CITY OF CORAL GABLES

405 BILTMORE WAY

CORAL GABLES, FLORIDA 33134

MEETING OF THE HISTORIC PRESERVATION BOARD

September 18th, 2025

4:00 p.m.

City Hall, Commission Chambers

Commission Members In Attendance:

ALEJANDRO SILVA

CESAR GARCIA-PONS

MICHELLE CUERVO-DUNAJ

DONA SPAIN

MARLIN EBBERT

ANA ALVAREZ

KELLY SCHILD

CITY ATTORNEY:

STEPHANIE THROCKMORTON

(Excerpt of Meeting.)

MR. SILVA: We are back. Thank you all very much. We are going to hear our next case. This is case file COA SP 2024-027, an application for the issuance for a Special Certificate of Appropriateness for the property at 128 Obispo Avenue, Contributing Resource within the "Obispo Avenue Historic District," legally described as Lots 1 and 2, Block 3, Coral Gables Section E, according to the Plat thereof, as recorded in Plat Book 8, Page 13 of the public records of Miami Dade County, Florida.

The application requests design approval for the demolition of an existing residence. The applicant is claiming economic hardship.

Before we begin, I think some of you all walked in late; if you haven't been sworn in, would you please rise and be sworn in, anyone who was not sworn in before and is going to speak.

(Swearing of those wishing to speak.)

MR. SILVA: Thank you. And also before we begin, I think Ms. Throckmorton was going to say, give a kind of background or a briefing.

MS. THROCKMORTON: Of course. Thank you, Mr. Silva. Just given that this Board hasn't seen an undue hardship application in, I think over a decade,

I wanted to give you all a brief refresher of the law and give a brief overview of what, in the Code, so that we ask proceed with this application appropriately.

So obviously, the decision as to whether or not to issue a Certificate of Appropriateness for demolition of this property is for the Board to make. The City Attorney's Office takes no position as to the merits of the issuance in this case. But I wanted to assist you in hearing this application, and giving you a little bit of background on the legal issues related to evaluating the undue hardship application and provide a brief background about this office's previous terminations.

So one of the criteria to be considered in the issuance of a Special Certificate of Appropriateness for Demolition is whether the application has demonstrated that retention of the building structure or site would create an unreasonable or undue economic hardship. That is a defined term in the zoning code.

The undue economic hardship is defined as an exceptional financial burden that would amount to the taking of property without just compensation or failure to achieve a feasible economic return in the case of income-producing properties.

Our office has previously determined in memos, I believe Ms. Spain was around the last time this came around, that when evaluating whether a historic designation causes an undue economic hardship such that a Certificate of Appropriateness should be issued, the claimed economic hardship should be evaluated under the standard that the U.S. Supreme Court has outlined in the Penn Central case.

We don't have to get into all the details and legalities of that taking jurisprudence, but generally, it requires that the adjudicating body evaluate the economic impact of the regulation on the Claimant, and particularly, the extent to which the regulation has interfered with distinct investment backed expectations, as well as the character of the governmental action. That means that you should consider whether it amounts to a physical invasion or if it instead affects the property interest through some public program, adjusting the benefits and burdens of economic life to promote the common good.

So the current jurisprudence on taking has found that diminution of property value standing alone doesn't generally constitute a taking. Designation of historic property is a valid exercise of the government's police power.

MR. SILVA: I'm sorry, Ms. Throckmorton, would you repeat that first line again, and a little more slowly.

MS. THROCKMORTON: Sure. It's a very legal -- Essentially, what applies to this and what would apply in an appellate review is a taking standard. So the broad basis of that is, given the language in our zoning code about whether or not that undue hardship is defined as an exception financial burden that would amount to the taking of a property without just compensation, that what applies to you all is the standard of taking; Takings Law. Which is a broad book of jurisprudence that is found in regulatory takings, physical takings, eminent domain. There is a whole law of takings that apply to that, that generally, the way our code defines that, is that it's the taking of a property without just compensation, or in the case of income-producing properties, a failure to achieve a feasible economic return. And that is one of the prongs for consideration in the issuance of a Special Certificate of Appropriateness for demolition.

As we move on, I'm happy to answer any more specific questions, but I just wanted to broadly state that the way that it has been upheld in courts, and

the way that we have defined undue economic burden in our zoning code, under economic hardship, excuse me, is in that realm of takings. And that's the sort of legal framework in which we are working here.

I know there is some background information that has been provided to you, that this item has come to you before, I'll let Ms. Pernas explain that and then let the applicant present their application for the SCOA.

MR. SILVA: Thank you. Ms. Pernas.

MS. PERNAS: Anna Pernas, Preservation Officer. I just wanted to give a brief description because this application has been before the Board for demolition and was previously denied. But this is application is different because it is including, inclusive of the claim of undue economic hardship.

So just a brief background on the property and then I'll let the applicants present their proposal.

In May 2008, the Obispo Avenue Historic District was listed in the Coral Gables Register of Historic Places. 1258 Obispo Avenue is considered a contributing structure within the District.

In 2014, a Special Certificate of Appropriateness was approved for a large one-story addition on the residence and it was never built, then the COA

expired. In 2019, a COA for addition and alterations to the residence and site work were approved, and multiple conditions by Historic Board. And again, that proposal was also never built.

In July 2021, the Board reviewed a request for the revision of the Special Certificate of Appropriateness For the removal and replacement of the roof and floor framing due to the poor condition. A replica of the historic roof was to be built and the floor was to be replaced with a lower concrete slab. The Board made a motion to defer the consideration of the revision and suggestion that the structural engineer, who is familiar with the residence, be present and participate at the next meeting.

The applicant did not return to the Board and the proposal did not proceed. Soon after is when the property owners purchased the property in October 2021. Staff met with the applicants prior to the purchase of the property, and explained the prior Board reviews and outcomes.

In December 2022, the Historic Preservation Board reviewed a request for the demolition of the existing structure. The Historic Preservation Board found that the proposed demolition is historically inappropriate, detracts from the integrity of the historic structure

and the historic district, and is inconsistent with the Secretary of Interior Standards for rehabilitation. The Board approved the motion to deny the application.

The applicants did appeal that request, and the property owner submitted a notice of an intent to appeal to the Board to the City Clerk, and on February 7th, 2023, the property owner submitted the complete application.

The City Commission heard the appeal on February 28th, 2023, and the appeal hereby denied, and the decision of the historic was denied and the Historic Preservation Board's decision was affirmed by the City Commission. Since that decision was made, the applicant has been in touch with our office about the undue economic hardship application.

We have been working with them for about a year to over a year or so to get the application complete, and make sure that we had all the materials that we needed in order to review, to make a decision on whether it met the economic hardship requirements and to see whether or not we would require a third-party review of those materials. We have moved forward with the application since, and we are here to today to go forward with that. And I will let the applicant take

it from here.

MR. MESTRE: Thank you very much. My name is Cesar Mestre, I'm here with co-counsel, Oscar de la Rosa, and the owners of the property, Javier Avila and Jennifer Ruiz.

As Staff said, they have been before you before, kind of asking for something very similar to what's happening now.

MS. PERNAS: Can we get the presentation up? And this is just the 1940s photo of the property.

MR. MESTRE: So we are here on the property, which is 1258 Obispo Avenue, owned by Javier Avila and Jennifer Ruiz. It's very important to realize that they purchased it in October of 2021. It's a 50,000 square foot property, with a home that was built in 1946. It's a two-bedroom, one-bath, one-story property. They purchased it in October 21st, for $1,025,000. Last year's taxes, this is part of what was submitted to the City, the taxes on that property were $30,000 last year.

When Mr. and Mrs. Avila Ruiz decided to buy this property, they lived in Coral Gables, they wanted to start a family, they wanted this to be their home. They met with Warren Adams here in the City to ask about the property and what was going on. There was

no discussion at that time regarding the structure integrity of this property. As Staff said, this property has already been approved for Special Certificate of Appropriateness twice; one in 2014 and one in 2019. The one in 2019 was actually a pretty big addition, would make it almost 4,000 square feet.

I ask you to keep in mind that although the owners at that time, and there have been three owners over the last ten years, they never went forward with that. And you ask yourself, why? Why would they go through the trouble of coming here, doing all the applications, spending all the money, and doing everything they needed to do and then not follow through with it.

The building valuation is, the land is worth, $1,455,000 and the building is worth about $21,000. When my client decided to buy the house after meeting with Staff, finding out that they had these Special Certificates of appropriateness that were granted, they went to do the work. They hired contractors or brought contractors out, and that's when to his surprise, he found out that the structural integrity of the property was not there. That not only was he looking at these additions as the expense, but that there was a serious problem with this house at that

time.

He found out that these contractors coming out, and they had several, they started with, you don't just need this work, you need much more work. And it's so bad that the contractors told him, I don't even feel safe going in to do work on this side of the house because I am afraid it's going to fall on me, cause problems. They were reluctant to even do the work that it needed to do, because it was much more work that was needed than what was originally thought of.

This is the bid for the repairs on just part of the repairs that they need. This is for the floors and the roof boards. This is $175,000 that was quoted to him at that time. This appraisal shows you that the appraised value of the property was $1,150,000. The prior historical structure form, this is from the City, and the part on the bottom reads as followings: "This building," referring to the one that we are talking about, "lacks sufficient architectural merit and historical import for individual local designation or national register historic property listing, but it does contribute to the Obispo Avenue Historic District as the example of domestic architecture from the District's period of significance."

So the City itself determined that this property, this individual property is not historical but it's part of the historical district.

This slide shows you a report from professional engineer, Antonio Canelas, dated February 24th, 2023, where he recommended that the home not be inhabited, the possible repairs necessary to restore the structural integrity of the house would over-exceed the cost of new construction.

So this professional engineer says, nobody should be living here, this is dangerous, and the cost of fixing this is going to cost you more than what this property is worth.

This is just showing that the Board does have the power and the authority to grant the demolition Certificate of Appropriateness. In your code, there is a section 8-1078, which deals with demolitions. Section D is the criteria set forth for you to consider when discussing this type of matter. They have one through eight, is the criteria that they have.

In Staff's report, D(1), it says, "The degree to which the building structure, improvement or site contributes to the historic district."

One of the other criteria is, is this property,

is this house unique? Is it the last one that is this type of structure? And Staff's own report says, no, this is not the last one; there are others. But at the same time it says, that this house will affect the historic district. And it says, "This building is a contributing resource of the Obispo Avenue Historic District. Its removal would irreversibly and negatively impact the historical architectural significance of the District."

I took the time, and I counted the district from avenue to avenue,and I counted, approximately, about 124 houses that were contained within that historic district. To say that this would, I want to quote, "irreversibly and negatively impact the district," I think it's necessary to see how many other structures there have this type of architecture, how many of these structures were done by the same architect.

MR. SILVA: Excuse me, sir, just one minute. I would like to ask Ms. Throckmorton a question. So we are tasked with looking at this application in terms of economic hardship only, correct? We are not reevaluating the designation itself?

MS. THROCKMORTON: There are eight criteria that should be considered. It's not one or all required, but the eight criteria to be considered for

demolition. This Board has previously considered the seven of the eight, because there was not previously made an argument for undue economic hardship. It is coming before you now to be considered with all eight criteria.

MR. SILVA: All eight again?

MS. THROCKMORTON: I believe so.

MS. PERNAS: So in order for them to claim the undue economic hardship, it has to come to the Board with a Special Certificate of Appropriateness. So you are reviewing a Special Certificate of Appropriateness for the demolition and the economic, and claim of undue economic hardship.

MR. SILVA: Thank you.

MS. THROCKMORTON: To the extent that there has been any change in position in any of those factors, I think they would be considered. It is essentially, a de novo review of that COA, but the COA was previously denied when considering those seven other criteria.

MR. SILVA: Thank you. Thank you for clarifying.

MR. MESTRE: Thank you. Glad you cleared that up. Criteria number two, it was determined that the building was not one of the last remaining examples of its kind in the neighborhood, in the county or in the

region.

Criteria number three, whether the loss of the building structure, improvement or site would adversely affect the historic and or archeological integrity of the historic site or district. Again, here, the loss of the building would adversely affect the historic architectural integrity of the district, and would result in one less contributing structure.

Again, I think here it is extremely important to see, there is one less, but out of the 124 houses, how many houses are left that have the same type of structure.

Number four, whether the retention of the building structure improvement or site, would promote the general welfare of the City by providing opportunity for study of local history. The response or the observation from Staff was, as the building retains much integrity, it provides an opportunity for study of local history, architecture, design of that particular culture or heritage. Again, it's just a determination that this one -- if this one structure goes, it's going to negatively impact the entire district, and we don't agree with that.

On the reuse, which is your item number five, your criteria, talks about plans for reuse of the

property. I can tell you that the owner has gotten renderings that were made, and this is what they are proposing. They are trying to keep as much as possible, and I know that this was a very important item for them, the same type of style, which I believe is Mediterranean Revival with the property that's due.

This is what they envisioned when they bought the property. This is what they would like to do there. But of course, that's all going to depend on your decision today.

Number six in the criteria is whether the building structure, improvement or site possesses an imminent threat to public health or safety.

There have been photographs that were submitted with the Letter of Intent, which is part of the application, which shows the condition of the property. Although, my client, after he purchased it, he did repair some windows, they did some caulking they tried to do some Band-aid damage to keep the water intrusion from incurring, but it has holes in the floor, holes in the roof. It's eaten by termites. All the trusses need to be replaced. The floors need to be replaced. There is a picture showing, like, a cinder block that's holding up part of the house.

So our position, and what I would argue to you is

that, this property, although it has not been officially declared an unsafe structure, we do have the engineer's report that says, nobody should be living there. This is a nuisance, this is an actual danger to the community. We know that children like to go into empty houses. So I believe that this is a danger, and it is a public necessity to demolish this house.

The economic hardship. The property was purchased for $1,025,000. The interest payments on this property are $99,000 a year. The taxes for the last year were $30,000. There is a list that has been submitted with estimates of all of the items that would need to be repaired in order to bring this property, this 1,300 square foot, two-bedroom, one-bath house into compliance and up to date, and it would be in excess of $650,000. So I argue to you that, in his eyes, in his financial situation, in his inability to use this property because of the cost that it would cost to bring it up to par, it is a taking, because he has not been able to use this property since 2021. He has been paying for it. He's been paying the upkeep. He's been paying $5,000 a year to cut the grass, but he is unable to use it, and can't even get anybody to go in there to fix it,

because they are afraid it's going to fall on them and it's going to be a hazard.

Again criteria number eight, that there is a compelling interest. I repeat to you, I believe this is an eyesore, dangerous to children, dangerous to the community. Interestingly, again, there was a house or yeah, there was a house located directly east. This is a corner house, the second house from the corner, was demolished, and it is under construction. They are almost finished with that. So that house was either partially or fully demolished, and it was our neighbor's house.

There have been, as I told you, three owners since 2013. The first sale was $260,000 in 2013. The second sale was 2017, was $750,000. And then my client bought in 2021 for $1,025,000. If you noticed when Staff was telling you the background, the prior owner came here, I believe, in July of 2021 before this Board. And this Board deferred the item, saying, we want you to come back but come back with a structural engineer. Instead of coming back here, that gentleman, whoever that owner was, instead of coming back here with the structural engineer as he was asked to do, he turned around and sold it to my client. He bought it four months later for a lot more

money than what he had paid for.

So although he had permission to do the additions, requested to come here because he wanted to change the Special Certificate that he had, he never came back with the structural engineer. That is the big, big problem which has nothing to do with my client's conduct. The property is falling apart, literally. It is structurally unsound, and it's going to cost way too much money to make this make sense.

So in conclusion, we would ask you to find that we have met the undue economic hardship criteria, that based on the facts as I have presented them to you, it doesn't make any economic sense to do what he needs to do to make this property up to par. That this is a taking in the sense that they have been unable, and will continue to be unable to use the property in any fashion because it is uninhabitable and no contractor is willing to go out there and do the work.

Allow us to do what our neighbor did, and allow us to demolish the property. We respectfully ask you for a vote of approval. And if you have any questions for me or my client or co-counsel, we would be happy to answer them.

MR. SILVA: Thank you. Does anyone on the Board have a question?

MS. PERNAS: If I may do the Staff report. So as mentioned previously, the demolition, when considering a request for demolition of a structure with the historic district, the following sections of the code apply and staff comments have been provided below.

So if you want to follow on page 3 of your staff report, I'm going to read through each one. I know it's a little time-consuming, but it's important for it to be on the record. I also want to state that this was considered previously, and these are the same conditions that were discussed and the same comments that were discussed within that staff report besides some updates that were just, more of the timing didn't align. And I will go through and discuss that.

But there has no been no significant change to the building that has altered its significance in the historic district. Staff still recommends denial of the Special Certificate of Appropriateness for the demolition. It's still a contributing structure within the Historic District that should be restored and salvaged. And as mentioned, no alternative plans have been submitted since the last two years the application was previously denied.

So as per Section 8-107 demolition, Staff -- there is A. So there is certain criteria that's going

to be listed, and I will just go to Section D, which is in addition to all the provisions of this Article, the Board shall consider the following criteria in evaluating applications for Special Certificate of Appropriateness for demolition of designated properties.

The degree to which the building, structure, improvement or site contributes to the historic and or architectural significance of the historic site or district. The building is a contributing resource within the Obispo Avenue Historic District. Its removal will be irreversible and negatively impact the historic and architectural significance of the District. No change has been made to those comments.

Whether the building structure, improvement or site is one of the last remaining examples of its kind in the neighborhood, in the country or the region. This building is not one of the last remaining examples of its kind in the neighborhood, the county or the region; this can be applied to many structures, the same comment.

Number three, whether the loss of the building, structure, improvement or site would adversely affect the historic and or architectural integrity of the historic site or district. The loss of the building

would adversely historic and architectural integrity of the district and would result in one less contributing structure.

Number four, whether the retention of the building, structure improvement or site would promote the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance in value of a particular culture and heritage. As the building retains much of its integrity, it provides an opportunity for study of the local history, architecture and design, and by developing an understanding of the importance and value of the particular culture and heritage.

Number five, whether architectural plans have been presented to the Board for the reuse of the property if the proposed demolition were to be carried out, and the appropriateness of said plans to the character of this historic site or district, if applicable. And demonstrations as well as the posting of a bond requirement that were sufficient funds in case to carry out such plans. The applicant has not provided plans for reuse of the property as part of this application.

Whether the building, structure, improvement or

site poses an imminent threat to the public health of safety. The building does not pose an imminent threat to the public health or safety, as it has not been determined to be an unsafe structure. Whether the applicant has demonstrated the retention of the building, structure, improvement or site, would create an unreasonable, undue, economic hardship as described in Section 8-115. The applicant is claiming that, and I will go over those criteria once I get to these items.

And number eight, whether there is a compelling public interest requiring demolition. There is no compelling public interest requiring the demolition, as demolition would negatively infect the historic district. As mentioned, these are the same eight criteria that were considered in the previous application, that were rejected by the Historic Preservation Board and upheld by the City Commission.

As for the undue economic, a claim for undue economic hardship may only be asserted in conjunction with an application for historic resources department with an application for a special certificate of appropriateness in accordance with Section 8-106, which shall be considered by the Historic Preservation Board at public hearing. So that's why we are here

today with the special certificate for the demolition.

At a minimum, the applicant shall provide at the time of the application, the following information for all property: One, the amount paid for the property, the amount paid for the property, the date of purchase and the name of the previous property owner. The property was purchased from Mr. Igor Nunez on October 1st, 2021 for a total of $1,025,000. See executed seller's document and property appraiser's information attached.

Number two, the assessed value of the land and all improvements, therein according to the two most recent Miami Dade County Property Assessment records. See documents attached titled, "Miami Dade Property Appraiser 09-10-25. I tried to be clear on the attachments, just because I know there was a lot to go through, and I don't know if you can follow with what's on the application on line.

Number three, the real estate taxes for the previous two years. The applicant had provided copies of the property taxes for 2021 and 2022. The annual debt service, if any, for the previous two years. No copies were provided. As per an e-mail from the property owner, the home is financed under a hard money personal loan, therefore, they do not have a

bank statement to offer.

Number five, all appraisals obtained in the previous two years by the property owner or applicant in connection with the purchase, financing or ownership of the property. No copies were provided. As per an e-mail from the property owner, they do not have the appraisal prior to the purchase.

Number six, any property sale, listing of the property for sale or rent, price asked and offers received, if any. Please see the document attached, titled, Zillow listing history. The property has been on and off the market multiple times over the last few years. According to Zillow, the lasting listing was advertising a 4,550 square foot home of five bedrooms and six bath, for approximately, $2,395,000.

The existing building located at 1258 Obispo Avenue is approximately 1,350 square feet, two bedrooms, one bath. In an e-mail, the applicant confirmed that the property is currently not for sale. When it was on the market, the owners did receive two offers for 2,200,000 but they fell through as soon as they spoke with the City during due diligence period. No back up materials were provided.

Number seven, any consideration by the property owner as to profitable adaptive uses for the property.

No consideration as to profitable adaptive uses for the property have been evidenced by the property owner or the applicant.

Number eight, two appraisal completed by two separate State of Florida certified appraisers, completed within six months of the application submittal. So the applicant did provide three appraisals dated from 2023 to 2024. So I'll kind of go over the conclusion just to wrap up and have it on the record, again.

This is an application request desired approval for the demolition of an existing residence. The applicant is claiming undue economic hardship. The house is a contributing resource within the Obispo Historic Avenue, Historic District. The demolition of any contributing resource will result in a negative and irreversible impact to the District, as a contributing resource will be lost.

After reviewing the evidence provided by the applicant, the Historic Resource Department staff has determined that the claim for undue economic hardship has not been substantiated. Further, Staff concludes that the request for the demolition of the structure should be denied due to this determination. Article 16, the definitions of the Coral Gables Zoning Code

defines undue economic hardship as an exceptional financial burden that would allow to the taking of a property without just compensation or failure to achieve a feasible economic return in the case of income-producing properties.

When addressing claims of undue economic hardship, one has to determine whether or not the level of economic impact rises to the level of economic hardship. A historic designation and denial of the Certificate of Appropriateness application may have an economic impact on a property owner, but is it severe enough to become an economic hardship. In all claims of economic hardship, the burden of proof rests entirely on the applicant.

As listed above, many of the materials requested have not been provided, and Staff does not believe the criteria have been met.

Economic hardship is generally accepted as being consistent with the taking of the property. The legal standards for a constitutional regulatory taking requires property owners to establish that he or she has been denied all reasonable, beneficial use or return of the property as a result of the Commission's denial of a permit for alterations or demolition. There is an attachment as a resource for you all to

look at as a reference.

In 2019, a Special Certificate of Appropriateness for additions and the alterations to the structure was reviewed and approved by the Historic Preservation Board. This addition would have allowed a 3,859 square foot addition to the existing 1,000 and to correct, the house is 1,546 square feet. And no other plans for renovation, restoration or adaptive use of the property have been submitted since. Historic Preservation case law has strongly taken the stance that the property owner is not entitled to the highest and best use of the property. What has been consistently and legally upheld is that there is no undue economic hardship or taking, the property can realize a reasonable return on investment, and whether a viable use of the property remains.

Does a viable use for the property remain? Yes. The property remains viable as a single family home. The owners can continue to use the property as a single family residence with the historic designation in place. And if the demolition request is denied, it is feasible that alterations could occur but no such consideration had been given to the residents.

The city Commission has adopted the ad valorem tax exemption incentive for property owners, that

would allow tax exemptions for the restoration, renovation and rehabilitation of historic properties. The exemption shall apply to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation and rehabilitation made on or effective date of this article. This would help ease the economic burden the applicant is claiming. Without the economic hardship claimed, there is no compelling reason to improve the demolition of the residence.

As stated before, there has been no evidence presented that supports the need to demolish the property due to any material defect in the property. As noted above, it is the opinion of Staff that the request meets only two of the eight criteria in Section 8-107(d), demolition of the City code, and pursuant to this section of the code, the Board shall consider the criteria. As further noted above, it is the opinion of Staff, that based on the structural report, the structure suffers from seven of the ten defects in 8-108.B1, demolition by neglect of the City Code.

The applicants have been aware of these conditions since 2021, and no repairs have been made. Therefore, based on the above and the demolition is

inconsistent with the Secretary of the Interior standards and will result in a negative, irreversible impact of the Obispo Avenue Historic District, the structural report indicates the structure can be repaired, and the request is not consistent with the requirements of the code, Staff recommends the following: A motion to adopt Staff's finding and report, and to find the application has not demonstrated the requirements for a Special Certificate of Appropriateness for the demolition of the property, and to, sorry, in reading it I got of track. This needs to be reworded, I apologize.

So the first portion of the motion is that Staff does not, to reject the claim for undue economic hardship and a motion to deny the Special Certificate of appropriateness for the demolition. And that concludes my presentation.

MR. SILVA: Thank you, Ms. Pernas. Does anyone on the Board have any questions for the applicants? Now, I am going to open up the public hearing. Is anyone here who wishes to speak for or against or on Zoom as well? We have some letters that were distributed to us as well.

MS. PERNAS: We did receive letters of support of Staff's recommendation to deny the demolition. These

were from Karelia Carbonell on behalf of the HPACG, Mr. Brett Gillis, Ms. Zully Pardo and Ms. Vicki Cerda.

MR. SILVA: Is there anyone on Zoom? No? So seeing no one from the public, I am going to close the public hearing and open for Board discussion, questions, comments.

MR. GARCIA PONS: I did have a question for the applicant. I'm sorry, I didn't catch your last name although I caught your first name.

MR. MESTRE: Mestre.

MR. GARCIA PONS: So can I get confirmation on two things, please?

MR. MESTRE: Yes.

MR. GARCIA PONS: One, the home was purchased in October of 2021?

MR. MESTRE: Correct.

MR. GARCIA PONS: The structure report from Mr. Canales, there was a second one, is from November of 2021 through December of 2021.

MR. MESTRE: The one from Canales that showed you in the presentation?

MR. GARCIA PONS: There were two but there was one before the purchase, but there was one subsequent by the homeowner, by the new homeowner, was November, December of 2021.

MR. MESTRE: No, I have February 4th, 2023, the one by Antonio Canales.

MR. GARCIA PONS: There is not another one from 11/25/21 through 12/03/21?

MR. MESTRE: I know there is one from before he purchased.

MS. PERNAS: There was one included in the application for the demolition in 2021 by Mr. Canales, so there was a report included there that was dated from 2021.

MR. GARCIA PONS: And it was addressed to whom?

MS. EBERT: To the applicant.

MR. GARCIA PONS: So to whom, what's the name?

MS. EBERT: Javier Avila.

MR. GARCIA PONS: Is that the applicant, is that the new owner?

MR. MESTRE: Yes, yes it is.

MR. GARCIA PONS: So the owner received the structure report from Mr. Canales a month after he purchased the home?

MR. MESTRE: Correct.

MR. GARCIA PONS: And then the third, it's one of the items, says there was no appraiser prior to purchase or we weren't provided with an appraisal prior to purchase; is that correct?

MR. MESTRE: That is correct.

MR. GARCIA PONS: So those three confirmed. It was purchased in October for a certain in 2021. There was no appraisal prior to the purchase, and the structural report was commissioned, was begun, I don't know if it's commissioned, and provided between November and December of that year, 2021.

MR. MESTRE: Correct.

MR. GARCIA PONS: Thank you. And then one question for Ms. Pernas; subsequent to the October 2021, notwithstanding this application, has there been any COA application from this applicant to the Historic Preservation Board?

MS. PERNAS: No.

MS. THROCKMORTON: Excuse me, Mr. Garcia Pons, just to correct, there was a previous COA for demolition. He was saying between '21.

MS. PERNAS: Between 2021 and today, right?

MR. GARCIA PONS: Correct.

MS. THROCKMORTON: Correct, there was an application.

MR. GARCIA PONS: Yeah, that's right. Sorry. The one that was denied.

MS. PERNAS: Right. Sorry. I took it as that denial. Since then there has been none.

MR. GARCIA PONS: So I'll rephrase the question. Since that application, has there been another COA application?

MS. PERNAS: There has no other COAs requested from the applicant.

MR. GARCIA PONS: Has there been a COA application since 2021 for anything other than demolition?

MS. PERNAS: No.

MR. GARCIA PONS: Thank you.

MS. EBERT: So this house was purchased in 2021, has anyone ever lived in this house or done any repairs or nothing? And there was no home inspection before you bought it?

MS. THROCKMORTON: Ms. Ebert, if I can ask that we have anybody who is answering questions, please come up to the dais so that the record is clear about who is answering which question.

MS. EBERT: I'm sorry.

MS. PERNAS: And just state your name and address.

MR. AVILA: Javier Avila. What was your question again?

MS. EBERT: My question was, so you purchased this property without any home inspections before you

purchased it?

MR. AVILA: Correct. The intention was to do the addition that was pre-approved by the City. Javier Avila.

MS. SCHILD: Have there been any, is there an appraisal available that is six months, within the last six months.

MR. AVILA: That we've provided to the Historic Preservation Office, multiple appraisals. I don't when was the last one, but I think we've done like four.

MS. SCHILD: I have '21 and '23.

MS. PERNAS: There is one from May 2024. I will say this, it's been a process of getting the materials in, so it was within the submittal -- at the time of the submittal of the application, it was within the six months but since scheduling the hearing, it's a little bit off.

MS. SCHILD: So one of them was within six months?

MS. PERNAS: Yes. Yes. The most recent one that you had included was May 2024.

MS. SCHILD: And one more question. There were quite a few repairs requested in the inspection report of December of '21. Have any of those been

accomplished; the tenting, the subfloor, the walls, the roof?

MR. AVILA: No ma'am. That's why I am here; economic hardship.

MS. SPAIN: I just have a clarification for the attorney. I think you were reading from the Historic Structural Form, and you said, at the very end it says, "This building lacks sufficient architectural merits and historical import for the individual local designation.

MR. MESTRE: Correct.

MS. SPAIN: Or to be put on the national listing but it does contribute to the Obispo Avenue Historic District as an example of domestic architecture from the District's period of significance. That does not mean that it's not historically significant. In fact, that last portion of that means that it is historical significant. It just means it's a contributing structure within the historic district.

So all of the advantage of historic preservation, the ad valorem, application, all of that is equivalent to being individually designated. It just doesn't qualify for individual designation. I just need to make sure you understood, anybody reading these transcripts would understand that this building is

historically significant as a contributing structure.

MR. MESTRE: Correct. I just wanted to point out that it wasn't individually.

MS. SPAIN: That's right.

MR. MESTRE: Thank you, Mr. Avila. Is there any other questions or any other discussion before we open this up for a motion?

MR. GARCIA PONS: So one question for Ms. Pernas, when you are reading the Staff recommendation for the proposal you said for the motions, you said there was a discrepancy of some kind.

MS. PERNAS: So motion to adopt the Staff's findings and report and to find the applicant has not demonstrated undue economic hardship.

MS. THROCKMORTON: Mr. Garcia Pons, we would like a motion on the undue economic hardship as well as a motion on the Certificate of Special, a COA for demolition. So it may be helpful to, because you could issue an SCOA with making a finding of undue hardship, so you can make two separate motions on each separate issue.

MR. GARCIA PONS: So the first one is about the demolition and the economic hardship?

MS. THROCKMORTON: Correct.

MR. GARCIA PONS: And the second one is the COA

stuff?

MS. THROCKMORTON: So one is finding whether or not that criteria is met for undue economic hardship, the second is finding, regardless of what you find about the economic hardship, if you think that there should be a COA for demolition. Because you could find a SCOA for demolition whether or not you find there is an undue economic hardship based on those other criteria.

MS. PERNAS: So we are recommending that you reject the claim for undue economic hardship and deny the Special Certificate of Appropriateness for the demolition.

MS. THROCKMORTON: Based on all the criteria.

MS. PERNAS: Right, and the Staff report.

MS. THROCKMORTON: And the Staff report.

MS. SPAIN: I also think that we should point out that there has been approved by this Court, in previous applications, large additions to this property. So that certainly, you are able to do additions on the lot, and that this Board has approved them. It's not a situation where it's so oddly situated on the lot that it's hard to do an addition.

MR. SILVA: So I do want to bring up, so we are looking at eight different conditions. One second.

So there is seven that were considered previously to this, right, in relation to the Certificate of Appropriateness. I don't see that anything has really changed on those original seven, right? The house is still the house, it's still a contributing structure within the District, that had been decided. It had been appealed, and the appeal was denied as well. So on those seven, I am very comfortable with proceeding on those seven that those are still in place and still hold true. Mr. Avila?

MR. AVILA: Let me explain something to all of you guys. So when I purchased this house, it was never an intent to demolish anything. I think in an e-mail we got from Anna, it said that, I knew about the structural issues prior to purchasing the house, and that is completely untrue.

If you go back to the transcripts from the previous meeting with the Commission, Warren Adams made it very clear, that in my meeting with him, it was about two things, colonial grids and changing the French doors in the back to sliding glass doors. There was never a talk about demolishing anything, because I didn't know at the time that I had a problem. So when you talk about, when we are talking about economic hardship, we are talking about the cost

to repair the existing structure supercedes the value of the structure. At least, that's what I've been told all this time that the economic hardship means, or am I wrong or am I right? Can somebody explain to me?

Because I am going to be honest, I don't think anybody in here, including Ms. Pernas, knows the real true meaning of the economic hardship. I think we are all learning as we go right now. Let's figure this out, because my understanding of what I've been told is that the economic hardship is the cost to repair the existing structure is worth more, it's more than the structure itself.

MS. DUNAJ: Ms. It's the taken that deprives one of reasonable use of the property, that would be one way to look at it.

MR. AVILA: Okay. So just alone, just to fix the structural repair, forgeT about subflooring, forget about flooring, forget about electrical, plumbing, paint, stucco, drywall, forget about all that. Just the structural repair, I'm out one hundred and something dollars. It's already worth more than the structure itself.

So listen, you guys are going to vote however you want. I already know how this is going to go. I just

wanted to share that with you, and best of luck to all you guys.

MS. PERNAS: I do want to clarify that in the report where it does say that the applicants did meet with Warren Adams and previous staff prior to the purchase, I did not mention the condition of the building. I wasn't aware that Warren even knew the condition of the building. I'm not sure if he even stepped foot inside of the building. It's was just that I knew that they had a meeting and discussed the procedures and the previous approval of the property.

MR. SILVA: And to address your point, Mr. Avila, I don't think that the undue economic hardship is a simply equation like that. It's not the property appraiser says that building is worth 20,000 and the repairs are 175, structural, again, and that is less than that, therefore there is economic hardship. That's not how the ordinance is written nor is how it's meant to be interpreted. And Ms. Throckmorton, you can correct me if I'm wrong.

MS. THROCKMORTON: That's correct. In the past when we've had undue economic hardship applications, this Board has considered things, like, the value of the property after the repairs are constructed, and look at appraisals for homes that have been repaired

and looked at comparable homes and those appraisals. So yes, I think Mr. Mestre summarized the jurisprudence about taking. It's a broad and vague standard; I understand that. It's not a simple math equation, which can make it very difficult for people to predict what is and is not an undue economic hardship, and I completely sympathize and understand that. Yes, I am happy to answer any other specific questions.

MS. PERNAS: And I think that, you know, it being a regulatory taking and whether or not the property has any additional uses, is we have kind of already approved that there has been other options of how the property can be used. It's going to cost money to renovate a building. It's going to happen at any property. But again, if I am putting in, you may be putting in $600,000 but your return on the investment when you go to put that property on the market, again, you may not be making the most. You know, like it's mentioned, you might not make the most money but you are going to make a just, it's just a just compensation that's required here.

And even today, just based off the appraisal that was submitted to us in May, the opinion of value of the property was 1.6 million dollars, that's already

higher than what the purchase price of the property was when they purchased the building in 2021 in the current condition.

MS. DUNAJ: And you also provide some evidence in the record about what some of his Zillow listings were. I think the highest was at 2.9 million, and there was an offer of 2.2; it didn't go through.

MS. PERNAS: Right. So the Zillow listing, and that's why I included that, like history. And there is also a photo of what was being marketed. So we had received a bunch of calls and e-mails because they were concerned that we had already approved the demolition. But it was the rendering of the new home that was being proposed here today. And so, it was being marketed as the new home at 1258 Obispo Avenue at 2.56 million dollars, which when you go to the property and see the 1,300, 1,500 square foot house, is about $1,700 per square foot. And for a property that, you know, the proposal that I've read that they are marketing, had not gone before BOA, had not been before this Board either.

So I think if a property owner came to us because they put in a request for -- or put in an offer, the would call our office asking questions about it; was this already approved, was the demolition approved?

Then we would explain that, no demolition has been approved and explain the history of the process and the facts of the case already.

MR. AVILA: So the description on the listing, okay, talked about a preliminary design. It didn't say that there was anything that was approved, it was a preliminary design. and what we were listing on the property, on the Zillow or realtor, was the actual layout that had already been previously approved. And what we said was, it's a preliminary design. We didn't say that it was approved. There was none of that in the 40-something, 100 square feet of structure that was listed on there is what the proposed, the preliminary design would have if it was built, that was it. .

MR. SILVA: All right. Does anyone else have any other questions?

MS. SPAIN: I have one question. So this house was purchased and then a month later, a structural report was requested; did I hear that right? Is that right? I was just wondering what prompted that.

MR. MESTRE: My understanding is, he purchased it, wanting to make the addition that had already been approved. As part of that, they had to do that. And that's when they found out all of the issues that

there was with the property.

And the reason they haven't done any of the repairs is that the contractors that went for pricing, told him, we will not work on this property the way it is. We can't guarantee our safety, we will not work on it.

MS. PERNAS: May I ask a question? Because it says that they did meet with Staff prior to the purchase of the property any explained the Board reviews and outcomes. So I am not sure if in that meeting with the previous preservation officer, if they were aware of the Board's decision to defer with the request of the engineer coming to the meeting.

MR. MESTRE: I believe and he just testified to that a minute ago, was they talked about two different things, and they were related to doing the addition and keeping the integrity of the architectural design. So I think that if he had known that there was a structural issue, he would have never --

MS. PERNAS: Right, but he was aware that there was a proposal for an addition of the property, on the property, which is the discussion that was had before the Board. So Warren did explain to them about that addition being in process with the Board.

MR. MESTRE: He knew that there was an addition

that was approved.

MS. PERNAS: Well, in 2019, but there was one more recently that was a deferred in July. So were you aware of the deferral in July, I guess is my question.

MR. GARCIA PONS: That would be a matter of public record, the meeting. The meeting results and the agenda --

MS. PERNAS: Oh yes.

MR. GARCIA PONS: -- would be a matter of public record.

MS. PERNAS: Oh, yes.

MR. SILVA: All right. So back to the Board.

MS. SCHILD: I make a motion to reject the claim of economic hardship because it's not been established that the owner has been denied all reasonable beneficial use or return on the property.

Oh, and a second one two? Oh, two different ones?

MS. THROCKMORTON: I would suggest doing two separate motions, if that's okay.

MS. SCHILD: Okay.

MS. DUNAJ: And on this motion, as a friendly amendment, could you include that you are adopting Staff's findings in the report?

MS. SCHILD: Yes.

MR. SILVA: Does that mean that you are going to second, Ms. Dunaj?

MS. DUNAJ: I will second the motion.

MR. SILVA: So we have a motion by Ms. Schild and a second by Ms. Dunaj. Any other discussion?

Please call the roll.

THE SECRETARY: Ms. Alvarez.

MS. ALVAREZ: Yes.

THE SECRETARY: Ms. Schild.

MS. SCHILD: Yes.

THE SECRETARY: Mr. Garcia Pons?

MR. GARCIA PONS: Yes.

MS. SPAIN: Yes.

THE SECRETARY: Ms. Ebert?

MS. EBERT: Yes.

THE SECRETARY: Ms. Dunaj.

MS. DUNAJ: Yes.

THE SECRETARY: And Mr. Silva.

MR. SILVA: Yes.

MS. THROCKMORTON: Is there a motion regarding the issuance of the SCOA for demolition.?

MS. SCHILD: I can continue, if you want. I make a motion to deny the issuance of the Special Certificate of Appropriateness for demolition.

MR. GARCIA PONS: And?

MS. SCHILD: And adopt the Staff findings in their report.

MR. GARCIA PONS: And deny the issuance of a Special Certificate of Appropriateness?

MS. EBERT: Yes, that's what she said.

MR. GARCIA PONS: Design proposal, and it's two.

MS. SCHILD: Both design or just the demolition?

MR. GARCIA PONS: I thought I just heard one, and I heard that you did both of them.

MS. DUNAJ: She did do both.

MR. SILVA: So we have a motion, do we have a second?

MS. DUNAJ: I will second.

MR. SILVA: Motion by Ms. Schild, second by Ms. Dunaj.

Can we call the roll, please?

THE SECRETARY: Ms. Ebert.

MS. EBERT: Yes.

THE SECRETARY: Ms. Spain.

MS. SPAIN: Yes.

THE SECRETARY: Ms. Dunaj.

MS. DUNAJ: Yes.

THE SECRETARY: Ms. Alvarez.

MS. ALVAREZ: Yes.

THE SECRETARY: Mr. Garcia Pons.

MR. GARCIA PONS: Yes.

THE SECRETARY: Ms. Schild.

MS. SCHILD: Yes.

THE SECRETARY: And Mr. Silva.

MR. SILVA: Yes. Both motions pass unanimously.

MS. SCHILD: And I have a comment, if you would allow me. Would it be appropriate to ask the Historic Preservation Staff and the building officials to inspect the property, that was included in the report. The interior and exterior to establish the condition, the current condition of the property.

MS. SPAIN: That's a great idea. I have done that multiple times.

MS. PERNAS: Yes, and it was included in the report and in the previous reports as well.

MR. SILVA: Thank you all for your time.

MR. MESTRE: Thank you.

(End of excerpt of meeting.)

REPORTER'S CERTIFICATE

I, Avonne White, a Notary Public and Reporter for the State of Florida, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place, and on the date herein before forth.

I DO FURTHER CERTIFY that I am neither a relative, nor employee, nor attorney, nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Avonne White

Notary Public State of Florida

Commission No.: HH489503

Commission Expires: February 6th, 2028