAN MORENO: I think that that is not
20 the intent of the language, but I agree it's unclear.
21 I think that's defining the type of application --

22 MS. KEON: Right, but I think it's --

23 CHAIRWOMAN MORENO: -- as opposed to saying
24 that it's giving approval, but --

25 MS. KEON: Right, but I think it's important

1 that it really clearly communicate what its function
2 is, so that --

3 MR. AIZENSTAT: How is --

4 MR. RIEL: It --

5 MR. AIZENSTAT: I'm sorry, go ahead.

6 MR. RIEL: Go ahead.

7 MR. AIZENSTAT: How does that committee
8 work? For example, when all these departments, the
9 fire marshall and so forth, get together to review a
10 plan, do they have to all agree in order for that to
11 move forward, or can some have objections and then if
12 they do have objections, do those objections or that
13 criteria have to be met before it moves forward?

14 MR. RIEL: It's actually -- just to kind of
15 give you an example, what happens is, it's somewhat
16 formal. An applicant will come in. We get the plans
17 10 days in advance. We actually -- the DRC committee
18 members have a pre-meeting, where we meet and discuss
19 issues. Comments are provided in writing to the DRC
20 coordinator. They put it all together and then the
21 applicant comes to the DRC meeting, they do a
22 presentation, and then we just basically go down the
23 line. Each department asks questions. They either
24 submit their comments or they provide additional
25 comments, and those are then put together and

1 provided to the applicant. There's minutes of the
2 meeting, and it's fairly -- it's fairly formalized.

3 And then, for instance, the Planning
4 Department, we always provide written comments and
5 then we suggest that, you know, you meet with the
6 department to explain them in a little bit more
7 detail, rather than --

8 MS. KEON: I understand that, but I think
9 when -- like Michael brought up the issue of alley
10 vacations and things like that, the vacating of
11 alleys and whatever. Those things usually -- that
12 type of thing, closing of streets and whatever,
13 doesn't that go to this Development --

14 MR. RIEL: That would go to the DRC.

15 MS. KEON: See, it goes to them, and what
16 they're doing is giving you -- technically, they
17 review it, to say either it does not affect our
18 ability -- the police response, it doesn't affect our
19 ability to -- for fire response, it doesn't affect
20 this, it doesn't affect that, and if, you know,
21 someone makes a comment that it does, will affect it,
22 they comment that it will affect it, but it's not an
23 approval. It doesn't say -- it's an information-
24 gathering body that provides technical information
25 for -- that moves forward for the approval of a

1 process.

2 MR. KORGE: It's not denial, either.

3 MS. KEON: No, it's not. It's neither
4 approval or a denial. It is --

5 MR. RIEL: Correct.

6 MS. KEON: It gathers technical information
7 to be used in the denial or approval process, but it
8 doesn't do either, and I think too often it is the --
9 what comes out of there is dealt --

10 MR. RIEL: There's a statement read at the
11 beginning of the meeting that pretty much clarifies
12 that this is just a technical review.

13 MS. KEON: Okay, and I think that that
14 should be reflected --

15 MR. KORGE: Right.

16 MS. KEON: -- in the document.

17 MR. STEFFENS: But I think what Eibi is
18 asking is, if there's negative comments --

19 MR. AIZENSTAT: Right.

20 MR. STEFFENS: -- they're not then
21 readdressed at that panel. You get your negative
22 comments --

23 MR. AIZENSTAT: Exactly. What happens to
24 those negative comments?

25 MR. STEFFENS: You get your negative

1 comments and you can sit down with those individuals
2 and address them.

3 MR. AIZENSTAT: You work it out?

4 MR. RIEL: Yes.

5 MR. AIZENSTAT: You try to work it out so
6 you have positive feedback --

7 MR. RIEL: For instance, if there's negative
8 comments on --

9 MR. STEFFENS: No, you don't come back to
10 that -- you don't come --

11 MR. RIEL: You can.

12 MR. STEFFENS: You can.

13 MR. STEFFENS: I've asked -- I can tell you
14 on three times I've sat up there, I said, "There's
15 not enough information for me to make a judgment. I
16 would like to see the plans redrawn with the Fire
17 Department's comments included, and I'd like for you
18 to come back," and they've come back.

19 MS. KEON: Right, but that's because there's
20 not enough information. Even at the end, when all of
21 the information is there and the Fire Department
22 makes a comment, and maybe there's -- for whatever
23 reason, they may determine that it will affect their
24 response time, that's -- that is included in the
25 document from the Development Review Committee, but

1 it's not resolved. It's just stated.

2 MR. STEFFENS: Right. You could --

3 MS. KEON: Is that right?

4 MR. STEFFENS: You could theoretically take
5 a large group of negative comments and leave and
6 never come back to the Development Review
7 Committee --

8 MS. KEON: That's right.

9 MR. STEFFENS: -- develop your project --

10 MR. RIEL: Yeah, but you've got to
11 understand, the Building official is charged to
12 enforce the Building Code. The Fire Department is
13 charged with the Life Safety Code. So --

14 MR. STEFFENS: No, I'm not saying --

15 MR. RIEL: There's two levels of DRC, too.
16 There's also kind of the more department and then
17 there's a technical review, which the Building
18 official sits on, the fire marshall, and things of
19 that sort --

20 MS. KEON: Right.

21 MR. RIEL: -- so there's two levels of
22 review. So you come through the first level and then
23 you go to the second level. So you have to get
24 through one to go to two.

25 MS. KEON: Right. I just wanted to address

1 the --

2 MR. STEFFENS: I'm not saying that you don't
3 have to address those issues. I'm saying you don't
4 necessarily need to address them with the Development
5 Review Committee, unless they specifically ask you,
6 like you would, to come back with something--

7 MR. RIEL: That recommendation --

8 MR. STEFFENS: You take their negative
9 comments and go and sit down with the individual --

10 MR. RIEL: Right.

11 MR. STEFFENS: -- fire marshall or the
12 police or whoever, and say, "How can I work this out
13 on the project," and then submit the project to the
14 Building Department later for full review.

15 MS. KEON: Okay, so it's the technical and
16 it's information-gathering.

17 MR. KORGE: Should I try some language?

18 MS. KEON: Go ahead.

19 MR. KORGE: Move to approve with --

20 MR. RIEL: I would say subject to the
21 actual -- or the provisions that are contained within
22 the DRC Ordinance, because it's very --

23 MR. KORGE: Pardon me?

24 MR. RIEL: There's a DRC Ordinance that has
25 been enacted by the Commission.

1 MS. KEON: But I think it's important that
2 it be included here, under powers and duties, like
3 you have on the --

4 MR. RIEL: That's fine. I'm saying, just --

5 MS. KEON: Okay.

6 MR. RIEL: Whatever those provisions are,
7 extract those and put those in.

8 MR. KORGE: Okay. So that's what -- instead
9 of Section 2-801, we'll insert the language from the
10 ordinance?

11 MR. RIEL: Yes.

12 MS. KEON: Right.

13 MR. KORGE: Okay, and then Section 2-802,
14 I'd like to clarify at the end that the other persons
15 who may be necessary or helpful -- or is it just
16 necessary?

17 MR. SIEMON: The City Manager determines to
18 be.

19 MR. KORGE: Yeah, to be determined by the
20 City Manager, however you want to phrase it. So I
21 approve with those -- a motion to approve with those
22 changes.

23 CHAIRWOMAN MORENO: Do I have a second?

24 MS. KEON: I'll second it.

25 CHAIRWOMAN MORENO: Okay. Call the roll,

1 please.

2 MS. MENENDEZ-DURAN: Tom Korge?

3 MR. KORGE: Yes.

4 MS. MENENDEZ-DURAN: Bill Mayville?

5 MR. MAYVILLE: Yes.

6 MS. MENENDEZ-DURAN: Michael Tein?

7 MR. TEIN: Yes.

8 MS. MENENDEZ-DURAN: Michael Steffens?

9 MR. STEFFENS: Yes.

10 MS. MENENDEZ-DURAN: Eibi Aizenstat?

11 MR. AIZENSTAT: Yes.

12 MS. MENENDEZ-DURAN: Pat Keon?

13 MS. KEON: Yes.

14 MS. MENENDEZ-DURAN: Cristina Moreno?

15 CHAIRWOMAN MORENO: Yes. Let's take a
16 five-minute break before we start on Article 4.

17 (Thereupon, a recess was taken, during
18 which Mr. Mayville left the meeting.)

19 CHAIRWOMAN MORENO: The members of the
20 audience that would like to speak, you need to give
21 your name and address to Jill, and then I'll call on
22 you, and I'm going to take you out of order so the
23 rest of you don't have to be here as long as we are.

24 MR. SIEMON: The first article of the --
25 We're going through a limited number of the districts

1 in Division 2, Overlay and Special Purpose Districts,
2 and then the Commercial Districts.

3 The first is the -- Section 4-201 is the
4 Mixed-Use District. This is, for all practical
5 purposes, the overlay that previously existed that
6 will be transformed into a mapped district and it
7 will be mapped over the lands previously approved,
8 and potentially some additional land which is
9 currently zoned industrial, but is anticipated or is
10 in the process of being reviewed under these basic
11 criteria.

12 And we have, that is, our firm, has really
13 done only one, other than editorial items, the -- we
14 brought the regulations for live-work units into the
15 mainstream and out of a section called Supplemental
16 Standards which there was -- it was just accumulated
17 individually, but the standards are, by and large,
18 the same, and there is -- there are some -- other
19 than that, there are some provisions that have been
20 edited, working with Staff, on excluding
21 drive-through facilities in the district as a
22 permitted use.

23 CHAIRWOMAN MORENO: You have to do that.

24 MR. SIEMON: And some limitations on the
25 consolidation of the districts to reflect that we've

1 eliminated the CA, CB and CC districts and replaced
2 them with CL and C, and then some consolidation of
3 the heights of architectural -- and uniformity of the
4 heights of architectural elements above other parts
5 of the buildings, and then some consolidation on the
6 setbacks on the bottom of Page 4 of 16, but other
7 than that, this is basically your mixed-use
8 provisions as they have previously been established.

9 MR. AIZENSTAT: Did you -- am I correct in
10 assuming that you went ahead and moved restaurants
11 and fast food from a major conditional use to a minor
12 conditional use?

13 MR. SIEMON: Yes.

14 MR. AIZENSTAT: And what was the reason for
15 that?

16 MR. SIEMON: It was a recommendation that we
17 received from --

18 Do you remember who?

19 MR. RIEL: I'm sorry, I was --

20 MR. SIEMON: Restaurants and fast food.
21 Restaurants/fast food went from a --

22 MR. AIZENSTAT: Major conditional use.

23 MR. SIEMON: -- major to minor conditional
24 use.

25 MR. RIEL: I can't recall.

1 MR. KORGE: Were nighttime uses major or
2 minor, or were they always minor?

3 MR. SIEMON: They're minor in the mixed-use
4 district.

5 MR. KORGE: Were they before? The one we
6 did -- we approved for -- across from The
7 Collection? This is based on the one we already
8 approved, right?

9 MR. RIEL: We didn't have nighttime
10 provisions at the time when mixed-use provisions were
11 adopted.

12 MR. STEFFENS: We didn't have --

13 MR. SIEMON: It was not called out as a
14 separate use.

15 MR. RIEL: It was not called out as a
16 separate --

17 MR. STEFFENS: We didn't have minor and
18 major when we did --

19 MR. SIEMON: When we did conditional uses
20 before, either.

21 MR. RIEL: Correct.

22 MR. STEFFENS: We just had uses.

23 CHAIRWOMAN MORENO: Okay, so let's look at
24 those now and see if we agree with what's been said.

25 MR. AIZENSTAT: But it appears to me

1 that -- so restaurants were all just under uses,
2 period?

3 MR. STEFFENS: All of these things were just
4 under uses.

5 MR. AIZENSTAT: And now they're being put
6 into two. But why is there a strike-through, then,
7 when it was under major? Was that one more place of
8 it?

9 MR. SIEMON: The original draft,
10 restaurants, fast food with drive-through only,
11 were --

12 MR. RIEL: Oh, I see.

13 MR. SIEMON: -- listed as a major
14 conditional use, and I can't honestly -- but we got a
15 comment back at somewhere along the process which
16 recommended that it be changed to a minor conditional
17 use, and we made that change. No, we just -- that's
18 not true. We eliminated the drive-through. There
19 was a recommendation that we eliminate drive-throughs
20 in this district.

21 MR. RIEL: Yes.

22 MR. AIZENSTAT: So, if a restaurant wants to
23 have a drive-through, it would go under major
24 conditional use?

25 MR. SIEMON: No, they would not be -- it's

1 not --

2 MR. RIEL: It would not be permitted.

3 MR. SIEMON: No drive-throughs.

4 MR. AIZENSTAT: It would not be permitted?

5 MR. RIEL: No drive-throughs.

6 MR. SIEMON: No drive-throughs --

7 MR. AIZENSTAT: Okay.

8 MR. SIEMON: -- period.

9 MR. STEFFENS: Did you do that for me?

10 MR. SIEMON: I don't know.

11 MR. RIEL: I don't know. Is --

12 CHAIRWOMAN MORENO: That was my immediate

13 reaction.

14 MR. KORGE: That's what I was thinking.

15 MR. RIEL: Yeah.

16 MR. SIEMON: You'll take credit for it?

17 MR. RIEL: No, Michael will take credit for

18 it. No, actually, it was a recommendation from the

19 Department, because we did have some requests for

20 drive-throughs, and we just felt, as you had

21 indicated in the past, that it does cause for

22 additional driveways and curb cuts, and the intent of

23 the mixed-use was to try to encourage pedestrian

24 activity and we felt it degraded from that ability,

25 so --

1 MR. AIZENSTAT: What happens to other
2 drive-throughs that are not associated with
3 restaurants?

4 MR. RIEL: Like a drive-through for a dry
5 cleaner, a bank? Yes, that's -- we took into
6 consideration those, as well.

7 CHAIRWOMAN MORENO: We've taken those out,
8 as well, because I see --

9 MR. RIEL: Yes.

10 CHAIRWOMAN MORENO: Yeah.

11 MR. RIEL: No drive-throughs at all.

12 MR. AIZENSTAT: Okay.

13 MS. KEON: Do you allow valet parking in
14 those things, too, for restaurants?

15 MR. STEFFENS: Valet parking is not a
16 drive-through.

17 MS. KEON: No, but, you know, they do
18 promote pedestrian --

19 MR. RIEL: Valet parking in the --

20 CHAIRWOMAN MORENO: Restaurants. There's
21 restaurants in that area.

22 MR. RIEL: -- private parking or on the
23 street?

24 MS. KEON: On the street.

25 MR. RIEL: We don't regulate -- These

1 provisions don't regulate on the street. This only
2 regulates what happens on private property.

3 CHAIRWOMAN MORENO: Eric, what made you call
4 something out as a minor conditional use or a major
5 conditional -- well, the majors I can see, because
6 they're all big, but why, for example -- and this is
7 just the mixed-use area, right? But why an assisted
8 living facility? Why is that a minor conditional
9 use, which I thought was meant to be technical type
10 considerations.

11 MR. RIEL: I can't recall. I just -- I
12 can't -- Charlie, correct me if I'm wrong. Did we --
13 We were also thinking of assigning this MU district
14 elsewhere within the City, not just in the industrial
15 section, that's why.

16 MR. SIEMON: That it might at some time --

17 MR. RIEL: It might at some time be assigned
18 to another area. That's why.

19 MR. SIEMON: But I think the reason was,
20 these had particular characteristics that we thought
21 ought to have some -- should not be permitted as of
22 right.

23 CHAIRWOMAN MORENO: Well, I mean, the
24 question I have is not so much whether it should be
25 permitted as of right or not, because I can see that

1 these are all traffic-intensive type uses. But why
2 is it minor and not major? You know, what moved it
3 from minor -- Let me rephrase myself.

4 I had understood that you were going to call
5 minor conditional uses the types of things that were
6 very technical, professional decisions, as opposed
7 to, some of these are really the kinds of things that
8 the public objects to because they impact them as to
9 traffic and parking.

10 MR. SIEMON: The reason is that they're in a
11 mixed-use district, which is anticipated to be a very
12 urban, very intense district.

13 CHAIRWOMAN MORENO: Uh-huh. But what
14 technical approval is required for these things that
15 would make it -- See, to me it should either be
16 major -- these types of what you have here, the types
17 of things that you have here, to me, should either be
18 permitted as of right or a major conditional use, but
19 not a minor, because there's no technical approval,
20 as I would see, for example, for a drive-through, you
21 know, where --

22 MR. STEFFENS: I think you could say that it
23 could be a minor conditional use, so it has some
24 other level of review, unless it's adjacent to
25 single-family residential.

1 CHAIRWOMAN MORENO: Well, this is mixed-use,
2 so it wouldn't be.

3 MR. STEFFENS: Yeah, it would. Well,
4 almost. I mean, it's on Bird Road. You have it
5 adjacent to duplexes --

6 MR. AIZENSTAT: Right.

7 MR. STEFFENS: -- which, I mean, I think
8 that -- well, how are duplexes classified now? What
9 would they fall under?

10 MR. SIEMON: Under your Comprehensive Plan,
11 duplexes are --

12 CHAIRWOMAN MORENO: Multi-family.

13 MR. SIEMON: -- multi-family. Ironically,
14 townhouses are single-family.

15 MR. STEFFENS: Are they medium-density or
16 low-density? Are they low-density or medium-density?
17 Is there some --

18 MR. SIEMON: Low-density.

19 MR. STEFFENS: Low-density? So maybe we say
20 low-density, multi-family or single-family.

21 CHAIRWOMAN MORENO: No, see, the problem I
22 have is, for example, a restaurant. Every project
23 we've seen in this Board that's mixed use had a
24 restaurant component on the ground floor. So why are
25 we making that a minor conditional use as opposed to

1 a permitted use? Is there a reason? Is there a
2 technical --

3 MR. SIEMON: It's only fast-food
4 restaurants.

5 CHAIRWOMAN MORENO: No, it says restaurants.

6 MR. STEFFENS: Restaurants, comma, fast
7 food.

8 CHAIRWOMAN MORENO: Is it only fast food?
9 That's not the way I read it.

10 MR. KORGE: I didn't, either.

11 CHAIRWOMAN MORENO: I thought it --

12 MS. KEON: It should fast-food restaurants.

13 MR. SIEMON: The way it's defined, I mean,
14 that's the term of art --

15 MR. RIEL: Yes.

16 MR. SIEMON: -- that's been used in the Code
17 before. I mean, I agree with you that that could be
18 misread.

19 CHAIRWOMAN MORENO: I want to call that
20 fast-food restaurants, because to me that means, you
21 know, a Houstons could be -- would fall under that.

22 MR. RIEL: We have a definition of what a
23 fast-food restaurant is. It's basically plastic
24 utensils, things of that sort.

25 CHAIRWOMAN MORENO: I know, but the way that

1 this is written, restaurants, comma, fast food --

2 MR. RIEL: If we do that change, we're
3 going to have to change all the definitions, because
4 when people go look at restaurant, there's
5 restaurant, fast food -- I mean, I'm just trying to
6 think of some other uses that might have -- there's
7 different types of restaurant, different levels, and
8 that's why we put the word restaurant in there.

9 CHAIRWOMAN MORENO: Okay, then do me a
10 favor. Up where it says permitted uses, put
11 parentheses, "except fast-food restaurants."

12 MR. TEIN: Where?

13 CHAIRWOMAN MORENO: In b, Line 25.

14 MR. KORGE: Restaurants, except restaurants,
15 fast food.

16 CHAIRWOMAN MORENO: Uh-huh.

17 MR. AIZENSTAT: Why?

18 CHAIRWOMAN MORENO: Those are permitted
19 uses, as of right. Then that makes clear that the
20 one that's below, the minor conditional use, is just
21 the restaurants, fast food.

22 MR. AIZENSTAT: Are you saying, the same way
23 that they put "except for drive-through facilities,"
24 under Accessory Uses?

25 CHAIRWOMAN MORENO: Right.

1 MR. SIEMON: Well, Eric, we'll just put --
2 in the definitions, we'll put "Restaurant, fast
3 food -- see fast-food restaurant."

4 MR. RIEL: Okay. Charlie, let me ask you a
5 question. Permitted uses and minor conditional uses,
6 we have been talking about minor conditional uses
7 being an administrative review. What's the
8 difference between a permitted and a minor?

9 MR. SIEMON: There's some discretionary
10 standards that apply.

11 MR. RIEL: Okay, there would be
12 discretionary standards that are different between
13 permitted and minor?

14 MR. SIEMON: Yeah.

15 MR. RIEL: Okay.

16 MR. SIEMON: And, you know, this was --
17 actually emerged working with the group, sitting
18 around a table, going through, and this is the
19 allocation that I think was largely born out of
20 experience, where there were problems that had been
21 experienced in projects.

22 CHAIRWOMAN MORENO: Okay, but let's say you
23 take a day care and you make it a minor conditional
24 use. What's the standard of review for that?

25 MR. SIEMON: There's -- in the Article 3 are

1 a series of conditional use standards that have to be
2 considered, and they would be applied here.

3 MR. RIEL: There's -- all of these have
4 special regulations. The only exception I would
5 probably say would be utility infrastructure
6 facilities. There's a separate section that has a
7 whole list of provisions that they need to adhere
8 to. It's in the supplemental regulation section.

9 MR. STEFFENS: Is there a possibility that
10 this zoning district might be applied to some areas
11 in the CBD?

12 MR. RIEL: As a part of this rewrite
13 process, in the CBD? I would probably say no.

14 MR. STEFFENS: But sometime in the future?

15 MR. RIEL: I would -- This could be used in
16 the North Ponce area.

17 MR. STEFFENS: Because there's areas in
18 North Ponce that are adjacent to single-family
19 residential.

20 MR. RIEL: Not really. Most of the --

21 MR. STEFFENS: On LeJeune.

22 MR. RIEL: On LeJeune, yes. But for the
23 most part, commercial land uses are adjacent to
24 apartment/multi-family uses, more intense.

25 MR. SIEMON: At least in the study area.

1 MR. RIEL: Yeah.

2 CHAIRWOMAN MORENO: Okay, let's go back to
3 this. You're telling me that somewhere in the Code,
4 there's a definition for the standards that apply to
5 an assisted living facility?

6 MR. RIEL: Yes.

7 CHAIRWOMAN MORENO: And that the minor
8 conditional use will just be to say this facility
9 that you're proposing meets or doesn't meet those
10 standards?

11 MR. RIEL: There's minor conditional use
12 criterion standards that need to be satisfied to
13 grant the approval, and then there's a set of
14 regulations that deals with, for instance -- on ALF,
15 for instance, they're not required the typical
16 parking requirements. There's a set of provisions
17 that provide, in more detail, specific regulations
18 for that use.

19 CHAIRWOMAN MORENO: Okay, but who's going to
20 make the decision on the minor conditional use?
21 Wasn't that the City Architect?

22 MR. KORGE: The DRO.

23 CHAIRWOMAN MORENO: Oh, the DRO.

24 MR. RIEL: The DRO.

25 CHAIRWOMAN MORENO: The DRO?

1 MR. SIEMON: The DRO.

2 CHAIRWOMAN MORENO: Okay, and what is he
3 going to be looking at, to decide whether an assisted
4 living facility can go in a mixed-use project?

5 MR. RIEL: The minor conditional use
6 criteria.

7 CHAIRWOMAN MORENO: Which are what?

8 MR. SIEMON: In Article 3.

9 MR. RIEL: Article 3.

10 CHAIRWOMAN MORENO: But which are what?
11 What are they?

12 MR. KORGE: Article 3 --

13 MR. SIEMON: Consistent with the Land Use
14 Comp Plan; application complies with the district
15 regulations; the application is consistent with the
16 applicable development standards -- those are the
17 specific standards which are described -- and which
18 incorporates the streetscape character of adjoining
19 properties. The proposed use is compatible with the
20 nature and condition and development of adjacent
21 uses, buildings and structures, which will not
22 adversely affect adjacent uses. It's a determination
23 that the particular parcel proposed for development
24 is adequate in size and shape to accommodate all the
25 development features; will have a minimal adverse

1 impact on livability, value and development of
2 abutting properties. The nature of the proposed
3 development is not detrimental to the health, safety
4 and welfare. Collection of solid waste from the
5 parcel shall be minimized from interference with the
6 use of adjacent property or traffic circulation; and
7 that the design of the proposed driveways,
8 circulation patterns and parking is well defined to
9 promote vehicular and pedestrian circulation. Those
10 standards would apply.

11 CHAIRWOMAN MORENO: All right. So those
12 standards would apply to everything, and then in
13 addition, they would decide that this meets the
14 specific requirements for each of these, and all of
15 these except utility infrastructure have other
16 specific requirements.

17 MR. SIEMON: That's correct.

18 CHAIRWOMAN MORENO: Okay. The major
19 conditional uses come before us, and these are
20 because they're more -- greater impact right?

21 MR. SIEMON: Correct.

22 MR. STEFFENS: What is a camp?

23 MR. RIEL: "Academic or recreational
24 programs intended for participation by children
25 between the ages of five and 18 years. Such programs

1 may be multidisciplinary and may include, but not
2 limited to, a combination of academic, athletic and
3 recreational activities, but does not include
4 overnight stays."

5 MR. STEFFENS: Does not include --

6 MR. RIEL: Overnight stays.

7 MR. AIZENSTAT: Could they be seasonal
8 camps, also, for example --

9 MR. RIEL: Yes.

10 MR. AIZENSTAT: -- if an institution that's
11 already there decides to have a summer program or a
12 spring break program?

13 MR. RIEL: Yes.

14 MR. STEFFENS: Or if a shop has -- if it's
15 an art shop and they want to have --

16 CHAIRWOMAN MORENO: An art class.

17 MR. STEFFENS: -- art classes during the
18 summer, that's a camp?

19 MR. RIEL: It's for children five to 18
20 years.

21 CHAIRWOMAN MORENO: Okay. There's two
22 things here that I don't see how they go in the mixed
23 use, planned area development and public
24 transportation facility. What does that have to do
25 with mixed-use districts?

1 MS. KEON: The bus depot.

2 MR. RIEL: Well, mixed use is a zoning
3 classification, so the process --

4 CHAIRWOMAN MORENO: Could you put a planned
5 area development in a mixed-use district?

6 MR. RIEL: Yes.

7 MR. SIEMON: Yes.

8 CHAIRWOMAN MORENO: Okay. Then that's my
9 answer. And can you put a public transportation
10 facility in a mixed-use district?

11 MR. SIEMON: Yes.

12 MR. RIEL: Subject to -- yes.

13 MR. SIEMON: As a major conditional use.

14 CHAIRWOMAN MORENO: Okay. Then I have been
15 answered my question.

16 MS. KEON: I have one question, also.

17 What's the difference between -- or is there
18 a difference between day care and pre-school, or are
19 they one and the same?

20 MR. RIEL: Day care is a facility operated
21 for the purpose of providing care, supervision and
22 guidance of six or more individuals during a part of
23 a 24-hour day. And the other one was, I'm sorry?

24 MS. KEON: A pre-school.

25 MR. RIEL: A pre-school.

1 MS. KEON: Would pre-school come under the
2 definition of day care?

3 MR. RIEL: I think that comes under the
4 definition of a school.

5 MR. SIEMON: I think it comes under schools.

6 MS. KEON: A school?

7 MR. RIEL: Yeah, I don't think we have a
8 definition of pre-school.

9 MS. KEON: Well, like in a lot of religious
10 institutions that are permitted uses, they have -- a
11 lot of them have pre-schools. Is that permitted?

12 MR. RIEL: It's considered a school.

13 MS. KEON: Okay, and so what happens with
14 that? Does that have a place in here, or no?

15 MR. SIEMON: I think --

16 MS. KEON: I don't see schools.

17 MR. RIEL: Schools, elementary and middle,
18 high school or exceptional learning center.

19 MR. KORGE: Would they be permitted in all
20 the mixed-use districts?

21 CHAIRWOMAN MORENO: Yeah, I think what Pat
22 is saying is, religious institutions frequently have
23 pre-schools, so by including as a permitted use the
24 religious institution, are we automatically including
25 their pre-school?

1 MR. RIEL: Is it an accessory use?

2 MR. SIEMON: Religious institution means a
3 church, synagogue, temple, mosque or other place of
4 religious worship, including any accessory use or
5 structure, such as an administrative facility, a
6 school, day care center or dwelling.

7 MS. KEON: Okay.

8 MR. AIZENSTAT: So it's covered under that.

9 MS. KEON: Okay, so it's covered.

10 Now, would a pre-school -- if you had
11 established a pre-school that -- would it be the same
12 as a day care? I mean, if it was separate from a --

13 MR. RIEL: As a principal use, as its only
14 use, sole use?

15 MS. KEON: Yeah, as a pre-school.

16 MR. RIEL: It would be considered a school.

17 MS. KEON: It would be a school?

18 MR. KORGE: And they're not permitted in a
19 mixed-use district.

20 MS. KEON: Is there any reason why a
21 pre-school shouldn't be allowed to be used in the
22 mixed-use district?

23 MR. KORGE: Or schools, for that matter.

24 CHAIRWOMAN MORENO: They could have a
25 charter school.

1 MS. KEON: A charter school, yeah. I think
2 schools should be within walking distance.

3 MR. RIEL: Let's see what Charlie comes up
4 with here.

5 MS. KEON: He's hoping it's in that book.

6 MR. SIEMON: I don't think pre-schools are
7 treated at all, pre-schools or kindergartens.

8 MS. KEON: Okay. I think they should be,
9 because -- is there a benefit to not having them
10 addressed at all, or is it a benefit to have them
11 addressed?

12 MR. SIEMON: I don't think so, but let me
13 just look at one thing here.

14 MR. KORGE: I wonder what else we're leaving
15 out.

16 MS. KEON: Donut shops. No.

17 MR. RIEL: The way I read it, a pre-school
18 is a day care.

19 MS. KEON: Well, you said it wasn't. You
20 said it's a school.

21 MR. RIEL: Well, it's --

22 CHAIRWOMAN MORENO: To me, pre-school is not
23 a day care.

24 MS. KEON: No, it isn't. It's a different
25 thing, pre-school and day care.

1 CHAIRWOMAN MORENO: Yeah. Day care is
2 babysitting.

3 MS. KEON: It's custodial.

4 CHAIRWOMAN MORENO: Yeah.

5 MS. KEON: It's custodial.

6 MR. RIEL: But you could be babysitting --

7 MS. KEON: But, you know, there's also, you
8 know, the --

9 MR. RIEL: -- older adults.

10 MS. KEON: Right, but there's new laws on
11 the books with regard to pre-schools and everything
12 else, that you can have -- you know, that you can use
13 the vouchers, so you may have the development of
14 pre-schools for those reasons.

15 MR. KORGE: Do we want -- Who wants schools
16 in the mixed-use district? That's the question.

17 MR. RIEL: Let us look at it. Let us go
18 through -- let us go ahead and look at it.

19 CHAIRWOMAN MORENO: I would like to see
20 schools in the mixed-use districts.

21 MS. KEON: I think that --

22 MR. RIEL: Schools?

23 MS. KEON: Schools.

24 MR. RIEL: Okay, now, are you talking about
25 a private school or a public school?

1 MR. KORGE: Any school.

2 MR. RIEL: Any school?

3 MS. KEON: Well, public schools can
4 locate -- you don't have -- can you regulate where
5 pre-schools are placed -- where public schools are
6 located?

7 MR. RIEL: Absolutely. Oh, yeah, a
8 change -- we can regulate land use and zoning
9 relative to schools.

10 MS. KEON: I thought schools were excepted
11 from that.

12 MR. RIEL: We can on land use and zoning
13 matters.

14 MS. KEON: (Inaudible).

15 MR. RIEL: No. We have the authority on
16 land use and zoning changes.

17 MS. KEON: Okay.

18 MR. KORGE: The School Board can't just go
19 buy land anywhere and put a school up.

20 MS. KEON: You know what? I think the
21 School Board has far more authority than we think
22 they have.

23 MR. RIEL: They do. They do, but we only
24 have authority --

25 MR. KORGE: They could buy my house and just

1 put a school there?

2 MR. RIEL: But they've got to change the
3 land use and zoning. That's why we have the
4 authority.

5 MR. KORGE: Yeah.

6 MS. KEON: But I think there's more for
7 zoning. I think they have much more authority
8 than --

9 MR. RIEL: Yes, they do.

10 MS. KEON: -- you would think that they
11 would or they do about these things.

12 CHAIRWOMAN MORENO: Okay, look into
13 pre-schools and whether we can put limitations on
14 certain --

15 MS. KEON: I think all kinds of schools
16 should be considered.

17 MR. SIEMON: Well, there are two issues, two
18 issues here. One is including schools in the
19 mixed-use district, and the second is, you've raised
20 that there is no -- I don't believe that pre-school
21 falls under anything that we currently have
22 enumerated.

23 CHAIRWOMAN MORENO: Well, it falls under
24 religious institutions, because she just read it.

25 MR. RIEL: It's as an accessory use.

1 MR. SIEMON: Well, as an accessory use. But
2 as a principal use, I don't --

3 MR. RIEL: Principal use, yeah.

4 MS. KEON: What is a principal use?

5 MR. SIEMON: I do not believe that it's
6 addressed in this.

7 MS. KEON: I think when the Code was
8 initially written --

9 CHAIRWOMAN MORENO: Is Riviera Day School --

10 MR. SIEMON: It's not currently addressed.

11 CHAIRWOMAN MORENO: Is Riviera Day School a
12 full school or just a pre-school?

13 MR. RIEL: I don't know.

14 MS. KEON: It goes up to middle school,
15 right? It goes through eighth grade? No. I think
16 to -- eighth grade, I think it goes to. It has a
17 middle school, so I think it goes through eighth
18 grade, but I don't think it goes beyond eighth grade.

19 MR. RIEL: We'll look into schools and then
20 we'll look into the pre-school.

21 MS. KEON: Okay, and you'll look at, like,
22 all the classifications of schools. Okay.

23 MR. KORGE: Which raises the next question.
24 Since schools are not in here, and maybe should be,
25 what else do we -- what else is not in here that

1 maybe should be? I mean, I don't have in my mind
2 every single potential use.

3 MR. RIEL: I think what had happened is,
4 when we started talking about this mixed-use
5 district, we were thinking of the industrial area,
6 which has the only mixed-use designation at this
7 time.

8 CHAIRWOMAN MORENO: But, see, one use that
9 you don't have here that exists in that industrial
10 area is theater.

11 MR. RIEL: And I think we're on the verge of
12 recommending possibly other mixed-use districts --

13 MS. KEON: Right.

14 MR. RIEL: -- in the City, and I think that
15 will probably come out of the North Ponce area. So I
16 think, by going through the exercise with the North
17 Ponce, I think we need to go back and look at this
18 and maybe look at the uses --

19 MS. KEON: Well, there isn't --

20 MR. RIEL: -- and maybe come up with a
21 Mixed-Use 1 and a 2. I don't know. You know, maybe
22 different versions.

23 MS. KEON: Well, there is a school that
24 exists in the North Ponce.

25 MR. RIEL: Correct. Right. But that's

1 assigned a --

2 MS. KEON: Right, as a public school.

3 MR. RIEL: As a public land use and whatever
4 the zoning is.

5 MS. KEON: Right.

6 MR. RIEL: That's something --

7 MR. SIEMON: It's within indoor
8 entertainment and recreation, the theaters.

9 CHAIRWOMAN MORENO: And do we have it here?

10 MR. SIEMON: Yes.

11 CHAIRWOMAN MORENO: Okay.

12 MR. RIEL: Because, remember, we went from
13 350 use qualifications to about 48, so that's why.
14 When we went through the definitions, we did a lot of
15 cross-checking in terms of making sure that those 350
16 fit somewhere into those 48.

17 MR. SIEMON: But what we may not have done,
18 and I think pre-schools just reveals --

19 MR. RIEL: Right.

20 MR. SIEMON: -- if it wasn't treated at all,
21 it may have, therefore, not gotten --

22 MS. KEON: I don't think it was -- I don't
23 think there were a lot of pre-schools.

24 MR. RIEL: Right. If it wasn't identified
25 previously.

1 MR. SIEMON: If it wasn't identified before,
2 we probably didn't consolidate it in this Code.

3 CHAIRWOMAN MORENO: The only ones were
4 religious-based.

5 MS. KEON: I didn't think there were
6 pre-schools. I mean, kids were like -- it was more
7 in regard to like kindergarten.

8 CHAIRWOMAN MORENO: Okay, before we
9 continue, I forgot that I had said I was going to
10 take the members of the public, and I know there's
11 two gentlemen that want to speak.

12 MR. SIEMON: Okay.

13 CHAIRWOMAN MORENO: So, if I could take them
14 now -- Do you want to go ahead and come up?

15 (Thereupon, Sanford I. Rakofsky, M.D. was
16 duly sworn by the court reporter.)

17 DR. RAKOFSKY: I'm Dr. Rakofsky. I own the
18 building right across the street, the 401 Building,
19 on the corner of LeJeune and Coral Way, the
20 four-story building.

21 The reason I'm here -- I made a copy of a
22 letter I sent to Eric about my concern about the
23 definition of a medical clinic. I've been in
24 practice -- I'm an ophthalmologist. I've been there
25 for about 33 years, and I one day would like to take

1 on a junior associate. That's two doctors in an
2 office, and there are many doctors in my building and
3 even the rest of Coral Gables that have at least two
4 doctors, dentists and so forth.

5 Now, with the present Code, there's no
6 problem. I go down to Dennis and I say, "I want to
7 take in a doctor as a partner," and he just gives
8 me -- I pay the fee and we get another license.

9 With the new Code, it falls under the
10 medical clinic. Medical clinic means two or more
11 doctors, immediately, and I think that's going to be
12 a major problem, because all of a sudden, with the
13 rewrite, I would have to go through -- go from a
14 minor requirement to a major, by classifying it as a
15 medical clinic.

16 So I did some research. I went to the
17 dictionary and looked up the word medical clinic in
18 Webster and all the dictionaries, and nowhere does it
19 specify two or more doctors, no mention about
20 doctors. I'll just read the first sentence.

21 "Clinic: A place usually connected with a hospital
22 or medical school where people can receive medical
23 treatment," so forth and so on.

24 So, thinking again, as the Board has other
25 things to consider, I came up with a couple of

1 suggestions. One is, just drop the requirement for
2 medical clinic saying two doctors, and this will
3 solve that problem for my office building and all the
4 other doctors -- 80 percent of the doctors in Coral
5 Gables, or, if you can't drop the requirement of the
6 number of doctors, make it three or more, and that
7 will take care of my entire building and 90 percent
8 of all the doctors in the Gables.

9 So my concern is with the rewrite, with
10 going into a medical clinic, where prior, that does
11 not exist. So that's it.

12 CHAIRWOMAN MORENO: Thank you very much.

13 DR. RAKOFSKY: Thank you.

14 MR. RIEL: While this gentleman is coming
15 up, just to clarify, if you have one doctor, it's
16 considered an office. If you have two or more, it's
17 considered a clinic. That's the way the definitions
18 have been interpreted.

19 MR. AIZENSTAT: That's the way it exists
20 today?

21 MR. RIEL: No, that's the way this proposal
22 is.

23 CHAIRWOMAN MORENO: But that's really tough,
24 because most doctors that I know are two, three or
25 four, and it's not a clinic.

1 MR. RIEL: This came out of all the
2 discussion of the sleep center.

3 MS. KEON: Yeah, but --

4 CHAIRWOMAN MORENO: Yeah, but you're --

5 MR. STEFFENS: There's got to be another way
6 to describe it.

7 MS. KEON: Yeah, I think there's a better
8 way to address that, and --

9 MR. KORGE: Then there will be a lot of
10 nonconforming uses throughout the whole City.

11 MR. AIZENSTAT: They're going to have 24
12 months to conform.

13 MR. RIEL: I had spoken to Wendy about
14 this.

15 MR. STEFFENS: So that they would be a major
16 conditional use if it was two doctors?

17 MR. RIEL: They're minor, and I think
18 they're major in the CL district.

19 MR. STEFFENS: CL?

20 MR. RIEL: CL, commercial limited, which
21 that's --

22 MR. STEFFENS: Would this be commercial
23 limited?

24 MR. RIEL: That's where his property --

25 MR. STEFFENS: You're across the street?

1 MR. RIEL: -- will be assigned.

2 DR. RAKOFSKY: Right across the street.

3 MR. RIEL: Basically, the CL districts are
4 those commercial areas that are adjacent to
5 single-family.

6 MR. STEFFENS: Single-family.

7 MR. RIEL: Uh-huh.

8 DR. RAKOFSKY: I work on all the houses
9 beside me and the ones in the apartment building to
10 the side, so there's no problem with my neighbors.

11 CHAIRWOMAN MORENO: No, but it is a
12 city-wide problem, because I would venture that a lot
13 of medical practices have more than one doctor.
14 Certainly my pediatricians, who are in Coral Gables,
15 there's four doctors there.

16 MS. KEON: My dentists, there's three or
17 four of them in there.

18 MR. RIEL: Charlie, is it a minor in the C
19 district? Minor, then it would be only
20 administrative review.

21 MR. AIZENSTAT: So this would be --

22 MR. SIEMON: Medical clinic is permitted as
23 of right in the commercial district.

24 MR. RIEL: No, it's just the CL.

25 MR. SIEMON: We're just talking about

1 extra --

2 MR. RIEL: That was extra protection.

3 MR. SIEMON: -- with that.

4 MR. KORGE: How many do you think would be
5 affected by that? How many offices, realistically
6 speaking?

7 CHAIRWOMAN MORENO: Well, his whole building
8 is affected --

9 MR. RIEL: Yes.

10 CHAIRWOMAN MORENO: -- because that 401
11 Miracle Mile building is full of two and three-doctor
12 practices.

13 DR. RAKOFSKY: They're all two, no threes.

14 CHAIRWOMAN MORENO: All two?

15 DR. RAKOFSKY: Because I made the suggestion
16 to change it to three.

17 MR. AIZENSTAT: But that would only clarify
18 your building. What about the rest of the buildings?

19 MR. STEFFENS: There's probably some on
20 South Ponce that are --

21 MR. RIEL: There are some on South Ponce.

22 MR. STEFFENS: -- multiple doctors.

23 MS. KEON: But I'd think you would want
24 doctors' offices within walking distance, if you're
25 trying to promote senior housing and whatever else,

1 so that they can walk to their doctors without
2 going downtown.

3 MR. RIEL: That was the whole issue on --

4 MS. KEON: Yeah, but I think that you'd
5 be --

6 MR. RIEL: -- that you spent a significant
7 amount of time on --

8 MR. KORGE: Yeah, and there was a big
9 fight, a huge fight over that.

10 MS. KEON: Right, but I think, you know --

11 MR. RIEL: There's very -- in terms of --

12 MS. KEON: -- it's been with things that are
13 open overnight. Doctors' offices aren't open
14 overnight, and I think there's other ways to
15 differentiate.

16 MR. RIEL: Well, we have nighttime
17 provisions. If they are open at night, they have to
18 come through a major review.

19 MR. SIEMON: The difficulty, I mean, is
20 that, as modern medical practice has emerged
21 between -- under Medicare, more and more --

22 CHAIRWOMAN MORENO: Procedures.

23 MR. SIEMON: -- diagnostic work and
24 procedures are done in medical offices and they
25 involve very expensive equipment, and they aren't

1 like the pediatrician that I went to when I was a
2 little boy, and that's just something that the
3 communities all over the state, all over the country,
4 are wrestling with, and, you know, it did emerge out
5 of a dialogue about -- because this really was a
6 medical -- the sleep center evolved out of an
7 outpatient surgery center, which was clearly a
8 clinic, but there are plenty of physicians' offices
9 these days where they've got MRIs and other equipment
10 and it is functioning as if it were a clinic.

11 MS. KEON: But I --

12 MR. SIEMON: And it's drawing that
13 distinction and where you want it which is not easy.

14 MS. KEON: But I think where they have a lot
15 of -- where they have expensive -- that sort of
16 equipment is more of a diagnostic center than a
17 doctor's office.

18 MR. SIEMON: Increasingly, it's in doctors'
19 offices. I mean --

20 MS. KEON: As opposed to a diagnostic
21 center? Really? I also think that diversity of our
22 community -- in some communities, clinics are the
23 primary provider of health care.

24 MR. SIEMON: Primary health care providers.

25 MS. KEON: Yeah, so I think that's not --

1 MR. SIEMON: And it's a very dynamic field.

2 I mean --

3 MS. KEON: Right, but I --

4 MR. KORGE: But you weren't here for the
5 sleep center issue.

6 MS. KEON: But, you know, and I understand
7 the sleep center, I mean, I understand that it's
8 issue, but I think that, you know, there are -- I
9 think what you -- this may be regulating beyond what
10 the sleep center needed, and it's punitive toward
11 uses that you want and want to encourage.

12 So I think that -- you know, you're right,
13 no, I wasn't here, so I don't feel that pain, but --

14 MR. RIEL: We're not prohibiting it. It
15 just means it's got to come to this Board for review.

16 MS. KEON: But I think that, you know, the
17 more levels of review you make people go through,
18 it's just -- it's very -- these people will say, "Why
19 do I want to come here? You know, let me go
20 someplace else," and I --

21 MR. SIEMON: But it's -- I mean, I'm not
22 disagreeing, but I want to make sure you understand
23 that we're only talking about the CL district, which
24 is -- about 90 percent of it are single-deep lots on
25 major arterials that are backed up by residential

1 use, single-family residential uses, and they are 110
2 feet deep parcels --

3 MS. KEON: Right.

4 MR. SIEMON: -- and they are very -- have a
5 lot of problematic experience with adjacent
6 residential uses.

7 MR. RIEL: We've been given direction by the
8 Commission to come up with standards and reviews that
9 provide protection for the neighborhoods, and
10 that's --

11 CHAIRWOMAN MORENO: But what happens to the
12 doctors who are in the CL district and there's more
13 than one?

14 MS. KEON: Yeah.

15 CHAIRWOMAN MORENO: What happens?

16 MR. RIEL: They're considered -- you know,
17 this would be a change.

18 MR. SIEMON: If they're established, they
19 exist and they will be allowed to continue to exist.
20 It's new ones that will be required to go through the
21 process.

22 CHAIRWOMAN MORENO: Okay, but they don't
23 have to conform within two years?

24 MR. SIEMON: I don't believe they fall under
25 that category.

1 MR. RIEL: I don't think so, either.

2 MS. KEON: I think that should be confirmed,
3 that they don't.

4 CHAIRWOMAN MORENO: Yeah.

5 MS. KEON: I think there's a better way to
6 look at it. I mean, I don't think it's -- I think
7 it's a good thing to have your doctor's office within
8 walking distance.

9 MR. RIEL: I just want to make sure that --
10 whatever we do, I just want to make sure the Board
11 advises us how to proceed forward on this, because I
12 don't want to go forward and come up with something
13 different and then, you know, not be able to move
14 forward on this issue. If you would like us to make
15 the restrictions less stringent, please let us know,
16 because --

17 MR. STEFFENS: I'd like to make the
18 definition stronger --

19 MR. RIEL: Okay.

20 MR. STEFFENS: -- so that it's not based on
21 a doctor number, because you could have one doctor
22 running a clinic that could be seeing --

23 DR. RAKOFSKY: That's right.

24 MR. STEFFENS: -- a thousand patients.

25 MS. KEON: Yeah, like a blood flow lab that

1 could have people coming in and out with one
2 doctor --

3 MR. STEFFENS: There's got to be some other
4 way to measure it.

5 MS. KEON: -- and 50 technicians.

6 MR. RIEL: So a different means of
7 measurement? Okay.

8 MS. KEON: And it shouldn't be related to
9 the number of doctors.

10 MR. KORGE: It's related to the likely
11 intensity of use.

12 MR. STEFFENS: I mean, maybe it is related
13 to doctors, but the doctors and other factors. You
14 know, if there's three doctors and they're only doing
15 something, then that's acceptable, but if it's one
16 doctor and he's doing other things, that's not
17 necessarily acceptable.

18 MR. RIEL: Part of the problem is, I met
19 with the doctor a couple times and we went through
20 the different types of medical uses.

21 What did we come up with, 20 or 30?

22 DR. RAKOFSKY: Yeah, that's with alternative
23 medicine.

24 MR. RIEL: I mean --

25 DR. RAKOFSKY: We used that as a consequence

1 of the rewrite, and I just had to clarify with
2 Charlie. He said -- like when you have the music
3 therapists, that's one person. You have the
4 hypnotists -- it's all certified and legitimate, a
5 chiropractor. His suggestion was that it would fall
6 under the category of the office. So that satisfies
7 all the those alternative medicine professions, and
8 there are more and more coming out of the woodwork.
9 Even acupuncturists, in the old Code, would not find
10 a place in my building, but with the rewrite, that
11 was good as an office.

12 But as far as the private practitioner goes,
13 and I agree with what Michael is saying -- I'm
14 calling you Michael -- that, yes, you should define
15 what a clinic is, with beds, or with one doctor or
16 two doctors, in private practice.

17 MR. RIEL: A question, does each doctor need
18 to get a business license?

19 DR. RAKOFSKY: Yeah, they're all licensed,
20 certified, sure.

21 MR. RIEL: So the establishment -- I was
22 trying to look for something.

23 DR. RAKOFSKY: Up to now, it's all okay, in
24 the present Code. In the rewrite, it would have been
25 punitive, if you can't solve this problem.

1 MR. STEFFENS: Every individual professional
2 needs a license in an office.

3 MR. RIEL: So it's the Board's feeling that
4 we should find a different type of a measurement?

5 CHAIRWOMAN MORENO: I generally find it
6 difficult to say, because of the zoning rewrite, I'm
7 going to throw a whole bunch of people into
8 nonconforming status. I find that difficult.

9 MR. SIEMON: I'm not so sure that that's a
10 fact, so, I mean --

11 CHAIRWOMAN MORENO: Well, it's true in his
12 building, and it's going to be true in that South
13 Ponce area, for sure.

14 MR. KORGE: Well, if they're nonconforming,
15 they have to conform within a certain period; is that
16 right?

17 MR. AIZENSTAT: Twenty-four months.

18 MS. KEON: But I still don't think it's a
19 good way to -- I still don't think the definition is
20 a good definition to be used. It's not what we
21 want.

22 MR. AIZENSTAT: So what they would have to
23 do is basically come before this Board, as a major
24 conditional use, to get a second doctor within
25 there? I mean, is that the way I understand it?

1 MR. SIEMON: In the CL district, it would
2 require a major conditional use.

3 CHAIRWOMAN MORENO: So, if Dr. Rakofsky now
4 wanted to have an associate, he'd have to come here
5 and get major conditional use approval?

6 MR. SIEMON: I believe he has an established
7 use, and I believe that he has --

8 CHAIRWOMAN MORENO: But right now, he's only
9 one guy. So, by hiring the second person, he
10 converts his private office into a medical clinic.

11 MR. STEFFENS: Now, how does that work?
12 What if there are five doctors, not in partnership,
13 in the same office? They share a secretary and a
14 waiting room and --

15 MR. KORGE: A suite, yeah, that they share.

16 CHAIRWOMAN MORENO: They share the suite.

17 MR. STEFFENS: Is that a clinic or is that a
18 way for five doctors to get around the rule?

19 MR. KORGE: Or is that a way for five
20 doctors to save a little money on the common areas?

21 CHAIRWOMAN MORENO: Well, lawyers do that
22 all the time.

23 MR. KORGE: Yeah.

24 CHAIRWOMAN MORENO: And is this just
25 doctors, or also dentists?

1 DR. RAKOFSKY: Dentists, as well.

2 MR. RIEL: Dentists, as well.

3 MS. KEON: It's also dentists.

4 MR. RIEL: That section regarding
5 nonconformities was deferred by the Board for
6 further -- at the last meeting.

7 MR. AIZENSTAT: And is it only related to
8 the medical field?

9 MR. RIEL: The -- I'm sorry, the --

10 MR. AIZENSTAT: The fact that you have one
11 person, two people or three people. It's only
12 confined to a medical profession?

13 MS. KEON: The definition of a medical
14 clinic.

15 MR. RIEL: Basically, it's based on the
16 frequency of patrons visiting that facility.

17 MR. AIZENSTAT: So it's not confined just to
18 a medical facility. You could have an attorney, per
19 se?

20 MR. RIEL: No, that's not -- well, it's
21 medical, medical clinic. I mean, a dentist would be
22 included.

23 MR. AIZENSTAT: So it's only a medical
24 profession.

25 MR. RIEL: Medical, yeah.

1 MR. KORGE: It had to do with the intensity
2 of use that a medical clinic brings to a community,
3 because of the nature of the business. You know, you
4 get a lot more traffic than --

5 MR. AIZENSTAT: Correct.

6 MR. KORGE: -- a lawyer or an accountant
7 might get, for example.

8 MR. AIZENSTAT: Correct.

9 MR. KORGE: So, when the sleep center became
10 a big issue, that was discussed and debated at
11 considerable length. The concern was that by having
12 a sleep center which operates at night --

13 MR. AIZENSTAT: The issue was at night.

14 MR. KORGE: -- it would increase the
15 intensity of use -- this was the neighbors'
16 concern -- the intensity of use in that neighborhood
17 at night and that it would eventually lead to the
18 equivalent of a medical clinic or a mini-hospital --

19 MS. KEON: At night.

20 MR. KORGE: -- was their argument.

21 MS. KEON: Yeah, so, I mean, if the issue --
22 and I thought, I mean, from reading all of the
23 concerns over the sleep center, it seemed to be a
24 nighttime use issue --

25 MR. AIZENSTAT: Correct.

1 MS. KEON: -- is what the concern was. Is
2 that right, primarily?

3 MR. AIZENSTAT: It was -- at that time, I
4 sat on the Board of Adjustments, and that was the
5 issue before the Board.

6 MS. KEON: Right, it was nighttime use.
7 Limiting the number of doctors in a medical clinic
8 doesn't say anything about nighttime use.

9 MR. RIEL: It was also daytime.

10 MS. KEON: Well --

11 MR. RIEL: There was testimony indicated in
12 terms of daytime.

13 MR. KORGE: But they were really upset about
14 the --

15 MR. RIEL: Well, the main focus was the
16 nighttime, and that's why we did nighttime
17 provisions, saying that anything after, I forget what
18 certain hours, it has to come through, but in terms
19 of answering your question about medical clinic, a
20 health care facility licensed by the State of
21 Florida, operated by two or more physicians or
22 medical practitioners.

23 MS. KEON: I think that your two or more is
24 not a good --

25 MR. AIZENSTAT: You're penalizing the

1 physician for taking on a partner or having a partner
2 or having a P.A. with more than one individual. So I
3 would tend to agree with Michael, as far as that you
4 just have to do your definition.

5 MR. KORGE: So maybe we should focus on the
6 nighttime use of medical clinics, so it would be --
7 maybe, might be a major conditional use would be a
8 medical clinic operating after hours, you know, or
9 whatever the nighttime hours would be.

10 MR. RIEL: Well, the nighttime provisions
11 would take care of that.

12 MS. KEON: Right.

13 MR. RIEL: Basically, we would remove --

14 MR. KORGE: The nighttime -- excuse me, the
15 nighttime --

16 MR. RIEL: We would remove the limitation on
17 the number of doctors.

18 MR. STEFFENS: I think --

19 MS. KEON: I think you should remove it. I
20 don't know what purpose it serves. Do you?

21 MR. STEFFENS: Well, I don't think that
22 serves a purpose, but I think there is concern about
23 intensity of use. I mean, if it is more like what we
24 think a clinic is and they have large volumes of
25 people, that's going to be an impact on the

1 neighborhoods where we're talking about, just like a
2 nighttime -- well, not just like, but similar to a
3 nighttime use.

4 MS. KEON: But then doesn't it fall into --
5 I mean, if it's more -- if it's a lot of people, it's
6 more square footage and there's parking requirements
7 and --

8 MR. KORGE: Right.

9 MS. KEON: -- other things that cover that,
10 isn't there?

11 MR. KORGE: Yes.

12 MR. STEFFENS: Right, but --

13 MS. KEON: When you deal with numbers.

14 MR. STEFFENS: But, you know, do we
15 allow --

16 MR. RIEL: Not really.

17 MR. STEFFENS: -- intensity of use as of
18 right, or do we --

19 MR. RIEL: You could have a certain square
20 foot of space that could be occupied by five
21 doctors --

22 MS. KEON: What does he have?

23 MR. RIEL: -- and the parking is regulated
24 by the square footage of space.

25 MS. KEON: Right.

1 MR. RIEL: So you could --

2 MR. KORGE: But you have more parking
3 requirements for medical use, don't you?

4 MR. RIEL: Yes.

5 MS. KEON: Yes.

6 MR. KORGE: And that usually takes that into
7 account. In other words, you can only squeeze so
8 many doctors into so many square feet.

9 MR. RIEL: Well --

10 MR. KORGE: No?

11 MR. RIEL: Not really.

12 MR. KORGE: That doesn't figure at all?

13 MR. RIEL: I mean, I go to a clinic where
14 they have eight doctors and they have five waiting
15 rooms, five or six waiting rooms.

16 MR. KORGE: How many square feet?

17 MR. RIEL: It's not that big. It's really
18 not.

19 MR. SIEMON: I think it -- I would -- I
20 would suggest that the principal problem which we're
21 wrestling with here is that in the commercial limited
22 district, medical clinics are uniformly treated as a
23 major conditional use, without regard to size and
24 without regard -- and with regard to nighttime uses
25 only, it's a double conditional use, is all it is.

1 But I would -- I've been trying to think about how to
2 redefine it, and I don't think we're going to solve
3 the problem with definitions, because there are so
4 many variations on the theme.

5 So my instincts would be, if this is truly a
6 problem, then, you know, with restaurants in the
7 commercial limited district, we have a certain size
8 is permitted as of right, a certain size bigger is
9 permitted as a conditional use, minor conditional
10 use, and then big ones, really big ones, are major
11 conditional uses, and I think my instincts are,
12 rather than looking at changing the definition of
13 medical clinic, which was intended to avoid trying to
14 draw these fine lines between things that really
15 don't have a difference -- whether you go to a
16 chiropractor or you go to a physician, you're
17 basically being treated in the same -- it has the
18 same functional characteristics -- that that would be
19 the way to address this.

20 CHAIRWOMAN MORENO: By size? I think that's
21 a good way.

22 MR. SIEMON: By size.

23 MR. RIEL: Square footage.

24 CHAIRWOMAN MORENO: That's a good idea.

25 MR. AIZENSTAT: By square footage or by size

1 of practitioners?

2 CHAIRWOMAN MORENO: Square footage.

3 MR. RIEL: No, you say like a thousand
4 square feet or more has to go through a conditional
5 use.

6 CHAIRWOMAN MORENO: That's a good way to do
7 it.

8 MR. SIEMON: I really think going --

9 MS. KEON: But not by number of doctors.

10 MR. SIEMON: You just don't want --

11 MR. KORGE: Because you can only squeeze so
12 many people into a small space.

13 MR. SIEMON: You just don't want to be
14 enforcing it by counting people.

15 CHAIRWOMAN MORENO: No.

16 MS. KEON: Yeah.

17 MR. SIEMON: You want to use some objective
18 measure, which is square footage.

19 MS. KEON: Right.

20 MR. SIEMON: And size is really a pretty
21 good indicator, I think.

22 CHAIRWOMAN MORENO: Of intensity.

23 MR. SIEMON: That's my -- that's my reaction
24 to this situation. There was a -- there is some
25 significant sentiment in the community that has been

1 expressed, and expressed with great force, that these
2 facilities are undesirable adjacent to residential
3 uses and that they really should be -- and that is a
4 residential perspective, where you've got property
5 owners caught between a rock and a hard place.

6 These thin commercial districts are archaic.
7 They shouldn't exist. They're problematic, but yet
8 they have value and property rights. They don't
9 serve the neighborhoods, generally, behind them, is
10 our experience. They're really highway-oriented
11 uses, so -- and they don't have the parking,
12 generally.

13 But that would be my recommendation to you,
14 and I think that we need to -- and that's how I would
15 recommend we try to address that issue.

16 CHAIRWOMAN MORENO: Does that work for you,
17 Dr. Rakofsky?

18 DR. RAKOFSKY: I'm open to anything, and I
19 appreciate all of you tonight being very supportive.
20 I really do.

21 CHAIRWOMAN MORENO: How big is a two-
22 person practice?

23 DR. RAKOFSKY: It depends. We have some
24 people that have a thousand square feet, they have
25 two in there. Somebody may have 1,500 square feet.

1 So I know what he's saying, he's right about
2 restaurants and things like that, and I know about
3 Eric's clinic of five doctors. But I'm talking about
4 just a private practice, with just two doctors or two
5 dentists working together. It's not a lot of space.

6 At the same time, one doctor -- getting
7 back to -- so the square footage is okay, but how
8 much? Do you say 1,500 square feet? I think that
9 might handle the two doctors.

10 MR. STEFFENS: Well, you don't have -- you
11 said the largest practice in your building is two
12 doctors?

13 DR. RAKOFSKY: All of them are two,
14 dentists and doctors.

15 MR. STEFFENS: What's the biggest space in
16 your building?

17 DR. RAKOFSKY: Well, one of them has two
18 thousand square feet, a thousand each.

19 MR. RIEL: I'm curious. What kind of a
20 doctor is it?

21 DR. RAKOFSKY: What?

22 MR. RIEL: What kind of a doctor?

23 DR. RAKOFSKY: He's a dermatologist, and
24 then his partner comes in -- There's another thing --

25 MR. STEFFENS: I've seen one dermatologist

1 with 15,000 square feet.

2 DR. RAKOFSKY: Yeah.

3 MS. KEON: Plastic surgeons have huge
4 amounts of space.

5 MR. STEFFENS: Built in Aventura.

6 MR. SIEMON: It's not really the number of
7 physicians, either.

8 CHAIRWOMAN MORENO: No, it's the intensity
9 of the practice. I think if you have one
10 dermatologist with a bunch of people providing
11 treatments, you've got that intensity of use that you
12 don't want. That's where you get to the high square
13 footage. So that might be the answer, square
14 footage.

15 MR. STEFFENS: Is there a provision that if,
16 in reviewing a minor conditional use, the reviewer
17 thinks that there's a problem, they can put it in for
18 review for a major conditional use?

19 MR. RIEL: I can't remember. I know we've
20 talked about that.

21 MR. SIEMON: We've talked about it a hundred
22 times.

23 MR. RIEL: I just can't remember the answer
24 to that.

25 MR. SIEMON: I don't think so, at this

1 point.

2 MR. RIEL: I don't think so, either. I
3 think because it was -- it left too much authority up
4 to that individual.

5 MR. SIEMON: Right. I hesitate to say what
6 I'm about to say, but I would be willing to try to
7 sit down and build a matrix, to see if there are any
8 other indicators other than square footage that
9 aren't going to lead to all kinds of unintended
10 arguments over what is and what is not permitted, and
11 our intention was to try to say -- was to deal with
12 them by increasing levels of scrutiny according to
13 their potential for impact, and I'm willing to do
14 that.

15 I think our prior judgment was that really,
16 square footage would be the proper -- because you
17 just get down to -- I mean, one physician who's got a
18 variety of services and five nurse practitioners can
19 have one hell of a mill going, and you just -- I
20 mean, that's where we have a problem. But I'd be --
21 if you want me to, I'll look at that again. As some
22 of you know, I have a lot of experience in the health
23 care side of this equation, so --

24 DR. RAKOFSKY: I think the point of square
25 foot, since we're looking for a common denominator,

1 might be a good idea, because like my office has a
2 thousand square feet for myself, and that's just
3 perfect for private practice. I'm not very, very
4 big; I'm not very small. If I take in an associate,
5 I was going to take the suite next door to me, which
6 is another thousand square feet. So something like
7 that, a thousand square per doctor, would satisfy at
8 least my needs and give you the control, because
9 there's no way you can have a massive clinic in a
10 thousand square feet or two thousand square feet.

11 MR. AIZENSTAT: Well, by the same token, if
12 I remember correctly, the issue with the sleep center
13 was that they were only going to have seven or eight
14 beds, and if I remember, also, correctly, was
15 there -- I could be totally wrong, but I think there
16 was only going to be one physician or maybe two
17 physicians, because they were referred to by other
18 physicians.

19 MR. RIEL: You're right.

20 MR. STEFFENS: But it was a large building.

21 MR. AIZENSTAT: So we have to take a look at
22 that.

23 MS. KEON: Right, so it didn't --

24 MR. STEFFENS: The building was large.

25 MS. KEON: It didn't do what you were

1 looking to do --

2 MR. STEFFENS: It was a two-story --

3 MS. KEON: -- with only two physicians.

4 MR. STEFFENS: -- four or five thousand
5 square foot building.

6 (Simultaneous indistinguishable comments)

7 MR. SIEMON: I really think that the way to
8 manage that aspect is the nighttime use --

9 CHAIRWOMAN MORENO: Uh-huh.

10 MR. SIEMON: -- is the way to deal with
11 that, because that's where the principal conflict --

12 MR. AIZENSTAT: Right.

13 MR. SIEMON: -- comes up, but --

14 MR. STEFFENS: So, in these districts, are
15 we going to have two levels or three levels? Are we
16 going to say up to --

17 MR. SIEMON: Well, in the commercial
18 district, it's -- you don't describe it.

19 MR. STEFFENS: No, I know, in the
20 commercial district, but in the CL district, are we
21 going to say up to a thousand feet, they can have a
22 doctor's office, between a thousand, and two
23 thousand, it's a minor, and over two thousand, it's a
24 major? Or is it going to be just minor and major?

25 MR. SIEMON: Well, I think my instincts are,

1 just sitting here, based on our prior review of this
2 issue, that it will be a permitted, minor and
3 major, and that there will be some --

4 MR. STEFFENS: So any size is minor, up
5 until some level --

6 MR. SIEMON: No, some size would be
7 permitted as of right.

8 CHAIRWOMAN MORENO: Some size should be
9 permitted as of right.

10 MR. STEFFENS: Something as of right.

11 CHAIRWOMAN MORENO: Yes.

12 MR. STEFFENS: Up to a thousand, a thousand
13 to two thousand, and then over two thousand, or
14 whatever numbers we choose. There's going to be
15 three levels.

16 MR. SIEMON: I -- you know, I try look at,
17 you've got 20,000 square feet of offices permitted as
18 of right in the commercial limited, and that's
19 general office. So I try to -- and there are pretty
20 good intensity analyses between medical office and
21 regular professional office, and I think we could
22 probably come up with a number from that.

23 MR. AIZENSTAT: What happens if -- in the
24 case that he stated, he has a thousand square feet.
25 If he takes on an associate, he wants to take the

1 office next door, which is another one thousand
2 square feet? Well, how -- Would they be able to go
3 around the issue by having two separate spaces, even
4 though they're together? Open up the wall and have
5 two --

6 MR. SIEMON: Probably -- they could probably
7 do that and probably never get caught.

8 MR. RIEL: Right.

9 MR. SIEMON: It probably would be a
10 technical violation.

11 MR. RIEL: Leave the door open or closed, I
12 mean, that's what it comes down to.

13 MR. AIZENSTAT: I'm just thinking --

14 CHAIRWOMAN MORENO: Well, the reality is
15 that if you had the one doctor, too, you could do the
16 same thing.

17 MR. AIZENSTAT: Exactly.

18 MR. RIEL: Let us look at it.

19 MR. KORGE: When it gets big enough to be a
20 problem, people will notice.

21 MS. KEON: Right.

22 MR. KORGE: So, you know, we can't fix it --
23 we can't make a perfect Code.

24 MR. RIEL: Let us get back with you, with
25 some type of a measurement. We'll look at it.

1 MS. KEON: Right, but even in the first one,
2 under permitted, we have minimum of 50 percent of the
3 linear foot -- the linear --

4 MR. RIEL: This issue really has to do with
5 Division 3, but since we're talking about medical
6 clinics in this --

7 CHAIRWOMAN MORENO: Okay.

8 MR. SIEMON: Yeah, this is clearly a
9 Division 3 issue.

10 CHAIRWOMAN MORENO: Riviera Homeowners
11 Association.

12 DR. RAKOFSKY: Thank you very much.

13 CHAIRWOMAN MORENO: Thank you very much,
14 Doctor.

15 DR. AIZENSTAT: Thank you for coming.

16 MR. ACOSTA: Thank you very much, Madam
17 Chairman and Members of the Commission. My name is
18 Amado J. Acosta, also known as Al Acosta. I'm the
19 executive director of the Association.

20 I really admire you for your dedication and
21 civic duty, and I really learn every time that I come
22 to these meetings. As a past member for eight years
23 of the Board of Professional Engineers of Florida --

24 MR. RIEL: Could you move your map off of
25 the mike there?

1 MR. ACOSTA: I'm sorry, yes.

2 As a past member of the Florida Board of
3 Professional Engineers for eight years, I never dealt
4 with such complex matters as you are dealing, and we
5 really appreciate that in the Association. It means
6 a lot to us.

7 Last week, we had our president here, Ms.
8 Joyce Newman, and I think she covered and described
9 the area that we cover, but basically, I would like
10 to summarize it for you, as a refresher. We are
11 residents in the area between Maynada on the east and
12 Red Road on the west, and between Sunset and U.S. 1,
13 more or less, defined that way.

14 We are in the process of finalizing a
15 charrette that was conducted April 1 and 2, between
16 the residents of the area and the business owners of
17 the area under the auspices of the University of
18 Miami School of Architecture, Urban Design Studies
19 section. It was very successful, and we'll have a
20 complete report. All the input has been given to the
21 University now, and by sometime next week we should
22 have our final report.

23 You talked about areas that have impact from
24 adjacent areas, and ours is one that is highly so.
25 Because of development that is known already and is

1 happening along Red Road and along U.S. 1, we stand a
2 chance of being impacted by that. So what we're
3 trying with that charrette is to be able to present
4 to the Commission, and obviously to this Board, what
5 the architects see may be solutions or the beginning
6 of solutions for the problems that we have in our
7 area, as well as potential area problems.

8 So, with that in mind, the report that you
9 have before you is a very, very brief summary of
10 what's coming, but one of the things that we see
11 that -- We are very happy with the present Master
12 Land Use Plan, and any concurrence between that and
13 the zoning rewrite will be of major use to our area,
14 to continue maintaining the character of this
15 section. So that's point one in this brief summary.

16 As mentioned earlier, preservation of alleys
17 and not closing streets for major developments, that
18 is a major, major concern to us, and we have many
19 alleys that are working very well at providing
20 additional paths when there's heavy traffic in the
21 area, and actually pedestrians. And our charrette
22 has identified that as a major area, and we have some
23 specific comments that will be submitted at a later
24 time.

25 The notification system that Coral Gables

1 has, for us doesn't work. The one thousand feet
2 notification, if you take our area in here, and this
3 point, this gold point in this pen, is roughly a
4 thousand feet on this scale, and if you apply a
5 thousand feet anywhere where the development may
6 occur, many, many residents in the yellow area will
7 not be notified.

8 So the thousand feet notification, we will
9 be asking for some modification so that the
10 residents, approximately 230 residents, property
11 owners, single-family residents, can be notified, and
12 I know it's a big thing with the City and what they
13 do for one, they do for others, but the thousand feet
14 is not working for us, and we find out, oftentimes,
15 very late in the project, if at all, and then things
16 get nasty and then we get involved with our attorney,
17 Mr. Tucker Gibbs, and it doesn't work for you, it
18 doesn't work for the City, it doesn't work for us.
19 So --

20 MR. KORGE: Excuse me for interrupting. Is
21 it possible to have an e-mail notification, in
22 addition to the regular U.S. mail notification, where
23 people who are outside the thousand feet notify the
24 City that they want to be included on anything?

25 MR. RIEL: We do have -- in the Department,

1 for applications that come before this Board, I have
2 what I call an interested party list --

3 MR. KORGE: Yeah.

4 MR. RIEL: -- that people can sign up for,
5 and we do an e-mail to that.

6 MR. KORGE: That might be the solution,
7 because it won't cost anything extra for the City.
8 You just do a mass e-mail.

9 MR. RIEL: But understand, that's just for
10 the Department, for those applications. It doesn't
11 include street and alleys, or it didn't include
12 street and alleys. Now that you're going to see
13 street and alleys, they will get a notice from me.
14 They will not get notice of the Board of Architects.

15 MR. KORGE: Well, I'm just wondering out
16 loud if it's possible to -- you know, to incorporate
17 that type of a procedure for every notification
18 that's required, public notification that's required,
19 so you have a master list of people who, you know,
20 may end up getting stuff they don't want, but they
21 get everything, and for the few who really want to
22 participate, it may be a Godsend, and will not be an
23 additional significant cost to the City or to the
24 applicants, because if you've got to extend the range
25 further to accommodate the few who are interested,

1 the applicant then has to write a big check to cover
2 everybody.

3 MR. ACOSTA: I understand. We understand
4 that. There may be solutions that can be worked out
5 between our Association and, say, a designated person
6 on this Board, for instance. We have the links and
7 the ways of communicating with approximately 143
8 residents in that section of 230 homes. So we do
9 have a means, the Association does.

10 Now, whether you can depend on the
11 Association for the notification or not, and the
12 legalities of that, I don't know, but --

13 CHAIRWOMAN MORENO: Well, the legalities are
14 met by the thousand square foot required -- by the
15 thousand-foot requirement. What you can do is sign
16 up as an Association with Eric, as an interested
17 party, and he can give the Association notice, and
18 the Association can then propagate it to whomever it
19 thinks should also be notified.

20 MR. ACOSTA: And will that cover the Board
21 of Adjustments and the Board of Architects?

22 CHAIRWOMAN MORENO: Just his Board.

23 MR. RIEL: Just my Board, and again,
24 remember, it's only a courtesy notification. It has
25 no legal significance.

1 CHAIRWOMAN MORENO: No legal significance.

2 MR. ACOSTA: Right.

3 MR. RIEL: Absolutely none, so --

4 MR. KORGE: But that's not the point. The
5 point is, they want to know when they --

6 MR. RIEL: I understand that, yeah, and we
7 can do that. But, you know, e-mail is not effective,
8 either. I can tell you right now. I mean, I had
9 sent e-mails a week ago that people are just getting.

10 CHAIRWOMAN MORENO: If he does that, they
11 will be spammed by all the spam because it will be
12 massive that every spam catcher would catch it.

13 MR. SIEMON: Right, all the spam that --

14 MR. RIEL: We do that. We try to involve
15 people, and obviously, if it's a concern of this
16 Association, certainly, you know, a letter to the
17 Manager, and the Manager can make --

18 CHAIRWOMAN MORENO: Do we have, on the web
19 page, notices of upcoming actions or whatever?

20 MR. RIEL: Absolutely, yes.

21 MR. ACOSTA: Well, we'll be presenting
22 formally a report, together with the School of
23 Architecture, to the Commission and to whatever board
24 they designate to, but this is just to give you a
25 preview and to make sure that you hear directly from

1 us, and ask me, in this case, any questions.

2 We do have major problems, variances that
3 are submitted that we don't know about, in projects,
4 zoning changes that are being proposed, in one case a
5 vacation of an alley. So the thousand feet doesn't
6 apply to most of our area because of that perimeter.

7 MR. RIEL: But the, actually, alley that you
8 were talking about was only noticed 300 feet, and
9 those provisions have changed since then.

10 MS. KEON: Right.

11 MR. RIEL: Originally, my department was the
12 only department that did a notice within a thousand
13 feet. Now, every notice that goes out from the City
14 is a thousand feet.

15 MS. KEON: Right, but I think he's also
16 saying that, in some of the areas that are
17 single-family residential areas, and there's only
18 probably a couple in the City that are really
19 affected by this, that proximate commercial areas,
20 that sometimes the commercial area is extensive
21 enough that the notice doesn't reach the residential
22 area, and I know that you've said you feel that the
23 thousand feet is enough of a buffer, but, you know,
24 the residents there are also saying that sometimes,
25 depending on the size and the type of development

1 there, they believe that the impact is beyond that
2 thousand feet.

3 So, you know, for certain areas, you know,
4 you may need to look at having the periphery of it
5 not being the periphery of the development, but the
6 periphery of the commercial area, and it's a thousand
7 feet --

8 MR. ACOSTA: You're so right.

9 MS. KEON: -- beyond the commercial area.

10 MR. ACOSTA: As a professional engineer, I
11 am numbers-oriented. This gold point is a thousand
12 feet in the scale here. If you come in here to apply
13 anywhere where Red Road/U.S. 1 is, we won't ever hear
14 anything.

15 MS. KEON: They'll never be noticed, but yet
16 they're saying if it's a development that is of large
17 enough scale, their neighborhood will be affected by
18 the traffic and whatever of it.

19 MR. ACOSTA: Absolutely.

20 MS. KEON: So, you know, if -- so for
21 certain areas, maybe your notice provision has to
22 extend from the border of the commercial area in
23 which the development is being -- taking place, as
24 opposed to the property line of the area. You need
25 to move it out to the border of the commercial area

1 and then back into -- and maybe it isn't a full
2 thousand feet, I don't know, whatever it is that you
3 believe, you know, or --

4 MR. ACOSTA: We have only about 230 homes
5 in that area that I've described for you, and the
6 cost is borne by the developer, by the person.

7 MR. KEON: Yes.

8 MR. ACOSTA: So it's no cost to the City to
9 ask that the developer include the 230 homes, as an
10 example.

11 MS. KEON: Right.

12 MR. ACOSTA: You know, but I know that you
13 cannot, at this point, really solve the problem, and
14 I appreciate the time you have given this and your
15 discussions, but the other problem that we have is --
16 that we have identified as a major one, where there
17 is development already announced in the works, is at
18 the corner of U.S. 1 and South Alhambra, where the
19 Mahi Waterway is right behind, and we have identified
20 the Mahi Waterway as a major area of concern.

21 I won't go into details. You have them in
22 the attachment. There is a special protected area
23 for manatees in that area, one of only 19 in the
24 State of Florida, where limited access by boats is
25 prohibited from October 15th through April 30th of

1 each year. Any development that impacts that will be
2 violating that.

3 Also, there is a marina, a de facto marina,
4 that exists at the corner there, for which the City
5 Attorney has expressed a legal opinion that it's not
6 legal as it stands now, and so therefore we're going
7 to be looking, as the developer submits their plans,
8 that the plans for the use of the water go through
9 the process that the City has, which is a complete
10 hearing and an approval by ordinance. Any marina in
11 the City of Coral Gables has to be approved by City
12 ordinance, and that marina was never approved by City
13 ordinance. But you have the legalities there in the
14 letter from Ms. Hernandez attached, and it's nothing
15 that, again, you can do -- it's not the purview of
16 this Board, I don't think, but it's something that is
17 coming up and it will remain to be seen how the
18 legalities that Ms. Hernandez -- Fernandez, is it?
19 Hernandez?

20 MR. SIEMON: Hernandez.

21 MR. ACOSTA: -- has described in that
22 letter. And with that, I conclude my presentation by
23 saying also that really, when you look at the map of
24 the City, everywhere that you look, there's so many
25 waterways. I think Mr. Delgado, in Public Works,

1 told me that if you add -- I'm sorry. If you add all
2 the miles of the waterways that you have in the City,
3 it's beyond 70 miles, linear miles, and yet there are
4 no specific regulations applied, that we could find,
5 to the governance of what goes on that may affect the
6 waterways.

7 So you might want to consider, in the zoning
8 rewrite, some consideration for that precious
9 resource that is so abundant in Coral Gables, and we
10 can't find any specifics. It may behoove to look
11 into that. But I thank you, and I'm open to any
12 question that you may have.

13 CHAIRWOMAN MORENO: Thank you very much.

14 MR. KORGE: So you're suggesting, in the
15 waterways, that there would be regulations on, I
16 guess, marinas and what else?

17 MR. ACOSTA: Well, for instance, a
18 commercial development that may impact traffic,
19 safety, manatees, life in the Waterway. It's mostly
20 residential, but there are some areas where there's
21 commercial, like the one I just described, but also,
22 for instance, on U.S. 1, as you approach LeJeune,
23 where that low profile bridge -- that's the Riviera
24 Hotel or Motel there, and there's apartments. That
25 presents the potential for big commercial development

1 that could impact the Waterway.

2 MR. KORGE: Do you think that the regulation
3 by DERM, and I guess -- I don't know if the State
4 also regulates development in the Waterway -- that's
5 inadequate? Do you think that's the problem?

6 MR. ACOSTA: Well, I don't really know
7 enough about that, but I know that in specific cases,
8 this marina on U.S. 1 and South Alhambra, the owner
9 went to appeal to the Environmental Quality Control
10 Board of Dade County so that he could get his
11 operating permit, and --

12 MR. KORGE: This was the existing one at
13 the --

14 MR. ACOSTA: Yes.

15 MR. KORGE: The facility that changed from a
16 hotel use --

17 MR. ACOSTA: Right.

18 MR. KORGE: -- to a --

19 MR. AIZENSTAT: Executive offices.

20 MR. KORGE: An office space.

21 MR. ACOSTA: Correct. That's the one.

22 MR. KORGE: Right.

23 MR. ACOSTA: The owner took the case to the
24 Environmental Quality Control Board, but staff of the
25 Environmental Quality Control Board advised that

1 board not to rule on his petition until the City of
2 Coral Gables disposed of this zoning incongruity.

3 MR. KORGE: Just out of curiosity, why would
4 there be a concern about an existing marina that
5 previously was permitted, a permitted use, all of a
6 sudden becoming a unpermitted use because the
7 adjacent building changed from hotel use to office
8 use? I mean, why -- how does that affect the marina?

9 MR. ACOSTA: Well, I think that you will
10 find the answer in the letter attached to the report
11 I gave you from Ms. Hernandez, why that came about,
12 but basically, in that letter, she also states that
13 the Building & Zoning Department observed a large
14 amount of development for more and more and more
15 slips all the time, so --

16 MR. KORGE: So they were adding slips, is
17 that what happened?

18 MR. ACOSTA: I think they went beyond a
19 specific number of slips at one point in time --

20 MR. KORGE: I see.

21 MR. ACOSTA: -- and she relates -- she --

22 MR. KORGE: So that was the nonconformity,
23 not the change in the use of the building?

24 MR. ACOSTA: Correct.

25 MR. KORGE: I see.

1 MR. ACOSTA: Yeah. And remember, being the
2 manatee zone in there, they come to have their calves
3 in there, and it used to be that 30 or 40 manatees
4 would come in the wintertime, and as the traffic of
5 boats has increased in that Waterway, now only 13,
6 14, 15, at the most, come. And you hardly see any
7 new calves being born in that area.

8 We have some residents that have been
9 residents for 40, 45 years in there, like Ms. Edna
10 Ahlers, right there on the Waterway, and she can
11 attest to those numbers.

12 So, in the future, we'll be addressing this
13 matter of the notification again, and I'm sure that,
14 as usual with the City, there's a way of working
15 things out so that, you know, the fine progress the
16 City has made can be continued.

17 CHAIRWOMAN MORENO: Thank you very much.

18 MR. ACOSTA: Thank you very much, and I
19 appreciate the courtesy greatly.

20 CHAIRWOMAN MORENO: Okay, let's go back to
21 the mixed-use districts. Is there anything else in
22 the mixed-use districts that we need to discuss or
23 review? This is the regulation that we adopted at
24 length and discussed at length, right?

25 MR. SIEMON: Yes, ma'am.

1 CHAIRWOMAN MORENO: The only thing we're
2 doing here is saying that it can apply to areas other
3 than that --

4 MR. SIEMON: Specific --

5 CHAIRWOMAN MORENO: -- Bird Road/Ponce area.

6 MR. SIEMON: I might just -- I'd like to
7 clarify something that has taken -- we addressed it a
8 couple of different times, and there's -- in the
9 transitional rules, there is a provision that says
10 that anything that's lawful on the day this Code is
11 adopted is not nonconforming if the procedures by
12 which it would be approved have changed.

13 So, if it was permitted use, permitted as of
14 right, and now becomes a conditional use, it is, by
15 the text of the Code, deemed to be an approved
16 conditional use, and so it doesn't require them to
17 come into compliance. The fact that the process
18 changes, they get to continue as stated.

19 MR. KORGE: So that would solve the
20 problem.

21 MR. SIEMON: That covers a lot of sins.

22 MR. KORGE: Perfect.

23 MR. SIEMON: I just wanted to -- I knew it
24 was here somewhere, but that's -- I have nothing
25 further on the mixed use.

1 MS. KEON: Is that -- Are we talking about
2 like E and all these other things, all the way down
3 the line?

4 CHAIRWOMAN MORENO: Yeah, we're talking all
5 the way over to Page --

6 MR. SIEMON: All the way to 12 of 16.

7 CHAIRWOMAN MORENO: -- 12 of 16. It ends at
8 12 of 16.

9 MR. STEFFENS: On the live-work units --

10 MR. KORGE: What page?

11 MR. STEFFENS: 10 of 16. In the first open
12 dot item, it says, "Prior to the issuance of an
13 occupational license for a nonresidential use, the
14 applicant shall apply for a change in use permit if
15 the unit was previously designated as a live-work
16 unit" -- Oh, so this is if they're changing a
17 live-work unit to something that is just work?

18 CHAIRWOMAN MORENO: That's the way I read
19 it.

20 MR. SIEMON: Oh, I think if it's going to an
21 all nonresidential use.

22 CHAIRWOMAN MORENO: Right, that's the way we
23 both read it.

24 MR. STEFFENS: So changing it from --

25 CHAIRWOMAN MORENO: Livable --

1 MR. STEFFENS: -- apartment office --

2 MR. SIEMON: To office.

3 MR. STEFFENS: -- to a complete office?

4 MR. SIEMON: Yeah.

5 MR. STEFFENS: Okay.

6 MR. SIEMON: Yeah.

7 CHAIRWOMAN MORENO: If that's it, do I have
8 a motion?

9 MR. KORGE: No, I have --

10 MS. KEON: Can I ask one more question, too?
11 In this first one, where it talks about the
12 encroachment into the right-of-way, and maybe I
13 missed something here --

14 MR. KORGE: What page?

15 MS. KEON: Page 3 of 16. It deals with --
16 Does this deal with awnings and that sort of thing?

17 MR. STEFFENS: No, it actually deals with
18 building over the sidewalk.

19 MS. KEON: With building -- Pardon me?

20 MR. STEFFENS: Building --

21 MS. KEON: Buildings on the sidewalk.

22 MR. STEFFENS: -- over the sidewalk, like
23 the new parking garage.

24 MS. KEON: Oh, okay.

25 MR. KORGE: On Page 6 of 16, Number 4,

1 Facades, it doesn't require any breaks in facades
2 until the facade exceeds 150 feet in length. That
3 seems like an awful lot.

4 Michael, what do you think?

5 MR. STEFFENS: It's up to the Board of
6 Architects.

7 MR. KORGE: Prior to that? I mean, if it's
8 less than 150 feet, they can use their discretion;
9 after 150, they've got to break the facade?

10 MR. STEFFENS: Well, it says "breaks,
11 stepbacks or variations in bulk/massing at a minimum
12 of 100-foot intervals." So it's really at a hundred
13 foot. But I think that's really a matter for the
14 Board of Architects.

15 CHAIRWOMAN MORENO: I think so.

16 MR. STEFFENS: I mean, we could put more in
17 there, but --

18 MR. KORGE: Well, no, it's not -- it's not a
19 minimum of 150.

20 MR. RIEL: Yeah.

21 MR. KORGE: If it's a 125-foot facade,
22 there's no break required.

23 CHAIRWOMAN MORENO: Yeah, at a hundred feet.

24 MR. STEFFENS: Yeah.

25 MR. KORGE: It says, "Facades in excess of

1 150 feet in length shall incorporate design features
2 with the use of, but not limited to, the following
3 items."

4 CHAIRWOMAN MORENO: If it's 150 feet, it
5 must have a break point at a minimum of a hundred
6 feet.

7 MR. KORGE: If it's 125 feet, it doesn't?

8 CHAIRWOMAN MORENO: If it's 125 feet, it
9 doesn't meet the threshold of 150.

10 MR. KORGE: Right. But my question
11 originally was, isn't 150 feet of solid wall, without
12 any break, an awful lot?

13 MR. STEFFENS: You mean, 149 feet?

14 MR. KORGE: A hundred and -- no, it says in
15 excess of 150.

16 MR. STEFFENS: Oh, in excess of. There's
17 not --

18 MR. RIEL: Blank walls are prohibited, blank
19 walls. They have to have architectural relief and
20 elements on all sides of the building.

21 MR. KORGE: Well, that's not what this says.
22 It says --

23 MR. RIEL: Item 2 above, on Page 5.

24 MR. KORGE: Oh, okay.

25 MS. KEON: Yeah, relief.

1 MR. STEFFENS: 150 --

2 MR. KORGE: That's for the sides. That's
3 not for the front.

4 CHAIRWOMAN MORENO: All sides. No, no, no.
5 To me, that's -- all sides is all four sides.

6 MR. RIEL: All sides of buildings and --

7 MR. KORGE: "Shall be required on all sides
8 of building and similar" -- oh, I see.

9 MR. RIEL: "No blank walls shall be
10 permitted."

11 MR. KORGE: As those -- "as to those
12 provided on the front facade." No, it doesn't say
13 that. It's on the sides, on all sides of --

14 MS. KEON: It's on all sides of the
15 building.

16 MR. STEFFENS: On all sides of the building.

17 MR. KORGE: No.

18 MR. RIEL: It says, basically, all sides of
19 the building have to have architectural relief and
20 elements that are similar to the front facade.
21 That's what it --

22 MR. KORGE: For the sides of the building?

23 MR. RIEL: Correct.

24 MR. KORGE: And the front facade, if it's
25 greater than 150 feet in length, then you have to

1 have breaks and setbacks.

2 MR. RIEL: In addition. That has nothing to
3 do -- There's architectural elements that are
4 required, and then there's breaks.

5 MR. STEFFENS: But you can have 150 -- 150
6 or 149 or whatever we want to say, a 150-foot wall
7 with no breaks in it, and then that will become the
8 model for the other four walls of the building.

9 MR. SIEMON: That will have no breaks in it,
10 either.

11 MR. STEFFENS: That will have no breaks in
12 it, either.

13 MS. KEON: Right.

14 MR. STEFFENS: You know, it's a design
15 issue, Tom, and --

16 MR. KORGE: Well, that's why I asked.

17 MR. STEFFENS: And you could give 150
18 feet -- you could give 300 feet of wall to a good
19 architect and he could design a great building with
20 no breaks in it, and you could give 20 feet of wall
21 to a bad architect and it's something you'd never
22 want to see, so --

23 MR. SIEMON: We should permit buildings only
24 designed by good architects.

25 MR. KORGE: So you think 150 feet is --

1 MR. STEFFENS: Exactly.

2 MS. KEON: I think that's a great idea.

3 MR. KORGE: Well, do you think 150 feet is a
4 good setoff?

5 CHAIRWOMAN MORENO: The problem is that none
6 of us would agree on what's a good architect.

7 MR. SIEMON: Yeah.

8 MR. STEFFENS: Well, you wouldn't get any
9 three architects to that.

10 CHAIRWOMAN MORENO: Well, I had a big
11 discussion on that, on the Mediterranean Ordinance.

12 MR. STEFFENS: I don't think it's a good
13 idea to regulate design too much by saying you've got
14 to break it every 50 feet or hundred feet or you have
15 to step it every two stories or --

16 MR. AIZENSTAT: Is this the way the old Code
17 reads, also?

18 MR. RIEL: No. We went through an
19 exhaustive review on the development of these design
20 standards, because this actually -- I can't remember
21 if the Mediterranean regulations came first or this,
22 but they both worked hand in hand.

23 MR. SIEMON: That's the existing Code.

24 MR. STEFFENS: The Mediterranean was first.

25 MR. RIEL: This is what's currently in the

1 Code, yes.

2 MR. AIZENSTAT: That's what I asked.

3 MR. RIEL: Yeah, yeah, yeah, I'm sorry.

4 MR. SIEMON: We didn't make this up.

5 MR. AIZENSTAT: This was as the existing
6 Code is today?

7 MR. RIEL: I'm sorry. Yes. It was just
8 recently --

9 CHAIRWOMAN MORENO: Are you satisfied with
10 all --

11 MR. KORGE: No --

12 MS. KEON: I only have --

13 MR. AIZENSTAT: I mean, the designs are good
14 and it's functioned so far all these years.

15 MR. STEFFENS: You could change the 150 to a
16 hundred, so it coincides more with the sentence right
17 below it. I mean, I don't think it makes, really,
18 any difference, because --

19 MR. AIZENSTAT: It has to go before the
20 Board of Architects to review it. I would leave it.

21 MR. KORGE: That's why we had all these
22 details. The reason the Mediterranean Ordinance
23 didn't come to us was because, in fact, the Board of
24 Architects were approving buildings that just didn't
25 measure up, and the Commission was very upset about

1 that. So we provided a lot of excruciating detail to
2 give the Board of Architects the tools we thought
3 that it would need to be able to force a better
4 design on those who may be less willing to do it,
5 and --

6 CHAIRWOMAN MORENO: So why don't you just
7 say facades, take out "in excess of 150 feet in
8 length," and just leave the rest of that?

9 MR. RIEL: Can I make a comment? I would
10 suggest we not --

11 MR. AIZENSTAT: Just leave it.

12 MR. RIEL: -- change this, because we went
13 through such an exhaustive review --

14 MR. KORGE: All right. Okay.

15 MR. RIEL: -- and each of these elements
16 were discussed in so much detail.

17 MR. KORGE: Okay.

18 MR. RIEL: I would rather not just change
19 one thing, because that could open up --

20 MR. AIZENSTAT: Pandora's Box.

21 MR. RIEL: -- changing the entire ordinance.

22 MS. KEON: Can I just ask if what you have
23 written here prohibits the development that currently
24 exists in the North Gables. There are -- I think
25 they're condos or apartments that have parking

1 garages underneath. They're like structures. I
2 mean, it's not a garage, it's like a parking lot
3 underneath, and then the building is built on some
4 sort of thing, and so as you walk down the street,
5 the street meets an asphalt parking garage.

6 MR. RIEL: These regulations would only
7 apply to the mixed-use district, which is basically
8 the industrial section of the City.

9 MS. KEON: I know, but you're looking to
10 also be able to -- to apply this --

11 MR. KORGE: Standard.

12 MS. KEON: -- to some other areas of the
13 City. I want to know if that prohibits that kind of
14 development.

15 MR. RIEL: This does not.

16 MR. SIEMON: Yes.

17 MR. RIEL: This does not.

18 MR. STEFFENS: You could build a building
19 like that?

20 MS. KEON: How are you going to do that?

21 MR. SIEMON: You have --

22 MR. RIEL: I don't believe this does.

23 MR. STEFFENS: This describes what you need
24 at street level.

25 MR. SIEMON: You have street level

1 requirements.

2 MS. KEON: Okay, so that's what I'm just
3 asking. I want to make sure that the street level
4 requirements prohibit asphalt parking surfaces
5 meeting your street.

6 MR. STEFFENS: Well, some of those buildings
7 that you're talking about have that occurring one
8 level above the street, too.

9 MS. KEON: Uh-huh.

10 MR. AIZENSTAT: You're talking about putting
11 a facade on the parking itself, to hide it?

12 CHAIRWOMAN MORENO: Well, it says parking
13 garages --

14 MS. KEON: I'm talking about not allowing --
15 yeah, I'm talking about how your --

16 MR. SIEMON: It would have to be a parking
17 garage.

18 MS. KEON: -- streets -- your buildings meet
19 the street.

20 MR. SIEMON: 2 of 16.

21 MR. KORGE: There are a lot of street
22 requirements that effectively prevent from turning
23 into a parking lot.

24 (Simultaneous indistinguishable comments)

25 MS. KEON: Well, but now they currently

1 exist in North Gables, and I'm asking that, as you
2 apply this to other areas, that it will prevent that
3 kind of development from occurring, because people
4 want to take care of parking so they put the -- pave
5 it, put the parking below and they use pillars, or I
6 don't know what you call those, properly, what
7 they're called, but whatever they are, and then it
8 starts the platform, and then apartments or the units
9 are built above it.

10 But what you have at street level, if you're
11 walking in the neighborhood, what you're walking
12 against and adjacent to, are asphalt parking lots. I
13 want to know that that's prohibited, that you can't
14 do that.

15 MR. KORGE: Surface parking lots and/or
16 similar vehicle use areas are prohibited to front on
17 primary streets, for example.

18 MS. KEON: But maybe it's not a primary
19 street. Are all streets primary streets? What are
20 primary streets? Is Navarre a primary street? Is --

21 MR. STEFFENS: I think that's the long side
22 of the facade --

23 MS. KEON: Right, so --

24 MR. STEFFENS: -- of the building.

25 MS. KEON: Right, so on the short side, I

1 can be -- if I'm walking on the other side or the
2 other way on the street, I'm going to walk against
3 it. I mean, there's real -- not only is it
4 aesthetically unpleasing, but there's safety issues
5 involved in that, too. It's not -- and I think it's
6 not good.

7 CHAIRWOMAN MORENO: It says, "Parking
8 garages shall include exterior architectural
9 treatments compatible with buildings or structures
10 which occupy the same development and/or street."

11 MS. KEON: But it's not a garage, because
12 it's not enclosed. It's open. So it doesn't fall
13 under the categories of garages.

14 MR. STEFFENS: It's open on the sides.

15 MS. KEON: Sometimes it's open on all four
16 sides.

17 MR. STEFFENS: But it's not open on the
18 top.

19 MS. KEON: No, but if it's open on all four
20 sides, is it a garage?

21 MR. STEFFENS: I think if it's closed on the
22 top --

23 MS. KEON: You see, I didn't think it was a
24 garage because it wasn't enclosed on the sides. I
25 thought there was a requirement for -- a garage had

1 to have some enclosures on the sides, too.

2 MR. STEFFENS: I think it's if it's closed
3 on the top --

4 MS. KEON: Because I was told they weren't
5 were considered garages. They were considered --
6 actually, they were a variant of a surface lot.

7 MR. STEFFENS: Well, I don't see how it
8 could happen.

9 MS. KEON: Well, as an architect --

10 MR. STEFFENS: I mean, theoretically, I
11 guess you could design one --

12 MS. KEON: They exist.

13 MR. STEFFENS: -- but I don't think it would
14 get past the Board of Architects.

15 MS. KEON: They exist now.

16 MR. STEFFENS: No, I mean, in this --

17 MR. KORGE: In this district.

18 MR. STEFFENS: In this district, with this
19 Code, the way it's written.

20 MS. KEON: I would --

21 MR. STEFFENS: You could probably design
22 one, but I don't think it would get past the Board of
23 Architects.

24 MS. KEON: I would hope that it wouldn't be
25 prohibited -- that it would be -- it wouldn't be

1 permitted.

2 MR. KORGE: I thought there were, in these
3 provisions, requirements for --

4 MR. STEFFENS: A number.

5 MR. KORGE: Yeah, a certain amount of floor
6 level retail space, you know, ground floor level
7 retail space and so forth.

8 MS. KEON: That's if it's there, if there's
9 floor level space.

10 MR. KORGE: Maybe I'm confused.

11 MS. KEON: Maybe there is no floor level
12 space.

13 MR. KORGE: No, but I thought --

14 MR. STEFFENS: No, but it's saying you have
15 to have. Fifty percent of your street frontage has
16 to be retail space.

17 MR. KORGE: I thought that was in here --

18 MR. RIEL: Yeah.

19 MR. KORGE: -- and I don't see it.

20 MR. STEFFENS: It is in there.

21 MS. KEON: Yeah, it is.

22 MR. STEFFENS: I read it a few minutes ago.

23 MS. KEON: In the front, it is, but I want
24 to know that that prohibits them from doing that.
25 You know what? You don't have to debate this now, if

1 you could just maybe look at that and then you could
2 come back and let me know.

3 MR. RIEL: I know it's in here. I know it's
4 in here.

5 MS. KEON: Okay, that's all.

6 MR. RIEL: I remember, this was debated at
7 length.

8 MS. KEON: Okay. Okay. That's all I ask.
9 You don't have to hold it up to do that. I only ask
10 that you --

11 CHAIRWOMAN MORENO: It's a good issue, and
12 hopefully the answer is what we think it is.

13 MS. KEON: Yeah, but I'd like to know that
14 for sure, and you can just tell me that at the
15 next --

16 CHAIRWOMAN MORENO: Can I have a motion to
17 approve Division 2 of Article 4?

18 MR. STEFFENS: I'll move to approve it if
19 somebody reminds me of any changes we've made.

20 CHAIRWOMAN MORENO: We haven't made any,
21 because Eric didn't want any.

22 MR. SIEMON: None.

23 MR. KORGE: What about the minor conditional
24 use --

25 MR. RIEL: No, Division 2 we talked about

1 checking schools and pre-schools.

2 MS. KEON: Right.

3 MR. KORGE: And medical clinics.

4 CHAIRWOMAN MORENO: That was so long ago, I
5 forgot about it.

6 MR. RIEL: Medical clinics have to do with
7 Division 3.

8 MR. KORGE: Yeah, but it shows up here.

9 MR. RIEL: That would take care of it --

10 MR. KORGE: Whether it was a permitted use
11 or a minor use or a major use.

12 MS. KEON: Right.

13 MR. KORGE: We don't know.

14 CHAIRWOMAN MORENO: Yeah.

15 MR. RIEL: Right, because we haven't
16 developed the threshold yet, and when we develop the
17 threshold, we'll make the adjustment.

18 CHAIRWOMAN MORENO: Okay, so --

19 MR. SIEMON: It's a minor conditional use in
20 this district.

21 CHAIRWOMAN MORENO: So, subject to changes
22 that may be made when we decide what medical clinics
23 will fall into, and subject to changes that will be
24 made when you decide about schools --

25 MR. SIEMON: And clarification of fast-food

1 versus non-fast-food restaurants.

2 CHAIRWOMAN MORENO: I'm sorry?

3 MR. SIEMON: Clarification of what's a
4 restaurant and what's a fast-food restaurant.

5 CHAIRWOMAN MORENO: Yes, thank you.

6 Anything else?

7 MR. STEFFENS: Then that's my motion.

8 MS. KEON: And you'll come back to me and
9 tell me about the parking lot issue.

10 MR. SIEMON: I believe that you can't put a
11 parking lot under this district, but I'll confirm
12 that.

13 MS. KEON: You'll confirm it for me.

14 CHAIRWOMAN MORENO: Okay, do I have a
15 second?

16 MS. KEON: I'll second.

17 CHAIRWOMAN MORENO: Can you call the roll,
18 please?

19 MS. MENENDEZ-DURAN: Eibi Aizenstat?

20 MR. AIZENSTAT: Yes.

21 MS. MENENDEZ-DURAN: Pat Keon?

22 MS. KEON: Yes.

23 MS. MENENDEZ-DURAN: Tom Korge?

24 MR. KORGE: Yes.

25 MS. MENENDEZ-DURAN: Bill Mayville?

1 Michael Tein?

2 MR. TEIN: Yes.

3 MS. MENENDEZ-DURAN: Michael Steffens?

4 MR. STEFFENS: Yes.

5 MS. MENENDEZ-DURAN: Cristina Moreno?

6 CHAIRWOMAN MORENO: Yes. And with that, I
7 need to excuse myself. Michael will take over.

8 (Thereupon, Chairwoman Moreno left the
9 dais.)

10 MR. SIEMON: The next district is the Zain/
11 Friedman Overlay District --

12 MS. KEON: Is that the Mile?

13 MR. SIEMON: -- which I believe is verbatim
14 from the existing Code.

15 MR. STEFFENS: Other than the change in
16 name?

17 MR. SIEMON: Yeah, the change in name, and
18 there's a clarification. We originally called them
19 LDRs and now we're calling them regulations, because
20 LDRs were banned by zoning.

21 Do you have anything to contribute to the
22 Zain/Friedman Overlay District?

23 MR. RIEL: The only suggestion is, I think
24 we should -- it should remain the Downtown Overlay
25 District.

1 MR. STEFFENS: As opposed to the --

2 MR. RIEL: There was -- the Commission did
3 pass an ordinance delineating that the Downtown
4 Overlay District would be known as the Zain/Friedman,
5 but the intent was not to change the name.

6 MR. TEIN: What is Zain/Friedman?

7 MS. KEON: It's the name of the people that
8 developed it.

9 MR. RIEL: Correct.

10 MS. KEON: A hundred years ago.

11 MR. RIEL: They recently passed an
12 ordinance, about two months -- two or three months
13 ago, or a resolution.

14 MR. SIEMON: Someone gave us a contrary
15 direction.

16 MR. RIEL: You're absolutely correct. You
17 got contrary direction from my Staff, and that's an
18 oversight by my Staff.

19 MR. SIEMON: Okay.

20 MS. KEON: There's a plaque on the wall up
21 there that tells you the story, Michael, if you want
22 to go read it.

23 MR. SIEMON: Okay.

24 MS. KEON: Can I -- I want to ask just one
25 question on this. I know that one of the issues

1 always with, like, the Mile -- in the other -- in the
2 prior section, where it deals with public realm
3 improvements that we just approved and it talks about
4 who's responsible for sidewalks, and it's the
5 property owners, apparently, that are responsible for
6 sidewalks in front of them -- when you have areas
7 like the Mile or whatever that are designated, you
8 know, for public use or whatever, and they're, you
9 know, extra large sidewalks, I mean, is it just
10 deemed that they benefit from all that, so that
11 remains with them, also? I mean, is that -- or is it
12 just a policy issue, that we do it?

13 MR. RIEL: I don't understand your question.
14 I mean, do they need to maintain it?

15 MS. KEON: I mean, one of the issues that's
16 always with me -- you know, with the improvements to
17 the sidewalks and whatever on the Mile, and that is
18 that nobody wants to assume the --

19 MR. RIEL: That has to do -- that doesn't
20 have to do with --

21 MS. KEON: That's just a policy issue?

22 MR. RIEL: -- land development regulations.
23 That has to do with capital improvements, a budgetary
24 issue --

25 MS. KEON: That's just policy?

1 MR. RIEL: -- and it's the responsibility --

2 MR. RIEL: But, in the Zoning Code, you
3 attribute that to the property owner?

4 MR. RIEL: In the mixed-use district only.

5 MS. KEON: Right. Okay, but in -- so, but
6 in --

7 MR. RIEL: And the reason for doing that is
8 because the emphasis was on improving the public
9 realm --

10 MS. KEON: Okay.

11 MR. RIEL: -- and incentives were provided
12 to that mixed-use overlay for increase in intensity.

13 MS. KEON: Okay.

14 MR. RIEL: So, therefore, the responsibility
15 of maintaining that public right-of-way was then
16 shifted from the City to the private developer.

17 MS. KEON: Is that addressed at all, or does
18 that happen with this overlay?

19 MR. RIEL: No.

20 MS. KEON: I looked and didn't see it,
21 but --

22 MR. RIEL: No.

23 MS. KEON: It doesn't, okay.

24 MR. RIEL: This only was assigned -- The
25 overlay was done for just the Miracle Mile.

1 MS. KEON: Okay.

2 MR. RIEL: It's a different type of an
3 overlay.

4 MS. KEON: This says that you're prohibiting
5 residential use on the Mile? Is that what you're
6 saying?

7 MR. RIEL: Can you tell me -- give me a page
8 or a reference number.

9 MS. KEON: I'm sorry, the district -- on 16
10 of 16, D, Prohibited Uses.

11 MR. SIEMON: No, no, no. You're --

12 MS. KEON: Or am I beyond where I'm supposed
13 to be?

14 MR. SIEMON: You jumped over to --

15 MS. KEON: I'm sorry.

16 MR. SIEMON: -- P District.

17 MS. KEON: I jumped a page. I'm sorry.

18 MR. STEFFENS: Can we approve this section?

19 MR. RIEL: Did you approve the Downtown
20 Overlay District?

21 MR. SIEMON: Not yet.

22 MR. STEFFENS: No, I said, can we approve
23 this section? Can I have a motion?

24 MS. KEON: I'll motion -- I'll move it.

25 MR. TEIN: Do we have to change the name --

1 MR. SIEMON: Yes.

2 MR. TEIN: -- back to Downtown?

3 MR. AIZENSTAT: I'll second it.

4 MR. STEFFENS: Call the roll, please.

5 MS. MENENDEZ-DURAN: Thank you.

6 Pat Keon?

7 MS. KEON: Yes.

8 MR. STEFFENS: I'm sorry.

9 MS. MENENDEZ-DURAN: Tom Korge?

10 MR. KORGE: Yes.

11 MS. MENENDEZ-DURAN: Bill Mayville?

12 Michael Tein?

13 MR. TEIN: Yes.

14 MS. MENENDEZ-DURAN: Eibi Aizenstat?

15 MR. AIZENSTAT: Yes.

16 MS. MENENDEZ-DURAN: Michael Steffens?

17 MR. STEFFENS: Yes.

18 Next?

19 MR. SIEMON: Next is the special use

20 district. These are zoning classifications for a

21 wide variety. Some of them have been treated as X

22 uses, some of them as S uses, et cetera, and you can

23 see the list of uses which are included, and --

24 MR. STEFFENS: Why is a pharmacy a major

25 conditional use?

1 MR. SIEMON: Because it's part of a
2 hospital.

3 MR. STEFFENS: A pharmacy as part of a
4 hospital?

5 MS. KEON: It's under hospital.

6 MR. KORGE: Yeah. It's part -- see, it's
7 under Number 4.

8 MR. STEFFENS: Okay. The schools does not
9 include day cares?

10 MR. SIEMON: Does not, as it's defined.

11 MR. STEFFENS: Okay.

12 MS. KEON: Is day care a permitted use,
13 then?

14 MR. SIEMON: Not in the S District.

15 MS. KEON: Not in a special use district?

16 MR. SIEMON: No.

17 MR. RIEL: It can be an accessory use,
18 though.

19 MS. KEON: Okay.

20 MR. STEFFENS: Can we approve this section?

21 MR. TEIN: I move to approve this section.

22 MR. STEFFENS: Second to that?

23 MR. AIZENSTAT: I'll second it.

24 MR. STEFFENS: Call the roll, please.

25 MS. MENENDEZ-DURAN: Tom Korge?

1 MR. KORGE: Yes.

2 MS. MENENDEZ-DURAN: Bill Mayville?

3 Michael Tein?

4 MR. TEIN: Yes.

5 MS. MENENDEZ-DURAN: Eibi Aizenstat?

6 MR. AIZENSTAT: Yes.

7 MS. MENENDEZ-DURAN: Pat Keon?

8 Michael Steffens?

9 MS. KEON: Yes.

10 MR. STEFFENS: Yes.

11 Do you have questions, Pat?

12 MS. KEON: You know, I just have this -- you

13 know, all of these things with setbacks -- now, a

14 special use district, would a special use district --

15 it wouldn't be in a commercial district? It would

16 be -- could it be in a commercial district, this

17 special use district?

18 MR. SIEMON: There are --

19 MR. STEFFENS: It could be.

20 MS. KEON: It could be?

21 MR. SIEMON: Yeah.

22 MS. KEON: You know why I have a problem

23 with these 20-foot -- with these setback

24 requirements? You know, I think if it's -- you know,

25 I can see in residential areas, where it should be --

1 it conforms with other residential areas, that you
2 want a 25-foot setback, but if you have a special
3 use, why would you have a -- why would you require a
4 setback, if it's in a commercial area, you know?

5 MR. STEFFENS: If it's a major conditional
6 use, would that require -- that requires a review, a
7 special review and presentation to us, and it might
8 require additional criteria.

9 MS. KEON: It's just under the performance
10 standards, I don't understand why the setback should
11 be required. I think, like they used to have that
12 landscape ordinance, you know, you had to have
13 landscaping in buildings in commercial areas -- and
14 then you ended up with like straggly-looking bushes
15 because it just didn't work. You know?

16 MR. KORGE: Well, I guess the question is,
17 where do these setbacks come from and why are they
18 here?

19 MS. KEON: Yeah. Why are there setbacks in
20 here?

21 MR. RIEL: Well, first off, let me kind of
22 give you some background on the special use
23 district. Right now, in the current Code, we don't
24 have any provisions for it. There's very limited
25 provisions.

1 So, by going through and defining what is
2 minor and major uses, we tried to delineate which
3 uses could be permitted. There are no performance
4 standards rights now, and the S uses are those areas
5 that are in your neighborhoods.

6 MR. KORGE: Right.

7 MR. RIEL: They are the churches, the
8 schools --

9 MR. KORGE: The country club.

10 MR. RIEL: -- the golf courses, the country
11 clubs. So, by providing these provisions, we're
12 providing --

13 MS. KEON: Right.

14 MR. RIEL: -- a level of review which is not
15 there at this time.

16 MS. KEON: It just --

17 MR. RIEL: So --

18 MS. KEON: I remember, having served on the
19 Board of Adjustment, we got -- there were so
20 frequently that those things came before the Board of
21 Adjustment, and it dealt with setbacks and the
22 setbacks weren't -- I mean, they would have made
23 sense if it was a residence, a residential use, but
24 they didn't make sense when they were another use,
25 but you couldn't grant a variance because it wasn't

1 necessarily a hardship, it just was bad design.

2 So I don't --

3 MR. KORGE: So why 25 feet, why not 30, why
4 not 12? I mean, how do you arrive at the number?

5 MS. KEON: I don't -- yeah. I think those
6 numbers are --

7 MR. KORGE: I think that's the question.

8 MR. RIEL: Because these are S uses, that
9 have single-family across the street.

10 MR. KORGE: So those are the single-family
11 numbers, basically?

12 MR. RIEL: Absolutely. I mean, you could
13 have --

14 MS. KEON: But if it's a special use, it's
15 not a house. It's generally something else, and
16 maybe --

17 MR. RIEL: No, it could be a government use,
18 it could be --

19 MR. STEFFENS: But if something -- if
20 something is subjected --

21 MR. RIEL: -- a hospital, it could be a
22 marina facility, it could be a school.

23 MR. STEFFENS: If something is subjected to
24 a major conditional use review, as part of that
25 review, can you ask for more restrictive things than

1 are in here, or this is -- I mean, if we set it up
2 where setbacks could say a minimum of --

3 MR. RIEL: Yes.

4 MR. STEFFENS: And then in the major
5 conditional use, when it's reviewed, you could say,
6 well, a hospital, we need more setback.

7 MR. RIEL: Yeah. That's as a part of your
8 evaluation of the criteria, if you feel that's
9 appropriate, yes.

10 MR. KORGE: Which raises another question in
11 my mind. Should there even be minor conditional uses
12 for a special use district? Since they're going to
13 be, essentially, nonresidential uses within a --
14 right in the heart of a residential community, I
15 assume that's what we're talking about here, why
16 wouldn't they all be major conditional uses, to be
17 sure that the adverse effects on the residential
18 community are minimized?

19 MR. STEFFENS: Yeah, we had a big
20 controversy over --

21 MR. RIEL: St. Philip's Church.

22 MR. STEFFENS: -- St. Philip's, and I think
23 there's one coming up on the one in front of
24 Biltmore --

25 MS. KEON: Right.

1 MR. STEFFENS: That's going to become an
2 issue.

3 MR. RIEL: If that's the direction of the
4 Board, the only suggestion I would have is that
5 utility infrastructure facilities, such as pump
6 stations and things like that, not need to come
7 through, but --

8 MR. KORGE: Are pump stations in here?

9 MR. RIEL: That's what a utility
10 infrastructure facility is.

11 MS. KEON: Utility infrastructure, yeah.

12 MR. KORGE: I'm sorry, I don't see them.
13 Where are they?

14 MR. RIEL: Utility infrastructure facility.

15 MR. KORGE: Oh, as a minor conditional use?

16 MR. STEFFENS: Why wouldn't those --

17 MR. KORGE: So you'd make them a permitted
18 condition?

19 MR. RIEL: Why wouldn't those? I don't
20 think we would want to bring a 20-by-20 --

21 MS. KEON: Pump station.

22 MR. RIEL: -- piece of property, pump
23 station, to the Board for review.

24 MS. KEON: No.

25 MR. STEFFENS: Well, some of those pump

1 stations are getting very big.

2 MS. KEON: Some of them are real big.

3 MR. RIEL: I don't think it's appropriate to
4 go through a conditional review on that.

5 MR. KORGE: But if it's a permitted use,
6 you'd still be able to impose restrictions to make
7 them less obtrusive? You, meaning Staff.

8 MR. RIEL: Yes.

9 MS. KEON: I just have a problem with your
10 performance standards. I mean, I think it's like you
11 needed something there and you took what was in the
12 old Code, and I'm just asking that whatever be there
13 is there to enhance the experience of that -- how
14 that facility --

15 MR. RIEL: Do you want us to be more
16 restrictive or less restrictive?

17 MS. KEON: Well, I think --

18 MR. RIEL: Just tell us.

19 MR. STEFFENS: I think we need the
20 opportunity to be more restrictive.

21 MS. KEON: Right, and I think you need the
22 opportunity to be less restrictive. I mean, I think
23 there's times when bringing something all the way out
24 to the street, with a nice facade and steps, is
25 probably better than having, you know, this --

1 MR. RIEL: Then they should go through a PAD
2 process. We would --

3 MS. KEON: But would it be big enough?
4 Don't you have to have a certain land mass to do
5 that?

6 MR. RIEL: One acre. That's fairly small.

7 MS. KEON: Not in this City. Not in the
8 Gables, it's not. In the developed City, it's not.
9 I mean, I just -- I have a problem with the setbacks.
10 I think sometimes the requirements for setbacks
11 promote -- they don't necessarily promote good
12 design.

13 MR. KORGE: Well, do we have to have any
14 performance standards?

15 MR. RIEL: So please tell me, would you like
16 us to increase it or decrease it?

17 MR. STEFFENS: I don't think that --

18 MR. SIEMON: I think they're saying that
19 they would like it to be able to go both ways, and
20 one way of doing that would be to make it a minor --

21 MR. RIEL: But as a property owner --

22 MS. KEON: But if it's special use, you're
23 not dealing with the residents. I mean, this is not
24 a house. This is a facility of some sort. No?

25 MR. RIEL: Well, it could be a church --

1 MS. KEON: Okay.

2 MR. RIEL: -- that has a rectory in the
3 front --

4 MS. KEON: It could be.

5 MR. RIEL: -- that is across the street from
6 a single-family home.

7 MS. KEON: Right.

8 MR. RIEL: So why would we not want a
9 25-foot setback?

10 MR. KORGE: You might want the church to
11 come right up to the street, for example.

12 MS. KEON: Yeah.

13 MR. KORGE: That's what she's saying.

14 MS. KEON: Right.

15 MR. KORGE: So I guess the question is,
16 assuming we moved almost everything into major
17 conditional uses, that -- but I'd suggest we may not
18 do that, but if we did that, couldn't we have much
19 more flexible performance standards, since the
20 reality is, it will come here and we'll be dictating,
21 essentially, you know, move it up, move it back, you
22 know, and so forth.

23 MR. STEFFENS: Well, how does somebody --

24 MR. KORGE: Can we do that, legally?

25 MS. KEON: I mean, that's why I'm asking you

1 as an architect.

2 MR. STEFFENS: How does somebody know how to
3 begin their design to get here?

4 MR. RIEL: That's the problem.

5 MS. KEON: That's why I'm asking you.

6 MR. KORGE: Well, how do they know now?

7 MS. KEON: Well, they know what the setback
8 is, so they step back in that far --

9 MR. KORGE: There is no setback now. You
10 were saying, they don't have any criteria.

11 MS. KEON: Well, they said, yeah, this is
12 the setback that they use in the residential area.
13 Isn't it? This looks like the residential setback.

14 MR. KORGE: No, but in the S district, is
15 this --

16 MS. KEON: No.

17 MR. KORGE: -- the correct standard?

18 MR. RIEL: I don't believe there's any
19 standard.

20 MR. KORGE: So how do they know now?

21 MR. SIEMON: They don't.

22 MR. RIEL: They don't.

23 MR. KORGE: They don't. So we don't really
24 have to provide it, because we haven't in the past
25 and it's worked. So --

1 MR. RIEL: I would disagree. It has not
2 worked.

3 MR. KORGE: That's not worked?

4 MR. RIEL: I spent three years, working with
5 the St. Philip's Church. It has not worked.

6 MS. KEON: Right.

7 MR. KORGE: Okay.

8 MR. SIEMON: The consensus is, I think, that
9 it hasn't worked.

10 MR. RIEL: And I can tell you, as the
11 Planning Director, I will not recommend S use. I
12 will force or recommend folks to go through a PAD
13 process, because it's a much --

14 MR. KORGE: Well, do you want to eliminate S
15 use?

16 MR. RIEL: We can't, because there's so many
17 properties --

18 MR. SIEMON: There's so many out there.

19 MR. KORGE: Can we change them to PADs?

20 Can we make all these uses PADs?

21 MR. RIEL: No.

22 MS. KEON: But if it's already --

23 MR. KORGE: But that's what you want.

24 MS. KEON: But if it's already there, then
25 by right, they can have it. That doesn't mean you

1 have to continue it.

2 MR. RIEL: I'm not saying to go back and
3 rezone all the S properties to PAD, because PAD is a
4 specialized ordinance that deals with special --

5 MS. KEON: But if, by right, they have it
6 because they're existing, so you can't take it away
7 from them, what you're doing is not allowing it to
8 continue. Isn't that what you're doing?

9 MR. SIEMON: No, we're allowing to it
10 continue.

11 MS. KEON: No. If you don't have special
12 use districts.

13 MR. SIEMON: We're not making them
14 nonconforming, no.

15 MS. KEON: No, you're not. I mean --

16 MR. SIEMON: The consensus is, we want to
17 make them conforming.

18 MS. KEON: -- you know, they're there
19 and they'll continue, because they're there,
20 historically, but if you don't want to continue
21 special use districts, then why would you include
22 it?

23 MR. RIEL: That's what I said. I said I
24 would not support --

25 MS. KEON: Well, if you prefer not to,

1 then --

2 MR. STEFFENS: I think, at a minimum, we
3 should keep these setbacks here, but at a minimum.
4 If you wanted to -- I mean, if we wanted them to do
5 something less than this, then it would be a
6 variance, correct?

7 MS. KEON: Right, but a variance, you have
8 to show a hardship, and maybe design isn't a
9 hardship. Design is not a hardship, good design.

10 MR. STEFFENS: Well, a use could be a
11 hardship.

12 MS. KEON: I don't think so. Is it? I
13 mean, who else sat on the board of variance? I --

14 MR. STEFFENS: Like an S use is a special
15 use, so therefore, it's a special problem. That's
16 why it's in this category.

17 MS. KEON: But I don't think it applies to
18 that, no?

19 MR. KORGE: Well, right now, in the S
20 districts, are they all pretty much conforming to
21 these setbacks?

22 MS. KEON: No.

23 MR. STEFFENS: Not necessarily.

24 MS. KEON: Coral Gables Country Club isn't
25 25 feet back from the road.

1 MR. SIEMON: Yeah, probably.

2 MR. RIEL: Coral Gables Country Club is 25
3 feet back.

4 MR. STEFFENS: No --

5 MR. SIEMON: Probably.

6 MR. STEFFENS: It comes out to the corner
7 on --

8 MS. KEON: It sure does.

9 MS. KEON: The pool is right along the --

10 MR. STEFFENS: -- North Alhambra Circle.

11 MS. KEON: -- right up to the sidewalk.

12 MR. STEFFENS: The dining room is five feet
13 from the sidewalk.

14 MS. KEON: Yeah.

15 MR. RIEL: This is for structures.

16 MR. STEFFENS: I'm sorry?

17 MR. RIEL: This is for structures.

18 MR. STEFFENS: No, the dining room.

19 MS. KEON: The dining room is.

20 MR. STEFFENS: That new dining room they
21 added.

22 MS. KEON: The loggia that goes across the
23 front.

24 MR. RIEL: But the Country Club was probably
25 built in what, 19 --

1 MR. STEFFENS: No, that dining room was
2 built after -- they used the money from the fire to
3 build that dining room.

4 MS. KEON: Right, to build it. Right. And
5 the Venetian Pool comes to the sidewalk.

6 MR. RIEL: Whatever you would like to do --

7 MS. KEON: Well, I mean, the Venetian Pool
8 comes to the sidewalk, Salvador Tennis Park comes to
9 the sidewalk.

10 MR. KORGE: Yeah, I mean, it's --

11 MS. KEON: I mean, all those things, they
12 all come to the sidewalk.

13 MR. KORGE: So we're like -- we're taking
14 what worked and we're assuring ourselves it won't in
15 the future.

16 MR. RIEL: I'm merely trying to provide
17 protection to the neighborhoods, and we've
18 recommended an additional setback for the front. If
19 this Board would like to reduce that, we will
20 certainly write the --

21 MR. AIZENSTAT: What happens if you take a
22 case where the City feels that it should have a
23 lesser setback? What is the procedure? What do you
24 do out here in --

25 MR. RIEL: Variance.

1 MS. KEON: A variance.

2 MR. STEFFENS: But the Board would say, "We
3 recommend -- "

4 MR. RIEL: Or recommend denial.

5 MR. STEFFENS: We would strongly recommend a
6 variance to the Board of Adjustment, and then they
7 would go to the Board of Adjustment.

8 MS. KEON: But the Board of Adjustment would
9 say that, "By the powers that are entrusted to us, we
10 only can grant a variance if you show a hardship" --

11 MR. STEFFENS: If there's a hardship.

12 MS. KEON: Or what's the other one? A
13 special condition or something of the property
14 itself. It's like a triangular piece of property, or
15 the property line goes like this, so I can't meet the
16 25 all the way along without having to be 40 at one
17 point, to be 25 at one point, and so you could say
18 that's because of a special condition, that would
19 give it, but that doesn't deal with the ordinary
20 course of things, which is design. That's all I'm
21 asking. So they couldn't. They would have to deny
22 the variance, because they wouldn't have any basis
23 for granting it.

24 MR. KORGE: Right.

25 MS. KEON: And then they would say to the

1 applicant, "You have to appeal to the City
2 Commission."

3 MR. STEFFENS: When we approved the
4 encroachment over the sidewalk and the alley, did
5 that have to go to the Board of Adjustment?

6 MR. RIEL: Those go to the City Commission
7 directly.

8 MS. KEON: Directly.

9 MR. RIEL: All encroachments go to the City
10 Commission.

11 MR. SIEMON: The -- If you want to provide
12 greater flexibility with regard to setbacks or any of
13 the performance standards, you could say -- you could
14 amend the performance standards to say that -- that
15 they could be reduced. I would not recommend that
16 they be increased. If as -- with a major conditional
17 use approval.

18 MR. STEFFENS: Why would you --

19 MR. SIEMON: If it's permitted as of right
20 or a minor conditional use, if you want to reduce the
21 setbacks -- significantly reduce the setbacks or
22 deviate from other performance standards, you could
23 do that, provided you go through the major
24 conditional use process.

25 MR. STEFFENS: Why wouldn't you recommend

1 increasing them? I mean, if that's the case, then we
2 should set them larger and then allow them to be
3 reduced, because I could see uses like hospitals
4 where I wouldn't want it at 25 feet.

5 MS. KEON: You would want them further back.
6 But, you know, in being able to affect the setbacks,
7 you know, you could then allow for buildings to
8 provide, you know, like the covered walkways and
9 things at the perimeter that would come to the
10 sidewalk, which makes for very attractive --

11 MR. KORGE: Let me try a different --

12 MS. KEON: And there's different things.
13 There's better design that you could do when you
14 don't force a setback on somebody.

15 MR. KORGE: Let me try a different approach
16 with this. How often are these S use districts going
17 to come up?

18 MS. KEON: But I like what you said.

19 MR. RIEL: There's a number of applications
20 that are going to be coming to this Board that have
21 to do with churches.

22 MR. KORGE: Are they all supposed to be
23 coming to this Board?

24 MR. RIEL: They will.

25 MR. KORGE: They should be. I mean, putting

1 aside what the ordinances say, if you were king of
2 the world, would you say these really belong before
3 the Board?

4 MR. RIEL: These types of uses? Yes.

5 MR. KORGE: All the S uses?

6 MR. RIEL: Yes, given their location in
7 residential areas throughout the City, absolutely.

8 MR. KORGE: Then, first of all, there
9 shouldn't be permitted, minor and major conditional
10 use; they should all come before the Board.

11 MR. RIEL: But permitted is a cemetery in an
12 open space.

13 MR. KORGE: That should come before the
14 Board.

15 MS. KEON: You just want to be able to
16 include that --

17 MR. RIEL: No, I don't think a cemetery
18 should.

19 MR. KORGE: What does it matter? They're
20 never going to come before us. You just put every --
21 This is what I'm saying. It's such a rarity, okay?
22 Churches are the main ones, and then a few clubs --
23 that we're sitting here, trying to analyze 17
24 different ways. Just have everything come to the
25 Board if it's a special use district. Why make this

1 overly complicated?

2 MR. RIEL: That's pretty much the way it is
3 right now.

4 MR. KORGE: That's the way it is right now,
5 and then as far as standards go, there are no
6 standards right now. Each one is looked at
7 individually, and the -- correct me if I'm wrong,
8 because I may be wrong, I don't know. Then your
9 department makes recommendations, other departments
10 look at it, and you come to some conclusion and you
11 bring it to us, and then they argue over the details.
12 Why don't we just leave it the way it is?

13 MR. RIEL: If that's what you would like.

14 MS. KEON: But I -- the suggestion that you
15 made, that you could make them -- when they come to
16 the Board, that the setback could be --

17 MR. SIEMON: Sure. I mean --

18 MS. KEON: How did you say it? You know,
19 that it wouldn't have to be a variance.

20 MR. SIEMON: Tom's saying the same thing.

21 MS. KEON: Okay, but --

22 MR. KORGE: Well, it's a little different,
23 because I'm saying there would be no standards, and
24 the reason is that 25 feet may not be acceptable to
25 the Staff or to the Board, and if 25 feet is set in

1 there and we're allowed to deviate it, or that the
2 applicant is allowed to ask for a deviation, then
3 maybe 25 feet becomes --

4 MR. SIEMON: I think you're going to have to
5 have some standards.

6 MS. KEON: Yeah. I mean --

7 MR. KORGE: Well, there is none now.

8 MR. SIEMON: That's --

9 MR. STEFFENS: Well, that's what Eric is
10 saying is a problem.

11 MR. KORGE: That's what I'm being told.

12 MR. SIEMON: That's a problem.

13 MS. KEON: As I understand it, you want to
14 start with 25 feet, but I'd like the ability, in
15 order to promote good design, to not be held to that
16 without having to get a variance, to allow that to be
17 a negotiable item, based on --

18 MR. SIEMON: Well, that's available under
19 the PAD. It's just that you're concerned about
20 parcels of less than an acre.

21 MS. KEON: I'm concerned that we don't have
22 parcels of that size. So I'm just asking you how you
23 can build that in, that that can be an item that can
24 be -- you know, you may have a one-story loggia that
25 surrounds the building and you may not want it massed

1 to the street, but you could do something that
2 provides an open space that comes right to the
3 street, or something that would promote, you know,
4 the design. I really would like to see really,
5 really pretty buildings in the City.

6 MR. STEFFENS: Would you come back --

7 MR. SIEMON: Yeah, I think you guys want us
8 to go work on this.

9 MS. KEON: Yeah.

10 MR. SIEMON: Is that what you're telling us?

11 MR. KORGE: Yes.

12 MS. KEON: But just that element, is all I'm
13 going to ask you about.

14 MR. RIEL: I just want to make sure that you
15 understand that you can have a hospital that could be
16 five or ten feet from the property line. I just want
17 you to know --

18 MS. KEON: Okay, but I also want you to
19 understand that if you want to keep the 25, I
20 understand that, but I want it to be able to be based
21 on the design, that there may be a reason to bring it
22 out, or you could -- that's why I said, you could
23 create loggias or walkways or whatever that are
24 covered porticos or things --

25 MR. RIEL: My concern is, currently we have

1 a hospital right now. If we go and change the
2 regulations to five feet, that facility could come in
3 and ask for a request to add on that building, and I
4 don't -- I don't think that's appropriate. I really
5 don't.

6 MS. KEON: I'm not --

7 MR. RIEL: Given this list of uses, as a
8 professional, I do not recommend you make it easier
9 or reduce the setbacks, given the location of these
10 facilities, so --

11 MR. STEFFENS: I don't think 25 feet is good
12 for a hospital next to single-family, either.

13 MR. RIEL: I don't, either, and marina
14 facilities --

15 MS. KEON: It should be further.

16 MR. RIEL: -- a school --

17 MS. KEON: It should be much further back.
18 But that's -- but I think that, you know, it should
19 be dependent on the design.

20 All I'm asking you is, you can set what you
21 think is a minimum setback, and I don't have a
22 problem with that, but I want you to build in
23 something that makes it other than a variance,
24 because a variance doesn't work. That's not the
25 answer.

1 MR. KORGE: You want to be able to deviate
2 either way?

3 MS. KEON: You want to be able to deviate
4 either way --

5 MR. KORGE: So you could require a
6 greater --

7 MS. KEON: -- based on design criteria.

8 MR. KORGE: -- a greater setback.

9 MS. KEON: Somebody even asked to do that.

10 MR. STEFFENS: I think Charlie is saying --
11 I think Charlie is saying to set a maximum and then
12 deviate less.

13 MS. KEON: Well, you know, you can tell me.
14 I don't know. I'm only telling you, at the end, what
15 I'd like to see, and you can tell me how you get
16 there.

17 MR. RIEL: I think they should go through a
18 variance proceeding, because I will tell you --

19 MS. KEON: But a variance doesn't answer the
20 problem, Eric.

21 MR. RIEL: I think variances are granted
22 within the City that do not justify and indicate that
23 they have a hardship.

24 MS. KEON: No, I --

25 MR. KORGE: Well, that's -- that's a really

1 bad reason. I mean, you're saying, well, we'll just
2 keep violating the law because it works.

3 MR. RIEL: No, no, no. I'm saying -- I'm
4 just saying, I think the variance procedures are the
5 way to go if a property exhibits a hardship that they
6 need to reduce the setbacks, that the Board of
7 Adjustment should do that.

8 MS. KEON: What's the hardship? What's the
9 hardship? I want a bigger building? I have a better
10 design? That's not a hardship.

11 MR. RIEL: That's the determination that --

12 MS. KEON: It doesn't meet the criteria. I
13 mean, I know, from sitting on that board.

14 MR. SIEMON: How about if we just said that
15 in this district, the PAD doesn't have a minimum lot
16 size?

17 MS. KEON: Okay.

18 MR. AIZENSTAT: Say that again, please.

19 MS. KEON: I don't think that tells me --

20 MR. AIZENSTAT: Why don't we let Charlie get
21 together with Eric?

22 MS. KEON: Yeah. He can do it.

23 MR. RIEL: My real concern is, we have a lot
24 of S uses out there, and if we change and make it
25 easier to go, I can see a lot of these coming in to

1 us.

2 MR. KORGE: Right.

3 MR. RIEL: And that's really my concern, and
4 we're talking all in residential areas here.

5 MR. SIEMON: But aren't most of them an
6 acre?

7 MS. KEON: Pardon me?

8 MR. RIEL: But I don't know if the PAD
9 process is the right way to go, either, because that
10 allows variations --

11 MR. SIEMON: But they can do it, right now,
12 if they're an acre or more.

13 MR. RIEL: No, we can't do a PAD in a
14 residential area right now. PADs are only allowed in
15 commercial and mixed-use areas.

16 MS. KEON: Commercial areas, right.

17 MR. RIEL: So you could have a PAD in the
18 middle of a single-family neighborhood that's less
19 than an acre.

20 MR. SIEMON: I thought it was --

21 MR. RIEL: You can't do a residential PAD.

22 MR. SIEMON: You couldn't do it in a
23 residential district.

24 MR. KORGE: You mean single-family.

25 MR. SIEMON: This is not a residential

1 district. This is an S district.

2 MR. RIEL: I understand, but it's all
3 surrounded --

4 MR. SIEMON: That's not what the Code says.

5 MR. RIEL: It's all surrounded by
6 single-family.

7 MR. SIEMON: Then we need to address that,
8 because that's not what it says. If it's
9 surrounded -- if it's an S use, surrounded by a PA --
10 by residential districts, I don't think it's excluded
11 from the PAD, as it's drafted. It's my bad.

12 MR. RIEL: No, because I remember we talked
13 about it when we talked about PAD provisions. The
14 question was asked, "Can you do it in residential,"
15 and my answer was, "No."

16 MR. KORGE: Well, do you agree that all of
17 them should come before this Board?

18 MR. RIEL: Not a cemetery.

19 MR. SIEMON: God bless you.

20 MS. KEON: Okay.

21 MR. KORGE: There aren't that many.

22 MR. SIEMON: Yeah.

23 MR. KORGE: So --

24 MR. RIEL: Not -- you know, not --

25 MR. AIZENSTAT: I tend to agree with Eric.

1 MR. SIEMON: We take volunteers.

2 MR. AIZENSTAT: Because I don't think --
3 There are so many facilities in this area that are
4 surrounded by residential, he is so right, and if you
5 start taking that away, you're going to have
6 everybody trying to come before the Board and
7 increase their size and so forth. I don't know if
8 that's the right thing to do.

9 MS. KEON: Well, I just --

10 MR. AIZENSTAT: I think there has to be some
11 standards that are set.

12 MR. STEFFENS: Well, I think Charlie and
13 Eric can -- They know what we're looking for --

14 MR. TEIN: Yes.

15 MR. STEFFENS: And we don't need to beat a
16 dead horse here.

17 MS. KEON: No.

18 MR. TEIN: No.

19 MS. KEON: No, you're right.

20 MR. KORGE: Should we defer this one?

21 MR. STEFFENS: I think so.

22 MR. KORGE: I'll move to defer.

23 MR. TEIN: Second.

24 MR. STEFFENS: Can I have a vote?

25 You know, you can start --

1 MS. MENENDEZ-DURAN: Michael Tein?

2 MR. STEFFENS: -- that roll call right after

3 you hear --

4 MR. TEIN: Yes.

5 MR. STEFFENS: -- a second there, you know.

6 MS. MENENDEZ-DURAN: Eibi Aizenstat?

7 MR. AIZENSTAT: Yes.

8 MS. MENENDEZ-DURAN: Pat Keon?

9 MS. KEON: Yes.

10 MS. MENENDEZ-DURAN: Tom Korge?

11 MR. KORGE: Yes.

12 MS. MENENDEZ-DURAN: Michael Steffens?

13 MR. STEFFENS: Yes.

14 Michael is going to step out.

15 MR. TEIN: I'm sorry, I have to excuse

16 myself. (Inaudible).

17 MS. KEON: We're about done.

18 MR. TEIN: Thank you.

19 (Thereupon, Mr. Tein left the dais.)

20 MR. STEFFENS: How much further do we have?

21 MR. SIEMON: The P district, I would like

22 to just -- it's the existing P district.

23 MR. STEFFENS: Uh-huh.

24 MR. SIEMON: I don't think we changed

25 anything.

1 MR. KORGE: No changes whatsoever.

2 MR. STEFFENS: Ooh. Can I hear a --

3 MR. KORGE: I'll move to approve the P
4 district. I don't see anything in there that's
5 offensive.

6 MR. STEFFENS: Do I have any second on
7 the P?

8 MS. KEON: I'll second it.

9 MS. MENENDEZ-DURAN: Eibi Aizenstat?

10 MR. AIZENSTAT: Yes.

11 MS. MENENDEZ-DURAN: Pat Keon?

12 MS. KEON: Yes.

13 MS. MENENDEZ-DURAN: Tom Korge?

14 MR. KORGE: Yes.

15 MS. MENENDEZ-DURAN: Michael Tein?
16 Michael Steffens?

17 MR. STEFFENS: Yes. Should we do this last
18 one?

19 MR. KORGE: No, I think we should defer this
20 until we have a full Board again.

21 MR. RIEL: This will allow us an opportunity
22 to look at that medical clinic --

23 MS. KEON: Okay.

24 MR. RIEL: -- and come back with a
25 recommendation, so --

1 MR. STEFFENS: Do you want to make a motion,
2 then?

3 MR. KORGE: Motion to defer that until --
4 Article 4, Division 3, until the next meeting.

5 MR. AIZENSTAT: I'll second.

6 Roll call?

7 MS. MENENDEZ-DURAN: Pat Keon?

8 MS. KEON: Yes.

9 MS. MENENDEZ-DURAN: Tom Korge?

10 MR. KORGE: Yes.

11 MS. MENENDEZ-DURAN: Eibi Aizenstat?

12 MR. AIZENSTAT: Yes.

13 MS. MENENDEZ-DURAN: Michael Steffens?

14 MR. STEFFENS: Yes.

15 MR. SIEMON: There are two other districts.
16 There's the commercial district, the full commercial
17 district, and the industrial district. Maybe we can
18 get rid of the industrial district, since it's a --

19 MR. RIEL: Are they in here?

20 MR. SIEMON: Yeah, it is. Isn't it?

21 MR. STEFFENS: I don't think so. I didn't
22 see it. Is there something else we have to defer?

23 MS. KEON: I didn't see it.

24 MR. STEFFENS: Yeah, there it is, the
25 industrial district.

1 MR. SIEMON: Yeah, 4-303.

2 MR. KORGE: I'll move to defer that, as
3 well.

4 MR. SIEMON: Oh, then just defer C and I.

5 MR. RIEL: Division 3.

6 MR. SIEMON: Just the rest of Division 3.

7 MR. RIEL: Yeah. I think we should discuss
8 all those at one time.

9 MR. KORGE: Well, I'll defer whatever is
10 left on the agenda for tonight. That's what I move
11 to do.

12 MR. RIEL: I'll second.

13 MR. SIEMON: I do want to give you all
14 just --

15 MR. KORGE: Do we need to vote on that?

16 MR. RIEL: We need a second. We need a
17 second.

18 MS. KEON: I'll second it.

19 MR. SIEMON: Add this to your materials.

20 MR. STEFFENS: Yes.

21 MR. AIZENSTAT: Roll call?

22 MS. MENENDEZ-DURAN: Tom Korge?

23 MR. KORGE: Yes.

24 MS. MENENDEZ-DURAN: Eibi Aizenstat?

25 MR. AIZENSTAT: Yes.

1 MS. MENENDEZ-DURAN: Pat Keon?

2 MS. KEON: Yes.

3 MS. MENENDEZ-DURAN: Michael Steffens?

4 Michael Steffens?

5 MR. STEFFENS: Yes.

6 MR. RIEL: I just have one item. I just
7 wanted to indicate that the City Attorney couldn't be
8 with us this evening -- obviously, you noticed
9 that -- but she wanted to mention that the City had
10 won its lawsuit with the JCI parcel, and she wanted
11 me to hand out the order to you.

12 I don't have anything else.

13 MS. KEON: Okay.

14 MR. KORGE: Can we adjourn?

15 MR. STEFFENS: Well, you can move for
16 adjournment.

17 MR. KORGE: Move to adjourn.

18 MR. AIZENSTAT: I'll second it.

19 MR. RIEL: May 11th, the next meeting.

20 (Thereupon, the meeting was adjourned at
21 10:35 p.m.)

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CERTIFICATE

STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

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

I, JOAN L. BAILEY, a Notary Public in and for the State of Florida at large, do hereby that all witnesses were duly sworn by me.

DATED this 27th day of April, 2005.

JOAN L. BAILEY, RDR

Notary Commission Number DD 190412.
My current notary commission expires 6/14/07.

