

1 CITY OF CORAL GABLES
2 CITY COMMISSION WORKSHOP
3 VERBATIM TRANSCRIPT

4 BILTMORE HOTEL, DANIELSON ROOM
5 1200 ANASTASIA AVENUE
6 CORAL GABLES, FLORIDA
7 WEDNESDAY, OCTOBER 5, 2005, 8:50 A.M.

8 City Commissioners Attending:

9 Donald D. Slesnick, Mayor
10 Maria Anderson, Vice-Mayor
11 Wayne E. "Chip" Withers, Jr.,
12 William H. Kerdyk, Jr.
13 Rafael "Ralph" Cabrera, Jr.

14 Planning & Zoning Board Members Attending:

15 Tom Korge, Chairman
16 Eibi Aizenstat, Vice-Chairman
17 Cristina Moreno
18 Javier Salman

19 Participating, from the City:

20 David Brown, City Manager
21 Eric Riel, Jr., Planning Director
22 Walter Carlson, Assistant Planning Director
23 Elizabeth M. Hernandez, City Attorney

24 Consultant:

25 Charles Siemon

1 THEREUPON:

2 The following proceedings were had:

3 MAYOR SLESNICK: All right, good morning
4 everybody.

5 We are going to begin with presentations.
6 How we're going to do this is, I think the City
7 Manager has a few opening remarks. Then we'll have a
8 presentation from our Planning Director and a
9 presentation from our consultant. We'll have
10 remarks, if they care to be made, by the leadership
11 of the Planning & Zoning Board, who have spent many
12 waking hours with this effort, and then the
13 Commission will discuss and ask questions.

14 This is a morning of learning. It is a
15 morning of learning for the Commission, in an
16 effort -- I'll speak for myself only, but I think I
17 speak for the Commissioners, that in an effort to
18 attempt to let the process work, you know, I have
19 taken a completely hands-off approach to allowing
20 citizens, consultant, directors, Planning Department
21 and the Planning & Zoning Board to hash out and to
22 homogenize, if you will, the various ideas and
23 suggestions it takes to bring our Zoning Code into
24 the 21st Century, at which time we're now approaching
25 the time for the Vice-Mayor, myself and the

1 Commissioners to now start to turn our attention to
2 what that effort has produced, as opposed to
3 micro-managing from the outset, and that's what this
4 morning is about.

5 So we're delighted that all of you have
6 joined us. We invite you to be here, to take part in
7 this learning experience and this educational
8 experience. We will not be taking public comments
9 today. We will not be taking statements from the
10 public because, like I say, this is our chance to
11 hear, to see, and to ask questions of our staff and
12 of our consultant. But we are delighted that the
13 rest of you wanted to learn at the same time we did.

14 And with that, Mr. Brown, I ask if you'd
15 start this off.

16 MR. BROWN: I will say you didn't leave much
17 to reveal, but I welcome everybody to this workshop,
18 and as you stated, this is a learning experience for
19 everybody in the audience, as well as around the
20 table, and to gather information from Staff.

21 The agenda for this morning is that Mr. Riel
22 will begin the presentation on the Zoning Code status
23 as it is today. It will be followed by Mr. Siemon
24 and his status of his recommendations as it is today,
25 and then we'll open it up for comments by the City

1 Commission, or questions and answers.

2 So, without any further delay, I'll ask Mr.
3 Riel to begin the presentation.

4 MAYOR SLESNICK: And Eric, I just need you
5 to tell us when it is that we're going to need to
6 look at the screen, because the Commissioners have to
7 come out and sit --

8 MR. RIEL: Actually, we have two
9 PowerPoints. I have one and Charlie Siemon has one,
10 so --

11 MAYOR SLESNICK: So they start immediately?

12 MR. RIEL: Yes.

13 MAYOR SLESNICK: So let me move --

14 MR. RIEL: First off, I want to thank the
15 Mayor and City Commission and City Attorney and City
16 Manager. It's truly a pleasure to be able to have
17 your continued input into this very much important
18 process.

19 I'd just like to recognize a couple of the
20 Planning & Zoning Board Members. Cristina Moreno is
21 it past Chair of the Board, still on the Board, as
22 well. Eibi Aizenstat is the current Vice-Chair, and
23 I did speak with Mr. Tom Korge. If he's not here,
24 he's on his way. And also, we have a former member,
25 Mr. Michael Steffens, who was the former Vice-Chair

1 of the Planning & Zoning Board, and if I forgot any
2 of the Planning Board Members, I apologize.

3 Okay, with that, as I said, this is a
4 two-part PowerPoint presentation. Basically, the
5 goal today is to give the Commission an update of the
6 rewrite of the development-related codes and
7 associated studies and provide a very specific
8 progress on the Zoning Code rewrite itself and then
9 secure your policy direction on issues that you so
10 desire to provide us this morning.

11 As you know, a number of the development
12 codes within the City are currently being rewritten,
13 and there's a number of studies. The first one that
14 we're looking at is the inconsistent zoning map, and
15 I'm going to go through each of these in a little bit
16 more detail; the new zoning map, which is the result
17 of changing the inconsistent zoning, as well as the
18 new categories that we're creating in the Zoning
19 Code; the new zoning text, which is basically the
20 impetus or the driving force of all these rewrites.
21 We're also doing a work force or affordable housing
22 study. We're also rewriting the Comprehensive Land
23 Use Plan, the Comprehensive Land Use Plan being
24 the -- providing the goals and objectives for the
25 future of the City, and the Evaluation and Appraisal

1 Report, which is, in short, called EAR, is basically
2 an evaluation of the Comp Plan and how we have done
3 to date since its last rewrite, which was in the late
4 '90s. And obviously, as a part of that, including
5 the zoning map, we're looking at the Comprehensive
6 Land Use Plan map, and then also, we have done a
7 North Ponce de Leon Master Plan, which is also
8 currently underway.

9 First, the inconsistent zoning map. We've
10 identified approximately 60 to 70 properties that
11 have zoning that is not consistent with land use, and
12 that -- when this particular issue came to the
13 Commission, that is why we're having this workshop
14 today. We have a very detailed listing in terms of
15 the properties that we feel the zoning needs to be
16 changed to be consistent with the land use.

17 If you look up, this is a table of the
18 privately-owned properties. If you look at this
19 first column here, what we attempted to do is, this
20 is the existing zoning, and the color red indicates
21 commercial, and the proposed would be special use.
22 This, for instance, is an example. It's a church
23 that has commercial zoning on it, and churches
24 typically go in the special use.

25 We have other properties that, as you go

1 down this list, perhaps a portion of the property has
2 a residential zoning, and the remaining has
3 commercial. Perhaps the parking lot has an X use on
4 it, that was added on somewhere throughout the
5 development of the parcel.

6 So what we're attempting to do is make the
7 zoning consistent with the land use. And this is on
8 privately-owned property, which there's
9 approximately, I want to say, about 25 of those.

10 Then we also have publicly-owned property.
11 We have a lot of properties under the ownership of
12 the City, as well as the State, that have either a
13 Commercial or Residential zoning on them. For
14 instance, the Granada Entrance has a commercial
15 zoning on it. It should be special use. The parks
16 have commercial zoning on them. The museum has
17 commercial zoning, and it should be a special use.

18 So, if you look in the second column here,
19 most of the changes are just to make those consistent
20 with either the remaining portions of the property or
21 to put it in its proper category.

22 Turning to the new zoning map, we have
23 developed a new zoning map which corrects those
24 inconsistencies and also includes the new categories,
25 and those maps are right behind me, as well. The

1 table on the left are the current categories, and the
2 table on the right are the new proposed categories.
3 Basically, what we've done, in terms of a major
4 change, is, there was approximately 18 to 20
5 single-family zoning districts, and the only
6 difference was the minimum size of the home. So,
7 basically, we've consolidated those into two zoning
8 districts, SF-1 and SF-2, and Mr. Siemon is going to
9 go into more detail in his presentation, the
10 reasoning for that.

11 We've also reduced the number of commercial
12 from three to two categories, and then, for the most
13 part, the S zoning and also the multi-family zoning,
14 we've also consolidated down into two. And again,
15 Mr. Siemon will go through the details of that.

16 Turning to the new zoning text. As you
17 know, this is the driving force regarding the
18 rewrite, all these studies that are being completed.
19 In January 2004, the Commission had a discovery
20 workshop, and you had those sheets in the binders
21 that are in front of you, and if I could ask my
22 staff, we do have binders available for the public to
23 look at, if we could pass those out.

24 We came to the Commission in January of 2004
25 and asked you, what are those issues that you would

1 like us to specifically look at? If you look at the
2 format of the discovery worksheets, we identified
3 issues, the Planning & Zoning Board identified
4 issues, and the Commission identified issues.
5 Thereafter, we started drafting the Code.
6 Thereafter, we went to the Planning & Zoning Board
7 and sought policy direction. And then, in December
8 of 2004, the City Commission passed a resolution,
9 basically outlining -- and that is also in your
10 binder, it's actually the first item -- basically
11 stating the reason why we're doing this: Simplify
12 the Code, update the land provisions, better organize
13 the districts, protect property values, strengthen
14 the business district, promote job growth, enhance
15 land use compatibility, and balance new modern growth
16 with established neighborhoods.

17 Then, in February of this year to this time,
18 we are going through the Code, line by line. Let me
19 just get into a little more detail.

20 In the discovery workshop, we looked at 13
21 various issues: Parking, Commercial districts,
22 Residential, development review processes,
23 definitions, et cetera. All those directions
24 received are in these worksheets.

25 From February to August of 2004, we

1 interviewed interested parties, residents, property
2 owners, developers, attorneys, and then City Staff
3 established a -- basically, a Zoning Code rewrite
4 team.

5 The matrix, the policy matrix with which we
6 went to the Planning & Zoning Board, we took
7 approximately four months. We highlighted each of
8 those 12 issues and asked them for their input before
9 we actually started rewriting the Code, and if you
10 look at that exhibit, which is also in the binder,
11 the first column identifies the issue. The second
12 column identifies the plus and minuses of the issue.
13 The third is the team recommendation, and then the
14 fourth is the Planning & Zoning Board
15 recommendation.

16 Then, basically, as I indicated, from
17 January or February of this year, the City Planning &
18 Zoning Board has gone through the Code, line by line,
19 and we've drafted a version that includes underlining
20 and strike-out.

21 We also -- as they go through the Code, the
22 new Code, we're doing a tracking chart which
23 indicates what type of a recommendation the Board
24 made. It's updated after each meeting. If you look,
25 there's a total of 56 divisions -- excuse me, 74

1 divisions in the Code. The Board has gone through 56
2 of those, so we're about 75 percent complete. I want
3 to say, though, that 75 percent does not include a
4 lot of the issues, the major issues, such as
5 single-family, parking. We've gone through those
6 articles that basically form the organization of the
7 Code.

8 So, in terms of quantity, we've gone through
9 a lot, the Board has spent a lot of time, but there
10 are some issues that have -- that result in
11 additional discussion. And this is basically the
12 tracking chart. Everything on this chart in orange
13 is what the Board has basically approved and passed,
14 and then the comments in writing column.

15 The issues that we still need to go through:
16 Parking, the single-family, and multi-family
17 provisions. We have had two or three meetings on
18 single-family only. We've had one or two meetings on
19 multi-family. Landscaping has not been referred to
20 the Board yet. And then there were several items
21 that were deferred, where the Board asked for
22 additional direction or additional research.

23 The next meeting is October 19th, where we
24 will be talking about parking and signs, and then on
25 November 9th, we're going to talk about the new

1 single-family regulations, which I noted that we've
2 had two or three meetings, and actually, we had a
3 workshop with the Board of Architects and the
4 Planning & Zoning Board at the Biltmore,
5 approximately -- I think it was in June of this year.

6 And then in December our intention is to go
7 through the landscaping, and political signs was
8 discussed and we're going to bring that back for
9 final, and I believe -- I forget what the other items
10 were, but anyway, there's some additional items that
11 we need to come back for.

12 Affordable housing study. We're required by
13 the State to address affordable and work force
14 housing. Every community, every local government,
15 has to do it. We're no different than, you know,
16 Miami, Broward, any city, basically, in the state.

17 I would say that we're probably in the
18 forefront, because we've done a separate housing
19 study. Ironically, how we got to the point was, when
20 we went through to change the MXD-3 and go through
21 the Regional Planning Council for review, they kind
22 of slapped our hand and said we haven't done -- we
23 haven't addressed this need, and they asked us to do
24 a separate provision, which all other local
25 governments need to do, but what's happened is, we've

1 gone out and done the study. Now other local
2 governments are calling us to find out when the study
3 is going to be completed and what our findings were,
4 so they can utilize those in their code rewrites.
5 We've kind of become an expert, and we've hired one
6 of the best experts regarding affordable housing, and
7 in the coming months I'm going to have a presentation
8 for both the Planning & Zoning Board and City
9 Commission, just on that issue, because it is a very
10 important issue.

11 As I indicated, we're also rewriting the
12 Comp Plan. The Comp Plan basically provides for the
13 future development of the City. We're required to
14 look at it every five to seven years and report to
15 the State how well we did in meeting those goals and
16 objectives. We're in the process of doing that.
17 That's called the EAR, Evaluation and Appraisal
18 Report. In fact, we have a draft, almost in final
19 form, ready for public release, probably in the next
20 three weeks.

21 The basis for, typically, when local
22 governments redo comp plans, is, they go through the,
23 you know, charrette and things of that sort. We were
24 lucky. You know, we had the charrette, we had a lot
25 of input, so we started working on the Comp Plan

1 immediately when we started working on the Zoning
2 Code and all the issues that have been identified, so
3 we're working in concert, together. We're going to
4 have goals and objectives that support the Zoning
5 Code, and we've had preliminary discussions with the
6 Planning & Zoning Board on those issues, as well.

7 Then, as you know, the Commission directed
8 us to do a North Ponce study. That is in draft form
9 and is now being reviewed by City Staff. That will
10 probably be available in the next month, as well.
11 We're proposing some changes to the North Ponce area
12 that will result in changes to the Zoning Code. So,
13 in terms of timing, that's what I'd like to go
14 through, on all these issues. As I indicated,
15 there's seven items that Staff and the consultants
16 and the City rewrite team are working on.

17 We have gone forward with each portion of
18 these studies, and this is kind of an update. The
19 inconsistent zoning map, we did go to the Planning &
20 Zoning Board, and it went to the City Commission, and
21 that item was deferred and that's why we're having
22 this workshop today.

23 The new zoning map, that needs to go back to
24 the Planning Board. They did not recommend approval
25 at this time. There were some questions they had.

1 Obviously, the Zoning Code text, there's
2 some meetings that we still need to have, and our
3 intention is to have those in the next two to three
4 months.

5 And then the affordable housing study. The
6 goal was to present that to the Planning & Zoning
7 Board, and then the Comprehensive Plan, and then the
8 Comprehensive Plan map, and then the North Ponce de
9 Leon. That is going to be on November 16th. And
10 ultimately, the goal is to have either these studies
11 go before the Planning Board before January or
12 February of next year, or at the January or February
13 meeting.

14 The goal is, all of these studies that we're
15 doing result in changes to the Comp Plan and Zoning
16 Code, so the timing of these studies is critical in
17 terms of moving forward on the Zoning Code.

18 The intention is then to go to the City
19 Commission with each of these items. You'll see that
20 I only have a first and second reading up here.
21 Staff's intention was to come, at a minimum, to the
22 Commission three or four times. That can be in
23 workshop form. These are just the required first and
24 second readings that we're required to do, per
25 ordinance.

1 And then in June, what has to happen is,
2 after the Comp Plan is approved on first reading, it
3 needs to go to the State for review, and there's a
4 schedule that we need to adhere to. So that,
5 hopefully, will come back and we'll have that to the
6 Commission in June.

7 So that's kind of the timing of each of
8 these issues. I know it looks like a lot. Our
9 intention is to try to keep the Commission and the
10 Board up-to-date and come before you well in advance
11 of when a decision needs to be made. We want to make
12 sure that the Commission is informed, the public is
13 informed, and they understand what direction we're
14 going in.

15 And with that, the City web page. We put
16 everything on the City web page. Anything that you
17 see, any Staff report, all mapping, the maps behind
18 me, all the new provisions, everything goes on the
19 web page the day that the Planning & Zoning Board
20 receives it, so it's a good resource. There's a lot
21 of information on there.

22 We have the maps of the 67 inconsistent
23 properties broken down into larger scale maps. You
24 can actually go on and see the aerial, what the
25 current zoning is, and what the proposed zoning is.

1 We've tried to really keep on updating the web page
2 on a daily basis.

3 We've also done some other outreach items, I
4 have an e-mail notification system, where I send
5 out -- we've done press releases, have actually done
6 a segment for Channel 77. We have a separate e-mail
7 address where we receive comments. To date, we've
8 receive about 150 comments, written comments, and you
9 have those in the back of your binder. We've put
10 them in, verbatim, as well as the photographs.

11 We've also gone to other City boards
12 involved in development review: The Board of
13 Architects, the Economic Development Board, Historic
14 Preservation, Board of Adjustment, and gotten their
15 input on various portions of the Code, and as I
16 indicated, we update the web page daily.

17 That concludes my presentation, and now I'm
18 going to turn it over to Mr. Charlie Siemon, who's
19 going to go over three basic issues, single-family
20 residence size limitation, multi-family and
21 commercial districts.

22 And also, I want to remind you, we have a
23 copy of both PowerPoints in your binders, as well.
24 Oh, and I forgot to mention, there's one last thing.
25 As a part of the process, in the input that we've

1 received, and I'd like to ask Staff if they could
2 pass those out, Staff has developed a set of
3 questions. There's a large question mark on the top
4 of this. We've developed a set of commonly asked
5 questions on the three issues on which we have
6 received the most questions. We have them broken
7 down into single-family, multi-family and
8 commercial. The yellow paper is the single-family,
9 the multi-family is on the brown paper, and the
10 commercial is on kind of the pink and red paper.
11 It's questions that we've received, like what are --
12 what's the intent of the Zoning Code rewrite, what is
13 an FAR, what is building height. This should be a
14 valuable tool in understanding just the general
15 questions, and this is -- we're introducing this
16 today. We'll have this on the web, probably in the
17 next day or two.

18 So, with that, I turn it back to you,
19 Charlie.

20 MR. SIEMON: Thank you.

21 What I'd like to do is first give you a
22 brief overview of where we are in the rewrite
23 process. Then I want to talk to you about some major
24 areas of ongoing policy discussion that we hope --
25 that we want to explain to you where we are and, if

1 you have input, solicit that from you.

2 And I want to make an observation. There's
3 been a lot of conversation, we get a lot of input
4 from the community, and part of that relates to, all
5 during this process, there has been extensive
6 discussion of various alternatives, various problems
7 and various solutions. Some of those solutions have
8 not been incorporated in the draft, some have, and
9 there is some confusion in the community about what
10 we are really recommending at this time, what the
11 Planning & Zoning Board has recommended. So part of
12 what I want to try to make sure you understand is
13 where we are and what's actually being proposed as we
14 go forward.

15 The first -- and this is really important.
16 I think you all understand it, but I want to make
17 sure you do, because it's really the foundation of
18 what we're doing. The Code has been reorganized, and
19 reorganized significantly. This book, which Dennis
20 is a master at using but the rest of us struggle with
21 finding -- and even Dennis, I see him paging through,
22 trying to find a section -- has been assembled over
23 many years and is not organized in what we would call
24 a user-friendly fashion. So our first challenge and
25 task was to reorganize and reformat, so that it would

1 be easy for users to find information, whether it's
2 the City councilman, a Planning Staff member, a
3 member of the public, or a zoning lawyer working with
4 it.

5 So we've reorganized it into eight articles
6 that we think make sense. We've gone through the
7 process, and I think that they have been well
8 received.

9 We've also included a lot of means of what I
10 call way-finding, how do you find a certain provision
11 in the Code. For example, there are a whole bunch of
12 development standards scattered all through the Code,
13 under various subjects. We've consolidated them into
14 a single article, but we've gone further. Each
15 subject is presented in an alphabetical fashion. So,
16 if you're interested in size, you go to development
17 standards, and then the divisions, you go down
18 towards where the S is in the alphabet, and you can
19 find it. All of that is designed to help the user
20 find it in an efficient fashion, and most
21 importantly, not to miss things.

22 Part of what happens in this Code, as it's
23 organized, if you can't find Dennis, you may miss
24 something when you go through, because the pages are
25 relatively similar and they're not easily organized.

1 You go back and forth to sections, to find them.

2 We've put headers and footers for easy
3 location at the top of the page. We want you to be
4 able to look at the page and tell where you are in
5 the Code, what article, what division and what
6 subject matter is being addressed on that page.

7 And finally, increased use of charts and
8 illustrations. Pictures are really worth a thousand
9 words. So one of the things that there's been a lot
10 of commentary is how big this is. We have not
11 concentrated on making it smaller. We have
12 concentrated on making it more useful. So we've
13 added some charts, which has added additional pages,
14 but we think when it's all done, it will make it
15 easier to use.

16 Article 1 are the general provisions.
17 That's general statements of law, purposes,
18 jurisdiction, et cetera.

19 Article 2 are the decision-making and
20 administrative bodies. We think it's important that
21 who the players are and what their responsibilities
22 are should be in one place, so that when you want to
23 find out who those guys are, what is their
24 jurisdiction and what's their composition, you can
25 find it in one place. You don't have to go to each

1 substantive area to find out who's doing what,
2 playing what role.

3 Article 3 is Development Review. You have a
4 whole variety of individual discretionary development
5 review processes. We have proposed a consolidation
6 and a simplification of them so that the development
7 review process and all the rules and regulations are
8 in one place. For example, all the notice
9 requirements in here are in a section called Notice,
10 so you don't have to look to a particular area to
11 find out what are the notice requirements, and that
12 helps, because they're all there. Sometimes mistakes
13 are made because this is a board of zoning adjustment
14 notice or this is the statutory notice required for
15 that, they're different, but if they're not on the
16 same page, the distinction is often overlooked.

17 The zoning districts, those are the
18 classic, what uses are permitted where, and as Eric
19 has said, we've done some significant consolidation
20 to try to modernize those districts. The
21 development standards, these are all the kinds of
22 things, substantive regulations governing fences and
23 signs and landscaping and all those things that
24 characterize the character of an area.

25 Article 6 are nonconformities, both existing

1 nonconformities and any transitions.

2 Article 7 is violations, enforcements,
3 penalties.

4 Article 8 are definitions. One of the
5 things that we've spent a lot of energy on is
6 identifying terms that are used as terms of art in
7 the Code and making sure that they have a definition
8 and that the definitions are all found in one place,
9 and you know where to turn. Ultimately, we hope,
10 when this Code is published, you'll be able to
11 identify, in color, every word or term which is a
12 defined term, be able to -- so you know it's a
13 defined term, and ideally, there would be a hyperlink
14 that when you click on it, it takes you right to that
15 definition which pops up, so there will be no
16 misunderstanding about what the terminology is
17 intended to be.

18 The site-specific regulations that exist are
19 Appendix A. We gave serious consideration as to
20 whether those historical special regulations, special
21 approvals, could be translated into a code of general
22 application and concluded it would cause too much
23 confusion and was too difficult to do, so that
24 remains as is.

25 The Mediterranean design guidelines, which

1 are subject to extensive conversation and discussion,
2 are in Appendix B, and then Appendix C --

3 MR. RIEL: A map.

4 MR. SIEMON: Yeah, it's a map that -- and I
5 don't remember what it is, because we didn't change
6 it, but we had to incorporate it. I apologize.

7 Now, I just want to show you how we've
8 organized this. Remember, we have articles. Under
9 each article are divisions, which are certain -- and
10 then there's a specific section, and so we wanted to
11 make it really easy to find things in the Code. So
12 this numbering system, the first number, 3, tells you
13 what article you're in. So if you're looking for
14 Section 3-201, you're looking in Article 3,
15 Development Review, in Division 2, which is general
16 development review procedures, and then finally, the
17 specific section -- this one is pre-application
18 conference, the next one is filing -- so that when
19 you see a number, you don't just see a number that's
20 numerical in order; you see what article it is, what
21 division it is, and what section it is. Again,
22 another way of way-finding within the Code.

23 On the top of the page, an indication of
24 what article this page of text is, what the subject
25 matter is, development review, what division is

1 presented, and what the subject matter of the
2 division on that page, so that as you're going
3 through the Code, you're not only looking for
4 sections, which often get lost in the text; you also
5 have a way-finding indicator, and there's a footer
6 which is also included, but I don't have that on
7 this.

8 Now, substantively, within this context, the
9 draft does several things with regard to residential
10 districts. The first and I think most important is
11 that it consolidates the existing R districts, which
12 Eric indicated to you, differ today only in regard to
13 the minimum floor area required for residential
14 dwellings. There's been a lot of misunderstanding
15 about what those individual districts do, but if you
16 eliminate the minimum floor area requirements, which
17 I would submit to you, in this day and age in Coral
18 Gables, is not really a relevant consideration, the
19 district regulations are identical in the R-1 through
20 R-19 districts. They're all judged by the size of
21 the lot, not the district they're located in.

22 So we recommended that those districts be
23 consolidated and that there are very clearly -- and
24 if you -- do we have -- we probably don't have it,
25 but if you look at your community, to the north is

1 one city, when you look at the characteristics of it,
2 and then there's another city below, in terms of the
3 land development regulations, their historical time
4 of when they were developed, and what their
5 characteristics are, and so we've recommended that
6 those two areas and their distinctive characters be
7 recognized, and that one be the SF-1, what we call
8 the Old Gables, and the New Gables, and while I'm up,
9 I want to talk about, in developing these residential
10 districts, this chart illustrates one of the
11 challenges that we addressed.

12 The classic objective of traditional
13 Euclidean zoning is the uniformity of uses and
14 intensity of uses within areas. And so when you look
15 at a classic city, what you see are things like this,
16 large areas of relatively constant character, in
17 terms of size of lots, and really, this is classic
18 suburban America.

19 When you look at this City, not based on the
20 zoning map, which indicates these things that only
21 differ by minimum building areas, but in actually lot
22 sizes, which relate to the size and character of the
23 homes that are permitted, the width of the setbacks.
24 You have a very different city in this part, because
25 the uniformity really doesn't exist. There are --

1 I'm not sure, I can't remember -- yeah, there's one,
2 I believe, block in this entire area where the lot
3 sizes in that block are all the same size.
4 Everything else varies, and this is coded. Yellow is
5 less than five. Green is 5,000 to 7,500. 7,500 to
6 10,000 is this orange. 10,000 to 15,000 is the
7 green, and 15,000 and above -- those are classic lot
8 size discriminations that form the basis for
9 traditional Euclidian zoning districts, and as you
10 will notice, if you come up and look closely at
11 this -- I have a copy I'll show you in just a
12 second -- they vary on a block, so that you may have
13 what in the City of Boca Raton would be five
14 different zoning districts on a single street,
15 because of the historical, and that's good, because

16 this is one of the most dynamic, attractive
17 consolidation of residential neighborhoods we've ever
18 experienced in our careers, and the character is
19 really defined by several things: One, historical
20 character of many of the buildings; two, the fabulous
21 tree cover, you have the best mature tree cover
22 landscape of any city in the State of Florida south
23 of Tallahassee; and three is the diversionty. They
24 aren't the same. What sprawl has been attacked for,
25 for years and years and years, is that the

1 subdivisions are look-alike homes. You have the
2 absolute antidote to that in this historical area.
3 But if you try to put it in a classic zoning context
4 which seeks uniformity, you're not really achieving
5 your purpose, and so what we've identified, and I
6 think the Planning & Zoning Board and everybody else
7 in the architectural community, is, how do we allow
8 this mature community to continue to evolve, to
9 respond to the market pressures, the increased value,
10 to make more efficient use of their properties, in
11 some cases to replace homes with new ones, without
12 undermining the integrity?

13 It's easy when you're trying to achieve
14 uniformity. When you're trying to manage diversity,
15 it's really a challenge, and so the traditional
16 quantitative approaches to zoning, setbacks, heights,
17 volumes, et cetera, don't work. But yet we have
18 changes that everybody has pointed out, observed,
19 where something new doesn't fit in, and that's really
20 the ultimate equation that we've been discussing and
21 dealing with on this residential single-family.

22 Now, the second thing I want to make sure
23 everybody understands, we did not change in any way
24 the site-specific regulations. So, when someone
25 suggests that this one district is somehow a

1 one-size-fits-all district, it's too simple and
2 doesn't really address the character and the
3 distinctive -- those site-specific regulations are
4 very detailed. They go to many, many parcels of
5 land, and that's an overlay on top of it.

6 We don't think it's enough, as we're going
7 to tell you, but it has to be understood that there's
8 this broad set of regulations, and then there are two
9 sets of self-executing provisions that give
10 special -- that identify and recognize a particular
11 character of particular areas. One of those is the
12 site-specific regulations.

13 With regard to multi-family, we've
14 consolidated the A and B districts into two
15 districts. There are several different A districts,
16 and I will discuss that in a minute.

17 Now, this is a close-up, and this is just to
18 show you the issues that we address on these various
19 streets you see. These are neighborhoods. These are
20 where a land use change on this blue lot affects
21 these areas here. You can see the diversity. Oops,
22 here's a second area. This half block is a short
23 one, where they're all the same, fall under the same
24 category, but what you see is, close up, this issue
25 of diversity.

1 Now, we've created two districts, the Old
2 Gables, which I've talked about; the New Gables is
3 the SF-2 to the south. Although there has been much
4 discussion --

5 COMMISSIONER KERDYK: Can you just clarify
6 where the SF-2 begins? Is that Sunset? Is that
7 south of Sunset, or is it south of U.S. 1?

8 MR. SIEMON: Sunset and some east of --

9 MR. CARLSON: East of Old Cutler.

10 MR. SIEMON: -- Old Cutler.

11 COMMISSIONER KERDYK: All right, thank you.

12 MR. SIEMON: Now, there was a lot of
13 discussion, there has been a lot of discussion, about
14 FAR and big homes and how they fit in, and there have
15 been at least two proposals, one of which was adopted
16 as an interim ordinance, which have addressed that
17 subject, a proposal we made, a proposal that was
18 adopted by the Commission as an interim measure, and
19 they involve reductions in the permitted FAR,
20 particularly in the above 10,000 square foot lot
21 area.

22 As the draft sits today, we are not
23 recommending any change in the FAR in the New Gables
24 SF-2 district. It's as it is, and we're basically,
25 with the regulations, simplifying them, leaving the

1 standards that are in place, the site-specific
2 regulations, and subjecting them to the reorganized
3 development review processes, but no other
4 substantive change in the SF-2 area.

5 Another area we looked at was lot split. We
6 see lot splits as individual professionals being a
7 continuing issue in the community. There's a policy
8 decision about whether it's better to have smaller
9 homes on smaller lots in a redevelopment situation or
10 a larger home on a larger lot that's not subdivided.
11 After extensive public discussion, the collective
12 judgment is that we should not change the lot split
13 regulations, and the only changes are two
14 clarifications to close some open-ended standards so
15 that we think they will be defensible. The substance
16 doesn't change. We just felt they should be closed.
17 So there has been some misunderstanding about what is
18 proposed, and I hope that clarifies where we are.

19 In the SF-1 district, we have drawn a
20 distinction, for the purposes of administering the
21 Code, between two levels of development. If the FAR
22 of the home is .35 or less, or the house is, or
23 doesn't exceed a height of 16 feet, it's permitted as
24 of right and would go to the Board of Architects only
25 for design review.

1 If it exceeds 16 feet in height, and we are
2 now increasing, and/or an FAR of more than .35 -- and
3 in almost every case, a home that has a greater
4 height is going to have a greater FAR than .35 --
5 we're proposing a discretionary administrative
6 review, subject to performance standards, and the
7 best way to explain those performance standards would
8 be, in the interim ordinance there are a series of
9 standards which, if met, would allow the applicant to
10 regain some of that FAR that had been reduced, as the
11 standard.

12 So those standards which involve
13 professional discretion would be used to judge
14 whether this particular development should go forward
15 and that administrative review is, like other
16 administrative reviews, subject to appeal, and would
17 go to the Board of Adjustment for review if an
18 applicant or other aggrieved person were to
19 disagree.

20 But I want to make it clear that as we have
21 looked at these districts and looked at this
22 diversity of the neighborhoods and the reality that
23 quantitative measures are not alone enough to judge
24 compatibility, that we must rely on measurable
25 standards that satisfy the requirements of law to

1 fetter the discretion, but involve discretion, the
2 exercise of discretion and judgment, and again,
3 these, both of these, are still subject to Board of
4 Architects review.

5 A substantive change, the height in the
6 district has been reduced to 27 feet, measured from
7 the mid-point of the gable. One, a consensus at the
8 workshop between the Board of Architects and the
9 Planning & Zoning Board was that height is an issue,
10 and that in the new market environment that we find
11 ourselves, it's the upper parts of the building
12 envelope that are being exploited in ways that had
13 never been anticipated and are inconsistent with
14 historical practices.

15 Second, a very strong interest in incentives
16 to create porte-cocheres and free-standing garages,
17 that of all the design models, and as you all know,
18 there have been three or four studies of building
19 types in the community, and one that was clearly
20 favored, and so we were directed to include any
21 incentives we could to promote that, and so the only
22 way we know how to do it is to not count it as FAR.

23 COMMISSIONER KERDYK: Is that counted
24 against lot coverage, though?

25 MR. SIEMON: It is counted against lot

1 coverage.

2 COMMISSIONER KERDYK: It is counted.

3 MR. SIEMON: But as I'll show you in a
4 moment, why we weren't worried about that, but it may
5 still be an issue.

6 COMMISSIONER KERDYK: Yeah.

7 MR. SIEMON: And the garages, however, would
8 be set back at least five feet from the building
9 line, the front line.

10 One of the things that everybody identified
11 is, when the garage is right up front, it detracts
12 from the traditional character. So the garages must
13 be set back, carports or garages, at least five feet
14 from the front of the building line in the front.

15 The minimum rear yard, we are recommending
16 be increased to 10 feet. The five foot is not
17 exploited very often; where it does, though, it is
18 noticeable and is considered to be seriously
19 problematic.

20 And we're recommending, in the SF-1
21 district, that the FAR for lot areas in excess of
22 10,000 square feet be reduced from .25 to .1. The
23 examples where there is an inconsistency are on lots
24 bigger -- many of them are on lots bigger than 10,000
25 square feet, and a very few examples where someone

1 has exploited that additional FAR, and we believe,
2 our firm believes, that the reasonable development
3 expectations that are protected by the Harris Act are
4 a balance between what the Code actually says and
5 what the practice has been, and we believe that an
6 adjustment in this circumstance does not unduly
7 burden the property owner, and because it is
8 predictable that this additional FAR is going to be
9 sought to be exploited more and more in the future,
10 that this is the time to adjust that, if that is a
11 concern to the community, and it seems to be.

12 One of the things that has been a lot of
13 discussion is increased side yard, and I want to
14 illustrate to you here what we've been talking about
15 and get your input. But on a 75-by-110-foot lot, you
16 have a building envelope, and that building envelope
17 is first defined by your setbacks, front yard, side
18 yard and rear.

19 But on top of that, Commissioner, this is
20 where the coverage comes in. The coverage really is
21 only 35 percent, actually leaves a significant amount
22 of the building envelope which can't be built on
23 under the coverage, so we believe this area is an
24 area where the garage can be accommodated in an
25 appropriate respect of the setbacks.

1 This is drawn, by the way, to the existing
2 five foot and not to the proposed 10 foot, for
3 illustration purposes. This is a one-story home, and
4 the point I want to make is, this lot size puts this
5 pretty close to the adjacent property, and given this
6 envelope, we think -- we're recommending that there
7 be incentives to rotate the building. You don't
8 intrude into the back yard significantly, you still
9 have a reasonable building envelope, but now the side
10 yards are increased. And we believe that many of the
11 concerns we've identified is that the historical
12 practice has been this form, and that consideration,
13 where it's practical, where it doesn't result in a
14 rear yard that's not usable, et cetera, or perhaps
15 even some flexibility in terms of one of the yards,
16 that this could be an approach, and we are
17 recommending that incentives or regulations be put in
18 place to promote those additional side-yard setbacks.

19 COMMISSIONER KERDYK: What kind of
20 incentives could you give them to build in that --

21 MR. SIEMON: Well, additional coverage would
22 be one, and some other flexibilities that we've
23 looked at.

24 COMMISSIONER CABRERA: Can we go back a
25 minute, though?

1 MR. SIEMON: Excuse me?

2 COMMISSIONER CABRERA: Can we go back a
3 minute, because I want to stay with that, that slide,
4 for a second.

5 MR. SIEMON: This one?

6 COMMISSIONER CABRERA: Yes, sir.

7 MR. SIEMON: Yes.

8 COMMISSIONER CABRERA: What happens to
9 existing structures, in terms of the setbacks? I
10 mean, you're showing us a new building.

11 COMMISSIONER KERDYK: Nonconforming.

12 MR. SIEMON: Well, there's several different
13 issues, several different ways that this could be
14 addressed. If it's done by incentives, there would
15 be no nonconformities, because it would just be an
16 alternative set of regulations. It is possible,
17 also, to draft it as an alternative regulation.

18 But it also could be a nonconformity, and
19 the nonconformity question is, if there's a
20 demolition or reconstruction, do you want to
21 perpetuate that, that setback that many regard as too
22 small? And by the way, there are numerous examples
23 throughout the community where the minimum setback --
24 because it has been, you have to have 20 percent on
25 both sides, but one could be large and one could be

1 smaller, but there's a minimum, there are a number of
2 examples where buildings really are just too close
3 today, and you look at the footprints -- so I think
4 that's a policy decision. The first decision is, do
5 we want to try to promote it or do we want to require
6 it? And then, how do we want to deal with the
7 existing condition? And we're recommending to you
8 that you -- nonconformities is a very interesting
9 phenomenon. Historically, the ideal is that
10 nonconforming structures and uses would go out of
11 business and be replaced over time, and the reality
12 is, they don't. They stay.

13 As a result, they often get trapped in an
14 undesirable, unacceptable current condition. We're
15 going to suggest that you have much more dynamic
16 transitional provisions to deal with these
17 conditions, and there are concepts that have been
18 sustained called lawfully conforming uses. It may
19 not be fully in compliance with Code, but you could
20 come in and demonstrate that you can't comply and get
21 a lawfully conforming certificate that gives you that
22 status, and that's a way. And if there's an
23 expansion or a redevelopment, you allow them to
24 redevelop, and the standard is compliance to the
25 maximum extent that's practicable, and so you don't

1 just throw out the baby with the bath water. If you
2 can fix some things, you do. The other things, you
3 give them the lawfully conforming. So we're going to
4 be going through that public policy decision after we
5 decide what changes we're actually going to make.

6 There's one other area on --

7 COMMISSIONER WITHERS: Can I ask you a
8 question about that?

9 MR. SIEMON: Sure.

10 COMMISSIONER WITHERS: Do you allow them to
11 do that change through the Board of Adjustment,
12 through a hardship process?

13 MR. SIEMON: I wouldn't.

14 COMMISSIONER WITHERS: That's going to
15 create a huge --

16 MR. SIEMON: I would not make it a hardship
17 process. I would suggest to you, if you have a
18 nonconforming structure there and it wants to be
19 redeveloped and it can be improved, even though it
20 doesn't come completely into conformance, that you
21 want to promote that.

22 COMMISSIONER WITHERS: So if I want to put
23 a pool in my backyard, and I now have a 10-foot
24 setback, and I need to put it in that five-foot
25 setback, is it an appeal process?

1 MR. SIEMON: I think if it's encroaching
2 into a required yard and it's not an existing
3 structure, I think that goes to a variance.

4 If it's an existing structure we're talking
5 about modifying in some way, that's the kind of thing
6 that I'm talking not being a variance, and there is
7 another subject I just want to raise here. It's not
8 quite -- it's not in my outline, and still not
9 actually been discussed extensively with the Planning
10 & Zoning Board, but there's an issue that has been
11 raised publicly, as a result of some of the recent
12 hurricane events, and that is, a lot of the homes
13 that exist today could not be rebuilt in their
14 existing forms, because of lot size, setbacks or
15 whatever.

16 Many communities in South Florida, because
17 of the reality that potential demolition or
18 destruction of a home is not another world thing,
19 it's something that could really happen, grandfather
20 in what is. And in this community, of all the
21 communities I've worked in, perhaps even greater than
22 Palm Beach, "what is" is what's most important to us,
23 and so we think some dialogue ought to be had, and
24 serious consideration, to whether a grandfathering
25 provision ought to be put in place for all these

1 existing homes, and in that context, your general
2 Code provides, if a building is damaged more than 50
3 percent, it has to be brought into compliance. I
4 would think, in a community with the kind of
5 character that you have, that serious consideration
6 should be given, if somebody wants to restore an
7 structure, even though it's damaged to 75 percent,
8 you ought to let them do it, because it's the
9 character that's so important to this community, and
10 I promise you that if they're redeveloping, restoring
11 that original building, you're much more likely to
12 get something that's consistent and compatible with
13 the historical character than if it's a new
14 construction. And so we think that's another area in
15 this nonconformities provision, where we -- once we
16 get the substance of what rules are really going to
17 change, we have to give some very serious
18 consideration as to how we want that to evolve and
19 whatever provisions we want to include.

20 COMMISSIONER KERDYK: Charlie, right now --
21 in the 1920s, the houses were built two feet from the
22 property line, so we have those nonconformities. How
23 do we deal with that issue, if something happens like
24 that right now?

25 MR. SIEMON: Well, the traditional way is

1 that they have a right to rebuild to two feet, but to
2 the extent that the lot size would allow them to
3 achieve their economic objective and comply, move it
4 three feet -- they can't get to five, but they can
5 get to three feet -- they would do that, in the
6 rebuilding process. But they still -- if they can't,
7 if it's not practicable, and there are a number of
8 standards that have been recognized by courts as
9 bases for judging whether it's practicable or not,
10 they would have a right to build back to two feet,
11 and I would I would suggest that in the big picture
12 of conserving the character -- and conserving is not
13 preserving, it's allowing it to thrive and succeed
14 and evolve -- of the Old Gables community, that we
15 should ultimately do that, but that's a policy
16 decision, but one that we -- it has been coming into
17 a very sharp focus this summer, as a result of this.

18 And again, it was presented, the issue of
19 grandfathering was presented to the P & Z Board, and
20 frankly, didn't get a whole lot of discussion, and
21 there didn't seem to be any movement. That was
22 before, I think, Katrina, and so their sensitivity
23 may just be as heightened as mine, but this is an
24 issue that we're going through.

25 This is just a three-dimensional, to show

1 you that if you rotate --

2 COMMISSIONER CABRERA: Mr. Siemon, I want to
3 go back to the slide again.

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

5 COMMISSIONER CABRERA: I wasn't done.

6 MR. SIEMON: Okay.

7 COMMISSIONER CABRERA: You've used a lot
8 size of 75 feet by 110 --

9 MR. SIEMON: Yes.

10 COMMISSIONER CABRERA: -- for this example.
11 I can see, you know, the logic behind the rotation
12 there, but if you take a lot that's 50 by 100, which
13 is typically what you find in the northern part of
14 our City, what you then have is a shotgun-style home.

15 MR. SIEMON: Well, and to illustrate this,
16 you know, I can't draw -- I mean, it's not an
17 appropriate dedication of resources to draw various
18 sizes and cut-outs and designs that you really do,
19 but yeah --

20 COMMISSIONER CABRERA: That's a reality.

21 MR. SIEMON: And there's a question. No,
22 there's a question of how important a side yard
23 proximity is.

24 During the discussions we've had,
25 particularly as structures get second floors, the

1 side yards become increasingly important. So it may
2 be that, in some areas, the second floor should be
3 set back further from the property line than the
4 first floor.

5 COMMISSIONER CABRERA: See, I fear -- what
6 my fear factor is, as I look at this, and it makes a
7 whole lot of sense to me based upon the lot size you
8 presented, but when I truly look at it from a
9 realistic standpoint and I look at what we have in
10 the Northern Gables and I see the issue that we have
11 to fight with in, terms of McMansions, now what we
12 would typically get is a very narrow, shotgun-style
13 McMansion, that in essence would really alter the
14 character of that entire neighborhood, and ultimately
15 we would achieve -- yeah, we'd have a little bit more
16 green space on the side, but we'd just have a very
17 narrow-looking structure.

18 MR. SIEMON: Well, I think you'll see that
19 we are looking at a number of other variables. We
20 don't think the setback option should be administered
21 in isolation. We think it needs to be in conjunction
22 with, how do you deal with second floors, because
23 there are additional two-story buildings that have
24 not been traditionally in those neighborhoods,
25 outside the cottage district, that are coming on

1 line; how and where are they.

2 And in fact, the next slide after this
3 really shows -- is intended to show that there are a
4 number of things you can do that, in conjunction with
5 those setbacks, start mitigating some of those
6 concerns you're talking about, and our problem is,
7 attempts to do this with quantitative standards, no
8 more than 50 percent of the roof can be higher than
9 16 feet, for example -- there's a way of promoting or
10 requiring this sort of treatment -- is perceived in
11 the design community as really foreshortening or
12 cutting short the ability to be creative, et cetera.

13 So what you're going to see at the end of
14 this is that we're moving towards a series of
15 performance standards, not really quantitative in
16 nature but more qualitative, that would be
17 administered by, first, the Zoning Department, in
18 that administrative discretionary review I described,
19 and then second, in an increased empowerment to the
20 Board of Architects to judge compatibility with the
21 neighborhood, and that's the key. All of these
22 pieces assemble into that part of what we're
23 proposing.

24 COMMISSIONER WITHERS: Can I ask you one
25 last question?

1 MR. SIEMON: Yes, absolutely.

2 COMMISSIONER WITHERS: Was the issue on the
3 setback, philosophically -- was it a massing, visual
4 issue, or --

5 MR. SIEMON: I think it's an encroachment.
6 This is my perception, is, "They're just too close to
7 my house and my yard," and that --

8 COMMISSIONER WITHERS: It wasn't a party on
9 a patio as much as it was a wall?

10 MR. SIEMON: I think it's a sense of the
11 invasion. There's a general term called "air and
12 light." It's sort of, "It's my house and it's my
13 property, and when my neighbor is at a certain
14 distance, there is a -- " You know, but it's not
15 noise, it's not swimming pools, it's not tennis
16 courts. It's not that sort of thing. It's just --

17 COMMISSIONER WITHERS: Is it light?

18 MR. SIEMON: -- privacy. I think it's
19 privacy and -- you know, it's just -- as I look at
20 you here, we're real close. If I look at the Mayor,
21 there's a difference, in terms of the sense of
22 proximity, and it's not uncommon. I mean, we --

23 COMMISSIONER WITHERS: No, I understand.

24 MR. SIEMON: We experience this in work --
25 we're doing some work with Dade County, and --

1 COMMISSIONER WITHERS: So a screened-in
2 patio is not as aggressive as the patio; even though
3 the patio could be five feet from a property line,
4 the screen could be 10 feet?

5 MR. SIEMON: That's really what we've
6 heard. Now, as we sharpen our conversation, I think
7 we'll get into some of this.

8 One of the things that, in looking at a
9 situation of some of these homes that are described
10 to us as monster homes, as not fitting in, as being
11 inconsistent with the neighborhood or inconsistent
12 with Coral Gables, is, we looked at the buildings
13 that we saw, and frankly, we saw two major things.
14 One is that the landscaping for new construction is
15 just different in kind and character. You can buy a
16 big palm tree, but you can't buy a big oak, and
17 reality is that -- and that's just a big part of it.
18 I'm just being candid.

19 I drove young Matthew, who works for me,
20 around. We got here early this morning, and I just
21 drove around and illustrated this concept about how
22 dramatic a role the landscaping plays in the
23 character of your Old Gables, and we're talking about
24 Old Gables here, and some of the areas where there
25 was significant destruction on the street, it's

1 amazing how much more ordinary some of the homes look
2 today, to be candid about it.

3 But the other thing which was really -- that
4 really stood out was that many of the homes that were
5 pointed out to us as representing this undesirable
6 change just didn't have any -- did not respect their
7 neighbors, and what we are recommending is that, in
8 addition to the review of the structure itself and
9 its design, that it should be reviewed in context.

10 Now, the Board of Architects insists that
11 they examine context when they do their reviews, and
12 it is clear that there are examples of that, but
13 frankly, as we looked at the record, we believe that
14 there are circumstances where insufficient
15 information was provided to them, because the
16 application requirements are not specific, so that
17 they did not understand the context in which this
18 building was located, or, for whatever reason, they
19 did not get the picture, and so what we're
20 recommending is a regularized process for contextual
21 review, which the Planning & Zoning Board has
22 recommended be conducted by the Board of Architects,
23 and it would empower them to impose conditions on
24 their approvals to bring things into compliance with
25 the discretionary standard that they believe is not

1 met, and a part of that discretionary standard is
2 what's in the neighborhood.

3 Now, I want to give you a quick overview of
4 the law on this subject. There are a two aspects of
5 the law I want to make sure you understand. One is,
6 it is our opinion that the courts of the State of
7 Florida have explicitly recognized protection of
8 existing community character as a valid public
9 purpose. Thirty years ago, aesthetics alone were not
10 enough to justify regulation, but in the Glisson
11 versus Alachua County case, the First District Court
12 of Appeal explicitly held that protecting community
13 character is a valid and, in fact, important public
14 purpose. So protecting what is, is a valid public
15 purpose.

16 The second is a standard case that tested
17 the adequacy of a subjective standard, and the
18 standard related to the homes within a thousand
19 feet. So, in order to determine whether the size of
20 the structure -- this happened to be a group home
21 case -- was acceptable in the neighborhood, the
22 regulation says, look to what's there, and it's got
23 to be of a comparable size to the homes that are in
24 that vicinity. And that was sustained as a
25 adequately definite standard that was measurable, and

1 it was measurable because you can look at the area
2 which is described as a neighborhood and measure
3 what's there and compare it to what's proposed, and
4 make that judgment.

5 Those two legal principles underlie what
6 we're recommending to you. The context in the
7 existing neighborhood, we're suggesting that the
8 neighborhood be defined not by distance, because we
9 think something that's 500 feet, three blocks over,
10 really doesn't affect what is the perceived
11 neighborhood in Coral Gables, which is really the
12 block I live on, or the two blocks, but we've chosen
13 one block. So it would be both sides of the street
14 of the block you're located on and the homes that
15 abut the lot proposed for redevelopment or
16 development, which are on the back side, which have a
17 common property line with it.

18 So, in this area, which is just an example,
19 you see this is the parcel that's proposed for
20 development. This is the block that we believe is
21 the area of influence and consideration, and then
22 these three lots. So this would be the area of
23 analysis that we would propose this contextual review
24 be carried out in.

25 There's some goofy -- some small -- I showed

1 you earlier a small block where they're half blocks.

2 I'll just -- if I can go back to this, I will --

3 COMMISSIONER WITHERS: But that doesn't
4 apply to the lot split ones?

5 MR. SIEMON: No, it does not. This is
6 independent, completely independent to that.

7 VICE-MAYOR ANDERSON: It's just the
8 contextual.

9 MR. SIEMON: Yeah.

10 If you go back -- I hope it will go back to
11 this lot.

12 This here, we would draw this as the block,
13 because we think these half-blocks really aren't --
14 but we're working through the language of that, but
15 other than that, it's -- traditionally, it's going to
16 be this.

17 COMMISSIONER KERDYK: How important is it
18 going to be to have an architect on Staff, to analyze
19 this situation and present something to the Board of
20 Architects?

21 MR. SIEMON: I'm on record as, from almost
22 the outset of our -- after our critical review of
23 your existing ordinance and the community, as
24 recommending the creation of a City Architect to
25 provide professional assistance to the process, and I

1 believe, over time, to facilitate the administration
2 of the design components of the Code and to provide a
3 more effective interreaction with the development
4 community and their design professionals, and I would
5 say that this community, of all the communities I've
6 ever worked in, it is one where -- Palm Beach, it's
7 not a big deal. The dollars and numbers that are
8 involved force -- here, you have a really diverse
9 community, with lots of opportunities for change, and
10 I see it as frankly the best investment you could
11 make.

12 I would also tell you, anybody who's been to
13 Chicago recently, one of the things Richard Daley
14 did, when he became mayor, the first thing he did was
15 to create a position of City Architect, and it has
16 had a profound effect on the city's ability to
17 identify what it wants to do, ensure what it does is
18 consistent with its own objectives, and also to
19 relate to the design community.

20 So I couldn't tell you -- I couldn't
21 emphasize it more.

22 COMMISSIONER KERDYK: Just a follow-up
23 question on that, and I can't think of another
24 committee I would send it to, but is the Board of
25 Architects, with all that they do now, the logical

1 place or establishment to send these types of
2 permitting issues?

3 MR. SIEMON: I think that because they do do
4 the design review of the structure, it's appropriate
5 that it be done in context, and I think that they are
6 the best body to do it at this time.

7 I do think that one of the things that we
8 aspire to in this Code is that the City Architect is
9 going to be delegated -- would be delegated
10 responsibility for lots of relatively uncomplicated
11 approvals which currently go to the Board of
12 Architects. If you really look at the Board of
13 Architects' decisions and attempt to codify them,
14 there's a pretty good body of what's acceptable and
15 what's not acceptable. We think that can be done and
16 administered by the City Architect, subject to an
17 appeal if someone is dissatisfied. We think that
18 will take a lot of the burden off their current
19 behavior -- their current obligations.

20 In the meeting with P & Z, they were
21 enthusiastic about their ability to meet the
22 administrative challenges of this approach.

23 COMMISSIONER KERDYK: They just seem like
24 they -- I'm sorry.

25 VICE-MAYOR ANDERSON: No, go ahead.

1 COMMISSIONER KERDYK: It just seems like
2 they have a lot of things on their plate now. We
3 just, you know, went through the Mediterranean
4 Ordinance. They already have the day-to-day
5 activities that they go through, and then to add this
6 would be an additional opportunity or burden,
7 whichever way you look at it, for them.

8 MR. SIEMON: Well, I think, in truth, that
9 they are making -- that when the information is
10 provided to them, I think they make a contextual
11 review right now. We think that organizing the
12 information in the way we are proposing will --

13 Matt, where's my -- is it back here? We've
14 taken four areas, just for examples, and looked at
15 them up close, to just show the various lot sizes, to
16 get a sense of what happens, and we have this for
17 each of these areas. But then what we've done is go
18 ahead and collect the kind of information we think
19 would be appropriate.

20 This is this particular area, with
21 photographs of each of the homes, to get a sense of
22 what's the neighborhood, what's the character. We
23 think actually having all this information available
24 to them in a regularized fashion will actually
25 improve the efficiency of their review.

1 We also think, though, there are some parts
2 of the community where you don't have the GIS data
3 available, but I'm going to -- well, I might as well
4 just show you right now. I mean, in this contextual
5 review, these are just the general standards:
6 Height, scale, mass and character is consistent with
7 existing homes. Those are all things, by the way,
8 that you can identify, and have a certain character.
9 You can look at these structures and very quickly get
10 a sense of what this street is like, and what
11 divides -- and if you want to reduce it to something
12 that can impact on air and light of adjacent
13 residences, what we were talking about, Commissioner,
14 a few minutes ago, this is this relationship between
15 the privacy, or the "my house, my home," and then
16 compatibility with neighborhood character, that's the
17 overall thing.

18 And these are not standards, but these are
19 the concepts that we're going to be translating into
20 standards. But then you could also, if you want,
21 take this and very easily translate it into a
22 three-dimensional model. This is a sketch-up model
23 in which you can do shadow studies and changes, very
24 easy, propose what it looks like and then reconfigure
25 it in a number of different ways. I mean, this is 20

1 minutes of work. You take the footprint, you extrude
2 it to the height that it is, and it gives you a
3 context that, in conjunction with these photographs,
4 we think would actually improve the efficiency and
5 the reliability of the decision. So we think this is
6 a feasible concept. How far you send it -- you know,
7 the truth is, the good applicants are going to
8 prepare the materials and submit it to you because
9 they want to get approval. We don't know that you
10 need to require the three-dimensional models, but you
11 might want to, I don't know. We'll work through that
12 process.

13 The data, we had hoped that we would have
14 GIS data of the entire Old Gables area. It turns out
15 we don't. We took this -- this was not an area by
16 GIS, the one I showed you. It was just a relatively
17 few minutes. Matt spent about 15 minutes getting
18 property lines and footprints, and then I extruded
19 them in 20 minutes, actually, working at night, one
20 evening when I was bored.

21 So that's the concept of the single-family
22 district we're working on, and I want to make a -- I
23 want to express an opinion. I believe that when you
24 look at any development at this level, what you're
25 really doing is, in effect, creating a zoning

1 district for the moment, of, how does this fit in?
2 And the only way I have been able to come up with,
3 logically, to deal with the enormous diversity that
4 is represented by this, the character of what's out
5 there -- and I'm very comfortable that while it's one
6 district, as it's administered, it becomes a
7 self-tailoring examination of these rules and how
8 they apply.

9 And I think, Commissioner, in the context of
10 this, those standards, maybe not rigid, but with some
11 incentives and balancing and trade-offs, my suspicion
12 is that there will be some pretty good results that
13 come out of it.

14 COMMISSIONER CABRERA: It's interesting you
15 should bring that up, but I'm curious, since you
16 brought districts up, how are you incorporating
17 historic elements so that, in effect, we can create
18 some historic districts?

19 MR. SIEMON: Well, the historic regulations
20 have been harmonized, reorganized, but are preserved
21 in their full force and effect, and we think we've
22 made a few changes which we think give greater
23 strength to it, but it's an integrated part of the
24 process. It's another overlay. So, really, if you
25 say we've got SF-1, we really have three overlays

1 that are focused on individual character: Historic,
2 the site-specific regulations, and then the
3 contextual review analysis.

4 COMMISSIONER WITHERS: And this is --

5 VICE-MAYOR ANDERSON: I have a quick
6 question. My understanding of it is, you were saying
7 a little while ago that maybe the pictures and the
8 contextual study might or might not be part of the
9 process for the Board of Architects.

10 MR. SIEMON: The 3-D models.

11 VICE-MAYOR ANDERSON: Right, and I'll just
12 throw my two cents in. Since we are looking at a
13 variety of things, you know, we're looking at
14 setbacks, we're looking at context, we're looking at
15 different things that could make a house different, I
16 would suggest that we standardize that piece, the
17 information that we gather from everyone, so that we
18 look at it each the same, or that what we use, at
19 least everything is the same with the Board of
20 Architects' reviews. That would be my two cents.

21 MR. SIEMON: We're going to, I think, go
22 back and we'll recommend a minimum set, where we're
23 standardizing everything. It's possible -- I mean, I
24 don't think we want to exclude additional information
25 if someone wants to provide it.

1 VICE-MAYOR ANDERSON: Sure, but I think
2 there's some key information that has to be had, in
3 order for us to make decisions that are consistent
4 throughout. I think that consistency, within the
5 variety of structures that we have and the variety of
6 neighborhoods --

7 MR. SIEMON: One of the things that is very
8 difficult to portray, other than through photography,
9 is the landscaping, the existing tree cover.

10 VICE-MAYOR ANDERSON: Sure.

11 MR. SIEMON: And none of the contemporary
12 models that are quick and easy give you a good handle
13 on that. But I happen to think that the 3-D
14 information is useful. If I were making a decision,
15 I'd like to see it.

16 VICE-MAYOR ANDERSON: Yeah. I think
17 photographs probably -- I mean, I'm sure we'll come
18 to a consensus on the list, but definitely, pictures
19 are very important, because they do show what's
20 existing with trees, but whatever we can do to
21 enhance the process of making it more consistent, I'm
22 for.

23 COMMISSIONER WITHERS: On a contextual
24 review, that's very subjective, obviously. In fact,
25 it's totally subjective.

1 MR. SIEMON: Well, I would say qualitative.
2 It's subjective based on qualitative standards, but
3 it's not without standards.

4 COMMISSIONER WITHERS: Okay, let me give you
5 an example, which I don't know if it's a road mine or
6 not. When you have areas that don't have geographic
7 boundaries, like coastlines or canals -- well, here's
8 a good example. One example is a project that's
9 being built on Ponce and Riviera right now, and this
10 proposed project going across the street.

11 What keeps somebody from buying an entire
12 block and coming in and putting in a walled village
13 or a gated community that's not compatible with the
14 neighborhood? Where is that? Is that administrative
15 review happening at the Planning & Zoning Board? Is
16 it happening administratively? Is it happening at
17 the Board of Architects? Is it happening at the
18 Commission? You know, that might not be compatible
19 with the neighborhood, but we've already seen that
20 starting to happen now, where communities start to
21 get segmented by developments, and that's where the
22 subjectivity that concerns me comes in, because it
23 might be too late, you know, way down the road,
24 before something like that is -- you know, where you
25 have a coastline, you have the Gables Estates, the

1 Journey's End and the Old Cutler Bay, you know, that
2 is your community. But what do you do to keep
3 communities from happening within communities, which
4 we start to see happening more and more?

5 MR. SIEMON: The issue of land assembly --

6 COMMISSIONER WITHERS: Right.

7 MR. SIEMON: -- and how you deal with it is
8 one that I don't think we yet have a full handle on.
9 It is ironic, there are a number of villages that
10 exist just like that, that were original Merrick
11 conceptions.

12 COMMISSIONER WITHERS: That was our
13 heritage.

14 MR. SIEMON: And I think that's something we
15 have to address, and we've dealt with it in the Code,
16 with lot splits.

17 COMMISSIONER WITHERS: Right.

18 MR. SIEMON: But we haven't dealt with it
19 on the --

20 COMMISSIONER WITHERS: But I think the other
21 side of the lot assembly is on the horizon and is,
22 for us, something that would be as detrimental to the
23 community as we've ever seen. To me, the monster
24 home is an issue, but to me, the development of five
25 homes, walled in, is as much of an issue as a monster

1 home is.

2 VICE-MAYOR ANDERSON: Well, then --
3 sometimes, isn't it the PAD provisions?

4 COMMISSIONER WITHERS: Yeah, it would be --
5 you know, and based on the fact that George Merrick
6 had all these villages planned all over, that that's
7 starting to go forward, but I think, you know, that's
8 as much of an issue as --

9 MR. SIEMON: I think, first off, that's not
10 what -- other than some relatively small
11 conversations about land assembly as the inverse of
12 the lot split issue, we've not had a lot of explicit
13 conversation about that, but if that's an issue, then
14 clearly it needs to be addressed.

15 COMMISSIONER WITHERS: I don't know.

16 MR. SIEMON: I mean, there's some economic
17 obstacles to that happening, but on the other hand,
18 there's some surprising things going on right now.
19 So, every time anybody I know says that will never
20 happen, it happens the next week.

21 COMMISSIONER WITHERS: Right.

22 MR. SIEMON: So I think your comment is well
23 taken, and we'll put that on the agenda.

24 In regard to the multi-family districts, we
25 consolidated the A and D districts. The MF-1 is

1 basically, in its mapping, the D districts, what's
2 now D districts. There are some areas that may end
3 up -- but that is a low-intensity, multi-family
4 district of nine dwellings to the acre, and it now
5 permits more than duplexes. It doesn't matter
6 whether they're townhouses or duplexes, and it is
7 mostly the end caps of blocks along major streets or
8 secondary streets and --

9 COMMISSIONER KERDYK: The height is not
10 changing?

11 MR. SIEMON: No, the height is not changing,
12 because they're mostly next to single-family
13 districts, and as you know, we've matched that in the
14 Code.

15 The MF-2, which is the mid- and high-rise
16 district, is largely based on the deliberations that
17 came out of the moratorium ordinance, taking away the
18 individual characteristics of the Valencia area. And
19 the key area there that I think has been of some
20 issue is the reduced front yard setbacks for low-rise
21 duplexes, townhouses and apartments in that district,
22 and as we originally drafted the townhouse
23 regulations, concern was raised about whether we had
24 explicitly precluded garages across the curbs, and I
25 want to make it absolutely clear that the -- well,

1 let me go back. Let me do this in order.

2 There's no required front yard in the MF-1
3 district. That's the current consideration, and so
4 duplexes could be built up to the property line on
5 the front. The minimum front yard is 10 feet in the
6 MF-2 district for townhouses, attached residential,
7 and apartments of 45 feet or less in height, and as
8 you know, there's been an issue about whether or not
9 a building which in effect is a brownstone, an
10 internal brownstone, that isn't really a townhouse,
11 because it has an enclosed courtyard -- our view is,
12 the reduced setback is appropriate if it's less than
13 45 feet, and whether it's a townhouse with a front
14 door or not, but no individual unit garage entrances
15 facing in the street, in MF-1 or MF-2, and a minimum
16 townhouse width of 16.

17 So, just to make it clear, the garages that
18 come across the street which are permitted in some
19 communities are not permitted, and a townhouse
20 product in this context would have to have access to
21 parking -- oh, I've lost my -- here, by way of a
22 driveway, but the street frontage would not allow
23 over-the-curb garages, and that -- there's been some
24 confusion. We thought we were clear in regard to the
25 garages, but we've gone back and made that absolutely

1 clear in where we are at this point.

2 The commercial districts. There are three
3 districts, CA, CB and CC districts. We consolidated
4 them into two districts, and the concept is
5 relatively simple, if I can find the zoning map.

6 The CL district, the commercial limited, is
7 designed to serve -- to provide, along major roads,
8 where the commercial, historical commercial district,
9 abuts residential or is separated only by an alley.
10 That's where commercial limited is to be, and what
11 we've done is eliminate some uses that we don't think
12 make any sense in that district.

13 We originally proposed that the FAR be
14 reduced from three to one, because the reality is, if
15 you look at these lots, it's not practical to get
16 above an FAR of one. But that's all right. There's
17 been a lot of complaints about the elimination of the
18 FAR, so we put it back in. We don't think anybody
19 ever gets there, but, I mean, it's not skin off
20 our -- because we're focusing on performance
21 standards. So that issue that has been raised about
22 the commercial limited has been eliminated by that.

23 The C district is for every other area that
24 is commercial, and what we have done in the general
25 commercial is consolidate your existing laundry list

1 of uses into some logical categories, and right now
2 you have this list of one hundred uses, and you have
3 had some past conflicts about whether the hundred and
4 first use is permitted or is not permitted. Every
5 court that has ever addressed that situation has
6 found that if you permit a hundred, who can say that
7 you can exclude the hundred and first? We don't
8 think you can sustain it. We also think it's not a
9 very modern approach. You need to have a process to
10 interpret and apply the Code on a reasoned basis,
11 with an appeal to the Board of Adjustment to resolve
12 those interpretations, and not go through what we've
13 gone through in a couple of circumstances in recent
14 time.

15 We have addressed explicitly, in both the CL
16 and the C districts, nighttime uses on properties
17 adjacent to residential neighborhoods, and those are
18 performance standards in the C district, and requires
19 a major conditional use in the CL district, to have a
20 public hearing and make sure that those performance
21 standards are met before those uses are established
22 in the CL district.

23 VICE-MAYOR ANDERSON: Some of the main
24 offenders are restaurants. How are we handling
25 those? Sizes, by size?

1 MR. SIEMON: There are some performance
2 standards which are proposed to address those various
3 issues, and there is a recommendation which is
4 included, which is not as carefully worded as it
5 should be, but there is currently a recommendation
6 that certain nonconforming, nuisance-like conditions,
7 outdoor noise, night use, lights, unscreened parking
8 areas and uncontrolled odors, that would have to be
9 brought into compliance within a certain period of
10 time, and these are restaurants, existing
11 restaurants, adjacent to residential neighborhoods,
12 that are existing problems.

13 And we believe that you have the lawful
14 authority to require that compliance, but I want to
15 emphasize, nuisance-like conditions. We're not
16 talking about some of the performance standards,
17 which are where the door is located. In new
18 construction or redevelopment, we think doors,
19 entryways, should be oriented away from the
20 residential neighborhood. We're not suggesting that
21 that be a current -- a mandatory compliance
22 obligation, but if you have an uncontained restaurant
23 waste disposal facility that is currently invading
24 the privacy and life enjoyment of an adjacent
25 residential structure, we believe you have the

1 authority to require compliance within two years or
2 if the use changes ownership within -- prior to that
3 two years, to make it at that time. And so we are
4 recommending that. There are a limited number of
5 those examples, but they certainly are frequently
6 noted.

7 VICE-MAYOR ANDERSON: Doors, and also
8 filtration devices for smells and things like that,
9 would be part of that?

10 MR. SIEMON: All those things are in that
11 compliance.

12 COMMISSIONER KERDYK: Charlie, can I ask
13 you --

14 MR. SIEMON: But I want to emphasize,
15 nuisance-like conditions.

16 COMMISSIONER KERDYK: And who determines
17 nuisance-like conditions?

18 MR. SIEMON: It's going to have to be judged
19 by your professional Code. You know, what
20 constitutes a nuisance is a legal proposition. We're
21 saying, this is a condition that a private property
22 owner could probably enforce through a private
23 nuisance condition, but it's appropriate for the
24 public agency, in the administration of its
25 responsibilities, to impose this requirement. But

1 again, there will be an interpretation, and it's
2 subject to review by the Board of Adjustment.

3 COMMISSIONER KERDYK: Because what you're
4 saying is that you need to bring into compliance a
5 building within 24 months, and I can understand the
6 example where a restaurant abuts a single-family
7 residence. I think that's where we're going here.
8 But there could be other businesses that sit
9 back-to-back to a residential component that might be
10 unfairly burdened with having to put in an area to
11 contain -- let me just qualify that. Not only an
12 area, but an air-conditioned area to contain trash
13 and other elements that are out there -- again, which
14 might be good for restaurants, but may not be good
15 for the local architect that's next to it.

16 MR. SIEMON: Our current conception of the
17 two elements of this that we hope avoid that
18 unintended and, I think, undesired circumstance, it's
19 got to have -- the activity has to be nuisance-like.
20 That means it's actively, physically invading the
21 private use and enjoyment of the adjacent residential
22 property.

23 Second, it has to be practical, and there's
24 a standard. In the standard, it says, to the extent
25 which is economically and practically possible. So

1 it's not an absolute standard. If you can't do
2 anything about it, you can't force somebody to do
3 something they can't do. But if it's possible for
4 them, in a reasonable and practical -- we're
5 suggesting that.

6 COMMISSIONER KERDYK: Yeah, but possible and
7 feasible are two different things. If somebody all
8 of a sudden says to, you know, the land baron, Chip
9 Withers, "Hey, you need to enclose 300 square feet
10 behind your building," you might be able to do it,
11 but economically, it's cost-prohibitive.

12 MR. SIEMON: Well, I think that that's -- I
13 mean, the only way --

14 VICE-MAYOR ANDERSON: But he's a land
15 baron. The money is available.

16 MR. SIEMON: Commissioner, I don't know how
17 to adopt a rule of general application that handles
18 all these conditions. I think we can establish the
19 standard --

20 COMMISSIONER KERDYK: Right.

21 MR. SIEMON: -- and subject it to a process,
22 make sure that practicality is a criteria, and have
23 it administered.

24 And it may be, in the practicality, we ought
25 to do the concept I referred to earlier, about

1 nonconforming status, which is, to the extent that
2 you can comply or improve the condition, you do that.
3 It's not an all-or-nothing process.

4 But I think that from what we've heard from
5 your community, it is that there are a limited number
6 of examples of really unfortunate situations that
7 need to be remediated, and that's really what we're
8 targeting, and the nuisance-like -- the new
9 definition that we're working on of nuisance-like
10 consideration, we think, will constrain that.

11 COMMISSIONER KERDYK: As long as you don't
12 unfairly burden other businesses that do not create
13 that nuisance.

14 COMMISSIONER WITHERS: I heard you say two
15 things. Number one, the Board of Adjustment is the
16 one that reviews --

17 MR. SIEMON: The interpretation.

18 COMMISSIONER WITHERS: -- if the use
19 is not, you know --

20 MR. SIEMON: The decision is going to be
21 made by the development review official, which in
22 most cases will be the zoning official.

23 COMMISSIONER WITHERS: Right.

24 MR. SIEMON: And that decision, if someone
25 is dissatisfied --

1 COMMISSIONER WITHERS: Goes to the Board of
2 Adjustment.

3 MR. SIEMON: -- would be appealed to the
4 Board of Adjustment, and at that point, they would
5 have a quasi-judicial hearing, in which they would
6 have an opportunity to offer whatever evidence
7 relative to the --

8 COMMISSIONER WITHERS: And the other thing
9 I heard you say nuisance, so I'm assuming that a
10 sleep center or occupation that's not defined -- is
11 not defined as a nuisance?

12 MR. SIEMON: Nuisance-like is drawn from a
13 body of law that talks about private activities on
14 one parcel of land that unreasonably and unfairly
15 intrudes into the privacy of the adjacent property,
16 and that's really what we're -- but it's
17 demonstrable. It's not, "I don't like having this
18 next door to me." It's really intruding, in terms of
19 physical -- like aromas, things like that, and while
20 it's not as -- I mean, we think it's something that
21 is reasonable, reasonably definable, from the case
22 law. So we're borrowing from that case law.

23 And it would require -- it's just not an
24 undesirable neighbor, it's a neighbor that's really
25 intruding in my welfare.

1 COMMISSIONER WITHERS: I understand. Okay.

2 MR. SIEMON: And that's for mandatory
3 compliance.

4 Now, the other -- let me just -- we've
5 addressed nighttime uses, and they're uses that are
6 active between 8:00 p.m. and 6:00 a.m., and they are
7 in the C district, subject to this discretionary
8 administrative review and performance standards I've
9 described, and in the CL district, they are subject
10 to a major conditional use, which goes to the
11 Planning & Zoning Board for a decision.

12 So we've tried to regularize that process.
13 We've identified that in these areas immediately
14 adjacent to residential, there is an inherent
15 possibility of a conflict, and we want to create
16 substantive standards and processes to make sure that
17 that doesn't happen.

18 MAYOR SLESNICK: Let's go back, then, to
19 what Chip brought up, because it's an issue that is
20 bubbling around us all the time. The strips down
21 South Ponce, from the Circle to Bird Road, is that
22 CL, in your --

23 MR. RIEL: Yes.

24 MR. SIEMON: Yes.

25 MAYOR SLESNICK: And so the use of a sleep

1 center, which would be between the hours of 8:00 p.m.
2 and 6:00 a.m., would be a conditional use, which
3 would be --

4 MR. SIEMON: A major conditional use,
5 subject to public --

6 MAYOR SLESNICK: Through public process
7 approval?

8 MR. RIEL: Yes.

9 MAYOR SLESNICK: Okay.

10 MR. SIEMON: And that's where we are today,
11 and I think that -- I hope that I've outlined to you
12 the major policy considerations that we're going
13 through.

14 They are not, Mayor, black-and-white
15 issues. They involve, I believe necessarily, a
16 judgment, and ultimately, as we get policy direction,
17 I'm confident -- I'm glad Liz is not here for this --
18 I'm confident that we can draft legally defensible
19 standards to implement this, that will be adequate to
20 pass the law, to fetter the discretion of
21 decision-makers, but that legal standard is just a
22 part of the equation. There's going to be, I
23 believe, an issue that you all need to address as to
24 whether you feel comfortable that those standards are
25 adequate, from your perspective, to fetter the

1 discretion of this administrative process, because
2 remember, the administrative process is not a public
3 hearing process. It's a professional, analyzing and
4 issuing a judgment.

5 So we're confident we can define legally
6 defensible standards. We have some work yet to do to
7 satisfy some concerns that have been expressed as to
8 whether those standards -- there's a tension. If you
9 get too specific, you intrude into the creativity of
10 the design process, and that design process is really
11 important in achieving compatibility.

12 On the other hand, if you have too much
13 discretion, there's the opportunity for unintended
14 consequences, and that's where you all -- ultimately,
15 the buck stops with you all.

16 MAYOR SLESNICK: Thank you, Charlie.

17 MR. SIEMON: That's where we're at.

18 MAYOR SLESNICK: Thank you.

19 MR. SIEMON: Thank you very much.

20 MAYOR SLESNICK: Before we go to some
21 comments by our Planning & Zoning Board leadership,
22 for the purposes of a couple of our Commissioners who
23 were a little bit -- arrived after we did, Eric, I'd
24 like you to go back and quickly repeat just the part
25 about the inconsistent map. I think that's important

1 that the two Commissioners that didn't see it, see
2 just that portion of your -- because that was an
3 issue that is worth repeating once.

4 MR. RIEL: As I indicated previously, we've
5 identified approximately 60 to 70 properties that
6 have zoning that is inconsistent with the current
7 land use. We've done some detailed analysis, in
8 terms of -- to determine that. Most of those
9 include, obviously, both private and public
10 properties. For the most part, it's almost split
11 down half. About 25 to 30 are private, and actually
12 about 30 or 35 are public.

13 What we're suggesting is that, in order for
14 the property to be further developed on, if you look
15 in this right column here, you'll see a number of
16 them that have asterisks on them. Before they
17 develop anything on their parcel, they're going to
18 need to change the land use and zoning.

19 This is the first time in the history of the
20 City that we've actually gone back and checked the
21 zoning map and the land use. Basically, what we've
22 done is, as these properties have developed, we've
23 changed -- we've made the applicant change the land
24 use and zoning. But just as some examples, we have a
25 church that has commercial zoning on it, and the

1 appropriate zoning category is special uses. That's
2 where all the other churches and schools in the City
3 are located.

4 Likewise, we might have -- as you go down
5 this list, and we have all the detailed information,
6 we're finding out that a property might have a
7 commercial zoning on the front, and the parking lot
8 in the rear might have a single-family zoning on it.
9 Obviously, we know that parking lot is not going to
10 go away, and so to make it consistent, we're
11 suggesting that the zoning be changed to be
12 consistent with the land use, land use being the
13 governing force in terms of development.

14 As I indicated, for the most part, a lot of
15 these are publicly-owned properties. For instance,
16 the Granada Entrance has a commercial zoning on it.
17 It should have an S use. The water tower has a
18 residential, single-family use on it. It should be
19 an S use. A lot of the parks, we noticed, have
20 inconsistent zoning on it. That's why you see all
21 the greens in the column here, because that's the
22 appropriate category for most of these.

23 COMMISSIONER CABRERA: Mr. Riel, when you
24 notice property owners affected by a particular
25 change, do you notice them in such fashion that they

1 understand that -- for example, the Granada Entrance
2 is an excellent example. I attended one Planning
3 Board meeting where there were several residents
4 there that had a genuine concern over possible
5 commercial development, and they were there to
6 obviously state their concerns over that. When we
7 notice the residents, do we also inform and educate
8 them on what we're trying to achieve and that in
9 fact, it's just the opposite, we're trying to protect
10 that green space or that particular structure from
11 potential, you know, future development?

12 MR. RIEL: When we did the actual notices,
13 we sent them certified mail to the property owner of
14 record. We actually -- if you recall, a couple of
15 months back, we gave you a binder that had each of
16 the 67 properties. We actually gave them this
17 information. We also asked them if they would like
18 to sit down and go through it in more detail, and
19 Walter Carlson in our office did have a number of
20 meetings.

21 Obviously, by sending out the letters, and
22 we mailed out, you know, 78 letters, it did raise a
23 lot of eyebrows. I would say about 10 people came in
24 and met with Walter and went through some detail, and
25 actually, we did send a second certified mail notice,

1 because this issue was deferred. So they actually
2 got a second notice.

3 And regarding the City properties,
4 obviously, those were under the jurisdiction of the
5 City Commission and the City Manager, so we obviously
6 went through those, line by line.

7 We feel that we provided adequate notice,
8 and given the fact that this was not considered by
9 the Commission, it's our intent, when we do finally
10 come back to first reading, to again do the certified
11 mailing.

12 COMMISSIONER CABRERA: And believe me, I'm
13 not criticizing the notification process. What I'm
14 actually trying to bring up is that even though we
15 went through the notification process and potentially
16 met with 10 or so people, at the Planning Board
17 meeting there were residents that had a genuine
18 concern over the notification, thinking that somehow,
19 some way, what was going to happen was that that
20 green space on both sides of Granada Boulevard
21 Entrance were somehow going to get developed, and
22 that's the genuine --

23 DONNA LUBIN: They were confused.

24 COMMISSIONER CABRERA: Yeah, confusion. Ms.
25 Lubin is right, confusion over what was happening.

1 So I'm just wondering, what can we do, as
2 the City, to inform and educate so that the citizens
3 maybe pay more attention to the issues that are
4 really compelling, rather than these -- I would call
5 them almost formalities, that you're going through,
6 to bring some parallels and consolidate the land use
7 with the zoning.

8 MR. RIEL: I think when -- obviously, when
9 we come back on first reading, again, we'll do that
10 certified notice, and we did have -- even after the
11 first public hearing at the Planning Board, we did
12 have a lot of calls, and we encouraged everyone to
13 either, you know, contact us. We have an e-mail, we
14 have a separate -- and that's why I introduced, at
15 the end, we came up with a list of commonly asked
16 questions, on the single-family and multi-family, and
17 we just have this available for the first time today,
18 so hopefully that will address any questions.

19 But if there are any things, you know, I'd
20 certainly encourage -- we're trying to get the word
21 out, and hopefully the media will pick up on this --
22 to come into the office, and we'll be happy to go
23 through this.

24 COMMISSIONER CABRERA: May I suggest, and
25 I'm sure you're already doing this, but may I suggest

1 that we have this on the web site?

2 MR. RIEL: It will be on the web, actually,
3 tomorrow.

4 COMMISSIONER CABRERA: Good. Thank you.

5 COMMISSIONER KERDYK: Speaking about the
6 web, you started off and you talked about the web
7 page being updated. Is that the Zoning Code that is
8 updated on the web page, with the proposed changes
9 that are incorporated, or no?

10 MR. RIEL: We have not updated the Zoning
11 Code. The Code that is on the web page is the one
12 that's dated October of 2004.

13 COMMISSIONER KERDYK: When are you going to
14 put on the web page the updated version of that?

15 MR. RIEL: In the next month. That's why we
16 have done the approval tracking chart, which
17 basically shows the changes that the Board had made,
18 and again, if there's -- and we've not updated
19 various portions because, you know, this is an
20 evolution process. If we go through and update it
21 and then we bring up the issue again, it's like,
22 "Which draft are you looking at?" That's why we've
23 purposely not done that. But certainly, if there's
24 any confusion, we'd be happy to sit down with anyone
25 and go through the changes, and I think that's, a

1 lot, what our intent was today, is to update you on
2 some of the major issues, because as I indicated,
3 single-family has been discussed two or three times.
4 We've changed -- you know, policy direction has
5 changed.

6 I will also tell you, since we started this
7 process, we do have a different makeup of the
8 Planning & Zoning Board, and they have worked very
9 hard, and to date, we've had 16 meetings, public
10 hearings, just on the Zoning Code rewrite issues, and
11 those are not just one- and two-hour meetings. Those
12 are four- and five-hour meetings. So the Board is
13 working through this Code, line by line.

14 MAYOR SLESNICK: When I brought up the
15 subject of this particular inconsistent map at the
16 Commission meeting, most of this doesn't apply, but
17 I'd like in some period of time to be briefed on
18 where I see residential going to commercial. That's
19 what I'd like to be briefed on, and other
20 Commissioners may want that same --

21 MR. RIEL: Sure. Any Commissioners that
22 would like us to --

23 MAYOR SLESNICK: I look at those addresses,
24 and I look at that going from residential to
25 commercial, and I'm concerned. So that's why I

1 brought it up --

2 MR. RIEL: I understand.

3 MAYOR SLESNICK: -- that even though we all
4 said we want it consistent, as the State law
5 requires, that we don't blindly just go from one to
6 the other without figuring out which is the best.

7 COMMISSIONER WITHERS: Well, what can you do
8 to stop it?

9 MAYOR SLESNICK: Oh, we can change one or
10 the other. You don't have to change, in other
11 words --

12 COMMISSIONER WITHERS: But most of these --

13 MAYOR SLESNICK: We approached it as if we
14 had to change the Zoning Code to meet the map, but we
15 can change the map now to meet the Zoning Code, if we
16 prefer that. I mean, we are in that window of
17 opportunity to change either one.

18 COMMISSIONER WITHERS: If it's in a little
19 island -- I mean, a lot of these are pockets.

20 MAYOR SLESNICK: No, I'm not saying I
21 disagree, I just -- I am concerned, when I see 408
22 Aragon going residential to commercial. I know that
23 property. I know what the property means to the
24 neighborhood. I know the consternation that that
25 parking and property is, and I want to make sure that

1 that is something that, at least before I vote, I can
2 agree to.

3 327 Santander, I don't know. I'd like to
4 take a closer look. This is the kind of briefing --
5 that's all I would ask.

6 COMMISSIONER WITHERS: Okay.

7 COMMISSIONER CABRERA: So, in essence, what
8 you're saying is, we're going to -- based upon Don's
9 request, you're going to come back to us and
10 encapsulate these potential problematic areas and
11 brief us on it?

12 MR. RIEL: We actually have the information,
13 which we gave you. Yes, we'll go through these, one
14 by one, however you would like.

15 COMMISSIONER WITHERS: Good.

16 MR. RIEL: We actually want you to feel
17 comfortable with what is being recommended.

18 MAYOR SLESNICK: Very good. Thank you.

19 Okay, we're going to -- can you turn this
20 off?

21 COMMISSIONER WITHERS: I think you look good
22 in lights.

23 MAYOR SLESNICK: We're going to ask the
24 Commission to come up, if they wish, and we have our
25 Chairperson of the Planning & Zoning Board. Mr. Tom

1 Korge is with us. I know that we have Past Chair,
2 Cristina Moreno, and current Vice-Chair, Eibi
3 Aizenstat.

4 And Tom, have a seat there with the mike,
5 and if you'll give us anything you'd like to comment
6 on, or observations you'd like to make, based on the
7 presentation so far, and what your observations are,
8 and then if you would like to invite other members of
9 the leadership team and the Planning & Zoning Board
10 to do the same thing.

11 MR. KORGE: Well, I don't want to make any
12 substantive comments. I don't want to make any
13 substantive comments at this time.

14 We've seen everything that you've seen
15 already. We've been through it in more excruciating
16 detail, over many hours. I will tell you that
17 occasionally we hear criticisms that this is taking
18 too long, and it just seems to me that there are a
19 couple of reasons why it's taking too long. The
20 first is that this is not simply a recodification and
21 clarification of the existing law. It is that, and
22 if that were all that we were doing, I think we
23 probably would have been done by now, and you'd have
24 a product to look at, visit, take hearings on and
25 revise it and eventually adopt.

1 But we've had several -- Eric tells me seven
2 major projects, in addition to that clarification and
3 recodification project, put on here. I can tell you,
4 you'll recall that there have been at least two
5 emergencies that have come up. One is a moratorium
6 in the Valencia area that resulted in the drafting of
7 some regulations relating to the development of
8 townhouses, that are now going to be part of this,
9 maybe in a revised form.

10 There was a need for emergency regulations
11 concerning oversized houses on the smaller lots, that
12 also has been discussed today, and it's being
13 overlaid onto this, as well, and that may end up
14 resulting in more than just the consolidation and
15 simplification into two single-family residential
16 districts. We don't know yet. We haven't -- I've
17 asked -- I and our Board have asked Staff to look at
18 whether there would be a need for more than two
19 single-family districts because of the limitations on
20 size that we're looking at adopting.

21 Just as the City originally was developed
22 with multiple districts to account for the minimum
23 size homes that were a concern back then, we may end
24 up right back where we started, in a way, because of
25 the maximum sizing that we're concerned about. I

1 don't know that we will, but that's one of the
2 issues.

3 So I guess all I really want to say is that
4 we've been spending a lot of time, going through all
5 of this. We've had -- again, Eric tells me, we have
6 like seven major projects here. We have to deal with
7 the North Ponce area, a mixed-use district that will
8 end up in North Ponce. So this is turning out to be
9 a significant revision of the existing laws, and as a
10 result, it is taking a lot more time than perhaps you
11 had originally anticipated. I'd just encourage you
12 to be patient with us, because we really don't want
13 to give you unfinished product or a product that's
14 going to end up taking you even more time because
15 you're going to have to fix what we've done.

16 That's not to say that what we give you,
17 you're just going to accept. You may disagree with
18 it, you may find that we've missed points or you
19 don't like the direction we've headed in, but we want
20 to give you our best work product.

21 So, if you'll be patient with us --
22 hopefully you won't give us any more major projects
23 in the middle of this, so we can get this done and
24 then move on to any other major projects that you
25 have.

1 I don't know if Eibi is here, our
2 Vice-Chairman, and Cristina Moreno, is Cristina here?
3 Oh, there she is. Maybe they'd come up and say a few
4 words, as well.

5 Cristina has led us for a number of years,
6 and relinquished the chairmanship over my
7 objections.

8 MS. MORENO: Good morning. I have the
9 dubious distinction of being the longest serving
10 member of the Planning & Zoning Board, so I thought I
11 would address with you the issues that we've faced as
12 a Planning & Zoning Board on various projects and why
13 I think this rewrite is so crucial.

14 The first thing that happens to us -- and
15 just to give you some perspective, the first project
16 I sat in on was the tail end of the Starwood Urban
17 project, and the basic issue that comes before us is
18 a question of fairness and clarity, and when a
19 developer has spent a tremendous amount of time and
20 money on a project and finds at the tail end that an
21 assumption that he made about the Code was incorrect,
22 well, that's when you get legal challenges to your
23 decision-making. So, to me, one of the crucial
24 reasons to rewrite the Zoning Code is to make sure
25 that, up front, when people buy property, they know

1 what they're buying into and they know the existing
2 land use regulations with a certain measure of
3 definity (sic) and clarity, so that it is their onus
4 if they're seeking changes, that they're spending
5 money because they want a change, not because it
6 wasn't clear what they could do, to begin with.

7 And that goes to the second issue, which is
8 the difference between what people can build as of
9 right and what people can build discretionarily. Too
10 frequently, we found ourselves, in the Planning &
11 Zoning Board, where the applicant would say to us,
12 "Well, if you don't approve this, we'll build what
13 could be built as of right, and what could be built
14 as of right is certainly not the direction you want
15 to go."

16 So, to me, this is an opportunity for the
17 Code to address what we want to be built as of right,
18 without discretion, and what we want to go before the
19 discretionary boards, which in effect creates a
20 barrier of time and money. So someone who wants to
21 pursue a discretionary hearing should be -- assess
22 the risk/reward of, "I want something so badly that
23 I'm willing to spend the time and money to go through
24 the discretionary process."

25 On the other side of the coin, people who

1 don't want to do that are going to build as of right,
2 and we want to be certain that what we're encouraging
3 as of right is what we want, not what happens by
4 default.

5 As a part of that, I would tell you that the
6 most frequent issue before our Board in opposing a
7 project is a parking issue. So we have not yet
8 addressed the parking standards, but certainly, in
9 redrafting this Code, we need to modernize our
10 parking requirements and not have, you know, for us
11 to tell the public when they appear before us, and
12 say, "We don't want this project here because it's
13 going to create a parking burden in the community,"
14 and we're saying to them, "The problem is, they're
15 not only meeting parking, they're providing some
16 additional parking, so how can we turn them down on
17 parking?"

18 The reality frequently is that our parking
19 standards are inadequate, but it's too late to tell
20 the developer, when he's spent all the money and
21 everything is there and finished, that our parking
22 standards were inadequate and he relied on our
23 parking standards and now we're going to turn him
24 down.

25 So, again, it's a question of fairness to

1 the developer/property owners, including the
2 homeowners, as well as to our community, who has an
3 expectation that when they come before us, they have
4 an ability to sway our decision-making, and then they
5 find, you know, they can't really sway us, because
6 we're bound by a Code that either didn't address it
7 properly or addressed it in a way that ties our hands
8 in that decision-making process.

9 The other thing I wanted to talk to you
10 about was the nonconformity. I think there's a
11 difference between a nonconformity as to use or
12 aesthetics and a nonconformity as to safety, and if
13 we do make any changes -- and I strongly encourage
14 some of the things that Charlie is talking about in
15 terms of addressing nonconformities in a hurricane
16 situation -- we do need to differentiate between life
17 safety issues and aesthetics/use issues, and in that
18 regard, we frequently think of, you know, a
19 nonconformity being able to clean up a property,
20 assuming that the property is going to be totally
21 destroyed. Your problem is when the property is
22 partially destroyed, it's more than 50 percent, but
23 insurance and et cetera are not going to pay for the
24 property to be totally redone from the ground up, so
25 what do you do with that homeowner or commercial

1 property owner?

2 I just want to make sure I cover all my
3 issues here.

4 Okay, the last one, I think, comes into play
5 most with the single-family issues that we've been
6 looking at. It's striking a balance between
7 encouraging the replacement of structures that are
8 not particularly desirable and conserving the
9 neighborhoods. We have a strong desire, especially
10 in this McMansion issue, to reduce the size of the
11 homes that are being built, or at least to make sure
12 that they're compatible with the community, and I
13 think all of us are in agreement that that is
14 something that is desirable and that we want to
15 pursue.

16 On the other hand, I would not like to see
17 us go in a direction where the homes are becoming
18 structurally challenged, or aesthetically challenged.
19 There's no incentive for someone to come in and buy
20 the home, because they cannot build, at today's
21 prices, something that makes sense on that property,
22 if they tear down that home. So that home continues
23 to become further and further delapidated and
24 undesirable, in a nice neighborhood. So somewhere we
25 need to strike a balance between creating incentives

1 for replacing homes at today's prices and, you know,
2 preserving the community and the smaller sizes of
3 homes, and those are realistic practical issues that
4 are before all of us, but ultimately before the
5 Commission, because you're the duly elected
6 representatives of our community, so to preserve and
7 encourage the growth of our City in its past
8 tradition, I think, is your challenge.

9 Thank you very much.

10 MAYOR SLESNICK: Thank you very much.

11 Eibi, will you join us?

12 MR. AIZENSTAT: Good morning.

13 First, I'd like to start by having the same
14 concerns as the Chairman has and the Past Chairman
15 has, with respect to the Building & Zoning Code.
16 There are several issues that we have seen. We have
17 gone through the rewrite process pretty extensively,
18 and I know, as Tom has said, that it has been taking
19 some more time, but I feel that it is important that
20 we go through it very carefully, because we do want
21 to get to you the best version that we can do, so
22 that you can act on it accordingly, also, and not
23 something that, by the time it gets to you, we just
24 haven't done our job.

25 One of the areas that we have focused on has

1 also been the inconsistent zoning map that you have
2 looked at, and there have been some concerns of --
3 Mayor, you raised a concern, also, about some of the
4 properties. To give you an idea, there was a
5 property that was on that zoning map, I think that
6 was Property Number 43, which was the Orduna Court
7 Condominiums. According to the way it was brought to
8 us, it was going to be changed, I think, to
9 commercial. It is currently an apartment building of
10 condominiums. The president of the condominium
11 association and some of the residents came before our
12 board and expressed a concern. As a result of that
13 concern, that property has been taken out from the
14 inconsistent map issue, and if I'm not mistaken, it's
15 being left the way it is.

16 So I guess what I'm trying to point out on
17 that is that we are looking at each property
18 individually.

19 I do encourage the Commission --

20 MAYOR SLESNICK: If you don't mind, let me
21 just say this. If you leave it as it is, then we
22 have to correct the map. I'm just saying.

23 MR. AIZENSTAT: That is true, and that's an
24 issue that you're going to get into, unfortunately.

25 MAYOR SLESNICK: I mean, so one or the other

1 should be changed. Correct?

2 MS. HERNANDEZ: Correct.

3 MR. AIZENSTAT: Right. But that's going to
4 be something between the Planning Department and
5 Staff and so forth, that you will have to take a look
6 at. I agree with that.

7 The other issue that I have and I feel that
8 the Board has is on the single-family homes. You are
9 dividing the single-family homes into SF-1 and SF-2.

10 What I have heard today from Mr. Siemon, I
11 do like, which is that you need to create an overlay
12 or some kind of districts within those SF-1s and
13 SF-2s, to keep the character of those neighborhoods.
14 We have had several people come before our Board,
15 expressing concerns, mainly actually from the North
16 Gables area, and it has to be handled some way so
17 that those neighborhoods and those areas are
18 preserved and they're not generalized, because one of
19 the beauties -- one of the beautiful things about the
20 City of Coral Gables is its unique aspects of its
21 neighborhoods, and I feel that if you start
22 generalizing every neighborhood in the same way,
23 you're going to come up with nothing else than a new
24 development area that has every home that's basically
25 stamped about the same, and that might not be

1 something that you want to do.

2 Another area is, also, massing of
3 properties. Commissioner Withers had an excellent
4 point when he spoke about people going ahead and
5 getting together a large area of properties and
6 closing up those communities. By doing so, I feel
7 that you don't really have the aspect of flavor of
8 what Coral Gables is really all about today, in my
9 opinion.

10 Another area of concern, for me, is that
11 there are a lot of older -- I call them young
12 residents but long-time residents from the City of
13 Coral Gables, and these residents live in certain
14 homes that they have bought, and as they grow and
15 their families grow, they want to expand their homes,
16 to be able to maintain and reside still in those
17 homes, for whatever reasons, whether it's monetary
18 reasons, that they cannot go and buy a new home
19 because the taxes would increase and so forth. We
20 have to look into these residents being able to
21 maintain and enlarge their homes within the envelope
22 and within the scope of what we're trying to do, but
23 so that they don't have to move out of the City or
24 lose their ability to do such.

25 Another area that I would also like to point

1 out is the Board of Architects. The Board of
2 Architects sees, on a weekly basis, about 90
3 applicants. It is a board that not only sees
4 applicants for major reasons, but it also sees a lot
5 of common reasons, for example, fences, colors, and
6 with the new rewrite, we are looking at putting in a
7 City Architect, which in turn, I feel, would free up
8 the Planning -- I'm sorry, the Board of Architects,
9 to allow it to spend the appropriate time that it
10 needs to, and not be backlogged on the important
11 issues.

12 And finally, actually, one of the issues,
13 also, is with the multi-family. In our Board, we
14 have not really looked at it extensively, we have
15 just nibbled at it right now, but I feel that the
16 Board and the Commission and the Staff need to look
17 at how to buffer the multi-families from the
18 single-family homes, whether it be apartments,
19 whether it be condominiums -- whether it be large-
20 scale apartments, whether it be townhouses or
21 duplexes. But you have to be careful not to put up
22 these huge, huge buildings next to these
23 single-family homes. I don't know what the best
24 process is, I really don't, and that's something that
25 needs to be explored, and I feel that the people that

1 we have on board, the Staff is working very hard,
2 everything down from the Directors to the Staff,
3 that's within the City, down to the Board members,
4 and even the Commissioners, I see a lot of concern.
5 I'm looking right now, and I see a lot of concern on
6 everybody's face about it, and I feel that that's the
7 right thing.

8 I feel that our attitudes, our hearts, are
9 all in the right place, and we really want to do a
10 zoning rewrite that is appropriate, and I thank you
11 very much for your time.

12 MAYOR SLESNICK: Thank you.

13 MR. AIZENSTAT: Thank you.

14 MAYOR SLESNICK: Tom, Cristina and Eibi,
15 thank you very much, and I hope that you'll take back
16 to the other members of the Board our appreciation
17 for their dedicated service. All of us who have
18 served on City boards before know that it is an
19 expression of love for your City to do so, and those
20 of us who have served on the Planning & Zoning Board
21 know the commitment that that takes, and during this
22 time it has taken extra-special commitments, and I
23 thank you. We appreciate that.

24 We have really accomplished what we came to,
25 but there is now going to be a time when the

1 Commission may wish to make statements or to ask
2 questions further of the Staff, and we will do that.
3 We'll just go around the table and start.

4 Chip?

5 COMMISSIONER WITHERS: I don't have a lot,
6 just a couple of comments. I really am concerned
7 about the possibility of the City --

8 Thank you, Senator. As you're aware, when
9 the memo was first --

10 I'm really concerned about the City-imposed
11 hardships that may create a huge log jam with our
12 Board of Adjustment, at end of the day, if we
13 start -- and I'm not opposed to it, but moving
14 setbacks and moving FAR, I'm just concerned about
15 that.

16 Secondly, I want to make sure, Liz, that we
17 have a written community character standard. I heard
18 that mentioned a couple of times. I don't know if we
19 have something in writing, but whenever subjectivity
20 enters the realm of government, that's when I hear
21 most of the complaints from residents. So I don't
22 know if we have that.

23 MS. HERNANDEZ: We have a general intent
24 section at the beginning of the Zoning Code, and
25 whenever we are in litigation, we do use those

1 provisions, which honor the single-family residential
2 character of our City. So we need to be sure that
3 they're strong and that they actually address that.

4 COMMISSIONER WITHERS: Well, I heard there
5 were different communities within the City.

6 MS. HERNANDEZ: Right.

7 COMMISSIONER WITHERS: Commercial ones -- I
8 mean, so I just want to make sure we have
9 definitions, and written definitions, of community
10 character.

11 I don't know if we're dealing with hedges
12 and walls. You know, sometimes an obtrusive 10- or
13 12-foot ficus hedge is as obtrusive as a 12-foot wall
14 on a building next to us. I didn't see that yet. I
15 don't know when we had plans on dealing with that,
16 Eric, but I've had a few neighbors concerned that the
17 neighbor next to them has a 15-foot Areca hedge next
18 to them and that's as obtrusive as a large building
19 next to them.

20 Finally, the only other question I had, had
21 to do with both whether it's a resident or whether
22 it's a commercial developer, and I hope -- and this
23 is my last comment. I hope that this Zoning Code
24 will leave less and less to the interpretation of our
25 building officials and staff.

1 The constant complaint I get is that
2 so-and-so has been very helpful, but I disagree with
3 their interpretation, and I don't know how we end up
4 with that, and there really doesn't seem to be a
5 remedy for interpretation in our Code.

6 MAYOR SLESNICK: You're trying to put
7 lawyers out of business.

8 COMMISSIONER WITHERS: Is that what I'm
9 trying to do? But I mean, you know, there's a remedy
10 where there is objectivity, which is, the remedy is
11 the Board of Adjustment or the City Commission. But
12 there's no remedy at all when it's a subjective
13 decision, it seems, in our Zoning Code.

14 MS. HERNANDEZ: Our present Zoning Code
15 allows a 60-day appeal period by the applicant after
16 the building official, Building & Zoning
17 administrator, issues a written decision or opinion.
18 Usually, those opinions and those interpretations are
19 oral, so the property owner or the applicant has to
20 request that it be in writing.

21 What happens is, instead of requesting that
22 it be in writing, they work out the differences of
23 opinion as the process is digested, so what we
24 could --

25 COMMISSIONER WITHERS: Is that the best

1 process? I mean, is the oral -- I mean, you have to
2 understand, the homeowner is not quite as, you know,
3 in tune with negotiations as a developer would be.

4 MS. HERNANDEZ: Right.

5 COMMISSIONER WITHERS: So the homeowner
6 goes in, and they're told a bunch of things orally,
7 that you can't do this, you can't do that, and they
8 come away very frustrated.

9 MS. HERNANDEZ: How we are looking at the
10 rewrite is, while we're taking the Omnipoint
11 decision, which requires objective standards, into
12 consideration, we want to preserve the ability of
13 neighbors and neighborhoods to be able to have a
14 voice, and their voice is typically with Staff.

15 Because of the standards that you have, that
16 everything has to be so objective, you know, a
17 neighbor coming in and saying, "I believe that this
18 project is not good for my community," well, that's
19 not -- you know, that's not evidence, and so we try
20 and allow a sufficient amount of discretion within
21 the City's building officials and administrators, so
22 that we can have that input from the neighborhood and
23 they carry sufficient weight, but I hear what you're
24 saying, and we have heard, you know, complaints that
25 there are disagreements, and we'll look further into

1 it.

2 COMMISSIONER WITHERS: That's all I have for
3 now, Mayor, and I just want to compliment Staff and
4 Eric, and Charlie, thank you very much. I thought
5 you did a lot in a relatively short time, as far as
6 the presentation.

7 VICE-MAYOR ANDERSON: A few things. I
8 attended that Biltmore -- when we came here to the
9 Biltmore to look at the single-family homes, and I
10 believe that we've moved in this particular setting
11 to reconfirm what we talked about in that particular
12 meeting, if I'm not mistaken. Correct?

13 MR. RIEL: Yes.

14 VICE-MAYOR ANDERSON: Okay, because there
15 was a disconnect. We had that workshop, and then we
16 had a Planning & Zoning Board meeting where it wasn't
17 translated exactly and where it wasn't clear, and
18 there were a lot of people that were frustrated. So,
19 as long as we're moving in the direction of that, and
20 I think that's what we're moving towards today, with
21 standards, with Board of Architects, a variety of
22 things to deal with the issue of the oversized homes
23 and the contextual neighborhood, and I want to
24 congratulate the efforts of everybody involved in
25 that.

1 One of the things that are still a concern
2 to me is open space considerations, especially in the
3 North Ponce area, how do we address issues of
4 providing green space or open space or some type of
5 space for recreation in those areas. I didn't see
6 that addressed. It doesn't mean that it's not going
7 to be addressed, but I want to make sure to put that
8 on the record, to make sure that we understand that.
9 There are some creative planning tools to make that
10 happen, that would be important.

11 I'm generally very happy with the
12 direction. I've been watching this, very closely
13 watching and suffering along with the Planning &
14 Zoning Board at times, watching the meetings, and I
15 want to thank them, I want to thank Staff, I want to
16 thank the people that have come out, the neighbors
17 that have come out and expressed their concerns. I
18 think we're moving in the right direction. I think
19 we have taken enough time, or have taken the time
20 necessary in order to do it right and not do it fast.

21 I'm sure I'll come up with other things, but
22 for now, a lot of the issues have been addressed, the
23 oversized homes, buffer areas and open spaces.

24 Thank you.

25 MAYOR SLESNICK: Ralph?

1 COMMISSIONER CABRERA: I don't think I'll
2 have anything more to add, other than to say that I
3 appreciate the work done by Staff on this project. I
4 would also encourage Staff to -- and I say this to
5 the Planning Staff, to be sure to incorporate our
6 Zoning Staff into this process as much as possible,
7 so that they can together develop a better end
8 product.

9 I'd just like to thank the three members of
10 the Planning Board for coming this morning, and I
11 appreciate their points, their bullet points, and I'd
12 like to just comment on a few of those. Ms. Moreno's
13 point about as of right and how she may have an
14 applicant come in and literally tell us that if they
15 build the project as of right, it would certainly be
16 a lot different from what they want to achieve, I
17 think that's one of the most disturbing responses
18 that I receive, as a member of the City Commission,
19 and I literally want to say, "Well, then, do so."
20 And so we have to come up with a better solution than
21 to just take that particular approach.

22 To the Chairperson, the Chairman, Mr. Korge,
23 I very much appreciate the fact that, you know,
24 you've made us very cognizant of the timing and how
25 much we need to give you the appropriate time frames

1 in which to work, and you're right. You know, we
2 seem to be very excited about this, but at the end of
3 the process, I think that you're absolutely correct.
4 We need to be able to give you the right time so
5 that, when you present the product, we don't have to
6 reinvent it or retool it or tweak it or whatever has
7 to occur. So I will work along with you and support
8 your colleagues' efforts to make sure that we give
9 you the right time frames.

10 And lastly, to Mr. Aizenstat, Eibi, I really
11 very much appreciate the commentary about the
12 existing homeowners who are facing a plight with the
13 fact that their families are growing, and they in
14 fact have to either sell their home and move out of
15 the Gables, because obviously, if they sold their
16 home, they would not be able to afford a larger one
17 inside our City limits, whether it's taxes or just,
18 you know, property values, but it's really more
19 property values than taxes -- but I really appreciate
20 the fact that you're aware of that, and it is
21 important that we, as a City, understand that we have
22 those needs to meet, to ensure that these young
23 families or these families that are growing will be
24 able to stay in our City and be able to enjoy their
25 homes for a long time to come, and not drive them

1 away. So I very much appreciate the fact that you're
2 attuned to that.

3 It's a good exercise this morning. I'm glad
4 I was part of it. I believe that the questions and
5 answers will go a long way. I appreciate the fact
6 that Staff is already looking at putting it on the
7 web site. I hope we'll find other vehicles in which
8 to inform and educate the public, because these are
9 the kinds of documents that can really create a lot
10 of clarification for folks that just have a
11 predisposed position on many of their interpretations
12 based upon social function conversations.

13 So thanks again.

14 MAYOR SLESNICK: Bill?

15 COMMISSIONER KERDYK: Yes, thank you,
16 Mayor.

17 Of course, I'd like to echo the sentiments
18 of the Mayor and my fellow Commissioners about the
19 effort that the Planning Board has put forth in this
20 rewrite, in this document, and I'd be remiss not to
21 mention that my appointment to the Planning Board is
22 here, Javier Salman. So I do appreciate not only the
23 people that were recognized, but Javier, too, for the
24 amount of the time and effort he has put into this.

25 I have some questions to ask Charlie, and

1 I'd like to start off from a technical standpoint and
2 talk a little bit about the permit process, in
3 general, and see if there's going to be any change to
4 the permit process, and maybe you could discuss a
5 little bit, because I've heard a few questions about
6 the development review official. Maybe sort of
7 encapsulate how that person would be part of the
8 process, and exactly -- if there is going to be a
9 change, what the change in the permit process will
10 be.

11 MR. SIEMON: Well, I think for the -- what
12 we call permitted as of right, there will be no
13 fundamental process change, but I hope that several
14 things will improve the efficiency of that. One is,
15 definitions of terms that are currently not defined
16 will help bring clarity and predictability to the
17 Code and then expedite the permitting process. To
18 the extent that we can define the permitting
19 conditions with quantitative standards, we're going
20 to do that, so that they can be expedited through the
21 process.

22 The change will be, where there is an
23 exercise of discretion, we hope to, one, identify
24 those conditions so that there's no ambiguity, and
25 two, provide discretionary standards that will have

1 measurable criteria for the exercise of that
2 judgment, and that in the administrative discretion
3 area, we are going to have discretion, but it will be
4 fettered with more quantitative standards when it
5 goes to a public body like the Board of Architects or
6 Planning & Zoning Board. That's where the more
7 qualitative standards will apply.

8 So with regard to the permitting,
9 eliminating the conflicts in the interpretations, we
10 are discussing a number of ways to expedite the
11 review of conflicts over interpretations. We frankly
12 think that defining many of these terms, using
13 generalized categories for land uses, will expedite
14 that process. So that's the basic change that we're
15 focusing on, basic permitting.

16 COMMISSIONER KERDYK: It's that's important,
17 because I continuously get people that are upset with
18 interpretations and having to get some type of --
19 somebody to interpret exactly what the Code says. So
20 I think that would be important.

21 Talk to me a little bit about our central
22 business area and what we plan on doing as our
23 central business -- with regards to our central
24 business area. I know that we talked a little bit
25 about the parking, and that's something you have not

1 worked on quite yet. Is there anything else, any
2 other changes that we need to know about, as far
3 as --

4 MR. SIEMON: I don't think there's any other
5 significant changes with regard to the CBD area. We
6 are addressing the mixed-use context outside of the
7 CBD, but that's in the North Ponce area, in one way.
8 We believe that we're going to recommend a new
9 mixed-use district for the corridor, and then, of
10 course, the southern industrial area, where there's a
11 discussion whether it's going to be an overlay or a
12 new district is going on.

13 But in the CBD, I don't think we have any
14 real changes that we're proposing, with one
15 exception, and that is, where there are properties in
16 the CBD that abut residential neighborhoods, those
17 nighttime uses and performance standards will come
18 into play there.

19 COMMISSIONER CABRERA: Can I follow up on
20 that for a minute?

21 COMMISSIONER KERDYK: Sure.

22 COMMISSIONER CABRERA: Because I find that
23 kind of interesting. You know, we went through the
24 charrette process in 2001 and invested a lot of time
25 and effort, and I think we have a real good working

1 document. And I'm really kind of surprised that we
2 wouldn't take the advantage now to try to incorporate
3 some of the visioning that came out of that charrette
4 and incorporate that into the CBD. So I'm just
5 wondering, are we missing an opportunity here, if we
6 don't make a --

7 MR. RIEL: Actually, we've gone through the
8 charrette recommendations, and I keep reminding
9 Staff, when we go through this, to keep looking at
10 those 57 recommendations that came out of that.

11 COMMISSIONER CABRERA: Yeah, because if
12 you've got 57 recommendations -- I didn't know that
13 was the number, but if you have 57 recommendations,
14 and we're at a point in time that we're really not
15 going to make any changes to the CBD, then those 57
16 recommendations all fall in line with what we have,
17 in terms of zoning, in the CBD?

18 MR. RIEL: Yes. A lot of those
19 recommendations, we are making the changes. I mean,
20 for instance, one is parking. They said look at
21 parking, in terms of increasing parking requirements.
22 That's just one example.

23 We're doing other things that are
24 recommended. I mean, the CBD also included the North
25 Ponce area, so a lot of those recommendations that

1 you're going to see in the North Ponce study, such as
2 more space, a transitional area, in terms of, when
3 you get out of the CBD and get into more the North
4 Ponce area, we're looking at what I want to call like
5 low-density, mixed-use area, to try to encourage more
6 re-use of historic structures.

7 We're looking at a lot of different things,
8 but I would say for the most part, a lot of the
9 recommendations from the charrette are going to be
10 included in the North Ponce area.

11 COMMISSIONER KERDYK: All right. I'm glad
12 to hear that you're keeping our Code where a building
13 could, if it's built under a certain FAR, not have to
14 comply with parking, but in addition to that, having
15 said that, the other side of my mouth says it's good
16 to see that you're also addressing the parking ratios
17 and making sure we have enough parking in our new
18 structures that are being built.

19 Talk to me a little bit, since we're talking
20 Central Business District and we know that the
21 transfer of development rights are exclusively inside
22 that district there, what are your thoughts about the
23 transfer of development rights in general? Should
24 they be confined to the Central Business District?
25 Should we eliminate the transfer of development

1 rights? What exactly is your thought process as far
2 as TDRs?

3 MR. SIEMON: We've looked specifically at
4 two opportunities to use TDRs. One was whether or
5 not rights could be transferred to the North Ponce
6 area, and the other was in conjunction with the
7 development in the industrial area that's anticipated
8 to be future mixed use.

9 With regard to North Ponce, our conclusion
10 is, there is more than enough density already
11 allocated to the North Ponce area, that some ability
12 to relocate the density within that district, that
13 is, to take it out of the residential apartment area
14 to the east of the intense corridor, moving some of
15 that into the corridor would be desirable in terms of
16 achieving a long-term pedestrian-friendly,
17 near-downtown residential neighborhood. But in terms
18 of importing new density into that area, we think it
19 already has more than enough, and that that's not an
20 appropriate program.

21 We think that -- I think the plan is really
22 to look at, after the rezoning is complete, the
23 rewrite is complete, to continue to examine other
24 opportunities to accommodate these additional units,
25 but it's going to be very difficult, in my opinion,

1 to accommodate in any of the traditional A zones, for
2 example, because of the allocated densities at this
3 point.

4 MR. RIEL: There was a lot of discussion
5 when the Valencia issue came, before the moratorium,
6 about transferring development rights out of the
7 area. Our Staff recommendation, which has actually
8 gone to the Planning & Zoning Board, which they
9 recommended approval of, is to do a separate transfer
10 of development rights study after the Zoning Code and
11 the Comprehensive Plan. We're actually going to put
12 a date that it needs to be completed. That's why --
13 those types of things are what typically go in the
14 Comp Plan, that we need to defer for study on
15 particular issues, so we're targeting like 2007,
16 2008, to do a City-wide TDR, to look at that issue.
17 But it is going to be a challenge, and we do have
18 areas that have the opportunity to be quite dense.

19 COMMISSIONER KERDYK: I guess, also, that's
20 a philosophical decision that we have to make inside
21 the Commission, whether we want to continue with
22 TDRs, whether we want to put them in other areas or
23 whatever that is, but I guess that's a decision that
24 we're going to have to make, and then affordable
25 housing, are you looking at increasing the height,

1 you know, the density or FAR, if we're going to
2 comply with affordable housing?

3 MR. RIEL: That's one of -- there's four
4 facets of affordable housing. That's one of the
5 areas that we're looking at, yes, is providing
6 further density bonuses and intensities to meet that
7 new construction need for the next 10 years. That's
8 an alternative.

9 We're just now getting the study and we're
10 drafting the regulations, and we're looking at all
11 the options that are available.

12 COMMISSIONER KERDYK: And you're going to
13 present us all those options? Because that might not
14 be an option that I feel acceptable.

15 MR. RIEL: Absolutely. Certainly. We're
16 actually going to present the study to you and then
17 come with the regulations in draft form and get your
18 comments and mold that into the Zoning Code, but
19 that's kind of -- if you saw those seven items,
20 that's one of the things that's going to be coming,
21 probably, in the next month or two, and as you know,
22 you're not going to be getting the Code in the next
23 month or two, so it will be well in advance.

24 COMMISSIONER CABRERA: Can I follow up on
25 your question?

1 COMMISSIONER KERDYK: Sure.

2 COMMISSIONER CABRERA: Under the affordable
3 housing, will you -- I know you said four elements,
4 or I think that -- did you say four elements --

5 MR. RIEL: Yes.

6 COMMISSIONER CABRERA: -- that you're
7 looking to bring to us, would one of those elements
8 include a set district for affordable housing?

9 MR. RIEL: Well, there's a number of
10 options. Provide incentives for new construction;
11 there's an opportunity to provide for rehab of
12 existing units; we're looking at possibly doing some
13 joint, you know, partnerships with neighboring
14 cities. There's a lot of avenues that are available.
15 Some work in some communities, and some don't in
16 others. We're utilizing the expertise of the
17 Regional Planning Council, and also, we have a
18 consultant that's well known.

19 COMMISSIONER CABRERA: Okay, yes or no?

20 MR. RIEL: Yes.

21 COMMISSIONER CABRERA: That is going to be?

22 MR. RIEL: Yes.

23 COMMISSIONER CABRERA: Okay.

24 COMMISSIONER KERDYK: Just one final
25 comment. Let me just assure you that the timing

1 issue is not significant, in my mind. I mean, if you
2 take until next June or whatever it is, I mean, I
3 think the City has lived fairly well as it is for
4 several months, and the issue, in my mind, is that we
5 dot every I and cross every T, because how you deal
6 with one little section here might certainly affect
7 somebody else that you're not thinking about there,
8 and I know that you've had a lot of participation,
9 not only with the Planning Board, but with several
10 members of the community, whether it be business
11 owners or residents.

12 I just encourage you to continue to reach
13 out to those individuals and maybe, also, ask some
14 representatives of the AIA to maybe -- or the AIA in
15 general to take a look at it for functionability,
16 prior to us implementing the Code. I'm very
17 concerned. It's not that you're not doing an
18 excellent job, but there might be a little something
19 here or something there, and we want to make sure we,
20 you know, get that to completion.

21 Thank you.

22 MAYOR SLESNICK: In no particular order,
23 just some of my thoughts. The affordable housing,
24 and your comment, Eric, about working with other
25 cities, it seems to me that the triangle between Bird

1 Road and U.S. 1, near the Douglas Road Metrorail,
2 would be an incredible area for us to partner with
3 the City of Miami in affordable housing, and possibly
4 with an overflow area into the south Industrial
5 District, which is going to be before this Commission
6 and is going to be a hot topic item, and if there's
7 some way to meet some State-demanded needs in that
8 area, that will maybe help us along in our
9 decision-making process.

10 I also think that it's time, David, to come
11 to ask you that we may need to be presented with some
12 thinking on a moratorium for the North Ponce area.
13 You know, as we go through, and I agree with
14 Commissioner Kerdyk that we need to do it right and
15 do it right this time around, and I think everyone
16 has said that. North Ponce is change so rapidly that
17 there could be nothing left to design up there.

18 COMMISSIONER CABRERA: How would you define
19 the North Ponce?

20 MAYOR SLESNICK: Well, I'm particularly
21 thinking, right now, the most challenged area was
22 like, let's say, north of Angel Buick and to the east
23 of Ponce de Leon Boulevard, that northeast quadrant.

24 I mean, I just saw another thing that's been
25 approved. It's not coming to us, because it's by

1 right and by the Board of Adjustment not being
2 appealed, another great big apartment complex, by the
3 Women's Club, and I just -- I'm not complaining, I'm
4 only saying that if we really think that we're
5 looking at North Ponce as some sort of futuristic
6 planned area, it's not going to be there to plan,
7 so -- and I'm not suggesting that we do that. I'm
8 only saying that I think somebody needs to think
9 about that and give us some recommendations on
10 whether we should.

11 I think you all know my concern with monster
12 homes, and Charlie and Eric, one of the things that
13 was brought to my attention since my last discussion
14 of that is, one of the things I'm really concerned
15 about is the permeable area on a lot and whether we
16 count, as open space, spaces that are paved,
17 completely paved over, so that we have no yards, no
18 green and no absorption of water, and there was a
19 great column that I think I referred to once before,
20 and I'll refer to once again, about New Orleans, and
21 it certainly had an exaggerated situation, but we
22 face floods here, too, and we face pockets of floods,
23 and if there's no place for the water to go, it stays
24 longer and it does more damage.

25 As with my fellow Commissioners, I think

1 intrusion into the residential neighborhoods by
2 commercial is one of my top concerns. I've expressed
3 something else. We talked about the CBD. I've
4 expressed about the future of the club scene in the
5 downtown Coral Gables, and what we want, as a
6 Commission, and as a population for our downtown, and
7 as we bring more people in, who seem to be buying
8 expensive apartments and are mature residents and not
9 club-age residents, how much do we want clubs
10 intruding on their peace and quiet and livability?

11 I'm concerned about the future of our look
12 and the feel and the character of our City, with our
13 regulation of trucks, RVs and commercial vehicles,
14 and I would be very concerned if we were going toward
15 loosening our control over any of these areas.

16 And finally, I just want to support the
17 idea -- it would be up to David and then this
18 Commission, to fund it and find it, but the City
19 Architect, to me, is a critically important piece of
20 making this work.

21 COMMISSIONER KERDYK: May I add --

22 MAYOR SLESNICK: Sure.

23 COMMISSIONER KERDYK: Yeah, I just wanted to
24 add something to one of the points that you brought
25 up, which was, I wonder, and wonder out loud, whether

1 sometimes the Board of Adjustment makes decisions on
2 some issues that maybe should be in front of the City
3 Commission, and again, I wouldn't know how to
4 quantify that, but it seems like everything, a lot of
5 big decisions, are now going to the Board of
6 Adjustment, where the Commission -- with regards to
7 development, and maybe those decisions should be
8 coming to the Commission, and I don't know -- again,
9 I haven't really researched it. I'm just telling you
10 in generalities how I feel.

11 VICE-MAYOR ANDERSON: That actually was
12 brought up at the workshop at the Biltmore in June,
13 and -- well, actually, not exactly that, but in terms
14 of, sometimes the Board of Adjustment is used as an
15 escape valve --

16 COMMISSIONER KERDYK: Right.

17 VICE MAYOR ANDERSON: -- in order to
18 circumvent good process. I think, if that's where
19 you're going, I support that.

20 COMMISSIONER KERDYK: Yeah, that's
21 exactly --

22 MAYOR SLESNICK: But there is an appeal
23 process to the Commission, so --

24 VICE-MAYOR ANDERSON: But sometimes
25 there's --

1 COMMISSIONER WITHERS: The City would have
2 to appeal it.

3 COMMISSIONER KERDYK: Yeah, the City.

4 VICE-MAYOR ANDERSON: Right. Sometimes
5 there's just kind of a -- I would say a loose
6 loophole, in kind of loose terms, to catch it.

7 MAYOR SLESNICK: Start planning longer
8 meetings, then.

9 (Inaudible comments)

10 MAYOR SLESNICK: We'll be here every
11 Wednesday morning, then.

12 COMMISSIONER WITHERS: Well, a check and
13 balance, to me, is that every time the Board of
14 Adjustment rules against Staff, that we're notified.
15 Is that a check and balance?

16 COMMISSIONER CABRERA: But then, if we're
17 notified, then what?

18 COMMISSIONER WITHERS: Well, make the
19 decision on appeal.

20 COMMISSIONER CABRERA: Then we make that
21 decision?

22 COMMISSIONER WITHERS: When would we hear
23 it?

24 MS. HERNANDEZ: There's 14 days.

25 COMMISSIONER CABRERA: See, I would be

1 comfortable with -- and I appreciate the fact you
2 brought it up, and I think you brought it up because
3 of Don's comments about the northeast Gables and the
4 project that is about to be started. We go around
5 and around on this one, every time we find out about
6 one of these projects, and incidentally, we don't
7 find out because we drove by. We find out because
8 someone called us or someone accosted us at some
9 social function and let us have it for approving it.

10 Why don't we, then, address this once and
11 for all and create a mechanism, and maybe we can't,
12 but I think we should explore a mechanism so that, in
13 fact, the appeal process would not be limited to an
14 affected property owner, but the appeal process would
15 be a core process of the Zoning Department, and a
16 person or persons would be responsible to make that
17 determination and appeal it to the City Commission.

18 Now, I'm not sure if, legally, that can be
19 done. I know that the City Attorney would have to
20 maybe already have an answer, but I sure would like
21 to see that in place so that if Staff does not
22 approve something, if Staff makes a recommendation
23 against the project, whatever is that project may be,
24 and the Board of Adjustment overrules that
25 recommendation, then why shouldn't Staff have the

1 ability to come to the City Commission with their
2 appeal? And that's -- I'm just -- befuddled over
3 that.

4 MS. HERNANDEZ: The way that the
5 definitions are being currently drafted, Staff will
6 also be one of the parties that can take an appeal.
7 So we are addressing that.

8 COMMISSIONER WITHERS: They do it now.

9 MR. RIEL: They can do it.

10 COMMISSIONER WITHERS: They do it.

11 MS. HERNANDEZ: They can, but --

12 COMMISSIONER CABRERA: But rarely, though.

13 MS. HERNANDEZ: Right.

14 COMMISSIONER CABRERA: Rarely do we see it.

15 MS. HERNANDEZ: Yeah, very few times.

16 VICE-MAYOR ANDERSON: But they can.

17 COMMISSIONER CABRERA: No, I agree with you,
18 we've seen it a couple times, but we've seen it a
19 couple times in four years.

20 VICE-MAYOR ANDERSON: Right.

21 MS. HERNANDEZ: Right.

22 COMMISSIONER CABRERA: And I'll bet you
23 there were probably six or seven others that snuck
24 by. And they sneak by, also, because there isn't a
25 whole lot of -- I don't know if I'd say involvement,

1 participation, by affected property owners, only
2 after they see the groundbreaking and the actual work
3 being done, that they say, you know, "What's
4 happening here? Why is this? How did these five
5 City Commissioners, or three City Commissioners that
6 campaigned on responsible development allow this
7 to -- "

8 COMMISSIONER WITHERS: An easier solution
9 might be to require a second reading on a Board of
10 Adjustment decision.

11 MS. HERNANDEZ: Right.

12 COMMISSIONER WITHERS: That would give you
13 30 days, instead of 14 days, and give us all an
14 opportunity to read the minutes and stuff like that.

15 VICE-MAYOR ANDERSON: Yeah, because we get
16 them -- right now, a lot of the Board of Adjustment
17 variances --

18 COMMISSIONER CABRERA: It comes way too
19 late.

20 VICE-MAYOR ANDERSON: Yeah, and they've been
21 to, actually --

22 MAYOR SLESNICK: The only thing about that
23 is, and I'm not disagreeing, but I'm but as we talked
24 earlier -- Bill, was it you, or maybe one of the
25 chairs -- about the expense the developer is going

1 through in trying to follow the law and trying to do
2 the right thing, and I know that we already get
3 complaints from that side of the house, which is also
4 a legitimate side of the house, that the process is
5 contorted, it's long, it's lengthy, and another
6 reading might add a whole other dimension.

7 VICE-MAYOR ANDERSON: And actually, some of
8 the variances that have come up have actually been to
9 improve the character of the community. I know that
10 some of the regulations we have written about
11 setbacks are there to help implement some better
12 planning principles.

13 MAYOR SLESNICK: If I'm not mistaken, one of
14 the projects, and I'd like to get this on the record,
15 even though -- well, we do have a record today, this
16 is not a regular Commission meeting. But I'd like to
17 know, myself, because I'm confused, and I think I
18 know the answer to this, but I believe one of the
19 complaints that I think we've all read in the paper,
20 that poor Mr. Kerdyk suffered on our behalf, about a
21 specific project in the North Gables area, in the
22 North Ponce area -- I think you were at a meeting,
23 that somebody accosted you, and it was reported in
24 the Gazette or the Herald or something, but --

25 COMMISSIONER KERDYK: There's been so many

1 times, I can't remember.

2 MAYOR SLESNICK: But it's part of the PAD or
3 part of the DRI or -- the large buildings being built
4 as part of the Douglas Entrance, it's part of
5 something that was approved a decade or so ago.

6 MS. HERNANDEZ: Right.

7 MAYOR SLESNICK: And that was by right under
8 that PAD or DRI, whatever they did up there. Is that
9 true?

10 MS. HERNANDEZ: That's true.

11 MAYOR SLESNICK: Because, I have to admit,
12 the developers had the right to build that thing for
13 a long time, and I may be the only Commissioner that
14 showed up at the groundbreaking, and -- but I was
15 surprised, too, when someone said something about
16 like 15 floors or whatever it was.

17 COMMISSIONER KERDYK: Yeah.

18 MAYOR SLESNICK: And I just didn't focus on
19 that, and I went back and looked and I found out that
20 was part of a process that preceded most of us,
21 except Ralph and I were on the Planning & Zoning
22 Board, but I don't really remember when that -- and
23 that process may go back 20 years, in fact, for
24 development of the Douglas Entrance. I'm not quite
25 sure how long ago it was done.

1 So, with that, I want to echo what each of
2 the Commissioners said. I want to thank David and
3 his Staff. Eric, particularly you and your Staff. I
4 want to thank the Zoning Staff, who I know -- and I
5 see Dennis here, who has taken part in this project,
6 as well as Planning, and Charlie, for your good
7 counsel, and to the Planning & Zoning Board Members
8 here, that appeared here.

9 I just will say that if you don't think we
10 should be going through this process, you probably
11 haven't sat in these seats. This is a Zoning Code
12 which is admirable, it's venerable, but it's --
13 it's venerable.

14 VICE-MAYOR ANDERSON: Outdated.

15 MAYOR SLESNICK: But it is the 21st Century,
16 and there are a lots of gaps and lots of holes, and
17 the reason that we all sit and talk about this, and
18 we may share different opinions, but the reason that
19 we're concerned about monster homes, or the reason
20 that we're concerned about intrusion into the
21 neighborhoods, or the reason that we're concerned
22 about North Ponce, is because this Zoning Code may
23 need to be tweaked to address these issues.

24 So I thank you for your work.

25 Any closing thoughts?

1 COMMISSIONER WITHERS: Just a question. I
2 mean, maybe the second -- I don't want to let go of
3 this second reading. Maybe the second reading of the
4 Board of Adjustment when it deals with distance
5 issues, or FAR or parking or something like that.

6 COMMISSIONER KERDYK: I think they need to
7 come back to us with some ideas.

8 COMMISSIONER WITHERS: I just don't want to
9 drop the ball.

10 COMMISSIONER KERDYK: Let them come back to
11 us with some issues on how to take care of it.

12 MAYOR SLESNICK: Well, we said we'd be out
13 of here by 11:30, and we have, okay? Thank you all
14 for coming, and I hope it was informative.

15 (Thereupon, the meeting was adjourned at
16 11:25 a.m.)

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CERTIFICATE

STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

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

DATED this 10th day of October, 2005.

JOAN L. BAILEY, RDR

