

1 CITY OF CORAL GABLES  
 2 PLANNING AND ZONING BOARD MEETING  
 3 LOCAL PLANNING AGENCY MEETING  
 4 VERBATIM TRANSCRIPT  
 5 CORAL GABLES CITY HALL  
 6 405 BILTMORE WAY, COMMISSION CHAMBERS  
 7 CORAL GABLES, FLORIDA  
 8 WEDNESDAY, JUNE 3, 2009, 6:03 P.M.

## 9 Board Members Present:

10 Tom Korge, Chairman  
 11 Eibi Aizenstat, Vice-Chairman  
 12 Jeffrey Flanagan  
 13 Pat Keon  
 14 Javier Salman

## 15 City Staff:

16 Eric Riel, Jr., Planning Director  
 17 Walter Carlson, Assistant Planning Director  
 18 Scot Bolyard, Planner  
 19 Jill Menendez, Administrative Assistant  
 20 Elizabeth M. Hernandez, City Attorney  
 21 Edward Weller, Planning & Zoning Director  
 22 Martha Salazar-Blanco, Zoning Official  
 23 Kara Kautz, Historic Preservation Officer  
 24 Jim Kay, Project Engineer, Public Works

## 25 Also Participating:

1 Laura Russo, Esq.,  
 2 On behalf of St. Thomas Church & School  
 3 Tucker Gibbs, Esq.  
 4 Joel Arnold  
 5 Roger Walker  
 6 Gary Tarbe  
 7 Chris Cobb  
 8 Thomas Bales  
 9 Vivian Cortinas  
 10 Enia Rivero  
 11 Constance Ryan  
 12 Roger Tobin  
 13 Derek McDowell  
 14 Bill Parker  
 15 Ofelia Chiavacci  
 16 Bruce Brockhouse  
 17 Debbie Augenstein  
 18 Barbara Arnold

1 THEREUPON: 6:03 P.M. 6/3/09

2 The following proceedings were had:  
 3 CHAIRMAN KORGE: I believe we have  
 4 a quorum, so let's get started. We'll  
 5 start by calling the roll, please.

6 MS. MENENDEZ: Eibi Aizenstat?

7 MR. AIZENSTAT: Here.

8 MS. MENENDEZ: Robert Behar?

9 Jack Coe?

10 Jeff Flanagan?

11 MR. FLANAGAN: Here.

12 MS. MENENDEZ: Pat Keon?

13 Javier Salman?

14 MR. SALMAN: Here.

15 MS. MENENDEZ: Tom Korge?

16 CHAIRMAN KORGE: Here.

17 MR. RIEL: Mr. Chair, just for the  
 18 record, Mr. Behar was unable to make a  
 19 flight this evening, and Mr. Coe did  
 20 contact me late this evening and  
 21 indicated that he was very ill and could  
 22 not make it this evening.

23 CHAIRMAN KORGE: Thank you.

24 And Pat will probably be here  
 25 shortly. I'm assuming she will be.

3

1 MR. RIEL: Pat indicated she was  
 2 going to be here.

3 CHAIRMAN KORGE: Okay. I'll take a  
 4 motion for approval of the minutes of  
 5 the meeting of May 13th.

6 MR. SALMAN: So moved, Mr.  
 7 Chairman.

8 MR. AIZENSTAT: I'll second it.

9 CHAIRMAN KORGE: Moved and  
 10 seconded. Any discussion, corrections,  
 11 anything like that?

12 Let's call the roll on the approval  
 13 of minutes, please.

14 MS. MENENDEZ: Jeff Flanagan?

15 MR. FLANAGAN: Yes.

16 MS. MENENDEZ: Javier Salman?

17 MR. SALMAN: Yes.

18 MS. MENENDEZ: Eibi Aizenstat?

19 MR. AIZENSTAT: Yes.

20 MS. MENENDEZ: Tom Korge?

21 CHAIRMAN KORGE: Yes.

22 The next item on the agenda, Zoning  
 23 Code text amendment concerning the  
 24 Historic Preservation Board's quorum.

25 MS. KAUTZ: Good evening. Do you

1 want to -- Do you want to start or do  
 2 you want me to --

3 MR. RIEL: No.

4 MS. KAUTZ: -- describe it?

5 MR. RIEL: It's your show.

6 MS. KAUTZ: All righty, then.

7 Essentially, this Zoning Code text  
 8 amendment seeks to eliminate an  
 9 inconsistency that currently exists in  
 10 the Zoning Code. Under our section of  
 11 the Code, a vote by the Historic  
 12 Preservation Board that ends in a tie is  
 13 automatically remanded back to the  
 14 Historic Preservation Board at their  
 15 next meeting. In cases where the  
 16 non-majority vote happens, a quorum of  
 17 our Board is five out of the nine, and  
 18 five out of any number, so they have to  
 19 achieve five, and if they don't achieve  
 20 a quorum vote, it's treated as a failed  
 21 vote and the applicant is just sort  
 22 of -- they're not denied -- well, they  
 23 are denied, they're not deferred, so  
 24 they're not really given any direction  
 25 in which to proceed. If they're

1 appealing to the City Commission, the  
 2 Commission is left without a fair  
 3 decision of what the Board wanted or was  
 4 denying or approving.

5 This seeks to eliminate that  
 6 inconsistency and bring a non-quorum  
 7 vote back to the Historic Board at their  
 8 next meeting.

9 MR. SALMAN: So this would  
 10 automatically defer the item if there's  
 11 no clear majority, one way or the other.

12 MR. RIEL: It brings it back  
 13 automatically.

14 MR. SALMAN: That brings this in  
 15 parallel, then, to --

16 MS. KAUTZ: Yes.

17 MR. SALMAN: -- the way we do it  
 18 here on this Board.

19 MS. KAUTZ: If there's -- And our  
 20 vote, like right now, if it's a tie, it  
 21 automatically comes back. It doesn't  
 22 automatically get appealed to the  
 23 Commission, it comes back, and this  
 24 would do the same thing.

25 MR. AIZENSTAT: And it doesn't

1 require any fees, additional fees, or  
 2 anything that they have to --

3 MR. KAUTZ: We don't have a fee.  
 4 MR. AIZENSTAT: Okay.

5 'CHAIRMAN KORGE: Well, in looking  
 6 at the proposed changes, I didn't quite  
 7 read it that way. The way I read it,  
 8 maybe I misread it, is that if a motion  
 9 lacks a majority vote, then there's an  
 10 automatic continuance of the matter.

11 MS. KAUTZ: Right. So --

12 CHAIRMAN KORGE: Well, that means  
 13 if a motion fails, then it continues  
 14 indefinitely.

15 MS. KAUTZ: Well, the way it  
 16 currently is, is a lack of a majority  
 17 vote is considered a failed motion.  
 18 This would bring it back to the Board at  
 19 the next meeting for another vote.

20 CHAIRMAN KORGE: And if it keeps --  
 21 at the next meeting, they get the same  
 22 lack of a majority vote, meaning that a  
 23 majority aren't voting in favor of it --

24 MS. KAUTZ: Right.

25 CHAIRMAN KORGE: -- it keeps coming

1 back until you get a majority? Is that  
 2 what you're suggesting?

3 MS. KAUTZ: No. Well,  
 4 theoretically, yes. If there's a  
 5 non-majority vote, it means that members  
 6 are missing or absent.

7 CHAIRMAN KORGE: But it doesn't say  
 8 that.

9 MS. KAUTZ: But a tie vote  
 10 indicates that same thing. The tie  
 11 vote, it means there's a member absent.  
 12 The tie --

13 (Thereupon, Ms. Keon arrived.)

14 CHAIRMAN KORGE: What I'm trying to  
 15 say is that the sentence, the change in  
 16 the sentence, a tie vote or the lack of  
 17 a majority vote shall result in an  
 18 automatic continuance of the matter, the  
 19 way I understand that, if everybody  
 20 voted against the motion --

21 MS. KAUTZ: Uh-huh, then that --

22 CHAIRMAN KORGE: -- it would still  
 23 come back.

24 MS. KAUTZ: If everybody -- if they  
 25 did not achieve a quorum vote.

1 CHAIRMAN KORGE: It doesn't say if  
 2 there's not a quorum. That's what I'm  
 3 trying to say. It just says if there's  
 4 a lack of a majority vote.

5 MS. KAUTZ: But a majority vote in  
 6 our case is five, which is a quorum.

7 CHAIRMAN KORGE: How many on your  
 8 Board?

9 MS. KAUTZ: Nine.

10 CHAIRMAN KORGE: All nine members  
 11 show up.

12 MS. KAUTZ: Uh-huh.

13 CHAIRMAN KORGE: All nine members  
 14 vote against the motion.

15 MS. KAUTZ: Uh-huh.

16 CHAIRMAN KORGE: What happens to  
 17 the motion?

18 MS. KAUTZ: It fails.

19 CHAIRMAN KORGE: It doesn't say  
 20 that. That sentence, the way it's  
 21 changed, doesn't say that. As I read  
 22 it, it says a tie vote or the lack of a  
 23 majority vote shall result in an  
 24 automatic continuance of the matter to  
 25 the next meeting. So, if the vote is

1 zero to nine, that's a lack of a  
 2 majority vote and it's continued. I  
 3 think it needs to be rephrased, is all  
 4 I'm saying.

5 MS. KAUTZ: That is a majority  
 6 vote.

7 MS. HERNANDEZ: Yeah.

8 MS. KAUTZ: If it's nine-zero --

9 MS. HERNANDEZ: I'm sorry, we're not  
 10 following you, Mr. Chairman.

11 CHAIRMAN KORGE: Oh, I see. You  
 12 mean, the lack of a majority vote either  
 13 way?

14 MS. HERNANDEZ: Yeah.

15 MR. SALMAN: Either way.

16 CHAIRMAN KORGE: Gotcha. Okay.

17 MS. KAUTZ: It gives them the  
 18 opportunity to come back and achieve --

19 CHAIRMAN KORGE: I understand.  
 20 Never mind. I got it. I understand.  
 21 Thank you.

22 Any discussion? Questions?

23 MR. AIZENSTAT: Just out of  
 24 curiosity, if I may, when motions like  
 25 these are given to us or they're

1 written, who does them? Is it the legal  
 2 department or the department head?

3 MS. HERNANDEZ: Motions or the  
 4 ordinance amendments?

5 MR. AIZENSTAT: The ordinance, I  
 6 apologize. The ordinance amendment.

7 MS. HERNANDEZ: Amendments to the  
 8 ordinance, usually it is the department  
 9 that is requesting the change or one of  
 10 the administrators. From time to time,  
 11 we'll do it, if it's a technical -- like  
 12 a telecommunications ordinance or  
 13 ordinances of that nature, where FCC  
 14 rules are involved, then we get involved  
 15 and do it.

16 MR. AIZENSTAT: Thank you.

17 CHAIRMAN KORGE: No further  
 18 discussion? I'll take a motion to --

19 MR. AIZENSTAT: I'll make a motion.

20 CHAIRMAN KORGE: To approve it?

21 MR. AIZENSTAT: Yes.

22 MR. SALMAN: I'll second it.

23 CHAIRMAN KORGE: Moved and  
 24 seconded.

25 Just for the record, Pat Keon has

1 arrived.

2 Let's call the roll, please.

3 MS. MENENDEZ: Javier Salman?

4 MR. SALMAN: Yes.

5 MS. MENENDEZ: Eibi Aizenstat?

6 MR. AIZENSTAT: Yes.

7 MS. MENENDEZ: Jeff Flanagan?

8 MR. FLANAGAN: Yes?

9 MS. MENENDEZ: Pat Keon?

10 MS. KEON: Yes.

11 MS. MENENDEZ: Tom Korge?

12 CHAIRMAN KORGE: Yes.

13 MS. KAUTZ: Thank you.

14 CHAIRMAN KORGE: Thank you.

15 The next item on our agenda is

16 Application Number 05-09-086-P, a site  
 17 plan review.

18 Oh, there you are.

19 MR. CARLSON: Good evening.

20 CHAIRMAN KORGE: Good evening.

21 MS. HERNANDEZ: Good evening.

22 MR. CARLSON: For the record,  
 23 Walter Carlson.

24 This is an application for site  
 25 plan review which is being submitted by

1 the Montgomery Foundation. The  
 2 Montgomery property is located in the  
 3 southern part of the City, in the  
 4 general area of the intersection of Old  
 5 Cutler Road and Red Road.

6 The Montgomery Foundation conducts  
 7 tropical research at that location, and  
 8 they're proposing to construct a small  
 9 office studio for visiting scientists on  
 10 their property. Their property is 120  
 11 acres in size, and this would be located  
 12 generally in the center of the property.  
 13 This is -- the proposed building is a  
 14 small building. It would be one story  
 15 in height, under 1,000 square feet in  
 16 size, and could not be seen from the  
 17 perimeter of the property by the public.

18 Staff found that this proposal is  
 19 consistent with the Comprehensive Plan  
 20 and it does meet all the requirements in  
 21 the Zoning Code.

22 Again, this is a relatively small  
 23 building, which is centrally located on  
 24 the property and couldn't be seen.  
 25 There are no variances being requested