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CITY OF CORAL GABLES  
PLANNING & ZONING BOARD MEETING  
VERBATIM TRANSCRIPT  
CORAL GABLES CITY HALL  
405 BILTMORE WAY, COMMISSION CHAMBERS  
CORAL GABLES, FLORIDA  
WEDNESDAY, MAY 28, 2008, 6:03 P.M.

Board Members Present:

Tom Korge, Chairman  
Robert Behar  
Jack Coe  
Pat Keon  
Javier Salman

City Staff:

Eric Riel, Jr., Planning Director  
Lourdes Alfonsin Ruiz, Assistant City Attorney  
Walter Carlson, Assistant Planning Director  
Jill Menendez, Administrative Assistant  
Martha Salazar, Zoning Administrator  
Edward Weller, Building Director  
Carlos Mindreau, City Architect

Also Participating:

Jose Gonzalez  
On behalf of Flagler Development Group  
Dr. Joseph Briggie  
Amanda Quirke, Esq.  
Tew Cardenas, LLP,  
On behalf of AMACE Properties.

1           THEREUPON:

2                   The following proceedings were had:

3                   CHAIRMAN KORGE: All right, call  
4           the meeting to order.

5                   Call the roll, please.

6                   MS. MENENDEZ: Eibi Aizenstat?  
7                   Robert Behar?

8                   MR. BEHAR: Here.

9                   MS. MENENDEZ: Jack Coe?

10                  MR. COE: Here.

11                  MS. MENENDEZ: Pat Keon?

12                  MS. KEON: Here.

13                  MS. MENENDEZ: Cristina Moreno?  
14                  Javier Salman?

15                  MR. SALMAN: Here.

16                  MS. MENENDEZ: Tom Korge?

17                  CHAIRMAN KORGE: Here.

18                  The first item on the agenda is  
19                  approval of the minutes --

20                  MR. COE: So moved, Mr. Chairman.

21                  CHAIRMAN KORGE: -- of the meeting  
22                  of May 14th.

23                  MR. BEHAR: Second.

24                  CHAIRMAN KORGE: Moved and  
25                  seconded. Any discussion? No

1 discussion?

2 Call the roll on that, please.

3 MS. MENENDEZ: Robert Behar?

4 MR. BEHAR: Yes.

5 MS. MENENDEZ: Jack Coe?

6 MR. COE: Yes.

7 MS. MENENDEZ: Pat Keon?

8 MS. KEON: Yes.

9 MS. MENENDEZ: Javier Salman?

10 MR. SALMAN: Yes.

11 MS. MENENDEZ: Tom Korge?

12 CHAIRMAN KORGE: Yes.

13 The next item is Application Number  
14 04-08-063-P, Amendments to Conditions of  
15 Approval for property referenced at 2701  
16 LeJeune Road.

17 MR. CARLSON: Good evening.

18 CHAIRMAN KORGE: Good evening.

19 MR. CARLSON: For the record,  
20 Walter Carlson, Planning Department.

21 The request which is before you  
22 this evening is regarding the City  
23 National Bank, which is located on  
24 LeJeune Road. The resolution which  
25 approved the Burger King headquarters

1 project and the relocation of the City  
2 National Bank building was adopted in  
3 2005. The Burger King headquarters,  
4 which is now referred -- which is now  
5 going to be the headquarters of the  
6 Bacardi Corporation, is currently under  
7 construction. The new City National  
8 Bank building has been constructed.  
9 It's already been constructed and is now  
10 referred to as the Sevilla Building.

11 When the City National Bank was  
12 approved for relocation, there was a  
13 condition of approval required that the  
14 bank's drive-through facility be gated  
15 during off-business hours for security  
16 purposes. The applicant is providing  
17 24-hour ATM access within that bank  
18 drive-through facility and is therefore  
19 requesting that the condition requiring  
20 the security gates be removed.

21 The Planning Department does not  
22 object to the removal of that condition,  
23 as long as all the other conditions  
24 remain in effect.

25 I believe the applicant is here, if

1           you have any questions, or if you have  
2           any questions of myself.

3           CHAIRMAN KORGE: Does the applicant  
4           want to make a presentation at this  
5           time?

6           MR. GONZALEZ: I really don't  
7           anticipate a presentation, just -- my  
8           name --

9           CHAIRMAN KORGE: Will you state  
10          your name and address for the record?

11          MR. GONZALEZ: Yeah. Jose  
12          Gonzalez, Flagler Development Group,  
13          2855 South LeJeune Road, Fourth Floor,  
14          Coral Gables, Florida, 33134.

15          We agree with Staff's  
16          recommendation. We're here to answer  
17          any questions. If you like, we can make  
18          a presentation, if the Board wants it,  
19          but I think it's a simple and a  
20          straightforward request.

21          MR. BEHAR: You're proposing to  
22          remove the security gates; is that  
23          correct?

24          MR. GONZALEZ: In the drive-through  
25          area. We still have a security gate in



1 24-hour --

2 CHAIRMAN KORGE: I understand.

3 MR. CARLSON: -- facility within  
4 the drive-through, but if it was empty  
5 and unlit, what happens is, sometimes  
6 there are people -- the homeless will  
7 camp in there or people will park their  
8 cars during the evenings in there. It  
9 will be used as it wasn't intended to be  
10 used, and so the gates were intended to  
11 secure it, secure it so that it wasn't  
12 used for other purposes.

13 CHAIRMAN KORGE: And if they ever  
14 revert to, let's say, regular business  
15 hours for the ATM, what would happen?

16 MR. CARLSON: Well, we'd probably  
17 have to revisit the issue at that time.

18 CHAIRMAN KORGE: Would we be able  
19 to revisit it?

20 MR. SALMAN: We will if we make it  
21 conditional, that they provide 24-hour  
22 ATM services, as a condition.

23 MR. RIEL: Well, actually, since --  
24 in the past three or four years, we  
25 haven't really been requiring the

1 gate --

2 CHAIRMAN KORGE: You don't think  
3 it's --

4 MR. RIEL: -- because of increased  
5 security, lighting, mirrors and  
6 things --

7 CHAIRMAN KORGE: Do you think it  
8 will be unnecessary, in all events?

9 MR. RIEL: Typically, when  
10 drive-throughs come through right now,  
11 we don't require it anymore, so --

12 CHAIRMAN KORGE: Okay.

13 MR. RIEL: We think it's necessary.

14 CHAIRMAN KORGE: Okay. Those are  
15 the only questions I had. Is anybody  
16 from the public here to speak for or  
17 against this change?

18 MS. MENENDEZ-DURAN: Yes.

19 CHAIRMAN KORGE: Please state your  
20 name and address for the record.

21 DR. BRIGGLE: Yes. My name is Dr.  
22 Joseph Briggles. I live at 1430 Sienna  
23 Avenue, and my office is 368 Sevilla  
24 Avenue, which is the property that abuts  
25 this, and I'm in agreement with this. I

1           have no problem. I thought the idea of  
2           having the gates was ridiculous to begin  
3           with, so I would approve this.

4           CHAIRMAN KORGE: Thank you very  
5           much.

6           DR. BRIGGLE Thank you.

7           CHAIRMAN KORGE: Anybody else from  
8           the public? No? I'll close the --

9           MR. COE: Move Staff's  
10          recommendation, Mr. Chairman.

11          MR. BEHAR: Second.

12          CHAIRMAN KORGE: There's a motion  
13          and a second to approve the amendments  
14          to the Conditions of Approval. Any  
15          discussion? No discussion?

16          Let's call the roll on that,  
17          please.

18          MS. MENENDEZ: Jack Coe?

19          MR. COE: Yes.

20          MS. MENENDEZ: Pat Keon?

21          MS. KEON: Yes.

22          MS. MENENDEZ: Javier Salman?

23          MR. SALMAN: Yes.

24          MS. MENENDEZ: Robert Behar?

25          MR. BEHAR: Yes.

1 MS. MENENDEZ: Tom Korge?

2 CHAIRMAN KORGE: Yes.

3 MR. GONZALEZ: Thank you.

4 CHAIRMAN KORGE: The next item on  
5 the agenda is a Zoning Code text  
6 amendment for transitional rules,  
7 amending Section 1-108, transitional  
8 rules of the current Zoning Code.

9 MR. RIEL: As the Board knows, on  
10 January 9th, 2007, the Board --  
11 actually, the Commission approved the  
12 new Zoning Code. As a part of that,  
13 there was an 18-month period where if  
14 applicants secured preliminary Board of  
15 Architects approval before January 9th,  
16 2007, they had to go through the process  
17 and secure final approval, either that  
18 being the Board of Architects or the  
19 City Commission.

20 What we're suggesting here is  
21 allowing an additional six months to be  
22 added to that time frame if the City  
23 Manager so determines, based upon the  
24 language that's provided in the proposal  
25 here. There is a requirement that they

1           have to request that by July 9th, 2008,  
2           because obviously the 18 months will  
3           expire.

4           If you look at Attachment B,  
5           there's approximately nine or 10  
6           projects that this applies to. This  
7           list was prepared by the Building &  
8           Zoning Department. It's based upon  
9           those projects that are basically going  
10          through the process. Basically, this is  
11          a listing of what we feel, in the  
12          opinion of the entire City Staff, that  
13          has shown good cause and diligence in  
14          proceeding forward. We'd just like to  
15          give them an additional opportunity for  
16          six months. This doesn't extend the  
17          time frame for building permit, and I  
18          put a revised time line in front of you.  
19          The one that you had in your packet  
20          incorrectly showed -- The darker blue is  
21          12 months. It's actually 18 months.

22          So let me just go through, quickly,  
23          this time line. If we put it up on the  
24          screen, we'd have it up on the screen as  
25          well.

1                   Basically, this is an 18-month  
2                   transition period, the first green  
3                   block. The second green block allows  
4                   for the six-month extension to the City  
5                   Manager. If you go past the dashed  
6                   line, they have 18 months that basically  
7                   that Board of Architects approval is  
8                   valid for. There's an opportunity to  
9                   get a six-month extension, which brings  
10                  you to the orange, and then the Building  
11                  Department issues building permits for  
12                  six months, and then the building  
13                  official has the opportunity to do  
14                  extensions of six months beyond that  
15                  time line.

16                  So, just to give you an idea, if  
17                  you look on the top of the time line,  
18                  from January 9th, 2007, basically,  
19                  there's an opportunity for these nine or  
20                  10 projects to remain valid up unto July  
21                  9th, 2011. We just felt, based upon the  
22                  progress of these projects, that we felt  
23                  it's appropriate to allow for a six-  
24                  month extension.

25                  Staff is recommending approval of

1 the text amendment. We do have Ed  
2 Weller here, Martha Salazar-Blanco and  
3 Carlos Mindreau, from the Building &  
4 Zoning Department, who would be happy to  
5 answer any questions.

6 CHAIRMAN KORGE: Any questions for  
7 the Staff? Is there anybody from the  
8 public who wishes to testify or speak  
9 on --

10 MR. BEHAR: I do have a question  
11 for Ed Weller. Is six months a  
12 sufficient extension, or should we be  
13 looking at maybe 12 months? Given the  
14 situation, the way it is --

15 MR. WELLER: Well, for which six  
16 months, the ones --

17 MR. RIEL: The transitional rules?

18 MR. BEHAR: Yeah.

19 MR. RIEL: Or for the building  
20 permit?

21 MR. COE: Ed, identify yourself for  
22 the record.

23 MR. WELLER: Oh, I'm sorry. Ed  
24 Weller, with the Building & Zoning  
25 Department, Director of Building &

1           Zoning.

2                    You mean the six months for the  
3           construction portion?

4                    MR. BEHAR:  For transition.  No,  
5           the six months' extension for the  
6           construction, that would be --

7                    MR. WELLER:  Manny.

8                    MR. BEHAR:  -- you know, coming  
9           back to --

10                   MR. WELLER:  The building official.

11                   MR. BEHAR:  -- the Building  
12           Department official.  But instead of the  
13           six months proposed, a 12-month  
14           transition, shouldn't that be more --

15                   MR. WELLER:  I think six months  
16           would be enough.

17                   Martha, do you want to comment?  I  
18           think six months is enough.

19                   MS. SALAZAR-BLANCO:  Hello.  Martha  
20           Salazar-Blanco, Zoning Official for  
21           City.

22                   We have discussed this.  The team  
23           has discussed this, and we felt that six  
24           months was more than enough for an  
25           extension to be requested.

1                   CHAIRMAN KORGE: Does anybody from  
2 the public want to speak on this?

3                   Please come forward. State your  
4 name and address for the record.

5                   MR. SALMAN: I have one more  
6 question for Staff. If they don't ask  
7 for the extension, that means they don't  
8 get it?

9                   MR. RIEL: Correct.

10                  MS. SALAZAR-BLANCO: That's  
11 correct.

12                  MR. SALMAN: Okay. So this is just  
13 to give them the possibility of an  
14 extension?

15                  MS. SALAZAR-BLANCO: That's  
16 correct.

17                  MR. SALMAN: If any of these nine  
18 don't ask for it, well, then,  
19 they're out?

20                  MS. SALAZAR-BLANCO: They're out.

21                  MR. SALMAN: All right.

22                  MR. RIEL: And I forgot to mention,  
23 we did send a courtesy notice to each of  
24 the nine or 10, and I just want to put  
25 on the record, you know, with that

1 notice, it's not the City's  
2 responsibility. It's actually the  
3 applicant and property owner's  
4 responsibility to adhere and, you know,  
5 ensure they have a valid application.  
6 So I don't want folks to think, since  
7 they only got a courtesy notice -- I  
8 mean, the onus is on them to obviously  
9 understand when their approval expires.

10 CHAIRMAN KORGE: Are these all of  
11 the pending applications for which an  
12 extension may be awarded?

13 MR. RIEL: Yes. Yes.

14 MS. KEON: There's no other that  
15 would qualify? There's nobody else that  
16 would --

17 CHAIRMAN KORGE: Or that could ask.

18 MS. KEON: That could ask, even.

19 MR. RIEL: No. Based upon the  
20 Building & Zoning Department review of  
21 the records, the ones that are attached  
22 here.

23 MS. SALAZAR-BLANCO: We do have  
24 some projects that went to the Board of  
25 Architects, that their Board date has

1           expired, and up to that date, if they  
2           are able to go to the Board of  
3           Architects and get an extension, for  
4           whatever reason, then they might be  
5           added to the list, but for now, this is  
6           it. No one has presented or submitted  
7           to go to the Board of Architects to  
8           extend the Board of Architects date.

9           MS. KEON: I have a bunch of  
10          questions, but go ahead.

11          MR. BEHAR: Go ahead, please.

12          MS. KEON: Yours might answer it.

13          CHAIRMAN KORGE: Pat, go ahead.

14          MS. KEON: On the Attachment B that  
15          you gave us, the dates that are listed  
16          on here, these are -- What are these?  
17          What is the -- These are Board of  
18          Architecture -- This is when they were  
19          approved by the Board of Architects, all  
20          of these?

21          MS. SALAZAR-BLANCO: Right. They  
22          properly have preliminary approval,  
23          Mediterranean approval or final  
24          approval, and we go by the last date  
25          that there was an approval, whether it

1 was preliminary, final or Mediterranean.

2 MS. KEON: And these -- So many of  
3 them were -- other than this first one,  
4 this One Alhambra, which has a 2008  
5 date, which is a pre-approval -- I don't  
6 know, why is that on there?

7 MS. SALAZAR-BLANCO: Let me take a  
8 look at the list.

9 MS. KEON: But anyway, the next  
10 one, you know, they've been in the  
11 system for quite a while, no? I mean,  
12 they've been in the system for a couple  
13 of years, a lot of these.

14 MS. SALAZAR-BLANCO: Yeah, you'll  
15 find some that have been for a couple of  
16 years or more, and the reason why is  
17 because they have been going through  
18 either public hearings, such as Board of  
19 Adjustment, or they've been going to  
20 other type of hearings or they've gone  
21 back to the Board of Architects to do  
22 some revisions to plans, so they've gone  
23 back. So they've gone -- these are the  
24 projects that have been going back and  
25 forth to whatever Boards, and that's why

1           it's taking so long.

2                     Some are -- For example, the Gables  
3           Museum, that went to preliminary,  
4           December 6, 2005. However, they finally  
5           got final approval after going to the  
6           Historic Preservation Board, back and  
7           forth, and that's why they finally got  
8           the final approval on the 8th of May, of  
9           this year.

10                    MS. KEON: Okay. So why would --  
11           what would giving them six more months  
12           do, if they have final approval? Is  
13           that to begin building?

14                    MR. RIEL: Well, these are  
15           transitional rules, the old Code versus  
16           new Code.

17                    MS. KEON: Right.

18                    MR. RIEL: That's all this does.

19                    MS. KEON: Right, right.

20                    MR. RIEL: So it gives them -- I'll  
21           tell you, most zoning codes don't even  
22           give you 18 months transitional.

23                    MS. KEON: Yeah.

24                    MR. RIEL: It's either -- it's the  
25           effective date or six months later.

1 We're being very generous with 18  
2 months, so --

3 MS. KEON: Yeah, my feeling is --

4 MR. RIEL: -- by going another  
5 six --

6 MS. KEON: -- you gave it to them  
7 and I don't know why. I'm looking for  
8 some justification as to why you would  
9 give it to them.

10 MR. RIEL: These nine or 10 have  
11 gone through the process. They've been  
12 working for a number of years under the  
13 old Code. We feel that based upon their  
14 continuing progress to go forward, we  
15 feel an additional six months may be  
16 proper. Now, the Manager could decide  
17 all nine of these don't show good cause  
18 of being, you know, granted an extension  
19 on July 9th, 2008.

20 MR. BEHAR: But in all fairness,  
21 dealing with -- you know, in Coral  
22 Gables, typically, the time frame is  
23 usually a little bit longer than most  
24 other municipalities. So, yeah, I  
25 understand the 18 months is a gracious

1 period, but, you know, it takes a little  
2 longer to go through the process here,  
3 and my concern is, projects that, due to  
4 the market condition, have changed, that  
5 started, that may have to be modified --  
6 and one of these, you know, a property  
7 owner has a project that -- I could  
8 imagine, for example, at 395 -- 396  
9 Alhambra, that's a major project. Going  
10 through -- it's a 30 million dollar  
11 construction cost, and I'm sure it's a  
12 lot more than that. Going through the  
13 modifications necessary to make it come  
14 to life again may require a little bit  
15 more time. So I'm not sure that 18  
16 months plus six months may be sufficient  
17 for some of these projects.

18 Now, how do we pinpoint, you know,  
19 what projects deserve a little more?  
20 That, I don't know. I don't have an  
21 answer. I'm sure that the Gables  
22 Museum, which is a smaller project,  
23 could come before you, you know, the  
24 Building Department, a lot quicker than  
25 that other project, and that's my

1 concern.

2 MR. COE: Mr. Chairman, if I may  
3 ask Staff, so I'm clear, every single  
4 applicant who's affected by this has  
5 been given notice?

6 MR. RIEL: Courtesy notice.

7 MR. COE: Courtesy notice, and as  
8 far as I know, no applicant is here  
9 to -- well, except for maybe one, to  
10 increase the amount of time. So unless  
11 we hear from an applicant increasing the  
12 amount of time, I think any discussion  
13 about that is irrelevant, because  
14 they're not here to advocate their  
15 position. Otherwise, we'd be  
16 speculating.

17 MS. SALAZAR-BLANCO: Well, I can  
18 tell you, on Attachment B, on the last  
19 project, on Yumuri Street, that's going  
20 before the Board of Adjustment on  
21 Monday, so they are working on that one,  
22 and there's other projects here that  
23 they might not be here, but they have  
24 been active in going to different  
25 boards.

1           MR. RIEL: This list was developed  
2           by, you know, Martha, Carlos and Ed,  
3           looking at how these projects have gone  
4           forward.

5           MR. BEHAR: But let me ask a  
6           question. If that project is going on  
7           Monday to the Board of Adjustment --

8           MS. SALAZAR-BLANCO: Uh-huh.

9           MR. BEHAR: -- and it's due -- the  
10          transition rule expiration date is July  
11          9th --

12          MS. SALAZAR-BLANCO: Uh-huh.

13          MR. BEHAR: -- with the process  
14          that they still have, go before -- you  
15          know, after the -- Monday's hearing --

16          MS. SALAZAR-BLANCO: Uh-huh.

17          MR. BEHAR: Are they going to have  
18          enough time?

19          MR. COE: Three years?

20          MS. SALAZAR-BLANCO: No, they --  
21          All these projects pretty much will be  
22          out, all of these.

23          MR. BEHAR: Will be out?

24          MS. SALAZAR-BLANCO: Will be out by  
25          July 9th.

1           MR. BEHAR: I -- from personal  
2           experience, the Board of Adjustment, it  
3           took us probably five to six months,  
4           just to go through that Board, on a  
5           project that we were working on, on just  
6           one Board. When you start putting  
7           projects that are necessary to go  
8           through multiple --

9           CHAIRMAN KORGE: Yeah.

10          MR. BEHAR: -- you've got to take a  
11          look, you know, and I would hate to see  
12          a project like that, that's going to the  
13          Board of Adjustment on Monday -- by the  
14          time it comes back, it would be -- have  
15          their expiration approval, you know, the  
16          approval expire, and that's my concern.  
17          How do we fix those projects that are  
18          moving forward?

19          MS. SALAZAR-BLANCO: Well, for  
20          example, the last project, the reason  
21          why they're just going to the Board of  
22          Adjustment on Monday is because they  
23          have been changing their plans back and  
24          forth. So, originally, they did not  
25          need to go to the Board of Adjustment.

1           They were just doing an as-of-right  
2           project, and revising the plans have now  
3           caused it to have to go through the  
4           Board of Adjustment.

5           MR. BEHAR:  And that's what I was  
6           trying to refer earlier, that due to  
7           market conditions, you know, things are  
8           different, a little bit different, so  
9           you've got to go back and rethink about  
10          the process.

11          CHAIRMAN KORGE:  That's one  
12          concern.  The other one I have is, I  
13          don't -- I think we're overkilling here,  
14          perhaps, with showing good cause or due  
15          diligence.  Why not just extend the  
16          period for everybody?  You know, you've  
17          only got a few projects that really are  
18          coming under the old Code.  Is there  
19          some reason not to extend it to every  
20          project that's in the works as of now?

21          MR. RIEL:  These are the ones that  
22          applied.  These projects got preliminary  
23          Board of Architects right before the  
24          adoption of the new Zoning Code.

25          MS. SALAZAR-BLANCO:  Uh-huh.

1           MR. RIEL:  So somebody that got  
2 approval on, you know, February 1st,  
3 2007, these don't apply.

4           MR. COE:  Right.

5           MR. RIEL:  So --

6           CHAIRMAN KORGE:  No, no, what I'm  
7 saying is, you've identified all of  
8 the --

9           MR. RIEL:  These are the ones that  
10 only apply.

11          CHAIRMAN KORGE:  -- all of the ones  
12 that have applied for approval under the  
13 old Code.

14          MR. RIEL:  Old Code.

15          CHAIRMAN KORGE:  Okay.  Why do they  
16 have to now ask for an extension of  
17 time?  Why don't we just grant it for  
18 everybody and be done with it, under the  
19 proposal for giving an additional amount  
20 of time to --

21          MR. COE:  If they don't want it,  
22 why would you grant it?

23          CHAIRMAN KORGE:  Why do we care?

24          MR. COE:  Because we want to have  
25 buildings wrapped up and concluded.

1                   CHAIRMAN KORGE:  Why -- I mean, I  
2                   just don't understand.  They're going to  
3                   want to build their building as quickly  
4                   as they can.

5                   MR. COE:  Not necessarily.  I  
6                   disagree with that.

7                   MR. RIEL:  The problem is --

8                   MR. COE:  If I can --

9                   MR. RIEL:  -- they may come back --

10                  MR. COE:  Mr. Riel --

11                  MR. RIEL:  -- and continually get  
12                  revisions --

13                  MR. COE:  Mr. Riel, if I may --

14                  MR. RIEL:  -- and go to the Board  
15                  of Architects --

16                  CHAIRMAN KORGE:  I'm sorry, what  
17                  did you say?

18                  MR. RIEL:  They could continue to  
19                  get revisions to the plans and go to the  
20                  Board of Architects and continue this  
21                  process on and on.  So we need to bring  
22                  closure to these nine or 10 projects,  
23                  and this is just the approval.

24                  Understand, you know, projects  
25                  lapse all the time.  You know, they

1           expire. It just means they have to come  
2           back through the process under the new  
3           Code. I mean, it's --

4           MR. COE: And you would want them  
5           to do this as expeditiously as possible  
6           so they are under the new Code if they  
7           have to make changes to their plans, and  
8           therefore, you don't want to  
9           gratuitously give them any kind of  
10          extension. Now, the City is going to  
11          give them a six-month extension if they  
12          want it.

13          CHAIRMAN KORGE: Let me try it this  
14          way --

15          MR. COE: Frankly, I don't even  
16          know if that's such a great idea, but  
17          I'm not going to oppose that.

18          CHAIRMAN KORGE: Let me try it this  
19          way. Why would any of these not ask for  
20          the extension?

21          MR. RIEL: Maybe they're scheduled  
22          for Board of Architects before July 9th.  
23          I don't know.

24          MS. KEON: They may not need it.

25          MR. RIEL: They may not need it.

1 MR. SALMAN: They may not need it.

2 CHAIRMAN KORGE: Why wouldn't they  
3 not ask for it even if they're not sure  
4 whether they need it?

5 MR. RIEL: I don't know that  
6 answer. We were just giving the  
7 opportunity for them to do another six  
8 months.

9 CHAIRMAN KORGE: Whatever, it's  
10 another step in the bureaucratic process  
11 that we're making them go through, that  
12 seems to me to be a mere formality, that  
13 we should just waive it for them.

14 MS. KEON: Well, I have a  
15 concern --

16 CHAIRMAN KORGE: But I don't care.

17 MS. KEON: I have a concern about  
18 just waiving it or whatever. I mean, my  
19 concern would be, if people -- you know,  
20 either they come to the process without  
21 the plans in as good an order as they  
22 need to be for them to move through the  
23 process in what would be an appropriate  
24 amount of time or, you know, what would  
25 be an acceptable or general amount of



1 old Code, but you don't want to punish  
2 someone that is going through the  
3 process and, through no fault of their  
4 own or whatever, just because of the  
5 nature of the process, they are hampered  
6 in their ability to complete --

7 MR. BEHAR: Expedite the process.

8 MS. KEON: That's right. I mean, I  
9 don't -- you don't want to punish  
10 people. You don't want to be punitive.  
11 But on the other hand, I am not -- you  
12 know, I don't think you should put rules  
13 into place that allow, you know, issues  
14 to perpetuate in a community that you  
15 have tried to end with the new Code.

16 So, you know, if you could say to  
17 me that, you know, these particular  
18 projects -- if this six months was  
19 limited solely to these projects and --  
20 you know, I'm not sure, you know, what  
21 the differences are here, and if it's  
22 only because, through the nature of the  
23 process, they haven't been able to  
24 complete the process and not because  
25 they have changed their process,

1                   they're -- they didn't have things --

2                   MR. BEHAR: Or they intentionally  
3 stalled the process, I agree.

4                   MS. KEON: Or they stalled it or  
5 whatever else, those kinds of things.

6                   MR. BEHAR: I agree with you.

7                   MS. KEON: But I need you to tell  
8 me that. You know, I don't know that.

9                   MR. BEHAR: And this extension is  
10 only granted if the Manager, you know,  
11 grants the extension, "This file is  
12 granted." So, if you're in the process  
13 and you don't get an extension, you  
14 don't get granted, you're out of luck.

15                   MS. KEON: Right.

16                   MR. BEHAR: And that's --

17                   MS. KEON: But I mean, if it's  
18 because somebody has changed their  
19 project considerably from where it was  
20 first, you know, proposed --

21                   MR. RIEL: Well, I'll tell you, I  
22 mean --

23                   MS. KEON: -- that's another story.

24                   CHAIRMAN KORGE: Well, why don't we  
25 have the discussion after we

1 hear from --

2 MR. RIEL: This was initiated by  
3 Staff, just --

4 MS. KEON: Right.

5 MR. RIEL: -- to help those that  
6 are in the process, so --

7 CHAIRMAN KORGE: Let's hear from  
8 the public --

9 MR. RIEL: There's nothing that we  
10 have in writing or anything that this  
11 has been requested.

12 CHAIRMAN KORGE: Eric, I don't want  
13 to interrupt you too much, but let's  
14 hear from the public and then we can  
15 finish up our discussion on this.

16 Yes, ma'am. State your name and  
17 address for the record, please.

18 MS. QUIRKE: Amanda Quirke, 1441  
19 Brickell, on behalf of AMACE Properties,  
20 with the Gables Waterway project.

21 We were before you about two weeks  
22 ago, with the proposal for the Planned  
23 Area Development. I brought, for the  
24 record, a time line of our project for  
25 your own information and also to show

1           that we have been proceeding in good  
2           faith and with good cause towards final  
3           Commission approval.

4           At this time, this application is  
5           scheduled for the June 3rd City  
6           Commission meeting, for first reading,  
7           and then the only other opportunity that  
8           we will have before the City Commission  
9           is June 26th, before this July 9th  
10          deadline. Therefore, if this extension  
11          doesn't get approved, we are -- we will  
12          lose our vesting, if we are -- we will  
13          not have the opportunity to work further  
14          with the City to address some of the  
15          issues that you raised two weeks ago.

16          So, at this time, according to the  
17          current schedule, if the vesting  
18          extension is not approved through this  
19          ordinance, then we will not have the  
20          opportunity to do any further  
21          coordination with the City and will have  
22          to proceed to Commission with the plans  
23          that were discussed by you two weeks  
24          ago.

25          Just to point out, this is limited

1 to these nine or 10 projects. There is  
2 not going to be new plans under the old  
3 Code, and I would support Mr. Korge's  
4 point that the extension might  
5 appropriately be automatic, because  
6 right now, even if the ordinance is  
7 approved, June 3rd and June 26th by the  
8 City Commission, we'll have between June  
9 26th and July 9th in order to get the  
10 City Manager to approve a request for an  
11 extension. We really don't have any  
12 leeway in time at that --

13 CHAIRMAN KORGE: Well, let's be  
14 clear about that.

15 Eric, does the approval have to  
16 occur before --

17 MR. COE: No.

18 MR. RIEL: No.

19 CHAIRMAN KORGE: No, just  
20 the request?

21 MR. RIEL: The request for  
22 extension shall be in writing by July  
23 9th, 2008.

24 CHAIRMAN KORGE: So you just need  
25 to get your request in before that date

1 and then --

2 MS. QUIRKE: But it might not be  
3 approved.

4 CHAIRMAN KORGE: That's true, it  
5 may not be approved.

6 MR. RIEL: That's correct.

7 MS. QUIRKE: So we will have  
8 between June 26th and July 9th to file a  
9 request which may not be approved. That  
10 doesn't give an applicant, you know,  
11 very much assurance of how to proceed  
12 going forward.

13 I'll enter our time line into the  
14 record, just to show that we have been  
15 proceeding in good faith and trying to  
16 seek Commission approval for this  
17 project.

18 Also, based on, you know, the  
19 amount of time that this project has  
20 been under review, we'd also support Mr.  
21 Behar's proposal that the City Manager  
22 would be able to grant up to 12 months.  
23 He wouldn't have to grant the 12 months,  
24 but maybe up to 12 months, just to allow  
25 us to maybe address some of the points

1           that you raised two weeks ago at the  
2           Planning and Zoning Board meeting.

3                     Do you have any questions?

4                     CHAIRMAN KORGE:  The extension is  
5           for good cause shown, whatever that  
6           means.  I'm not entirely sure what that  
7           means, but -- and I'll ask you about  
8           that in a minute, but assuming we -- you  
9           know, they think -- some applicant  
10          thinks they've shown good cause, but the  
11          Manager decides that they haven't, is  
12          there an appeal right from the Manager's  
13          decision?

14                    MR. RIEL:  No.  No, the Manager's  
15          decision is final.

16                    CHAIRMAN KORGE:  Okay, so do you  
17          want to explain what good cause means?

18                    MR. RIEL:  Good cause means they've  
19          proceeded through the process, they've  
20          been working with Staff, they've been  
21          working with Carlos, they've been  
22          working with Ed, they've gone to Board  
23          of Architects reviews.

24                    What's not good cause -- if, you  
25          know, they haven't done anything in six

1           or nine or 10 months, you know, the  
2           plans are sitting upstairs -- I think  
3           it's pretty clear what good cause is.  
4           This list was developed by Staff as  
5           projects that have proceeded forward,  
6           so, you know --

7           MS. KEON: Right, but you're not --  
8           but you're also saying that it is not  
9           exclusive to this list.

10          MR. RIEL: It is only this list.  
11          This is the list. I mean, of course,  
12          there might be someone out there that  
13          might have been omitted, but this is  
14          based upon Building & Zoning's review of  
15          the records. These are the ones that  
16          apply.

17          CHAIRMAN KORGE: So I don't mean to  
18          put words in your mouth, but you're  
19          basically saying that if they apply,  
20          they're very likely to get approval for  
21          an extension.

22          MR. RIEL: My assumption is that,  
23          yes.

24          CHAIRMAN KORGE: Yeah. We're just --

25          MR. COE: But you're not the City

1           Manager, so you have no control over  
2           that.

3           MR. RIEL:    Correct.

4           CHAIRMAN KORGE:   Presumably, you're  
5           making the recommendation to the Manager  
6           and he's making the decision, or is the  
7           Building & Zoning Department making it?

8           MR. RIEL:    Well, I mean, it was --  
9           This amendment came forth from the City  
10          Manager's Office, the Planning  
11          Department, Building & Zoning, Historic  
12          Preservation -- if I'm forgetting any  
13          departments, I can't -- you know, we all  
14          discussed this for six or eight months.

15          CHAIRMAN KORGE:   Right.

16          MR. RIEL:    So this is something  
17          that, you know, we're just trying to  
18          help these folks out here.

19          MR. SALMAN:   Okay.   I have a  
20          problem with the selective approval of  
21          certain projects, where there might be  
22          other people.   I'm not a lawyer, but it  
23          sounds like we're hitting a Fourth  
24          Amendment equal protection problem.

25          CHAIRMAN KORGE:   I wasn't going to

1 suggest selecting -- My suggestion was  
2 anybody who --

3 MR. SALMAN: I don't want to -- If  
4 I were willing to approve this, it would  
5 be anybody, just a general extension.

6 CHAIRMAN KORGE: That's what I was  
7 suggesting, but, you know --

8 MR. SALMAN: Because I don't want  
9 to have to then say, hey, you know,  
10 there's some other person, and then have  
11 to revisit this issue again. I'd rather  
12 just grant it by right; if you had it in  
13 there, just extend the 18 to 24, and be  
14 done with it.

15 CHAIRMAN KORGE: Well, I --

16 MR. SALMAN: That would be  
17 easier --

18 CHAIRMAN KORGE: I agree with that.

19 MR. SALMAN: -- rather than burden  
20 both the Manager and the Staff with, you  
21 know, an innocuous determination of --  
22 you know, of due diligence with regards  
23 to persecution (sic) of a permit.

24 CHAIRMAN KORGE: That's kind of  
25 where I've been coming from, but I don't

1 think there's a consensus.

2 MR. BEHAR: And I agree, but the  
3 good cause, to make sure that somebody  
4 has tried --

5 MS. KEON: Well, then --

6 MR. BEHAR: -- to work with the  
7 City.

8 MR. SALMAN: Define "try."

9 MS. KEON: I'd rather have you  
10 define -- I don't think good cause --

11 MR. BEHAR: You know, if you go  
12 away for six, eight months, and you  
13 don't, you know --

14 MR. SALMAN: Well, limit it to  
15 that, you know, has shown activity  
16 within the last three months, period, or  
17 six months, and create some sort of  
18 definite time line. You know, send a  
19 letter or do something, okay? I've got  
20 a problem, when we've already given 18  
21 months, to then give another six months  
22 just because, okay? Because you don't  
23 want to avoid -- you want to avoid the  
24 problem and yet still have the power  
25 over somebody as to whether or not

1                   they're going to get the six months.

2                   CHAIRMAN KORGE: Well, I suspect --

3                   MR. RIEL: No, I disagree with the  
4                   Board. We're trying to help these folks  
5                   out.

6                   MR. SALMAN: I understand what  
7                   you're trying --

8                   MR. RIEL: You're taking an  
9                   incorrect stance on this. This was  
10                  something that Staff initiated. We  
11                  didn't have to come forward with this.  
12                  On July 9th, 2008, that's it.

13                  MR. SALMAN: True.

14                  MR. RIEL: So, you know, I really  
15                  don't understand the Board on this  
16                  issue. We debated six months, we  
17                  debated not doing this, we debated 12  
18                  months. I mean, you know, I think six  
19                  months --

20                  MR. COE: No good turn --

21                  MR. RIEL: -- is generous, very  
22                  generous. I do.

23                  MR. SALMAN: I think the 18 months  
24                  is already generous.

25                  MR. RIEL: I absolutely agree with

1           that.

2           MR. SALMAN: And then to add six  
3 months on top, with regards to -- My  
4 problem is one of, how do you define  
5 whether or not they've been diligent in  
6 the persecution (sic) of their permit.

7           MR. RIEL: My problem with this  
8 thing is, if you look at the end, they  
9 can go to July --

10          MR. SALMAN: Because you have a  
11 problem, too.

12          MR. RIEL: July 9th, 2011?

13          MR. SALMAN: Uh-huh.

14          MR. RIEL: That's three years from  
15 now.

16          MR. SALMAN: I know that.

17          MR. RIEL: And so if you -- you  
18 don't give them six months, you push  
19 that back, they can still get to January  
20 9th, 2011.

21          MR. SALMAN: Yeah, but the idea  
22 here is that we can archive the old Code  
23 and then just everybody stick to the  
24 same rules that apply to everybody else.

25          MR. RIEL: But understand, from

1           2007 to 2011, that's five years under  
2           the old Code provisions, you have the  
3           ability to go and ride through. I think  
4           that's a long time. I really do.

5           MR. SALMAN: I agree. I think it's  
6           too long.

7           MR. BEHAR: Yeah, it is a long  
8           time.

9           MR. SALMAN: I mean, we went  
10          through a lot of work here, and you did,  
11          too --

12          MR. RIEL: Absolutely.

13          MR. SALMAN: -- to establish this  
14          new Code.

15          MR. RIEL: Absolutely.

16          MR. SALMAN: We need to make it  
17          just absolute. I mean, why are we -- I  
18          understand Staff's reticence to cut  
19          people off, I understand that, and I  
20          agree with the Staff's recommendation  
21          to -- let's extend it.

22                   (Simultaneous conversation among  
23                   Board members)

24          MR. SALMAN: But my problem is with  
25          the wording --

1 THE COURT REPORTER: I'm sorry, I  
2 can't hear you. I can't hear you.

3 MR. SALMAN: I said, my problem has  
4 to do with the wording and the somewhat  
5 innocuous nature of determining good  
6 cause for extending the --

7 CHAIRMAN KORGE: Well, I suspect  
8 that it is --

9 MR. SALMAN: -- permit.

10 CHAIRMAN KORGE: -- as general as  
11 it is to give maximum discretion to the  
12 people who will make the decision,  
13 ultimately the Manager. I think they  
14 didn't want to get into great detail --  
15 I'm just speculating.

16 MR. RIEL: Yes.

17 CHAIRMAN KORGE: I'm speculating,  
18 they didn't want to get into great  
19 detail because then they might miss  
20 something and someone might  
21 inadvertently be left out. So I just  
22 wanted to be clear that for good cause,  
23 you mean that they proceeded with due  
24 diligence --

25 MR. RIEL: Yes.

1                   CHAIRMAN KORGE:  -- to obtain the  
2                   required approvals for their project.

3                   MR. RIEL:  Yes.

4                   MS. KEON:  Then why don't you just  
5                   say that, instead of saying for good  
6                   cause?

7                   CHAIRMAN KORGE:  Because I didn't  
8                   write it.

9                   MR. SALMAN:  That's my problem.

10                  MS. KEON:  Well, then, you and I  
11                  could ask them to amend it to that.

12                  CHAIRMAN KORGE:  I don't really  
13                  care, but I think it's pretty clear what  
14                  you intend now, and if -- you know, I'll  
15                  take any motion from the floor on this  
16                  proposal, if there is one.

17                  MS. KEON:  Well, I would make a  
18                  motion that you change the language of  
19                  good cause and you define it.

20                  CHAIRMAN KORGE:  And as so changed,  
21                  do you want to adopt the amendment?

22                  MR. SALMAN:  Do you want to  
23                  recommend to approve with the change in  
24                  the language?

25                  CHAIRMAN KORGE:  With the change?

1 MS. KEON: Yes.

2 CHAIRMAN KORGE: So you'd like to  
3 adopt -- Is there a second?

4 MS. KEON: I'll adopt it to approve  
5 with the change in the language.

6 CHAIRMAN KORGE: With the change.  
7 Is there a second?

8 MR. SALMAN: Second.

9 CHAIRMAN KORGE: There is a second.

10 MR. BEHAR: Call the roll.

11 CHAIRMAN KORGE: Is there any  
12 discussion? No discussion?

13 Let's call the roll on that,  
14 please.

15 MR. RIEL: And the change, I'm  
16 sorry --

17 CHAIRMAN KORGE: The change was  
18 that good cause shall mean --

19 MR. RIEL: You need to define what  
20 good cause would be.

21 CHAIRMAN KORGE: Proceed with due  
22 diligence to obtain the required  
23 approvals.

24 MR. RIEL: Okay.

25 MS. KEON: That it's relative to --

1                   that the delay is as a result of the  
2                   process and not as a result of --

3                   MR. BEHAR:    The applicant's --

4                   MS. KEON:     The applicant's --

5                   MR. SALMAN:   Inaction.

6                   MR. BEHAR:    -- supposed delay.

7                   CHAIRMAN KORGE:  Just due

8                   diligence.

9                   MR. RIEL:     Due diligence, okay.

10                  Thank you.

11                  CHAIRMAN KORGE:  It's a little more

12                  clear than good cause, I think.

13                  No further discussion?  Let's call

14                  the roll, please.

15                  MS. MENENDEZ:  Pat Keon?

16                  MS. KEON:     Yes.

17                  MS. MENENDEZ:  Javier Salman?

18                  MR. SALMAN:   Yes.

19                  MS. MENENDEZ:  Robert Behar?

20                  MR. BEHAR:    Yes.

21                  MS. MENENDEZ:  Jack Coe?

22                  MR. COE:     Yes.

23                  MS. MENENDEZ:  Tom Korge?

24                  CHAIRMAN KORGE:  Yes.

25                  MR. RIEL:     And just for the record,

1           it's going June 3rd, first reading, and  
2           June 26th, second reading.

3           CHAIRMAN KORGE: Okay.

4           MS. KEON: And you'll change the  
5           language?

6           MR. RIEL: Yes.

7           CHAIRMAN KORGE: The next meeting  
8           is?

9           MR. RIEL: July 9th.

10          CHAIRMAN KORGE: July 9th.

11          MR. RIEL: July 9th. I want to thank  
12          the Board members for coming this evening, at  
13          this special meeting, because we had to try to  
14          get this issue on, obviously, before July.

15          Thank you very much.

16          MR. BEHAR: You're welcome.

17          CHAIRMAN KORGE: Thank you.

18          (Thereupon, the meeting was  
19          adjourned at 6:40 p.m.)

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C E R T I F I C A T E

STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

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

DATED this 2nd day of June, 2008.

\_\_\_\_\_  
JOAN L. BAILEY, RDR, FPR

Notary Commission Number DD 64037  
Expiration June 14, 2011.