

1 CITY OF CORAL GABLES
2 PLANNING AND ZONING BOARD MEETING
3 VERBATIM TRANSCRIPT
4 CORAL GABLES CITY HALL
5 405 BILTMORE WAY, COMMISSION CHAMBERS
6 CORAL GABLES, FLORIDA
7 WEDNESDAY, DECEMBER 10, 2008, 6:00 P.M.

8 Board Members Present:

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

15 City Staff:

16 Eric Riel, Jr., Planning Director
17 Walter Carlson, Assistant Planning Director
18 Scot Bolyard, Planner
19 Jill Menendez, Administrative Assistant
20 Elizabeth M. Hernandez, City Attorney
21 Lourdes Alfonsin Ruiz, Assistant City Attorney
22 Edward Weller, Interim Building & Zoning Director
23 Martha Salazar-Blanco, Zoning Official
24 Dulce Conde, Zoning Technician
25 Carlos Mindreau, City Architect
Alberto Delgado, Public Works Director
Kevin Kinney, Parking Director

Also Participating:

Vincent Damian, Esq.
Mario Garcia-Serra, Esq.
Roxcy Bolton
Jose Gelabert-Navia
Laura Russo, Esq.
Adis Riveron
Shirley Maroon
Lisa Maroon
Santiago Echemendia, Esq.
Bob De La Fuente, Esq.
Maria De La Guardia
Fernando Menoyo

25

1 THEREUPON:

2 The following proceedings were had:

3 CHAIRMAN KORGE: Well, we have a
4 quorum. We have a lot of stuff to do,
5 so, you know, I -- call the roll.

6 Eric, who is going to be absent
7 today?

8 MR. RIEL: I talked to Mr. Salman
9 late yesterday. He will be here late.
10 He had a prior commitment. He thought
11 he would be here between 6:30 and 7:00,
12 and I spoke to Mr. Coe about two hours
13 ago. He's very ill. He said he would
14 try to come if he could, but if he
15 wasn't here, you know, he obviously
16 was -- he couldn't come.

17 CHAIRMAN KORGE: Is Pat still in
18 mourning?

19 MR. RIEL: Pat is confirmed to come
20 here.

21 CHAIRMAN KORGE: Is he coming?

22 MR. RIEL: Yes. Yes, everyone else
23 is confirmed to come.

24 CHAIRMAN KORGE: Perhaps, before we
25 call the roll, do you think we should

1 start with the least controversial items
2 and leave the others --

3 MR. RIEL: However you would
4 like --

5 MR. BEHAR: Mr. Chairman --

6 MR. RIEL: We're ready to go forward.

7 MR. BEHAR: -- I have to -- I would
8 like to start with the items that we
9 have, because I'm going to have to
10 recuse myself or leave about 7:30. I
11 want to make sure by 7:30 we finish with
12 these items.

13 CHAIRMAN KORGE: Well, let's call
14 the roll.

15 MS. MENENDEZ: Eibi Aizenstat?

16 MR. AIZENSTAT: Here.

17 MS. MENENDEZ: Robert Behar?

18 MR. BEHAR: Here.

19 MS. MENENDEZ: Jack Coe?

20 Jeffrey Flanagan?

21 MR. FLANAGAN: Here.

22 MS. MENENDEZ: Pat Keon?

23 Javier Salman?

24 Tom Korge?

25 CHAIRMAN KORGE: Here.

1 6.

2 CHAIRMAN KORGE: That's a good
3 plan.

4 The first item we will take up
5 today is Item Number 7 -- oh, excuse me,
6 before we do that, we have approval of
7 the minutes from the meeting of November
8 12th, 2008.

9 MR. BEHAR: Motion to approve.

10 MR. AIZENSTAT: Second.

11 CHAIRMAN KORGE: Motion and a
12 second. Any discussion or corrections?

13 Hearing none, we'll take a vote.

14 MS. MENENDEZ: Robert Behar?

15 MR. BEHAR: Yes.

16 MS. MENENDEZ: Jeffrey Flanagan?

17 MR. FLANAGAN: Yes.

18 MS. MENENDEZ: Eibi Aizenstat?

19 MR. AIZENSTAT: Yes.

20 MS. MENENDEZ: Tom Korge?

21 CHAIRMAN KORGE: Yes.

22 The next item we're going to take
23 up, out of order, is Item Number 7,
24 Zoning Text Amendment, Article 5,
25 Division 16, "Roofs," and Article 8,

1 "Definitions."

2 Eric, are you going to lead us in
3 this?

4 MR. RIEL: Yes, just very briefly.

5 As you know, the Board, in the
6 past, has had a lot of meetings
7 regarding metal roofs. The Commission,
8 as you probably know, did a 90-day trial
9 period to allow metal roofs in the
10 southern section of the City. They
11 decided, after coming back with a
12 considerable amount of input and
13 discussion, to basically not allow metal
14 roofs within the City, but one thing
15 they did ask us to do, and they did ask
16 on October 14th, is to come back to the
17 Commission with clarification that metal
18 roofs can only be copper metal roofs,
19 and truly a copper roof, not painted or
20 anything of that likeness.

21 So the City Architect and I worked
22 on some language to clarify that, and
23 that's what is before you this evening,
24 and it will go to the Commission on
25 January 10th, basically just adding a

1 definition and clarification that, you
2 know, it truly would be a copper roof.

3 Copper roofs have been permitted
4 within the City, as far as I know, for
5 probably 10 or 20 years.

6 CHAIRMAN KORGE: Is there a motion
7 to approve the recommendation, or any
8 discussion on the recommendation?

9 MR. AIZENSTAT: Just a question, if
10 I may.

11 When you cross out residences and
12 put it for residential uses, is that
13 because you would consider a duplex or
14 so forth a residential use, and that's
15 why you're changing that language?

16 MR. RIEL: Just to clarify it.
17 That's the current term we use,
18 residential uses. It does indicate, up
19 above, that it's only applicable to
20 single-family.

21 MR. BEHAR: But then what
22 happens -- what happens, for example, in
23 a building that you want to use -- in a
24 commercial building, if you want to use
25 copper roofs?

1 MR. RIEL: They're only allowed, I
2 believe, in the industrial section.

3 MR. BEHAR: What about that
4 building on Ponce, right on the circle,
5 that has the copper roofs?

6 MR. RIEL: I -- I don't know the
7 answer to that.

8 CHAIRMAN KORGE: Well, this
9 doesn't -- as I read it, it doesn't in
10 any way change the substance of the
11 current section of the ordinance that we
12 would be modifying.

13 MR. RIEL: Right.

14 CHAIRMAN KORGE: So I'm assuming
15 that it won't affect any other
16 allowances for metal roofs that
17 otherwise might be in the Zoning Code.

18 MR. RIEL: Correct. It's just
19 clarification that it's truly a copper
20 roof, remains as a copper roof, is not
21 painted --

22 CHAIRMAN KORGE: Not to be painted,
23 okay.

24 MR. RIEL: -- and no other types of
25 surfaces to be applied to it.

1 MR. AIZENSTAT: And this has gone
2 through the Legal Department, and the
3 City Attorney and --

4 The City Attorney has approved the
5 language and everything; we're okay with
6 this?

7 MS. HERNANDEZ: Yes.

8 MR. AIZENSTAT: I'll go ahead and
9 move.

10 MR. BEHAR: Second.

11 CHAIRMAN KORGE: There's a motion
12 and a second. Any discussion on the
13 motion?

14 None?

15 Let's call the roll, please.

16 MS. MENENDEZ: Jeff Flanagan?

17 MR. FLANAGAN: Yes.

18 MS. MENENDEZ: Eibi Aizenstat?

19 MR. AIZENSTAT: Yes.

20 MS. MENENDEZ: Robert Behar?

21 MR. BEHAR: Yes.

22 MS. MENENDEZ: Tom Korge?

23 CHAIRMAN KORGE: Yes.

24 Any other one that's --

25 MR. RIEL: If you want to proceed

1 through 8, 9 and 10.

2 CHAIRMAN KORGE: Okay, let's do
3 that as quickly as we can. If we get
4 bogged down, then we can switch over so
5 that we have Robert -- we don't lose
6 Robert in the middle of the
7 discussion of the --

8 MR. BEHAR: Please.

9 CHAIRMAN KORGE: -- big one.

10 The next one is Item 8, Zoning Code
11 Text Amendment, Article 2, Division 7,
12 "Administrative Decision Makers and
13 Enforcement Officers."

14 Eric?

15 MR. RIEL: The City Attorney's
16 Office is going to present this item.
17 Actually, they're going to present
18 Number 8, 9 and 10.

19 CHAIRMAN KORGE: 8, 9 and 10?

20 MR. RIEL: Yeah.

21 CHAIRMAN KORGE: Well, then -- All
22 together?

23 MR. RIEL: No, separate.

24 MS. ALFONSIN: Separate.

25 MR. RIEL: We need separate

1 motions, though.

2 CHAIRMAN KORGE: Okay.

3 MS. ALFONSIN: The first one is an
4 amendment to Section 2-702, which is
5 City Attorney's appeals. The section
6 only provided for the City Attorney to
7 serve as the final authority on
8 interpretation and implementation of the
9 Zoning Code. It did not find -- it did
10 not have a section on where appeals of
11 the City Attorney's determinations go,
12 and the addition is to review the
13 rulings, any person may take this
14 decision -- any aggrieved party may take
15 the decision by presenting it to the
16 Circuit Court in the manner prescribed
17 by the Florida Rules of Appellate
18 Procedure.

19 CHAIRMAN KORGE: Any discussion,
20 questions?

21 MR. FLANAGAN: I have some
22 questions.

23 I'm trying to understand. The
24 Code, even as it's written today, says
25 that the City Attorney serves as the

1 final authority with regard to legal
2 issues involving interpretation and
3 implementation of these regulations --

4 MS. HERNANDEZ: Right.

5 MR. FLANAGAN: -- which to me seems
6 to be a modifier as -- rather than
7 saying you're the final authority with
8 regard to or involving interpretation
9 and implementation of these regulations,
10 it says legal issues.

11 MS. HERNANDEZ: Right.

12 MR. FLANAGAN: Is there a
13 differentiation?

14 MS. HERNANDEZ: Yes, what we're
15 trying to accomplish is that what we've
16 seen is a lot of applicants and
17 developers attempting to skip Staff on
18 technical issues and attempting to craft
19 issues as legal issues, to receive
20 rulings from the City Attorney's Office,
21 and then going back to Staff and making,
22 basically, the City Attorney's Office an
23 extension of Staff.

24 We're attempting to circumvent that
25 process, stop them from doing that and

1 from the Corps of Engineers and push the
2 issue into a legal determination of
3 which regulations were applying or what
4 are not applying, and attempting to take
5 Legal Staff's positions and impose those
6 on the City's Professional Staff.

7 So what we were trying to do
8 through this amendment is, if you're
9 going to skip Staff and you're going to
10 come to Legal, your appellate rights are
11 not to go right back to the Board of
12 Adjustment, but rather to go straight
13 into court through a Dec action, or
14 depending on the circumstances, because
15 unfortunately we don't have one set of
16 rules that are applying across the
17 board. We're getting a whole mix of
18 different hypotheticals from applicants.

19 MR. FLANAGAN: Okay, because when I
20 read this, I was concerned that if you
21 were the final arbiter of the Zoning
22 Code --

23 MS. HERNANDEZ: No, no.

24 MR. FLANAGAN: -- then your
25 decision then had to be appealed to

1 court, I just -- I thought right away, I
2 said, that's an inordinate burden --

3 MS. HERNANDEZ: Right.

4 MR. FLANAGAN: -- on the
5 constituents. So, as long as -- if it's
6 going to you, as you called it,
7 forum-shopping, but --

8 MS. HERNANDEZ: And what we want to
9 do is to say, "This is not legal,
10 leave."

11 MR. FLANAGAN: Okay.

12 MS. HERNANDEZ: And, you know, we
13 have done that.

14 MR. FLANAGAN: Or, if it is legal
15 and you take your chance with you, and
16 they're --

17 MS. HERNANDEZ: Exactly.

18 MR. FLANAGAN: -- unhappy with your
19 response, then you effectively suffer
20 the consequences --

21 MS. HERNANDEZ: Exactly.

22 MR. FLANAGAN: -- and pay -- take
23 the time to go through Circuit Court,
24 but you still have the authority or the
25 option of determination of a

1 departmental director, which then is
2 appealable within the City.

3 MS. HERNANDEZ: But what we had
4 seen is, after the Zoning Code rewrite,
5 it just was -- you know, the floodgates
6 opened. People were skipping Staff,
7 coming right to Legal, which is not our
8 role. It's not our function.

9 MR. FLANAGAN: Right.

10 MS. HERNANDEZ: We're not the
11 technicians of the Code. It's not our
12 position to be interpreting those
13 provisions. It's really the
14 responsibility of Staff, with a whole
15 host of appeal rights to the Board of
16 Adjustment and ultimately to the City
17 Commission, where it belongs, as the
18 legislative body.

19 MR. FLANAGAN: Okay.

20 CHAIRMAN KORGE: Well, then, I got
21 confused here, because the process is,
22 it goes to the Staff --

23 MS. HERNANDEZ: Right.

24 CHAIRMAN KORGE: -- the Board of
25 Adjustment and then the Commission.

1 MS. HERNANDEZ: Right.

2 CHAIRMAN KORGE: So why would there
3 be anything in here dealing with your
4 final -- you as final authority?

5 MS. HERNANDEZ: Because only on
6 specific -- there are certain specific
7 legal issues that are raised by the
8 Code, and then what happens is, if they
9 stick just to the legal issue, then they
10 can go into court and appeal it, you
11 know, just like at the County, just like
12 at the City of Miami, and the other
13 cities. But what's happening is, we're
14 seeing that because we didn't put in
15 what the remedy was once the City
16 Attorney's Office ruled on the legal,
17 what they were doing was getting
18 piecemeal information from our office,
19 then going back to Staff, then coming
20 back to Legal, and we just want that to
21 stop.

22 CHAIRMAN KORGE: Okay.

23 MS. HERNANDEZ: Thank you.

24 CHAIRMAN KORGE: Any more
25 discussion? Is there a motion?

1 MR. FLANAGAN: I'll move it.

2 CHAIRMAN KORGE: Second?

3 MR. AIZENSTAT: Yes.

4 CHAIRMAN KORGE: It's been seconded
5 by Eibi.

6 Any discussion? None?

7 Let's call the roll.

8 MS. MENENDEZ: Eibi Aizenstat?

9 MR. AIZENSTAT: Yes.

10 MS. MENENDEZ: Robert Behar?

11 MR. BEHAR: Yes.

12 MS. MENENDEZ: Jeff Flanagan?

13 MR. FLANAGAN: Yes.

14 MS. MENENDEZ: Tom Korge?

15 CHAIRMAN KORGE: Yes.

16 Number 9, Item Number 9, Zoning
17 Code Text Amendment, Article 8,
18 "Definitions," relating to the
19 definition of "Family" to reflect the
20 appropriate constitutional requirements.

21 MS. ALFONSIN: It is by adding into
22 the definition of Article 8, "Family,"
23 adding that three or less persons that
24 are unrelated may also live in
25 single-family residences.

1 CHAIRMAN KORGE: What does it
2 provide now?

3 MS. ALFONSIN: Now it provides that
4 one or more persons occupying a single
5 residential unit when all members are
6 related by blood, adoption, marriage or
7 foster care. It did not have any
8 section talking about unrelated people.

9 In our old Code, before January of
10 2007, we did, in fact, have a section
11 that said three or more -- more than
12 three unrelated people are not allowed
13 to live in single-family residential
14 areas.

15 CHAIRMAN KORGE: Okay. Any
16 discussion on this, any questions?

17 Is there a motion to approve?

18 MR. FLANAGAN: Moved.

19 CHAIRMAN KORGE: A second?

20 MR. BEHAR: Second.

21 CHAIRMAN KORGE: Seconded. Any
22 more discussion? None?

23 Let's call the roll on this one,
24 please.

25 MS. MENENDEZ: Robert Behar?

1 MR. BEHAR: Yes.

2 MS. MENENDEZ: Jeff Flanagan?

3 MR. FLANAGAN: Yes.

4 MS. MENENDEZ: Eibi Aizenstat?

5 MR. AIZENSTAT: Yes.

6 MS. MENENDEZ: Tom Korge?

7 CHAIRMAN KORGE: Yes.

8 Item Number 10, Zoning Code Text
9 Amendment, Article 5, Division 19,
10 "Signs."

11 MS. ALFONSIN: This, again, goes to
12 the constitutionality of signs on --
13 political signs on residential
14 properties, and we have been following
15 the Miami-Dade County ordinance and we
16 wanted to have something in place in the
17 City's ordinance.

18 It also goes beyond that by giving
19 a duration period for the maintaining of
20 signs, both in campaign headquarters and
21 in residential properties.

22 CHAIRMAN KORGE: Does this
23 generally conform to the County
24 ordinance?

25 MS. ALFONSIN: Yes, it does.

1 CHAIRMAN KORGE: Any -- What are
2 the differences?

3 MS. ALFONSIN: Campaign
4 headquarters is about the only
5 difference. The County doesn't have a
6 section specific to campaign
7 headquarters. The City has had that
8 section in place for a number of years.

9 CHAIRMAN KORGE: Okay.

10 MR. AIZENSTAT: Does it state the
11 amount of time that signage can be
12 placed and must be taken --

13 MS. ALFONSIN: Yes. The duration
14 of the signs, both campaign or political
15 signs, is permitted no earlier than six
16 months prior to the date of election and
17 shall be removed within seven days after
18 the election which is the subject matter
19 of the sign.

20 MR. AIZENSTAT: And how would you
21 enforce it after that, if it's not
22 removed?

23 MS. ALFONSIN: They're removed by
24 the City.

25 MR. AIZENSTAT: And do you go after

1 the people that have placed the signs if
2 they don't remove it, or does the City
3 just --

4 MS. ALFONSIN: No, the City just
5 removes them. Code Enforcement officers
6 remove the signs.

7 CHAIRMAN KORGE: And then it
8 prohibits any signs, basically, on
9 public property.

10 MS. ALFONSIN: Correct. That
11 section was just reworded. That was
12 contained in our Code previously.

13 CHAIRMAN KORGE: Right.

14 MR. BEHAR: And under the political
15 signs, you're saying that the maximum
16 height for a sign cannot be more than 12
17 feet above the ground. Is that in a
18 residential neighborhood?

19 MS. ALFONSIN: No, that is for
20 campaign headquarter signs.

21 MR. BEHAR: Oh, okay.

22 MS. ALFONSIN: That's A1(d).

23 For the political signs in
24 single-family residential, it's
25 Subsection 2.

1 MR. BEHAR: Okay.

2 MS. ALFONSIN: And they are limited
3 to 22 by 28 inches in size, based on the
4 Miami-Dade County Code, which we had
5 been following for a number of years.

6 CHAIRMAN KORGE: Perfect, because
7 we don't want to end up with different
8 standards.

9 MS. ALFONSIN: No.

10 MR. BEHAR: Motion to approve,
11 Mr. Chairman.

12 CHAIRMAN KORGE: There's a motion
13 on the floor. Is there a second?

14 MR. AIZENSTAT: (Nods head).

15 CHAIRMAN KORGE: There's a second.

16 Any discussion? No discussion?

17 Let's call the roll on this,
18 please.

19 MS. MENENDEZ: Jeff Flanagan?

20 MR. FLANAGAN: Yes.

21 MS. MENENDEZ: Eibi Aizenstat?

22 MR. AIZENSTAT: Yes.

23 MS. MENENDEZ: Robert Behar?

24 MR. BEHAR: Yes.

25 MS. MENENDEZ: Tom Korge?

1 CHAIRMAN KORGE: Yes. Item Number
2 11, Zoning Code Text Amendment, Article
3 2, Division 5, "Historic Preservation
4 Board."

5 MR. BOLYARD: Good evening,
6 Mr. Chairman, Members of the Board. For
7 the record, Scot Bolyard, with the
8 Planning Department.

9 This text amendment is, the
10 Historical Resources Department has
11 requested a text amendment to increase
12 the required amount of architects or
13 preservation architects for the Historic
14 Preservation Board. The majority of
15 Board members don't have architectural
16 background, so they rely on the review
17 of the sole architect for their
18 expertise.

19 This amendment will provide for a
20 secondary architect on the Board and
21 that way it will relieve the burden from
22 some of the other Board members.

23 MR. AIZENSTAT: But you're not
24 increasing the amount of appointments,
25 you're just making --

1 MR. BOLYARD: Yeah.

2 MR. AIZENSTAT: I'm sorry?

3 MR. BOLYARD: Yeah, that's correct.

4 We're just increasing the amount of
5 required architects.

6 MR. BEHAR: I think that's a great
7 idea. I make a motion to approve.

8 MR. AIZENSTAT: It makes a lot of
9 sense.

10 MR. FLANAGAN: Second.

11 CHAIRMAN KORGE: A motion and a
12 second. Any discussion?

13 None?

14 Call the roll, please.

15 MS. MENENDEZ: Eibi Aizenstat?

16 MR. AIZENSTAT: Yes.

17 MS. MENENDEZ: Robert Behar?

18 MR. BEHAR: Yes.

19 MS. MENENDEZ: Jeff Flanagan?

20 MR. FLANAGAN: Yes.

21 MS. MENENDEZ: Tom Korge?

22 CHAIRMAN KORGE: Yes.

23 MR. BEHAR: Those architects are
24 very valuable.

25 CHAIRMAN KORGE: Item Number 12,

1 Zoning Code Text Amendment, Article 5,
2 Division 8, "Docks, Wharves, Mooring
3 Piles and Watercraft Moorings."

4 MR. BOLYARD: This request --
5 sorry. This request is for a text
6 amendment to permit an additional set of
7 davits for single-family or duplex
8 properties that have a minimum water
9 frontage of 200 feet. This item was
10 first approved by the Planning and
11 Zoning Board on November 14, 2001, and
12 was approved on first reading by the
13 City Commission on January 9, 2002.

14 However, the item was inadvertently
15 omitted from the second reading, as it
16 was grouped with nine other text
17 amendments. We're just trying to get it
18 to proceed forward now.

19 CHAIRMAN KORGE: Is there a motion
20 on this?

21 MR. AIZENSTAT: Well, just a
22 question, if I may. How do you treat
23 properties that might have currently,
24 let's say, davits and some kind of a
25 floatation system for another boat?

1 MR. BOLYARD: Well, currently,
2 you're only permitted one set of davits,
3 watercraft lifts or floating watercraft
4 lifts, and that's it.

5 MR. AIZENSTAT: So it's currently
6 that. Have you had a lot of problems
7 with that issue?

8 MR. RIEL: No.

9 MR. AIZENSTAT: No?

10 CHAIRMAN KORGE: I doubt if anybody
11 notices.

12 CHAIRMAN KORGE: Is there a motion?

13 MR. AIZENSTAT: Just a boater.

14 CHAIRMAN KORGE: Is there a motion?

15 MR. AIZENSTAT: Yes, I make a
16 motion.

17 CHAIRMAN KORGE: There's a motion.

18 MR. BEHAR: Second.

19 CHAIRMAN KORGE: Seconded. Any
20 discussion?

21 Let's call the roll, please.

22 (Thereupon, Ms. Keon arrived.)

23 MS. MENENDEZ: Robert Behar?

24 MR. BEHAR: Yes.

25 MS. MENENDEZ: Jeff Flanagan?

1 MR. FLANAGAN: Yes.

2 MS. MENENDEZ: Eibi Aizenstat?

3 MR. AIZENSTAT: Yes.

4 MS. MENENDEZ: Tom Korge?

5 CHAIRMAN KORGE: Yes.

6 For the record, Pat Keon has
7 arrived.

8 Pat, we have approved Items 7
9 through 12, and we were waiting for you
10 to start on Old Business, which are
11 Items 5 and 6, the development on
12 LeJeune and Ponce.

13 So we're going to proceed to Items
14 5 and 6. Are we taking these together?

15 MR. RIEL: No, they're separate.

16 CHAIRMAN KORGE: Oh, I'm sorry, 6
17 is the proposed settlement agreement.

18 MR. RIEL: Yes.

19 CHAIRMAN KORGE: And 5 is the site
20 plan review and vacation of public
21 alleyway. So we'll start with Number 5?

22 MR. RIEL: Yes.

23 CHAIRMAN KORGE: Application Number
24 06-08-070-P.

25 MR. RIEL: As you know, Mr. Chair,

1 this was considered at the last meeting.
2 We did include public input at the last
3 meeting. The Board, at nine o'clock,
4 adjourned. Therefore, the item was
5 continued to this evening's meeting.

6 So Staff is prepared to answer any
7 questions you may have, however you
8 would like to proceed.

9 CHAIRMAN KORGE: Well, if there's a
10 motion, one way or another, I'll take
11 the motion. If not, we'll open it for
12 Board discussion and questions.

13 MR. BEHAR: Mr. Chairman, if I
14 recall, in the last meeting, the Board
15 had expressed some concerns with the
16 project. I just want to bring up the
17 architect to find out if anything has
18 been done since the last meeting, and I
19 remember that one of the issues that
20 came up was the setback on LeJeune Road,
21 and I want to see if they have
22 addressed -- if anything has been done
23 in regards to that matter.

24 MR. AIZENSTAT: Or even if there's
25 any changes.

1 CHAIRMAN KORGE: Or any other
2 changes, for that matter, I guess, yes.

3 MR. DAMIAN: Mr. Chairman, if I
4 might, I have a point of order that I'd
5 like to address before any testimony is
6 taken from any witnesses.

7 CHAIRMAN KORGE: Well, we're not
8 taking any more testimony. We really
9 wanted to hear if there were any
10 proposed changes, in light of what had
11 been presented, and then we would open
12 it up again if there are changes. So
13 we're not -- I'm not -- we're not
14 interested in taking any more testimony
15 at this time.

16 MR. DAMIAN: The point of order is
17 this.

18 CHAIRMAN KORGE: Okay.

19 MR. DAMIAN: At the end of the last
20 meeting, when the meeting was adjourned
21 because of time and it was to be reset
22 on December the 10th, I had requested at
23 that time that notice of this meeting be
24 mailed, published and posted, just in
25 case there was going to be anything

1 further, and so that the residents of
2 the affected area would have an
3 opportunity to be here during the public
4 hearing.

5 We were told two things: First,
6 that there was no need to do publishing,
7 posting or noticing, because this was
8 not the kind of hearing that required
9 it, that previously it was done just as
10 a matter of consideration and it was
11 optional and didn't need to be done, and
12 in fact, we are here today at this
13 meeting and no publishing has taken
14 place, no posting has taken place, no
15 letters to the affected residents has
16 taken place, and if you'll notice,
17 there's nobody here.

18 The statement -- the information
19 you received as to the requirement for
20 posting of a public hearing was
21 incorrect. The Code does require any
22 public hearing to have a publishing and
23 a posting. It is not optional; it's
24 mandatory. And I think that the
25 decision made, not to republish and not

1 to post, was incorrect. This is a
2 public hearing and it continues, and it
3 is not an optional point. It is one
4 that is required by the Code.

5 The importance of this comes up
6 because the public hearing continues.
7 The very fact, Mr. Chairman, that you
8 would call upon the applicant again, to
9 clarify, make a statement of any sort
10 whatsoever, shows that the public
11 hearing portion, that the public -- the
12 right to talk is continuing here, right
13 now, and I think it was improper --

14 MR. BEHAR: Very simple,
15 Mr. Chairman, then, excuse me. Then I
16 will retract the request to get the
17 applicant to come up, and I will make a
18 motion based on the last meeting that we
19 had, a motion to approve the project as
20 presented then.

21 CHAIRMAN KORGE: But before I take
22 your motion and see if we have a
23 second --

24 Liz, do we have any -- What is your
25 position or where do we stand respecting

1 notice?

2 MS. HERNANDEZ: We received the
3 positions of all the parties, including
4 the Planning Department, and it was the
5 position of our office that there was no
6 legal requirement for additional
7 publication or posting.

8 However, that always leaves the
9 Chair and the Board, if you decide that
10 it is in the interests of due process or
11 you feel that it is appropriate, you can
12 always direct the Director to continue
13 this matter and publish notice, if you
14 feel it's appropriate, under the
15 circumstances. It is absolutely within
16 your province, because there is, as far
17 as my office is concerned, no legal
18 issue, and all the objections are
19 preserved in the event of an appeal.

20 MR. RIEL: And just for a matter of
21 record, the agenda was published two
22 weeks in advance. The agenda was posted
23 at City Hall, the agenda was posted
24 online, as well as all the information
25 presented to the Board is posted online,

1 as well.

2 CHAIRMAN KORGE: And at the last
3 meeting, everybody was told that we
4 would continue it at the next meeting.

5 MR. RIEL: At the last meeting, the
6 public hearing was continued to this
7 point, this meeting specifically, and
8 the Department policy is, on continued
9 meetings, we do not renotice, repost.
10 If the item is deferred, we do, because
11 if the item is deferred, it's not
12 considered that evening. So our opinion
13 is, the hearing was continued,
14 therefore, we do not send out notice.

15 CHAIRMAN KORGE: Okay. Well, I'll
16 accept your motion, if there's a second.

17 MR. DAMIAN: I haven't finished my
18 point of order, if I may.

19 CHAIRMAN KORGE: Okay, go ahead.

20 MR. DAMIAN: First, the comment by
21 Mr. Riel that the agenda was posted here
22 at City Hall does not answer the
23 requirements of the Code. The Code only
24 has three requirements that's in the
25 Code for Planning and Zoning hearings:

1 Posting on the property, mailing to the
2 affected persons, and publication in a
3 newspaper. None of those things were
4 done, so the fact that you may have done
5 it online or anywhere else does not
6 satisfy any of those requirements.

7 The second thing is that Mr. Riel
8 made a statement to this Board which
9 also affects the public hearing point,
10 and the statement that he made -- and it
11 was in direct response to one of the
12 questions, and that is, does the
13 applicant, as a matter of right, have
14 the right to do a mixed-use development
15 on this property, and is this just site
16 plan approval?

17 This is not site plan approval. If
18 somebody has the zoning and the right to
19 build, they go to the Building
20 Department, they get site plan approval.
21 The ordinance that adopted the mixed-use
22 overlay on this industrial property --
23 and that's what this is, is industrial
24 property, zoned industrial and
25 commercial. The ordinance that adopted

1 the mixed-use overlay on this says,
2 Section 8(e), that approval, site plan
3 approval by the City Commission, and
4 that ultimately is who's going to do the
5 site plan approval, is not mandatory, it
6 is discretionary, and you are bound by
7 the same requirements that the City
8 Commission is here. It is not
9 mandatory. They do not have a right to
10 this. It is purely discretionary.

11 The fact that it is a
12 discretionary -- that you're in a
13 discretionary point here is why the
14 publication was necessary the first
15 time. It was not optional, and it
16 wasn't done as a matter of courtesy, it
17 was done because it was required, and
18 the fact that it's stated that we don't
19 have to do it -- we didn't have to do it
20 the first time, and therefore, we're not
21 redoing it, is incorrect, and in order
22 to satisfy the requirements of the Code,
23 and more importantly, Mr. Chairman, in
24 your discretionary role, to assure that
25 the citizens, who are the affected

1 citizens, are here when discussion of
2 this matter is before this Planning and
3 Zoning Board, I think that you should
4 continue this meeting, send out a mail
5 to the affected residents, and there
6 were loads of them here the last time
7 and they're not here tonight -- send out
8 by mail notice to the affected
9 residents, post the property, and
10 publish it as required by the ordinances
11 of the City of Coral Gables.

12 CHAIRMAN KORGE: Do you have a copy
13 of the ordinance you're referencing?

14 MR. BEHAR: Mr. Chairman, a quick
15 question and just clarification.

16 CHAIRMAN KORGE: Yeah.

17 MR. BEHAR: And the information
18 that Mr. Damian is providing us today,
19 is this part of the public hearing that
20 was closed last meeting? You know --

21 MS. HERNANDEZ: This is a point
22 of -- no, this is -- he's preserving
23 legal arguments --

24 MR. DAMIAN: This is a point of
25 order.

1 MS. HERNANDEZ: -- and he has the
2 right to do so.

3 MR. BEHAR: Okay.

4 MR. DAMIAN: Liz, do you have a
5 copy -- or actually, Eric, I believe you
6 provided to Liz and Liz provided to me a
7 copy of Section -- Ordinance Number
8 02-004-04. Do you have a copy of that?

9 MR. RIEL: No, I don't.

10 MR. GARCIA-SERRA: Mr. Chairman --

11 MS. HERNANDEZ: I didn't print it.

12 MR. DAMIAN: I can state to you,
13 Liz sent it to me, Section 8(e).

14 MS. HERNANDEZ: Right, I know, but
15 I didn't print it.

16 MR. DAMIAN: Do you agree with me,
17 Liz, that it is not mandatory, that it's
18 discretionary with the Commission, and
19 Section 8(e) --

20 MS. HERNANDEZ: I would have to --

21 MR. DAMIAN: -- specifically says that?

22 MS. HERNANDEZ: I would have to --
23 I would have to -- Vince, I would have
24 to --

25 CHAIRMAN KORGE: I'm not -- That's

1 not what I'm -- I'm interested in the
2 ordinance that relates to the notice
3 requirements.

4 MR. RIEL: Mr. Chair, I have a
5 certified copy of the notice published
6 in the Daily Business Review, if Mr. --
7 would like to see it.

8 CHAIRMAN KORGE: Yeah, that would
9 be helpful.

10 MR. GARCIA-SERRA: And Mr. Chair,
11 if I could assert the point of privilege
12 of procedure so I can respond, perhaps,
13 to some of these comments.

14 CHAIRMAN KORGE: Yes.

15 MR. GARCIA-SERRA: My client does
16 have an interest in this.

17 My name, again, Mario Garcia-Serra,
18 with offices at 1221 Brickell Avenue,
19 representing the applicant, the DYL
20 Group, and I would just, in response to
21 Mr. Damian's points of procedure, want
22 to go over the procedure that's taken us
23 up until tonight.

24 If you remember right, we were
25 scheduled for our first public hearing

1 at the October meeting. That meeting
2 was deferred because it was a Jewish
3 holiday, it was Yom Kippur. That
4 meeting had been fully noticed.
5 Advertised notices had gone out to all
6 the neighbors. That meeting -- that
7 hearing never started. The matter was
8 deferred, before it even started, to the
9 November meeting.

10 For that reason, Staff sent out
11 notices again, advertised and did
12 everything that's required for the
13 November hearing.

14 At the November hearing, the
15 hearing was actually conducted. Public
16 comment was taken. You remember that
17 the hearing was closed. The Board was
18 actually in Board discussion when the
19 time came to adjourn at 9:00 p.m. and it
20 was adjourned, and clearly, on the
21 record, in the transcript, it's
22 indicated Mr. Riel saying that this
23 matter was continued to a date certain
24 of December 10th. So everyone that was
25 at that hearing was on actual notice

1 that the hearing was being continued to
2 December 10th.

3 Because the hearing was continued
4 to December 10th and the public hearing
5 aspect had already actually been closed,
6 there was no need -- and consistent with
7 Staff's policy all along, as long as
8 I've been practicing -- to send out any
9 additional notices or anything else,
10 because every interested party that was
11 at that hearing had actual notice that
12 the hearing was going to be continued to
13 December 10th.

14 I researched, also, case law, and
15 the case law is pretty clear on this,
16 too. The notice that has to be provided
17 for this sort of hearing is a reasonable
18 notice. Keep in mind that an advisory
19 board isn't even, under the case law,
20 necessarily required to provide notice,
21 because you are here in an advisory
22 capacity, you're not making a final
23 decision. There will be two more public
24 hearings on this matter before the City
25 Commission.

1 At the same time, there's an
2 interesting other aspect of the case law
3 which provides that parties that are
4 present at a hearing can be found to
5 have waived the claim of defect in
6 notice if they're actually there at the
7 hearing. You know, their presence here
8 at the meeting indicates that they did
9 have actual notice of this hearing going
10 on today, so they can be construed as
11 having potentially waived that claim of
12 a defect.

13 And most importantly, please keep
14 in mind that if we were to sincerely
15 think that there was any problem with
16 notice in this hearing, we would be the
17 first to be telling you that it should
18 be deferred, because we don't want to
19 give Mr. Damian the ideal opportunity to
20 just shoot down our project, once it's
21 approved, in court, with a notice
22 defect.

23 The appellate division of my firm
24 has reviewed this issue. We're
25 confident that there was no defect in

1 notice and that this hearing could
2 proceed, as Robert's Rules of Order
3 require. The meeting should start up at
4 right where it was at, at the point at
5 which it was adjourned, which is after
6 the public hearing being closed, and the
7 Board discussion, which is what you're
8 proceeding to do.

9 CHAIRMAN KORGE: Okay.

10 Anything further, anybody?

11 MR. AIZENSTAT: I would tend to
12 agree with that, only because we had
13 closed the public hearing. If we had
14 not closed the public hearing, then I
15 would agree with Mr. Damian's point.
16 That's my comment.

17 CHAIRMAN KORGE: Right. We're not
18 taking any more testimony or evidence.
19 So, at this point, we're just continuing
20 the hearing, the hearing that occurred
21 last month, and in the absence of some
22 clear statement in the ordinance
23 prohibiting us from continuing this
24 meeting without an additional written
25 notice being mailed out to all the

1 residents, in light of all of that, I'll
2 just go ahead and accept your motion, if
3 there's a second.

4 The motion was for approval of the
5 project.

6 MR. BEHAR: Correct.

7 MR. FLANAGAN: Second, for
8 discussion.

9 CHAIRMAN KORGE: Second, for
10 discussion. Let's take some discussion
11 now. Do you want to start for us, Jeff?

12 MR. FLANAGAN: Are we allowed to
13 ask questions now of the applicant?

14 CHAIRMAN KORGE: Well, I --

15 MR. FLANAGAN: It's not a public
16 hearing, it's --

17 CHAIRMAN KORGE: I can tell you --
18 I'll start.

19 MR. FLANAGAN: I think if I have
20 questions, I mean, I'm probably going to
21 ask, I just want to make sure I'm not
22 stepping out of bounds.

23 CHAIRMAN KORGE: Why don't I start?

24 MR. FLANAGAN: Okay.

25 CHAIRMAN KORGE: I can tell you

1 what my concerns are, right away. The
2 project is very massive for the site,
3 and there is -- I've been thinking about
4 this a little bit, and there is -- you
5 know, there's -- we're vacating the
6 alleyway, and I don't have any problem
7 in principle with vacating the alleyway
8 and substituting a different alleyway.
9 However, in the process of vacating the
10 alleyway, we're increasing the FAR for
11 the project, which, yes -- because that
12 FAR is calculated based on the land that
13 is owned by the developer after the
14 alleyway is vacated.

15 As a result, the FAR and density
16 can increase as what it would be and the
17 site can be increased -- excuse me, not
18 the site, the project itself can be
19 increased as a result of that, and I
20 have some problems with that.

21 In addition, you know, it's an
22 incredibly massive project. It's nice,
23 and I don't have an issue with mixed-use
24 development in this location, but it's
25 right on top of LeJeune Road, and those

1 are my big concerns with the project. I
2 don't know if anybody shares those
3 concerns.

4 I think, overall, it's good to have
5 a development here at this location, and
6 it will benefit the entire neighborhood
7 in the long run to have a mixed-use
8 development at that location, but this
9 is a very massive project and I have
10 some serious misgivings about that,
11 especially in light of the additional
12 massing made possible by vacating the
13 public alleyway.

14 MR. AIZENSTAT: I agree with you.
15 For me, I also think that this project
16 is too massive. I understand your point
17 about the FAR being allowed for the
18 alleyway. I would feel more comfortable
19 if that FAR was not given.

20 But there's also a give-and-take,
21 in that the developers are going to be
22 paying property taxes to the City on
23 that portion that was not being paid for
24 before, so I would have to weigh those
25 two things. But I would like the

1 developer to reduce the FAR or not use
2 the FAR for the alley that is being
3 given.

4 I, too, feel that the property, to
5 me, is very massive. I feel it's
6 abutted too close to LeJeune, where the
7 sidewalk is and so forth, among some
8 other complaints, but that's mainly my
9 point.

10 MR. BEHAR: Mr. Chairman, on that
11 point, I remember last -- that's why I
12 asked earlier today if that was -- we
13 expressed some concern, and I wanted to
14 know, to find out if something had been
15 done, you know, to remedy that concern.

16 Apparently, we are not -- we cannot
17 ask the applicant to come back and tell
18 us --

19 MS. HERNANDEZ: Yes, you can.

20 MR. BEHAR: -- if something was to
21 be, you know, done or not to that
22 effect, on the setback on LeJeune.

23 MR. AIZENSTAT: Why can we not --
24 are we not allowed to?

25 MS. HERNANDEZ: You can.

1 Mr. BEHAR: Liz -- then I would --

2 MS. HERNANDEZ: No, you can. You
3 absolutely can. Mr. Damian has voiced
4 his objections. The applicant is
5 proceeding at their own risk. You
6 can -- This Board is free to conduct the
7 activities of the Board as it deems
8 appropriate.

9 MR. BEHAR: Then I have a couple --
10 you know, a couple points of
11 clarification. One, I want to ask the
12 Planning Department to make sure that
13 everything that you have reviewed
14 complies with all the Code requirements.

15 MR. RIEL: The Building and Zoning
16 Department has the responsibility of
17 interpreting the Zoning Code. They
18 complete a zoning analysis. Yes, they
19 have indicated that it does comply with
20 the Code.

21 The Planning Department, as a part
22 of our review, also kind of look over
23 the shoulder of Building and Zoning. We
24 also agree with the interpretation that
25 it does comply with the Code.

1 MR. BEHAR: Then what I would do,
2 since I know that one of the -- a member
3 of the Zoning Department, Dulce, is
4 here, I would like to bring her up to
5 make sure that, you know, she confirms
6 that everything has been reviewed and
7 they meet all the Code requirements.
8 Can we do that?

9 MR. RIEL: I think it would
10 probably be more appropriate for Ms.
11 Salazar.

12 MR. BEHAR: Oh, I see her, I'm
13 sorry, seated behind her.

14 Ms. Salazar, could you please -- I
15 apologize. You were behind --

16 MS. SALAZAR-BLANCO: That's okay.
17 I was hiding.

18 MR. BEHAR: I'm glad to see you
19 here.

20 MR. AIZENSTAT: She was hiding.

21 MS. SALAZAR-BLANCO: Martha
22 Salazar-Blanco, Zoning Official for the
23 City. I do want to introduce Dulce
24 Conde. She is the zoning technician
25 that did the zoning analysis and knows

1 the project up and down, and she can
2 answer any questions that you might
3 have, okay?

4 MR. BEHAR: Okay. Thank you, and
5 once again, I apologize.

6 MS. BOLTON: I have a point of
7 personal privilege.

8 CHAIRMAN KORGE: Ma'am?

9 MS. BOLTON: Yes, sir?

10 CHAIRMAN KORGE: Ma'am, what?

11 MS. BOLTON: I want to ask a point
12 of privilege, personal privilege,
13 please.

14 CHAIRMAN KORGE: What's that?

15 MS. BOLTON: Sir?

16 CHAIRMAN KORGE: What do you want?

17 MS. BOLTON: I want -- I have two
18 statements to make that's crucial to
19 this.

20 CHAIRMAN KORGE: Come up and make
21 your statements, but please make them as
22 short as you can.

23 MS. BOLTON: Yes, sir.

24 Good evening. My name is Roxcy
25 Bolton. I live at 124 Cadima Avenue.

1 Number one, as I look at the
2 audience, sir, I do not see a single
3 face from that community that will be
4 impacted by this tremendous project.

5 If you would be kind enough, sir,
6 to ask anyone from that community that's
7 being affected to stand, I think you'll
8 find there's no one here. They were not
9 noticed. This is very --

10 CHAIRMAN KORGE: Yes, that point
11 has already been made, ma'am. Any other
12 point you wanted to make?

13 MS. BOLTON: The second point I
14 want to make is about preserving the
15 alley. When we give away the people's
16 alley, we're -- that is a very serious
17 thing.

18 CHAIRMAN KORGE: Yes, ma'am. You
19 made that point in the last hearing, and
20 I tend to agree with you and I've
21 already expressed that, so we don't need
22 to repeat that at this time, but I
23 appreciate your bringing that back to
24 our attention.

25 MS. BOLTON: And I appreciate you

1 allowing me to come and address the
2 point. Good evening.

3 CHAIRMAN KORGE: Thank you.

4 MS. BOLTON: I'm glad to see you
5 back.

6 MR. BEHAR: Can we get Dulce to
7 come up again, please? Thank you.

8 Dulce, in your review, has the
9 applicant complied with all the
10 requirements necessary for this project?

11 MS. CONDE: Yes. There are a
12 couple things that, you know, we need to
13 still work on and address, but however,
14 yes, they have met -- it's a very
15 lengthy review, due to the mixed-use
16 component, and they have met the
17 requirements of that review.

18 MR. BEHAR: Okay. Thank you.

19 MS. CONDE: Any question in
20 particular?

21 MR. BEHAR: No, I just want to make
22 sure that everything had been, you know,
23 confirmed, verified and they do comply
24 with all the requirements.

25 MS. CONDE: Yes. What I would like

1 to do is make a clarification on the
2 requirement for being so close to
3 LeJeune. The reason why this project,
4 which is different than Gables Gateway,
5 is close to LeJeune, is because of the
6 facing of the lots. In the Gables
7 Gateway project, the front facing, which
8 is your front setback, is on Greco and
9 Granello. However, on this project,
10 since it's parceled with lots facing
11 LeJeune and then a big tract behind it,
12 LeJeune becomes a front setback instead
13 of a side setback, and that's why the
14 difference in the setbacks, that, you
15 know, I hear a lot of discussion, and I
16 just wanted to point that out so that
17 you would be aware why, in comparing the
18 two projects, one has a 15-foot setback
19 and one is literally at zero. So I just
20 wanted to point that out, so that --

21 MR. BEHAR: Let me, then, clarify
22 that point. The Gables Gateway project
23 had a self-imposed 15-foot setback. You
24 could bring the arcade to the property
25 line, as long as the building -- the

1 step-back --

2 MS. CONDE: Then everything had
3 to -- right, then you had to comply,
4 but --

5 MR. BEHAR: So it's a little
6 different.

7 MS. CONDE: Right, but it was
8 because of facing, and I just want to
9 clarify that, because all the lots on
10 the Gateway project face --

11 MR. BEHAR: But that was a
12 self-imposed setback.

13 MS. CONDE: None of them face
14 LeJeune. It's a side setback on
15 LeJeune.

16 MR. AIZENSTAT: So the Gables
17 Gateway, if I understand this correctly,
18 could have been brought up to LeJeune?

19 MR. BEHAR: The arcade.

20 MS. CONDE: With --

21 MR. AIZENSTAT: Or a section?

22 MS. CONDE: With step-backs --

23 MR. BEHAR: Yes.

24 MS. CONDE: -- correct.

25 MR. AIZENSTAT: Okay.

1 MS. CONDE: But not in order to do
2 step-backs, they complied with the
3 required setback of 15 feet --

4 MR. AIZENSTAT: Understood.

5 MS. CONDE: -- as a side setback,
6 not as a front setback.

7 MR. AIZENSTAT: Thank you.

8 MR. BEHAR: Now -- thank you,
9 Dulce -- I'd like to call the architect
10 or the applicant to see if anything was
11 made, any attempt made to address our
12 concern from the last meeting.

13 MR. DAMIAN: Excuse me, I have to
14 rebring my point of order. This is
15 opening up the public hearing again.
16 The point that was made by the Chairman
17 was -- and by other members was, the
18 reason I go along with this, that we
19 didn't need to do another publication,
20 was the public hearing is over, there is
21 no more testimony. It's over.

22 MR. AIZENSTAT: I was actually
23 going to ask that question to the City
24 Attorney, that if there are any changes
25 in the project, does that then open up

1 the public hearing again, if there's
2 changes from the last time?

3 MS. HERNANDEZ: Again, as I
4 indicated previously when you asked the
5 question as to whether or not you can
6 inquire, you can ask questions of any of
7 the individuals who have testified on
8 this project, of the Planning Director.
9 The applicant proceeds at their own
10 risk. Mr. Damian has issued an
11 objection, saying, "By doing so, I
12 believe you are reopening the public
13 hearing process and you are therefore
14 not just continuing the deliberations of
15 the Board."

16 As you know, the deliberations of
17 the Board have always included questions
18 and answers. So that is an issue that's
19 going to be decided between the parties
20 at a later date in a court of law, you
21 know.

22 MR. AIZENSTAT: No, I understand
23 about the questions and answers, but I'm
24 just wondering if you actually -- if
25 there is a change, and I don't know that

1 there is, but if there is a change,
2 then --

3 MS. HERNANDEZ: Well, once you get
4 your answer, you may decide that you
5 want to continue this or not, I mean,
6 you know --

7 MR. DAMIAN: My point is -- my
8 point of order is made.

9 CHAIRMAN KORGE: Yes, thank you.

10 MR. GELABERT-NAVIA: Can you hear
11 me?

12 MR. AIZENSTAT: Yes.

13 CHAIRMAN KORGE: Yeah.

14 (Thereupon, Mr. Salman arrived.)

15 MR. GELABERT-NAVIA: As you can
16 imagine, you know, we've been working on
17 this project now for about a year and a
18 half, and we've examined a lot of
19 alternatives, and frankly, after the
20 last meeting, even though we had not had
21 the opportunity to hear your concerns as
22 we have today, our client came to us and
23 said, "If this comes up, you know, what
24 could we do? If this -- "

25 CHAIRMAN KORGE: Excuse me for

1 interrupting you.

2 For the record, Javier Salman has
3 arrived. Continue.

4 MR. GELABERT-NAVIA: So our client
5 has kept us busy since the last meeting,
6 trying to anticipate any concerns that
7 you might have.

8 Laura -- maybe I should -- One of
9 these days, the architect will be able
10 to talk.

11 If Laura can speak about the alley,
12 please.

13 MS. RUSSO: Good evening,
14 Mr. Chair, Members of the Board.

15 For the record, Laura Russo, with
16 offices at 2655 LeJeune Road. What I
17 had just written in a note was to ask
18 Jose to allow me to clarify the question
19 you had asked regarding the FAR and the
20 alley. And you may or may not have
21 noticed this package that Staff gave
22 you, we do not use the total 3.5 FAR
23 that would be allowed on the project.
24 We're under the FAR.

25 And your answer is, we used some of

1 the alley. The alley is 6,000 square
2 feet. It could go to 3.5 times 6,000,
3 for about 21, 22,000 square feet. We
4 only used six.

5 CHAIRMAN KORGE: So it adds an
6 extra 6,000 square feet?

7 MS. RUSSO: Excuse me?

8 CHAIRMAN KORGE: It adds an extra
9 6,000 square --

10 MS. RUSSO: Adds an extra 6,000,
11 not the potential -- whatever 6,000
12 times 3.5 -- I think it's twenty-one
13 five.

14 CHAIRMAN KORGE: Right.

15 MS. RUSSO: So it does not use its
16 entire potential.

17 So, yes, we did use some, but we
18 did not use the entire amount, so we're
19 leaving FAR on the table in what would
20 have been the scenario that you
21 proposed.

22 CHAIRMAN KORGE: Right.

23 MS. RUSSO: So I just wanted
24 that -- because it isn't clear-cut and,
25 you know, it may work into some of the

1 things that Jose is going to discuss.

2 MR. GELABERT-NAVIA: I'm actually
3 not upset about the attorneys taking all
4 the attention. I'm married to one, and
5 I can't get a word in edgewise, anyway,
6 at home or other places.

7 Basically, there are two issues
8 that have been brought up, the --
9 whether we are using -- you know,
10 Mr. Korge is concerned about using the
11 additional FAR, and I know that, again,
12 there is a concern about the presence of
13 the building over on LeJeune Road, and
14 again, like I was saying before, we've
15 examined a number of alternatives, and I
16 brought in a number of boards just in
17 case there might be an opportunity to
18 present what -- what we can show you
19 today, addressing those concerns.

20 MR. RIEL: You're going to -- you
21 need to bring the mike.

22 MR. GELABERT-NAVIA: Our -- again,
23 from Day One, we really have tried to be
24 a good neighbor. Our client would be
25 willing to move the whole building back

1 eight feet, which would align the
2 building exactly with the way one
3 building that is there already, which is
4 Village of Merrick Park -- the Nieman
5 Marcus and Village of Merrick Park has
6 this kind of section.

7 So, by moving the building back, we
8 actually lose close to 9,000 square feet
9 of area. So, if that is a condition
10 that you would like to, you know, impose
11 on the project, hopefully for a positive
12 recommendation, again, our client would
13 be willing to move the whole building
14 back the eight feet, and also on the top
15 floors -- I'm sorry, I can't -- I've got
16 to take the mike.

17 Can you hear me?

18 UNIDENTIFIED MAN: Go to the easel.

19 MR. GELABERT-NAVIA: Okay.

20 The other thing that again --
21 again, we would be willing to move the
22 whole building back, and also, we would
23 be willing to cut the building back on
24 the fourth floor and the fifth floor.
25 So the building would be cut next to the

1 area -- next to Gables Gateway, which
2 has been a concern in terms of the
3 massive -- massiveness of the project.
4 So we would be willing to do both
5 things, if that, you know --

6 MR. BEHAR: And by doing that, you
7 eliminate the arcades, what appears to
8 be eliminating the arcades, correct?

9 MR. GELABERT-NAVIA: We would have
10 to eliminate the arcade.

11 MR. AIZENSTAT: Is that all you'd
12 eliminate?

13 MR. GELABERT-NAVIA: Well, we
14 eliminate the arcade, and we actually
15 have, on top of the arcade, a whole
16 floor of offices.

17 MR. AIZENSTAT: Correct.

18 MR. GELABERT-NAVIA: By pushing the
19 thing back the eight feet, we're losing
20 eight feet times the whole length of the
21 building that we previously had in
22 offices.

23 MR. AIZENSTAT: Are you then
24 stepping -- are you then going to step
25 back, also?

1 MR. GELABERT-NAVIA: Right. So
2 then what -- the reason we're not
3 pushing it back further, we're allowing
4 those two feet --

5 MR. AIZENSTAT: Right.

6 MR. GELABERT-NAVIA: -- those two
7 feet are critical, because the elevation
8 that was approved by the Board of
9 Architects, which we felt was -- you
10 know, again, we went to the Board of
11 Architects, you know, a couple of times,
12 showed them that on that second floor
13 there was a step-back, there was a
14 trellis, which would allow for
15 landscaping to exist at that point, and
16 then the step-backs continue.

17 What we're, in essence, doing by
18 pushing the whole thing back is that
19 instead of having a balcony on that
20 third floor, we now have a planter,
21 because --

22 MR. BEHAR: But there's a break in
23 that facade. There is --

24 MR. GELABERT-NAVIA: There is -- it
25 goes again there and then it breaks

1 back --

2 MR. AIZENSTAT: Okay.

3 MR. GELABERT-NAVIA: -- moves back,
4 and then the step-backs continue the
5 same way they were before, but then in
6 addition, we would cut the building off
7 on the corner and then step it back on
8 that direction, as well.

9 MR. AIZENSTAT: But you're not
10 illustrating that on here.

11 MR. GELABERT-NAVIA: Yeah.

12 MR. BEHAR: Yeah.

13 MR. AIZENSTAT: Where is it cut on
14 the corner?

15 MR. GELABERT-NAVIA: Right here.

16 MR. BEHAR: Right here.

17 MR. FLANAGAN: When you're cutting
18 the corner on the south side, how far
19 back, how deep in the project is that?

20 MR. GELABERT-NAVIA: That is 10
21 feet.

22 MR. BEHAR: Have you -- Let me ask
23 a question. Have you had an opportunity
24 to meet with either the City Architect
25 or the Board of Architects to show

1 them --

2 MR. GELABERT-NAVIA: Well, we have
3 not met with the Board of Architects,
4 because, again, we wanted to see which,
5 you know, direction you wanted us to go,
6 but we have met with the City Architect,
7 and we showed the City Architect four
8 different options, again hopefully
9 anticipating that we could move past the
10 meeting today, and again, whatever
11 recommendation you give us, Mr. Mindreau
12 told us that we then have to take it to
13 the Board of Architects, to make sure
14 that it is consistent with what they had
15 approved before, so we don't want to
16 override their approval.

17 MR. AIZENSTAT: By doing these
18 cutbacks, how many square feet are you
19 cutting back on your project, or what
20 percentage of your project are you
21 cutting back?

22 MR. BEHAR: You stated 9,000
23 square -- is that right?

24 MR. GELABERT-NAVIA: There's about
25 9,000 square feet that we --

1 MR. AIZENSTAT: Out of -- Your
2 project is how many square feet?

3 MR. GELABERT-NAVIA: There's about
4 280,000.

5 MR. AIZENSTAT: It's a very small
6 percentage.

7 MR. SALMAN: Four and a half
8 percent.

9 MR. AIZENSTAT: What?

10 MR. SALMAN: Four and a half
11 percent.

12 Now, you are leaving the colonnade
13 as part of the facade and still
14 installing the awnings?

15 MR. GELABERT-NAVIA: We are putting
16 the awnings, but what we have done is,
17 we have pushed it back, but now -- we
18 have a deep elevation -- actually, in a
19 way, I'm copying myself, because that's
20 what we had done in the Village of
21 Merrick Park in the office building that
22 we did a number of years ago, that we
23 had a sort of similar situation, because
24 we actually had a parking garage behind,
25 and the -- in that case, the Rouse

1 Company and the City did not want to
2 shorten the retail spaces too much or
3 else they wouldn't work.

4 So what we did is what we're
5 proposing here, is that on the ground
6 floor, the building comes out several
7 feet, so that as you're walking past the
8 street, what you experience is that
9 first plane.

10 MR. SALMAN: The articulation.

11 MR. GELABERT-NAVIA: And then it's
12 deep enough so that we can actually grow
13 things on it, although Rouse has never
14 planted anything on it, but that was the
15 idea, and then the trellis still exists.
16 So you would still have the landscape --
17 in essence, it's the same elevation,
18 except it's been pushed back, and as you
19 can see in the plan, what we are able to
20 do now is, instead of having the five
21 feet of landscaping, we would have 13
22 feet.

23 MR. BEHAR: For the back of the
24 curb, the street curb, you have 13 feet
25 to the front -- to the face of the

1 building --

2 MR. GELABERT-NAVIA: Right.

3 MR. BEHAR: -- which now gives you
4 an adequate area to grow some plants.

5 MR. GELABERT-NAVIA: To grow, yeah.

6 MR. BEHAR: Yeah. You're showing
7 here a continuous green space on LeJeune
8 Road.

9 MR. GELABERT-NAVIA: Yeah.

10 MR. BEHAR: Let me ask you a
11 question. Do you really think that --
12 When I -- My office is very close to
13 here. As a matter of fact, I come
14 through here to walk to Havana Harry.
15 To cross the street here, you're going
16 to force me to go or force the
17 pedestrians to go to the corners.

18 MR. GELABERT-NAVIA: Yeah.

19 MR. BEHAR: You don't think that
20 interrupting that continuous landscape
21 may be, urbanistically, a better
22 solution?

23 MR. GELABERT-NAVIA: Then we'd be,
24 you know -- whatever, you know, you
25 would like us to do there, we'd love to

1 do it. At this point, we tried to do as
2 much landscaping as we could on LeJeune
3 to soften that side.

4 MR. SALMAN: Yeah, but I think
5 Robert's comment had to do with
6 crossing, crossing LeJeune Road.

7 MR. GELABERT-NAVIA: No, it would
8 be cutting -- cutting this part, you
9 mean?

10 MR. BEHAR: Yeah. It shows to be
11 an entrance.

12 MR. SALMAN: Uh-huh.

13 MR. BEHAR: I mean, you're not
14 emphasizing -- you've got -- you can't
15 even access it, so it's really a
16 symbolic entrance there, because you've
17 got to come around the side.

18 MR. AIZENSTAT: Is there a light
19 there presently?

20 MR. BEHAR: No, there's -- the
21 only --

22 MR. AIZENSTAT: Then let me ask you
23 a question. LeJeune is a State highway?

24 MR. BEHAR: Yes, it is.

25 MR. AIZENSTAT: That means it's

1 controlled by the DOT --

2 MR. BEHAR: Definitely.

3 MR. AIZENSTAT: -- as far as the
4 light? Then would you want pedestrians
5 crossing a busy street like LeJeune when
6 there's not a light?

7 MR. BEHAR: But it's not so much
8 for crossing; it's just the visibility.
9 It's not the crossing. I'm not
10 encouraging the crossing.

11 MR. AIZENSTAT: Oh, okay.

12 MR. BEHAR: Just the visibility.

13 MR. GELABERT-NAVIA: We can take it
14 off. Actually, the entrance, even
15 though there's not a crossing there,
16 actually lines up with Vilabella. If
17 you look down Vilabella, that's where
18 the entrance is.

19 MR. BEHAR: You did say you met
20 with the architect, with the City
21 Architect?

22 MR. GELABERT-NAVIA: Yes, and he's
23 here and maybe --

24 MR. BEHAR: Can I -- Mr. Mindreau,
25 can I ask you a question, please?

1 one, the second one being removing the
2 corner, the upper corner of the fourth
3 and fifth floors, to lessen the mass of
4 the building and the impact of that
5 building on LeJeune, and the third one,
6 a combination of those in some way.

7 I think the Board would respond
8 favorably in terms of both the approval
9 for the solution as well as the
10 Mediterranean bonus issue that the
11 project requires.

12 My personal feeling was that the
13 arcade was a nice relief, although it
14 keeps the building very close to LeJeune
15 Road, at the zero lot line. I really
16 feel that all three solutions are
17 equitable and they respond well to the
18 idea.

19 If the Board, if your Board -- if
20 you feel very strongly about the
21 separation, the distance of the building
22 between the building and the curb at
23 LeJeune, I would be very favorable to
24 that solution, as well.

25 MR. BEHAR: Thank you.

1 I -- Mr. Chairman, I feel that the
2 applicant has a solution here, a
3 proposed solution, that will -- will
4 address some of my concerns,
5 particularly the setback on LeJeune
6 Road. If they feel that they could make
7 this doable, I would amend my motion for
8 approval to incorporate moving the
9 building back the eight feet from the
10 east -- from the west property line,
11 from LeJeune Road, in order to
12 accommodate this setback.

13 I would ask the applicant to look
14 at the landscape area, just to possibly
15 introduce a break where that element,
16 the entrance element, occurs, at least
17 to visualize that all the way through
18 the building and the ground, not
19 necessarily to promote a crossing there,
20 but just visible -- you know, the
21 aesthetics, take that piece all the way
22 down. But that's -- that's at their
23 discretion, to work with Staff on that.

24 CHAIRMAN KORGE: Does the second --
25 Does the second of the --

1 MR. DAMIAN: Excuse me. Is the
2 public hearing closed yet?

3 MR. BEHAR: The public hearing was
4 closed already, last --

5 MR. DAMIAN: Excuse me. We had the
6 attorney for the applicant up here,
7 making argument. We had --

8 CHAIRMAN KORGE: Mr. Damian, is
9 there something else you'd like to add?
10 Go ahead.

11 MR. DAMIAN: Yes. Yes, I would. I
12 believe, in fact, that we have reopened
13 testimony by the applicant, and what we
14 find is, in response to the concerns of
15 this Board of the massiveness of this
16 project in that area, that the applicant
17 is willing to make certain changes to
18 the project, all well and good.

19 The notice -- we'll go back to your
20 notice. The notice that was sent out to
21 the residents of the area was based upon
22 a plan which no longer is the one that
23 the applicant is now presenting to the
24 Board. Therefore, the notice that was
25 given to the residents is inadequate, in

1 that it is not the plan that's coming
2 before this discretionary Board -- the
3 Board for discretionary review, and
4 that's what we have, is discretionary
5 review.

6 It ought to be renoticed with the
7 new plan, number one.

8 Number two, the order presented in
9 the zoning ordinance of the manner in
10 which a discretionary review takes place
11 requires Board of Architect review prior
12 to presentation to this Board. Again,
13 there has been changes to the project
14 that require architectural approval,
15 Architectural Board approval. Having
16 the City Architect say he thinks that
17 the Board of Architects will approve it
18 is not approval. We have a very
19 specific procedure for discretionary
20 review. The Board of Architects must
21 approve. They have not approved this
22 project as now being presented.

23 I would respectfully request again
24 that this project be sent to the Board
25 of Architects for approval in the manner

1 that has been suggested, in which the
2 applicant has said they will do it. The
3 Board of Architects, if they should
4 approve it, it would then come back to
5 this Board. This Board would advertise
6 the project as it is being proposed to
7 be permitted, and then there would be
8 public comment on the project as it is
9 being presented to this Board.

10 CHAIRMAN KORGE: Thank you.

11 Yes, sir.

12 MR. GARCIA-SERRA: Okay, just a
13 quick response to Mr. Damian's points
14 here.

15 Again, the public hearing was
16 noticed. The continuation was noticed.
17 Everybody who was at the November
18 hearing had actual notice of this
19 hearing taking place now on December
20 10th, and the public will have again
21 even another opportunity to present any
22 comments that they might have on any
23 plan that's proposed or recommended for
24 approval by this Board at the City
25 Commission, at the public hearings that

1 are going to happen there.

2 As far as procedure is concerned,
3 the Board of Architects did previously
4 approve this application. What's being
5 discussed is a revision to one
6 elevation. It's possible, if this Board
7 so deemed, to recommend approval of the
8 application as modified with a condition
9 that that elevation be approved by the
10 Board of Architects prior to it going to
11 the City Commission.

12 We have ample opportunity, several
13 Board of Architects meetings between now
14 and the next City Commission meeting.

15 And, of course, in fairness, this
16 is the third time we've been up here
17 before this Board, and we would just
18 like to proceed and be able to go on to
19 the City Commission.

20 MR. AIZENSTAT: Eric, can I --

21 MS. RIVERON: So, excuse me, does
22 the public now have an opportunity to
23 respond to the proposed changes at all?

24 CHAIRMAN KORGE: If you'd like to
25 respond, I'll --

1 MR. BEHAR: No --

2 MR. FLANAGAN: Can I --

3 MR. BEHAR: No.

4 MR. AIZENSTAT: You're going to
5 open up the --

6 MR. FLANAGAN: Can I ask a
7 question?

8 CHAIRMAN KORGE: Hold on.

9 MR. FLANAGAN: I'm sorry.

10 CHAIRMAN KORGE: Hold on a second.
11 First of all, as far as I'm concerned,
12 if there are going to be architectural
13 changes, it's going to have to go back
14 to the Board of Architects, and I don't
15 know if I'm speaking for everybody here,
16 but I suspect that I am.

17 MR. AIZENSTAT: That was the
18 question I had.

19 CHAIRMAN KORGE: So -- and we're
20 really not in a position to make --
21 although we have two very fine
22 architects on our Board, we're not in a
23 position to make, you know, these types
24 of determinations respecting the
25 architectural integrity and the

1 conformity to the Mediterranean
2 Ordinance. There have been changes or
3 proposed changes that may affect
4 Mediterranean bonus, for all I know. I
5 don't know.

6 So I would expect that if you're
7 going to modify your motion, it's going
8 to, at a minimum, provide architectural
9 review, go back to the Board of
10 Architects. Is that --

11 MR. AIZENSTAT: If I may, before
12 you answer that --

13 Eric, are we -- on a procedural
14 basis, do we need to go back to the
15 Board of Architects' approval before we
16 approve this?

17 MR. RIEL: Let me answer that by
18 telling you what the Board has done in
19 the past. You have recommended approval
20 of projects subject to changes in
21 architecture or landscaping or other
22 matters, subject to further review by
23 City Staff or the Board of Architects.

24 MR. AIZENSTAT: Correct. Okay,
25 so --

1 MR. RIEL: So, for instance, if you
2 wanted a different plant material, it
3 would go to the Public Service
4 Department, they would provide comments,
5 and that approval would be secured by,
6 you know, the Public Service Department
7 and then it would go forward to the
8 Commission.

9 Now, in the past, also, if the
10 Board has felt that they wanted to see
11 the project again, they've continued it
12 to the next meeting, allowing the plans
13 to be revamped and then brought back to
14 this Board.

15 So, basically, it's up to the
16 Board, but for the most part, in my
17 opinion, they can proceed forward, go to
18 the Board of Architects. Obviously,
19 your recommendation and the Board of
20 Architects plan will go to the
21 Commission when this is scheduled.

22 MR. AIZENSTAT: And then, Liz, if I
23 can --

24 MS. HERNANDEZ: Yes, sir.

25 MR. AIZENSTAT: -- as far as the

1 City Attorney is concerned, or the
2 position of the City, they're satisfied
3 with the procedure that has gone on? I
4 understand that it would be up to either
5 attorney, if they want to appeal it or
6 not appeal it; that's between
7 themselves.

8 MS. HERNANDEZ: Right.

9 MR. AIZENSTAT: But from the City's
10 point of view, the City is okay?

11 MS. HERNANDEZ: It is the
12 determination of our office that we have
13 proceeded in accordance with our rules
14 and with statutory requirements.

15 MR. AIZENSTAT: Thank you.

16 MS. HERNANDEZ: Okay.

17 CHAIRMAN KORGE: So, procedurally,
18 I guess we are -- You were going to
19 amend your motion to accommodate the
20 proposed revisions to the architecture,
21 the setback in particular.

22 MR. BEHAR: That's correct.

23 CHAIRMAN KORGE: And did you want
24 to make it subject to further approval
25 by the Board of Architects or --

1 MS. RIVERON: I'm sorry, excuse me.
2 I believe my question wasn't answered.
3 I think we kind of got off track. So my
4 question was, now that there is a
5 proposed change, will it be open to the
6 public again or not, before we take
7 the -- the proposed motion?

8 MR. BEHAR: Mr. Chairman, I don't
9 think it needs to be opened to the
10 public again, based on what I'm hearing
11 from our attorney. I think that we make
12 a recommendation --

13 MS. HERNANDEZ: Right.

14 MR. BEHAR: -- that we pass it on,
15 it goes forward, if we decide that it
16 goes to the Board of Architects, and
17 then it moves with that recommendation.
18 But I do not personally feel that it has
19 to be opened to the public again.

20 MS. BOLTON: It's essential to be
21 opened to the public, essential.

22 MS. RIVERON: I would like an
23 opportunity to be heard on what was just
24 said. It's going to take me five
25 minutes.

1 CHAIRMAN KORGE: Take your five
2 minutes, please.

3 MS. RIVERON: Okay. My name is
4 Adis Riveron, and I live at 426 Alminar
5 Avenue.

6 The proposed changes, the setback,
7 the eight feet, the cutting the building
8 here and there, I mean, I'm not an
9 architect and it doesn't mean a whole
10 lot to me. I'm a resident that lives
11 half a block away from this area, and
12 this is a massive, massive project.
13 What I've heard the architect say
14 doesn't change that at all.

15 When I stand in front of my house
16 with my kids, I'm going to see this
17 massive structure, and this is not going
18 to change. The fact that it's going to
19 be cut here or there is not going to
20 change that. It's going to change the
21 property value of my home. People are
22 not going to want to buy this house.
23 This area is a single-family area, and
24 the LeJeune area, I understand, is
25 different, but there's single-family

1 homes there, and this massive building
2 is going to obstruct my view, the view
3 of everyone from my block, and the view
4 of anyone who may, at some point in the
5 future, want to buy my home or any of
6 the other homes in this neighborhood.

7 The changes that are being proposed
8 don't, in any way, affect that situation
9 and it doesn't change the concerns that
10 I had from the last meeting at all. I
11 don't know if it changes your concerns,
12 I know that you raised that, as well,
13 but I just wanted to point that out.

14 Thank you.

15 CHAIRMAN KORGE: Thank you.

16 MR. BEHAR: Mr. Chairman, I made a
17 motion and I amended my motion.

18 CHAIRMAN KORGE: Yes.

19 MR. BEHAR: And I don't know if it
20 was seconded or not.

21 CHAIRMAN KORGE: What was the
22 amendment, again?

23 MR. BEHAR: For -- to accept the
24 proposed setback of the building, of the
25 eight-foot setback --

1 CHAIRMAN KORGE: Uh-huh.

2 MR. BEHAR: -- contingent that it
3 go to the Board of Architects, and get
4 it -- between today and the time it goes
5 to the Commission, and get the approval
6 of the Board of Architects.

7 CHAIRMAN KORGE: Uh-huh.

8 MR. RIEL: Just two questions,
9 Mr. Chair. Subject to Staff's
10 conditions that --

11 MR. BEHAR: Yes.

12 MR. RIEL: -- we've recommended?

13 MR. BEHAR: Yes, correct.

14 MR. RIEL: Okay. And then just one
15 other clarification. You had -- The
16 architect had indicated to cut back the
17 building on the fourth and fifth floor
18 corner. Was that included in your
19 motion or not?

20 MR. BEHAR: Yes.

21 MR. RIEL: I just wanted to make
22 sure, make sure we're all clear.

23 MR. BEHAR: Yes.

24 CHAIRMAN KORGE: The second, does
25 the second accept --

1 MR. SALMAN: I'll second it.

2 CHAIRMAN KORGE: No --

3 MS. MAROON: Excuse me. I sat here
4 very calmly, Mr. Korge --

5 MR. FLANAGAN: I seconded it
6 earlier. I seconded the motion earlier.

7 MS. MAROON: Excuse me. I sat here
8 very calmly, Mr. Korge. I've been --

9 My name is Shirley Maroon. Since
10 this is a public hearing which was never
11 supposed to take place here, and that's
12 why my neighbors aren't here -- so now,
13 if everyone is going to speak, it's
14 turned into a circus, and then I intend
15 to speak, too. I have a few things to
16 say.

17 First of all, this lovely lady, Pat
18 Keon, one of your Board members, wasn't
19 even here at the last meeting. Is she
20 going to be voting or is she not going
21 to be voting? Because she was not privy
22 to any of the information. She didn't
23 see the concerned neighbors. She didn't
24 hear about the 300 signatures that I and
25 along with my other neighbors and my

1 daughter over there, in the heat of the
2 summer, went to notify our neighbors --

3 CHAIRMAN KORGE: Ms. Maroon, she's
4 got the transcript of the prior --

5 MS. MAROON: That's not good
6 enough. I serve on a Board, also, and I
7 don't think it's fair. I don't think
8 it's fair.

9 CHAIRMAN KORGE: Well, let's calm
10 down, now, okay? Because you need to
11 calm down.

12 MS. MAROON: I'm going to calm
13 down. I just want to express my
14 feelings. I sat here very patiently.
15 We pay an attorney, and my neighbors
16 have a right to be here, because they're
17 paying for this man. They have hired
18 him, along with myself, and they deserve
19 to be here, first of all. Second of
20 all --

21 CHAIRMAN KORGE: Well, they were --
22 ma'am, ma'am, you know, everybody was
23 noticed at the last meeting. I don't
24 understand this. Everybody was noticed
25 at the last meeting that at the next

1 meeting we're going to hear this and
2 finish it.

3 MS. MAROON: Okay, fine.

4 CHAIRMAN KORGE: It was cut short.

5 Now --

6 MS. MAROON: But that wasn't their
7 understanding.

8 CHAIRMAN KORGE: Well, then, they
9 didn't listen very closely.

10 MS. MAROON: So that's why we're
11 here to discuss it. That's why we're
12 here calmly to discuss it.

13 CHAIRMAN KORGE: We can't -- but we
14 can't hold up public business every time
15 somebody is upset or every time that we
16 get a continuance on a hearing, because
17 somebody wasn't paying attention.

18 You're here, Mr. Damian is here, and
19 we've heard all their concerns.

20 MS. MAROON: Well, I was waiting
21 until --

22 CHAIRMAN KORGE: I can tell you --
23 I can assure you that I heard all their
24 concerns. I saw all of them. They
25 spoke very forcefully, they made some

1 very good points --

2 MS. MAROON: But Pat Keon didn't.
3 Is she voting today?

4 CHAIRMAN KORGE: I'm not here to
5 speak for Mrs. Keon, she's got --

6 MS. MAROON: Well, what are the
7 rules of order? Is she allowed to vote
8 or not, because she was not here for the
9 public hearing, and that's my question.

10 MS. HERNANDEZ: She is absolutely
11 allowed to vote on the matter.

12 MS. MAROON: Well, I sit on a
13 Board, and I would be very uncomfortable
14 if I had to vote, not hearing the
15 concerns of everyone. This is only half
16 of the concerns, and it's mainly that
17 half. They've got about 15 people over
18 here, to two of us, or three. Roxcy
19 Bolton was kind enough to come.

20 I didn't even know that this
21 meeting was going to take place until
22 3:30 this afternoon.

23 CHAIRMAN KORGE: Well, weren't you
24 at the last meeting?

25 MS. MAROON: I was waiting for an

1 answer, and I spoke to Mr. Riel last
2 Thursday and I asked him what was going
3 on, and he told me that he was waiting
4 to hear from the City Attorney, then she
5 told me she was waiting to hear from
6 you, and everybody seems to be passing
7 the buck.

8 I don't want to be -- I don't want
9 to be ugly up here. I really want to be
10 calm. It's just that I have a
11 responsibility, because I have 300
12 neighbors and I'm telling you they
13 signed petitions and they have a right
14 and they've hired an attorney and they
15 have a right to come back and hear this.

16 MR. AIZENSTAT: Can I --

17 MS. MAROON: And the fact that
18 you're going to send this project, this
19 massive, 200,000-square-foot project
20 that is going to disrupt our
21 neighborhood, then these people have a
22 right to come, and you people have a
23 right and should ask for this project to
24 come back to you, not to send it for
25 Staff to approve it or this one or that

1 one. It's only your right and duty as
2 Board members to ask it to come back,
3 and they have a right to bring it back,
4 but what I'm asking you today is to,
5 please, if you want to hear it again,
6 make a motion to bring it back after the
7 architects' approval.

8 MR. AIZENSTAT: I just want --

9 MS. MAROON: And that's only fair.

10 CHAIRMAN KORGE: All right. But we
11 have a motion on the floor now.

12 MS. MAROON: And that's what my
13 request is.

14 CHAIRMAN KORGE: It's been -- it's
15 been seconded. It's not out of order,
16 and we're going to hear -- we're going
17 to discuss and hear that motion, and Pat
18 will vote however she chooses to vote.
19 I don't control her vote.

20 MR. BEHAR: Mr. Chairman, we had a
21 motion and a second. You should call
22 the roll.

23 CHAIRMAN KORGE: There's a motion
24 and a second, and I'm going to call the
25 roll. Now we have more discussion, if

1 anybody wishes to discuss.

2 MS. MAROON: No, I don't even know
3 what it was that --

4 CHAIRMAN KORGE: The motion was to
5 approve this project, subject to all the
6 conditions imposed by the City and
7 including the additional setbacks and
8 cut-backs and so forth or the
9 architectural changes that were proposed
10 by the applicant to address some of our
11 concerns, subject to Board of
12 Architecture approval.

13 MS. MAROON: Well, why can't you
14 ask it to come back again? Bring it
15 back and let the neighbors see it. This
16 woman just told you it's not fair.

17 CHAIRMAN KORGE: Because that's not
18 the motion on the table right now.

19 MS. MAROON: Well, I'm asking,
20 then, please, as a request.

21 CHAIRMAN KORGE: I don't --

22 MS. MAROON: My plea is to --

23 CHAIRMAN KORGE: The motion is
24 not -- but the motion --

25 Ma'am, the motion is not out of

1 order. It's not for me --

2 MS. MAROON: Okay, and I'm not out
3 of order by asking.

4 CHAIRMAN KORGE: Actually, you are
5 out of order, but I'm letting you,
6 anyway, because I understand that
7 you're --

8 MS. MAROON: Frustrated.

9 CHAIRMAN KORGE: I understand your
10 frustration and your concern.

11 MS. MAROON: That's right.

12 CHAIRMAN KORGE: The point is, the
13 point is, the motion is not out of
14 order. I don't have the power to kick
15 his motion off, when it's been seconded,
16 because I may or may not disagree -- may
17 or may not agree with it. So the
18 motion's in order. We're going to take
19 discussion on the motion, and after the
20 discussion on the motion, we'll take a
21 vote, and the motion will pass or fail
22 on its merits. That's the best I can
23 do.

24 MS. MAROON: But when I --

25 CHAIRMAN KORGE: It may not be what

1 you want, but it is the best I can do.

2 MS. MAROON: But the objection by
3 my attorney was that this was a meeting
4 that was supposed to be voted on, on the
5 original site plan, and now everything
6 has been changed, without a public
7 hearing to the neighbors to understand
8 what you people are voting on today.

9 This is not right.

10 MR. FLANAGAN: Can I --

11 MS. MAROON: It's unconstitutional,
12 in fact.

13 MR. FLANAGAN: Can I just ask --

14 MS. MAROON: It's unconstitutional.

15 MR. FLANAGAN: In regards to --

16 CHAIRMAN KORGE: Jeff.

17 MR. FLANAGAN: -- modifying the
18 site plan, procedurally, or under the
19 City Code, the applicant is allowed to
20 modify a site plan, I imagine,
21 especially because this is less
22 intense --

23 MS. HERNANDEZ: Absolutely.

24 MR. FLANAGAN: -- than the site
25 plan that was advertised for the

1 hearing?

2 MS. HERNANDEZ: The intensity of
3 original application. It's absolutely
4 within the powers of this --

5 MR. FLANAGAN: And going to the
6 motion, Robert, if we could also
7 include -- at the last hearing there
8 was, I think, a decent amount of
9 discussion regarding the alleyway, and
10 the applicant offered to include a
11 restrictive covenant --

12 MS. HERNANDEZ: Right.

13 MR. FLANAGAN: -- that would ensure
14 that the alleyway would remain open to
15 the public -- I mean, it's under private
16 ownership, but that it won't be gated,
17 it won't be closed. It would
18 effectively serve like a public alley
19 that we all know within the City.

20 So I just want to make sure,
21 because there was a lot of concern from
22 the neighbors, and the applicant agreed
23 to it, that that -- if it's appropriate
24 to be --

25 MS. MAROON: But the neighbors

1 aren't here. The neighbors aren't here
2 to discuss it with you.

3 MR. FLANAGAN: I'm sorry, it was
4 discussed last meeting at length --

5 MS. MAROON: But not this plan, not
6 this plan.

7 MR. FLANAGAN: -- their concern
8 about the alleyway. And so --

9 MS. MAROON: You can't change
10 things in midstream, I'm sorry.

11 MR. FLANAGAN: It's appropriate as
12 a condition to the approval --

13 MR. BEHAR: I'll accept a friendly
14 amendment.

15 MR. RIEL: And just for a matter of
16 record, the applicant agrees? Just a
17 simple yes or no.

18 MR. GARCIA-SERRA: Yes, we reviewed
19 the properties and went over the new --
20 right.

21 CHAIRMAN KORGE: And did the second
22 agree with the --

23 MR. FLANAGAN: Yes.

24 CHAIRMAN KORGE: Yes, okay. Thank
25 you. Discussion on this?

1 MS. KEON: May I ask a question?

2 CHAIRMAN KORGE: Yeah, by all
3 means.

4 MS. KEON: With respect to the
5 changes that you are proposing for this,
6 those are the changes along LeJeune Road
7 that you're -- that you will move this
8 back, but you're also eliminating the
9 arcade; is that -- is that correct?
10 That's correct, you're omitting the
11 arcade but you're going to push it back?

12 MS. RUSSO: That is correct.

13 MS. KEON: All right. When the
14 zoning -- when they spoke about the
15 review of the project and you questioned
16 what the setback on LeJeune was, I think
17 we were told that they were able to
18 bring it closer to LeJeune because that
19 was a front setback; is that right?

20 MS. CONDE: Yes.

21 MS. KEON: But yet you've also
22 raised the concern about the entrance to
23 this building, that it doesn't actually
24 act as the entrance to the building. It
25 isn't the entrance to the building? It

1 is --

2 MR. BEHAR: No, Pat, I wasn't
3 referring to the entrance. I was just
4 referring to a small portion of the
5 landscape that appears to be a green
6 space, but it's a matter -- all I asked
7 was a consideration to look at that.

8 MS. KEON: Because that is the
9 entrance to the building -- if that is
10 the front setback, you would assume that
11 that would be the front of the building.
12 Is that -- I mean, I would assume that
13 that -- I would assume that that's what
14 it was and you've taken advantage of
15 that setback and moved it closer, yet I
16 think when the architect spoke, he said
17 to you, when you asked him about that --
18 I thought he said that that wasn't
19 really the entrance to the building,
20 that the entrance was on the side.

21 MS. RUSSO: It is a real entrance.
22 It serves as an entrance.

23 MS. KEON: It serves as an
24 entrance --

25 MS. RUSSO: It serves as an

1 entrance.

2 MS. KEON: -- but it's really not
3 the front of the building; is that
4 right?

5 MS. RUSSO: It's a focal
6 entrance --

7 MS. KEON: I thought that's what
8 you said.

9 MR. GELABERT-NAVIA: The
10 building -- there's several entrances to
11 the building, because the building takes
12 over what is, in essence, a very large
13 block. So there's an entrance from
14 LeJeune, there's an entrance from Greco,
15 and there's an entrance from a future
16 City park which will be at the
17 intersection of Greco and Granello.

18 MS. KEON: Right.

19 MR. GELABERT-NAVIA: And there's
20 vehicular entrance from Granello. So
21 there's actually an entrance from every
22 street that the project faces.

23 MS. KEON: But then just -- I mean,
24 then, because of the site plan and then
25 with the application of the Code to the

1 site plan, you have to set one as a
2 front setback, and that's the one that
3 is chosen to be the front setback, I'm
4 assuming, LeJeune? That would appear,
5 because if that wasn't -- if that wasn't
6 the front, then it would have to be --
7 you would require that it be pushed back
8 the same as the sides, right? Isn't
9 that --

10 MS. CONDE: Right, and the front
11 setback is determined by the facing of
12 the lots.

13 MS. KEON: The facing.

14 MS. CONDE: Right.

15 MS. KEON: Okay.

16 MR. BEHAR: Essentially, what
17 they're doing, Pat, they're self-
18 imposing, with this proposal, a setback
19 which is not required. The required
20 setback is zero. They're proposing to
21 have an eight-foot setback.

22 MS. KEON: No, I understand that,
23 but I think as a -- as a -- from -- if
24 I, as a resident, were looking at
25 this -- and I think that the size of

1 this project is of grave concern, and I
2 did read the transcript, because, no, I
3 wasn't here, but I did read the
4 transcript, and I will agree with you,
5 it probably does not give you the same
6 flavor in reading it as you would have
7 if you were here and participated in it,
8 but I did read it, and I did read the
9 documents that came with it, but -- and
10 the thing that concerned me was truly --
11 was the size of it, and particularly
12 this on LeJeune Road, and wondered, you
13 know, as long as -- you know, when you
14 have -- when it fronts on something and
15 the rationale for that setback being
16 different from side setbacks is because
17 it is your entry, it is forward, it is
18 where you face, it is all those reasons,
19 and yet, you know, that isn't the case
20 with this. It's -- it's -- that isn't
21 the case. Every side of this is really
22 the front of this building. It appears
23 that every side is the front.

24 So that doesn't do anything for the
25 concerns that I have about that, even if

1 they move it back, because I think that
2 the loss of the arcade is a tremendous
3 loss for the people that use this and
4 use those sidewalks and everything else,
5 and yes, I think it should go back, I
6 don't think we should lose the arcade,
7 and I think that the concern, the point
8 that was brought up that when we vacate
9 an alley you have a parcel of land that
10 people aren't paying taxes on and now
11 you do -- I'll tell you that there are a
12 lot of people in this community that
13 would prefer not to pay taxes and
14 maintain their public space. They don't
15 mind giving up that tax dollar, not for
16 one minute, as long as they can maintain
17 their public space and their alleys and
18 all of those other things.

19 So I -- I -- and like Ms. Maroon
20 said, I really was very troubled with my
21 being able to vote on this project,
22 because I wasn't here for that public
23 hearing, but -- and nothing I've heard
24 has made me feel more comfortable that
25 the size of this project doesn't -- is

1 not more -- more than I think would be a
2 good thing for the City to be here.

3 So, you know, I'm still troubled
4 whether I abstain, because I wasn't here
5 for it, or I just say no.

6 MR. AIZENSTAT: Could I just ask a
7 question, maybe, to City Staff?

8 One thing -- this is not indicative
9 of whether I agree or don't agree with
10 the motion, but I think that you should
11 include, also, in the motion -- I don't
12 know if we need to, as far as the land
13 swapping for a park. I don't know if
14 that has to be anywhere in ours.

15 And then my other question would
16 be, as far as the park and the swapping
17 of land, is the square footage that's
18 being swapped the same? Is one greater,
19 one smaller?

20 MS. RUSSO: The land swap is
21 identical in terms of square footage.

22 MR. AIZENSTAT: Thank you.

23 MS. RUSSO: It's square foot for
24 square foot.

25 MR. AIZENSTAT: Thank you.

1 MS. RUSSO: The park will be bigger
2 than the lot, than the land swap, but
3 that is because the City has requested a
4 reconfiguration of the Greco-Granello
5 intersection that will enlarge the park
6 area, but it will be public right-of-
7 way, and the park will be public, but
8 the actual land swap is square foot by
9 square foot.

10 CHAIRMAN KORGE: Javier, do you
11 have any comments, any questions?

12 MR. SALMAN: My comment is that --
13 it addresses the concern of the Board of
14 Architects review. Although the change
15 is substantial from a square footage
16 point of view and from a massing point
17 of view, in my opinion, the
18 architectural elevation has been
19 preserved and it is -- from an
20 elevational point of view, will be
21 identical in that although the setbacks
22 have been reduced a little bit within
23 the building, the imposition of the
24 building on the street addresses all the
25 concerns that I have with regards to

1 this project.

2 The reintroduction of green and
3 green surface area in front of the
4 building between LeJeune Road and the
5 building will go a long way to bringing
6 back the building in line with the
7 surrounding proposed structure.

8 This section of LeJeune is -- is an
9 area that is in transition. We are in
10 an overlay district. The intent of that
11 overlay district is to promote a certain
12 level of density, which the LeJeune
13 right-of-way has to separate between the
14 remnants of single-family behind
15 commercial and these properties.

16 Now, you've exercised your right to
17 not build as much as you wanted to or
18 you could, and I think that that is a
19 neighborly issue and I think that given
20 the fact that you're going to allow the
21 alleyway to be and remain, for all
22 intents and purposes, public, you've
23 addressed all of my concerns.

24 CHAIRMAN KORGE: I still have some
25 concerns about the massing, and it's

1 hard for me to judge, from the picture,
2 the differences. I can see some of the
3 differences. I'm really like sitting on
4 the fence on this one, mainly because of
5 the massive size of the structure at
6 that location. I mean, I -- I'm -- It's
7 a coin toss for me. The fact that
8 you'll move it back moves me a little
9 bit. I was going to vote definitely no.
10 I mean, there was no question in my
11 mind, because it was just -- not only
12 too massive, but too close to the
13 street. You've moved that back and
14 you've addressed some of the other
15 concerns regarding green space. I still
16 have the concerns that Pat expressed
17 about the -- what do they call that?

18 MS. KEON: The arcade.

19 CHAIRMAN KORGE: The arcade, and I
20 don't know if losing that arcade costs
21 you points on the Mediterranean
22 Ordinance such that you would lose that,
23 but that's what causes a lot of the
24 massing to begin with, which is not the
25 fault of the developer; that's the fact

1 of the Mediterranean Ordinance, by --
2 MS. RUSSO: Well, and also the MXD,
3 which the purpose of the MXD is to
4 internalize, and when you internalize
5 your service, when you internalize the
6 alley -- In essence, the idea of the MXD
7 was to create interesting, friendly,
8 usable streets on all sides of a
9 building and have the ugly stuff hidden
10 inside, which is what we've done, and
11 the alley that we're giving, or the
12 easement, whatever mechanism the City
13 Attorney determines to be the best to
14 effectuate the public access through the
15 alley, is twice the size of the alley
16 that it has now.

17 And I think what's also being lost
18 a little bit is that this site is
19 developable, with only Board of
20 Architects review. It would be a
21 different project. We've shown some
22 examples of it, not that -- what it
23 would be, but it would be a building on
24 the south side of the park -- I mean, on
25 the south side of the surface lot, and a

1 separate building that would take the
2 remainder of the block as a triangle,
3 and the square footage would be very --
4 just a little bit less than the square
5 footage being proposed now, and the
6 height would be identical, with 75 feet,
7 or 77 on LeJeune and a hundred feet for
8 the rest of the block.

9 So what we're here -- and I think
10 what's being lost is that the MXD, when
11 you go through the MXD, which if we went
12 the other way -- the City benefits from
13 the Streetscape Master Plan, which if we
14 were to build the other way, there would
15 not be an implementation of a
16 Streetscape Master Plan.

17 In addition, one of the conditions
18 that Staff has put in is an
19 implementation of the Streetscape Master
20 Plan on property that doesn't even abut
21 our property, that isn't even across the
22 street from our property, but it's
23 across from Gables Engineering, from the
24 point where our property ends all the
25 way to Ponce Circle and on the other

1 side.

2 There will also be an entire
3 repaving of the street, which would not
4 occur if this were to be built as of
5 right. There will be a public park
6 which will be maintained in perpetuity,
7 at the expense -- so I think what's
8 being lost here, too, is that a building
9 of very close to this mass, which would
10 look identical to the naked eye, to the
11 untrained eye, can be built on this site
12 in a slightly different configuration,
13 which will leave a hole on LeJeune Road
14 and will be built out to the other end.

15 At the end of the day, it's a
16 balancing act as to whether or not this
17 project is bringing to the neighborhood
18 benefits that exceed the detriments to
19 the community, because the zoning is
20 there to do this, okay?

21 And with respect to the alley
22 vacation, under the new Code, the
23 criteria for vacating an alley has been
24 met. You know, the criteria for
25 vacating an alley has been changed under

1 the new Code, and it's whether or not
2 there's specific plans that the City has
3 for the use of that property, whether it
4 meets the Comprehensive Plan, whether it
5 meets the Zoning Plan, and whether or
6 not it's a necessary part and whether or
7 not what the alley's purposes are
8 served, are being served by the new
9 project. And if the MXD wants you to
10 internalize, then by vacating the alley,
11 allowing public access and internalizing
12 all your service uses, you're
13 accomplishing that.

14 So I think this project tries to do
15 what's best for everyone that's
16 concerned, in view of what's allowed
17 under the Code, and is trying to give
18 the most beautiful face to everything
19 surrounding it and offer the public a
20 benefit, as well.

21 CHAIRMAN KORGE: Okay.

22 MS. LISA MAROON: May I take a
23 minute?

24 CHAIRMAN KORGE: Any further
25 discussion?

1 MR. AIZENSTAT: Yeah.

2 MS. LISA MAROON: May I say
3 something?

4 MR. AIZENSTAT: The way I see it
5 is, while I do feel that in this
6 neighborhood a mixed-use project is
7 needed and it is correct -- I also feel
8 that this neighborhood does need a park,
9 which it does not have, for the
10 development that is going on, so I favor
11 that. I just --

12 MS. BOLTON: What's the amount of
13 the park?

14 MR. AIZENSTAT: Please let me
15 finish.

16 MS. BOLTON: What's the size of the
17 park?

18 MR. AIZENSTAT: While I disagree
19 with what Laura said, that -- with the
20 fact that this brings a benefit to the
21 neighborhood -- from what I've heard
22 from the neighbors, they're actually in
23 disagreement. I think the project, the
24 size and the massing, is very big.

25 While I agree that a project of a

1 mixed-use should go in that area, I
2 think the project which is presented
3 today, to me, is just too large for
4 where it is. I just want you to know
5 that feeling. I don't disagree with the
6 project. I think it needs it. I think
7 the swapping between the park and the
8 parking lot, I think that's good. All
9 that is great, and you're creating an
10 open park.

11 I don't have a problem, myself,
12 with the alley, because of the fact that
13 whether you have an alley that goes
14 straight or you have an alley that
15 zigzags, as long as you meet Fire Code
16 for the fire trucks, as long as it's
17 open 24 hours, I'm fine with it, plus
18 the fact that the property owner is
19 paying taxes on it, which is a benefit
20 to the City, I like that even better as
21 a resident. So, in that way, I don't
22 have a problem.

23 Where I do have a problem, I just
24 think that the entire structure is just
25 very massive.

1 CHAIRMAN KORGE: Pat, do you have
2 anything else?

3 MS. KEON: I wanted to ask the
4 architect again, you believe that your
5 project couldn't be built by -- if you
6 maintain the arcade and pushed it back,
7 too? You said you would give up too
8 much space to do that?

9 MR. GELABERT-NAVIA: No --

10 MS. KEON: Is that what you said?

11 MR. GELABERT-NAVIA: No. The --
12 When we did Village of Merrick Park, I
13 think we did a lot of good things and we
14 did a lot of right things, but I can
15 tell you one thing that we did wrong,
16 and that was -- and this was something
17 that the Rouse Company, which is no
18 longer in existence, was a specialist
19 in, which was retail. And when we did
20 the housing in Village of Merrick Park,
21 the depth of that retail is only 35
22 feet. This was done against the better
23 judgment of the Rouse Company, but they
24 needed to do it because the original DRI
25 said that there was going to be retail

1 all around it. They also -- We tried to
2 put the parking inside. That depth does
3 not work, and if you go to Village of
4 Merrick Park, you will notice that
5 almost all those stores are vacant.
6 They don't work.

7 One of the things that we tried to
8 do here, as Laura said before, is, we've
9 internalized all the parking, so that
10 this building that we're talking about
11 is actually a liner, so that you don't
12 see the parking.

13 We put all the services inside, and
14 we have also created and we've worked --
15 the owner has had a separate broker that
16 just does retail, to make sure that
17 those stores are not empty, that those
18 stores are places that they will have a
19 use for.

20 If we cut 10 feet from those
21 stores, they will not work, and what we
22 will have is another Village of Merrick
23 Park housing project with retail around
24 it that will be open.

25 Again, this is something that we

1 actually discussed with the Board of
2 Architects, should we have the arcade,
3 and we said to them, "Do you want the
4 arcade or do you want the additional
5 setback?" And we went back and forth,
6 and at the end of the day, they said,
7 "Okay, we want the arcade."

8 But from the sentiment of the Board
9 here, it seems that you'd rather have
10 the setback, rather than the arcade, and
11 again, we've discussed it with the
12 owner, and we said, "Okay, fine, we
13 won't have the arcade."

14 MS. KEON: And there's no way to be
15 able to achieve both --

16 MR. GELABERT-NAVIA: No.

17 MS. KEON: -- some sort of
18 additional setback from what it is now
19 and to preserve the arcade?

20 MR. BEHAR: Ideally, we would have both.

21 MR. GELABERT-NAVIA: Ideally --
22 ideally, we would have both, but this
23 site, even though it looks big and all
24 that, it's triangular.

25 MS. KEON: Uh-huh.

1 MR. GELABERT-NAVIA: It's very,
2 very difficult, and has been very, very
3 difficult to try to do all these things,
4 so --

5 MR. BEHAR: What is the depth of
6 those retail spaces now, the way you --
7 the way it was originally --

8 MR. GELABERT-NAVIA: They're about
9 60 feet.

10 UNIDENTIFIED MAN: 45.

11 MR. AIZENSTAT: What?

12 UNIDENTIFIED MAN: 45.

13 MR. GELABERT-NAVIA: 45.

14 MR. BEHAR: 45 with the -- with
15 this proposal?

16 MR. GELABERT-NAVIA: With that,
17 it's 45. So, if we cut it, we're at 35,
18 and we're back to Merrick Park, and the
19 owner, you know, said that they won't do
20 it, because they're not going to have,
21 you know, the ground floor empty.

22 MS. KEON: I'm sorry, with the
23 setback that you have proposed now to
24 move it back, the retail space is what
25 depth?

1 MR. GELABERT-NAVIA: No, it remains
2 at 45.

3 MS. KEON: At 45?

4 MR. GELABERT-NAVIA: The problem
5 is, if we put the arcade beyond that,
6 then it becomes 35.

7 MS. RUSSO: You have to take the
8 arcade off of the front of that.

9 MS. KEON: Right, and there's not a
10 way -- I mean, I'll ask you as an
11 architect. There's not a way to figure
12 out between all of that space, a way to
13 accomplish some setback and maintain
14 some arcade?

15 MR. BEHAR: Pat, off the top of my
16 head, no. You have to sit down and --

17 MS. KEON: You would have to come
18 back and take a look at it and maybe
19 redo it; is that right?

20 MR. AIZENSTAT: You'd have to redo
21 the project.

22 MR. GELABERT-NAVIA: Well, we
23 have -- we have, obviously -- we've been
24 doing this for about a year and a half,
25 and it simply -- it's an either/or

1 situation.

2 In Village of Merrick Park, in the
3 office building, there is no arcade, but
4 actually, except for The Palm, which
5 went black now, all the other retail
6 spaces are rented. And at the end of
7 the day, I think what you want is the
8 life there. You want a store that is
9 viable.

10 Personally, we would -- you know,
11 that's why we put the arcade in the
12 first place, but you also have to think
13 how many people are going to walk down
14 LeJeune Road.

15 MS. KEON: I just -- you know, I
16 have a very strong feeling that that
17 arcade affects the street experience,
18 and I think that's what we all have
19 tried so hard to do with the new Zoning
20 Code and with so many of the things
21 we've done, is to really affect the
22 street experience. I think that
23 really -- that makes such a difference.

24 MR. GELABERT-NAVIA: We feel -- I
25 mean, again, it's an either/or. If you

1 go to the Colonnade, the arcade goes all
2 the way to the street. If you go to the
3 new Bacardi building, it goes -- also on
4 LeJeune -- it goes all the way to the
5 street.

6 I mentioned it before, and I -- not
7 all the neighbors agreed with me -- in
8 Paris, the arcades go all the way to the
9 street. But at this point, the owner
10 has said, "We need to move on, so stop
11 arguing that point."

12 So, if it is your preference to
13 move it back, we'll move it back.

14 CHAIRMAN KORGE: Any further
15 discussion on the motion?

16 MR. RIEL: Just a point of
17 clarification. I want to make sure the
18 motion included it was approval for a
19 mixed-use site plan and also vacation of
20 the public alleyway.

21 MR. BEHAR: Yes.

22 CHAIRMAN KORGE: Yes, I understood
23 it to be approval of the entire project,
24 subject to the various conditions that
25 have been mentioned previously.

1 MR. BEHAR: That's correct.

2 CHAIRMAN KORGE: Is there any
3 further discussion?

4 Would you call the roll, please?

5 MS. MENENDEZ: Robert Behar?

6 MR. BEHAR: Yes.

7 MS. MENENDEZ: Jeff Flanagan?

8 MR. FLANAGAN: Let me just put on
9 the record a real quick comment. It is
10 a bit of a massive project. I do have
11 that concern, but I do appreciate that
12 they -- the applicant has come back, has
13 agreed to step it back eight feet, has
14 shaved off the corner on the south side
15 a little bit -- I think it's a bit of a
16 minor concession on that one, but I
17 appreciate that it's done -- and I'm
18 cognizant of the fact that they could
19 build a similar or I think even larger
20 project under the Code, as of right. It
21 seems as though what they're coming in
22 for today is actually less than what
23 they're entitled to come in with.

24 It's an interesting architectural
25 detail. I appreciate the effort that's

1 gone into it. I was torn, coming in
2 tonight, but the concessions that were
3 done, and I think really stepping it
4 back, has helped to change my mind to
5 vote yes on it.

6 MS. MENENDEZ: Pat Keon?

7 MS. KEON: No.

8 MS. MENENDEZ: Javier Salman?

9 MR. SALMAN: I would beg the
10 applicant to look at the possible
11 exploration of reintroduction of that
12 arcade for that section of LeJeune. You
13 have an arcade all the way around the
14 building, and the affected area for
15 that limit is fairly limited that you
16 would bring back down to 35 feet, so I
17 would strongly suggest that you look at
18 that as a possibility.

19 The loss of square footage is not
20 horrible, it's not that substantial, and
21 it doesn't have to be the full 10 feet
22 on this elevation, it could be something
23 less. But notwithstanding, I'm going to
24 go ahead and vote yes on it.

25 MS. MENENDEZ: Eibi Aizenstat?

1 MR. AIZENSTAT: While I feel that
2 the project, a mixed-use project, is
3 what should belong there, and as I
4 stated before, I feel that the park is a
5 plus, I do feel that the massing and the
6 size of the project is quite large, and
7 that's why I would say no.

8 MS. MENENDEZ: Tom Korge?

9 CHAIRMAN KORGE: I'll agree with
10 the nos. It's a close one for me, and I
11 have some hesitation about voting no,
12 because possibly, by right, they could
13 build a similar massive project --

14 MR. SALMAN: As of right.

15 CHAIRMAN KORGE: And that would
16 probably be less advantageous to the
17 neighborhood. I mean, this is just a --
18 it's a coin toss for me, but I'm going
19 to have to go no on this, for the
20 reasons that were expressed. It's just
21 a close call.

22 MR. RIEL: Just for a matter of the
23 record, so the vote is three-three.
24 That's considered a no recommendation.
25 That recommendation will go forward to

1 the City Commission on January 13th,
2 2009.

3 MS. RUSSO: Thank you very much.

4 MS. KEON: So the record will show
5 the concerns over the arcade?

6 MR. RIEL: We provide a verbatim
7 record to the Commission.

8 MS. KEON: Thank you.

9 MR. RIEL: Can we take a five-
10 minute break?

11 MR. SALMAN: Sure.

12 CHAIRMAN KORGE: We've
13 got something left?

14 MR. RIEL: Yes.

15 CHAIRMAN KORGE: Oh, yes, we've got
16 the settlement.

17 MR. RIEL: Can we take a
18 five-minute break?

19 CHAIRMAN KORGE: Five? We'll have
20 a five-minute -- we'll be back here in
21 five minutes.

22 Item Number 6 is next on our
23 agenda.

24 MR. BEHAR: Mr. Chairman, I have to
25 excuse myself.

1 (Thereupon, there was a recess,
2 during which Mr. Behar left the
3 meeting.)

4 CHAIRMAN KORGE: We're ready. Call
5 the meeting back to order.

6 The next item on the agenda is Item
7 Number 6, proposed Zoning Code text
8 amendment pursuant to a proposed
9 settlement agreement with Fernando
10 Menoyo and Almeria Row, LLC, represented
11 by Tew Cardenas, LLP.

12 How are we proceeding with
13 presenting this?

14 MR. RIEL: I believe the City
15 Attorney wanted to make a couple
16 comments, and then I'll give a brief
17 presentation.

18 CHAIRMAN KORGE: Liz?

19 MS. HERNANDEZ: This application
20 comes to you as a result of a Bert J.
21 Harris claim that was filed by the
22 applicant. The City has -- My office is
23 taking no position with regard to
24 whether or not the applicant can
25 successfully win on the merits of their

1 case, should they proceed in court.

2 However, there was a request to
3 appear before the Board, for planning
4 text discussion and potential amendment.
5 The City Commission was favorable
6 towards that review by this Board and
7 recommendations to the Commission, and
8 our office had no objection and that's
9 why it's here before you today, not to
10 discuss the merits of the --

11 CHAIRMAN KORGE: Claim.

12 MS. HERNANDEZ: -- the claim.
13 However, they wish to present a
14 potential text amendment.

15 MR. AIZENSTAT: If I may, I'd just
16 like to make a point --

17 MS. HERNANDEZ: Yes.

18 MR. AIZENSTAT: -- that I received
19 a phone call today from Santiago, I'd
20 just like to put it on the record, and
21 he stated to me that because it was
22 legislative, that it was okay for him to
23 speak to me. I asked him how he went
24 ahead and got my number. He said the
25 City went ahead and gave him my phone

1 number.

2 MS. HERNANDEZ: Okay.

3 MR. AIZENSTAT: And he asked me --
4 he made two points to me. He asked me
5 if I had any comments or anything I
6 wanted to make back to him. I said,
7 "Not at this time." I went ahead and
8 notified Liz --

9 MS. HERNANDEZ: Yes.

10 MR. AIZENSTAT: -- as to the
11 conversation, just so we don't have a
12 problem.

13 MS. HERNANDEZ: Right, and as I
14 advised Mr. Aizenstat, even though this
15 is legislative in matter, you will hear
16 that this applies to a very limited
17 number of properties, so there is the
18 potential that anyone who does file any
19 type of challenge could take the
20 position that it is quasi-judicial in
21 nature, and it's up to the applicant to
22 be able to defend their position in
23 court. Okay?

24 MR. ECHEMENDIA: Fair enough. I
25 mean, seeing as we had met with all of

1 the Commissioners, anyway --

2 MS. HERNANDEZ: Right.

3 MR. AIZENSTAT: Sure.

4 MR. ECHEMENDIA: Thank you.

5 MR. AIZENSTAT: No harm intended,
6 just --

7 MR. RIEL: Okay, Mr. Chair, I'd
8 just like to make some brief comments.

9 You have the Staff Report dated
10 November 12th, 2008, in front of you.
11 Basically, the purpose of this report is
12 to present Staff's position. When I say
13 Staff, the Planning Department, as well
14 as the Building and Zoning. What we've
15 done is, we've gone through the Code and
16 what we've done is provided some
17 background analysis, and I just want to
18 summarize, very quickly, six findings
19 that I just want to put into the record,
20 but again, the Staff Report stands on
21 its own.

22 The first finding is that the
23 current MFSA height provisions limit
24 building height to 35 feet within 50
25 feet, or three floors or 45 feet,

1 whichever is less, on the remaining
2 portions adjacent, abutting or
3 contiguous -- this does include streets,
4 waterways, alleys -- to any SFR or MF1
5 property.

6 The second finding, the proposed
7 site-specifics are assigned to a
8 property, not to a specific property
9 owner. I just want you to understand,
10 that is a map -- it's basically an
11 amendment to the provisions for that
12 property.

13 Potential exists for the property
14 owner to seek further variances. I just
15 again want to let the Board know about
16 that. Obviously, subject to satisfying
17 the criteria.

18 No specific building typology is
19 proposed. Although renderings have been
20 submitted for townhouses, there hasn't
21 been a proffering of that it will only
22 be townhouses. It could be
23 condominiums. I just want to let the
24 Board know that.

25 Obviously, the site specific

1 doesn't include a site plan as part of
2 the settlement agreement. That finding
3 is presented because typically, when the
4 Board does look at things, they do look
5 at site plans, as well.

6 And then the Finding Number 6 is,
7 the site-specific standards do not
8 provide the same opportunities for
9 development commonly enjoyed by other
10 properties in the identical district.

11 And that -- I've handed out an
12 exhibit to you which basically shows
13 where the MFSA properties are, and if
14 you looked at the -- kind of like the
15 dashed or the diagonal red lines, that
16 indicates the limitation on height, the
17 35 feet for all those properties that
18 have MFSA.

19 I've outlined the assembled
20 property by the applicant, Almeria Row,
21 and I've also included two projects that
22 have undergone and gotten approval
23 for -- that have satisfied the
24 requirements in terms of the height
25 restrictions, so -- and if you go to

1 Page 2 again, it just indicates where,
2 elsewhere in the City, that the MFSA
3 properties are noted, and then Page 3 is
4 the same.

5 This is a further illustration
6 of -- in terms of Finding Number 6 that
7 all these other properties that are
8 adjacent to single-family would not have
9 this opportunity.

10 That concludes Staff's
11 presentation.

12 CHAIRMAN KORGE: Should we proceed?
13 Do you have a presentation to make?

14 MR. ECHEMENDIA: Yes, Mr. Korge.
15 Santiago Echemendia, 1441 Brickell
16 Avenue, on behalf of Fernando Menoyo.

17 Maria De la Guardia, the architect,
18 is with us. My partner, Bob De La
19 Fuente, will be making the substantive
20 presentation.

21 I think you'll see really a
22 compelling presentation regarding the
23 as-built environment, what's around us,
24 in terms of -- Maria has done a
25 fantastic job of actually showing it to

1 you graphically.

2 I have spoken with a number of the
3 Board members. Just in an abundance of
4 caution, though, in our view, it is
5 legislative. I've spoken with Eibi,
6 I've spoken with Tom, I've spoken with
7 Javier, and I've spoken with Jeff, all
8 on merely the substantive issue of
9 clarifying that your Planning Director,
10 who's done a very thorough job, I think,
11 however, misplaces a little bit in his
12 recommendation the view that what you
13 have in front of you is a development
14 proposal. It's not a development
15 proposal. This is not an application.
16 This is a referral from your
17 Commissioners and the Manager, so that
18 there could be a recommendation going
19 forward to the City Commission on a
20 possible settlement of a Bert J. Harris
21 property rights claim.

22 It's a fairly straightforward
23 exercise. We submitted a letter -- and
24 the idea behind Bert J., the intent, is
25 to resolve an inordinate burden. It's

1 not -- if you look at the intent of the
2 statutory section, it's Chapter 70 of
3 the Florida Statutes, it's actually
4 intended to resolve. That's why you
5 file these, to avoid litigation.

6 The nature of the inordinate burden
7 is six million dollars. It's nine. Liz
8 thinks it's six. We'll concede for the
9 moment that it's six. We're not here
10 to make a legal argument.

11 MS. HERNANDEZ: My position is not
12 that it's six. My position is that it's
13 significantly less, if there's any
14 claim. Please --

15 MR. ECHEMENDIA: I'm sorry. I
16 apologize.

17 MS. HERNANDEZ: Okay.

18 MR. ECHEMENDIA: I meant -- She's
19 correct.

20 We think that it's an artful way to
21 resolve the dispute. What ended up
22 happening is that at one point the
23 height was 50. It got reduced to 45.
24 There was a lot of discussion about the
25 C and the CL historically, and we

1 have -- Bob has actually combed reams of
2 transcripts. The concern at the time,
3 and I think, Pat, you're actually on the
4 record, going back during the rewrite,
5 talking about the concern about
6 assembling parcels and being able to get
7 beyond the 45 feet. That was really the
8 concern.

9 As it relates to MFSA, there's
10 really no discussion regarding height
11 limitation in any of the transcripts,
12 the shadow analysis, nothing related to
13 the MFSA.

14 At some point between September and
15 October, this word of -- rather than
16 abutting and contiguous, there was the
17 incorporation of the word adjacent, and
18 by coupling or throwing in adjacent with
19 the MSFA (sic), as opposed to CL and C,
20 you developed this predicament that
21 we're in, where you could be, as we are
22 in this case, 80 feet, 70 feet away from
23 single-family, because you have the
24 right-of-way and then the setbacks, and
25 that's considered adjacent and not

1 abutting, and yet you have this
2 limitation of 35 feet.

3 I promised Bob that I wasn't going
4 to make the presentation. I just wanted
5 to give you some introductory remarks,
6 but that's really kind of the gist of
7 it, and I think they really have a
8 compelling tale to tell, and I think
9 graphically it also tells the tale of
10 this really being compatible, being an
11 artful way to resolve this problem
12 relative to this property owner, who was
13 blindsided by this, you know, not
14 realizing that this adjacency language
15 was going to catch them and put them in
16 this predicament.

17 So, with that, we -- you know, we
18 urge you to give us consideration. You
19 have. We've been in front of you two
20 times. We're hopeful that from here we
21 can go straight to the Commission.

22 So, Bob, sorry to be long-winded,
23 but that's where we're at.

24 MR. DE LA FUENTE: No problem.

25 Good evening. Bob De La Fuente.

1 I'm Santiago's law partner, 1441
2 Brickell Avenue.

3 With us tonight, our client,
4 Fernando Menoyo, who has been in front
5 of this Board many, many times. You
6 recall he was a big part of the Zoning
7 Code -- changes in the Zoning Code
8 rewrite, and why we're here tonight is
9 because he was, frankly, taken by
10 surprise by the fact that his
11 properties, which are MFSA, had been
12 subject to a down-zoning by losing 10
13 feet in height, essentially, for all of
14 his properties that are on Exhibit A,
15 the handout we sent -- we provided, as
16 well as the handouts that Eric has given
17 you.

18 Also with us is Maria De La
19 Guardia. She is the architect for this
20 project, as well as the project that has
21 already been built for Mr. Menoyo, which
22 is on Almeria. It's called Almeria Row.
23 I'm sure you're familiar with it.

24 As you know, he does a fine job in
25 his development, and he seeks to do more

1 of that, and that's why we're here
2 tonight, because when he acquired these
3 properties which are the subject of the
4 Harris Act claim, he intended to be able
5 to build them at 45 feet, in the similar
6 style to what he's done to this point.

7 I think it's important to note that
8 there is no opposition here on this
9 item. This was noticed. We're happy to
10 see that all the neighbors did not come
11 out against this item, as they've turned
12 up for other items.

13 Eric mentioned that he did hand
14 out -- provide you with a handout, and
15 if you look at the properties, a couple
16 of things, just to give you guys some
17 context in what we're looking at.

18 If you look at the red hatched
19 properties, which are MFSA, there's two
20 things which really made our properties
21 different. One of them is adjacency,
22 which means, you know, we are across the
23 street from single-family, and the
24 existence of an alley behind our
25 properties. You'll see them on Page 1

1 of what Eric had sent out -- has given
2 to you.

3 You'll see that we are -- the
4 single-family is not behind us, not
5 across the alley, but it is across the
6 street. That's the adjacency issue.

7 What you also see is that we have
8 alleys behind us, which is -- which is
9 different from most of the other MFSA
10 properties which are also on the next
11 couple of pages of his handout.

12 When you consider those two things,
13 and those are the two things that make
14 our properties different from -- from
15 other properties which would otherwise
16 adversely affect single-family, which
17 don't have these two conditions -- and
18 Maria will tell you more about that when
19 she gets up here.

20 One of the things that the Staff
21 Report emphasized was the history of the
22 Zoning Code changes that resulted in
23 this height reduction, and as Santiago
24 mentioned, we've reviewed a lot of the
25 transcripts from the Planning and Zoning

1 Board meetings, as well as the City
2 Commission meetings, and we have been
3 unable to find any specific
4 consideration or comment regarding MFSA
5 in this height reduction.

6 There are a couple of passing
7 comments, that in one slide show that
8 had shadow studies, there was one slide
9 that had text that said MFSA height
10 reduction, but there was no discussion
11 by the Board or by the City Commission
12 regarding a specific height reduction
13 for MFSA properties.

14 Back in 2004, in March of 2004,
15 that was the City Commission meeting
16 where there was expressed a concern
17 about buildings greater than 45 feet,
18 not greater than 35 feet.

19 The moratorium, again, the same
20 thing. The language of the moratorium
21 was based on a concern for buildings
22 greater than three and a half stories
23 and 45 feet. That's what we want. We
24 want 45 feet for our project.

25 On April 24th, 2004, there was a

1 public input meeting. Concern resulting
2 in a moratorium was driven by the
3 ability to combine commercial, C and CL,
4 sites that would allow greater heights.
5 That's what Santiago alluded to earlier,
6 that there was a significant concern
7 which sort of began this whole process
8 of examining what can be next to
9 single-family, and that was really based
10 on the ability to aggregate sites and to
11 have bigger buildings which would have a
12 terrible impact on the single-family
13 homes.

14 On September 27, 2006, there was a
15 Planning and Zoning Board meeting, and
16 that's supposedly where the MFSA height
17 modification came up. We looked through
18 the Staff Report. It's attached as
19 Exhibit G to what we've given you
20 tonight. There's no mention of MFSA
21 height modification in that Staff
22 Report.

23 Exhibit H is a Zoning Code draft
24 dated 9/1/06. Adjacent to single-family
25 was allowed to be 45 feet, which is what

1 Mr. Menoyo thought it was. And
2 remember, he was here at every single
3 one of these Planning and Zoning Board
4 meetings. He was monitoring all of
5 these developments, and he was a very
6 active participant in town home
7 regulations. A lot of these
8 modifications were his idea. So, at
9 this point, he thought that his
10 properties were still 45 feet.

11 Regarding the height restrictions
12 related to the adjacency of multi-family
13 buildings adjacent to single-family, the
14 direction from the Board was to go with
15 three stories or 45 feet within the
16 first 50 feet of that property line.
17 That's under Exhibit I. That's an
18 excerpt from the transcript.

19 So again, Mr. Menoyo thought that
20 none of the rules had changed.

21 On Page 25 of that same transcript,
22 referencing Section 4-17, again, the
23 same issue of limiting the height when
24 it's adjacent to single-family, the same
25 language. What we found is, when we

1 went through it, it was written in three
2 different ways. We put the same
3 language all the way through.

4 That's the extent of the discussion
5 on this issue. But with that last
6 comment, there was no -- there were no
7 specifics, no elaboration and no
8 comments to suggest that that height was
9 going to be reduced.

10 But then something happened between
11 that meeting and the October 17th draft,
12 which is Exhibit I, and this is the
13 critical change, because that's when it
14 lumped adjacent with abutting and
15 contiguous, and there was no discussion
16 of this during that September 27th
17 Planning and Zoning Board meeting.

18 On October 17, 2006, the City
19 Commission -- This was the City
20 Commission meeting where the
21 modifications were considered, the ones
22 that were recommended by P & Z, from the
23 9/27 meeting. This is where the MFSA
24 height revision was supposed to be
25 considered, and during this meeting, we

1 went through the transcript and there
2 was no specific consideration or
3 discussion about those height
4 regulations.

5 This is the first time that the
6 draft shows the proposed change to the
7 Code, if you look at Exhibit I, it's --
8 but there's no discussion of the change.
9 There's a black line that we got from
10 the City that showed this is the first
11 time that this proposed change showed up
12 anywhere.

13 There was a shadow study that was
14 discussed by Commissioner Anderson, but
15 only for CL properties. So, again,
16 there was no discussion about shadows
17 for single-family based on the MFSA
18 heights.

19 On November 8th, 2006, there was
20 another P & Z meeting to consider the
21 new Zoning Code, and this is where the
22 new height reductions were considered,
23 but there was, again, no mention of MFSA
24 height issues in this entire hearing.

25 In fact, Exhibit J, this is what

1 the subject matter was supposed to be:
2 Additional analysis on three issues, MF1
3 duplex height -- a lot of discussion on
4 duplex height -- proposed height
5 limitations on CL and C, and parking
6 requirements for retail/office. Again,
7 nothing about adjacency or MFSA.

8 This hearing specifically reviewed
9 CL properties by single-family homes.
10 There were shadow studies, but none that
11 were relevant to the MFSA height
12 reduction, and none of those studies
13 were for adjacent properties. They were
14 only for abutting or contiguous.

15 So you were not shown anything that
16 showed the impact of a 45-foot height
17 that was across the street from a
18 single-family home, and that's something
19 that Maria De la Guardia will get into
20 more with you. Again, no shadow
21 analysis of adjacency.

22 So it seems that this change to
23 MFSA was swept in with the changes to
24 the C and CL, based on the concerns of C
25 and CL height adjacent, abutting and

1 contiguous to single-family homes, but I
2 think that you'll see and you'll agree
3 with us that an MFSA height issue is not
4 the same as CL when it's adjacent to
5 single-family.

6 The street, in and of itself,
7 provides a built-in buffer and built-in
8 protection and built-in distance that
9 necessarily makes it different from
10 abutting and contiguous.

11 And at the end of the day, this
12 change wasn't considered by P & Z at the
13 November 2006 meeting.

14 So, with all that in front of you,
15 I think that what Maria is going to be
16 able to show you is, what we're
17 proposing is actually a better plan.
18 It's something that's better for City,
19 and when you consider the surrounding
20 properties around our properties, the
21 potential height of those projects, and
22 whether it's appropriate to have 45
23 feet, you'll see that it is appropriate.

24 We've provided, as Exhibit C in our
25 handout, the adjacent areas and what the

1 potential heights are there, and you'll
2 see it's not -- the 45-foot height limit
3 is more appropriate to be next to these
4 limits.

5 Next to Group 1, it's a 106-foot
6 height limit to the east. Group 2, it's
7 a 60-foot limit to the north. Group 3,
8 60 feet to the east. Group 4, 60 feet
9 to the north, and Group 5, 60 feet to
10 the east. And Maria will go through
11 that further with you. You'll see the
12 logical transition between those heights
13 and the single-family across the street
14 from us.

15 We've also included photos of the
16 as-built conditions, under Exhibit F, so
17 you can see what the neighborhood is,
18 although I'm sure you're all familiar
19 with it, but those are actual photos.

20 In the Staff Report, Eric did go
21 through some specific findings that he
22 made, so just briefly, I'll rebut those.
23 They seem to emphasize that we're
24 seeking 55 feet. That isn't the case.
25 We're asking for 45 feet, not 55. There

1 is a definition of height that applies
2 to everybody else, as well, where you
3 can get an additional 10 feet for
4 mechanical equipment areas and
5 decorative roof structures, but it's not
6 livable space. This is allowed under
7 the Code's definition of height, and to
8 carve out a different exception here for
9 these properties would unnecessarily
10 complicate things, when we're just
11 seeking to reinstate what we had before.

12 He says text amendments are to the
13 property and not to the property owner.
14 The nature of this claim is based on the
15 depriv-- the devaluation of the property
16 in general, not only as to the current
17 owner. This is something that the
18 property was devalued, the property in
19 and of itself, and we're just seeking a
20 reinstatement of those rights.

21 The ability to seek variances,
22 again, this is the case with every
23 property in the City. The City is free
24 to grant or deny future speculative
25 variance requests. We can tell you that

1 based on the current development plan,
2 there would be no variance request to
3 build three-story town homes.

4 Beatrice Row, which is the plan
5 that had been prepared, and that's what
6 brought all this to light to our client,
7 there were no variance requests with
8 that.

9 Almeria Row did have some
10 variances, but those were based on
11 Public Works issues which have since
12 been resolved.

13 There's no typology limitation, but
14 again, we're seeking a simple height
15 reinstatement and to return the property
16 to the regulations before the zoning
17 change. We're not seeking any other
18 uses not permitted under MFSA.

19 Staff says that there's no site
20 plan as part of the settlement
21 agreement. Again, there's no site plan
22 required. A site plan would be
23 premature. We're not at that stage of
24 this project yet. We do have a portion
25 of it that, fortunately, we did have a

1 site plan, so there's something for you
2 to evaluate with, but rest assured that
3 the site plan will meet the zoning
4 requirements with the 45-foot height
5 limit.

6 We're basically asking for a
7 reinstatement of the old envelope.

8 Finding Number 6, site-specific
9 standards do not provide the same
10 opportunities for development commonly
11 enjoyed by identical or similar
12 properties within the same zoning
13 district. Not exactly true.
14 Neighboring properties are built out at
15 heights greater than 35 feet. 2401
16 Anderson. Avignon in the Gables is four
17 stories, taller than 50 feet. Biltmore
18 Court Villas, also four stories.
19 That's -- and I believe that's at 2600
20 Cardena.

21 So, again, this is not an
22 appropriate standard. This is not a
23 variance request. It's a legislative
24 change to the site-specific regulations
25 that would result in an appropriate

1 transition from the higher densities on
2 one towards the single-family on the
3 other.

4 So, with that, I would like to
5 introduce Maria De la Guardia, to walk
6 you through the rest of the
7 presentation, and then after her,
8 perhaps Mr. Menoyo would like to say a
9 few words, and then we'd like to reserve
10 some time for rebuttal, if we need to.

11 MR. RIEL: Whenever appropriate,
12 Mr. Chair, I'd like to clarify some
13 things on the record, as well.

14 CHAIRMAN KORGE: Certainly.

15 MS. DE LA GUARDIA: Good evening.
16 My name is Maria De La Guardia, and I'm
17 a principal at De La Guardia Victoria
18 Architects, with offices in 224
19 Valencia, and residence in 2508
20 Columbus.

21 Our firm, DLGV, was fortunate
22 enough to have participated in aiding
23 the City and the zoning consultants in
24 developing the MFSA Townhouse Code. At
25 that time, we were involved in the

1 process of designing Almeria Row, which
2 are 10 houses, 10 townhouses on Almeria
3 Avenue, while the Staff and the
4 consultants were fine-tuning the
5 Townhouse Code.

6 So there was a lot of back and
7 forth, sort of using -- you know, using
8 our project to test the Code, and there
9 were many adjustments that were made to
10 the Code because of our project.

11 And as a side note, Almeria Row,
12 which is already -- the first phase has
13 already been completed -- has won two
14 national design awards, the Palladio
15 Award, which is an architectural award,
16 and the Congress for New Urbanism Award,
17 which is an urban award, and I think it
18 has brought recognition to the City, as
19 well as a tribute to those involved in
20 designing the Townhouse Code.

21 During the entire Code rewrite
22 process, the townhouse type was
23 attractive. It was an attractive model,
24 it was an attractive type, because it
25 served as a transition between sort of

1 the single-family residence and the mid
2 to high density buildings, and I want to
3 discuss with you both conditions, the
4 relationship of the townhouse to the
5 single-family, but also the relationship
6 of the townhouse or the MFSA to the mid
7 and high densities, because we can't
8 just look at it with respect to the
9 single-family. We have to look at the
10 entire City, because it was always
11 intended to be a transition and a
12 mitigator of those two scales.

13 Early on in the process, the
14 consultants recognized that the City had
15 two distinct conditions, the townhouse
16 that was next door to the single-family
17 residence and the townhouse that was
18 across the street from the single-family
19 residence, and those are two very, very
20 different conditions. The townhouse
21 next door or across the alley, we know
22 to be called contiguous or abutting, and
23 those height limits were always set as
24 35 feet, and then the townhouse across
25 the street from the single-family in the

1 original -- in the early drafts of the
2 Code was set at 45 feet.

3 The difference between these two
4 conditions is enormous, and it has to do
5 with the distance between the two
6 buildings. So if you can please look at
7 Exhibit A, where we have contiguous --
8 Basically, a townhouse that is
9 contiguous to a single-family residence
10 can be 10 feet away from that building,
11 because the townhouse doesn't have a
12 side setback. And the side setback on
13 most typical single-family residence
14 lots are 10 feet, so your townhouse
15 building can be as close to 10 feet from
16 your single-family residence, and it
17 was -- you know, in these conditions, it
18 was found that 35 feet was an
19 appropriate height.

20 But when you have a townhouse
21 across the street from a single-family
22 residence, in our case, we are at least
23 80 feet, and building to building, and
24 that 80 feet is the 25-foot front
25 setback of the single-family residence,

1 plus the 50 foot right-of-way on
2 Anderson, for example, plus the
3 five-foot setback on the townhouse lots.
4 So, in an adjacent property, we would be
5 80 feet from the single-family
6 residence.

7 You know, there's a huge difference
8 between being 10 feet away and being 80
9 feet away from a single-family, plus the
10 benefit of having the parkway and, you
11 know, tree-lined streets in between.
12 And we searched high and low in the City
13 archives and in the transcripts, and we
14 could not find any shadow studies
15 performed by the City for this
16 condition, and I suspect that the reason
17 why we can't find them is because it's
18 not really an issue. When you're 80
19 feet away from a single-family
20 residence, the shadow studies are not an
21 issue, and perhaps that's why they were
22 not -- they were not -- they were not
23 performed.

24 But if we can go on to Exhibit B,
25 in these street sections you can see the

1 relationship of the two heights to the
2 surrounding buildings. There you can
3 appreciate that the townhouse, at 45
4 feet, is a better transition between the
5 29-foot-high single-family residence
6 and, in our case, behind Group A, we
7 have a project proposed for Valencia
8 Royale which is approximately 106 feet.
9 We feel that the 45 feet is more of a
10 transition between these two heights.
11 35 feet, we feel, is too close, too
12 similar to the 29-foot height,
13 single-family residence. It's more of
14 the same. It's not a transition. It's
15 actually only six feet taller than the
16 single-family residence.

17 If we can go on to Exhibit C, if
18 you take note of the location of Group
19 1, Group 1 is at the very end of that
20 Biltmore corridor, and in the Biltmore
21 corridor you have buildings such as the
22 550 Building, the David Williams (sic)
23 and other buildings of similar height.
24 In this Biltmore corridor, you have all
25 these high-rises coming down the street,

1 and then suddenly, in the middle of the
2 block, in the same block with the David
3 Williams, we would be dropping to 35
4 feet. It's -- That's not a transition.
5 That's a mistake. To go from that kind
6 of height to 35 feet in the middle of
7 the block, I think is not urbanistically
8 sound.

9 Avignon, across the street, is four
10 and five stories in height, and it
11 provides a nice ending to that Biltmore
12 corridor, and it, I think, provides a
13 nicer transition to the scale of the
14 single-family residences.

15 In Exhibit E, you'll see that
16 immediately across the street from Group
17 2, the Biltmore Court Villas, they're
18 three and four -- and portions of those
19 villas are four stories in height. I
20 know that one of the points that Staff
21 makes is that there are not other
22 projects with similar zoning that are --
23 that are greater than three stories and
24 45 feet, and I think this is -- this is
25 one of those examples.

1 Directly behind Group 2, you have
2 the Valencia Grande, which is 60 feet
3 plus -- you know, 60 feet plus the
4 additional 10 feet that is given to them
5 for mechanical. So, again, here in
6 Group 2, I think that 45 feet is -- is a
7 more appropriate transition from the 29
8 feet of the single-family to the 60 plus
9 feet of the mid-density.

10 There's a few -- there's a few
11 things that I would like to address,
12 that I feel are incorrect in the Staff
13 Report, which are the requested height,
14 the shadow studies, and possible future
15 variances. We're requesting to go back
16 to the 45-foot height. Before the
17 moratorium, the height for this -- these
18 properties was 50 feet and four stories,
19 before the moratorium.

20 During the early -- or during most
21 of the rewrite, it was three stories and
22 45 feet, and we -- and Mr. Menoyo did
23 not have an objection to that. It was
24 only at the eleventh hour, in a meeting
25 that, you know, we haven't been able to

1 find any record of discussion on this
2 topic, it was changed. You know, this
3 wording was added, which limited the
4 height on his properties.

5 Like I said, we have not found the
6 shadow studies that Staff -- and perhaps
7 they can present us with the shadow
8 studies for this -- for these
9 properties.

10 And also, with respect to the
11 variances, when we presented Almeria
12 Row, we did have to apply for several
13 variances, but none of them were for
14 the -- you know, they weren't for the
15 building, they were for the streetscape,
16 and it was because there was a
17 discrepancy between what Public Works
18 wanted and what the Code was asking, you
19 know, and because of this discrepancy
20 between what Public Works wanted and the
21 Zoning Code required, we were sort of
22 caught in the middle and we were sort of
23 forced into applying for these
24 variances.

25 There was one variance regarding

1 the building, and that variance was --
2 was -- was a problem in the Code that
3 after they granted us the variance, they
4 made the correction to the Code.

5 Lastly -- well, architecturally, we
6 can design a three-story townhouse in 35
7 feet, but it is a very different product
8 to a three-story townhouse in 45 feet.
9 The concept that we were working on for
10 Beatrice Row, for Group 1, was the --
11 sort of the Italian idea and the Upper
12 East Side model of the townhouse, where
13 the principal living floor happens on
14 the piano nobile. In order to design
15 this, you need extra height to truly --
16 to truly make that second floor
17 magnificent, at least to truly make it
18 worth the climb, and it is not possible
19 to do it in 35 feet, but it is possible
20 to do it in 45 feet, and that is why the
21 35 feet gives us a lesser product. It
22 doesn't give us that sort of magnificent
23 piano nobile townhouse that we all love
24 in New York City.

25 Lastly, I would like to close by

1 saying that Fernando has been involved
2 with the City for -- for way over 20
3 years, and everything he has done has --
4 everything he has done or touched has
5 been of the highest quality and for the
6 betterment of the City, and I think this
7 is just another example of his
8 commitment to the City of Coral Gables.

9 Thank you.

10 CHAIRMAN KORGE: Thank you.

11 Anything further from the applicant
12 at this time?

13 MR. MENOYO: Fernando Menoyo, 744
14 Biltmore Way, just to tell you that this
15 is a very upsetting situation for me.
16 This -- I don't know how you can call
17 it, but this mishandling of the Code by
18 the Planning Department has already cost
19 me \$100,000, and it's very upsetting.

20 MR. ECHEMENDIA: Mr. Chairman, I'd
21 just like to hear from your Planning
22 Director first, and then I'll just give
23 my concluding remarks.

24 CHAIRMAN KORGE: Okay.

25 MR. RIEL: I just want to clarify a

1 couple things that were said.

2 I think the term mishandling and
3 blindsided was used regarding the Code
4 change. As you know, we went through a
5 350-page Code rewrite. There was a
6 number of issues we discussed.

7 If you recall these charts that we
8 worked off of, those are where the
9 actual details, in terms of the
10 specifics of what recommendations were
11 provided, as well as what was provided
12 by the Planning and Zoning Board so I'd
13 like to enter those into the record, the
14 chart from 11/08/06 and 12/12/06.

15 Again, the notion that Staff was
16 slipping something in is just absolutely
17 incorrect. The shadow studies were not
18 completed for this property because the
19 Commission didn't ask for those. They
20 asked for them for commercial
21 properties. And in fact, when we did
22 the MFSA and the CL and the MFS2
23 adjacent to single-family, all those
24 other properties were required a
25 hundred-foot setback, but the MFSA,

1 recognizing that it is a residential
2 property, was only required to be 35
3 feet and 50 foot back, so it is
4 different than the C and the CL.

5 So there was a recognition from the
6 Planning Board, as well as the
7 Commission, and that's clear, that's in
8 the record, which is available on the
9 web. It's part of the minutes and part
10 of the Staff Reports. Although it was
11 not -- we do not mention every issue in
12 the Staff Report, we utilized, as you
13 remember, these matrix to go through a
14 very arduous task of, you know, three
15 years of going through the Code, and
16 yes, it was changed in the end. It was
17 changed pursuant to policy direction
18 from the City Commission. They asked us
19 to make that change. Obviously, we're
20 going to follow what the policy
21 direction is of the Commission. We, you
22 know, provided that language, and that
23 was what was adopted in the Code, and
24 actually, the Zoning Code was actually
25 considered two times on first reading.

1 I don't know if you remember, they asked
2 it to come back to the Board and to get
3 further direction on these issues, so I
4 just want to make sure that the record
5 reflects that.

6 That's all I have. Thank you.

7 CHAIRMAN KORGE: Thank you.

8 MR. ECHEMENDIA: Mr. Chairman, it's
9 a late hour. I'll be very quick. And I
10 don't think that anybody suggested that
11 your planner, who's a very principled
12 man, was slipping anything in, but as he
13 said, it was a 350-page document. There
14 could be some mistakes. I mean, this is
15 a word that got in there. In our review
16 of the transcripts, both P & Z and
17 Commission, there was no directive that
18 the adjacency language be incorporated
19 relevant to MSFA -- or MFSA, I should
20 say.

21 Just a minor, short soap box, if I
22 may. I think one of the things that,
23 you know, Fernando expresses frustration
24 that this has hurt him to the tune of
25 100,000, and really to the tune of a lot

1 more than that, is, what's been
2 frustrating in this exercise is that
3 from my perspective, and our law firm
4 has handled the largest Bert J. Harris
5 cases in the State of Florida --
6 Continuum, which was a quarter of a
7 billion dollar case, and the Ritz Plaza
8 case that Bob and I handled all the way
9 to the Supreme Court -- is that even the
10 more complicated cases resulted in
11 settlements.

12 To us, this is a first-grade-level
13 Bert J. case. The cases that prevail,
14 that are reported, et cetera, are
15 typically height reductions. This is a
16 height reduction case. We've shown you
17 from a substantive -- aside from the
18 legal case, from a compatibility
19 perspective, it makes sense. We've gone
20 through no less than five meetings with
21 the Commissioners, the Manager. We've
22 been here before you. This is the third
23 time. Last time, you -- we got to 9:00
24 in the evening. And so it's been
25 incredibly expensive for him to

1 really -- an exercise that should have
2 been resolved as a function of, really,
3 I think, changing a mind set, and here's
4 the problem. Rather than the mind set
5 of, "How can we stop you," I think local
6 government and Staff needs to change, in
7 today's economy, particularly, to, "How
8 can we help you? How can we help
9 resolve the problems that we have?"

10 And Eric has done a marvelous job
11 of trying to find ways to either
12 recommend for denial or what are the
13 problems, but I think that, you know,
14 the case that Maria and Bob have made,
15 in terms of the graphics, the
16 compatibility, how they were caught off
17 guard, how there was nothing in the
18 record really regarding the MFSA, leads,
19 I believe compellingly, to a decision
20 that this is an artful way to resolve a
21 problem that should have been resolved,
22 frankly, months ago.

23 So, with that, I respectfully urge
24 you to recommend for approval on the
25 proposed legislative change, which is

1 just taking the height back to exactly
2 where it was before, for these limited
3 number of parcels that were inordinately
4 burdened, whether it was inadvertent or
5 otherwise, and certainly we're not
6 suggesting that anybody tried to slip
7 anything in, but we feel that it may
8 very well have been a glitch.

9 Thank you.

10 CHAIRMAN KORGE: Liz, did you have
11 something you wanted to add?

12 MS. HERNANDEZ: Oh, yes,
13 absolutely.

14 First of all, as I indicated at the
15 beginning, the intention was not for you
16 to consider, in any shape or form, a
17 Bert Harris claim, but rather to look at
18 text changes, legislative, and for that
19 I would ask you to consider the
20 architect's testimony and the
21 presentations regarding compatibility,
22 the language adjacent versus abutting
23 and so forth, because they have
24 introduced issues of Bert J. Harris.

25 I will tell you that a significant

1 portion of the properties that are in
2 this folio list were not owned by the
3 applicant when you did the Zoning Code.
4 They went in and acquired these
5 properties afterwards. So they're not
6 even subject to Bert Harris.

7 So, again, I think that injecting
8 the issues of Bert Harris and the claim
9 takes away from the intention of the
10 Commission, which was to have the Board
11 review, from a land use perspective, is
12 this good for the City?

13 Again, I would recommend that you
14 consider the testimony of the expert
15 regarding compatibility issues and the
16 language, town homes. That is the
17 relevant testimony and evidence for this
18 Board to consider. That's the position
19 of my office.

20 CHAIRMAN KORGE: Thank you.

21 Any discussion or a motion?

22 MR. AIZENSTAT: I'd actually like
23 to ask a question of the architect, if I
24 may.

25 CHAIRMAN KORGE: Oh, excuse me,

1 before we do, is there anybody from the
2 public who wants to speak to this
3 legislative proposal?

4 No? Okay.

5 MR. RIEL: And Mr. Chair, I'd just
6 like to clarify, also, for the record,
7 the notice provided was the agenda
8 published. There was no notice provided
9 to the adjacent property owners. I just
10 want to make sure --

11 MS. HERNANDEZ: But the notice
12 complies, again, because this was not --
13 and this is the concern that my office
14 is now facing, because it's being
15 presented to you as a Bert Harris versus
16 a text. There was no individual notice
17 to the property owners that received
18 notice of the Bert Harris claim under
19 the statute, because this was coming to
20 you as a text consideration, pursuant to
21 how the Commission forwarded it to you.

22 So there was no individual letters
23 sent to the adjacent property owners,
24 under which Bert Harris proceeds.

25 Again, I'm asking you to review

1 this in your capacity as a Planning and
2 Zoning Board.

3 CHAIRMAN KORGE: Right. So there
4 was no requirement for notice to
5 consider the legislative proposal before
6 us?

7 MS. HERNANDEZ: Correct. Right.

8 CHAIRMAN KORGE: Okay.

9 MS. HERNANDEZ: Only what Mr. Riel
10 has provided.

11 CHAIRMAN KORGE: So there's no
12 notice problem here.

13 MS. HERNANDEZ: That is my
14 opinion --

15 CHAIRMAN KORGE: Right.

16 MS. HERNANDEZ: -- at the present
17 time.

18 CHAIRMAN KORGE: We're looking at
19 this as a legislative proposal, not as a
20 settlement of a claim.

21 MS. HERNANDEZ: Correct.

22 MR. ECHEMENDIA: That is correct.
23 There is no -- and I apologize to Madam
24 City Attorney. I thought I made myself
25 very clear that there was the

1 compatibility issue but there happens to
2 be a pending Bert J. You don't have a
3 settlement in front of you. It's a
4 proposed legislative change, just for
5 the record.

6 CHAIRMAN KORGE: Right. Okay.

7 MR. AIZENSTAT: If I may, in your
8 exhibits that you show here, are they
9 done to scale? Is there a scale that's
10 used here? What scale do you use?
11 Because I didn't see it anywhere on the
12 paper.

13 MS. DE LA GUARDIA: They weren't
14 printed to any scale, but the scale is
15 correct with --

16 MR. SALMAN: Proportionally.

17 MS. DE LA GUARDIA: Yeah, it's
18 proportional.

19 MR. AIZENSTAT: Proportionally
20 correct?

21 MS. DE LA GUARDIA: Correct, yes.

22 MR. AIZENSTAT: So they are done
23 to -- Okay. I was just curious, because
24 usually you would find a scale or -- and
25 I didn't see that, in order to evaluate

1 as to what I'm looking at. Okay.

2 MS. DE LA GUARDIA: Okay, but they
3 are proportional, so that 10 feet is
4 correct --

5 MR. AIZENSTAT: Okay. That's what
6 I wanted to know, if it was --

7 MS. DE LA GUARDIA: -- in
8 relationship to the 29-foot height, yes.

9 MR. AIZENSTAT: Okay. Thank you.

10 MR. SALMAN: I have a -- Through
11 the Chair, I have a question for Staff.

12 It seems to me that part of the
13 problem is the word adjacency. If the
14 adjacency were stricken, would the 45
15 pop back in, or --

16 MR. RIEL: That's what changed from
17 the A district --

18 MR. SALMAN: Uh-huh.

19 MR. RIEL: -- through the MFSA. It
20 was both abutting, contiguous and
21 adjacent.

22 MR. SALMAN: That makes three
23 issues, abutting, contiguous and
24 adjacent, but the adjacency implies
25 across the street.

1 MR. RIEL: Understood.

2 MR. SALMAN: Whereas abutting and
3 contiguous makes sense at 35.

4 MR. RIEL: Understood. Those
5 definitions --

6 MR. SALMAN: And rather than
7 granting the 45 all the way across the
8 board -- because some of these
9 properties would not fall into the
10 adjacency issue, and I think really that
11 is probably the problem here.

12 MR. RIEL: That's the direction
13 that we were given from the Commission.

14 MR. SALMAN: Uh-huh.

15 MR. ECHEMENDIA: Mr. Chair, may I,
16 just one thing, one comment? And I say
17 this respectfully to Eric.

18 Eric seems -- keeps relying on what
19 the Commission said, et cetera. Can
20 we -- What I would respectfully ask is
21 that somebody ask him as a professional
22 planner to deal with the issue now.
23 You're asking a question relative to
24 adjacency. Rather than refer or defer
25 back to what the Commission said --

1 CHAIRMAN KORGE: Well, Mr.

2 Echemendia --

3 MR. ECHEMENDIA: -- can we get a
4 professional opinion on the issue?

5 CHAIRMAN KORGE: I think -- let me
6 just state my take on this, is that the
7 question relates to not so much these
8 properties, but other properties in
9 addition to these properties, and I get
10 the gist of this is that maybe we
11 shouldn't be changing or taking out the
12 word adjacent because it goes beyond --

13 MR. RIEL: Right.

14 CHAIRMAN KORGE: -- the proposal in
15 front of us. That's what I think is
16 really going on there.

17 MR. ECHEMENDIA: Correct. In other
18 words, remove adjacency relative to
19 MFSA, but that's even more than what
20 we're suggesting. We're limiting it to
21 these parcels.

22 CHAIRMAN KORGE: Right, exactly.
23 Exactly. So --

24 MR. SALMAN: It just appears to me,
25 from a logical point of view --

1 CHAIRMAN KORGE: Yeah, it does.

2 MR. SALMAN: -- that the adjacency
3 is the problem. If you remove the word
4 adjacency from that collection, you'd
5 probably solve the problem.

6 CHAIRMAN KORGE: Yes, but it --

7 MR. SALMAN: And still keep with
8 the intent, which was to limit the
9 differential height between
10 single-family and adjacent or abutting
11 property.

12 CHAIRMAN KORGE: That --

13 MR. SALMAN: I mean, excuse me,
14 contiguous or abutting property.

15 CHAIRMAN KORGE: That's true, but
16 that's not what was before us, or was
17 published for hearing.

18 You published notice of a hearing
19 for this, right?

20 MR. RIEL: Correct, the agenda.

21 CHAIRMAN KORGE: So it goes
22 beyond -- it goes really well beyond the
23 limited scope of this proposal.

24 MR. SALMAN: I know, but --

25 CHAIRMAN KORGE: It's a legitimate

1 point. I mean, I have the same
2 question.

3 MR. SALMAN: We spent how many
4 months going through this, and for sure,
5 there's going to be other issues, but
6 what's being proposed is a patch, not a
7 solution, and I just want to make sure
8 that we all understand that what we're
9 doing is looking at a patch. Are we all
10 clear?

11 CHAIRMAN KORGE: I understand that.

12 MR. SALMAN: Okay?

13 CHAIRMAN KORGE: Yes.

14 MS. DE LA GUARDIA: There's a
15 world --

16 MR. SALMAN: We spent six months of
17 doing 30 years of patches, and now we're
18 starting to put the first new one, and
19 that's part of the process, I guess.

20 MR. AIZENSTAT: What happens to all
21 the other properties? I mean,
22 there's -- How many other properties
23 throughout the City are going to come
24 back with the same idea?

25 MR. SALMAN: That was my concern.

1 CHAIRMAN KORGE: Well, they can
2 come back, but nobody is going to have
3 another claim, a Bert J. Harris claim,
4 because these are the only properties
5 that timely made their claim. Others
6 may come back later and ask that the
7 patch be extended to the other
8 properties, and maybe they should be,
9 but I don't think this is going to be
10 the night that we do it.

11 MR. SALMAN: No, no, I agree. I
12 just want to make sure we all understand
13 what we're doing.

14 CHAIRMAN KORGE: Yeah.

15 MR. SALMAN: That's all I'm saying.

16 CHAIRMAN KORGE: Very good point.
17 Very good point.

18 MS. DE LA GUARDIA: You can approve
19 this and then amend the Code, which is,
20 I think, the right thing to do, because
21 there's -- you know, there's a world of
22 difference between contiguous and
23 adjacent. You know, it's the difference
24 between being 10 feet away and being 80
25 feet away, and the height limit that's

1 appropriate for 10 feet away is not the
2 same height limit that's appropriate for
3 20 feet away, and when that townhouse
4 type has to transition and mitigate into
5 the 60 foot tall buildings and the
6 hundred and -- you know, hundred plus
7 foot tall buildings, it can't be -- you
8 know, it can't be a little -- you know,
9 an extension of the single-family
10 residence. You have to step -- you
11 know, you have to step those heights up.

12 MR. SALMAN: Your arguments were
13 well presented, well thought through and
14 well received.

15 MS. DE LA GUARDIA: Thank you.

16 MR. SALMAN: That's not the issue.

17 MR. AIZENSTAT: Now, Eric, you
18 wrote on here that they're asking for 45
19 feet and an additional 10 feet of
20 architectural elements, to a total
21 height of 55?

22 MR. RIEL: That's what's permitted
23 under the Code, yes.

24 MR. AIZENSTAT: That's what they
25 would be able to do?

1 MR. RIEL: Yes.

2 MR. AIZENSTAT: And right now
3 they're capped at 35?

4 MR. RIEL: 35 with --

5 MR. SALMAN: Within 50 feet.

6 MR. RIEL: -- 25 percent above that
7 being --

8 MR. SALMAN: Architectural --

9 MR. RIEL: -- architectural
10 elements, under the old Code.

11 MR. AIZENSTAT: 25 percent of 35
12 feet, or --

13 MR. RIEL: It would be 25
14 percent --

15 MS. CONDE: 25 percent of the roof
16 plate --

17 MR. RIEL: -- at the roof plate.

18 MS. CONDE: -- for a height, a
19 maximum height, of 45 feet.

20 MR. AIZENSTAT: Which would equate
21 to how many feet? That 25 percent would
22 equate to about --

23 MS. CONDE: No, no, no, no. If
24 it's -- To make it simple --

25 CHAIRMAN KORGE: It says -- if you

1 look on the first page of this --

2 MS. CONDE: To make it simple, if
3 your roof plate is a thousand square
4 feet --

5 MR. AIZENSTAT: Yes.

6 MS. CONDE: -- you're allowed to go
7 250 feet, for a height of 25 feet.

8 MR. AIZENSTAT: Okay.

9 MS. CONDE: So it's not
10 percentages -- it's percentage of the
11 plate below you.

12 MR. AIZENSTAT: Thank you.

13 MR. DE LA FUENTE: 35 plus 10.

14 MS. DE LA GUARDIA: That's correct.
15 The Code reads that you have -- you have
16 40 -- 35-foot height to the tie beam,
17 and then you're allowed to go an extra
18 10 feet for roof structures and
19 mechanical equipment.

20 The same applies to the 60 foot
21 high building, and, you know, they can
22 go 60 plus 10. The 45 can go 45 plus
23 10. But that 10 is not meant to be
24 habitable space --

25 CHAIRMAN KORGE: Right.

1 MS. DE LA GUARDIA: -- in any way.

2 CHAIRMAN KORGE: Right.

3 MS. DE LA GUARDIA: That 10 is to
4 enclose mechanical equipment and
5 decorative roof structures, and all the
6 different categories have that same sort
7 of allowance.

8 CHAIRMAN KORGE: Right.

9 Is there any motion?

10 MS. KEON: Can I ask -- you know, I
11 do remember a discussion about adjacent,
12 and, you know, there -- I mean, I don't
13 know how you allow for this in the Code,
14 that when you have boulevards like
15 Anderson, and even Almeria, that are
16 wide and may be planted and where there
17 are medians and whatever, it's a much
18 different experience, you know, than
19 maybe some of the other ones.

20 MR. SALMAN: That was my point of
21 adjacency.

22 CHAIRMAN KORGE: Yes.

23 MS. KEON: Yeah.

24 MR. SALMAN: Okay. The alley would
25 make it contiguous or abutting --

1 MS. KEON: Right.

2 MR. SALMAN: -- and it wouldn't
3 apply here.

4 MS. KEON: Okay.

5 MR. SALMAN: Do you see what I'm
6 saying? It would only apply here.

7 CHAIRMAN KORGE: Right.

8 MR. SALMAN: All this --

9 MS. KEON: But is that --

10 MR. SALMAN: -- and that's it, and
11 here. That's it.

12 MS. KEON: Right, but it wouldn't
13 apply --

14 MR. SALMAN: No.

15 MS. KEON: -- to these others, 14,
16 15, whatever.

17 MR. SALMAN: At least --

18 MS. KEON: Would that hold true --

19 MR. RIEL: On their proposal that
20 is similar -- if you look on Page 3,
21 there's another property in this
22 single-family with the same situation.

23 MS. KEON: Right, I see that, but I
24 have a problem -- I mean, I -- that's --
25 I would have -- I mean, I would have a

1 problem with these parcels here where,
2 you know, there's Number 14, 15,
3 whatever, you know.

4 CHAIRMAN KORGE: Right.

5 MS. KEON: I mean, those are --

6 MR. AIZENSTAT: That's what I'm
7 saying. How do you --

8 MS. KEON: You know, so, I mean,
9 I --

10 CHAIRMAN KORGE: Assuming --
11 assuming that we --

12 MS. KEON: It's the word adjacent.
13 But does that -- and I would want to
14 make sure that that doesn't -- right.

15 MR. SALMAN: Exactly.

16 MS. KEON: That this -- you know,
17 if it's this wide boulevard, you know,
18 that allows you to separate those two
19 things, it's not a problem, but over
20 here it would be a problem.

21 MR. SALMAN: True.

22 MS. KEON: I mean, then adjacent --

23 MR. SALMAN: Because then you have
24 a 45-foot building in your back yard.
25 You don't want that.

1 MS. KEON: In your back yard, no,
2 and that doesn't work. And I don't know
3 what, you know, your review of all of
4 the properties that this would apply to,
5 because we need to -- and like Liz says,
6 our issue is really not the lawsuit.
7 Our issue is --

8 MR. SALMAN: The Code.

9 MS. KEON: -- the zoning.

10 MR. RIEL: I mean, as part of
11 the --

12 MS. KEON: So is it --

13 MR. RIEL: As a part of the
14 examination of the Zoning Code, you
15 remember, we -- and I'll be happy to
16 give Staff's recommendation. I mean,
17 the single-family was reduced to 29
18 feet.

19 MS. KEON: Right.

20 MR. RIEL: Duplex height was
21 reduced from 34 to 29 feet.

22 MS. KEON: Right.

23 MR. RIEL: That's a transitional
24 area.

25 MS. KEON: Right.

1 MR. RIEL: Therefore, we suggested
2 that a hundred foot is the appropriate
3 for Commercial, Commercial Limited and
4 MF2 properties. We suggested 50 feet as
5 a -- you know, a reasonable -- 35 feet
6 and then the 45 feet for the remainder
7 of the property. So there was a
8 recognition of the fact that there is,
9 you know, MFSA properties. That's why
10 we had less restrictive provisions.

11 So, I mean, that was Staff's
12 recommendation, and that's, you know,
13 what the -- when I keep saying the City
14 Commission policy direction, obviously,
15 they look to the professionals to make a
16 recommendation, so that's what it was.

17 MS. KEON: You know, you allowed --
18 I mean, the height is still more and the
19 setbacks, you know, are less, so it's --
20 I -- yeah, I would have a hard time
21 supporting the amendment that is being
22 proposed.

23 CHAIRMAN KORGE: It would apply to
24 these properties only.

25 MR. SALMAN: The way it's written

1 right now, it specifically goes to Mr.
2 Menoyo's properties.

3 CHAIRMAN KORGE: I'm sorry?

4 MR. SALMAN: Correct?

5 MS. HERNANDEZ: The way it's
6 written --

7 MR. RIEL: The proposal is to amend
8 the site specifics or the text of the
9 Code to allow these provisions to apply
10 only to the properties outlined.

11 MS. HERNANDEZ: Correct.

12 CHAIRMAN KORGE: The properties
13 which they're representing.

14 MR. RIEL: It would not be
15 applicable to the other MFSA properties
16 shown on this exhibit.

17 MS. HERNANDEZ: Correct.

18 CHAIRMAN KORGE: And Javier was
19 suggesting that we should look at this
20 as a City-wide change that would make
21 more sense than as a patch, and although
22 that may make sense, what we have before
23 us now is simply for these --

24 MS. HERNANDEZ: Right.

25 CHAIRMAN KORGE: -- these

1 specifically located areas, and that's
2 what -- that's what the motion would be
3 for, not for the entire City, and it
4 might include a recommendation that the
5 Commission look at the possibility of
6 reconsidering it on a City-wide basis --

7 MS. HERNANDEZ: Right.

8 CHAIRMAN KORGE: -- taking into
9 account the difference between abutting
10 and adjacent, and the --

11 MR. SALMAN: And the separation.

12 CHAIRMAN KORGE: And the
13 separation, yeah.

14 Do you want to try your hand at a
15 motion, Javier, maybe?

16 MS. KEON: These are not applying
17 to these; is that what you're telling
18 me?

19 CHAIRMAN KORGE: No.

20 MR. SALMAN: No, no.

21 MS. KEON: It is --

22 CHAIRMAN KORGE: Just those
23 properties.

24 MR. SALMAN: Just these.

25 MS. KEON: This, this and this.

1 This is the Valencia -- It's the
2 Valencia --

3 MR. SALMAN: I would make a motion
4 to go ahead and approve the increase to
5 the 45 feet for the subject properties.

6 MS. HERNANDEZ: Can you say that
7 again? I'm sorry.

8 MR. SALMAN: I'm going to make a
9 motion that we approve the increase to
10 45 feet for the subject properties.

11 MR. AIZENSTAT: What happens to the
12 properties that are next door to these?

13 MR. SALMAN: They don't get it.

14 MR. AIZENSTAT: They would have to
15 come before us --

16 MR. SALMAN: Yep.

17 MR. AIZENSTAT: -- to get it?

18 MR. SALMAN: Uh-huh.

19 MR. ECHEMENDIA: I think what
20 Maria -- if I may, Mr. Chair, I think
21 what Maria suggested would be an artful
22 way -- maybe just as Javier alluded to,
23 maybe this the first step, to use his
24 term, the first patch, if you will, and
25 then maybe a second motion is to maybe

1 look at it on a little wider basis,
2 would possibly be appropriate.

3 MR. AIZENSTAT: Well, that's why
4 --that's where I'm looking at it,
5 because I don't know if it's right -- I
6 mean, something is being pointed out to
7 us and we're looking at these
8 properties, but if you take a look,
9 there's other properties that are also
10 involved.

11 So, if that's the case, how can we
12 turn around and just look at these and
13 ignore the other ones?

14 MR. SALMAN: I'd like to amend my
15 motion to include a recommendation to
16 the Commission that they allow us to
17 explore the change in the text of the
18 Zoning Code back regarding the adjacency
19 issue, to solve a City-wide problem.

20 CHAIRMAN KORGE: So your motion
21 would be to make the change for this
22 particular area and also to ask the
23 Commission to allow us to consider or to
24 direct -- I guess, really, to direct
25 Eric to come back to us with

1 recommendations regarding the
2 possibility of applying a change on a
3 City-wide basis to distinguish between
4 adjacent and abutting --

5 MR. SALMAN: For these particular
6 properties.

7 MR. RIEL: For just MFSA.

8 MR. SALMAN: For these MFSA
9 properties.

10 CHAIRMAN KORGE: For these MFSA
11 properties.

12 MR. RIEL: MFSA properties only.

13 CHAIRMAN KORGE: Right.

14 MR. SALMAN: Exactly. I know that
15 the adjacency is an issue that we
16 explored at length --

17 MR. RIEL: That's correct.

18 MR. SALMAN: -- and I don't recall
19 where I landed on the issue, but I
20 always had a problem with adjacency
21 across the street, so -- but all the
22 decisions that were made with regards to
23 the general Code had to deal with
24 adjacency the way it was written and the
25 way it's been cast into the Code.

1 In this particular instance, the
2 definition of adjacency is one that is
3 causing us the biggest problem here, for
4 this particular type, MFSA, only.

5 MR. AIZENSTAT: Liz, are you okay
6 with that?

7 MS. HERNANDEZ: Say it again,
8 please.

9 MR. AIZENSTAT: Say it again.

10 MR. SALMAN: You want me to say it
11 again? No, I'm not going to tell you.

12 MS. HERNANDEZ: Pretty please.

13 MR. SALMAN: Okay. You want the
14 motion from the beginning or --

15 MS. HERNANDEZ: No, no, just what
16 you were just saying right now.

17 MR. SALMAN: That the issue of
18 adjacency where it applies across the
19 street is inappropriate for an MFSA --

20 MS. HERNANDEZ: Right.

21 MR. SALMAN: -- designated property
22 with regards to its limitation on
23 height. And in that respect, it should
24 be removed as one of the limiting
25 factors to the application of MFSA

1 restrictions.

2 MS. HERNANDEZ: Is that acceptable,
3 as well, to you?

4 MR. ECHEMENDIA: Yes, absolutely.
5 Thank you. Thank you, Mr. Salman.

6 MS. HERNANDEZ: Okay.

7 MR. SALMAN: Anybody want to
8 second?

9 CHAIRMAN KORGE: Is there a second
10 for the motion?

11 So there's no second for the
12 motion?

13 MR. FLANAGAN: Second.

14 CHAIRMAN KORGE: There's a second
15 for the motion.

16 MS. KEON: Okay, now we can talk.

17 CHAIRMAN KORGE: Discussion on the
18 motion? Or any further discussion on
19 the motion?

20 MS. KEON: You're removing
21 adjacency --

22 MR. SALMAN: For MFSA only.

23 MS. KEON: All right, but it
24 doesn't -- you know, this is specific
25 for these properties?

1 MR. SALMAN: Yeah, but it would
2 still leave contiguous and abutting --

3 MS. HERNANDEZ: Right.

4 MR. SALMAN: -- as a limiting
5 factor for 35 feet.

6 MS. KEON: Well, you know what --
7 I'll tell you what my concern is --

8 MR. SALMAN: Okay.

9 MS. KEON: -- is that I don't know
10 what else exists out here in the City
11 that -- you know, in looking at this, I
12 know this neighborhood, yeah, I lived in
13 this neighborhood for 25 years, so I
14 know this neighborhood, so I know what
15 these streets look like. I guess what
16 I --

17 MR. SALMAN: You have it here --

18 MS. KEON: You know, what I -- I
19 want to know if this is -- This is it?
20 What you have here on these pages is --
21 that's it? There are no other --

22 MR. SALMAN: MFSA properties in the
23 City.

24 MS. KEON: -- MFSA properties in
25 the City?

1 MR. RIEL: These are all the MFSA
2 properties.

3 MS. KEON: This is it?

4 MR. AIZENSTAT: And it would apply
5 to all those -- to those properties?

6 MR. SALMAN: Correct.

7 MR. RIEL: Depending on --

8 MR. SALMAN: But not -- not the
9 ones that are contiguous or abutting.

10 MR. AIZENSTAT: Correct.

11 MR. SALMAN: So it would only
12 increase to 45 feet in across-the-street
13 situations.

14 MR. AIZENSTAT: Right, not
15 contiguous or abutting.

16 MR. SALMAN: Exactly.

17 MR. AIZENSTAT: Correct. Okay.

18 MR. FLANAGAN: Just so I'm clear
19 now, this -- your motion, which I
20 thought --

21 MR. SALMAN: You want to repeat it?

22 MR. FLANAGAN: Yeah, right. It
23 applies -- it approves the applicant's
24 request only --

25 MR. SALMAN: Yes.

1 MR. FLANAGAN: -- and then
2 requests, basically, a permission from
3 the City Commission to come back --

4 CHAIRMAN KORGE: To look at it
5 City-wide.

6 MR. FLANAGAN: -- and begin a
7 review of it for all MFSA properties.

8 MR. SALMAN: Correct.

9 MR. FLANAGAN: Right?

10 MR. SALMAN: Correct.

11 MR. RIEL: And your adjacency is
12 for only streets, or alleys?

13 MR. SALMAN: Streets.

14 MR. RIEL: Okay. I just want to
15 make sure.

16 MS. HERNANDEZ: Right. It's a big
17 issue there.

18 MR. SALMAN: That is the problem.
19 We put adjacency -- we put streets and
20 alleys.

21 MR. AIZENSTAT: No, because the
22 alleys would be your back yard.

23 MR. SALMAN: Yeah, exactly.

24 MR. AIZENSTAT: Right.

25 MS. HERNANDEZ: Right.

1 MR. RIEL: I just want to make
2 sure --

3 MR. AIZENSTAT: That's why I asked
4 if this was to scale.

5 MR. SALMAN: But an alley is
6 considered -- I think it's considered
7 abutting.

8 MS. HERNANDEZ: Does Staff have
9 something to say about it?

10 MR. SALMAN: An alley is considered
11 abutting.

12 CHAIRMAN KORGE: Eric, do you have
13 anything further to add to all of this?

14 MR. RIEL: No, I mean, obviously,
15 we're going to need to do a study, and
16 that's going to take some time, I mean,
17 you know.

18 MR. SALMAN: Well, you've got all
19 the properties here, right?

20 MR. RIEL: Yeah.

21 MS. HERNANDEZ: Yeah.

22 CHAIRMAN KORGE: Okay.

23 MS. KEON: Yeah, you would --

24 MR. ECHEMENDIA: The only --

25 CHAIRMAN KORGE: Yes, sir?

1 MR. ECHEMENDIA: The only thing I
2 wanted to ask, I just wanted to make
3 sure we didn't get caught up in the
4 study. This is going -- would be going
5 forward as a motion --

6 MS. HERNANDEZ: Right.

7 MR. ECHEMENDIA: It's kind of a
8 dual motion that goes to the Commission
9 on ours --

10 MR. SALMAN: Yes.

11 MS. HERNANDEZ: Right.

12 MR. ECHEMENDIA: -- with coming
13 back on the others.

14 MR. RIEL: But they're not tied to
15 one another.

16 CHAIRMAN KORGE: Right.

17 MR. ECHEMENDIA: Understood.

18 MS. HERNANDEZ: Unless you want it
19 to be, Mr. Echemendia.

20 MR. RIEL: Or if he just
21 understands it.

22 MS. HERNANDEZ: I think he says
23 yes.

24 MR. AIZENSTAT: He says yes.

25 CHAIRMAN KORGE: Okay, is there any

1 further discussion on the motion?

2 MS. KEON: I would really like to
3 know that we are assured that the
4 adjacent issue --

5 MR. SALMAN: We're not deciding
6 that now.

7 MS. KEON: Okay.

8 MR. SALMAN: We're just making a
9 recommendation. It's got to come back
10 to us for authority to change -- to make
11 the legislative recommendation so they
12 can approve it.

13 CHAIRMAN KORGE: We would decide it
14 now for these particular properties.

15 MR. SALMAN: And these particular
16 properties only.

17 CHAIRMAN KORGE: For the other
18 properties, we're asking the Commission
19 to have Eric review that again for the
20 MFSA area generally and come back to us
21 with a further recommendation on the
22 possibility of applying a similar rule
23 for the rest of the MFSA area.

24 MS. KEON: So, in doing that, half
25 the block would be able to be 45 feet

1 and the other half of the block would be
2 35 feet?

3 MR. SALMAN: Exactly.

4 CHAIRMAN KORGE: Well, all of the
5 areas that are designated now would
6 qualify.

7 MS. KEON: This --

8 MR. SALMAN: Right. Right now,
9 what we're approving --

10 MS. KEON: This amendment or this
11 text Code amendment applies only to that
12 area that is labeled Beatrice Row --

13 CHAIRMAN KORGE: Assembled
14 properties.

15 MS. KEON: -- assembled properties,
16 and -- I mean, from the addresses that
17 you have here, tell me specifically on
18 this paper what applies.

19 MR. ECHEMENDIA: Okay, the ones
20 that are hatch-marked, I believe, but if
21 it gives you any comfort, there's not
22 going to be 45 feet there until after
23 you revise the Code on the rest of the
24 others some day.

25 MS. KEON: Well, I mean, all these

1 hatch-marked pieces are not the
2 addresses -- it's my understanding that
3 this applies to this --

4 MR. DE LA FUENTE: It's not -- it's
5 not all the hatch-marked ones. You
6 start -- It's Beatrice Row, assembled
7 property and Almeria Row.

8 MR. SALMAN: Almeria Row, and
9 that's it.

10 MR. DE LA FUENTE: That's it.

11 MS. KEON: And Almeria, and that's
12 the only ones that this applies to?

13 MR. DE LA FUENTE: That's correct.

14 MR. FLANAGAN: And half of Almeria
15 has already been --

16 MR. DE LA FUENTE: And half of
17 Almeria is not even a part of this,
18 the --

19 MR. FLANAGAN: Lots 1 through 5?

20 MR. ECHEMENDIA: It's already at
21 45.

22 MR. DE LA FUENTE: That's already
23 been built. That's the award-winning
24 property that Maria referred to.

25 MR. SALMAN: (Inaudible) up to 40.

1 MR. FLANAGAN: Lots 1 through 5 are
2 resolved at the 35 feet?

3 MR. DE LA FUENTE: Yes.

4 MS. DE LA GUARDIA: No, I -- when
5 we permitted that, the height was still
6 at 45 feet, but we did not choose to go
7 to 45 feet. I think it's 40 feet.

8 MS. KEON: Almeria Row?

9 MS. DE LA GUARDIA: Uh-huh.

10 MS. KEON: And this indicates that
11 it's --

12 MR. SALMAN: Forty for the --

13 MS. DE LA GUARDIA: Right.

14 MS. KEON: This is the section that
15 was developed, right?

16 CHAIRMAN KORGE: Yeah.

17 MS. KEON: And this is the to-be-
18 developed?

19 CHAIRMAN KORGE: Yes.

20 Any further discussion on the
21 motion? No?

22 No further discussion. We'll call
23 the roll, please.

24 MS. MENENDEZ: Eibi Aizenstat?

25 MR. AIZENSTAT: Yes.

1 MS. MENENDEZ: Jack -- excuse me,
2 Jeffrey Flanagan?

3 MR. FLANAGAN: Yes.

4 MS. MENENDEZ: Pat Keon?

5 MS. KEON: I have a problem with
6 it, because it's in the block here.

7 CHAIRMAN KORGE: This. The other
8 of this block is --

9 MS. KEON: Has already been
10 developed.

11 CHAIRMAN KORGE: -- at about 40
12 feet.

13 MS. KEON: But it's been developed
14 at 40 feet, and then you're allowed to
15 build at 45 feet.

16 CHAIRMAN KORGE: Well, or 35. It's
17 going to be -- either way, it's not
18 going to be --

19 MS. KEON: I'm going to tell you
20 no.

21 MS. MENENDEZ: Javier Salman?

22 MR. SALMAN: Yes.

23 MS. MENENDEZ: Tom Korge?

24 CHAIRMAN KORGE: Yes.

25 The motion passes.

1 MR. ECHEMENDIA: Thank you.

2 CHAIRMAN KORGE: Thank you for your
3 patience.

4 MR. RIEL: It will be considered in
5 the January 13th, 2009 meeting.

6 CHAIRMAN KORGE: Item 13?

7 MR. RIEL: Item 13 is deferred.

8 CHAIRMAN KORGE: No.

9 MR. RIEL: Yes. You see the
10 little, "The above item was deferred to
11 a future date"?

12 CHAIRMAN KORGE: Oh, okay. Thank
13 you. So we're adjourned till the next
14 meeting, which will be in --

15 MR. RIEL: One more thing. Merry
16 Christmas.

17 MR. SALMAN: Merry Christmas.

18 MS. HERNANDEZ: Merry Christmas,
19 everybody.

20 CHAIRMAN KORGE: Happy holidays.

21 MR. SALMAN: Happy holidays.

22 MS. HERNANDEZ: Merry Christmas,
23 Happy Hanukkah --

24 MR. SALMAN: Happy Hanukkah --

25 MS. HERNANDEZ: -- and Kwanzaa.

1 MR. SALMAN: Merry Kwanzaa.

2 (Thereupon, the meeting was

3 adjourned at 8:55 p.m.)

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C E R T I F I C A T E

STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

I, JOAN L. BAILEY, Registered Diplomat
Reporter, Florida Professional Reporter, and a
Notary Public for the State of Florida at Large,
do hereby certify that I was authorized to and
did stenographically report the foregoing
proceedings and that the transcript is a true and
complete record of my stenographic notes.

DATED this 15th day of December, 2008.

JOAN L. BAILEY, RDR, FPR

Notary Commission Number DD 64037
Expiration June 14, 2011.