

**City of Coral Gables City Commission Meeting
Commission Chambers
Agenda Items 2-2 and 2-3
October 27, 2020
405 Biltmore Way, Coral Gables, FL**

City Commission

**Mayor Raul Valdes-Fauli
Vice Mayor Vince Lago
Commissioner Jorge Fors, Jr.
Commissioner Pat Keon
Commissioner Michael Mena**

City Staff

**City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Billy Urquia
Development Services Director, Suramy Cabrera
Police Chief, Ed Hudak
Public Works Director, Hermes Diaz
Interim Historic Preservation Officer, Kara Kautz
Assistant City Attorney, Naomi Levi Garcia**

Public Speaker(s)

Ariel Fernandez

Agenda Items 2-2 and 2-3 [11:10 a.m.]

2-2: A Resolution of the Coral Gables School Community Relations Committee requesting that the City Commission reconsider the approval of the WAWA Project located at 280 South Dixie Highway, Coral Gables, FL 33133 and open up a truthful public comment period, which was not offered in the first place, so that all stakeholders in this process are able to voice their concerns and a decision can be made that takes everybody into consideration. (Yays: 7 Nays: 1 Absent: 1)

2-3: A Resolution of the Coral Gables School Community Relations Committee requesting that the City Commission make a decision to refer future development projects that affect Coral Gables schools to the Committee, in order to provide notification to the Committee, so that the Committee can bring it up to parents, so that everybody is aware of these projects going forward (Unanimously approved)

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*Agenda Items 2.2 and 2.3 are related – Resolution of the SCRC requesting
That the City Commission reconsider the approval of the WAWA Project*

Mayor Valdes-Fauli: 2-2 – Resolution of the Coral Gables School Community Relations Committee requesting that the City Commission reconsider the approval of the WAWA Project located at 280 South Dixie Highway, Coral Gables, and open up a truthful public comment period which was not offered in the first place, so that all stakeholders in this process are able to voice their concerns and a decision can be made, it takes everybody into consideration. Madam City Attorney.

City Attorney Ramos: Yes sir. This is a resolution of a lower board asking the Commission to take action. The Commission is not compelled to take action, but certainly can, if you wish to do so. With that, I will take this opportunity to address the WAWA development, the Bahamian Village site and a lot of the comments that were made earlier this morning during the open public comment section. First, I'd like to make clear that the comments that were heard this morning do not constitute and were not a public hearing. 2-79 of the City Code sets forth public comment separately than public hearings, they are numerated separately in that section. The City Commission is not taking any action relating to the approval of this project. Furthermore, the City Commission is not sitting in a quasi-judicial capacity where public hearings would be held. And lastly, the individuals were not sworn in. So, for the record, and given the terms of the settlement agreement, I want to make it abundantly clear that legally what occurred this morning was simply a number of people addressing the Commission during the public comment portion of the meeting and does not constitute a public hearing. With that, I'd like to make known that the site at issue here is privately owned by Bahamian Village LLC. The City cannot dictate what is built on that site as long as it is consistent with the zoning and land use for that site. That site is zoned commercial/commercial limited, and I'll get more into that in one minute. In September of 2014, the City Commission approved a planned area development and a site plan for a two-phased project. At that time, notice was mailed, and public hearings were held. As I mentioned, the site is zoned commercial/commercial limited. However, in January of 2006, a unity of title was filed joining the two portions. In 2007 when the zoning code that is currently in place was adopted, there was a specific provision of that zoning code that stated, that when sites that were commercial and commercial limited were joined, prior to the 2007 adoption of that zoning code, both portions could be used for a commercial purpose, thereby eliminating the commercial limited restrictions. There were some exceptions to that provision. Neither a convenience store nor an automobile service station is an exception. Phase One of the project is a community center, that has already been built and has been functioning. Phase Two of the project, as approved by the City Commission in 2014 was a restaurant. That restaurant was never built. My understanding, while I do not have personal knowledge of this, because I was not here with the city, is that the reason the restaurant ultimately was not built was due to similar opposition, such as what we have heard today. The delays in development is what lead to the litigation. In Resolution 2015-303, the City Commission acknowledged those delays, urged the county, which was then in litigation to reach a settlement agreement with Bahamian Village LLC, and authorized the City Manager and City Attorney to take all steps necessary to facilitate a dispute. The city went so far as to intervene in that lawsuit, and there were members of this Commission that, together with the City Attorney met with County Officials to help find a resolution to this issue. To assist the owners of this privately-owned land, to be able to properly take advantage of their income back expectation. In November of 2017, a settlement agreement was finally reached. In that settlement agreement there were many

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terms, but the main terms for purposes of this discussion are as follows. The city would waive all permit fees; expedite approval processes for the site modifications; and approve any modifications to the site plan administratively. There would only be one hearing before the Board of Architects and no further public hearings would be held. All of these items were intended to correct what the city at the time perceived as a wrong that had been promulgated against or to the owners of this lot. WAWA is a convenient store, as defined by the zoning code. It is a retail establishment that offers for sale groceries and household items, newspapers and magazines, gasoline and other products, including incidental sales of cooked food or site prepared food. That is the definition of convenient store in the zoning code. WAWA also has the right to move forward with having their lease approved and executed and the building built. Per the settlement agreement, no further Commission was required. As mentioned, any modifications to the site plan were to be approved administratively. As a result of that, the City Attorney opinion issued earlier this year, together with the City Manager, approved those site plan modifications. No mailing of notice was required. However, the developer mailed the opinion to all property owners within 1,000 feet. Thirty (30) days were provided to appeal per the zoning code, as is true for all City Attorney opinions. No one appealed. The surrounding property owners are overwhelmingly in support of the project. That is shown in one of the exhibits to the City Attorney opinion. Further, letters of support were received yesterday by the city from both the homeowner's association and the Lola B. Walker Foundation. Board of Architects approval has already been obtained. And currently the plans are being reviewed for permitting under the city standard process, which includes all of the checks that are always in place. With regards to safeguards that have been put in place. Unless modified by the opinion, it is important to note that all other requirements of the underlying PAD approval must be complied with. That underlying PAD approval, which was approved by the Commission after notice and public hearings in 2014. With regard to concerns about alcohol and liquor sales, WAWA only sells wine and beer and they have committed not to exceed five percent of the floor area for the sale of those products. An airconditioned trash room will be provided. Traffic circulation and environmental approvals must be complied with, and all county requirements must be complied with. They will be or have been already reviewed by appropriate county agencies. In a minute, I will turn to other members of the City Staff who can expound on those approvals. Furthermore, a restrictive covenant was filed that requires a four-foot masonry wall, along the north and east sides of the property to protect the residential neighborhood, as well as a six-foot hedge around the property. Trees with a height of 14 feet at intervals of not less than 10 feet are required around the property. Illuminated signs are restricted to U.S.-1 to respect the community, and no deliveries are allowed between 10:00 p.m. and 6:00 a.m. consistent with the underlying PAD approval. Now, to address four topics, environmental, public safety, traffic, and historic. With regard to environmental. All requirements, as I stated, must be met by the agencies that regulate those requirements. With that, I'd like to call up Ms. Cabrera, who can explain to us the agency that is required to approve any environmental permits or checks for a gas station/convenient store.

Development Services Director Cabrera: Good morning, Suramy Cabrera, Development Services Director. Pretty much any commercial development would have to go to DERM, a gas station in particular will go to a tank section in DERM, where they review the underground tank compliance. There are also some licenses that are required for the operation of the gas station, and inspections

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after the construction is completed and the Building Department is out, there is still ongoing inspections that happen through the Department of State and DERM. Some of them are every three months, some of them are annual, it just depends. They check for the gas capture at the pumping, they check the integrity of the underground tanks. So, there are environmental regulations in place that are state imposed on the gas stations.

Mayor Valdes-Fauli: Any questions.

Vice Mayor Lago: Not only that, as you can tell over the last four-five years you've seen all these gas stations be completely overhauled; and the ones that were not overhauled were closed down until they complied. So, there is a continued monitoring of these gas stations to ensure that there is environmental protocols are in place are maintained and adhered to, correct. Because I hear a lot of people talk about Benzene and Benzene and Benzene.

Development Services Director Cabrera: Which is the gas that would be captured at the fueling point and there are regulations for that. And Florida is one of the more progressive states in having had the more stringent requirements for the environmental policies for gas stations.

City Manager Iglesias: [Inaudible]...emission pumps, DERM is very adamant about that and the tanks will be double lined tanks to make sure that we take care of any leaks that could occur. In addition to that, there is monitoring wells so you can sample on a continuous basis to make sure that there is no environmental leakage. DERM is very, very adamant about this and this kind of facility is certainly one that DERM looks at their operational permits and continuously monitors.

Development Services Director Cabrera: They are required to re-registered...

City Manager Iglesias: In addition to that, you've got the state issue where you have weights and scales. Those pumps have to pump one gallon of gas, so if you have leakage or any issue like that, not only is it a DERM issue, but its also a state issue from a weights and scale perspective to make sure that when you pay for one gallon you get one gallon. So, there are a lot of checks and balances in this. When you are dealing with underground tanks, when you are dealing with gasoline, when you dealing with all of these issues, DERM takes this very, very seriously, and it is continuously monitored to make sure that these issues are continuously taken care of.

Mayor Valdes-Fauli: Thank you.

City Attorney Ramos: Another concern that has been brought up is the concern of public safety and whether the gas stations bring additional crime. It is my understanding that that is not the case. Chief Hudak was going to be present to address that. There he is.

Chief Hudak: Good morning Mayor, Commissioners. In looking at the original proposal in this area, this is an easy area for us to patrol, because it has a very good line of sight from both sides, whether it be from U.S.-1 to Grand Avenue. Our biggest concern, as stated in our patrol officers or to me by the patrol officers is, obviously the traffic patterns we have during school. We've got
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two schools in that area; dismissal, it does lower the speed zone, because this would be lined up inside a school zone, so we would have the appropriate 15 mile and hour enforcement. We do have the City of Coral Gables Crossing Guard there, but as far as the overall criminal uptake, we don't see it happen. We have sporadic issues at best in Coral Gables. The biggest crime that there is, if there is one is usually a shoplifting issue or something like this, but we have not seen a spike in violent crime in these areas in the gas station/convenient stores that we have. We do not see the kind of violence that has been talked about. The Police Department obviously doesn't have an opinion one way or the other, but the physical layout and talking with the community center there as well, they have been very cooperative with us if we've ever needed video in that area. I do believe the additional lighting is going to make that a little bit more of a crime deterrent, so to speak, because at night because of that lot and the park that sits diagonally off of there it becomes very dark. With the lighting from the WAWA cookie-cutter type of stores they put out, that will illuminate that better for both U.S.-1 and with the new projects that's going off adjacent to that U.S.-1, we believe our police presents is going to be there no matter what. However, we do believe that is an easy patrol strategy for us, because we can see three sides of the building, really all four sides, because of the pie-shaped lot that we are talking about. So, we don't anticipate any issues with this going forward.

Commissioner Keon: And the neighborhood, the surrounding neighborhood is relatively quiet.

Mayor Valdes-Fauli: They are all for it.

Commissioner Keon: The crime rate in that – there is a very minimal activity or problems in that area.

Chief Hudak: The only problems that we've had, the prominent problems that we've had has been domestic issues, and I say this often, we are very protective of that neighborhood, so they are not preyed upon. It is an elderly population for the most part. This is something that they are in favor of. We spent a lot of time in the park with our Parks Department, and they are very proactive, the neighbors are very proactive in calling us, if they believe something is amiss, and we've been very responsive, obviously, but that has been our number one issue down there is more of a protective way than it is like we are having a crime trend. It is a natural pass-through; Grand Avenue from Coconut Grove is a natural transition.

Mayor Valdes-Fauli: Chief you were here at the time. This reminds me of Merrick Park and the parents of the Coral Gables High School, how Merrick Park was going to corrupt their kids, was going to create a safety hazard attracting criminals. Corrupt their kids because they were going to go there and get fat with the restaurants and flunk out because of the distractions and nothing happened. It's a wonderful facility. Its across the street, smack across a more narrow street than this thing is, and I understand the parents concerns, but I think they are totally unjustified.

Chief Hudak: And I think to the parents concerns, during the times that they are dropping off and picking up, I think everybody needs to realize we have an assigned officer in all the schools right now with Miami-Dade Schools. Now, I have not agreed to go forward with that after Christmas
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break, because they do have officers, that's not to say the officers won't be there. However, it will free up our youth resource officers to be in that area to handle the traffic, like you see everyday at Gables High. So, there is always going to be a police presence in that area of Grand Avenue, because we have to facilitate the parents drop off, which has been our biggest challenge, both on Grand Avenue and also in the other neighborhoods. So, we are prepared for this.

Mayor Valdes-Fauli: Thank you Chief.

Vice Mayor Lago: Madam City Attorney, just a quick question. As this project moves forward, and I know that we had a lot of bumps in the road, because I went to the county on multiple occasions with Craig Leen to help the residents in this area to ensure that that property wasn't taken away from them, and that we could build the community center where a lot of their historic relics and other items are memorialized in reference to MacFarlane. What happened to the restaurant? What happened to the concept of the restaurant that was proposed?

City Attorney Ramos: My understanding and like I said earlier, I can't speak from personal experience, because I wasn't here, but my understanding is that there was such opposition from individuals, not necessarily in the neighborhood, that created enough political pressure that the restaurant did not go forward. I don't know if they pulled out of the lease or what exactly happened, but my understanding is that it was a direct result of opposition.

Commissioner Keon: I thought the issue at the time was the amount of outdoor seating they wanted, and the percentage of outdoor seating exceeded what they were allowed to have. And there was an issue on the seating and the size with particularly with the outdoor seating that ended up being problematic, and they were not willing to comply with all the regulations that the city had in place with regard to outdoor seating.

City Attorney Ramos: There are two other issues that had been brought up. One is traffic which the Chief Spoke about briefly, but Mr. Diaz is here and can address traffic approvals and how those are reviewed and given.

Public Works Director Diaz: Good morning Mayor, Commissioners. The main entrance of traffic entrance to this proposed development is on Grand Avenue, Grand Avenue being a county road, the county has jurisdiction over the geometry. And my understanding is that the plans are currently in review. I'm not sure if it has been approved yet, but ultimately it is their jurisdiction, their approval that will be required for any modifications to Grand Avenue relationship to this project. There is another entrance and exit on Florida Avenue, which is a city road, and my understanding is that, as per the agreement there is going to be a gate and that entrance is going to be closed at night. I'm not sure a hundred percent of the hours, which is part of the agreement. So, that's where we are on that. Waiting on the county approval and what they have to say about Grand.

City Attorney Ramos: Thank you Hermes. And with that, the last issue that's been brought up recently has been the historic nature of the surrounding community and whether this particular

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project and the previous restaurant PAD approval had to go through historic review, if Ms. Kautz can come up and address that.

Interim Historic Preservation Director Kautz: Good morning. The property that the WAWA is going to be placed on is not within the historic district, it abuts it, but that parcel is specifically excluded from the historic district. So, it requires no historic Preservation Board review, no review by our department.

Mayor Valdes-Fauli: Thank you.

Commissioner Keon: Its my understanding that the historic portion of the MacFarlane Historic District is Grand to Brooker to Fro to Jefferson, is that right?

Interim Historic Preservation Director Kautz: It goes Oak, U.S.-1 to most parts, this part is excluded, to Brooker to Grand. Oak is the other boundary, one side of Oak.

Mayor Valdes-Fauli: But this is not.

Interim Historic Preservation Director Kautz: This is not part.

Commissioner Keon: This is not.

Mayor Valdes-Fauli: Thank you. Madam City Attorney.

City Attorney Ramos: That concludes my presentation. If there are any questions for me or any members of the staff, we are happy to answer them.

Mayor Valdes-Fauli: What is required at this point?

City Attorney Ramos: Nothing sir.

Mayor Valdes-Fauli: No action.

City Attorney Ramos: Nothing is required.

Mayor Valdes-Fauli: Okay. Any other comments, any comments?

City Clerk Urquia: Mayor, you do have the Chairperson from the School Community Relations Committee on Zoom that wanted to speak on this.

Mayor Valdes-Fauli: Okay.

Vice Mayor Lago: Let me ask you a question. If we were to, if we allowed for that Chairperson to speak, is it an issue, is it a legal issue?

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City Attorney Ramos: No. My opinion is it would be the same as it was during the public comment this morning. It is not a public hearing and you are not going to be taking any final action today, so its up to you if you want to hear from them.

Vice Mayor Lago: If it was up to me, I have no issues with it, as long as the Commission approves it.

Commissioner Mena: Yes.

Commissioner Fors: I have no problem with it.

Ariel Fernandez: Good morning Mr. Mayor, Vice Mayor, Commissioners. The reason this issue came before the School and Community Relations Committee was, it was brought up to our attention by parents and members of the community, and this was the first we heard of this issue. Our committee as had been told to us by the City Attorney has a responsibility and we believe under the purview of to provide an opportunity for dialogue and collaboration between the aforementioned schools and their neighbors, including the City of Coral Gables, in addition to the clause and assuring that the needs of the students and families are being adequately served by the public school system, required that we bring this up at the School Community Relations Committee meeting. Following the public hearing component and doing our own research, the information that was presented by the representative of the City Attorney's Office and the Assistant City Manager, we felt that there had been no public comment period that allowed for the parents to voice their opinion on this issue, and raise the concerns that they had in regards to this project. Additionally, one of the biggest points of concern that our committee brought up, which is the reason you have item 2.3 on the agenda as well, is the fact that this is not the first time that an item dealing with schools is kept from Miami-Dade County Public Schools and its representatives and the School Community Relations Committee. Just last year there was issue with a school that was approved by the city and city staff for construction or for opening, right across the street from another school, which already had traffic issues, and yet that issue was never brought to the attention of any of the parties involved. The answer that we got, a letter was sent to Miami-Dade County Public Schools and when they went to look it was just sent to a general mailbox at Miami-Dade County Public Schools. At the time, our committee was assured any issue dealing with schools would be brought to our attention in the future and Miami-Dade County Public Schools was also assured that any issue related to a school would be brought to their attention. Yet in January of this year, the City Attorney made an opinion that directly impact a school, the students, and the community surrounding it and the school was never notified. The notification was left up to the developer, who once again sent a letter to a general mailbox. As of last week, School Board Member Mari Terra Rojas informed us, yourselves, and the members of the SCRC and the City Attorney, that Miami-Dade County Public Schools has no record of any notification on this issue. And yes, there are signatures by members of the community surrounding the school in support of it, the question is, why was the school, the parents, and the student's opinion not taken into account in this matter. For this reason, we have passed this resolution requesting that the City Commission open up for a truthful public comment period where the

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developer and the parents and the school are brought to the table in order to have a fruitful discussion about the future of this project. Addition on item 2.3, I'll take the time to address it now, since it deals with the same issue. Our request is that future issues affecting our schools be brought to our committee so that we can adhere to our Charter and the reason that our Board and Committee was created to allow for the communication between the neighbors, the school and the city, to ensure that we don't have issues like this in the future. I think situations like these only serve to hurt the reputation of our committee, of our city and of the Commission when people feel like they've been left out of the process, and we understand there is a legal requirement as to what is necessary, but sometimes it falls upon you as our elected representatives to go beyond what's necessary, as you have done today and allowed for the full public comment today, but to ensure that everybody is at the table when important decisions like these are being made that affect the traffic leading to the school. The City Attorney mentioned that no deliveries will be made between 10 p.m. and 6 a.m., but that does not take into account drop off and pick up at the school. So, deliveries are being made at WAWA across the street from the school during these time that will have a huge impact. The Chief mentioned the fact that an officer will be made available. Why do residents have to pay for an officer to be available in order to allow for this development to move forward, as opposed to having a fruitful discussion that may lead to a better solution. So, I'm a firm believer and I think the members of our committee are as well that discussion and communication help to find problems to the solutions and the words of Mari Terra Rojas, teamwork makes a dream work.

Mayor Valdes-Fauli: Thank you Mr. Fernandez.

Mr. Fernandez: That's the reason we brought this to your attention.

Mayor Valdes-Fauli: Thank you. According to – then we will pass on 2.3, which Mr. Fernandez has brought up and we will take no action on 2.2, your recommended resolution on the WAWA project.

Commissioner Mena: I'd like to make a comment, if I may, and suspect some of my colleagues may as well.

Mayor Valdes-Fauli: We cannot have a public hearing.

Commissioner Mena: I'm not having a public hearing, I'm just being – I think there has been a lot said today about some of the premises about what's being said about notice. I think its important to sort of dissect a little bit what our City Attorney just walked through in terms of a chronology. This property has been zoned commercial going back at least to 2007, if not before that, meaning the property owner and the gas station/convenient store being built are consistent with the zoning of this property going back probably before every child in the school today was even born. The idea that nobody was on notice that a gas station could be built on a property that is zoned commercial on U.S.-1 is a little bit off base. I presume that the school was aware of the zoning of the adjacent property, if they want it, they should do that. But there is a lot that has not been addressed. The most fundamental of those things is property rights. This is a private owner of

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private property. This is not a city project; this is not a city property. This is not our project. We don't tell property owners what they can or can't build on a property, so long as it's consistent with the zoning of the property. The idea that we can repeal the settlement or modify a settlement agreement requires consent of the other party, otherwise you are just breaching the settlement agreement, and you are violating that person's property rights, which you cannot do. I wouldn't do that to the people who spoke today with respect to their own private property and I wouldn't do it to the owner of this private property. This would be a very different conversation and there is a lot of talk about people being at the table, but its important for people to understand that there is no table when it comes to the zoning rights and property rights of somebody who owns private property. They have certain rights that are vested in them by virtue of the zoning of that property; and if this was a situation where this property was not zoned commercial, where somebody was coming to us asking us to change the zoning designation of this property, so that they could build a gas station this will be a very different discussion. A discussion where all the types of input that we'd like to see would happen, but that's not what happened here, and I think its important for people to understand that. The other premise that I think is now been addressed was about safety and the environment. Chief Hudak addressed the safety concerns, Suramy addressed some of the regulations with respect to DERM that are applicable. And the last one is, and I think this is really important, I have it here, if you bear with me one second. We received a letter; this is from the Lola B. Walker Homeowners Association. These are the residents that live in this community 24/7 and have been there for many, many years. As have been noted, it is a historic district. A historic district is not just about architecture and buildings, its about the actual history of the people who live in the neighborhood, and who for many, many years were disenfranchised. The people who live in that neighborhood wrote to us and were very clear. This is from Edwina Prime, who is the President of that association, and I'll paraphrase some of it, but she says, *"I'm writing to inform you that the Bahamian Village Development with WAWA was presented multiple times to our group. WAWA agreed to implement and address our community concerns and ultimately, we approved. WAWA is an ESOP company and will provide our residents with jobs that offer a 401(k) plan, health insurance, and payment for employees' education through a Masters' program. WAWA offers a huge opportunity for our residents that most companies do not. We previously submitted a petition with over 44 signatures of our association members in support of the approvals obtained."* This is not just about whether it's a historic map or district. This is a community that has been underserved for a long time. They supported this project; they were a part of the process. They were aware of the zoning and I appreciate the concerns of parents. I have two young daughters myself. Its somewhat insulting to be told that you don't care about children and their safety in a school. I can tell you that the paint in the library at G.W. Carver was painted by myself, Vice Mayor Lago and several others who volunteered. The computer equipment in that library was donated by us two years ago. We worked very closely with the Principal of the school. We care about this school. We care about these children. We care about their safety and their future. And the suggestion that we would ever approve anything without consideration for the children who attend this school is not only wrong, but it's incredibly offensive. I have nothing but the utmost consideration for those children. Anytime I deal with an issue that deals with children, I think about my own kids, and I'll be honest with you, I think a vacant lot with no lighting, as Chief Hudak talked about, that continues to just be there is a much bigger nuisance for young children than a well-lit, properly built WAWA station in the area that will be policed by the best

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police department in town, whose Chief just told you they don't have a significant incidence of crime at these types of locations. We will have cameras available to monitor the site. The Chief mentioned we have a police officer at every school, that's because we voted to have a police officer at every school. So, the suggestion, again, that we are not concerned about the safety of the kids in our schools is wrong. I think the process here was followed. We have to respect the property rights and I responded to various e-mails by the way, effectively saying that there wasn't much we could do at this point, I think that's disappointing for people to hear, but I don't like to, frankly, BS residents about what the options are. When the truth is that with the decision has been made and not taking any other action would violate property rights expose the city to legal liability and breach a settlement agreement. The decision was already made. It was made, by the way, many years ago before anybody on this dais was even here, even before the City Attorney was the one managing the situation from a legal perspective. But we have to live with those decisions, and we have to honor the property rights that they conveyed. So lastly, because the last comment was about the School Board and communications with the School Board, teamwork makes the dream work. I sat in this room when the School Board's Attorney advised me that when they want to build a building, they don't need to provide us with any notice whatsoever. That they have their own building department. We struggled with issues with them relating to West Lab and they were very comfortable and confident about that arrangement, but now we are being told that they didn't have notice. Again, notice was sent, it was sent to their address. We didn't make up their address, that is their address and it was mailed to them. Everybody was on notice of the zoning relating to this property, and that's the truth and the reality of what occurred here. This might have been different under different circumstances, but we don't get to make up those circumstances. There is a saying golf, you play the ball where it lies. The ball lies today in the manner that it was just described. If we could do something else, we would, but I don't believe we can, and I think it's the right thing to do at this point in time.

Mayor Valdes-Fauli: Thank you very much Commissioner Mena, very articulate as always.

Commissioner Mena: Thank you.

Mayor Valdes-Fauli: Thank you. We will go onto 2.3.

Commissioner Fors: Mayor, if I could add just two more comments, just to put things in a little more context. And what I'm pretty sure there used to be a convenient store on that same site, according to one of the...

City Attorney Ramos: I heard that somewhere also.

Commissioner Fors: I think its in one of the opinions that was written by the city. Secondly, just to further crystalize for the folks that spoke today, which I appreciate and I hear them loud and clear, they understand the position procedurally they were in is that, some of them, for one, I can tell thought we were gathered here to decide whether a WAWA gas station could be built on that lot. That's not on the agenda here, that was decided long ago with legislation, not even specific to this lot. The settlement agreement, some folks suggested we should vote to rescind it, does not say

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in the settlement agreement what is Coral Gables giving, we are giving you the right to build a gas station on that lot. Now the settlement agreement came first. Rescinding the settlement agreement today does not translate into denying them the ability to build a gas station on that lot. Regarding private property, just to drive home that point, because its also probably one of the most important points about this issue to me. You start from the general proposition that on private property you should be able to do anything you want on there. About 100 years ago, we decided to write zoning laws, which somewhat restrict what you can do on there. After that, we said okay, if you are going to be near a school you can do this, or you can't do this. There are some things you can do near schools, some things you can't. And in some cases when you are dealing with potentially hazardous substances like gasoline, you are subjected to an additional restriction. If you follow all those restrictions the government, being us, can't come in and say, we still do not want to let you do it. As a backdrop to all of this, and I've met with the homeowners of the adjacent property, they spent years, if not decades constantly being told and what they can and cannot do with their land, in some cases wrongfully, are not being permitted to do what they can do with their land. And what I see here, frankly, even though it comes from the best intentions or places is, just someone else coming along and telling them what they can and can't do with their land, even though the law is written says they can do this. So, for that reason, I'm supportive of not taking anything up here today. However, I am open to having staff look into a procedure, a procedure that's realistic and practical and we won't overlook of providing the SCRA and/or the School Board with notice of proposed projects, perhaps that vary from the current zoning, or perhaps maybe that are only adjacent to a school, this probably being one that's across a street from a school, and I'm open to doing that, so everybody feels more heard.

Mayor Valdes-Fauli: That's 2.3. I agree.

Commissioner Mena: But just to add Mayor, to that last point. I think its pretty, and maybe I'm wrong about this, Madam City Attorney, but when we do provide notice within 1,000 feet...

Commissioner Keon: Its courtesy.

Commissioner Mena: Right, but do you provide it to non-single-family establishments or non-residential as well.

City Attorney Ramos: You provide it to all property owners, which is why a letter was mailed to Miami-Dade County Schools.

Commissioner Mena: Understood. Maybe there should also be notice sent to the actual physical location of the school, when you have a school within 1,000 feet that those fall within that criteria, otherwise do both. I think that's an easy adjustment that can be made for future projects. And I certainly have no problem with certain things going to our board, but again, its important to understand the board is not a quasi-judicial board that's going to be voting up or down on a development project, but will always welcome their input and any insights they may have from their communications with the administration and/or the parents.

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City Attorney Ramos: I think the devil is in the details there with the notice. In this case, no notice was required, but in the cases where notice is required, Mr. Cejas is here and Mr. Trias, we can talk about what that looks like in the zoning code and adding Miami-Dade County Public Schools, but you then might also want to add Miami-Dade County. There are other government entities that own property.

Vice Mayor Lago: And I agree with what Commissioner Mena and Fors were saying about the issue. What does it hurt? It doesn't hurt maybe sending out a notice to the Superintendent's office or like the Clerk, obviously gets a lot of notices that are sent or e-mails that are sent, just copied just to make sure the Clerk here the city gets the information. I don't think it hurts the city at all, we look into the fact that potentially our noticing practices and see how we can engage with the School Board even more. And I know that you want to take up 2.3, Mayor, or can I just mention my thoughts on that right now. You want to discuss 2.3 or may I mention, or do you want me to wait. What would you like for me to do?

Mayor Valdes-Fauli: I think that we should be past 2.2 with the Commissioner comments and now we should go to 2.3, which is very relevant to what we have been discussing.

Vice Mayor Lago: Listen, and again, and I agree with my colleagues on this, its simple. We have a board that they give their time, they are volunteers, they are residents of this community. They are excited and they are really engaged in understanding how they can make this community better. I think it's a win-win for all of us. To me, having their engagement, having their input, again its not a quasi-judicial board, what's the worst that happens. They provide us input and guidance in regard to projects. I don't see it as an issue. To me, the more input, the more transparency and the more notice that we give in regard to any type of project or any type of city engagement, I'm all for it.

Mayor Valdes-Fauli: Alright.

City Attorney Ramos: So, if there is a motion to move forward with what they are asking, I think it needs to be clarified. The way that they drafted it was to refer future development projects that affect Coral Gables schools. Affect is a very difficult term to define. So, to Commissioner Mena's point or Commissioner Fors, I don't remember, if you are adjacent or across the street or within blank feet or whatever it is, then that should be clarified.

Vice Mayor Lago: Why don't we do this through the Mayor, if I may. Why don't we bring this back and have staff through the Manager, put a reasonable distance and time frame? Again, I don't think we should cast such a wide...

Mayor Valdes-Fauli: Bring what back?

Vice Mayor Lago: Bring back 2.3.

Mayor Valdes-Fauli: 2.3 – alright.
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Vice Mayor Lago: Once we bring it back when there is a little bit more, when we can flush it out.

City Attorney Ramos: We would bring back a resolution of this Commission rather than of the board.

Vice Mayor Lago: Yes.

City Attorney Ramos: Yes, we'll work on.

Vice Mayor Lago: And take the Manager and the ACM's input and I want to hear staff's input and I want them to work with the board, and again, it's just recommendations; recommendations can only help the Commission, can only help staff. I think it's a good thing at the end of the day.

Commissioner Keon: Well, I can see expanding it to make them aware of, that's the extent to which I think you need to act is to make them aware of issues related to the schools in our community, whether I guess it be private or public schools, but at least just make them aware of it.

City Manager Iglesias: The zoning code actually deals with that, because the zoning code does not allow certain things, such as vape shops, such as liquor stores within 500 feet of schools. So, the zoning code already addresses this. The city has an excellent Planning and Zoning Department, we have a Board of Architects, we have a Planning and Zoning Board, we have a Historical Board, and in addition to that, most of these projects are mixed-use which come to the City Commission for ultimate approval. So, we have a considerable amount of review on these projects, since they come in. And in addition to that, we've clearly decided that some uses, such as vape shops, such as liquor stores cannot be within 500 feet of schools. So, I think we've taken a very proactive position on this and we have a very stringent review process already in place.

Commissioner Keon: You're right. I think oftentimes maybe even some of our residents, as well as parents who have children enrolled in the school, they don't realize the extensive review that projects go through, and the regulations that already exist in the city and the ability of our staff to work through these issues. I know that there are concerned for the wellbeing of their children, but as Commissioner Mena said, we don't pass things and we don't agree to things that are harmful to children or to anyone in our neighborhood. We do not purposefully or intentionally do harm.

Mayor Valdes-Fauli: Of course not. What's the Commissioner's pleasure?

Commissioner Keon: I think its just to make them – I don't have a problem with making them aware. I mean they are not a quasi-judicial board. They can – they are there to make recommendations to the Commission. They can make whatever recommendations they want to make. They are not reviewing buildings. They are not reviewing development. They are not reviewing any of that stuff. As a courtesy to them, I would make them aware of those things just so they have knowledge of it.

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Vice Mayor Lago: That's what they are requesting.

Commissioner Keon: That's all. I think that's fine.

Vice Mayor Lago: They are requesting here as per their resolution for the City of Coral Gables and the City Commission to decide and to refer future development projects that affect Coral Gables schools. So, what I'm requesting is that we bring it back with a little bit more of an idea, because if not, we could be talking about every project in the City of Coral Gables.

Commissioner Mena: That's 2.3 for future projects.

Vice Mayor Lago: Yes.

Commissioner Mena: That's what will come back.

Vice Mayor Lago: Exactly.

City Attorney Ramos: And it won't be 2.3, it will be an actual resolution of the City Commission. I think the only thing that needs to be worked out, aside from defining some parameters is whether you want them to simply be notified or you want to actually refer the item to them.

Commissioner Keon: I want them to be notified.

Vice Mayor Lago: If it was up to me, I'm the one making the resolution, or making the request, excuse me. I don't have an issue with staff reviewing whether we just notify them or whether we refer the project. For me personally, and I don't know how my colleagues feel about this issue, there is no pain and there is no issue with more eyes on a project.

Mayor Valdes-Fauli: Yes, there is, in this case Vice Mayor.

City Attorney Ramos: I think a referral could lead to delays, is the only concern.

Mayor Valdes-Fauli: Referring means the power to make a decision.

Vice Mayor Lago: Projects here and...

Mayor Valdes-Fauli: What they are asking for is notification so they can notify the parents.

Vice Mayor Lago: I think what ends up happening – what we are having here, but I'd like to have some input from them in regard to the project.

Commissioner Keon: No.

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Vice Mayor Lago: To me, when we look at projects here, and I'm intimately engaged, as staff will tell you, with residents and commercial projects that come before the city. The process is an extensive effort. This is not a process that is done in one minute. So to me, having them review the project or just give their input in regards to the project is not a delay, no matter how you look at it, because a project has multiple reviews and has to be reviewed probably six to a year timeframe before the approval occurs, and I think I'm being very generous when I say six months. I don't know many projects that have gone through the city in six months and been approved that quickly, even with a special inspector or threshold inspector where they don't have to submit their documents and a portion of their permits are being reviewed by outside consultants. To me, I don't think its that much of an issue to have one of our great boards provide us input. What does it hurt? Maybe they come up with some good ideas in regard to ensuring safety and making the project even better. Again, its not quasi-judicial, so at the end of the day, its up to the Commission to take those recommendations and do as they please.

Commissioner Mena: I would just add though, and I think its important to say this. I think board members need to be mindful that as board members they have somewhat of a duty that when they put information out that it be accurate.

Vice Mayor Lago: One hundred percent.

Commissioner Mena: And that it be consistent with the facts and the history of the issue. And there is a detriment when board members put facts out there, make statements about things that have occurred that perhaps are belied by the actual facts, because if I'm a parent and I'm speaking to a board member about this issue and I'm being told something, it has an extra implication of validity, because I'm speaking to a board member, and so, it's very important for all of our board members on all of our boards when they are going to address residents on issues, such as these or any others, that they get the facts from our staff and their job is really to be a liaison. So, if residents have a question and they want to communicate with Historic, Public Works, City Attorney, get answers to those questions and relay them to the people being impacted, I think that's great. When they form an independent evaluation of the issue and communicate that to residents, you get into a little bit of a tricky situation, because again, residents are going to assume that that's somehow the city's position or a position that is adopted by the city. So, its tricky. Our board members are also residents, sometimes you are wearing your resident hat, sometimes you are wearing your board member hat, but its important when you are speaking as a member of a board that you actually be a liaison between the city and the people you are communicating on with the actual facts. And so, I think that dovetails into what you are saying, its good to get their input, but the role needs to be clearly defined so that we don't have a situation where a lot of the facts that I heard in e-mails and today, they were not entirely accurate, and that's why we have our City Attorney walk through the chronology of what actually happened so that that record is out there and is clear. So, I would just add that we need to be mindful of that.

Vice Mayor Lago: I agree one hundred percent.

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City Manager Iglesias: If I may say, we have to consider how much review is enough review. The more review that we add, we have the most extensive review of any city in Dade County, and how much review is enough. And eventually most of these projects that come to the City Commission for actual approval, because most of them are mixed-use and most of them have conditional approval. So, we have an excellent Planning and Zoning Board, we have a Board of Architects that no other city has. We have an excellent Planning and Zoning Department. We have a Historical Department and then City Commission approval. So, I guess how much from a construction point of view, how much review is enough review, and I think that we have the most extensive review of just about any city in Dade County. Do we truly need to add more or are we consistent as to where we are at right now?

Mayor Valdes-Fauli: His request is for us to refer this to them for them to provide notification, I'm quoting, to provide notification to the committee so that the committee can bring it up to the parents so that everybody is aware. This is not for them to review. This is for them to notify the parents of what's happening.

Commissioner Fors: I think what they want is they...

City Manager Iglesias: If it's a notification Mayor, its fine, but I'm not sure if this is not an issue of reviewing projects as far as, because we do have a zoning code, it's very consistent, and does it very well. So, if its notification, certainly we can provide notification to the School Board, we can improve our notification to the Superintendent. By the way, we did notify them and if they lost it, we get notifications here all the time, our City Clerk is excellent in providing them to each particular department, as needed.

Vice Mayor Lago: Mr. Manager, I want to be very clear on that. Again, I'm not saying that we did not notify them, and that staff did not do a good job, they did a wonderful job as always. But if we can just go, as we always do. Here we pride ourselves as going above and beyond, you never know, maybe it could have saved today's conversation, because I had a very interesting conversation, a very difficult conversation with a School Board member and she feels that the School Board was not properly notified. Again, everyone is entitled to build their own opinion. Again, you are not entitled to your own facts. We did notify the School Board properly, but she was clear when we had the conversation that she wished that we had notified her office and obviously the Superintendent's office. So again, I will do whatever the will of the Commission is, its perfectly fine. I just feel that we can always get more input and it doesn't hurt. Again, we have a few items left on the agenda. I don't know what the Mayor would like to do, if there is any further comment, but I'm pretty much done on this issue.

Commissioner Keon: I think it would be appropriate to notify them of, to notify the School Community Relations Committee about anything that is happening near or around a school. I don't think that it is – they are not asking for review. I don't think its appropriate to ask any non-quasi-judicial committee to review anything, but at least if they know and if they have a concern, they have the ability to raise that concern. So, I would just notify them. That's all.

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City Manager Iglesias: We can also help with some reasonable notification, so we have a boundary that we can notify.

Commissioner Keon: As far as, I think the notification that actually goes out is by the developer and not by the city, is that right? – isn't it the developer that...

City Manager Iglesias: Correct.

Commissioner Keon: So, it's the developer that does the notification, not the city that notifies, and the developer obtains a list of all of the addresses are that they send it to. So maybe we can find an appropriate address for the school system that we can share with anyone of where its going to go to. I think you've already had that discussion, so I think that issue has been taken care of also.

City Attorney Ramos: If it's a city project, we notify, if it's a developer they notify, but in either event, we could send a letter to all of those companies, there are maybe three or four that they use typically, and ask them to use a suite number.

Commissioner Keon: Yes, then you could have a specific place at the school system downtown where it would go to, that we can be assured that we have an address that is on record with a suite number to someone's attention.

Vice Mayor Lago: If you would like to clarify exactly what the Coral Gables School Community Relations Committee wants, you could just ask the Chair and the Chair...

City Manager Iglesias: And we can, Vice Mayor, we can certainly notify them and if that's the Commission's clear intent is notification then I have no issue.

Commissioner Mena: And in any event, in any event, just to punctuate the conversation and I think its important, if a property owner builds a project as a matter of right with their existing zoning designation, as this property owner could have done going back to 2007 at least, it wouldn't come to this Commission, there wouldn't be any notice, they would just build the project, because the property is zoned commercial.

City Attorney Ramos: Correct.

Commissioner Mena: The only reason anything happened here and there was an opinion, because there had been a PAD approved...

City Attorney Ramos: Correct.

Commissioner Mena: And that is a unique circumstance, but I don't want to mislead people into believing that when a property owner builds a project as a matter of right without even coming to this Commission, and no notice is required that everybody in the world is going to get a notice mailed to them, because they are not. Just like if I decide to demolish my home tomorrow and

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build a new single-family home, I have the right to do that and nobody can take that away from me. Its no different for a project that's zoned commercial and that needs to be kept in mind, as far as this notice issue is concerned.

Commissioner Keon: I think it's important to remember that this parcel of land was in the county's land bank for a long, long time, and was conveyed to the Lola B. Walker Foundation once they became a 501(c)3, and then had the capacity to actually receive the land in 2005. So, they've had it for a very long time. They made a decision in order to develop it that they would partner with a private developer in order to develop that parcel of land. They are the ones that built the community center and I think a lot of people think that the city in some way built or was involved in building that community center. The city was never involved in building that community center. That community center was built by the Lola B. Walker Foundation and the homeowners that represent the homeowners that live in the area. They were the ones, also, then that went forward with the development of that parcel. And so, yes, it has been a commercial property since they, for a very long time. So, thank you.

Mayor Valdes-Fauli: I will entertain a motion that or a resolution that says that the Coral Gables School Community Relations Committee will be notified of future development projects that affect the Coral Gables schools to the committee in order for the committee to provide notification to the parents. I will entertain that motion.

Vice Mayor Lago: So moved.

City Attorney Ramos: I just need a clarification. What we will define as affect. Is it going to be based on distance?

Commissioner Fors: That's why I don't think we should put affect.

Vice Mayor Lago: That's why I said we should come back.

Commissioner Keon: I think we should come back.

Commissioner Fors: Let's send it away, have them come back with something practical.

Commissioner Keon: We are giving them direction, its by resolution, we are going to give staff direction to please come back with a resolution or something...

Vice Mayor Lago: We are going on in circles.

Commissioner Keon: To notify them and it will come back and be done with it, because I don't think we can legislate from this dais.

Mayor Valdes-Fauli: Come on guys. This is very simple. They are requesting that we notify them for them to notify the parents, that's what it says here. That's what they want.

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ACA Levi Garcia: I know there is an issue with how to define affected, right. One alternative to coming back with a resolution is we can also draft an implementing order that defines what affected is, so that staff has some clear guidance and we can implement a notification process.

Commissioner Mena: Let's not over complicate things. I think when notice is required, as currently in our rules, and a school is one of the properties within the required notice area, in addition to sending notice to the school and the School Board, excuse me, the School Board, you will send it to the school and the committee.

City Attorney Ramos: Yes, that's one ask and that's clear. The one that's not clear is what we are doing with the School Community Relations Committee.

Commissioner Mena: They'll get notice in that instance as well. That's it.

Commissioner Keon: Just let them know.

City Manager Iglesias: And Mayor, Commissioners, we will be happy to notify them when notice is required, we will notify the committee, no issue.

City Attorney Ramos: So, then we will not bring an item back.

Commissioner Keon: Okay.

Vice Mayor Lago: So moved.

Mayor Valdes-Fauli: Commissioner Lago has moved it, will you second it.

Commissioner Mena: Second.

Mayor Valdes-Fauli: Alright. Will you call the roll please? This is notification.

Commissioner Keon: Yes

Vice Mayor Lago: Yes

Commissioner Mena: Yes

Commissioner Fors: Yes

Mayor Valdes-Fauli: Yes

(Vote: 5-0)