

**City of Coral Gables City Commission  
October 28, 2014  
Agenda Item E-1  
City  
Commission Chambers  
405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Jim Cason  
Vice Mayor William H. Kerdyk, Jr.  
Commissioner Patricia Keon  
Commissioner Vince Lago  
Commissioner Frank Quesada**

**City Staff**

**Interim City Manager, Carmen Olazabal  
City Attorney, Craig E. Leen  
City Clerk, Walter J. Foeman  
Public Service Director, Brook Dannemiller  
Planning & Zoning Director, Ramon Trias**

**Public Speakers:**

**Jorey S. Friedman, 1019 Lisbon Street  
Bruce Lecuru, 1019 Lisbon Street  
Melissa Tapanes-Llahues, Bercow Radell & Fernandez  
Roxcy O'Neal Bolton, 124 Cadima Avenue  
Carlos Tosca, Palmcorp Development Group  
Jeremy Chancey, Palmcorp Development Group  
John Henslee, 1203 Lisbon Street  
Jeff Shimonski, Certified Municipal Arborist, 7330 SW 55 Avenue  
Ariel Fernandez, 831 Monterrey Street  
Tamara D. McKeown, 910 Lisbon Street  
Robert Brennan, 3024 Kirk Street  
John Seligman, 1401 Ortega Avenue  
Anne Boley, 1015 Lisbon Street**

**Madeline Shirley, 1208 Lisbon Street**

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E-1: Appeal of Tree Permits for 1011 and 1015 Lisbon Street and appeal of Board of Architects decision on 1015 Lisbon Street.

Mayor Cason: All right, we're going to move on to agenda item E-1. This is an appeal of tree permits for 111 and 115 Lisbon Street. Madam Interim City Manager, please read the title of agenda item E-1 into the record, and then let us know who from the City will start off the discussion. I think we'll have -- for three parties today, I would assume we'll have the applicant for the construction, we'll have representatives from the neighbors, and we'll have the City's input.

Craig Leen: Mr. Mayor, before it begins, I need to say a few words, maybe while everyone is preparing. This is an appeal of tree permits for 1011 and 1015 Lisbon Street, an appeal of Board of Architects' decision on 1015 Lisbon Street. What's before you today, members of the Commission, is -- are two appeals that are going to be heard concurrently, and they're going to be heard concurrently pursuant to Section 3-608B of our zoning code. The first appeal relates to a Board of Architects' decision. As you all know, Board of -- the Board of Architects is generally making determinations of aesthetic matters--design. In this particular case, the appellant appealed the Board of Architects' decision because as part of the design and on the site plan, there is a specimen tree, and the -- and I'll allow the appellant to explain their appeal, but just for purposes of the record, what the appeal relates -- the reason why it was appealed was not because of the design of the residents, per se, but it was because of how the design impacted the specimen tree, and so the appellant preserved her rights by filing the appeal, but the real issue here relates to what's being done to preserve the specimen tree. In addition, there is a concurrent appeal as to the decision of the Public Service director. Public Service Department, under our code, is the Tree Preservation Agency responsible for preservation of trees in the City of Coral Gables. We have provisions in both our City code and in the our zoning code protecting trees, particularly when there is going to be a development and there's a site plan and there's a specimen tree, and that's altogether proper for the City to protect those specimen trees. The issue here for you to decide today relates to the balance of preserving the tree and property rights. And it's ultimately up to you in your sovereign authority and as the regulatory body to determine that balance. I wanted to

give you a -- not really instructions, but some thoughts on the legal issues that you will be addressing today. The law -- there's two bodies of law that we look at. First, we look at the law of takings and we look at the law -- the Bert J. Harris law. That relates to what is the full extent of government authority related to a particular property. The City, in protecting a tree, which is altogether fitting and proper, in protecting a tree cannot deny any economically viable use to the land. That's the takings law under the Fifth Amendment. So, for example, you could not make a decision today that would prevent any development on the property without it acting as a taking, and that's not really -- that's not me speaking. That's clear law. There's also the Bert Harris law in Florida which indicates that you cannot take action that would inordinately burden the property. And generally, what a court will look at is the legitimate investment-backed expectation in the property and whether there's been a significant burden to that. Doesn't mean that you can't affect the value of the property at all; you can. And in fact, in exercising the police power, your primary concern should be protecting the health, safety, welfare of the public of Coral Gables. But balanced against that, you also have to recognize that there are private property rights at stake here, and anything you do should not inordinately burden the property, and ultimately, it's up for you to decide what that means in this proceeding. Now, as the matters coming before you today, it's as an appeal. Just to explain that a little bit. The Board of Architects made the original decision related to the design and to extent that -- to the extent that impacted the specimen tree, that's before the Commission today to look at the design. In addition, there was a decision made, as I mentioned, by the Public Service director related to preservation of the tree and whether that was adequate or not, and you'll hear from him today. But the decision for you to decide is -- this is coming before you on an appeal. There was a tree -- there is a Tree Preservation Appeals Board which is made up of a number of staff members, the City Manager included, and also other members of staff, such as the Public Works director, I believe, the Public Service director. It was my view that that was not an appropriate board to hear this appeal, because all of those individuals were involved in this decision, and I ran that by both the appellant and the appellee and they agree, and so the matter's before you by agreement today. So you are acting as the direct appellate board and the final appellate board for the City as to this matter. Now what is your authority? You can do three things: You can affirm the decision, you can affirm with conditions, and that basically means you can modify the decision, or you can override and you can change the decision. It's also

my view that you have the authority to remand if there's additional information that you need. You also, of course, always have the authority to continue or defer. Just remember that, at some point, though, you do have to act because it does affect property rights. But you can -- you certainly could continue today, for example, if there was additional information that you needed after you hear from the parties. So with that, I was just going to briefly go over the process. You're going to have before you first the appellants, who are going to speak for approximately 20 minutes. They're going to present their appeal. We are going to allow them to provide some testimony, even though, as a general matter, testimony is not heard, but here because this is the first board that's hearing the actual tree issue directly, as long as that's consistent with the information that's in the record, is what we discussed, we will allow some presentation from the arborist for each side, and that also is for the property owner as well, who is the appellee in this case, and they will go second, and then you can also hear from the City. Finally, the last thing you should remember is in any decision you make, what's important is that it's supported by competent substantial evidence in the record. So, however you decide today, you should in your minds tie it to something that's in the record that would support it; you also have the duty to follow the essential requirements of law, and I'm here to advise you on that, and finally, due process; and we've been following due process through this proceeding and both parties have been involved and everyone is here today. So with that, I conclude my remarks. Are there any questions?

Commissioner Quesada: Yeah, real quick. So we're sitting in an appellate capacity, but there's -- I'm trying to figure out what the standard of review is, because we're the first time -- this is the first time we -- they go before a board on some of the issues that are discussed today, so in that realm, we're not in appellate capacity.

Mr. Leen: In my view, in revolving issues of fact, to the extent they haven't been resolved before, you would generally apply a preponderance of the evidence standard in your minds --

Commissioner Quesada: OK.

Mr. Leen: -- in determining what to do. But just remember that any decision you make is

reviewed for competent substantial evidence, not on -- it's always reviewed for competent substantial evidence. The court will not re-weigh your decision. Generally, though, particularly as relates to the BOA (Board of Architects) matter, that is as an appeal, so that's based on a record.

Commissioner Quesada: But that's --

Mr. Leen: The tree aspect of it --

Commissioner Quesada: -- whether they abuse their discretion? Is that --?

Mr. Leen: No. As to the appeal, you're generally supposed to accept the facts as found by the Board of Architects, but you are free to disagree with them as to what that means and you can make a different decision. Our code allows you to actually override. You don't just have to just quash or remand. That basically means you don't just have to send it back and have them decide again, but you can actually make this decision. You make the final decision for the City. Here, because they're concurrent appeals and part of it involves the tree itself and issues relating to the tree and the science of trees and horticulture, you're going to be hearing from people who actually testify and you will have to make the final decision as to that.

Commissioner Quesada: Got it. Thank you.

Mayor Cason: Want to start, Carmen? You want to start with the --?

Carmen Olazabal: Craig, did you want to (UNINTELLIGIBLE)?

Mayor Cason: The City -- does any --

Mr. Leen: Yes.

Mayor Cason: -- any particular order that's required?

Mr. Leen: Yes. The appellant will go -- among the parties that are here, the appellant will go first, and then the appellee, and then they'll be time for any public comment, which, of course, to the extent an appellant is representing a number of members of the public, we'd ask that you consider that, but of course, this is a public hearing, so people are allowed to speak. And then in addition, the City was going to speak briefly at the beginning and -- Did you want to speak at beginning, Carmen?

Carmen Olazabal: You can do it in whatever order you want to.

Mr. Leen: Just to provide a context for the appeal.

Ms. Olazabal: Look, you can comment -- look, if you can come to the front and explain the steps that were taken by the City.

Brook Dannemiller: Good morning. How's it going?

Mayor Cason: Good morning.

Commissioner Lago: Good morning.

Mr. Dannemiller: So, for the tree protection, basically, once there's final -- oh, sorry. Brook Dannemiller, Public Service director. We review all the tree removal permits for the City. We're in charge of maintaining all the trees that's in the -- within Coral Gables. Once there's a final Board of Architects' ruling where it's approved, then the process was that it would come to -- if there are any trees, there would be tree removal permit, and that would be approved after final Board of Architects. We have since revised that process, so the tree approval comes before that, so we avoid these situations for the future. So when we receive the permit for the tree removal of the other trees, not the specimen trees in question, the -- we noticed that the septic drain field was way too close to the tree and we started taking steps to basically maximize the protection of the

existing specimen trees. It's actually a cluster of three trees. And the steps that it took is we had the applicant apply to the Tallahassee Department of Health to get a waiver to move the septic further away from tree as much as we could. We modified -- there's a large tree protection fence. We moved that as far from the tree as we possibly could without moving the house because that had already been approved by the Board of Architects. There's a irrigation plan. So they follow the -- they developed a Tree Protection Plan to -- a series of steps throughout construction to minimize impact to the groups that were being preserved, and that was done to the maximum extent possible without altering the Board of Architects design.

Mayor Cason: Brook, you're saying you were constrained by the Board of Architects as to how far out you could go with your protection?

Mr. Dannemiller: Yes, because the Public Service doesn't have the ability to change the Board of Architects approval.

Mayor Cason: OK. Is there a difference between -- and there's lots of arborists I've seen have been involved in this. Is there any consensus among the arborists of the two sides as to what the -- what -- with what degree of certainty you can do any kind of construction without affecting the tree or they have different views? And we'll hear from them in a moment, but --

Mr. Dannemiller: A tree is a living organism, so you know, it's sort of -- you know, sort of like going in for surgery. Yeah, you can go in for a minor procedure and it can be catastrophic. It go -- you know, major surgery and you're just fine. So it all depends on the condition of the tree and also the -- how you maintain it afterwards. So the Tree Protection Plan is designed to basically post-op, you know, protect the tree as much as possible moving forward.

Mayor Cason: So there's no certainty going into surgery that the patient will survive?

Mr. Dannemiller. Yes. We've done all the measures -- appropriate measures to try to maximize the chances, given the constraints, but you -- you know, the -- you know, I've seen trees be abused

far more and survive the (UNINTELLIGIBLE). I've seen trees with less -- you know, less damage that decline because the -- basically, afterwards, they weren't maintained properly. So it's kind of -- you know, with a living organism, it's tough to decide -- you know, see how it's going to survive, but they've -- the tree protection work plan takes all the steps that are outlined in a typical Tree Protection Plan.

Mayor Cason: On a scale of zero to a hundred, what -- hundred being wonderful tree, perfect health, what's the health of the tree from your --

Mr. Dannemiller: Currently --

Mayor Cason: -- from the City's perspective right now?

Mr. Dannemiller: You know, currently, it's -- well, currently, it has a lot of invasive plants growing on it. It's got a banyan. It's got all sorts of vines. Has a bunch of things growing on it that needs to be cleaned off to improve the health of the tree. So currently, with all that vegetation on there, you know, maybe like 75, but if that was all cleaned off, then that would improve the health and the condition of the tree. But right now the tree hasn't been maintained for years and years, so there's work that needs to be done even if nothing is done just because there's a banyan tree growing on the tree right now.

Mayor Cason: OK. Questions? All right, then --

Ms. Olazabal: What's the -- how far is the house from the trunk of the tree?

Mr. Dannemiller: The house is -- I believe it's 10 to 12 feet away. The main issue is the septic drain field, which, at one point, is about seven feet away at a corner. And it was just laid out to try to avoid the major (UNINTELLIGIBLE) buttress (phonetic) roots, so that's -- the main issue is the drain field is being too close. Because if you look at the site plan with the driveway and the house, it looks like adequate distance, but then when you look at the drain field, that creates



(UNINTELLIGIBLE) issue.

Mr. Leen: Mr. Mayor, if I may say. Because these are concurrent consolidated appeals, you have a significant amount of authority today in how to resolve this matter, because you have both the authority of the Board of Architects, because you can override them or change the decision, and you also the authority of the tree preservation agency in reaching this final decision. So you can work out a solution that changes the design, for example, if you decided you needed to.

Mayor Cason: OK. Well, let's hear --

Commissioner Keon: I have a question. If you could have moved that house, would you have?

Mr. Dannemiller: If I were the designer --

Commissioner Keon: If you had the authority to go to Board of Architects for the benefit of that tree, would you have asked them to move that tree?

Mr. Dannemiller: Yes. They could -- if we -- we -- if I -- we were involved in the process from the beginning, I would have encouraged them to push the house further from the tree to provide -- the more space you can provide to the roots, the better. So, you know, from a horticultural standpoint, moving any disturbance to the roots further away will improve the chances of the tree.

Mayor Cason: Craig, our ordinance that we passed a couple sessions ago --

Commissioner Keon: I was going to ask that, yeah.

Mayor Cason: -- sort of -- could you explain and how that relates to --

Commissioner Keon: Have we -- yeah. Have we solved that issue?

Mayor Cason: (UNINTELLIGIBLE) making process.

Mr. Leen: We have a resolution in place now that addresses this issue, not this exact issue on the appeal, but the issue of preserving specimen trees on site plans before they go to the Board of Architects. We did that in conjunction with the City Manager's Office and Public Service and the Commissioners. So that -- the preservation of specimen trees, as been spoken by this Commission, is extremely important. You made that clear through your actions.

Commissioner Keon: And so now before the Board of Architects --

Mr. Leen: Yes.

Commissioner Keon: -- reviews a tree, they have to take -- the specimen trees have to be indicated on the site plan?

Mr. Leen: Yes.

Commissioner Keon: And protection for those trees has to be taken into account --

Mr. Leen: It has to be taken into account in advance.

Commissioner Keon: -- before it goes to the -- in advance of the Board of Architects?

Mr. Leen: Yes.

Mayor Cason: And before a final Board of Architects.

Mayor Cason: Yeah, and in this case, you find --

Commissioner Keon: OK.

Mayor Cason: (UNINTELLIGIBLE) because we didn't have the resolution.

Commissioner Keon: So --

Mayor Cason: Is that correct?

Mr. Dannemiller: That is correct. Basically, the trees were -- the -- when Public Service received the permit, the Board of Architects had --

Commissioner Keon: Had already signed off.

Mayor Cason: Yeah.

Mr. Leen: There's an ordinance that's also -- that was done by resolution. There's also an ordinance being put in place that more comprehensively addresses that issue to make sure that that is in the law that preserves -- as opposed to -- a resolution can be changed at any time, but an ordinance is harder to change. It's part of the code.

Mr. Dannemiller: And again, the main issue is the septic drain field, which, you know, Board of Architects is looking at, you know, buildings and layouts and not typically -- Department of Health is the one that dictates the size of the septic drain field.

Mayor Cason: OK. All right, well, let's --

Commissioner Keon: Thank you.

Mayor Cason: -- ask then the appellant. Is that right, Craig?

Mr. Leen: Yes, sir.

Mayor Cason: OK. Come forward. Twenty minutes till ten thirty.

Unidentified Speaker: And if I could -- (UNINTELLIGIBLE) appellant.

Mr. Leen: If there is going to be any testimony, that person should be sworn in.

Bruce Lecuru: Mr. Mayor, due a flood of recent facts that have been brought to my attention over the weekend, I would ask an additional 10 minutes for 30 minutes, please?

Mayor Cason: All right.

Mr. Lecuru: Thank you. What you have before you are smaller versions of --

Commissioner Keon: For the record.

Mr. Lecuru: (UNINTELLIGIBLE) to.

Commissioner Keon: For the record, you need to give your name and address.

Mr. Lecuru: Yes. Thank you.

Mayor Cason: Mr. Clerk, does he need to be sworn in?

Walter J. Foeman: Yes.

Oath given here...

Mr. Lecuru: Mr. Mayor and Commissioners, my name is Bruce Lecuru. My wife, Jorey Friedman, and I thank you for the opportunity to defend our rights as citizens to appeal the Board

of Architects' approval of the building plans at 1015 Lisbon Street and the tree permits at 1011-1015 Lisbon. The Lisbon Street "Save Sherman's Oak" team, in honor of deceased lifetime City resident Sherman Reynolds, that is before you today represents the views of over 60 passionate home owners in our north Gables neighborhood. Homeowners who petition to stop this developer's plan has been submitted into the record. The famous English poet, William Blake, wrote: "The tree which moves some to tears of joy is in the eyes of others only a green thing that stands in the way. Some see nature all ridicule and deformity and some scarce see nature at all. But to the Eyes of the man, or woman, of imagination, nature is imagination itself." Our City's founder, George Merrick, had great imagination when he planned this city, imagination that included the majestic native live oak tree as a foundation of why we refer to our city as the "City Beautiful," a city named the "Tree City USA (United States of America) for the past 29 consecutive years by the National Arbor Foundation and a city that hosts a yearly arbor day celebration. PalmCorp Development has been very vocal to us, and I am sure to you, about their desire to save this tree and their great love of trees in their development projects. They claim that they have designed their entire building plan around this tree, not because we got involved with appealing the BOA's approval and involved the media, but rather, they love trees and do everything in their power to protect them. They claim that their work plan will save Sherman's Oak. Today I will prove to you that nothing is further from the truth. Their plan to save this tree will certainly cause its death. The City approved work plan for this tree is seriously flawed. PalmCorp's history of protecting live oak trees is the real truth. Actions speak louder than words. Please look at our photos 1, 2, and 3 in our exhibits. It doesn't take much imagination, as a lay person, to see that PalmCorp's plan to remove the roots of this legacy tree on the west side and east and -- west, south, and east sides of the tree to install a drain field, walkway, driveway, septic tanks, and foundation walls, as well as remove all of the can -- tree's canopy on the east side to allow for the proposed two-story house will cause irreparable damage to its future. It will have no stability. It will be robbed of its ability to absorb nutrients due to loss of roots and planned major limb/root removal will open it up to disease that will rot it from the inside out. This plan will kill this legacy tree. It doesn't take any imagination for tree experts to make the same determination. Look at the report of Bob Brennan of Fairchild Tropical Garden, an expert with over 45 years of experience in our community, an uncompensated opinion the Commission requested we seek; and

from Jeff Shimonski, an ISA (International Society of Arboriculture) certified municipal arborist with over 40 years of experience with these trees. Mr. Shimonski stays on the cutting edge of all recent research in overly aggressive, pruning, cutting, root removal of native trees and continues to publish this knowledge in various journals. There is much evidence out there that the actions allowed by the City are not protecting these trees. The City's approvals are causing protected trees to die. What does the City consider protected to mean? One year, three years, five years, until the cause of death is forgotten? Many wrongs don't make a right today. The City's current practice is flawed. One can't help but imagine if this is how the City has been protecting these trees, why are these trees being protected at all? First some basic tree science. Look at a healthy live oak on the country club Prado in photo 10 of our exhibits. What you see above the ground in tree canopy is mirrored below the ground in roots. A tree grows as large of a support structure below the ground as it supports -- to support what it grows above the ground. In our soil in Coral Gables, with its bed of coral rock, tree roots have to spread further than their canopy since the roots are restricted from going as deep as the tree is high. This makes the cutting of roots in our community more damaging, not less. To PalmCorp's BOA approved plans to build a 2300 square foot house on this 5200 square foot lot and the City's approval to allow for massive damage to this tree to facilitate this plan, we submit the following. There is indisputable evidence that these plans will kill this legacy tree. The primary roots of a live oak exist 18 to 24 inches below the surface. Allowing this developer to remove critical roots on three sides of the tree, plus the removal of the entire canopy on the east side of the tree will cause a serious structural imbalance and, according to certified municipal arborist, Jeff Shimonski, the limb removal and root cutting will "create a very large infection course that will enable pathogens to enter the tree and cause great damage, resulting in the eventual loss of this tree." PalmCorp's arborist will tell you that the tree will be just fine, the roots will grow back. Live oak trees of this nature age rarely produce new root growth once their main roots are severed. The cutting of these roots, no matter the method employed, will cause permanent root damage to the tree and eventual death. In addition, this tree's natural canopy is more heavily weighted on the west side, the sidewalk side. Cutting the entire canopy on the opposite side, the east side, will remove all balance from the tree, making it extremely vulnerable in the next tropical storm or hurricane. It has been over nine years since our last storm. We are certainly overdue. The City should not be a partner to the inevitable

property damage liability or, God forbid, human injury or death liability when this tree comes crashing down in the next storm. When two of the most seasoned experts in our community have lined up to support our appeals, failure to uphold them will invite future lawsuits when this tree's support structure fails and it falls and it will. First a bit of comparison of our experts, if you would. Bob Brennan is the senior arborist at Fairchild Tropical Garden with over 45 years of experience in his field, an ISA certified arborist, a 2014 award in education winner from the ISA. His opinion is the uncompensated voice from Fairchild Tropical Garden that several members of the Commission requested. Jeff Shimonski has over 40 years of experience in his field in our community. He has received additional training as an ISA certified municipal arborist and is chair of the editorial staff for the journal "City Trees." The ISA web site states, "Municipal arborists are credential holders who are current ISA certified arborists and have chosen municipal arboriculture or urban forest industry as a career path. They have obtained a minimum of three additional years of work experience managing the establishment and maintenance of urban trees." PalmCorp arborist, Jeremy Chancey, holds the lowest level of ISA certification, the arborist -- the certified arborist classification. Coral Gables director of Public Service, Brook Dannemiller, is a landscape architect with no web site listing of ISA certification as an arborist. Now, PalmCorp's work plan for Sherman's Oak, submitted by their arborist, Mr. Chancey, on September 22, and approved by Dannemiller, is seriously flawed. Our appeal document, written in close consultation with our arborist, points out seven fundamental errors that were ignored by City staff. Let me summarize briefly. One, Mr. Chancey's selectively chosen work plan fundamentally violates the forward statement of the ANSI (American National Standards Institute) national standard, which states, "These standards are used to develop written specifications for work assignments. They are not intended to be used as specifications in and of themselves." In other words, these standards are meant to work together as a unit, not selected piecemeal to justify the construction plans of your client. Two, Mr. Chancey's report only quotes from ANSI A300, part one, pruning, to justify his identification of a tree protection zone while ignoring part five, management of trees, that requires the necessary establishment of a critical root zone when making the protective zone determination. It is fundamentally wrong to not establish a critical root zone when creating a tree protection zone. Three, Mr. Chancey's report makes no mention of part eight, root management. Under part eight, 84.1.2. states, "The extent and method of root pruning

or cutting shall be based on the objectives, species tolerance, environmental factors, timing, age, health, lean, and structural conditions of the trees.” 84.1.3 states, “When establishing objectives, potential for tree decline or destabilization shall be considered.” Mr. Brennan and Mr. Shimonski covered these issues in their reports. Why did Chancey choose not to do the same? It violates his client's building plan, but it certainly doesn't protect this tree. Four, Mr. Chancey states in his work plan that limbs greater than four inches in diameter not be removed. Given his own requirement, why is there no mention of the removal of the entire east limb canopy on tree marked number nine? See our exhibit number two. In fact, this limb and the one above it are much larger than four inches in diameter and serves as the entire east canopy for all three trees. Mr. Chancey's plan for tree nine violates his own plan. Five, Mr. Chancey's report illustrates his tree protection zone where a fence will be constructed without establishing the critical root zone. Appropriate tree protection zones mirror the shape of the canopy of the tree to preserve the roots. The fence, drawn by Mr. Chancey, protects the building plan of his client, not this tree. Anything outside of Mr. Chancey's inappropriately shaped protection fence becomes part of the open construction site causing root damage and not allowing for proper nutrient absorption. Mr. Chancey's proposed fence does not protect the tree from this very Tree Protection Plan. Six, the City's approval of these two tree permits does not consider the documentation of all experts offered. It appears that only the report Mr. Chancey was considered in the approval decision. There is no mention in the City's approval of the dissenting opinions from Fairchild Tropical Garden, as well as the opinion of our certified municipal arborist. Why the City staff ignored opinion requested by the City Commission when making their decisions? Seven, the African tulip tree, marked tree number 29 on the 1015 Lisbon site, is labeled on the tree disposition document as “hat rack at 10 feet, declining; very poor health.” We agree with this determination of poor tree health. Tree number 29 is certainly a hazard to the property and the neighborhood. Why is this tree not labeled for removal when other -- many other perfectly healthy trees, over 30 in number, are approved for removal? Yet, another liability hazard ready to fall but ignored by PalmCorp. Now, Mr. Chancey's, their arborist, response to our appeal of the tree permits, dated October 15 and put into record by the developer, is flawed as well. One, he quotes that the ANSI standards are not to be used in specifications in and of themselves. This is exactly what his plan has done. Two, Jeff Shimonski did fully inspect the site, with the owner's approval, prior to



making his report and rendered the following opinion: “Based upon my education and experience, I recommend no excavation on the west side of the tree, sidewalk side. For the remaining area around the tree, I believe the tree protection zone and critical root zone should be no less the 25 feet from the trunk of the closest tree.” PalmCorp's slight adjustment of their drain field on the sidewalk, west side of the tree, through their approved septic variance makes no difference. Moving a drain field a foot or two does not invalidate Shimonski's or Brennan's opinion as Chancey claims. The drain field is still well within Shimonski and Brennan's recommendations. Three, Mr. Chancey's yellow oval distance graphics are also wrong. The 100-foot radius is inaccurate; closer to 150 feet, and represents a protected distance that has never been requested by us. But his 25-foot graphic does correctly show their entire drain field and partial house structure within Mr. Shimonski's protection zone. Four, Mr. Chancey admonishes Mr. Shimonski in this document for parking his car on his own 25-foot protection zone in a photo in his report. Wrong again. Look at the photo. Look at the picture. Shimonski's late-model white BMW is parked in front of my home at 1019 Lisbon Street, far away from his 25-foot zone. The owner of the beat up, old, black Mazda Chancey refers to is unknown. Mr. Chancey, I'm sure Mr. Shimonski would never drive such a wreck. There are many examples of dying oak trees in our community from overly aggressive development. Look closely at another PalmCorp Development project right across the street from our City. The San Ignacio Oaks Development in the 5200 block between Sunset and San Ignacio Streets. Look at photos in exhibit 7, 8 and 9. A Google Earth aerial view of this property in March of 2013 shows a city block full of healthy native live oaks. A January 2014 aerial view of the same project shows the evidence of massive live oak removal, as well as the mutilation of the remaining live oaks on the property. In fact, PalmCorp was fined \$15,000 by DERM (Department of Environmental Resources Management) for cutting down 3,476 square feet of native live oak canopy on their site. They were issued a cease and desist order, shutting down their site; forced to pay approximately \$11,400 bond to ensure compliance, approximately \$2,100 to the DERM Tree Trust Fund, as well as approximately \$1,900 to cover DERM's administrative costs. The surrounding neighbors of both South Miami and Coral Gables complained to their governments and took their outrage to the media. PalmCorp is adamant that they love trees and do everything they can to protect the trees on their developments. If this is true, why have they cut down trees illegally to build their homes? Why

still today do you not see any protection fencing at San Ignacio Oaks or any of their other sites? None. As you can see in photos 5, 7, 8 and 9, these trees have been damaged in the same manner that the City believes will be just fine for Sherman's Oak: massive limb removal, massive root removal, massive signs of infection, and massive destabilization of the trees. Look at the visual evidence of rapid decline in these protected trees. The story, I'm sorry to say, is the same at other PalmCorp Developments. Their four properties under construction at Hidden Oaks in the 109th block of Southwest 83rd Avenue and at 2850 Freeman Street in Coconut Grove all show massive limb removal, massive root cutting, and no protective fencing. What they normally do: Building new construction right next to protected live oak trees, beginning the decline of the tree. The smoking gun is everywhere. For a prime example of bad City-approved tree -- City tree approvals, look right across the street at the mostly dead, legacy live oak in the park across from City Hall. Three Coral Gables citizens, Roxy Bolton, Debbie Lang, and Shirley Marooney sued the City to help preserve that oak. These -- the roots on this tree were removed on one side only 13 years ago, and it is now mostly dead from the City's own work plan to protect it. The City is fortunate that none of its branches broke and fell on the bounce house filled with children this past weekend in historic cultural festival. The visual tree damage in all of these cases is the same: Limb die-back, thinning canopy, small or no new leaf growth, bark color change, which are signs of internal infection from limb removal and root cutting, and compressed roots earth due to the use of heavy equipment with no protective fencing. For further evidence of live oak tree decline years after City-approved plans, one need look no further than the recently built house at 1151 South Alhambra Circle in our City. Compare Photos 10 and 11, a healthy live oak with one severely damaged by City-approved construction. The live oak in photo 11 is in serious decline and can now only support thin growth at the very top of the tree. Won't this homeowner be pleased one day soon when they will have to pay the City to -- for a permit to remove this huge live oak that was killed over time from the City's own approved work plan? The cost to the property owner to remove this tree -- this huge tree, as well as the dying live oaks at San Ignacio Oaks, Hidden Oaks, and across from City Hall will be establish and onerous to taxpayers or current or future homeowners. The developers are long gone and busy removing more of our community's protected and unprotected canopy. The evidence is here. The word is now out and on the record. These trees in our City won't die or blow down by chance but by the approval of the City Beautiful.

Read Jeff Shimonski's two articles written -- entered into the City record. A large live oak at the front of Parrot Jungle fell over after the construction of a single concrete trail on one side of the tree. Remember, PalmCorp's approved work plan calls for root removal on three sides. Once the damage is done, nothing can be done to save this tree. The City is already on the hook. Mr. Mayor and City Commissioners, it is not too late for Sherman's Oak. The loss of our City's protected trees and the City's future liability of these falling trees must stop, and it must stop today. There have been many mistakes, we feel, made by the City in recent years to open the door to aggressive development. First, allowing this lot to be split without knowledge of a protected tree on the property; two, splitting the lot without a hearing by the Commission or allowing for neighborhood objection; three, the City staff's lack of knowledge of the proper use of ANSI standards; four, the lack of investigation on the condition of our live oaks in past projects; and five, not requiring a tree survey approval at the beginning of the building process. Now, thankfully, this has now changed, due to Commissioner Keon's recently passed resolution, and we're thankful for that. The City's processes are clearly written in favor of the developer, not the citizens. The fact that the financial cost of our appeal of the Board of Architects' decision is 6-1/2 times the \$300 it costs to appeal a decision of the United States Supreme Court clearly shows the City's system is prohibitive to the concerned citizens. It is our understanding that a developer can ignore City codes, cut down a protected tree, and pay a fine of \$100, and \$35 per permit per tree; another example of how the City's system favors the interests of the developers, not its own citizenry. The system is broken. It needs to change to protect the rights and concerns of the citizens, those who live in Coral Gables, not the greedy desires of a developer. Now, listen carefully to what you hear from PalmCorp. They will use any method necessary to get what they want. PalmCorp has referred to us as impediments, unreasonable, misrepresenters of the facts. Don't be fooled. They are the ones who impede and misrepresent. Take the three letters submitted into record from Dr. Kenneth Rod, director of the University of Miami's Center for Ecosystems and Policy. These include, in the record, a support letter for our cause, a retraction letter that then supports PalmCorp's work plan, and finally, a citizens-signed letter of support to preserve trees in our community. Members of this Commission also requested that we solicit an uncompensated opinion from someone at UM (University of Miami). After consultation with UM arborists, who reviewed their plans, Dr. Rod wrote a letter of support and then submitted a retraction letter two

weeks later. What the Commission needs to know is that I have an e-mail (electronic) thread from Dr. Rod informing me that he was threatened with legal action by PalmCorp's lawyer and provided the wording of the retraction letter to sign in order to avoid their legal threats. And I quote, "Bruce, I got threatened with legal action and had to use the retraction wording they provided for them to drop the case." This is what I call witness tampering, allowing -- showing PalmCorp's action of obstruction and deceit. PalmCorp has also accused us of misrepresenting the facts to the media, saying they were going to cut down the tree. Read the Miami Herald articles submitted into the record. There is no mention by us of their desire to do so. PalmCorp will argue that this is their property, and they have a right to build on it what they want. Yes, they do have a right to build on it, but a 2300-square-foot house with a pool on a 5200-square-foot lot is not in keeping with the scale of our north Gables neighborhood. Houses on a 5200-square-foot lot are typically 900 to 1500 square foot in size. The only pools I know of in the Lisbon neighborhood exist on double or triple lots, not on a single 5200-square-foot lot. When PalmCorp purchased this property, they were very aware that it contained protected trees, but that situation had never stopped them before. What they were not aware of, and likely surprised by, is that the Lisbon neighbors also have rights, the rights to ensure the protection of the canopy in their neighborhood. PalmCorp will likely threaten to sue the City if you don't side with their plan. Commissioners and Mr. Mayor, balance this threat against the dozens of lawsuits the City could be facing when the next big storm blows down live oak trees damaged by approval of the City. It is time to stop this liability risk today. Listen carefully to PalmCorp's upcoming examples; exist upon apples to apples' comparisons from their evidence. I'm sure they will show you many example of oak trees in other areas of South Florida that are looking great after aggressive pruning and limb removal. Don't fall for this. Insist on -- these -- this is apples and oranges. For example, the sandy soil of Broward County is not at all similar to the coral rock foundation soil of Coral Gables. Tree roots can grow much easier in sand than through rock. PalmCorp's exhibits will likely show you pictures of many healthy live oaks close to roads or other developments; apples and oranges again. What they don't provide you is the timeline of the construction next to these trees or the age of the tree during development. A small live oak tree that grows up together with a new road or house grows in harmony with the new construction. Building new construction next to large, mature trees doesn't work. The mature live oaks on Coral Way grew up with the construction of the road

and sidewalk many years ago. The evidence of the damage on mature oaks is all over our community. Look at the photo of PalmCorp's development at San Ignacio Oaks we presented for the real impact on mature trees; they are dying. Are they going to show you apples-to-apples photo comparisons of beautiful live oaks for their own developments? PalmCorp is not interested in preserving trees but making a lot of money at the expense of trees. They are not a Coral Gables-based business. They do not live in Coral Gables. They don't care what their development does to the neighborhood. They seek to develop in the City Beautiful at the expense of what makes our city beautiful: our City's disappearing tree canopy. The concerned neighbors of Lisbon Street are lifers. we live in north Coral Gables, raise our families in Coral Gables, pay taxes in Coral Gables, and elect you as our representatives to improve the quality of life in our city, and to stand up to developers who threaten this quality of life. Our team understands that they are the property owner and also have rights. We have attempted to compromise and preserve their right to build on their property. PalmCorp brought little compromise to our two meetings with them. The recent City-arranged meeting was filled with intimidation and accusations from their massive defense team. Nevertheless, with great trepidation, we have since decided to offer a huge compromise by lowering our tree protection zone radius down from the 50-foot radius recommended by Bob Brennan, the opinion -- the expert opinion that you urged us to obtain, to a 25-foot radius, a 50 percent compromise. Any construction closer than 25 feet from each of these three trunks will certainly cause irreparable damage to this legacy tree. We are not comfortable with any distance smaller and neither should you be. Their plans still fully exist within this 25-foot radius. Have they been willing to reconfigure their triple lot, as we have suggested several times? No. Have they been willing to redesign their house to build around this 25-foot tree protection zone? Only if we pay for it. What is their compromise? They have mentioned creating a tree covenant to ensure that the tree is never removed? A compromise? When the tree dies from their own work plan, a covenant will prohibit its removal. They've offered funding a trust, a tree trust for City maintenance. The damage to the tree is already done. There's -- no trust fund can fix that. In summary, George Merrick had great vision and imagination when he founded our city. The majestic, legacy live oak tree at 1015 Lisbon Street is Merrick's imagination. Sherman's Oak was, quite possibly, a source of inspiration for Merrick. It was already close to 50 years old when he founded the City. Little imagination is needed to see the

impact of our tree canopy to the very fabric of our city. Anyone who has flown into MIA (Miami International Airport) can clearly see Coral Gables by the outline of the tree canopy that visually defines our City's boundaries. Unfortunately, we are slowly losing the very element that defines our great city. Sherman's Oak has a canopy of 120 feet by 94 feet and is approximately 50 feet in height, the largest native live oak that we know of in the Gables. This tree is approximately 125 years old, with a life span, if not damaged, of 300 years. It's only halfway through its life span. Far too much -- the tree canopy in our community has no protection and is being removed, no questions asked. Now our historical canopy is in peril and disappearing. The Coral Gables tree canopy is one of the main reasons why we chose to buy in this neighborhood and have chosen to raise our families here. Continued development at the expense of our tree canopy will lower the property values of the whole City and destroy what makes it unique. We, the team of save Sherman's Oak, are fully invested to protect what canopy we have left. We trust the City Commission and Mayor is invested as well. The 60-plus neighbors who signed our petition asking for your support to affirm our appeals and save Sherman's Oak. Thank you.

Mayor Cason: Thank you very much.

Applause.

Mr. Lecuru: Both Bob Brennan and Jeff Shimonski are in attendance if you ask -- if you would like to ask them any questions.

Mayor Cason: OK, thank you.

Commissioner Keon: Thank you.

Mayor Cason: Craig.

Mr. Leen: Yes. At this point, it would appropriate for the appellee to speak and have the same amount of time as the appellant.

Mayor Cason: I think it would be better to move this sideways so the camera can --

Melissa Tapanes-Llahues: Good morning, Mayor, Vice Mayor, Commissioners. My name is Melissa Tapanes-Llahues. I'm a --

Mayor Cason: Go ahead. I think you need to be sworn in as well.

Mr. Leen: No, she doesn't need to be sworn in.

Mayor Cason: No? OK.

Mr. Leen: (UNINTELLIGIBLE) attorney.

Mayor Cason: OK, go ahead.

Ms. Tapanes-Llahues: Good afternoon.

Mr. Leen: Ms. Tapanes, do you have anyone who's going to be testifying?

Ms. Tapanes-Llahues: Yes.

Mr. Leen: That person should be sworn in. Mr. Clerk, would you -- could you do the squaring in?

Oath administered at this time.

Mr. Foeman: Thank you.

Ms. Tapanes-Llahues: Good morning, again, Mayor, Vice Mayor, Commissioners. My name is



Melissa Tapanes-Llahues. I'm a partner at the law firm of Bercow Radell & Fernandez. I'm here representing PalmCorp Development Group, the owner of three lots located at 1011 and 1015 Lisbon Avenue [sic]. I'm here joined by the owners, Gus Ribeaux, Carlos Tosca, William Vento; our arborist and horticulturist, Jeremy Tanzy (phonetic); our landscape architect, James Sakash (phonetic); and our civil engineer, Ken Gross. We're respectfully here requesting that you uphold your Board of Architects' approval of the proposed plan for a very reasonable 2300-square-foot home to be constructed at 1015 Lisbon Street, as well as the City's administration's approval of the two tree permits for 1011 and 1015 Lisbon Street. I believe that it's very clear from the appellant's presentation that property owner and the City administration had been unfairly demonize throughout this process, in an effort to sensationalize and politicize a very typical challenge with an all-urban environment, and Coral Gables is no different, and that challenge is the delicate balance between preserving the environment and allowing sensitive development to occur consistent with our shared commitment to protect property rights. While today's appeal may be focused on one property owner's plight to develop one reasonable single-family home, while protecting the three specimen-sized oak trees, this Commission's decision will have significant consequences for all property owners and investors in the City of Coral Gables. Developers will be discouraged from going through the City process, the due process that include the Board of Architects, as well as obtaining tree permits. They will be discouraged from creating what we propose to be a sustainable eco-friendly home, maintaining as much of the natural environment as possible to coexist with human development. Most importantly, in a city like Coral Gables, where most trees are lined by majestic oak trees and is very significant to the City's motto of City Beautiful, this -- any decision consistent with the appellant's point of view will be a dangerous precedent that impacts all property owners. It will impact property values. It will intact property owners' ability to enjoy their homes, construct additions, because every residential neighborhood, because of City code and City ordinances, have majestic oak trees as part of their tree line canopy. Within every residential street, there are sidewalks, there are roads, there are septic tanks, there are residential homes, there are businesses. This -- the appellant's point of view of requiring 100 feet, 50 feet, 25-foot radiuses along every one of those oak trees is simply unfathomable and contrary to basic property rights. As Mr. Leen mentioned, pursuant to Section 3-606 of the City code, this appeal shall be based on the record. It's not a de novo hearing, although some latitude has been



agreed upon so that the City administration would not be placed in this awkward position of making a decision, once again, that they have already done based on substantial competent evidence of being -- serving as a tree appeal board, and that is why we're here before you today. The appellant have attempted time and time again to taint the record, as well as public perception, by impeaching the character of the property owner with irrelevant and false information. I've distributed a packet to each one of you. That should be a part of your record. I will be referring to those exhibits, but I would say that those character impeachments, based on other properties -- and I will be submitting -- Gus, if you could please submit what's in the file folder that Mr. Chancey provided to the board. These are just an example of, you know, what was said -- if you can just put it into the record -- of what was said about other properties; that the property owner owns throughout Miami-Dade County and neighboring municipalities that are simply false. It's highly inappropriate in a quasi judicial hearing, and we ask that you disregard many of these statements said with such anger and just inappropriate and decorum.

Commissioner Quesada: Can I stop you for a second?

Ms. Tapanes-Llahues: Yes, sir.

Commissioner Quesada: Because I do everything electronically. Can you show me what the document referring to, the first page, what it looks like? Got it? Thank you.

Ms. Tapanes-Llahues: Thank you. I believe it's the last three digital files that were part of the record.

Commissioner Quesada: Got it. Thank you.

Ms. Tapanes-Llahues: I submit to you that the property owner and it's team of professionals have worked hand in hand with the City administration, the professional staff, and the Board of Architects to approve the most environmentally sensitive plan for this site as possible. All members of both the City and the property owners' teams are deeply committed to protecting the

three specimen oaks and conserving this community's tree canopy. In fact, the USDA's urban forestry regional director congratulated just moments ago this City for having the ordinances and the regulations that would really move forward and allow for a truly sustainable environment. All two of the tree permits were issued following numerous provisions and concessions made by the property owner. The goal was -- has always been to ensure the tree's viability. Unlike the exhibits presented to you by the applicants, our exhibits are, in fact, based on science, field study, and professional survey and technology. They don't have artistic latitude as many of the exhibits presented to you before were. Some background. The property's an assemblage of three overgrown lots oriented to east/west on Lisbon Street; 1011 is a double lot; lots 13 and 14 where residents was once located; 1015 is a standard 5,250-square-foot lot, lot 15, where three specimen oak trees are located. Lot 14 has a 50-foot frontage on Lisbon Street and 105 feet of depth. The subject three oak trees are 50 feet tall, two with a spread of 50 feet and one with a spread of 60 feet. The trees have co-dominant trunks at 7 to 8 feet in diameter, and the canopies of these three trees range between 2,000 and 2,800 square feet. The three oak trees have not been maintained in decades. They suffer from minor root damage and growth of vines and strangler (UNINTELLIGIBLE). So I mentioned this packet. As the letter dated in February 20, 2014 from James Thompkin to the property owner, the owner's intent has been very clear from the very beginning, and that is to preserve as many trees as possible, including the three specimen oak trees which are the subject of today's hearing. The pruning of these trees have been long overdue. They will not survive any natural storm with -- under the current conditions. It also is important to prune these trees because they are in violation of the City's required emergency clearance on public rights-of-ways [sic], so it's part of this tree permit application. What the City has requested is that we trim these limbs over the sidewalk because emergency vehicles must be able to trespass actually on Lisbon Street. It's also very important to note that prior to the demolition of that structure on lots 13 and 14, the owners secured and reported two buildings site determinations; one for lots 13 and 14, where the former residence was built; and one for lot 15, where three specimen oak trees are located. Contrary to what the appellant stated, tree surveys were submitted with each one of these building site determinations and recorded well before we began the Board of Architects' process. It's important to note that we were all aware, both the City administration, as well as the property owner, of the existence of these trees, our shared commitment to preserve

them and moving forward in the most respectful manner in order to achieve that shared goal. So again, each one of these building site determinations with the tree survey were approved and recorded back in the summer of 2013 concurrently with the property owner's purchase of the lots. It's also important to note that we have an extension granted through the state of Florida, as well as the City of Coral Gables, making these building site determinations legally binding till August of 2016. During the demolition of the former single-family residents on lots 13 and 14, the owner took all reasonable precautions to ensure the safety and lack of damage to any of the trees on the property. That's also very important to note. There has already been construction on this site in the form of demolition of the former resident, and again, there's been no damage to these trees. So upon reliance of these building site determinations, the owner attained a team of professionals, design professionals, and collaborated with City staff and the Board of Architects to approve a set of plans. Civil Engineer Ken Gross also designed an aerobic treatment unit septic system that reduces the size of the drain field, as well as secured a hardship variance through the state of Florida's Department of Health to allow the most minimal size drain field. Again, this drain field is only one foot from the setback, rather than the five feet that is required. By state law, all the actual septic tank and drain field must occur on the property, and that is one of the challenges of developing this site at -- with the trees and a challenge that we have really risen to the challenge in order to both develop a reasonable size home, as well as provide basic utilities, such as sewer. The agricultural and landscape consultant, Jeremy Chancey, worked with City arborist, as well as the director of Public Services, to prepare strenuous work plan both with preconstruction, during construction, and post construction monitoring. Mr. Chancey has over 26 years of experience; is a certified arborist, and one that does a lot of work both in the City of Coral Gables and throughout South Florida, the state and the world. Mr. Dannemiller and City staff -- I would say in their defense, because I feel that their reputation has been brought at issue here -- they're a fierce advocates of the City of Coral Gables' canopy as well as these trees in particular, and we really take offence to many of the statements made against both our professional arborist, as well as City staff. In your packet there's also documentation regarding the actual variance that was secured, so you can see the process. We've also included a CV (curriculum vitae) from Mr. Chancey so you can see his certifications, work experience, and publications. So I want to speak a little bit about the document entitled "Ground for Tree Permit Appeal," prepared by Ms. Freedmen and Mr.

Lecuru, that are based on many factual inconsistencies and misunderstandings, which Mr. Chancey's original report and work plan truly describe in detail and are in the record, and again, these documents are what was reviewed both on the field by your professional staff and approved. The approved work plan and the tree permits were issued in consideration of all ANSI A-300 standards, the City of Coral Gables City code, and the owner's desire to develop the property while preserving the trees, as well as both our arborist and the City's arborist shared decades of experience. Again, all this information was compiled by field study and professional survey technology. It's very important to note that Richard Brennan, of E. B. Arborist or Fairchild Tropical Gardens, never set foot on the property, and that's important because what you have before you is basically a cut and paste from a general document dealing with oak trees, not anything that's specific to this OK tree or this property. It's also important to note that Mr. Jeff Shimonski, who I respect very much as well, failed to do any root investigation, so he couldn't tell you like what's clear in the tree survey; and what your City staff has said, that this tree itself has significant damage that would benefit from the pruning proposed for both its limbs as well as the roots and as well as cleaning out its trunk that has numerous species that are really suffocating the three trees. For example, one thing that I think is very clear in those documents, not only they're being very general, but more importantly, neither gentleman utilized the accurate information regarding the location of the drain field or even the approved plans. The documents submitted by both Mr. Shimonski and Mr. Brennan were submitted in August and September where the tree permits, the final approved plan, and the septic tank variance were not included in those submittals. Mr. Brennan has recommended in his very general report a hundred-foot critical root zone and tree protection plan. The appellant mentioned that the hundred feet didn't come from anywhere, and it's very clear that it came from Mr. Brennan's report. A hundred-foot radius is simply unfathomable in urbanized metropolises like the City of Coral Gables. These unrestricted root zones and tree canopy zones that are shown in the exhibits are in public parks and other recreational, environmentally preserved area, not in the man-made environment, such as this private property lot. In fact, a hundred-foot critical zone area -- and that's what's shown here, and it is very accurate. It's not a hundred and fifty feet as the hundred -- as the radius gets wider, it becomes wider as well. And what this shows is that not only would hundred foot critical root zone prohibit the construction of this site altogether, but it would also prohibit the construction of

any construction or redevelopment or adaptive reuse of Ms. Friedman's and Mr. Lecuru's home at 1019 Lisbon, but also prohibit residences altogether, additions, renovations; any enjoyment of the private property for residences at 1025 Lisbon, 1003 Lisbon Street, 1002 Lisbon Street, 1014 Lisbon Street, 916 El Rado Street, 924 El Rado Street, as well as the demolished Sherman residence at 1011 Lisbon Street. It's very important to note the significance of the decision before you today. This appeal sets dangerous citywide precedent that will significantly impact property rights and property values for every property owner in the City of Coral Gables, resident and business owner alike. Throughout the City of Coral Gables, majestic oak trees line the streets and must coexist with human developments, such as sidewalks, streets, driveways, utilities, residences, businesses, public buildings within feet of one another. We've provided you with a document showing photographs of exactly what we mean, and it's something that Mr. Chancey put together. Looks like this. It's preserving trees in urban environment, and it's exactly what the fellow from the USDA mentioned earlier. It's a system of rules and regulations, education and understanding that allow development to occur side by side with environmental preservation. I want to have Mr. Chancey speak and detail a little bit more of the specific facts dealing with this lot and exactly what is proposed for construction.

Jeremy Chancey: Good morning, Commissioners. Thank you for having me. I'm Jeremy Chancey. I'm the certified arborist for PalmCorp, and I would like to point out to you what the evolution of the Tree Protection Plan and the phasing -- and it's very important that we understand that this is not a single approach that happens one day at one time. This happens over a period of time before construction, portions happen during construction, and portions happen after construction, which, during this whole process, monitoring has been ensured not only by PalmCorp but also by the City arborist would be present in any of these activities that are performed during this time frame. What I'd like to show you -- may I grab this mike?

Mayor Cason: Sure.

Mr. Chancey: This is a drawing that shows the both -- all three lots on Lisbon. This is lot 15. The lot line goes -- extends from here, from the west to the east. To the north is lot 13 and lot 14.

They're on here because what was incorporated in the work plan was to incorporate the other remaining tree on lots 13 and incorporate a tree protection zone that extends all the way through to lots 13 and 14, extending the areas that would have no construction activity, that would have no impacts from vehicles parking, et cetera. Currently, today, along the sidewalk which runs the length of Lisbon in front of all three lots is a chain link construction fence with protective sheeting on it, as you see in construction sites. That runs the entire length of the three lots. What we're showing here is we were provided with where the location of the single-family residents was to be built. There is a driveway that comes in from Lisbon Street here, the furthest distance from the three trees that are indicated by the yellow circles. These three trees are almost similar in size. They're growing together in a cluster, so you get some trees growing in one direction to the east, some trees growing to the west and to the southwest. So these trees are this position here, and what has been done is these are the septic tanks that are below the driveway. The driveway comes in. The driveway is placed on pavers. However, since the tanks have to be here, there will be preventive root pruning. And so how we approach this is the drain field, since it does not get installed until much later in construction activities, none of the roots system on this side or the west side of the tree would be affected until only the time that the drain field would need to be placed. So basically, what happens is along the front of the house or the single-family home is a root pruning performed. We measured out in the field from the very front or the face of the trunk, not from the center of the closest tree, 14 feet to the front of the house that we'll be making root pruning on the east side, then we came up to the (UNINTELLIGIBLE) over the entry level. We measured 11 feet to this closest point and then, as it went further, as you can see that the 21 feet where they entered the garage would be. Currently, the sidewalk is approximately 22 feet from the front of the closest tree on the sidewalk. So what would happen is there would be a phased approach, one with the pruning of the canopy, and the pruning of the canopy addresses over the street, which is a part of the clearance, as far as the maintenance that hasn't been performed to the tree. We would also be reducing somewhat that canopy over there to get the height necessary for the 14 foot, and then we would do some minor cleanup and minor reduction on this side of the tree, which is the side that would be later affected by the large land to be removed. In our work plan, we accounted for the large land, but all we need to remove that land would be at the time that the second floor of the building was constructed, so therefore, we gain time for the tree to continue to

restore new leaf growth. And as far as improving its growth, we've installed a temporary irrigation system that would be aboveground so we don't affect any roots, and the watering would go on on the street and we would be covering the -- underneath the street in this entire zone. The fencing would go here just to provide a five-foot access for the specifications that they can at least put a scaffolding up to do any type of painting or any type of (UNINTELLIGIBLE) or plaster work to the front. We've extended it back to the side yard over across to the adjacent lots and then here on this side where wherever this building is started or this single-family home is constructed, there will be a root pruning line here. And the reason why we do root pruning -- and we're not only protecting this tree, but the reason for this root pruning is so that if any single root would be out there, no machine can get the root and shatter it. We make clean cuts on the roots. In that way, that's (UNINTELLIGIBLE) sound, and so therefore, we don't have any shattering once the root's clean, and then we -- then the construction fencing so that no one can go inside of that tree protection zone.

Vice Mayor Kerdyk: I got a question for you, if that's OK? Are you their arborist? Have you been their arborist for several other projects?

Mr. Chancey: I have been on several other projects.

Vice Mayor Kerdyk: Sunset Oaks one of them?

Mr. Chancey: Which one?

Vice Mayor Kerdyk: Sunset Oaks one of them, the Ignacio project?

Mr. Chancey: I did not perform any work on that, other than I wrote an initial assessment when the lot was purchased.

Vice Mayor Kerdyk: OK. Let me just tell you for the record. I get a frantic call one evening after hours from a resident of Coral Gables. Now, this is not in the City of Coral Gables. And I

get frantic call; lady's crying on phone. So I get up, go over there. I didn't -- actually, I didn't even recognize that PalmCorp was the same one that had (UNINTELLIGIBLE) this. They were slaughtering the trees without permits. I mean, just like killing -- it was like unbelievable. I had never seen that. I had to call the police. Police came over. The guy that was in the backhoe, like, ran over the -- a fence to try to get away. It was like -- you know, it was a comedy show. It was like a sad comedy show. It was just like crazy. I got to tell you, I'm perplexed, because I saw what they did to this beautiful, beautiful piece of land and this -- you know, there's one thing to go ahead and do it, and you know, do it with responsibility. It's another just to go ahead and cold cut (UNINTELLIGIBLE), and that's what happened.

Ms. Tapanes-Llahues: If I may, because that obviously is part of the record.

Vice Mayor Kerdyk: Yeah, please, please.

Ms. Tapanes-Llahues: The developer of San Ignacio is a partner of PalmCorp. It's our RE, and it's part of -- if you -- and I have the complete file. They did obtain a tree permit application, and it was fully approved by Miami-Dade County, where the property lies. The issue was a very unfortunate situation with a landscape contractor that basically was a non-licensed contractor, and I'm sure for many residents in the City of Coral Gables, this is something that happens in construction unfortunately, and PalmCorp and its partner was as much of a victim of this situation as the community at large. What took place was an unlicensed landscape contractor was hired by PalmCorp's partner. We did have a tree permit. However --

Vice Mayor Kerdyk: Wait. Hold on, hold on, hold on. If my partner hires, I'm responsible, OK.

Ms. Tapanes-Llahues: Correct.

Vice Mayor Kerdyk: I have a lot of partnerships --



Ms. Tapanes-Llahues: Correct.

Vice Mayor Kerdyk: -- real estate partnerships.

Ms. Tapanes-Llahues: And I'm not making an excuse.

Vice Mayor Kerdyk: My partner does something, I'm responsible, OK.

Ms. Tapanes-Llahues: And this is not an excuse.

Vice Mayor Kerdyk: OK.

Ms. Tapanes-Llahues: This is not an excuse. This is the facts. And the facts are that PalmCorp and their partners took responsibility over that situation and rectified it by paying again into the mitigation.

Vice Mayor Kerdyk: OK.

Ms. Tapanes-Llahues: It's -- and again, what I would ask is that that is irrelevant. That's character testimony, which is irrelevant to the quasi-judicial hearing before you, and I would ask Mr. Leen to make any statements as to that. Again, those were the unfortunate facts of that case. I do have tree permits for that property to enter into the record as well.

Mr. Leen: I mean, my view of this is that that sort of evidence is admissible regarding the horticulturist to the extent that he's involved. You know, because ultimately, you're taking testimony here. So you can look at character evidence in relation to the testimony. However, the decision in this case should not be based on the decision in other cases.

Vice Mayor Kerdyk: No, of course not.

Mr. Leen: Each case has to stand on its own, but you know that, Mr. Vice Mayor.

Vice Mayor Kerdyk: I know that. Correct.

Mr. Leen: But it is character evidence, and that is relevant to that extent.

Ms. Tapanes-Llahues: Right. And this arborist, for the record, was not part of the (UNINTELLIGIBLE).

Vice Mayor Kerdyk: That's why I asked the question initially. And --

Commissioner Lago: Yeah. You know, I mean, I just want to add a few points, you know. I have a little bit of knowledge in regards to this business. When we -- when you -- it may -- we may not be allowed to discuss this issue on what -- well, first off, we can discuss the issue.

Mr. Leen: Well, you can discuss anything.

Commissioner Lago: But obviously, the relevant points deal with the project in the City of Coral Gables, but I have to agree with what the Vice Mayor is saying, to a certain extent. I am in the construction and design industry. You know, when I move in a direction of hiring a subcontractor for any project, the standard policies are always in effect. Number one, I need to see your insurance, general liability --

Ms. Tapanes-Llahues: If I may correct the record. I apologize, Commissioner Lago.

Commissioner Lago: Yeah.

Ms. Tapanes-Llahues: I'm told that there was a tree permit. The landscape contractor was in fact licensed and the trees that were removed were outside of the tree permit and done by mistake.

Commissioner Lago: OK, so --

Ms. Tapanes-Llahues: So I'm sorry. So I just wanted to clarify.

Commissioner Lago: OK. That's a different story. That's -- correct, and I appreciate that. Thank you. As long as you put that on the record, that there was -- a mistake was made and, you know, maybe it was a little bit aggressive in the tree removal, but I just wanted to make sure that there is processes in place when you hire a contractor or an engineer --

Mr. Leen: Definitely.

Commissioner Lago: -- or an architect.

Mr. Leen: Mr. Mayor --

Commissioner Lago: And we're (UNINTELLIGIBLE) --

Mr. Leen: -- here's how I would look at it.

Commissioner Lago: -- achieving a certain goal.

Mr. Leen: Yes. Thank you. I'm sorry, Commissioner. Yes. But here's how I would look at it. The -- you know specifically what they're asking you to do here, so -- and that's really what's before you. Now, to the extent they're asking for leeway or they don't want to be extremely specific what they're going to do, you can, you know, determine how much you want to essentially trust them based on what they've done in the past, but ultimately the decision whether to approve this or not, the appeal, does need to be based on the record in this proceeding.

Mayor Cason: Let me ask you, how much more time? You've got about three or four minutes we've interrupted you. How much more do you need to conclude?

Ms. Tapanes-Llahues: Just a few minutes.

Mayor Cason: OK. Could you conclude, and then we'll -- want to have some public testimony and then some discussion.

Commissioner Quesada: Can I ask a question to the arborist?

Unidentified Speaker: Yes, sir.

Commissioner Quesada: I think -- grab the portable mike and come back to this diagram here. I'm glad you walked me through it, because when I looked at it before today, I was a little confused. OK, so then you would be pruning -- excuse me if I'm using the correct terminology. You would be cutting the roots. The closest to the trees would be on the south side, eight -- I'm looking at eight feet six inches, and that's right where -- in front of where you said the drain field would be.

Unidentified Speaker: (UNINTELLIGIBLE) when the drain field goes in, it would be -- the closest interface would be 8.6 inches because they require a barrier so that the roots don't go back into that drain field. So that's the closest point to this particular (UNINTELLIGIBLE).

Commissioner Quesada: Now, in your experience, your professional opinion, is this considered -- we discussed earlier with Mr. Dannemiller. I always mispronounce your last name. I apologize. Would you consider this in your professional opinion a major surgery, minor surgery? I mean --

Unidentified Speaker: This (UNINTELLIGIBLE) --

Commissioner Quesada: Put it in perspective for me. I don't know much about trees.

Unidentified Speaker: This portion here would be a major surgery.

Commissioner Quesada: It is.

Unidentified Speaker: And what we did is when we uncovered the roots that -- the surface roots at the time, we were able to discover that we found one large root that we entered in our work plan that we would be addressing which has an extensive rod. The other large root would (UNINTELLIGIBLE)

Commissioner Quesada: That an existing -- currently has existing rods.

Unidentified Speaker: Yes, more than halfway through.

Commissioner Quesada: OK. So explain something to my uneducated mind when it comes to trees here. When you have a rotted root, is it normal course to remove it?

Unidentified Speaker: No, not necessarily move it.

Commissioner Quesada: Or do you leave it?

Unidentified Speaker: Usually, you can leave it. You can clean it. We typically just leave it alone.

Commissioner Quesada: OK.

Unidentified Speaker: But the -- I -- the key is are we affecting that -- a lot of new -- the nutrient in water supply system to the tree itself. Are we affecting it? That root was not providing the same type of vascular processes to the tree. And what it does is it means it puts roots somewhere else to compensate for that. We found a much larger root over on this portion that would be in the protection area that was -- most likely would be providing some of that additional work. The whole process here we're dealing with some supersonic air knives, which are a process that we use

today.

Commissioner Quesada: What you call it? Supersonic --

Unidentified Speaker: Supersonic -- it's compressed air.

Commissioner Quesada: OK.

Unidentified Speaker: Basically, to evacuate the soil so you can see the roots and then you can identify where the best cuts are. So that's --

Commissioner Quesada: Got it.

Unidentified Speaker: -- (UNINTELLIGIBLE) key so that you can see this whole aerial before you make any types whatsoever. It's not arbitrary. It's like you said, a surgery.

Commissioner Quesada: OK.

Unidentified Speaker: And that's what we would be doing here.

Commissioner Quesada: OK.

Commissioner Keon: Yeah. Could you show me again -- I -- because of the way you were standing, it was hard to see that.

Unidentified Speaker: Can you see it now?

Commissioner Keon: You're -- yes. Your protection zone and how close we are.

Unidentified Speaker: Yes, the protection zone is this dotted line that goes

Commissioner Keon: Right.

Unidentified Speaker: -- along the existing sidewalk, comes up towards the tree, comes across in front of trees and comes along the edge of the sidewalk. Goes along the very front within five feet of the house and then goes between the houses to the back -- to the side yard; comes along the other proposed house, which is approximately -- oh, about 21 feet to this line. It's 26 feet to the tree, but they've asked for five feet just for circulation.

Commissioner Keon: OK. So what you're telling me is to one side is a 25-foot distance to the protection zone. Now, going up, what direction is that? I'm going --

Unidentified Speaker: This way.

Commissioner Keon: Yeah. I'm going north --

Unidentified Speaker: This -- to the east.

Commissioner Keon: I'm going to the east?

Unidentified Speaker: To the east.

Commissioner Keon: OK.

Unidentified Speaker: (UNINTELLIGIBLE)

Commissioner Keon: So to the east, how much protection do you have?

Unidentified Speaker: This is 14 feet.

Commissioner Keon: Fourteen feet?

Unidentified Speaker: Yes.

Commissioner Keon: And --

Unidentified Speaker: This was 11.

Commissioner Keon: To the north is -- I'm sorry. To the -- so you're 14 feet on the top -- on the side here --

Unidentified Speaker: Eleven.

Commissioner Keon: Eleven. And then below?

Unidentified Speaker: This one here, which is another tree, is eight feet.

Commissioner Keon: Is eight feet

Unidentified Speaker: Eight and a half feet.

Commissioner Keon: OK. So eight -- you have eight -- between 8, 10, and 11 on three sides and then 20-some feet on one side?

Unidentified Speaker: Eight, eleven, fourteen, and then it's over twenty on the opposite side.

Commissioner Keon: Eight, eleven, fourteen. OK.

Unidentified Speaker: And since they're three individual separate trees, it's hard to say --



Commissioner Keon: Right. You know what, those trees are so intermingled that they have -- it -- don't their roots at one point all start to merge together and they have a single --?

Unidentified Speaker: Yea, they're -- it's a network.

Commissioner Keon: It's a single vascular system almost?

Unidentified Speaker: They're a network that we have --

Commissioner Keon: To your (UNINTELLIGIBLE).

Unidentified Speaker: Yes.

Commissioner Keon: So you couldn't separate them anyways.

Unidentified Speaker: No, but --

Commissioner Keon: So you could never know; is that right?

Unidentified Speaker: That's why we have to excavate the (UNINTELLIGIBLE) now so we can see that. And to -- I'm sorry. What did you ask me to address? Oh, yes, and that's very important to know that, as we identify the location, we've identified the surface roots. You know, we came out and we scrape away some very surface -- subliminal surface leaflet or whatnot to see the roots. We found very limited or no roots back here. Now, we will find some more roots as we excavate and there will be shallow (UNINTELLIGIBLE) the top 12 by 14 or 18 inches and we'll find that. Also characteristics of your soils here in Dade County, you have these pockets where the coral rock have left pockets. So we're anticipating finding pockets, whether it be additional roots that will have rooted in these pockets, which we found typically in the past. So we're anticipating finding more roots within here that -- because it's up on a higher plane.

Commissioner Keon: OK.

Unidentified Speaker: (UNINTELLIGIBLE) has been grown up. So what --

Mayor Cason: So you're saying that as you find them, you're going to cut them?

Unidentified Speaker: No. We find them and then we find the right -- the appropriate spot to cut (UNINTELLIGIBLE).

Mayor Cason: But you're going to cut it -- see it --

Commissioner Keon: They're cutting --

Unidentified Speaker: We'll cut the roots, yes.

Commissioner Keon: They're going to cut the roots at those points.

Mayor Cason: You're going to cut them at those spots? Well, you -- you'll take the dirt away and you'll see there's a big one or a small one, but you're going to cut them all at any rate.

Unidentified Speaker: Well, yes, we will cut them.

Mayor Cason: You can't not cut a root that -- I mean, there's no way you can go around it, right, with the foundation and anything else?

Unidentified Speaker: No, not with the founda -- not on these -- not on these three sides.

Commissioner Keon: (UNINTELLIGIBLE). OK.

Mayor Cason: OK.

Commissioner Keon: OK. I'm sorry, Frank. I just wanted clarification so I understood --

Commissioner Quesada: No. I was done.

Commissioner Keon: -- what you were saying. Are you done?

Commissioner Quesada: Yeah, I was done. Yeah.

Commissioner Keon: OK. Thank you.

Ms. Tapanes-Llahues: (UNINTELLIGIBLE) in your packet.

Mayor Cason: Yeah.

Commissioner Keon: Yeah, it was. I want --

Mayor Cason: We want to continue. If you -- gentlemen, if you're going to speak, you'll have to be sworn in.

Unidentified Speaker: Yes, sir.

Mr. Foeman: Would you raise your right hand, please?

Ms. Tapanes-Llahues: He wanted to respond to Mr. Vice Mayor.

Vice Mayor Kerdyk: Go ahead. I had some questions for you, too, anyway.

Mr. Foeman: Would you raise your right hand?

Oath given at this time.

Mr. Tosca: I just want to take a moment --

Mr. Leen: If you could state your name for the record.

Mr. Tosca: Yeah, my name is Carlos Tosca. I'm a resident of Coral Gables. I've been a resident of Coral Gables since 1981, pretty much my entire life, and I'm a partner with -- along with Gus at PalmCorp. I feel like a lot of time here has been spent kind of attacking us, which is not necessarily relevant and not always accurate. To be very brief, since time is short, and we've all been here a long time, at San Ignacio, we had a permit to remove whatever trees needed to be removed to build the houses. There's 60 trees. We had a licensed contractor. Yes, they made a mistake and cut three trees, which of course, we're responsible for, as any business owner is from mistakes made on their watch. But we didn't get any benefit from the loss of these trees. They weren't in the way of the houses. It's not like a mistake that we made on purpose. The trees were a benefit to us. We like them. They were in the yards. We had to pay the fine and they need to replace them because you need to plant trees in a pretty house. So there was no benefit to it. This was not a look the other way. We had what we needed. We had enough appropriate tree removal permit in order to build the houses. So unlike, you know, the Commissioner said, there was no nighttime cutting or anything like that. Their -- had given a permit. (UNINTELLIGIBLE).

Vice Mayor Kerdyk: I'd like a-- OK, let's just move on there, because I'm not making my decision on that. But I will tell you what I said is what -- let me ask you --

Mr. Tosca: (UNINTELLIGIBLE) chance to respond.

Vice Mayor Kerdyk: Let's move to the site, OK. Let's forget it, OK. Let me ask you a --

Mr. Tosca: (UNINTELLIGIBLE) facts are clear.

Vice Mayor Kerdyk: OK. Can I ask you a question about the sites, please?

Mr. Tosca: Absolutely, sir.

Vice Mayor Kerdyk: Thank you. Just from a -- I just want to figure out -- you have a 50-foot lot that we're talking about now, right?

Mr. Tosca: Yes.

Vice Mayor Kerdyk: And you have a -- is it a hundred feet, the other -- the lot next to it, the one that you developed, a hundred feet?

Mr. Tosca: Yes.

Vice Mayor Kerdyk: OK. Knowing the area down there and selling property down there quite a bit, most lots there are 50 feet. I mean, I --

Mr. Tosca: Yes.

Vice Mayor Kerdyk: -- haven't done a survey --

Mr. Tosca: Yes.

Vice Mayor Kerdyk: -- but I will tell you (UNINTELLIGIBLE) 50 feet. Just from a economical perspective, building a building -- and I haven't even seen the site, how big the residential house would be there, but I suspect it would be 4,000, 5 -- 4,500 --

Mr. Tosca: On the larger lot?

Vice Mayor Kerdyk: On the larger lot, yeah.

Mr. Tosca: Yeah.

Vice Mayor Kerdyk: It's 4,500 square feet, maybe?

Mr. Tosca: I think a little under. The FAR in --

Vice Mayor Kerdyk: Yeah.

Mr. Tosca: -- Coral Gables is pretty tight.

Vice Mayor Kerdyk: OK. All right. Why not split them into two 75-foot lots, where you would add 25 feet to the one lot, just from an economical --

Mr. Tosca: Sure.

Vice Mayor Kerdyk: -- perspective; forget --

Mr. Tosca: Absolutely.

Vice Mayor Kerdyk: -- everything else. Just from a --

Mr. Tosca: Well, first off, the lot split process in the City of Coral Gables is not very ease.

Vice Mayor Kerdyk: No, I agree.

Mr. Tosca: We were able to get a -- we really have three lots. We initially thought we could build three houses, but because of the ordinance --

Vice Mayor Kerdyk: Right.

Mr. Tosca: -- (UNINTELLIGIBLE) property was built, so the two lots stayed as one lot and this stayed as another lot. We have looked at other alternatives in terms of flipping the lot --

Vice Mayor Kerdyk: Yeah.

Mr. Tosca: -- and things like that. The bottom line is what they want, you can't do; you can't not touch the tree. And their argument is anything you do to touch the tree is going to kill the tree, which forces everything into a tree removal permit.

Mayor Cason: Are you saying that no matter what you do in putting lots together between a two lots or one giant lot, that you could not build a home or two homes that wouldn't be farther than 25 feet from the roots? There's no way you could possibly build?

Mr. Tosca: (UNINTELLIGIBLE) viable home by doing that type of --

Vice Mayor Kerdyk: (UNINTELLIGIBLE) even on a 75-foot lot.

Mr. Tosca: No, because on a 75-foot lot, you have the -- you know, seven-and-a-half foot setbacks on either side. You have to build a little bit bigger home now because that's --

Vice Mayor Kerdyk: Right.

Mr. Tosca: (UNINTELLIGIBLE) if you don't, cost you more. You got to build a little bit bigger house and then (UNINTELLIGIBLE).

Mayor Cason: Even with a variance there?

Mr. Tosca: (UNINTELLIGIBLE) so we have to do septic tank, we have to do drain field, you know. And modern houses have pools. I mean (UNINTELLIGIBLE).

Mayor Cason: Are you saying that even with variances and even with -- just got a variance in terms of a setback for the septic field, that there is no way that you could build a home --

Mr. Tosca: Not to that satisfaction. Not to their satisfaction. Actually, not much better than we are right now, if at all. I'm not really -- all the schematics in front of me, but we did look at --

Vice Mayor Kerdyk: Remodel.

Mr. Tosca: -- flipping it over back, and that's why we told (UNINTELLIGIBLE) if you guys want to come up with a plan -- I mean, we tried. I mean, think about that. Look at the lot. Twenty-five feet. Don't touch anything for 25 feet. It's very simple. You can't do it. You can't build any viable house there and not touch the tree. So what's the alternative? People are going to come back with tree removal permits. Yes, all our tree trimming is not perfect, but at least you're not cutting them down. We try to save them. I live in a house with an oak tree. I live right behind an oak tree, and there's a thousand-gallon propane tank nearby and the tree is happy, and I have my oak tree. I look at it every day. My kids have a swing and I sit in the shade. Like it's the alternative to saying don't touch an oak tree. Unfortunately, in an urban city like this, it's to remove them, and we want to remove them.

Commissioner Keon: But I think --

Mr. Tosca: So sometimes you end up with (UNINTELLIGIBLE) on purpose.

Commissioner Keon: -- it's important that you understand that when you buy property in this City, there are existing ordinances both in our zoning code and in our City code that require the protection of specimen trees, and it specifically states they are not to be removed. So you don't remove specimen trees in the City of Coral Gables. And I -- and you know, what you do in Dade County, you do under the rules and the regulations of Dade County. What you do in the City of Miami, you do under the regulations of the City of Miami. I think in the City of Coral Gables, it is



made abundantly clear to everyone the importance of -- and the viability of our canopy and our trees. So those are things that are very clearly stated when you come to do work in the City, and it is an issue that you have to take into consideration on, you know, your return on your investment when you do business here in the City. So I -- you know, and I'm sure you're aware of that. I'm sure you're aware of that, so.

Mr. Tosca: I understand that completely, and I'm not an attorney. The City has an attorney. You have an attorney.

Commissioner Keon: OK.

Mr. Tosca: I'm sure you guys could give a very quick opinion on that.

Commissioner Keon: Yes. We won't.

Mr. Tosca: If the tree removal ordinance renders a lot unbuildable, I think that's a situation where the City would probably have to give you a tree removal permit, and that's what would happen here. If you tried to apply that ordinance, my building site (UNINTELLIGIBLE) letter would be irrelevant. I would have an unbuildable lot. The person that's sold it to me, which was their inheritance for their kid, would have a lot with no value. I own a lot that's not buildable. I could tell you -- and those of you in real estate know -- they're not worth anything. They're just property taxes and cut the grass and --

Commissioner Keon: Right.

Mr. Tosca: -- and they're not worth anything. It has its value. The people bought that land a long time ago and it has value for a reason, and making that true unremovable [sic] and untrimmable [sic] makes the lot invaluable and affects a lot of people in a lot of ways, which they're not here to speak for themselves because they're not here for this tree. But I'm sure the line would be more than 60 people of --

Vice Mayor Kerdyk: Did you think about that before you purchased that --?

Mr. Tosca: Yes, absolutely. We had the light -- we had the lot determination ahead of time.

Vice Mayor Kerdyk: Yeah, but lot determination --

Mr. Tosca: (UNINTELLIGIBLE).

Vice Mayor Kerdyk: -- says you can build. And what you're saying is that --

Mr. Tosca: We want (UNINTELLIGIBLE).

Commissioner Keon: I'm telling you, you can build there, but what you can build there is another story.

Mr. Tosca: (UNINTELLIGIBLE) we designed the house behind the tree. We thought the tree was a bluff. It was beautiful.

Ms. Tapanes-Llahues: What is clear is that there is --

Commissioner Keon: Let me finish.

Ms. Tapanes-Llahues: We understand that there are City regulations and City ordinances meant to preserve trees. Your City administration agrees that this tree permit complies with all City rules and regulations.

Commissioner Keon: OK.

Ms. Tapanes-Llahues: We are not saying we're removing these trees. We're preserving them.

Commissioner Keon: OK. We'll get them to -- we'll ask -- you know, we'll have a lot of conversation with our staff too as to how they arrived at the decisions they did and why.

Vice Mayor Kerdyk: I do think that -- I mean, we'll see where this goes, but I would like, at some point, maybe you to reconsider and look at the 75-foot option and see what kind of house that you can build in that model there and possibly -- because if you add the two together, you add the 4,000 or 4,500 and 2500 or 6500, you divide it by two, house is 3,000 apiece, 3200 apiece. Again, having a little -- you know, a little experience in the sales market, you'd rather have a 3000-square-foot house there than a 4,500-square-foot house in that little (UNINTELLIGIBLE) there.

Mr. Tosca: From his perspective.

Vice Mayor Kerdyk: Yeah.

Mayor Cason: And it seems to me they --

Mr. Tosca: It makes better marketing sense.

Mayor Cason: Yeah. What you said about -- yes, it is difficult to split lots, put lots back together to get variances, but we can work with a developer. And this is a unique situation. We've got a tree that's probably one of the oldest oak trees in Coral Gables. We love trees. We don't want to take a risk that that tree will die from the root pruning. It seems to me that you could build a home if we work with your -- you worked with us.

Commissioner Keon: Right. Well, in that type of a tree.

Mayor Cason: That would -- that you'd be able to build a home or two, as well as stay 25 feet or something like that away from the roots. It seems like, I mean, the roots are the most critical in

this, rather than the trimming over the sidewalks.

Mr. Leen: Mr. Mayor, in order to preserve the tree, you have a lot of remedial authority. You can -- for example, the code itself says that a hardship for purposes of a variance is --

Commissioner Keon: It grants you (UNINTELLIGIBLE) variance.

Mr. Leen: -- preserving the tree. It also says -- so you can give setback relief, for example. Also, this house is 2,488 -- pardon me -- 2,482 square feet. That's my understanding, the one being proposed. The maximum house the 2,488 square feet on that size lot. So you know, there is a little bit of a disconnect here between -- I don't think anyone here is saying -- and I've given an unequivocal opinion, very strong opinion that we have to allow a house to be built on that lot.

Commissioner Keon: Yeah.

Mr. Leen: If it's a buildable lot, we have to allow a house to be built. Now, it has to be an economically viable house. It has to be a reasonable house. Doesn't necessarily have to be at the maximum square footage; doesn't necessarily have to have all the amenities of a house. You know, there's -- you can -- I'm not saying --

Commissioner Keon: It doesn't have to have a pool.

Mr. Leen: (UNINTELLIGIBLE) it doesn't have to have a pool. It didn't have to -- it could also be pushed back on the property. Also, we've offered the City has indicated and we will work with the applicant to, for example, switch the lots so that one is a double and one is a single. Right now the single lot's the one with the tree, but that could become the double lot. Also, we've offered to split them in an even way. So all of these things are, in my view within your authority. Ultimately, your goal and what the law requires is not to put an inordinate burden on them. It doesn't mean you can't put any burden on them. And in fact, you can put a reasonable burden on them to preserve the tree.

Mayor Cason: Let me ask this. Do you have any more points to make?

Ms. Tapanes-Llahues: Yes, I do.

Commissioner Keon: Can we let her finish?

Mayor Cason: Finish.

Ms. Tapanes-Llahues: No. I must conclude with -- I think with Mr. -- what Mr. Leen is saying. The City's approval of this appeal and denial of the approved tree permit would disproportionately and inordinately burden this property owner. Tree permits and tree removal permits are indeed approved in the City of Coral Gables. This tree permit was approved to preserve this tree and the work plans were approved through numerous revisions in order to fully get everybody as comfortable as possible, that these trees will indeed be preserved. There is no guarantee that these trees could live if there's a storm, whether it is now the fact that it hasn't been trimmed or pruned in decades or after. Because of life, there are no guarantees. And we live. It's one close -- one day closer to dying. That is true with humans and it's true with trees. So it's very important to realize that what we're talking about here is a Bert J. Harris claim. And the term inordinately burden as defined by the Bert J. Harris claim includes actions by governmental entities, such as this Commission, that permanently restrict or limit the use of real property, such that the property owner is unable to obtain its investment-backed reasonable expectations. Reasonable investment-backed expectations is key. It would not be reasonable for an investor to purchase this lot and think that they could subdivide, obtain conditional use permits, obtain variances through this City Commission, with an active neighborhood to actually do anything other than what will be permitted in building one house on this one lot that has received a visible site determination from this City. It would not be reasonable to think that by preserving this tree and having an approved tree permit by the City administration working for months to get to this point, that those kinds of situations and possibilities, those are all unreasonable to think. We have one lot with three trees. We're doing our very best to preserve those trees. We've worked with your

City administration to ensure the best possible work plan to allow for the preservation of these three trees. It's very important that this case be thought of as just -- not just this one case. There are three permits issued by the City of Coral Gables every single day. And the ability for property owners to obtain their reasonable investment backed expectations based on the permitted use of the property, based on the due process of tree permit approvals is very important. These reasonable investment backed expectations -- and we've submitted the last few pages of our packet -- show (UNINTELLIGIBLE) data, as well as our widely accepted performas that show that 2400 square feet with a pool is reasonable for not only this block but also this one mile radius of this area. A twenty-four hundred square foot home on a five thousand square foot lot or fifty-two hundred square foot lot is in fact reasonable. The (UNINTELLIGIBLE) printout shows that all homes built after 2010 -- and it's based on lot size -- it shows numbers two, three and four are all under 6,000 square feet and all between 21,000 square feet and 2,500 square feet in size. So again, this 2400 square foot home is a reasonable size. A small pool is again reasonable. Thinking that we would do a lot split, obtain variances, that is something that while it is the will of this Commission perhaps, it's not something that is reasonable, and these property owners have expended significant resources, both design professionals, now attorneys, permit fees, design plans that have been approved by both the Board of Architects, as well as the City administration as part of these tree permits, and all that is what's before you today. There is reasonableness to this process, and we urge you to uphold your City staff's opinion and your Board of Architects determination on the reasonableness of the proposed plans. Thank you.

Vice Mayor Kerdyk: I just want to point out to you again data that you provided. You make a good point. I mean, the 2500 square feet in that location, 2,000 -- 2500 square feet, but you also -- if you look at that data, there's no 4,000-square-foot homes in that location. They're 4,500-square-foot lots. They're all to the -- to the further -- to the south of that location there. So again, my 75-foot thought process where you have two 3,000-square-foot houses is much more reasonable for the applicant himself. I mean, I'll tell you, from a marketing perspective, it's much better to have houses in that size at one 4,500-square-foot house in the north Gables area. We love the north Gables area, but I'm going to tell you, it's not -- the market in that location.

Ms. Tapanes-Llahues: And we don't disagree with you. I think the issue is what is reasonable as far as a process to think that we would get a lot split in this area. That's what is maybe unreasonable. Thank you.

Mayor Cason: All right. We're going to -- I'm going to suggestion we take a 15-minute break and we'll come back, listen to the public, and have a discussion.

Commissioner Keon: Can I ask one question of the City? Have we ever granted a tree removal permit for a specimen tree?

Mr. Leen: I would have to defer that.

Commissioner Keon: Does anyone know that? Have we ever --

Commissioner Quesada: Let them look it up during the break.

Ms. Olazabal: Yeah, (UNINTELLIGIBLE) look it up.

Commissioner Keon: Would you look it during the break --

Ms. Olazabal: Yeah.

Commissioner Keon: -- see if we have ever done that? Thank you.

Later...

Mayor Cason: All right, we've -- we're going to recommence. We're going to recommence. We have a number of speaker cards. I would ask people -- I think we've heard the arguments on both sides. We want to get into our discussion and hopefully find a solution that meets everyone's needs, so I'd ask you to keep your comments short and to the point. If there's anything we haven't

heard already -- because we know the neighbors that are here want to save the tree. So other than telling us to save the tree, either say that you -- your arguments have already been made or if you have something new, so that we can get on and --

Commissioner Quesada: Before we get to the speaker cards, if I can just sort of recap what I did during the break.

Mayor Cason: Yeah.

Vice Mayor Kerdyk: And I think that we should wait for Ms. Tapanes to come back into the room. Ms. Tapanes, if you can approach the bench. Come on down.

Vice Mayor Kerdyk: We're waiting for our City Attorney gets back.

Mayor Cason: And wait -- we're waiting for --

Vice Mayor Kerdyk: City Attorney.

Mayor Cason: -- City Attorney to come back.

Vice Mayor Kerdyk: Yes.

Mayor Cason: We're waiting for Craig Leen to come back.

Commissioner Quesada: We don't need Craig for the question I'm going to ask her.

Vice Mayor Kerdyk: Oh, OK.

Mayor Cason: Go ahead.



Commissioner Quesada: Just real quick while we're waiting. So we had a brief discussion. I also met with the -- some of the residents, the residents who spoke. How would you and your client feel about the lots with idea that -- with -- the Vice Mayor brought up? Is that out of the question altogether or not? You indicated no, and then I heard maybe yes, so I just want to be clear so we have it on the record. Yes or no?

Mayor Cason: Or with conditions.

Commissioner Quesada: And considering that if it were to move forward -- I mean, obviously, we don't have a consensus up here; we haven't voted on it. But at least, I would make a motion to expedite the matter, any kind of approvals or permits or whatever process needs to be -- needs to go through. At the same time, you know, there would -- and I spoke to the residents who spoke, that -- you know, that 25-foot radius which they, in fact -- if it's possible -- and I want to know if it's possible if we can sort of -- I'm trying to bridge the gap here. I'm trying to see if there's a consensus so that everyone can win somewhat.

Ms. Tapanes-Llahues: And we're -- and we've have been eager to reach a consensus and have been unable to on our own.

Commissioner Quesada: So should we even -- should I be considered thinking about it? Is it dead in the water with you guys or not?

Ms. Tapanes-Llahues: We think it would be highly unreasonable. We're confident that the tree will be preserved based on, again, the work plan that our arborist has prepared and the City has approved. The issue with a replat, which would be required -- that's approximately one-year process through Miami-Dade County where the City has limited jurisdiction. It is a costly process, and we're also required the redesign of, you know, architecture fees, engineering fee, so it's a significant undertaking. So if that is the only option on the table, then there -- we need to have some settlement discussions, because we believe that that is unreasonable altogether. There is evidence and I'm -- Commissioner Keon, there have been specimen trees removed in the recent

past.

Commissioner Keon: One.

Ms. Tapanes-Llahues: In the recent past. I know of one, and I'm sure there's been others in the past. But again, the -- what's most important is that the 25-foot radius is what is undoable because of the size of this lot, regardless of whether you flip the lots, it basically -- that setback, that radius into the property is so deep that it would render either one of the -- the new lots without a backyard, which would make it a significant inordinate burden to this property owner, especially --

Commissioner Quesada: OK.

Ms. Tapanes-Llahues: -- one we're complying with City code to move forward with the approved work plan.

Commissioner Quesada: OK.

Ms. Tapanes-Llahues: We would -- we're willing to agree to arborist inspections on a regular basis. Again, all those things have been part of what we have discussed with the City. We just think that the 25-foot radius for the entire property, it's just not based on science. It's not based on facts. This is based on emotions and political sensationalism. Again, we discussed that one root where our arborist testified that the one root which impacts the drain field, which is the closest at eight and a half feet, between the face of the nearest tree and the drain field, that in fact that root is already rotten. It has limited capacity to provide nutrients to the trees and the root that is making up for that, you could imagine, when one vein has a clog, you're -- the rest of your body will make up for it. The root that is abutting it is within a very significant radius over the 25-foot radius. So again, we think that based on science, which is what our arborist and the City has been in charge of looking at, that this is a doable work plan that would ensure the preservation of these three trees. Everything else that you've been hearing, unfortunately, it's just not the facts, and that's our

position.

Commissioner Quesada: OK. Thank you.

Mayor Cason: Yeah, thank you. All right, let's -- Robert Brennan.

Robert Brennan: Yes, sir. I am here on my own behalf. I am not representing Fairchild Tropical Botanic Garden, although I am the arborist there by day. I'm a member of the American Society of Consulting Arborists. I am the president of the Tropical Arborist Guild. Do you have any specific questions?

Commissioner Quesada: I do.

Mr. Brennan: Yes, sir.

Commissioner Lago: First, Mr. Brennan, thank you for being here. I had the pleasure of speaking with Mr. Beau, who mentioned that you took actually a day off from work to be here, so I wanted to commend you for that. My question is based on the second to last page on the letter that you provided on September 2, 2014, in reference to the Commission and Mayor Cason, in regards to the evaluation of property, the oaks located 1015 Lisbon Street. My question is based on the statement that you make at the bottom. "If the construction team is allowed to dig where the stakes are, this or these trees will die a very long and slow death." Can you please give me a little bit of information in regards to why you are a firm believer that if this were to continue, this -- the proposed plan will be enacted, that the tree would suffer?

Mr. Brennan: I'm a member of the International Society of Arboriculture. The -- we abide by the American National Standards Institute of standards. There are nine books that go from pruning to construction on how to protect trees. Based on those rules and my experience of working at construction sites, I found that over time when trees -- substantial roots are removed, it causes canopy death over time. It's not something that shows up before the check clears. It takes

several years, sometimes up to ten years before they start to show. And that's -- does that answer your question?

Commissioner Lago: Yes. Yes, it does to a certain extent. But I have another question --

Mr. Brennan: Sure.

Commissioner Lago: -- for the record.

Mayor Cason: More specifically, what is your professional judgment cutting roots, however you want to cut them, however precisely eight, seven, fourteen feet?

Mr. Brennan: I would not recommend that on any level. To have a tree protection zone or a root protection zone is based on a very specific formula that is based on one inch of trunk diameter for every foot of root ball diameter. So if we have the radius of the trunk -- and these are about 10 feet, so you should have a diameter of about 100 feet, OK, or a radius of 50 feet. The sidewalk is 22 feet from the trunks. So if we use a 25-foot radius, you're still going to be doing damage and if the -- if you have heavy equipment that's going to be going in and out and you don't root prune, then you will be crushing and those roots will rot back into the tree, which is why we do the root pruning.

Commissioner Lago: You covered some of the question -- my next question which was based on -- not being a tree expert myself, I had -- there was a statement that was made in regards to canopy side in relation to the root canopy, roots side, correct?

Mr. Brennan: Right.

Commissioner Lago: Can you give me a little explanation in regards to -- let's say the canopy is 120 by 94, which was the figure that was given by the gentleman in the front row. Can you explain to me if that will coordinate also into the root size, the circumference of the root size?

Mr. Brennan: The root system generally goes to outside of where the leaf drop edge, the outer edge of the tree. Rain hits the top of the tree, it runs down and rains to the outside of the tree. That's where you're going to find a good part of your roots. Obviously, along Lisbon Street, you have asphalt; you're not going to find many roots under the asphalt. You're not going to find many under the sidewalk. That's where they go deeper to gain their moisture and nutrients to protect the tree. When you cut very close to the tree, 8, 10, 12, 15 feet, you're going to be cutting roots that are of substantial diameter and it'll be a problem, and you're going to have five to receive roots for each one of these trees, and there's three.

Commissioner Lago: So if you could provide us with a recommendation in reference to the radius, that would be the optimum radius that would be the most beneficial for this tree, what would you recommend?

Mr. Brennan: If we're recommending what's beneficial for the tree, I would say a minimum of 50 feet.

Commissioner Lago: Fifty feet from the trunk?

Mr. Brennan: From the trunk of the tree.

Commissioner Lago: OK. And this is my final question. Again, my question is not geared to --

Mr. Brennan: And that is no change in grade, no equipment storage, no driving, no picnicking, no during construction, no activity, a couple of layers of -- a couple of inches of good mulch within that diameter.

Commissioner Lago: Let me ask you just one last question. In my industry, it's pretty cut and dry. You know, you know --

Mr. Brennan: OK.

Commissioner Lago: -- you know what -- to build something, it's "X," you know; to design something, it's "Y." The load is something you can't surpass or in things if you want to achieve a certain goal.

Mr. Brennan: Sure.

Commissioner Lago: What I'm confused about not being an expert in regards to trees is you see some individuals that like yourself, like the gentleman who spoke before who's representing the developer, like the gentleman who works with City of Coral Gables who is an arborist also. There's very conflicting different messages that I hear. Is that standard for -- is that standard for the industry? Can you give me a little explanation on why that's going on?

Mr. Brennan: I would say that if you asked everybody on the dais what their favorite color is, you'd come up with a different answer. I can tell you that I have studied the ANSI standards, all of the books. They're all important. I have studied specifically the construction. I do a lot of work with good developers who are actually interested in protecting trees, the difference being of the size of houses that they're building. You know, you don't have to put a huge house with a pool on that lot. If you want to put a house without a pool and you want to move the pool next door, none of the other houses have this size tree. It's a tremendous benefit going in that direction. The -- there are some of us that study what the industry standards are and try to abide by those, try to be fairly strict with them.

Commissioner Lago: OK.

Mayor Cason: OK.

Commissioner Keon: Can I ask a question, please? I know you said that a 50 foot radius would be ideal to protect the tree. What do you believe is absolutely necessary to protect the tree? It

may not be ideal, but necessary to protect the tree.

Mr. Brennan: I think that that's -- I -- for me personally, I would --

Commissioner Keon: Now, professionally. In your professional opinion, what is it?

Mr. Brennan: I would recommend that it be no less than a 25-foot radius, which is measurement from the outer edge of the trunk; 25 feet.

Commissioner Keon: Out from the --

Mr. Brennan: And that --

Commissioner Keon: Out from the edge of the trunk, not from the center of the --

Mr. Brennan: Correct.

Commissioner Keon: -- the tree?

Mr. Brennan: Out -- from the outer edge of the trunk --

Commissioner Keon: From the outer edge of the trunk, 25 feet out?

Mr. Brennan: Yes, minimal.

Commissioner Keon: OK.

Mr. Brennan: And I would also recommend that an (UNINTELLIGIBLE) knife be used to discover the roots that are at that distance and that they be cut cleanly and that there be a distance set up, probably another 10 feet, for construction. Because if you --

Commissioner Keon: OK.

Mr. Brennan: -- pour (UNINTELLIGIBLE) concrete, which has a PH of almost 14 --

Commissioner Keon: Right.

Mr. Brennan: -- next to tree roots, it will kill them.

Commissioner Keon: It'll kill them. OK.

Mayor Cason: OK.

Commissioner Keon: So 25-foot width with -- during the construction period, a 10-foot additional barrier?

Mr. Brennan: Correct.

Commissioner Keon: Is the minimum --

Mr. Brennan: That's the minimum I would recommend

Commissioner Keon: OK. Is that -- that's in your professional opinion?

Mr. Brennan: Yes. In my professional opinion, that's what I would recommend and that is shorter than the ANSI standards.

Commissioner Keon: And we -- do we have on the record what your credentials are?

Mr. Brennan: You should have my CV in there. If you don't, I can certainly provide that.



Commissioner Keon: (UNINTELLIGIBLE) that?

Mr. Leen: Yes, it would be good to have your C V. We'd have to share it, though.

Commissioner Keon: We would like -- oh, I'm sorry. We do. The record --

Mr. Brennan: We do.

Commissioner Keon: -- (UNINTELLIGIBLE) pertains to your C V.

Mr. Brennan: OK.

Commissioner Keon: Thank you.

Commissioner Lago: Just one last -- another question I forgot to ask you and I apologize. In reference to -- let's say that there's a storm. Let's say you go with a 25-foot radius.

Mr. Brennan: OK.

Commissioner Lago: Let's go beyond the interest in regards to saving the tree and making sure the well being of the tree is our number-one priority. Let's put it -- let's put safety as our number-one priority in reference to the residents that live adjacent to the property --

Mr. Brennan: OK.

Commissioner Lago: -- both in the front and the sides. What is your honest opinion and your most professional opinion in regards to if you do go to 25-foot radius --

Mr. Brennan: I think the tree would be fine.

Commissioner Lago: How about in a --

Mr. Brennan: Hundred and fifty-mile an hour winds should be just fine. You're going to have upper canopy breakage. If you have horrible pruning like in those other photographs where the canopy was totally --

Commissioner Keon: Right.

Mr. Brennan: -- at the top, those trees are going to be destroyed. It's called "lion's tailing," and it's a horrible act to do to trees, as bad or worst than hat wracking. Everybody knows hat-racking, where there are no leaves left on the tree. That's just as bad, in my professional opinion.

Mayor Cason: Thank you. Thank you very much.

Commissioner Keon: Thank you.

Mr. Brennan: You're welcome.

Mayor Cason: John Henslee. Pass. John Seligman.

John Seligman: Good morning.

Mayor Cason: Good morning.

Mr. Seligman: I just want to say thank you to the Mayor and the Commission. You pay a lot of attention to the tree. You pay a lot of attention to what we, as the citizens, care about. We do care about it. I'm voting for the tree. My friends are voting for the tree. I have a lot of friends of mine that asked me to come in here and say our vote is for the tree. And I do appreciate the time. I think it's an interesting coincidence that that fellow spoke before we got in here about the same

issue that we're talking about. This is important to us. We care about it. We appreciate the time and attention you paid for these trees. Thank you again.

Mayor Cason: Thank you.

Mr. Seligman: Thank you, sir.

Mayor Cason: Anne Boley. Hi.

Anne Boley: Hello. My name's Anne Boley, and I live at 1235 El Rado Street, but more important than that, my family has lived on Santa Cruz since the mid '30s. My grandmother bought a house there, Martha O'Hill. My mother lived there, Lois Hill, and my sister and her family live there now. They are the (UNINTELLIGIBLE) family. We walk by that tree, drove by that tree, bicycled by that tree constantly. It was one of the outstanding features of the neighborhood. And I hope that there is nothing that would do anything to damage that tree because once it's done, it's done and you can't put it back. You can't replant a 125-year-old tree, so I think we need to think very seriously about that. Thank you.

Mayor Cason: Thank you. Madeline Shirley.

Madeline Shirley: Thank you for considering this issue. We heard the developer talk -- or the developer's attorney talk about how they want so carefully to protect this tree; they're talking all these steps. Well, the first step the developer should have taken after buying this -- these three lots -- this is not two lots. This is three lots. Sherman's house was built on three lots, 13, 14, and 15. The developer is the one that chose -- after paying a small pittance for this property, they paid \$525,000, is my understanding, for three lots. Then instead of dividing the lot in order to -- lots to make the tree viable, by having lots 14 and 15 together to build a house on and having lot 13 to build a small house on, instead, what they did is they took the two lots without the tree to build -- to plant a monster house, which is bigger than anything in our neighborhood. If you go through -- I don't know if you all are familiar with Lisbon. This is where it's mostly cottage homes. Most

homes are between 900 to 1,800 square feet. Even the two-store house, including Sherman's house, which took up all three lots, which probably maybe 2,400 square feet maximum on a 15-, 16,000-square-foot lot. Instead, they want to put a -- over 5,000-square-foot on these -- 10,000-square-foot lot and put a 2400-square-foot house on a lot with a gigantic tree. Why? Maximizing profits; chose no consideration for the tree. If they actually cared about the tree that's sitting there since they've owned it, they would have taken action to clean up the tree, they would have removed the banyan, they would have removed the vines. Instead, nothing has been done to the tree. There's been no fertilization from what we can tell. Nothing. Their interest is in maximizing their profits and -- with little or no consideration for the tree. And we just ask that you protect the tree under the guidelines that Mr. Brennan has suggested. Thank you.

Mayor Cason: Thank you.

Commissioner Quesada: Thank you.

Mayor Cason: Tamara -- I think it's Mecalla.

Tamara McKeown: It's McKeown, Tamara McKeown.

Mayor Cason: McKeown, right.

Ms. McKeown: I'm a resident of Lisbon Street since 1995. I live at 910, and I step out into my front yard and I can see this magnificent tree. I strongly support the appeal and oppose the developer's plans because I don't believe and I'm not an arborist, but I reviewed all of the reports and just common sense. I've looked at the property; I don't believe there's any way this tree will survive long-term if you allow the roots to be cut in the manner that they propose. The tree -- the canopy in general and this tree, in particular, define our neighborhood, our north Coral Gables neighborhood. It's one of the first things you notice as you drive down Lisbon Street, and it's been there before any of us were born and it will be there after our children are gone. It has been in that place -- it's been on Lisbon Street in the neighborhood before there was a neighborhood. It's been

there before Coral Gables was a glimmer and George Merritt's' imagination, and I think it's critically important for the quality of our neighborhood to protect it. I would also ask you to note that there have been -- it's not just this tree that's going to be impacted. I believe there are over 30 trees that are going to be removed from the three lots, according to the tree permits that the developer has requested. And so when we talk about the tree canopy that makes Coral Gables the place that it is, I think that's notable. I think that the -- anything that's in the way of the maximum possible development for these lots will be taken out, and I don't believe it's a sustainable project for the tree itself and that is to protect its species. I -- the developer has purchased this property knowing full well that there was a specimen live oak tree that age and size there. And we unfortunate -- the unfortunate reality is if the proposed development goes through as it's planned, the tree, I believe, will die a long slow death. It'll take probably several years, and the developer will be long gone with their profits. And I understand they have property rights, and I respect their right to do something with that lot, but not to do anything they want with it. And when they're gone and that -- the developments have been built and the tree has been cut and irreparably damaged, when it dies or it comes down in a storm because it's been weakened, it'll be the residents of the Lisbon Street who are left looking at this vast scaping hole in our landscape where that tree has stood for 125 more years. So we would -- I would ask certainly for the benefit of the neighborhood, for the quality of our neighborhood and the character of our neighborhood that you overturn the plans of -- the approval of Board of Architects for these plans. Thank you.

Mayor Cason: Thank you.

Commissioner Quesada: Thank you.

Mayor Cason: Jeff whose last name I can't read.

Jeff Shimonski: Shimonski?

Mayor Cason: Shimonski.

Mr. Shimonski: Hi. I'm Jeff Shimonski. I'm a consulting arborist. I (UNINTELLIGIBLE) municipal arborist, and I wrote one of the reports for my client. I'm the one that recommended the 25-foot radius tree protection zone and critical root zone for these trees. One thing I kind of surprised that nobody has brought up that this is not one tree; these are three trees together, and I think your code defines it as a clump. But they're forest-grown trees because they grew together. And I see this in a lot of areas; actually, all over North America, but here in South Florida where there's a lot of development, you have trees that grew up in a (UNINTELLIGIBLE) situation. They're tall and skinny. They compete against each other to get to the canopy and the trees on the periphery lean out and they support the trees in the middle. The trees in the middle didn't have to add structure to their trunks to protect themselves from the wind because they had the other trees around them. Well, you have this same situation here. You have three trees; they're growing to the outside; they're functioning as one unit, so if you lose one tree and you go within the 25-foot radius and start impacting roots and cutting roots, you're going to lose at least one tree. You lose one tree, you're going to destabilize the other. And I see this in a lot of projects I'm involved in or -- I've lived down here for 50 years. I drive through these neighborhoods, and I watch these construction projects. You see these trees, that the roots are cut and the structures are put right next to them within several feet. Since I started consulting full time this year, I've been retained by a number of insurance companies. One insurance company, in particular, that ensures high-end residential developments, and I'm responsible -- I'm a certified tree risk assessor. I'm responsible for going out and assessing the risk of the trees there within falling distance of these structures, and it's appalling sometimes as people are really proud. They buy a house. They see these beautiful trees. And then somebody tells them, "Look, the tree is shaking. Or the tree's dying back. And I've had to condemn -- I've had to recommend removal of a number of those trees in a number of the projects I've done recently, and this is going to be the same situation. And what I wrote about in the Biscayne Times, that it's a shame that the property owner, the onus falls on them. They buy the house. It's got beautiful trees on their property. They don't know much about trees. And then the tree starts to die, and then they have to assume the risk. They have to hire an arborist. They have to write a report. They have to go to the municipality. They have to get the tree removal permit. They got to pay to cut it down and they got to pay to mitigate. That's not fair and that's not right. Because at the end of the day, the Building Department -- I'm talking

about a lot of municipalities. The Building Department's responsible for maintaining, making sure that tree construction zone in their code is monitored, and in most cases, it's way too small and it's not. So the developer/architect move on, the City moves on, and then the onus is on the homeowner. That's not right. That was in my article that I wrote, and I feel strongly about that. But you can see this over and over again when you drive down the streets. You know, you drive down the same streets, you see a house getting built and you -- those trees are shot. And it may take 5, might take 10 years, but those trees ultimately start to die in most cases, and this is one of those cases. Do I think the tree protection zone should be less than 25 feet? No. I think that's the minimum. The rules have to be compromised. I relocate large live oak trees. I've been very successful at it. But that protection zone is the protection zone. There has to be a fence there. They can't drive heavy equipment. Look at the picture that was in the Miami Herald a few days ago. There was a tandem dump truck parked right across the root zone with a duly pick-up truck parked right outside the sidewalk. That's no -- and the Miami Herald (UNINTELLIGIBLE) I kind of shocked to see that. Well, you're already damaging -- you're compacting the roots on these trees, and those roots are going to start to die, and it may take a long time, but it's going to affect those trees. Those roots die. They become infection courts, pathogenic insects and fungi and eventually, they'll be dead. So that's my recommendation, 25 feet minimum with a solid fence. Nobody goes in there.

Mayor Cason: Thank you very much. Appreciate it.

Commissioner Keon: Can I ask you (UNINTELLIGIBLE). This is your article that you wrote?

Mr. Shimonski: Yes. I've been the garden columnist for the Biscayne Times for the past eight years.

Commissioner Keon: OK. Are you a certified arborist or --

Mr. Shimonski: I'm a ISA certified municipal arborist. I'm a American Society Consulting Arborist. Member -- I'm a ISA qualified tree risk assessor.

Commissioner Keon: OK. You -- you're CV is not included in this packet?

Mr. Shimonski: No, but I --

Commissioner Keon: Could you provide us --

Mr. Shimonski: I sure --

Commissioner Keon: -- for the record with your -- if your CV, please?

Mr. Shimonski: I could sure do that.

Commissioner Keon: OK. And your (UNINTELLIGIBLE) it's a 20 -- the 25-foot zone is essential to preserve the health of this tree?

Mr. Shimonski: Yes.

Commissioner Keon: OK. Thank you.

Mr. Shimonski: Absolutely.

Mayor Cason: Thank you very much. Our final speaker card, Ariel Fernandez.

Ariel Fernandez: Good afternoon. I don't live on Lisbon Street. I live on Monterey Street. But I'm impressed with the fact that residents on Lisbon Street have taken this issue on as their own and have done everything they can to help protect one of probably the oldest live oaks in our City Beautiful. Our own City arborist, Brook Dan miller, said that had he had the option, he would have moved the house further back. He himself would not have approved the plan as it stood. Mr. Macey, who spoke before, said that our city has 55 percent canopy and we should aspire for a



60 to 70 percent. If we cut down or if we affect Sherman's Oak in a negative way and lose Sherman's Oak, we're affecting our tree canopy. How many trees will it take to recover the canopy that Sherman's Oak is giving us today?

How long will it take those trees to grow to where they are today? The developer's plan on San Ignacio Oaks show us a tract record of not really following what they're saying. They're telling us here today we have this great plan. We're going to do this. We're going to protect this tree. But what we're seeing in San Ignacio Oaks is an entirely opposite situation. We're seeing that there was a plan in place, according to what they've told us, but that wasn't observed. The trees were not protected. Sherman's Oak is over 125 to 150 years old. They mentioned the fact that trees grow around structures all the time. Some of the examples they gave were Coral Way. Well, how long ago was Coral Way built? How long ago the sidewalk's built? How old were the trees at that point? We can't really say that the trees will survive or will have survived if they were 125 to 150 years old at the time, (UNINTELLIGIBLE) they probably weren't. So building a smaller house is something that would be a reasonable solution here, but they said they want to build the maximum size house or pretty close to the maximum size house on this lot. Their argument is that in Coral Gables, nobody wants to live in a 1,000 or 1500 square-foot house. I live in a house that's under a thousand square feet, so -- and I'm happy living in my house. My wife loves the house. I love the house. We've been there for many years. Most of the neighbors on Monterey Street live in houses that are under 1500 square feet. So it's something that is reasonable in Coral Gables. If you're telling me in a one-mile radius outside of Lisbon Street you're including houses that are on country club Prado, on Granada; house that are substantially larger and substantially larger lots. They're not in a neighborhood like Lisbon Street. So for the future of our city, to maintain our City Beautiful, I ask you today to support the efforts to save our tree.

Mayor Cason: Thank you. All right, that ends the public comment. Craig, do you want to make any comments on the legal side before we --

Mr. Leen: Yes.

Mayor Cason: -- begin our discussion.

Mr. Leen: Thank you, Mr. Mayor. So at this point, you've heard the arguments from both sides. You've also heard from City staff and you've heard from the public. Your decision now is to determine how to proceed as to the consolidated appeals. Just as a reminder, there's the Board of Architects appeal and there's also the tree appeal. They're related, and anything you do here will likely affect both of them. The first option you have is to affirm. If you affirm, then you would essentially be approving the design as it is now and also the tree preservation plan as approved by staff. If you approve with modification, you can make modifications for the site plan, you can seek to preserve the tree more, but also grant an approval. Third, you can override, and that gives you a fair amount of options. You could just deny it and have it sent back. You could remand and ask them to try to come back with another type of design that will more appropriately, if that's your determination, protect the tree. In addition, you can grant instructions and ask them maybe to come back to you at a later time after attempting to modify the design to meet your criteria or your goals. One thing that's been raised today is 120 foot -- pardon me -- a 25-foot protection zone around the tree. Now, that's ultimately your -- going to be your determination. There has been testimony in the record supporting it, so you could make a determination on that amount. If you do that, there's different ways to address that particular issue. For example, if you decided that 25 or 30 or 50, whatever the number may be, if you impose that number or basically determine that that was the appropriate number, you could also put in other conditions and protections to protect the property owner. For example, you could say that there needs to be a 25-foot buffer, but, you know, we're going to find that that creates a hardship. That would support a variance. We will take jurisdiction of the variances. You can waive fees. You can ask them to go back and redesign and come back to you. You can also tell them that you'll grant flexibility regarding -- remember, right now the lot with the tree is just one lot and there's two lots next to it. We can swamp that so that it would be two lots and one lot. Ultimately, to do something like that would require the approval of the property owner. But it is something that could be done that would allow for additional mitigation. If you want to have a hole replatted, which is one of the things that was mentioned, that would also require the approval of the property owner. It's something that staff would need to look into as to the cost, 'cause there was a proffer that the cost could be in the neighborhood of \$100,000 to do a replat. But remember, if you're just swamping the one and

the two, so the lot with the trees then would have two lots and the other one would have one, something like that would -- they're already platted so that it could work that way, it would just require a different unity of title. So there's a number of ways for you to approach this matter. I would suggest that ultimately -- first, you determine whether you want to approve this or whether you want to modify it in some way, and then second, if you are going to grant a root barrier that's different than the one that's been provided by staff, how much would that be. And third is there anything in addition? If you do change the root barrier, pardon me -- the root protection zone, are there any other conditions or protections that you would offer to try to make this easier to do for the property owners.

Mayor Cason: All right. Why don't we start with -- ask the Vice Mayor to --

Vice Mayor Kerdyk: OK. Well, let me just cut to the chase here. I think we should basically, instruct the applicant to -- and the developer to go ahead and talk again, because I am for having a 25-foot protected zone around the tree, period, OK. And I can tell you from my standpoint, not listening to other Commissioners, but I can tell you that from my standpoint, I would be amenable to helping with variances and other issues, whatever way that comes up to us; something that's reasonable and rational, I would be amenable to working with the developer to try to come up with something that works. And I'm not going to sit up here and split the baby right now. Whether you want to do two 75-foot lots, 1500 square-foot house on the one, 50-foot lot, I don't know. That's something for you to determine. But I want to see a 25-foot protected zone around the tree.

Mayor Cason: All right, Keon.

Commissioner Keon: I'd like to -- can I ask staff to come up?

Mayor Cason: Yeah, sure.

Commissioner Keon: Brook, could you come up, please? Good morning. Can you state what your position is with the City?

Mr. Dannemiller: Public Service director, City of Coral Gables.

Commissioner Keon: Are you an arborist?

Mr. Dannemiller: I am not, but we have three arborists on staff.

Commissioner Keon: You have three arborists on staff?

Mr. Dannemiller: Yes.

Commissioner Keon: Without consideration to what the Board of Architects said or anything else, if you were asked to look at this, what would the arborists tell us was the required protection zone to best ensure that the survivability of this tree?

Mr. Dannemiller: As previously stated, the more root zone that you can protect, the better. I agree that 25 feet minimum would be the minimum to --

Commissioner Keon: OK.

Mr. Dannemiller: -- give the most protection to the tree.

Commissioner Keon: OK. So in your opinion, in your position as the Public Service director in the City, along with the certified arborists that work for you, you would also support the 25-foot as a minimum?

Mr. Dannemiller: Yes. I wouldn't necessarily keep it exactly at (UNINTELLIGIBLE) there's other constraints too; for example, where the existing footprint of the house is. You know there's not going to be any roots there because there's a foundation there.

Commissioner Keon: Right.

Mr. Dannemiller: So concentrating development on that footprint, you know you're not going to be impacting roots because historically, roots would have grown there.

Commissioner Keon: OK. And that --

Mr. Dannemiller: So --

Commissioner Keon: -- is that within 25 feet?

Mr. Dannemiller: I think that's a little bit further. That might be in the 30, 45, but --

Commissioner Keon: OK.

Mr. Dannemiller: -- you know, when you look at the design alternatives, you know, pushing the development towards that whole footprint of the house would be more beneficial to the tree because (UNINTELLIGIBLE) --

Commissioner Keon: OK.

Mr. Dannemiller: -- (UNINTELLIGIBLE).

Commissioner Lago: Can you --

Commissioner Keon: Could you all --

Mr. Dannemiller: Twenty-five feet could be an average or basically, it doesn't have to be --

Commissioner Keon: Maybe a little --

Mr. Dannemiller: Yeah. If you --

Commissioner Keon: May move a little.

Mr. Dannemiller: If you have to come in a little bit closer, a little further, but I'd say as a general rule, around 25 feet would be the --

Commissioner Keon: OK. Could you explain -- I mean, we've heard a lot of people back and forth say that, you know, that didn't come from the City. But I think maybe taking into consideration what the process was for these approvals at the time that they were made, that you really -- did you have the opportunity to make a recommendation prior to the time before the Board of Architects?

Mr. Dannemiller: When we received the permit, the final Board of Architects approval.

Commissioner Keon: They had already met.

Mr. Dannemiller: Yes.

Commissioner Keon: So -- but had the process or the timing been different, you would have had an opportunity, but it was based on the process that was in place at the time?

Mr. Dannemiller: Yes.

Commissioner Keon: Is that right?

Mr. Dannemiller: Yes. And the -- building the driveway do have a fair amount of setback, but once you put the drain field in there, that's what is impacting the close -- the cutting -- the really close cutting of the root.

Commissioner Keon: OK.

Mr. Dannemiller: So that's the main issue.

Commissioner Keon: And would the drain field have to remain outside of this 20-foot radius also?

Mr. Dannemiller: Yes. Anything that would -- utilities, drain fields. You basically don't want to cut roots within that critical root zone. You want the minimize cutting of the roots in that (UNINTELLIGIBLE).

Commissioner Keon: Right. OK, thank you.

Commissioner Lago: But the issue is -- I mean, if -- since we're talking about the drain field, if -- it has been to be outside the 25-foot radius to comply, does that make the project unfeasible?

Mr. Dannemiller: I think the --

Commissioner Lago: Where the current home is designated or going to be located.

Mr. Dannemiller: Where the current home is with the 13 and 14 as one lot; 15 as the separate lot. If you push the house to the back of the lot, you could rearrange the subject where you would not -- you would still be in that 25 feet, but it would be probably 15 to 25 feet --

Commissioner Lago: Could we --

Mr. Dannemiller: -- (UNINTELLIGIBLE) 20 feet on the (UNINTELLIGIBLE).

Commissioner Lago: Let's say this: Could we have some sort of -- maybe a diagram showing the proposed location of the home, like an aerial shot? Does anybody have one? But I want to

see something that shows the -- OK.

Ms. Tapanes-Llahues: Well, they've already told us that it's 8 feet, 11 feet and 14 feet and then 26 feet on one side and -- but the other ones are 11, 14 and 10 -- 8, 11 and 14.

Commissioner Lago: Yeah. Well, I mean, the I think the big issue what Brook was explaining was the issue of the location of the pool, which would -- if you -- which inhibits --

Commissioner Keon: The whole design.

Commissioner Lago: -- which inhibits obviously pushing the home.

Commissioner Keon: (UNINTELLIGIBLE) as it's currently -- right. The way the house is currently designed, it wouldn't meet that minimum requirement.

Commissioner Lago: What is the setback currently in the rear of the house?

Unidentified Speaker: I believe it's 25 feet.

Commissioner Lago: OK.

Unidentified Speaker: Linear setback (UNINTELLIGIBLE).

Commissioner Lago: Maybe we can go that route.

Commissioner Keon: Right. If the other -- thank you. Does anybody else have any questions quickly?

Commissioner Quesada: I do. Yeah, I just wanted to --



Commissioner Keon: Oka, why don't you go ahead, because then I'd like to ask Ramon some questions.

Commissioner Quesada: Have our arborists, have they reviewed the reports submitted by the arborist by both sides?

Mr. Dannemiller: Yes. Troy Springmeyer, who's our -- he does all our tree permits and reviews and (UNINTELLIGIBLE).

Commissioner Quesada: What is his opinion on the reports that were submitted?

Mr. Dannemiller: I mean, both sides -- they're all done by reputable arborists, and basically, it's the level of protection -- you know, the more protection you give something, the better. But given the constraints, the work plan that was submitted was the best solution for the constraints that we had, so that was the most --

Commissioner Quesada: The work plan that was submitted by the applicant.

Mr. Dannemiller: Yes. So given the house location and --

Commissioner Quesada: So then --

Mr. Dannemiller: -- constraints of the site.

Commissioner Quesada: So then what you're saying is that Troy Springmeyer, our arborist who reviewed the expert reports, is saying that -- what -- actually, the exhibit that you have up here right now is OK.

Commissioner Keon: No.

Mr. Dannemiller: It's the best solution that we --

Commissioner Keon: Well, he didn't say that it was OK. It's my understanding that given the constraints within the footprint for the house, if you had no ability to change that footprint, it was the best you could do. But because they don't have the ability to change the footprint of the house, a staff.

Commissioner Quesada: Got it.

Commissioner Keon: The difference is that --

Commissioner Quesada: I got it. I got it.

Commissioner Keon: -- we have that ability, so --

Commissioner Quesada: I got it.

Commissioner Keon: -- I think it's at that point, whether it's the best or not.

Ms. Tapanes-Llahues: Well, I think it's important to know, it's a drain field that is the issue. The drain field requires even the most efficient, environmentally efficient drain field that our civil engineer designed, who still require a drain field, and the drain field is -- in order to plop that on the lot, that is what makes the 25-foot radius impossible.

Commissioner Quesada: That's why I --

Ms. Tapanes-Llahues: Right. But it's based on -- right, but it's based on the design of the house that is on that lot now.

Commissioner Keon: It doesn't mean that you couldn't put any -- you couldn't build any drain

field. You couldn't design a house where there is a drain field that is outside of that 20 foot --

Commissioner Lago: The issue --

Commissioner Keon: -- 25-foot radius.

Commissioner Lago: Commissioner --

Ms. Tapanes-Llahues: Yeah, that's the issue.

Commissioner Lago: -- the reason -- that's why I was bringing it up when we were discussing it before. My concern wasn't really the setbacks. My concern was there are certain prescribed requirements that have been put forth on this project by a developer, which are no (UNINTELLIGIBLE) requested to have a pool, which is approved as per the Board of Architecture [sic]. That limits the amount of size or depth that the house can have to a certain extent. And then the drain -- again, it just goes to the fact of --

Commissioner Keon: Well, based on the -- but it's based on the design that is currently proposed.

Commissioner Lago: Based on the design right now. Yes.

Commissioner Keon: Yes.

Commissioner Lago: There's no feasible way --

Commissioner Keon: Based on that design.

Commissioner Lago: -- to achieve 25 feet of radius having a pool --

Commissioner Keon: Right.

Commissioner Lago: -- and then obviously putting a drain field -- excuse me -- as per the requirements of the County.

Commissioner Keon: OK.

Commissioner Lago: It is what it is, so the decisions have to be made.

Commissioner Keon: Right, and that's OK; we can make that decision.

Mr. Dannemiller: I don't know if you would be able to fit a house and a drain field on (UNINTELLIGIBLE) --

Commissioner Lago: And a pool.

Mr. Dannemiller: (UNINTELLIGIBLE) lot. Well, then the pool; just the house and the drain field --

Ms. Tapanes-Llahues: Forget the pool.

Mr. Dannemiller: -- and the driveway on a 50-foot lot.

Commissioner Keon: Right.

Mr. Dannemiller: (UNINTELLIGIBLE) maintain the 25 feet. I think --

Ms. Tapanes-Llahues: That's the issue.

Commissioner Keon: Right.

Mr. Dannemiller: (UNINTELLIGIBLE) 25 feet --

Commissioner Lago: Because the last thing I want to do is I don't want to have a situation where we say -- which by the way, I'm hundred percent behind what the Vice Mayor said. I just don't want to put ourselves in a position where we say, OK, go back and negotiate based on something that is unachievable.

Ms. Tapanes-Llahues: It's unachievable. And I do have one option for you all consideration. It's not an option for us, but it is -- it would be up to the will of this Commission, and that is we talk about swapping the properties. Obviously, that's not something that we can do. That would be -- it's -- we have the way that the City code is written.

Commissioner Keon: Right.

Ms. Tapanes-Llahues: That's not an opportunity for us. But if that's something that your City Attorney would allow you all to do, one way that would make this development feasible.

Commissioner Keon: Right.

Ms. Tapanes-Llahues: The swapping would not make the development feasible, because the kind of home -- we're -- we run into the issue of the 25-foot radius, so swapping it and still providing the 25-foot radius, it's not buildable due to the drain field, it just doesn't work. What may work is if we would be permitted to rather than having two buildable lots, three buildable lots, because they are three platted lots on the property. They would each meet -- they're all platted. They would be permissible by code and basically, they would be three platted lots. What that would allow us to do is build the type of home that we anticipated for this lot, lot 15, on both lot 13 and 14, and then build a smaller type cottage, which we believe, again for the record, is inconsistent with what is compatible in the area for current construction and current costs, but again, that may level the economic impact of your decision in a way that would do what we all hope, which is have the decision be made at the City level and not be litigated in the courts. So that's something that we

can consider.

Mayor Cason: Craig, did you -- you have any opinion on that?

Mr. Leen: Yes. I believe you can do almost anything to preserve the tree. You have a tremendous amount of authority in the code. I view it as almost a condition. The neighbors are here so, I mean, obviously, if they're up happy with that -- and I would suggestion that you speak with them to see their view, but I believe that you could do it, but I wouldn't want to take a moment just to look at the code one last time.

Commissioner Keon: Could I -- could we speak -- does anyone else have any questions for Brook?

Mayor Cason: No, I don't.

Commissioner Keon: Could I ask Ramon to come up, please? Thank you, Brook. Good afternoon. Could you state what your position is with the City, please?

Ramon Trias: I'm Ramon Trias. I'm the director of Planning & Zoning for the City.

Commissioner Keon: OK. Ramon, you -- I'm sure you're familiar with these lots and the layouts of these lots and --

Mr. Trias: Yes.

Commissioner Keon: -- the square footage on these lots and everything else. Yes?

Mr. Trias: Yes.

Commissioner Keon: I understand that there -- we have had one tree removal permit approved for

a specimen tree on (UNINTELLIGIBLE) some time ago, and I understand that the reason that it was that one specimen tree was allowed to be removed is because it sat square in the center of a lot and rendered the lot unbuildable. Is that right, Carmen?

Ms. Olazabal: That's correct. (UNINTELLIGIBLE).

Commissioner Keon: OK. So what time -- and it was because it (UNINTELLIGIBLE) unbuildable. Does the way that this is configured, requiring a 25-foot radius around this tree and then a 10-foot radius during the construction period for this particular tree, does that render those lots unbuildable?

Mr. Trias: Not all of them. The real issue is to figure out a place for a drainage field --

Commissioner Keon: Right.

Mr. Trias: -- (UNINTELLIGIBLE).

Commissioner Keon: But it doesn't render them unbuildable.

Mr. Trias: No, I don't believe so.

Commissioner Keon: Now, may not allow them to build exactly what they want. No? But does it allow us under our code to be able to build a home on those lots?

Mr. Trias: I think you can build a home on those lots.

Commissioner Keon: OK. So as the Building Director, knowledgeable of our code and experience, you know that they can build a home on those lots? Is that right?

Mr. Trias: Yes.

Commissioner Keon: OK, thank you. OK.

Unidentified Speaker: Good question.

Commissioner Keon: OK. So our City staffers told us, yes, it's buildable so that we deal with the -- that issue. They've also told us that the 25-foot radius is what is going to be necessary.

Mr. Trias: And having said that, I think that the real issue here is the size of the building and also whether or not there's access for a driveway, and all of those things have to be taken into account --

Commissioner Keon: OK.

Mr. Trias: -- in the design. I think those are issues that are normal issues that applies to any parcel --

Commissioner Keon: Right.

Mr. Trias: -- and you have the ability to make some recommendations.

Commissioner Keon: Right. So they're all things that under our code, we would have to work with and conditions that we would work with, but it's not an unbuildable lot?

Mr. Dannemiller: The lot 15? The lot 15 with a 25-foot radius would go into -- would prevent a drive -- a driveway would have to go through that 25-foot radius as lot 15 remains as a 50-foot-wide lot.

Commissioner Keon: As a 50-foot-wide lot?

Mr. Dannemiller: Yes. (UNINTELLIGIBLE) only location for a driveway would be within that



25-foot radius. So to not put anything within a 25-foot radius, you would -- (UNINTELLIGIBLE) at lease portion, if not all of lot 14 --

Commissioner Keon: Right.

Mr. Dannemiller: -- you would need to --

Commissioner Keon: OK. But we know that the tree parcels are under control of the same individuals, so they could make that determination.

Mr. Trias: Yeah. The issue here is a driveway --

Commissioner Keon: Right.

Mr. Trias: -- which is made of asphalt and it's placed right on those 25 feet.

Commissioner Keon: Right.

Mr. Trias: (UNINTELLIGIBLE) that would be a problem, so clearly --

Commissioner Keon: OK.

Mr. Trias: -- we have to do a different design (UNINTELLIGIBLE).

Commissioner Keon: But they have three lots to work with so --

Mr. Trias: Yes.

Commissioner Keon: They would only be rendered unbuildable by their own desire, not by the actual conditions that exist.

Mr. Trias: I think that there are many options to make it buildable.

Commissioner Keon: OK. Thank you.

Mayor Cason: Let me ask both sides if we went on to some other items and at the end of the day came back, you guys talk among yourselves and see if you can work something out before we make a decision, is that something you would like more time to do?

Commissioner Keon: Would you like to --

Ms. Tapanes-Llahues: Yes. I --

Mayor Cason: OK.

Ms. Tapanes-Llahues: -- would say that I would like respectfully a time certain because I do have another hearing this evening.

Mayor Cason: OK. What time would --

Unidentified Speaker: Three o'clock.

Commissioner Keon: What would you like?

Mayor Cason: Three o'clock

Ms. Tapanes-Llahues: Three o'clock --

Mayor Cason: OK. Then let's -- we'll continue this discussion at three o'clock. If you call can get together and come back and hopefully --

Commissioner Keon: Do you want someone from City staff to -- with you to work with you?

Mayor Cason: Whatever you need to --

Commissioner Keon: Whoever you need --

Mayor Cason: Whoever you need.

Ms. Tapanes-Llahues: We appreciate it very much.

Commissioner Keon: -- is available to you.

Mr. Leen: Could Ramon be there?

Ms. Tapanes-Llahues: We appreciate it.

Commissioner Keon: Yes.

Mr. Leen: Ramon, could you --? I mean --

Commissioner Keon: Maybe, Ramon, you could work with them and maybe Brook.

Mr. Leen: And I'll come in as well. I'll step in and maybe Brook.

Commissioner Keon: Right. Or maybe --

Mayor Cason: All right, let's --

Mr. Leen: (UNINTELLIGIBLE) also?

Mayor Cason: We're going to move on now --

Commissioner Quesada: Ramon --

Mayor Cason: -- to Item --

Commissioner Quesada: -- has an item.

Ms. Tapanes-Llahues: Thank you.

Mayor Cason: -- E-2.

Later...

Mayor Cason: All right.

Mr. Leen: (UNINTELLIGIBLE), are they --

Mayor Cason: We're going to move on to the -- City Attorney, we'll (UNINTELLIGIBLE) after this and then F-1. So why don't you start off, Craig.

Mr. Leen: Yes, Mr. Mayor. Thank you, Mr. Mayor. So during the last hour or so, the parties to the appeal relating to Lisbon Street, the tree, the old tree, the specimen oak, have been trying to resolve their differences to see if we could reach an agreement that the City could sign onto as well. Under either Division 17 or 18 of our Zoning Code, probably Division 17 of our Zoning Code, which allows for dispute resolution agreements, and it basically draws on the authority in the Bert Harris Act to be able to grant extraordinary relief to help resolve issues like this one where you have a tree that the City's trying to preserve in which now all the parties are trying to preserve this part of this -- preserve this part of the settlement. So I guess what I would ask is if maybe

Jorey could come up and also Melissa Tapanes to discuss the proposed settlement and then I can add my thoughts once you're done, and then open it to the Commission.

Mayor Cason: Why don't you start?

Unidentified Speaker: Want me to start?

Mayor Cason: Yeah.

Unidentified Speaker: OK, sure. So I think we're pretty close to a good resolution, but we only have one sticking point, but what I'll do is I'll read the conditions that we have and that we mostly agree on and I'll tell you which point it is that we're still working on. Sorry. Thank you. So for the tri-trunk tree on 1015, point one is that we would like a 25-foot radius tree protection zone from the outboard side of each of the three trunks. Number two is that that TTZ fencing is to be constructed per ANSI A-300 standards. And number three, which is the one point that we're still working on, is that no limbs or branches over 4 inches in diameter are to be pruned off. Number four, once ground is broken, an arborist, whether it's Bob Brennan or Jeff Shimonski, will visit the site four times per month until the building envelope is completed and then one time per month thereafter until the issuance of the CO (Certificate of Occupancy). Number five is that, obviously, PalmCorp would hire and retain the arborist. And then the other issue was there's another live oak on lot 13, and you know, it would be the same precedent that would be set for a tree protection zone, but after speaking with them, it sounds like they would want to relocate that tree, which we're fine with, as long as they do it per all of your standards, and that's it. So I think -- oh, and removing of a -- the two African tulip tree in the back of the lot that's near death and dangerous to our -- Yeah. Well -- yeah. If the tree -- if the smaller tree is not removed, we want a 10-foot protection zone, which is per the same formula that we got the 25. That's all. And other than that, I think it's really just the radius of the limbs that we're not sure of, because when we did the -- those diagrams before, it was based on where the current home was being located. Now they would have to redesign and put a -- either push the house back or do a smaller one. And just the way that tree is, we'd have to kind of all stand there and mark the 25 feet, and I guess our

biggest concern is that, for example, if that limb that comes out, that big limb which we think is tearing the bulk of the whole east canopy is (UNINTELLIGIBLE) you go to 26 feet. If that thing is this big, we think that's a problem and it would be cause for infection and ultimate death, but it might only be this big. We don't know. We really have to go off -- out there and stand and look at it and then make that determination, so we're a little reluctant to sign off on the whole deal without have that information. But other than that, I think we're pretty much in alignment.

Ms. Tapanes-Llahues: So if I may, before we left for the break, we mentioned the fact that it's got three platted lots and we would make this sort of compromise economically feasible would be to allow for three buildable site determinations, which would require a lot split (UNINTELLIGIBLE) and an agreement that we would come back to this Commission for final approval, as Mr. Leen mentioned under Section 17 or 18 of the City Code. So just to be very clear, we have no issues with -- we are allowed to develop three residences, one on each of the lots, to abide by the 25-foot radius and tree protection area. We do have a few concerns that we still need to really dive into and discuss as a team. First is the TPZ ANSI 300 standard. That is an international standard. That has not been adopted in North America, and it's different from the City of Coral Gables' standard. We need our arborists to work in conjunction with their arborists to really understand what those differences are so as to make sure that we can, in fact, abide by them. The second concern is -- they mentioned that they would like us to retain their arborist. In theory, we don't have an issue with that, as long as, of course, they're reasonable fees, equivalent or just reasonable to our arborists. And the one real issue is the idea of the inability to be able to prune the tree in excess of four inches in diameter. As you can imagine, this is a very large tree which takes up about 2,900 square feet of the 5,200-square-foot lot, so we do know that we will need to prune limbs. The question is will we be successful in designing a plan that would allow us to have a reasonable use of the site, but is less than the four inches? So we would ask for this Commission, in conclusion, to direct staff to work with us in preparing this agreement, this dispute resolution under the Bert J. Harris Act, which is permissible by your code. We also would like to in that agreement to understand that, you know, while we can agree to these certain conditions, we are going to be asking the City -- and we would like for you to agree today to a few other items to make this deal possible, and that is we know that we will -- in order to accomplish this, we will need to

have driveways, whether or not they are on sand with pavers -- we know that we will need to have a drain field for each one of those lots and perhaps have swimming pools for each one of those lots that may encroach upon the setbacks. That is within your ability to approve today in theory and later on, so basically, what we're asking for is to allow, in order not to provide the driveways within the 25-foot radius, they may encroach on the side setbacks. The drain field might have to encroach on the rear setbacks, and possibly, if we're able to accommodate a pool, we would like the ability to do so. We would also ask for the Commission to waive additional permit review fees for the submittal of these new plans. We're going to need to redesign all three parcels, and we're going to incur significant architectural, civil engineering and design fees, so we would ask for, since these are review fees, have already been paid for by the applicant, that you would allow the City to waive those fees.

Commissioner Lago: Can you give me an idea in regards to how -- just an idea, a brief idea, what is -- the permit fees, the proposed permit fees that you prefer the City waive.

Ms. Tapanes-Llahues: Just the review fees, not the impact fees or anything that -- things that we have already paid.

Commissioner Lago: What's the number? What are we looking at?

Commissioner Quesada: well, hold on a second. Rather than find out the exact number --

Commissioner Lago: I'm not (UNINTELLIGIBLE) an idea.

Ms. Tapanes-Llahues: I might be able to (UNINTELLIGIBLE).

Commissioner Quesada: No, but hold on a second. I don't know if they've paid everything all the way through. Maybe we give them a credit for what they've paid --

Ms. Tapanes-Llahues: Correct.

Commissioner Quesada: -- and that's why for the next --

Ms. Tapanes-Llahues: Correct.

Commissioner Lago: I mean, have you pulled your permit?

Ms. Tapanes-Llahues: No, no.

Commissioner Lago: And so they haven't paid. They haven't paid all their fees.

Ms. Tapanes-Llahues: Correct, just the review fees.

Mayor Cason: Let me ask -- in terms of the septic fields, Craig, do we need to go back to the Legislature again if they encroach, or can we do it --

Mr. Leen: Well, in terms of getting --

Mayor Cason: -- based on --?

Mr. Leen: -- additional variances?

Mayor Cason: Yeah.

Mr. Leen: Well, that would be more up to them.

Ms. Tapanes-Llahues: Right. We would need to do that.

Mr. Leen: But I think they would handle that if they needed to do it.



Ms. Tapanes-Llahues: Yeah, if we -- that would be something -- the more work that we would need to do; most likely go back to the State and obtain variances, and that's part of, you know, the redesign of these three parcels. So what we're asking for is if we do require side setback, rear setback, variances from this Commission, again, it's unreasonable for us as property owners to think that we're going to have these lots split, have all these variances approved. We were just moving forward in a way that, you know, reasonable property owners would to assume to work within the parameters, so that's what we're asking for.

Vice Mayor Kerdyk: I mean, let me address that. Reasonable, reasonable. I mean, I don't know if putting a pool on the lot line in the back is reasonable, OK. That's probably not reasonable for the back neighbor, so it has to be something reasonable that you ask for, and I'm not sure you're going to be able to put a pool in that one house, that location that we're talking about. So you'll have to be reasonable too as far as your requests. So as long as it's reasonable, I'm good with it, you know.

Ms. Tapanes-Llahues: Right.

Mayor Cason: Craig, do you want --

Ms. Tapanes-Llahues: And we wouldn't be -- in order to build the foundations, obviously, we can't encroach on abutting property owners. We have that situation somewhere else in the Gables right now, so it would -- and there are regulations through the State of Florida regarding these, you know, minimum setbacks for safety of things like swimming pools, so absolutely. It's more that we know for a fact we're going to need a setback variance for the driveways, and that's something that we know for a fact we will need.

Mayor Cason: and are the neighbors fine with that?

Unidentified Speaker: You know, like I said, our one concern -- and it seems like just one point, but it could be a big concern should we determine that that limb is 18 inches, and if that will kill the

tree ultimately, then all this is for naught, and that would be a shame.

Mayor Cason: So are you all asking us to give you some general assurances now and you'll -- you want to come back (UNINTELLIGIBLE) the next Commission meeting with -- after you've looked at the tree limb and all these sorts of things?

Mr. Leen: Mr. Mayor, I think -- in order to be able to make this occur, we would have to probably invoke Division 17, which is the -- it's the part of the -- part of our code that relates to the Bert Harris Act. It's a similar code but that exist under city law in the zoning code, and basically what allows us to do is it -- it doesn't mean we have to find necessarily an inordinate burden. We'd have to look at the whole case. But it's a settlement agreement. It's from dispute resolution agreement, and through that we would agree to a number of these things for the City, and the idea behind is well, they're going to be protecting the tree, and that serves a public benefit; and because of that, you have the authority to -- it's a form of sovereign immunity. But you have the sovereign authority to grant them certain rights to mitigate because they're going to be bearing a public burden. And so, in the course of -- then it's their job as well to preserve this tree. That's the reason they're receiving it. It's put into a written agreement which would come back before you; you would have to approve. So I think what would be best -- and I'd like to hear from the Manager, too, to see if she has any thoughts, but I think that what would be best is for you to direct us to, you know, basically indicate whether you are -- you approve of this concept. That would allow staff to go forward and work on putting this agreement together. This agreement, under the Bert Harris Act, in the authority in our code, variances can be granted directly by this Commission. There's a lot of things you can do. It says it expressly in the Division 17 of our Zoning Code. So everything would come back before you, and you would make the final decision, but obviously, we don't want them to expend a lot of resources working on this if we're going to come back and then it's like, well, we didn't like -- we didn't even like the concept. You know, obviously, in the end, you have to approve it, and you have to be comfortable with it.

Mayor Cason: If we agree to the concept, would this be ready for prime time on -- when's the next Commission meeting?

Ms. Olazabal: November (UNINTELLIGIBLE).

Mayor Cason: Is that something that can --? Otherwise, it would have to be in December.

Mr. Leen: Yes, I think so. I mean, it depends. It's more up to you. Like for example, whether they had to get approval from the State of Florida or follow state law, our agreement is going to say that they have to follow state law, so that'll be a necessary condition. But, you know, there are a couple of concepts. Do you -- are you ok with in order to preserve the tree to have three lots? I mean, that (UNINTELLIGIBLE) important part of the concept.

Mayor Cason: What are your thoughts? Let's go one at a time. Frank.

Commissioner Quesada: Let me ask a question about the four inches on the limb.

Mayor Cason: OK, go ahead.

MULTIPLE SPEAKERS (UNINTELLIGIBLE).

Mayor Cason: And then we'll do -- and then we'll go 4 and then we'll do five, but go ahead. We're just trying to see if -- as we go, the elements of this agreement, whether the concept of three lots --

Unidentified Speaker: (UNINTELLIGIBLE).

Mayor Cason: OK. Do you have a problem?

Commissioner Lago: I have no issues with it either.

Vice Mayor Kerdyk: As long as the neighbor's OK with it --

Commissioner Lago: Yes.

Vice Mayor Kerdyk: -- and they're mostly 50-foot lots, I'm OK with that.

Mayor Cason: Pat?

Commissioner Keon: That's fine, yes.

Mayor Cason: I don't have a problem. OK, that part's taken care of. Second issue, you guys are going to go out and measure diameters and limbs, and that'll be part of the -- when you come back to us, it's -- you can't reach agreement and if it -- you can't build a home because of it or -- I mean, we'll then have to revisit.

Commissioner Quesada: Well, I think we're hearing that already, if that's the case.

Mayor Cason: Yeah.

Ms. Tapanes-Llahues: Right. We know, I mean, by looking at the tree, that there will be pruning required. I mean, pruning is overdue for this site. We need to do some clean work on -- I know one of the residents accused us of not maintaining the tree. We have -- we were specifically told, upon purchase of the property, by Ms. Thompson, not to touch the tree, so that's something that was important to us.

Commissioner Keon: Although it just -- recently just brought up that these old trees really shouldn't be pruned if they don't have -- cleaned up, yes, but pruned -- There is a difference between pruning and dead-wooding an oak tree, and dead-wooding an oak tree is where you go in and you remove all of those limbs that are brittle or --

Ms. Tapanes-Llahues: Absolutely.

Commissioner Keon: -- you know, that are not --

Ms. Tapanes-Llahues: We were told not to touch the tree, so --

Commissioner Keon: But that's -- that is dead-wooding.

Ms. Tapanes-Llahues: Correct.

Commissioner Keon: That's dead-wooding a tree. In general, you know, in pruning to cut back their limbs, you know, in a lot of places, because the limbs on oak trees are so pliable, they can be cabled up to another limb. I mean, they can have --

Ms. Tapanes-Llahues: That happens.

Commissioner Keon: -- you can put a cable on the lower one that's hanging down and cable it and, you know, tighten that cable so that they can be raised in considerable amount, and they withstand storms and everything else. And it's a very acceptable way of dealing with larger limbs on oak trees to allow you to be able to -- for clearance under an oak tree.

Mayor Cason: So your arborists --

Ms. Tapanes-Llahues: That is what (UNINTELLIGIBLE).

Mayor Cason: -- will get together --

Commissioner Keon: So there are enough --

Mayor Cason: -- and you guys will look into this.

Commissioner Keon: You know, I would like to know that you would make consideration of other means of dealing with those limbs, other than just cutting them off.

Ms. Tapanes-Llahues: And that's -- if there's an issue, I think what you're hearing from both of us, we'll -- you'll definitely hear about it next month. I don't -- it'll be --

Commissioner Keon: OK.

Ms. Tapanes-Llahues: -- out goal to bring a compromise, and we appreciate your efforts in allowing us the time to do so.

Mayor Cason: And does anybody have a problem with the idea of --

Commissioner Quesada: Hearing (UNINTELLIGIBLE).

Mayor Cason: -- looking at the variances, expediting, giving them relief on fees, reasonable?

Commissioner Keon: No. And I --

Commissioner Lago: No issues.

Mayor Cason: OK.

Commissioner Quesada: (UNINTELLIGIBLE) absolutely be done.

Mayor Cason: No issues.

Vice Mayor Kerdyk: I agree. I'm OK with it. I'm OK.

Commissioner Keon: I don't know. We don't have a problem with --

Mayor Cason: So any other elements that we need to discuss? Otherwise, we will -- I guess we will defer this -- well, is it -- deferred or --

Commissioner Keon: Yeah.

Mayor Cason: -- or what are we going to --?

Mr. Leen: I had a thought about that, but I know Carmen wanted to --

Mayor Cason: Carmen.

Ms. Olazabal: I think we should have -- you know, you should discuss with staff and have staff, you know, evaluate --

Ms. Tapanes-Llahues: Work with you.

Ms. Olazabal: -- floor plans they're proposing, and then look at the fees and everything that we're proposing, and then come back to you and say what the actual plan is so we can make those choices. This is how this site doesn't meet -- you know, it's -- the variances that we need to be able to --

Ms. Tapanes-Llahues: Yes.

Ms. Olazabal: -- (UNINTELLIGIBLE) the tree and things like that, so you're making a fully informed decision with those (UNINTELLIGIBLE). Now it's kind of in concept.

Mayor Cason: Right.

Commissioner Keon: Right.

Mr. Leen: You have to be --

Ms. Olazabal: (UNINTELLIGIBLE), you know --

Mayor Cason: Any other guidance you need from us --

Ms. Olazabal: The (UNINTELLIGIBLE) for the staff and then --

Mayor Cason: -- in terms of the time (UNINTELLIGIBLE).

Ms. Olazabal: -- let you know what it is that we're asking. We're asking to look over the proposed plan. It requires (UNINTELLIGIBLE). They're requesting this fee be waived, 'cause -- you know, so let's have the four analysis so the decision is made with full disclosure.

Mr. Leen: With the idea that it be expedited (UNINTELLIGIBLE) impossible, so it does take time. And then that the -- you know, ultimately, when it comes to you, you would be granting the variance. So, for example, I know you're going to say that you want the Board of Architects to take a look at it. They're still going to want -- I know that the Commission has always said that so -- you know, that's going to have to be put into this process at some point, but it would all come back to you; you make the final decision. You're taking -- you're keeping jurisdiction --

Mr. Trias: Mayor, may I --

Mr. Leen: With Ramon.

Mr. Trias: My other question is --

Mr. Leen: With Ramon, of course.



Mr. Trias: -- do you want the Board of Architects to review this prior to you approving the plan?

Mayor Cason: You've got to come up with where you're going to put the homes and what's going to be in the --

Ms. Tapanes-Llahues: Our thoughts --

Mr. Trias: Let me make a recommendation. What I would recommend is this. I think, if you're comfortable with the concept of their request, don't approve the specific variances until you get the plan.

Vice Mayor Kerdyk: Right.

Mr. Trias: So that will be sufficient. And my question is do you want the Board of Architects to review this, as they will -- typically will do?

Vice Mayor Kerdyk: Yeah, but they'll look at it with the variances and -- will they be able to overlook the (UNINTELLIGIBLE)?

Commissioner Quesada: I will tell you this, (UNINTELLIGIBLE) everyone else. I think it should come straight back to us or --

Vice Mayor Kerdyk: And then go back.

Commissioner Quesada: Because it's a unique situation and also (UNINTELLIGIBLE) time and consideration as well. I know we want to be reasonable around (UNINTELLIGIBLE) and maybe we do sort of a hybrid kind of thing. I'm not sure. I'm trying to think out of the box here.

Mr. Trias: And then (UNINTELLIGIBLE).

Commissioner Quesada: So we can keep it -- the speed up, but at the same time have the appropriate level of review.

Mr. Leen: For the lot split and the variances and the waivers. Everything comes back as part of a dispute resolution agreement.

Commissioner Quesada: Correct.

Mr. Leen: And then that's for your consideration.

Commissioner Quesada: It still should go in front of --

Vice Mayor Kerdyk: At some point, yeah.

Commissioner Lago: It has to go in front of (UNINTELLIGIBLE).

Mayor Cason: When's your next Board of Architects meeting?

Mr. Trias: Board of Architects --

Vice Mayor Kerdyk: That's (UNINTELLIGIBLE).

Mr. Trias: -- (UNINTELLIGIBLE) Thursday, so it's not a timing issue. It's very easy to schedule it before the Board of Architects.

Ms. Tapanes-Llahues: What I would recommend is -- I believe that we're going to need to go through the Board of Architects. However, I think that what is important for this Commission to decide is the agreement to provide for a setback or whatever setbacks that we need, and that will -- all that will take is the agreement with some exhibits of the proposed --

Vice Mayor Kerdyk: Right.

Ms. Tapanes-Llahues: -- site plans for each one.

Vice Mayor Kerdyk: It has to come here first.

Ms. Tapanes-Llahues: In that way, you know the variances --

Vice Mayor Kerdyk: And then goes to the Board of Architects and --

Mr. Trias: Yeah, that's fine.

Ms. Tapanes-Llahues: And the other --

Vice Mayor Kerdyk: Yeah.

Unidentified Speaker: And we're to (UNINTELLIGIBLE). That's fine.

Ms. Tapanes-Llahues: And the other item that I would like done within the next month is we'll go back, we'll meet with the arborist and put together a revised tree permit application, for example, and be able to tell you specifically what gets relocated because of plopping down the new residences.

Vice Mayor Kerdyk: Correct.

Ms. Tapanes-Llahues: So it'll be a conceptual site plan, basically, with a tree disposition plan so we'll have an idea of what kind of limbs we'll need to remove, so we'll have that kind of -- that formal decision.

Commissioner Quesada: The biggest problem I see, if we don't have the concrete -- we're saying

reasonable. Reasonable is a very diff --

Vice Mayor Kerdyk: Right.

Commissioner Quesada: -- thing to deal with in any kind of situation. How do they know (UNINTELLIGIBLE) setback is going to be, what variance they're going to get, what they're not going to get? They're going to start spending money, wasting time. We could end up back here again with these two parties in complete disagreement based on what the variances are. And I don't -- I'm saying this. I don't have a solution right now, but I'm just airing a concern.

Mr. Trias: Commissioner --

Commissioner Quesada: Because -- yeah.

Mr. Trias: -- I have a recommendation on that.

Commissioner Quesada: OK.

Mr. Trias: Because we did talk to the app -- I think that the only significance variance that matters is the driveway. It's way likely to encroach on the setback, which is a very reasonable thing.

Vice Mayor Kerdyk: Yeah.

Mr. Trias: I think any variance that applies to a 25-foot radius is very appropriate. However, any variance that may apply to the back is probably not appropriate. I mean, that's the way that I would --

Vice Mayor Kerdyk: OK. (UNINTELLIGIBLE).

Commissioner Quesada: Let me ask you a question. That driveway, it would not affect your

homes. It would affect the other neighbor.

Unidentified Speaker: That's a concern I have, yeah. I mean, what concept (UNINTELLIGIBLE).

Ms. Tapanes-Llahues: So, again, we're here trying to negotiate in good faith.

Commissioner Quesada: Yeah.

Ms. Tapanes-Llahues: Come up -- we were asked to come up with a compromise. We believe that this is a fair compromise with minimal variances that could be supported by the hardship criteria in your City code. We're talking about limbs four inches. We have given a lot; the expenses that are -- at the property owners' about to incur are significant. We would say that reasonable is that what is by state law and by, you know, what's protected under USV Single -- I'm sorry, (UNINTELLIGIBLE) of, you know, the eminent domain laws. That's what we're talking about here in the -- I think that removal of limbs, you'll see it (UNINTELLIGIBLE), but we do want to have some assurances. Because, if not, we're just wasting more money and time, and that is all very significant.

Commissioner Quesada: My concern.

Mayor Cason: Any other observations before we --

Commissioner Keon: No. I just wanted to -- I don't want to minimize the possibility of the limb thing, because if we do determine that it's too big and it will cause an infection and cause the tree to die, it's an issue with us, so -- but I do want to say that I think, from my personal experience, you could get creative and still get your square footage, and it might not be three lots. It might be that that middle lot is your residence and then there's a -- you know, that this lot 15 has an (UNINTELLIGIBLE) border that the (UNINTELLIGIBLE) part of that we'd charge a higher premium for it, or there might be (UNINTELLIGIBLE) --

Vice Mayor Kerdyk: That's for you guys to work out.

Commissioner Keon: (UNINTELLIGIBLE) there might be some (UNINTELLIGIBLE).

Commissioner Lago: You guys work it out.

Vice Mayor Kerdyk: We're not going --

Mayor Cason: You work it out; see what the effect of that limb is, come back to us, hopefully, in November 15. If you can't, we've got one more meeting in December. If you can't make it --

Mr. Leen: So -- but just for clarity then, so they will be bringing back the proposed agreement?

Vice Mayor Kerdyk: Right.

Mayor Cason: Yes.

Mr. Leen: And then at that meeting -- in terms of the Board of Architects, you know, you can approve that agreement and always make it subject to --

Vice Mayor Kerdyk: Right.

Mr. Leen: -- the design element. You know, the Board of Architects taking a look at it. Because, ultimately, you have to approve the variances --

Vice Mayor Kerdyk: Right.

Mr. Leen: -- and the lot split, you know. So that's going to be part of --

Vice Mayor Kerdyk: that should be first.

Mr. Leen: -- that agreement --

Vice Mayor Kerdyk: That should be first.

Mr. Leen: -- that has to be decided on.

Mayor Cason: and then the details of the house and the architectural, that can be the (UNINTELLIGIBLE).

Unidentified Speaker: Could I ask something?

Mayor Cason: Sure.

Unidentified Speaker: I'm just going to make clear on where the neighborhood voice -- is there a neighborhood voice as we move forward, or we have not voice as we move forward if we (UNINTELLIGIBLE).

Vice Mayor Kerdyk: I mean, we spent four hours talking about a tree today. I bet you no other city in this county --

Unidentified Speaker: No. I'm just saying as we go forward --

Vice Mayor Kerdyk: (UNINTELLIGIBLE).

Mayor Cason: Talk with your neighbors.

Vice Mayor Kerdyk: Actually, you would be the voice to the --

Unidentified Speaker: OK. (UNINTELLIGIBLE).

Vice Mayor Kerdyk: I mean, I would think you're the voice (UNINTELLIGIBLE) neighbors.

Unidentified Speaker: To be clear on record that we're not done here in terms of --

Mayor Cason: No, no.

Vice Mayor Kerdyk: No, no, no.

Mayor Cason: We're (UNINTELLIGIBLE) speaking to the neighbors (UNINTELLIGIBLE).

Vice Mayor Kerdyk: Yeah. That's what we're thinking. Yeah.

Mayor Cason: So engage --

Unidentified Speaker: I'm sorry if I'm --

Vice Mayor Kerdyk: No, no, no, no, no, no.

Unidentified Speaker: -- being stupid about this. I just want to make sure --

Vice Mayor Kerdyk: No, that's fine.

Unidentified Speaker: -- you know, we're (UNINTELLIGIBLE).

Vice Mayor Kerdyk: No, we were just assuming that you were --

Unidentified Speaker: (UNINTELLIGIBLE) respects our concerns.



Vice Mayor Kerdyk: No, you'd have -- you have to bring back what you think, but I think -- like they're trying to be reasonable and you're going to try to be reasonable and hopefully bring back some (UNINTELLIGIBLE).

Unidentified Speaker: So I assume City staff will then be sharing this information as they (UNINTELLIGIBLE).

Vice Mayor Kerdyk: Yeah, yeah, yeah. And we appreciate everybody being here and trying to work this out.

Mayor Cason: Thank you all. Thank you very much.

Commissioner Keon: Public Service will remain in -- you'll work with them also about the (UNINTELLIGIBLE)?

Commissioner Quesada: And just for the benefit of the -- I guess the appellee -- for you guys, applicants --

Ms. Tapanes-Llahues: Thank you

Commissioner Quesada: -- I think there should be someone from City staff so they can talk to sort of informally as they're going forward to see what the feeling is going to be coming from us, whether we're going to be -- I would hate for your guys to spend time and money, come back to us (UNINTELLIGIBLE). Well, I'm sorry now. You're asking way too much there. That's unreasonable.

Commissioner Lago: How about it having going through the City Attorney or through the Manager?

Mayor Cason: City Manager.

Commissioner Keon: Well, I think Ramon is pretty good about --

Mayor Cason: Staff?

Mr. Trias: Intends to coordinate with the applicants.

Commissioner Quesada: OK.

Ms. Tapanes-Llahues: And I think --

Mayor Cason: Yeah.

Ms. Tapanes-Llahues: -- that's what's so important, to have these assurances. You know --

Commissioner Quesada: Yeah, and I want to make sure --

Ms. Tapanes-Llahues: (UNINTELLIGIBLE). We know we're going to need variances. We're hoping that everyone will be reasonable, including ourselves. But we can tell we're going to have to, you know, prune --

MULTIPLE SPEAKERS (UNINTELLIGIBLE).

Commissioner Lago: Can you do me a favor? Can you do me a favor?

Ms. Tapanes-Llahues: Yes, sir.

Commissioner Lago: When you're designing the pool -- and this is for the developers -- let's use common sense.

Ms. Tapanes-Llahues: Absolutely.

Commissioner Lago: Let's -- and I mean that with all due respect, OK. Gentlemen, let's use common sense. You may have to shave off the pool. The pool may not be so big, but let's get to the point where -- let's not bargain back and forth for the next three or four months. Let's get to the point where we sit down with these individuals and the neighbors -- just like your driveway; let's use common sense on this issue to get this resolved. Because if we go back for the next four or five months, we'll never get this done.

Mr. Leen: Should be a motion.

Commissioner Lago: Do you get -- you understand what I'm saying, right?

Mr. Leen: There should be a motion in concept accepting this and having them go forward and them continuing the matter.

Commissioner Quesada: So moved on both items.

Mayor Cason: All right, Commissioner Quesada --

Commissioner Lago: I'll second the motion.

Mayor Cason: -- makes a motion and Commissioner Lago seconds. City Clerk.

Mr. Foeman: Commissioner Quesada?

Commissioner Quesada: Yes.

Mr. Foeman: Commissioner Keon?

Commissioner Keon: Yes.

Mr. Foeman: Vice Mayor Kerdyk?

Vice Mayor Kerdyk: Yes.

Mr. Foeman: Commissioner Lago?

Commissioner Lago: Yes.

Mr. Foeman: Mayor Cason?

Mayor Cason: Yes.

Ms. Tapanes-Llahues: Thank you.

Mayor Cason: Thank you very much. Thank all of you.

Commissioner Lago: Thank you.

Mayor Cason: Thank all of you. Move on to H-2.

Commissioner Keon: Thank you. Could I ask one question of Jorey. Jorey, how many signatures did you get?

Commissioner Lago: Sixty.

Jorey Friedman: (UNINTELLIGIBLE) something.

Commissioner Keon: About 50. And how much did it cost you to appeal?

Ms. Friedman: Two thousand dollars (UNINTELLIGIBLE).

Commissioner Lago: You know, it's -- can we do something? Well -- and that's a good point, you bring that up right now.

Commissioner Keon: You know what? We just passed a resolution --

Commissioner Lago: We should waive her -- we should waive both fees.

Commissioner Keon: We just passed a resolution waiving fees for residents. If you could -- how many signatures did they need?

Mr. Leen: They needed -- I believe it was 30.

Mayor Cason: OK.

Commissioner Keon: Thirty signatures. So I want you -- everyone to know going forward that residents shouldn't have to bear that cost alone to do it, and I -- you know what? You really should be --

Mr. Leen: A reimbursement on the fee?

Commissioner Keon: Yeah. I would be (UNINTELLIGIBLE).

Commissioner Quesada: I'm going to make a motion --

Commissioner Lago: Make a motion.

Commissioner Quesada: -- that we retroactively apply that to them.

Commissioner Lago: To them.

Unidentified Speaker: Yeah, for sure.

Commissioner Quesada: For sure.

Commissioner Keon: (UNINTELLIGIBLE) their faith.

Unidentified Speaker: Thank you.

Mayor Cason: Thank you. (UNINTELLIGIBLE) second. So we have a second. So we have a second.

Commissioner Lago: I'll second the motion.

Unidentified Speaker: Well, all the citizens of (UNINTELLIGIBLE) thank you.

Commissioner Lago: I mean, and we're giving the courtesy to the developer who's, again, using common sense in this process. It makes just as much sense that we should offer it to you.

Commissioner Keon: Well, you know, that is a burden --

Commissioner Lago: At least.

Commissioner Keon: -- that a lot of people wouldn't bear to achieve a very good public end, so --

Unidentified Speaker: Thank you.

Mayor Cason: All right, so we have the motion to retroactively give you back the -- what you've

--

Commissioner Lago: Apply the ordinance --

Mayor Cason: Commissioner Quesada made the motion.

Commissioner Lago: Second.

Mayor Cason: Commissioner Quesada -- Commissioner Lago seconds. City Clerk.

Mr. Foeman: Commissioner Keon?

Commissioner Keon: Yes.

Mr. Foeman: Vice Mayor Kerdyk?

Vice Mayor Kerdyk: Yes.

Mr. Foeman: Commissioner Lago?

Commissioner Lago: Yes.

Mr. Foeman: Commissioner Quesada?

Commissioner Quesada: Yes.

Mr. Foeman: Mayor Cason?

Mayor Cason: Yes. Thank you all.

Commissioner Lago: Thank you.