

**City of Coral Gables City Commission Meeting  
Agenda Item I-1  
May 24, 2016  
City Commission Chambers  
405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Jim Cason  
Commissioner Pat Keon  
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**

**Public Speaker(s)**

**Steven Krams  
John Charters  
Nat Chediak  
Gustavo Pupo-Mayo  
Mitchell Kaplan**

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Agenda Item I-1 [0:00:00 a.m.]

Request for guidance from the Commission regarding the exercise of the City's consent rights relating to the proposed cinema by Landmark Theaters at Merrick Park.

Mayor Cason: Alright, we're going to move on to I-1. City Attorney, would you introduce this?

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City Commission Meeting  
May 24, 2016

Agenda Item I-1 – Request for guidance from the Commission regarding the exercise of the City's consent rights relating to the proposed cinema by Landmark Theaters at Merrick Park.

City Attorney Leen: Thank you. Thank you, Mr. Mayor. Item I-1 is a request for guidance from the Commission regarding the exercise of the City's consent rights relating to the proposed cinema by Landmark Theaters at Merrick Park. In the audience today, we have representatives of the Coral Gables Art Cinema. We also have representatives of General Growth, Merrick Park. And obviously, I will be presenting briefly on behalf of the City, and really, as your advisor. The issue that's before you is the issue of consent, with some limitations, though, that I'd like to explain. Landmark Theaters and General Growth have a, I guess, proposed agreement to -- that the City would have to consent to, to allow a seven-screen -- seven movie theater -- seven -- to allow an arts -- pardon me, to allow Landmark Theaters to go into Merrick Park. It would be on the third floor with seven screens. And the issue that has come up is typically this type of issue would be handled -- because it's a lease issue and the lease has already been approved by the Commission -- it would be handled administratively. City Manager would assess the situation, come to the City Attorney for legal advice, go to the Development Department -- Economic development for their views and would make a decision whether to consent or not. This issue has become a little bit more elevated and really elevated to the Commission because there's been a debate going on between -- involving the Art Cinema and General Growth and the City regarding the cinema, and which you have become aware of and the Commission has asked that this matter be brought to them. What I wanted to tell you was we've had a number of meetings with the -- both by phone and in person with the Art Cinema and with General Growth, and I believe that almost every issue has been worked out. But I want to be perfectly open about everything, so you can exercise your consent rights on behalf of the City. And I know that the Art Cinema and General Growth may want to speak as well. So, let me just explain what the issue is. There's a letter that's been distributed to all of you. The letter has a number of conditions of approval for the consent, and what that means is, the Art Cinema and General Growth had a discussion. They were asked by the Commission, through the City Manager and the City Attorney, to try to work out their issues, to come to an agreement so that Landmark Theaters could go forward and so that the Art Cinema could be able to go forward as well. And you know, one thing I should say is that the City is the landlord to both, obviously, or would be the landlord to Landmark through Merrick Park, and obviously, it's the landlord to the Art

Cinema. So, you know, the City just would like this issue to work out in a way that's in the best interest of the City. So, we asked the two parties to get together and they put together this letter. In the letter, the -- basically what it does is it says that both Landmark Theaters and the Art Cinema could show the same movie. They've agreed, so there would not be -- so, for example, if there was a movie and both of them wanted to show it, they both could show it. There's not going to be any attempt to, by Landmark Theaters or vice versa, prevent the other one from showing the film. In addition, there's a co-marketing plan that they're working on that they've agreed to whereby the Art Cinema would receive free access to signage at Merrick Park to advertise the theater, the Art Cinema. They would have free access to the website for Landmark Theaters to be able to advertise their movie. There would be a cross-promotional campaign and both would look for ways to basically help the other. But more of this -- the idea here is to help the Art Cinema. Also, General Growth would agree to a \$5,000 sponsorship of the Art Cinema for five years. Now, all of these -- if the Commission authorizes the City Manager, or essentially, reaffirms the City Manager's authority to go forward with the consent, all of these would be conditions of approval. Any resolution that's passed would attach this letter. One issue that came up was, well, is this an enforceable letter? In my opinion, it's enforceable as long as it's a condition of the approval of any consent. Now, another issue came up yesterday when the City Manager and I met with representatives of the Art Cinema and representatives of General Growth. And the issue that's remaining is there was a concern by the Art Cinema that Landmark Theaters obviously has several hundred screens throughout the United States. And the concern that they have expressed is that there may be certain films -- and in fact, there are certain films which have a very limited audience, and that's part of the, in a sense, the bread and butter of the Art Cinema. That's how it's been expressed to me. That's something that they like to show. They like to show these limited audience -- these films that have a limited audience. They're the only ones that show them in the area, like in Dade County, and they don't run necessarily for that long, but they get the entire audience. And the concern they have is that a lot of -- these types of films, a lot of times they'll only be able to be shown in one theater, that one theater. And their concern is that even if Landmark agrees, which they are, that they are not going to try to prevent or prohibit the Art Cinema from being able to show these films, their

concern is that a distributor, when comparing Landmark to the Art Cinema, because of the fact that Landmark is larger and may have a larger distribution network and has more screens, that it will be difficult for the Art Cinema to compete with Landmark for those individual film, and that's a real concern on their part. And they may want to speak about that further today, but that is a concern and I said that I would express it to you. So, what they're doing is they're working with Landmark to address that final issue. Now, there are anti-trust laws in play. So, one issue is that Landmark may not be able to agree in a very specific way as to allowing the Art Cinema to show certain films and not show other films or things like that. So, that's why they're a little limited. So, what we've asked is for the parties to meet and to further discuss this issue and find a way for General Growth to mitigate the impact of this issue on the Art Cinema. And so, the reason we're here before you today is even though we haven't had every issue resolved, we do have every issue but one resolved. And the concern was that we only meet, the City Commission, once per month in the summer, so -- and in the June meeting, Mr. Krams will not be here. And I understand he said that he doesn't need to be here to have this issue decided by the Commission. They have other representatives. I know that we would like him here, though, when this issue is finally resolved. So -- and when I presented to you today, I didn't want to present to you without a principal present. That was my decision, but that's -- I feel like you should be present. I feel like Mr. Charters should be present. And we didn't want to wait until the July meeting to bring this to you. So, what I'm asking -- what's being recommended to you by City staff and -- which I agree with this recommendation because I think it will help resolve this matter -- is for the Commission to hear from anyone who'd like to speak, and then for the Commission to reaffirm the Manager's authority to grant this consent, and then we will do all the legal documents. It doesn't have to come back to you. But that that consent be contingent on the one issue -- this one issue that remains being fully resolved in a manner that's satisfactory to the parties, and that we will go forward and work on that over the next month, and hopefully, the matter will never come back to you and we'll be able to resolve it. If we're not able to resolve it, then we would bring the matter back to you. So, also as part of that approval, if the Commission decides to proceed in the manner recommended, we would ask that you place any agreements that are made, such as this letter and the final resolution of this one issue, that that would be

enforceable conditions of the consent, and that the City Manager would have authority to place those as conditions of the consent when this is finally agreed to. So, ultimately, the goal here of the City is to try to facilitate a resolution that allows for a cinema to come into Merrick Park and that also does so in a way that is respectful of the Art Cinema. I know that that has been -- the City Manager and I, that has been our goal. We have had these meetings. We are trying our best to make this work out in a way that works for all parties. We're happy to have everyone here today. I know that this will have a good outcome. I believe that, but I felt like it would not be right to not come before you as the City Commission and to update you on this matter. I did not feel comfortable continuing it again, potentially to the end of July. Thank you.

Mayor Cason: Alright. We have four speaker cards. If you could limit to -- try three minutes. Starting with Steve Krams.

Steven Krams: Most of you know the Cinema well, but I thought I would just review some of the history of the Cinema and how it plays here in the community and where we fit into it. the CGAC has served nearly 300,000 visitors since it opened its doors in October 2015. It's become not just a small, independent cinema, but a cultural center that supports the arts by way of our Miami Film Development Foundation -- Project, excuse me, partnering with the Dranoff 2 Piano Foundation, the Mostly Mozart Festival, and the presentation of lectures and live musical performances at the Cinema. It hosts the Miami International Film Festival, the Jewish Film Festival, and it's own Miami International Children's Film Festival. There are over 700 members who support the Cinema, whom most reside in Coral Gables. We reach weekly over 20,000 people through our e-newsletters. It's interesting to note that nearly half of the operating revenue comes from sources such as Coral Gables itself, the Community Foundation, Miami-Dade Cultural Arts, the National Science Foundation, the State of Florida, the Funding Arts Network, the Knight Foundation, and many private firms who generously support the arts through giving to the Cinema, including Bacardi, Magna-Tech Electronic Company, HBO, Bilzin Sumberg, Greenberg Traurig, Colson Hicks and (INAUDIBLE). There are also thousands of individuals who have contributed to the Cinema since its opened. As a result of the Cinema's

operations since it's opened, it has generated nearly \$15 million into the downtown business district. I'd like to express thanks to each and every one of you as Commissioners, previous Commissions, this Commission for having supported us and become our partner. We created this as a partnership between both the City and Magna-Tech Electronic Company, so we consider you our partners. And I want to thank those who participated in yesterday's discussion, especially the City Manager and the City Attorney, and John Charters, from General Growth Properties, as well. The spirit of the meeting was positive, and we feel like we can make progress and finish this up. I shared with you all my concerns about this before, as it refers to the very existence of the Cinema. So, this last point is an important point and I feel it's important that we don't risk it. In the spirit of cooperation and trying to resolve this, we entered into discussions, which were previously mentioned, the week of May 9 with General Growth and Landmark. The result of those discussions is the letter that you now have before you. And the one point to resolve, we feel is resolvable. As a matter of fact, last night, we continued the discussion and I had dinner with him, with John, and we discussed another possibility on how to resolve this issue. So, we just need time, but we feel that this should come to the City, and particularly, to the City Commission. And therefore, the CGAC respectfully asks you to allow our discussions to continue to completion and to postpone a decision until the next City Commission meeting, pending resolution of the outstanding remaining issue. In closing, I'd like to say that I want to express thanks to our staff who are here today who have generously given of their time and their passion to grow this institution. Our board of directors, who are well represented here today, and all of the volunteers are truly gratified having birthed this cinema with the City to see it truly become a valuable asset to this community. Closing, I have decided to change my schedule and I'll not be going out of town, so if we push this over to the June meeting, I will be here.

Mayor Cason: Thank you, Steve.

Vice Mayor Quesada: Steve, if you can just stay up there for a second.

Mr. Krams: Yes.

Vice Mayor Quesada: So, the first one that brought this to my attention -- we had a previous discussion with the Manager and the City Attorney -- it was Commissioner Slesnick actually, and then, you know, we started pulling documents. We started getting into this, and it's amazing because we had a previous item this morning, which is things that we don't want to see in the City when it comes to cultural organizations, and you guys are -- if not one of the best, you guys are the best cultural organization that we have in the City. I mean, you guys do a spectacular, spectacular job. Everyone that goes loves it. Everyone that discover -- I mean, I have a new resident discover it I feel like every weekend. They're like, hey, have you ever been to the Cinema? And they go and next thing you know, they've gone six times in a row and they can't get enough of it. So, everyone always has a great experience there. And the combination of, you know, Books & Books right there and the museum right there, just it makes so much sense for us as a city. But not only am I a fan or are we fans of the actual -- the product that you put out, but we're also investors, from a City perspective. You're in our property there. You know, you had a lot of residents donate because they wanted to see a product like yours there. You know, we've put money into it as a city. You know, it's important for us that everything makes sense here, so I'm very delighted to hear that Mr. Charters and you guys have been able to really work everything out. I know you said there's one item pending, which I think you've come this far, I think you guys will be able to get there. So, I'm excited to hear that everything is moving smoothly. At first, to be honest with you, Commissioner Slesnick and I, when we would bring it up at Commission meetings a few months back, I guess the tone of our voice was we weren't terribly optimistic. And I guess we were -- we shouldn't have been so negative, but it seems like it's working out great. So, I'm excited to hear that. I'm excited to hear your words. I know what hard work your staff puts together because you guys put out a tremendous product and it is not -- you know, it doesn't fall on deaf ears, you know. People notice it. People love it. People cherish it, so it's very important for us that it continues to thrive. So thank you.

Mr. Krams: Thank you.

Mayor Cason: Thank you, Steve.

Mr. Krams: Thank each and every one of you very much. Would anybody else like to ask me a question?

Vice Mayor Quesada: That wasn't really a question.

Mr. Krams: Or make a statement in favor?

Commissioner Slesnick: So, Mr. Krams...

Mayor Cason: Keep talking, keep talking.

Commissioner Slesnick: Mr. Krams, you think this can be worked out in the next two weeks for the June 14 meeting?

Mr. Krams: I am hopeful. What do you think, John?

Commissioner Slesnick: Well, he's going to have his day, I think.

John Charters: (INAUDIBLE).

Mr. Krams: John Charters, General Growth Properties.

Commissioner Slesnick: It's exciting to see more theaters coming to Coral Gables. I have a business partner that's a movie buff, so she's excited that we're going to have more theaters.



Mr. Charters: No, I'm optimistic we'll work something out. Steve and I have spent a lot of time on the phone talking, and obviously, the City Manager and City Attorney have provided guidance to us and all of you. We hear the different thoughts. I think the City Attorney raised a good point. There are a lot of laws involved with exhibitors and distributors, so I think certainly Steve and some of the board members are quite the experts on those matters. But we're optimistic we can work out the last point. I'll be -- my only issue -- and we'll do whatever you all decide, certainly, and I'll be happy with whatever it is, but -- almost. Our issue, right, which for all of this is a competitive issue. We also -- you know, Steve and his organization are worried about competition. We're worried about competition. We absolutely appreciate the fact and support the fact that the Art Cinema is, you know, an important business or, you know, equity -- it's a generator of economic activity downtown and we understand that's important. In our business, in this day and age, cinemas are also important in our properties. We worked very hard to get the right cinema here. As you all know, we had a cinema deal at one point and the sort of direction we got from the City was maybe the size, maybe that was not the right thing at the right time or whatever. So, we terminated that deal and that operator is now going to open this fall I expect about four or five miles away. So, we think it's important as an amenity to our customers and the community to do some of these sorts of projects, so that's why we're here. And I'm just -- my issue is another three weeks. I think we can work our arrangement out and certainly get it all ready. I won't get into the legalities of the lease and all that, but I would prefer that the Manager and the Attorney have the ability to try to finish this up with us in the immediate future.

Commissioner Lago: And that's -- I'm happy you brought that up. Mayor, if I may, because I -- just after I heard Mr. Krams comments, I wanted to be very, very clear because you kept mentioning postpone it to the next Commission, which would be in June. Do you prefer -- and I want to get this resolved as soon as possible for both parties in the most amicable way because, at the end of the day, I think the Manager mentioned it and the City Attorney, this is in the benefit of the city as a whole, and we want to protect the asset, which is the Cinema, which has been an incredible cultural asset to our downtown. As our downtown continues to grow and it

continues to change significantly, we want to make sure that we protect that asset. But we also have a very important asset, which is Merrick Park, which is currently thriving after many years of not doing so well. So, what I want to get -- what I want to really nail down here is whether -- do you want to proceed in the manner of having the City Manager and the City Attorney kind of negotiate these final few points that are outstanding -- or one point, if I may, or do you want to actually have to wait to the next Commission to ratify this discussion?

Mr. Charters: Well, I -- if you ask me...

Commissioner Lago: Well, both. I want to -- because you're -- it's contradicting, you know...

Mr. Charters: Yeah.

Commissioner Lago: You have one view and this gentleman has another view.

Mr. Charters: I would prefer to do what the Manager and the City Attorney recommended.

Commissioner Lago: So, basically, there is nothing else in question here today. What we need to make a decision on do we wait until the next Commission meeting to decide this one final issue, or do we allow the Manager to proceed along with the City Attorney to negotiate this final point that's -- that hasn't been decided.

Commissioner Slesnick: I move that we defer this to the June 14 meeting.

Commissioner Keon: I think that it seems from the conversation that we're hearing is that Mr. Krams and our -- their neighboring businesses and the people that serve on the board of the Cinema are much more comfortable with us making the final decision than having it done administratively, you know. So, in deference to that, I would also second Commissioner Slesnick's motion to move it. I have every faith in the world that you will come up with the

same decision and the recommendation from the Manager and from our City Attorney that we will do. So, I don't think it's going to make any difference. But you know, with re -- out of respect for you and out of respect for the other businesses in that area and for our residents and the people that are involved actively and really have worked so hard on this, I would agree with Commissioner Slesnick, and it really is truly out of respect for all of you.

Mayor Cason: But before we...

Commissioner Keon: And I don't think the difference is going to be -- I don't think there's going to be any difference.

Mayor Cason: But I want to -- we have three people who want to speak before we...

Commissioner Keon: Okay.

Mayor Cason: Let's start with them. Nat Chediak, and then we'll have Gustavo Pupo-Mayo, and Mitchell Kaplan.

City Manager Swanson-Rivenbark: And Mr. Mayor, as they come forward, just clarification from the Commission. And you know that I am personally have been involved in both of the projects and that as a responsible manager we would never do anything that would jeopardize the livelihood of any of the vital contributors to Coral Gables.

Commissioner Keon: I believe that.

City Manager Swanson-Rivenbark: That being said, if for some reason there is not -- and the Commission desires to move this to the next Commission meeting because you only have one Commission meeting a month and your next one is July 26 and when Mr. Charters spoke about competition, it wasn't competition with the Cinema. It was competition with the environments

around us, specifically Brickell that is introducing a new multiscreen. Would we -- would you all consider that if we are not able to move that forward at the next meeting, would you consider -- if that's the direction that you take -- the ability for the City Attorney and I then to move forward with the consent.

Commissioner Keon: Absolutely.

City Manager Swanson-Rivenbark: A consent that is allowed -- you're only hearing this...

Commissioner Keon: Right.

City Manager Swanson-Rivenbark: Because it is a -- you are landlord. You are landlord in a property that says if they want to do a theater, you would have to consent. It could easily be anywhere else in Coral Gables with no negotiations, with no review of the City other than permit, so we're in a very special situation. We appreciate the fact that both parties are working together to develop a complementary marketing program where all boats rise. We believe in that ability. I just would be very concerned if it got postponed from the June meeting into July 26 because that would put a turmoil on many things.

Commissioner Keon: No, I -- you know, with all respect to you and Mr. Leen, you know, it is out of respect for the...

Commissioner Lago: Cinema.

Commissioner Keon: Cinema and the other people. I mean, we do regard the Cinema as a public -- a good -- I mean, it's not a public good, but it is a benefit to the City. It plays a role in energizing that area. It is -- you know, and so we -- you know, I would -- it doesn't have to deal with competition. And -- but we would like to see them, you know, deal with it under a structure that they have a chance to compete. You know, and as long as, you know, I would also like that

-- you know, as long as everything else has been agreed to, that the discussion going forward is limited to just this one item and there's no new items that get brought up, that this is the end of -- you know, it's this item is what you'll come to an agreement on, and then it's -- you'll move forward.

Unidentified Speaker: Yeah, of course.

City Attorney Leen: Mr. Mayor...

Commissioner Keon: Okay, I'm sorry.

City Attorney Leen: After you hear from the -- I would -- after you hear from the public, I would like to ask whether you would amend your motion a little bit.

Mayor Cason: Alright, okay. Nat, go ahead.

Nat Chediak: Yeah. I am Nat Chediak, director of Programming, Coral Gables Art Cinema. Just by way of background, I'm the founder of the first arthouse in Coral Gables, the Cinemateque, founded in 1973, which I ran for 15 years and became the seat for an event that I founded in 1984 called the Miami Film Festival, which I ran for 18 years, until 2001, where I went into a brief sabbatical and was recruited by my old friend, Steve Krams, to return to the Gables, exactly three blocks from where I had started over 40 years ago. I'm just addressing you with regards to my discipline, which is programming. And yes, there's only one particular item that needs to be resolved, but the reason we're making so much to do about it is it's really an item that's a matter of life and death for the Cinema. Just briefly, even though Mr. Leen outlined it, I think quite successfully, we were trying to wrestle with the issue yesterday. We're one single screen. Landmark represents 260 plus screens around the country. Our bread and butter are our films that are very limited and that distributors do not or will not be receptive to playing in two adjacent theaters in the same community, one and a half miles away from each other. It

doesn't take rocket science to realize that if they're going to go with one, they're not going to choose the single screen. They're going to go with someone who they're selling to around the country. Now what gives me hope is the fact that, as you know, there are many -- theaters come in many shapes and sizes. In fact, today we do open two or three times a year a major independent film that has a broad audience, like a Woody Allen picture, for instance, that we traditionally play with Sunset Place, with Regal, with Aventura. Mind you, historically, we out gross all the malls in town. That is not our problem. Our problem is our bread and butter, the 40 plus films that we play around the country and that Landmark plays as well. Every film -- practically every film -- let's say we open 40 films a year, anywhere from 35 to 38 of those films would -- Landmark opens around the country as well. This is not a rare instance. It's our lifeblood. I think Mr. Charters and Mr. Krams have done phenomenal work together, but I think it remains up to Landmark to see just how much they're willing to move to join, you know, in the discussion. I just want to -- you to realize that this single issue is of vital importance and that cinemas come in many shapes and sizes. And if we can find a way where Landmark can fit into the general scope of the movie scene in South Florida, beyond the limits of the City of Coral Gables, I see no reason why we can't live with them the way we live with everybody else in town. It's basically that concern where right now, if they set their minds to it, we'd be toast. That's all. Thank you.

Mayor Cason: Thank you. Gustavo Pupo-Mayo.

Gustavo Pupo-Mayo: Good morning, Mayor Cason.

Mayor Cason: Good morning.

Mr. Pupo-Mayo: Good morning, City Commission. I'm the vice chair of the Cinema. And I was at a meeting six years ago in the home of Mr. Krams where he had a dream of this theater. And honestly, I did not believe in this dream and neither did anybody there. But this group of Coral Gables citizens for six years have raised the money, have put in the work to create

something that you're all very proud of and we're very proud of. I want to acknowledge his wife, Midge Krams, who has created a Children's Film Festival that is known all over the country, that every month they hold a children's movie and you're able to take your children. And then across the street, to the museum, and then we'll go to Books & Books for brunch. I'm here to ask you two things. One is to consider our survival. I want to echo what this gentleman said. We have tried to play ball. We have tried to be good sports. We know that it's important to have competition, but I want you to know honestly we're very concerned. We don't know if we will be able to survive this. It is hard to compete with seven screens when you're just one. So, that being the case, all we ask today -- and it's a very narrow ask -- give us more time. We've only been doing this for a couple of weeks. There have been good faith on both sides. Everybody's trying to resolve this. Don't take it out of our hands and give it to someone else. Let the parties right now who are working very hard in good faith to resolve this, to resolve this. Thank you very much.

Mayor Cason: Thank you. Mitchell Kaplan.

Mitchell Kaplan: Hi. Good morning, everybody. How are you all? I don't have really much to add. I think all of you have been so eloquent about the importance of the Cinema. And I can't do anything but lend my voice to that, as not only a board member, but also someone who sees it pretty much on an everyday basis of all the people who come over from the Cinema, either to the bookstore, or go to John Martin's or go to Sushi Maki, or go to the museum or go to other places. And the vision that was put forth years ago -- and I know the City Manager was very much involved with that -- has come to fruition. We've created this wonderful little cultural oasis on Aragon Avenue, which is something very, very, very unique. We all know that what's unique and what's local is what's good. I speak as an independent bookseller. And for me, this is a little bit of déjà vu all over again. Because when Merrick Park was first built, I was a little bit blindsided when I found out that a gigantic Borders was going in, and of course, I was quite worried about that. And it did take -- it did have quite an effect on our business. And I would hate to see any nonlocal gigantic movie theater chain come in and affect what is already a very

wonderful, wonderful ecology on that street that serves the people of Coral Gables so well. I believe in Steve, and I believe in the board being able to work this out. So, the request for just a little bit more time I think is something which is very, very reasonable and something I support. So thank you.

Mayor Cason: Thank you.

Commissioner Keon: Thank you.

Mayor Cason: City Attorney.

City Attorney Leen: So, Mr. Mayor, and to Commissioner Slesnick, in your motion, obviously, it's up to you with the motion, but I would request that you consider it being that the final consent is deferred to the June meeting, that the City accepts the conditions that were proffered with the remaining issues, so these would -- could not be taken back -- with the one remaining issue that needs to be resolved, so there'd be one issue. We all agree on that. Once that issue's resolved, that would also be a condition that would be in writing that would be part of the approval, the consent. In addition, if the issue is resolved to the three parties' satisfaction, we would not have to come back to the Commission. But Mr. Krams would have to agree. Otherwise, the issue comes back to you in June for your final decision. Mr. Krams, the thinking was that if there was a -- and obviously, this is up to the Commissioner, but the thinking was, well, if you do agree and all three parties are okay with it, I wouldn't want to have to bring it back to the Commission if we could consent at that time, but you would have to agree.

Mr. Krams: I think we would prefer it come back to the Commission.

City Attorney Leen: No matter what?

Mr. Krams: Yeah.



City Attorney Leen: Well, that would be my request, though.

Mayor Cason: Your motion is?

Commissioner Slesnick: My motion is to defer this to the June 14 meeting, and it was seconded.

Mayor Cason: Make a final decision on...

Commissioner Slesnick: And make a final decision at that time.

Mayor Cason: Okay. Do we have a second?

Commissioner Keon: Will they -- and they will continue to negotiate up until that time?

Commissioner Slesnick: They will continue to negotiate up until the June 14.

Commissioner Keon: Do you want them to negotiate on additional issues or we'll limit it to this one issue?

Commissioner Slesnick: No. I agree with -- I agree to have it amended to address -- not to change anything on the current proposal.

Commissioner Keon: Right, and we'll limit the discussion going forward to this one item of unlimited edition...

Commissioner Slesnick: Yes.

Commissioner Keon: Distribution films.

Commissioner Slesnick: Yes.

City Attorney Leen: So, you would agree to everything except that it has to be brought back in...

Commissioner Slesnick: Yes.

City Attorney Leen: Okay.

Mayor Cason: Do we have a second for that?

Commissioner Keon: I'll second it.

Commissioner Lago: Second.

Mayor Cason: Alright, City Clerk.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Mayor Cason: Thank you very much.

Commissioner Keon: Yeah. I think it's important that all the parties know, though, as much as we have regard for the Cinema and we want it to continue, you know, we also believe that

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City Commission Meeting

May 24, 2016

Agenda Item I-1 – Request for guidance from the Commission regarding the exercise of the City's consent rights relating to the proposed cinema by Landmark Theaters at Merrick Park.

Merrick Park is entitled to a movie theater. And I think you're different venues. I think people come to the Cinema to see what you do and the different interaction -- the programs that you put on where you interact with directors and the different types of things that you do that, to my understanding, is not what Landmark does. I mean, I -- it's the way you do it. You know, Landmark, I'm sure, makes most of their money off of their food and drink. You make yours off of donations and whatever else. I think you're very different. I think the people that come to the Cinema, come to the Cinema, they watch the movie, they go out to dinner and they sit and discuss the film. And they talk about the film and they talk about whatever. I think people maybe that go to Landmark, if they're going to order there, they sit there, they drink, they eat. They watch the movie and they go home. I think it's a different -- you know, it's a different audience.

Commissioner Lago: Demographic.

Commissioner Keon: It's a different demographic, different group of people. So, I really do believe that you can coexist, you know. And we'd like to ask that you do what works that allows each of you to operate, but know that I think, you know, come June...

Commissioner Slesnick: I think we're blessed to have both organizations coming to Coral Gables and being in Coral Gables. With Giralda being renovated and so forth, we're going to have more restaurants in the area and just a wonderful venue right there around the Cinema, with Actor's Playhouse, Books & Books, a museum, Giralda, Giralda Under the Stars and so forth. But also for the Village of Merrick Park, there are so many people that have asked to have more movies. I do not see anything on Brickell being a draw from Coral Gables. I think the Brickell residents would come to Coral Gables to participate in attending the cinema at the Village of Merrick Park. So, I think that will be beneficial for all of us and especially the stores and restaurants in the Village of Merrick Park, so I applaud your efforts to bring in the theaters.

Commissioner Lago: Mayor, if I may. Just a brief comment. Two issues. Number one, I've met with the Cinema on several occasions. Like I mentioned before, you're a treasure and what you're doing, along with Books & Books and museum, like Mr. -- like Steve mentioned before, you know, it really defines the cultural backbone of what the City's all about, along with the museum and all the great restaurants that basically feed off, you know, the businesses that we have on Aragon, the culture institutions, Giralda, like Commissioner Slesnick had just mentioned and what's coming on Miracle Mile. One of the items that I did -- and I -- this is not the appropriate time to really have a full-fledged discussion, but I really support the Cinema's future interest in potentially getting a second screen. You know, I would be remiss if I didn't mention my sister, like I mentioned before, who's an advocate of your cinema. I mean, she visits probably, you know, at least on a monthly basis, along with my parents and my grandmother who lives on Minorca. They love the Cinema. So, I think that is a great idea and a good future plan for the expansion of the Cinema. But I wanted to be -- I wanted to leave one final comment, and this is because I've heard from two different residents in this community. It has nothing to do with the Cinema. It has to actually do with the use in Merrick Park. I support, you know, the theater in Merrick Park. I think it's a great business opportunity for individuals, like Commissioner Slesnick mentioned before, who visit to want to see a different type of movie, who want to maybe -- ended up getting, you know, shopping in Merrick Park. There is extensive amount of parking currently at Merrick Park. You can coexist. It can be a great relationship that can be symbiotic, where you're both kind of helping each other out. But I want to have the City Attorney kind of talk about the land use and the development agreement in regards to Merrick Park and how we, as a Commission, are not approving a use that is not allowed in Merrick Park.

City Attorney Leen: Yeah, so the -- I was asked to look at the -- it's called the COREA, which is the Construction Operation and Reciprocal Easement Agreement, as well as the lease. Those are the two documents that, in a sense, govern Merrick Park and govern this issue. Both of the documents reference a theater. And the COREA, which is the easement agreement, indicates that the theater can only be in a certain spot, and it references an exhibit and the exhibit leaves it out. So, the way it's been interpreted is that the documents, by me, as the City Attorney, is that

the documents contemplate a theater and they need to be placed -- that that theater needs to be placed in an appropriate or reasonable location at Merrick Park that's agreed to by all the principals, including the City, and that makes sure that we are fully protected. But in my opinion, there does not need to be an amendment to the lease. In my opinion, there can be a separate document that grants the approval. Now, in drafting the agreements, we may want to include an amendment. We may want to do a number of things with the documents. But in my opinion, the documents reference and contemplate a theater and the only issue for the Commission is consent.

Commissioner Lago: And I'm happy you -- I wanted to bring that up, and I know that has really no real merit in this discussion, but I wanted to be very, very clear on the Commission floor that that is something that everybody understands. We're not doing something outside of the norm. We're not asking for a variance, a special use. This is within the lease agreement already. People -- the individuals that I spoke with were concerned with outside people coming into our city. Again, our city is a city of 50,000 residents. We go from 50,000 to over 100,000 individuals a day, people who come to conduct business, people who come to eat in our city, people who come to enjoy culture. So, we double in size every day. So, it's important that we figure something out before the next Commission meeting. I implore you, along with the individuals from Merrick Park who are here, to find common ground in regards to one last -- one final issue that's outstanding, and let's make sure that we take every precaution necessary so that both entities not only survive, but they thrive. Thank you.

Mayor Cason: Alright.

Commissioner Slesnick: And just...

City Attorney Leen: Please note -- I should make one clarification. Although the document contemplates a consent, it can be a consent with conditions. So, it is perfectly appropriate for the Commission to condition its consent, which is what it's doing here.

Commissioner Lago: But I want to make sure -- and that's the point, the reason why I brought it up. I know that we're talking about completely different things. I just wanted to bring it up to memorialize the fact because a lot of things get misconstrued. How could you allow a theater in Merrick Park? I'm not allowing a theater. It's already allowed as per the lease agreement. It's already allowed as per the development agreement. We are just coming here to consent to make sure that we formalize an agreement that not only just benefits Merrick Park, which is a City-owned property. We want to make sure that we don't hurt the theater. We want to make sure the theater survives and thrives.

Commissioner Slesnick: Just a point of information from the City Attorney. In the original lease in 2000 with the Village of Merrick Park for the theater, isn't -- doesn't it say in the lease that it's -- it can only be an art-type theater, arts --? No? I think it's in there that if we have movie theaters, it can only be -- show art...

City Attorney Leen: That issue came up in the past. I don't want to overstate what's in the lease or not in the lease. I just want you to know there's been some debate when this came up a couple years ago whether what would be required to allow this or not. I want you to know that my opinion -- and I'm the City Attorney and ultimately my opinion is binding on the City. I mean, that's what the Code says. In my opinion, the lease and the COREA contemplate a theater. They both reference a theater. I have an email...

Commissioner Slesnick: But they both reference art-type movie and not first-run movies.

City Attorney Leen: The -- my understanding was that when this was rejected last time, the City informed Merrick Park that it would need to be an arthouse theater going forward.

Commissioner Slesnick: But that's before we had the Cinema because at that time the Cinema was not envisioned.

City Attorney Leen: In my view, I don't -- I have been consistent that I do not believe that we are required to have it be an arthouse cinema.

Commissioner Slesnick: I'm just saying if it's...

City Attorney Leen: In fact, we've told them that we wanted them to have a more diverse movie list...

Commissioner Slesnick: I just want to make sure one agreement agrees with another agreement and that we should take out that restriction for art-type movies if it's in the lease.

City Attorney Leen: I've been clear with General Growth in our discussions that we do not believe that there is a limitation to solely arthouse theaters, that we could agree in our consent to allow it to be broader. In fact, we've asked them to broaden the types of movies they would show so that it would lessen the impact on...

Commissioner Slesnick: Yes.

City Attorney Leen: The Art Cinema. Now, the one point is we do not -- and this has always been made clear to me in individual discussions with you and discussions with the City Manager. We do not want this to be a theater that is similar to these very large-run movie houses, such as the one at Sunset Place.

Commissioner Lago: Well, that's -- I mean, I didn't want to...

City Attorney Leen: This is supposed to be...

Commissioner Lago: I didn't want to get into the finer details when I brought that up because we've had that discussion before. This is going to be complete -- this is going to be based on quality...

Commissioner Slesnick: Yes.

Commissioner Lago: Not quantity. This is not going to bring droves of individuals to Merrick Park. It's going to bring individuals who want to enjoy a very high-end experience, and I made that very, very clear to General Growth when I had conversations with their team that is here. And they were sincere and made us very comfortable in the fact that it's going to be a very high-end experience and it's not going to cannibalize Art Cinema.

Commissioner Slesnick: And priced accordingly.

Commissioner Lago: Priced accordingly. It's going to be -- again, it's going to be an expensive theater expensive, very high quality based, and it's not going to cannibalize our Cinema. And I'm not in favor of allowing an art theater at Merrick Park, so I just want to be very clear on that.

Commissioner Slesnick: No. I just think if it's in the lease right now or in the covenants that were -- it was restricted...

City Attorney Leen: So what -- I'll read to you what Mr. Glass -- Reeder Glass, who's our special counsel...

Commissioner Slesnick: Oh, I just -- you can even do it at next -- at the June 14 meeting, but I just think it needs to be clarified that if it does say strictly an art cinema, that it should be...

Commissioner Lago: Mayor, if I may. Why don't you just read it now so we just memorialize that.



City Attorney Leen: I'll read you what it says. The lease is virtually silent on the subject of theaters, it being mentioned in passing on the page of the lease where all the uses are discussed in detail. The COREA lists theaters as a detrimental use not to be allowed, except that it does allow them in a specific area, which was supposed to be shown on Exhibit B. That exhibit was deficient because it left it out. So, the opinion I gave when looking at it is that theaters are both referenced and contemplated in both documents. They can be allowed in a reasonable area, the City having complete discretion, along with the other parties, to determine where that may be. And the third floor -- and this is more of a business decision -- but from what I've been informed -- is the appropriate area for a theater.

Commissioner Lago: Does the lease affirm that it has to be an art theater, or does it leave it ambiguous?

City Attorney Leen: No, it does not affirm that. My understanding is when we were in discussions, that it was the City that basically indicated that that would be required, but that was a prior administration and a prior Commission.

Commissioner Lago: Again, and this is my last comment. The reason why, again, I bring it up is just I don't want people to be on the street saying, again, we -- that happens a lot in government. I want to -- and if you notice, I constantly want to clarify things and make things very, very clear and simple. Theaters are allowed in Merrick Park. Now we need to find out how we can coexist and thrive, both entities. So, let's get away from having a discussion where theaters are not allowed in Merrick Park where they are.

Mayor Cason: Alright.

City Manager Swanson-Rivenbark: Mr. Mayor, just as clarification, the City Attorney mentioned that the parties would have to agree through the Village of Merrick Park. Unrelated

to the Art Cinema, the parties on the COREA and the lease, those parties with -- and I share this because of Commissioner Lago's concern that it has to be high-end. Those parties are the City of Coral Gables, Neiman Marcus and Nordstrom.

City Attorney Leen: Yes.

City Manager Swanson-Rivenbark: So, your concern about it has to be high-end and appropriate, the two large stores are part of the consent process that would have to agree.

Commissioner Lago: Let me be fair. I mentioned there was two individuals that came to speak to me about saying how could you allow a theater in Merrick Park. But I've also had probably a dozen individuals that said, look, we're looking forward to that, as long as exactly what you mentioned right now. We take that quality to another level, which is, again, what we expect in the City of Coral Gables on all fronts. We have the best bookstore. We have the best cinema. We have a 160 of the best restaurants in South Florida. We have the best Building Code. We expect the best, quality across the board. So, I'm very comfortable. I know we have one outstanding issue. I'm -- this Commission is very comfortable. I'm looking forward to resolving this issue and really, you know, expanding the flavor of what Merrick Park represents. I mean, for people who have not been to Merrick Park lately, I mean, who have not been to the Cinema, you have to really enjoy what the city's turning into, especially our downtown and CBD area.

Mayor Cason: Alright. We're going to take a five-minute recess.

City Attorney Leen: There needs to be a vote.

Mayor Cason: We'll be back at 11:05.

Commissioner Keon: Wait, we need a vote.

City Attorney Leen: There needs to be a vote.

Commissioner Lago: Didn't we vote already?

Commissioner Keon: Do you need a vote on the motion?

Commissioner Lago: On the motion?

Commissioner Keon: Yeah.

Commissioner Lago: Alright. I'll...

Mayor Cason: We had the motion made by...

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Slesnick. Commissioner Lago seconds. City Clerk.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Mayor Cason: Okay, five-minute break.