

City of Coral Gables Planning Department Staff Report

To: Honorable Planning and Zoning Board Members

From: Planning Department

Date: November 12, 2008

Subject: Proposed Zoning Code Text Amendment pursuant to a Proposed Settlement Agreement with Fernando Menoyo and Almeria Row, LLC, represented by Tew Cardenas, LLP

Zoning Code Text Amendment – Appendix A, Site Specific Zoning Regulations. An Ordinance of the City of Coral Gables amending the text of the Official Zoning Code, Appendix A, Site Specific Zoning Regulations providing for changes to the allowable townhouse building height for specific properties from 35 to 45 feet pursuant to a City of Coral Gables City Commission Settlement Agreement; providing for repeal, providing severability, providing for codification thereof, and providing for an effective date.

Purpose of Staff Report

The purpose of this report is to provide City Staff's position (including both the Building and Zoning Department and Planning Department) related to a proposed Zoning Code text amendment (Site Specifics provisions) as a means of settlement from a Bert J. Harris Private Property Rights Protection Act Claim filed by a property owner. This report provides background, history and findings of fact.

Planning and Zoning Board Desired Action

The property owners' representatives are desirous to secure the Planning and Zoning Board's input, which may include input, comments, and/or a recommendation. The Board's action will then be presented to the City Commission.

Background and History

The property owners, Fernando Menoyo and Almeria Row, LLC, represented by Tew Cardenas, LLP filed a claim on 01.08.08 for compensation for \$8,135,000.00 dollars with the City of Coral Gables pursuant to the Bert J. Harris Private Property Rights Protection Act Claim (see Attachment A – 01.08.08 letter).

The Bert J. Harris Private Property Rights Protection Act is a statute enacted by the Florida Legislature that allows a property owner to take legal action for compensation for local government regulations, if the owner can provide that there is an inordinate burden on the owner's existing uses or vested rights in his or her property.

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The Fernando Menoyo Claim, hereinafter referenced as "Claim," relates to the following properties (see Attachment B- Map of Groups):

Group I:	744 Biltmore Way, Folio No.: 03-4117-008-1570 2509 Anderson Road, Folio No.: 03-4117-008-1580
Group II:	745 Valencia Avenue, Folio No.: 03-4117-008-1870 635 Almeria Avenue, Folio No. 03-4117-056-0070
Group III:	643 Almeria Avenue, Folio No. 03-4117-056-0060 2605 Anderson Road, Folio No. 03-4117-008-1890
Group IV:	2611 Anderson Road, Folio No. 03-4117-008-1970 731 Almeria Avenue, Folio No. 03-4117-008-1931 735 Almeria Avenue, Folio No. 03-4117-008-1940 743 Almeria Avenue, Folio No. 03-4117-008-1950 2615 Anderson Road, Folio No. 03-4117-008-1960
Group V:	760 Valencia Avenue, Folio No. 03-4117-008-1880

The subject properties are currently designated as Residential Use (Multi-Family) Low Density Land Use Classification (see Attachment C – CLUP map) and Multi-Family Special Area District (MFSA) zoning designation (see Attachment D – Zoning Map).

The Claim states that the current Zoning Code Ordinance (approved on January 9, 2007) Multi-Family Special Area (MFSA) District reduces the permissible building height on the properties from 45 feet to 35 feet for the first 50 feet and allows 45 feet thereafter, versus the previous "A District/Special Area" zoning district (approved on July 13, 2004) which had allowed 45 feet. The Claim further states that the height reduction reduces the allowable building height on the properties to 35 feet as a whole, since designing the buildings for the properties with the stepped height is not feasible. The Claim is for the loss in fair market value of the properties via the adoption of Ordinances that "inordinately burden, restrict and limit" the properties such that Section 70.001(3)(e), Florida Statues, requires that the City compensate Fernando Menoyo and Almeria Row, LLC for the loss of fair market value.

The property owners' representatives, Tew Cardenas, LLP have requested a Settlement Agreement of the \$8,135,000.00 dollar Claim that would provide for an amendment to the Site Specific Standards of the Zoning Code. Specifically, the amendment would allow the properties described herein to develop at 45 feet and up to an additional 10 feet for architectural elements to a total height of 55 feet (See Attachment E – Claimants Proposed Site Specific Zoning Regulations).

Comparison of Current Zoning Code MFSA Zoning District to the Previously Approved Year 2004 "A" District/Special Area Zoning District

Current MFSA Provisions

The current Zoning Code Section 4-104., MFSA District, subsection D., titled "Performance standards," Subsection 8 (b) and (i), titled "Height" provides for the following (see ~~highlighted/bold~~ text):

8. *Height. The maximum permitted height is as follows:*

- a. *Pursuant to the Comprehensive Land Use Plan Map designation and/or Site Specific Zoning regulations.*

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- b. MFSA properties shall have a height limitation of thirty five (35) feet within fifty (50) feet of an adjacent, abutting or contiguous (including streets, waterways, or alleys) SFR and/or MF1 property, as measured from the MFSA property line. MFSA properties shall have a height limitation of three (3) floors or forty-five (45) feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property.
 - c. Parcels of land which are contiguous or adjacent to MF1 Districts or land designated as public buildings and grounds. Forty-five (45) feet.
 - d. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family low-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: forty-five (45) feet.
 - ii. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family medium density land use designations: forty-five (45) feet.
 - iii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high density or commercial use high-rise intensity land use designations: sixty (60) feet.
 - e. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family medium-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet.
 - ii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium-density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - iii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high-density or commercial use high-rise intensity land use designations: sixty (60) feet or one-hundred (100) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - f. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family high-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - ii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium-density land use designations:
 - (a) Sixty (60) feet if a parcel of land is less than ten-thousand (10,000) square feet, or seventy (70) feet if a parcel of land has an area of ten-thousand (10,000) square feet or greater but less than twenty-thousand (20,000) square feet; or
 - (b) One hundred (100) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - iii. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family high-density or commercial use high-rise intensity land use designations: sixty (60) feet or one-hundred-fifty (150) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - g. Parcels of land abutting existing buildings with non-conforming heights. Notwithstanding any other provision of this Subsection 8, a parcel of land which is proposed for development which abuts parcels of land on three (3) sides improved with existing buildings with heights exceeding the maximum permitted height shall have a maximum permitted height of the lowest height of the three (3) buildings on the parcels abutting the parcel proposed for development.

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h. Height summary. The following matrix summarizes the provisions of Subsection 8, a-f:

Maximum height						
	Parcel size	SFR	MF1	MF L	MF M	MF H
MF L		35'	45'	45'	45'	60'
MF M	<20 K	35'	45'	60'	60'	60'
	>20 K	35'	45'	60'	70'	100'
MF H	<10 K	35'	45'	60'	60'	60'
	10K ~ 20K	35'	45'	60'	70'	70'
	>20 K	35'	45'	70'	100'	150'

"SFR" means any of the SFR District in the Zoning Code.

"MF1" means any of the MF1 District in the Zoning Code.

"MF L" means the residential multi-family low density category in the Comprehensive Land Use Plan.

"MF M" means the residential multi-family medium density category in the Comprehensive Land Use Plan.

"MF H" means the residential multi-family high density category in the Comprehensive Land Use Plan.

- i. The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height a total of ten (10) feet. When more than one (1) of the following conditions occurs for a specific property, the more restrictive condition shall apply.*

Article 8 of the current Zoning Code defines "height" as follows:

"Height of building means the vertical distance measured from the established grade to the level of the highest point of the building."

See Attachment F for a complete copy of the current Zoning Code MFSA requirements.

Previously Approved Year 2004 "A" District/Special Area District

The "A" District/Special Area District provided for the following:

I. Height.

1. Parcels of land abutting or contiguous to R-Use Districts. 45 feet, except that no portion of any building within 50 feet of any property line which abuts or is contiguous to the land designated as R-Use District shall have a height in excess of 35 feet.
2. Parcels of land adjacent to R-Use Districts. 45 feet

Height is defined as follows:

"Height" means the vertical distance measured from the established grade at the center of the front of the building to the level of the highest point of the building if a flat roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs, excluding parapets that extend no more than four (4) feet above the height of the building, and excluding air-conditioning equipment rooms, elevator shafts and mechanical equipment rooms, and ornamental roof structures not exceeding a combined area of twenty-five percent (25%) of the total area of the roof and not exceeding twenty-five (25) feet above the maximum permitted height of the building.

See Attachment G for a complete copy of the previously approved year 2004 "A" District/Special Area District adopted via Ordinance #2004-25.

City Commission Action/Current Status

The City Attorney advised the City Commission of the property owners' representatives' desired Settlement Agreement at the September 28, 2008 City Commission meeting (see Attachment H – 09.22.08 Memo to City Commission). The City Commission requested the item be scheduled for Planning and Zoning Board consideration, therefore the item was advertised for the October 8, 2008 Board meeting. The item was discussed at the October 8th meeting and the Board provided comments and requested the Claimant provide the necessary information to the City in order for the Building and Zoning Department and Planning Department to review and present findings of fact to the Board (See Attachment I – 10.08.08 Verbatim minutes).

Building and Zoning Department staff requested submission of various background information from the property owners' representatives to allow City staff to provide an analysis. The Building and Zoning Department (BZD) completed a preliminary Zoning Analysis based upon limited information which is not typical of the minimum information required to complete a preliminary zoning analysis for a pending development project. The information submitted by the Claimant was necessary in order for City staff to provide findings of fact thereby allowing the decision makers to provide for an informed direction and/or decision.

City Staff Findings of Fact

This section provides findings of fact of the potential effects of the proposal and Planning and Zoning Board actions and City Commission policy direction (public hearings) completed to date resulting in the current adopted MFSA legislation.

Finding # 1. Current MFSA height provisions limit building height to 35 feet within 50 feet and 3 floors or 45 feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property

In March 2004, the City Commission enacted a 120-day Moratorium via Ordinance #2004-16 (see Attachment J) to allow City staff to complete an expedited special study of the geographic area between LeJeune Road, Bird Road, Granada Boulevard and Biltmore Way which includes the subject properties referenced herein. After completion of public outreach, public notice to all properties in the study area, and significant public input the City Commission adopted Ordinance #2004-25 (see previously referenced Attachment G) and found the following as indentified in the "Whereas" clauses of the adopted Ordinance:

WHEREAS, in response to increased concerns over the application of the existing provisions of the City's Zoning Code; the City Commission determined that there exists concerns about the compatibility of land uses in areas of transition within the area generally bounded by Biltmore Way to the North, Bird Road to the South, Granada Boulevard to the West and LeJeune Road to the East ("Study Area") from a development standpoint and to pursue alternatives for reducing the potential impact to surrounding single family areas which could include one or more of the following planning and zoning principles to mitigate potential impacts: establishment of development appropriate architectural and conservation districts, incentive zoning overlay districts, transfer of development rights or other innovative planning tools;

WHEREAS, the City Commission through Ordinance No. O-2004-16 (1) found that the existing provisions of the Zoning Code which allow the issuance of building permits for buildings exceeding three and one half (3 ½) stories or forty five (45) feet in height and in

particular site specific regulations Article 4, and Zoning Code Articles 3-4 (m) and 3-6 (r) may have a detrimental impact to the properties in Residential Zoning Districts, and (2) further found that it is in the public interest to make a comprehensive determination on the applicability of the present Zoning provisions and amend those regulations as appropriate;

WHEREAS, the City of Coral Gables' single family residential areas in many instances abut multi-family or commercial zones which could, potentially, if developed allow for buildings which might exceed three and one half (3 ½) stories or forty five (45) feet in height; and while the Zoning Code provides certain measures for relief to prevent large commercial or multi-family developments which directly abut or face single family residential districts, there is a concern that certain zoning districts may be detrimental to the area should they continue to remain applicable;"

The end result was creation of an "A District/Special Area" zoning district (see previously referenced Attachment G). Subsequent to this study and enactment of the A District, the City completed a comprehensive rewrite of the Zoning Code. As part of the rewrite, the A District regulations were retitled/renamed and assigned to various properties which presently is referenced as Multi-Family Special Area (MFSA). In September/October 2006, the City Commission requested further study, public hearings, public notice/review and input on all properties "adjacent, abutting or contiguous (including streets, waterways, or alleys) to single family and multi-family zoned properties." Specifically, the City Commission requested City staff complete further study of all properties across from and adjacent to single family properties with the intention of including "transition performance standards" to mitigate any potential impacts. City staff completed the studies, including: 3-d modeling, transition modeling, shadow studies, identified locations of applicability on City mapping, etc. and the end result was City Commission approval of the following:

- Commercial (C), Commercial Limited (CL), and Multi Family Duplex (MF2) , properties shall have a height limitation of 3 floors or 45 feet, whichever is less, within 100 feet of adjacent, abutting or contiguous (including streets, waterways, or alleys) SFR and/or MF1 properties, as measured from the C, CL and MF2 property line.
- MFSA properties shall have a height limitation of 35 feet within 50 feet of an adjacent, abutting or contiguous (including streets, waterways, or alleys) SFR and/or MF1 property, as measured from the MFSA property line. MFSA properties shall have a height limitation of 3 floors or 45 feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property. In addition, as requested, provisions allowing an additional 10 feet for architectural elements were included only within the MFSA district.

Specifically, a reduction in building height and other performance standards were approved to mitigate potential impacts of C, CL, MF2 and MFSA properties. However, the City Commission relaxed the MFSA height provisions to 35 feet within 50 feet and 3 floors or 45 feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property, as opposed to the 35 feet height within 100 feet provided for on C, CL and MF2 properties.

The Claimant's suggested proposal would allow for a proposed increase in building height which would allow a proposed height of 45 feet for habitable space and up to an additional 10 feet for architectural elements for a total of 55 feet.

The proposed allowable 55 foot height of the properties is in the opinion of BZD/Planning Department staff an excessive height when adjacent to single family zoned and single family

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occupied properties. City staff is of the opinion that further relaxation of the MFSA provisions, thereby allowing an increase in height sets an undesirable precedence for properties next to single family uses/properties.

The property owners' representatives have advised that their client seeks restoration of the height prior to the Zoning Code rewrite, and while they are reviewing the impact of the limitations mentioned, they continue to seek the height that was the subject of the Harris Act claim.

Finding # 2. *The proposed site specific text amendments are assigned to the property and not to a specific property owner.*

The proposal as noted above is assigned to the properties described herein. This could allow for property ownership transfer and development by another owner and developer. Site specific regulations essentially "run " with the land.

Finding # 3. *The potential exists that the subject property owner, subsequent property owners, successors or assigns may seek and secure variations or variances to the provisions of the MFSA provisions outside of this settlement/zoning code amendment process.*

The property owner, subsequent property owners, and successors or assigns may seek and secure variances to the MFSA provisions. This could result in further modifications to the properties not in keeping with the established intent of the previously completed MFSA moratorium special study and subsequent Zoning Code rewrite. The property owners' representatives have indicated they will satisfy all applicable MFSA provisions, however they have not specifically offered future prohibition to seek variations.

Finding # 4. *No specific building typology limitation has been proffered as a part of the proposed site specific amendments. Townhouses are not the mandatory building typology.*

City staff has advertised the proposed agenda item providing for site specific text amendments pursuant to only a "townhouse" building typology. The property owners' representatives have indicated to City Staff they desire the flexibility to construct another building typology. If a specific building typology is not named, specifically "townhouse" as defined per the Zoning Code, other building typologies could be built at the proposed 55 foot height.

Finding # 5. *The proposed site specific text amendment does not include a site plan as a part of the Settlement Agreement.*

Site plans have typically been requested to allow for decision makers to ascertain the expected development proposal in conformance with the action requested. Three options are available: 1) Request submission of a site plan prior to finalization of the Settlement Agreement subject to conditional use review (Planning and Zoning Board/ City Commission public hearing review); 2) Preparation of a preliminary conceptual plan that provides for a "snapshot" of the development for public hearing review; or, 3) allow the project to undergo the required Building and Zoning Department and Board of Architect review.

Finding #6. *The assignment of site specific standards does not provide for the same opportunities for development commonly enjoyed by identical/similar properties within the same zoning district adjacent, abutting or contiguous (including streets,*

waterways, or alleys) to SFR and/or MF1 properties or other properties adjoining SFR and/or MF1 properties.

Site specific standards are typically enacted due to the existence of unique characteristics of a particular property. Reasonable use of the properties described herein and future construction of building(s) and structure(s) can be accommodated subject to the current MFSA provisions. Other properties located within the MFSA district adjacent to single family uses or duplex uses shall be required to develop under these provisions and the maximum limitation of height. Likewise, C, CL and MF2 properties adjacent to single family uses have maximum limitations of height.

Conclusions

The City Attorney's Office/City Staff have discussed the above findings with the property owners' representatives in an attempt to secure resolution. The representatives have indicated to the Building and Zoning and Planning Departments their desire to allow the Board and City Commission to provide direction.

The property owners' representatives' responsibility is to provide evidence and testimony to substantiate their claim/request.

A summary of City Staff findings of fact are provided herein, as follows:

1. *Current MFSA height provisions limit building height to 35 feet within 50 feet and 3 floors or 45 feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property*
2. *The proposed site specific text amendments are assigned to the property and not to a specific property owner.*
3. *The potential exists that the subject property owner, subsequent property owners, successors or assigns may seek and secure variations or variances to the provisions of the MFSA provisions outside of this settlement/zoning code amendment process.*
4. *No specific building typology limitation has been proffered as a part of the proposed site specific amendments. Townhouses are not the mandatory building typology.*
5. *The proposed site specific text amendment does not include a site plan as a part of the Settlement Agreement.*
6. *The assignment of site specific standards does not provide for the same opportunities for development commonly enjoyed by identical/similar properties within the same zoning district adjacent, abutting or contiguous (including streets, waterways, or alleys) to SFR and/or MF1 properties or other properties adjoining SFR and/or MF1 properties.*

Next Steps

After consideration by the Planning and Zoning Board, this item will be scheduled for City Commission consideration on December 16, 2008.

Staff Position

Staff does not support the proposed change as presented. If the Planning and Zoning Board and City Commission desire to accommodate the property owners' representatives' proposal for increased height, that direction can be provided based on the findings contained herein.

Respectfully submitted,


Eric Riel, Jr.
Planning Director

Attachments:

- A. 01.08.08 Fernando Menoyo Claim Letter
- B. Map of Groups
- C. City of Coral Gables CLUP Map with properties outlined
- D. City of Coral Gables Zoning Map with properties outlined
- E. Proposed Site Specific Zoning Regulations
- F. Current MFSA provisions (complete copy)
- G. Ordinance #2004-25 –A-District/Special Area Ordinance
- H. 09.22.08 City Attorney's Office memorandum to the City Commission
- I. 10.08.08 Planning and Zoning Board verbatim minutes
- J. Ordinance #2004-16 – 120-Day Moratorium Ordinance

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January 8, 2008

VIA HAND DELIVERY

Mayor Don Slesnick, II
 City of Coral Gables
 405 Biltmore Way, 2nd Floor
 Coral Gables, Florida 33134

Re: Bert J. Harris, Jr. Private Property Rights Protection Act Claim, Pertaining to the Following Properties (collectively, the "Properties"):

- | | |
|-------------------|---|
| Group I: | 744 Biltmore Way, Folio No.: 03-4117-008-1570;
2509 Anderson Road, Folio No.: 03-4117-008-1580
745 Valencia Avenue, Folio No. 03-4117-008-1870 |
| Group II: | 635 Almeria Avenue, Folio No.: 03-4117-056-0070
643 Almeria Avenue, Folio No. 03-4117-056-0060 |
| Group III: | 2605 Anderson Road, Folio No.: 03-4117-008-1890
2611 Anderson Road, Folio No. 03-4117-008-1970 |
| Group IV: | 731 Almeria Avenue, Folio No.: 03-4117-008-1931
735 Almeria Avenue, Folio No. 03-4117-008-1940
743 Almeria Avenue, Folio No. 03-4117-008-1950
2615 Anderson Road, Folio No. 03-4117-008-1960 |
| Group V: | 760 Valencia Avenue, Folio No.: 03-4117-008-1880 |

Dear Mayor Slesnick:

This law firm represents Fernando Menoyo and Almeria Row, LLC (collectively, the "Property Owner"), regarding the above-referenced Properties. The legal descriptions of the Properties are attached as Composite Exhibit "A".

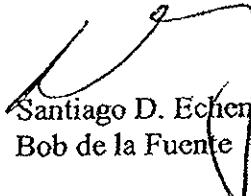
This letter is a claim for compensation pursuant to the Bert J. Harris, Jr., Private Property Rights Protection Act, Sec. 70.001, Fla. Stat. (the "Act"). On January 9, 2007, the City Commission adopted Ordinance Nos. 2007-01 and 2007-03 (the "Ordinances"), which reduced the permissible height on the Properties from forty-five (45) feet to thirty-five (35) feet for the first fifty (50) feet and, allowing a height of forty-five (45) feet thereafter. The height reduction in fact reduces the allowable height on the Properties to thirty-five (35) feet as a whole, since designing buildings for the Properties with the stepped height is not feasible. The Ordinances therefore reduce the permissible height on the Properties to thirty-five (35) feet.

Mayor Don Slesnick, II
January 8, 2008
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The City's adoption of the Ordinances inordinately burdens, restricts, and limits the Properties under the Act, entitling the Property Owner to relief, in the form of compensation for the loss to the fair market value of the Properties. Pursuant to Paragraph 4(a) of the Act, we include an appraisal of the Properties prepared by Integra Realty Resources, LLC, dated as of January 7, 2008 (the "Appraisal"). The Appraisal demonstrates that the loss in fair market value of the Properties arising from the application of the Ordinances to the Properties is \$8,135,000.00. Accordingly, the Property Owner hereby makes a claim for compensation of \$8,135,000.00 from the City of Coral Gables as a result of the City's actions that have inordinately burdened the Properties.

This claim does not rescind or modify any of the Property Owner's past objections related to the Ordinances or waive any of the Property Owner's objections arising out of the Ordinances, on federal or state constitutional grounds or otherwise; nor does this claim waive any of the Property Owner's rights to assert that the Ordinances rise to the level of a taking under the Constitution of the United States or the Constitution of the State of Florida, nor does it waive or modify any right or remedy which might otherwise be available to Property Owner at law or in equity. All of the foregoing is hereby expressly reserved.

Sincerely,



Santiago D. Echemendia
Bob de la Fuente

Enclosures

cc: Fernando Menoyo (via Federal Express)
Vice-Mayor William Kerdik, Jr. (via Hand Delivery)
Commissioner Maria Anderson (via Hand Delivery)
Commissioner Wayne E. "Chip" Withers (via Hand Delivery)
Commissioner Rafael Cabrcra (via Hand Delivery)
Elizabeth Hernandez, City Attorney (via Hand Delivery)
David L. Brown, City Manager (via Hand Delivery)
Eric Riel, Planning & Zoning Director (via Hand Delivery)

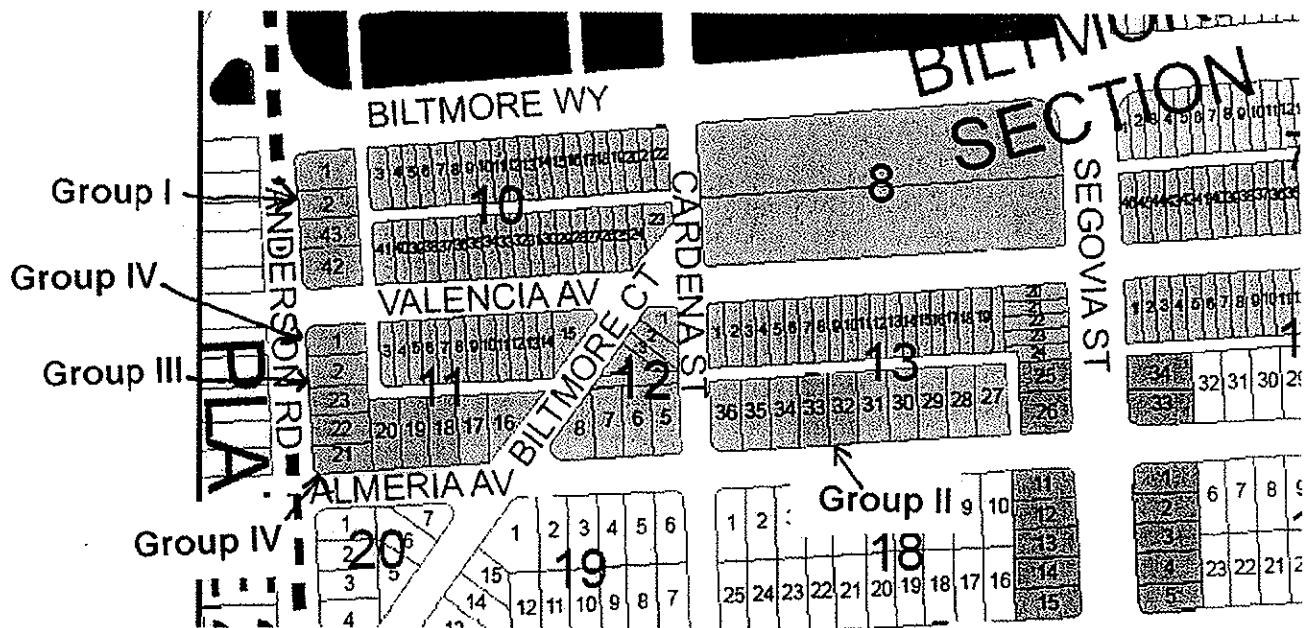
Mayor Don Slesnick, II
January 8, 2008
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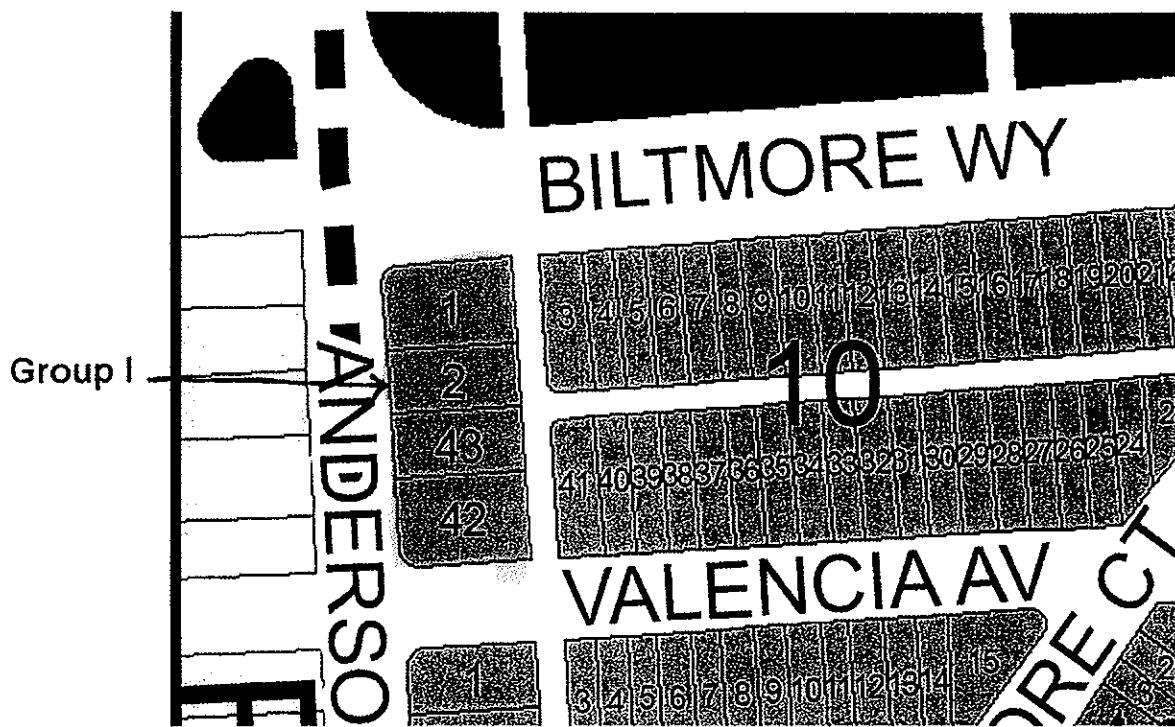
EXHIBIT A

Group I: Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 43 & N4 1/2 feet of Lot 42, and Lot 42 less N4 1/2 feet of Block 10.

Group II: Almeria, Plat Book 164, Page 096, T-22246, Lot 6, 7, 8, 9, 10, Block 1.

Groups III,IV,V: Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 18, 19, 20, 21, 22, 23, Block 11.





Group I

744 Biltmore Way

Folio: 03-4117-008-1570

Legal Description: Coral Gables Biltmore Sec PB 20-28, Lot 1, Block 10, Lot size 66.000 X 100, OR 19474-4579

2509 Anderson Road

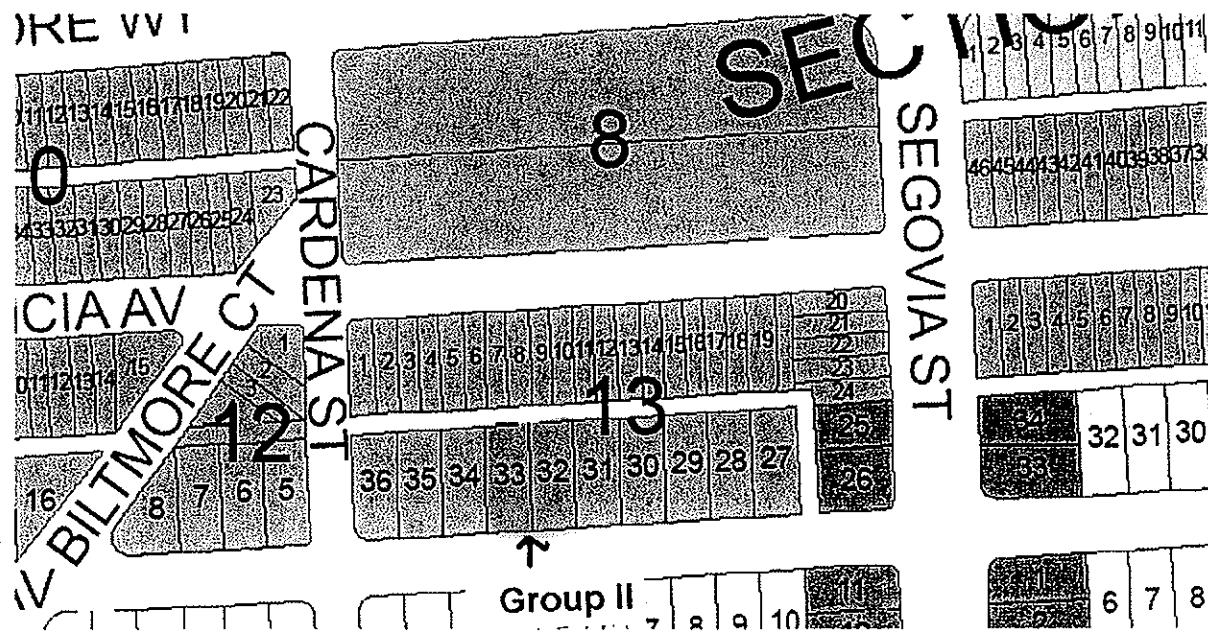
Folio: 03-4117-008-1580

Legal Description: Coral Gables Biltmore Sec PB 20-28, Lot 43 & N4 1/2ft of Lot 42, Block 10, Lot size 104.500 X 100, OR 19474-4579

745 Valencia Avenue

Folio: 03-4117-008-1870

Legal Description: Coral Gables Biltmore Sec PB 20-28, Lot 42 Less N41/2Ft Block 10 Lot size 65.500 X 100, OR 19474-4579



Group II

635 Almeria Avenue

Folio: 03-4117-064-0080

Legal Description: Lots 6, 7, 8, 9 and 10, Block 1, "Almeria Replat" According to the plat thereof as recorded in Plat Book 166, Page 82, of the Public Records of Miami-Dade County, Florida

643 Almeria Avenue * No Match Found

Folio:

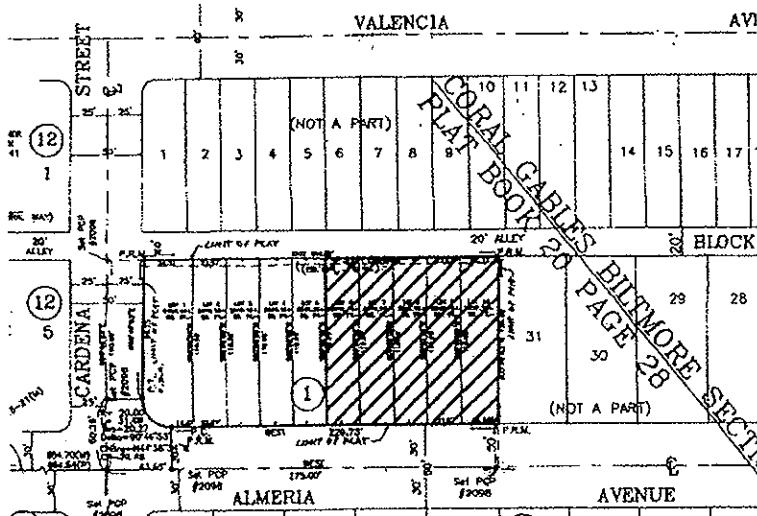
Legal Description:

LOCATION SKETCH

NOT TO SCALE

CERTIFIED TO:

ROLAND J. MARTINEZ, P.A.;
ATTORNEY'S TITLE INSURANCE
FUND, INC.; ALMERIA ROW LLC,
A FLORIDA LIMITED LIABILITY
COMPANY; PACIFIC NATIONAL
BANK; IT'S SUCCESSORS
AND/OR ASSIGNS, AS THEIR
INTEREST MAY APPEAR



LEGAL DESCRIPTION:

LOTS 6, 7, 8, 9 AND 10, BLOCK 1, "ALMERIA REPLAY" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 166, PAGE 82, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SURVEYOR'S NOTES:

- 1) NOT VALID UNLESS SIGNATURE IS EMBOSSED WITH THE REGISTERED LAND SURVEYORS SEAL
 - 2) LEGAL DESCRIPTION PROVIDED BY OTHERS.
 - 3) PROPERTIES SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PROPERTY PLAT OF RECORD.
 - 4) MEASUREMENTS TO WOOD FENCES ARE TO OUTSIDE OF WOOD.
 - 5) UNDERGROUND UTILITIES, FOUNDATIONS, OR OTHER IMPROVEMENTS, IF ANY, WERE NOT LOCATED.
 - 6) ELEVATIONS, IF SHOWN ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM 1929.
 - 7) FENCE OWNERSHIP NOT DETERMINED UNLESS OTHERWISE NOTED.
 - 8) MEASUREMENTS TO WIRE FENCES ARE TO CENTER OF WIRE.
 - 9) WALL MEASUREMENTS ARE TO/FROM FACE OF WALL.
 - 10) DRAWING DISTANCE BETWEEN WALLS AND/OR FENCES AND PROPERTY LINES MAY BE EXAGGERATED FOR CLARITY.
 - 11) FLOOD ZONE INFORMATION WAS DERIVED FROM FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INFORMATION RATE MAPS
 - 12) BEARINGS IF ANY SHOWN ARE BASED ON PLAT MERIDIAN AT: CALMERA AVE. = EAST

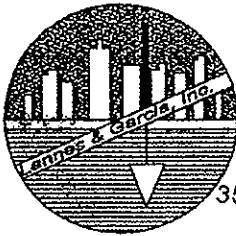
LEGEND

LEGEND	
—	INDICATES CONCRETE
—	INDICATES OVERHEAD LINES
—	INDICATES WIRE FENCE
—	INDICATES WOOD FENCE
○	INDICATES PROPERTY CORNER
POB:	INDICATES POINT OF BEGINNING
POC:	INDICATES POINT OF COMMENCEMENT
R	INDICATES PROPERTY LINE
(R)	INDICATES RECORD MEASUREMENT
D.U.E:	INDICATES DRAINAGE & UTILITY EASEMENT
U.E:	INDICATES UTILITY EASEMENT
PRM:	INDICATES PERMANENT REFERENCE MONUMENT
PCP:	INDICATES PERMANENT CONTROL POINT
FND:	INDICATES FOUNDED
CL:	INDICATES CLEAR
L.M.	INDICATES LAKE MAINTENANCE
CL:	INDICATES CLEAR
ENCR:	INDICATES ENCROACHMENT
FIP:	INDICATES FOUND IRON PIPE
FRB:	INDICATES FOUND REBAR
SRB:	INDICATES SET 1/2" DIAMETER REBAR
TYP.:	INDICATES TYPICAL
R/W:	INDICATES RIGHT-OF-WAY
ORB:	INDICATES OFFICIAL RECORD BOOK
±	INDICATES MORE OR LESS
F.F. ELEV.:	INDICATES FINISHED FLOOR ELEVATION
N.T.S.:	INDICATES NOT TO SCALE
N	INDICATES NORTH
S	INDICATES SOUTH
C	INDICATES CENTERLINE
(M)	INDICATES FIELD MEASUREMENTS
CONC.:	INDICATES CONCRETE
OPNL:	INDICATES ON PROPERTY LINE

A BOUNDARY SURVEY

I HEREBY CERTIFY THAT THE SURVEY
REPRESENTED HEREON MEETS THE MINIMUM
TECHNICAL STANDARDS SET FORTH BY THE
FLORIDA BOARD OF LAND SURVEYORS IN
CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE
CODE PURSUANT TO SECTION 472-027, FLORIDA
STATUTES. THERE ARE NO ENCROACHMENTS,
OVERLAPS, EASEMENTS APPEARING ON THE
PLAT OTHER THAN AS SHOWN HERETO.

FLORIDA PROFESSIONAL SURVEYOR AND
MAPPER REG. NO. 4767.



PROFESSIONAL SURVEYING AND MAPPING
LANNES & GARCIA, INC.

LB # 2098
FRANCISCO F. FAJARDO PSM # 4767
359 ALCAZAR AVENUE, CORAL GABLES, FLORIDA 33134
PH (305) 666-7909 FAX (305) 559-3002

THE
NSED

FIELD DATE: 08-14-2008

SCALE: 1" = 20'

DRAWN BY: M. P10

DWG. No.: 213155



Group III

2605 Anderson Road

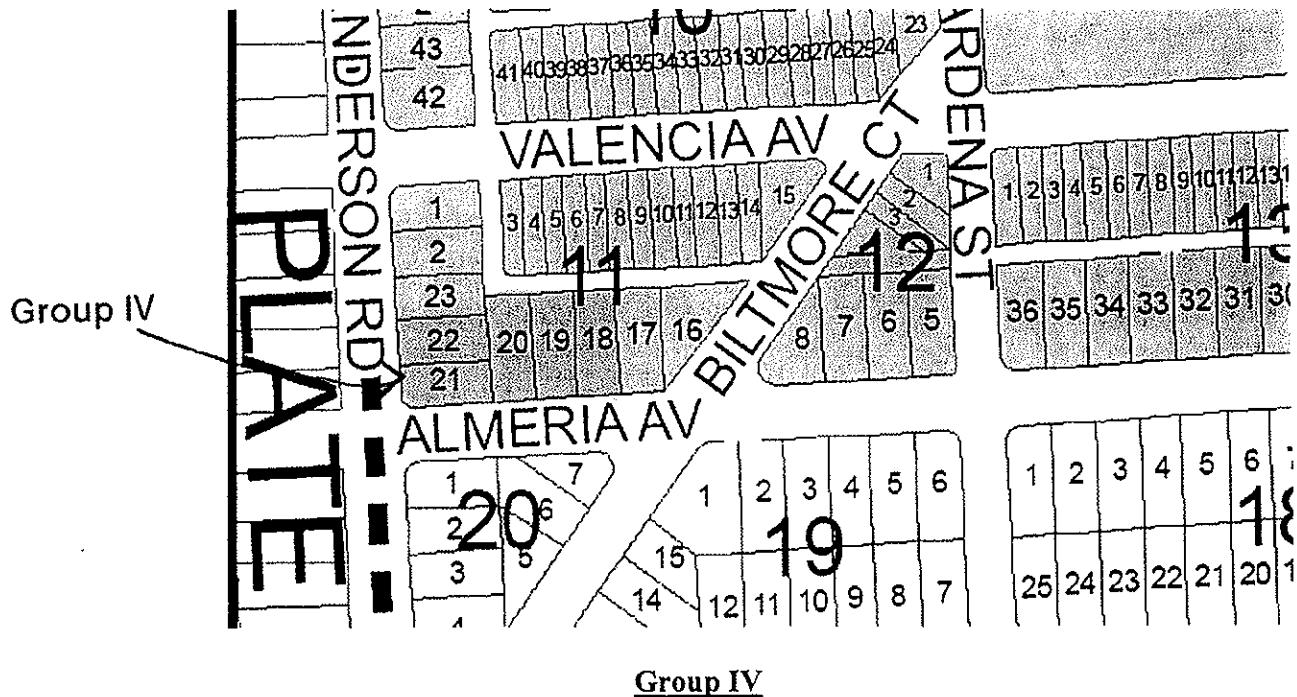
Folio: 03-4117-008-1890

Legal Description: Coral Gables Biltmore Sec PB 20-28 Lot 2 Block 11 Lot size site value COC 24413-4479 03 2006 1

2611 Anderson Road

Folio: 03-4117-008-1970

Legal Description: Coral Gables Biltmore Sec PB 20-28 Lot 23 Block 11 Lot size 50.000 X 100 COC 24167-3902 01 2006 6



731 Almeria Avenue

Folio: 03-4117-008-1931

Legal Description: Coral Gables Biltmore Sec PB 20-28 Lot 18 Block 11 Lot size 50.000 XC
120 OR 17924-2037 1297 2(2) COC 25618-0309 05 2007 2

735 Almeria Avenue

Folio: 03-4117-008-1940

Legal Description: 17 54 41 PB 20-28 Coral Gables Biltmore Sec Lots 19 & 20 Block 11 Lot size 100.000 X 120 OR 17924-2037 1297 2(2) COC 25618-0309 05 2007 2

743 Almeria Avenue

Folio: 03-4117-008-1950

Legal Description: 17 54 41 PB 20-28 Coral Gables Biltmore Sec Lot 21 Block 11 Lot size 50.000 X 100 OR 13941-3283 1288 1 COC 25618-0309 05 2007 2

2615 Anderson Road

Folio: 03-4117-008-1960

Legal Description: Coral Gables Biltmore Sec PB 20-28 Lot 22 Block 11 Lot size 50.060 X 100
OR 14031-2487 0389 1 COC 25618-0309 05 2007 2

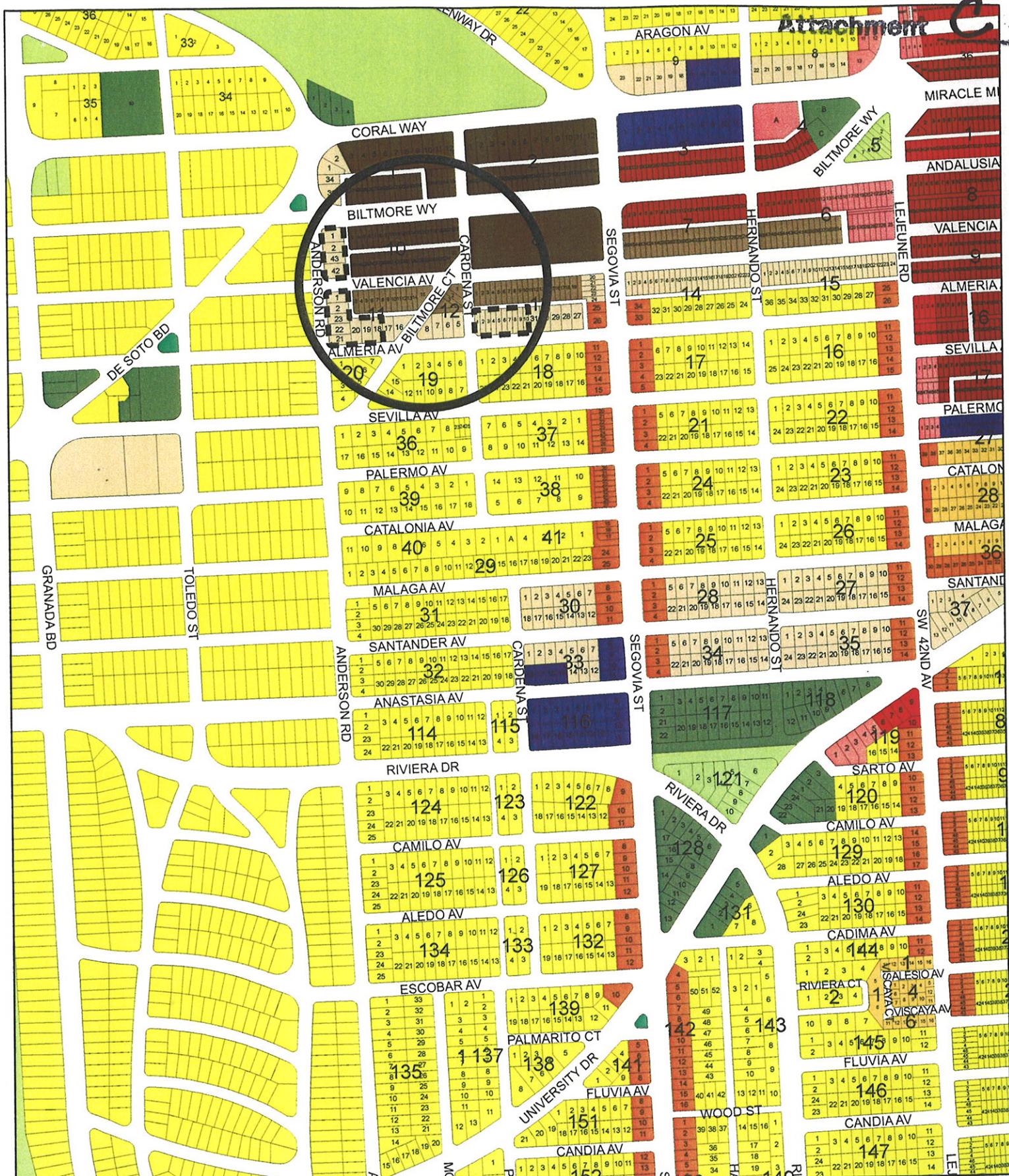


Group V

760 Valencia Avenue

Folio: 03-4117-008-1880

Legal Description: 17 54 41 PB 20-28 Coral Gables Biltmore Sec Lot 1 Block 11 Lot size 50.000
X 100 OR 11954-1772 1083 1 COC 26320-0332 03 2008 6



Land Use Classifications

-

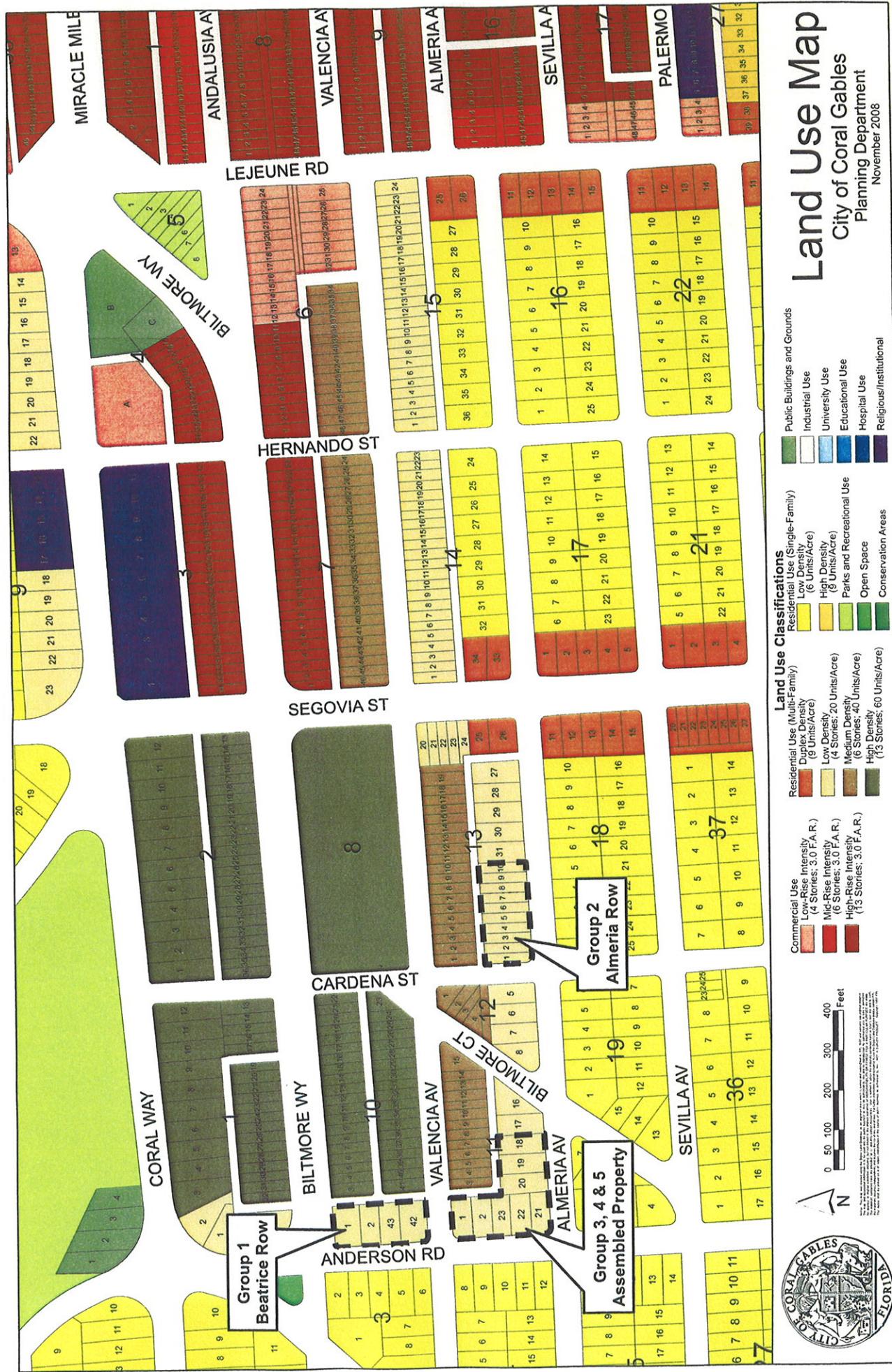
Land Use Map

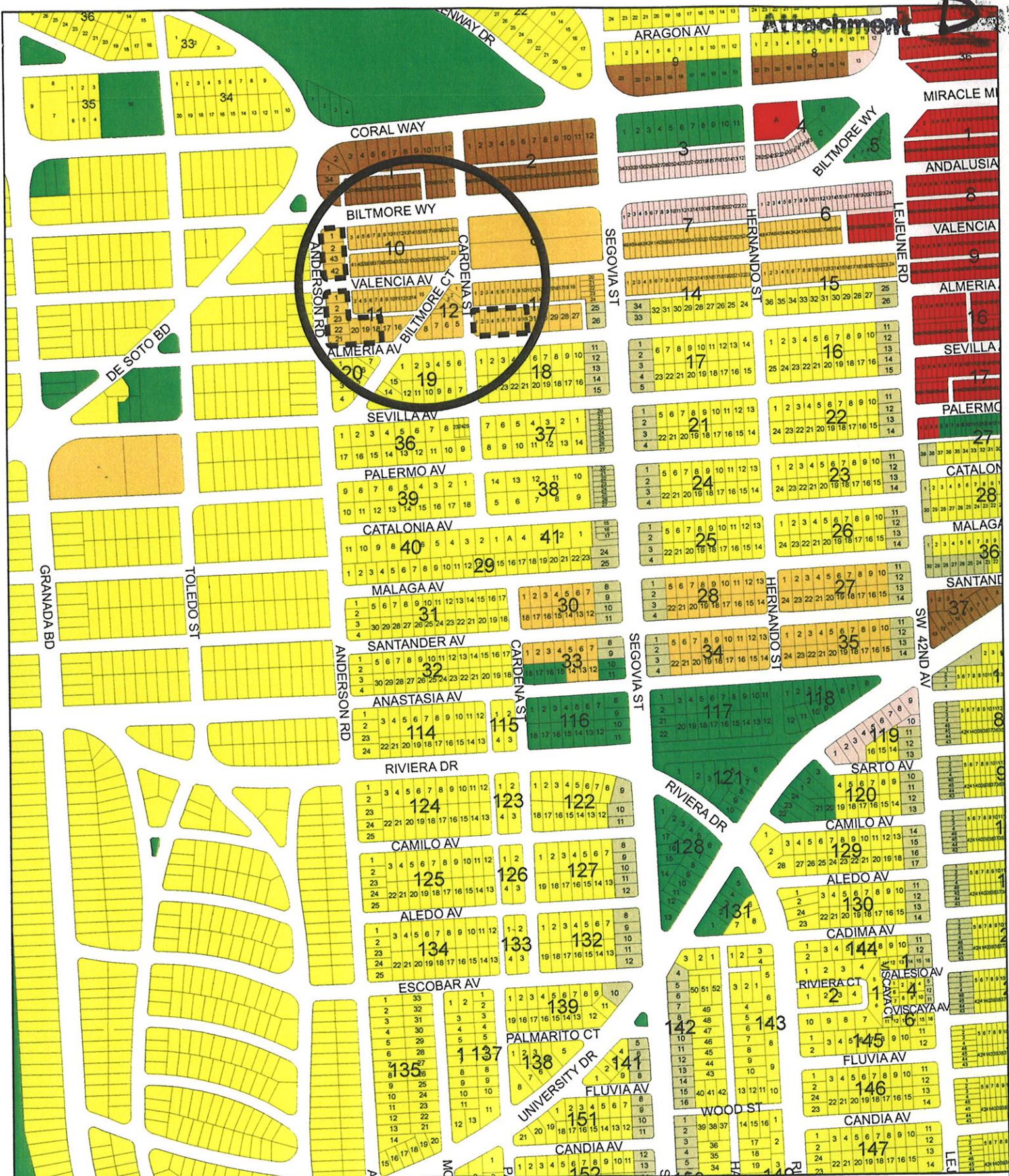
City of Coral Gables

Planning Department

Land Use Map

City of Coral Gables
Planning Department
November 2008

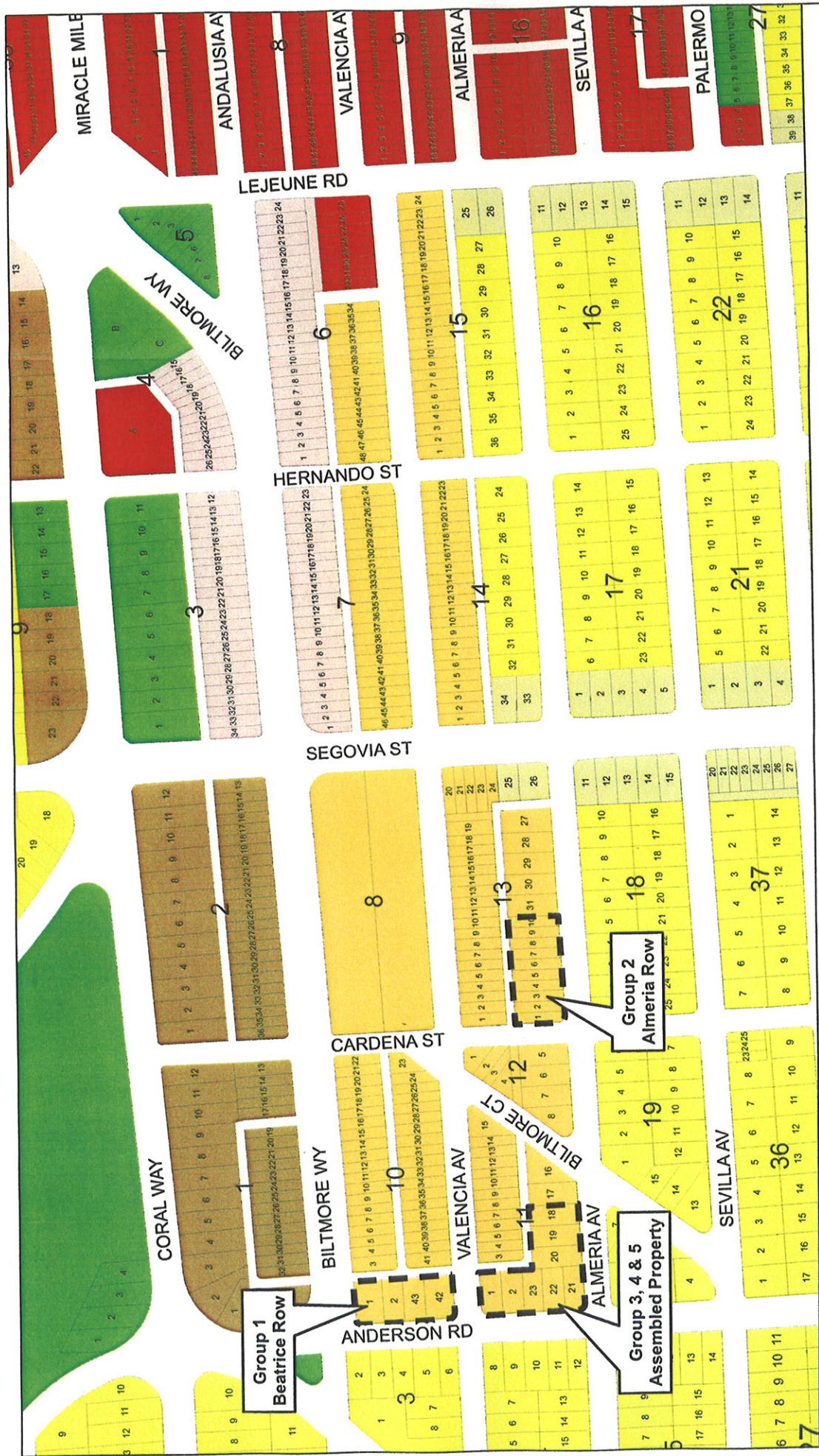




Zoning Districts

Single-Family Residential District (SFR)	Commercial District (C)
Multi-Family 1 Duplex District (MF1)	Commercial Limited District (CL)
Multi-Family 2 District (MF2)	Industrial District (I)
Multi-Family Special Area District (MFSA)	Preservation District (P)
Special Use District (S)	University of Miami Campus Area Development (UMCAD)

Zoning Map
City of Coral Gables
Planning Department
November 2008



Zoning Map

City of Coral Gables
Planning Department
November 2008

Special Use District (S)
Preservation District (P)
University of Miami Campus Area Development (UMCAD)

Commercial District (C)
Commercial Limited District (CL)
Industrial District (I)

Single-Family Residential District (SFR)
Multi-Family 1 Duplex District (MF1)
Multi-Family 2 District (MF2)
Multi-Family Special Area District (MFSA)

0 50 100 200 300 400 Feet



**Property Owners Representative
Draft Regulations**

Attachment

E

ITY OF CORAL GABLES
FLORIDA

2008 OCT 30 AM 10:25

EXHIBIT A

SITE SPECIFIC

APPENDIX A – SITE SPECIFIC ZONING REGULATIONS

SECTION A-12 – Coral Gables Biltmore Section

A. Height of buildings.

1. Height of buildings on the following described properties shall have a height limitation of forty-five (45) feet and 3 stories:
 - a. Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 42 and 43, Block 10;
 - b. Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 18, 19, 20, 21, 22, 23, Block 11.
2. Height shall be defined as per Section 4-104: The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck, the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height of a total of ten (10) feet. When more than one of the following conditions occurs for a specific property, the more restrictive condition shall apply.

SECTION A-3(A) – Almeria Replat

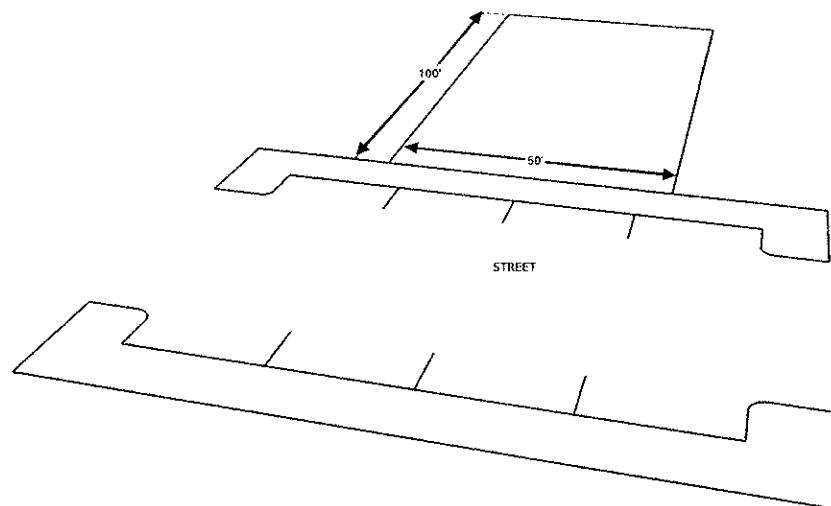
A. Height of buildings.

1. Height of buildings on the following described properties shall have a height limitation of forty-five (45) feet and 3 stories:
 - a. Almeria Replat, Plat Book 166, Page 82, Lots 6, 7, 8, 9, 10, Block 1
2. Height shall be defined as per Section 4-104: The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck, the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height of a total of ten (10) feet. When more than one of the following conditions occurs for a specific property, the more restrictive condition shall apply.

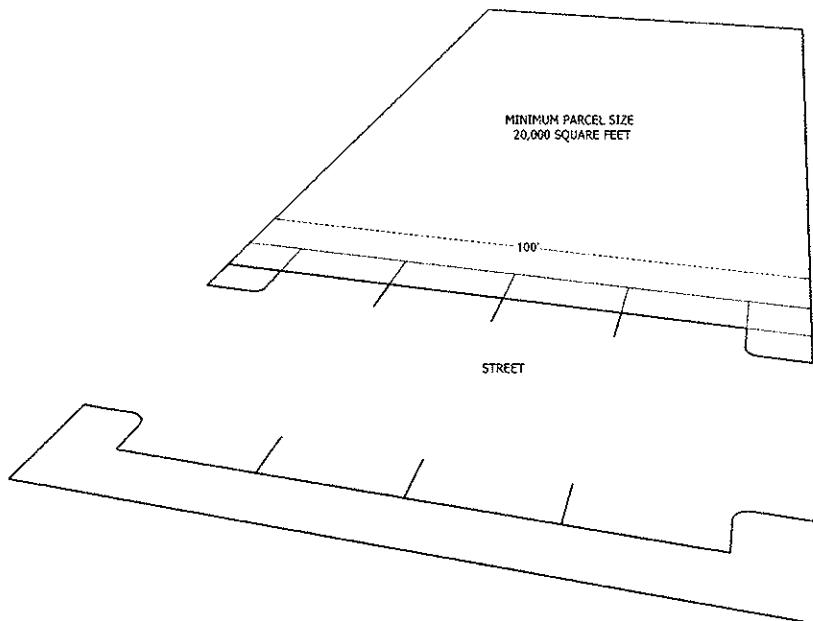
Section 4-104. Multi-Family Special Area (MFSA) District.

- A. Purpose and applicability. The purpose of the Multi-Family Special Area (MFSA) District is to accommodate various forms of multi-family housing to meet the housing needs of a diverse community, while ensuring that there is a transition to single-family neighborhoods which protects the integrity of those neighborhoods.
- B. Permitted principal uses and structures. The following uses are permitted in the MFSA District.
 - 1. Accessory uses, buildings or structures as follows:
 - a. Flagpoles.
 - b. Fountains.
 - c. Garage.
 - d. Gazebo.
 - e. Greenhouse.
 - f. Planters.
 - g. Reflecting pool(s).
 - h. Screened enclosures.
 - i. Swimming pool/and or spa.
 - j. Trellises. Permitted in the rear setback area of properties backing onto a canal, waterway, lake or bay.
 - 2. Assisted living facilities (ALF).
 - 3. Duplex dwellings that conform to the performance standards for duplex buildings in an MF1 District.
 - 4. Family day care as required and defined pursuant to Florida Statutes.
 - 5. Multi-family dwellings.
 - 6. Single-family dwellings that conform to the standards for single-family residences in an SFR District.
 - 7. Townhouse/rowhouse dwellings.
 - 8. Utility infrastructure facilities.
- C. Conditional uses. The following uses are permitted in the MFSA District as conditional uses, if approved under the provisions of Article 3, Division 4, subject to the standards in this Section and other applicable regulations in Article 5:
 - 1. Bed and breakfast establishments.
 - 2. Private yacht basins.

- D. Performance standards. The following performance standards shall govern the general development of structures in this District. Where there are specific standards for properties that are specifically set forth in the Site Specific Zoning Regulations, the regulations in the Site Specific Regulations shall apply (see Appendix A).
1. Building sites. Buildings and structures constructed in this District shall be constructed or erected upon a building site containing at least one (1) platted lot, and such building site shall have a minimum street frontage of fifty (50) feet.
 2. Minimum parcel dimensions.
 - a. Buildings with a height of less than seventy (70) feet. Multi-family dwellings shall be constructed on a parcel of land with a width of not less than fifty (50) feet or a depth of not less than one hundred (100) feet.

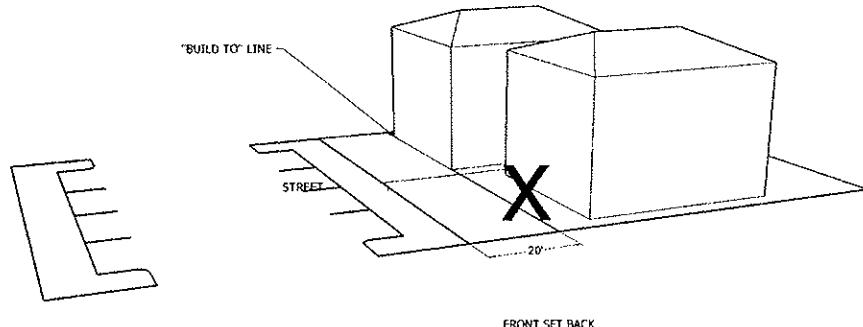


- b. Buildings with a height of seventy (70) feet or greater. Multi-family dwellings with a height of seventy (70) feet or greater shall be constructed on a parcel of land with an area of not less than twenty thousand (20,000) square feet and at least one hundred (100) feet of frontage on a public road.

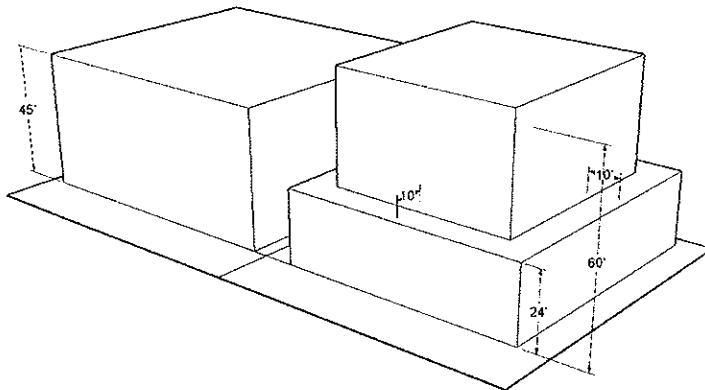


- c. Townhouses/rowhouses. Minimum building/parcel width of twenty-two (22) feet.
- 3. Maximum density. Sixty (60) dwelling units per acre or the density provided in the Comprehensive Land Use Plan, with architectural incentives, whichever is less.
- 4. Facing of lots and buildings.
 - a. The facing of a building site shall be based on the platting of the lots that comprise the building site, except for specific deviations or exceptions prescribed in the Site Specific Zoning Regulations in Appendix A.
 - b. Every lot shall be deemed to face the street upon which it abuts; if a lot abuts upon more than one (1) street, it shall be deemed to face the street upon which it has the shortest street line; and any building shall face the front of the lot, and be subject to the restrictions governing buildings on each street on which it is deemed to face.
 - c. Townhouse/rowhouse units on a street shall be designed in a rowhouse building typology that is oriented towards the street. All units shall have their primary pedestrian entrance facing and visible from a street, with off-street parking accessed from the rear of the property.
- 5. Setback requirements. No building or structure, or any part thereof, including porches, projections or terraces, but not including uncovered steps, shall be erected at a lesser distance from the front, side or rear line of any building site than the front, side or rear setback distance, respectively, prescribed and established herein for such building site.

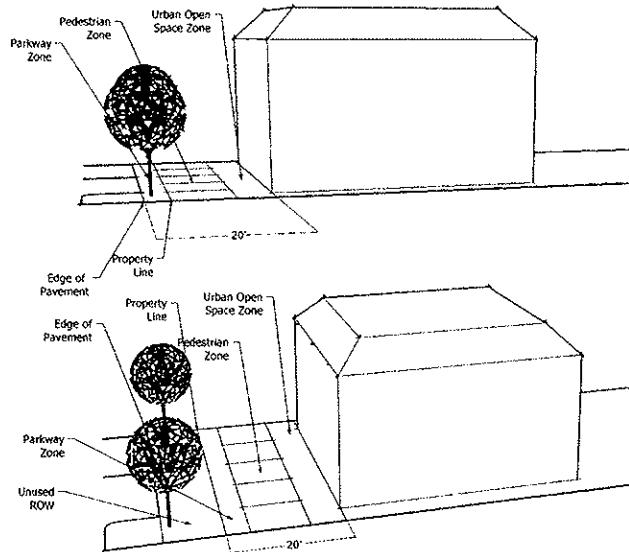
- a. Front setback. The front setback shall also be a build to line for the ground level of any building.



- i. Townhouses/rowhouses with a height of forty-five (45) feet or less. Ten (10) feet.
- ii. Buildings with a height of forty-five (45) feet or less. Twenty (20) feet.
- iii. Buildings with a height greater than forty-five (45) feet. Twenty (20) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional ten (10) feet.



- iv. Adjustment to front setback. In the event that there is public right-of-way between the edge of street pavement and the front property line of the parcel proposed for development, the required front setback shall be reduced by the distance between the edge of pavement and the front property line; provided however, that in no case shall a building be constructed within five (5) feet of the front property line.



b. Side setbacks.

- i. Interior property line and abutting alley side setback.
 - (a) Townhouses with a height of forty-five (45) feet or less. None.
 - (b) Buildings with a height of forty-five (45) feet or less. Five (5) feet.
 - (c) Buildings with a height of greater than forty-five (45) feet. Ten (10) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional ten (10) feet.
 - ii. Abutting a public street.
 - (a) Buildings with a height of forty-five (45) feet or less. Ten (10) feet.
 - (b) Buildings with a height of greater than forty-five (45) feet. Ten (10) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional five (5) feet.
 - c. Rear setback. Ten (10) feet or five (5) feet if rear property line abuts an alley.
6. Floor area ratio. Maximum floor area ratio (FAR) shall not exceed 2.0.
7. Determination of maximum square foot floor area or FAR. The total floor area of a building or buildings on a building site divided by the area of the site. The total floor area shall include the gross horizontal area of the several stories of any building or buildings on the site, as measured from the exterior face of exterior walls (not the windows or doors in the exterior walls), and shall include any building area not specifically excluded by this section as floor area excluded from computing the FAR of a building or buildings. The floor area of a building that is excluded from the determination of a buildings floor area ratio in this District shall include the following:
- a. Unenclosed private balconies.
 - b. Off-street parking garages.
 - c. Lobbies and corridors on the ground floor of the building.
 - d. Corridors located above the ground floor that are at least fifty (50%) percent open and unenclosed.
 - e. Open stairwells.

8. Height. The maximum permitted height is as follows:
- a. Pursuant to the Comprehensive Land Use Plan Map designation and/or Site Specific Zoning regulations.
 - b. MFSA properties shall have a height limitation of thirty five (35) feet within fifty (50) feet of an adjacent, abutting or contiguous (including streets, waterways, or alleys) SFR and/or MF1 property, as measured from the MFSA property line. MFSA properties shall have a height limitation of three (3) floors or forty-five (45) feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property.
 - c. Parcels of land which are contiguous or adjacent to MF1 Districts or land designated as public buildings and grounds. Forty-five (45) feet.
 - d. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family low-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: forty-five (45) feet.
 - ii. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family medium density land use designations: forty-five (45) feet.
 - iii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high density or commercial use high-rise intensity land use designations: sixty (60) feet.
 - e. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family medium-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet.
 - ii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium-density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - iii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high-density or commercial use high-rise intensity land use designations: sixty (60) feet or one-hundred (100) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - f. Parcels of land designated Comprehensive Land Use Plan Residential Use - multi-family high-density.
 - i. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
 - ii. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium-density land use designations:
 - (a) Sixty (60) feet if a parcel of land is less than ten-thousand (10,000) square feet, or seventy (70) feet if a parcel of land has an area of ten-thousand (10,000) square feet or greater but less than twenty-thousand (20,000) square feet; or;

- (b) One hundred (100) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
- iii. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family high-density or commercial use high-rise intensity land use designations: sixty (60) feet or one-hundred-fifty (150) feet if a parcel of land has an area of twenty-thousand (20,000) square feet or more.
- g. Parcels of land abutting existing buildings with non-conforming heights. Notwithstanding any other provision of this Subsection 8, a parcel of land which is proposed for development which abuts parcels of land on three (3) sides improved with existing buildings with heights exceeding the maximum permitted height shall have a maximum permitted height of the lowest height of the three (3) buildings on the parcels abutting the parcel proposed for development.
- h. Height summary. The following matrix summarizes the provisions of Subsection 8, a-f:

Maximum height						
	Parcel size	SFR	MF1	MF L	MF M	MF H
MF L		35'	45'	45'	45'	60'
MF M	<20 K	35'	45'	60'	60'	60'
	>20 K	35'	45'	60'	70'	100'
MF H	<10 K	35'	45'	60'	60'	60'
	10K – 20K	35'	45'	60'	70'	70'
	>20 K	35'	45'	70'	100'	150'

"SFR" means any of the ~~SEB District~~ in the Zoning Code.

"MF1" means any of the MF1 District in the Zoning Code.

"MF L" means the residential multi-family low density category in the Comprehensive Land Use Plan.

"MF M" means the residential multi-family medium density category in the Comprehensive Land Use Plan.

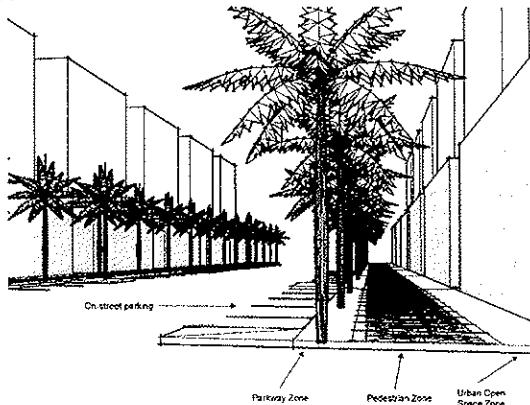
"MF H" means the residential multi-family high density category in the Comprehensive Land Use Plan.

- i. The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height a total of ten (10) feet. When more than one (1) of the following conditions occurs for a specific property, the more restrictive condition shall apply.

9. Streetscape standards.

- a. Streetscape required. The developer of all new residential buildings shall be responsible for the improvement of the area between the front set back and edge of pavement as an urban or suburban streetscape. If the parcel of land proposed for development is adjacent to parcels of land designated multi-family high density or multi-family medium density, then an urban streetscape shall be required. If the parcel of land proposed for development is designated multi-family low density and is adjacent to parcels of land designated multi-family low density, then a suburban streetscape shall be required. Any improvements constructed within the public right-of-way shall be dedicated to and maintained by the City.
- b. Minimum width of required streetscape. An urban streetscape shall have a minimum

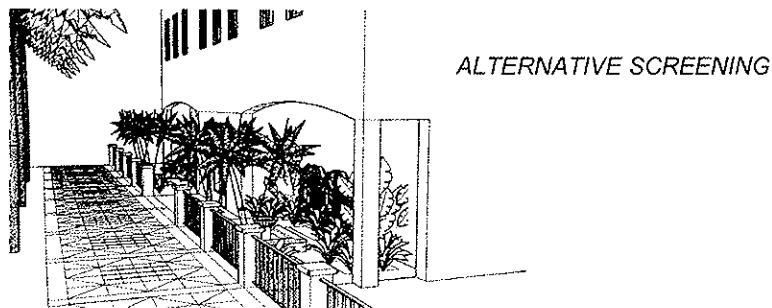
width of twenty-nine (29) feet. A suburban streetscape shall have a minimum width of fifteen (15) feet.



- c. Required urban streetscape elements. The required urban streetscape shall be comprised of four (4) zones:
 - i. On-street parking zone.
 - ii. A parkway zone of at least four (4) feet in width.
 - iii. A pedestrian zone of at least eight (8) feet in width except that the zone width may be reduced to six (6) feet where the existing sidewalks adjacent to the parcel proposed for development are five (5) feet or less.
 - iv. An urban open space zone located between the building and the pedestrian zone, except that no urban open space zone shall be required for townhouses.
- d. Required suburban streetscape elements. The required suburban streetscape shall be comprised of two (2) zones:
 - i. A parkway zone of at least four (4) feet in width.
 - ii. A pedestrian zone of at least six (6) feet in width.
 - iii. If the placement of streetscape elements results in removal of existing on-street parking, the Directors of Public Service and Public Works may reduce the required elements to provide for the preservation of the existing on-street parking.
- e. On-street parking requirements. Parallel parking spaces shall be provided within the public right-of-way with dimensions of nine (9) feet by twenty (20) feet. Parallel parking spaces shall be separated with "landscape bulb outs" or pedestrian crosswalks so that no more than six (6) spaces shall be contiguous to one another. If the placement of the spaces results in removal of existing on-street over story trees, the Directors of Public Service and Public Works may reduce the on-street parking requirement to provide for the preservation of the existing over story trees.
- f. Parkway zone requirements.
 - i. At least twenty-five (25%) percent of the parkway zone shall be landscaped with groundcover, flower planters or tree grates.
 - ii. Street trees shall be located in the parkway zone on thirty (30) foot centers.
 - iii. Portions of the parkway zone which are not landscaped shall be improved with pavers.
 - iv. Planters shall not be located in those portions of the parkway zone which are contiguous to parking spaces in an on-street parking zone.
 - v. Pavers shall be Coral Gables beige with neutral borders and internal patterns.
 - vi. The pedestrian zone shall be free of obstacles such as street furniture and

landscaping.

- g. Urban open space zone.
 - i. The urban open space zone shall be improved with:
 - (a) Landscape, hardscape or a mix of landscape and hardscape material.
 - (b) Water features, fountains, planters, street lighting and street furniture.
 - (c) Entrance features including steps may be located within the zone.
 - ii. If the urban open space zone is located on private property, the zone may be enclosed with ornamental fencing not to exceed five (5) feet in height. No more than thirty five (35%) percent of the fencing shall be solid and the fencing shall have gates to allow residents to access the pedestrian zone of the required streetscape.
 - iii. Include one (1) tree of at least fourteen (14) feet in overall height per one hundred twenty-five (125) square feet of required open space area.
- h. Building facades. Building facades abutting the required streetscape shall be animated by windows, shutters, planters, columns, relief elements, and other architectural details to give character to the street. All windows shall be recessed at least four (4) inches.
- i. Parking garages.
 - i. No portion of a building which is above grade and within twenty (20) feet of the front setback line shall be used for the storage of vehicles or off-street parking unless the façade is treated with a decorative wall or fence of four and one-half (4½) feet in height along the portion of the building used for off-street parking, with landscaping and urban open space which screens the building to a height of at least seven (7) feet at time of planting.



- ii. In the event that structured parking is to be constructed above grade, the facades of the garage shall be designed and improved so that the use of the building as a garage is not readily apparent.
- iii. Parking garages shall reflect the architectural character and exterior finishes of the building which is to be served by the garage.
- j. Refuse and waste disposal facilities. Refuse and waste disposal facilities shall be enclosed within a building or structure which reflects the architectural character and exterior finishes of the building which is to be served by the facilities. An enclosure used exclusively for refuse and waste facilities may be located in a required front setback area.
- k. Architectural standards. See Article 5, Division 6.
- l. All development shall comply with Article 5, Division 6 for residential uses which are set out in Table 1 of Division 6 and five (5) of ten (10) of the standards in Table 2 of Division 6; however, the bonus intensity and heights shall not apply.

CITY OF CORAL GABLES, FLORIDA**ORDINANCE NO. 2004-25 (AS AMENDED)**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING THE PROVISIONS CONTAINED IN ARTICLE 3, "USE DISTRICTS AND REGULATIONS" ESTABLISHING A NEW SECTION 3-13, "A-DISTRICT/SPECIAL AREA WHICH REGULATIONS SHALL BE APPLICABLE ONLY TO THE AREA BOUNDED BY BILTMORE WAY TO THE NORTH, BIRD ROAD TO THE SOUTH, GRANADA BOULEVARD TO THE WEST AND LEJEUNE ROAD TO THE EAST AND OTHER CHANGES TO THE PROVISIONS WITHIN THE ZONING CODE AS NECESSARY TO IMPLEMENT CHANGES TO ARTICLE 3, TO PROVIDE FOR REVISED REGULATIONS AS A RESULT OF THE 120-DAY TEMPORARY MORATORIUM ADOPTED BY ORDINANCE NO. O-2004-16, AS AMENDED; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to preserve the quality of the residential areas of the City;

WHEREAS, the City Commission has commenced a Zoning Code rewrite to address various concerns about the City's Zoning Code that has not been comprehensively amended in many years;

WHEREAS, in response to increased concerns over the application of the existing provisions of the City's Zoning Code; the City Commission determined that there exists concerns about the compatibility of land uses in areas of transition within the area generally bounded by Biltmore Way to the North, Bird Road to the South, Granada Boulevard to the West and LeJeune Road to the East ("Study Area") from a development standpoint and to pursue alternatives for reducing the potential impact to surrounding single family areas which could include one or more of the following planning and zoning principles to mitigate potential impacts: establishment of development appropriate architectural and conservation districts, incentive zoning overlay districts, transfer of development rights or other innovative planning tools;

WHEREAS, the City Commission through Ordinance No. O-2004-16 (1) found that the existing provisions of the Zoning Code which allow the issuance of building permits for buildings exceeding three and one half (3 ½) stories or forty five (45) feet in height and in particular site specific regulations Article 4, and Zoning Code Articles 3-4 (m) and 3-6 (r) may have a detrimental impact to the properties in Residential Zoning Districts, and (2) further found

that it is in the public interest to make a comprehensive determination on the applicability of the present Zoning provisions and amend those regulations as appropriate;

WHEREAS, the City Commission determined that delaying the application of the existing zoning provisions will provide time for the study and adoption of amendments to the Zoning Code;

WHEREAS, after due notice and hearing, the City Commission held a public hearing at which public input and testimony was received and after careful consideration hereby determined that it is in the best interests of the general welfare of the City of Coral Gables and its citizens to impose a temporary moratorium on the issuance of certain permits for new buildings, or to increase the height of existing buildings, in the Study Area, which are in excess of forty-five (45) feet in height or over three and one half (3 ½) stories in height for the specified study area, as set forth in Ordinance No. O-2004-16, as amended;

WHEREAS, the City of Coral Gables' single family residential areas in many instances abut multi-family or commercial zones which could, potentially, if developed allow for buildings which might exceed three and one half (3 ½) stories or forty five (45) feet in height; and while the Zoning Code provides certain measures for relief to prevent large commercial or multi-family developments which directly abut or face single family residential districts, there is a concern that certain zoning districts may be detrimental to the area should they continue to remain applicable;

WHEREAS, the City Commission desires greater protection to single-family residential areas from larger buildings without adversely affecting the legitimate expectations of property owners who desire to redevelop their land;

WHEREAS, the City Commission directed the Manager to prepare a zoning analysis of the Study Area and initiate outreach to the citizens of Coral Gables as well as the affected property owners and to receive input from the public, consider and evaluate said input and report to the City Commission;

WHEREAS, after a courtesy public notice was mailed to all property owners within the Study Area, and within 1,000 foot radius from the Study Area, the City held two separate public input workshops on April 12, 2004 and April 19, 2004;

WHEREAS, the City Commission was presented such zoning analysis on April 27, 2004, and directed Staff to determine which, if any, zoning amendments need to be adopted and imposed in order to preserve the quality of the residential areas and in particular of the Study Area;

WHEREAS, after notice of public hearing duly published, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on May 12, 2004 at which hearing all interested persons were afforded the opportunity to be heard;

WHEREAS, the Planning and Zoning Board held an additional public hearing on June 2, 2004 and received public input and testimony on amendments to the City of Coral Gables Zoning Code regarding provisions contained in Article 3, "Use Districts and Regulations" with reference to A districts and other provisions within the Zoning Code as necessary to implement changes to Article 3, to provide for revised regulations as a result of the 120-day temporary moratorium adopted through Ordinance No. O-2004-16, as amended;

WHEREAS, City staff met with various property owners and interested parties throughout the development of the regulations to secure input and comments;

WHEREAS, numerous changes and revisions to the draft regulations have been made in response to such meetings and public hearings;

WHEREAS, the Planning and Zoning Board on June 2, 2004 secured input and testimony from interested parties and property owners and requested City Staff complete further research on various issues as referenced in the record of the proceedings;

WHEREAS, the City Commission at its regular meeting of June 8, 2004 continued the item by a 5 to 0 vote for discussion to July 1, 2004 to a time certain at 11:00 a.m.;

WHEREAS, the Planning and Zoning Board on June 9, 2004 secured additional input and testimony from interested parties and property owners and recommended approval of the Staff Recommendation by a 4 to 2 vote;

WHEREAS, after due notice and hearing, the City Commission held a public hearing on July 1, 2004 at 11:00 a.m. at which time public input and testimony was received; and,

WHEREAS, after careful consideration the City Commission at its regular meeting of July 1, 2004 upon receiving the Planning and Zoning Board recommendation and accompanying documents recommended approval by a 4 to 0 vote on First Reading;

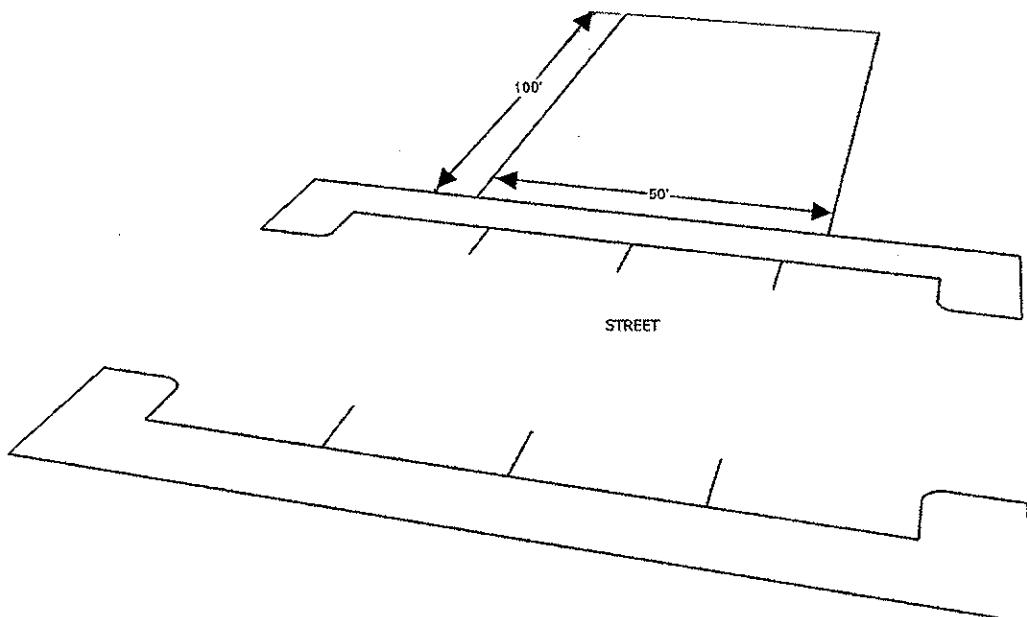
NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES AS FOLLOWS:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

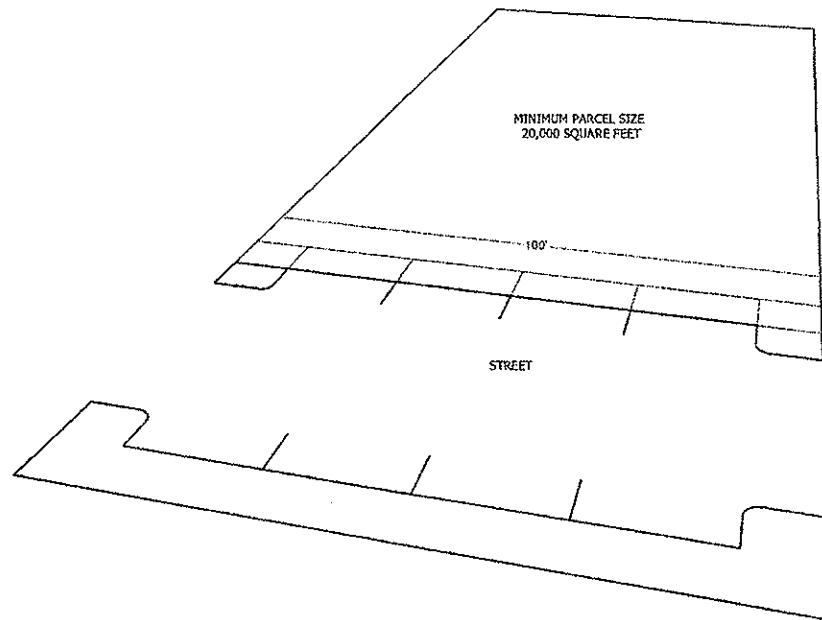
SECTION 2. The "Zoning Code of the City of Coral Gables" shall be and it is hereby amended by adding thereto a provision establishing a new Section 3-13 of the Zoning Code to be titled "A District/Special Area" which regulations shall be applicable only to the area bounded by Biltmore Way to the North, Bird Road to the South, Granada Boulevard to the West and LeJeune Road to the East, as follows:

Sec. 3-13. A District/Special Area

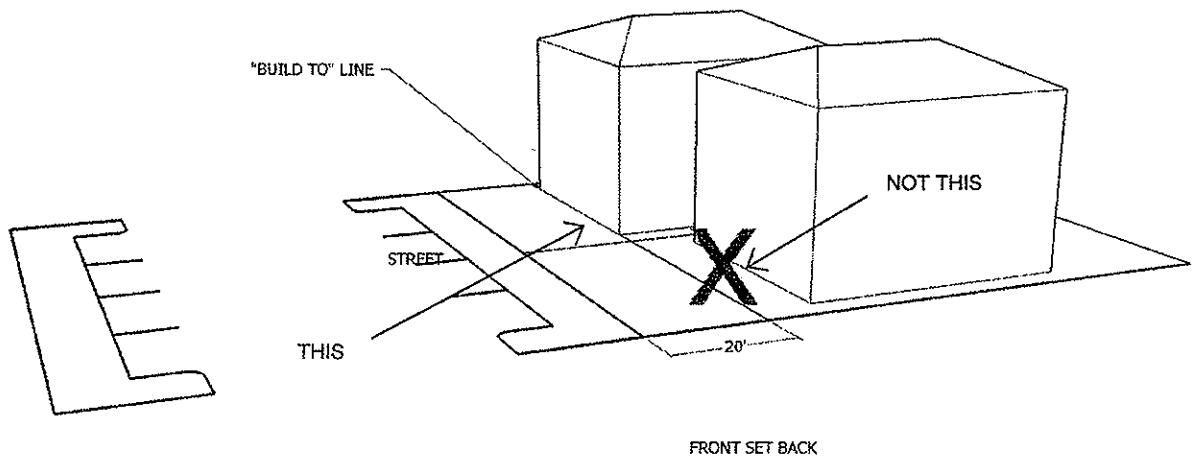
1. Purpose. The purpose of the A District/Special Area is to accommodate various forms of multi-family housing to meet the housing needs of a diverse community, while ensuring that there is a transition to single-family neighborhoods which protects the integrity of those neighborhoods.
2. Permitted uses.
 - A. Multi-family dwelling units.
 - B. Accessory uses.
3. Conditional uses.
 - A. Assisted living facilities, subject to the standards in Section 3-12.
 - B. Hotels provided that the parcel proposed for development is not adjacent to parcels of land designated as residential use - single family, low density land use designation.
 - C. Municipal buildings and facilities.
 - D. Family day care homes provided that the parcel proposed for development is not adjacent to parcels of land designated as residential use - single family, low-density land use designation.
 - E. Group homes.
 - F. Religious facilities.
4. Performance standards.
 - A. Minimum parcel of land. Multi-family dwellings shall be constructed on a parcel of land of not less than five thousand (5,000) square feet.
 - B. Minimum parcel dimensions.
 1. Buildings with a height of less than seventy (70) feet. Multi-family dwellings shall be constructed on a parcel of land with a width of not less than fifty (50) feet or a depth of not less than one hundred (100) feet.



square feet and at least one hundred (100) feet of frontage on a public road.

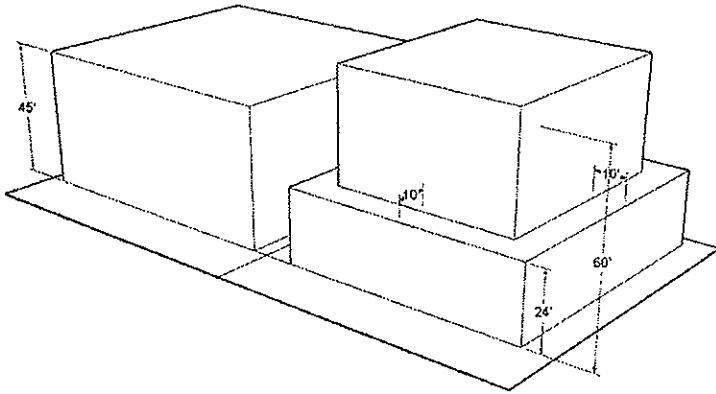


3. Townhouses. Minimum townhouse parcel width of sixteen (16) feet.
- C. Maximum density. Sixty (60) dwelling units per acre or the density provided in the Comprehensive Land Use Plan, with architectural incentives, whichever is less.
- D. Coral Gables Mediterranean Style Design Bonus Regulations. Except as provided in subsection K, 12, Article 28, Coral Gables Mediterranean Style Design Bonus Regulations do not apply in the A-District.
- E. Build to line. The front setback shall be a build to line for the ground level of any building.

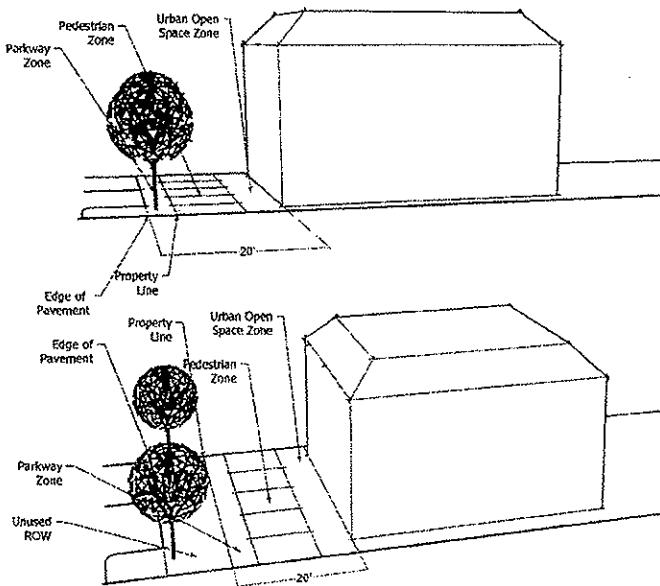


1. Measurement of setback. Except as provided in subsection 2e, setbacks shall be measured from the applicable property line.

2. Front setback.
 - a. Townhouses with a height of forty-five (45) feet or less. Ten (10) feet.
 - b. Buildings with a height of forty-five (45) feet or less. Twenty (20) feet.
 - c. Buildings with a height greater than forty-five (45) feet. Twenty (20) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional ten (10) feet.



- d. Site specific standards. Buildings located on lots in Block 1 and 2 of the Biltmore Section which front on Coral Way: twenty-five (25) feet.
- e. Adjustment to front setback. In the event that there is public right-of-way between the edge of street pavement and the front property line of the parcel proposed for development, the required front setback shall be reduced by the distance between the edge of pavement and the front property line; provided however, that in no case shall a building be constructed within five (5) feet of the front property line.



3. Side setbacks.

- a. Interior property line and abutting alley side setback.
 - i. Townhouses with a height of forty-five (45) feet or less. None
 - ii. Buildings with a height of forty-five (45) feet or less. Five (5) feet.
 - iii. Buildings with a height of greater than forty-five (45) feet. Ten (10) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional ten (10) feet.
- b. Abutting a public street.
 - i. Buildings with a height of forty-five (45) feet or less. Ten (10) feet.
 - ii. Buildings with a height of greater than forty-five (45) feet. Ten (10) feet, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional five (5) feet.

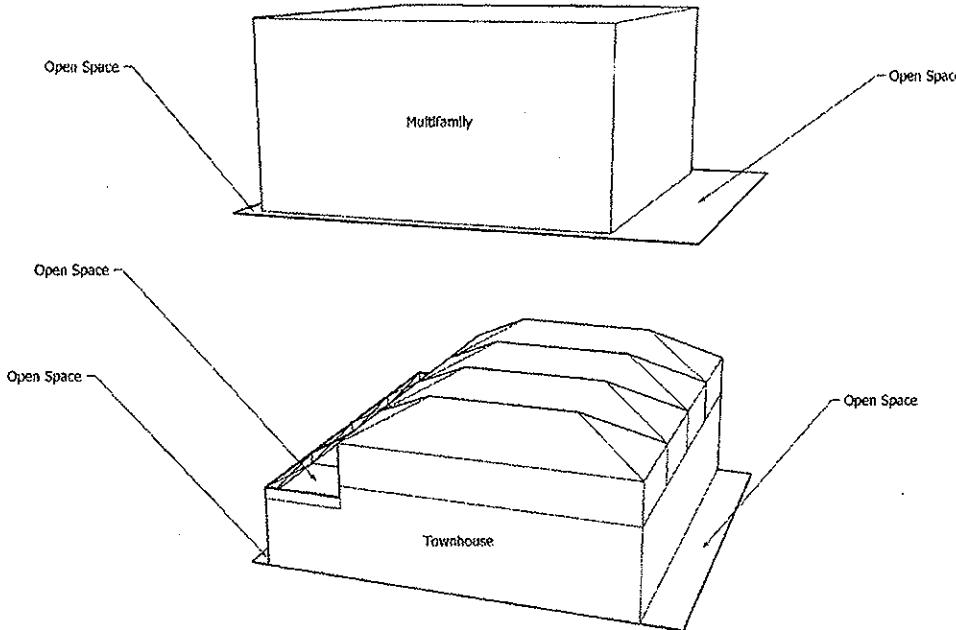
4. Rear setback.

- a. Buildings with a height of forty-five (45) feet or less. Ten (10) feet or five (5) feet if rear property line abuts an alley.
- b. Buildings with a height of greater than forty-five (45) feet. Ten (10) feet or five (5) feet if rear property line abuts an alley, provided however, that any portion of a building which has a height of greater than twenty-four (24) feet, shall be set back an additional ten (10) feet.

G. Required open space.

- 1. Buildings other than townhouses. At least twenty-five percent (25%) of the parcel proposed for development shall be maintained as landscaped or urban open space.

2. Townhouses. At least twenty-five percent (25%) of the parcel shall be maintained as landscaped or urban open space, or courtyards, elevated decks, and other amenities which are open to the sky.



H. Floor area ratio. Maximum floor area ratio (FAR) shall not exceed 2.0.

I. Height.

1. Parcels of land abutting or contiguous to R-Use Districts. Forty-five (45) feet, except that no portion of any building within fifty (50) feet of any property line which abuts or is contiguous to land designated as R-Use District shall have a height in excess of thirty-five (35) feet.
2. Parcels of land adjacent to R-Use Districts. Forty-five (45) feet.
3. Parcels of land which are contiguous or adjacent to D-Use Districts or land designated as public buildings and grounds. Forty-five (45) feet
4. Parcels of land designated ~~residential use - multi-family low density~~.
 - a. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: forty-five (45) feet.
 - b. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family medium density land use designations: forty-five (45) feet.
 - c. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high density or commercial use high-rise intensity land use designations: sixty (60) feet.

5. Parcels of land designated residential use - multi-family medium density.
 - a. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet.
 - b. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of 20,000 square feet or more.
 - c. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family high density or commercial use high-rise intensity land use designations: sixty (60) feet or one-hundred (100) feet if a parcel of land has an area of 20,000 square feet or more.
6. Parcels of land designated residential use - multi-family high density.
 - a. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family low-density land use designations: sixty (60) feet or seventy (70) feet if a parcel of land has an area of 20,000 square feet or more.
 - b. Parcels of land which are contiguous or adjacent to parcels designated residential use - multi-family medium density land use designations:
 - (i) Sixty (60) feet if a parcel of land is less than 10,000 square feet, or seventy (70) feet if a parcel of land has an area of 10,000 square feet or greater but less than 20,000 square feet, or
 - (ii) One hundred (100) feet if a parcel of land has an area of 20,000 square feet or more.
 - c. Parcels of land which are contiguous or adjacent to other parcels designated residential use - multi-family high density or commercial use high-rise intensity land use designations: sixty (60) feet or one hundred fifty (150) feet if a parcel of land has an area of 20,000 square feet or more.
7. Parcels of land abutting existing buildings with non-conforming heights. Notwithstanding any other provision of this Subsection I, a parcel of land which is proposed for development which abuts parcels of land on three sides improved with existing buildings with heights exceeding the maximum permitted height shall have a maximum permitted height of: the lowest height of the three buildings on the parcels abutting the parcel proposed for development.
8. Height summary. The following matrix summarizes the provisions of Subsection I, 1-6:

MAXIMUM HEIGHT						
	PARCEL SIZE	R	D	MFL	MFM	MFH
MFL		35'	45'	45'	45'	60'
	<20 K	35'	45'	60'	60'	60'

MF M	>20 K	35'	45'	60'	70'	100'
MF H	<10 K	35'	45'	60'	60'	60'
	10K – 20K	35'	45'	60'	70'	70'
	>20 K	35'	45'	70'	100'	150'

“R” means any of the R-Use Districts in the Zoning Code.

“D” means any of the D-Use Districts in the Zoning Code.

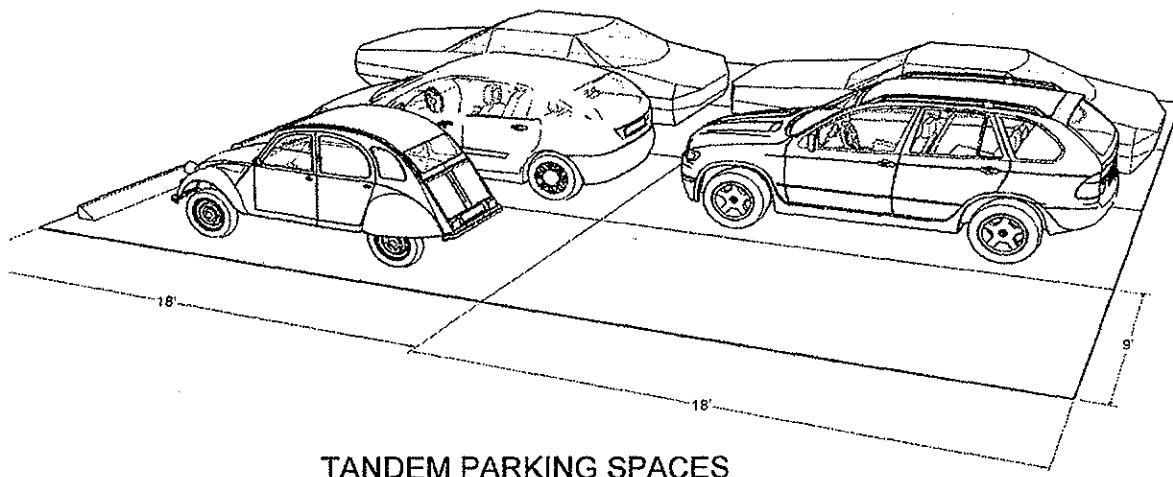
“MF L” means the residential multi-family low density category in the Comprehensive Land Use Plan.

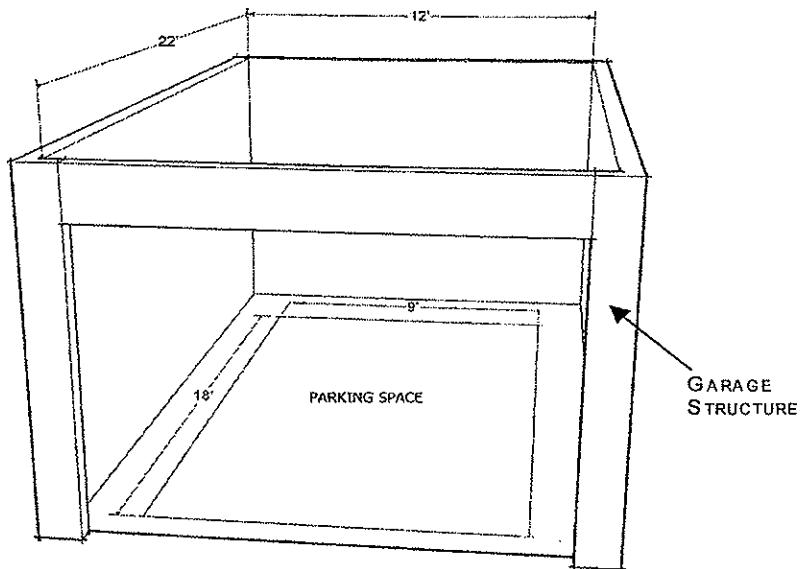
“MF M” means the residential multi-family medium density category in the Comprehensive Land Use Plan.

“MF H” means the residential multi-family high density category in the Comprehensive Land Use Plan.

J. Off-street parking.

1. Parcels of land proposed to be developed as multi-family dwelling units and/or townhouses. Two (2) parking spaces per unit.
2. Tandem spaces. Tandem spaces are permitted as required parking.

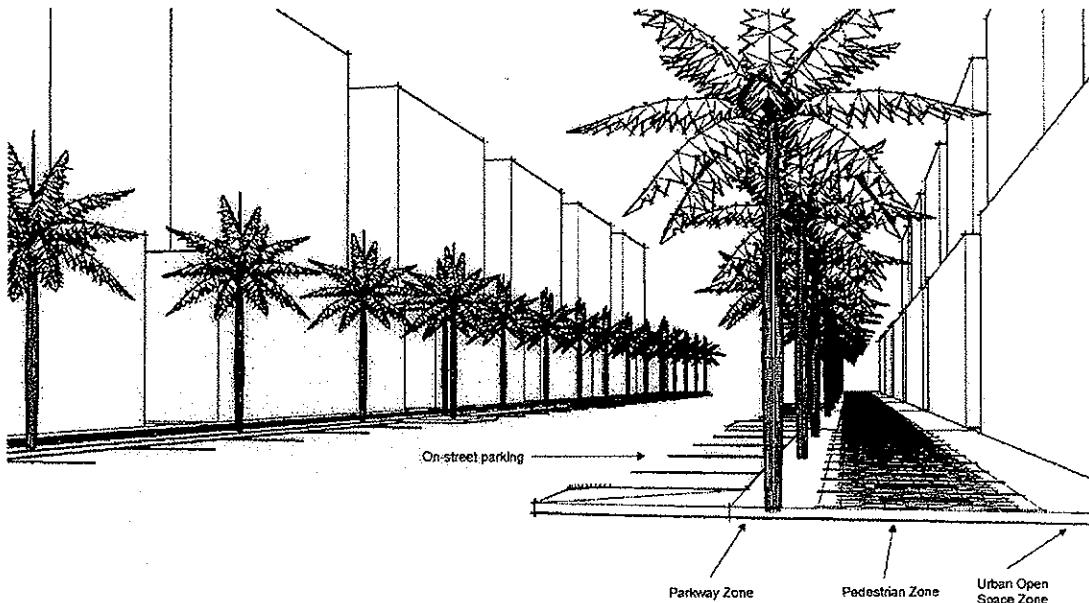




INDIVIDUAL GARAGE

be responsible for the improvement of the area between the front set back and edge of pavement as an urban or suburban streetscape. If the parcel of land proposed for development is adjacent to parcels of land designated multi-family high density or multi-family medium density, then an urban streetscape shall be required. If the parcel of land proposed for development is designated multi-family low density and is adjacent to parcels of land designated multi-family low density, then a suburban streetscape shall be required. Any improvements constructed within the public right of way shall be dedicated to and maintained by the City.

2. Minimum width of required streetscape. An urban streetscape shall have a minimum width of twenty-nine (29) feet. A suburban streetscape shall have a minimum width of fifteen (15) feet.



3. Required urban streetscape elements. The required urban streetscape shall be comprised of four zones:
 - a. On-street parking zone.
 - b. A parkway zone of at least four (4) feet in width.
 - c. A pedestrian zone of at least eight (8) feet in width.
 - d. An urban open space zone located between the building and the pedestrian zone, except that no urban open space zone shall be required for townhouses.
4. Required suburban streetscape elements. The required suburban streetscape shall be comprised of two zones:
 - a. A parkway zone of at least four (4) feet in width.
 - b. A pedestrian zone of at least six (6) feet in width.
5. On-street parking requirements. Parallel parking spaces shall be provided within the public right of way with dimensions of nine (9) feet by twenty (20) feet. Parallel parking spaces shall be separated with "landscape bulb outs" or pedestrian crosswalks so that no more than six (6) spaces shall be contiguous to one another.
6. Parkway zone requirements.
 - a. At least twenty-five percent (25%) of the parkway zone shall be landscaped with groundcover, flower planters or tree grates.
 - b. Street trees shall be located in the parkway zone on thirty (30) foot centers.
 - c. Portions of the parkway zone which are not landscaped shall be improved with pavers.
 - d. Planters shall not be located in those portions of the parkway zone which are contiguous to parking spaces in an on street parking zone.
7. Pedestrian zone requirements.
 - a. The pedestrian zone shall be pavers or Coral Gables beige with neutral borders and internal patterns.
 - b. The pedestrian zone shall be free of obstacles such as street furniture and landscaping.
8. The urban open space zone.
 - a. The urban open space zone shall be improved with:
 - i. Landscape, hardscape or a mix of landscape and hardscape material.
 - ii. Water features, fountains, planters, street lighting and street furniture.
 - iii. Entrance features including steps may be located within the zone.
 - b. If the urban open space zone is located on private property, the zone may be enclosed with ornamental fencing not to exceed five (5) feet in height. No more than thirty five percent (35%) of the fencing shall be solid and the fencing shall have gates to allow residents to access the pedestrian zone of the required streetscape.
 - c. Include one (1) tree of at least fourteen (14) feet in overall height per one hundred twenty-five (125) square feet of required open space area.
9. Building facades. Building facades abutting the required streetscape shall

be animated by windows, shutters, planters, columns, relief elements, and other architectural detail to give character to the street. All windows shall have a casing depth of at least four (4) inches.

10. Parking garages.

- a. No portion of a building which is above grade and within twenty (20) feet of the front setback line shall be used for the storage of vehicles or off-street parking unless the façade is treated with a decorative wall or fence of four and one-half (4½) feet in height along the portion of the building used for off-street parking, with landscaping and urban open space which screens the building to a height of at least seven (7) feet at time of planting.



ALTERNATIVE SCREENING

- b. In the event that structured parking is to be constructed above grade, the facades of the garage shall be designed and improved so that the use of the building as a garage is not readily apparent.
 - c. Parking garages shall reflect the architectural character and exterior finishes of building which is to be served by the garage.
11. Refuse and waste disposal facilities. Refuse and waste disposal facilities

- shall be enclosed within a building or structure which reflects the architectural character and exterior finishes of the building which is to be served by the facilities. An enclosure used exclusively for refuse and waste facilities may be located in a required front setback area.
12. Architectural standards. All development shall comply with Article 28, Coral Gables Mediterranean Architectural Style Bonus Regulations, Required Standards for residential uses which are set out in Table 1 of Section 28-7 and five (5) of ten (10) of the standards in Table 2 of Section 28-7 and the provisions of Section 28-9; however, the bonus intensity and heights shall not apply.

L. Additional definitions applicable to the A-District/Special Area:

“Abuts or abutting” means parcels of land which share a property line or are separated by an alley.

“Accessory use or structure” means a use which: 1) is subordinate to and serves a principal use; 2) is subordinate in area, extent, and purpose to the principal use served; 3) contributes to the comfort, convenience or necessities of the users or occupants of the principal use; and 4) is located on the same lot as the principal use.

“Adjacent” means across a street, or waterway from a parcel of land. Where a parcel of land is adjacent to more than one parcel of land, the term adjacent is intended to require compliance with the most restrictive standard with regard to the land use designation or use of adjacent property.

“Build to line” means a line with which at least 50% of the front exterior wall of the principal building is required to coincide.

“Contiguous” means parcels of land which share a property line or are separated by an alley. Where a parcel of land is contiguous to more than one parcel of land, the term contiguous is intended to require compliance with the most restrictive standard with regard to the land use designation or use of contiguous property.

“~~Dwelling unit~~” means a building or portion of a building providing independent living facilities for one family including provision for living, sleeping, and complete kitchen facilities.

“Height” means the vertical distance measured from the established grade at the center of the front of the building to the level of the highest point of the building if a flat roof, and to the mean heights between eaves and ridges for gale, hip and gambrel roofs, excluding parapets that extend no more than four (4) feet above the height of the building, and excluding air-conditioning equipment rooms, elevator shafts and mechanical equipment rooms, and

ornamental roof structures not exceeding a combined area of twenty-five percent (25%) of the total area of the roof and not exceeding twenty-five (25) feet above the maximum permitted height of the building.

“Multi-family” dwelling means a dwelling unit that shares common walls with at least one (1) other dwelling unit. For the purposes of the A-District/Special Area regulations in this Section, the term multi-family dwelling shall include the uses in single-family high density as provided for in the Comprehensive Land Use Plan.

“Multi-family high density” means land designated residential multi-family high density by the City’s Comprehensive Land Use Plan.

“Multi-family low density” means land designated residential multi-family low density by the City’s Comprehensive Land Use Plan.

“Multi-family medium density” means land designated residential multi-family medium density by the City’s Comprehensive Land Use Plan.

“Parcel of land” means one or more lots which is proposed for development for a single development.

“Parkway zone” means an area which is immediately adjacent to parallel parking which serves as a safety zone between the area of pavement and pedestrian zone. The parkway zone is the location for street trees and annual and perennial plantings.

“Pedestrian zone” is the portion of the streetscape which is designed for pedestrian movements.

“Public buildings and grounds” means land designated public buildings and grounds by the City’s Comprehensive Land Use Plan.

“Special area” means for the purposes of this Section 3-13, the area bounded by Biltmore Way to the North, Bird Road to the South, Granada Boulevard to the West and LeJeune Road to the East in the City of Coral Gables, Florida.

“Streetscape” is the area along the public street between the street and buildings which defines the character of the street at the pedestrian level.

“Tandem parking spaces” means two (2) parking spaces arranged one behind the other.

“Townhouse” means a dwelling unit with a primary access on a first floor at grade level.

“Urban open space” means an area, which is open from the land to the sky predominantly improved with and paved with bricks, pavers or other similar material (not including concrete or asphalt) for pedestrian use or an area where no structures or buildings other than landscape features, fountains, benches, arcades and objects of art are located.

SECTION 3. The “Zoning Code of the City of Coral Gables” shall be and it is hereby amended by adding thereto a provision amending Article 12, Building Sites. This amendment references Section 13-3(4)(b)(3) and is necessary to permit the replatting of townhouses pursuant to the regulations. More specifically Section 12-7(a), Replats and subdivisions for R, D, and A Uses-General shall be amended as follows:

- (a) Except as provided for under Section 13-3(4)(b)(3) and Section 12-6 hereof, no replat or subdivision for R, D and A-Uses shall be approved where the building sites contain an area less than ten thousand eight hundred (10,800) square feet and having a street frontage of less than one hundred (100) feet.

SECTION 4. The “Zoning Code of the City of Coral Gables” shall be and it is hereby amended by adding thereto a provision amending Article 28, Coral Gables Mediterranean Style Design Bonus Regulations removing the “discretionary” bonuses for those properties within the designated A District/Special Area as is provided for in new Section 3-13. More specifically Section 28-2.(a), Applicability shall be amended as follows:

- (a) Zoning district applicability. These regulations are available for new construction, additions, restorations and/or renovations of existing buildings using all types of architecture styles as described herein provided such property is located within an A, C, or M Use zoning districts. These provisions do not apply to the A District/Special Area.

SECTION 5. The provisions of this ordinance shall not apply to a development which has filed an application with the Board of Architects on or before March 10, 2004.

SECTION 6. It is the intention of the Commission that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other portion of this Ordinance, the Coral Gables Comprehensive Land Use Plan, or the Coral Gables Zoning Code.

SECTION 7. All rights, actions, proceedings and Contracts of the City, including the City Commissioners, the City Manager, or any of its departments, boards or officers undertaken pursuant to the existing code provisions, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.

SECTION 8. It is the intention of the Commission that to the extent any provision of this Ordinance conflicts with or is inconsistent with any other provision of the Zoning Code that the terms of this Ordinance shall control and that such inconsistencies will be addressed in the context of the Zoning Code rewrite.

SECTION 9. If any section, part of session, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 10. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of Coral Gables, Florida, as amended, which provisions may be renumbered or relettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 11. This Ordinance shall become effective 10 days upon adoption.

PASSED AND ADOPTED THIS 13th DAY OF JULY A.D., 2004.

(Moved: Cabrera/Seconded: Anderson)
(Yea: Withers, Anderson, Cabrera, Slesnick)
(Absent: Kerdyk)
(Agenda Item E-1)



DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY

Attachment: Land Use and Zoning Maps delineating Study/Moratorium Area.



City of

Coral Gables

120-Day Moratorium Land Use Map

Planning Department

April 2004

Planning Dept
April 2004

Legend

- RESIDENTIAL USE (SINGLE FAMILY)**

Low Density

 - [6 Units/Acre] Low Density
 - [9 Units/Acre] High Density

RESIDENTIAL USE (MULTI FAMILY)

 - [19 Units/Acre] Duplex Density
 - [19 Units/Acre] Low Density
 - [20 Units/Acre; 4 Stories] High Density
 - [40 Units/Acre; 6 Stories] Mid-Density
 - [60 Units/Acre; 13 Stories] High Density

COMMERCIAL USE

 - [Low-Rise Intensity: 14 Stories; F.A.R. 3.0] Low-Rise Intensity
 - [Mid-Rise Intensity: 16 Stories; F.A.R. 3.0] Mid-Rise Intensity
 - [High-Rise Intensity: 13 Stories; F.A.R. 3.0] High-Rise Intensity

INDUSTRIAL USE

UNIVERSITY USE

EDUCATIONAL USE

PARKS AND RECREATIONAL

OPEN SPACE

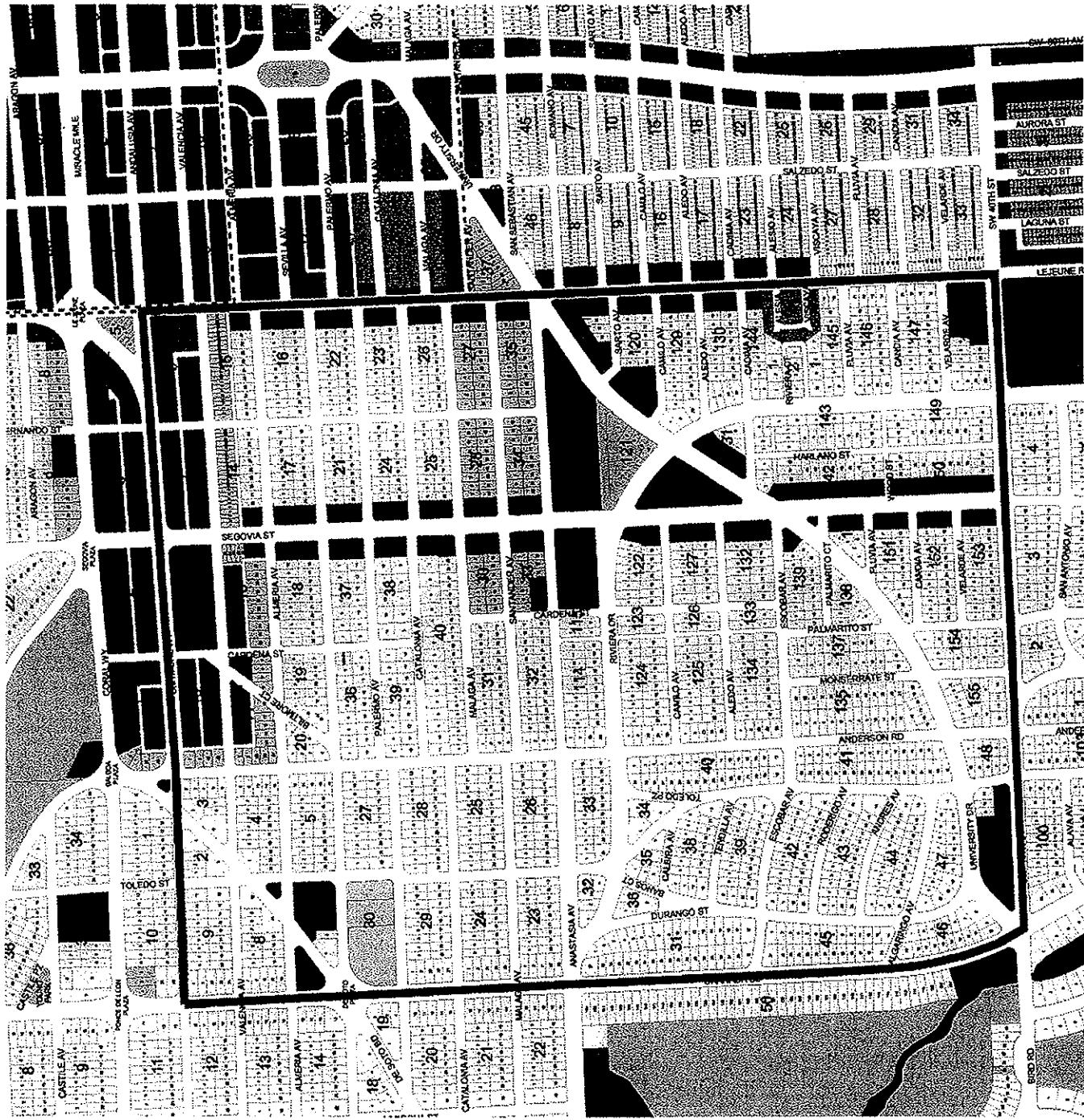
CONSERVATION AREAS

PUBLIC BUILDINGS AND GRR

HOSPITAL USE

RELIGIOUS/INSTITUTIONAL

250 0 250 500 750 1000 Feet





City of Coral Gables 120-Day Moratorium Zoning Map

Planning Department

April 2004

Legend

Map Symbols

Zoning Districts

	Moratorium Boundary
	Central Business District
	Mixed Use District

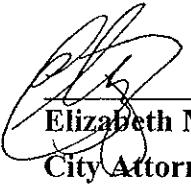
Scale: 250 0 250 500 750 1000 Feet



**CITY OF CORAL GABLES
OFFICE OF THE CITY ATTORNEY
- MEMORANDUM-**

TO: CITY COMMISSION **DATE:** September 22, 2008

FROM:


Elizabeth M. Hernandez
City Attorney

SUBJECT:

**PROPOSAL FOR
SETTLEMENT OF THE
BERT J. HARRIS ACT
CLAIM FILED BY
FERNANDO MENOYO
AND ALMERIA ROW,
LLC**

The Property Owners, Fernando Menoyo and Almeria Row, LLC, at present, own the following properties: 744 Biltmore Way, 2509 Anderson Road, 745 Valencia Avenue, 635 Almeria Avenue; 643 Almeria Avenue, 2605 Anderson Road, 2611 Anderson Road, 731 Almeria Avenue, 735 Almeria Avenue, 743 Almeria Avenue, 2615 Anderson Road, 760 Valencia Avenue, (collectively, the "Properties").

On January 9, 2007, the City Commission adopted Ordinance Nos. 2007-01 and 2007-03, reducing the permissible height on the Properties from forty-five (45) feet to thirty-five (35) feet for the first fifty (50) feet of the Properties and allowing a height of forty-five (45) feet thereafter. As a result of that action, on January 8, 2008, the Property Owners filed a claim for compensation for \$8,135,000 pursuant to the Bert J. Harris, Jr., Private Property Rights Protection Act, Sec. 70.001, Fla. Stat. (the "Act") ("Harris Act Claim") for the loss in fair market value of the Properties resulting from the alleged inordinate burdens, restrictions, and limitations that have been placed on the Properties as a result of the City's actions. The City has various defenses to these claims including statutes of limitations and the lack of ownership of some of the properties by the Property Owners at the time of City action.

The Property Owners and the City are considering the possibility of settling the Harris Act Claim. The Property Owners propose a reinstatement of the forty-five (45) foot height limit for the Properties, which would be limited to the Properties by a modification to the Site Specific regulations in the Coral Gables Zoning Code. No other properties in the City would be affected.

The City Commission's action today would refer the potential settlement to the Planning & Zoning Board for a recommendation and the settlement would be considered by the City Commission after Planning & Zoning Board review.

EMH/stg

10 08 08 Planning & Zoning Board
Verbatim Meeting Minutes

Attachment I

1 entertain that, for that purpose.
2 MR. GARCIA-SERRA: We would be willing to
3 bear the cost of the special meeting.
4 MR. SALMAN: Okay.
5 CHAIRMAN KORGE: Anybody have an idea what
6 that cost would be?
7 MS. HERNANDEZ: No, we do not.
8 MR. RIEL: We -- We do not develop cost. I
9 mean, Staff is basically on an annual salary, I mean,
10 obviously any advertising costs, or anything else, but
11 we've typically continued, you know, to the next
12 meeting.
13 MR. BEHAR: Personally, I don't think we
14 should --
15 MR. COE: No, I don't think we should
16 have any special meeting. We have the next
17 meeting.
18 MS. HERNANDEZ: You have security, you
19 have everything else.
20 CHAIRMAN KORGE: I don't know that we have
21 consensus for that.
22 MR. SALMAN: All right. That's fine.
23 CHAIRMAN KORGE: Any more discussion on
24 continuing this agenda item?
25 I just want to make a comment. We do have a

9
1 lot of members of the public here who've made a special
2 trip here, for this agenda item, and, you know, it's
3 not a good situation, because then they've got to come
4 back, too.
5 MR. SALMAN: I know, but it's an automatic
6 appeal and we're going -- we're setting ourselves up
7 for a problem, honestly --
8 CHAIRMAN KORGE: Yeah. Yeah.
9 MR. SALMAN: -- in whatever decision we make
10 here.
11 MR. COE: There's a motion to continue this
12 agenda item.
13 CHAIRMAN KORGE: Right, we were discussing
14 it.
15 MR. SALMAN: We were discussing it.
16 MR. COE: Okay. Do we call the question? I
17 mean, either we're going to do it or we're not going to
18 do it.
19 CHAIRMAN KORGE: Well, let me ask, anybody
20 in the public want -- The applicants explained their
21 position. Anybody else in the public want to come
22 forward, at this time and --
23 MR. COE: Why? There's no public input
24 on this, Mr. Chairman. This is a vote of the
25 Board.

11
1 CHAIRMAN KORGE: Okay. Fine. Let's --
2 Let's -- There's -- The question's called. No further
3 discussion.
4 Call the question, please.
5 MS. MENENDEZ: Jack Coe.
6 MR. COE: Yes.
7 MS. MENENDEZ: Jeffrey Flanagan.
8 MR. FLANAGAN: Yes.
9 MS. MENENDEZ: Javier Saliman.
10 MR. SALMAN: Yes.
11 MS. MENENDEZ: Robert Behar.
12 MR. BEHAR: Yes.
13 MS. MENENDEZ: Tom Korge.
14 CHAIRMAN KORGE: Yes.
15 Okay. So this item is continued to the
16 next regularly scheduled Board meeting at what
17 date?
18 (Thereupon, Pat Keon entered the meeting
19 room.)
20 MR. RIEL: It's November 12th.
21 CHAIRMAN KORGE: November 12th.
22 MS. HERNANDEZ: And this will be --
23 MR. DAMIAN: I apologize. I didn't
24 introduce myself.
25 MR. SALMAN: Will this serve as a public

12
1 notice for the --
2 MS. HERNANDEZ: Yes. Folks, this will be
3 the only notice that you are receiving. Please
4 understand that it is a continuance to the next
5 Planning and Zoning Board meeting.
6 MR. DAMIAN: I'm Vincent Damian,
7 representing Shirley Maroon and neighbors. I forgot to
8 introduce myself.
9 MR. SALMAN: I know who you are.
10 MR. DAMIAN: Thank you.
11 MR. RIEL: Ladies and gentlemen, could you
12 please go? We have other agenda items.
13 CHAIRMAN KORGE: We're still -- We're still
14 in meeting here.
15 Would you please note, for the record, that
16 Pat Keon has arrived.
17 The next item on our agenda -- If you want
18 to chat, outside is the place, please. Thank you.
19 Next item on the agenda is item number
20 six, "Proposed Zoning Code text amendment pursuant
21 to a proposed settlement agreement with Fernando Menoyo
22 and Almeria Row, LLC, represented by Tew Cardenas,
23 LLP."
24 MS. HERNANDEZ: Okay. Mr. Chairman, if I
25 may just do a brief introduction to the Board, so that

13

1 we can get into this item.

2 This item comes to you as a result of a
 3 referral from the City Commission. You are not
 4 considering today any settlement discussions that the
 5 applicants may have had. This was as a result of a
 6 Bert J. Harris claim. The Board is here merely to
 7 consider a request on a zoning matter. Issues
 8 involving the Bert J. Harris claim will be considered
 9 at the City Commission level. But the Board's inquiry
 10 really has to do only with zoning issues, at this
 11 point.

12 I will tell you that the applicant is here
 13 before you today based on a referral of the City
 14 Commission. It is Staff's position that sufficient
 15 information was not provided for thorough Staff
 16 analysis, so we will be requesting today that the Board
 17 listen to the input of the applicant, pose any
 18 questions that they would like Staff to come back with
 19 and direct the applicant to provide to Staff the
 20 necessary information, so that Staff can provide a
 21 thorough Planning Department review and bring back a
 22 recommendation to you.

23 At the conclusion of the presentation and
 24 after the discussions by the Board members, we're going
 25 to also ask that this specific matter be continued to

14

1 the next Board meeting, so that we don't have to
 2 re-advertise, so that the input is provided to Staff
 3 in a timely basis, and so that we can come back to
 4 you with final recommendations of professional staff.
 5 And I don't know if Mr. Riel has anything to add to
 6 that.

7 MR. RIEL: No, I think you pretty much
 8 covered everything.

9 MR. SALMAN: Through the Chair, Madam
 10 Attorney --

11 MS. HERNANDEZ: Yes, sir.

12 MR. SALMAN: -- could you please explain,
 13 for the benefit of the public, what a Bert J. Harris
 14 Act is?

15 MS. HERNANDEZ: Yes. A Bert J. Harris claim
 16 is a claim that is just below that of a taking. A
 17 property owner has a one-year between a zoning action
 18 of the City Commission in order to file a claim, to
 19 perfect it, claiming that action of the City
 20 Commission, in a zoning capacity, has inordinately
 21 burdened their property.

22 Again, I don't want to get more into that
 23 because I don't want this -- the claim to influence
 24 this Board. I just wanted to give it to you for
 25 information purposes, so that you understand how it

15

1 came back to you. Okay?

2 MR. SALMAN: Understood. Thank you.

3 MR. ECHEMENDIA: Good afternoon,
 4 Mr. Chairman, Santiago Echemendia, 1441, on behalf of
 5 Coral Gables Rentals, Fernando Menoyo, who is here, as
 6 well as Maricris Longo, I don't believe she's here.
 7 I'm also accompanied by Teofilio De La Guardia, and his
 8 wife, Maria De La Guardia, who are the architects on
 9 this project.

10 Just very briefly, just to simplify this as
 11 much as possible, the reason we filed a Bert J. is, it
 12 really -- it's -- though it's \$9,000,000 inordinate
 13 burden claim, it was really for purposes of having a
 14 discussion to resolve the issue. That's really the
 15 predicate or the premise of the Bert J. Harris Property
 16 Rights Act, is to avoid litigation.

17 We've had some very successful meetings
 18 facilitated by Liz and the City Manager, with the City
 19 Commissioners, who we believe have expressed some
 20 receptiveness to the concept of changing, on a
 21 site-specific, the regulations back to what they were
 22 before this language got incorporated regarding
 23 adjacent to MFS, adjacent to single family. Bringing
 24 it back, it was at 50, it got brought down to 35. We
 25 want to bring it back for -- to 45 feet, for a limited

16

1 number of sites owned by -- by Gables -- Coral Gables
 2 Rentals, some of which were under contract at the time.
 3 Liz's position, of course, is that as it
 4 relates to settling the Bert J. claim, the ones that
 5 were under contract at the time do not qualify. What
 6 we have suggested, to address her concern, is that
 7 those simply be treated legislatively, not to be
 8 incorporated as part of the settlement agreement, which
 9 would just be for those that we actually owned at the
 10 time.

11 So we think we have a fairly -- it's a
 12 fairly simple exercise. The as-built environment
 13 around it is -- from a transitional perspective, it
 14 makes sense to go to 45 feet, because you have 60 feet,
 15 up to 110 feet, all the way around.

16 The City -- The Commissioners, after the
 17 various meetings, I think what was concluded was, yes,
 18 go ahead and send it back to the Planning and Zoning
 19 Board. In fact, the City Commission -- The City
 20 Commission met, right, Liz, and requested that it be --
 21 come back to Planning and Zoning Board, after the
 22 various private meetings, because it's required that
 23 you all make a recommendation as part of a legislative
 24 change.

25 And Bob -- My partner, Bob De La Fuente,

17

1 really has more of a comprehensive presentation, but
 2 because it is Yom Kippur and because you all -- you
 3 know, we're the only thing between you all and sunset
 4 this evening, I wanted to kind of cut to the chase.

5 One of the things that we do want to get a
 6 little bit of direction from -- from you all, or maybe
 7 have you all give some direction to Eric is -- The
 8 exercise is fairly straightforward. We've identified
 9 the parcels. We want to go back to the 45 feet, the
 10 regulations, as they were before this adjacency
 11 language got incorporated.

12 Eric is requesting a lot of information from
 13 us, and maybe we can go through that a little bit,
 14 Eric, as to what you're requesting and why we believe
 15 that we're being asked for more than what should be
 16 provided.

17 Again, it's a very simple exercise. We've
 18 identified the properties. We want to go back to the
 19 45, which is what it was before, rather than the 35.
 20 It's that simple. The Planning Department wants to do
 21 a bit of analysis. I don't want to say 3D. I'll let
 22 Eric explain. But this isn't an application, per se,
 23 this is a settlement of a Bert J. Harris Property
 24 Rights Act, where the simple exercise is, we're
 25 changing the height from 45 to 35 for these

18

1 site-specific properties to be appended, hopefully, to
 2 a Bert J. Harris settlement agreement, which then goes
 3 with the recommendations from Planning and Zoning,
 4 whether it's negative, no recommendation or favorable,
 5 then to the City Commission, with the intent of
 6 hopefully settling this case and bringing the site-
 7 specifics up to 45 feet, so that we can move forward
 8 with the project.

9 MR. BEHAR: Excuse me a second. Madam
 10 Attorney, I've got a question. If we do this, would
 11 this not create a spot zoning?

12 MS. HERNANDEZ: No. I mean, obviously,
 13 there will -- you know, just about anybody can argue
 14 that -- you know, a spot zoning case. I do not believe
 15 that anyone who challenges the action of this Board,
 16 should this Board adopt site-specific regulations for
 17 this property will have a successful spot zoning claim.
 18 So I'm very comfortable that you can go either way on
 19 this particular request, either approval or denial, and
 20 either one will be sufficient, for purposes of
 21 defending any claim.

22 CHAIRMAN KORGE: Well, on a typical
 23 Bert J. -- and I'm not really familiar with the Act,
 24 so I'm not talking with any knowledge, but on a typical
 25 Bert J. Harris, it would be for specific properties,

19

1 would it not, not for the whole community.

2 MS. HERNANDEZ: Correct.

3 CHAIRMAN KORGE: So when you change the
 4 zoning as a settlement for those particular properties,
 5 even if it were considered spot zoning, that's the only
 6 way you're going to settle, isn't it, or do you just
 7 pay money?

8 MR. COE: That's correct, Tom.

9 MS. HERNANDEZ: The City -- No, the City
 10 cannot -- The City -- No city can engage in spot
 11 zoning. Even if there's a Bert Harris claim, the City
 12 cannot, because it's a settlement, do something
 13 illegal. So if it were spot zoning -- if it were
 14 determined to be spot zoning, it would not withstand an
 15 appeal.

16 CHAIRMAN KORGE: Good. Then what would
 17 constitute spot zoning?

18 MS. HERNANDEZ: If -- Okay. The legal
 19 definition of spot zoning is when an area is zoned
 20 different from the surrounding areas and it is not
 21 consistent with the area -- the adjacent neighborhoods.
 22 This is not an issue of spot zoning, and I can provide
 23 you with a copy of cases that would explain it better.

24 MR. BEHAR: Does the fact that the adjacent
 25 property is zoned with the limitation of 35 feet and

20

1 these particular three properties are going to have an
 2 exception that it be allowed to go up to 45 feet,
 3 doesn't that create, by itself --

4 MS. HERNANDEZ: Again, it is not -- it is my
 5 opinion, as the City Attorney, that it is not spot
 6 zoning. And I believe that it is not an area that you
 7 should concern yourself with --

8 CHAIRMAN KORGE: Okay.

9 MS. HERNANDEZ: -- with regard to the issue
 10 of --

11 CHAIRMAN KORGE: Gotcha.

12 MS. HERNANDEZ: -- a zoning analysis.

13 CHAIRMAN KORGE: Okay.

14 MR. ECHEMENDIA: Can I add something,
 15 Mr. Chair? Spot zoning -- and Madam City Attorney is
 16 completely right, but spot zoning typically deals with
 17 just that, zoning. It's typically when you have
 18 residential surrounded by a sea of commercial, which
 19 would be a reverse spot zoning situation. You can't
 20 deny the rezoning from residential to commercial
 21 because you're surrounded by commercial, or otherwise,
 22 you have commercial surrounded by residential. That's
 23 a spot zoning situation.

24 A height between 45 and 35 feet doesn't even
 25 fall into the case law -- classic case law relative to

21

1 spot zoning.

2 CHAIRMAN KORGE: Okay.

3 MR. ECHEMENDIA: Moreover, if you balance a
4 possible claim, which doesn't apply, versus the
5 \$9,000,000 Bert J. Harris claim, I think you know where
6 you should land, or at least in our opinion.

7 CHAIRMAN KORGE: Okay. Then we're not
8 concerned with that. It's what Liz was telling us.

9 MS. HERNANDEZ: Correct.

10 CHAIRMAN KORGE: Thank you. Okay. But that
11 was helpful.

12 MR. ECHEMENDIA: Could we get a little --
13 Again, what one of the Commissioners was very adamant
14 about, you know, unfortunately, the Menoyos have been
15 put in this predicament, and to try to do this as least
16 expensively as possible -- you know, unfortunately, I
17 haven't been able to give Fernando my pro bono rate
18 just yet, but what we'd like to do is do this as least
19 painfully as possible. And to that end, we have
20 language which proposes the change to go back to what
21 it was. It's that simple.

22 So, with that, if you all could just
23 maybe -- maybe if we can engage the Planner, in terms
24 of what he's requesting and why, we would be hopeful
25 that it be as simple as going back to that language

22

1 that was there before.

2 MS. HERNANDEZ: Right. No, I -- I have to
3 object, first of all, I -- I have to, for the record,
4 because I am concerned that Mr. Echemendia is creating
5 a situation where an objecting party is going to
6 indicate that Mr. Echemendia inappropriately is
7 suggesting to you what Commissioners want. So please
8 disregard any statements that he says, "A Commissioner
9 is concerned that Mr. Menoyo was unfairly," or "A
10 Commissioner." That is irrelevant and really should
11 not be part of the discussion. This is purely a zoning
12 analysis, and I would recommend that we not deviate
13 from our standards, at all, because then I'm going to
14 be back in court with a totally different person, an
15 affected neighbor who is saying, "You're circumventing
16 your procedures for this particular property owner,"
17 so --

18 We have facilitated their opportunity to
19 come before this Board and I am recommending and
20 advising that this Board strictly follow its
21 procedures, which include giving the information needed
22 to the Planning Department. It's basic, you know.

23 MR. ECHEMENDIA: Fair enough. I apologize,
24 Madam City Attorney.

25 MS. HERNANDEZ: No, but you can't -- you've

23

1 go to be careful.

2 MR. ECHEMENDIA: No, no, I do apologize. I
3 was just trying to put it in context, so --

4 MS. HERNANDEZ: I know.

5 MR. ECHEMENDIA: -- I do step back from
6 those comments.

7 CHAIRMAN KORGE: Well, maybe Eric can tell
8 us what he needs, in order to make a recommendation to
9 us.

10 MR. RIEL: Well, I mean, it's kind of
11 difficult for me to tell you, within a five-minute --
12 you know, provide an understanding of what's required.
13 It includes the Building and Zoning Department, as well
14 as the Planning Department. We have corresponded with
15 the applicant. We've requested a minimum amount of
16 information, less than we typically request on a
17 preliminary zoning analysis. We just need the
18 information to provide this Board a recommendation.

19 MS. HERNANDEZ: Right.

20 MR. COE: And the information has not been
21 forthcoming from the applicant?

22 MS. HERNANDEZ: No.

23 MR. RIEL: The Building and Zoning
24 Department has responded and the applicant -- not the
25 applicant, the claimant has not provided the

24

1 information back to us, regarding some questions that
2 we have.

3 MR. COE: And is --

4 MR. DE LA FUENTE: Can I --

5 MR. COE: -- there a reason why the claimant
6 isn't doing it?

7 MR. DE LA FUENTE: For the record, Bob De La
8 Fuente, I'm Santiago's law partner, 1441 Brickell
9 Avenue.

10 I have to disagree with Mr. Riel because we
11 have even -- We have them here, the responses to
12 everything that they've asked. We've specifically
13 responded with exhibits and correspondence to the City,
14 and we had them hand-delivered, last week, within days
15 of when it was asked for, we've responded.

16 The last time that we responded, there was
17 no response back from the City, so we're a little bit
18 at a loss as to what else is required in order for them
19 to finish the review. If it's a matter of that they
20 didn't have enough time to review it, then that's one
21 thing. But in terms of providing the information and
22 the documents, we've done that.

23 MS. HERNANDEZ: And you believe that
24 whatever Ms. Salazar-Blanco requested you have complied
25 with?

1 MR. DE LA FUENTE: Correct. In fact, we --
 2 on September 25th, 2008, we e-mailed and hand-delivered
 3 this letter, here, and I can pass it up to you.
 4 It's --

5 MR. COE: Hold on. Hold on. We're getting
 6 far afield here. I don't think it's the function of
 7 the Board to decide whether or not the City has
 8 received sufficient information. It's at this -- The
 9 function of the Board, in my judgment, Mr. Chairman, is
 10 to decide whether not to grant the relief that's being
 11 requested.

12 MS. HERNANDEZ: Correct.

13 MR. COE: If the City is unsatisfied with
 14 what's been delivered to them, do you want the City to
 15 rely on what it has in making its opinions?

16 MR. ECHEMENDIA: No, Mr. Coe --
 17 I'm sorry, Bob.

18 -- I think what we'll do is, since we're
 19 not -- and as not to prolong the evening, we know you
 20 all need to go, we'll work diligently with --

21 MS. HERNANDEZ: With Martha.

22 MR. ECHEMENDIA: -- Liz, and Martha and
 23 City -- and the principal planner to reconcile that
 24 information, that they think they have not received
 25 between now and the 12th. So we'll work it out. We

1 just wanted to bring to your attention that there is a
 2 little bit of a debate going on between Bob and Eric as
 3 to whether we provided the information or not.

4 MR. COE: I suppose we could appoint a
 5 special master to go over everything.

6 MR. ECHEMENDIA: No, that's okay.

7 MS. HERNANDEZ: Bob, Bob.

8 MR. BEHAR: For the record, make sure you
 9 work with the Planning Director, not the principal
 10 planner, or with the Planning Director.

11 MR. ECHEMENDIA: That's what I meant.

12 MS. HERNANDEZ: Santiago, could you please
 13 introduce, then, the properties, you know, go through,
 14 so that the Board can provide any questions that they
 15 may have.

16 MR. ECHEMENDIA: Thank you, Liz. Yes,
 17 absolutely.

18 MR. DE LA FUENTE: Okay. Just very briefly,
 19 the two exhibits that are to your right will show you
 20 exactly what we're talking about. These are also
 21 included in your packet, that we've handed out to you.
 22 They're broken down into five different groups, and
 23 you'll see which these subject groups are.

24 A small clarification, if you look at Group
 25 3, we have not included the already built townhomes. I

1 don't know if you're familiar with the project that has
 2 already been built, but those already built townhomes
 3 are not part of this plan. So, basically, we start
 4 here, it goes along Anderson and then along Almeria,
 5 until here, all the way up to here, where Group 3 is.
 6 So all these properties are the subject of this claim
 7 where we see --

8 MR. COE: These are vacant properties? Is
 9 this vacant land?

10 MR. DE LA FUENTE: No.

11 MR. COE: Okay. There's already structures
 12 on that that you would demolish?

13 MR. DE LA FUENTE: Correct. Correct. And
 14 these are the properties where we seek the
 15 reinstatement of the original 45-foot height.

16 CHAIRMAN KORGE: But the properties in that
 17 gap area here --

18 MR. DE LA FUENTE: Not part of the claim.

19 CHAIRMAN KORGE: I understand. Are they
 20 already developed?

21 MR. DE LA FUENTE: They are already
 22 developed.

23 CHAIRMAN KORGE: And so you're not
 24 redeveloping them?

25 MR. DE LA FUENTE: No.

1 CHAIRMAN KORGE: What height are they to?

2 MR. DE LA FUENTE: Those are -- I would ask
 3 Mr. Menoyo to -- He's -- He's our client --

4 CHAIRMAN KORGE: Sure.

5 MR. DE LA FUENTE: -- and he's very familiar
 6 with these, so --

7 MS. HERNANDEZ: Has he been sworn in? Just
 8 to --

9 MR. DE LA FUENTE: I don't think --

10 MR. ECHEMENDIA: No.

11 MS. HERNANDEZ: Anybody that's going to
 12 testify needs to be sworn in.

13 CHAIRMAN KORGE: State your name and address
 14 for the record, then she will swear you in.

15 MR. MENOYO: Fernando Menoyo, 744 Biltmore
 16 Way.

17 MS. DE LA GUARDIA: Maria De La Guardia 2508
 18 Columbus Boulevard.

19 MR. VICTORIA: Teofilio Victoria, 2508
 20 Columbus Boulevard.

21 CHAIRMAN KORGE: Okay. Let's swear
 22 everybody in.

23 THE COURT REPORTER: Okay. Do you solemnly
 24 swear or affirm to tell the truth, the whole truth and
 25 nothing but the truth?

1 MS. DE LA GUARDIA: Yes.
 2 MR. VICTORIA: Yes.
 3 CHAIRMAN KORGE: Thank you.
 4 Now, I guess the question was, in that --
 5 that gap area there, I can't read the lot numbers. On
 6 Almeria, between the two areas to be developed, what
 7 are the heights of the current structures that are
 8 already developed on those lots?
 9 MR. MENOYO: Correct. This is a project
 10 that was built maybe -- a townhouse project that was
 11 built about 30 years ago. It's four stories. There
 12 are sections of this project that face Almeria, that
 13 are four stories high.
 14 CHAIRMAN KORGE: Just out of -- They're
 15 about 45 feet or --
 16 MR. MENOYO: Over 45 feet --
 17 CHAIRMAN KORGE: Over 45.
 18 MR. MENOYO: Ours are 45 feet, that we're
 19 supposed to have, are limited to three stories. We're
 20 limited to three stories and we're not arguing that
 21 limitation.
 22 CHAIRMAN KORGE: Right.
 23 MR. MENOYO: Yeah, before the -- before the
 24 townhouse ordinance, we had 50 feet in heights.
 25 CHAIRMAN KORGE: Okay. But you see what I'm

1 asking about. It's -- So it would be --
 2 MR. MENOYO: Yeah. This is -- This is
 3 50 feet. This is another condominium here, and this is
 4 a historic property.
 5 CHAIRMAN KORGE: How tall is the condo?
 6 MR. MENOYO: I'm not sure about this one.
 7 CHAIRMAN KORGE: Right. Okay.
 8 MR. MENOYO: I'm not sure about this one.
 9 These are townhomes.
 10 CHAIRMAN KORGE: Townhomes. Okay.
 11 MR. MENOYO: All this, this is high density.
 12 This is the Biltmore 2, the David William is here.
 13 CHAIRMAN KORGE: You're referring to -- Is
 14 that Block 10, there?
 15 MR. MENOYO: Yes.
 16 CHAIRMAN KORGE: And how -- I'm sorry.
 17 Block 10 is the David William Hotel?
 18 MR. MENOYO: That is correct.
 19 CHAIRMAN KORGE: Okay. Now I see, yeah.
 20 MR. MENOYO: This is the Valencia Grand,
 21 that building that was recently built.
 22 CHAIRMAN KORGE: Right.
 23 MR. MENOYO: All this, this little area, is
 24 a multi-unit area, very small, within the residential
 25 area, and our properties are the buffer between the

1 higher -- the higher buildings in the back and the
 2 single family homes.
 3 CHAIRMAN KORGE: Right. I see.
 4 MR. MENOYO: And prior to the moratorium, we
 5 came up to see -- Because I -- Thirty years ago I met
 6 with John Little. John Little used to have Dennis
 7 Smith's job here, in the City. I was 24 years old
 8 then, and I had just arrived from -- I had gone to
 9 school up in Ithaca, New York, at Cornell. I landed a
 10 job with GE, and when I came here, I decided this was
 11 going to be my home.
 12 I met with John Little. He gave me a copy
 13 of the zoning map. And ever since, we -- my partners
 14 and I have been investing in this area, land banking,
 15 carrying negative cash flows in all of our buildings,
 16 trying to upkeep them and having beautiful properties,
 17 which I believe people are aware of.
 18 And, uh -- When we -- Finally, when we
 19 decided to take advantage of our land, we came up to
 20 see Dennis Smith, and he steered us in the way of the
 21 townhomes. What we presented to him, at that time, was
 22 a condominium project that was 50-feet tall, what we
 23 were allowed to build then, with ground parking,
 24 50-feet tall, four stories high. Dennis Smith
 25 suggested that -- that a townhouse typology would be a

1 better structure as a buffer between the buildings in
 2 the back and the single family homes in the front.
 3 So we got our architects involved, we got
 4 our attorney involved. We spent thousands of dollars
 5 helping the City develop a good ordinance for this --
 6 for this land. As a matter of fact, we made
 7 suggestions that were really working -- that worked
 8 against us, such as making sure that all the garages
 9 would be in the alleyways in the back, not in the
 10 front, that the main doors would face the street, a
 11 whole series of improvements that we suggested for the
 12 ordinance. And we got our -- What everyone, at that
 13 time, agreed was the correct height, 45 feet. Then,
 14 about three months prior to the passing of this
 15 ordinance, in January of 2006, right?
 16 MR. DE LA FUENTE: Seven.
 17 MR. MENOYO: 2007, this change was made. We
 18 were never told about the change. Even though we had
 19 been involved with the City, spending our money, our
 20 time to work with the City, we were never told about
 21 the change, not until we submitted our plans for a
 22 different project. Almeria was our first project, that
 23 we limited to two stories because we had never
 24 developed in this City, and we wanted to be
 25 conservative, but we wanted to have our right to go to

1 three stories, and we never relinquished our right. We
2 never wanted to relinquish our right.

3 Last year we submitted plans to develop
4 another beautiful project, Beatrice Row, and when we
5 submitted our papers, the City came back to us to tell
6 us that we couldn't go the 45 feet. And we said,
7 "What? Why not?" And then they told, "Well, we made
8 this change." Two months before the final ordi -- You
9 know, the whole rewrite was passed, unbeknownst to us.

10 And we had to rush, hire attorneys, spend
11 another I don't know how many thousands of dollars
12 trying to -- You know, this effort, for a person like
13 me, that I've been here, trying to make a livelihood,
14 for 30 years, trying to do what's right for the City,
15 something like this can put us under. And I don't know
16 if the City is aware of that. This effort, the
17 thousands of dollars that were spent, the way the City
18 has put us in this position, can make us go broke.
19 It's very unfair.

20 CHAIRMAN KORGE: Thank you very much.

21 MR. DE LA FUENTE: Mr. Chair, I believe
22 where Mr. Menoyo was also going with this was trying to
23 explain to you how the original height, that was
24 45 feet, is, in fact, a better planning decision and
25 how that's a more appropriate transition between the

1 taller buildings that are in back of or near his
2 properties, and the single family that's limited to 29
3 feet.

4 If you look at Exhibit C in the handout that
5 we provided, it shows you what the permissible heights
6 are in the properties that are surrounding this
7 property. So we have provided that information, so you
8 have that before you, that shows you why it's logical
9 to have 45 feet rather than 35 feet. In fact, I would
10 like to ask the architects to come and explain to
11 you -- we've prepared a couple of exhibits here, so you
12 can see for yourselves how, from a transition
13 perspective, it makes better sense to have a 45-foot
14 height limit for these properties, rather than 35 feet.

15 MR. COE: Mr. Chairman, before they go
16 into this, I'm going to ask Mr. Riel a question. What
17 we're talking about here was simply part of the master
18 plan redone from last year, when it cropped the heights
19 down, that's what we're talking about, correct?

20 MR. RIEL: What has happened, to do a brief
21 two-minute overview, the Commission enacted a
22 moratorium, 120-day moratorium to do a special study,
23 the area of Biltmore Way, LeJeune, Bird Road, Granada.
24 Special regulations came up, and they're called MFSA.
25 They were included as part of the rewrite of the Zoning

1 Code.

2 During the finalization of the Code, in
3 October, the Commission asked us to look at properties
4 that are adjacent to single family. If you recall, the
5 shadow studies we did on the duplexes, and all the
6 other studies. They asked us to look at all properties
7 adjacent to single family, which is the subject
8 property. It was reduced, by the Commission, 35 feet
9 for the first 50 feet, and then the remaining portion
10 of the property can be 45 feet.

11 They asked that the definition of adjacent,
12 abutting and contiguous basically be the same.

13 MS. SALMAN: That's the problem.

14 MR. RIEL: And that's the issue.

15 MR. SALMAN: That's the problem.

16 MR. RIEL: And, again, it was a subject of
17 further study as a part the rewrite. The Commission
18 actually referred it back to this Board, with a number
19 of other issues. It went back to the Commission,
20 again, on first reading, and then it was ultimately
21 adopted.

22 MR. COE: And the claimant never got notice?

23 MR. RIEL: I am not -- I mean, we do not
24 send out a notice to every property owner within the
25 City for each public hearing.

1 CHAIRMAN KORGE: But it was -- It was a
2 complete Code rewrite.

3 MR. RIEL: It was a complete Code rewrite.
4 I mean --

5 MR. COE: Ultimately, it was a complete
6 Code -- Well, everybody had notice of the complete Code
7 rewrite.

8 MR. RIEL: I mean, we had an e-mail
9 subscription list.

10 MR. COE: Right.

11 MR. RIEL: We did as much public outreach,
12 you know, as -- we had 56 meetings to the total
13 process.

14 MR. SALMAN: I know Mr. Menoyo because he's
15 been -- when I was on the Board of Adjustment, he came
16 for the original project, and there were some issues
17 there. I remember Dennis presenting, for that
18 particular Board, for those initial Almeria townhouse
19 project, and he's a person who's actually fairly aware
20 of what the City was doing. So if he didn't know about
21 it, it's possible that it wasn't -- it wasn't clear.

22 Likewise, I think that part of the problem
23 here is one of the definition of adjacency. When we
24 extend adjacency to be across the street, that's where
25 we're getting into this particular problem. Where we

1 have a house across the street from a townhouse, we're
 2 now limiting it to the 29 feet, when I think the intent
 3 was if we had a house next to a townhouse on the same
 4 block or the adjacency was along a common property
 5 line, as opposed to across the street.

6 CHAIRMAN KORGE: Or divided by an alleyway.

7 MR. SALMAN: Or divided by an alleyway, then
 8 perhaps the -- the application of that limitation is
 9 really what has led us to where we are today, with
 10 Mr. Menoyo, to get to the nut of the situation.

11 CHAIRMAN KORGE: That is. But I don't
 12 remember why we ended up merging all those definitions
 13 into one.

14 MR. RIEL: Because their height was reduced
 15 to 29 feet for single family, and the shadow studies
 16 that we did, and I remember this Power Point, you know,
 17 vividly, we did discuss the terminology of adjacent,
 18 abutting and contiguous. And it was originally Staff's
 19 recommendation, to be a little bit more lenient.
 20 However, the Commission, when they looked at all the
 21 property surrounding single family, as a transitional
 22 use, they suggested that abutting, contiguous, adjacent
 23 all be the same thing, no matter if it was by an alley,
 24 a street or right up against single family.

25 CHAIRMAN KORGE: You know, if memory serves

1 me right, the Board didn't originally think that was
 2 necessary and it came back to us from the Commission.
 3 MR. RIEL: I know -- No, when the Commission
 4 referred all the issues back to the Board. It was
 5 about 10 or 15. I'm not sure what the recommendation
 6 of the Board was.

7 CHAIRMAN KORGE: I guess what I'm asking,
 8 didn't we originally pass it at 45, across the street?

9 MR. RIEL: Yes.

10 CHAIRMAN KORGE: Yeah. So they sent it back
 11 and said, "We want to change it."

12 MR. RIEL: Right, they asked for an
 13 additional study be completed.

14 CHAIRMAN: Right.

15 MR. RIEL: And that's when we did additional
 16 shadow studies and additional --

17 MR. ECHEMENDIA: Tom, if I may, one
 18 comment. I think -- Thank you, Eric, because that's
 19 precisely the issue. What we're suggesting --
 20 Remember, this was a global rewrite, where there was a
 21 lot of stuff in front of Commission, relative to the
 22 entire City. So I think what we're suggesting is, this
 23 is a refinement relative to these properties that
 24 really got lumped into everything.

25 MR. BEHAR: But, you know, and that's my

1 problem. And in principle, I agree with the concept.
 2 My problem is that we're only picking a certain number
 3 of properties to modify, and that's not -- We may have
 4 to go back and look at the whole global changed, we did
 5 before, and maybe identify --

6 MR. SALMAN: That's precisely right.

7 MR. BEHAR: You know, I cannot -- I -- I --
 8 I feel -- I'm very uncomfortable, looking at three
 9 pieces of property and just -- And I agree, that
 10 perhaps 45 feet was a better -- You know, the way we
 11 had it was a better alternative, but to go back and
 12 pick three properties and do this, I don't feel
 13 comfortable doing that.

14 MR. ECHEMENDIA: What we could do -- What I
 15 was suggest, because we were -- we're certainly not
 16 adverse to that, but let me posit at the following.
 17 We're the only Bert J. Harris claim that emanated from
 18 the rewrite. We basically filed on the last day.
 19 Nobody else could file a Bert J. claim. So what we're
 20 suggesting is, treat us pursuant to the Bert J. claim,
 21 correct this inordinate burden, and then you can go on
 22 and legislatively correct whatever else you need to do.

23 CHAIRMAN KORGE: That makes more sense to
 24 me, too, because this particular area, I mean, it's
 25 not -- it wasn't -- The idea of 45 feet wasn't so

1 offensive to us, originally, as the Board -- the
 2 then-constituted Board, to bring it down automatically,
 3 when it became back to us from the Commission, so it
 4 wasn't some clear-cut problem. I would prefer to deal
 5 with specific first, and then look at the global, you
 6 know, overall, City-wide, because there are other areas
 7 that it might -- you know, that were in the 35 feet. I
 8 mean, I don't know that I'm anxious to change
 9 everything just because of one problem property.

10 So I would be willing, myself, to look at
 11 this one property, in that location, bearing in mind
 12 the other properties surrounding it, you know, hear
 13 from any neighbors that want to object, if they have
 14 any objections, and treat it like a site-specific
 15 change, and then the Commission will do whatever it
 16 wants to do. But I think what they're seen -- sending
 17 it back to us for is to make a determination whether in
 18 this area, dealing with it on a site-specific basis,
 19 this would be otherwise acceptable to the Board under
 20 whatever conditions, you know, might normally be
 21 negotiated in a site-specific zoning change. So, I
 22 mean, that doesn't bother me, to do it'sitself just
 23 for this -- this site-specific area. I mean, it really
 24 makes more sense than for us to then go back and talk
 25 about doing the whole City-wide -- a City-wide change.

1 MR. COE: Mr. Chairman, could we clarify
 2 what we're doing this evening? I -- I think we're --
 3 All we're doing is giving Staff input on what we want?

4 MS. HERNANDEZ: Right.

5 MR. COE: That's all we're doing? And then
 6 Staff is going to come back, at some point, when it
 7 receives all of the information they claim they do not
 8 have, from the claimant, and then Staff would make some
 9 recommendation. That's the drill tonight, right?

10 MR. RIEL: That's correct.

11 MR. COE: I don't know if we can do anything
 12 else.

13 CHAIRMAN KORGE: No, we're not doing
 14 anything else. But, I mean, one of the suggestions
 15 that's been made by a couple of Board members is,
 16 they'd rather look at it on a City-wide basis, which
 17 is --

18 MR. COE: Well, I -- I -- The problem --

19 CHAIRMAN KORGE: -- materially -- Let me
 20 finish. That's a materially different task than the
 21 site-specific changes that have been requested.

22 MR. COE: From what I understand, this is a
 23 unique situation. So assuming that is correct, there
 24 isn't any other parcels to look at and there's no
 25 reason to go beyond this unique exception, this unique

1 problem that we have.

2 Is that the claimant's position, as well?
 3 MR. ECHEMENDIA: We don't disagree with
 4 that, Mr. Coe. That's not to say I don't disagree with
 5 Mr. Behar, that there could conceivably be others
 6 that -- that somebody could take the position, also,
 7 would be justified at 45 feet, that could be looked at,
 8 at some other point --

9 MS. HERNANDEZ: Right.

10 MR. ECHEMENDIA: -- we're not suggesting it
 11 be commingled with this. We do agree with you,
 12 Mr. Coe.

13 CHAIRMAN KORGE: And -- And more to that
 14 point, there are no other Bert J. Harris claims filed.

15 MR. ECHEMENDIA: That's correct.

16 CHAIRMAN KORGE: So, you know, if we deal
 17 with this one, we're not prejudicing other people.

18 MR. COE: Correct. That's why I don't think
 19 we should get far afield. Let's limit it to this
 20 particular, unique parcel.

21 MR. VICTORIA: If I may, there's
 22 another consideration which I think is very
 23 important.

24 MR. ECHEMENDIA: State your name for the
 25 record, please.

1 MR. VICTORIA: Teofilio Victoria, principal
 2 at De La Guardia Victoria Architects and Urbanists.

3 And it is that this is -- It's the
 4 properties, yes, and I understand the concerns with
 5 respect to the property, but it's also a particular
 6 building type. I mean, it's a fee simple townhouse,
 7 which is a new -- a new -- It's a -- It's a -- It's a
 8 new housing product in the City of Coral Gables, and it
 9 is very limited, where it can actually be built, and it
 10 has a great deal of limitations. In fact, this, the
 11 return of the fee simple townhouse to the downtown of
 12 Coral Gables, the City center of Coral Gables, was a
 13 happy -- a happy working relationship between the City,
 14 developers and architects.

15 And, indeed, after the moratorium, we were
 16 able to, I think, arrive at what was -- what is an
 17 innovative and, indeed, new zoning condition for not
 18 just the City of Coral Gables but, to a certain extent,
 19 for the -- for the -- for the whole of Dade County. In
 20 fact, the Coral Gables Zoning Ordinance, with respect
 21 to the townhouse has been adopted by a number of
 22 municipalities in the County.

23 So we're looking at a very particular type
 24 of building that's not a condominium, it's not an
 25 apartment building, but rather something different,

1 that has its own constraints and limitations. And in
 2 our two-year work with the City, to develop this
 3 ordinance, we arrive at specific dimensions, setbacks,
 4 building heights, and general characteristics.

5 And the building height, I think we need to
 6 remember, is actually less than it was prior to this --
 7 the incorporation of this building type, of this new
 8 building type, as well as density. It was -- So it
 9 achieved what the City was after, which was a
 10 mitigating intermediary building type, between the
 11 larger mid-rise apartment building, in some instances
 12 highrise apartment buildings, and the single family
 13 units, residential across Anderson, in one instance,
 14 across Almeria.

15 And for the architect, of course, it was an
 16 interesting opportunity to build this building type
 17 that has -- that is prevalent throughout American
 18 cities, New York City, you might remember, Boston. Of
 19 course, in Europe, this building is prevalent and very
 20 pertinent to our situation, today, of building proper,
 21 domestic housing types for city centers. So that
 22 needs to be --

23 What I'm trying to point out and remind you
 24 is that one needs to consider is that this not -- this
 25 is a different type of building, and we arrived at the

1 45-foot height dimension because it seemed to be the
 2 one that worked. We didn't need 50, but we needed 45.
 3 The owner, the developers ended up building up to 35
 4 feet, but this doesn't mean that the townhouse works
 5 best at those dimensions. In fact, it works best at
 6 the 45-foot dimension.

7 CHAIRMAN KORGE: Okay. Thank you. Anything
 8 else from the Board?

9 MS. DE LA GUARDIA: I think that one of the
 10 things that you can see in these diagrams is that when
 11 the townhouse happens across the street from the single
 12 family residence, you --

13 Okay. Maria De La Guardia, principal, De La
 14 Guardia Victoria Architects.

15 So when the townhouse occurs across the
 16 street versus next door or -- or -- or across an alley,
 17 you have this whole area, you know, you have the whole
 18 parkway, the whole right away that also acts as a
 19 buffer between -- between the two. In this case, we
 20 have, you know, two -- two parkways, the street, the
 21 sidewalk, two parkways, the street, the sidewalk and
 22 the setbacks that separate these two buildings.

23 And, you know, when we look at the
 24 transition of heights that we're going to, from 29 to
 25 45, in this case, the Valencia Royal, which is, I think

1 is at about 106, more or less. I mean, we're worried
 2 about the shadows in the single family residence, but
 3 what about the shadows into the townhouse? I mean,
 4 they, you know -- I think 45 feet acts more as a
 5 transition than the 35 feet. If I can go to our
 6 potential candidates, 35 feet is more of the same. The
 7 difference between 29 and 35 feet is not truly a
 8 transition to the taller buildings. So, I think,
 9 formally, if you look at the City, the 45 feet is
 10 more -- is a better transition to what is, in some
 11 cases, high density and in other cases mid density.

12 CHAIRMAN KORGE: Thank you. So where are
 13 we? I mean --

14 MR. BEHAR: Well, let's then -- Eric, why
 15 don't you put together what you think is going to be
 16 sufficient material, that needs to be submitted to
 17 you --

18 CHAIRMAN KORGE: To make a recommendation.

19 MR. BEHAR: To make a recommendation.

20 Whatever you think is necessary, that's what you've got
 21 to submit to the applicant.

22 MR. RIEL: Especially in the Building and
 23 Zoning and the Planning.

24 MR. BEHAR: Absolutely.

25 MS. KEON: Right. And to make sure, then,

1 if you will include the shadowing and the distances
 2 from the single family homes --

3 MR. SALMAN: What shadow? They're on the
 4 north side of the street. They're never going to cast
 5 a shadow on the south.

6 MS. KEON: But it isn't just for those. I
 7 mean, I have a bigger concern also that maybe this an
 8 area that you should look at with respect to the Zoning
 9 Code. You know, I mean, and I think it's better if
 10 you're going to do it, we ought to go back and look at
 11 it, also.

12 MR. SALMAN: We have -- We have a different
 13 issue with the Zoning Code. And the problem is one of
 14 adjacency, and that's, I think, what the problem is.

15 MS. KEON: Well, but that's what I'm asking
 16 you. I think when it's not adjacent and it's not
 17 abutting, but when they define it, I think it should be
 18 defined more with regard to shadowing than just its
 19 proximity to a particular -- the proximity of buildings
 20 to one another. It's the effect that the buildings
 21 have on one another, and not just that they're there.
 22 So I think that I'd like to see that information so
 23 that we can --

24 MR. SALMAN: That's a separate issue.

25 MS. KEON: Right.

1 MR. SALMAN: That's a separate issue.

2 CHAIRMAN KORGE: Right.

3 MR. SALMAN: I think that's a direction we
 4 should give to Staff with regards to the unintended
 5 consequence --

6 MS. KEON: Right.

7 MR. SALMAN: -- to some of these -- some of
 8 these definitions. Especially the one where
 9 adjacency's across the street --

10 CHAIRMAN KORGE: Right, but again --

11 MR. SALMAN: But that's a separate issue.
 12 Just come back to us with the recommendations for --

13 CHAIRMAN KORGE: Exactly.

14 MR. SALMAN: -- for three properties, so
 15 that we can make a decision.

16 MR. RIEL: I'll come back with a
 17 recommendation based on Building and Zoning input,
 18 compliance with the Comp Plan and the Zoning Code.

19 MS. KEON: But I'd like to see that
 20 information because I'd like the basis for whatever
 21 that recommendation is. And I think that that's an
 22 element that should be part of the basis --

23 MR. RIEL: I understand that

24 responsibility --

25 MS. KEON: Yeah.

1 MR. RIEL: -- and we'll provide that
2 recommendation.

3 MR. BEHAR: Just to -- to clarify, for the
4 applicant, when do you feel that you will have the wish
5 list or the necessary tools for you to make --
6 submitted by the applicant? Do you think that sometime
7 next week that will be ready?

8 MR. RIEL: I can't answer that, because I do
9 not -- I do not supervise the Building and Zoning
10 Department. They're responsible for the preliminary
11 zoning analysis. I mean, I rely on them. They
12 interpret the Zoning Code. They need to feel
13 comfortable with the information they've received to
14 provide input to the Planning Department, and then
15 we'll come forward. You know, I can't guarantee you
16 next week.

17 MR. SALMAN: That's where you're going to
18 run afoul, because they're going to provide you an
19 interpretation based on the definitions as they are
20 provided in the code, and that's where you're going to
21 run afoul. Okay. That's the way it's going to happen,
22 so just get it to us and then we'll make a decision,
23 one way or the other.

24 MR. RIEL: When I am able to make a
25 decision, I will provide --

1 MR. BEHAR: Okay. Fair enough. We'll leave
2 it up to you.

3 MR. SALMAN: We'll leave it up to you.
4 MR. BEHAR: Fair enough.

5 MR. ECHEMENDIA: Thank you, Mr. Chairman. I
6 think -- Are we then continued to November 12th, after
7 a motion and hopefully a second and --

8 MR. COE: Yes.
9 CHAIRMAN KORGE: Is there a motion to
10 continue to the November 12th meeting?

11 MR. SALMAN: Motion.

12 MR. BEHAR: Second.

13 MR. COE: Second.

14 CHAIRMAN KORGE: Moved and seconded. Any
15 discussion?

16 MR. COE: Call the question.

17 CHAIRMAN KORGE: Call the question, please.

18 MS. MENENDEZ: Jeffrey Flanagan.

19 MR. FLANAGAN: 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: Jack Coe.

2 MR. COE: Yes.

3 MS. MENENDEZ: Tom Korge.

4 CHAIRMAN KORGE: Yes.

5 MR. ECHEMENDIA: Thank you so much. We know
6 we're going to be able to work this out.

7 CHAIRMAN KORGE: Hopefully we'll see you in
8 November.

9 The last -- Is this the last item on the
10 agenda, the amendment to the City Code?

11 MR. RIEL: Yes. This is a -- a discussion
12 item. It's under the Planning Director's item.

13 This is an item -- It's actually an
14 ordinance for a text amendment to the City Code. As
15 you know, the Planning and Zoning Board is responsible
16 for the Zoning Code, in terms of text amendments. The
17 ordinance was presented to the City Commission. It's
18 relative to the parking requirements that are in the
19 City Code.

20 As part of the discussion, when I went to
21 the Commission, initially, I believe, about two months
22 ago, the Commission asked that the Parking Director
23 come to the Planning Board for their input regarding
24 the changes in the City Code. So we're looking for
25 recommendations, suggestions, modification to the Code,

1 that will go to Parking Director, the Parking Director
2 will make a recommendation to the City Commission, and
3 the City Commission will take your comments under
4 advisement and recommendations.

5 With that, I'll turn it over to the Parking
6 Director, Mr. Kinney.

7 MR. KINNEY: Mr. Chairman, Kevin Kinney, the
8 Parking Director here, in Coral Gables. As Eric
9 explained, I did a rewrite of the Parking Code, which
10 hadn't been touched for about 50 years, and made some
11 significant changes. And one of those changes
12 generated significant discussion at the Commission
13 level. And the end result of that was that -- present
14 that section to you, and get your comments, and see
15 where we're going to go with that.

16 The specific issue relates to Section 5 in
17 the -- in the proposed code that was distributed to
18 you. It's called a Parking Replacement Assessment. It
19 has two key components. The first component deals with
20 loss of on-street parking.

21 Currently, how the City handles loss of
22 on-street parking is, if a development causes the loss
23 of on-street parking, I calculate the lost revenue, and
24 there's an annual payment for that lost revenue, in
25 perpetuity. In other words, the focus is on getting

CITY OF CORAL GABLES, FLORIDA**ORDINANCE NO. O-2004-16**

AN ORDINANCE OF THE CITY OF CORAL ESTABLISHING A 120-DAY MORATORIUM, PURSUANT TO THE PROVISIONS OF ARTICLE 10 OF THE ZONING CODE, ON THE ISSUANCE OF BUILDING PERMITS FOR NEW BUILDINGS WITH A PROPOSED HEIGHT, OR TO INCREASE THE HEIGHT OF EXISTING BUILDINGS, IN EXCESS OF THREE AND ONE HALF (3 ½) STORIES OR FORTY-FIVE (45) FEET IN HEIGHT FOR THAT AREA BOUNDED ON THE NORTH BY BILTMORE WAY, ON THE EAST BY LEJEUNE ROAD, ON THE SOUTH BY BIRD ROAD AND ON THE WEST BY GRANADA BOULEVARD; PROVIDING PROCEDURES FOR WAIVERS, VESTED RIGHTS AND JUDICIAL REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICTS; PROVIDING FOR A TERM; AND PROVIDING FOR AND EFFECTIVE DATE.

WHEREAS, the City of Coral Gables single family residential areas in many instances abut multifamily or commercial zones which could, potentially, if developed allow for buildings with might exceed three and one half (3 ½) stories or forty five (45) feet in height; and while the Zoning Code provides certain measures for relief to prevent large commercial or multi-family developments which directly abut or face single family residential districts, there is a concern that certain zoning districts may be detrimental to the area should they continue to remain applicable; and,

WHEREAS, the City Commission wishes to preserve the quality of the residential areas of the City; and

WHEREAS, in response to increased concerns over the application of the existing provisions of the City's Zoning Code; the City Commission has determined that there is a need to study the area from a development standpoint and pursue alternatives

for reducing the potential impact to surrounding single family areas which could include one or more of the following planning and zoning principles to mitigate potential impacts: establishment of development appropriate architectural and conservation districts, incentive zoning overlay districts, transfer of development rights or other innovative planning tools; and,

WHEREAS, the City Commission hereby directs the Manager to prepare a zoning analysis of the area which is bounded on the North by Biltnore Way, on the east by Lejeune Road, on the south by Bird Road and on the west by Granada Boulevard ("Study Area") and further to initiate outreach to the citizens of Coral Gables as well as the affected property owners and to receive input from the public, consider and evaluate said input and report to the City Commission; and,

WHEREAS, the City Commission anticipates such a zoning analysis within 60 days for presentation to the City Commission on April 27, 2004, and further anticipates a study of the area to determine which, if any, zoning incentives need to be adopted and imposed in order to preserve the quality of the residential areas and in particular of the Study Area, within 120 days of the effective date of the ordinance; and,

WHEREAS, the City shall further participate in public workshops and shall prepare a report and recommendation to the Planning and Zoning Board, which shall, in turn, hold a public hearing to consider and evaluate the findings and recommendations of the City, and the Planning and Zoning Board shall provide recommendations to the City Commission, including proposed amendments to the Zoning Code for consideration by the City Commission; and,

WHEREAS, the City Commission (1) finds that the existing provisions of the Zoning Code which allow the issuance of building permits for buildings exceeding three and one half (3 ½) stories or forty five (45) feet in height and in particular site specific regulations Article 4, and Zoning Code Articles 3-4 (m) and 3-6 (r) will have a detrimental impact to the properties in Residential Zoning Districts, and (2) further finds that it is in the public interest to make a comprehensive determination on the applicability of the present Zoning provisions and amend those regulations as appropriate; and,

WHEREAS, the City Commission has determined that delaying the application of the existing zoning provisions will provide time for the study and adoption of amendments to the Zoning Code; and,

WHEREAS, after due notice and hearing, the City Commission held a public hearing at which public input and testimony was received and after careful consideration hereby determines that it is in the best interests of the general welfare of the City of Coral Gables and its citizens to impose a temporary moratorium on the issuance of certain permits for new buildings, or to increase the height of existing buildings, in the Study Area, which are in excess of forty-five (45) feet in height or over three and one half (3 1/2) stories in height for the specified study area, as hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF
THE CITY OF CORAL GABLES AS FOLLOWS:**

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. During the time that this Ordinance is in effect as specified in Section 7 below, there shall be a moratorium on the issuance of permits for new

buildings, or increase the height of existing buildings, in excess of forty-five (45) feet or Three and one-half (3 1/2) stories in height, which are to be located in the area bounded on the North by Biltmore Way, on the east by Lejeune Road, on the South by Bird Road and on the west by Granada Boulevard ("Study Area"). The provisions of this ordinance shall not apply to a development which has filed an application with the Board of Architects on or before March 10, 2004.

SECTION 3. This moratorium shall apply solely to applications for building permits to erect new buildings or increase the height of existing buildings as described herein within the said Study Area.

SECTION 4. The City Commission, after a public hearing, may grant a waiver to the suspension provided above and authorize the Building and Zoning Department and Board of Architects, based on substantial competent evidence, that the specific request and application will not detrimentally affect the preparation and implementation of incentive zoning measures or conservation districts and will be compatible with surrounding land uses, and will not impair the public health, safety or welfare. The public hearing shall be advertised at least seven days prior to hearing in a local newspaper of general circulation. The grant of a waiver shall be by resolution. The applicant shall be responsible for the application fee and any other standard fees and requirements for a public hearing.

SECTION 5.

(A) Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to develop or utilize their property in any other

way commensurate with zoning and other regulations, including any required renewal of permits for existing legally erected structures.

(B) Any property owner claiming vested rights or denial of all use under this section must file an application with the City Commission for a determination within 30 days after the effective date of this Ordinance. The application shall be accompanied by an application fee of \$1,500.00 and contain a sworn statement as to the basis upon which the vested rights or denial of all use are asserted, together with documentation required by the City and other documentary evidence supporting the claim. The City Commission shall hold a public hearing on the application and, based upon the competent substantial evidence submitted, shall make a determination as to whether the property owner has established vested rights or a lack of all economic use for the parcel.

SECTION 6. Judicial Review. Judicial review of final decisions of the City Commission under Sections 4 and 5 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of quasi-judicial decisions of municipalities.

SECTION 7. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance, as applied, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court unless they have first exhausted the applicable administrative remedies provided in this Ordinance.

SECTION 8. Conflicts. All Sections or parts of Sections of the City's Codes and Regulations, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 9. Term. The moratorium imposed by this Ordinance is temporary and, unless repealed earlier by the City Commission, shall automatically dissolve one hundred and twenty (120) days from the effective date of this Ordinance, whichever first occurs. This moratorium, may be reasonably extended, if necessary, by Ordinance of the City Commission.

SECTION 10. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 11. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of Coral Gables, Florida, as amended, which provisions may be renumbered or relettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 12 This ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS TWENTY THIRD DAY OF MARCH, A.D.,
2004.

(Moved: Cabrera/Seconded: Anderson)
(Yea: Withers, Anderson, Cabrera, Kerdyk, Slesnick)
(Agenda Item E-4)



DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY