

City of Coral Gables City Commission Meeting
Agenda Item E-6
July 22, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon (Appeared by Skype)

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Assistant Building Director, Charles Wu

Public Speaker(s)

Jorge Alvarez, Dade Medical College

Susan Trevarthen, Outside Counsel for the City

Agenda Item E-6 [Start: 2:45:13 p.m.]

Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, amending Article 5, "Development Standards", Section 5-1408, "Common driveways and remote off-street parking", by providing regulations, restrictions and procedures for the use of remote parking in and near the Central Business District ("CBD"), amending the reference to remote parking in Article 5, "Development Standards", Section 5-1409, "Amount of required parking" to match the changes to Section 5-1408, providing for severability, repealer, codification and an effective date.

Mayor Cason: E-6 is an Ordinance on First Reading; Madam City Manager would you please read the title into the record.

City Commission Meeting

July 22, 2014

Agenda Item E-6 – Zoning Code Text Amendment –
Common driveways and remote off-street parking

Interim City Manager Olazabal: Item E-6 is a Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, amending Article 5, "Development Standards", Section 5-1408, "Common driveways and remote off-street parking", by providing regulations, restrictions and procedures for the use of remote parking in and near the Central Business District ("CBD"), amending the reference to remote parking in Article 5, "Development Standards", Section 5-1409, "Amount of required parking" to match the changes to Section 5-1408, providing for severability, repealer, codification and an effective date.

Mayor Cason: Mr. Wu.

Mr. Wu: Thank you Mr. Mayor. If you can pull up the PowerPoint presentation? Thank you. You have a hand full of slides before you to introduce to you a Code change related to remote parking. First, we'd like to tell you what the Code allows today. The Code allows within 500 feet of the property to request remote parking. It also requires that it cannot be in a single family district. It requires a restrictive covenant or a parking easement, and it caps if you're in the CBD area at maximum of 50 percent of the required parking. Other than that we have no further restrictions for remote parking. It is applied citywide and has been applied citywide in the past. For your information, we have this requirement generally in this form, in different variation since 1968. Just to give a highlight, you might be familiar, this is the downtown highlighted in red, from the north is Navarre, the south is Almeria, to the west is LeJeune, and to the east of course is...Douglas Road. What we'd like to propose to you before you today and keep in mind we've been through three public hearings before the Planning and Zoning Board, so we've got numerous public comments as well as P&Z feedback as detailed in your packet and detailed minutes. So just wanted to let you know, we have included the incorporation of the public comment in detail in our staff report showing you how the ordinance evolved from its first generation to this generation. Now had some of that, but I'll not go into too much detail in different versions, because it can be very confusing. First words apply to: It only applies to existing expansion or a change of use. If you are a vacant property and the vacant property is going to be developed, the vacant property has to have required parking. If I'm an existing building you want to have a floor and the additional floor does not have parking. You can request more parking or a change of use or classification of use. For example, from an office to a doctor's office with more than two doctors can easier more than triple the parking requirement. The change of use from an office to a doctor's office more than two doctors will require additional parking, as an example. So again, the first point, expansion of buildings or change of use is eligible. First, it has to be within the CBD or within 1,000 feet of the CBD, and we do have a possible applicant that is located outside the CBD and that's why we expanded the

boundaries for the use requesting no parking to be within 1,000 feet of the CBD and we will have a map later showing you the boundaries of that expansion. The next point is very important...it's not feasible to have on-street, onsite parking. If there is onsite parking they have to use that for parking before they can request offsite parking; and a onetime finding cannot be a basis for the enforcement means. If at one time we found this application meets the Code today, we cannot come back five years later in the same condition saying you are in violation. We gave compliance; it is compliance, if conditions remain the same. Requirement for remote spaces where they can be located: It has to be within 1,000 feet of the use requesting the remote parking and that can be waived by the Commission. We can get into that at the end of the presentation. It has to be within City limits and we have a detailed explanation why we think that's important. However, the outside chance is also waivable by City Commission on a case-by-case basis. Again, not within a single family zoning and it has to be leased or owned by the property. Now the method how we measure the remote parking has not been defined in the Code today. What we are saying it should be airline measurement, point to point direct line from property to property, and we are defining that in this proposed ordinance. The geography: The center there, as you can see, which is the CBD, which is highlighted in the brackets vary from Navarre to Almeria. Now the use requesting more parking can expand 1,000 feet beyond that which will expand to Mendoza to Malaga, and if you are located there it can also request 1,000 feet away clearing more parking space which will expand to Sidonia to....Again, this is based on extensive comments from the public and the P&Z, is to try to open the eligibility locations for more parking and not just within the CBD.

Vice Mayor Kerdyk: Do you think by doing this like that, that it may possibly inflict cars being parked in the residential community?

Mr. Wu: We'll try to address that, that's a good point. We thought of that and I think we have some safeguards.

Vice Mayor Kerdyk: OK.

Mr. Wu: Application: The Code does not address that today, we'll like to have a little bit more specifics what an application will constitute a survey showing where more remote parking is going to be, document that the applicant who is requesting the remote parking either own or lease the spaces. At one time the earlier version we said that the applicant has to own it, that's become an issue, that's become so very difficult to own a parking space outside the property, so eventually we evolve that into a leasing situation. If it's leased minimum of one year lease and it cannot be terminated less than 90 days. At one time we had a five year lease minimum, we thought of one lease is reasonable, so just to share with you how we've been reasonable, waiting

through three public hearings before Planning and Zoning Board. Demonstrate very important that remote parking is not going to be used for required spaces for the development where it's sitting. For example, if someone wants to go three blocks away to find more parking, we want the ability to evaluate that location, that they are not using that parking themselves for that building. We want it to be excess parking and we have to demonstrate that. A copy of the approved plan for the remote parking, and demonstrate that there is no action by either party that will interfere with the lease once its approved, and an application fee which current situation does not clarify. As part of the approval we request a covenant, the applicant either owns or lease the remote parking space, and if they are relocated they require a new application to seek new approval for the new location. To report an unplanned change within five days and submit a remedy plan within ten days and the Director of Development Services can extend out for good cause. Allow flexibility to entry and inspect the remote parking, submit annual affidavit as part of the certificate of use renewal. For instance, if a use got changed from an office to a dental office, we want as part of certificate of use annual affidavit that they are maintaining those remote spaces on an annual basis. An appeal decision can go before any appeals process the Code already stipulates. Now if there is a problem that they say they found remote parking for a couple of years and they lost it...and that's been a point of discussion at length before the Planning and Zoning Board, and the options are few, however, here they are. Payment in lieu of required parking, today City Code does provide provisions if you show them parking you can pay in lieu of. As you may recall, you approved a resolution October 1st, 2013, each space is going to be \$42,000 per space. It's my understanding that no one has bought into that yet because recently approved fee schedule. The second option is to modify the use that City office turned into dental use, they lost the remote parking, then the only option is to go back to an office use, so that space can be occupied as it was originally, or reduce the size of that if they lost just a certain amount of remote parking. Secure another site for the remote parking, provide additional parking on site or it could be a combination of any of those four options to make up for what they lost. If they fail to comply, we will give them notice to cure and that's at the director's discretion. If the applicant is involved and have not cured it within a certain timeframe and they cannot reapply for six months, and the use would not be in conformance with the Zoning Code.

Mayor Cason: What happens if you get your 42 spaces, 41 spaces, you find them – a couple questions? First of all, do we have lots?- are you envisioning one lot or a combination of 2, 6, 5, 4, add up to whatever the requirement is? I'm not sure there are many big parking lots within 1,000 feet of downtown; and secondly, what happens if you find some place and the owner of the parking lot says I've decided to build a house here, and there are no other parking spots, what happens?- what do we do?

Mr. Wu: Well we will notify the applicant if we have knowledge that they lost three more parking spaces, they attempt to cure it.

Mayor Cason: They say they can't there aren't any.

Mr. Wu: Then they are not in compliance with the Code.

Vice Mayor Kerdyk: What?

Mr. Wu: They are not in compliance with....

Mayor Cason: So what do we do?- we fine them every day?

Mr. Wu: We'll send them before Code Enforcement, but first we'll ask them to try to cure it, because they got an approval based on remote parking situation, so based on assurances we found the zoning in compliance, but they lost it they are no longer in zoning compliance, so they have to cure it to find alternative remote parking locations.

Mayor Cason: But do we have envisioned in this area – I think right now two applicants, 83 parking spaces, to your knowledge are there 83 parking spaces?

Mr. Wu: We'd have to go back to the applicant and ask them where they found more parking; no, I'm not aware of it.

Vice Mayor Kerdyk: I think your question is based on leasing space...

Mayor Cason: Leasing – right.

Vice Mayor Kerdyk: There is another question a follow up to yours.

Mayor Cason: I was just wondering if there were spaces we wouldn't be – certainly within 500 feet, I'm not sure even within 1,000 feet, I understand at least one of the applicants they've looked and they aren't, so how does it solve anything? I don't want to go outside the City of Coral Gables and say we trust you, you can park anywhere you want, but are there really 80 or 100 vacant parking spots or lots or can they be in somebody's commercial building that rents out some of their excess parking to another applicant?

Mr. Wu: It's our understanding that exercise has already been done and they have not found the spaces they would like to acquire, so I cannot answer....spaces today, but so far they have not shared with us where they are.

Mayor Cason: This doesn't apply to building a new building; this is an existing building that wants to...

Mr. Wu: Expand or change its use.

Mayor Cason: Expand or change. I mean we are talking about Miami-Dade Medical College and one other.

Vice Mayor Kerdyk: But there is a bigger issue, I think the bigger issue, that's a leasing space and if they can't find it lets moderate it on a yearly basis. If they find it and then it's taken away then they lose their license, not lose their license, but then they are out of Code basically is how it is. The bigger issue, I think, is the expansion of a building because then you are talking more a permanent situation. So let's just draw the analogy. A 5,000 square foot lot, let's say, or say a 20,000, I don't care, 5,000 square foot lot, I have a 3,000 square foot building on it right now. Say I can build – what can I build there?- 3.5 FAR?- I can build 3.5 FAR, what's that?- 16,500 square feet?- 16,500 square feet less the 3,000 is 13,500 square feet times 3 is basically 42 spaces, OK, so 42 spaces. We say OK, you've got 42 spaces, so they go they secure it, they deal with the City or whoever, 42 spaces, and then a year later we need it for streetscape or whatever, they lose the 42 spaces since it's not a permanent basis. See it's OK with the lease, because then you can say you are out, but when the building is built then what you are going to say?- you can't occupy?

Mayor Cason: That's my question. What do you do?- you unbuild the building...

Vice Mayor Kerdyk: You can't.

Mayor Cason: Tell them to close the school.

Vice Mayor Kerdyk: That's the issue.

Mr. Wu: Well we get back to the slide and I apologize it's gone; the options are four, payment in lieu of, find another remote parking location, reduce the size of the use, for instance, if it were an office use you change to a dentist, you can reduce the dentist office space. For example, or provide additional parking on site. The options are not great, but again, they came to the City

with the premise that they found alternate remote parking and we hereby approved the zoning. Now the premise disappears if they lose the required parking and the question we have to answer is where do you want to entertain more parking at all?- or provide all parking on site?

Vice Mayor Kerdyk: Well my analogy would be using the most conservative, meaning the parking ratios for office is one per 300, so there would be no option to make it one per 500 or anything, yes, that's true if it's a retail usage and you can move from one per 200 to one per 300, but that analogy you are sort of stuck and I'm concerned, that's what I'm concerned about. The initial concept was that you'd have to have permanent spaces so that you buy a space; you get a parking space in your location whether its 1,000 feet or whatever, I'm not arguing 1,000 feet, but that's what concerns me.

Commissioner Lago: I agree with you, but I think those two cases that we are dealing with right now, one of them falls into the category of they are leasing space so they need to obviously lease parking spaces. So, if they fall out of their lease that's not an issue, that's fine with me, I think that's obviously the Dade Medical College issue. Now the other issue that we have, from my understanding, the entity owns the property, they are going to build as per their right, as-a-right, so they need to find additional parking. My understanding is in this case they have found additional parking that they've actually purchased, that's puts us in a good scenario. I'm fine with that. So I just think that we maybe, I think we are going to have to flush out a little further in detail because what the Vice Mayor and Mayor are saying just in regards to that specific issue, it's going to be an issue. So if someone builds a building and then the person that they are leasing the spaces from says, you know what?- I'm going to tear this down or I'm going to sell it to a developer who is going to do an assemblage what happens then?

Vice Mayor Kerdyk: I have a building right now that I own, that basically had the proffer a lot down the street within a certain amount of distance for it, for the parking to supplement that, I own that lot. That lot cannot be sold off without selling the building at that point. There is no way I can develop that lot, there is nothing there whatsoever, that has to be done, so if its owning some parking condominiums that has to be tied with the deed restriction that doesn't. What concerns me is the other alternative, which is basically they don't own it, they lease it and you build a building and then all of a sudden you lose the parking then what happens?

Commissioner Lago: And then my concern goes from there is the issue of the entity that's leasing those spaces, how does the City find out that they are not in compliance?- I guess through their certificate of use on the leasing side where the City has to review all these agreements on a yearly basis, is that what we fall into?

City Attorney Leen: This is one of the issues we looked at closely here and that's why we allowed for the Commission waiver. So you'd have to impose conditions on that, but you know one thing you could consider is an interlocal agreement with Miami, maybe whereby they would agree.

Mayor Cason: I don't think they are going to park in Miami...

City Attorney Leen: You don't have to...

Mayor Cason: But the problem with that is that the practical matter you are going to be crossing Douglas highway, nobody is going to do that. They are going to park in the neighborhoods, they are going to park in public garages, it's got to be in the Gables where we can monitor it. I don't want to use public garages for it because that's for shoppers and everything else.

Mr. Wu: I have two more slides, if I can finish and then Susan who is the staff consultant can address some of your other issues. Commission waivers, as the City Attorney mentioned, you are allowed two waivers under this ordinance; one is if the remote parking is outside the 1,000 foot distance separation, they can request a waiver from the City Commission and if it's located outside the City it can also request the Commission, however, the Commission will have to have two findings: one, does not harm the public interest and not create a parking problem later if you do not use that remote parking lot outside the City. The meeting of the ordinance was set up to be met, even if they seek these waivers. Staff concerns are remote parking outside the City limits, which was something that was hotly discussed at the Planning and Zoning Board is to have that flexibility, and after we expressed our concerns they decided not to allow it but only to allow City Commission waiver. The reasons are, staff cannot verify whether the parking facility outside the City meets the parking needs of that facility, because it's outside the City. Secondly, we have no authority to enforce the Zoning Code of that City, i.e. the City of Miami. We lack information about the different uses that are using that remote parking outside the City, and in addition to that when uses change as we know, it's not static. We have no information of when the uses change, how it impacts the required parking. We will also have no knowledge if the remote parking is over committed for that facility, and it's also very difficult for staff to do onsite inspections if it's outside the City, and as the Mayor mentioned if its outside the City and its not being used then our facilities will be taxed because they are using our on-street parking, our garages for required parking. Recently we found two examples and this is to update the staff report, we found two examples of remote parking. The first one is 3301 Ponce de Leon that was a request in '91 to convert storage space to professional office space. The Commission, I'm sorry, the Board of Adjustment denied the ten space parking variance in '91, two months later the Commission overruled that denial and approved the lots and lease in the police garage for ten

spaces and part of that approval they waived the 15 hundred foot distance separation between the two uses. For information, its located six blocks away from the use and the lease is still active today, it's still active today after 20 years.

Mayor Cason: Is it taking employees or customers?

Mr. Wu: It doesn't say. It just says...

Mayor Cason: I'm sure it going to be employees. Customers are not going to walk 1500 feet.

Mr. Wu: The second use we found evidence of remote parking is 4119 Ponce de Leon. I understand it's called Ferguson Furniture Store. March 2000 the Board of Adjustment approved a 23 space parking variance. They went offsite and they found 23 spaces at 3875 Shipping Avenue in the City of Miami, and even though its 150 feet away it's across the City border on Shipping Avenue. We have no information whether that's being actively used today, even though the approval included 23 spaces, staff counted on 19 spaces and not all of them are legal size spaces.

Commissioner Lago: Can I get clarification on that? So you are telling me that 4119 currently has a 23 space variance across City boundaries?

Mr. Wu: Yes.

Vice Mayor Kerdyk: It must have been a Board of Adjustment situation; and I've got to tell you what sounds bad about that, this is when they expanded it too, right?

Mr. Wu: Yes.

Vice Mayor Kerdyk: So I actually didn't know how they got so much parking.

Mr. Wu: I'm sorry, I apologize, I'm not sure if that's a new building or expansion.

Vice Mayor Kerdyk: It was an expansion basically; the building didn't look anything like that. It was either; I can't remember it's a knock-down or expansion. You probably remember because you probably represented them.

Commissioner Quesada: This was before I was a Commission. There was a building there that...

Commissioner Lago: 2000 you were still in college.

Commissioner Quesada: I know. Full disclosure – the owner of that building has been a client of my father's for 25 years and I work with my father. He was right, I was in college when that happened, but I do recall there was a building there, they knocked it down, and they built that building, that's the Ferguson Building, right?

Vice Mayor Kerdyk: Yes – that never came in front of the Commission by the way, that must have gone to the Board of Adjustment like you said, and they must have granted it from the Board of Adjustment, because I've got to tell you, I could never figure out how they got parking in that. Now you've just solved the mystery I had. That's one of the things that we need to avoid, we need to at least let the City make that decision on this parking, especially if its cross borders and I'm not for that.

Mayor Cason: You are saying you are not monitoring that right now?

Mr. Wu: We just found out recently so there is nobody to monitor it – and a drive-by does not indicate a sign on the front door saying, customer parking go here, it's not there, and if you drive by the establishment where it is, it doesn't have a sign saying, parking for Ferguson Furniture either. When you drive by the parking spaces are all full and you have double parking behind the Ferguson Building anyway, so you can tell people are not finding their way to where they are supposed to park, they double park in the alley, which is illegal. So not using the parking outside the confines of the City does raise a concern that they are not using it, you cannot tax office use as well.

Mayor Cason: Have we looked at in terms of employees which are probably the most logical use of these, because I don't see in the hot summers and rainy days people are going to walk 1,000 feet or 1,500 feet to go to a restaurant. The idea of remote parking where the applicant has a shuttle bus or something and brings them back and forth, then it wouldn't matter as long as they are bringing the employees and they were to pick them up and somehow they are not parking in front of businesses or in City garages and taking up other space that otherwise they would be obligated to provide. Is that something that you all favor?- have we ever looked at that?

Mr. Wu: We have no objection to that because we think that is actually a way to make it work. It's just that we have no way to enforce it. That did come up because at one time the ordinance did say that if we allow remote parking away from retail and restaurants it cannot be used for customer parking then we realized there is no way to monitor to say employees you have to park over there. So it's....just that we might as well just not enforce it.

Ms. Susan Trevarthen: Thank you Mr. Mayor, Susan Trevarthen, Weiss, Serota, Helfman, 2525 Ponce for the City. I wanted to respond to some of the conversation earlier which was about this difficult problem of what do we do things fall apart?- and that is the bulk of the effort and thought that went into this ordinance was on that very issue; and I want to say that for my perspective it is not in fact the case that there is no solution, and I'll use the example that you brought forward, which is Dade Medical College. They least three floors, they chose to use one of them for office. They wanted to use two of them for education; the parking allotment that was available to them using one for education used 100 percent of their parking available, so currently one of those floors is just not used. That's their premises, their choosing to use them in that manner. It's not an ideal outcome, but it is a real outcome that can always happen. They can reduce the scope of the use and the lesser square footage reduces the parking requirement and therefore brings them into compliance. It's not an ideal situation, so it will lead to pressure to find other ways to deal, either find another location and go to a use that's less parking intensive, but in the short run this does have a solution and it is in effect right now at DMC, which is they cannot use that floor until they find the parking to support that floor.

Mayor Cason: And didn't we ask them to find something within 1,000 feet, we said 700-800....never found it.

Ms. Trevarthen: There was much back and forth on that and I don't know what the current status of that is because that was many months ago.

City Attorney Leen: Mr. Mayor what happened was they ended up coming back and the Commission asked them to go to 500 feet, 600 feet, 700 feet, 800 feet, 900 feet, 1,000 feet to determine whether there'll be parking available within those different distances. I believe you did find some parking could you....

Mr. Jorge Alvarez: Jorge Alvarez, 95 Merrick, and Dade Medical College just for the record is the parent of the University of Southern Most Florida, which is the actual applicant in the building at 2222 Ponce. Now again, just to clear this up, when we entered that building there was enough parking for the use of what we wanted, but there was an issue with the parking building itself which is being demolished which we found out about afterwards and there was a whole issue with that landlord that we never knew would never had entered the situation. Obviously as business people where we didn't have the needs that we found that we needed. So once we were there and we were stuck in the building with the lease then we realized that staff needed a determination we needed 42 additional spaces for that third floor. Now to answer your question directly Mr. Mayor, and again thank you to the Commission to yourself for letting me speak

today. We did find space at actually ironically where the corporate building of the parent company is, which is 95 Merrick, it's adjacent to the Hyatt. There are 42 spaces there that are available, but we cannot tell and staff hasn't been able to tell us whether it's surplus space and that's part of the issue with the current Code, there has to be surplus space, meaning that the developer had 100 spaces in the Code, they would have built out 150 spaces and 50 would have been surplus. No one does that or it would have to be a restaurant lease, for example, and all of a sudden there is surplus space they are not using, it's very rare. Our issue is, it would be great if the City does an inventory and found out what surplus space we have, not just for us, but for future applicants and also on the City side there may be City parking available, but it's a public policy issue whether you want to do that. Nobody can tell you right now whether the City has space available that may solve this type of situation. So the bottom line right now is that we do have a possible lease with the Hyatt, there were also other restrictions that were taken away with this new writing of the ordinance, so I did send a copy of that to Ms. Tomkins and Mr. Trias, they have it, but again I don't know they can't tell me right now whether its surplus space or whether its usable.

Mayor Cason: So this amendment would allow you to use the space that you found now?

Mr. Alvarez: If it is surplus space.

Mayor Cason: If it is surplus space.

Mr. Alvarez: And again, that's a limitation that you were saying earlier Mr. Mayor, it could be a...surplus space, which nobody can tell us, so it could be within 1000 feet there is no surplus space and that the City has no space available.

Commissioner Lago: But have you spoken to the Hyatt and they have given you reasonable response in regards to whether those 42 spaces are currently in use and I say that because one of the things that I discussed with the City Manager at our meeting was the issue of overbooking. Are they promising those spaces to two or three different entities?- are their staff using it?- you run into a situation where you've overbooked and...

Mr. Alvarez: In the year that we've been there it hasn't been uses, our offices overlook – it's basically a huge, about 50-60 spaces that are out in the element, there is no roof.

Commissioner Lago: So the Hyatt is willing to lease those spaces to you?

Mr. Alvarez: Yes and we have a document.

Commissioner Lago: You have a document showing.

Mr. Alvarez: And...

Commissioner Lago: And you've submitted it to the City?

Mr. Alvarez: We've submitted them just recently because again we weren't aware of this ordinance.

Commissioner Lago: And now you are waiting obviously for a response from staff to see if those spaces...

Mr. Alvarez: Maybe surplus or not, and my wish for the Commission out of fairness because again as you know, we've been acting with good faith with the Commission, the Commission has good faith and you know for over a year we've had that space there...

Commissioner Lago: How much have you spent in one year on that floor that's uninhabited right now in your lease agreement?

Mr. Alvarez: A 60,000 square foot lease and that floor is approximately 20,000, so it's been hundreds of thousands of dollars that we spent, and not only what we spent but it's also the economic cost of not being able to bring students to use it and in addition to the cost of having to have rent additional space close by for students to use and despite all those obstacles we enrolled close to 200 students and its gone very, very well and those students are right now in the Gables spending money and using restaurants.

Commissioner Lago: The economic impact of your entity, I see it all the time....you go to the Argentinian restaurant down the street, down Giralda, they have a significant impact on the City.

Mr. Alvarez: I would like to defer to the City, to the Commission, again out of fairness, if this gets resolved one way or the other, but in the interim could we build out that space until this is figured out?- because again we can spend months trying to see where we can find the space and we are still there just...

Mayor Cason: How long would it take to know if it's overbooked?

Mr. Wu: Well we don't have an application yet, so this ordinance will establish the procedures on the application fee, but one thing I need to clarify Mayor, is the difference between the spaces not being used and the Code required spaces. So what we evaluate is, let's say we got an application for this property, we will sit down with the Hyatt and ask them what use do they have on the ground and work our way space by space square footage by square by square footage to see what is Code compliance spaces there and subtract what's out there now, that is the surplus space, not operationally it's empty, its Code required space. Because as you said Commissioner Lago, if they committed two or three different pieces, how would we know?- we don't know that's a private deal, so we are also going to have a covenant based on the property owner who owns the spaces tie up that spaces the duration of the lease, so they have buy-in up front.

Commissioner Lago: What entity or department in the City would review that?- let's say on a yearly basis?

Mr. Wu: Well unfortunately it would fall under Development Services and it would be a certificate of use for the Dade Medical College use. On an annual basis when they come for renewal we ask for lease renewals and we will request authorization to visit the site to make sure the uses are open for Dade Medical College to use.

Mayor Cason: What about the other applicant?- are there spaces within 1,000 feet of that, that this will help solve?

Mr. Wu: If they found it we have not sat down to verify it yet. Again, Code required spaces as opposed to operational spaces, they may think it's not being used, I can go ahead and lease it, we have to verify that.

Ms. Trevarthen: I agree with everything that Charles has said, I just want to also say that the way this process is constructed, if you chose to go forward on First Reading now and Second Reading at your next meeting, then it will be live and then they'll apply, but it is the applicant's burden to provide all this documentation and that's the point at which the applicant can do this, not on the dais while we are debating the legislative change. So certainly it's important to know what the possibilities are, but structurally we are not at a place where we can give that crisp defined answer.

Commissioner Lago: There was an answer where you were saying in the beginning....

Vice Mayor Kerdyk: I want to pit it to that side of the scenario, which again is the scenario where somebody built an addition to their building and the easy out as far as that goes once the

building is built and secured parking, if it's not owned by the building owner and it's rented how do we deal with that situation when their lease is cut off or finished?

Ms. Trevarthen: In our view it's basically the same situation because it's not just that they've owned it and built it, it's that it's devoted to a certain use and again, we all admit these are not great solutions, but if the building doesn't work for the use either – this is something they will know up front. We are talking about a prospective change proposing to change in, and this is also why we built into the remote parking mechanism before you bid today that there first must be a finding by your Development Services Director that it's infeasible to apply to provide for the parking on site because if they can just build the parking into the addition they should do that and we should not even be having this discussion.

Vice Mayor Kerdyk: The difference though as you very well know, I don't need to point it out to you is, when you build something it's permanent. When you lease something it's temporary and I see a big difference between the two of them and I can't support that. I'll tell you right now I'm not supporting that portion, you can just take that out of the equation and I won't vote for the ordinance if that's part of it because I don't think it's good government in the City to allow a building to be built without secure parking. Similar to what I have currently on one of my buildings for the long term perspective of the City, because what ultimately is going to happen and I've sat up here for a while, is it sounds like you'll take it away if they've already built it, but you know what?– it's not so easy to take 20,000 square feet from a builder/owner/resident and say, Oh, by the way, you lost your parking and now can't occupy that space.

Ms. Trevarthen: And through the Chair if I may. I understand I was just presenting the draft that's before you today. Staff started where you are, I think staff is not at all opposed to this change and what I hear some of the Commissioners saying is, you want to have own space, owned building matched up with owned parking spaces and leased with leased.

Commissioner Lago: And I agree with what the Vice Mayor says and we are fortunate right now in the sense that we are not dealing with that problem, but I think we should make it very clear in this ordinance that, like you said, owned matching owned with owned, and lease with lease agreements. That's something that we can police and it's a lot easier on the organization as a whole, but we are going to eventually one day deal with that situation, because a person who is trying to get this corrected right now owns the property and owns the spaces, which makes the process a lot easier.

Commissioner Quesada: Let me jump in here; let me make sure I understand this correctly. I've read through everything. Hypothetical situation, I'm a tenant and I want to move into a space and

I want to put, let's say a restaurant in a retail space and the building doesn't have sufficient parking and I'm short 4-5 parking spaces, but the neighboring building has surplus parking and I would be in favor, tell me if I'm reading this correctly that, that tenant would be able to lease those additional spaces for the term of their lease.

Vice Mayor Kerdyk: But they are saying to tie it for a year, every year it's reviewed, reviewed probably close to their occupational license.

Commissioner Quesada: How do we police that?

Commissioner Lago: Certificate of Use. How do you avoid overbooking that's what we were talking about before? How do you avoid somebody showing you today a lease agreement that last a year and then that year comes to an end and they just don't renew it, they just don't renew it and they are saving themselves money in regards to "X" amount of parking spaces...

Mayor Cason: Could there be a penalty on the property owner that double books knowingly?

Ms. Trevarthen: The arrangement would be revoked and would be subject to the normal Code enforcement processes, but what I wanted to address because it is a common sense situation that I want us to not lose sight of. We are talking about our CBD (Central Business District), slightly bigger than our CBD, but within the CBD we need to remember that there is another kind of parking relief already there. You as a City Commission made a decision many years ago to exempt those uses that have an FAR of 1.25 or 1.45 if they do the mid bonuses completely from the requirements for parking and many of the small scale restaurant-type uses along Miracle Mile and elsewhere in the CBD qualify for that. 100 percent we made a legislative choice not to saddle them because most of them were nonconforming with that requirement and we built that into our planning for our City parking system that we knew that there were going to be customers who needed to be in our system, so that's the first solution. The second solution that we don't even have this conversation until your hypothetical restaurant is in a building that has a greater FAR than that, and at the change of use they are required to come and get a certificate of use and if they can't show that they need the parking they won't get it. The problem we have with the current situation is they didn't apply until after the fact; they pulled permits and they did activity and signed up long before they came through the process to discover they had a problem.

Vice Mayor Kerdyk: You know the other issue you should mention at this time is that a building that pre-dates November 1964 also has no parking requirements, as long as there is not a change of use on that structure there.

Ms. Trevarthen: That's correct.

Vice Mayor Kerdyk: So there is another caveat there. OK. I have an issue there and then I need more of an explanation about the 1,000 feet from the CBD, outside the CBD to this remote parking. What was the thought process on that?

Ms. Trevarthen: Well, the thought process behind that was simply that one of your interested applicants has a property that's one-half block outside of the CBD, and the character of the area is such that it's hard to say that the policy justifications associated with this program are any different, but staff will also have to address that. I can't remember the address.

Interim City Manager Olazabal: 201 Seville.

Vice Mayor Kerdyk: 201 Seville. Where does the 1,000 feet take us? OK 1,000 feet.

Mr. Wu: A 1,000 feet is about three and-a-half blocks north and south and about one and-a-half east/west; east/west blocks are much wider than north/south.

Commissioner Quesada: Can you speak up a little bit – sorry.

Mr. Wu: The 1,000 feet is about north/south about three and-a-half blocks length and east/west is about one and-a-half block east/west of a City block.

Ms. Trevarthen: Before you go on I want to remind everybody currently and in the new ordinance it can't be in single family, so even though these circles have yellow they are automatically not eligible to host remote parking.

Vice Mayor Kerdyk: I'm most concerned about the buildings that sit contiguous to those locations there and how the impact of that remote parking will affect them and I don't know how you gerrymander it, if that's the word, but the fact is that I'm not so concerned with 201 Seville because that's basically right in the heart, what bothers me is something that would be down Ponce a little bit further to the, I guess it would be to the south there or maybe something a little bit closer to the east where some of our residential areas there or maybe even on the west side where there is some – west side-south west side, that's what worries me to a certain degree is how it affects those neighborhoods. So, I don't know if there is a way that we keep it the same and then the City can give a variance for that. I don't know what the mechanism is, but I have some issue with 1,000 feet expansion of that.

Commissioner Quesada: I think all the points that you raised I think are adequately addressed by the resolution the draft and what Ms. Trevarthen just mentioned in the single family areas. The areas you pointed out, if you are going to the west, you are really into a serious residential pocket so there is no way you can get in. I know your concern is what about the adjacent properties, like a commercial property adjacent to a residential area.

Vice Mayor Kerdyk: Well, I'm saying if you are remote parking on those properties there is a better chance that somebody is going to park in a residential area than go to the parking space 1,000 feet away from there.

Commissioner Quesada: The way we can do it, the way we can revise it is, we do 1,000 feet, obviously keep it as single family which we have that already, and in the areas south of Ponce Circle Park we can just do a bright line, it's not applicable to these areas, and in the Code we can put a map with a nice little outline on where we want it and where we don't, and I think it will address your problem and at the same time it will allow it to expand further north in the commercial district, which I think we all agree is not any kind of concern.

Vice Mayor Kerdyk: But you do have, you do have a lot of apartment buildings up there that need the parking as much as anybody does. So what you may encourage, you may encourage people that own commercial properties to all of a sudden have that dynamic where their people have to park 1,000 feet away, but then they start taking parking spaces in front of these apartment buildings and creating a problem. I have a problem with the expansion, maybe you move it to 200 feet or something closer, but I think when you get anywhere closer to the residential areas there is an issue there, and I'm trying to be cognizant of the fact that we do have somebody here that has the property at 201 Seville, but you know I'm here to protect the residents too.

City Attorney Leen: Vice Mayor one other thing you could consider is you could acquire the – this hasn't happened too often, the remote parking...

Commissioner Quesada: Hasn't happened at all other than these two cases.

City Attorney Leen: There are only two examples posed. You could just require a waiver or Commission approval whenever it's outside the CBD.

Vice Mayor Kerdyk: I could do that.

Mayor Cason: So the specific circumstances can be brought to us and we can...

Mr. Alvarez: Mr. Mayor in the interim and again public policy I know how important this is and there is a lot still to work out, but again because of the timeframe involved, is there any possible way staff could be directed to allow us to build out that space while we continue to work out finding these spaces?- which will all of this discussion will be found now there are appeals processes now, it's a larger scope and so on, but by the time, and I know they are busy and by the time they figure out that these spaces are available or not it might be another six months at this.

Commissioner Lago: Do you have your construction documents in place?

Mr. Alvarez: Yes sir.

Commissioner Lago: Are they approved by the City of Coral Gables?

Mr. Alvarez: I don't know that answer. I have to get back to you.

Mayor Cason: And how fast can you do the discovery part of this to see whether or not these spaces are OK?

Mr. Wu: Well the sooner we can get all the information – you have to submit, as soon as we get the information from the applicant we'll...formal application.

Mr. Alvarez: But we'll have to wait until after Second Reading to do that.

Mr. Wu: I think we can start the review based on....

Mayor Cason: Start it now and we have to come back again, the next meeting is August 26th.

Mr. Wu: Well we'll be glad to advance that, yes.

Mayor Cason: So we have a motion?

Commissioner Lago: I'll make a motion.

Commissioner Quesada: I'm sorry?

Mayor Cason: For the waiver – the waiver out.

Vice Mayor Kerdyk: What do you mean the waiver out?

Mr. Wu: Outside the CBD.

Mayor Cason: For outside the CBD, if they want to get remote parking, what is it?- is it within 1,000 feet?

Ms. Trevarthen: Right now it says you can park outside the CBD up to 1,000 feet. We want to change that into a Commission waiver to go outside the CBD.

Vice Mayor Kerdyk: To get remote parking they have to come to....

Mayor Cason: Yes. If they want remote parking they come to us outside the CBD.

Ms. Trevarthen: An the other thing I heard, I don't know if you want to make this part of – is matching owned buildings to owned spaces, leased buildings to leased spaces.

Vice Mayor Kerdyk: For sure, for sure, a hundred percent.

Commissioner Lago: I think that's one of the most important points you can make.

Vice Mayor Kerdyk: I'd like both please.

Commissioner Quesada: I want to clarify that one in my hypothetical. I asked this hypothetical because in business that's coming in they are having this issue and I think it makes sense to allow this kind of thing in a lease situation. This is a large building that on the first floor is a bakery/restaurant; there is not enough parking in the building. Under what we are voting on right now would they be allowed to lease additional spaces surplus parking from a neighboring building?

Vice Mayor Kerdyk: It's a lease, it's a lease.

Commissioner Quesada: So the answer is yes. I just want to clarify.

Vice Mayor Kerdyk: The clarification is for somebody that owns and that his building is part of – they have to own the other space...

Commissioner Quesada: It's a tenant.

Vice Mayor Kerdyk: The tenant deals with as far as the lease goes. If you are an owner and you are expanding your building then you have to own the space, so your scenario is good.

Commissioner Quesada: My scenario is a tenant needs additional space in the building.

Vice Mayor Kerdyk: Yes, you get the remote parking.

Ms. Trevarthen: Is that property in the CBD?

Commissioner Quesada: It's the Regions Bank Building.

City Attorney Leen: We looked at it and I think you may have to do a waiver to allow that, under this proposal the Commission may have to approve it, but you could.

Ms. Trevarthen: The motion would allow you to make that waiver.

City Attorney Leen: Yes.

Commissioner Quesada: It would allow us to make the waiver in the future; we would have to do a separate vote.

Ms. Trevarthen: The draft says it would be as-of-right within 1,000 feet; the motion says you would waive it to allow it outside the CBD.

Commissioner Quesada: Got it. And how would that waiver process work?

Mr. Wu: We will bring forth for a recommendation for the waiver.

Commissioner Quesada: Got it. Thank you.

Interim City Manager Olazabal: And just to clarify. The applicant needs to show where the remote parking is going to be and needs to show that there is surplus parking and then staff would review, but that's the first step in the process, not the other way around.

Commissioner Lago: Charles just for the record, this obviously went through P&Z as I can see, but I can't find the vote, what was the breakdown on the vote?

Mr. Wu: It was 4-2; the 2 were concerned about going outside the City.

Commissioner Lago: Which I think we addressed that issue.

Vice Mayor Kerdyk: They addressed it actually, right?- there is nothing outside the City has to come to the City Commission for a waiver?

Mr. Wu: Yes.

Ms. Trevarthen: Excuse me. The current draft says you can waive to go outside the City.

Vice Mayor Kerdyk: Do you want to even have that in there?

Commissioner Lago: No.

Vice Mayor Kerdyk: OK, let's take that out.

Mayor Cason: Take that out.

Vice Mayor Kerdyk: Take that out.

Mr. Alvarez: So just for clarification. Staff said that they would sit down, for example in our case with the higher and look to see if that was surplus. You are saying now that the applicant has to do that, which I don't mind I just want clarity on what we need to do.

Mr. Wu: Yes, the applicant needs to provide to us whatever information we will verify it. The burden is on the applicant to tell us.

Ms. Trevarthen: In this timeframe you can look at this draft ordinance, see what's required for an application, they would – they are willing to look at the draft application, but we need to have a submission that covers those issues.

Vice Mayor Kerdyk: OK. Susan, do you know what the motion is going to be?

Ms. Trevarthen: Would you like me to state the motion.

Vice Mayor Kerdyk: Yes, go ahead.

Ms. Trevarthen: What I hear is if there is a willingness to have a motion to approve it would have three amendments. The first amendment would be instead of allowing 1,000 feet outside the CBD to apply as-of-right that would be a City Commission waiver in order to apply 1,000 feet outside the CBD or anywhere.

Vice Mayor Kerdyk: Yes, 1,000 feet anywhere.

Ms. Trevarthen: The second amendment is to remove the current draft allows the City Commission to waive the requirement of being inside the City; we'll take that waiver opportunity out of the draft.

Mayor Cason: That's right.

Ms. Trevarthen: And the third amendment is that if someone actually owns the building in which the use is located they also need to own the remote spaces. If they are only a tenant then they can lease the remote spaces.

Vice Mayor Kerdyk: That's perfect but I would like to ask the Commission one other question. With the waiver of 1,000 feet, which we are requesting that something comes in, is that applicable only to locations close to the CBD?- or can that be for areas outside the CBD, including of course the old industrial area where the Village of Merrick Park is?- and/or will Publix is located in the South Gables area?- is your impression to just start in that location and then expand it?

Commissioner Lago: I think we should start just in that location.

Vice Mayor Kerdyk: Somehow you have to choreograph that to make sure that it entails just close to the CBD.

Ms. Trevarthen: OK. Do you want to use that 1,000 feet as the limit for eligibility to ask for the waiver or not?

Vice Mayor Kerdyk: No....

City Attorney Leen: Well you know the reason why is because there is already a waiver of 1,000 feet too, so if you say it has to be with 1,000 feet, but if its outside the CBD it has to be waived as well, then it would allow you both to go – you could go more than 1,000 feet...or you can keep it with 1,000, but both there'll be two waivers instead of one; one for the distance, one for

outside the CBD, but you may want to keep the distance because you may get request for very far outside the CBD.

Vice Mayor Kerdyk: Well then the Commission has to make a prudent decision. The question is that if you leave the 1,000 square feet in there you may be leading people to think that they can get 1,000 feet from there and it might be more prudent for the Commission to make that decision once it gets to us. How do you all feel about that?- more flexibility?

Mayor Cason: More flexibility...

Vice Mayor Kerdyk: I would take out the 1,000 feet.

Mayor Cason: OK. Anything else you want to add on that?

Vice Mayor Kerdyk: Is there a vote yet?

Mayor Cason: Jorge anything else?

Vice Mayor Kerdyk: Please expedite his situation. Thank you.

Mayor Cason: Alright. So we have a motion?

Commissioner Quesada: So moved.

Mayor Cason: Commissioner Quesada makes the motion, the Vice Mayor seconds.

City Clerk

Vice Mayor Kerdyk: Yes

Commissioner Lago: Yes

Commissioner Quesada: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you very much.

City Attorney Leen: Just to let you know there was no public comment, no cards.

Mayor Cason: No public comment.

Mr. Wu: That Second Reading is going to be a resolution, companion resolution for \$1,000 application fee, just to let you know that.

Commissioner Lago: OK.

Commissioner Quesada: OK.

Vice Mayor Kerdyk: Thank you. Thank you for the presentation.

Commissioner Lago: Thank you sir. Thank you George.

[End: 3:39:00 p.m.]