

07.12.06 Excerpts of Planning & Zoning
Board Meeting Minutes

Exhibit D

1 MS. KEON: By September? 57
2 MS. MORENO: Yeah, City-wide.
3 CHAIRMAN KORGE: City wide, using criteria
4 like this.

5 MR. BEHAR: Yes.
6 CHAIRMAN KORGE: Our next item on the
7 agenda is Application Number 06-06-44-P, Building
8 Site Separation. Separation of a building site,
9 pursuant to Zoning Code Section 12-5, requesting that
10 Lots 17 through 19 and 40 through 42 of Block 127,
11 Riviera Section Part 10, located at 5705 Riviera
12 Drive, be separated into two building sites,
13 consisting of Lots 17 through 19 and Lots 40 through
14 42.

15 MR. CARLSON: Before I begin, I'd like to
16 indicate to you that there were some comments that
17 were submitted for this application, and they were
18 included in your package. We have some recent
19 comments which -- for this application, also, some of
20 the old comments which were submitted for this
21 application when it was last submitted.

22 Also in your package, at the request of the
23 Board last month, we have put some background
24 information on building site separations. A previous
25 memo which was prepared by the City Attorney has come

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1 before the Commission in the past, and also past
2 legislation, including the most recent legislation
3 regarding this, which was Ordinance Number 2003-11,
4 in which Staff has highlighted the intent of that
5 last legislation, which was to provide greater notice
6 and public participation, to establish new written
7 administrative review criteria for the Building &
8 Zoning Department, and to clarify for the Planning &
9 Zoning Board the process and application review
10 criteria for the separation or establishment of
11 building sites.

12 That background information was included for
13 you in your package, and since that time, another
14 memorandum has been prepared by the City Attorney's
15 Office, which we e-mailed to you this afternoon, and
16 I would like to provide to you a hard copy up here
17 for your review during the discussion.

18 The application which is before you this
19 evening is a request for a building site separation
20 for a property which is located on Riviera Drive.
21 This is the same request that was presented at a
22 Planning & Zoning Board in May of 2005, but has not
23 proceeded forward since that time.

24 The property has since been sold, and the
25 applicant -- and the application resubmitted by the

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1 new property owner. The application remains the same
2 as originally proposed, and Staff's recommendation of
3 denial remains the same, as well.

4 The facts of this application are documented
5 in the Staff Report, which is included in your
6 package and dated May 11th. This application
7 satisfies only three of the six criteria which are
8 outlined in the Zoning Code for building site
9 separation, and a minimum of four criteria are
10 required.

11 At the May 11th meeting, the Board required
12 the applicant to address some specific issues and
13 return to the Board once they had been addressed.
14 Those issues included the removal of all existing
15 encroachments on the proposed building site, the
16 reconfiguration of the existing residence to conform
17 to Code requirements, and submit a draft of
18 restrictive covenant which would allow only -- would
19 allow no further separation of the property, allow
20 the construction of only single-family residences on
21 the property, limit the height of the new residence
22 to one story, and provide specific massing and design
23 provisions for the new residence.

24 A draft restrictive covenant has been
25 submitted by the applicant and is included in your

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1 package, and that draft addresses those concerns,
2 except that the proposed new residence is a two-story
3 structure, and the applicant has submitted conceptual
4 plans for the new residence, instead of massing and
5 design provisions.

6 Also, the existing residence would only have
7 a five-foot setback, rear setback, and the new Zoning
8 Code provisions for single-family residences would
9 require a 10-foot setback, the rear setback.

10 The applicant is here today with the
11 proposed drawings for the new residence and is
12 prepared to present them to you.

13 MR. GUILFORD: Good evening, Mr. Chairman,
14 Members of the Board. For the record, again, Zeke
15 Guilford, with offices at 400 University Drive. I
16 have the great pleasure of representing Guillermo and
17 Connie Huergo, the owners of property at 5705 Riviera
18 Drive.

19 This matter was before you a little bit over
20 a year ago. It was heard in May 2005. This matter
21 was deferred, pending a site plan and, obviously, the
22 things that Walter just discussed.

23 What I'd like to do is kind of -- some of
24 the Board Members are new, so I'd like to walk
25 through a little bit of this application with you.

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1 What we have is San Vicente on this side,
2 Riviera Drive down here. The house sits on these
3 three lots. The principal structure sits on these
4 three lots. We have a swimming pool here. It is
5 tied together as one building site.

6 The picture is the front of the house, the
7 rear, and these are the two properties that abut the
8 rear of the -- the rear portion of the property, the
9 San Vicente side.

When we did the analysis of the property, we did over 23 properties along Riviera Drive, and what we found, that there was only one residence that was equal to the size of the building site that is being proposed. On the rear section, we did 10 blocks, and of those, there were 134 building sites. Seven of them were equal to the site that we are proposing. There were zero that were larger. So, basically, what happens is, the site we are proposing is 95 percent larger than the houses in the area.

20 Now, what we did, and based upon the
21 comments from, actually, you Board Members, a year
22 ago, we prepared a site plan and an elevation, and we
23 also had an opportunity to go and talk to the
24 neighbors. What we actually came up with is a one
25 and two-story structure. We have a 15-foot setback

1 originally that the house be one story in the rear.
2 We went and we met with Dean. Dean has no objections
3 to this application. As a matter of fact, I've been
4 working with him on the restrictive covenant. He
5 asked for a couple additional matters, and I'd just
6 like to read those matters, which are acceptable to
7 us, and then I'll give it to Staff.

8 One of the issues that he had was, he did
9 not want any tree over 10 feet in height within 15
0 feet of the property line. Obviously, what he didn't
1 want is a large oak with the limbs hanging over onto
2 his property. We have no objections to that.

3 . He also wanted to have a specific reference
4 to a height restriction that is contained on the
5 plans. That's 29 feet. That is consistent with the
6 interim Building Code and the new Building Code.

7 I also put in there that if he ever wanted
8 to change the plans, which obviously he would have to
9 come through this Board, but we have a separate
0 restrictive covenant with the neighbors. What I put
1 in is that we needed 75 percent of those neighbors to
2 sign off, actually three out of the four. He said
3 four out of the four. You know, I did 75 percent
4 because there's always somebody who doesn't want to
5 get involved. He wants four out of four. That's

1 here. This section here remains one story. So we
2 have approximately 37 feet, almost 40 feet, of a
3 one-story structure, almost a lot size, where the
4 house is one story. On this side, we have
5 approximately 20 feet, again, where it is one sto
6 in height, and it pops up in the middle.

7 In addition, we also broke up the massing.
8 This section here, which is two stories,
9 approximately 40 feet back on the site, 20 feet, and
10 then we get to approximately 30, 35 feet. So we
11 basically broke up the massing, front and back, and
12 also tiered the house, so it's one story and then
13 builds up to two.

14 You can see this in the elevation. We've
15 got the setback, the one story. We go up to two.
16 This section is pushed back, this comes out, and then
17 this section is pushed back again.

18 What we did is, between last year and this
19 year, we went and spoke to the neighbors. One of the
20 conditions that was of concern -- oh, I'm sorry.

MR. CARLSON: That's all right.

22 MR. GUILFORD: One of the conditions was of
23 concern of one of the neighbors -- actually, let me
24 just take this -- the neighbor right here. His name
25 is Dean -- Constantine Nickas, and he requested

1 fine. We can change 75 percent to 100 percent.

2 I think there's a paragraph in there that
3 talks about, "This instrument may be recorded." He
4 wants that, "It shall be recorded." Again, there is
5 no objections to that.

6 I believe we've met the concerns that this
7 Board has discussed. As a matter of fact, what's
8 kind of interesting, and Walter kind of touched on
9 it, is that there was a question from Ms. Keon, at
10 the last meeting. She said, "Well, are these an
11 owner or a developer of these properties?" And at
12 the time, it was a developer who was renting out this
13 site on Riviera and was going to develop the back.

14 Well, I'm proud to tell you, the Huergos are
15 the owners of the property. They intend to live on
16 that piece of property. They will sell off the back
17 portion. So they are clearly affected and concerned
18 about what is going to be built behind their house.
19 So, in fact, we have the two neighbors to the rear
20 and Mrs. Huergo, who are the most directly affected
21 neighbors, in favor of this application.

22 Again, I can go back and reiterate that my
23 standing objection -- which is kind of pertaining to
24 the City Attorney's memorandum, which is, I believe
25 we meet four of the criteria out of the six. Again,

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1 we go back to the same thing. We have two criteria,
2 Criteria 3 and Criteria 4. The plain language of
3 Criteria 3 says, once separated, do these violate the
4 setback requirements, the land -- the open space, the
5 lot coverage, et cetera. I'm holding firm, it does
6 not. What 3 talks about is, does it encroach.

7 I've read the City Attorney's memorandum. I
8 do not disagree with her memorandum as written, which
9 is that once you have a situation like this, it is
10 one building site. I agree with you, it is one
11 building site. If I did not believe it was one
12 building site, I would have appealed the decision of
13 the Building & Zoning Department, their letter saying
14 it is one building site.

15 I don't believe her memorandum discusses
16 Section 3 and Section 4, as they relate to each
17 other, or the background or intent of those
18 provisions when they were enacted.

19 Mr. Chairman, Members of the Board, if you
20 have any questions, I'm more than happy to answer
21 them at this time, and I'd like to reserve a few
22 minutes for rebuttal, if necessary.

23 CHAIRMAN KORGE: Sure.

24 Any questions? Anybody?

25 MS. KEON: I have one question. The house

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1 that's existing will remain; is that what you're
2 saying?

3 MR. GUILFORD: Correct.

4 MS. KEON: That house will remain as it is?

5 MR. GUILFORD: As -- yes, the owners are
6 living there now. They intend to live there.

7 There's one -- do you want to get that board, Pedro?

8 What they would do is, the garage, which is
9 encroaching over here, would be removed. We'd have a
10 10-foot setback, and the pool would be turned,
11 essentially, sideways, to fit, and we'd meet the
12 setback requirements.

13 MS. KEON: Well, would they be the new
14 Zoning Code setbacks --

15 MR. GUILFORD: No, actually --

16 MS. KEON: -- or the existing Zoning Code
17 setbacks?

18 MR. GUILFORD: This section, which is
19 existing, will meet the existing Code, right now.

20 MS. KEON: The five feet?

21 MR. GUILFORD: The five feet. We've got
22 five feet seven.

23 MS. KEON: Okay. It's not 10 feet, though?

24 MR. GUILFORD: It is not 10 feet --

25 MS. KEON: Not within the proposed?

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1 MR. GUILFORD: -- but that's not what the
2 Code is today.

3 MS. KEON: Okay.

4 MR. GUILFORD: The new portion, we have no
5 problems making that to 10 feet. So we have a small
6 portion here that will remain five feet.

7 MR. RIEL: Zeke, maybe if you put the other
8 plan, so that will be on the back parcel --

9 MR. GUILFORD: Which?

10 MR. RIEL: The proposed plan.

11 So that's basically what would be going in
12 in the back, correct? Okay.

13 MR. GUILFORD: This is going to fall, I
14 know.

15 MS. KEON: And the proposed plan is under
16 the new Building Code?

17 MR. GUILFORD: Meets under the new Building
18 Code, yes.

19 MS. KEON: It's a 10-foot setback from the
20 property line?

21 MR. GUILFORD: Yes, absolutely.

22 CHAIRMAN KORGE: So the old portion, if the
23 new Building Code -- the new Zoning Code change is
24 adopted, would then be legally nonconforming?

25 MR. GUILFORD: Correct. Absolutely.

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1 CHAIRMAN KORGE: Okay.

2 MR. BEHAR: And the size of these proposed
3 lots are comparable to the --

4 MR. GUILFORD: Well, it's larger. Even
5 separated, we are as -- we're still the largest lot,
6 separated. We have a 150-foot frontage. A majority
7 of the houses along Riviera are 100-foot frontage.
8 So we're over 50 percent greater on Riviera. Again,
9 it's a mix. There's a lot of 50s, 75s --

10 CHAIRMAN KORGE: Why don't you show the
11 building site analysis? I think it's clearer, to
12 understand, than that.

13 MS. KEON: Yeah.

14 MR. GUILFORD: You actually, in your
15 package, have a breakdown of the sites and the area
16 that was actually looked at. So that's actually in
17 your package. So you can actually see what's 75,
18 what's 100, et cetera.

19 CHAIRMAN KORGE: What you're telling us is
20 that the existing lot, the six lots combined, the
21 existing site, is double the size of the largest lots
22 fronting Riviera and the largest lots fronting San
23 Vicente?

24 MR. GUILFORD: Oh, yes.

25 MS. KEON: What's that double? You said --

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1 MR. GUILFORD: I guess double -- the six
2 lots together, the size-wise, it is double -- it is
3 double any of the other lots, the six lots together,
4 area-wise. You're not looking at frontage anymore.

5 MS. KEON: Oh, right. Right, but --

6 MR. GUILFORD: Frontage-wise --

7 MS. KEON: Frontage wise --

8 MR. GUILFORD: Frontage-wise, about 50
9 percent greater than the lots -- at a minimum, 50
10 percent greater than the lots on Riviera, and more
11 than 50 percent based upon the lots -- I lived a half
12 a block away from this site.

13 MS. KEON: Right.

14 MR. GUILFORD: I drove by it every day. As
15 a matter of fact, I wish I'd bought this site.

16 MS. KEON: Right.

17 MR. GUILFORD: But the fact of the matter
18 is, there's a lot -- it's a mixed neighborhood, a lot
19 of 50s, a lot of 75s, some 100s.

20 MS. KEON: A lot of 100s.

21 MR. GUILFORD: And it's just a mix.

22 MS. KEON: Right. Right.

23 CHAIRMAN KORGE: Any other questions?

24 Does anybody wants to speak from the
25 audience?

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1 Yes, sir.

2 MR. RIEL: Mr. Chair, you're going to need
3 to swear everybody in.

4 MS. KEON: You need to swear them in, Tom.
5 Tom --

6 CHAIRMAN KORGE: Yeah?

7 MR. RIEL: He needs swearing in.

8 MS. KEON: You need to swear him in.

9 CHAIRMAN KORGE: Oh, we need to swear you
10 in. State your name and address for the record,
11 please.

12 (Thereupon, James Hartnett was duly sworn by
13 the court reporter.)

14 MR. HARTNETT: Will you repeat that again,
15 please, a little bit slower? I do, yes. Right.

16 My name is Jim Hartnett, born and raised in
17 the City of Coral Gables. I live at 510 Marmore
18 Avenue. I've lived there for 42 years. The house
19 has only had two owners, the one that built it and
20 myself.

21 I travel this area, where we're talking
22 about right now. In May, you rejected or deferred
23 this, based on Staff recommending against it.

24 On the Riviera Drive, that faces the canal,
25 those houses that used to be mostly single-story have

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1 now gone into the domino effect of tearing down the
2 old ones and building McMonster houses, and that's
3 compatible with the Riviera Drive area on the west
4 side.

5 On the Vicentian area, most all those houses
6 are single-story, and they built some two-story
7 houses on smaller lots.

8 I'm directly opposed to giving this
9 variance, because the buyer bought the lots and the
10 house with full knowledge, one, that there was a
11 covenant, and the covenant is something given for
12 something received. They've already had the
13 variances when they built the pool and whatever.
14 We're going to give them another covenant now, and in
15 eight or 10 more years, when things change in the
16 City of Coral Gables, they're going to come right
17 back to you and ask you to void that covenant, to let
18 them do something else.

19 If we had had the Building & Zoning Code
20 changed -- which they talked about five years ago
21 doing, and right now they're doing it, finally -- we
22 would not have all this McMonster houses in areas
23 that are not compatible. I don't believe that when
24 they change that zoning, that that house is going to
25 be compatible with the rest of the neighborhood,

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1 which are mostly single-stories.

2 They have, in certain streets, already
3 allowed the monster house, in certain areas, short of
4 Hardee and down some of the side streets, and they
5 are, in most cases, out of place and out of
6 compatibility with the houses that exist there prior
7 to the change.

8 They knew what they were buying. If the
9 lots are good enough, they can sell them off and let
10 them build within restrictions, without a covenant,
11 without any variances, and let's just hold to what
12 they already agreed to when they bought the house.

13 MR. BEHAR: Let me ask you a question or --
14 We're doing this as a lot separation. We're not
15 approving anything on the proposed residential
16 project, right?

17 MR. GUILFORD: Right.

18 MR. RIEL: Correct.

19 MR. GUILFORD: What I'm willing to do, and
20 what I'm asking to do, because it was really the
21 issue that came up before, I do not want you to
22 approve a style of this house. I want you to approve
23 a site plan and a massing. I mean, you have the
24 right to reject or not reject it.

25 MR. BEHAR: But maybe I'm a little bit

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1 confused. Are we doing a lot separation? 73
2 MR. GUILFORD: You are doing a lot
3 separation ordinance.
4 MR. RIEL: You're doing a lot separation.
5 You're not approving a site plan. The site plan is
6 only provided for illustration purposes.
7 MR. COE: That's informational.
8 MR. GUILFORD: But what I'm saying is --
9 MR. COE: The legal issue is the lot split,
10 and nothing else.
11 MR. RIEL: Correct.
12 MR. COE: That's the only thing before this
13 Board tonight.
14 MR. GUILFORD: That's the only thing before
15 you, is the lot separation.
16 MR. COE: Correct.
17 MR. GUILFORD: If you want to condition it
18 upon that, that is yours, but what the application
19 before you is, is a building site separation.
20 MR. BEHAR: For any particular style of
21 house, they have to go through the whole process of
22 the Board of Architects, to make sure it's
23 compatible --
24 MR. RIEL: Absolutely. Absolutely.
25 MR. BEHAR: And we're not going there.

1 MS. ALFONSIN: You're only here today on the 74
2 lot separation.
3 MR. GUILFORD: That's it.
4 MR. BEHAR: Okay.
5 CHAIRMAN KORGE: Right. That includes
6 setback requirements, too.
7 MR. GUILFORD: Absolutely.
8 CHAIRMAN KORGE: And height --
9 MR. GUILFORD: Absolutely.
10 CHAIRMAN KORGE: -- and massing.
11 MR. GUILFORD: This new house will have to
12 comply -- and right now, which it's not going to be
13 built, but with the interim regulations, but by the
14 time it gets there, with the new regulations that are
15 in place at the time, that the City has put in, which
16 is the 10-foot setbacks, the 29-foot height
17 restrictions, et cetera, you know, counting the
18 garage as full unless it's detached, and all the
19 other items that the new regulations have provided.
20 MR. RIEL: Just as a side note, the City
21 Commission passed, on first reading, the new
22 single-family regulations. The effective date is
23 going to be October 1st of 2006, and they will be
24 vested -- properties will be vested if they've
25 secured preliminary Board of Architects review and

1 approval. That's the vesting. 75
2 MS. KEON: Before that day.
3 MR. RIEL: Before October 1st, correct.
4 MS. KEON: So, then, we could condition this
5 lot separation -- we could condition it on its
6 being --
7 MR. RIEL: You could condition --
8 MS. KEON: -- in compliance with the Code,
9 the new Code?
10 MR. RIEL: You could.
11 MS. KEON: Can we?
12 MR. RIEL: You could do that.
13 MS. KEON: Okay.
14 MR. RIEL: And if the applicant agrees to
15 that. Or, if it, obviously, happens that they don't
16 secure that approval before October 1st, obviously,
17 they need to meet the new Code, so --
18 MS. KEON: The new Code, but if they happen
19 to have new plans ready, we could condition the
20 separation on it being subject to the new Code?
21 MR. RIEL: We've certainly discussed that on
22 other lot separations.
23 MS. KEON: Okay.
24 MR. RIEL: Yes, you could.
25 MS. KEON: Okay.

1 MR. HARTNETT: May I ask a question? 76
2 The previous owner, which was a developer,
3 and the current owners, is there any relationship to
4 those two people, those two buyers?
5 MR. RIEL: I don't know. You'd have to --
6 MR. HARTNETT: Are they independent of each
7 other, in any capacity?
8 MR. RIEL: I think you have to direct your
9 question to the Chair, and then the Chair can have
10 the applicant respond.
11 CHAIRMAN KORGE: Yeah. Mr. Guilford?
12 I think Mr. Guilford --
13 MR. GUILFORD: I just spoke to my clients.
14 The answer is no, there is no relationship between
15 the two.
16 CHAIRMAN KORGE: Thank you.
17 MR. COE: Even if there was, what's the
18 relevance?
19 CHAIRMAN KORGE: Any more questions or
20 discussions? Anybody else wish to speak?
21 Yes?
22 MR. HARTNETT: Mr. Chairman, in closing, I
23 ask you that you don't void the covenant, that you
24 leave the properties as they are, let them build to
25 conformity of what those lots will take.

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1 CHAIRMAN KORGE: So, if they build an 77
2 11,000-square-foot house there, because the lots
3 allow it, six lots, you'd be --
4 MR. HARTNETT: What?
5 CHAIRMAN KORGE: Currently, there are six
6 lots for that building site. Right?
7 MR. HARTNETT: On each street?
8 MR. BEHAR: No.
9 CHAIRMAN KORGE: No. The total building
10 site is six lots. It's not three lots. The house is
11 located on the front three.
12 MR. HARTNETT: I know that.
13 CHAIRMAN KORGE: Yeah. So they could build
14 an eleven -- maybe ten or eleven-thousand-square-foot
15 house, if they build on the entire building site, as
16 opposed to dividing the lots.
17 MR. HARTNETT: But that --
18 MR. COE: But they'll have more green space.
19 MR. HARTNETT: Are you saying that that's
20 what they can do now?
21 MS. MORENO: Yes.
22 MS. KEON: Yes.
23 MR. BEHAR: Yes.
24 MS. KEON: Yes.
25 MR. BEHAR: Now, they can build a McMansion

1 MR. HARTNETT: Now, what they're asking you 79
2 to do is, hey, let's undo that, and now we're going
3 to give them another shot at doing something else.
4 MR. BEHAR: Not necessarily.
5 MS. KEON: Right, they're saying that, but
6 what they're also saying is, when those -- the
7 covenant that exists now, that ties the six lots
8 together --
9 MR. HARTNETT: Right.
10 MS. KEON: -- gives them also the ability to
11 build an about 11,000-square-foot house on those six
12 lots together, because it's one building site, and
13 the current Code, as it's written, would allow them
14 to build a huge home on those lots, as they exist
15 today, as-of-right.
16 If their request to separate those two
17 lots -- you know, so that three lots face San
18 Vicente, the other three lots would face Riviera
19 Drive, then they would have two building sites and
20 they would have to build in conformance with what the
21 existing building Code today is. So they couldn't
22 build such a huge house today, if the lots were
23 separated. They wouldn't be able to build it.
24 But now, with the covenant in place, with
25 those six lots, they could build a very, very big

1 on that lot, the way that they have the rights to do 78
2 it today.
3 CHAIRMAN KORGE: Because of the unique
4 characteristics of the depth of that lot.
5 MR. HARTNETT: Can you build that with the
6 covenant in force?
7 MS. KEON: Yes.
8 MS. MORENO: Yes.
9 MR. BEHAR: Of course.
10 MS. MORENO: All the covenant says is that
11 the lots are tied together.
12 MS. KEON: Yeah.
13 MR. HARTNETT: But you're going to untie it.
14 MR. BEHAR: Not if you build --
15 MS. MORENO: If we don't do anything, he
16 could build there a 12,000-square-foot house.
17 MR. HARTNETT: As I understand it, the
18 existing house, they gave a covenant in order to
19 build the pool, that went from west to east, from
20 Riviera to San Vicente, and in doing that, he agreed
21 to tie them all together.
22 CHAIRMAN KORGE: Right.
23 MR. HARTNETT: Correct?
24 MR. BEHAR: That's correct.
25 MS. KEON: Right.

1 house. 80
2 MR. HARTNETT: Yeah, but the design that
3 they presented here, that's going to face San
4 Vicente, is not actually compatible with the
5 single-story houses that are there.
6 MR. BEHAR: We're not approving that.
7 CHAIRMAN KORGE: We won't approve that.
8 MR. BEHAR: We're not approving the design.
9 MR. COE: This is just the lot split --
10 MS. KEON: This is the lot split. That
11 would --
12 MR. COE: -- and we could condition the lot
13 split.
14 MR. HARTNETT: Isn't the lot split a
15 prerequisite to what's going to happen? That's what
16 he's telling you, right here.
17 MS. KEON: Well, they're telling him that
18 they could build, but it would still have to go
19 through -- and they will build.
20 MR. HARTNETT: They will.
21 MS. KEON: Absolutely, they will build, but
22 it has to go -- if it's conditioned on the new
23 Building Code, it won't -- it would not be as big as
24 what could be built there today.
25 What you're seeing in your neighborhood,

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1 what you're seeing now being built; it could not
2 be -- you will not be able to build as big a house,
3 once the new Zoning Code goes into place, if they
4 adopt it as it's been written. They can't -- they
5 wouldn't be able to build it as big as they could
6 under the existing Zoning Code.

7 MR. BEHAR: The option now is, if you leave
8 it the way it is today, they could get up to 11,000
9 or so square feet. So that would be a significant
10 size structure.

11 With the lot separation, it means that they
12 have to decrease the overall massing of those two
13 homes, to be more compatible with what you -- in my
14 opinion, what you're trying to preserve.

15 MR. HARTNETT: But in all probability, the
16 massive part is going to be on Riviera, facing across
17 the street, with massive houses. They are not going
18 to put the mass back on San Vicente and all the
19 streets perpendicular to it. So I'm saying that the
20 Board has an opportunity to say no to this
21 application, leave it as it is, and the buyer knew
22 what he was getting. Don't disturb the covenant.

23 MR. BEHAR: But -- and, Mr. Chairman, you
24 may want to elaborate on the specific of the
25 covenant, because the covenant is just tying the six

1 fronting San Vicente.

2 So, practically speaking, what they're
3 asking is not to -- is not out of conformity with the
4 neighborhood, but it really fits within the confines
5 of the neighborhood.

6 MR. HARTNETT: Okay.

7 MR. CARLSON: When this was last discussed
8 by the Board, what the Board asked was that the
9 applicant go back, consider a one-story house on the
10 proposed new lot, and also provide design and massing
11 criteria which would regulate how that house would be
12 constructed on the lot. That was what the Board
13 asked to go back and consider.

14 CHAIRMAN KORGE: Uh-huh.

15 MR. CARLSON: And that's what has been -- a
16 plan has been submitted, instead of those massing and
17 design criteria.

18 MR. BEHAR: But they came back with a
19 two-story proposal.

20 MR. CARLSON: That's exactly right.

21 CHAIRMAN KORGE: Exactly.

22 MR. CARLSON: The Board originally asked for
23 a one-story. They have come back with a two-story.

24 MR. COE: Substantially larger now.

25 MS. MORENO: But I think -- I think that the

81 properties together, right?

82 CHAIRMAN KORGE: That's correct.

83 MS. MORENO: That's all it is, right.

84 MS. KEON: It doesn't say how long big you
5 can build.

6 MR. BEHAR: If they want to do, today, an
7 addition on the San Vicente side, they could do the
8 same two-story addition back there and increase the
9 size of that house to ten, twelve thousand square
10 feet.

11 MR. COE: They still have 22,000 square feet
12 of green space.

13 MR. HARTNETT: You mean, on the Vicente
14 part?

15 MR. BEHAR: They could do that today,
16 maintaining the six lots.

17 CHAIRMAN KORGE: The practical application
18 of splitting is to make these lots, basically, fit --

19 MS. MORENO: The neighborhood.

20 CHAIRMAN KORGE: -- within the whole
21 neighborhood. That's the real practical application,
22 because you can see from the building site analysis,
23 there are no lots greater than 150 feet of frontage
24 on either Riviera or San Vicente, and there's only
25 one of those lots fronting Riviera, and seven

83 84
1 answer to the whole problem is what Pat said. Let's
2 just split the lots, and say the new house has to
3 conform with the new Code. Why would we impose
4 anything different on them?

5 MS. KEON: Right.

6 MR. BEHAR: Right.

7 MS. MORENO: That, to me, is clear.

8 MR. BEHAR: I don't disagree with you. I
9 agree.

10 MS. KEON: Right, yeah.

11 MR. HARTNETT: I just want you to know that
12 the previous Board -- and there were other, different
13 people on there -- they did address the covenant
14 issue, very seriously.

15 CHAIRMAN KORGE: Yes.

16 MS. KEON: Well, I think the covenant is
17 that they would tie the three lots together so that
18 they couldn't further separate those into three
19 different building sites, that -- you know, if you
20 split it in half. So the three lots that face San
21 Vicente would remain as one building site, so you
22 couldn't -- you couldn't make it smaller than the
23 150-foot frontage, was the discussion that was had
24 before about --

25 MR. HARTNETT: You mean, on San Vicente?

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1 MS. KEON: Right, that it would have to stay
2 at the 150. They couldn't break it up into three
3 50-foot lots, that you would remain -- it would have
4 to be --

5 CHAIRMAN KORGE: There would only be one
6 house on San Vicente built, not three.

7 MS. KEON: Right.

8 MR. BEHAR: If you look at the exhibit that
9 they provided us, there are a couple lots of probably
10 less than --

11 MS. KEON: Yeah.

12 MR. BEHAR: -- 75 feet.

13 MS. KEON: Sure. This is -- yeah.

14 MR. BEHAR: This would allow no further lot
15 split, either on San Vicente or Riviera Drive.

16 MS. KEON: Right.

17 MR. HARTNETT: This year. This year.

18 MS. KEON: Well, that's true. But we
19 could -- but this Board could ensure that, for now,
20 that it would be 150.

21 MR. HARTNETT: As a matter of observation,
22 Pat, you have changed certain members, and they had a
23 very great concern about the covenant. You had an
24 hour's discussion --

25 MS. KEON: Right.

1 attention.

2 CHAIRMAN KORGE: Thank you.

3 Anybody else who'd like to speak?

4 If you want them to speak -- if you want,
5 you need to be sworn in.

6 (Thereupon, Consuelo Huergo was duly sworn
7 by the court reporter.)

8 MS. HUERGO: My name is Connie Huergo. My
9 husband, Guillermo; Sara and Daniel, my kids.

10 We've been living in the Gables for the past
11 10 years, and we used to live three houses away from
12 the one that we have right now. Our lot was also the
13 biggest in the neighborhood, three houses away from
14 that one. It was a beautiful house. Our children
15 grew up there. It was great, but it was too small.
16 It was 1,500 square feet. And in order for me to
17 expand, we needed to knock down the house, and I
18 didn't want to do that. So we decided to go into
19 Riviera, which had a bigger square footage and it had
20 a bigger yard, like the one that we used to have.

21 The one that we have right now is great, but
22 we cannot put anything in the back, so the kids
23 cannot have the freedom of playing back there or take
24 out the dog, and everybody uses our lot to cross away
25 from San Vicente to Riviera.

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1 MR. HARTNETT: -- of the covenant and the
2 value of it, the relationship of it, and what they --
3 what they got for what they gave away.

4 MS. KEON: Absolutely.

5 MR. HARTNETT: So --

6 MS. MORENO: But since then, we've had a

7 number of architects come before us and discuss the
8 possibility of lot splits being able to be used to
9 preserve the character of the neighborhood, and I
10 think that has educated us, because we don't want a
11 12,000-square-foot house --

12 MS. KEON: Right.

13 MS. MORENO: -- in your neighborhood. We
14 think it is more appropriate to have two homes that
15 are consistent with the other homes in the
16 neighborhood than to have this huge house in your
17 neighborhood.

18 MR. HARTNETT: We already have some of
19 those. They've already let the dominos begin.

20 MS. KEON: Right, and we'd like to --

21 MR. HARTNETT: If you drive around that
22 area --

23 MR. BEHAR: But if we could stop that --

24 MS. KEON: We'd like to stop it now.

25 MR. HARTNETT: Okay. Thank you for your

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1 for years. It was also that -- that covenant was
2 also proffered in 1959, almost 20 years before the
3 lot separation ordinance even came into effect.

4 Now, I'm not here to say that the woman who
5 bought the house or owned the house, you know, didn't
6 want to keep it together. She was willing to do it
7 for the screen enclosure. Clearly, in today's time,
8 no one would have tied six lots together for a screen
9 enclosure. It just would not have happened.

10 We have no problems proffering that we will
11 comply with the new Code that is being developed by
12 the City, and we ask that you support this
13 application. Thank you.

14 CHAIRMAN KORGE: Thank you.

15 MS. MORENO: I'm sorry, let me just check.
16 We would have a restrictive covenant that would say,
17 first, that the property will be not further
18 separated, with the existing property divided into
19 building sites with three platted lots.

20 MR. GUILFORD: Correct.

21 MS. MORENO: Each building site shall be for
22 a single-story residence, and then instead of these
23 two other, 3 and 4, the residence, et cetera, it
24 would be, the new residence to be constructed will
25 comply with the new Zoning Code?

1 Guilford prepare the restrictive covenant and get it
2 finalized and have it available for when the
3 Commission considers it, if the Board is desiring to
4 recommend approval.

5 MS. MORENO: Okay, I make a motion to that
6 effect.

7 CHAIRMAN KORGE: Is there a second to that
8 motion?

9 MS. KEON: I'll second it.

10 CHAIRMAN KORGE: Mr. Guilford, do you accept
11 all those conditions?

12 MR. GUILFORD: Yes, I do.

13 CHAIRMAN KORGE: Is there any discussion,
14 further discussion, on this motion?

15 Let's call the roll -- oh, I'm sorry.

16 MR. RIEL: I'm sorry. Did -- Mr. Guilford
17 proffered some of his neighbors' conditions. Is that
18 included in those, as well --

19 MR. GUILFORD: That's --

20 MR. RIEL: -- in your motion?

21 MR. GUILFORD: If you want to quote them or
22 if you want me to quote them again, I'm more than
23 happy to do so.

24 MR. RIEL: He proffered some additional
25 conditions from the neighbor.

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1 MR. GUILFORD: Correct.

2 MS. KEON: Well, the one -- the
3 single-story --

4 MR. GUILFORD: No, it's supposed to be
5 single-family. It's not one-story, it's
6 single-family. You kind of read single-story versus
7 single-family.

8 MR. RIEL: Single-story or single-family?

9 MR. GUILFORD: It's single-family. Each one
10 will be a single-family.

11 MS. MORENO: Each building shall be for one
12 single-family residence.

13 MR. GUILFORD: There you go.

14 MS. MORENO: And then we're eliminating 3
15 and 4, which had to do with the one story --

16 MS. KEON: Right.

17 MS. MORENO: -- in height and special --
18 specific massing and design provisions, and instead
19 of that, we're saying that the new home to be
20 constructed will comply with the new Zoning Code
21 provisions.

22 MR. RIEL: Correct.

23 MS. MORENO: Is that -- does everybody
24 understand?

25 MR. RIEL: And only one suggestion, that Mr.

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1 CHAIRMAN KORGE: Yeah.

2 MR. GUILFORD: There's two restrictive
3 covenants. Obviously, there's going to be a
4 restrictive covenant with the City, and then one with
5 the four neighbors, which actually gives Mr. Hartnett
6 additional assurances, because then we cannot split
7 it without the approval of those four neighbors.

8 Even though the City is not involved, it's between
9 those neighbors. So there's the additional
10 protection for Mr. Hartnett.

11 MR. RIEL: I just wanted to know how --

12 CHAIRMAN KORGE: The restrictive covenants
13 included everything that had been proffered, is that
14 correct, in your motion?

15 MS. MORENO: I can add it. Is that the
16 City's concern at all?

17 MR. RIEL: Well, I mean, if he's proffering
18 that he agrees to that, you know, it would probably
19 be better to have it in our restrictive covenant.

20 MS. MORENO: Okay. All right, include it
21 in my motion.

22 MR. RIEL: Okay. I just want to be clear.
23 Thank you.

24 MS. MORENO: And include it in your second.

25 MS. KEON: Is it also included, then, that

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1 the pool is going to be removed? I mean, the
2 conditions on the other lot.

3 MR. GUILFORD: Right. That is one of the
4 conditions that was already in Staff's
5 recommendation, that those encroachments be removed
6 within one year.

7 MS. MORENO: Yeah, I --

8 MR. GUILFORD: That is, in fact, one of
9 the conditions.

10 MS. MORENO: I'm only addressing -- I'm
11 assuming that we are --

12 MR. GUILFORD: We're fine -- you're just
13 going with the new ones.

14 MS. MORENO: We're adopting Conditions 1 and
15 2.

16 MR. GUILFORD: Correct.

17 MS. MORENO: And then Condition 3, which
18 was -- I guess I didn't do my motion properly. On
19 Condition 3, we're making the revision on the new
20 Zoning Code, instead of 3 and 4, and we're also now
21 including the restrictive covenant that you proffered
22 to the neighbors.

23 MR. GUILFORD: Correct.

24 MS. MORENO: So my motion is that we allow
25 this lot split, based on the Staff conditions, 1 and

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1 2, the revised restrictive covenant with the City,
2 and the proffered restrictive covenant with the
3 neighbors.

4 MS. KEON: Second.

5 MR. HARTNETT: Before you vote, Mr.
6 Chairman, could I request a clarification? The four
7 neighbors, is that defined as the four owners of the
8 property?

9 CHAIRMAN KORGE: This would be the four
10 adjacent --

11 MR. GUILFORD: Do you want me to answer
12 that? It's the four property owners, the two on
13 Riviera that abut the existing house, and the two
14 property owners that abut the proposed building site
15 in the rear, on San Vicente.

16 CHAIRMAN KORGE: On San Vicente.

17 MS. KEON: On San Vicente.

18 MR. GUILFORD: And those are actually --

19 MR. HARTNETT: You're referring -- you're
20 referring to neighbors as owners of the property --

21 MR. GUILFORD: Yes, they are property
22 owners.

23 MR. HARTNETT: -- at any given time?

24 MR. GUILFORD: Absolutely.

25 MS. MORENO: At the time a change is sought.

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1 MR. GUILFORD: Absolutely. As a matter of
2 fact, those neighbors in the restrictive covenant, if
3 you see, are not identified by name. They're
4 identified as --

5 CHAIRMAN KORGE: Property owner.

6 MR. GUILFORD: -- owner of X -- Lot
7 so-and-so, and so-and-so, and so-and-so.

8 MS. KEON: Yes.

9 MR. RIEL: Thank you.

10 CHAIRMAN KORGE: Thank you.

11 Okay. Would you call the roll, please?

12 MS. MENENDEZ-DURAN: Robert Behar?

13 MR. BEHAR: Yes.

14 MS. MENENDEZ-DURAN: Jack Coe?

15 MR. COE: For the record, I'm going to vote
16 no on this. It's clearly, in my mind, in violation
17 of 12-5(b) of the Zoning Code. They only meet three
18 of the six requirements as set forth in the Zoning
19 Code. They do not meet four, which is a minimum
20 requirement for passing a lot split. I see no legal
21 justification for granting a lot split in this case,
22 and therefore, I'm voting no.

23 MS. MENENDEZ-DURAN: Pat Keon?

24 MS. KEON: Yes.

25 MS. MENENDEZ-DURAN: Cristina Moreno?

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1 MS. MORENO: Yes.

2 MS. MENENDEZ-DURAN: Tom Korge?

3 CHAIRMAN KORGE: Yes.

4 MR. GUILFORD: Thank you very much.

5 CHAIRMAN KORGE: Thank you.

6 MR. RIEL: Just for the record, this item
7 will go on the August 22nd City Commission meeting,
8 if Mr. Guilford can get the restrictive covenant in
9 time.

10 MS. KEON: Can we talk a little bit about
11 this memo from the City Attorney?

12 CHAIRMAN KORGE: Well, we can, but I don't
13 know why we would talk about it now. We just
14 finished the issue.

15 MS. KEON: Well, no, because it goes back
16 to -- it really just deals with this administrative
17 review criteria, and it's the same thing we talked
18 about on another item that was before us a few days
19 ago.

20 CHAIRMAN KORGE: Well, I think this memo
21 will come into play when that other lot split comes
22 back before us.

23 MS. KEON: But that's why -- I only have
24 just -- Can I make a couple comments? I'll be very
25 quick.

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1 CHAIRMAN KORGE: Yeah, sure. 97

2 MS. KEON: Okay. In reading the
3 administrative determination review criteria, and
4 then reading the memo from the City Attorney, the
5 City Attorney's memo makes it abundantly clear that
6 the intent was whether any building ever existed on
7 that site, for the lot split, anything ever existed
8 there.

9 Your administrative criteria doesn't say
10 that. I mean, I'm sort of surprised that there
11 isn't -- one of your criteria is that there was ever
12 a building on that site, because that's the point
13 that we keep arguing. That's the point that Mr.
14 Guilford has put forth, that's the point that made it
15 sort of confusing when we talked about it, and it
16 doesn't -- one of your --

17 CHAIRMAN KORGE: It's not clear.

18 MS. KEON: It isn't clear. I mean, you
19 really --

20 MR. COE: What's not clear about it?

21 MS. KEON: It isn't clear at all, and,
22 you know --

23 MS. ALFONSIN: If I may address that, when
24 we discussed this last time and I told you that I was
25 going to review the building site section -- which I

1 did, and it's referred to there -- 98

2 MS. KEON: Right.

3 MS. ALFONSIN: -- the five criteria are for
4 review purposes, if you don't meet the other
5 sections, and you must take every section together.
6 When you're talking about existing building, if there
7 is an existing building -- and I'll give you a
8 hypothetical. You have three lots, it's a triple
9 lot, and the existing building begins in Lot 1, goes
10 through Lot 2 and enters into Lot 3, and in order to
11 separate those three lots, they have to demolish the
12 house, then they're not meeting Criterias 3 and 4,
13 because you have to look at the six criteria under
14 12-5 along with 12-2(c).

15 MS. KEON: Right, but you know what? That's
16 not clear.

17 MS. ALFONSIN: However, if you have three
18 lots, and you have one home sitting on Lot 1, but
19 Lots 2 and 3, there's nothing on them, and they're
20 coming in under these criteria, they would meet the
21 criteria for 3 and 4.

22 MS. KEON: And I -- exactly. But that --
23 but when you -- when you're presenting that
24 information to us here, it's almost like, if they
25 didn't meet the first one, then --

1 MS. ALFONSIN: They wouldn't be meeting 99

2 it -- in this situation, they wouldn't be meeting
3 it --

4 MS. KEON: Right.

5 MS. ALFONSIN: -- because they're going to
6 be removing the pool, and the pool is encroaching on
7 the other half of the property.

8 MS. KEON: Right. But when you present this
9 to us, and it says administrative determination
10 review criteria -- when this is presented to us, as
11 it's stated here, that issue, the historical -- the
12 issue that you just talked about, as there ever being
13 one there, I mean, ever being a building on that
14 site, isn't -- it's not -- it's not clear here.

15 MS. ALFONSIN: There's also another issue.
16 There's an issue of unity of title. Once there's
17 unity of title and there's six lots --

18 MS. KEON: Right.

19 MS. ALFONSIN: -- then you look at that
20 criteria along with all of the other matters under
21 12.

22 MS. KEON: Right.

23 MS. ALFONSIN: Section 12-2(c), for example,
24 what I just said.

25 MS. KEON: Right.

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1 MS. ALFONSIN: But that comes in with unity
2 of title, and you have to look at unity of title
3 along with everything else in that section.

4 Whenever you have any section of the Code,
5 and there are different parts per section, you've got
6 to review them all together. The criteria here is
7 perfect when you have what I said before, as an
8 example, a triple lot, and the home sits on one of
9 the lots only.

10 MS. KEON: Right, but that's -- you know
11 what? And that's really not such an issue. The
12 issue becomes when there are encroachments onto the
13 lot --

14 MS. ALFONSIN: Exactly.

15 MS. KEON: -- and the way that it's written
16 here and presented to us here, it isn't -- it's not
17 clear that this criteria is being applied in
18 conjunction with the other --

19 CHAIRMAN KORGE: Sections.

20 MS. KEON: -- sections that you have
21 included in your memo.

22 MS. MORENO: Okay, why don't I make a
23 suggestion? Eric, why don't you have --

24 MS. KEON: It isn't clear.

25 MS. MORENO: -- Charlie Siemon and the City

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1 Attorney's office work to make sure that that's 101
2 clear, as part of their --
3 MS. ALFONSIN: It's already been done.
4 MS. KEON: Yeah, I really don't think that
5 it is clear, and I think, you know, Zeke's argument
6 makes sense, when you look at it.
7 MR. RIEL: Okay, we'll do that.
8 MS. ALFONSIN: It has actually --
9 MR. RIEL: Okay.
10 CHAIRMAN KORGE: We're adjourned, meeting
11 adjourned?
12 MR. RIEL: Yes.
13 CHAIRMAN KORGE: Okay.
14 MS. ALFONSIN: We've actually addressed that
15 with Charlie already.
16 MS. KEON: Okay, but I think -- I really
17 think that should be folded into anything that's
18 done.
19 (Whereupon, the hearing was adjourned at
20 8:00 p.m.)
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1 CERTIFICATE
2
3 STATE OF FLORIDA:
4 SS.
5 COUNTY OF MIAMI-DADE:
6
7 I, JOAN L. BAILEY, Registered Diplomate
8 Reporter, and a Notary Public for the State of
9 Florida at large, do hereby certify that I was
10 authorized to and did stenographically report the
11 foregoing proceedings and that the transcript is a
12 true and complete record of my stenographic notes.
13
14 I, JOAN L. BAILEY, a Notary Public in and
15 for the State of Florida at large, do hereby certify that all
16 witnesses were duly sworn by me.
17
18 DATED this 21st day of July, 2006.
19
20
21
22
23 JOAN L. BAILEY,
24 REGISTERED DIPLOMATE REPORTER
25 Notary Commission Number DD 190412.
My current notary commission expires 6/14/07.