

105

1 comments or discussion?

2 MS. KEON: And I'm sure they can make it  
3 work if they didn't have it.4 CHAIRMAN KORGE: Well, no further  
5 discussion. Let's call the roll, please.

6 MS. MENENDEZ: Jeff Flanagan?

7 MR. FLANAGAN: Yes.

8 MS. MENENDEZ: Pat Keon?

9 MS. KEON: No.

10 MS. MENENDEZ: Javier Salman?

11 MR. SALMAN: Yes.

12 MS. MENENDEZ: Eibi Aizenstat?

13 MR. AIZENSTAT: Yes.

14 MS. MENENDEZ: Robert Behar?

15 MR. BEHAR: Yes.

16 MS. MENENDEZ: Jack Coe?

17 MR. COE: For the concerns that I have  
18 previously expressed, I think what's being  
19 proposed tonight is premature. I have all  
20 the confidence that the operator has good  
21 intentions. I would like to see his project  
22 succeed, but I don't think what we've been  
23 presented tonight meets what I think is the  
24 standards that a residential community and  
25 neighborhood of this character should have to

1 endure, so regrettably I have to vote no.

2 MS. MENENDEZ: Tom Korge?

3 CHAIRMAN KORGE: Yes. The motion passes.

4 The next item on the agenda?

5 MR. COE: Can we take a recess,

6 Mr. Chairman?

7 MR. BEHAR: Why? Have you got to leave?

8 MR. COE: I'm leaving.

9 MR. BEHAR: Okay, well, let's continue,  
10 with no recess.

11 MR. SALMAN: Let's go.

12 MS. HERNANDEZ: A recess?

13 MR. BEHAR: Let's continue. There's no  
14 recess.

15 MR. SALMAN: Let's get through.

16 CHAIRMAN KORGE: No recess. We're going  
17 to finish this up.

18 Thank you very much.

19 (Thereupon, Mr. Coe left.)

20 CHAIRMAN KORGE: We have a Zoning Code  
21 text amendment proposal concerning current  
22 nightclub use.

23 MR. CARLSON: Yes.

24 MR. SALMAN: Or lack thereof, actually.

25 CHAIRMAN KORGE: Or lack thereof, okay.

106

107

1 MR. CARLSON: This is a Zoning Code text  
2 amendment. It's coming from -- It's coming  
3 from Staff. The City Commission requested  
4 City Staff to review the Zoning Code's  
5 existing provisions regarding nightclubs.6 Currently, the Code references nightclubs  
7 in the prohibited uses and definitions  
8 sections of the Code. The amendments that  
9 are being proposed here this evening are both  
10 of those sections, and they are intended to  
11 ensure clarity and uniform enforcement  
12 regarding nightclubs, nightclub use.13 Planning, Building & Zoning, and the City  
14 Manager's Office were involved in the  
15 crafting of the provisions which are coming  
16 before you this evening. The amendments  
17 provided in your Staff Report continue to  
18 allow nightclubs only as accessory uses to  
19 restaurants. It clarifies that alcohol sales  
20 in excess of 49 percent at a restaurant that  
21 includes nightclub activities would be  
22 prohibited. It requires all nightclub  
23 activity to be contained entirely within the  
24 building. It references City Code  
25 requirements regulating the use of

108

1 nightclubs, specifically, hours of operation,  
2 noise and nuisance provisions. It references  
3 State of Florida licensing requirements for  
4 alcoholic beverages. It requires restaurants  
5 to maintain gross sales receipt records for  
6 the City to -- for City inspection, and  
7 finally, this proposal would define and would  
8 prohibit casinos in the City, and casinos  
9 currently weren't defined and they weren't --  
10 they weren't defined as a prohibited use.11 The 49 percent alcohol sales reference  
12 is the same limit which is referenced in the  
13 State requirements for the definition of  
14 alcoholic sales at restaurants, and that's  
15 why it's used here.16 And I'd like to open it up to the Board  
17 for discussion.18 CHAIRMAN KORGE: Any discussion on this  
19 proposal, or questions?

20 MR. FLANAGAN: I do -- Go ahead, Eibi.

21 MR. AIZENSTAT: I just have a question.  
22 I'm just curious. How do you monitor the 49  
23 percent of the alcohol sales to the food?24 MR. CARLSON: That's a requirement -- as  
25 I understand it, with Staff's meetings with

109

1 the Building & Zoning representatives who  
 2 issue permits, the liquor permits, it is a  
 3 requirement for the sales of liquor, wine and  
 4 beer at restaurants. They are required to be  
 5 able to provide documentation that it is 49  
 6 percent or less. As I understand it, the  
 7 State doesn't do annual inspections. They do  
 8 inspections --

9 MR. AIZENSTAT: Spot?

10 MR. CARLSON: Spot inspections, and those  
 11 records are supposed to be available.

12 MR. AIZENSTAT: Yeah, that just -- I  
 13 mean, I don't see how they do it, that's all.

14 MR. CARLSON: Typically, as I understand  
 15 it, typically those inspections occur when a  
 16 violation or a complaint is filed, and  
 17 they'll go out there and check the receipts  
 18 to make sure.

19 The intent is that the primary function  
 20 of the restaurant is the service of food and  
 21 that the sale of alcoholic beverages is  
 22 accessory to that.

23 CHAIRMAN KORGE: I found the language a  
 24 little confusing, because it wasn't clear to  
 25 me how you arrive at the 49 percent. Do you

110

1 take the total revenues from the facility and  
 2 divide it into the alcohol only sales, or do  
 3 you just take the food portion and divide it  
 4 into the --

5 MR. CARLSON: That's a very good --  
 6 That's a very good point.

7 CHAIRMAN KORGE: By total sales, that  
 8 would include the alcohol sales, as well.

9 MR. CARLSON: Well, 49 percent of the  
 10 sales would be alcohol, therefore, it  
 11 doesn't -- that doesn't necessarily mean that  
 12 the 51 percent is going to be food sales. If  
 13 you were to have cover charges or admission  
 14 fees for a nightclub, that would -- you could  
 15 potentially have less than the majority of  
 16 sales for its food and still have the 49  
 17 percent or less sales towards alcohol. So  
 18 that's possibly an amendment that would --  
 19 could be considered.

20 CHAIRMAN KORGE: I would just clarify  
 21 that. I don't -- you know, I just want to  
 22 make it clear that we're taking 49 percent of  
 23 the total gross receipts from that  
 24 establishment. By changing it from  
 25 establishment -- gross receipts of the

111

1 establishment, on Page 3 of 4, to read gross  
 2 sales receipts of the primary restaurant use,  
 3 it became a little confusing to me, because  
 4 I'm not sure what the primary restaurant use  
 5 would mean. Would that mean the food only?  
 6 Would it mean the food and the non-alcoholic  
 7 beverages only, or would it mean all the  
 8 revenues?

9 MR. CARLSON: This was taken -- this was  
 10 taken out of the State -- this was the  
 11 language that the State uses for the liquor  
 12 licenses. That's why we use it here, to be  
 13 compatible.

14 CHAIRMAN KORGE: I've read enough State  
 15 Statutes to say that they're usually  
 16 ambiguous, as well, so --

17 MR. CARLSON: I understand.

18 CHAIRMAN KORGE: Yeah.

19 MS. KEON: But I think it's when it  
 20 excludes -- cover charges excludes things for  
 21 the music, it excludes that sort of thing, so  
 22 when it's the primary use of a restaurant is  
 23 food and beverage, so the primary use would  
 24 be the sales of food and beverage.

25 CHAIRMAN KORGE: All beverage or just

112

1 non-alcoholic?

2 MS. KEON: All beverage.

3 MR. FLANAGAN: I wanted to clarify. It  
 4 seems like we're defining nightclubs solely  
 5 as an accessory use to a primary restaurant  
 6 use --

7 MS. KEON: Right.

8 MR. FLANAGAN: -- when, if I take the  
 9 converse of that, I mean, could I open up a  
 10 stand-alone nightclub? I'm wondering if the  
 11 definition shouldn't be that a nightclub is  
 12 anything where the alcoholic receipts exceed  
 13 49 percent or whatever of the revenue,  
 14 because everything here talks about it being  
 15 as an accessory use to a primary restaurant,  
 16 and I'm not -- I know what the intent is.  
 17 I'm just not sure that we're capturing the  
 18 whole --

19 MS. HERNANDEZ: The language?

20 MR. SALMAN: And listing the prohibition.  
 21 Listing the prohibition against the use of --

22 MR. FLANAGAN: It's almost like it should  
 23 be Uses Prohibited, A, Nightclub, period, and  
 24 then when we get down to definitions, I think  
 25 a clearer definition of a nightclub.

113

1 CHAIRMAN KORGE: Yeah, that's true,  
2 definitely.

3 MR. FLANAGAN: I actually have a client  
4 trying to open a nightclub, but --

5 CHAIRMAN KORGE: Yeah, I would --

6 Liz, you might want to just go over that  
7 one more time.

8 MS. HERNANDEZ: Okay. Do you want us to  
9 bring it back next month?

10 CHAIRMAN KORGE: No, I mean, we got -- I  
11 think you understand what we're saying,  
12 assuming everybody approves it. It's just,  
13 you know, you might want to work it over one  
14 more time before you bring it to the  
15 Commission.

16 The other question I have is probably  
17 going to get shouted down here, but why don't  
18 we allow bars in Coral Gables?

19 MR. BEHAR: We don't allow bars in Coral  
20 Gables?

21 CHAIRMAN KORGE: We don't allow -- this  
22 isn't allowed. Bars are not allowed. If you  
23 serve primarily alcoholic beverages, which  
24 would be a typical bar --

25 MR. BEHAR: Right.

114

1 CHAIRMAN KORGE: -- it's not allowed, and  
2 I'm just kind of curious, as an occasional  
3 visitor of bars, why that's verboten in Coral  
4 Gables.

5 MR. FLANAGAN: But does it -- no, no, no,  
6 isn't there a State requirement, though, that  
7 for the license that they have, they still  
8 have to have food receipts?

9 CHAIRMAN KORGE: I don't know.

10 MR. FLANAGAN: I don't know.

11 MR. CARLSON: There are a limit -- there  
12 are a minimum number of seats for beer and  
13 wine, and a minimum number of seats for  
14 liquor.

15 MR. SALMAN: Uh-huh.

16 MR. CARLSON: 50 for beer and wine, I  
17 believe, and 200 for the service of liquor.

18 MR. BEHAR: That's correct, 200.

19 MR. SALMAN: This used to be a dry state.

20 CHAIRMAN KORGE: We have somebody who  
21 wants to add some light -- to shed some light  
22 on this.

23 MS. BROWN: Hi. Sebrina Brown,  
24 Concurrency Administrator. Basically, I sign  
25 off for an alcoholic beverage license when

115

1 they come to the City. Most of the series  
2 for a restaurant, for beer and wine, they  
3 have to have a minimum of 50 seats, with no  
4 bar within the restaurant. If they're  
5 wanting to have a bar, the State requires  
6 that there's a minimum of 4,000 square feet  
7 in area and 200 seats, and at that point they  
8 can have seating at the bar.

9 Now, there have been some calls in  
10 regards to restaurants that have 50 seats,  
11 where they have a bar and they have seating,  
12 but we cannot tell them, basically, where  
13 they can display their alcohol. The State,  
14 however, has requirements as far as where  
15 they can have a display, but they cannot have  
16 seating on their plans to state that it's a  
17 bar. They can have a service counter. And  
18 the Code states that a restaurant with  
19 alcoholic license is considered a bona fide  
20 restaurant where food is regularly served.  
21 So they have to serve food in order for them  
22 to serve alcohol, and we do not issue any  
23 alcoholic beverage license for restaurants  
24 unless they meet those requirements.

25 CHAIRMAN KORGE: Can you get an alcohol

116

1 license without a restaurant in the State?

2 MS. BROWN: The only way that we can  
3 issue an alcoholic beverage license is if  
4 it's a retail store, alcoholic beverage  
5 store, and they cannot be within a 500-foot  
6 radius of a church or a school. So we do  
7 require them to provide us with a survey  
8 showing the radius from their parking line  
9 and a 500-foot radius and they have to state  
10 that there's no church or school within that  
11 radius.

12 MR. AIZENSTAT: How does it work if  
13 somebody has a liquor license and they want  
14 to transfer it into the City?

15 MS. BROWN: When they transfer a liquor  
16 license, in some cases the State does not  
17 require a zoning signature, which I do have a  
18 problem with that. However, whenever they  
19 come in for a change of ownership in a  
20 restaurant, they have to come to me to get  
21 their certificate of use, and at that point,  
22 we do question if they are transferring an  
23 alcoholic beverage license or if they're  
24 applying for a new alcoholic beverage  
25 license.

117

1 Whenever they come through to obtain an  
 2 alcoholic beverage license, I have to receive  
 3 from them a floor plan at a quarter inch  
 4 scale, or some type of scale, showing the  
 5 seating layout with the seats labeled, and I  
 6 then pass it on to our fire inspector, who  
 7 reviews it for capacity. I do not regulate  
 8 capacity, as far as the seating. And once  
 9 they review and approve the applicant's  
 10 certificate -- the seating layout and the  
 11 number of seating, at that point I can  
 12 approve their alcoholic beverage license, but  
 13 if they do not meet our requirements, they  
 14 cannot obtain an alcoholic beverage license.

15 And then what we do now is, we check with  
 16 the State online to see if they're  
 17 transferring their alcoholic beverage license  
 18 and it doesn't come to us when they apply for  
 19 the certificate of use, and in that case, we  
 20 will then verify the seating, and at that  
 21 point, we will require them -- although the  
 22 State does not require a signature at that  
 23 time, if they do not meet our minimum  
 24 requirement, we do ask them to provide us  
 25 with a seating layout of the restaurant, and

118

1 we do pass on to Fire all certificate of use  
 2 applications that apply for our MEP, which is  
 3 mechanical/electrical/plumbing, and also Fire  
 4 receives an e-mail saying that there's a new  
 5 business opening, and the fire inspectors do  
 6 go out and visit the site, but I'm in close  
 7 communication with Fire in regards to any  
 8 type of alcoholic beverage license or  
 9 anything that requires seating.

10 MR. AIZENSTAT: Seeing as to what you do  
 11 in your position and you know what you're  
 12 saying, is there anything that you'd like for  
 13 the City to change in respect to that, to the  
 14 alcohol license? Have you seen any pitfalls?

15 MS. BROWN: I have not. The only thing  
 16 that I would like for them to add back to  
 17 there is the 4,000 square feet, but the State  
 18 regulates that, as well. It was in our old  
 19 Code, but it's not in our new Zoning Code,  
 20 but other than that, we pretty much keep  
 21 everything under control as far as the  
 22 seating inside. Fire does not regulate  
 23 exterior seating. Basically, they regulate  
 24 the location, but not the number of seating.  
 25 Zoning regulates that. They do -- they can

119

1 include, as far as the seating, the outdoor  
 2 seating to meet their requirements for the 50  
 3 seats for the smaller restaurants that need  
 4 to obtain just a beer and wine license. They  
 5 do have what they call a 4COP license, which  
 6 is a Florida license, and that is a hard  
 7 liquor license, but the restrictions for  
 8 those particular type of license, if you do  
 9 not have your 200 seats, is that they cannot  
 10 have a bar, and we do make that -- we put  
 11 that restriction. If we get any complaints,  
 12 we send someone out, or if anyone -- they  
 13 would go to a restaurant and they find that  
 14 they have a bar, they're serving as a bar,  
 15 and it's less than 200 seats, we do get Code  
 16 Enforcement involved. We've had cases like  
 17 that, but not many.

18 MR. AIZENSTAT: Thank you.

19 MR. CARLSON: Thank you very much.

20 CHAIRMAN KORGE: Anything else, anybody?  
 21 Is there a motion?

22 MS. KEON: I'll move it.

23 CHAIRMAN KORGE: Move to approve?

24 MS. KEON: Move to approve with the  
 25 change in the --

120

1 CHAIRMAN KORGE: With the change in the  
 2 language.

3 MS. KEON: In the language.

4 CHAIRMAN KORGE: Yeah. Is there a  
 5 second?

6 MR. FLANAGAN: Second.

7 CHAIRMAN KORGE: Anybody, is there a  
 8 second? You don't have to --

9 MR. FLANAGAN: Second.

10 CHAIRMAN KORGE: A second?

11 MR. FLANAGAN: Second.

12 CHAIRMAN KORGE: Any more discussion?  
 13 No more discussion. Let's call the roll,  
 14 please.

15 MS. MENENDEZ: Pat Keon?

16 MS. KEON: Yes.

17 MS. MENENDEZ: Javier Salman?

18 MR. SALMAN: Yes.

19 MS. MENENDEZ: Eibi Aizenstat?

20 MR. AIZENSTAT: Yes.

21 MS. MENENDEZ: Robert Behar?

22 MR. BEHAR: Yes.

23 MS. MENENDEZ: Jack Coe? Tom Korge?

24 CHAIRMAN KORGE: Yes. That concludes our  
 25 meeting, I believe. The next meeting is

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121

MR. CARLSON: The October is --

MR. AIZENSTAT: What date is it?

MR. CARLSON: 14th.

MR. AIZENSTAT: And that's on?

MR. CARLSON: October 14th.

MR. AIZENSTAT: And that meeting is on?

MR. CARLSON: That stays the same. We're talking about the November meeting.

MR. BEHAR: Madam Attorney, this Board meeting, this seminar --

MS. HERNANDEZ: Yes.

MR. CARLSON: Thank you very much.

CHAIRMAN KORGE: Okay.

MR. BEHAR: -- I will be out of town on this date.

MS. HERNANDEZ: You have to be in town.

MS. KEON: I'm going to be out of town on that date, too.

MS. HERNANDEZ: No, you have to be in town.

MS. KEON: I'm going to be gone.

MS. HERNANDEZ: I just know that you all join me in extending the condolences to Mr. Riel on the loss of his father. That's why he's not here.

123

1 CHAIRMAN KORGE: Right.  
2 MR. BEHAR: Oh, sorry. I'm sorry to hear  
3 that.  
4 (Thereupon, the meeting was adjourned at  
5 7:55 p.m.)

CITY OF CORAL GABLES PLANNING AND ZONING BOARD MEETING  
VERBATIM TRANSCRIPT WEDNESDAY, SEPTEMBER 16, 2009