

Page 53

1 Commission would make the final decision.
 2 MR. FLANAGAN: Can I add to that?
 3 CHAIRMAN AIZENSTAT: Yes.
 4 MR. FLANAGAN: Where was I? One of Staff's
 5 conditions did say that the location of -- that
 6 they can go to amend the ordinance to -- I
 7 think revise it, but that the location of the
 8 easement will not change. Here, Number 5, you
 9 can reconfigure the substitute alleyway, but
 10 the location of the easement shall remain the
 11 same.
 12 MR. BEHAR: And we're keeping it the same.
 13 The location is the same. We just
 14 reconfigure -- We're not relocating to the
 15 other side of the property. I mean, it's
 16 within the same area where it currently exists.
 17 MR. FLANAGAN: Okay.
 18 CHAIRMAN AIZENSTAT: Staff is okay with
 19 that?
 20 MR. WU: Yes, we're okay with that. And
 21 the record can clarify, the motion is for which
 22 application? We have two applications before
 23 us.
 24 CHAIRMAN AIZENSTAT: This is for the
 25 first --

Page 54

1 MR. WU: The ordinance.
 2 CHAIRMAN AIZENSTAT: Correct.
 3 MR. WU: Thank you.
 4 MR. LEEN: We're going to do separate votes
 5 on them?
 6 CHAIRMAN AIZENSTAT: How would you like to
 7 have it handled?
 8 MR. LEEN: I'd prefer separate votes.
 9 CHAIRMAN AIZENSTAT: Okay. We have a
 10 motion. Any other discussion? No?
 11 Call the roll, please.
 12 MS. MENENDEZ: Jeff Flanagan?
 13 MR. FLANAGAN: Yes.
 14 MS. MENENDEZ: Julio Grabiell?
 15 MR. GRABIEL: Yes.
 16 MS. MENENDEZ: Maria Menendez?
 17 MS. ALBERRO MENENDEZ: Yes.
 18 MS. MENENDEZ: Marshall Bellin?
 19 MR. BELLIN: Yes.
 20 MS. MENENDEZ: Anthony Bello?
 21 MR. BELLO: Yes.
 22 MS. MENENDEZ: Eibi Aizenstat?
 23 CHAIRMAN AIZENSTAT: Yes.
 24 Now for the second item. Is there a
 25 motion?

Page 55

1 MR. BELLIN: I'll make a motion for
 2 approval with conditions.
 3 CHAIRMAN AIZENSTAT: With conditions.
 4 MR. LEEN: The same conditions as the --
 5 That's fine.
 6 MR. BELLIN: The same conditions.
 7 MS. ALBERRO MENENDEZ: I'll second it.
 8 CHAIRMAN AIZENSTAT: We have a second by
 9 Maria. Any discussion?
 10 Having none, call the roll, please.
 11 MS. MENENDEZ: Julio Grabiell?
 12 MR. GRABIEL: Yes.
 13 MS. MENENDEZ: Marshall Bellin?
 14 MR. BELLIN: Yes.
 15 MS. MENENDEZ: Anthony Bello?
 16 MR. BELLO: Yes.
 17 MS. MENENDEZ: Jeff Flanagan?
 18 MR. FLANAGAN: Yes.
 19 MS. MENENDEZ: Maria Menendez?
 20 MR. ALBERRO MENENDEZ: Yes.
 21 MS. MENENDEZ: Eibi Aizenstat?
 22 CHAIRMAN AIZENSTAT: Yes. Thank you.
 23 MR. BEHAR: Thank you very much. Thank
 24 you.
 25 CHAIRMAN AIZENSTAT: Thank you.

Page 56

1 Let's just take about three minutes or
 2 four, so they'll clear out, and then we'll
 3 continue.
 4 (Thereupon, a brief recess was taken.)
 5 CHAIRMAN AIZENSTAT: Okay, let's go ahead
 6 continue, please.
 7 The next item is an Ordinance of the City
 8 Commission of Coral Gables, Florida, providing
 9 for text amendments to the City of Coral Gables
 10 Official Zoning Code, Article 3, "Development
 11 Review," Division 10, Transfer of Development
 12 Rights, known as TDRs, by expanding the area
 13 for qualifying TDR sending sites to include
 14 historically designated properties within a
 15 Multi-Family 2, known as MF2 District, located
 16 in the area north of the Central Business
 17 District, known as CBD, bounded by Southwest
 18 8th Street to the north, Navarre Avenue to the
 19 south, Douglas Road to the east, and LeJeune to
 20 the west; providing for severability, repealer,
 21 codification and an effective date.
 22 MS. SPAIN: Good evening.
 23 CHAIRMAN AIZENSTAT: Welcome.
 24 MS. SPAIN: Is this on? For the record,
 25 Dona Spain, Historic Preservation Officer.

1 So this is before you today as a
2 recommendation from the Historic Preservation
3 Board, and it began in 2013, when the Historic
4 Preservation Board was considering the local
5 designation of 234 Majorca, without the owners'
6 consent, and Mario Garcia-Serra, who I think is
7 going to come back in here, represented the
8 property owner at the time, and asked that the
9 Board consider expanding the sending sites for
10 the transfer of transfer development rights to
11 include those properties -- and actually, it
12 was in a much broader area; he wanted us to
13 look at commercial properties and also the
14 North Ponce area.

15 The Historic Preservation Board asked the
16 Historic Staff to separate out the designation
17 process with his request, and so they
18 designated the building -- after a lot of
19 deferrals, they designated the building as a
20 local historic landmark. I believe -- He's not
21 here, but I believe they filed an appeal, and
22 that's on hold now, pending the outcome of this
23 ordinance.

24 The -- you know, the TDR ordinance has been
25 in place for quite some time. It now allows

1 for the property owners of the historically
2 designated properties within the Central
3 Business District to transfer the development
4 rights to developments within the Central
5 Business District, but everything is within the
6 Central Business District.

7 What this would do is to not change the
8 amount of square footage that's allowed on the
9 developments, but open up the sending sites to
10 other properties. So it would be the MF2
11 properties in the North Ponce area, and I'll go
12 through the proposal. You have the Staff
13 Report that we did?

14 MR. WU: Hold on. Here we go.

15 MS. SPAIN: Okay, thank you. I'm going to
16 have to get closer because my eyes are really
17 bad, and I apologize.

18 MS. ALBERRO MENENDEZ: Do you need this?

19 MS. SPAIN: I could, but looking here, I
20 can see the thing. So --

21 Is this working?

22 THE COURT REPORTER: No.

23 MS. ALBERRO MENENDEZ: This one might be
24 working.

25 MS. SPAIN: That's all right.

1 MR. GRABIEL: This one?

2 MS. ALBERRO MENENDEZ: This works, Dona.
3 CHAIRMAN AIZENSTAT: Dona, go ahead and
4 take Julio's.

5 MS. SPAIN: All right. I'm sorry. I'm
6 old. I've got to go to the eye doctor.

7 Okay, so the parameters for expansion of
8 the sending sites is located within the North
9 Ponce area, and we've already discussed that
10 area north of Navarre, which is the northern
11 boundary of the Central Business District, east
12 of LeJeune Road and south of Southwest 8th
13 Street, zoned Multi-Family 2, MF2, and has one
14 of the following MF2 permitted land uses, which
15 is a duplex dwelling, a multi-family dwelling,
16 or a bed and breakfast.

17 This is the boundaries of the North Ponce
18 area. And we already have seven properties
19 that are designated as historic landmarks
20 within this area, and these list those
21 properties. If this goes through, they would
22 be eligible to transfer development rights, and
23 I'm just going to go through the images of the
24 properties that we believe would qualify to be
25 on the local registry. And it's important to

1 note that these may not be the only properties,
2 but we're fairly certain that these would
3 qualify. I don't believe there's very many
4 properties up there, other than these, that
5 would qualify, but quite possibly, but no one
6 wanted to come forward to us. We did not go
7 into the ownership history of these -- These,
8 we did, but of the other properties that were
9 built at later times. We did go through,
10 looking at those properties that were built in
11 the 1920s and 1930s, and looked at the
12 architects, but those built in the '50s and
13 '60s, we did not look at the architects. So
14 there may be some building out there that we
15 just missed, but I don't believe there's very
16 many. I think this is a good representative of
17 the buildings that would qualify. It's really
18 very nice buildings up there.

19 And as you know, approximately 11 years
20 ago, the City passed an ordinance that requires
21 a preservation officer's signature on any
22 demolition. So these buildings that we've
23 identified as being historically significant
24 cannot be demolished. So it puts the owners in
25 a situation where they can't demolish the

Page 61 1 building and they may not have the resources to 2 actually maintain them. So I've been with the 3 City for 18 years. We've talked about trying 4 to help the property owners in the North Ponce 5 area, even before that ordinance was put in 6 place, and I really think that this would help 7 the people out. 8 That shows the location. It's difficult to 9 see. 10 So I think this is interesting. The 11 potential future TDRs from the resources that 12 we've identified in the North Ponce area, the 13 previously designated local historic landmarks, 14 that those properties that are already 15 designated are basically 60,000 square feet of 16 available FAR. The approximate future 17 availability, if we would designate each of 18 those that we've shown you, is 107,000, 19 108,000. So the total is 167,098.5 square 20 feet. 21 So the existing TDRs that are available 22 from sending sites within the CBD, the total 23 previously transferred was 156,000. So, 24 really, what we're asking is to replenish the 25 FAR that's already been transferred within the	Page 63 1 if they need -- 2 CHAIRMAN AIZENSTAT: On that specific 3 property -- 4 MS. SPAIN: On that specific property. 5 CHAIRMAN AIZENSTAT: -- that's going to be 6 sold, the TDRs are going to be sold? 7 MS. SPAIN: That's right, from the historic 8 property. They go out, they identify any 9 issues. They identify future maintenance, you 10 know, when will they need a new roof, when will 11 the air conditioning have to be -- and that's 12 put into a maintenance plan that is approved by 13 the Historic Preservation Board, and they file 14 a restrictive covenant on that. 15 Now, the City doesn't get involved on where 16 the money goes, but they're required to comply 17 with that maintenance plan, and it would be 18 Code Enforcement, now, with that. 19 CHAIRMAN AIZENSTAT: If they don't maintain 20 them. 21 MS. SPAIN: If they don't maintain them. 22 CHAIRMAN AIZENSTAT: There's certain cities 23 that have TDR transferable rights, not 24 specifically from historic -- 25 MS. SPAIN: Right.
Page 62 1 CBD, and so the total available is 226,412 2 square feet, and that includes 109,000 square 3 feet from privately-owned properties, but the 4 City owns 116,485 square feet of potential 5 development rights, and that is the Coral 6 Gables Museum and the Miracle Theatre. 7 So hopefully I explained that. I'm happy 8 to answer any questions. 9 CHAIRMAN AIZENSTAT: Dona, if I can just 10 ask you a question. 11 MS. SPAIN: Sure. 12 CHAIRMAN AIZENSTAT: The process is, 13 somebody can go ahead and sell their TDR rights 14 to a property in the CBD? 15 MS. SPAIN: Yes. 16 CHAIRMAN AIZENSTAT: Once they do that, 17 what's in place to ensure that the funds are 18 used -- or what's in place to make sure that 19 the property that's designated historic is 20 maintained? 21 MS. SPAIN: Right. Part of the process is 22 a maintenance plan that goes to the Historic 23 Preservation Board. That's done by an engineer 24 or an architect, and they identify things that 25 need to be done to maintain it. For instance,	Page 64 1 CHAIRMAN AIZENSTAT: -- but a lot of these 2 sites -- a lot of these cities, for example, 3 require that a property not have any Code 4 violations and so forth. Do we do anything 5 like that? 6 MS. SPAIN: No. No. No, not as part of 7 this process, we don't. But we certainly 8 identify -- My department contacts Code 9 Enforcement to see if there's any violations, 10 and if there is, that's part of the maintenance 11 plan, that they would have to clear up. So 12 it's done that way, because obviously, if 13 there's a Code Enforcement issue with 14 maintenance, we would want it to be cleared up, 15 but it's not specifically in the Code. 16 CHAIRMAN AIZENSTAT: Are you happy with the 17 process? 18 MS. SPAIN: I am. I think it works. I 19 think it works well. 20 CHAIRMAN AIZENSTAT: And through your 21 tenure of being in the Historic Preservation 22 Board, you've seen people actually improve 23 their properties? 24 MS. SPAIN: Absolutely. 25 CHAIRMAN AIZENSTAT: Okay.

1 Maria?
 2 MS. ALBERRO MENENDEZ: I was going to ask a
 3 similar question. As part of the TDR process,
 4 don't they have to do like a report that then
 5 gets submitted to your department?
 6 MS. SPAIN: Yes. Yes.
 7 MS. ALBERRO MENENDEZ: Are they keeping up
 8 with that?
 9 MS. SPAIN: Yes.
 10 MS. ALBERRO MENENDEZ: Okay, great. And
 11 that's how you know that it's working?
 12 MS. SPAIN: We do, and if there's any
 13 issues, we contact Code Enforcement.
 14 MS. ALBERRO MENENDEZ: Okay.
 15 MR. BELLIN: Dona, I have a question. I
 16 buy a TDR -- excuse me, I buy a TDR, and what
 17 do I get with respect to that TDR? I get extra
 18 FAR?
 19 MS. SPAIN: Yes.
 20 MR. BELLIN: Do I get extra density?
 21 MS. SPAIN: Density?
 22 MR. BELLIN: Yeah. Can I --
 23 MS. SPAIN: Like number of units?
 24 MR. BELLIN: Number of units.
 25 MS. SPAIN: No, just FAR.

1 MR. BELLIN: FAR --
 2 MS. SPAIN: You don't get any more height.
 3 You just fill out the volume. You get square
 4 footage, is what you get.
 5 MR. BELLIN: Okay, so basically it's just
 6 floor area ratio?
 7 MS. SPAIN: Yes.
 8 MR. BELLIN: That's what we get.
 9 MS. SPAIN: Yes.
 10 MR. BELLIN: I have a question, because I
 11 really don't understand the process, but
 12 apparently you can buy TDRs --
 13 MS. SPAIN: Uh-huh.
 14 MR. BELLIN: -- and the boundaries for that
 15 area is the North Ponce, which is --
 16 MS. SPAIN: Are you talking about the
 17 proposal?
 18 MR. BELLIN: Yeah. Yeah.
 19 MS. SPAIN: Right. It's -- Now, the North
 20 Ponce -- I should mention this. Those
 21 properties that are MF2 would be the most
 22 amount of transferable -- If you were to knock
 23 down these buildings, you could only build 1.5
 24 FAR. It's not like the commercial buildings
 25 within the Central Business District, that can

1 build 3.5 FAR. So the maximum development
 2 rights is the maximum allowed on that site,
 3 which includes bonuses. So, you take the
 4 difference between the building volume and
 5 that, and that's what you can sell.
 6 MR. BELLIN: But if I'm allowed a 1.9 with
 7 Med bonus in an MF2, I add --
 8 MS. SPAIN: According to the Planning and
 9 Zoning, it's 1.5. You know, honestly, you know
 10 it better than me.
 11 If I have a zoning question, I call
 12 Marshall. But I believe that it's 1.5. If
 13 it's limited to 45 feet, you have to have over
 14 20,000. I should get somebody from Zoning up
 15 here.
 16 MR. BELLIN: We've been through this, and
 17 it would be my --
 18 MS. SPAIN: Right. So 1.5 is what we're
 19 using for these calculations.
 20 MR. BELLIN: The 20,000 foot requirement,
 21 20,000 square feet, there's an exemption in the
 22 site specifics.
 23 MS. SPAIN: Uh-huh.
 24 MR. BELLIN: And it says that you don't
 25 need 20,000 square feet, and the boundaries are

1 almost the same, but not quite. It goes from
 2 Salzedo to Douglas and from 8th Street, I
 3 think, LNK.
 4 MS. SPAIN: Uh-huh.
 5 MR. BELLIN: So you don't need 20,000.
 6 Therefore -- but on Salzedo, on the west side
 7 of Salzedo, it's not included in that exemption
 8 in the site specifics. So they start at 1 --
 9 MS. SPAIN: I've had this discussion with
 10 Zoning, and I can only tell you that we were
 11 told 1.5 was the maximum for the MF2 that we
 12 were talking about, and that's what we used in
 13 the calculation.
 14 MR. BELLIN: I --
 15 MS. SPAIN: I'm not -- I'm not in Zoning.
 16 We can only go by what they told us.
 17 MR. BELLIN: Okay. All right.
 18 CHAIRMAN AIZENSTAT: Well, Marshall, would
 19 you like to ask Zoning that specific question?
 20 MR. BELLIN: If there's somebody here from
 21 Zoning that can answer it.
 22 CHAIRMAN AIZENSTAT: Ramon is here.
 23 MR. TRIAS: Marshall, is your question --
 24 What is the question, specifically?
 25 MR. BELLIN: For argument's sake, if I want

1 to build a building on the west side of
2 Salzedo, because I don't have 20,000 square
3 feet, I can only go to 45 feet in height, and
4 my FAR starts at 1.

5 MR. TRIAS: Yes.

6 MR. BELLIN: If I buy TDRs, then my FAR
7 goes up, or am I still limited to the 1?

8 MS. SPAIN: No, I think -- Well --

9 MR. TRIAS: Go ahead. Yeah, go ahead.

10 MS. SPAIN: The TDRs is based on the
11 maximum that person would be able to build if
12 the building were knocked down. Right?

13 MR. TRIAS: Yeah, but he's asking as a
14 receiving site, right? You're asking --

15 MS. SPAIN: The receiving site is all the
16 same. It's only in the Central Business
17 District.

18 MR. TRIAS: You have to be in the Central
19 Business District to be able to be a receiving
20 site.

21 MS. SPAIN: And they get 4.375 maximum.

22 MR. TRIAS: Right.

23 MR. BELLIN: But I thought to be on the
24 receiving site, you had to --

25 MR. TRIAS: Yeah, let me -- I think I

1 MR. TRIAS: Precisely.

2 MR. BELLIN: Okay.

3 MS. SPAIN: Exactly, and I apologize,
4 Marshall. I didn't know what the question was,
5 obviously.

6 MR. BELLIN: I didn't know what I was
7 talking about, either.

8 MS. SPAIN: That's okay. Well, there you
9 go.

10 MR. TRIAS: I'm glad we could help. Thank
11 you.

12 MR. GRABIEL: Dona --

13 MS. SPAIN: Yes.

14 MR. GRABIEL: A question. Why did you stop
15 at Southwest 8th Street, you didn't go all the
16 way to Flagler?

17 MS. SPAIN: Well, that's interesting,
18 because we intended to, and there are actually
19 multi-family historically designated properties
20 above that area.

21 MR. GRABIEL: Right.

22 MS. SPAIN: But they are legally
23 non-conforming and they're built on
24 single-family zoned lots.

25 MR. GRABIEL: Okay.

1 understand your question. The only thing that
2 has changed is the sending.

3 MS. SPAIN: Right.

4 MR. TRIAS: Okay? The receiving sites
5 haven't changed. They still have to be within
6 the Central Business District, and the maximum
7 FAR is the 4.2 --

8 MS. SPAIN: 375. 4.375.

9 MR. TRIAS: Yes.

10 MR. BELLIN: So, basically, what you're
11 expanding is the donor sites.

12 MS. SPAIN: Exactly.

13 MR. TRIAS: Exactly. That's the only change.

14 MS. SPAIN: And that's all we're asking for.

15 MR. TRIAS: That's the only change, is, now
16 we can send a few more square footage into
17 exactly the same maximum as we have right now.

18 MS. SPAIN: Right.

19 MR. TRIAS: So that the maximum development
20 does not change.

21 MS. SPAIN: Right. The potential in the
22 CBD remains the same.

23 CHAIRMAN AIZENSTAT: It's just a pool that
24 you have --

25 MS. SPAIN: Exactly.

1 MS. SPAIN: And the zoning doesn't have the
2 same maximum with the development rights that
3 the MF2 does.

4 MR. GRABIEL: Even though it has been built
5 above the allowable?

6 MS. SPAIN: Even though it was built as
7 multiple family, and quite possibly, in the
8 future, we could figure something out for those
9 properties.

10 MR. GRABIEL: It's a Catch-22.

11 MS. SPAIN: It is. It is. But that's why
12 we didn't go forward.

13 MR. GRABIEL: Right, because I know at
14 least two --

15 MS. SPAIN: Well, we've designated at least
16 one.

17 MR. GRABIEL: Yeah, that could benefit.

18 MS. SPAIN: Right, right.

19 MR. LEEN: Can I say something, Mr. Chair?

20 CHAIRMAN AIZENSTAT: Yes.

21 MR. LEEN: You know, I really like the
22 idea, actually -- you know, I'm the Code
23 Enforcement prosecutor and I like the idea that
24 they should be in compliance with the Code.

25 MS. SPAIN: That is nice.

1 MR. LEEN: And I know you said you put it
2 as part the maintenance plan.
3 MS. SPAIN: Yes.
4 MR. LEEN: But it doesn't expressly say
5 that, although --
6 MS. SPAIN: It does not.
7 MR. LEEN: -- you know, it's within your
8 discretion. But maybe we could add that. It
9 seems to me that a donor site, if they have a
10 large lien, they should try to have -- I think
11 before they can sell something --
12 MS. SPAIN: Well --
13 MR. LEEN: -- which is a privilege, that
14 maybe they should have to resolve the lien.
15 MS. SPAIN: I have a bit of an issue with
16 that, because a lot of times, these are
17 properties -- you know, they're built in the
18 '20s.
19 MR. LEEN: I know.
20 MS. SPAIN: They're in disrepair. They may
21 have been cited by Code Enforcement because of
22 some type of maintenance issues, and so the
23 only way they can actually get help is to sell
24 off the TDRs.
25 MR. LEEN: True.

1 MR. LEEN: Yeah.
2 MS. SPAIN: To approve everything and then
3 have someone not actually eliminate the lien on
4 the property.
5 CHAIRMAN AIZENSTAT: Well, in the cities
6 that I was referring to, they have to be
7 Code-compliant --
8 MR. LEEN: Yes.
9 CHAIRMAN AIZENSTAT: -- prior to being able
10 to sell. That's one of the conditions, and
11 that's why I was asking. It was a little
12 strange to me that the City of Coral Gables
13 didn't have some kind of a tool or a vehicle in
14 place, to at least at that point, make sure
15 that the property is Code-compliant. I'm not
16 so much saying whatever that maintenance plan
17 is, proceeding forward, but I do feel that the
18 property that is donating should be
19 Code-compliant at the time or have something in
20 place to bring it up to -- you know, to correct
21 the problems it has at that point.
22 MS. SPAIN: Yeah. Many --
23 CHAIRMAN AIZENSTAT: It just may be hard
24 with the economics, I don't know, and I don't
25 know how you go about it.

1 MS. SPAIN: So I think by the end of the
2 process, they should be free of it, but not
3 asking for it. Do you understand?
4 MR. LEEN: I understand. I'm just saying
5 that I may want to -- you know, I thought that
6 was a good point, and if it's okay, I'd like to
7 talk to you about something that could be
8 included, just so that we don't have a
9 situation where it's -- There's just an
10 appearance as to why, if there's this huge
11 lien, they're being able to sell all this and
12 then keep it.
13 MS. SPAIN: Well, you're right.
14 MR. LEEN: For the historic property, when
15 they have this major problem with the property,
16 that they're not complying.
17 MS. SPAIN: At the end of this process,
18 that should be eliminated. I don't have a
19 problem with that.
20 MR. LEEN: There should be some mechanism,
21 and I think it was a very good point. I don't
22 think you have to do anything with it; I just
23 wanted to mention it.
24 MS. SPAIN: And we haven't come across
25 that, but if we did, that would be troubling.

1 MS. SPAIN: Yeah, and many of these
2 properties are legally non-conforming, and
3 so they --
4 CHAIRMAN AIZENSTAT: No, no, I'm not saying
5 so much about the issues of legal
6 non-conforming properties.
7 MS. SPAIN: We're talking about the
8 maintenance issues.
9 CHAIRMAN AIZENSTAT: I'm talking about that
10 they have some Code violations --
11 MS. ALBERRO MENENDEZ: Right. Dirty
12 roofs --
13 CHAIRMAN AIZENSTAT: -- because they've
14 got -- Yeah, whatever. It could be that. It
15 could be problems with their sewer, if they're
16 on septic as opposed to City. There could be
17 other issues. I'm not so concerned, like I
18 said, with legally non-conforming issues. I'm
19 just -- I would just not like a property to
20 remain an eyesore when the property is --
21 MS. SPAIN: Well, I certainly think that we
22 could put something -- I don't know, Craig, you
23 need to weigh in on this, but I certainly think
24 we could put something in that if there are
25 Code infractions, that --

Page 77 1 MS. ALBERRO MENENDEZ: Compliance prior to 2 the sale. 3 MS. SPAIN: Well, or that they need to come 4 into compliance as part of the -- within so 5 much after selling it. I would not want them 6 to have to be in compliance in advance of 7 selling them, because I think a lot of times 8 they will have Code Enforcement issues, and 9 this is a way to get them out of that 10 situation. 11 MR. LEEN: I was just thinking as part of 12 the -- but you said you do -- the maintenance 13 preservation plan, you could add a few words 14 that just says -- because right now, it says, 15 "which sets forth a maintenance schedule and/or 16 rehabilitation treatment, if applicable, for 17 those architectural elements that contribute to 18 the historic integrity of the property or 19 restoration of original features," comma, and 20 we could add something about -- 21 MS. SPAIN: I like that. 22 MR. LEEN: -- compliance with the Code, as 23 well, just a few words to give her more 24 discretion, so if anyone challenges it, we 25 could say that it's well within your	Page 79 1 District. They already are in the Central 2 Business District. 3 MR. BELLIN: No, but I mean -- but what 4 we're talking about -- 5 MS. SPAIN: The proposal. 6 MR. BELLIN: -- it's only MF2, not 7 commercial? 8 MS. SPAIN: Yes. 9 MR. WU: Correct. 10 MS. SPAIN: In the proposal. 11 MR. BELLIN: Yeah. So my question is, what 12 if I have an MF2 historic building and I need 13 to rezone it -- which is the case of the 14 project that we're working on. What happens to 15 the development rights? Can I still sell those 16 development rights for that building, since the 17 zoning has changed? I don't know. 18 MR. LEEN: So you rezone the property to a 19 zoning designation that allows greater -- 20 MS. SPAIN: Are you talking about 42 21 Navarre? 22 MR. BELLIN: Yeah. In that case, it's a 23 little different, because we're using our 24 rights to build a -- 25 MR. LEEN: Let me ask you something. Why
Page 78 1 discretion. You still don't have to do it, in 2 the appropriate case. 3 MS. SPAIN: I don't have a problem with 4 them coming into compliance. I do have a 5 problem with them being in compliance before 6 they sell it. 7 MR. LEEN: As part of the maintenance 8 schedule. 9 MS. SPAIN: As part of the maintenance 10 schedule. 11 MR. LEEN: It could be something we could 12 set -- 13 MS. SPAIN: Because we check on that. 14 MR. LEEN: It gives more ability, then, to 15 get these houses into compliance. 16 MS. SPAIN: Yes, I like it a lot. 17 MR. LEEN: So maybe just a few words in 18 there, if everyone's okay with that. 19 MS. SPAIN: Yes. 20 MR. LEEN: That would be a suggestion. 21 MR. BELLIN: Dona, I have another question. 22 MS. SPAIN: Yes. 23 MR. BELLIN: The donor sites can only be in 24 the MF2 zoning? 25 MS. SPAIN: And the Central Business	Page 80 1 would you -- If it's a historic property and 2 it's going to remain -- 3 MR. BELLIN: Uh-huh. 4 MR. LEEN: -- and you're rezoning, it would 5 still have the same historic property there, 6 though. Why would you rezone it? 7 MS. SPAIN: Well, in that case, it's part 8 of a larger parcel. 9 MR. LEEN: Because it's part of the larger 10 parcel? 11 MR. BELLIN: Yeah, it's a whole block, and 12 it's -- 13 MR. WU: Well, I would caution you. You're 14 talking about a future case that's quasi -- 15 MS. SPAIN: I know. 16 MR. WU: So -- 17 MR. LEEN: Well, it's a hypothetical, 18 though. I mean, it's something that we have to 19 consider, because I don't know if that's 20 your -- I would be curious what Staff's view 21 is, generally -- 22 MR. WU: Well -- 23 MR. LEEN: -- in this area. 24 MR. WU: As I'm reading the zoning 25 ordinance proposed, it's only designated in the

1 MF2 district.

2 MS. SPAIN: Yes.

3 MR. WU: Once it's changed, it loses
4 eligibility.

5 MS. SPAIN: Yes, that would be the case.
6 And the property you're speaking of is already
7 in the Central Business District.

8 CHAIRMAN AIZENSTAT: What happens if a
9 property was --

10 MS. SPAIN: I understand.

11 CHAIRMAN AIZENSTAT: -- MF2, sold its TDRs,
12 and then went to rezone? Can it do that?

13 MR. BELLIN: And that's the case, in other
14 properties.

15 MR. WU: That's always possible.

16 MR. LEEN: So you already sold it?

17 Well, it would depend on the restrictive
18 covenant. The restrictive covenant might
19 prevent you from doing that.

20 MS. ALBERRO MENENDEZ: That doesn't make
21 sense. You're selling, to then regain it? I
22 mean, that doesn't make sense.

23 MS. SPAIN: The only properties up there
24 are MF2.

25 MS. ALBERRO MENENDEZ: Once you sell it,

1 and you have a historic property there, I would
2 be troubled by that, I have to say. I don't --
3 as the lawyer, as the attorney, I would be --
4 you know, I'd wonder what the public -- It may
5 be a public purpose analysis, it may be just,
6 you know, having a rational basis for that
7 decision. I would be troubled by it, I'd have
8 to say.

9 MS. SPAIN: I would be, also.

10 MR. WU: It defeats the purpose of the
11 ordinance.

12 MS. ALBERRO MENENDEZ: Right.

13 MR. LEEN: Yeah.

14 CHAIRMAN AIZENSTAT: Right.

15 MS. SPAIN: Right.

16 MR. LEEN: So I can't put my finger on it,
17 it was something to think about, but it's a
18 good point you're raising.

19 MS. SPAIN: The way it stands now, they
20 would then not be eligible to transfer the
21 development rights.

22 (Inaudible discussion)

23 Yes, that's it.

24 We're talking about a maintenance plan,
25 but --

1 you're stuck with the size of your building, if
2 you've sold them all. If you've sold
3 partially, then you can then take up whatever
4 you haven't sold.

5 MS. SPAIN: But Marshall is saying if you
6 keep the size of the building and just want to
7 rezone it for some reason.

8 MR. BELLIN: Yeah. Well, if it's part of a
9 larger site and part of that site is commercial
10 and part of it is MF2 --

11 MS. SPAIN: Then you wouldn't need the
12 transfer of development rights. You have the
13 FAR for that building, anyway. It would be
14 part of your development.

15 MR. BELLIN: Okay.

16 MR. LEEN: Well --

17 MS. SPAIN: That's what I'm thinking.

18 MR. LEEN: I mean, not your -- more
19 generally, if you rezoned -- Do we have any MF2
20 that could be in a commercial zone?

21 MS. SPAIN: I don't believe so. Do we?

22 No.

23 MR. LEEN: So, if you rezone -- okay, but
24 hypothetically, if you were rezoned to
25 commercial, you'd have a higher potential FAR,

1 MR. TRIAS: The maintenance plan would
2 allow you not to do exactly what you're
3 proposing, so I think that there's several ways
4 to regulate this process, and clearly there's
5 review and so on, so -- but in this specific
6 case that applies to your project, you're
7 already in the Central Business District.

8 MR. BELLIN: Yeah, but we have other
9 projects that are not --

10 MR. TRIAS: Right, but --

11 MR. BELLIN: -- and have the same issue.

12 MR. TRIAS: Right.

13 MR. BELLIN: So I --

14 CHAIRMAN AIZENSTAT: Let's -- It's better
15 if we don't get into a very specific case or
16 issue at this point. I think we're here to
17 take a look at what's before us.

18 Is -- Julio, did you have something you
19 want to --

20 MR. GRABIEL: Yes. Going back to north of
21 8th Street, what would the City have to do to
22 allow for those historic properties to benefit?

23 MS. SPAIN: Those north of 8th Street?

24 MR. GRABIEL: Uh-huh.

25 MS. SPAIN: Well, Craig, do you think that

1 if I were a property owner of a legally
2 non-conforming multi-family home on a single --
3 on a property that's zoned single-family, would
4 I be able to come to the City and request that
5 I be included as a sending site for a transfer
6 of development rights, if I'm not within
7 that --

8 MR. LEEN: But already you have a higher
9 intensity development than what is allowed. I
10 would be concerned with it, because the whole
11 purpose of this is to try to help the MF2
12 properties that could develop more and that
13 can't because they're historic.

14 MS. SPAIN: Right.

15 MR. LEEN: And it doesn't really make sense
16 in those properties.

17 MS. SPAIN: That's what our thought process
18 was, but --

19 MR. LEEN: But it doesn't -- you know, I --
20 but you'd have to come up with a purpose, like
21 why would we do -- what would be the benefit.

22 MR. GRABIEL: I was thinking that some of
23 those structures, if they need repairs, they
24 could sell their development rights, you know.
25 They could then benefit from maintenance --

1 MS. SPAIN: But the point is, they really
2 don't have any.

3 MR. LEEN: You're granting them development
4 rights, too, though.

5 MS. SPAIN: They really don't have
6 development rights.

7 MR. WU: There's no development rights to
8 give if they're oversized in a single-family
9 lot.

10 MS. SPAIN: Right.

11 CHAIRMAN AIZENSTAT: Okay. That answers
12 that question.

13 MS. SPAIN: Right. There really is no
14 development rights for them to give. They're
15 already --

16 MS. ALBERRO MENENDEZ: In the
17 non-conforming, if they have to do repairs up
18 to a certain amount, don't they have to knock
19 it down and be conforming? So, in other words,
20 a non-conforming building, if in fact it gets
21 to a point where it needs to be fixed and it's
22 50 percent -- I don't know what the percentage
23 is --

24 MS. SPAIN: Yes. That's one of those
25 structural concerns.

1 MS. ALBERRO MENENDEZ: Right. Don't you
2 then have to knock it down and have it come
3 into conformance with building --

4 MS. SPAIN: I've actually been to the
5 County with Manny Lopez and asking that since a
6 building was historically designated, that it
7 not be required to be knocked down, and the
8 County agreed to it.

9 MS. ALBERRO MENENDEZ: But I'm talking
10 about --

11 MS. SPAIN: But that's not every individual
12 case.

13 MS. ALBERRO MENENDEZ: No, I'm talking for
14 the cases that are non-conforming, like the one
15 that Julio described, for example, the ones --

16 MS. SPAIN: Oh, I see what you mean.

17 MS. ALBERRO MENENDEZ: What I'm saying
18 is --

19 MS. SPAIN: Well, if they're unsafe
20 structures, then they have to come -- then they
21 would have to come down.

22 MR. LEEN: They would have to.

23 MS. ALBERRO MENENDEZ: But what I'm saying
24 is, the non-conforming properties, don't they
25 at some point when they have to make major

1 repairs -- When does it become -- When do we
2 require them to become conforming?

3 MS. SPAIN: We don't.

4 MR. LEEN: Well, I'll read to you. I have
5 the provision right here.

6 MS. ALBERRO MENENDEZ: Okay, that would be
7 great.

8 MR. LEEN: It's -- You're talking about
9 destruction of nonconforming structures.

10 MS. SPAIN: Right. It's only when they're
11 destroyed.

12 MR. LEEN: What it says is, except as
13 provided in this Code, in Section 3-1112 and in
14 this Section 6-302, "a non-conforming structure
15 or non-conforming portion of a structure that
16 is destroyed to an extent exceeding 50 percent
17 of its replacement cost at the time of its
18 destruction shall not be reconstructed except
19 in conformity with these regulations. All
20 residential structures, including accessory
21 uses and structures, located in a residential
22 district may be reconstructed if destroyed to
23 any extent, provided that such reconstruction
24 does not increase the extent of the
25 non-conformity existing prior to destruction."

1 So, basically, for residential structures,
2 you can rebuild them even if it's more than 50
3 percent.
4 MS. SPAIN: There's also a section in
5 the -- I think it's Article 3, in the
6 Preservation Code, that talks about the
7 destruction of historic properties, which would
8 qualify, and there's a certain
9 percentage that --
10 MR. LEEN: That's what they're citing at
11 3-1112, I believe, is that section.
12 MS. SPAIN: Okay.
13 MR. LEEN: So it is an exception.
14 MS. SPAIN: That's an exception to that,
15 because if they're designated -- I can't
16 remember what it says, but there is a
17 percentage that it says it has to be
18 reconstructed, and then there's another
19 percentage that they have an option.
20 MS. ALBERRO MENENDEZ: But do you
21 historically designate non-conforming
22 buildings?
23 MS. SPAIN: Yes, all the time.
24 MS. ALBERRO MENENDEZ: You do?
25 MS. SPAIN: Absolutely.

1 MS. ALBERRO MENENDEZ: Okay. I didn't know
2 that.
3 MS. SPAIN: Yeah.
4 MS. ALBERRO MENENDEZ: I thought you did
5 not, that's why.
6 MS. SPAIN: Most of them are
7 non-conforming, because they were built in the
8 '20s.
9 MS. ALBERRO MENENDEZ: Okay.
10 CHAIRMAN AIZENSTAT: Now, what's the
11 process, if somebody brings you a historic
12 property that they want to -- not -- I guess,
13 rebuild is the wrong phrase, but they want to
14 restore it?
15 MS. SPAIN: Uh-huh.
16 CHAIRMAN AIZENSTAT: Is there a percentage
17 of the structure that they have to maintain?
18 Do they have to maintain the exterior walls;
19 they can gut the inside? What's the process?
20 How does that work?
21 MS. SPAIN: Well, it's the same with any
22 historic structure. We do not designate the
23 interiors, although the buildings in the North
24 Ponce area, there is a section of the Code that
25 applies to them, because -- that allows them to

1 go out for grants because they're theoretically
2 able to be visited by the public. But
3 typically, in a historic building, the
4 interiors are not designated. It's only the
5 exterior volume that we care about.
6 CHAIRMAN AIZENSTAT: And how would that
7 affect the non-conforming structure, if it
8 wants to do some work?
9 MS. SPAIN: They can be legally
10 non-conforming and --
11 MR. LEEN: They just can't increase the
12 extent of the non-conformity.
13 MS. SPAIN: Exactly. They can't increase
14 it.
15 MR. LEEN: Unless they receive some sort of
16 variance, but even then, that's an interesting
17 question. I haven't seen a non-conforming
18 building receive a -- Have we had that come up?
19 MS. SPAIN: We have.
20 MR. LEEN: Did you have it in Historic?
21 MS. SPAIN: If -- for instance, setbacks.
22 CHAIRMAN AIZENSTAT: Right.
23 MS. SPAIN: A lot of the buildings -- well,
24 some of the buildings even encroach onto the
25 neighboring property. But some of them, if

1 there's a five-foot setback, they were built
2 two feet from the property line. We have had
3 instances where they wanted to add to the
4 building, and they would have to go for a
5 variance or --
6 CHAIRMAN AIZENSTAT: Before the Board of
7 Adjustments?
8 MS. SPAIN: No.
9 MR. WU: No, Historic Preservation.
10 MR. LEEN: No, Historic Preservation.
11 MS. SPAIN: Historic Preservation.
12 CHAIRMAN AIZENSTAT: Oh, Historic
13 Preservation. So they'd never go to the Board
14 of Adjustments, then?
15 MS. SPAIN: They would never go to the
16 Board of Adjustment --
17 MR. WU: Not for historic in nature.
18 MS. SPAIN: Not on historic.
19 CHAIRMAN AIZENSTAT: Okay.
20 MS. SPAIN: Because they take into
21 consideration the historic nature of the
22 property.
23 CHAIRMAN AIZENSTAT: So the Historic
24 Preservation Board does grant a variance?
25 MS. SPAIN: Yes, exactly like the Board of

Page 93 1 Adjustment, only for historically designated 2 buildings. 3 CHAIRMAN AIZENSTAT: That answers my 4 question. 5 MS. SPAIN: Because they understand the 6 issues. 7 CHAIRMAN AIZENSTAT: Okay. 8 Any other comments? 9 MS. SPAIN: Now that we're thoroughly 10 confused? 11 CHAIRMAN AIZENSTAT: Would anybody like to 12 make a motion? 13 MR. FLANAGAN: I'll move it. 14 MR. GRABIEL: Second it. 15 CHAIRMAN AIZENSTAT: As is? Any comments? 16 MR. FLANAGAN: Do you want your language, 17 or do you want to deal with that later? 18 MR. LEEN: Well, maybe you could -- Instead 19 of putting an amendment, maybe just a 20 suggestion to the City Attorney and Staff to 21 look at adding some language regarding the Code 22 compliance. 23 MS. ALBERRO MENENDEZ: Okay. 24 MS. SPAIN: Yeah, I like that. 25 CHAIRMAN AIZENSTAT: Is that okay with your	Page 95 1 "Development Review Committee," of Chapter 101, 2 Administration and Enforcement, of the Coral 3 Gables Code of Ordinances in its entirety; and 4 Division 8 of Article 2, Decision Making and 5 Administrative Bodies, of the Official Zoning 6 Code of Coral Gables in its entirety; amending 7 Section 101-19, Development Review Committee, 8 of Chapter 101, Administration and Enforcement, 9 of the Coral Gables Code of Ordinances; and 10 providing for a new Division 8, of Article 2, 11 Official Zoning Code of Coral Gables, by 12 updating, revising and codifying Development 13 Review Committee, known as DRC, procedures and 14 review requirements as originally established 15 in Ordinance Number 2003-45; providing for 16 severability, repealer, modification and an 17 effective date. 18 MR. WU: Thank you, Mr. Chair. We believe 19 this is a housekeeping matter. In 2003, the 20 City Commission adopted extensive City Code 21 provisions related to Development Review 22 Committee, and during the Code rewrite, we also 23 adopted some provisions, rather minor, in the 24 Zoning Code. 25 So we have two provisions in the City Code
Page 94 1 motion? 2 MR. FLANAGAN: Yeah, that's fine. 3 CHAIRMAN AIZENSTAT: Julio, the second? 4 MR. GRABIEL: Yes. 5 CHAIRMAN AIZENSTAT: Any other comments? 6 Having heard none, call the roll, please. 7 MS. MENENDEZ: Maria Menendez? 8 MS. ALBERRO MENENDEZ: Yes. 9 MS. MENENDEZ: Marshall Bellin? 10 MR. BELLIN: Yes. 11 MS. MENENDEZ: Anthony Bello? 12 MR. BELLO: Yes. 13 MS. MENENDEZ: Jeff Flanagan? 14 MR. FLANAGAN: Yes. 15 MS. MENENDEZ: Julio Grabiell? 16 MR. GRABIEL: Yes. 17 MS. MENENDEZ: Eibi Aizenstat? 18 CHAIRMAN AIZENSTAT: Yes. 19 MS. SPAIN: Thank you very much. 20 CHAIRMAN AIZENSTAT: Thank you, Dona. 21 The next item and the final item on our 22 agenda tonight is an Ordinance of the City 23 Commission of Coral Gables, Florida, repealing 24 Sections 101-20, 101-21, 101-22, 101-23, 25 101-24, 101-25, and 101-26 of Article 2,	Page 96 1 and the Zoning Code that speak to the DRC, the 2 Development Review Committee. 3 At the same time, 10 years later, since 4 2003, we have since -- We have new practices as 5 to how we conduct the Development Review 6 Committee, some things we do, some things we do 7 not any longer, so we thought it would be more 8 practical to repeal both sections and readopt 9 sections in the Zoning Code, and it resides in 10 the Zoning Code, and update the Development 11 Review in terms of its makeup, its processes 12 and its scheduling. 13 So, to start off with, we copied the 14 purpose and intent into the Zoning Code 15 provision. We have clarified what types of 16 applications go before the DRC, and we also 17 have a provision for discretionary or the items 18 that the Staff can determine whether to take 19 before the DRC. For example, we used to take 20 all cases when you have a tenant change-out 21 before the DRC, and we thought they were rather 22 minor, but the Code does tie our hands to take 23 it before the DRC, and we'd like to make that 24 discretionary. 25 The membership remains the same. The