

**City of Coral Gables City Commission Meeting
Agenda Item E-3, E-4, E-5 are related**

March 23, 2010

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Planning Director, Eric Riel

Public Speaker(s)

Ryan Bailine, Shutts and Bowen Representing the Applicant

Chris Heggen, Transportation Consultant, Kimley-Horn & Associates

Alberto Cordoves, Architect

Maria Iparraguirre, Coral Gables Resident (Riviera Drive)

Lillian Smuglorsky-Gonzalez, Coral Gables Resident (Riviera Drive)

Ernesto Murias, Coral Gables Resident (Riviera Drive)

Nuri Fuentes, Coral Gables Resident (Bianca Avenue)

Amado J. “Al” Acosta, Coral Gables Resident, (Alhambra Circle)

Thomas Levinson, Coral Gables Resident (Alfonso Avenue)

E-3 [Start: 9:55:45 a.m.]

Change of Land Use. An Ordinance of the City Commission of Coral Gables amending the Future Land Use Map of the Coral Gables Comprehensive Plan pursuant to small scale amendment procedures subject to ss. 163.3187, Florida Statutes, from “Residential Use (Multi Family) Low Density” to “Commercial Use, Low-Rise Intensity” for a 0.59 acre parcel, legally described as Lots 17-19, Block 92, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; providing for a repealer provision, a savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 7-0).

E-4

Change of Zoning. An Ordinance of the City Commission of Coral Gables approving a change of zoning from Multi-Family 2 District (MF2) to Commercial

Limited (CL) for a 0.59 acre parcel, legally described as Lots 17-19, Block 92, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; providing for a repealer provision, a savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 6-1).

E-5

Site Plan Review. An Ordinance of the City Commission of Coral Gables granting site plan approval for the construction of a 3 story/45' high, 14,590 sq. ft. commercial office building on the property legally described as Lots 17-19, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; and including required conditions; providing for a repealer provision, a savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 6-1).

Mayor Slesnick: We are now going to move to the ordinances on first reading, and it's my understanding Mr. Manager, that E-3, E-4, and E-5 are related and we will probably take them together. These three items Mr. Riel, I take it are related to the same actual land use?

Mr. Riel: That's correct; land use, zoning and the site plan.

Mayor Slesnick: So the way we will do this, Mr. Riel, unless you correct me, and asking that it be done another way, we'll address the discussion, I mean obviously we will vote separately on each item, but we will address the discussion to all three items.

Mr. Riel: That's correct; we have one presentation for all three items.

Mayor Slesnick: OK, fine; and we will have them read now into the record in succession. Mr. Manager are you or the City Attorney, or anybody would like to read them in.

City Manager Salerno: I'd read them in, if you'd like Mayor.

Mayor Slesnick: Just take them; E-3, E-4, and E-5.

City Manager Salerno: OK. E-3 is Change of Land Use. An Ordinance of the City Commission of Coral Gables amending the Future Land Use Map of the Coral Gables Comprehensive Plan pursuant to small scale amendment procedures subject to ss. 163.3187, Florida Statutes, from "Residential Use (Multi Family) Low Density" to "Commercial Use, Low-Rise Intensity" for a 0.59 acre parcel, legally described as Lots 17-19, Block 92, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; providing for a repealer provision, a savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 7-0). I'll precede Mayor with E-4 Change of Zoning. An Ordinance of the City Commission of Coral Gables approving a change of zoning from Multi-Family 2 District (MF2) to Commercial Limited (CL) for a 0.59 acre parcel, legally described as Lots 17-19, Block 92, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; providing for a repealer provision, a

savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 6-1). E-5 is Site Plan Review. An Ordinance of the City Commission of Coral Gables granting site plan approval for the construction of a 3 story/45' high, 14,590 sq. ft. commercial office building on the property legally described as Lots 17-19, Riviera Section Part 2 (5100-5118 Riviera Drive), Coral Gables, Florida; and including required conditions; providing for a repealer provision, a savings clause, and a severability clause, and providing for an effective date. (PZB recommended approval, Vote: 6-1).

Mr. Riel: Good morning, I'd like to have Mr. Carlson hand out updated public comments, we have all the comments that we received up till about 8:30 a.m. Also Mr. Foeman I believe has also comments he would like to have entered into the record.

Commissioner Cabrera: May I just thank Mr. Foeman. Mr. Clerk, thank you for taking all of the forwarded messages and putting them together in this package. Ladies and gentlemen what I am thanking the Clerk for is, I don't know about the rest of the members of the Commission, but I did receive a number of e-mails from residents as late as yesterday, late afternoon, and I forwarded that information to the Clerk's office, so they can be included as part of the public record; and the reason I did that was the majority of these residents, all of these residents took the time to present me with some thoughtful input regarding the proposed project, and I thought it would be critical for that information to be part of the public record, so. If those people are watching or are in the audience, thank you for taking the time to write us, or to write me.

Mayor Slesnick: This is the time we are going to use for the Jennings thing, and thank you Ralph, I didn't do it as organized as you did and sent it to the Clerk...

Commissioner Cabrera: Well I'm OCD so get to do that stuff all the time.

Mayor Slesnick: I brought with me, these are the batch of e-mails which I received and briefly responded to, and I would like the citizens to understand that when they write to us before this type of hearing, we are really not in a position of taking positions, or of predetermining the outcome, and having full discussions, so. If you think that our thank you for this input and will consider it is too short, too sweet, we are really bound by law not to be discussing these things; we are actually bound to reveal any discussions we've had. So I just would like to add to the record Mr. Clerk, I am going to give these to you later, but I want to keep them for reference as we go through this. The following e-mails, some of them are duplicative of the ones that Mr. Cabrera has turned in because they were addressed to all of us, from Hilda Lawhorn, Richard Namon, from Betty Temple, from Ramon Matos, from the Cantons, Pablo and Mikki, from Jose Frugone, from Tom Scola, from Rodriguez Garcia Manuel, from Albert Pons, Maria Merabona, Charles Hyman and Joy Hyman, Doctor and Joy Hyman, Marilyn Sanchez, Mildred Tutan and Charles Tutan, Dickie Davis, Joan Burton Jensen and Trond Jensen, and Lillian Gonzalez, I have those that I will turn into the Clerk, and Mr. Clerk you can check to see if there are duplications of those that have already been turned in, but that's the ones that I have already received before this hearing.

Commissioner Withers: Hey Don and maybe Liz will have to respond. We are allowed to respond to these folks by thanking them for the e-mail and saying we understand their concerns, and are listening to them, I mean, that's...

City Attorney Hernandez: That's the limit.

Commissioner Cabrera: Absolutely – absolutely.

Mayor Slesnick: No, that's fine. No, I was saying if that was not responsive enough, that's what we are limited to.

Commissioner Cabrera: Yes – why do you bring that up though?

Commissioner Withers: I just want to make sure because each person I've responded I say thanks for your e-mail, I understand your concern, you know, that kind of thing.

Commissioner Cabrera: Yes, I do too; and the reason I asked you the question is because some people I didn't respond to, I just sent them to the Clerk because when somebody writes all five of us, I don't feel like I'm being personally written to so I don't respond back.

Commissioner Withers: And I did Liz, and I hope I'm not out of bounds on this, I did say please make sure you understand the issue and take time to review all the facts in the case, I mean, that's...

City Attorney Hernandez: That's perfectly fine Commissioner Withers. About eleven years ago I provided a form response to provide to individuals on quasi-judicial proceedings, which also include a section in there encouraging the individual who is writing to come to the hearing because you can only consider the testimony and evidence presented at the hearing; and I continue to encourage the Commission to put that down because many times citizens feel that by just providing an e-mail that, that is sufficient...

Commissioner Withers:...but it's not.

City Attorney Hernandez:...and I believe that it's important for them to know that it's not only their right and obligation to come to the meeting, but it's their opportunity to provide sufficient evidence for the record. Happy to provide it again.

Commissioner Withers: I mean, I received all the same e-mails that I think because I saw you all were copied on the same ones I was.

Commissioner Cabrera: Well sometimes I'm not; sometimes the writer is so clever that they write in such a way that I don't know that all of us got the same message, and I think that's kind of clever, it makes me feel like responding when I get a personal e-mail rather than just send an e-mail to five people and expect five people to respond to you.

Mayor Slesnick: Let me add though to what Liz said. I think it's a legitimate thing that Liz, are you down there?- OK, and Chip, I was going to add this, it seems to me that one of the things that I do get out of e-mails is that we may not take the e-mails as testimony, and we may not rely on the statements of fact that are made because they are not sworn, and we will be swearing in all witnesses today under the law, but on the other hand some e-mails do give me cause to think about certain items, there is no way to avoid that, and so therefore there will be things that people have brought up or suggestions that they have made, or thoughts that they have given me that may become my own thoughts, so. Let me ask you this Mr. Riel. This comes to us with a unanimous approval of the Planning and Zoning Board. No, it's unanimous for E-3.

Commissioner Cabrera: No it's not unanimous.

Mr. Riel: Its 6-1, I think, change in land use 7-0, and the site plan and zoning was 6-1.

Mayor Slesnick: That's right. So the change of land use is 7-0; 6-1 for thing. You know, just something – I'm curious did they have as much input from the neighbors as we are having?

Mr. Riel: Basically the input that we received, if you look at the front page of the blue sheet, that's the information that the Board got, and there were two or three individuals that appeared before the Planning Board and did voice their objection.

Mayor Slesnick: And behind that are late received e-mails and things?

Mr. Riel: Correct. From the time of the meeting up until this morning at 8:30 a.m.

Mayor Slesnick: OK. So these are actually somewhat duplicative of what the Clerk had too.

Mr. Riel: Yes. What we do is whatever we receive we put in a packet and then obviously with the Clerk, to make sure you get all the comments.

Mayor Slesnick: You know it seems to me that we know that and let me say this before I give the wrong signal to anybody in the audience because I am not being critical of our city, because I know we do the right thing, I know we send out the required notices, I know that we deliver the required notices, I know that we publish the required notices, but it just seems that somehow we need to try to encourage input from the neighborhood before the Planning and Zoning Board meets, it is putting us in quite a situation to have a distinguished Board like the Planning and Zoning Board that serves the people of Coral Gables just as we do, and who are our appointees vote either 7-0 or 6-1 for something, and then have a reaction from the neighborhood that would seemingly be very strong. So I find that somewhat of a disconnect, having served as my fellow Commission member Mr. Cabrera, on the Planning and Zoning Board, I know that we were always anxious for input. I know that you can't force people to input, and I know that we can't make them, and our Planning and Zoning Board meetings are in the evening so they are actually easier to attend for working people than our meeting. I just don't know where the disconnect is

but I sure hope as other people listen to this that if there are things in their neighborhood that are of concern to them that they try to make the Planning and Zoning Board meeting because we actually have a higher standard now to overcome by the Planning and Zoning Board's decision than we would otherwise; with that – please.

Mr. Riel: I'd also like to note for the record we do require the applicant to have a neighborhood meeting. They do send out the same notice that staff does within a thousand feet, and that's something that every application that comes before the Board as well as the Commission, we make that requirement. I do have a...

Commissioner Withers: Did they have that meeting?

Mr. Riel: Yes, they did conduct a meeting.

Commissioner Withers: Was there a signing sheet?- how many people attended?

Mr. Riel: There was a signing sheet and we asked them for minutes, and we have that available.

Commissioner Withers: I'd like to see that please.

Mr. Riel: I do have again the three items a PowerPoint presentation, can I have that loaded?- then after I'm finished my presentation the applicant has a presentation. Again, this is a request for change in land use from multi-family low density to commercial low-rise intensity; change in zoning from MFS to CL Commercial Limited, and site plan review. This is the former site of the Riviera Court Motel, it's a .6 acre parcel, it's an office 3 stories in height, 45 feet in height, .56 FAR, about 15,000 square feet, and there is 49 onsite parking spaces. No bonuses or variances are being requested, one curb cut, masonry, landscaping around the perimeter around the property, and additional street trees.

Vice Mayor Kerdyk: Eric, let me just ask you a question, I'm sorry. Is that actual square footage or is that adjusted square feet the fifteen?

Mr. Riel: Square footage for the building.

Vice Mayor Kerdyk: Inside square footage...

Mr. Riel: Yes.

Vice Mayor Kerdyk:...Rentable square footage for tenants, right?

Commissioner Withers: Well that's two different things.

Mr. Riel: Gross – Gross square footage.

Vice Mayor Kerdyk: Gross square footage.

Mr. Riel: Just showing the existing land use and proposed land use outlining the subject property. The existing zoning going from MF2 to CL, Commercial Limited...

Commissioner Withers: Eric, I don't mean to – yes I do, I mean to interrupt you. So how did we get a motel use; our code use to say a motel use was allowed in single family, how did that happen?- or was that one of those...

Mr. Riel: Motels I believe was allowed in the apartment districts and that motel has been there for some time.

Vice Mayor Kerdyk: That's before your time Chip (Laughter).

Commissioner Withers: So apartment district.

Mr. Riel: We had apartment districts from A-1 to, I'm going to say A-15, and I believe motels were allowed in one of those categories. You remember we had like fifteen or sixteen different apartment districts in the old code?

Commissioner Withers: So that was removed when we codified the Code? Remember when we went through that whole issue of matching land use with, OK, we did all that, and we said there were fifty-sixty properties that we actually took a step back and reduced...

Mr. Riel: We took the private properties and we were going to make the zoning and land use consistent with land use being governing, and the Commission decided not to move forward with those.

Commissioner Withers: OK, so we did our properties.

Mr. Riel: Public properties.

Commissioner Withers: OK, so this was one of those.

Mr. Riel: It was decided as we went through as each property developed we would then evaluate and correct them on a one-to-one basis, rather than just doing a wholesale change in land use only.

Commissioner Withers: OK.

Commissioner Anderson: Is there more than one copy – I appreciate that.

Mr. Riel: Characteristics of the area – Again commercial limited is the most restricted commercial district, it has to have a limitation on nighttime uses. The existing pattern is

commercial and medium density, multi-family along US-1, and lower density to the south of the property. Again, commercial and medium density multi-family characteristic on US-1. The proposal is significantly smaller than what could be allowed in terms of height FAR square footage. Might be a little bit difficult to see this table. It kinds of give you an analysis of the comparison between the multi-family; the second column is basically what would be allowed in multi-family; the third column is what would be allowed in commercial; and then the fourth column is what the applicant's proposal is.

Commissioner Cabrera: Can I stop you there? Can I stop you there? Because I am always amazed at what it could be; and I know that you and your staff go through a lot of pains to try to help the applicants, and you try to provide information, and you try to provide education, but as an elected official I'm looking at three different types of buildings in front of me on this structure, excuse me on this screen. If they could do all of those things why aren't they doing it?

Mr. Riel: The choice of the development of the property is their choice. What we do is....

Commissioner Cabrera: I know, but give a lot of guidance and direction because I know you do, and so does your staff.

Mr. Riel: What we try to do is we try to provide information so that the Planning Board, the Commission, as well as the residents are educated in terms of what the potential development of the property is; we give the different scenarios. Obviously, they are not exact estimates; we don't actually go and draw building designs, that is difficult obviously to do, but we try to based upon our knowledge of the Zoning Code, what are the potential parameters of the envelope they could be constructed in, the height, the FAR, the setbacks, so it's meant to be an informed tool to those decision-makers as well as the residents.

Commissioner Cabrera: OK, well that's a fair answer, but let's take it a little further. So given your expertise and giving them the scenarios that this could potentially be, why do you think in your opinion with all the years of experience that you have are they seeing that they could build a lot taller, and perhaps a lot different, but yet they are going to make it smaller because they want to appeal to the neighborhood character, and they don't want to disrupt the quality of life and blah, blah, blah. So given all those things why just help me.

Mr. Riel: I think that it would be more appropriate for the applicant to answer that.

Commissioner Cabrera: OK, that's a fair answer.

Mr. Riel: We react to an application that's provided, we evaluate the Zoning Code and the Comp Plan; we either say it's consistent or it's not consistent. If it's not consistent we suggest ways for consistency which we have provided in a report, but that doesn't mean when a project comes to us we automatically recommend approval; we evaluate it based on the Codes, and you've seen things come from staff that have not been supported by the Planning Board and the Commission.

Commissioner Cabrera: And you continually do that.

Mr. Riel: We try to again, provide the information.

Commissioner Cabrera: And you do a fine job of doing that, I just wanted to engage you in conversation, only because I found it to be so interesting that every time one of these projects comes before us since I've been around for the nine and some years, everybody tells me well you know we could build this, but we are not going to do that, we are going to be kinder and gentler. So I just find it kind of an interesting example – you know for me it's almost like extortion, you know, for me it's almost like a tactic to try to convince me that you're going to be a lot smaller, and a lot nicer, and less obtrusive, and more accommodating, and everybody is going to sing kum-bah-yah together, and it just happens time and time and time again. So I felt it would be fun to kind of have that conversation with you, but I understand your restrictions and your parameters that you are working with. So, if I put you on the spot I'm sorry Eric, because I enjoy working with you.

Vice Mayor Kerdyk: I think the follow up to that question is, have there ever been any other proposed structures in the city from these applicants here for that site?

Mr. Riel: I'm not sure in terms of this applicant; this parcel did have a previous proposal...

Vice Mayor Kerdyk: Maybe that's a better question.

Mr. Riel:...approved on it, I believe it was a multi-family apartment, fifteen units, three stories.

Vice Mayor Kerdyk: And how long ago was that?

Mr. Carlson: That was last year....

Vice Mayor Kerdyk: So just progressing here a little bit, so there was already an application for a fifteen unit building there, in the economy basically....

Mr. Riel: And that was by right review.

Vice Mayor Kerdyk: Right. The economy basically tanked that proposal and now we are coming back with another one, so that's the situation. Alright. Thank you.

Mr. Riel: Continuing on. As you know with each application we do a 3-D model just to give the Commission as well as the Board and the public an understanding of the proposal. The building is located, if you look on the model, it's the green building; US-1 – you can see the Metro Rail tracks; these are just still images of the 3-D model; and then this is the actual video, it's about a 45 second video that pans around the site.

Commissioner Anderson: Eric, as we pan around this – most of that stretch of Dixie Highway is low-rise commercial or businesses, right?

Mr. Riel: That's correct.

Commissioner Anderson: Its minor kind of liner buildings, right?

Mr. Riel: That's correct. If you look basically to the north of the property; I don't know if you recall Block 93-94 that was developed as an office building, parking underground or at grade, with two levels at 45 feet similar to this request.

Commissioner Anderson: And to the south as well – are there projects that are existing.

Mr. Riel: Across the waterway or the waterway there is a three and-a-half story, 45 foot apartment building. Findings of fact which staff does in evaluating the application, we find it consistent with the Comp Plan; we've recommended conditions of approval for those items that were not found to be consistent; satisfied the Zoning Code standards which is outlined in the staff report, and again Commercial Limited zoning is the most restrictive zoning on the property, commercial zoning available. Substantially smaller project, it's not developed to the maximum potential in terms of the height. We've included conditions limiting nighttime activities, in addition to those provisions in the Code; mitigate any potential adverse effects on the surrounding properties; as I indicated a neighborhood meeting, a resident meeting was conducted. Staff does recommend approval of the change in land use, change in zoning and site plan subject to various conditions on the site plan; its mission of a restrictive covenant outlining all conditions of approval; compliance with the nighttime uses; parking lot lighting should be turned off at 9:00 p.m. Monday through Sunday; no building signage facing the residential portions of the property; existing mangroves along the canal bank shall be protected. If this development does proceed forward there is a limitation of height on any future development on the property of 45 feet that would be included in the restrictive covenant.

Commissioner Anderson: It goes with the land, right?

Mr. Riel: Correct.

Vice Mayor Kerdyk: Also, the follow up question on that, is there a limit on the size of the property too?- the height is 45 feet, but....

Mr. Riel: There is no limitation that staff has suggested on the size.

Vice Mayor Kerdyk: So let me understand this; this is important. So the fact is that if they do not build – we approved the land use today, correct?- they do not build it and five years from now a new owner comes back in, his one restriction is the 45 feet in height, right?

Mr. Riel: That's the restriction.

Vice Mayor Kerdyk: And so if he ends up coming up with a way to build the building he can put 30,000 square feet in a 45 foot height, he can do that?- is that correct?

Mr. Riel: He could do that, yes.

Vice Mayor Kerdyk: Thank you.

Commissioner Anderson: Without...

Vice Mayor Kerdyk: Without putting a square foot figure into...

Mr. Riel: If I could go further, the Planning Board did add some additional conditions as well. The local planning agency, basically the Planning and Zoning Board as well, did ask that the applicant not include medical offices on the subject property.

Vice Mayor Kerdyk: I saw that.

Mr. Riel: They didn't have a problem with that as well. They also asked for the trees on the east property line, which is the one basically facing the canal area, that those be larger trees, significantly larger trees; and they also asked that the parking spaces at 26 and 27, I know we are getting very detailed, asked that those be relocated to provide for additional buffer. The applicant did agree on the record to staff's conditions, as well as the additional conditions placed by the Planning and Zoning Board. I have no further presentation, any questions I may answer.

Commissioner Withers: I have a couple questions. The boat slips – I know if it goes to commercial use will be no longer in play; are there boat slips in play there now?

Mr. Riel: There is a dock there right now, that will be removed.

Commissioner Withers: But if it stays residential will it be removed?

Mr. Riel: My understanding is Building and Zoning Department has instructed the applicant has considered a use that needs to be removed.

Commissioner Withers: If it's residential and the people own the docks, it's not rented out, not like the issue we have up the canal the other way.

Mr. Riel: That's my understanding, it has to be removed.

Commissioner Withers: Is there a way – Liz can you comment on that, do you know?

City Attorney Hernandez: I concur with Mr. Riel, it has to be removed.

Commissioner Withers: How do we know that?

Mr. Riel: Walter (Carlson) has indicated to me that it was supposed to be removed when the – it was an accessory use to the hotel and it was supposed to be removed when the hotel was removed, therefore it needs to be removed. So if the property remains residential, I think then a new dock could be constructed.

Commissioner Withers: OK – so they could have boat slips if it's residential.

Mr. Riel: Boat slips I don't know the answer to – docks...

Commissioner Withers: Why would they build a dock...

Mr. Riel: When you think of boat slip I think of...

Commissioner Withers: I mean a place to moor your vessel.

Mr. Riel: Yes, yes.

Commissioner Withers: So they could do that?

Mr. Riel: Under the residential.

Commissioner Withers: They could. Was there any type of traffic study? What I'm trying to get at is one of the biggest concerns that individuals had in the surrounding neighborhood was the traffic. Was there a traffic study done with the permitted use of a multi-family low density, fifteen multi-family unit, six stories, one hundred and two feet, versus an applicant's proposal of three stories, 14,000 square feet?

Mr. Riel: There was a traffic study completed that evaluated this proposal based upon the existing traffic conditions, and the applicant has that as part of the presentation. I know they will provide you with information regarding that. The Public Works Department did review and they felt that there was no additional impact on the area, and they felt that no additional offsite improvements were necessary.

Commissioner Withers: Compared with the maximum usage that...

Mr. Riel: They evaluated this proposal, the 15,000 square foot.

Commissioner Withers: I know, but against what?

Mr. Riel: Basically, the existing traffic, the patterns in the area, in other words if there is additional traffic that's generated by this development, that's what they evaluate; and again now you are getting into the kind of traffic...

Commissioner Withers: No, no, Eric, all I'm trying to figure out is, we are asked to change the use on this and you know, I'm curious to know how much traffic would be generated by allowing the as-right build that the developer could pursue versus the applicant's proposal. So I'm trying to figure out....

Mayor Slesnick: How many cars does fifteen apartments create?- and what kind of traffic?- one car apartment probably two.

Commissioner Withers: So its thirty autos and how many trips thirty autos do in and out of there compared to what a 14,000 square foot office space would do?

Mr. Riel: I have to rely on the traffic study that was submitted and I have to rely on Public Works Department review of it. So in terms of the actual answers perhaps the applicant and their presentation can answer that.

Commissioner Withers: And by the way that was the same list that was in the Planning and Zoning meeting, the letter that you passed out, so we did have a copy of it, I just want to make sure. OK. Thank you.

Commissioner Cabrera: Hey Eric while the applicant is walking up, can I just ask you kind of a general question, since Mr. Withers brought up traffic studies? You recall, I think it was several years ago, I brought up the idea of having the development team that's coming before the city fund the traffic study, and then allowing the city to conduct the traffic study for the purpose that this way the city could conduct its study, review the outcome of the study, and in essence do so without any vested interest one way or the other, whereas, not to say that this developer did this, but in the nine years I've been serving in office I have yet to see a traffic study that did not support what the developer wanted to do. So I mean, you pay for what you get, and if I'm a developer I'm certainly going to find that traffic study engineer that gives me what I want to give to the municipality that I want approvals from. So having said all that, did that go any further with the city?- or is that something...

Mr. Riel: No, I had some meetings with Public Works regarding the completion of a citywide master traffic plan, and to move forward in terms of what you had mentioned, I'm not sure where that is at in the Public Works Department, but I did have meetings in terms of providing background information.

Commissioner Cabrera: Are there cities around the nation or in this region that actually do that?- this gentleman is saying yes.

Mr. Riel: Yes, yes there are; they do a citywide traffic plan and basically when applications come in; the data basically is in a data pool and they evaluate it, and then staff, city engineers or consultants to evaluate it and basically there is a fee charge for that, and the evaluation you get is

from obviously the consultant or the city, which we do right now as a part of the review process, but it kinds of streamlines the process.

Commissioner Cabrera: See I think most good developers like these folks would probably be more than comfortable in doing something like that, and I think it would show a great deal of progressive thinking in our city if we would take that position because again, after nine years I just keep getting traffic studies that are always thumbs-up to the....can someone turn that off because it's really annoying (cell phone)...OK, thank you. You know what; I lost my train of thought, so thank you for keeping your cell phone on.

Mr. Ryan Bailine: Ryan Bailine here on behalf of the applicant.

Commissioner Withers: I'm sorry, what was your name?

Mr. Bailine: Ryan Bailine, my office is at 201 South Biscayne Boulevard, and I'm here on behalf of the applicant this morning. Before we go into our presentation I just wanted to address some of the comments that Commissioners had made just so you know where we are headed. We did do an analysis of what could be built versus what we are proposing. So our transportation consultant is here and can answer all those questions for you. With respect to Commissioner Cabrera's question just as an "FYI", in various jurisdictions around Miami-Dade County, specifically the City of Miami, and in the County, when the proposed project reaches a threshold where a traffic study is required, it's my experience that those jurisdictions have selected three or four go-to people, if you will, and that outside consultant reviews what's submitted and there is a fee just as you surmised.

Commissioner Cabrera: Thank you sir. I appreciate that.

Mr. Bailine: As Mr. Riel summarized we are here today requesting that you approve what has been approved by your Planning and Zoning Board, and that is specifically a land use plan change to the city's Comprehensive Plan, a rezoning to the Commercial Limited zoning district, and an approval of our site plan which contemplates approximately 14,500 square foot, and I want to stress this point, owner-occupied building. On March 10th we appeared before the Planning Board, and as has been said already, we received a 7-0 approval based on staff's recommendation of the proposed land use being consistent with the several of the underlying policies and practices contained in the city's Comprehensive Plan. We received a 6-1 vote with request to our rezoning and our site plan approval, and has already been discussed this morning, there were comments made by some people who have come again today as well as additional e-mails that we were given copies of, which relate to traffic, and the possibility of additional cars whether they be going north on Riviera, or south on Riviera, I think it's – I could be off. After that Board meeting, the March 10th meeting, our transportation consultants went out on March 17th at the a.m. and p.m. peak hours, took photographs over a fifteen-twenty minute period, and also placed someone at the intersection, and actually counted the number of cars going across US-1, turning off of US-1 in various directions. Although the Planning and Zoning Board based on staff's analysis was more than satisfied with the traffic results or the lack of generation of

traffic that we forecast, again because this will be an owner-occupied building, and as our transportation consultant can probably describe much more eloquently, the traffic will be reverse commuting versus the conditions that are present now, we obtained additional data. For the record I would like to submit photographs, I have one set, I didn't bring a second set, I apologize. So you can review as we continue. Oh I'm sorry; I do have two-three sets.

Commissioner Cabrera: While you are doing that, may I ask you just a quick question about your comments about owner occupation? That's not part of the condition though is it?

Mr. Bailine: No.

Commissioner Cabrera: No, you are just letting us know that this developer is intending to occupy the building that he is building.

Mr. Bailine: Yes, and that's a very important point – that's right it's not a condition, but it's a very important point from our perspective because at this point our client who is in the real estate business property management, intends to occupy at least half of this building, that was one of the reasons relocation of his offices that the prior proposal, which I think was much larger than this, the multi-family proposal was shelved. Yes, economic conditions and the reality of potential purchases not purchasing property on US-1 due to the noise and what-have-you, which again is why this building has been positioned so far so that it's almost on top of US-1, but a major factor in why our client has gone through this complete redesign and come back before you, is because our client intends to occupy this building. I just wanted to make that note. In brief, staff's recommendation is strong and we ask that you rely on that recommendation; on the recommendation, the comments brought to you by the Planning and Zoning Board. The project given the size of the property at .6 or .59 acres, the conditions in the area, the neighboring commercial building across Riviera, and comments that were received at our neighbor's meeting, the land use and the proposed building are appropriate and proportionate both with respect to the property issue and the old...neighborhood, and I think that is also contained within staff's recommendation. With respect to our neighbor's meeting which was, as Mr. Riel said, noticed and held at the Holiday Inn, and there was an agenda; I have a copy of it in the event you don't have one, I'm happy to give it to you; everybody that came out our neighbor's meeting, I think you have the signature page of people whose addresses were right down the street of the Chinese Village, everybody came and asked questions, and there was nobody who left that meeting who didn't feel, and I'm testifying under oath today...

City Attorney Hernandez: Well then you have to be sworn in, are you the attorney...?

Mr. Bailine: I'd be happy to be sworn in to testify.

City Attorney Hernandez:...are you an attorney?

Mayor Slesnick: I wasn't swearing you in because you are the attorney for the....but if you are going to speak to facts then...

Mr. Bailine: I will testify as to what happened. If you'd like to swear me in...

Mayor Slesnick: OK. If everybody who plans to speak if you'd turned in a card to speak on this issue, if you plan to speak, if you'd please stand and raise your right hand, the City Clerk. Anyone who has signed up to speak or will sign up to speak can raise your right hand. Mr. Clerk if you'd swear in the witnesses please.

City Clerk Foeman: Do you solemnly swear and affirm that the testimony you will be providing today will be the truth and nothing but the truth?

All: I do.

Mayor Slesnick: We assume that you all said "I do". So thank you. We are a trusting group here, but we do follow the law, so please continue.

Mr. Bailine: Thank you.

Mayor Slesnick: And I wanted you to know that we were giving you the courtesy as being the attorney of arguing your client's case that you weren't swearing in.

Mr. Bailine: I appreciate that. Again, now that I'm officially sworn in, there was nobody who left that meeting who had any objections to our proposed development. And one of the people who did attend the meeting who signed in was a neighbor living in one of the buildings immediately adjacent to this property. Yes, those buildings are owned by our client, and he is a tenant, but that business relationship, I think, is independent to someone's ability to say whether they like the property or not.

Mayor Slesnick: Wait a minute, wait a minute, I'm sorry. The people that we read the names that attended your meeting....

Mr. Bailine: I don't think we read those names.

Mayor Slesnick: No, we passed them along.

Mr. Bailine: Oh yes; one of them was a tenant of the building immediately next door.

Mayor Slesnick: The others have addresses under there...

Commissioner Cabrera: There were six attendees.

Mayor Slesnick:...and I'm saying, they were satisfied when they left.

Mr. Bailine: Yes.

Mayor Slesnick: OK. What did you do – let me ask you this since you had such a successful meeting, and I'm not saying that critically, I mean that sincerely, because I have to tell you I looked at the names on your list and they are not objectors, they did not send us any e-mails. So since you had such a successful meeting with a small group, did you make any effort to reach out to more of the neighborhood because obviously as you can see now the neighborhood is quite concerned?

Mr. Bailine: We noticed the neighbor's meeting....

Mayor Slesnick: I'm not asking if did what you were supposed to do, I know you did what you were supposed to do, I just meant – did you have any indication that others in the neighborhood were very concerned?

Mr. Bailine: Not until the Planning and Zoning meeting, because independent of the neighbor's meeting the letter that went out was on my office's letterhead, had my direct phone number, my e-mail. I got no e-mails from anybody; I did get two phone calls, I don't remember their names from folks who live right across the canal, asked about the height of the proposed building, asked about when we would be going to certain meetings; I gave them a tentative date and that was it. I didn't reach out.

Commissioner Cabrera: Have you worked with us before?

Mr. Bailine: Yes.

Commissioner Cabrera: OK – here's my experience as having lived in this community for forty-three years, and having served on the Planning Board with Don and the Board of Adjustment with others, and now serving as a City Commissioner for almost nine years; we happen to have a community that is, I believe, very well educated, and very sophisticated, but they are very busy with their lives; they are growing their families, their businesses, they are vacationing, they are travelling, they are doing the things they want to do, and they rely upon, well some of them rely upon us to represent them, but then when a project like this unfolds and you go through all the steps that you think you ought to be going through, at the last minute, at the eleventh hour we all of a sudden get these death or doom kind of messages that this is going to destroy their quality of life in their particular neighborhood because it's a commercial intrusion, and you know, they are very bright people, they really do know what they are talking about and what they write about, they are very passionate, and so what typically happens is we are confronted with this issue and some of us are sensitive to it, some of us try to find an amicable solution, a compromise, but at the end of the day we all try to do what's best for the city. The reason I went off on this 101 on our citizens is, there may be an opportunity to have another outreach program on this thing between first and second reading; and I would encourage you all to do so because I think that our citizens really are very bright and if you give them the time, and if you give them the opportunity to voice their concerns, you all may make some changes, modifications and/or you may just inform and educate to a point that they'll be as satisfied as the six people that walked out of your meeting on January 26th. So, I'm sorry to take you off your presentation.

Mr. Bailine: No, no, not at all, it's a point well taken and just so you know in the neighbor's meeting, several of the neighbors were comparing the proposed fresh market proposal. I was not involved in that project, I read a lot about it and heard a lot about it, and I think they used a lot of their land use and zoning knowledge that was picked up there in evaluating this particular proposal; and perhaps that's why they came down on the side, and again I don't know exactly which ones there were, but at least two of them said this is an appropriate and proportionate, I actually took that language from them, appropriate and proportionate land use and an appropriate and proportionate building, given the character of the neighborhood, which has changed over time; and there was a commercial corridor as staff pointed out, running on both sides of the property along US-1, and its proportionate given the size of the property. We spent, again because this will be an owner occupied building, I think we spent more time than would normally be spent planning the location of the building, as far away from the neighborhood as possible, pushing it as close to the canal as the zoning would allow, and we didn't come in and ask for a setback variance, pushing it as close to US-1, so that any noise which travels down into the neighborhood, down through the canal off of US-1 will be buffered to the greatest extent possible; and I know in the construction cost, which I think is \$1.8 million or \$2 million dollars, since our application fees were based on that number, a lot of that is going into sound proofing the building and making it sturdy again, because we want to make sure that it provides a beautiful and appropriate, a proportionate buffer to the noise that comes into the neighborhood now off of US-1, since the property is currently vacant. As I think our transportation consultant will explain with much more expertise and greater detail, we are of the opinion that the impact of this project will be deminimus on the area during the peak a.m. and p.m. traffic times, and in addition to the photos that we submitted, we have additional data including our own traffic analysis that was approved by Public Works that speaks to that. Before I wrap up, going to Commissioner Cabrera's comment; I am happy to meet with anybody, always happy to meet with anybody, in fact at the Planning and Zoning meeting, if I may digress for a minute, there was a LLM class from UM, and they all, you know, I guess it was an assignment that they all had to come to a public meeting, and I've been contacted by six or seven they all wanted my business card as a land use attorney, and I've been contacted by six or seven of them asking about the project, asking about today's meeting, I don't see anybody here, but I'm always happy to speak to anybody. One of my law partners lives right down the street and he popped into my office and said, I see what you are doing, walked through it with him and so there are no secrets here, nothing to hide and we believe we've made several concessions that are in the best interest of the neighborhood, specifically no medical clinic or office use, which we all know generates traffic, we've agreed that will not take place in that building. With respect to the 25, or 28 or 30 foot trees recommended by members of the Planning and Zoning Board along the canal to further buffer this, we've agreed to that as well. The conditions on nighttime lighting, both those in the Code and conditions recommended by staff, we've agreed to all of them; and we ask that you rely on staff's professional recommendation in approving the land use change, or zoning change, and our site plan approval for this project. Thank you.

Mayor Slesnick: Mr. Riel if we were to consider moving forward on this type of development is there another way to approach it besides changing the land use?- can you give a variance?

Mr. Riel: The property is zoned MF2 it only allows residential uses, so you cannot grant variances for uses, you need to change the zoning and land use categories.

Mayor Slesnick: OK.

Commissioner Withers: What are you thinking Don?

Mayor Slesnick: No, I was going kind of where you were headed before, where several people were headed about, if we were to consider moving forward on this, how much control can we keep over exactly the future of this property, you know, I've heard some people express the idea that if we changed it to land use, then of course we may approve this site plan, but what about the site plan in twenty years or so forth. That's all I was asking.

Mr. Bailine: Could I address that concern?- because again that's a valid concern. I would love if the City Attorney could confirm, but it's our position that if this site plan, whether it be by this developer-owner or in twenty years another owner, if this site plan were to be modified adding on one additional square foot that because the site plan was approved by the Commission at a public hearing, it would not be able to be modified unless it came back to the Commission at a public hearing, and obviously the Planning and Zoning Board and what-have-you. I'm pretty sure that, that's the case that – in other words we wouldn't be able to get an approval for this zoning change, and then throw these plans out in favor of a 50,000 square foot building, you know, administratively; any modifications, expansions of this building will have to come back before the Commission, and in the event that's not the case we'd be happy to agree to that.

Commissioner Anderson: And isn't it also what we were trying to do when we changed the zoning and the land use, when we went through our whole process, that we were going to try to clean up the inconsistencies in the land use and the zoning, because that's where I'm heading.

Mayor Slesnick: We are required to by the State.

Mr. Bailine: I think we addressed that a little bit earlier and that we did all of our government parcels, but we were going to treat these...

Commissioner Anderson: Right, but I just wanted to reemphasize because that was...

City Attorney Hernandez: Let me just respond to what the attorney was indicating. Minor changes are handled administratively. If there is a major deviation from the site plan then it comes to the City Commission. That's what our Code says, so it's not exactly what the attorney was saying; some minor changes will be handled administratively if they come forward. So if he is proffering that if he moves one tree he is coming back to the City Commission, then it's got to be in the covenant, I just wanted to be clear.

Mayor Slesnick: Let me ask Eric and you Madam City Attorney, and whoever wants to answer this. I realize that we are considering three different propositions and they are all tied together by intent, but if we in fact change the land use for this property, can we in that motion of changing the land use tie it to the site plan that we are approving at the same time? So that when you go back into the Code of the City and you see land use on that piece of property, that there is some kind of asterisk or footnote, and the footnote says that this is tied to ordinance “xyz”, which sets forth the site plan that was approved for the change.

City Attorney Hernandez: Mr. Mayor you cannot make it a condition of your approval, however, the applicant can proffer that they will submit a restrictive covenant tying the site plan to the land use, however, the City Commission cannot impose that restriction.

Mayor Slesnick: OK – and you don’t need to offer that now...

City Attorney Hernandez:...that proffer that you are making sir.

Mayor Slesnick: I understood, I saw the nods that you might do that, but you don’t need to offer that now because we are not there yet. I think like the rest – I’m asking a lot of questions too not only for my own knowledge, but for other people’s sake to see if they would like to know the answers to these questions.

Mr. Bailine: And in addition, I neglected to mention, in addition our architect is also here and can answer any site plan, building positioning, design issue questions.

Mayor Slesnick: You said you were through, but who is your next presenter?

Mr. Bailine: Our transportation consultant would like to just say a few words addressing the underlying...

Mayor Slesnick: If you would introduce the people as they are coming up.

Mr. Bailine: Chris Heggen from Kimley-Horn will go through a short discussion on the underlying traffic study, and then what additional work has been done to address concerns and comments made both by residents and members of the Planning and Zoning Board at the P&Z meeting.

Mr. Chris Heggen: Good morning, for the record Chris Heggen, Transportation Engineer with Kimley-Horn and Associates, and as Ryan mentioned we did prepare the traffic impact analysis that was submitted that was part of the overall package to the city staff. As noted by city staff our analysis that we conducted really evaluated the impacts of the proposed project, approximately 15,000 square foot office building on this site. At the Planning and Zoning meeting we did hear some of the concerns from the residents and so subsequent to that time we did go back and prepare some calculations looking at a proposed theoretical development of multi-family on the site, and again that was something that we had calculated to be prepared to address at this

hearing, it's nothing that has been submitted as part of any sort of formal analysis to the city, but again we are prepared to address that. First of all just going back to our initial study we primarily analyzed the local area surrounding the proposed project. Looking at the trip generation of the site on an a.m. peak hour basis, its approximately 24 vehicles, and in a p.m. peak hour basis it's a 23, that's using rates published by the Institute of Transportation Engineers, and really in the scheme of things it's not a substantially heavy impact on the surrounding roadway network. Our firm works on projects like Wal-Mart and all kinds of developments that may times exceed 500-600 p.m. peak hour or a.m. peak hour trips. In this case we are talking about 24 a.m. and 23 p.m. We analyzed the intersection of US-1 and Riviera Drive, as that's the primary ingress and egress to the site, and the main issue that we observed in our analysis of the site is that really the worst condition on Riviera Drive occurs during the a.m. peak hour. The northbound vehicles on Riviera Drive trying to get onto US-1 tend to back-up considerably during the a.m. peak hour. Subsequent to the Planning and Zoning meeting we did go out and conduct some observations to quantify the back-up, and you see the photographic evidence there. There were photographs taken both at the moment that the signal for Riviera Drive turned green, which would be the maximum back-up, and then also a few that were taken the moment that the signal turned red. So that's as vehicles had been able to clear through. The observations indicated that the maximum number of vehicles that were observed in the a.m. peak hour was a total of 18, and that's spread across three different lanes, but especially the through movements tended to back-up. That occurred again three different times during the observation period. In the p.m. peak hour the worst was 13 vehicles which occurred once and then beyond that, all were below 10; and again that's spread across three lanes, so really the back-ups you would see would be 5 to 6 vehicles in the worst lane in that case. Overall the average during the a.m. peak hour was 15.2 vehicles, and the p.m. peak hour was 8.3, so just slightly more than half as many vehicles in the p.m. peak hour trying to get across the intersection. The other thing that we noted was, and this is the indication that's probably the most important. During the a.m. peak hour there were several instances where not all of the vehicles on Riviera Drive were able to get across the intersection; up to four vehicles were not able to proceed through the intersection during the a.m. peak hour. During the p.m. peak hour when we were there, there was one single instance where a vehicle was not able to get through, and it was one vehicle; the remainder of the time all the vehicles were able to get through on green; and the primary, I think, importance of all those observations, again that was from our study what we noted was the worst aspect of operations at the intersection was that, as Ryan eluded to in his presentation, the office peak hour tends to be heavily inbound in the morning and heavily outbound in the afternoon based on the rates of the Institute of Transportation Engineers, 88% of the traffic in the morning is entering, with 12% exiting; and if you think about most office environments it's hard to believe there is anybody exiting at that time, and then its reversed in the afternoon when you have 17% entering and 83% exiting. What that means is that during the morning peak hour when the northbound traffic is back-up on Riviera Drive the traffic into this development is coming inbound off of US-1 and turning into the site.

Vice Mayor Kerdyk: How do you know it's coming in US-1? I live on Riviera Drive so I know it better than anybody does. How do you know it's coming in off US-1?

Mr. Heggen: We project that the majority of it will be coming in from US-1, and it's a compete – it's a matter of tons of factors, which can all change over time...

Vice Mayor Kerdyk: But it's not going to happen, let me tell you; it's going to probably – a lot of people are going to come from the south Pinecrest area and they are going to come in and they drive through Riviera Drive to get to this, and they are going to find other ways than going down US-1, I'll tell you it's a fact.

Commissioner Cabrera: You know what's interesting?– I don't use that corridor after I drop our daughter off at Riviera Day School; I stay away from Riviera because that light takes so long to get past, which is easier for me is I take Granada; I go through the Chip Withers round-about and then I go down the street, and I go through the other round-about and head up Granada, because Riviera is impossible.

Mr. Heggen: And part of the point of all this too is that the site is currently vacant, but it really can't remain vacant forever, and the other possibility under the current zoning and land use is we've discussed is multi-family, and multi-family is exiting during that time and where is that traffic all going to go?– it's going to try to turn left onto Riviera Drive and add to that queue which backs up to that intersection. So, I understand the concern and we've noted that it is an existing problem, but multi-family development actually is just as bad or exacerbates the problem because you have the traffic trying to turn left and enter that when it's blocked past the driveway.

Commissioner Anderson: So basically what you are saying is the multi-family use would actually have people exiting at the time when its peak hour in the morning, whereas the commercial application, CL application would be more in the later hours because their arrival times is probably a little later and their exiting time is during the less congested time, whereas the multi-family will also have the egress at that time and maybe even more trips during the day, I mean I don't know that part, but from that particular portion there is more traffic coming out of the multi-family at the a.m. peak, right?

Mr. Heggen: Correct. During the a.m. peak hour the projection is that you would have a total of 11 cars and 9 of those would be exiting, so again they are trying to enter the traffic stream on Riviera Drive, and I understand the concern and how we did the distribution of traffic is based on the model that's maintained from Miami-Dade County, but again on a very localized basis for an office it depends on where the employees live, and that's going to change over time as employee turnover occurs. Tune from the south, there may be Coral Gables residents, who find it convenient to come up Riviera Drive, and certainly they will do that, and again Pinecrest residents may do the same. You will also have residents from Gables on the north side of US-1 who will be coming from that direction and others who may be speculating if they are coming from the Doral area or something like that, they are going be coming from the north and west and not coming from the south. So it really is a function of your employees specifically as it occurs over time that again, there is also a difference in traffic on Riviera Drive, and then if this were multi-family traffic trying to turn onto Riviera Drive at the time when the queue backs

across the driveway, again the p.m. peak hour the queue is much shorter and that's with the office development they will be able to enter that northbound flow of traffic without potentially blocking southbound Riviera Drive as you would have in the morning with multi-family.

Commissioner Withers: So did we get traffic counts in our packet?

Mr. Heggen: There were traffic counts included in the traffic impact analysis that we submitted.

Commissioner Withers: In this packet?- OK, I didn't see it. So walk me through the scenarios if you don't mind. You obviously did a traffic trip count on the proposal.

Mr. Heggen: Correct.

Commissioner Withers: So in essence trips per day.

Mr. Heggen: Over a course of a day approximately 319 and as I mentioned 24 in the a.m. peak hour and 23 in the p.m. peak hour.

Commissioner Withers: Twenty-four percent (24%)?

Mr. Heggen: Twenty-four (24) total.

Commissioner Withers: And that's 8 to 9?

Mr. Heggen: Yes, it's whatever the peak hour is between 7 and 9.

Commissioner Withers: 7 to 9 is 24 trips.

Mr. Heggen: It's a single peak hour between 7 and 9. The reason that ITE, the Institute of Transportation Engineers reports it that way is in different communities the peak hour could be some places its 7 to 8; some places its 8 to 9.

Commissioner Withers: So you are saying that you did not; can you hear me OK?

Mr. Heggen: Yes.

Commissioner Withers: Did you say that you did not do projected traffic studies on a multi-family low density land use?

Mr. Heggen: Not as part of the required submittal for the city, but after Planning and Zoning when we heard some of the concerns of the residents we prepared some calculations, for a multi-family with a project of fifteen dwelling units, the a.m. peak hour is projected to be 11, and p.m. peak hour 12 vehicles.

Commissioner Withers: And the trips per day?

Mr. Heggen: Is approximately 105.

Commissioner Withers: OK, so it's about a third of the traffic overall, and about half of the morning and the afternoon.

Mr. Heggen: Correct. That's one way of looking at it, but these are relatively small numbers, you are talking about a difference of about 10-11-12 in each peak hour.

Commissioner Withers: And on the – what is your base number of autos on each that are permanently domiciled on the multi-family?- 30?- What would you figure for 15 multi-family units?

Mr. Heggen: That would probably be a function of the parking code, but typically and it depends on the number of bedrooms typically, but I think a relatively reasonable assumption for 15 units would be about 30.

Commissioner Withers: OK. How many employee cars are going to be parked under the applicant's proposal?

Mr. Heggen: Sorry, I'm deferring to the architect, but what?- approximately 40?

Commissioner Withers: I'm concerned about traffic, I'm concerned about over flow parking, I mean, that's what we are trying to get to here.

Mr. Bailine: Per the City Code, we had to provide 49 parking spaces which is exactly what we are providing. Our client has about 11-12 employees at this time including himself, so if that's half the building, I don't know what the other half of the building, how many employees they may have, but we've provided all the parking that the Code requires, if we could have provided less for the Code, we would have.

Commissioner Withers: You just said something I missed earlier. When you said owner occupied that's only a portion of the building, that's not the entire building.

Mr. Bailine: At least half the building, that's right.

Commissioner Withers: What does the owner do?- property management?

Mr. Bailine: Property management in the development, rental units he owns, I guess, and manages them, landlord I guess is another.

Commissioner Withers: OK. How about the other?- is there a proposed tenant on the other side?

Mr. Bailine: At this time I do not know; I know there were some inquiries that were made through our client's company to try and find some type of professional office, accountant, lawyer, something to that effect. In fact because of what we intend to do with the building, we had never even considered the idea of having a medical clinic, and when it came up that it was permitted under the proposed zoning, we were glad to say absolutely not, that's not the kind of operation, that's not the type of class "A" building that we want to build and bring to Coral Gables, that's not what we are going to do.

Commissioner Withers: Thank you.

Mayor Slesnick: Any other questions for traffic? Thank you very much. Next...

Mr. Bailine: Lastly our architect, Alberto Cordoves, is here and will be glad to run each of you through the site plan. He has a presentation, an overall, frankly we thought the staff presentation especially with respect to the massing and the existing conditions could have answered some of your questions, but in the event you have any specific questions he'd be happy to.

Mayor Slesnick: Well maybe we'll get back to that if we have any questions.

Commissioner Cabrera: Because I will have one or two questions for Mr. Cordoves.

Mr. Bailine: OK.

Mayor Slesnick: If you would do it though, if someone would hold up the board to show us the representation of the site plan.

Mr. Bailine: This is the proposed building right here.

Commissioner Cabrera: Is there a camera that can focus on that? Ma'am is there a camera that we can focus on that? Cameras are behind us. So the folks in the audience can see this.

Mr. Bailine: This is the proposed building right here measuring about 14,590 square feet.

Mayor Slesnick: We are using this camera, no I asked him to bring it up here, and I asked him not to block the view of the audience. It's my fault, we've got it.

Mr. Bailine: The building is positioned as far – as close to Dixie Highway as possible, in other words as far away from the existing residential uses. The building is also positioned as close to the canal as possible given the setback requirements in the CL, the Commercial Limited zoning district. Lastly, the building is pushed as close to the corner of Riviera and US-1 as would permit since that would be the main entrance right there to the building. The parking along this side here and in the back, but specifically along this side will be buffered with a six foot masonry wall as well as all landscaping that you see on the site plan, and based on the Planning and Zoning Board's comments additional landscaping will be on the site specifically, in that area back there

which will measure, I believe, in 25 feet in height at time of planting in order to further buffer the site, the building from review off the canal. Again, with respect to certain site planning issues, there will be some parking underneath the buildings, identical to that, which is in the EWM, Trivest Building across Riviera; and I neglected to mention during our presentation, but for the record, we did speak to Ron Sheffield at EWM and he was in support of the project. In the event you have any entrance or circulation questions, again our architect is here and is happy to.

Commissioner Cabrera: Yes, I'm going to ask the two questions now. Good morning Mr. Cordoves, gentlemen you can sit back, you can stand down from where you are, if you'd like, I just want to make it comfortable for you. My two questions are setback and frontage; so let me go to frontage first. Out of curiosity you being the architect and a well recognized, well respected architect, why not put the front of the building on Dixie Highway?

Mr. Cordoves: Well, essentially the nature of the lot is a rectangular lot, the narrow side of the lot is on Dixie Highway, so what we did is we put as much frontage as we could right on Dixie. Coming back and extending itself through Riviera, what we did was essentially basically match the same front width that we have on South Dixie on Riviera. Essentially what happens is that the building papers back from that elevation, but essentially this volume is equal to this volume from the actual perception.

Commissioner Cabrera: You know the reason I ask this, and of course you know more about architecture than I'll ever know about architecture and design, but the reason I asked you this question is, from a neighborhood accepting this kind of structure, it's so much more palatable if the front of the structure is facing Dixie, because if you drive down Dixie in any direction what you find are parcels of land that are very, the majority are rectangular in size, except for a few of the commercial buildings and condominiums, and it literally faces a commercial view rather than a residential view of the project.

Mr. Cordoves: And that's precisely the purpose of the main entrance, pedestrian entrance to the building, its right here located on this board.

Commissioner Cabrera: From a pedestrian standpoint, but not from an egress or ingress of automobiles.

Mr. Cordoves: And the other item which is egress is essentially virtually impossible to come in from the D.O.T.....road, which is US-1...

Commissioner Cabrera: Why?- because of the bridge?

Mr. Cordoves: You would have to have acceleration lanes on that, and correct me if I'm wrong, we have our traffic, but we could not possibly have a curb cut coming into here or exiting here because of the amount of speed, and Riviera basically – people turn this corner very, very fast, so we extended the curb cut as far away from the intersection of Riviera as possible. With reference

to the actual volume that's placed on South Dixie, what you see here, this is the required setback line from the canal; this is the required setback line and this is the required setback line. So we essentially have the minimum or maximum volume placed on South Dixie.

Commissioner Cabrera: Yes, but you know the problem I have with the setback, and as was said before, someone said, I forgot who mentioned this, that the setback was consistent with other properties. It's not consistent with say University Inn; University Inn doesn't have the same setback requirements that you have instituted in this project, and the reason I know that I just took a drive over to University Inn on my way home last night, got out of my car walked it, and saw that its half of the setback requirements, and that's facing a waterway as well and that's why I picked University Inn not for any other reason. So I'm not really sure where...did you want to say something sir?

Mr. Bailine:...[Inaudible – off mike]...the underlying zoning is different.

Commissioner Cabrera: In that area...?

Mr. Bailine:...[Inaudible – off mike]...

Commissioner Cabrera: Maybe that's what it is, maybe that's what it is, but I looked at both sides of the waterway, the Maihai Waterway and the setback requirements were not nearly what they are in this case. So I had a difficult time, and I was just trying to find a similar structure and that's about the closest I could come to. Alright – well I thank you.

Commissioner Anderson: Quick question just to put it clearly on the record. Your decision to put the building to address that corner is basically to help move it back from the residential area.

Mr. Cordoves: That is correct. You see the nature of the site, this is a rectangular site, we faced it as far as possible from the adjacent residential areas, and essentially the building....it's really minimal, its 15,000 divided by 2, so essentially the 7,500 square foot footprint is extremely small for an office building.

Commissioner Anderson: Thank you.

Mr. Cordoves: Thank you.

Mayor Slesnick: Thank you sir. Does that conclude your presentation?

Mr. Bailine: Yes, and just like to reserve any time to respond to comments made by....

Mayor Slesnick: We hadn't limited you; we thought that this was worth the time and effort to give a full presentation here, so we'll let you say a few words before we close.

Mr. Bailine: Thank you.

Mayor Slesnick: We'll go through...

Mr. Bailine: I wanted to respond towards the end, if that was OK.

Mayor Slesnick: That's fine.

Mr. Bailine: Thank you.

Mayor Slesnick: We'll go through the cards that had been turned in to speak, and we would ask people if they read the back of their cards before they fill them out, we have a three minute limit of each of the residents, and we have a number of cards to go through, so; and if you – anyways try to stick to three minutes. We try to be kind.

Commissioner Cabrera: Later on we'd like to get staff to come back also to talk about the setbacks and the frontage issue that I brought up, so you can enlighten me.

Mayor Slesnick: Maria Iparraguirre, 5705 Riviera Drive. Maria, welcome.

Ms. Iparraguirre: Morning – first I want to...

Mayor Slesnick: Did I get the name right?

Ms. Iparraguirre: Yes, Maria Iparraguirre. First, I wanted to address...I wanted to say that for the Planning and Zoning Board, my house is about a quarter mile from this site and whatever the restrictions, the restrictions on that meeting I was not invited; and I think that our side, the south side of Riviera from this side would be further impacted than maybe the people who are behind, you know, a thousand feet west and south may not feel the impact. So maybe some of the people who were invited to that meeting were not really affected than some of the people who were invited because people are affected in different ways. I think there are three main concerns here and one would safety, one would be traffic, and one would be property value. I have three children – one of the happiest days on Riviera is when I built my wall because they could play outside, and I didn't have to sit in a chair and watch them. When my son started to drive, two of them drove through that intersection and the last thing we said every morning was not I love you, but be careful on Riviera, do not cross or start on that intersection until every car is stopped; and if you don't live on Riviera Drive you don't realize what that intersection is about, and just looking at that picture, I don't know what this is right here, but I will tell you that right here is a merge lane, and right here are the cars and when you cross that these cars cannot get through the intersection...So I don't know, you were talking about Wal-Mart...[inaudible – off mike]...I don't know what Wal-Mart has to do with our neighborhood, but that is a grave intersection, and I'm sorry that I've never been to these meetings, but God knows I would love to come to a meeting...I wish somebody would propose an improvement of that light, an improvement of the traffic as it goes through that light. That commercial building is going in and out of Riviera Drive, I mean, I feel like I live on the forgotten street of Coral Gables. We have traffic circles on

these tiny streets to reduce traffic, and on Riviera Drive every single person I know that lives in Coconut Grove, or lives in Pinecrest tells me every day, oh I go by your house every day. I mean, literally you get this from every single person you know, hey what are you doing at your house, I just drove by it today. That Miller Circle that maybe include in the thousand feet from this project could use a circle like nothing I've ever seen, and I've heard that, that has been proposed and I know that's a separate meeting; but what I'm saying as neighbors the last thing we want is our traffic or that light to be worse and it affects all of us.

Mayor Slesnick: Thank you.

Commissioner Cabrera: I want to give you one response. I'm well aware of Riviera, I grew up in the Gables, and we'd love to try to find traffic calming solutions, but one of the problems that we face as a municipality is that we have to rely upon Miami-Dade County Public Works, and the part of it is that your street is a collector, and therefore it makes it exceedingly difficult for us to be able to make a traffic calming solution that really reduces two things, volume and speed, and so I feel your pain.

Ms. Iparraguirre: I agree with you, but that's why I think that the Commission, when they look at our traffic, and look at our street, and look at this project, has to realize that we are already in trouble.

Mayor Slesnick: Well, we understand that, but I would hate to say that Riviera is a forgotten street, it's one of our premiere streets in our city and we all are familiar with Riviera, and the traffic light on US-1 is, I hate to say it, but way beyond our control, and of course we've been wanting to install red light cameras for a long time now, and based on legal hang ups we haven't done so on US-1, which is one of the areas as you say is the most dangerous with people just ignoring the traffic signals and we hope to get to that some day to save young people's lives and older people's lives, but also one of the things that drives traffic circles and other traffic calming is petitions from neighborhoods; and if your neighborhood is petitioned and hasn't been responded to I'd like to know about it, then you can...

Ms. Iparraguirre: They said they were looking into it.

Mayor Slesnick: OK, then you can say its forgotten, but I don't think we overlook any petitions and we have a Traffic Advisory Board that sits every month as far as I know, and they help rank the requested traffic circles and so forth, to respond to. So please – I also want to remind you that some of the traffic circles in your area were most controversial with the neighbors, the traffic circles along Hardee, and so forth were very controversial with people not wanting traffic circles.

Ms. Iparraguirre: That Hardee circle is the best thing that ever happens to...

Commissioner Cabrera: You should see how difficult that was; you should have seen how difficult that was. I had to attend multiple neighborhood meetings and the naysayers came out that day in droves, and today they love it.

Ms. Iparraguirre: It's amazing; I mean, at least you know there is not going to be a huge accident...thank you.

Mayor Slesnick: Thank you. Mr. Van Wallegher, OK, I'm sorry, you said you did not wish to speak, but you are opposed to the application. OK – thank you. Lillian Smuglorsky-Gonzalez. Did I get that right?

Ms. Smuglorsky-Gonzalez: Some of the neighbors are not speaking because we prepared a small package for you all with photographs, we are not traffic engineers, but...may I approach?

Mayor Slesnick: Absolutely, you may. Unlike the courts this is your City Commission, you may always approach us.

Ms. Smuglorsky-Gonzalez: Thank you very much. For the record the Clerk was also handed the packet first thing in the morning so you have it on record.

Mayor Slesnick: Did you give the Clerk a copy?

Ms. Smuglorsky-Gonzalez: Yes, first thing in the morning he received it.

Mayor Slesnick: OK thank you.

Ms. Smuglorsky-Gonzalez: Good morning, my name is Lillian Smuglorsky-Gonzalez, and I'm a 43 year Coral Gables native born, raised, educated, and now I am raising my own family on Riviera Drive. I'm a computer engineer and I really tried to make this as easy as possible for you. I completely object to the land change or zoning change based on the following, and this packet was compiled very quickly with the help of many neighbors. According to the meeting that we had at the Planning Board meeting on March 10th, the applicant stated that during their resident's meeting they had so many favorable responses, I was not there, I was out of town, but it just so happened that in doing a little bit of research, if you look at the first few records, the owner of the lot in question owns the duplexes directly next door and that's four homes, plus the multi-story home adjacent to that. So we are talking the first five homes adjacent to his lot. The property is also facing, if you look at the package facing Riviera Drive, they are comparing this property to the building on US-1, this is not facing US-1, this is facing Riviera Drive, which is completely residential; if they were facing US-1 perhaps they wouldn't have as much opposition. I feel that it should be zoned for the various residential applications it was zoned for. If you look at the color paint – are you missing something?

Commissioner Cabrera: No, I'm a politician; I get ahead of everyone, so I'm way advanced.

Ms. Smuglorsky-Gonzalez: Good. OK. You can look at your plate map, we just made arrows showing the consistency, right now as it is zoned and the use of the property; it's consistent with the apartment building directly behind it on the waterway.

Commissioner Cabrera: And I think the point you are trying to drive at is that the same person that owns the residential property owns the commercial property and therefore it would have been a nice thing to do to continue the same theme all the way to South Dixie Highway.

Ms. Smuglorsky-Gonzalez: Either that or what they had proposed back, I believe it was in June of '09, their multi-family, two and-a-half or whatever it was fifteen unit building. Of course we keep hearing the bigger worst case scenario, we're not afraid because we know that we are protected by certain zoning guidelines, and as I was saying the property faces as it runs out, our residential street, not US-1; Riviera is not commercial at any point and should remain as it is zoned. All lots immediately surrounding the proposed project are zoned residential, multi-family, not commercial including the properties across the waterway. It's located, if you look at your photographs, diagonally across the street from our historical Chinese Village, and may be it might not be a big deal to a lot of folks, maybe there is no one...

Mayor Slesnick: I'm going to give you the three minutes the gentleman that surrounded his time, but you've got three more minutes.

Ms. Smuglorsky-Gonzalez: OK. If you look through the photographs I'm sure – it speaks for itself, its labeled, this whole thing about 24 cars, you can see where there are cars coming across from Ponce unto Riviera blocking traffic and what they depict their driveway is going to be is at the end of the merged lane, and that's where most accidents occur. We also went to City of Coral Gables Police Department, obtained a record of accidents, this is not a traffic study, these are accidents, and we are averaging over one a day in the first not even three months, but in the first 70 days of the year we've already had one per day.

Mayor Slesnick: I'm going to say this, we are not going to accept any more cards, these cards should be turned in before the hearing, but we'll take this last one, and that's where we are closing the public hearing, OK.

Ms. Smuglorsky-Gonzalez: If you notice the Police records most of the accident occur on the corner of Riviera and US-1, also referred to as the 500 Block or the 1599 Riviera Drive address. Again, we cannot compare Riviera Drive having that street, that commercial property on Riviera Drive to the two large buildings facing US-1, because those buildings have ingress and egress through Riviera and Maggiore, and Maggiore and Rosaro. Not only are our lives at stake here, but our property values are also on the line and as you all know the market is really bad, it will most definitely negatively affect the value of our homes and the quality of life. It is very difficult to get out of our own driveways as it is. In the best interest of our neighborhood, community and citizens, I urge you to vote against the project as it stands, since it will be benefiting only one person and not the neighbors or the citizens as a whole. Thank you very much.

Mayor Slesnick: Thank you very much and thank you for your package.

Commissioner Cabrera: And I wanted just to alert staff that the speaker in presenting this package to us took a number of very good photos, and one photo that they took was the corner of US-1 and Riviera Drive, and they were trying to show how cars in line to cross and turn left onto US-1, there is a big electrical box there and its full of graffiti, if we could kind of take a look at that, that would be great. Thank you.

Mayor Slesnick: Did you provide the applicant with one of your packages? Could you do that? And by the way in return I will share with you their pictures. Did you get one of their pictures? OK. Ernesto Murias, 5308 Riviera Drive.

Mr. Murias: Hi, I live at that address for thirty years and in the neighborhood for thirty-three. When I moved into the area Riviera Drive was a two lane street. At this intersection now Riviera Drive is a five lane street. You have three lanes going westbound or northbound, whatever you want to call it; and two lanes coming southbound or eastbound, including a merge lane which merges unto the main lane right in front of this building where their driveway is supposed to be. They mentioned that this building is a commercial building just like all of the other buildings on US-1 are, but there is a big difference, all of the other buildings face US-1, not the side street. All of the other buildings with the exception of the two buildings to the north of Riviera Drive have access directly from US-1. Now a couple or three years ago, these two buildings were built north of Riviera Drive on US-1, and the access to those two buildings is not from US-1, but from Riviera Drive on one side, and from Maggiore on the other side. Right now in the mornings if you go up Riviera Drive, which is two blocks, this intersection is two blocks away from my home, you see all the cars lined up trying to cross US-1 going west. When the light turns green all the cars coming across in the opposite direction have three left turns within a 150 feet. They first try to make a left turn into the existing building in the corner, in the north corner there. Just about 20 feet south of that there is an alleyway which people use to turn left there, and access the building on the other side of Maggiore, and then about 50 feet south of that there is Menendez Street. So you have three possible left turns coming from US-1 down Riviera Drive, all of this while the traffic on Riviera Drive going west is trying to cross US-1. Now if this building is built in the morning, everybody coming from south of our area is going to come up Riviera Drive and then they will be trying to make a left turn into this building. So now you can picture all of the people coming across this way making left turns into this existing building, and the people coming up Riviera Drive trying to make left turns into this proposed building. So if you think we have a mess now, wait until you see that.

Mayor Slesnick: Thank you very much.

Mr. Murias: Couple more things.

Mayor Slesnick: No, sorry we are moving on.

Mr. Murias: My three minutes are up.

Mayor Slesnick: Well actually your four and-a-half minutes are up.

Mr. Murias: Sorry.

Mayor Slesnick: No, that's OK, but thank you, and your point is well made. Although I must say, if I'm not mistaken that the University Inn is not directly accessible off of US-1, it is directly accessible off the two side streets on both sides.

Commissioner Cabrera: Well you know what...?

Mayor Slesnick: They have a closed road in front of it on the US-1 side.

Commissioner Cabrera: That's a closed driveway, which is what you are saying.

Mayor Slesnick: Yes, and you have to go down the side street to get in.

Commissioner Cabrera: But it used to be open.

Mayor Slesnick: Could have been long time ago when I used to go there to have brunch.

Commissioner Cabrera: No, I used to go to EWM, you could enter from Dixie Highway.

Mayor Slesnick: That used to be my favorite place to have brunch on Sunday mornings overlooking the waterway. Nuri Fuentes, 511 Bianca.

Ms. Fuentes: Good morning.

Mayor Slesnick: Let me just say too, if there is anybody that has prepared remarks that wishes to submit them to the Clerk for the record, please feel free to do that too.

Ms. Fuentes: Good morning, my neighbor just mentioned some of the points that I was going to bring up, but I would like to say that Menendez Street has always been used as a short cut toward the Grove and toward Carver Middle School, and that's always making a left turn right there, and the other thing is that the gentleman here mentioned that having a residential project built versus the commercial was basically the same, but it's not, because many people today work out of their homes and they just stay in the house, they don't leave at that time, and the other thing would be that....

Mayor Slesnick: Don't report them to us.

Commissioner Cabrera: Don't report them to us.

Ms. Fuentes: Sorry?

Commissioner Cabrera: Don't report those people because they can't do that (laughter).

Ms. Fuentes: They work out of their homes.

Commissioner Cabrera: I know....sh...sh...sh...

Ms. Fuentes: OK sorry, nobody heard that.

Commissioner Cabrera: Nobody heard that, and where's your address again? (Laughter) I'm just joking. I'm just joking.

Ms. Fuentes: OK. And the other thing is that they mentioned that there are 18 cars divided in three lanes exiting toward Dixie Highway, and that is not true, because those three lanes become let's say 25 feet from the corner. So it's one lane that goes all the way back to Bianca and then when you get close to Dixie Highway it becomes three. So, I've been there and I have to wait three lights to be able to cross Dixie Highway. Thank you.

Mayor Slesnick: Thank you very much. We have a card from Sandra Levinson of 918 Alfonso who does not desire to speak, but she has commented, "I am against the change of zoning from residential MF2 to Commercial Limited CL due to encroachment into residential neighborhoods. This area is very congested and traffic is always backed up. Keep the current zoning please, and protect our residential area intact." Amado Acosta, 1225 S. Alhambra Circle.

Mr. Acosta: Thank you Honorable Mayor and Commissioners, Mr. Manager. As a resident of the area the main point that has been brought out, I believe, and I believe there has been a proposal by one of the Commissioners to have further outreach by the owner between reading one and reading two. I would urge the owners to really try that out, and to fully explore the matter of access in and out through Dixie Highway as 99.9% of all the other commercial zoned properties do on that side of US-1. I have high value and the professionalism of the Planning and Zoning Board, and the recommendations they have made, always of serving the best interest of the citizens and the observation of the Comprehensive Land Use Plan, I believe my personal opinion is that this is consistent with that. My main concern is the matter of the traffic and the precedent that accepting in and out through a side street would mean to other areas in the Coral Gables zone. Thank you.

Mayor Slesnick: Thank you very much. We have Thomas Levinson of 918 Alfonso.

Mr. Levinson: Moved into Coral Gables in 1954 and I've lived at 918 Alfonso for the last twenty years. My main objection to the proposal is the rezoning of residential to commercial on Riviera, which I think is one of our most prestigious streets. I also have a question, if I might, because I have no idea what this green space is.

Mayor Slesnick: You are the second to ask that, so let's...

Mr. Levinson:...Extending into the waterway which I've navigated many times, are we closing the waterway?

Mr. Cordoves: That's actually a portion of the site that exists there, there are existing mangroves, and they are to remain, it is a portion of the site itself.

Mr. Levinson: Well I don't believe it's properly depicted because I have maneuvered a boat through there and under that bridge many times, and it doesn't look anything like that.

Mayor Slesnick: Well – OK.

Commissioner Anderson: Is that the center line cut though through the...

Mr. Cordoves: It is the center line.

Commissioner Anderson: Mr. Levinson, that's a center line cut, so there is more water on the other side.

Mayor Slesnick: Well that's very important; Maria thank you because I was confused about that. Does everybody understand what was just said; we are only half the waterway here that may clarify this, because I was confused too.

Commissioner Cabrera: We are talking about this section right here?

Mayor Slesnick: Yes.

Commissioner Cabrera: This is the section that you are referring to right here?

Mr. Levinson: Yes.

Mayor Slesnick: OK, that was confusing to me too; I thought that was all the way across the canal. But thank you, you've cleared that up, thank you very much. John Lukas of 526 Perucia.

Mr. Lukas: Mr. Mayor, members of the Commission, John Lukas, 526 Perucia Avenue, at which I have resided for the last 29 years. I am opposed to this project. I was also opposed to the development of the Esslinger Wooten Maxwell (EWM) Building as well, and if the Commission will recall my major concern was the issue of traffic and the impacts that, that development would have upon the subject intersection, Riviera and US-1, and I have the same concerns here, what I haven't heard is, I haven't heard any substantial competent evidence with respect to a justification for a change in the underlying land use. I've not heard any substantial competence evidence or justification for a change in zoning. What I've heard is, we have a piece of property that was purchased by an owner who has a certain use that the property can be put without having to seek any permissions or changes from this Commission; what that owner is attempting to do, however, is to change the highest and best use to something that would be perhaps

maximally beneficial or productive or profitable to the developer itself. I would submit to the Commission that under no circumstances should the integrity of our neighborhood be compromised by a greater profit by a developer. What the owners are not attempting to do is to say that the owner cannot utilize this property to its current highest and best use. What I'm hearing consistently is that the neighborhoods are saying, don't allow that use to change, don't allow the changed use to exacerbate a condition at the intersection of Riviera and US-1 that currently, and I would submit, I'm not a traffic engineer, but it's currently an intersection that probably has level of service issues. I've not heard from Kimley-Horn as to what the level of service is for that intersection. I do know there are conflicts that will occur when traffic is coming southbound or eastbound and westbound along Riviera Drive. We have an issue of a merged lane, we have a conflict with a proposed driveway for this use that appears to create a vehicle conflict at the point where the traffic – all the traffic lanes are merging together. We have an issue of traffic volume; Mr. Riel was kind enough to show me the traffic report that was prepared by Kimley-Horn just a few moments ago, it was my first reading of it, and what I noted was that traffic counts were taken and observations were had, I believe and correct me if I'm wrong, July 9 of 2009. What happens on July 9 of 2009? - five days from July 4th holiday, it's in the middle of the summer, families in that neighborhood are vacationing, kids are not in school; the work weeks are barely and the traffic volumes at those times and I can speak from experience, are a great deal less than they are when you have the "Full Monty"; when you are there when school begins and when parents are rushing back and forth to get their kids to and from school, and are hustling through our neighborhoods which we know Riviera is a collector and neighborhoods are being invaded by people looking for short cuts along the way. I did not receive a notification that a citizen meeting or a public meeting in any way, I would very much like to have a meeting with the developers and better understand the underlying rationale for this proposed development; and I think that this Commission is entitled to have more details and more facts and more analysis in order that it can make an informed decision. I would submit to the Commission that at this juncture, notwithstanding reports of staff, there should be additional study. We should be taking a very closer look at the actual traffic movements at times that are more relevant to your decision in terms of whether or not this development should be allowed to proceed. I would submit that the matter should be deferred, further studies should be had, and perhaps what we should hear from as well is somebody from your Public Works Department, if we have a city engineer, somebody that can come in and speak to the issue of access management standards, driveway proximity to intersections, the type of traffic movements that we can expect to see in a real world, not based upon projections, not based upon ITE, the Institute of Transportation Engineering methodologies and formulas and percentages. You know, this is a local neighborhood, these are localized conditions, I experience them every single day when I leave my home to go to the office, which is here in the Gables as well, and when I return home, just like everyone of my neighbors. I would ask that you table this matter, send the developer back to the drawing table, have them go ahead and reach out to all citizens of the neighborhood that would be directly impacted, and incidentally Perucia Avenue is four blocks away from the subject property. I heard the woman from Bianca, three blocks away from the subject property, Dr. Iparreaguirre is right there on Riviera Drive right down the street. We experience this every single day; the only motivation that we have to be here before you today is to enlighten you as to what those real life conditions are, and ask you not to make a decision

based upon theoreticals, hypotheticals, projections, as opposed to real life conditions. Thank you very much.

(Applause from Audience)

Commissioner Anderson: Thank you.

Mayor Slesnick: Popular speaker. Alan Steinberg, 5522 Riviera Drive.

Mr. Steinberg: I just have a couple of comments. The main one is I had not learned of this – I didn't learn of this development until two days ago when somebody without a name on it left something near my mailbox, and I just like to suggest – I live probably more than a thousand feet away from the site, but I don't know to what extent its within this Commission's palate to change the notice provisions and make the notice a little more broader.

Mayor Slesnick: We've done that already; we did that. One of our first acts as a Commission As-A-Whole was to broaden the extended area, and extended the area beyond what the law requires.

Mr. Steinberg: That's appreciated – with e-mail now available this is not an expense, necessarily an expensive process.

Mayor Slesnick: That's a good point; I don't think e-mails are allowed under the law, but it's a good point that that is...I just don't know where they would get the e-mail addresses from. You raise a good...

Mr. Steinberg: I can assure I've been in that field for thirty years, sooner or later the city is going to do it, I'd don't whether it's going to be sooner or later.

Mayor Slesnick: If you all will leave your e-mail addresses we'll communicate, it's a good point. Anyways, our goal is to always to have citizens informed and always try to do the best we can and make sure people have the chance to input, and so we will continue to work on that, and I'm glad you're here today so you learned about today.

Mr. Steinberg: Well, I got the notice late. Don, I also want to say that I agree with my neighbor who likes the traffic circle at Riviera Drive and Hardee, I don't know how you are going to solve that problem and I think you did with a little adjustment there, however, I will mention to you that I live on Riviera Drive, and I maintain my offices on Valnera Avenue also in Coral Gables, one point nine miles from my home, and I have to go through seven traffic circles to get to my office (laughter), so I think you are going a little crazy (laughter).

Mayor Slesnick: And you know what...

Commissioner Cabrera: We're not done yet, we're not done yet.

Mayor Slesnick: You'll go through nine next year, but you know what?- you go slowly.

Commissioner Cabrera: It takes you forty-five minutes to get there but you're safe.

Mr. Steinberg: True enough.

Commissioner Cabrera: No intersectional accidents for you sir.

Mayor Slesnick: Alan thank you.

Mr. Steinberg: The only thing I'll say about this particular project because I have not had time to study it, there is certainly a potential danger, traffic danger which hasn't been mentioned. Somebody pulling out of this project cannot see a car coming down US-1 going north at 45 miles per hour, and because of traffic behind them you maintain a high speed, you make a right turn and somebody pulling out there can't see that car coming until it's about to hit him, and I was the victim of such an accident, somebody coming; I was paused at the light there going west and somebody came north on US-1, made a fast turn and hit me. So I won't take more time. Thank you.

Mayor Slesnick: Thank you. Good to see you Alan, good having you here, and I'm glad you knew about it; and I also wanted to say that in my listing of the e-mails I received I realized at the back of my mind, that there was one I got that I did not, so I've just been delivered a copy of it, and it's from Courtney Thomson, so we'll add him to the list of people that have e-mailed us. I will turn these in now to the Clerk. We are going to take about a seven minute stretch break till about five minutes of; and I would urge please, understand where we are; we are in a hearing where you've been sworn in, please don't try to lobby, because it's really not appropriate at this time, and we'll be back here though to conclude this hearing, and for our votes, OK.

[Note: At this point during the City Commission meeting, at approximately 11:46 a.m., the Mayor and the Commission recessed and reconvened back into session at approximately 11:57 a.m.]

Mayor Slesnick: We are going back into session. I said the applicant could have time to make a few comments having heard the citizens speak.

Mr. Bailine: Thank you very much Mr. Mayor. Commissioners based on the – first of all we asked that you rely on staff's professional recommendation and the underlying recommendation from the Planning and Zoning Board. We would like to respond to a couple of the comments made by residents and those who spoke at the hearing after our presentation, and then I would just ask for one particular response, our traffic engineers have looked at the packets submitted by the residents and just has a couple clarifications and maybe even a question or two as to the underlying data. First of all it seems that there are three issues here. Number one is the position of the building; we have questions and comments about. This issue was discussed at the Planning and Zoning level, and for the reasons raised by Commissioner Anderson as well as the

impossibility of access off of US-1, the position of the building is unfortunately not something that can be addressed, and based on the existing setbacks, if the building were repositioned so that the front door, which by the way, the front door does face US-1, but if the front door were to quote/unquote, look more like it faces US-1, then the rectangular shape of the property would force the building to be even bigger. The second issue is vehicle traffic, traffic, car generation, accidents and of the like, and I think everybody recognizes whether you are or not a resident of Coral Gables, or you've lived here for fifty years or two months, Riviera and US-1 is a major intersection. That being said, the analysis that we have done, which by the way I want to point out, although the traffic study was done on July 9th in advance of submitting all our applications before the end of July in 2009, that study was grossed up to account for traffic during the time when people are in schools, when families are not on vacation. So although the traffic was done the actual study is dated July 9th, it was grossed up to account for school time, and again, I'm not the traffic engineer, but account for factors that may otherwise not be present on that day in the summer time for the reasons that Mr. Lukas explained. What I'd like to do is take those issues, the position of the building and the traffic and combine them for a moment. If the building, which again the front door is on US-1, if the building was designed to more look like the front doors on US-1 based on conversations that we've had with our client and specifically the architect, the building would become bigger; I don't know if it would be 5,000 square feet bigger, or 2,000 square feet bigger, but when you combine those two issues it absolutely will generate more trips and more cars, although our client again will only be occupying half the building, will not be hiring more people, based on the accepted analysis which is substantial and competent evidence under your Code as to what trips will be generated based on the proposed views. It will be worse than – the numbers will just be higher which, one way to look at it they are worse or they are higher, but for the neighborhood it wouldn't be anywhere near this good; and thirdly – so we believe as confirmed by your staff and your Planning and Zoning Board, we believe that what we are proposing, whether it be the location of it, the size of it, the architecture of it, in terms of what the Code permits, and this was approved by the Board of Architects several months ago, we believe that we've got a great Class "A" building here, that will serve as people drive by on US-1 as look at that building, not look at the vacant piece of land, not look what used to be there, but this is what it's about in Coral Gables in terms of the quality of Class "A" limited commercial zoning office space with landscaping over and above that which is in the area what's required in the Code, and we are happy to do that because again, it's not like we are building this building to rent it out to other people, this is home for our client; and the last point I just want to clarify. With respect to land use, plan changes, or zoning-rezoning, or site plan approval, the standard isn't substantial competent evidence that you can't use your property for "A" so you need to use it for "B", that's the standard with respect to variances that there's hardship and you need to introduce substantial competent evidence of hardship. We purposefully in designing this building and in coming through staff, Board of Architects, Planning and Zoning, and here today, we purposefully did not ask for any variances because we believe we were able to design a building with sufficient size and scope to satisfy our client's needs, its again, half of it is going to be his office, and there is another seven thousand four hundred and something square feet to rent out to a tenant, perhaps someone who lives in the Gables of Class "A" commercial office space. So with that, that's my response and I would just like to – I'd be happy to answer any questions.

Vice Mayor Kerdyk: I just have one question, it's just a side bar; first of all let me tell you counselor, you did a very good job presenting your case; I am very impressed with the presentation, not that I'm necessarily going to agree with you, but I'm very impressed on how you handled yourself. You keep on referring to owner-user, tell me why that is substantial in your opinion?- why is that such a big deal?

Mr. Bailine: In our opinion the owner's intent, the developer's intent to occupy, again, at least half the building, is a cornerstone upon which everything we've done to get before you today was based, and to translate that, the quality of the architecture, the projected cost, whether that is for the grates and ironwork that I guess, perhaps could have been concrete block cement or something to that effect, the additional landscaping, the improving and the protection of the mangroves, which again would have had to be done, but bottom line, I represent developers throughout Miami-Dade County, and one thing that they are always mindful of is cost, and in this case because we have an owner-occupied that was a factor, but we were told put the most beautiful building, a proportionate building, something that will give me about 7,300-7,400 square feet for my offices, and some place that I would be glad to be going to because it's going to be my professional home. I'm not here today asking for approval so my client can run out and find a bank or like any of the mid-rise/high-rise in downtown Coral Gables, someone else to occupy and call it home. So that is a theme that we've been operating under throughout the process because it's that important that we get it right, which we think we have.

Vice Mayor Kerdyk: Let me say, that is the right answer, I mean, the right answer is I'm going to put a quality development in there for my owner-user and that's why I'm doing it; the wrong answer is he is going to be occupying the property. The fact is, he is going to be occupying it and that's why you are going to build the thing, but the fact is he can move out tomorrow and you can bring in new tenants in there. So that to me is not the issue of whether he's there occupying it from the standpoint of square footage basis, but from occupying it and putting a quality product there is the correct answer there, because the other issue is he can walk out two years from now and that's not a big deal.

Mr. Bailine: That's a valid observation.

Commissioner Cabrera: Or never occupy it.

Vice Mayor Kerdyk: Or never occupy it, but what he is saying is, he is putting quality construction there, that speaks to the quality of the project, it doesn't speak to the traffic issues, it doesn't speak to some other issues, but that certainly speaks to the quality of the project. Thank you very much.

Mr. Bailine: No, thank you.

Mr. Heggen: Good afternoon, again, Chris Heggen, Kimley-Horn and Associates for the record. We have just only briefly been able to peruse the information that was provided in the packet by

one of the speakers, and I just wanted to point out one thing that, on the record it was said an average of one accident or one crash per day, but the summary here appears to show one crash per week, I just wanted to point that out. The other thing is looking at it briefly, and again, we haven't been able to do any sort detailed analysis on it; it looked like it covered a pretty broad radius not just the immediate vicinity of the site. On the subsequent pages there were located denoted and some of them were on Ponce de Leon Avenue, or Ponce de Leon Boulevard at Suarez Street, so again when you drill down to the relevance to this site it may not be as accurate; and the third thing is just not having been able to classify any of these – any sort of crash will show up, if it's one car rear ending another car on US-1 that will show up in a record like this. So that's – it's something that requires more investigation, and I think, the last think that we wanted to just sort of address to summarize this, a lot of the concerns that were brought up regarding traffic eluded to the same issue that we noted which is the worst condition here is that northbound traffic on Riviera Drive, specifically in the a.m. peak hour, and that the multi-family use that could potentially be built on this site under the current zoning is what really would have the greatest conflict of that traffic tending to the exiting a.m. peak hour trying to get into that flow of traffic, whereas the office use does create a reverse flow of mostly inbound traffic in the morning. Thanks.

Mayor Slesnick: Thank you. Going to – I think Ralph; you had expressed the fact that you wanted to ask some questions of staff.

Commissioner Cabrera: Well, I warned the Planning Director that I was going to ask him some questions about frontage and setbacks, so if he's got just a minutes or two; that's really it for me, I'm not going to have any other questions of staff, I'm going to have probably – I'm going to be interested in hearing what you all have to say, and then I'm going to have three points that I'd like to make, actually two points and a recommendation.

Mr. Riel: In terms of what I'm going to go through – I'm going to go through an explanation of what the MF2 setbacks would be and what the CL setbacks would be and then what they have. Basically the front of the property is considered on Riviera Drive; this is considered the rear; this is considered the side, and then this is a side. An MF2 on Riviera Drive which is the current zoning it would be a 20 foot setback; the side facing the existing duplexes would be 10 feet; this side facing US-1 would be 15; the rear is 35. Under the CL, the front on Riviera Drive it would be zero. In terms of the side facing duplex – zero; 15 same as MF2; 35 is the same. I don't know if you recall, under the MF2, the multi-family residential on a waterway requires a setback of 35 feet. When we did the Zoning Code rewrite we included that in the CL district as well. So that's why this building is at this location right now 35 feet, no matter if its MF2 or CL. So in terms of the setbacks the 15 remains the same pretty much MF2 or CL, same thing on the rear, 35. The only variation is on these two sides.

Mayor Slesnick: And what is the setback of this building?

Mr. Riel: The setback on this building on the front Riviera Drive is 10 feet, the side facing the duplex is 56; 15 on the street and 35.

Mayor Slesnick: So instead of zero-zero, its 56 and 10, right?

Mr. Riel: Correct.

Mayor Slesnick: Now, we were told that we can't do certain things in rezoning, but can we apply to a specific rezoned property?- specific setbacks, is that possible? In other words, we've been told here's the building we're proposing and this is all we want, and they said instead of having zero setback, they have a 56 foot setback on one side, and instead of the other they have a 10 foot setback. Well, I'm asking. All I'm saying is that we were expressing concern, or some of us were, that if you change the land use to CL what would be the future impact of if this building wasn't there what could happen, and even though we could approve the site plan the pressure would certainly pick up that someone else may want different setbacks, and I was saying could you apply a specific set of setbacks to this specific lot?

Commissioner Withers: So what you want to do is if we do go commercial zoning, you just want to be able to limit exactly what can be built from now until.

Mayor Slesnick: I don't know if that's what I want, I just want to know if that's what we could do, I mean, that question has come up from some of my e-mails, questions that I've got, and maybe you wouldn't want to pick the exact setbacks of this building, but maybe you would want to apply the setbacks that would normally be there for family.

Commissioner Withers: But instead the question would also apply to FAR and height?

Mayor Slesnick: Well it could, I hadn't gotten there yet. OK. Good question – here's the question then, forget setbacks; the question is, can if we rezone the property to a specific classification CL, can we set certain standards for that CL piece that may differ from other CL pieces? Thank you Chip.

Mr. Riel: You know, in terms of setting very specific standards, I can't answer that question, but what I can tell what has been done in the past and what my experience has been as an experienced planner, is you can require them to go through perhaps a conditional use process for any non residential use on the property, and therefore we would look at it, in other words whatever they decided to develop on this parcel they don't build this project would need to come back through the Planning and Zoning Board and the Commission. But in terms of specific setbacks, you know, 50 feet, 10 feet...

Mayor Slesnick: OK, well that's a good point. So you are saying we can change the zoning, approve this site plan, but also say that any future site plan differential would have to go through a conditional use.

Mr. Riel: That's an option, it's obviously if the applicant is willing to agree...that's been done for, in other words if you have a commercial property, an office, anything non residential that

those uses would be subject to public hearing review, that doesn't get to the specificity of the height and FAR allows us to evaluate the application...

Mayor Slesnick: I jumped in on Mr. Cabrera; Mr. Cabrera it's still your floor.

Commissioner Cabrera: Well he answered the question about setbacks, and then the next question has to do with frontage, and that is fronting the building on US-1 versus Riviera Drive, but I've heard from a number of experts that are telling me that given the fact that you've got high speeds on US-1, it would virtually make it impossible for ingress and egress from US-1.

Mr. Riel: I'm not a traffic engineer, so I can't really answer that question in terms of access points off of US-1, but I can tell you other properties such as Block 93 and 94, which are significantly, right next to those parcels, they do not have access unto US-1, they go from the side streets.

Commissioner Cabrera: That's it for me.

Mayor Slesnick: Mr. Withers.

Commissioner Withers: Go ahead Maria.

Commissioner Anderson: I'm still formulating a few.

Commissioner Withers: Eric, back to the whole issue of, and maybe Liz has to chime in on this. Once it goes commercial future development ten years from now, twelve years from now, what I think I hear you saying is that it could be raised in something that has our heights and FAR's and whatever in the Code, that's what someone could do.

Mr. Riel: That's more of a legal question.

City Attorney Hernandez: Whatever the zoning is, is what you are allowed to build on. So if it has – if the zoning provides for heights up to a certain amount and they take down a building and decide to go according to those provisions.

Commissioner Withers: So what does the conditional – I don't quite follow.

Mr. Riel: Conditional use basically requires it goes through a public hearing review. It would go through the Planning Board and then to the Commission.

City Attorney Hernandez: And then a restrictive covenant would tie them to a site plan, which was approved by the City Commission, so in order for them to be able to change from the conditional use and from restrictive covenant that they have tied themselves to, they have to go through the entire process again; they can't just raise the building and say OK, I have the zoning I can go and do this. They are tied to the agreements they make here today.

Commissioner Withers: So Eric the \$64,000 question; its along US-1 starting at, I guess, it would be starting at Granada, looks like you have – we had some previous residential hotel/motel that's been converted to little office buildings. Then just west or south depending how you look at it, of the canal you have a couple of apartment homes that are there, I think those are three story, 45 feet, maybe they are 55 feet....

Mr. Riel: There are some office uses in there as well, they kind of appear duplexes, but they are office uses.

Commissioner Withers: So what is the rationale of your department, I think one of the speakers, Mr. Lukas brought it up, so what is the rationale in your mind, in your department to move it from residential to commercial?

Mr. Riel: Obviously, there are findings of fact within the staff report, I'll summarize those and there's about seven or eight pages of findings of fact.

Commissioner Withers: I saw those.

Mr. Riel: Obviously US-1 is a commercial arterial, it's not a collector street, it's a major arterial. You have uses that are not conducive – residential uses are not conducive to being placed on an arterial. As you go back from US-1 you'll notice most of the properties on US-1 have commercial low-rise intensity, which is what this request is. You go back further they have a duplex zoning or a multi-family zoning, and then you go back and you have basically single family. So its transitional zoning from most intensive commercial US-1, all the way back to the single family.

Commissioner Withers: OK.

Mr. Riel: That is one of the criteria we evaluated on, there is numerous other criteria, obviously the Comp Plan has things on buffering, that's how we work when we work with applications....to find where they are consistent or not consistent, we highlight those, and its certainly within the Planning Board's and Commission's to add additional conditions, or provide findings of fact to the contrary.

Commissioner Withers: Well, I mean, I don't have the map in front of me, but Riviera seems to be the dividing line between east and west on the US-1 development, it's not the canal; I mean, we are looking at the canal as almost a demarcation point, isn't it really Riviera Drive is the demarcation point on the zoning maps?

Mr. Riel: Commercial land use goes all the way down US-1.

Commissioner Withers: Right.

Mr. Riel: It's low-rise in certain portions.

Commissioner Withers: But right on the corner of Riviera and US-1 on this site, what is that?-(Mr. Riel looks at map). That's exactly what I'm saying, this is multi-family and this is commercial. So when the city was originally platted like that, I don't think that the demarcation point was the canal as much as it was Riviera Drive, was it?- because you have residential on both sides of the canal there, and maybe that was because the canal it was the whole water – it was better to have residential on the water than it was to have commercial on the water, maybe that was the thought behind that.

Mr. Riel: The canal is just like a street, it's basically a liquid street, essentially, but if you look at US-1 commercial low land use on this side, and it goes down even further.

Commissioner Withers: Up to Riviera.

Mr. Riel: Up to the mixed use district. It has inconsistent land use and zoning, its commercial land use and multi-family zoning, so that has been that way for some time.

Commissioner Withers: So those findings of fact, they cannot have similar applications to residential development there? I mean, the findings of fact support the commercial, but – and again what I'm struggling with is it seems that the findings of fact that you put forth, I think there were eight of them or seven of them, they had the same application as if it was commercial property no, I mean residential property?

Mr. Riel: It acts as a buffer of the adjacent multi-family. The placement of the building actually acts as a buffer that's how we looked at it, and obviously it's an arterial. I'm sure and I'm not a traffic engineer again, but my guess is probably 50,000 to 70,000 trips down US-1 on a day, so. I don't see that as being supportive of a multi-family residential development, you know 15 units, I just don't see that.

Mayor Slesnick: Maria.

Commissioner Anderson: I guess we've come to the conclusion or have we, that there's really nothing in our purview to solve the situation at the Riviera Drive-US-1 intersection as far as improvements, only suggestions, we are kind of stuck with that, is that a true statement, right?- that's one of the big things that is the problem. You've got that horrible intersection and we have no power to control, right?

Commissioner Withers: I think one of the, living here my whole life, one of the issues I think on the northbound side of Riviera is it kinds of jogs to the right and you've got a little bit of a hump over a bridge there, which I really thinks affects a lot of the visibility there, at least if you're at the light on Riviera crossing north of US-1, so I don't know if we can do anything on road reconfiguration.

Commissioner Anderson: I don't know that would make sense to help although that would be minor, because...

Commissioner Withers: Beyond that, no you're right.

Commissioner Anderson: Right – nothing. I have a couple of questions as far as some minor stuff. I think a lot of the questions that the Commissioner has addressed I had the same concerns; one of the things that have been a concern over other projects near residential is overflow parking. You have a generous green area in front of that on the Riviera side; there are ways to restrict people parking on that swale; is there any way of us to get that?- what's the right-of-way?

Mayor Slesnick: Who would you like to answer staff or the applicant?

Commissioner Anderson: Staff – no it's OK, I'll accept an answer from anyone that makes sense. I'd like to see some type of restriction placed on the city's perspective to overflow any of that so that the frontage wouldn't be protected from there, or any spill over into the adjacent residential area, I'd like to see that, you know take a look at that through some type of residential permit programs or something, I'm just seeing that; that's come up before. Another minor issue should this application go forward, I'd like to see more restrictions on the lighting on the weekends, it stops at 9:00 p.m., I'd like to see that a little more restrictive on weekends when people are more at home.

Commissioner Cabrera: Light?- like lighting where?

Commissioner Anderson: Yes, lighting on the property, they say they turn it off at 9:00, things like that. I'd like for the weekends to be a little more restrictive as far as that, should this particular application go forward.

Mayor Slesnick: Any other?

Vice Mayor Kerdyk: I have one more question of Eric real quickly, just a question. Getting back to the land use. We amended the land use and Zoning Code in 2006?

Mr. Riel: No, it was 2007, January 9, 2007.

Vice Mayor Kerdyk: Did you look at the site when you were doing any revisions there?

Mr. Riel: Remember as a part of the evaluation of the Comp Plan in 2004-2005 we came forward with suggestions, recommendations to private property and public.

Vice Mayor Kerdyk: Right.

Mr. Riel: And you decided only to do the public.

Vice Mayor Kerdyk: When you came in front of us with those recommendations for the private property, did you have any recommendations on this property?

Mr. Riel: No, we did not look at private properties because the Commission had directed us....

Vice Mayor Kerdyk: But initially you had some recommendations before, you did have some recommendations on private property at one time, I remember that.

Mr. Riel: There was about fifty of them...

Vice Mayor Kerdyk: Fifty.

Mr. Riel:....About forty or fifty.

Vice Mayor Kerdyk: Was that one of the ones that you had looked at, do you recall?

Mr. Riel: I don't recall.

Vice Mayor Kerdyk: You don't recall.

Mr. Riel: No, I don't recall.

Vice Mayor Kerdyk: Alright. Well let me just make an observation, we're talking about putting restrictions on the property once we or if we rezone it to commercial, but I can tell you that after having sat up here for awhile, that once you rezone the property or change the land use it makes it easier whatever restrictions you put on it, it's easier than changing the land use, in the Zoning Code, for sure. It's a good attempt, but it makes it easier for a perspective developer to do something differently; and I will just tell you, I'm not going to vote in favor of this application; I live on the street, I know the traffic that's been generated since the McBrides developed that property, they did an excellent job on developing that property, it's a beautiful property there, but it has put an unfortunate amount of traffic onto Riviera Drive. I think that the city is reacting to a developer who went in there initially and was going to buy the property for a condominium site, the development like many others and it's unfortunate the model does not work at this prospective time because of the fact that the real estate market has tanked and the residential market, and so he's making an application to try to do something with the property, which is his right, I think a lot of us would do the same thing, but it's my right to make a decision of how I think it would affect the surrounding neighborhoods, and I think this is a use that I am not for and I will not support it based on that fact. Thank you.

Mayor Slesnick: Any other comments or questions?

Commissioner Cabrera: Couple of comments. I think the attorney did do a fine job of making the presentation today, so I commend you for being very clear and concise and unemotional. You said something very interesting at the onset and you actually carried that theme across for most

of your arguments, and that was we should rely on the recommendation of staff. Well, I agree with you to a certain extent; I do in many, many occasions rely on their professionalism and their recommendations. On this one I also rely on the feedback of the affected property owners and those that live in the immediate neighborhood, and like Mr. Kerdyk while I don't live on Riviera, I wish I did....

Vice Mayor Kerdyk: It's OK; I live on the public service side of the street (laughter).

Commissioner Cabrera: You do; you live on the "other side of the tracks," as we like to refer to, but you've got a nice house. I've traveled that road many, many years, I still travel the road, I actually travel that road four days a week very early before everyone is up in the mornings because I'm a cyclist, and we use that as a cut-through to get to the Grove and then get to Key Biscayne. So I see the stuff that goes on, and even at 7:00 in the morning when I'm trying to cross US-1 to get to the other side of Riviera, there are many occasions where there is lots of traffic at 7:00 in the morning, it's a challenge for a guy on a bike. So I've heard a lot of comments made by the residents and I read a lot of comments that were sent to us beginning last Thursday, I think, is when they started to turn up the heat on us; and I got a comment this morning, I've got a gentleman that wrote and I'm not going to forward that to the Clerk because I think it's too late to do that, but I really feel as though there is just an inherent problem with trying to turn a commercial property unto a residential neighborhood, and this would be unfair to portray you as what I am about to say, but when I first entered office and when I was running for office and trying to get elected, I said how unusual it is for Coral Gables to have developers who always strive to blend with their surroundings and you know, we've had many developers like that, Mr. Codina among them and others, who have tried so hard to blend within the neighborhood, and I know you've made a valiant effort, but I don't think you are there; and therefore I'm going to vote against this project. I can tell you that I will keep my fingers crossed that if this goes forward between first and second reading, you'll get that opportunity because I think you are an honest gentleman and I think you really do want to talk to the residents, and you want to give more information, and you want to get more information from them from people like Mr. Lukas and others. So I'm hopeful that if in fact this move forward you'll have that chance, but today you're not going to be able to get my support, but I do thank you and the team that you brought forward to present this project to us, and I also thank the residents for taking time out of their busy schedules to come to your City Commission meeting this morning.

Mayor Slesnick: OK. Just a couple of comments. First, probably the same one you are referring to Ralph, but I went ahead and printed it out, we have input from Mr. McDonald West, on 5325 Arduna and we'll give that to the City Clerk to add to the file. Again, for what it's worth because we know it's not sworn testimony but that way all the residents have had their say, and I appreciate the positive nature in which most residents communicated with us. There were a few that suggested that we would never be elected again if we voted the other way...

Commissioner Cabrera: They're right.

Commissioner Anderson: That's right, but I don't have to worry about that anymore.

Commissioner Cabrera: Right on two counts.

Mayor Slesnick: But the fact is even if I was in the middle of a campaign running for reelection, it would never ever get my vote, and I'm just sorry that some people feel that is a way to approach their neighbors. We are all your neighbors.

Commissioner Cabrera: It was also suggested that they got rid of the last Mayor because of this, so I'm reading it right here.

Mayor Slesnick: No, it's in your blue sheet. It's just a shame; we are all residents of the city serving voluntarily up here, making big bucks of about \$30,000 a year all of us.

Commissioner Cabrera: That's what you make?
(Laughter)

Mayor Slesnick: OK, so he makes \$29,000, I don't know. Anyways, I just appreciate when people are positive, I do appreciate the presentation of the applicant today being as positive as they were, and I still feel Eric and Mr. Manager, I don't know what you are going to do about this, I really don't know that there is any solution, but this is another time when I feel like the Planning and Zoning Board was really left out of the loop as far as neighborhood reaction. I don't know what to do because I know that we did properly notify people of this, it's just that I guess like Commissioner Cabrera said people are busy and they look at us, an official letter from the city and think it's a tax bill or something, so they don't want to open it or read it. I sure would like to see our Planning and Zoning Board have more opportunity to hear from residents before they vote their conscience, and by the way and they are also citizens of the city and doing their best job, and they are working as we all did when we served on Boards for zero...The floor is open to a motion.

Commissioner Anderson: I'd like to make a few comments.

Mayor Slesnick: OK. Sure.

Commissioner Anderson: I'm probably one of those that looks at it a little differently. I appreciate everybody's comments, I do. I have a son and he's older now and living somewhere where I can't control if he runs out in traffic or not, so, but I did watch Route 56 built in front of my house during the days of construction, so I see it on Almeria which is a really small street. I kind of look at it in a way, and I get it, I took copious notes; safety, traffic, property values, I do believe actually that, that building could be a protection on that street to help buffer a lot of the stuff, because I think residential would never fit there. I think residential – nobody would want to buy that residential piece of property, live on the corner of US-1 and Riviera. So I think I would be supportive of this project with conditions tied to the site plan. There's not much we can do with that intersection I'm told, but I do believe that this project could be beneficial, like many other projects that I've seen as a buffer unto the residential. It's a beautifully designed, quality

architectural project, which I do appreciate and I understand that your view of the US-1 corridor mirrors that. I know it's the front entrance, but I know all sides have quality architecture on that. So I appreciate that, and that's very rare. When I first started in '01, all we would get was buildings that were going from a lower intensity to a higher intensity, and this is actually one that actually lower intensity than it could be allowed. So being probably the odd person out, I am supportive of it, but I realize that it may not be going through today, but I would love to see this project if it goes through, and if possible to go through a neighborhood meeting, maybe to understand better. I don't know.

Mayor Slesnick: Thank you Maria. I'm prepared for a motion.

Commissioner Withers: Can I ask a procedural question? I'm not prepared to support this, this motion, however, or even make the motion, however...

Mayor Slesnick: Can I give you a suggestion?

Commissioner Withers: Yes.

Mayor Slesnick: Because I'm not prepared to either, but those who vote in the majority could ask for reconsideration at the next meeting.

Commissioner Withers: Well – yes.

Commissioner Cabrera: Well it might be even simpler by a deferral.

Mayor Slesnick: Yes, but a deferral you would have to go back into the....

Commissioner Withers: The deferral goes all the way back to the process.

Mayor Slesnick: I'd rather vote my conscience like you.

Commissioner Withers: One thing that I can't get out of my mind is that the neighbors that met with the developer aren't on any of the objection list, so there must have been something conveyed to them or some assurance or something that changed their mind, because I'm assuming they went to the meetings with the same thing in mind that all these folks have. So I didn't know if we turned it down today, I guess the developer always has the right to reach back out to the residents and start at square one and go through the whole neighborhood process all over again.

Mayor Slesnick: Well, let me say this, it wouldn't be from square one. If we turn it down how long do they have to wait to file another application?- six months or a year?

Mr. Riel: One year.

Mayor Slesnick: One year. So it's one year for them to file another application; my suggestion Chip was, that if we are all prepared to vote our conscience as we see this application today, we can do that, and yet if the developer has some ability to bring some new understanding to the neighborhood, and the neighborhood tells us that, then the people who vote in the majority can ask for reconsideration at the next meeting, move to reconsider.

Commissioner Withers: Same thing anyway.

Mayor Slesnick: For purposes of a vote, I would ask if I could have a motion.

Mr. Bailine: Could I ask a procedural question.

Mayor Slesnick: Yes, we'll let you.

Mr. Bailine: As I see where the conversation is going, we would request that the Commission entertain allowing us to waive that one year requirement, I know in other jurisdictions they are also prohibitions on refilling applications for the same property, and we would ask that, that waiver should the vote go that way, we would ask for a waiver of that period of time.

Mayor Slesnick: We'll consider that, we'll consider it, it's a fair request. Do I have a motion so we can...Ms. Anderson moves that we approve...

Commissioner Anderson: We approve this with...

Mayor Slesnick: We'll vote on E-3 first and that will determine whether, I think I got the number right, I've lost my agenda somewhere. E-3 leads the way to the votes on E-4 and E-5. So Ms. Anderson moves, I found it, Ms. Anderson moves that it pass purposes of vote, I will second it.

Commissioner Cabrera: What we are voting on right now...

Mayor Slesnick: Is to approve the land use change.

Commissioner Cabrera: Yes, there are three votes we are going to take. The first vote is change of land use...

Mayor Slesnick: We won't take the second, if we do not approve this.

Commissioner Cabrera: Right, but if we did go forward then we would be voting on the change of zoning, and last but certainly not least we would then be voting on the site plan, so that's the way it's broken down.

Mayor Slesnick: It's been moved and seconded to approve Item E-3 on our agenda, which is the land use change, that comes to us with a unanimous vote of the Planning and Zoning Board; if there is no further discussion or questions, we'll ask Mr. Clerk if you'll call the roll please.

Mr. Clerk

Commissioner Cabrera: No

Commissioner Withers: No

City Clerk Foeman: The Mayor said he seconded, I thought he passed the gavel to...

Vice Mayor Kerdyk: All right go ahead – Withers since I've got the gavel.

Commissioner Withers: No

Commissioner Anderson: Yes

Mayor Slesnick: No

Vice Mayor Kerdyk: No

(Vote: 1-4)

Mayor Slesnick: So we would ask everyone to silence your cell phones in the meetings as the standing rule of the Commission. We have now denied the application which was for a change of land use change on E-3, and correct me if I'm wrong Madam City Attorney, that will mean that we do not need to consider E-4 and E-5.

City Attorney Hernandez: That is correct.

Mayor Slesnick: Now the applicant has asked us to consider a waiver of the one year ban of refiling an application for land use change, and I would entertain that if someone would like to...

Commissioner Cabrera: I would move to entertain that request at the – based upon the applicant's outline.

Commissioner Anderson: I'll second that.

Mayor Slesnick: OK. Now a comment from our City Attorney.

City Attorney Hernandez: Mr. Mayor, the appropriate time to consider that is when the applicant has a new application they submit a letter to the City Manager's office and the Planning Director, and at that time they make a recommendation to the City Commission whether it's appropriate to waive the timeframe, because we don't know what we are waiving.

Mayor Slesnick: OK, then I'm going to accept Commissioner Cabrera's motion as a statement of the feeling of the Commission that we would probably favorably consider such an application if and when the time comes, and we will take it by voice vote just to show our either assent or disapproval. Commissioner Anderson has seconded and Commissioner Cabrera has motioned that this Commission would probably look favorably at waiving the one year restriction on filing

a new application, if and when it is filed, in that time period before the year is over. All those in favor say aye.

All: Aye

Mayor Slesnick: Opposed – it passes this Commission.

Vice Mayor Kerdyk: Let me just say that, that's with the caveat that just...

Mayor Slesnick: Just the feeling of the Commission.

Vice Mayor Kerdyk:...that doesn't mean that we are sitting here supporting, that's in the spirit of...

Commissioner Cabrera: You know the reality – you know what it's done....

Vice Mayor Kerdyk: I just want to make sure that the people who are watching understand that doesn't say they are going to come back we'll for sure going to vote for this project or any other project that turns into commercial.

Commissioner Cabrera: That's a good point.

Vice Mayor Kerdyk: You are going to have a very tough time doing that.

Mayor Slesnick: It doesn't mean anything about our feelings about any new application, it has nothing to do with that, it's just an arbitrary restriction that when someone's application is denied they are prohibited for a year, we are saying that we will probably give favorable consideration for allowing an application to come in before a year is over, and as I said to Commissioner Withers before, the neighborhood's position change between now and the next meeting, those of us voting in the majority could in fact ask this Commission to reconsider. We thank our applicant, we thank our residents, we thank you all, it was a very well conducted hearing as far as everyone's politeness and civility to each other, and that is greatly appreciated in this day and age. So we thank you.

[End: 12:42:42 p.m.]