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

CORAL GABLES CITY COMMISSION CHAMBERS  
405 BILTMORE WAY, CORAL GABLES  
JUNE 21, 2006, 6:07 P.M.

Board Members Present:

- Tom Korge, Chairman
- Eibi Aizenstat, Vice-Chairman
- Jack Coe
- Cristina Moreno
- Javier Salman

City Staff Participating:

- David Brown, City Manager
- Eric Riel, Jr., Planning Director
- Walter Carlson, Assistant Planning Director
- Dennis Smith, Assisting Building Director
- Lourdes Alfonsin Ruiz, Assistant City Attorney
- Jill Menendez-Duran, Administrative Assistant

Also Participating:

- Charles L. Siemon, Esq., Consultant

Public Speakers:

	Page
Mamta Chaudhry-Fryer	132
Ignacio Zabaleta	145

- - -

1       THEREUPON:

2               The following proceedings were had:

3               CHAIRMAN KORGE:   Okay, we have a quorum.

4       Let's call the meeting to order.

5               Will you call the roll for us, please?

6               MS. MENENDEZ-DURAN:   Eibi Aizenstat?

7               MR. AIZENSTAT:   Here.

8               MS. MENENDEZ-DURAN:   Robert Behar?

9               Jack Coe?

10              MR. COE:   Here.

11              MS. MENENDEZ-DURAN:   Pat Keon?

12              Cristina Moreno?

13              MS. MORENO:   Here.

14              MS. MENENDEZ-DURAN:   Javier Salman?

15              Tom Korge?

16              CHAIRMAN KORGE:   Here.

17              The first item on the agenda is the approval

18       of the minutes from the meeting of February 15th,

19       2006.  Do I have a motion?

20              MR. RIEL:   We're probably going to have to

21       defer it again --

22              MR. COE:   Defer for a quorum.

23              CHAIRMAN KORGE:   Right, we'll defer that.

24              MR. RIEL:   -- because we don't have enough

25       members that were --

1                   CHAIRMAN KORGE: The next item on the  
2 agenda, the proposed Zoning Code rewrite.

3                   We start with -- we've allocated 15 minutes  
4 of time for an introduction by the City Manager,  
5 David Brown, and Eric Riel, the Planning Director.

6                   Dave?

7                   MR. BROWN: Thank you. Good evening, Mr.  
8 Chairman, Members of the Planning & Zoning Board.  
9 It's a pleasure to be with you here tonight on what  
10 is, I believe, the beginning of a new day for the  
11 City of Coral Gables.

12                   First of all, I'd like -- on behalf of the  
13 Commission and the Administration, I'd like to thank  
14 you for the countless hours that you've dedicated to  
15 this project, and I know that sometimes it's been  
16 very difficult and very challenging, but I can't tell  
17 you how much it means to us for you to give us the  
18 time for this major, major, major task.

19                   We've embarked on a path that was given to  
20 us by City Commission through their policy direction  
21 to continue to improve and make the City beautiful  
22 and preserve the quality of life which, for two years  
23 running, has been one of their four major goals. The  
24 City Commission has requested the Administration  
25 undertake this assignment with their vision for the

1 future, but always remembering the past, and I can  
2 tell you personally that that has been a challenge in  
3 this endeavor, is to go forward, but don't leave the  
4 past behind.

5           The Commission allocated funds and we  
6 completed a Charrette, and we provided specific  
7 policy direction through that Charrette, and we  
8 remain committed to securing public input and  
9 requesting, from everywhere where we can get input,  
10 to give input to this process and to the Zoning Code.

11           The City Commission has identified four  
12 major goals for this coming year, and I just touched  
13 upon one, but I'll repeat that with the other three.  
14 We want to apply private and best practices as a way  
15 of doing business here in the Gables. We want to  
16 ensure future infrastructure capacity for community  
17 services and livability. We want to develop  
18 programming that enhances the quality of life, and we  
19 want to maximize a safe Downtown experience, setting  
20 the standard for urban living.

21           The Zoning Code rewrite is an integral part  
22 of accomplishing all four of those goals. The Zoning  
23 Code applies to how businesses are operating, setting  
24 the -- I'm sorry, provides for our necessary  
25 infrastructure to ensure and maintain a high quality

1 of life, and it also provides for setting the high  
2 standards that the City desires.

3 To accomplish those City Commission goals,  
4 the City Administration has targeted five areas: To  
5 review and update the Charter, and that's been  
6 completed. To update the City Code; that's been  
7 completed. To update the Zoning Code, which is  
8 underway. To update the Comprehensive Land Use Plan;  
9 that's underway. And to, overall, automate the City  
10 processes, and that's underway, and I can tell you, I  
11 was at class today.

12 The City will continue its commitment to  
13 this process after the rewrite is completed, with the  
14 allocation of dollars to the CLUP rewrite, the new  
15 impact fee ordinance, and the funding of the City  
16 Architect position, and those new positions were  
17 finalized at 5:30 today with the Finance Director.

18 Staff's commitment to this process has been  
19 extensive. City Staff, or I should say, we've become  
20 a team over the last several months, that includes my  
21 office, the City Attorney's office, the Building &  
22 Zoning Department, the Historic Preservation  
23 Department, the Planning Department and the City  
24 consultant, and we have met to review the Code before  
25 you today a total of eight times throughout the

1 process, line by line, page by page, and I must tell  
2 you that more reviews are forthcoming, as this  
3 document is a fluid document.

4 The City team is in support of the draft  
5 before you. The draft represents the document that  
6 is a collective review, including policy direction,  
7 the expertise of the City Commission, the Board --  
8 this Board, public input from property owners,  
9 citizens, interested parties, stakeholders and the  
10 City team.

11 The City looks forward to your final  
12 recommendation on this important document, and Staff  
13 is dedicated to assist you and to allow you to make  
14 an informed decision and recommendations on this  
15 document.

16 On behalf of the City Commission and the  
17 City Administration, I want to thank you again for  
18 your time and efforts.

19 Thank you, and at this time, I'd like to  
20 turn it over to the Planning Director, Eric Riel.

21 MR. RIEL: Thank you, David.

22 What I'd like to do is just go through a  
23 fairly brief PowerPoint. As you know, if you look on  
24 the agenda, what I attempted to do with the agenda  
25 this evening is try to set time frames to move

1 forward this evening, and it does include breaks and  
2 it does include an opportunity for input from the  
3 Board.

4           The intent this evening, if there is public  
5 input, it is to be taken at the end of the  
6 proceedings. Our desire is to go through and  
7 basically present this to you this evening, and just  
8 let me go ahead and start the PowerPoint. It's right  
9 behind me. Truly, the -- as you'll see by the  
10 flashing on the "Presentation," tonight is a  
11 presentation of the proposed Zoning Code. The intent  
12 of this meeting is to provide you a complete picture  
13 of the process. The document was prepared,  
14 obviously, with the Board's input, policy direction,  
15 City Staff recommendation, and public input.

16           The Board has reviewed it, article by  
17 article, line by line, as well, with the exception of  
18 a couple of divisions, which I'll go into.

19           It is a work in progress document, or a  
20 fluid document, as the Manager had indicated. Being  
21 a work in progress document, will there be more  
22 changes? Yes. Will there be more public input?  
23 Yes. Will other boards have input? Yes, there will  
24 be, and will Staff have more input? That's a  
25 function of the public hearing process.

1           We're going to be doing this same  
2 presentation to the City Commission, identical in  
3 form, on July 11th, and after all that input is  
4 received from this Board, as well as additional input  
5 from other City Staff, we're going to prepare a final  
6 document in early August, and then come back to this  
7 Board and go through any particular articles or  
8 anything, but for the most part, you've recommended  
9 approval on certain divisions and articles, but  
10 there's been some changes, and I'll go into those in  
11 a little bit.

12           Basically, this evening, we're kind of  
13 structuring it under three areas, administrative  
14 functions of the Code, the zoning districts and maps,  
15 and then the development standards, and that's how  
16 it's divided up, in terms of the time frames on the  
17 agenda.

18           Basically, what we'd ask is you allow us to  
19 go through each of the sections, and at the end of  
20 those sections, look for your input and any comments  
21 you have. We're not expecting your recommendation  
22 this evening. I can't stress to you, it's just a  
23 presentation. It's an opportunity for us to roll out  
24 all the input that we've received from you, from the  
25 number of meetings we've had to date.

1           In terms of public outreach, we have about  
2   200 e-mail -- people who have signed up for e-mail,  
3   provided them notice of the Code. We have received  
4   about 200 comments, in total, throughout this entire  
5   process. We have a hard copy of the Code on the web  
6   page. The same day you got it, it was put on the web  
7   page. We have all the maps on the web page, as well.  
8   So we're encouraging people to go to the web page and  
9   extract the documents from there, although we do have  
10  a hard copy in the Planning Department and we'll be  
11  happy to provide it to you, free.

12           We also want to encourage people to give us  
13  written comments. That's much more valuable to us,  
14  because it obviously reminds us to include those  
15  provisions, as well as, those comments go to this  
16  Board as well as the Commission.

17           Just to kind of give you a little  
18  background, very briefly, we started this process in  
19  February 2004. We had what I call discovery meetings  
20  with the City Commission. It was actually in the  
21  community police room, at the police station. It was  
22  basically just to identify -- and somebody took my  
23  stuff -- the major issues. It was broken down into  
24  10 different things, and basically, what we did is,  
25  we asked the Commission, as well as the Planning

1 Board, what were the issues you'd like us to look  
2 into, in the rewrite.

3 Then, in October to December of 2004, we  
4 brought it before this Board. We had three months  
5 where we took the major issues and we asked for your  
6 policy direction.

7 And then, in February 2005, that's when the  
8 first document was prepared, which was about a little  
9 bit over a year ago, and then since, from that time  
10 forward, we've been reviewing it, as I indicated,  
11 article by article.

12 Now, we've also gone to the Commission with  
13 updates. In front of you, if you recall, we had the  
14 tracking chart that I used to give you at every  
15 meeting, and I also have a larger version over to the  
16 side, and there's a smaller version up here, it's  
17 very hard to see, but that's why you have one in  
18 front of you. The lines noted in white are those  
19 areas that you all have deferred.

20 For the most part -- we've had about 30  
21 public meetings on the Zoning Code. We've  
22 reviewed -- there's 71 divisions. We've reviewed  
23 about 79 percent, or 56 of those. Fifteen of them  
24 you have deferred, and one or two that you haven't  
25 seen, and that is the Landscape Code and the

1 Multi-family Provisions.

2 (Thereupon, Mr. Salman arrived.)

3 MR. RIEL: But for the most part -- it's a  
4 great undertaking, it has changed throughout the  
5 process, but for the most part, you've seen every  
6 section, and as I indicated, 56 of those 71, you  
7 basically approved.

8 That pretty much concludes my presentation.  
9 I'm going to turn it over to Mr. Siemon, who's going  
10 to go through, and hopefully we'll stick to the time  
11 frames, and hopefully we'll get out, maybe, a little  
12 earlier than we did on last Wednesday, and just as a  
13 side note, we also have an Executive Summary on the  
14 blue paper in front of you, which kind of provides  
15 you a general three or four-page overview. This  
16 information is also on the web, as well.

17 So, with that, I'll turn it over to  
18 Charlie.

19 CHAIRMAN KORGE: Just note for the record  
20 that Javier Salman has arrived. Thank you.

21 MR. SALMAN: Thank you, Tom.

22 MR. SIEMON: Mr. Chairman, Members of the  
23 Commission, it's my pleasure to present this overview  
24 of the Code. In many ways, you all are very, very  
25 familiar with it and its organization, but this is

1 really a kickoff for what will be the formal  
2 consideration, so I want to try to take you through  
3 the ordinance.

4           There's an awful lot that's happened. We  
5 have had some initiatives that have been in drafts  
6 that have now been receded from. There's some items  
7 that have been set aside. So what I want to try to  
8 do is explain where we are today, so you can start  
9 that formal process, and if I don't make something  
10 clear, I would like to make it clear, but I think we  
11 want to try to avoid a policy debate over a term or a  
12 provision here, and I'll do my best to walk us  
13 through in an efficient fashion.

14           CHAIRMAN KORGE: Well, before you begin --

15           MR. SIEMON: Yes.

16           CHAIRMAN KORGE: -- let me just ask a quick  
17 question.

18           MR. SIEMON: Sure.

19           CHAIRMAN KORGE: Most of this rewrite has  
20 already been approved. However, several items have  
21 been deferred, or I guess -- yeah, all deferred, for  
22 further consideration. Are we going to discuss the  
23 details of any of those today, of the deferred  
24 items? Are we going to decide on those? Are we  
25 going to, you know, raise the issues that need to be

1 raised at this time? Or when are we going to do  
2 that, if not now?

3 MR. RIEL: We're going to raise the issues.  
4 We're not looking for a vote, again. We're just  
5 trying to roll out and see how everything  
6 interrelates.

7 As you know, we've talked -- we spent three  
8 meetings on parking, we spent six meetings on  
9 single-family, we spent three meetings on  
10 nonconforming. Charlie is going to let you know  
11 where we have landed on all of those issues, in  
12 addition to the other sections of the Code, so you  
13 can kind of bring it all together, because as we  
14 discussed this in the past year, we've only talked  
15 about that article, and then we've, you know,  
16 divulged (sic) -- we got into nonconformities and  
17 things like that.

18 CHAIRMAN KORGE: I guess, being more  
19 specific, the deferred items, whether we've discussed  
20 them and voted on them or not, we have rewrites of  
21 those items in here. Do you want comments on those  
22 rewrites, or do you want to defer those comments  
23 until a later date?

24 MR. RIEL: I think I'd like to defer them  
25 to a later date, because we're going to come back

1 with the Code again, and we're going to ask you to  
2 approve it all, in totality, but we're going to focus  
3 on those lines that are white on there, where there's  
4 been deferrals. But if there's something that you  
5 would like us to look into further --

6 CHAIRMAN KORGE: Well, no, the reason I'm  
7 asking is that you're going to come back with what  
8 you think is a final proposal.

9 MR. RIEL: Right.

10 CHAIRMAN KORGE: Well, if you don't get our  
11 comments now on the deferred items, then what you  
12 come back with is likely to have to be revised again.

13 MR. RIEL: If you'd like -- I mean, if you  
14 want to, that's fine. I mean, this evening --

15 CHAIRMAN KORGE: Do we have time for that  
16 tonight?

17 MR. RIEL: Yeah. I mean, after --

18 CHAIRMAN KORGE: Would the Board Members  
19 like to bring all those to a conclusion tonight, to  
20 the extent we can? Anybody? I mean, does anybody  
21 care, one way or another?

22 MR. AIZENSTAT: Well, we can go into them  
23 and see where it leads and how far we get with each  
24 item.

25 CHAIRMAN KORGE: Okay.

1 MS. ALFONSIN: Mr. Chair?

2 CHAIRMAN KORGE: Yes.

3 MS. ALFONSIN: There can't be a conclusion  
4 reached tonight, because there's no vote tonight.  
5 You can comment on --

6 CHAIRMAN KORGE: I understand.

7 MS. ALFONSIN: -- the items that were  
8 deferred --

9 CHAIRMAN KORGE: But the reality is that --  
10 for example, the Nonconforming Uses, that's a very  
11 important item for us. We've gotten a revision. I  
12 know I spent almost all day going through this,  
13 looking at what I thought were pretty clearly  
14 identified deferred items that we needed to look at  
15 and decide on, so I made all my notes and comments.  
16 If we're not going to do that today, then I -- and we  
17 don't look at those today, then we're going to have  
18 to look at it at the next meeting, which will defer  
19 it further, so --

20 MR. RIEL: I think after he goes through the  
21 administrative, what we'd like to get is your  
22 comments, yeah. I mean, give us those --

23 CHAIRMAN KORGE: Okay.

24 MR. RIEL: -- and then certainly, you know,  
25 my office is available. If you want to sit down, any

1 Board Member, and go through this, we'd be happy to  
2 do that. We want to bring this to finality. It's  
3 just that we wanted to roll this document out, and  
4 when we come back in August, it's supposed to be  
5 everything that's buttoned up and, you know, all the  
6 pieces of the pie are in there.

7 So, yeah, any input you can give us this  
8 evening will be appreciated.

9 MR. SIEMON: Mr. Chairman, if I could just  
10 echo that, we are going to have, I think, an all  
11 Staff meeting, one more time. A lot of matters came  
12 in right in the last few days, as we were -- our  
13 deadline to produce it and a lot of things changed.  
14 We did our best to get it all together. We know  
15 there are some issues. I'm going to point out a few  
16 that were things that happened, but if we could get  
17 any direction you have in regard, particularly, to  
18 the deferred items, I think that would help us to  
19 prepare the next draft.

20 CHAIRMAN KORGE: Okay.

21 MR. SIEMON: So -- and I will -- I -- you  
22 all, I think, know this Code, the organization and  
23 the basic structure, and I'm not going to spend a lot  
24 of your time. I'd rather hear from you, to the  
25 extent I can.

1           I'd like to start just with Article 1. As  
2 you know, it's a standard first introductory -- it  
3 has the general provisions, title, authority,  
4 purpose, jurisdiction and applicability, what happens  
5 to annexed lands, the Comprehensive Plan and its  
6 status, the official zoning map. Importantly,  
7 transitional rules. This thing doesn't go into  
8 effect, you know, immediately. There is a -- I hope,  
9 a very well thought out transition program, as we go  
10 from one Code to another Code, over time. And then  
11 there is a -- on Page 3 of 5, a table which relates  
12 the old districts to the new districts, so you can --  
13 and then construction rules and a severability  
14 clause.

15           That's really Article 1. You all have  
16 reviewed it. To my -- I do not believe that there's  
17 anything other than some editorial work that's been  
18 done. As we've changed the number of districts or  
19 the names of the districts, we've obviously gone back  
20 and codified it, to make it consistent, but I think  
21 the substance which you previously approved is what  
22 is in this article at this time.

23           Article 2 is the second piece of the puzzle  
24 for us, what's your authority, who are the people who  
25 are responsible for administering the Code and what

1 are their powers. And as you recall, in the existing  
2 Code, who does what and what their authority is, is  
3 scattered all through the document. We recommended  
4 and you all have previously approved an organization  
5 that brings all of that into a single chapter, and  
6 again, it sets out -- and we have used tables, as you  
7 know, graphic devices, to try to present the  
8 information in as useful a fashion as possible.

9           So it starts with the Commission, the  
10 Planning & Zoning Board, and each one has a similar  
11 organization that says who they are, how they're  
12 selected, what their membership is, how they act,  
13 what is a quorum, and what are their powers and  
14 duties.

15           We have one, I think, significant change in  
16 all of this chapter, and that is the introduction, as  
17 David mentioned earlier, in the administrative side,  
18 on Page 13 of 14, of the City Architect. I think the  
19 balance of this is stuff that has been organized,  
20 reorganized, the language has been harmonized, but it  
21 is as you approved it.

22           I think the only significant change that  
23 probably appears here is that at one point we had  
24 major conditional uses and minor conditional uses,  
25 and the minor conditional use concept has been

1 eliminated and made a discretionary administrative  
2 determination, and as such, that has been eliminated,  
3 and so these charts have all been adjusted to  
4 eliminate that from the various bodies that had a  
5 role in playing that.

6           And I would just say, because there has  
7 been some conversation going on, the Historic  
8 Preservation Board went through some fairly -- and  
9 their responsibilities and duties and powers went  
10 through some fairly sophisticated dialogue and  
11 readjustment when Dona was still the Historic  
12 Preservation Officer, and there were some editorial  
13 changes, but there were no substantive changes.  
14 There's one thing that did happen. There were some  
15 substantive provisions in what were the  
16 administrative process, and we have moved those, in a  
17 couple of cases, into the section where the  
18 substantive regulations are, our view being that you  
19 shouldn't be looking for a substantive provision in  
20 an administrative portion of the Code, you should be  
21 looking in a standard part of the Code. But other  
22 than that, that's, I believe, all that I would offer  
23 in regard to Article 2.

24           Article 3 is Development Review. You'll  
25 recall that we recommended consolidation of things

1 like special exceptions and special uses and various  
2 kinds of activities into a set of uniform procedures,  
3 and that we organized the development review  
4 regulations so that they would be easier to use. For  
5 example, all the notice provisions would be in an  
6 area. You'd have a common set of notice rules, and  
7 to the extent State Statutes required some different  
8 notice, then it would be set out. But to the extent  
9 that we could, we would try to make some uniform  
10 practices so that what's an often mistake, that is,  
11 the wrong notice is given, could be avoided by having  
12 it all.

13           Again, we start with a chart that indicates  
14 what the nature of the development approvals are. We  
15 think the user -- that's the ordinary user, not the  
16 professional who's here all the time -- as he starts  
17 out, that's the kind of thing he's going to be  
18 looking at, what's my entry, what's the process  
19 generally, who makes final decision?

20           Again, we've included flow charts. We've  
21 done our very best to reflect the various changes in  
22 these flow charts. We've proofed them and proofed  
23 them and proofed them, but one of the things, when  
24 you're close to a code, something like this, you no  
25 longer see it as well. So we're hoping that, as you

1 all look at this, you will look at the charts and  
2 make sure that they are consistent with the text or  
3 that they make sense to you. We've done what we can  
4 do.

5           Again, we've introduced some procedural  
6 matters that we think will improve the efficiency of  
7 the Code, formal determinations of completion --  
8 completeness, pre-application requirements. As you  
9 know, we've taken a lot of fee schedules and that  
10 sort of stuff out of the Code, so that they can be  
11 administratively modified to effectuate better  
12 practices without having to go back and review the  
13 Code.

14           I want to point out, we did a lot of  
15 discussion. We proposed some alternative building  
16 site determinations. If you look on Page 5 of 10,  
17 where we end up in this draft is what's in the  
18 existing Code. You all did contribute significantly  
19 to the alternative approach. We did, at one point,  
20 have a draft. But the Staff -- the Administration's  
21 recommendation in this Code is to maintain the  
22 existing building site determination standards and  
23 procedures, and that's what's now been added at 3-206  
24 that was not previously in the draft that we had here  
25 before.

1           I think building permit and zoning permit  
2           are all as they were when you all -- and I believe  
3           that you approved with changes, and I believe we  
4           implemented those changes that you indicated for us.

5           Article 3, Division 3, then, is the uniform  
6           notice provisions, and this was an attempt to -- and  
7           I think a successful attempt, to say what are the  
8           types of public notice that are required for various  
9           kinds of applications, and what notice is required,  
10          in a relatively easy chart, so that you aren't in the  
11          position of searching through text language and  
12          having two parallel and reading and crossing to one  
13          from the other, and Pages 4 of 5 and 5 of -- 4 of 7  
14          and 5 of 7, through 6 of 7, really set out the rules  
15          for notice. Most of them are very similar to what  
16          was in the existing Code. They were just in a lot of  
17          different places and they've been collected together  
18          in one area.

19          There are some -- we have a provision in  
20          Section 3-303 in which we have come to a position to  
21          deal with the concerns that we -- and I think the  
22          City Attorney shares, about the nature of the Board  
23          of Architects and their decision. It has the  
24          qualities of a quasi-judicial determination, but yet,  
25          as you know, its normal function is to act as panels

1 of three, and so we've come up, in Section 3-303,  
2 with an approach that allows them to do business as  
3 usual, but if any applicant feels like they're not  
4 getting the due process they're entitled to, they are  
5 entitled to have it as a quasi-judicial proceeding.  
6 So we've set a -- we've protected us by having that  
7 available, but allowed them to continue to act in  
8 panels, and we've grown comfortable with this as a  
9 reasoned balance between the requirements of the  
10 Snyder case that's been applied and the reality that  
11 the Board of Architects' interchange, exchange  
12 and the informality is a part of what makes it work.

13           And then there's some codification in 3-304  
14 of what the basic quasi-judicial obligations --  
15 requirements are for those kinds of decisions.

16           Conditional Use. We've -- in this Code,  
17 you've previously approved this, but we've  
18 consolidated a whole variety of various named  
19 approvals, special exceptions, et cetera, into a  
20 single -- it's a conditional use and it's one where  
21 the City has authority to grant approval, grant it  
22 with conditions, or deny, and that's the essential --  
23 as opposed to permitted as-of-right.

24           Again, what you approved did include the  
25 minor conditional use, and that has been eliminated.

1 And your role as a body is recommendation to the  
2 governing body. That's a decision you all made as a  
3 policy decision, a recommendation. And provisions  
4 for -- standards for review. There are also some  
5 standards -- in some cases, not only is there the  
6 general set of standards in this provision, but there  
7 are also some individual standards that relate to  
8 particular kinds of uses and particular kinds of  
9 conditions -- situations.

10 Changes and provisions for the life of a  
11 conditional use approval. Again, I think not  
12 materially different, other than the elimination of  
13 the minor conditional use and the inclusion of the  
14 Board of Architects, the panel process, with an  
15 alternative if the applicant wishes to have a  
16 quasi-judicial proceeding.

17 Planned Area Development, I think, is  
18 nothing but what was previously approved with some  
19 changes. It's primarily the existing Code, edited to  
20 simplify language. We did not -- I don't think at  
21 any time we made any material changes in the concept  
22 and approach of the Planned Area Development.

23 The next are Appeals. There are appeals  
24 provided in the existing Code in a variety of  
25 different places. What we did was bring them all

1 together. It tells you who can appeal what to whom  
2 and what the rules of the game are, in terms of  
3 times, et cetera. And again, it turns out to be  
4 relatively simple when it's all in one place and you  
5 see how they fit together, but in the existing Code,  
6 it was -- everybody was always scratching their head  
7 about who does this -- who do we appeal this to, and  
8 particular provisions.

9           And I think -- here is an example of where  
10 we moved the procedural components of some of the  
11 historic preservation to this Code. That was in your  
12 material before, when you approved it, but it's -- I  
13 just wanted to bring that to your attention.

14           The Moratorium Ordinance is just a provision  
15 establishing rules for adopting both ordinances of  
16 zoning in progress and moratoria, what the rules of  
17 the game are. There had been previously some  
18 ordinances, but this has been consolidated and  
19 fleshed out, and again, this is something that was  
20 not approved in your prior determinations. There  
21 were recommended changes. Those changes, I believe,  
22 were made, but this item has never been re-presented  
23 to you all, Mr. Chairman, and I, frankly, was unable  
24 to recall what the item was that it was deferred  
25 over, and I made a modest effort to find the minutes,

1 the transcript from that meeting, and couldn't, in a  
2 big stack.

3 The variances start at Division 3 --  
4 Division 8 of Article 3. They have -- this has been  
5 approved and has not been modified since it was  
6 approved by this body, and the same is true for  
7 Division 9, the platting and subdivision. That was  
8 approved by you all and has not -- that we can  
9 identify -- been changed, other than, as I've said  
10 before, obviously, all the cross references have had  
11 to be changed, because of the numbering, as we've  
12 added new sections, et cetera, so that kind of --  
13 when I say there was no change, I mean if it used to  
14 be Section 3-904, and as a result of an addition of a  
15 new section, it's now 3-905, we don't -- we call that  
16 just a scrivener's responsibility.

17 Transfer of Development Rights was modified,  
18 but has now been returned to its original condition,  
19 and the reason for that, as you know, we recommended  
20 that in some of the Ponce districts, the ability to  
21 transfer units within that area in order to achieve  
22 certain perspectives. Some of those then had to be  
23 included in Division 10, in order to implement the  
24 transfer concepts. However, the Administration has  
25 made a determination not to proceed with the new

1 Ponce -- proposed Ponce districts at this time, and  
2 as a result, they have been removed from Article 4,  
3 and those provisions in Division 10 of Article 3 have  
4 been deleted, as well.

5 MS. MORENO: I'm sorry, can you stop there  
6 for a second? I want to be clear. The only  
7 properties that can create TDRs are historic  
8 properties, under this version?

9 MR. SIEMON: That's correct.

10 MS. MORENO: And the only receiving site is  
11 the CBD?

12 MR. SIEMON: That's correct.

13 MR. RIEL: Correct.

14 MR. SIEMON: What does the tracking chart  
15 say for Division 11? I thought it was approved.

16 MR. RIEL: Historic Preservation, yes.

17 MR. SIEMON: Yeah. The only -- I  
18 apologize.

19 Aha. There is a new section that's found in  
20 the Historic Preservation, in 16 of 19, and we  
21 previously, before this body, discussed the  
22 nonconforming density of residential structures in  
23 the City, and a policy decision was made to allow --  
24 this was after the hurricane, one of the hurricanes,  
25 that we should allow structures, historic structures,

1 that are destroyed greater than 50 percent to be  
2 replaced in their character, if they wished, and that  
3 residential -- all residential structures in  
4 residential districts should also be allowed to be  
5 re-established, notwithstanding destruction to  
6 greater than 50 percent.

7 We originally put those two provisions in  
8 Article 6, Nonconformities. A collective decision  
9 was made to bring that provision relative to historic  
10 preservation, historic landmarks, up to Section  
11 3-111, and that was a late change that was made about  
12 the 6th of June, 5th or 6th of June, and so that's  
13 here, and that's what this provision -- and you did  
14 not previously see it in this part; you previously  
15 saw it in the nonconformities provision.

16 However, I want to tell you that in -- when  
17 it was moved, there were a number of new items that  
18 were put back into districts that were previously in  
19 either Article 5 or Article 6. When they were put  
20 in, we then had to go back and take out the prior  
21 provision that had been placed in, and in this case,  
22 in Article 6, we had half of this was in Article 6,  
23 and the other half dealt with the residences in all  
24 residential districts. When the administrative  
25 assistant went back and eliminated the duplicative

1 language, unfortunately, she also eliminated the  
2 residence -- all residences in residential districts.  
3 So when you look at Article 6, Division -- Section  
4 3-6302 (sic), you won't see that nonconformity. I'll  
5 point that out when we get there, but just so you  
6 understand, this was moved as a collective matter, to  
7 make sure that anyone dealing with a landmark,  
8 particularly somebody looking at a designation, would  
9 understand, even if they're designated a landmark,  
10 and it's destroyed more than 50 percent, which can be  
11 a significant value, given appreciation, that they  
12 have the right to reconstruct it.

13 Concurrency Review, Division 13, has, to my  
14 knowledge, not been modified, other than, again,  
15 cross-sections and consistency. The appeals  
16 provision, I don't believe this part has been  
17 changed, but there was some conditional clarification  
18 in the prior provision.

19 Zoning Code Text and Map Amendments, I do  
20 not believe has been changed since you all approved  
21 it, and the same is also true for Division 15,  
22 Comprehensive Land Use Plan, Text and Map  
23 Amendments.

24 The same also is true for Division 16,  
25 Developments of Regional Impact. It's basically your

1 existing Code, clarified and edited, and we hope with  
2 correct citations -- cross-references.

3 Division 18, Protection of Landowners'  
4 Rights, vested rights determinations, basically your  
5 existing Code, previously approved by you, and not  
6 changed.

7 The same is also true for Division 19,  
8 Development Agreements. And that brings us to the  
9 end of Article 3.

10 MS. MORENO: I have two comments. We had  
11 agreed that before any building could be demolished,  
12 it would be considered for historic preservation,  
13 and the way that I'm seeing demolition here, it's  
14 only applying to buildings that have been previously  
15 designated, unless I'm reading it wrong or not  
16 finding it.

17 CHAIRMAN KORGE: What article and division  
18 are you on?

19 MS. MORENO: I'm sorry?

20 CHAIRMAN KORGE: What article and division  
21 is that, again?

22 MR. SIEMON: I believe --

23 MS. MORENO: It was in the historic section.

24 CHAIRMAN KORGE: No, but what article and  
25 division, so I can find it.

1           MR. SIEMON: I believe Article 3, Division  
2 11, Page 12 of 19, at the bottom of the page,  
3 Paragraph G.

4           MS. MORENO: Great. That's where it is.

5           And then the second question I had was, in  
6 the section of reconstruction, what is the difference  
7 between what can happen when it's above 50 percent  
8 and when it's below 50 percent? Because the  
9 conditions seem to be the same.

10          CHAIRMAN KORGE: What page are you on?

11          MS. MORENO: Page 16 of 19. The four -- I  
12 mean, we're just glancing at this, but the four items  
13 seem to be the same, so I'm not sure what -- is one  
14 obliging and is the other one permissive? Is that  
15 the difference, between "may" and "shall"?

16          MS. ALFONSIN: Yes.

17          MS. MORENO: That's the only difference?

18          MS. ALFONSIN: That's the only difference.

19          MS. MORENO: I guess my concern with that  
20 "shall" is that if you include it, and I agree with  
21 it, that it's got to comply with the City Code, the  
22 applicable Florida Building Code and the Life Safety  
23 Code, and my recollection of the Charade dilemma was  
24 that complying with the Florida Building Code made  
25 reconstruction impossible, and I'm not sure that it's

1 appropriate to impose on buildings of a historic  
2 nature the obligation to repair and rehabilitate in  
3 accordance with the applicable Florida Building  
4 Code. It may be prohibitively expensive. So that's  
5 the observation I had for you to consider as you move  
6 on.

7 MR. SIEMON: Thank you.

8 CHAIRMAN KORGE: Are we required by law to  
9 rebuild in accordance with the Florida Building  
10 Code? In other words, is the Florida Building Code  
11 mandatory throughout the State?

12 MS. MORENO: I don't know the answer to  
13 that, but my comment is the "shall" aspect of it.

14 CHAIRMAN KORGE: Right. No, I understand.

15 MS. MORENO: So that if you own a historic  
16 structure, you're obliged to do it.

17 MR. SMITH: Well, now, under the current  
18 Florida Building Code, there's what's called an  
19 Existing Building Code, which has special provisions  
20 for historic structures that they didn't have in the  
21 old South Florida Building Code. So it's much easier  
22 for a historic structure to, you know, be repaired  
23 and remodeled and everything than it used to be.

24 MS. MORENO: Okay. So, then, if you've  
25 considered it, that's -- that was the only purpose of

1 my comment.

2 MR. SMITH: Uh-huh. Thank you.

3 CHAIRMAN KORGE: All right, Eibi?

4 MR. AIZENSTAT: A question that I have is in  
5 Section 3-606, for appeals. Since we have a new  
6 position for the City Architect, if there's an appeal  
7 from the City Architect, it goes to the Board of  
8 Architects. My understanding is, when the Board of  
9 Architects meets, it creates itself into panels of  
10 two or three across the board. If there's an appeal  
11 that is made, will the entire Board of Architects  
12 look at that appeal, or will it fall upon whichever  
13 group happens to be picked at that time? How will  
14 that work?

15 MR. SIEMON: Good question. Let me look and  
16 see. There is a --

17 MS. MORENO: Perhaps what you should say is  
18 that that appeal should be pursuant to quasi --  
19 pursuant to the quasi-judicial procedures of 3-304.

20 MR. SIEMON: Excuse me, I'm not finding the  
21 Board of Architects. Here it is, here it is, here it  
22 is, here it is. Oh, I'm sorry. I know where it is.

23 MR. RIEL: It's Article 3, Division 6, Page  
24 2.

25 MR. AIZENSTAT: It's on Page 2 of 4?

1 MR. RIEL: Right. It says Appeals of the  
2 City Architect.

3 MR. SIEMON: No, no --

4 MR. RIEL: It's not clear. It doesn't say  
5 full board.

6 MR. SIEMON: The -- it does not say. I  
7 mean, right now, as this is drafted, it would be  
8 required to be heard by the full board, as this is  
9 drafted.

10 CHAIRMAN KORGE: Or a quorum.

11 MR. AIZENSTAT: Because it's not clear to me  
12 that way, and that's why --

13 MR. SIEMON: The panel is only authorized in  
14 Section 3-303, A, only for applicant request --

15 MR. AIZENSTAT: Okay.

16 MR. SIEMON: -- for a review.

17 MR. AIZENSTAT: So your intent, then, is for  
18 the entire board or a quorum to hear that appeal?

19 MR. SIEMON: Actually, that would not have  
20 been my intent. I suspect that I did not draft this  
21 particular language. My -- our concept was that if  
22 an applicant was dissatisfied with the City  
23 Architect's ruling, he ought to go ahead and go to  
24 the Board of Architects and have a review there, and  
25 it's really not an appeal, it's just the next step.

1 And --

2 MR. AIZENSTAT: If an applicant is not  
3 satisfied?

4 MR. SIEMON: Right, not satisfied, and --

5 CHAIRMAN KORGE: Why is it called an appeal?

6 MR. SIEMON: Well --

7 MR. AIZENSTAT: The way I noticed it here,  
8 it is an appeal. That's the way your language  
9 reads. I interpret this the same way that an  
10 individual appeals a decision from the Board of  
11 Adjustments and then they go to the City Commission.

12 MR. COE: That's what it says.

13 MR. AIZENSTAT: That's the way I'm reading  
14 this.

15 MS. MORENO: What happens today if my  
16 choice of color is denied?

17 MR. SIEMON: By the Board of Architects?

18 MS. MORENO: Yeah.

19 MR. SALMAN: You come back with a new  
20 color.

21 MS. MORENO: Is that the only answer?

22 MR. SALMAN: Or you can appeal it to the --

23 MR. SIEMON: No, appeal to the Commission.

24 MS. MORENO: You appeal to the Commission?

25 MR. SIEMON: Yes.

1 MR. RIEL: Yeah.

2 MS. MORENO: So now the City Architect is  
3 going to do that. Do you appeal to the Board of  
4 Architects or to the Commission?

5 MR. SALMAN: First the board, and if they  
6 disagree, that they don't like your color, you've got  
7 to go to the board, according to this -- you've got  
8 to go to the Commission.

9 MR. AIZENSTAT: First it goes to the City  
10 Architect. The reason for creating that position is  
11 to --

12 MR. SALMAN: Alleviate.

13 MR. AIZENSTAT: -- ease up, as we might say,  
14 the Board of Architects, with colors and so forth.  
15 After that, it goes, I guess, through the same steps,  
16 I would imagine. But I would like to see this  
17 clarified.

18 MR. SIEMON: Okay. Can I get a -- is there  
19 any consensus as to whether it ought to be a panel or  
20 the entire board?

21 MR. SALMAN: Panel.

22 MR. SIEMON: Panel? I think --

23 MR. SALMAN: Because ultimately --

24 MR. SIEMON: That's what I would have done.

25 MR. SALMAN: -- you'll be presenting to the

1 panel, anyway.

2 MR. AIZENSTAT: Yeah, because if not, you're  
3 going to be -- you're going to bog them down,  
4 anyways.

5 MR. SIEMON: Okay.

6 MR. SALMAN: You're going to force them to  
7 then regroup, just to meet for an appeal, while the  
8 City Architect is there to try and alleviate the work  
9 load? Ultimately --

10 MR. AIZENSTAT: Is that okay with everybody?

11 MR. SALMAN: -- the City Architect is there  
12 to alleviate the work load for --

13 MR. COE: What size panel? It doesn't  
14 identify the size of the panel.

15 MR. SALMAN: -- miscellaneous and sundry --  
16 either a variance from an existing permit that would  
17 normally go before the board, such as a window that  
18 was designed at six feet is now seven feet, as  
19 a way -- as a change that was made on the field, that  
20 would normally have to go to the Board of Architects,  
21 but the City Architect could look at it and say,  
22 "Well, that's in the intent of the permit, it's not a  
23 substantive change, I can approve it," or disapprove  
24 it, in which case, if it gets disapproved, then it  
25 goes, as it would normally, to the Board of

1 Architects, and it wouldn't go to the full board, it  
2 would go to the reduced panel for review and  
3 approval.

4 MS. MORENO: Would that be quasi-judicial or  
5 not?

6 MR. SIEMON: No.

7 MR. SALMAN: No.

8 MS. MORENO: No?

9 MR. SIEMON: This is what I would propose,  
10 to modify the language and recon-- recon--

11 MR. SALMAN: Reconfirm?

12 Mr. SIEMON: Re -- no, rename this second  
13 step in the process as a request for reconsideration  
14 by the Board of Architects, rather than an appeal.  
15 Take it out of the appeal, because it's really --

16 MR. SALMAN: A request for --

17 MR. SIEMON: It's really a request for a  
18 reconsideration by a panel of architects, as opposed  
19 to the City Architect.

20 MR. AIZENSTAT: Now, is there a definition  
21 on what a panel of architects means? Is it two or  
22 more? Is there -- I mean --

23 MR. COE: You don't want two. You have to  
24 have at least three.

25 MR. AIZENSTAT: Well, usually, if I'm not

1 mistaken, in the Board of Architects, there are two.  
2 You do get to a panel with two architects that review  
3 a set of plans.

4 MR. SALMAN: The minimum is two --

5 MR. COE: That's the minimum.

6 MR. SALMAN: -- because it requires two  
7 signatures.

8 MR. COE: Right, but you see --

9 MR. SIEMON: Actually, I think it's --

10 MR. COE: -- the problem, if you do it this  
11 way --

12 MR. SIEMON: The Code requires three.

13 MR. COE: -- if you have the City Architect  
14 say no, and then you're going to go to a panel of  
15 two, you're better off with a panel of three, because  
16 already, the City Architect --

17 MR. AIZENSTAT: You've got one-one.

18 MR. COE: Well, that's what I'm worried  
19 about, because then what do you do, after one-one?  
20 You go to the City Commission?

21 CHAIRMAN KORGE: Yeah, that's what you do.

22 MR. AIZENSTAT: So we could stipulate to  
23 have three or --

24 MR. COE: See, at least a panel of three  
25 gives you a definitive position from the Board of

1 Architects.

2 MR. AIZENSTAT: I'm okay with that.

3 MR. COE: You agree?

4 MR. AIZENSTAT: Yeah.

5 MR. SALMAN: It makes sense.

6 MR. SIEMON: Yeah. Okay.

7 MR. AIZENSTAT: Thank you.

8 CHAIRMAN KORGE: Well, continuing with  
9 appeals, when it goes to the Commission, the way I  
10 read this is, there's going to be a new evidentiary  
11 hearing before the City Commission, to adjudicate the  
12 dispute. I'm paraphrasing here. It's on Page 3 of  
13 4, Article 3, Division 6, the very top of the page.

14 MR. SIEMON: That is the way this is  
15 drafted.

16 CHAIRMAN KORGE: Right.

17 MR. SIEMON: In other words, they do not  
18 set -- their scope of review is not as an appellate  
19 entity, where they look, is there competent,  
20 substantial evidence to support the decision?

21 CHAIRMAN KORGE: Why is that?

22 MR. SIEMON: We believe that -- I believe  
23 that the source of this is, that's how the governing  
24 body behaves.

25 CHAIRMAN KORGE: Current practice? It just

1 strikes me that the whole purpose of having these  
2 various boards to -- you know, with the specialized  
3 expertise, whether it's the Board of Adjustment or  
4 the Board of Architects, to consider requests, is so  
5 they would gather everything together, all the  
6 evidence, pro and con, make a -- you know, make a  
7 reasoned decision. Then, you know, you have to have  
8 somebody ultimately to review this, to make sure that  
9 it's okay, and that would be the City Commission.

10 Now what we've done is, we've created a  
11 double adjudication, the first one by the board  
12 that's primarily responsible for making the decision,  
13 and then we go through the whole process again with  
14 the Commission. I mean, it just doesn't make sense  
15 to me, but if that's the way it's -- if that's what  
16 the Commission wants to do, then I guess that's  
17 fine.

18 MR. SALMAN: Tom, is your problem with the  
19 word "de novo"?

20 CHAIRMAN KORGE: Well, no, actually, it's  
21 the evidentiary -- additional evidence before the --  
22 the "de novo" just means that they'll look at  
23 everything fresh, but looking at everything fresh is  
24 different from hearing, you know, new evidence,  
25 which is really like a retrial of the whole --

1                   MR. SALMAN: I think if there's new  
2 information --

3                   MR. COE: It's not even a retrial.

4                   MR. SALMAN: That's true.

5                   MR. COE: You can have completely new  
6 submissions.

7                   CHAIRMAN KORGE: Right, exactly.

8                   MR. COE: So, I mean --

9                   MS. MORENO: It makes everything that went  
10 before useless.

11                   CHAIRMAN KORGE: Yeah. I mean, that's the  
12 point. You know, the reason for these boards is -- I  
13 mean, the Commission can do everything, if it wanted  
14 to, but one of the reasons for the boards is to bring  
15 expertise to the matter, to allow, you know,  
16 volunteers who can devote some of their time to deal  
17 with in detail to do so. The Commission shouldn't  
18 have to redo what the boards have already done, but  
19 should oversee the boards to assure that there's  
20 fairness, uniformity of treatment and so forth and so  
21 on. So, I mean, I don't -- it just strikes me as  
22 really kind of a peculiar way to approach that.

23                   MR. SALMAN: But, Tom -- excuse me. If  
24 there's new information, the City Commission has seen  
25 issues that have come before them that have been on

1 appeal where they come here with new information,  
2 they discuss it, and nine times out of 10, they  
3 remand it back to the board for review with the new  
4 information, before they act.

5 CHAIRMAN KORGE: Why isn't the new  
6 information presented originally to the board? What  
7 happens to cause the board initially to ignore or not  
8 to hear the information that, 10 days later, or a  
9 month later, ends up before the Commission? Why  
10 would that occur?

11 MR. AIZENSTAT: There might be new facts or  
12 there could be some new data or information that  
13 exists.

14 MR. SALMAN: There could be a change in the  
15 circumstances.

16 CHAIRMAN KORGE: I mean, I don't feel  
17 strongly about it. I just -- it's just really a  
18 peculiar way of doing business.

19 MR. SIEMON: There's been a fair amount of  
20 discussion about this. The reality is that the  
21 governing body does have the ultimate authority and  
22 feels accountable to the public, and so we wanted to  
23 give them the ability to hear the evidence and make a  
24 decision and not force them to limit themselves to a  
25 narrow scope of review that really didn't respond to

1 their -- the nature of the beast that we're dealing  
2 with.

3 But, more importantly, from my perspective,  
4 and perhaps why I -- you may recall, at one point, I  
5 recommended that the lower bodies be final and let  
6 them go to court if they didn't like it, give them  
7 the dignity to make the decisions that they deserved,  
8 but that didn't find much currency, but what happens  
9 a lot in situations where I work, this is -- what  
10 happens is, you go and get your ears pinned back, at  
11 whatever body it is below. You go and fix your  
12 problem, and then you want to offer that in evidence,  
13 and often -- and that's what happens, and I think you  
14 want to do that.

15 MR. COE: But the language that is drafted,  
16 the owner, objector or innocent party, I mean, the  
17 way it is drafted, can withdraw everything it had  
18 from the lower board and bring a completely new  
19 submission, technically, in front of the City  
20 Commission for reconsideration of the denial below.  
21 I mean, there's no restriction on what they can do.  
22 Offer or submit additional evidence and testimony.  
23 Basically, you're saying, "Forget everything we had  
24 below. Here's our new case."

25 MR. RIEL: If I recall, I believe --

1 MR. COE: It's not restrained.

2 MR. RIEL: I believe the City Attorney had  
3 come through with new de novo regulations about a  
4 year or two ago and went to the Commission, and  
5 that's -- I think those regulations are reflected in  
6 this draft.

7 MR. COE: Yes, but you see, that's nothing  
8 to do with de novo. De novo is just looking fresh at  
9 the existing evidence below.

10 CHAIRMAN KORGE: Right.

11 MR. COE: This provides for all completely  
12 new evidence, that was never considered below --

13 MR. SIEMON: That's correct.

14 MR. COE: -- for which the Commission may or  
15 may not remand back to the lower body, and I just  
16 don't understand why it's drafted that way.

17 MR. SIEMON: It's the recommendation. We  
18 did not participate in that prior --

19 MR. RIEL: Well, obviously, we'll look into  
20 it and find out.

21 CHAIRMAN KORGE: I think the answer is --

22 MS. MORENO: To me, the key question is,  
23 does the Commission want to have all of that burden  
24 or does it want to shift some of that burden to the  
25 lower bodies? And that, to me, is a Commission

1 decision.

2 CHAIRMAN KORGE: Right.

3 And then, if you look at Section 3.03, Page  
4 7 of 7 -- or, Article 3, Division 3, Subsection B of  
5 Section 3-303 allows -- it says, "In the event that  
6 an applicant who has received a decision of a panel  
7 of the Board of Architects or the City Manager  
8 objects to the decision of the panel, the applicant  
9 may within 30 days of the panel's decision request a  
10 formal review of the application by the Board of  
11 Architects pursuant to the provisions of Section  
12 3-304 governing quasi-judicial proceedings."

13 The Manager cannot make a similar appeal?  
14 Is that the way I read that? Even though the Manager  
15 objects? I don't understand how that's written.

16 MR. SIEMON: I believe that there's a  
17 typographical error here, that it's not City Manager,  
18 but City Architect.

19 CHAIRMAN KORGE: Okay, well, if the City  
20 Architect objects -- I don't care whether it's the  
21 Manager or the Architect, whatever works for --

22 MR. SIEMON: I'm not correct. That's if the  
23 City Manager objects. That's who we delegated that  
24 responsibility to.

25 MR. RIEL: Right, right.

1                   CHAIRMAN KORGE: Okay, but can the City  
2 Manager appeal the decision?

3                   MR. RIEL: Yes. Yes.

4                   CHAIRMAN KORGE: To the full Board of  
5 Architects?

6                   MR. SIEMON: Yes.

7                   CHAIRMAN KORGE: Well, it doesn't say that  
8 in there. It only says, "The applicant may within 30  
9 days of the panel's decision request a formal  
10 review." You need to insert, after the words "the  
11 applicant," "or the City Manager."

12                  MR. SIEMON: Point well taken.

13                  MR. SALMAN: Through the Chair. Article 3,  
14 Division 6, Appeals. Your flow chart, you've got the  
15 60 days, and you have 60 days throughout the text.  
16 Is 60 days what we want to have for some of these  
17 determinations to stick? It seems like an awful long  
18 time.

19                  MR. SIEMON: There were a lot of discussions  
20 about this, and ultimately the City Attorney  
21 recommended that we maintain the existing 60-day.  
22 Apparently, you all have had some litigation about  
23 inadequate notice and time to take an appeal from a  
24 decision below, and there was -- the 60-day was  
25 established in response to an adverse decision. I

1 had the same reaction you do.

2 MR. SALMAN: But those 60 days are not for  
3 issues that would normally require a notification;  
4 is that correct?

5 MR. SIEMON: No, that's right, they don't  
6 require notice, and that's why --

7 MR. SALMAN: So then why do you --

8 MR. SIEMON: -- the long appeal period is  
9 there, so that they can find out about it. That's  
10 the thinking. And apparently there's a judicial  
11 trial court -- a circuit court opinion on this  
12 subject, that the City then responded by establishing  
13 a long appeal period, because it was adequate for --

14 MR. SALMAN: But -- okay, now, follow my  
15 logic.

16 MR. SIEMON: Oh, I follow your logic.

17 MR. SALMAN: If I wanted to avoid the whole  
18 issue, I wouldn't go to the Staff, I'd go directly to  
19 the Board of Architects or to the Board of  
20 Adjustment, to get an opinion, because it puts a hold  
21 for 60 days on any kind of decision the Staff makes  
22 from becoming effective.

23 MR. SIEMON: But there's going to be  
24 notice.

25 MR. SALMAN: Not other than just the time.

1 MR. SIEMON: Right.

2 MR. SALMAN: There's no notice required for  
3 a City Architect or a Staff determination.

4 MR. SIEMON: The Board -- well, the Board of  
5 Adjustment and Historic Preservation Board give  
6 notice.

7 MR. RIEL: Yes.

8 MR. SIEMON: And don't the Board of  
9 Architects? Isn't there posted notice?

10 MR. RIEL: Posted.

11 MR. SIEMON: Yeah. There's notice.

12 MR. SALMAN: I understand that, but not for  
13 the City Architect or the Staff determination.

14 MR. SIEMON: Right, and that's why the  
15 long period of time.

16 MR. SALMAN: There's no notice.

17 MR. SIEMON: Because it becomes final  
18 without notice.

19 MR. SALMAN: You're giving with one hand and  
20 taking away with the other.

21 MR. SIEMON: I understand.

22 MR. SALMAN: What I'm saying is that we're  
23 trying to allow these boards to not get swamped with  
24 a lot of very, very minor administrative kinds of  
25 issues, that -- and then you want to give them 60

1 days? It's quicker, then, to go straight to the  
2 board than to try to get a Staff determination.

3 It's just at odds with what you're trying  
4 to -- what we're trying to do.

5 MR. SIEMON: I can't disagree with you, and  
6 we also -- I mean, you all -- we're here for your  
7 recommendations and input, and we're taking it.  
8 We've had this conversation. We also considered  
9 publishing notice of these administrative  
10 determinations.

11 MR. SALMAN: Yeah, because after you have  
12 the posted --

13 MR. SIEMON: And if you give notice that  
14 you've issued a permit, after the permit is issued,  
15 you've got 10 days after that notice is published to  
16 shorten the time period, and ultimately, the  
17 collective decision, I believe influenced strongly by  
18 the City Attorney's opinion, was that the lengthy  
19 notice provision protected us. That's what's been in  
20 place and served us well. It clearly makes the  
21 utility of the administrative determination of the  
22 City Architect less advantageous, no question.

23 MS. MORENO: Do you know why?

24 MS. ALFONSIN: No, I don't.

25 MR. SALMAN: Excuse me?

1 MS. MORENO: She doesn't know.

2 MR. SALMAN: I'll give you a very real world  
3 example. Let's go back to the window that went from  
4 six feet to seven feet. Normally, I would have to  
5 go -- before this Code goes into play, I would go to  
6 Martha, submit my drawings, "Hey, Martha, here's my  
7 drawings, these are the changes," and she would look  
8 at it and say, "Oh, you've got to go to the Board of  
9 Architects because this is, you know, a substantial  
10 change." We add a window to a bathroom, whatever,  
11 something very minor. If I go for a determination by  
12 Staff, that determination is no good for that 60  
13 days. Until the 61st day, that determination is  
14 pending appeal.

15 MS. MORENO: So you can't put in your  
16 window.

17 MR. SALMAN: So I can't put in my window.  
18 So they will hold my modified permit approval until  
19 that period ends, correct? At least  
20 administratively, they'd have to.

21 MR. SIEMON: I don't think there's any  
22 provision --

23 MR. SALMAN: If I went directly to the  
24 board, I would say, "Martha, here's my drawings,  
25 here's the changes, here's my fee for my board," and

1 if I come in on a Monday, the following Thursday I'm  
2 meeting with the board. The board says, "Hey, this  
3 is no problem," sign, off we go, on to the process.  
4 Two weeks later, I have my notarized permit.

5 CHAIRMAN KORGE: So I think the practice  
6 will end up being, you'll go to the City Architect,  
7 who will approve it and then bring it that week or  
8 the next week to the board for the formality of  
9 approval by the board.

10 MR. AIZENSTAT: But it still has to go back  
11 to the Building Department for further approvals. I  
12 don't think that once the Board of Architects sees  
13 that change, it's done.

14 MR. SALMAN: No, it's not. It still has to  
15 go there.

16 MR. AIZENSTAT: Right.

17 MR. SALMAN: But what I'm saying is that the  
18 Staff -- the City Architect's review and approval of  
19 that change, without going to the board -- because  
20 what you're saying is that that makes the City  
21 Architect's position completely obsolete if you have  
22 to bring the issue to the board.

23 CHAIRMAN KORGE: Well, not entirely,  
24 because -- although I do agree with what you're  
25 saying, and your complaint is very legitimate, it

1 does minimize or reduce the value of the City  
2 Architect position. However, the City Architect goes  
3 through all these applications, makes a decision,  
4 goes to the board, presents it to the board, one,  
5 two, three. It should be something they can just say  
6 okay, without, you know, a full-blown discussion,  
7 because they're relying on the architect for that  
8 purpose.

9           However, I do agree with you, I think 60  
10 days is way too long. It should be a short period,  
11 like 10 days, but now we're being told that for  
12 reasons of due process, it has to be 60 days.

13           MR. AIZENSTAT: What do you mean by, the  
14 City Architect presents it to the Board of  
15 Architects? I don't understand. I thought the City  
16 Architect was the one who looked over that --

17           MR. SALMAN: To avoid the Board the  
18 Architects.

19           MR. AIZENSTAT: -- and avoids the Board of  
20 Architects. Why is the City Architect going to go  
21 ahead and present --

22           CHAIRMAN KORGE: Because if you want it  
23 done -- you want a 10-day period --

24           MR. AIZENSTAT: You may as well not have the  
25 City Architect, if he's got to -- if he's the one

1 that's got to go --

2 MS. MORENO: That's his point.

3 MR. SALMAN: That's exactly my point.

4 MR. AIZENSTAT: Right. So should we -- I  
5 agree.

6 MR. SALMAN: And then if you don't like the  
7 decision of the City Architect, you can appeal it, or  
8 rather, take it in for reconsideration, not use that  
9 word appeal.

10 MR. AIZENSTAT: To the Board of Architects.

11 MR. SALMAN: To the Board of Architects.

12 MR. AIZENSTAT: But that's a different  
13 basis.

14 MR. SALMAN: Composed of a group of no less  
15 than three --

16 MR. AIZENSTAT: Right.

17 MR. SALMAN: -- for their determination.

18 MR. AIZENSTAT: But if the City Architect  
19 looks at it, reviews it, and passes it, then you  
20 should move forward.

21 MR. SALMAN: Cristina goes in with an odd  
22 color, that is slightly different from the approved  
23 color chart by the Board of Architects.

24 MR. AIZENSTAT: Right.

25 MR. SALMAN: She goes for a determination of

1 that color by the City Architect. The City Architect  
2 says, "That's great." Cristina can't get a permit  
3 for 60 days. She goes to the Board of Architects  
4 directly, and she gets a permit immediately.

5 MR. AIZENSTAT: If that's the case, people  
6 aren't going to go to the City Architect.

7 MR. SMITH: Well, if I may, with Staff's  
8 determinations now, we have a 60-day appeal period --

9 MR. SALMAN: Uh-huh.

10 MR. SMITH: -- and there's a lot of projects  
11 that come in, maybe a wall or a fence, that we  
12 approve it, and that decision is appealable -- to the  
13 Board of Adjustment right now -- for 60 days, but we  
14 issue that permit right then, and they just proceed  
15 with construction.

16 MR. AIZENSTAT: What if there's an appeal?

17 MR. SMITH: Well, they're proceeding at  
18 their own risk under the permit, and that's the  
19 position we've always taken.

20 CHAIRMAN KORGE: Well, is that clear --

21 MR. SALMAN: Is that clear on the permit?  
22 That's not on the permit. It doesn't say you're  
23 proceeding at your own risk for the first 60 days.

24 MR. COE: Do you give an additional permit  
25 then?

1           MR. SMITH: Well, if they're proceeding  
2 under a permit that the appeal period hasn't expired  
3 yet, well, then of course they're proceeding at their  
4 own risk.

5           CHAIRMAN KORGE: When you say -- you issue  
6 the permits subject to any rights of appeal, right?

7           MR. SMITH: No, we just issue the permit.  
8 We don't say that or anything. In the existing  
9 Zoning Code, there's a provision that says, except  
10 for appeals of the Board of Adjustment to the City  
11 Commission, we can issue the permit on a variance or  
12 any item.

13          MR. COE: Hold on. How does the permit  
14 holder know that it's not really a permit yet, that  
15 somebody can appeal that, and it's not going to be  
16 finalized for 60 days? How would they know that?

17          MR. SMITH: Someone could sue them, too,  
18 over the issue.

19          MR. COE: Well, are they told? Are they  
20 handed out a circular that says, you know, there's an  
21 appeal process?

22          MR. SMITH: No, we don't.

23          MR. COE: You don't do anything, right?

24          MR. SMITH: That's in the Code.

25          CHAIRMAN KORGE: Well, there's --

1           MR. COE: I understand it's in the Code, but  
2 I mean, you don't expect everybody to go read the  
3 Code in detail.

4           MR. SMITH: Well, they have an obligation  
5 to, if they're applying for a permit. If they're a  
6 contractor or they're architects, this is their  
7 business and this is the book that they work from.

8           MR. SALMAN: Okay, then to reinstitute  
9 power back to the City Architect, would we put a  
10 provision in this Code that says that permits granted  
11 under a directive of either City Staff or under the  
12 recommendation of the City Architect will be  
13 provisional for the first 60 days, and you may  
14 proceed at your own risk, until such time as your  
15 appeal process ends?

16           MR. COE: It's a provisional permit, is what  
17 it is. It's a provisional permit.

18           MS. MORENO: I have a problem with not  
19 telling the homeowner that it's provisional.

20           MR. SALMAN: But, see, you're pulling the  
21 teeth out of the value of your permit.

22           MS. MORENO: Let's say I go in for a color  
23 and I get a permit. I think it's final, I paint my  
24 house, and then now you make me repaint it because  
25 somebody appealed it? And I didn't know anything

1 different.

2 MR. SMITH: Well, your neighbor is not going  
3 to know that they object to the paint color until  
4 you --

5 MR. SIEMON: Until you start painting.

6 MR. SMITH: -- paint the house.

7 MR. COE: Maybe you have to post your paint  
8 color in your window.

9 MR. SMITH: So that's how we --

10 MR. SALMAN: I'm sorry, I feel that a  
11 permit, once issued, is issued, done, end of story.  
12 It's not appealable, not -- and that this appeal,  
13 this period of reconsideration or appeal or whatever  
14 you want to call it should be either 10 or 15 days,  
15 max.

16 CHAIRMAN KORGE: Well, I've got to tell you,  
17 if the practice now is to issue a permit prior to the  
18 appeal period expiring, I hope there's something in  
19 the Code that makes clear that the homeowner or the  
20 builder proceeds at his or her own risk under the  
21 permit before the expiration of the appeal period.  
22 The City should not assume potential liability for --

23 MR. SALMAN: Issuing a permit that may not  
24 be valid, basically.

25 CHAIRMAN KORGE: Exactly.

1           MR. COE: It doesn't say that on its face.  
2           It does not say that on its face, that this may not  
3           be a valid permit until 60 days have elapsed.

4           CHAIRMAN KORGE: Right. I mean, it all  
5           comes down to the 60-day period. The concern is  
6           legitimate. It's delaying, you know, valuable --  
7           it's delaying construction and increasing costs. You  
8           know, maybe for painting a house, it's not that big  
9           of a deal, but when you're building, you know, a  
10          10-story building, 60 days can be very expensive,  
11          so -- and the risk is greater if there's an appeal,  
12          for the builder, because --

13          MR. SALMAN: It's not the big things. It's  
14          the little things that are going to come under here.  
15          The big things will go normally through the Board of  
16          Architects and through the normal process.

17          MS. MORENO: And then let's say it goes to  
18          the Board of Architects. There's no appeal from  
19          that?

20          MR. SALMAN: Yes, there is.

21          MS. MORENO: So you get a permit, and does  
22          the 60 days apply?

23          MR. SIEMON: No.

24          CHAIRMAN KORGE: It's 10 days.

25          MR. SALMAN: Ten days.

1 MR. SIEMON: The time period for --

2 MR. SALMAN: It's 10 days.

3 MR. SIEMON: Where the decision is made in a  
4 noticed meeting, the appeal period is very short,  
5 because they've already got notice --

6 MR. SALMAN: It's posted. It's 10 days.

7 MR. SIEMON: -- posted notice, and that  
8 satisfies the due process obligation. It's decisions  
9 where there isn't notice --

10 MR. COE: Right.

11 MR. SIEMON: -- that this provision has  
12 evolved.

13 CHAIRMAN KORGE: When we post notice, does  
14 it require a publication in the press, or could it be  
15 a publication on the web site, for purposes of due  
16 process?

17 MR. AIZENSTAT: It's posted on the property.

18 MR. SALMAN: It's literally posted on the  
19 property, with a sign.

20 MR. SIEMON: The Board of Architects, it's  
21 posted on the property.

22 MR. SMITH: For larger projects. But the  
23 thing is, in Building & Zoning, I may sign 20  
24 different documents, approving a certificate of use,  
25 a miscellaneous building permit, a new house plan, a

1 building site determination, all kinds of decisions  
2 that, you know, aren't noticed.

3 CHAIRMAN KORGE: They're not posted at the  
4 property?

5 MR. SMITH: No.

6 CHAIRMAN KORGE: And they're not noticed on  
7 the web site or in a publication. That's why we have  
8 the 60-day period.

9 MR. COE: So the homeowner goes ahead, does  
10 the construction, and finds out 60 days later that  
11 there was an objection filed by the --

12 MR. SIEMON: On the 59th day.

13 MR. AIZENSTAT: By the neighbor.

14 MR. COE: On the 59th day, by a neighbor  
15 somewhere, and ultimately the homeowner is out,  
16 because the neighbor prevails.

17 MR. AIZENSTAT: Well, you don't know if the  
18 homeowner prevails.

19 MR. COE: I'm saying -- I'm saying, let's  
20 say the neighbor prevails, and therefore, what does  
21 the homeowner have to do now, remove what he's just  
22 done, operating what they perceive to be under color  
23 of law, with a lawful permit from the City?

24 CHAIRMAN KORGE: Well, in practice, do we  
25 have a problem now?

1 MS. MORENO: We had --

2 CHAIRMAN KORGE: Is it a real problem?

3 MS. MORENO: We had a building site  
4 determination that went to the Third D.C.A., right?

5 MR. SMITH: Yes, we did.

6 CHAIRMAN KORGE: They acted within the  
7 60-day period; is that what happened?

8 MR. SMITH: Yes, they did.

9 MR. COE: I would think that somebody under  
10 these circumstances could make a pretty good estoppel  
11 argument in court.

12 CHAIRMAN KORGE: That's true.

13 MS. MORENO: If I remember correctly, and I  
14 wish Liz was here, that the argument was made, and it  
15 was not found to be valid.

16 MR. SIEMON: I would, with all due respect,  
17 beg to differ. I think that the law generally in  
18 Florida is that the citizens, regrettably, are  
19 assumed to know the municipal law, and because it's  
20 in the municipal code, that there's a 60-day appeal  
21 period. I don't think it's fair, and --

22 MR. COE: Except it's not really an appeal,  
23 though. It's a review.

24 MR. SIEMON: Well, the one from the  
25 building -- we're going to reconsider the --

1 reconfigure the Board of Architects' determination,  
2 but the -- remember that the -- Dennis's decisions  
3 are currently subject to this, and they are not  
4 reconsideration. They're actually an appeal to the  
5 Board of Adjustment, where they have a noticed  
6 hearing, but the decision of the City Architect is  
7 only appealable --

8 MR. COE: That's different. That's a  
9 different situation.

10 MR. SIEMON: It's reconsideration, yeah, by  
11 the applicant and the --

12 MS. ALFONSIN: This is appeals from  
13 decisions of City Staff from the Historic  
14 Preservation Board, right.

15 MR. SIEMON: There's no reason to have a  
16 60-day provision, I'm about to say, for the Board of  
17 Architects, now that I think about it, because the  
18 only two persons who have authority to ask for that  
19 reconsideration are the City Manager, who ought to  
20 know what's going on --

21 MR. COE: And the applicant.

22 MR. SIEMON: -- and the applicant.

23 MR. COE: Right.

24 MR. SIEMON: So I think that that was given  
25 automatic parallelism to the practice for Building &

1 Zoning and shouldn't, and in fact, it said 10 days.

2 MS. ALFONSIN: It's also Historic  
3 Preservation, for the same reason.

4 MR. SIEMON: The same -- yeah.

5 MS. ALFONSIN: They actually don't post it  
6 on the property. They send it out by mail.

7 MR. SIEMON: But we can solve the Board of  
8 Architects, or at least I think it should be --  
9 because of the limited appellate reconsideration  
10 rights, there's no reason to have a long notice  
11 period.

12 CHAIRMAN KORGE: But only two people can  
13 appeal.

14 MR. SIEMON: Right.

15 MR. AIZENSTAT: The City Manager and the  
16 applicant.

17 CHAIRMAN KORGE: And they already know about  
18 it, to begin with, so they don't need additional  
19 notice.

20 MS. MORENO: Okay, so what we're saying is,  
21 again, if the decision on my house color is made by  
22 the City Architect --

23 MR. SALMAN: You're safe.

24 MS. MORENO: I'm safe, my neighbor can't  
25 complain after I paint the house?



1 not the intent.

2 MR. SMITH: I like the 25,000, although  
3 construction costs have gone up. What that means is,  
4 we're posting more, so we're giving more notice to  
5 the neighborhood with that.

6 MR. AIZENSTAT: And that's good.

7 MR. SMITH: So I think that's a good thing.

8 CHAIRMAN KORGE: Should it be adjusted for  
9 inflation?

10 MR. AIZENSTAT: But I'd rather give more  
11 notice. I agree with Dennis.

12 MR. SALMAN: Err on the side of notice?

13 MR. SMITH: Yeah.

14 MR. AIZENSTAT: Yeah.

15 MR. SMITH: That's my thoughts on it.

16 CHAIRMAN KORGE: So, 20 years from now, or  
17 25, when it costs you \$25,000 to paint your fence or  
18 your wall --

19 MR. SALMAN: Yeah, \$25,000, 30 years ago, or  
20 40 years ago, when that number appeared in here,  
21 because it didn't appear in there before, you could  
22 do an addition.

23 MR. AIZENSTAT: You could do a whole house.

24 MR. COE: A whole house, 40 years ago.

25 MR. SALMAN: Or a whole house.

1           MR. SMITH: You can't hardly do any kind of  
2 addition for 20,000.

3           MR. SALMAN: You can't do anything for  
4 20,000.

5           MR. SMITH: Yeah.

6           CHAIRMAN KORGE: Right. I mean, I tend to  
7 agree with you. If the purpose was to weed out, you  
8 know, the minutia that didn't really justify posting  
9 the notice, then some sort of adjustment is  
10 appropriate. If we're still happy with the \$25,000  
11 amount, we should at least adjust it for inflation.

12           MR. SALMAN: I'm just trying to relieve  
13 Staff of the administrative duty to post jobs that  
14 are over 20,000 -- you know --

15           CHAIRMAN KORGE: Yeah, right.

16           MR. SALMAN: Over 25,000. If we were at 40  
17 or 50, we could probably live with it longer.

18           MR. COE: Fifty seems to me to make more  
19 sense.

20           MR. SALMAN: Yeah.

21           MR. AIZENSTAT: But at the same time, I  
22 think the aspect of construction has changed a great  
23 deal since then, and as a result, I think it gives an  
24 opportunity of posting, by letting the neighbors and  
25 people surrounding be aware of what's going on, and

1 to me, that seems to be an intent I would like to  
2 accomplish.

3 MR. COE: If you're going to rewrite the  
4 Code every two or three years, I'd agree with you,  
5 but if you're not going to do that, 25,000 becomes an  
6 increasingly de minimis figure. I mean, I don't see  
7 why we have to be bogged down with such a small  
8 number.

9 CHAIRMAN KORGE: Well, what I'd suggest is  
10 that we agree on a number and then adjust it for  
11 inflation in the future to --

12 MR. COE: Well, we could agree on 25, I  
13 suppose, and have a five percent increase per year.

14 MR. AIZENSTAT: That's -- isn't that going  
15 to complicate --

16 MR. SALMAN: That's just going to make it  
17 more complicated.

18 MS. MORENO: Well, the thing is, you have --

19 MR. AIZENSTAT: That's going to mean,  
20 somebody's going to have to calculate, well, this was  
21 done in '05, and --

22 MR. COE: And you do that in -- the system  
23 in the United States and in Florida in determining  
24 judgment interest, it's on a calculated scale at the  
25 end of every year, it's determined what the interest

1 is going to be for the next year. It's by the  
2 Comptroller of the State of Florida and by the  
3 Secretary of Treasury's Office, you know, for the  
4 United States. It's the same thing.

5 CHAIRMAN KORGE: Dennis, with this  
6 calculation, it would be adjusted every year --

7 MR. COE: Yeah, it's a calculation.

8 CHAIRMAN KORGE: -- and everybody would  
9 know what the number is.

10 MR. COE: Yeah.

11 MR. AIZENSTAT: I think you're complicating  
12 it.

13 MR. COE: Then I think we should go to  
14 50,000.

15 MS. MORENO: Well, the thing is, you've had  
16 25,000 for 20 years, so --

17 MR. AIZENSTAT: Probably longer.

18 MR. SALMAN: How long have we had the  
19 25,000, Dennis?

20 MR. SMITH: The 23 years I've been here.

21 MR. COE: I think it's been since at least  
22 1970, that I'm aware of. So, I mean, at the time the  
23 25,000 was put in, I assure you, in half the City,  
24 that would have built the entire house, and that's  
25 why it makes no sense to continue that.

1           MR. AIZENSTAT: But if you're going on that  
2 basis, that it would build half the house, are you  
3 saying that it should be 500,000? Because that --

4           MR. COE: No. I'm saying at least 50 --

5           MR. AIZENSTAT: No, but I'm just saying,  
6 parallel-wise, that might be what it would equate --

7           MR. COE: Maybe it should be. Maybe it  
8 should be. The whole initial point of that was to  
9 have it not the -- it was to be the exception, not  
10 the rule. Here, virtually everything is going to be  
11 within that.

12           CHAIRMAN KORGE: If you're redoing your  
13 kitchen, you don't really need to notice the whole  
14 world for that.

15           MR. COE: Exactly, and I mean, 25,000 is a  
16 cheap kitchen.

17           MS. MORENO: Uh-huh.

18           CHAIRMAN KORGE: Yeah. I mean, if you're  
19 adding an addition or you're rebuilding your house,  
20 then it's appropriate to give notice. That's the  
21 reason.

22           MR. AIZENSTAT: What number would you  
23 suggest?

24           MR. RIEL: Let me just say that Staff batted  
25 this issue around, 25, 50 and 75. We landed at 25,

1 just to make sure that everything above a certain  
2 amount is noticed, to make sure that the adjacent  
3 neighbors know, so I can tell you, we talked about  
4 this for about 30 minutes, and we agreed on 25,000,  
5 as Dennis had said, so --

6 MR. COE: That's like a bathroom addition,  
7 \$25,000.

8 MR. RIEL: And it just means a little sign  
9 in front of the property. That's all it means. So  
10 we would suggest to leave it at 25,000.

11 MR. AIZENSTAT: You know, one of the things  
12 that I've heard from all the citizens that have come  
13 up here and have talked is noticing, noticing,  
14 noticing, and how they're not aware as to what's  
15 going on, and this is just a little something to let  
16 them know or give them that assurance.

17 CHAIRMAN KORGE: If Staff doesn't mind  
18 putting up the extra notices --

19 MR. AIZENSTAT: And if I hear that Staff  
20 doesn't mind, I don't see a problem with it.

21 MR. RIEL: We don't have a problem with it,  
22 as Dennis said.

23 MR. COE: We're just giving you our  
24 thoughts.

25 MR. SALMAN: We're not voting on it today.

1 MR. RIEL: Until another day.

2 CHAIRMAN KORGE: Is there anything else,  
3 any other comments on the articles and divisions that  
4 we've reviewed?

5 We can either go forward now or take a quick  
6 break and then come back.

7 MR. SIEMON: Well, the next -- we're  
8 supposed to do Article 7.

9 MR. RIEL: Seven and eight.

10 MR. COE: We're running behind, Mr.  
11 Chairman.

12 CHAIRMAN KORGE: Oh.

13 MR. SIEMON: It's violations and enforcement  
14 and penalties. We have consolidated all of those  
15 elements into this one article, and you've previously  
16 approved that, and to my knowledge, there have not  
17 been any changes --

18 CHAIRMAN KORGE: Okay.

19 MR. SIEMON: -- subsequent to your approval.

20 Article 8 are the definitions, and they have  
21 been -- we're not -- many of them were prepared and  
22 have previously been discussed with you, but they  
23 have never been presented, and there are lots and  
24 lots of them that have not been presented, and this  
25 is an item that Staff has gone through, and I'm sure

1       there are a few more corrections that need to be  
2       made, but by and large, we've arrived at a consensus,  
3       through the Administration, the City Attorney's  
4       office, with regard to what's contained in this, but  
5       they are -- I don't propose to go through them and --

6                 CHAIRMAN KORGE:  We have -- as we've gone  
7       through various articles and divisions in the past,  
8       we have addressed particular definitional issues.

9                 MR. SIEMON:  Right, and that was all that we  
10       were supposed to discuss before -- oh, no, we were  
11       then going to go on and do --

12                MR. RIEL:  The zoning districts.

13                MR. SIEMON:  -- the districts and the maps.

14                MR. RIEL:  Maps, right.

15                MR. SIEMON:  But if you want to take a break  
16       now, we could do that.  It's your pleasure.

17                MR. AIZENSTAT:  Mr. Chair?

18                CHAIRMAN KORGE:  Yeah.

19                MR. AIZENSTAT:  Would you --

20                CHAIRMAN KORGE:  Yeah, let's take a  
21       five-minute break, and then -- and only five minutes,  
22       and come back and we'll just plow through that and  
23       the other articles.

24                (Thereupon, a recess was taken.)

25                MR. SIEMON:  Are we ready, Mr. Chair?

1                   CHAIRMAN KORGE: (Nods head).

2                   MR. SIEMON: The next section is the zoning  
3 districts and maps. I'm going to talk about the  
4 districts, and Walter is going to address the maps.

5                   Article 4, Division 1, the residential  
6 districts. The first of those is a district you know  
7 well. You have recently been giving it a lot of  
8 consideration. There's only one modification from  
9 what I believe that you -- one that I'm aware of,  
10 between what you all have most recently approved.  
11 There were a series of provisions about the roofs  
12 that were in the old single-family district that were  
13 included in this. They were already in the Code, in  
14 Division -- Article 5 and so we consolidated those in  
15 the standards, out of the residential district, but  
16 other than that, I believe that Division 1 for  
17 Single-Family District is as you all have reviewed  
18 and approved at this time.

19                  MR. RIEL: One clarification, just so you  
20 understand. It's the draft that was from June 7th,  
21 so it has changed since then. When it's adopted by  
22 the Commission, that draft will be put in here. So  
23 this is one of the second drafts.

24                  MR. AIZENSTAT: So this is not -- it's been  
25 modified even further than what we're seeing right

1 now?

2 MR. RIEL: This -- the one that's in here,  
3 correct. The one you saw last week --

4 MR. COE: Right.

5 MR. RIEL: -- is the correct one, the 14th  
6 meeting.

7 MR. AIZENSTAT: Right.

8 MR. RIEL: This thing came out June 7th.

9 MR. AIZENSTAT: Right, but the one we saw  
10 the 14th is the correct one?

11 MR. RIEL: That is the correct one, but it's  
12 not in here.

13 MR. AIZENSTAT: Why is it not in here?

14 CHAIRMAN KORGE: Well, why wouldn't you put  
15 the correct one in here?

16 MR. RIEL: Why didn't we put the correct --

17 CHAIRMAN KORGE: Yeah.

18 MR. RIEL: This was the first draft from  
19 what you saw May 24th. This is the May 24th draft.

20 MR. AIZENSTAT: There haven't been any  
21 changes --

22 MR. RIEL: This was produced on June 6th,  
23 June 6th or 7th.

24 MR. SIEMON: 7th.

25 MR. AIZENSTAT: But as we see -- for

1 example, what we saw on the 14th, you don't update  
2 this with it?

3 MR. RIEL: We will.

4 MR. AIZENSTAT: Okay, but you don't do it as  
5 it goes along? You will, at the end, with  
6 everything?

7 MR. RIEL: Yes, but you saw it on the 14th,  
8 and this thing came out on the 6th. Do you  
9 understand what I'm saying? So it's not in here.

10 CHAIRMAN KORGE: We got you.

11 MR. SIEMON: On the day before we produced  
12 this document, we received, I believe, an edited  
13 version, and it went straight into this, with the  
14 exception of what I've just described to you.

15 MR. RIEL: Whatever happened, the final one  
16 will be in here.

17 CHAIRMAN KORGE: You're probably better not  
18 to let us know of all these little details.

19 MR. RIEL: Okay. I've got to remember  
20 that.

21 MR. SIEMON: I don't know if -- I assume  
22 that you've not seen the duplex district.

23 MR. AIZENSTAT: Say that again, please.

24 MR. SIEMON: The duplex district, the MF-1.  
25 During our administrative reconciliation of

1 conflicting views and perspectives and reaching a  
2 consensus, we made a decision to go back to a  
3 residential district format that is more similar to  
4 what's in the existing Code, so instead of having the  
5 SF-1, SF-2, MF-1, MF-2 that we had, we now have just  
6 the single single-family district. We have a  
7 Multi-Family 1, which is a duplex district, and we  
8 have a Multi-Family 2, which is an apartment  
9 district, and then we have the moratorium district,  
10 the special area regulations which you all  
11 participated in a couple of years ago for the  
12 Alhambra area. Those are the districts that are in  
13 the -- that are here in the residential components,  
14 which are Division 1, and the MF-1 is a duplex  
15 district. It's drafted in the same form and model as  
16 the SF-1, SF district. The apartment district, MF-2  
17 is really very similar to what you have in your  
18 existing Code, with some reflections that Dennis  
19 incorporated from some of the things we learned  
20 during the special area, and division -- Section  
21 4-104, the special area district, is what we all went  
22 through for the moratorium area.

23 MS. MORENO: Okay, question. When you  
24 eliminated SF-1 and SF-2, one of the things that we  
25 were considering in moving forward with the

1 restrictions on ground area coverage was that it  
2 would not affect SF-2, which was the area south of  
3 Sunset. Now you are affecting that whole area.

4 MR. SIEMON: No, I don't believe so.

5 You're not affecting anybody, are you?

6 MR. SMITH: Uh-uh. No.

7 MR. SIEMON: I mean, it's the more  
8 restrictive floor area limitations of SF-1 that was  
9 eliminated, so that what's always been in effect is  
10 now effective in all residential districts.

11 MS. MORENO: So we haven't eliminated -- I  
12 guess I missed the meeting where you took out the  
13 restrictions on the single-family residences? Okay.

14 MR. SIEMON: The next are Overlay and  
15 Special Purpose --

16 MS. MORENO: Wait. Charlie --

17 MR. SIEMON: Yes, ma'am.

18 MS. MORENO: That can't be right. We've  
19 gone through meetings and meetings and meetings about  
20 the oversized homes. That's eliminated altogether?

21 MR. SIEMON: The district that you all have  
22 been working on, prepared by Dennis, replaces the  
23 SF-1 and SF-2 districts that we previously had  
24 developed and debated --

25 MR. AIZENSTAT: I think you were not here

1 when Dennis made his presentation.

2 MS. MORENO: No, I was, when he made one of  
3 the presentations.

4 Dennis, my question is, is this going to now  
5 throw all of Cocoplum out of conformity?

6 MR. SMITH: No. No, because the Cocoplum is  
7 in a flood district and they have site-specific  
8 regulations that guide them, that will allow them to  
9 keep the same type of standards that they have now.  
10 The same occurs for Gables Estates, Hammock Oaks  
11 Harbor, all those areas down there, and Snapper  
12 Creek --

13 MR. SALMAN: Journey's End.

14 MR. SMITH: And Banyan Bay --

15 MS. MORENO: Okay, I remember that  
16 discussion about their having site-specifics.

17 CHAIRMAN KORGE: Does that --

18 MR. SMITH: That takes care of them, so they  
19 don't change, so that where we did make the real  
20 changes occurs primarily in the northern end of the  
21 City. We did make some slight modifications down  
22 there, as well, but not like we did to the north end.

23 CHAIRMAN KORGE: I guess the question is,  
24 the draft that you prepared and we approved, I guess  
25 really the Commission has already approved on first

1 reading that we reviewed -- was it last week?

2 MR. RIEL: Yes.

3 CHAIRMAN KORGE: That's going to be  
4 incorporated into here?

5 MR. SMITH: Yes.

6 MR. RIEL: Yes.

7 CHAIRMAN KORGE: Okay. It covers the --

8 MR. COE: Mr. Chairman --

9 CHAIRMAN KORGE: Cristina, it does  
10 specifically except the site-specific areas from the  
11 changes.

12 MS. MORENO: Yeah. When you made the  
13 presentation at the meeting I was at, I did not catch  
14 that you were eliminating the SF-1.

15 MR. SMITH: I think I explained all that at  
16 the first -- during the first presentation --

17 MS. MORENO: Yeah.

18 MR. SMITH: -- where you weren't here, and I  
19 didn't really go into that detail for the second  
20 one. That's how we dealt with those areas down  
21 there, was with their site-specific regulations and  
22 the basis that they're in a flood district.

23 MS. MORENO: Your assurance that they're not  
24 rendered nonconforming is enough for me. Thank you.

25 MR. SIEMON: The next subject is Division

1 2, Overlay and Special Purpose Districts. That's the  
2 MXD district, which you previously have -- which is  
3 basically the existing MX3.

4 MR. RIEL: Yes.

5 MR. SIEMON: And you all have previously  
6 approved it. To my knowledge, there's been no  
7 material change, other than the kind of editorial  
8 things I've described.

9 The same is true for the new University of  
10 Miami Campus District. You all have approved that,  
11 and there have been no changes since your prior  
12 consideration, other than, the permitted use chart  
13 was modified to eliminate minor conditional uses.  
14 Originally, we had minor and major.

15 CHAIRMAN KORGE: Right.

16 MR. SIEMON: So if it was minor, it became  
17 an administrative discretionary approval. If it was  
18 major, it became a conditional use.

19 And that chart, the Downtown Overlay  
20 District, the SDistrict and the Preservation  
21 District, I believe you -- are basically the same as  
22 existing, and you have previously approved them.

23 And what's missing, of course, is all the  
24 Ponce districts.

25 The third area is the Commercial Districts.

1 You have the existing three. We previously  
2 recommended the consolidation into CL, C Limited,  
3 Commercial Limited and Commercial general, and the  
4 basic difference is, the Commercial Limited are those  
5 parcels of land which front on major roads that have  
6 a Commercial designation, but abut residential  
7 adjacent to it. You all have seen the mapping  
8 exercise of where those areas are. And the  
9 Commercial Limited has not really fundamentally been  
10 changed since -- we presented it to you before, but  
11 you did not, to my knowledge, take it up. But I'm --

12 Does the chart show that that was --

13 MR. RIEL: It's deferred, yes.

14 MR. SIEMON: It was deferred.

15 MR. RIEL: Yeah.

16 MR. SIEMON: Then the Commercial District is  
17 the general Commercial District. Both of them  
18 contain nighttime uses. In the provisions governing  
19 nighttime uses, they apply to every nighttime use in  
20 the CL district, because by definition it's adjacent  
21 to residential, but in the C district, it only  
22 applies to parcels of land which are adjacent to a  
23 residential district at the periphery.

24 CHAIRMAN KORGE: Excuse me, Charlie, didn't  
25 we go over that in great detail before with you?

1 MR. SIEMON: Oh, yes, sir.

2 MR. RIEL: Yes.

3 MR. SIEMON: We just didn't act on it.

4 CHAIRMAN KORGE: But we had a consensus on  
5 what we wanted?

6 MR. SIEMON: I believe we did.

7 MR. RIEL: Yes.

8 CHAIRMAN KORGE: Okay, thank you.

9 MR. SIEMON: The Industrial District is --  
10 Walter, basically the same?

11 MR. CARLSON: Yes.

12 MR. SIEMON: I don't think we've changed  
13 anything. I think you all know about that.

14 So those are the nonresidential districts.

15 The last area are the Prohibited Uses, which  
16 you may recall, we spent some considerable time  
17 talking about. The consensus of the Administration  
18 and the consultant team are that the prohibited uses,  
19 particularly such things as wild animals and  
20 reptiles, notwithstanding the deliberative  
21 contributions of this Board, should be left as they  
22 are in the Code, and that is what is presented here  
23 to you today.

24 Other than that, I think we did make --  
25 outside of the animal kingdom, we did make, I think,

1 all the changes you -- when we went through the  
2 deliberative process of discussing this, all of those  
3 were made for you. And that, really, are the  
4 districts, significantly simplified by the  
5 elimination of the policy issues implied by the Ponce  
6 districts.

7 And Walter, do you want to --

8 MR. CARLSON: Yeah.

9 I have a very brief PowerPoint presentation  
10 to give to you, and we'll reference the package which  
11 is before you, which has a map, a chart and some  
12 descriptions of properties.

13 Staff has included, with the Zoning Code  
14 rewrite, changes to the City zoning maps to correct  
15 some existing map inconsistencies.

16 In the beginning and when we began this  
17 process, we -- Staff identified 67 inconsistent  
18 parcels that were -- that were inconsistent with  
19 their land use designations. 24 of those parcels  
20 were publicly-owned and 43 of those parcels were  
21 privately-owned. The Planning & Zoning Board  
22 considered those 67 parcels on August 10th of last  
23 year.

24 After that, the Board's consideration, the  
25 City Commission raised concerns about including the

1 private-owned parcels in that package of inconsistent  
2 properties. The City Commission has requested that  
3 only the publicly-owned parcels and inconsistencies  
4 resulting from scrivener's errors be included in the  
5 package of inconsistent properties. Therefore, Staff  
6 has -- is only recommending changes of zoning on the  
7 public parcels and scrivener's errors, and that  
8 includes 18 publicly-owned parcels and one  
9 privately-owned parcel which had a scrivener's error.

10 In your packages which are before you, you  
11 have a map which locates those 19 properties, again,  
12 the 18 publicly-owned and one privately-owned  
13 scrivener's error. The map is divided into two. You  
14 have a north section, then you have a south section,  
15 and each of the properties is located on that map.

16 With the map is a chart, and that chart  
17 gives an address, a description of the property and  
18 gives the existing and proposed zoning designations.  
19 Then it gives a brief comment on why the change is  
20 being proposed.

21 I have three examples of the properties on  
22 the PowerPoint, which indicate to you what is  
23 involved here. The first one is the Alhambra Water  
24 Tower. We've given you a photograph of it in the  
25 lower right-hand corner. In the lower left-hand

1 corner we describe the Comprehensive Plan Land Use  
2 designation, which is for parks and recreation, but  
3 the property is zoned R, residential, single-family  
4 residential, which is not the correct zoning for the  
5 Alhambra Water Tower. It should be S, Special Use,  
6 which is the appropriate zoning for the parks and  
7 recreational use.

8 Another example is Riviera Park. Here  
9 again, you have a parks and recreational land use  
10 designation, which is appropriate for the park, yet  
11 you have a CB commercial zoning designation, and the  
12 appropriate zoning designation should be S, special  
13 use.

14 The final example which I have here is Coral  
15 Bay Conservation Area, which is owned by the State.  
16 You do have a conservation land use designation, but  
17 you have a single-family residential and apartment  
18 residential zoning designation, and it should be  
19 zoned Preservation Use. These are corrections which  
20 are going to correct those existing public  
21 properties.

22 This is Part 1 of a two-part process. First  
23 we change the inconsistent property designations, the  
24 zoning designations, and then when that has been  
25 completed, we begin Part 2, which is the rezoning of

1 all existing properties according to the new Zoning  
2 Code categories, and that will follow after Part 1.

3 And that's Staff's presentation. Thank  
4 you.

5 MR. AIZENSTAT: Thank you.

6 CHAIRMAN KORGE: Thank you.

7 Are there any questions at this time? No?

8 MR. AIZENSTAT: Actually, let me ask you a  
9 question, please. By changing any of these  
10 designations on the public properties, is there an  
11 indirect or a direct effect with any of the adjacent  
12 privately-owned properties or any -- that would  
13 affect it as to -- that that becomes nonconforming?

14 MR. CARLSON: No, this only applies to the  
15 publicly-owned property itself, and it changes --  
16 what it does, it changes the zoning to reflect the  
17 actual use of the property and the actual existing  
18 land use designation of that property.

19 MR. AIZENSTAT: But it doesn't affect the  
20 neighbors' zoning of their properties, to where they  
21 wouldn't be able to build what they have existing --

22 MR. CARLSON: No.

23 MR. AIZENSTAT: -- because you have a  
24 special use next to it?

25 MR. RIEL: No, no.

1 MR. CARLSON: No, it would not.

2 MR. AIZENSTAT: Okay. Thank you.

3 MR. RIEL: Article 5.

4 MR. SIEMON: No, we're skipping Board  
5 discussion.

6 CHAIRMAN KORGE: Well, we just had it.

7 MR. RIEL: We just had it. We had the Board  
8 discussion.

9 MR. SIEMON: Great. Thank you. Thank you.

10 MR. SALMAN: We completely discussed it.

11 MR. AIZENSTAT: We just had it.

12 MR. SIEMON: Article 5, Division 1. You  
13 all considered this. There were some changes. The  
14 nature of the changes, which my recollection is not  
15 strong enough to help me understand what the areas of  
16 concern were -- but you deferred it rather than take  
17 action, because you wanted to see it back with the  
18 changes that you requested. I remember a discussion  
19 of the boat house --

20 MR. RIEL: It was regarding cooking  
21 facilities in guest houses.

22 MR. SIEMON: Guest house, reconciliations  
23 of inconsistencies, and there was some discussion, I  
24 think, or maybe I'm recalling a conversation at one  
25 of our meetings -- but there was some discussion

1 about why we were specifying these materials, and we  
2 went back and talked with Dennis and concluded that  
3 we should not change -- there might have been -- this  
4 is as it was, the materials for the decks?

5 MR. SMITH: For what?

6 MR. SIEMON: Accessory Uses, decks, the  
7 specification of those materials.

8 MR. SMITH: Yes, that's how it was.

9 MR. SIEMON: I believe that would remain the  
10 same.

11 MR. SALMAN: I have a question. It has to  
12 do with pools. Currently, we can build a pool within  
13 five feet of the setback, except that we changed the  
14 rear setback to 10 feet, so therefore, pools can't be  
15 any closer than 10 feet to the rear setback?

16 MR. SMITH: Five feet to the rear.

17 MR. SALMAN: It's five feet now, but the new  
18 Code says it will be in agreement with the  
19 residential setback requirements.

20 MR. SMITH: It needs to be changed to 10,  
21 that's correct.

22 MR. SALMAN: Okay. Is that what we want to  
23 do?

24 MR. AIZENSTAT: Can you say that last  
25 phrase?

1           CHAIRMAN KORGE:  Sure.

2           MR. SALMAN:  Right now, we can build pools  
3 within five feet of the rear setback.

4           MR. AIZENSTAT:  Okay.

5           MR. SALMAN:  The new Code --

6           MR. AIZENSTAT:  You've got to go 10.

7           MR. SALMAN:  -- requires it to be 10.  Do we  
8 want to do that?

9           MR. AIZENSTAT:  Right.

10          Mr. SIEMON:  I believe the consensus, and it  
11 may have been prior to your tenure --

12          MR. SALMAN:  I think it was prior to my  
13 tenure.

14          MR. SIEMON:  I think the consensus was that  
15 they wanted the pools to be back 10 feet.

16          MR. AIZENSTAT:  If you set it closer than  
17 that, you're not abiding by your setback of 10 feet.

18          CHAIRMAN KORGE:  Yeah, but the original  
19 setback -- the movement of the setback, as I  
20 recall -- I may be wrong about this -- was to address  
21 the oversized housing, wasn't it?

22          MS. MORENO:  Uh-huh.

23          MR. SALMAN:  It was meant to increase the  
24 setback of the building to 10 feet.

25          MS. MORENO:  But not the pools.

1 MR. SALMAN: But a pool --

2 CHAIRMAN KORGE: Exactly.

3 MR. SALMAN: -- is at grade level, so it  
4 doesn't cast any shadow.

5 CHAIRMAN KORGE: Exactly. It's not a  
6 massing problem.

7 MR. SALMAN: My feeling is, it should be  
8 five, back to the way it was.

9 MS. MORENO: I agree.

10 CHAIRMAN KORGE: I agree with you. It's  
11 not a massing issue.

12 MR. SMITH: Then --

13 MR. SALMAN: You're going to severely limit  
14 the size of the pools and you're going to be --  
15 you're going to be in for variance all the time.

16 MR. SMITH: No, I don't think so. The  
17 reason why we were going to increase it back to 10 --  
18 it used to be 10 on the rear -- was because people  
19 are building it to five and then they're putting  
20 three -- trying to put a three-foot walkway around  
21 it, and we say, "No, you can't do that," so then they  
22 put the stepping stones around it, to create that,  
23 and it really pushes everything on a residential  
24 structure right up to the property line, almost.

25 So, you know, I think that that separation

1 between pools --

2 MR. SALMAN: You're right, State Code does  
3 require a minimum of three foot around the pool.

4 MR. SIEMON: If you look at Paragraph  
5 J, it --

6 MR. SALMAN: But there's special provisions  
7 that get you away from that if you have hand-holds or  
8 you have some other --

9 MR. SMITH: Right.

10 MR. SALMAN: -- device to get out of the  
11 water from there without necessarily climbing out of  
12 the pool.

13 MR. SIEMON: I would notice -- point out  
14 that the Paragraph J does allow that the deck --

15 MR. SALMAN: That's just the deck.

16 MR. SIEMON: -- can be extended to five  
17 feet.

18 MR. SALMAN: The deck can encroach --

19 MR. SIEMON: Right.

20 MR. SALMAN: -- to five feet.

21 CHAIRMAN KORGE: Oh, I see. I see.

22 MR. SIEMON: It's the pool itself.

23 CHAIRMAN KORGE: If the deck can go to five  
24 feet, then I don't -- it doesn't bother me as much.  
25 Maybe you feel differently, Javier, but --

1 MR. SALMAN: I'm just thinking of pools in  
2 existing houses where the houses are built in such a  
3 way you're going to get a lot of long, narrow pools.

4 MR. SMITH: On a 50-foot lot, with 15-foot  
5 side setbacks, the pools are 20 feet.

6 MR. SALMAN: Yeah.

7 MR. SMITH: That's what they are, and then  
8 depending on how they design the house, depends on  
9 how much width that they get in the pool, and --

10 MR. AIZENSTAT: Twenty.

11 MR. SMITH: If they want a larger or wider  
12 pool, then they would have to pull the house further  
13 back from the rear lot line, and that would give even  
14 better separation between the buildings, which is one  
15 of the things we're trying to accomplish.

16 MS. MORENO: Why do we care if the pool is  
17 within the setback? Because the idea is that  
18 visually, it's not a mass.

19 MR. SMITH: The --

20 MR. SALMAN: I just don't think you want the  
21 deck to the edge of the property line.

22 MR. SMITH: Right, right.

23 MR. SALMAN: So the facing would have to be  
24 more than five feet, so instead of -- and again,  
25 we're talking about two feet. It's a difference

1 between eight, which would be the minimum mandated,  
2 and --

3 MR. AIZENSTAT: Three.

4 MR. SALMAN: -- 10 feet, really, because if  
5 you have a pool deck and then five feet, you can  
6 build the edge of that deck to within five feet of  
7 the rear property line, according to the Code now,  
8 according to this version of the Code. However,  
9 before, you could build the edge of basin to within  
10 five feet of the property, because that was the  
11 setback line, and still have a three-foot walkway and  
12 two feet of green space between each --

13 MR. AIZENSTAT: And they were putting pavers  
14 or they were putting stepping stones around that to  
15 get -- to side-skirt that issue.

16 MR. SMITH: And what we're trying to do is,  
17 because we've also increased the landscaping  
18 requirement to 40 percent, they should have places  
19 where they can put that, and that gives them an  
20 opportunity to put more of that in the rear yard  
21 area, instead of trying to pave that whole area.

22 MR. SALMAN: All right. I just want to make  
23 sure we all know what we're doing.

24 MS. MORENO: Yeah.

25 MR. SIEMON: The next is Division 2,

1 Automobile Service Stations. It's basically your  
2 existing Code, and you previously approved it.

3 Division 3, Awnings and Canopies. You all  
4 had some changes, but approved it with those changes,  
5 and I believe those changes have been made.

6 Article -- Division 4, Clearing, Filling and  
7 Excavation, you approved.

8 Division 5, the Coral Gables Cottage  
9 Regulations are the existing regulations, and you  
10 have previously approved that.

11 Division 6 are the Design Review Standards.  
12 These are standards that were scattered throughout  
13 various parts of the Code and have been consolidated  
14 and presented in an organized fashion. You approved  
15 these. You did ask us to seek out additional input  
16 from the Board of Architects, and to my knowledge,  
17 we've received none.

18 CHAIRMAN KORGE: Excuse me. Have they at  
19 least looked at it?

20 MR. SIEMON: Yeah.

21 MR. RIEL: I don't know. You'd have to ask  
22 Dennis.

23 MR. SIEMON: It was submitted to them.

24 CHAIRMAN KORGE: Do you know if the Board of  
25 Architects has looked at this, Dennis?

1 MR. SMITH: I don't -- I don't remember.

2 CHAIRMAN KORGE: Design review standards?

3 MR. SIEMON: That was quite some time ago.

4 There are two components of this, and they  
5 did see it, and one is this grab bag of design  
6 standards which were consolidated, and when I  
7 presented it to them, I don't think they had a great  
8 deal of -- because they were the existing standards.

9 CHAIRMAN KORGE: So they were satisfied with  
10 it.

11 MR. SIEMON: The second one was the  
12 Mediterranean bonus, and as you recall, early on,  
13 there were some recommendations in terms of the bonus  
14 not applying in certain areas, et cetera. This,  
15 what's now Section 5-604, is the existing provision,  
16 and it applies except for the Alhambra special area.

17 CHAIRMAN KORGE: Okay. We didn't change --

18 MR. SIEMON: And so it's gone back to  
19 what -- where it was.

20 CHAIRMAN KORGE: We didn't change the  
21 Mediterranean bonus provision, is what you're saying,  
22 right?

23 MR. SIEMON: This draft does -- from the  
24 existing regulations which are in force and effect  
25 today, to this, are identical.

1           CHAIRMAN KORGE: Okay.

2           MR. SIEMON: In between, we went through a  
3 lot of discussion about where and how the bonus  
4 should be available, and we returned to what's in the  
5 Code at this point.

6           CHAIRMAN KORGE: Okay.

7           MR. SIEMON: And 5-605, I don't know -- my  
8 notes do not indicate whether you all saw it before,  
9 but this is the -- from the existing Code, and I  
10 don't believe that it's been modified in any way.

11           Division 7, spacing requirements, you  
12 approved, as the same for -- and it's virtually the  
13 same as in the existing Code.

14           Division 8, Docks, Wharves, Mooring Piles  
15 and Watercraft Moorings, you did approve that. I do  
16 recall some discussion about boats without motors or  
17 something, but I think we finally came to a  
18 conclusion of what was a consensus, and I believe  
19 that this reflects -- our chat indicated that we had  
20 identified -- we made every change that you all had  
21 identified.

22           Division 9, Group Homes, is -- was approved  
23 by you. It's basically your existing treatment and  
24 refers to Miami-Dade County Code, which controls.

25           Division 10 was Heliport and Helistops.

1 This is your existing Code, and was approved.

2 Division 11, Landscaping. To my -- I  
3 believe that this was not presented to you.

4 MR. RIEL: Right. This was not presented to  
5 you, and that's why it indicates Draft, Requires  
6 Further Review. The Public Service Department and  
7 the Planning Department drafted these regulations.  
8 They still need to go to the Landscape Advisory  
9 Board, so we will come back with a more detailed  
10 presentation on this, but if you have any comments,  
11 we'll be happy to have those, but basically, what we  
12 did is, we took the County Code and got more  
13 restrictive, in terms of, in the Coral Gables Code  
14 we're requiring more plant material and larger plant  
15 material.

16 CHAIRMAN KORGE: Well, can I give you my  
17 comments right now --

18 MR. RIEL: Sure.

19 CHAIRMAN KORGE: -- for whatever they're  
20 worth? Section 5-1104, cap A, Number 2, sub b.  
21 "Irrigation shall be prohibited within native plant  
22 communities and natural forest communities."

23 Does that mean if we use Xeriscaping, we're  
24 not allowed to have irrigation?

25 MR. RIEL: That's what the County Code says.

1           CHAIRMAN KORGE:  And then if -- that doesn't  
2           make any sense.  I mean, I can understand why you use  
3           Xeriscaping, not wanting to use irrigation as much,  
4           but what if we have a drought, you know?

5           MS. MORENO:  Which we have.

6           CHAIRMAN KORGE:  Which we have from time to  
7           time.  That doesn't make sense.

8           MR. RIEL:  I can tell you, by going through  
9           the County Code, a lot of it doesn't make a lot of  
10          sense.  It was --

11          MS. MORENO:  So, then, why are we adopting  
12          it?

13          MR. RIEL:  Well, we have to, in other words.

14          MR. SIEMON:  It controls.

15          MR. RIEL:  It controls, unless our  
16          regulations are more restrictive, so --

17          CHAIRMAN KORGE:  Well, how is requiring  
18          irrigation not more restrictive?

19          MR. RIEL:  I mean --

20          CHAIRMAN KORGE:  That's not less  
21          restrictive, that's more restrictive.  It's imposing  
22          more obligations.

23          MS. MORENO:  No, he's saying that the County  
24          says irrigation shall be prohibited.

25          MR. RIEL:  Right.

1           CHAIRMAN KORGE: We would require it, so  
2 that's more restrictive.

3           MR. AIZENSTAT: You can't -- you have to go  
4 with --

5           MR. COE: You can't override the County.

6           MR. RIEL: Correct.

7           CHAIRMAN KORGE: Yeah, but --

8           MS. MORENO: You can't allow it.

9           CHAIRMAN KORGE: He said we can do other  
10 than the County where it's more restrictive. It  
11 seems to me that --

12           MS. MORENO: Yeah, but allowing irrigation  
13 is not more restrictive.

14           CHAIRMAN KORGE: Not allowing it, requiring  
15 it. Because everywhere else, it's required.

16           MR. COE: If the County prohibits  
17 irrigation, the City can't allow irrigation. That's  
18 not more restrictive. That's violating the County.  
19 You can't violate the County Ordinance --

20           MR. AIZENSTAT: More restrictive would be  
21 greater --

22           MR. COE: -- any more than the County can  
23 violate State regulation or statute.

24           CHAIRMAN KORGE: Well, you know, you just  
25 know that nobody's going to want Xeriscaping if

1 they're not allowed to use irrigation. That was my  
2 comment on that.

3 In the next page, Item Number 3, c, I don't  
4 know if you need to insert in there septic systems,  
5 as well as sewers. This is where you can't plant  
6 trees or vegetation in a location that would clog  
7 sewers, and I would assume septic systems, as well.

8 MR. RIEL: Okay.

9 CHAIRMAN KORGE: And Number 4, maintenance.  
10 I think it would be advisable expressly to prohibit  
11 hat racking of trees, you know, where you just lop  
12 everything off.

13 And then in Number 5 -- this is supposed to  
14 be a County requirement. 5c, Roman numeral three  
15 little i's, on Page 3 of 8, 30 percent of the shrubs  
16 shall be native species?

17 MR. RIEL: Yes.

18 CHAIRMAN KORGE: That's a County  
19 requirement?

20 MR. RIEL: Absolutely.

21 MR. COE: Where's the list of native  
22 species, by the way? Don't we have to include that?

23 MR. RIEL: You'll find most municipal codes  
24 require 50 percent.

25 MR. COE: Is there a list that covers it?

1           MR. RIEL: Yes, there is. There is  
2 absolutely a list. They have a separate landscape  
3 manual, that's a very hefty document.

4           CHAIRMAN KORGE: Have we been following  
5 that, to date? Has the City been following that?

6           MR. RIEL: Yeah. These are all the County  
7 provisions regarding landscaping, right here.

8           CHAIRMAN KORGE: Right. The City has been  
9 following those?

10          MR. SIEMON: Can I ask you a question, Mr.  
11 Chairman?

12          MR. RIEL: No.

13          MR. SIEMON: I just -- I'd point out, Eric,  
14 this reference to native plant communities, which you  
15 can't irrigate, are those naturally existing or are  
16 those landscape?

17          MR. RIEL: It's landscape.

18          MR. COE: Landscape. It doesn't make any  
19 sense, does it? We all agree with that.

20          MR. SIEMON: I just wanted to check.

21          MR. COE: It all has its self-contained  
22 water sytem underneath. That's the way you don't  
23 irrigate.

24          CHAIRMAN KORGE: Number 7, B, i, on Page 3  
25 of 8, are all of these required or just some of

1 these? Landscape buffer, including -- then it has  
2 four different items, the buffer width, and then  
3 three different types of vegetation. Are all three  
4 of those required?

5 MR. RIEL: Yes.

6 CHAIRMAN KORGE: That just wasn't clear to  
7 me.

8 MR. RIEL: Okay.

9 CHAIRMAN KORGE: And then on the next page,  
10 Page 4 of 8, Item Number 8, a, ii. "One large shade  
11 tree is required for each 100 square feet, or  
12 fraction thereof of required interior landscaped  
13 area. Such landscaped areas shall be located in such  
14 a manner as to divide and break up the expanse of  
15 paving."

16 Is the purpose there to shade the entire  
17 parking area? Is that what that's about?

18 MR. RIEL: Basically, the purpose there is  
19 to make sure you -- if you read the whole paragraph,  
20 that you don't have 20 or 30 spaces in a row without  
21 having some type of a break with interior  
22 landscaping.

23 CHAIRMAN KORGE: So they're trying to spread  
24 it out uniformly?

25 MR. RIEL: Spread it out. It's not

1 necessarily uniform, but it's just in terms of  
2 providing breaks.

3 CHAIRMAN KORGE: Okay.

4 MR. RIEL: That's why it says "no more than  
5 10 spaces."

6 CHAIRMAN KORGE: Okay. On Page 5 of 8,  
7 Section 5-1105, A, 4. I think, on the fourth line  
8 down, there's a typographical error. "If the  
9 Streetscape Master Plan is not applicable area in  
10 which" -- I think it should read, "is not applicable  
11 to the area in which," and then the next one, next  
12 paragraph, 5, sub b, Roman numerals one, two and  
13 three, all of those vegetations are required?

14 MR. RIEL: Correct.

15 CHAIRMAN KORGE: Okay. It just wasn't  
16 clear to me that it would require all those.

17 MR. RIEL: Yeah.

18 CHAIRMAN KORGE: And then on Paragraph 8, in  
19 the first line, you have "shall be" twice. I think  
20 it should read, "Landscaping installed within the  
21 City rights-of-way shall be reviewed by the Public  
22 Service Department."

23 MR. RIEL: Okay.

24 CHAIRMAN KORGE: And then Paragraph 9, on  
25 Page -- at the top of Page 6 of 8, the last --

1 second-to-last line refers to an estimate prepared by  
2 a certified civil engineer. I think, first of all,  
3 it should be an estimate certified -- an estimate  
4 certified by, I would assume, a licensed or  
5 State-licensed engineer, if we're going to use a  
6 civil engineer, but why would a civil engineer  
7 provide an estimate of cost for landscaping?

8 MR. RIEL: I need to check that. I had that  
9 question, as well.

10 MR. COE: It should be a landscape engineer.

11 MR. SALMAN: No, a landscape architect.

12 CHAIRMAN KORGE: Right.

13 MR. RIEL: I need to check. There's some --

14 MR. SIEMON: Or a licensed landscape  
15 contractor.

16 MR. RIEL: There's a reason. I need to  
17 check that, but thank you. I'll -- so noted.

18 MR. COE: University of Florida, I think,  
19 has a degree, landscaping engineer.

20 CHAIRMAN KORGE: Then on B --

21 MR. COE: Landscape engineer.

22 CHAIRMAN KORGE: -- Number 2, on the same  
23 page, planting requirements, a, Roman numerals one,  
24 two and three, are all those supposed to be  
25 applicable?

1 MR. RIEL: Yes.

2 CHAIRMAN KORGE: Okay. Just make that a  
3 little clearer, if you could.

4 Do we need to add, in Subdivision B, or  
5 whatever, Paragraph B, whatever that box is, for  
6 single-family residential properties, the same  
7 requirements for soils, types and additives, as is  
8 found in multi-family residential?

9 MR. RIEL: No. The Public Service  
10 Department suggested we not --

11 CHAIRMAN KORGE: Okay.

12 MR. RIEL: -- get into that --

13 CHAIRMAN KORGE: Okay.

14 MR. RIEL: -- on single-families.

15 CHAIRMAN KORGE: Okay, and then on Page 7 of  
16 8, where at the top of the page, it refers to  
17 mixed-use district alley planting requirements, do we  
18 want to impose an irrigation requirement, as well?

19 MR. RIEL: Irrigation is covered under the  
20 general standards, which is on Page 2, which  
21 requires --

22 CHAIRMAN KORGE: So it would be required in  
23 the alleyways?

24 MR. RIEL: Yes.

25 CHAIRMAN KORGE: That's all I have on that.

1 Thank you.

2 MR. RIEL: Thank you for your comments.

3 MR. SIEMON: The next is Division 12,  
4 Lighting. There were some changes that you  
5 requested, and the item was deferred. I don't have  
6 any recollection of why it was deferred.

7 CHAIRMAN KORGE: Could it be noticing the  
8 neighbors?

9 MR. RIEL: No, I've got on my notes, "If  
10 provisions apply to both residential and  
11 nonresidential properties."

12 MS. MORENO: And they do.

13 CHAIRMAN KORGE: It wasn't a notice issue,  
14 then?

15 MR. RIEL: No. I think it was that the  
16 Board suggested that it apply to residential, as  
17 well.

18 MR. SIEMON: The next is Division 13,  
19 Miscellaneous Construction Requirements. These were  
20 things found in the existing Code. We consolidated  
21 them here. I don't know why --

22 Why was this deferred? I don't remember. I  
23 don't remember discussing this at all.

24 MR. RIEL: Request that Building Department  
25 review provisions.

1           MR. SIEMON: Yeah, okay. I guess we could  
2 not report whether Dennis confirmed that this was --  
3 that they should be kept, and Dennis does confirm.

4           CHAIRMAN KORGE: Just out of curiosity, does  
5 this belong in the Zoning Code or Building Code?

6           MR. SMITH: Zoning. No, it's Zoning.

7           MR. RIEL: I'll let Dennis --

8           MR. SIEMON: Dennis can --

9           CHAIRMAN KORGE: Whatever you say, I'll  
10 accept. I don't know. It just struck me as being  
11 structural in nature, as opposed to usage in nature.

12          MR. SALMAN: These are above and beyond --

13          MR. SMITH: Use of materials, things that we  
14 have problems with, so we need to keep them in there.

15          CHAIRMAN KORGE: Okay.

16          MR. SALMAN: Tom, these are above and beyond  
17 the Florida Building Code requirements. Obviously,  
18 you can have wooden structural members to support a  
19 house on the exterior, from a structural point of  
20 view, but Coral Gables doesn't allow it. It has to  
21 be reinforced concrete.

22          CHAIRMAN KORGE: Okay.

23          MR. SIEMON: Division 14, Parking, Loading  
24 and Driveway Requirements, has been presented  
25 multiple times.

1 MR. RIEL: Three times.

2 MR. SIEMON: But you've not taken any formal  
3 action on it. There are things that we've modified,  
4 the pull-out areas, the size of them, in response to  
5 your directions, and --

6 CHAIRMAN KORGE: There was one question I  
7 had, for clarification. I just wanted to do it in  
8 this meeting. On Page 10 of 13, Section 5-1409,  
9 Subparagraph B, 1, the use referred to as golf or  
10 tennis grounds, we had discussed whether we would  
11 impose requirements on golf courses, and I understand  
12 that this requirement would only apply to any newly  
13 constructed golf courses. The four existing golf  
14 courses within the City --

15 MR. COE: Are grandfathered.

16 CHAIRMAN KORGE: -- would not be subject to  
17 this requirement?

18 MR. COE: They'd be grandfathered in, sure.

19 CHAIRMAN KORGE: So, if they rebuilt the  
20 existing golf courses or ancillary facilities,  
21 clubhouses or whatever, this requirement would not  
22 have to be met in order for them to be able to  
23 rebuild?

24 MR. SIEMON: Well, if they expanded the  
25 clubhouse, my recollection is, they would have to

1 provide parking for the additional square footage  
2 that was added.

3 CHAIRMAN KORGE: Of the clubhouse?

4 MR. SIEMON: Right.

5 MR. COE: But not of the golf course.

6 MR. SIEMON: Not of the course, no.

7 MR. RIEL: Correct.

8 MS. MORENO: But where does it say that?

9 Because I was looking for that. That is what we  
10 agreed. Would it be in Nonconforming Uses or --

11 MR. SIEMON: The requirements of this  
12 division apply to -- this 5-1401, B, 1, b, the net  
13 new area of any building, structure, or outdoor use  
14 that is modified or expanded. It's the net new area  
15 that the parking requirements apply. And I need to  
16 bring something to your attention, because it's --

17 CHAIRMAN KORGE: So let me ask you about  
18 that, first.

19 MR. SIEMON: Okay.

20 CHAIRMAN KORGE: Then you can bring it to  
21 our attention. So, if a golf course expanded a hole  
22 by 20 yards --

23 MR. SIEMON: No, no. It's the number of  
24 holes. If they added nine holes --

25 MR. COE: You'd have to go to 36 or 27.

1 MR. SIEMON: If they added nine holes, they  
2 would --

3 MS. MORENO: But if they added a restaurant  
4 to the Biltmore, you'd have to park the new  
5 restaurant, but you wouldn't have to add the number  
6 of parking spaces necessary to make the golf course  
7 conforming.

8 CHAIRMAN KORGE: Right.

9 MR. COE: So long as the golf course is 18  
10 holes, they're fine. If they want to go to 27 holes,  
11 which, of course, is impossible --

12 CHAIRMAN KORGE: So the net number is the  
13 number of holes?

14 MR. COE: Yeah.

15 MR. SIEMON: That's correct.

16 CHAIRMAN KORGE: Okay.

17 MR. COE: And you're never going to get a  
18 bigger golf course. If anything, it would be part of  
19 the golf course.

20 CHAIRMAN KORGE: Right, absolutely. You're  
21 not going to get any new golf courses, so really, the  
22 whole thing is --

23 MR. COE: Right. It's meaningless.

24 CHAIRMAN KORGE: -- academic.

25 MR. COE: Yeah.

1 MS. MORENO: No, no, it isn't academic.  
2 This is an important change. If they want to --  
3 let's say that they took Riviera and they wanted to  
4 add a second story. They'd have to park the second  
5 story.

6 CHAIRMAN KORGE: Yes.

7 MS. MORENO: But they wouldn't have to add  
8 the parking spaces necessary to support the 18  
9 existing holes.

10 CHAIRMAN KORGE: That's right.

11 MR. SIEMON: But they'd have to change the  
12 golf course.

13 CHAIRMAN KORGE: So the point I was  
14 making -- I didn't say it very clearly -- is, the  
15 four spaces per hole requirement that's new in this  
16 Code is academic, because there will never be another  
17 golf course built in a city that's already built out,  
18 like Coral Gables. So, okay.

19 I'm sorry, you were going to -- you had  
20 something else you wanted to point out.

21 MR. SIEMON: Yeah, I want to -- if you look  
22 on Page 1 of 13, Division 14, Section 5-1401,  
23 Subsection B, the last subparagraph is c. "The net  
24 new parking demand generated by a change in the use  
25 of all or part of a building, structure, or

1 property," this parking requirements would apply  
2 where there is a change of use in residential,  
3 mixed-use, overlay, special use and industrial  
4 districts. It does not include commercial. We are  
5 making -- the consensus of the professional Staff and  
6 Administration is that in existing commercial  
7 buildings where there's a change of use, that we  
8 would not require additional parking, because what we  
9 do is really limit the ability for adaptive reuse of  
10 existing buildings, because they don't have adequate  
11 parking, and so if I have, in Miracle Mile, X store  
12 and I want to put in a restaurant, I don't have to  
13 add the additional parking as a result of the change.

14 This is technically correct, but that  
15 provision which we all agreed to is sort of a stealth  
16 provision, because unless you're attentive -- you  
17 know, it's stated in the affirmative, and that is  
18 included in this. So, in the commercial district, CL  
19 and C --

20 CHAIRMAN KORGE: But not mixed-use.

21 MR. SIEMON: That's correct.

22 MS. MORENO: So, just so I understand, if we  
23 approved a building as a mixed-use building and they  
24 wanted to turn a store into a restaurant, they would  
25 have to park that restaurant?

1 MR. SIEMON: That's correct.

2 MS. MORENO: Is that fair?

3 CHAIRMAN KORGE: Oh, yeah.

4 MR. SIEMON: Yes.

5 CHAIRMAN KORGE: That's -- that was part of  
6 the -- do you remember, when we did the whole -- the  
7 first time we did the mixed-use district for that  
8 Bird Road area?

9 MS. MORENO: Uh-huh.

10 CHAIRMAN KORGE: That was a big point that  
11 you were very concerned about.

12 MS. MORENO: No, I want to park them. I  
13 just want to make sure that we do park them.

14 MR. SIEMON: And --

15 MR. SMITH: If I can just comment on that.  
16 For mixed-use buildings, you don't have that problem,  
17 because most -- all of our mixed-use buildings have  
18 been developed with parking, and when they design a  
19 mixed-use building, one of the first things we ask  
20 them is, "How much space are you going to have for  
21 restaurant? How much space are you going to have for  
22 maybe banks?" And so they break it out in  
23 categories, so they provide enough parking to allow  
24 them flexibility in changing that.

25 This problem occurs, really, on some of the

1 older buildings in the commercial areas.

2 MS. MORENO: But like if you take Starwood,  
3 right, the Starwood Building, Starwood Urban  
4 Building --

5 MR. SMITH: Yes.

6 MS. MORENO: -- if they took that area where  
7 they now have like a kitchen store, and they turned  
8 it into a restaurant, they'd have to have parking  
9 spaces to cover the change, right?

10 MR. SMITH: Maybe, maybe not, because they  
11 designed the building with allowance for a certain  
12 amount of restaurant space. I don't know if they've  
13 used up all of their restaurant allowance.

14 MS. MORENO: But if they had used up all  
15 their restaurant allowance, then they would?

16 MR. SMITH: Then they would.

17 MS. MORENO: I got it, okay.

18 CHAIRMAN KORGE: But isn't that in the  
19 commercial area?

20 MS. MORENO: It's mixed-use.

21 CHAIRMAN KORGE: Oh, that's mixed-use.

22 MR. SIEMON: It's mixed-use.

23 There's some modifications to Visibility  
24 Triangles, but they're -- shown in Section 5-1406,  
25 but other than that, I think all of this is, with the

1 exception of the observation I made about the  
2 elimination of the change in use in commercial  
3 districts, this has been reviewed before by you, but  
4 you have not yet taken action on it.

5 Next is Division 15, Platting Standards, and  
6 these are basically your existing standards for  
7 someone who should seek to have a plat approved. It  
8 was deferred. I don't recall why.

9 MR. RIEL: To make sure that any future Dade  
10 County approved changes were referenced and those  
11 would therefore apply, so it's more of an  
12 applicability provision, which is kind of covered in  
13 the requirement conflict section there.

14 MS. MORENO: Yes, in the 1502.

15 MR. SIEMON: Division 16, Roofs. These are  
16 provisions that were in various parts of the Code,  
17 and we just consolidated them. You approved with  
18 some modest changes.

19 MR. COE: Is the metal roof in there? No?

20 MR. SIEMON: No.

21 CHAIRMAN KORGE: No.

22 MR. RIEL: Wherever that ends up, it will  
23 end up in the Code.

24 MR. SIEMON: Whatever your ultimate  
25 decision, and we had some serious conversations about

1 that subject, as I suspect you all have, as well.

2 Division 17 is the Sanitation Requirements.

3 That was approved by you.

4 Screening, Division 18, was deferred. These  
5 provisions are, I believe, basically the existing  
6 Code.

7 MR. RIEL: It was deferred because they  
8 requested provisions shall apply to mixed-use zones,  
9 as well, or mixed-use projects.

10 CHAIRMAN KORGE: That was the reason it was  
11 deferred?

12 MR. RIEL: That's what I have in my notes,  
13 yes.

14 CHAIRMAN KORGE: Did we ever discuss the  
15 last, the very last section of that, regarding  
16 permanent generators, required screening or  
17 soundproofing?

18 MS. MORENO: Please.

19 CHAIRMAN KORGE: I don't want to raise that  
20 now.

21 MS. MORENO: Please. I think this is a  
22 great requirement.

23 MR. COE: Absolutely.

24 CHAIRMAN KORGE: Is that the current  
25 requirement? Does anybody know?

1 MR. RIEL: I don't know. I don't know.

2 Dennis?

3 MR. SIEMON: No.

4 CHAIRMAN KORGE: I understand it's  
5 impossible to get a permit for a generator in this  
6 town, not that I'm looking to get a permit for a  
7 generator at my house, but --

8 MS. MORENO: I can tell you what --

9 MR. COE: That's a permanent generator.  
10 That's not a --

11 MS. MORENO: -- the sound that the  
12 generators made during the hurricanes was horrendous.

13 MR. AIZENSTAT: Yeah, but those weren't  
14 permanent generators.

15 MR. COE: Permanent generators, not  
16 portable.

17 MR. AIZENSTAT: Not portable.

18 MS. MORENO: I don't know. I've never seen  
19 a permanent generator, but I don't want them making a  
20 sound.

21 MR. COE: A permanent generator is like an  
22 air conditioner. It's out there and it's a structure  
23 that it's built into.

24 MR. RIEL: It's in a box.

25 MS. MORENO: Then you want it to be

1 soundproof. I don't want to hear somebody else's air  
2 conditioner, either.

3 MR. AIZENSTAT: Well, they have certain  
4 mufflers and soundproofing.

5 MR. RIEL: They're pretty much in a box.

6 CHAIRMAN KORGE: I'm not criticizing. I'm  
7 just asking if that's -- has anybody looked at this?  
8 I mean, that's a --

9 MR. RIEL: Well, I know it's an issue that's  
10 been brought up by the City Commission, because of  
11 the issues regarding, you know, the use of permanent  
12 generators, and I know the Building & Zoning  
13 Department has addressed that with some  
14 administrative rules, I believe.

15 CHAIRMAN KORGE: But this is adequate for  
16 zoning purposes, you think?

17 MR. RIEL: I think you'd have to ask Dennis  
18 that question.

19 MR. SMITH: We may look at the language for  
20 generators, because obviously we're getting a lot of  
21 requests for different types of generators, and we're  
22 working on the provisions for them. We don't want to  
23 just allow them so that they're a nuisance to a  
24 neighbor, but we don't want to make it so prohibitive  
25 that someone can't get a permanent generator if they

1 would like.

2 MR. COE: As opposed to a portable?

3 MR. SMITH: As opposed to a portable.

4 MR. AIZENSTAT: Well, gas stations are going  
5 to have to have generators.

6 MR. SIEMON: But this was added --

7 MR. AIZENSTAT: Maybe, at some point, all of  
8 them.

9 MR. SIEMON: -- subsequent to this being --

10 MR. SMITH: I think that's changing.

11 MR. SIEMON: And there's still some  
12 dialogue. The reason I asked Dennis to come up is,  
13 they're still going through the -- they're having a  
14 lot of experience with this and they're trying to  
15 figure out about whether we need to modify this  
16 language, in terms of, I think primarily,  
17 soundproofing.

18 MR. SMITH: Yeah.

19 MS. MORENO: My suggestion to you is that it  
20 shouldn't be any less strict than air conditioners.

21 MR. COE: Exactly.

22 MR. SALMAN: I think you need to look at the  
23 noise.

24 CHAIRMAN KORGE: Yeah, the noise is --

25 MR. SALMAN: That's really the issue.

1 MS. MORENO: A big, big issue.

2 MR. SMITH: Well --

3 MR. COE: It's the decibel level that's  
4 really the issue, and even permanent generators do  
5 have built-in soundproofing and so forth, and they're  
6 supposed to be quieter than portable generators.

7 MR. SMITH: It depends if they're diesel or  
8 propane or gas.

9 MR. COE: Exactly, but still, for any length  
10 of time, as everybody can recall from the portable  
11 generators from the hurricane, you do not want to  
12 have your neighbor constantly putting on the  
13 permanent generator when there's a power outage for a  
14 couple of hours. It's very noisy.

15 MR. SMITH: We're studying that whole issue  
16 right now, and I had to laugh the other day because  
17 we sent out, to different municipalities, the request  
18 for their information, handouts on generators, and  
19 one of them sent back ours with our City seal on  
20 it -- with their City seal on it. So everybody is  
21 dealing with the issue.

22 MS. MORENO: To me, the big difference is,  
23 when an air conditioner makes noise in my neighbor's  
24 house, I usually don't hear it, because my windows  
25 are closed because my air conditioner is on.

1 MR. SMITH: Uh-huh.

2 MS. MORENO: But if he put in a permanent  
3 generator and I don't have one and I have to have my  
4 windows open, it's really going to bother me.

5 MR. SMITH: That's right.

6 MR. COE: Right.

7 MS. MORENO: So I think you need to be  
8 strict about those noise levels.

9 MR. SMITH: Thank you.

10 MR. SIEMON: I can tell you that in the  
11 town of Manalapan, which is a fairly careful  
12 community, they are requiring that they be not only  
13 screened and walled, but they have to be in a  
14 soundproof box. Now, there there's still some noise  
15 coming out of it, but that's what they have arrived  
16 at as necessary in their residential area.

17 So that's the change there.

18 Division 19, Signs. The modifications, I  
19 will remind you, are primarily recommendations we  
20 made to the City Attorney with regard to some content  
21 neutrality questions, and at the time I believe that  
22 we were before you, the City Attorney and I had not  
23 arrived at a common perspective. We had a lengthy  
24 session with her, and she came to understand why we  
25 made the recommendations, and she has signed off on

1 this. Other than that, these are the Code provisions  
2 that you all spent so much time --

3 MS. MORENO: Yes.

4 MR. SIEMON: -- just before we started this  
5 project, working out.

6 That gets us to Telecommunications,  
7 Division 20. Article 5, Division 20. This was --  
8 another consultant prepared this. All our  
9 responsibility --

10 CHAIRMAN KORGE: Excuse me for interrupting.  
11 Before we go to that, Section 5, I have a note here  
12 on Section 5-1906, advertising in residential  
13 districts. Does that also apply to mixed-use  
14 districts?

15 MR. SIEMON: It does not, in this Code.

16 And my notes indicate that this Board  
17 considered the telecommunications and recommended it  
18 for approval.

19 MR. RIEL: Yes.

20 MS. MORENO: Yes.

21 CHAIRMAN KORGE: Wait a minute. Let's go  
22 back. I haven't finished with --

23 MR. SIEMON: Oh, I'm sorry.

24 CHAIRMAN KORGE: -- 1906, 5-1906. Should it  
25 apply? It applies to multi-family.

1 MS. MORENO: It can't. You've got -- retail  
2 uses have to be able to have signs.

3 CHAIRMAN KORGE: You're right. I'm sorry,  
4 go ahead.

5 MR. SIEMON: We do not believe this should  
6 apply.

7 CHAIRMAN KORGE: Right, I'm sorry. Go  
8 ahead. I apologize.

9 MR. SIEMON: Okay, I'm sorry.

10 Then Division 21 are Temporary Uses. This  
11 was approved with you. You made some recommended  
12 changes. One of them, I believe, was commercial  
13 photography, whether it applied just in residential  
14 or in nonresidential -- City-wide.

15 MR. RIEL: The other was car washes, a  
16 maximum of two consecutive days.

17 MR. SIEMON: Yeah. But you approved it with  
18 those changes. We -- I don't think there are any  
19 other changes.

20 Undergrounding of utilities, you approved  
21 previously, Division 22, with some changes.

22 MR. RIEL: Basically what's on Line 25.

23 MR. SIEMON: Oh.

24 MR. SIEMON: Division 23 is Unity of Title  
25 and Declaration of Restrictive Covenant in Lieu

1       Thereof.  These basically reflect existing practice  
2       in the City and are in the existing Code.  You  
3       previously approved that.

4               And Walls and Fences, you recommended some  
5       changes, but deferred action on this, and I frankly  
6       don't recall the reason for that.

7               Eric?

8               MR. RIEL:  I don't have anything in my  
9       notes.  I think, what I might recall is, it does  
10      include specific materials and I think we just asked  
11      that the Building & Zoning make sure that those  
12      materials are still valid.

13              MR. SIEMON:  And we reviewed these, Dennis,  
14      and these are what's in the Code?

15              MR. SMITH:  Which is that?

16              MR. SIEMON:  The fences and walls.

17              MR. SMITH:  I don't recall.

18              MR. SIEMON:  Yeah, walls and fences.

19              MR. SMITH:  I know we looked at it one time,  
20      but I don't know if we looked at it after that.

21              MR. SIEMON:  Yeah.  I think we talked a lot  
22      at one meeting, but we ended up not making any  
23      changes.

24              That gets us through Article 5.

25              Article 6 is Nonconformities, and this does

1 include some new provisions. I've previously  
2 discussed them for you, the opportunity to have  
3 something that's nonconforming made lawfully existing  
4 by bringing it into compliance in certain areas of  
5 importance, and that's in Section -- Division 6 of  
6 this Code, on Page 3 of 5.

7 But the missing section that I want to bring  
8 to your attention, because I think it's -- is on Page  
9 2 of 5, Section 6-302, which is the second section  
10 there, Destruction of Nonconforming Structures. It  
11 says that, "Except as provided in this Code, a  
12 nonconforming structure or portion of a structure  
13 that is destroyed to an extent exceeding 50 percent  
14 of its replacement cost at the time of its  
15 destruction shall not be constructed except in  
16 conformity with these regulations."

17 The Code that was in the prior draft then  
18 went on to say, "All residential structures located  
19 in a residential district may be reconstructed if  
20 destroyed to any extent, provided that such  
21 reconstruction does not increase the extent of the  
22 nonconformity existing prior to destruction."

23 When we moved the Historic Preservation  
24 nonconformity provision to that section, that  
25 sentence was unfortunately and unintentionally

1 deleted. So I bring that to your attention. That is  
2 a major -- that is the major component of the change  
3 in the Nonconformities provision.

4 MS. MORENO: And you will put it back in?

5 MR. SIEMON: I was reading it from my edit.

6 MS. MORENO: Okay.

7 MR. SIEMON: And actually, I told Eric I  
8 felt pretty good when I sat down with this, to get  
9 ready for today, and realized that there was  
10 something missing. I thought that was -- and that's  
11 really --

12 The nonconforming signs are from your  
13 existing Code. There is a new section, Section 2  
14 dash -- 6-206 that requires certain uses to be  
15 brought into compliance within 24 hours. These are  
16 notable noxious uses located adjacent to residential  
17 neighborhoods, and they're given --

18 MR. RIEL: 24 months.

19 MR. SIEMON: Huh?

20 MR. RIEL: 24 months.

21 MR. SIEMON: 24 months.

22 MR. RIEL: You said 24 hours.

23 MR. SIEMON: 24 months, to bring them into  
24 compliance. I apologize.

25 CHAIRMAN KORGE: Within 24 months or 12

1 months -- it's the earlier of the two?

2 MR. SIEMON: No, it's 24 months from the  
3 adoption or 12 months after a change of ownership.

4 CHAIRMAN KORGE: Whichever comes first?

5 MR. SIEMON: Yes.

6 MR. COE: Whichever comes first.

7 CHAIRMAN KORGE: Could you add that in  
8 there, whichever comes first, whichever occurs first?

9 MR. SIEMON: Non-permitted enclosed garages  
10 are existing provisions.

11 And I think those are the only comments I  
12 had with regard to the Nonconformities, Article 6.  
13 Small changes, but very significant.

14 CHAIRMAN KORGE: Can I -- yes, they were.

15 Can I ask you some questions now?

16 MR. SIEMON: You may.

17 CHAIRMAN KORGE: Section 6-405, on Line  
18 Number 7, "replacement value of the sign," was that  
19 supposed to be replacement value or replacement cost  
20 of the sign?

21 MR. SIEMON: No, I believe that value is the  
22 term that's used in the existing Code.

23 MR. COE: Replacement value?

24 MR. SIEMON: Value.

25 MR. COE: Not cost?

1 MR. SIEMON: Not original cost.

2 MR. COE: Replacement cost.

3 MR. SIEMON: Well, replacement cost --

4 CHAIRMAN KORGE: No, replacement cost is not  
5 the original cost. It would be the cost to replace  
6 it.

7 MR. SIEMON: Yeah.

8 MR. COE: I don't know what value would  
9 mean.

10 MR. SIEMON: We'll just make it cost of  
11 replacement. There's no reason not to.

12 MR. COE: I object to value. Cost is what  
13 it costs to replace it.

14 MR. SIEMON: The current cost of  
15 replacement.

16 CHAIRMAN KORGE: Yeah, right.

17 Section 6-406.

18 MR. COE: Yeah.

19 CHAIRMAN KORGE: Line 12. First, "Evidence  
20 is presented by City Staff that indicates the sign to  
21 be hazardous," et cetera et cetera. Is that the  
22 preponderance of evidence, clear and convincing  
23 evidence? What standard?

24 MR. COE: Preponderance.

25 MR. SIEMON: Preponderance of the evidence.

1                   CHAIRMAN KORGE: Well, then, I'd put it in  
2 there, "preponderance of the evidence."

3                   MR. SIEMON: Actually, it should be  
4 competent, substantial evidence in the brave new  
5 world.

6                   CHAIRMAN KORGE: Pardon me?

7                   MR. SIEMON: It should be competent,  
8 substantial evidence, in the brave new world we live  
9 in.

10                  MS. MORENO: Yeah.

11                  Your profession is showing.

12                  CHAIRMAN KORGE: I had a note on Sections  
13 6-501 and 6-502. Should they be -- should there be  
14 an exception in there, to the extent otherwise  
15 permitted under Division 6? Does that make any sense  
16 to you? Maybe it's unclear.

17                  MR. SIEMON: I think that 502 should  
18 probably have a parallel provision for residential  
19 structures in residential districts, that you can  
20 replace the accessory structure, but I would not add  
21 one to 501.

22                  CHAIRMAN KORGE: Okay.

23                  Now, Section 6-601, it's written as -- the  
24 words "may" are used there, instead of "shall." Why  
25 is that?

1 MR. SIEMON: Because this involves some  
2 exercise of some judgment under a conditional use  
3 procedure to -- whether they've complied --

4 MS. MORENO: No, but I think Tom is right,  
5 it should say "shall." Once you get the conditional  
6 use approval, then it shall be deemed to be in  
7 conformity. The judgment is in granting the  
8 conditional use approval. No?

9 MR. SIEMON: I'll agree with that.

10 CHAIRMAN KORGE: And then on Section 6-602,  
11 I would revise that to be in the affirmative, explain  
12 when conditional use approval shall be granted,  
13 instead of when it shall not be granted. So it would  
14 read, "Conditional use approval shall be granted to  
15 terminate status as a nonconforming use or structure  
16 if the nonconformity is improved according to the  
17 following requirements," A, B and C.

18 MR. SIEMON: "May." Done.

19 CHAIRMAN KORGE: Pardon me?

20 MR. SIEMON: Done.

21 CHAIRMAN KORGE: And then, on Subsection C  
22 of Section 6-602, when you refer to a lot, is that  
23 supposed to be a lot or a building site?

24 The only reason I ask is that I know at one  
25 point we changed from the idea of lots to building

1 sites, and -- I don't know if we even use lots  
2 anymore.

3 MR. SIEMON: "Building site."

4 CHAIRMAN KORGE: Yeah.

5 Those are all my questions and comments on  
6 Article 6.

7 Does anybody have any more comments or  
8 questions on that article?

9 MS. MORENO: None.

10 CHAIRMAN KORGE: Then I guess the Board  
11 input and discussion on all of this is finished, and  
12 we can open it for public input. Did we have anybody  
13 signing in to speak?

14 MR. RIEL: We really didn't have sign-in  
15 cards, so if you'd like to just call them up.

16 CHAIRMAN KORGE: Okay. Come on up.

17 MR. AIZENSTAT: Charlie, thank you.

18 Thank you.

19 MR. SIEMON: Oh, excuse me.

20 MS. CHAUDHRY-FRYER: My name is Mamta  
21 Chaudhry-Fryer. I live at 640 Majorca Avenue.

22 I know that at the very outset of this  
23 discussion, the City Manager said this was a fluid  
24 document. I know that the Planning Director said  
25 that he invited written comments. We just didn't

1 expect the fluidity of the document to be in the  
2 single-family regulations, which have already been  
3 crafted with exhaustive comment, as you know, which  
4 have been approved by the Commission and which you  
5 unanimously passed.

6 Eric Riel said that what you're looking at  
7 in the single-family regulations is actually an older  
8 version than what you passed, and I don't see that,  
9 because I went through this obsessively, line by  
10 line, and what I see under the single-family  
11 regulations, what is put in is exactly what we talked  
12 about last Wednesday night, the version that was  
13 before you.

14 Here's the problem. When the single-family  
15 regulations were split out and splintered off into  
16 different areas, as Mr. Siemon pointed out, that the  
17 flat roofs with parapets went somewhere else, the  
18 changes were not transferred along with the split.  
19 So we have a lot of internal inconsistencies and  
20 contradictions in this document, which I'm sure that,  
21 you know, the City's legal department would like to  
22 see reconciled, and I'm not going to go through line  
23 by line and section by section, although I certainly  
24 can, if you want me to. I just want to give you a  
25 broad overview of what I'm talking about.

1           For instance, in the floor area ratio, in  
2 the single-family regulations there was a very clear  
3 discussion of how things are counted and what is  
4 counted. But that is at odds with the definition in  
5 the definition section, in Section 8, which Mr.  
6 Siemon pointed out, all the definitions are there in  
7 one place, and there's a lot of contradiction, not  
8 just with this one issue, but with far more.

9           One of the things that specifically came up  
10 was, Ms. Moreno had mentioned that, "Well, why would  
11 we ask the screened porches to submit a covenant that  
12 they would never be enclosed if they did not exceed  
13 the permitted FAR?" So it became conditional, okay,  
14 you only have to have a covenant if you're going to  
15 exceed it. In the definitions, that condition is not  
16 there.

17           Similarly, in the non-flood zones, which is  
18 what -- you know, earlier, when you were talking  
19 about SF-1 and SF-2, I think how it's been finessed  
20 is by talking about the flood hazard areas, which is  
21 the southern areas, which have the site-specific, and  
22 the non-flood areas, which are the northern areas,  
23 so it's really, by default, SF-1 and SF-2, in other  
24 words, but in the non-flood-hazard areas, it was  
25 specifically to reduce mass. One of the things that

1 was going to be counted was roofed terraces,  
2 breezeways and porches located on the second floor.  
3 The ones on the ground floor got the free ride.  
4 Again, the definitions do not reflect this, and I  
5 think these inconsistencies need to be reconciled.

6 I think the whole definition section needs  
7 to be gone over really carefully, because, I mean, it  
8 defines a cat as a carnivorous quadruped of the  
9 feline family, and thank you, but I think what I  
10 might appreciate more is having the changes there  
11 reflect and update what was substantive things that  
12 were discussed in single-family regulations, for  
13 instance, carports, and I'll get to that in a second,  
14 which is another thing that we talked to death here.

15 Mr. Siemon pointed out that in the flat roof  
16 section, it was taken out from the single-family  
17 regulations and moved to an existing flat roof area,  
18 because it was already there. But the discussion you  
19 had and the regulations you approved were updated to  
20 have a pitch that met the Building Code requirements.  
21 The parapet was changed from 18 inches to 30 inches.  
22 The roof deck height was mentioned. None of this is  
23 there in the roofs with parapets section that it was  
24 split off into.

25 Similarly, in the roof projections, you

1 know, there's a thing that talks about how far roofs  
2 can project into the setback areas. Where they have  
3 it now allows for bay windows to project into  
4 setbacks, where the regulations did not allow them,  
5 and they do not mention the balconies, where the  
6 regulations did allow them.

7           Again, these are not just, you know,  
8 insignificant changes. These affect the very intent  
9 of the massing of the building. So I think they need  
10 to be looked at very carefully and these  
11 inconsistencies reconciled in favor of what you had  
12 passed as the regulations.

13           One of the things that we talked about at  
14 length was the carports, and the idea was to reduce  
15 mass by having these open parking spaces, and in the  
16 single-family regulations they're defined as a  
17 one-story roof structure that is attached to the main  
18 building, open on three sides, with the structural  
19 supports, pillars, arches and decorative features  
20 characteristic of carports in the Gables, and you  
21 even said that is what you wanted to encourage, is  
22 the traditional carport, which was a wonderful  
23 feature in the Gables. The definition section says a  
24 carport is not more than 75 percent enclosed. That's  
25 the definition. So that means if you had an opening

1 of 25 percent -- I don't see how that's so very  
2 different from a garage, how that makes it a carport.  
3 So, you know, the intent, again, to reduce the  
4 visible mass is contradicted by the definition.

5 In the garages, the regulation you passed  
6 required one parking space, consisting of a roofed  
7 structure, which could be a garage, carport, et  
8 cetera, clear of all obstruction from floor to  
9 ceiling. That section has gone away from the  
10 single-family regulations, although, mind you, the  
11 two third/one third ratio of facade to garage is  
12 still in the single-family, but the parking standard  
13 has been moved to the Parking, Loading, Driveways.  
14 So following that, then, it simply says for detached  
15 dwellings, you need one parking space. Then you go  
16 into the definition of parking space, and it says it  
17 is merely a surfaced area, and by the definition, it  
18 would seem that carport canopy over a surfaced area  
19 would suffice. I mean, do we want carport canopies  
20 to take the places of garages and carports? I think  
21 this needs to be clarified as to what we want, as far  
22 as the garages, and how the definition are  
23 contradictory.

24 And I know that we are as eager as you are  
25 to get this rewrite done, but, you know, the City has

1 undertaken a massive commitment of time and money,  
2 and we want to get it done right.

3 Many of the residents didn't come tonight  
4 because they thought the issue of the single-family  
5 homes had been put to bed, and I'm sure you thought  
6 so, too, and in fact, I did not come here expecting  
7 to talk about this at all. I came here to talk about  
8 something that is ancillary to single-family, but  
9 very definitely impacts us, and that's the discussion  
10 of duplexes, which Mr. Siemon said had not been  
11 brought before the Board before.

12 CHAIRMAN KORGE: Before we get to duplexes,  
13 why don't we address that, because that's -- I mean,  
14 basically, what --

15 MR. RIEL: As I said in the beginning, okay,  
16 understand, the single-family was going on its track,  
17 okay? We were revising this Code on its different  
18 track. I took the latest draft, gave it to Mr.  
19 Siemon. He put it in within -- probably he just  
20 reformatted it, probably did it within an hour or  
21 two, because we had to get the draft out. So it  
22 doesn't represent the Board's final recommendation.

23 MR. COE: So eventually --

24 MR. RIEL: And I tell you, on the record,  
25 that the final approval --

1 CHAIRMAN KORGE: It's going to be --

2 (Simultaneous voices)

3 MR. COE: Eventually the definitional  
4 section will be --

5 MR. RIEL: Right.

6 MR. COE: -- in conformity with what this  
7 Board has voted, okay.

8 MR. RIEL: Mr. Siemon didn't have a chance  
9 to go through the 50 pages of definitions and see  
10 what changes. So that will be done.

11 CHAIRMAN KORGE: Thank you.

12 MS. MORENO: Why don't you submit your  
13 recommendations in writing, so that we can be sure  
14 that it gets addressed by everybody?

15 MS. CHAUDHRY-FRYER: I will be happy to do  
16 that, and especially, I want to indicate it's not  
17 just the definition section, but again, like the roof  
18 parapets --

19 MS. MORENO: Everything you're concerned  
20 about, submit in it writing.

21 MR. COE: Everything needs to be in  
22 conformity with what the Board has voted on. You're  
23 absolutely right. I don't think there's any question  
24 about that.

25 MR. RIEL: I can guarantee you, from Staff,

1 we will do that.

2 MR. SIEMON: But we can't do it if we  
3 haven't been provided it. I mean --

4 MS. CHAUDHRY-FRYER: You have been -- I am  
5 reprovding what was provided, correct? This is  
6 not -- I'm not coming up with this. I'm basing  
7 this --

8 CHAIRMAN KORGE: Right.

9 MS. CHAUDHRY FRYER: -- on what was passed.

10 MS. MORENO: Right. But you've done the  
11 work to identify where the discrepancies are, so it  
12 would be helpful to all of us --

13 MS. CHAUDHRY-FRYER: I will be happy to do  
14 that.

15 MS. MORENO: -- if you could put it in  
16 writing so Mr. Siemon can have it.

17 MS. CHAUDHRY-FRYER: That's fine.

18 MS. MORENO: Thank you.

19 MS. CHAUDHRY-FRYER: Because I think that I  
20 was unclear of the process of how this is going to be  
21 reconciled, if it's not going to come back for us to  
22 look at it again.

23 The point that I really wanted to discuss,  
24 which I stayed here to discuss with you, is the  
25 duplexes. I understand now that the duplexes are

1 going to be treated as duplexes, the Multi-Family 1,  
2 okay? From the definitions, what I could understand,  
3 and I'm looking for assurance here that I'm reading  
4 this correctly, that the exterior is supposed to have  
5 the appearance of single-family homes, as they do  
6 now. At the ends of our residential streets, where  
7 Majorca, Minorca, Navarre, all these streets  
8 intersect with LeJeune, and there are other areas,  
9 there are duplexes there that look, in profile, in  
10 visibility, like single-family homes.

11 So I'm trying to understand, if it's  
12 supposed to have the exterior appearance of  
13 single-family homes, does this mean that the  
14 setbacks, the height, the things we talked about in  
15 terms of mitigating impact on neighbors, the things  
16 we've discussed over here about the neighborhood  
17 context and appropriateness and harmony -- is that  
18 going to apply to these, and if so, will that be  
19 spelled out? Because this does not fall into the  
20 single-family homes and it is not spelled out.

21 Do you see what I'm saying?

22 CHAIRMAN KORGE: Uh-huh. It's very clear.

23 MS. MORENO: Let's ask Dennis.

24 CHAIRMAN KORGE: Does anybody know?

25 MS. MORENO: Dennis?

1           MR. SMITH: My idea was, for the duplexes,  
2 they follow along the lines of our existing  
3 provisions for the duplexes. We anticipated some of  
4 the reductions, like the reduction in height and some  
5 things, there's some additional modifications to that  
6 that we would like to make, that would be in line  
7 with what we're doing with the single-family  
8 residences, so that they can stay in character with  
9 the single-family residences.

10           CHAIRMAN KORGE: Okay, so that will be  
11 incorporated into the draft?

12           MR. SMITH: Yes, when it -- The duplexes  
13 haven't been before you yet. When we bring that  
14 before you, then we'll have that incorporated.

15           MR. COE: So this is premature at this  
16 point?

17           MR. SMITH: Right.

18           CHAIRMAN KORGE: Exactly.

19           MS. CHAUDHRY-FRYER: Okay, I mean, at this  
20 point, the only thing I've read more closely and more  
21 frequently than this document are the novels of Jane  
22 Austen, and I'm just looking for direction from you  
23 as to, you know, when this comes back, when duplexes  
24 come back, and you may be right, this is premature,  
25 but since we're only being informed of the

1 single-family regulations, the people who have been  
2 involved in the discussion won't necessarily know.  
3 So I'm asking that we also be informed of this.

4 MR. RIEL: No --

5 MR. AIZENSTAT: Isn't it the same mail-out  
6 and the same --

7 MR. RIEL: We have a list for single-family,  
8 for North Ponce -- we mailed 199 e-mails on Friday,  
9 which is all our interested party list, advising them  
10 of this meeting and the documents. We don't just  
11 have -- on this notification, everyone that gave me  
12 their e-mail address got a notification.

13 CHAIRMAN KORGE: They get everything?

14 MR. RIEL: Absolutely.

15 MS. CHAUDHRY-FRYER: Okay, so I got -- on  
16 Friday afternoon, I got your e-mail that said you  
17 were going to discuss the Code in totality. Are you  
18 going to discuss duplexes separately, or is it only  
19 going to come back now --

20 MR. RIEL: When it comes back in the final  
21 draft, the final document.

22 MS. CHAUDHRY-FRYER: So, when it comes back  
23 in final draft, you're looking for approval, and  
24 we haven't seen the duplex thing then. This is what  
25 I'm asking. As the next step -- you're bringing it

1 here for approval. How do we see it?

2 MR. RIEL: That doesn't mean this Board  
3 can't discuss it, though, and since you identified  
4 the issue, we're going to obviously look at that, as  
5 well.

6 MS. CHAUDHRY-FRYER: Okay. I just want to  
7 make sure that these are looked at, because as Mr.  
8 Siemon pointed out, you have looked at it so much  
9 that some blind spots may have developed, and I'm  
10 here to sort of refocus on this.

11 MR. RIEL: That's why we're having this  
12 meeting, to basically give everybody an overview, and  
13 when we come back, it's not our expectations to drop  
14 this document and say, "We just need a motion for  
15 approval this evening," and I know this Board won't  
16 do that. So we'll go through the issues.

17 MS. ALFONSIN: I think the best thing would  
18 be what Ms. Moreno said, to put your comments down on  
19 paper, put your concerns down on paper, and send it  
20 to Mr. Riel, with all of your comments and concerns.  
21 You've had very good comments.

22 MS. CHAUDHRY-FRYER: I will certainly do  
23 that. Thank you very much.

24 CHAIRMAN KORGE: Thank you.

25 MR. AIZENSTAT: Thank you.

1 MS. ALFONSIN: Mr. Chair, just -- Mr.  
2 Chair?

3 CHAIRMAN KORGE: Yes.

4 MS. ALFONSIN: Just recall that there's a  
5 three-minute time limitation. I know that there's  
6 only one more speaker, and we've already allowed one  
7 speaker to go beyond the three minutes.

8 CHAIRMAN KORGE: Thank you.

9 MR. ZABALETA: Good evening, Mr. Chair,  
10 Members of the Board. Ignacio Zabaleta, principal  
11 with East Shore International, 2727 Salzedo Street.

12 I started the morning, like most of you,  
13 with a caffeine drip, after that fabulous game last  
14 night, and I clicked on the Coral Gables Proposed  
15 Zoning link, and there were just five issues that  
16 popped out at me. Again, I didn't -- I read  
17 everything that was on there. However, there are  
18 things that pertain to our particular interests, so  
19 that's what I focused on. And I was really shocked  
20 at the mansard or flat roof without a parapet,  
21 rewrite. Again, as Mrs. Fryer said, I thought it was  
22 put to bed, and when I saw it this morning, it was  
23 really upsetting, in that it was -- if you read back  
24 as far as October's draft of last year --

25 CHAIRMAN KORGE: Well, I don't mean to cut

1 you off, but I think what we've been told is that  
2 they haven't had time enough to incorporate the draft  
3 that has been approved by the Commission and reviewed  
4 by us at the last meeting into this draft, so it will  
5 show up in the next draft.

6 MR. ZABALETA: Okay. Well, I just wanted to  
7 read it in, for the record, because --

8 MR. COE: So you understand --

9 MR. ZABALETA: Yes.

10 MR. COE: -- everything that was already  
11 voted on, that dealt with single-family, R1, is not  
12 necessarily here. Ultimately, the final document  
13 will contain that.

14 MR. ZABALETA: Okay. Very good. I just  
15 expected that after, you know, several long nights of  
16 being here, as you all are, and many months, that it  
17 would at least appear in this --

18 MR. COE: No, but you see, this was drafted  
19 before last week.

20 MR. RIEL: It was distributed before the  
21 Board even considered the item.

22 MR. COE: So therefore, there has not been  
23 an opportunity for Staff to consolidate what we voted  
24 on last week into a final document. So what you're  
25 saying ultimately is going to be resolved. What was

1 passed last week is what this Board voted upon.

2 MR. ZABALETA: Very good.

3 Article 3, Page 9 of 10, I'd like to -- for  
4 you all to take a look at Line 33, Incomplete  
5 Buildings. "No building not fully completed in  
6 substantial compliance with plans and specifications  
7 upon which a building permit was issued, shall be  
8 permitted to be maintained on any land for more than  
9 one year after the commencement of erection of any  
10 building, addition or renovation."

11 This may be one of those throwbacks, similar  
12 to the \$25,000 --

13 MR. SALMAN: Excuse me, what division?

14 MR. ZABALETA: Division 3.

15 MR. RIEL: Three.

16 MR. ZABALETA: Or Article 3, Division 2.

17 MR. RIEL: Oh, Division 2.

18 MR. ZABALETA: Page 9 of 10.

19 Most of the projects that we're involved  
20 with take at least eight months from the time that  
21 the permit is issued. It's impossible to build  
22 anything over 10,000 square feet within a year. It's  
23 just not -- it's just not possible.

24 I don't know how long this has been in the  
25 books, but I do have a client who's getting violation

1 notices because their project is -- has not been  
2 completed.

3 MR. COE: That's been the existing  
4 regulation since I know. You have one year to  
5 complete a building under a building permit. That  
6 hasn't changed.

7 Am I wrong, Mr. Smith?

8 MR. SMITH: No.

9 MR. COE: That's been the way, at least  
10 since 1940 or '45.

11 MR. ZABALETA: What I'm suggesting is that  
12 in 2006, it takes more than 12 months, in today's  
13 labor market, as well, and that it might warrant a  
14 look, that it's impossible to complete a project in a  
15 year, and when a client gets violation notices in the  
16 mail that they're not done and they'd better hurry  
17 and have a reason for why they're not done, I think  
18 it's a little heavy-handed, and I think it needs to  
19 be modified to at least 18 months. I don't think  
20 that's unreasonable.

21 CHAIRMAN KORGE: Dennis, is that a  
22 consistent experience for you?

23 MR. SMITH: That is something that has come  
24 up in the past on the larger homes. It takes more  
25 than a year to construct them. And even if there's a

1 minor delay on a project, if they can't get  
2 materials, which even some projects are running into  
3 now during construction, it's taking longer for them  
4 to build, to get materials, so it may be a valid  
5 thing to increase, but I don't -- I would have to  
6 think about how long.

7 CHAIRMAN KORGE: Why don't you think about  
8 it and make a recommendation --

9 MR. SMITH: Yeah.

10 CHAIRMAN KORGE: -- and then just bring it  
11 back to our attention. I think it's a point well  
12 made, at least for me, you know.

13 MS. MORENO: Dennis, I think this applies  
14 even to, you know, multi-story buildings.

15 MR. SMITH: Yes, it does. Yes, it does.

16 MS. MORENO: And it would make sense to me  
17 that, you know, a 14 or 16-story building could take  
18 more than a year.

19 MR. COE: But if you're not completing the  
20 structure within the year, you can get extensions  
21 from the City, with valid reasons, for example,  
22 inability to get supplies. If the Chinese are using  
23 all the concrete there is, you can get an extension  
24 on that.

25 The reason why that is in the Code is

1 because -- and you have three examples that I know of  
2 in the North Gables -- where you pull a building  
3 permit, you clear the land, you tear down the  
4 existing structure; two, three, four or five years go  
5 by, and it's an eyesore and nothing has been done  
6 about it, and then all the neighbors keep complaining  
7 to the Code Enforcement Board, "How is this  
8 continuing?" So you wind up in Code Enforcement,  
9 forcing the owner, contractor, the general  
10 contractor, whoever, to go and complete the building.

11 I don't see any particular reason right now  
12 to extend the 12-month period, other than if you have  
13 a good reason. Well, you can do that now.

14 CHAIRMAN KORGE: But --

15 MR. COE: The City is not requiring that 12  
16 months after that, you're immediately fined and cited  
17 or whatever. You have to have a reason, and if you  
18 work with Staff, there's -- I don't know of any  
19 instance where, if you work with Staff and you're  
20 diligently trying to complete your building permit,  
21 where there's a problem.

22 CHAIRMAN KORGE: Well, I think that --

23 MR. SMITH: The complaints I've heard about  
24 the issue is, that part about working with Staff  
25 isn't represented in the Code, like it is in the

1 Building Code. In the Building Code, it says 90  
2 days, and then you can get a 90-day extension.

3 MS. MORENO: This doesn't provide for  
4 extensions.

5 MR. SMITH: Pardon?

6 MS. MORENO: What's in here doesn't provide  
7 for extensions.

8 MR. SMITH: No, it doesn't.

9 MR. COE: The Building Code does.

10 MR. SMITH: After they're cited, then we  
11 can give them an extension on the citation, and I  
12 think maybe that may be a good way to look at this --

13 CHAIRMAN KORGE: But --

14 MR. SMITH: -- is to have a provision for an  
15 extension.

16 CHAIRMAN KORGE: There's additional point  
17 here. I don't know what the right answer is, but if  
18 the consistent current experience is that 12 months  
19 is generally inadequate, so that everybody has got to  
20 come back to you, then we should get a realistic  
21 date, whatever it is, 12 months, 18 months.

22 MR. SMITH: Right.

23 CHAIRMAN KORGE: And, you know, we've got to  
24 trust your judgment on that. So, you know, I think  
25 whatever you tell us, we're probably going to be

1 inclined to adopt. So, you know, it's something for  
2 you to think about, maybe talk to some of the  
3 builders or architects, and come up with what you  
4 think is the right way to handle that.

5 MS. MORENO: The other way to address it is  
6 to say that if construction ceases for a certain  
7 amount of time, then they get cited. So then you  
8 don't have what Mr. Coe is suggesting, you know, a  
9 site that they start demolishing and then leave as an  
10 eyesore.

11 MR. SMITH: Right. We'll look at that, that  
12 way, too.

13 MR. SALMAN: I think that's much more of an  
14 issue.

15 MS. MORENO: Yeah. I think --

16 MR. SALMAN: A site that either halfway  
17 through construction is abandoned and not  
18 maintained. Now, from a maintenance point of view,  
19 you still have to cut the grass, even though you're  
20 in construction. You still have to keep it clean.  
21 There are Code Enforcement issues that are dealt  
22 with.

23 MS. MORENO: No, but there's a couple of  
24 buildings on Coral Way that have been -- the hole has  
25 been in the ground for three years.

1 MR. SALMAN: Uh-huh.

2 MR. COE: Exactly, and that's one of the  
3 things that Code Enforcement has to deal with. You  
4 get this all the time, and so in terms -- and I can  
5 tell you, from five years on the Code Enforcement  
6 Board, the issues of extending the one-year period  
7 are people who are gross violators of that, who have  
8 no particular justification for why it took more than  
9 a year. They simply didn't field the proper crew,  
10 they made no attempt to do it, and you have 30 or 40  
11 angry neighbors coming in, saying their property  
12 values are being reduced because of this eyesore, and  
13 if you go right near Venetian Pool, there was a  
14 classic example of that, recently.

15 MR. SALMAN: And honestly, from at least an  
16 enforcement point of view -- correct me if I'm  
17 wrong -- unless somebody complains, this isn't an  
18 issue.

19 MR. SMITH: Right.

20 MR. SALMAN: You don't get cited.

21 MR. COE: That's right.

22 MR. SALMAN: Really. Because, as my wife is  
23 quick to point out, my house took two years, two  
24 months and 13 days, all under the same permit.

25 MR. SIEMON: It must have been the

1 architect's fault.

2 MR. SALMAN: It must have been.

3 CHAIRMAN KORGE: Do you have any other  
4 comments?

5 MR. ZABALETA: Yeah. I won't talk about  
6 the screen definition in the definition section. As  
7 Mrs. Fryer pointed out, there are inconsistencies and  
8 so forth that you all are going to look at. But one  
9 point I think that goes beyond -- it's in the  
10 definitions, but I think it goes beyond a pure  
11 definition, pure semantics, and that is Article 8,  
12 Definitions, Page 10, where established grade is  
13 defined, and if we turn the page, to Page 11, grade  
14 is defined exactly the same way. They're  
15 interchangeable, established grade, and grade. And  
16 that's an important benchmark, because that's the  
17 point where all measurements are taken in terms of  
18 the vertical construct, but I think -- and we  
19 encountered this in the past, and that's why I bring  
20 it up. It does not take into account geologic  
21 features, which is on Line 30 of Page 11.

22 I'll give you an example. A home that we  
23 designed in Snapper Creek was on the limestone ridge,  
24 which was naturally three feet above the crown of the  
25 road. So that, in essence, after going through a

1 variance process, the Board of Adjustment and so  
2 forth, became the established grade.

3 I don't think that having to go through a  
4 variance procedure, to the Board of Adjustment, is an  
5 effective or an efficient way of mitigating the fact  
6 that the established grade or grade does not take  
7 into account natural geologic features.

8 CHAIRMAN KORGE: I'm not sure I would agree  
9 with that, because --

10 MR. SALMAN: That's what it's for.

11 CHAIRMAN KORGE: If your geologic feature is  
12 10 feet above the ground level, for example, then the  
13 house is going to end up being an additional -- if  
14 that's the established grade for purposes of the  
15 Code, the house will be 10 feet higher than it would  
16 have been otherwise, you know, if the established  
17 grade were the street level or something akin to the  
18 street level, and I think it would be appropriate, in  
19 that unusual circumstance, to be required to go to  
20 the Board of Adjustment to get the variance. It is  
21 an unusual situation, and I think that justifies a  
22 review by the Board of Adjustment, not just a blanket  
23 exception, because you could end up -- I've seen -- I  
24 know what you're talking about. I've seen the  
25 circumstances where you have a lot --

1 MS. MORENO: On South Bayshore, it happens.

2 CHAIRMAN KORGE: And there was a lot in  
3 Cocoplum like that, too.

4 MR. SALMAN: A lot in Cocoplum, yeah.

5 MS. MORENO: Uh-huh.

6 CHAIRMAN KORGE: Yeah. So, I mean, would  
7 disagree, because I think it really is something that  
8 is unique for each property and should be reviewed as  
9 such.

10 MR. ZABALETA: Fair enough. That's all I  
11 have for you. Thank you.

12 CHAIRMAN KORGE: Thank you.

13 MR. AIZENSTAT: Thank you.

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

15 CHAIRMAN KORGE: We're adjourned. I think  
16 we're done, aren't we?

17 MR. RIEL: Yeah.

18 CHAIRMAN KORGE: Is there anything else  
19 there?

20 MR. RIEL: No, we're finished.

21 MS. MORENO: That's it.

22 CHAIRMAN KORGE: Charlie, thank you.

23 MR. SIEMON: Thank you very much.

24 MR. RIEL: Thank you.

25 (Thereupon, the meeting was adjourned at

1 9:15 p.m.)

2 CERTIFICATE

3

4 STATE OF FLORIDA:

5 SS.

6 COUNTY OF MIAMI-DADE:

7

8 I, JOAN L. BAILEY, Registered Diplomate  
9 Reporter, and a Notary Public for the State of  
10 Florida at Large, do hereby certify that I was  
11 authorized to and did stenographically report the  
12 foregoing proceedings and that the transcript is a  
13 true and complete record of my stenographic notes.

14

15 I, JOAN L. BAILEY, a Notary Public in and  
16 for the State of Florida at large, do hereby certify  
17 that all witnesses were duly sworn by me.

18

19 DATED this 26th day of June, 2006.

20

21

22

23 JOAN L. BAILEY, RDR

24

25 Notary Commission Number DD 190412.  
My current notary commission expires 6/14/07.

