

City of Coral Gables City Commission Meeting
Non-Agenda Item
October 13, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon via Telephone
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant Development Services Director, Charles Wu
Planning and Zoning Director, Ramon Trias
Historic Preservation Officer, Dona Spain

Public Speaker(s)

Carlos Tulska, Development Team
Tom Robertson, Representing Applicant

Non-Agenda Item [Start: 11:46:15 a.m.]

Mayor Cason: Commissioner Lago would like to bring up something that's not in order and then we'll go back to H-3 after this.

Commissioner Lago: Thank you Mayor. Mr. City Attorney we are going to discuss it right now. I imagine that all of us have probably spoken with Jory and the residents in reference to the Sherman Oak issue that's been going on. I know that we have an agreement in place, but there were some concerns in reference to the third lot and the size of the proposed residents, whether it was a cottage or it was not a cottage, the actual location of the roof line in reference to the

location of Sherman Oak. Basically, I wanted to have our City Attorney go over some of the legal issues and give his input in reference to where we stand and the discussions that he's had with their counselor.

City Attorney Leen: Thank you. Thank you Commissioner, thank you Mr. Mayor. Just as a brief background, as you may recall, this issue came before the Commission a number of months ago for a dispute resolution agreement under Article 4, Division 17 of the City Zoning Code. It was a settlement of a matter related to Sherman Oak. The purpose of the dispute resolution agreement was to protect Sherman Oak and ask consideration for that as part of a quasi-judicial proceeding. Pardon me, not quasi-judicial proceeding, as part of a proceeding authorized by the Zoning Code in a public hearing. The Commission authorized the dispute resolution agreement. It allowed for three lots to be created with one lot where the tree was located where there would be a smaller house than otherwise would be allowed and the idea behind that was the tree would be preserved and there would be two additional lots, so that the applicant could receive their fair market value, their reasonable return on their investment. And I think everyone was happy with the dispute resolution agreement. The issue that's come up is two issues; first, there was a concern recently which was worked out between staff and the applicant regarding how close the tree was to the house. The house that was being placed on the lot with Sherman Oak, there was a concern that even though there was a tree protection area that the 25-foot tree protection area went literally up to the house itself, and there was a concern that in a storm or with wind that limbs which need to be protected under the agreement, which are more than four inches in diameter, that those limbs might hit the house, they might break, there was a concern that the limbs, that an insurance company, this is just what I was told, there was a concern that an insurance company might require limbs to be cut back. So they asked me to take a look at the issue; and I informed, this was on Friday evening, so there hasn't been much time, but I did inform counsel for the applicant and the applicant through counsel of the issue and that Commissioner Lago was going to bring it up today. The other thing I did was I took a look at the sketches to see what happened here. One thing you should know before I go into the sketches which I've given you a copy of, the diagram that was approved by the Commission and the diagram that's being proposed for this property with Sherman's Oak, is that there has been a concession made by the developer. They had had a slanted roof and there was a concern that the

branches would hit against the slanted roof, so they've agreed to make it a flat roof, and they believe that, that would provide some mitigation of that concern; and there were a number of people present in that meeting and Charles Wu who will come up and talk a little bit about it in a second was there. I always want to be careful when I say people agree, because Jory Friedman was there, she was concerned about it, but everyone reached an understanding that that would address the issue. Now, ultimately the decision though, because this is a dispute resolution agreement of the Commission, it's really the Commission, the City Manager, and the City Attorney under our Zoning Code, because the City Manager is responsible for implementation of the Zoning Code, City Attorney for interpretation of the Zoning Code, and obviously the Commission makes the Zoning Code through its laws, and you also were the ones who entered into this dispute resolution agreement at our recommendation. Anyhow, did you want to say something before I go on?

Commissioner Lago: I wanted you to discuss a little bit about the cottage ordinance because we mentioned that and when you look at the minutes in detail, the third property, you have two standard homes are on 2,800 square feet and you have the third home which is proposed to be 2,200 square feet and its detailed as a cottage.

City Attorney Leen: Well what happened was, in the hearing the counsel, not this particular counsel, but the counsel for the applicant had mentioned it being a cottage, had used the word cottage. Now, I don't think that she was intending to invoke the Coral Gables Cottage Ordinance; however, we actually have a very specific view of what a cottage is. For example, a cottage is one story, it's not two stories. So, I think that there was that idea that the house would be smaller like a cottage, in order to protect the tree.

Commissioner Lago: I'm sorry to interrupt you, what stipulates just because I wasn't aware of it, I want to make sure if any of my colleagues are not aware we educate everyone, what stipulates an actual cottage?

City Attorney Leen: Well the Cottage Ordinance applies to a historic property, so usually there are these properties in the North Gables, they are smaller homes, there are a number of conditions which we can go through. Dona could you....

Commissioner Lago: Did I catch you off guard? I'd never heard of this before in my life.

Mayor Cason: Let the City Attorney continue.

City Attorney Leen: Let me finish. I know that counsel wants to speak and then I know Charles and Dona will speak on this background information. Just as to the particular issue, now there was a diagram that was presented to the Commission when the dispute resolution agreement was approved, and this diagram was vetted with staff and it did have that current house. So it didn't have a Coral Gables cottage as the depiction. Now, I want you to know my view is whatever is built there, the consideration for the agreement is protecting the tree, and I think we have a very good argument that we need to protect the tree, and I do think when the Commission entered into this, it was the idea that there would be a smaller house there.

Commissioner Lago: And didn't we also when we entered the agreement have the location of the home....

City Attorney Leen: Yes – now the issue that I wanted to raise and I gave you two pictures. One is the first depiction is what was approved by the Commission and you'll note that there is a 25-foot radius around Sherman Oak, which is actually three trees as depicted in the picture, and there is a gap between the house and Sherman's Oak. Now there is a depiction for a roofline that goes up to the line, but the house itself looks like a couple feet behind the circle. Now, if you look at what's actually being proposed now with a flat roof is that the house actually comes up to the 25-foot line. So the house has, at least according to the depictions, has moved forward.

Commissioner Lago: That is not what we agreed upon.

City Attorney Leen: No. That is not what we agreed upon. We agreed upon the house being about two feet back. So I want to be clear about that.

Mayor Cason: I think the concept, we approved given a house with a slanted roof rather than a flat one that, that was required in order not to have the limbs over four inches touching the roof. Isn't that the reason that we...

Mr. Wu: For the record, Charles Wu, Development Services. At the time we did not know the extent of the position of the house and the length of the tree where the limbs are. When the architect started drawing the plans, we had a better idea of interaction between the house and the limbs, and when we met internally we all agreed that maybe a pitch roof would not be ideal because the gentle swaying of the branch can do more harm to a pitch roof than otherwise. So collectively, we agreed to have a flat roof with a parapet and to enforce the parapet, so if indeed apparently when trees get older, the land will sink and if that does indeed sink and there is an eight inch gap between what's designed now and the tree limb that there is some leeway for it to sink and the beam for that parapet will be enforced, to accept the weight of the tree. So that was the latest discussion and the applicant was directed to provide the revised plans accordingly.

City Attorney Leen: Can I add one other thing Commissioner?

Commissioner Lago: Of course.

City Attorney Leen: One other thing I wanted to mention before I turn it back to the Commission is, there was also the concern, is adequate notice being given to the property owners that come in a buy these three houses of the need to protect Sherman Oak, and the only reason there are three houses there is to protect Sherman Oak. And so, all I wanted to say was, and I'm putting it on the record here, it's my view that the applicant, and they may very well do so, but it's my view that the applicant needs to be very clear with people when they are selling these properties that there is a duty to maintain Sherman's Oak pursuant to the dispute resolution agreement. That if it's not maintained the City is not just going to turn a blind eye or give a small citation, this is a big deal. We approved something we don't typically approve, the City, in order to protect this Oak, so this Oak needs to be protected, and if it's damaged in an intentional way, we would assert all legal remedies that we have, which could be civil, it could be a municipal ordinance violation, which is similar to criminal. It could be a lawsuit; it could be revoking the certificates of occupancy because that was the consideration for allowing the three houses. People need to understand that, we are not going to be harsh to people, we are not trying to be, but we need them to understand they can't just go out and cut back the tree, they have to follow our tree ordinance.

Mayor Cason: Has the developer agreed or thought about requiring whoever purchases the home to sign an agreement that they understand what their obligations are?

City Attorney Leen: I would leave that up to the applicant. At this point it's up to the Commission, I know that the counsel should be able to speak and we also have the two City staff, so I'll turn it back to you Mr. Mayor.

Mayor Cason: Anything else staff wants to say on this?

Mrs. Spain: This isn't specific to this case, but about the Coral Gables Cottage Ordinance, that was an ordinance, really great ordinance that they did prior to me coming to the City, and it was to save the North Ponce, a smaller property, it's on the North Ponce that were being knocked down. And so, it's an existing residence, it needs to be built prior to 1940; it has to now be designated as historic. There are twelve criteria that they have to go through and then they get zoning incentives for those properties. They have reduced setbacks, increased lot coverage, so there is a very specific definition of Coral Gables Cottage.

Commissioner Lago: But there is no square footage, clear designated square footage.

Mrs. Spain: The square footage would be whatever is allowed on that property. There is no increase in FAR, if you are a Coral Gables Cottage.

Commissioner Lago: So basically the word cottage wouldn't apply to...its irrelevant. Would you like to speak sir?- you were standing up.

Mr. Wu: Mr. Mayor, if I could add two more things. The last time we negotiated the solution to the design, the two arborists, i.e. the City Public Services Director, Mr. Brook Dannemiller, and the resident hired arborist, Mr. Schimanski, agreed to this solution. Again, the resident hired arborist agreed, this is not an ideal situation, but it's a good compromise. The second thing I want to bring to your attention is, as a result of the redesign, they actually lowered the elevation of the Florida room so they could have more gain, the eight inch gain for the tree limb where it hits the parapet. So, they made some significant attempts to try to meet the intent of the settlement.

Mayor Cason: Just identify yourself.

Mr. Tulska: My name is Carlos Tulska, part of the development team. I just want to take a moment because I feel like as time goes on, one side of the story is heard and the other side is not, and things tend to look sometimes like they are not. So first of all, we had a very good relationship with Mr. Schimanski, the neighbors' arborist, which now helps us to make sure things are correct, and I believe that he was the key witness or component to the meeting we had at the City, because Mr. Trias and Mr. Wu had been very diligent in protecting the tree. If you look at the house; the house is not maybe as small as some people would want it, but it is low ceilings, it has four or five different floor elevations. There are a million things that we've done to try to accommodate it within the footprint and still try to get at least a three bedroom house. Mr. Schimanski's opinion at that meeting, which I think was the key, because I don't think Mr. Trias or Mr. Wu or anybody would kind of agree to what we were doing if Mr. Schimanski wouldn't have made the following comment, which I think is the key to it. Obviously, staying 100 miles away from the tree would be the best thing, but if you are going to build a house, his opinion was that, that tree was safer with the house there and with the proximity of the house to the branch than without. And the reason was that there is a very big heavy branch that leans out to the east, which is what holds that four inch branch which normally anybody would trim, that comes close to our house. In the case of a storm that branch would get a lot of pressure moving up and down it could break; and it would break at a very detrimental point to the tree where it could actually kill the tree. Whereas now that four inch branch even if it got damaged would not pose any risk of death to the tree whatsoever, and that's all that it is, it's a four inch branch. So he's saying, look, the house blocks the wind from the east and that wall the way it's done now with a flat roof give some support to the branch. So the branch might lean on it, but at least it won't break. So in his opinion it's actually more benefit to the tree having the house there than not and I think that's why the City said, this is a good solution. Obviously, we've got to be very careful in construction of the house, there are two trays that have to get near those branches and come up with a plan with some burlap sack...with everything else. But we think we've kept up our end of the DRA (Dispute Resolution Agreement) to a "T". It's been very slow; we've had to have meetings with the neighbors at every step of the way. We think the City has been very good

and the staff, and we think that we've done everything we can to uphold the public DRA and to keep the tree safe.

Commissioner Lago: Let me ask you a quick question because you mentioned the development agreement. Correct me if I'm wrong Craig, from what we first agreed upon, the property is now three feet closer to the tree; is there a reason why that was done?

Mr. Tulska: I didn't even notice that. I didn't specifically notice it, but if you remember back then we were asked to do this very, very quickly and a house like this, we had to get rid of our original architect and get a different architect.

Commissioner Lago: But wait, by doing it very quickly you made a mistake. You made a very big mistake and that was and I mentioned it to the City Manager. Mr. Schimanski should have never been paid by you. He should have been on the payroll of the City because that is a big mistake in my opinion. I don't know if you disagree with me.

City Manager Swanson-Rivenbark: I'm sure it was just unintended. Normally, we are the client and we pay on it, but I appreciate what you are saying.

Commissioner Lago: At the end of the day his loyalty should be to the City of Coral Gables and its residents, but that's another story. Now you've moved the house, not three inches, talking about moving the house three feet that's pretty significant.

Mr. Tulska: Our understanding was that we had to keep up with the DRA, with the letter of the law in the DRA. The sketch was something that we were asked to submit to people to get an idea of...there is no risk to the roots from where we are.

City Attorney Leen: I just eyeballed this, I'm sorry for interrupting. I don't know exactly.

Mr. Tulska: And I don't know that it did either, but we have a lot of limitations. We have a septic tank we've got to account for in the back now, we have a lot of little things...

Commissioner Lago: Let me tell you why, the main reason why I'm here. The main reason why I'm here and I've asked for this discussion is because my opinion has changed completely in reference to whether the developer should build a third home on this property. I think what we

need to do right now, I think we need to work together, so that this 5,000 square foot lot where the tree is located, where that lot is not built upon and I'm willing to be reasonable. I know you are a businessman, I know you are doing several projects in the City of Coral Gables, one on Miller, so I think that we need to work together and there are multiple ways that we can work together and with my colleague's assistance, I think that we can find a resolution here. I'm doing some homework in regards to lot sales in North Gables. As you know, there are less and less lots available, but I know what prices have been over the last six months. I know you are paying significant permit fees in regards to the other two properties, I think we can potentially work whatever is under the auspice of the City of Coral Gables, I think we can work something into; and I think that I have the City Attorney who will give us a little bit of background right now with his legal expertise and maybe Frank, the Vice Mayor can also chime in, but I think that you may have a good case for a tax deduction, so you've got to start thinking about that too, and I think that it's in the best interest, if you think about it, you are talking about probably one of the oldest trees in the City of Coral Gables. This is a landmark and I'm having a problem with putting a property in front of it and then basically not having this community have access to that beautiful tree. So, I'm trying to see if maybe we can put a step forward and move in a direction where financially it makes sense for you and if the City has to step in maybe we can do something, because as you are probably aware, I don't know if you listen to our meetings that often, it's not that interesting, but the City of Coral Gables in North Gables has a huge deficiency when it comes to parks in North Gables, huge deficiency and I think there is no better location for a small pocket park, which is what we discussed in, I think, our last Budget Hearing that this exact location has a spectacular specimen tree that will be a shame, it would be a travesty if the public wasn't able to at least get a personal view of it on a daily basis.

City Attorney Leen: I have three things to say regarding what Commissioner has raised. First, I just want to be clear for the record, you have no duty to sell or give it to the City, that would have to be a mutual agreement; we'll abide by the settlement agreement. However, the Commission has raised this issue also and he wanted to raise it with you today. Obviously, if there is a sale of the property to the City that would need to be negotiated with staff and the Commission and he's raised the issue of potentially waiving some of the fees, so that's something you would have to consider.

Commissioner Lago: I want to make sure you understand. I don't want to hurt you.

City Attorney Leen: The alternative is, he mentioned, was a gift of the land – we can't give tax advice, so you'd always have to check with your tax attorney, but we were told that could be tax deductible. That's just information; you are not required to act on it.

Mr. Tom Robertson: If I may, Tom Robertson, of Bercow Radell and Fernandez here on behalf of the applicant. My client has considered the possibility of selling; we are perfectly willing to discuss it with the City. Understand that he has got some significant development costs into that piece of property other than just the land value. So we are perfectly willing to talk to you and see if there is a proper location. The developer in this instance, the applicant, has accommodated on every step the protection of this tree and continues to do that and intends to. In fact, when they started hearing rumors on Friday, they got Mr. Schimanski to go out there yesterday on a special trip to make sure there was nothing they were doing that was inconsistent with the tree; and Mr. Schimanski went out there and said, no everything is fine. Over on the third lot over there were some roots that he didn't think were related to that tree that they had scarred a little. He said, don't worry about it. So the client, the applicant in this case is very concerned about following DRA exactly and is doing exactly what they should be doing and has been making accommodations, beefing up the house at a point where they think that a limb might touch it; Moving it where they needed to; adjusting height, as Mr. Wu told you. They have been doing a yeoman's job of making changes as necessary to try to make this work, and we are nearly a year later, and they've only got one permit; and the second permit they can't start building on because they need to go through that property to get to this third property. So this project which could have been finished long before now has been held up. So there is some frustration, but in spite of that frustration, he has worked diligently toward trying to keep solutions each time we hit a barrier. And in this instance, they are completely willing to talk to the City about the possibility of selling the property.

Mayor Cason: Have the neighbors had any opinion about a pocket-park? A lot of times people don't want them.

Commissioner Lago: I've spoken to Ms. Friedman, it was on Friday, I met with her on Thursday, and she said that all the residents were in favor of having a pocket-park in the location. Again, the issue here is money, and the issue is how far can the City go in reference to alleviating permit fees to try to reduce the amount that you will have to pay in reference to the other two properties. I really think that we need to work together on this.

Mr. Tulska: We want to be friends with the City. I plan to work here for a long time...

Commissioner Lago: You have another project adjacent to this that you just poured a foundation.

Mr. Tulska: I have several projects in the Gables.

City Attorney Leen: I need to add something. I want to be clear. This is a very unique situation because we have a dispute resolution agreement that relates to all three properties with the intent to preserve the tree, so that's why I feel that we can in resolving this potentially link the other two properties, the permit fees that are being mentioned. Typically we would not do that, but there is an actual development dispute resolution agreement related to these three properties, so they are being considered together.

Commissioner Lago: And I want you to understand. The reason why I'm bringing this up, because the Sunshine doesn't allow me to speak to my colleagues; my colleagues weren't even aware that I was going to bring this up today due to the Sunshine. The only opportunity I have, to have a discussion and gauge their interest without having to go through the City Manager is at this type of opportunity, if not we have to call an Executive Session. This is why we are having this discussion today, and I'm hoping that, let's say I proffer something, for example, like a reduction in permit costs that my City Attorney will tell me, Vince, that's not within our right to proffer.

Mr. Tulska: I just want to say, before I let you guys talk that we are open to be friends with the City to do whatever is reasonable. We wouldn't want an unreasonable amount to try to turn this into some sort of land fall or anything. We would expect that to not be a very quick process so we would ask that while whatever gets talked about gets talked about, and whatever needs to get

done gets done, that we are able to proceed through BOA to what we are doing, because we put a lot into it and we need to do something major, it's killing us, we have a lot of things.

Mayor Cason: Let me ask a couple things. So, I understand that you've reached agreement with the City that these changes will protect the tree.

Commissioner Lago: There is a question. The issue is where is the actual location of the property in reference to the development agreement. Craig eyeballed it around three feet, the property has moved.

Mr. Tulska: I don't know if that's accurate, by the way.

Commissioner Lago: That's why I said eyeball.

City Attorney Leen: Its right here on the depiction.

Commissioner Lago: I'm not trying to be adversarial, I'm just trying to tell you there are certain things that we need to iron out, but I don't even want to have to iron those out if I can get my colleagues to say, Vince, we talked about North Gables being a potential location for more parks, we don't have parks there right now, this is an opportunity. This is the purpose of today's discussion, not to go back and forth with you. I just wanted to gauge whether you have an interest in selling the property and if you are going to be reasonable.

Mr. Tulska: We are reasonable.

Mr. Robertson: The client has been reasonable throughout this; I think Mr. Wu will even tell you that.

Commissioner Lago: Sir, I'm not saying whether the client is reasonable or not in the past. I'm saying, what I'm asking for, because you can tell me right now, no I don't want to sell the property, that door closes. He's been more than reasonable; we've been going at this for a year. I'm asking for it to be even more reasonable again, and help me in regards to this decision.

Mayor Cason: Before we get to a decision on that or further discussion, I want to know is the plans right now that you've been going back and forth on, is the tree going to be protected?

Mr. Wu: Yes and there is a component during construction, we have to make sure it is protected during construction as well.

Mayor Cason: Second point is, are you willing to have whoever buys the two or three homes, whatever it turns out to be, to sign an agreement they understand fully that they have a responsibility for after we've all gone and people have forgotten about it, they can't cut the limbs.

Mr. Robertson: I understand Mr. Mayor that the dispute resolution agreement has been recorded and therefore it will show up in the title search for each of these properties and will be obviously highlighted with respect to this. Whoever is purchasing knows that the dispute resolution agreement is there and that the purpose of it is to protect this tree. So there is no question that a future buyer will know about this tree and will have to comply with the City's Code in terms of protecting that tree.

Mayor Cason: Maybe or maybe not because realtors don't always tell you that, they want to sell the home. The question I think it needs to be highlighted to them that if you are buying this property you have some obligations that may be in the fine print, but you need to know that you can't cut the limbs.

Mr. Wu: Well a covenant will be more obvious if its recorded specifically for Lot 14 and 15, that successors or future tenants of the home will have to maintain the tree as is, so we recommend a covenant and/or deed restriction.

City Attorney Leen: The DRA is recorded and it's very clear what the responsibilities are. They would have to proffer that covenant.

Mr. Robertson: At this point we are not prepared to offer a covenant. We entered into the dispute resolution agreement with the City. As far as we can tell we've complied with it at all points. It may be that as we get further down the road the client makes a determination that, yes, they don't mind doing some sort of disclosure to the buyers and have them sign that disclosure. What you are asking me to do though is tie up the title even further in a situation where we've already done the dispute resolution agreement.

Commissioner Lago: Vice Mayor why don't you chime in here in regards to title; I'm not a title expert.

Vice Mayor Quesada: I don't enough experience in the title work to...

Mr. Tulska: I'm also not a title expert. I would just say this, if you make a deal and you do something like a DRA, whether we find an item that we all agree on and we all say we are going to do it, and you start re-trading it and adding things to it, it's a slippery slope that I probably would not want to go down. Plus this covenant is something, like yourself, I'm not super educated on, so I have to go back and find out what we would have to say, how we would affect people in the future. I would say this though, it's a special oak tree, there is no question it's a special oak tree. There is no question that it is a specimen oak tree. I would suggest that the Commission pass some sort of ordinance protecting all specimen oak trees, not just that one, all of them and then you wouldn't have to worry about it. You can't touch a specimen oak without a permit, nothing, can't touch it, can't look at it, without a permit; and then oak and thousands of other beautiful amazing trees in the Gables would have similar protection. This tree shouldn't be more protected than any other fantastic oak in the City, including ones in my neighborhood. So pass an ordinance to protect them all.

Mayor Cason: Let me ask the City Manager. We have a parks -- what do we call it...

City Manager Swanson-Rivenbark: Parks Master Plan, updating the Parks Master Plan.

Mayor Cason: A Master Plan that we are working on -- theoretically, I don't want to sort of spot parking, I mean in that sense, but yes, we need more parks. Has this been looked at as part of...

City Manager Swanson-Rivenbark: We are just in the solicitation of the consultant process, it's early in the Parks Master Plan update, but I will say, if it's the sentiment and majority of the Commission that we sit down and have a pleasant conversation regarding the future of that lot, we are happy to conduct that.

Commissioner Lago: I would implore the staff through the Manager, if not the Manager herself, to have a sit down immediately with your team and analyze, like I mentioned before, current permit costs, any additional fees that you would have to pay in reference to the two properties

adjacent to this lot, and really get to a number and see if we can potentially strike a deal that would save this property and not have any construction on it and make it a pocket park We could even call it Palm Core Park if you like. I don't think the residents care what you call it, as long as you are able to...

Mayor Cason: Alright, does anyone have a problem with on an expedited basis, the City staff sit down and see whether anything can be worked out, come back to us so it doesn't delay further your...

Mr. Tulska: All we want is to be able to continue the process while you guys...it may take a long time...

Vice Mayor Quesada: I'm going to throw something out there so that you guys can move quicker. Commissioner Keon, are you on the line?

Commissioner Keon: Yes.

Vice Mayor Quesada: OK. I'm going to make a motion just so that they can move quicker. There might be something that comes up that requires Commission approval on this, and what I'm going to suggest, we've done this in the past is, designate one of the elected officials to basically speak on our behalf, if it's something quickly if you can't get everyone together. I don't know if the City Manager and the City Attorney is OK with that?

City Attorney Leen: What I would recommend is that you not delegate your power to them, but that you just designate them as a representative, because if you delegate everything would be subject to Sunshine.

Commissioner Lago: Similar to what happened with Merrick Manor.

City Attorney Leen: Yes.

Vice Mayor Quesada: So, I would like to designate Commissioner Lago, since he's the one that brought it up and he's the one that's really been diving into the details more than the rest of us. If it's OK with the rest of you, just so that he's – obviously you are dealing with staff, but without delegating our powers he is speaking on our behalf so that you guys can move as quick as

possible, because I realize the time and consideration that you guys have and our next meeting isn't until the end of the month and then after that November then December, just so that you can move quicker. This is really us acting in the quickest way we absolutely can doing it this way.

Commissioner Lago: As per the Vice Mayor's comments, I'm available to meet after this meeting. I know obviously you need time to get all your numbers together and find out.

Mr. Tulska: Cost-wise we know where we are.

Commissioner Lago: Again, I need to know your permit fees; I need to know any fees associated with the project. I need to know what you consider the property be worth and then we can sit down with staff, staff can work on the numbers and then we'll present to the Commission. I'm ready to move whenever you are.

Mayor Cason: I need a second.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mr. Robertson: We'll be available. Understand that we do not intend to back off on the existing hearings and...

Vice Mayor Quesada: No, we are not implying that you need to back off the existing hearings, but this facilitates – this is the most expedited fashion that we can provide for you.

Mr. Robertson: Yes. Thank you very much.

City Attorney Leen: I would just ask though on behalf of the City, to please take a look at those two depictions to make sure that they are being complied with.

Mr. Tulska: One more question for Mr. Leen. Is it the City's position that, that footprint that we submitted was intended to be adhered to exactly?

City Attorney Leen: Well yes. I mean the problem is that there is always a regulatory component. So, for example the Board of Architects will always have some degree of discretion also. You're asserting it as grounds for not changing it, so I think both parties agree that that would generally be the site plan. The issue is, we are raising protection of the tree and at least according to the two depictions it looks like the house have moved closer to the 25-foot radius, that's our concern and that's a legitimate concern, because the depiction that the Commission approved it looks like its farther back. So, I just ask that you confer with staff and look into that.

Mr. Robertson: We'll work with staff on it.

Mayor Cason: OK. Thank you.

[End: 12:20:08 p.m.]