

CITY OF CORAL GABLES
HISTORIC PRESERVATION BOARD

CITY COMMISSION CHAMBERS
405 Biltmore Way
Coral Gables, Florida

Thursday, May 20, 2010

COPY

Case File LHD 2003-18 Revised

LOCAL HISTORIC DESIGNATION: Consideration of the removal of the local historic designation of the property at 1044 Coral Way, legally described as Lot 1 and W 32 FT of Lot 2, Coral Gables Section "A", Block 11, according to the Plat thereof, as recorded in Plat Book 5, Page 102, of the Public Records of Miami-Dade County, Florida. An application to remove the local historic designation was previously denied on June 21, 2007.

CURRENT OWNERS: Mr. and Mrs. Waldo Toyos

ALSO PRESENT: Lowell Kuvn, Esquire

Paul George

Lourdes Alfonsin-Ruiz,
Assistant City Attorney

Kara N. Kautz,
Historic Preservation Officer

PROCEEDINGS HELD BEFORE THE HISTORIC PRESERVATION BOARD

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1 (Thereupon, the following proceedings were
2 had.)

3 MS. MACINTYRE: Okay. Our next -- then we'll
4 go back to Case File LHD 2003-18 Revised.
5 Consideration of the removal of the local historic
6 designation of the property at 1044 Coral Way,
7 legally described as Lot 1 and West 32 feet of Lot
8 2, Coral Gables Section "A", Block 11, according to
9 the Plat thereof, as recorded in Plat Book 5,
10 Page 102. An application to remove the local
11 designation was previously denied on June 21, 2007.

12 MS. KAUTZ: I'm going to be handing out a
13 revised portion of the report. I added a paragraph
14 to it today. I will point out to you which
15 paragraph that was.

16 Okay. You-all were given a lot of
17 information, so I wanted to make sure, first off,
18 you-all had the package that was submitted to you
19 by the applicant from last week. If you do not, I
20 have extra copies. It looks like this.

21 And you should also have from me a copy of
22 designation -- or the consideration of the
23 designation report, a letter of support, two
24 articles about economic hardship claims and some
25 minutes from historic preservation board meetings

1 that address this item. Again, if you don't have
2 these, I can get those for you.

3 I'd like to start with going through our
4 designation report and bringing a couple of items
5 to our attention, and then I'll turn it over to the
6 applicant and their attorney.

7 MR. KUVIN: If I could just interrupt you for
8 a second, I wear a hearing aid, so if I ask anybody
9 to repeat themselves, it's not that I'm not
10 interested, I just didn't hear you.

11 MS. KAUTZ: What I'm asking you to look at
12 today is a reconsideration of the historic
13 designation of the property of 1044 Coral Way, a
14 map of which you'll see on the screen.

15 This is the home in a panorama of Coral Way in
16 the 19 -- early, early -- I'm not even sure the
17 date of the picture, but it's a very early picture
18 as you can tell by the absence of everything else
19 on the street.

20 It's among the first houses to be built on
21 Coral Way sometime prior to 1924. It was built for
22 Worth St. Clair and his wife, Emma Merrick, who was
23 the sister of Reverend Solomon Merrick, who is
24 George Merrick's father; and it remained the family
25 home until the 1950s. So we'll go through a brief

1 timeline of the events that brought us here today.

2 This is the home at the time of designation.
3 This is the home at the time of its collapse in May
4 of 2006. This is the property as it stands today,
5 which is a vacant lot.

6 There's a lot of history, and I'm really
7 hoping you-all read this closely. There were
8 multiple things regarding this property over the
9 years, so I'm going to try to be brief and hit on
10 the points leading to now.

11 The property was designated in April 2004 as a
12 local historic landmark. A certificate of
13 appropriateness application was received for the
14 construction of an addition, the rehabilitation of
15 the property and the installation of at-grade
16 improvements in July of 2004.

17 A variance was requested at that time to
18 exceed the maximum allowable floor area. The case
19 file was reviewed by the Board, and on January 2005
20 a motion to approve the design of the variances
21 failed.

22 The Board, at that same meeting, passed a
23 motion to waive the one-year waiting period to come
24 back for variances as specified in the zoning code,
25 that the applicant could return with a tweaked

1 design that installs the requested variances. No
2 plans were ever resubmitted back to the Board.

3 At the beginning of May 2006, the home
4 collapsed and was cited as an unsafe structure by
5 Code Enforcement. We signed a permit for an
6 emergency fence, and a letter was then issued by
7 the building official deeming the structure unsafe.

8 A certificate of appropriateness for
9 demolition was reviewed by the Historic Board in
10 August of 2006, and a motion was passed approving
11 the application pending receipt of additional -- it
12 was with conditions. There were, I think, four
13 criteria that were requested that were to be
14 submitted.

15 In October, the matter came back to the Board,
16 and the Board again passed a motion to allow the
17 demolition of the property with the understanding
18 that as much as possible would be salvaged to be
19 used in the future, and allow the demolition with
20 the understanding that the original historic
21 building would be recreated unless the Board agreed
22 to lesser solutions when they saw further developed
23 plans.

24 And the paragraph that I added is right here
25 just in case.

1 In December of 2006, a special meeting with
2 the Board was held to revisit the application. And
3 that meeting was actually held to address the
4 conditions placed in August to make sure those
5 conditions had been met before a demolition permit
6 was signed and issued. At that meeting, the Board
7 did accept the requirements set forth in the August
8 meeting were met, and in February of 2007, the
9 demolition of the structure was completed.

10 In June 2007, another Case File COA (SP)
11 2007-13 was considered for the construction of a
12 new residence and the installation of at-grade
13 improvements. At this meeting, the Board approved
14 the design of the residence with conditions and
15 noted that the revisions that were requested by the
16 this Board be brought to staff for their final
17 approval. At that time, in August of 2007, staff
18 did issue a letter granting administrative approval
19 of those changes.

20 At the same June 2007 meeting, the Historic
21 Board also denied a request from the owner to
22 remove the designation of the property.

23 In December of 2007, the case file was again
24 revisited when it was discovered that a variance
25 from the zoning code was needed to implement the

1 previously approved design. The Board granted the
2 variance to allow the new residence -- proposed
3 residence to exceed the maximum allowable for
4 square foot floor area.

5 The Board also granted an extension for the
6 expiration of the approved variance to be three
7 years rather than the usual two-year expiration
8 date for variances.

9 The current request before you now is to
10 determine whether the property meets the criteria
11 for designation as a landmark in its current state,
12 as we saw in the pictures, without the original
13 structure standing.

14 And, again, the criteria for significance that
15 this would fall under is historical and cultural.
16 It is associated in a significant way with the life
17 or activities that a major person -- major historic
18 person important in the past.

19 Again, the home was constructed prior to 1924
20 for Worth St. Clair and his wife, Emma Merrick.
21 Emma Merrick was the sister of Solomon Merrick and
22 the aunt to the city founder, George Merrick. They
23 moved here from Baltimore in 1910.

24 Worth St. Clair assisted Reverend Solomon
25 Merrick with the fruit farming on the plantation

1 until about 1916. It was then that his association
2 with George Merrick's real estate team officially
3 began, and he became one of the team members that
4 helped start the City. He was in charge of --
5 prior to that, he worked with Merrick in doing a
6 couple of other developments within the City of
7 Miami; Riverside Farms, North Miami Estates, South
8 Bay Estates, Twelfth Street Manors.

9 Worth St. Clair took over the Coral Gables
10 Garage in 1924, identified at the time as the first
11 modern business building in the city. It was on
12 the corner of Alhambra and Salzedo Street. By
13 1926, the property had grown -- the business had
14 grown the entire block long.

15 In 1925 Emma Merrick died, and the following
16 year, Worth St. Clair married Lilian Merrick
17 Hampton, the first cousin of Solomon, in
18 Washington, D.C., and they traveled back to Coral
19 Gables and again took up residence at 1044 Coral
20 Way.

21 The property remained in the Merrick/St. Clair
22 family until 1955-1956 when Lillian Merrick Hampton
23 St. Clair, his second wife, died.

24 At the time of designation in 2004, it was
25 noted that the residence had undergone minor

1 alterations. By the end of the 1940s, the screened
2 porch on the east was extended and eventually
3 enclosed and several windows had been changed, but
4 that was essentially the extent of the alterations.

5 Obviously, in 2006, the primary structure on
6 the property collapsed and was ultimately removed
7 along with the freestanding garage structure. No
8 permanent structures remain on the site.

9 The City of Coral Gables has no process in
10 place in its own code for removal of local historic
11 designation. As there are certain steps to take
12 with the designation of the property, there aren't
13 really steps to de-designate a property. It's only
14 happened probably two or three times I can think of
15 within the City.

16 So we looked for an example from the National
17 Park Service who oversees the National Register of
18 Historic Places, and they have a set of criteria
19 that set conditions for the de-designation of the
20 landmark. And I'll read -- I'm going to read --
21 there are four criteria. I'm going to read the one
22 that's relevant to that case.

23 Four justifications exist for withdrawal of
24 National Historic Landmark designation. And their
25 first criteria is that, number one, "The property

1 has ceased to meet the criteria for designation
2 because the qualities which caused it to be
3 originally designated have been lost or destroyed
4 or such qualities were lost subsequent to the
5 nomination, but before designation."

6 It is important to note that the City -- the
7 standards and criteria that the City follow are
8 different than the National Trust -- I'm sorry, the
9 National Park Service. And the most important
10 difference is the City has the ability to designate
11 without owner consent when they feel a property has
12 been threatened; the National Park Service does
13 not.

14 As stated earlier, there are no criteria. But
15 the only one that would be applicable is that the
16 house has been lost.

17 However, in the original staff report for the
18 designation of the property in 2004, the
19 designation is not based solely on the
20 architectural significance of the structures on the
21 site, but applies the criteria, which is, at the
22 time, historical, cultural significance.

23 The full staff recommendation to designate the
24 property in that report reads as follows: The
25 residence at 1044 Coral Way has retained its

1 integrity as an example of the Masonry Vernacular
2 architecture that was derived from the Bungalow
3 building typology. Because of its direct
4 association with the Merrick Family as one of the
5 earliest homes in the City of Coral Gables and its
6 architectural adaptation to South Florida climate,
7 staff finds the property eligible for listing in
8 the Coral Gables Register.

9 And although the architecture and typology of
10 the house are noted and, obviously important,
11 reference is made to the importance of the original
12 property owners' direct association with the
13 Merrick Family. Staff found the entire property
14 eligible for designation, not just the structures.
15 As you know, the historic designation runs with the
16 property and not with the structures that are on
17 it.

18 The applicant requests removal of the
19 designation of the property, and we find that
20 although the house is no longer standing, the
21 property is significant for its strong and lasting
22 ties to the history of Coral Gables.

23 In addition, we find that allowing the
24 de-designation of a property would set a dangerous
25 precedent within the City. It would undermine the

1 strength of our preservation program and the Coral
2 Gables Zoning Code. The ability to de-designate a
3 property as a historic landmark would, in a worst
4 case scenario, essentially allow an owner who did
5 not consent to designation to diminish the
6 architectural integrity of their property and then
7 seek to remove the designation.

8 It is our opinion that in spite of the
9 substantial alterations that have occurred over
10 time at the property, it still remains significant
11 to Coral Gables history based on its historical and
12 cultural associations, and recommends a motion to
13 deny removal of the designation.

14 MS. MACINTYRE: Okay. The applicant?

15 MR. KUVIN: Good afternoon. My name is Lowell
16 Kuvin. I represent Waldo and J.C. Toyos in this
17 particular matter.

18 The first thing I'd like to point out, as she
19 went over a lot of points that I was going to use
20 also, is that if this designation were to remain
21 and the Toyoses were mandated by this -- by the
22 City to reduplicate the house that was there
23 before, you would have an historical house that
24 would be brand new, and I don't think -- I think
25 that's unprecedented in this city.

1 I remember you discussing just short -- a few
2 moments ago was that a library was less than 50
3 years old, and I think that more than one person
4 brought that point up. And to designate something
5 that would be less than 50 years old is -- requires
6 an exception.

7 This would be a brand-new house that would be
8 an historical landmark, which would really not make
9 any sense whatsoever and I believe in the long run
10 would hurt the historical preservation that is very
11 important in Coral Gables.

12 My family owned a house in Coral Gables for 15
13 years; I went to Coral Gables High School. We used
14 to live at 611 San Antonio, a beautiful
15 Spanish-style house right near the high school. I
16 just wanted to point that out just kind of as a
17 thought throughout this whole process, my speech.

18 I think the actual question is whether the
19 property at 1044 meets the criteria for continued
20 designation as a local historic landmark in its
21 current state without the original structure.

22 If we look through the Preservation Board's
23 resolution, the original one which designated it,
24 we talk about -- I point out a set of words such as
25 residence prior to 1924. Obviously, the property

1 was there prior to 1924. We could be talking about
2 all of Coral Gables. So it's talking about the
3 house itself, the structure itself. We talk about
4 the -- I'm reading right from it -- the historic
5 cultural significance, architectural significance,
6 criteria, characteristics of an architectural style
7 or period or method of construction. We talk about
8 architectural heritage, local historical landmark.
9 And the resolution passed unanimously.

10 I would agree with you that the house was an
11 historical landmark; however, it collapsed. It was
12 nearly 100 years old, and it was of nobody's fault.
13 The house died, unfortunately. It passed away.

14 The City of Coral Gables has quite a few
15 zoning ordinances. Many people, many zoning
16 officers had visited the property and inspected it
17 or looked at it, and no one had ever issued a
18 report that said this was an unsafe structure. I'm
19 just glad my client had not moved into it as of
20 yet, or perhaps there might have been a loss of
21 life. However, there has never been any type of
22 allegation that my client had anything to do with
23 the demise of the property. They only owned it for
24 a very short period of time before it did collapse.

25 Some keywords, "The property has lost its

1 architectural integrity and significance." These
2 are not my words, but the words of the historic
3 preservation officer in her report dated May 20,
4 2010 on Page 5.

5 We are not looking at an historical area of
6 designation. I provided you with some pictures,
7 and these are the houses that surround it. This is
8 the house right next door. This was an original,
9 and hopefully this has been designated an
10 historical landmark. We have the house right
11 behind it, which is of a Spanish design. We have a
12 house right across the street that is a
13 contemporary home. Across the street, we have
14 another Spanish style. This would be more -- I
15 think this house was built in 1950s and 1960s in
16 Florida. Again, we have across the street another
17 Spanish-style house, another Spanish-style house,
18 and then, again, of course, this piece of property.
19 We are not talking about an historical designated
20 area; we are talking about a particular piece of
21 property.

22 I agree that the property has lost its
23 architectural integrity and significance. Does the
24 property meet the criteria for withdrawal of
25 designation as an historical landmark according to

1 Title 36, Section 65.9 of the Federal Code of
2 Regulations? I think everybody agrees here that
3 this is the criteria that we should use. Since the
4 City does not have its own set of rules as to how
5 it would de-designate a piece of property, then it
6 would go to these particular rules, which are
7 promulgated by the National Park Service. I would
8 believe that B1 -- and I'll read it, "The property
9 has ceased to meet the criteria for designation
10 because of the qualities which caused it to be
11 originally designated have been lost or destroyed."

12 And I think that nobody can argue that the
13 house has been lost and destroyed. And it's
14 actually the house that was designated. The
15 property itself was certainly not anywhere near as
16 important as the house.

17 The house was built around 1910. The Toyoses
18 purchased it in 2003. The house was nominated to
19 be made an historic landmark in 2004. And in
20 recommending that the building be designated, the
21 staff report stated, "The residence at 1044 Coral
22 Way has retained its integrity as an example of
23 Florida Masonry Vernacular architecture." I
24 believe the staff read the rest of that in;
25 however, it's exactly what we are talking about.

1 We are talking about the house itself. None of the
2 Merricks lived on this property except for as the
3 wife of the gentleman who owned the house. There
4 were actually two wives.

5 The house was designated on April 15, 2004.
6 Three months later in July of 2004, after spending
7 thousands of dollars for plans for an addition to
8 the home -- they wanted the home, they wanted to
9 add on to the home -- the Toyoses filed an
10 application with the Board to approval certificate
11 of appropriateness and a variance. However, as we
12 know, those were both denied.

13 The Toyoses went back to their architect and
14 started making changes to the original plans.
15 However, due to the difficulty in obtaining a
16 construction loan and downturn in the economy, the
17 project was stalled. In May 2006, the home
18 collapsed. It was over -- it was nearly 100 years
19 old. Shortly thereafter, this Board passed a
20 motion to allow demolition of the property.

21 The Board in 2007 approved plans for
22 construction of a new residence on the property
23 since the prior plans were worthless. So now the
24 Toyoses are putting more money into the property to
25 try to build something on the property.

1 This report recommendation is now -- is not to
2 de-designate the property, because they find that
3 although the house is no longer standing, they
4 somehow say that the property is still significant
5 as the site of Worth St. Clair and the site still
6 has strong lasting ties to the history of Coral
7 Gables. However, this is not the reason the
8 original property was designated as an historical
9 landmark.

10 It talked about the home, the architecture
11 style, the characteristics of the house, the style
12 of which it was built. It wasn't the piece of
13 property, it was a home.

14 Historical significant properties are sites --
15 historical significant properties are sites that
16 usually something significant happened there, such
17 as the Battle of Gettysburg. I lived in Vicksburg.
18 All of those lands are historically designated. Or
19 the signing of important documents, such as the
20 Declaration of Independence, or whatever else it
21 may be. However, this piece of property does not
22 meet that. It was owned by Mr. St. Clair, and he
23 happened to be married to a Merrick daughter or
24 aunt.

25 All of Coral Gables at one point in time was

1 owned by the Merrick Family, not just this one
2 piece of property. Coral Gables as a whole is a
3 historic -- is historic, but not designated as
4 such. To hold this one piece of property out as
5 historic would not really make sense and would
6 weaken the significance of other buildings which
7 have been historically designated.

8 This would be a brand new building with
9 historical designation and may even hurt the
10 coffers for the City of Coral Gables because of the
11 fact that the Toyoses could apply for the tax
12 relief based on that building. It would be a brand
13 new million dollar house, and they would be paying
14 practically no property taxes on it.

15 Additionally, the owner of the piece of
16 property was not a Merrick, he was only married to
17 a Merrick.

18 The staff further states that allowing the
19 de-designation of the property would set a
20 dangerous and irreversible precedent in the City.
21 It would undermine the strength of our preservation
22 program and the Coral Gables Zoning Code. The
23 ability to de-designate a property as an historic
24 landmark would, in worst case scenario, they say,
25 essentially allow owners who do not consent to

1 designation to diminish the architectural integrity
2 of the property and then seek to remove the
3 historic designation.

4 That could never happen. And the reason that
5 would never happen is because we have so many
6 zoning officers in Coral Gables. If we see a
7 building that has a problem, the zoning officer is
8 dispatched, and he writes up the property, and then
9 the property is taken care of and it's fixed.

10 To allow someone to -- allow a house to become
11 so dilapidated that it collapses hopefully will
12 never ever happen in this city. And as a worst
13 case scenario, I don't think this will ever happen
14 again.

15 No one anticipated the collapse of the home at
16 1044 Coral Way. There is not any evidence to
17 support that anyone knew it was about to happen.
18 And, remember, the Toyoses spent thousands of
19 dollars to have plans -- two sets of plans drawn up
20 for that property. None of the engineering reports
21 even hint at the idea that the Toyoses purposely
22 allowed this property to become unsafe and
23 collapse. It's unlikely that any family would
24 have -- would live in a home and allow it to become
25 so unsafe that it may collapse at any moment.

1 They visited this house on a regular basis; so
2 did the architects in order to measure it. These
3 people were walking around inside.

4 De-designation of a property is lawful and, I
5 would argue, mandatory in some cases. The staff's
6 ideas that no property should ever be de-designated
7 because it was dangerous and irreversible by the
8 City is irresponsible and could potentially lead to
9 litigation against the City.

10 I have included a law review titled Allocating
11 the Cost of Historic Preservation: Compensation for
12 the Isolated Landmark Owner for your review. The
13 economic consequences of designation in developing
14 control undermine the purpose of landmark
15 preservation ordinances and call into question
16 their constitutionality. That was on Page 648 to
17 649. Plus, in justice and fairness, the purpose of
18 the impact need to be looked at in this particular
19 case.

20 If the Toyoses are made to replicate your
21 building, that is then going to be designated --
22 continue to be designated as an historic landmark
23 and be a brand new building, that would make no
24 sense whatsoever.

25 I'd like to take a moment to introduce Dr.

1 Paul George. He'll entertain any -- and I'll
2 entertain questions after his presentation about
3 this.

4 MS. KAUTZ: I would also like to make a
5 follow-up statement when they are finished.

6 DR. GEORGE: Thank you, Lowell. Delighted to
7 be here. Paul George, 1345 Southwest 14th Street,
8 Miami.

9 Much of what Lowell has talked about I have in
10 my remarks, too, so I'm not going to repeat a lot
11 of that. But I just wanted to talk briefly about
12 the building and about historic designation.

13 And we talked about the issue of de-designate,
14 and Lowell went through what I thought was the
15 relevant section of the National Park Service in
16 terms of de-designation. But I also wanted to talk
17 a little more about the staff report of
18 February 18, 2010 to the Historic Preservation
19 Board, which recognized that reality when stated
20 in -- and I know he's mentioned that, but I think
21 it bears repeating. And I quote, "It is the
22 staff's opinion that while the property has lost
23 its architectural integrity and significance, the
24 historic integrity of the property remains because
25 of the association with the Merrick Family."

1 My question, of course, would be, was this --
2 was not the home the essential ingredient in the
3 historic designation here? It just appears logical
4 to me that it is the building that has driven the
5 local historic preservation process in Coral
6 Gables, certainly as it pertains to this property.

7 Also, I'm unaware of any other community of
8 historic preservation standards that insists upon a
9 replacement structure plan for a lot that which
10 formerly hosted an historical building, that that
11 structure replicate the earlier structure.

12 Practical or logical reasons for the act of
13 such mandate are pertinent here and could include
14 the difficulty of locating the building plans for
15 the original structure to scarcity of the original
16 building materials, a footprint that is inadequate
17 for the needs of new occupants, et cetera, et
18 cetera.

19 And then would -- the other new building on
20 the historic lot, would it also be historic? It's
21 almost uncharted territory here.

22 And then another question I have is what would
23 happen if an historically designated home is
24 severely damaged or even destroyed by mother
25 nature? Would it be fair or even logical to force

1 the owner to replicate the structure in his or her
2 rebuilding efforts? Would this not bring
3 unnecessary financial hardships to the homeowner
4 since it is noted a replication of the replacement
5 for damage or destroyed structure? Exacerbating
6 the already imposed financial challenge of the
7 property owner is always more costly.

8 I fully embrace historic preservation. I
9 would not be here standing in front of you if this
10 house was still standing -- it would be a complete
11 nonissue to me -- or if I thought the Toyoses would
12 not work closely with the Board and the City of
13 Coral Gables on this project.

14 I served -- in fact, I still serve on the
15 County Historic Preservation Board. I have been
16 there for 13 years. I served for four years on the
17 City of Miami Historic Preservation Board. I
18 headed the Historic Broward County Preservation
19 Board, which is a state board, for five years.

20 Finally, my appearance here stems from my
21 belief that this case is a special one, centered
22 around, A, the absence of the primary reason for
23 designation, the house; and, B, intent of the Toyos
24 Family, extending back five years, to first restore
25 the historic structure and, secondly, in the

1 aftermath of the demolition, to build a replacement
2 home resembling the original, but with some
3 latitude to build it larger and with some variance
4 on materials.

5 Thank you.

6 MS. MACINTYRE: Thank you.

7 Kara?

8 MS. KAUTZ: A couple of points. One, that the
9 designation report that was written in 2004 does
10 cite not only architectural criteria, but
11 historical significance and cultural associations.
12 The architecture, yes, may have been lost, but the
13 associations still remain. And you only need one
14 criteria to designate a property, not all of them.

15 This, in my -- in reading the zoning code, is
16 a classic example of demolition by neglect, and --

17 MS. BONDURANT: Kara, can you speak up a
18 little bit? I can't hear you.

19 MS. KAUTZ: Sorry.

20 -- is a classic example of demolition by
21 neglect. And the definition of that that's given
22 in the zoning code is any failure to comply with
23 the minimum required maintenance standards of this
24 section, whether deliberate or inadvertent. And I
25 think it's important to note the "deliberate or

1 inadvertent" portion. Because if you go back to
2 January of 2005 when the first COA was going
3 forward through the Board, I will quote from the
4 owners' -- that say, I have children exposed to
5 rain and sun, and, as it is, this house is --

6 THE COURT REPORTER: Wait a minute. Slow
7 down, please. You're reading, and I can't hear
8 you.

9 MS. KAUTZ: Sorry.

10 -- because, as it is, this house is slowly
11 deteriorating and falling apart. Again, if we just
12 removed -- well, by the way, it is falling on its
13 own, so removing it isn't going to be an issue as
14 far as the structure.

15 So it was acknowledged in 2005 that this
16 property was already severely deteriorating, and
17 yet nothing was done to enhance it, to shore it up,
18 to keep it standing in over a year and a half until
19 it collapsed, although that was acknowledged. I do
20 think there was the possibility that this house
21 could have been saved had it been shored properly,
22 had it been protected.

23 And then the last thing that I wanted to
24 address -- there were two other things, sorry. One
25 was the initial letter requesting the removal of

1 the designation which cited economic hardship claim
2 for the owner, but yet no proof was presented, and,
3 therefore, I don't even think that claim should be
4 considered as part of this -- as part of this
5 discussion. The code is very clear that it cites
6 the need for affidavit support, and none of that
7 was provided to staff or the Board.

8 The last point that I have is that when -- I'm
9 sorry, I have two more. When the Board was
10 considering the demolition request after the
11 collapse of the property, they conditioned the
12 demolition on design review of the new structure,
13 period. That's it. The Board granted the COA
14 approval and variance for a new property. It
15 wasn't built.

16 To come in now and request a de-designation of
17 the property after the demolition was granted with
18 the condition that they -- "they," meaning
19 you-all -- want whatever the inclination of the
20 Board as design review, I think is asking for one
21 thing when you have been given another.

22 And then the last point I wanted to make is
23 that this Board has designated structures
24 conditioned on the replication of certain features
25 that have been lost. The property on Miracle Mile

1 that -- they restored it back to what it looked
2 like. It was a condition of the designation that
3 that be restored. So, essentially, what you have
4 there is a new building. And they have been lauded
5 greatly for putting that building back to the way
6 it looked. So it doesn't happen often, but it
7 happens.

8 And, finally, this Board, or the previous
9 version of this Board denied, the removal of the
10 designation in 2007 without discussion. It wasn't
11 even heard of. It was after the owners were
12 granted the COA for the approval for the new
13 design, so...

14 MR. KUVIN: I'd just like to touch on the
15 point that's been -- this bell has been rung a lot
16 of times.

17 This is actually the first time that the
18 Toyoses have ever asked to have this property
19 de-designated. It's been said time and time again,
20 and I've tried to let it go, but they keep on
21 ringing this bell, and it's untrue.

22 The reason that it's untrue is because during
23 the 2007 hearing, the Toyoses were granted
24 variance -- were granted a building permit for the
25 house -- or there was a variance around that time,

1 and the rest of the agenda was never followed
2 through on this. There was no reason to ask for a
3 de-designation on the property.

4 MS. KAUTZ: Excuse me. I beg to differ.
5 There was a motion made to deny the application.

6 MS. ROLANDO: Kara, is this in addition to
7 what you've already given us?

8 MS. KAUTZ: Yes.

9 MR. HEISENBOTTLE: Can you, Kara, please
10 explain the significance of what you've just given
11 us and what's being discussed up there? Because,
12 quite frankly, some of us don't get it.

13 MS. KAUTZ: There was a certificate of
14 appropriateness application, which is COA (SP)
15 2007-13 that addresses the construction for the new
16 residence and installation of the at-grade
17 improvements that was addressed. It was moved to
18 approve with the motion to allow staff to
19 administratively follow up on the plan review,
20 which we did later.

21 The second item that you'll see in the last --
22 bottom of the last page was the request for
23 de-designation, which was voted on and denied.

24 MR. KUVIN: Why was -- I mean, it doesn't say
25 there was no discussion, there was no nothing.

1 MS. KAUTZ: There was no discussion.

2 MR. KUVIN: And the reason there was no
3 discussion was because it was -- the application
4 was denied.

5 And I'm just assuming here because the
6 variance had been passed; is that correct? So, I
7 mean, there was never any evidence taken on it,
8 there was no discussion, nothing?

9 MS. KAUTZ: No, there was no reason to.

10 MR. KUVIN: Okay. Exactly. That was what my
11 point was.

12 MS. BONDURANT: I'm sorry. I missed what your
13 point was in that regard.

14 MR. KUVIN: I think my point was,
15 Ms. Bondurant, that it was never heard. The issue
16 was never discussed. There was an application that
17 was submitted; however, because the Toyoses had
18 been granted the variance and they were moving
19 ahead with the building of the house, there was no
20 reason to ask for a de-designation. However, the
21 application had been submitted. And I guess as a
22 housekeeping measure, they denied it in order to
23 get it off the record.

24 MS. TOYOS: Hi, my name is J.C. Toyos, and I
25 am the owner of 1044 Coral Way. I remember

1 specifically when they took up the first motion, we
2 were so ecstatic and so happy with the results that
3 we decided to go ahead and withdraw it, and we
4 thought it wasn't going to be heard. And we said,
5 yes, go ahead and withdraw it, and we left the
6 room.

7 So if there was anything that happened after
8 that, we weren't even in the room for it.

9 MS. KAUTZ: That's not how I remember it. I
10 can pull the tape of the agenda.

11 MR. TOYOS: I think we should.

12 MS. TOYOS: We should, because that's the only
13 reason why.

14 MR. KUVIN: I think the -- I think the staff
15 report she handed me right now were the minutes of
16 that meeting that support the Toyoses' version that
17 there was never ever any evidence, no one ever
18 spoke to it. And I think that would lead a
19 reasonable person to believe that it was just
20 withdrawn or a housekeeping matter, because they
21 had been issued a variance at that particular
22 point.

23 MS. ROLANDO: Had you not previously stated,
24 though, that the Toyoses were being required to
25 replicate the house. And yet here, they were

1 being -- there was approval of alternate plans that
2 were not a replication of the original house. So
3 what happened in the meantime?

4 MS. TOYOS: Okay. So what happened was
5 that -- about two months ago, we decided the house
6 was very big. It's 7,000-something square feet.
7 We have been trying to get a loan, as we have been
8 trying to build the house for a while now, and, as
9 we all know, the economy didn't make anything any
10 better.

11 So we decided to go ahead and scale back the
12 home to 4,000-something square feet. We went in
13 front of the Architectural Board as a housekeeping
14 measure because we didn't even think it was going
15 to be an issue. We thought we'd have to come
16 directly to you, and they deferred it without even
17 having any consideration.

18 At that point in time, the architect said,
19 listen, I'm being blackballed, they're not going to
20 allow me to do anything, because they told me
21 unless the house is being replicated, that you were
22 not going to be allowed to make any changes to it.

23 And so we decided to take this step in a very
24 painful manner because we just could not go on
25 after seven years. We have been in front of this

1 Board, as a lot of you know because you guys have
2 been here, I think this is like the eighth or ninth
3 time that we have been in front of the Board.

4 So we have no other recourse at this point in
5 time. We have to move on with our lives and build
6 our home. And to have to go through this every
7 single time is really heartbreaking for me. I
8 actually told my daughter, oh, we are going in
9 front of the Historical Board -- this is last month
10 when you had to defer again. She said, "Mom, I
11 really don't want to go with you."

12 I said, "No, you don't have to." Because this
13 is a trauma for our family. And looking at it from
14 your perspective, I just want you to understand
15 that we need to move on. We need to build a home
16 there. I loved that house. That house is gone,
17 and it really hurts me that the house is gone
18 because I loved it and I wanted to pass it down to
19 my children. It's no longer there.

20 Please de-designate it so I can build my home
21 on this lot and live with my family. You know, I'm
22 looking at that. I'm not an attorney or anybody
23 legal, but they keep going back -- this is the City
24 against us, a family, and it's been dragging on for
25 seven years. I need for it to move on.

1 MR. TORRE: Can I speak?

2 I'd like to go back, for just an understanding
3 level, to the minutes of the meeting where the
4 house was designated for a second, and I want to
5 make sure I understand something here.

6 This is Ms. Lubin, and I read the paragraph,
7 "Ms. Lubin explained that this application was
8 deferred from the February Board meeting. As she
9 displayed the photographs of the residence, she
10 spoke about the property's recent history, stating
11 that in August of 2004, staff received an historic
12 significance request for the potential demolition
13 of the property. Staff contacted the architect and
14 potential buyer of the property to advise them of
15 its significance. She called attention to the
16 correspondence regarding the issue."

17 Potential buyer? Were you the owners of the
18 property when this house was designated or
19 requested for designation or were you a potential
20 buyer?

21 MS. TOYOS: We were the owners.

22 MR. TOYOS: We were the owners.

23 MR. TORRE: Okay. This says potential buyer.

24 MR. KUVIN: I believe maybe that was -- I
25 mean, were you selling the house or was it --

1 MR. TOYOS: What date are we talking about?

2 MR. TORRE: This was the minutes from the
3 meeting requesting historical significance of the
4 property.

5 MR. HEISENBOTTLE: What's the date?

6 MR. TORRE: April 15th.

7 MS. ROLANDO: April 15th.

8 MR. TORRE: Minutes of the April 15th.

9 MR. HEISENBOTTLE: What year? What year?

10 MS. ROLANDO: 2004.

11 MR. TORRE: The original designation. So my
12 second question is who requested designation of
13 this property the first time?

14 MR. TOYOS: The City did.

15 MR. TORRE: The City did. Okay. But you were
16 already the owners of the property?

17 MR. TOYOS: Yes.

18 MR. TORRE: Did you agree to this? What was
19 the -- what was the --

20 MR. TOYOS: That was the --

21 MR. TORRE: So this is sort of stating what
22 was happening at the time. Could you --

23 MR. TOYOS: ... (Off mic.)

24 MS. MACINTYRE: Speak into the microphone,
25 please. And your name, please.

1 MR. TOYOS: Waldo Toyos, 1044 Coral Way.

2 MR. TORRE: My whole problem comes with what
3 happened during that those two years when the house
4 was initially known that it was to be designated,
5 and it ran through two years when it collapsed.
6 Those two years are very troubling, at least for me
7 they are. The person -- and I'm not privy to all
8 the info, but as I see it --

9 MR. TOYOS: We had several meetings -- how do
10 you call it, the -- through the first couple of
11 years going back and forth with plans, okay? One
12 of our biggest issues here is that we were told to
13 go one direction with plans. We come back to this
14 Board and --

15 MS. TOYOS: Changes in one direction.

16 MR. TOYOS: Until we got flat-out denied. And
17 by the way, the reason we seek variances, because
18 they like quoting variances a lot, is that in the
19 first plan, there was over 2,000 square feet of
20 circulation space, hallway space.

21 MS. TOYOS: Because we wanted to... (off mic.)

22 MR. TORRE: Just step back for a second.

23 Avoiding the last four years, the troubling
24 part is a very significant structure was let to
25 collapse. And that's very troubling as I see it

1 from this point. I mean, I'm not privy, again, to
2 your troubles getting an approval of a set of
3 plans --

4 MR. TOYOS: Right.

5 MR. TORRE: -- which I think is what you're
6 trying to get. You're having a problem trying to
7 get a set of plans approved. But there's --

8 MS. TOYOS: ...(Off mic.)

9 MR. TORRE: Right, but at some point there was
10 an agreement made by I think yourself and the Board
11 that in order to let your house be demolished, you
12 would build a house that was similar to what was
13 there --

14 MR. TOYOS: No, the house --

15 MR. TORRE: -- with some parameters that are
16 stringent in that regard.

17 MR. TOYOS: I think we should talk about that
18 point because Kara did bring that up.

19 And when this -- when they talk about letting
20 us demolish, we're talking about rubble, okay?
21 It's not a built home when this whole thing was
22 transpiring, okay? It was rubble. So basically
23 what they were seeking is there was a little strong
24 arming going on, okay, in which we wouldn't be
25 given designa -- a demolition permit, okay,

1 because -- because we had to basically reach this
2 understanding. Okay? That's what was -- that's
3 what happened or transpired. If not, the house
4 would continue to be there as rubble.

5 MR. TORRE: This destination and this talk of
6 significance started in 2004. The house did not
7 collapse in 2006. Two years had passed when the
8 significance has been talked about and talked
9 about, and the house is still continuing to
10 deteriorate when the talk of significance is going
11 on and on.

12 MS. ROLANDO: Kara, let me ask you this along
13 the lines that Venny is exploring. My
14 understanding of the Coral Gables Historic
15 Preservation Department is that it does not
16 ordinarily seek to designate a property as historic
17 unless it considers it to be in jeopardy. Is that
18 true or not? And what led the City to seek
19 designation on its own of this particular
20 structure?

21 MS. KAUTZ: The City has sought designation
22 for properties for a number of reasons. When -- in
23 response to a demolition request or significance
24 request was how this property came before the
25 Board.

1 MS. ROLANDO: So the owners at the time and at
2 least based on our understand -- the house was
3 acquired in late October or early November 2003.
4 So there was a demolition request submitted before
5 the City's application?

6 MS. KAUTZ: In September of 2003 is when the
7 first letter was issued.

8 MS. TOYOS: What letter?

9 MS. KAUTZ: The significance letter.

10 MS. ROLANDO: So the house had not even been
11 acquired then, but there was a request for
12 demolition?

13 MR. HEISENBOTTLE: By the previous owner?

14 MS. KAUTZ: No. No, it was by an
15 architectural firm with the Toyoses as the owner.

16 MS. TOYOS: Excuse me. Can I clarify
17 something?

18 MR. HEISENBOTTLE: Please.

19 RECORDING SECRETARY: You have to speak into
20 the microphone.

21 MS. BONDURANT: Wait. Stop.

22 MS. TOYOS: That form that you're talking
23 about is for demolition or any significant
24 structural change. It says it right on the
25 application.

1 MR. TOYOS: The --

2 THE COURT REPORTER: One at a time.

3 MS. TOYOS: The only reason that that was
4 filled out is because we were doing alterations and
5 changes to the home. I knew I wanted to make the
6 addition.

7 So in order to make the addition, I have to
8 have the architect fill out that form. So that was
9 not a request for demolition. That was a request
10 for any structural change that I needed to do. I
11 never wanted to demolish the home.

12 Mr. Torre, I'm still confused about your
13 question. What was your question? Because I don't
14 think we ever answered it.

15 MS. ROLANDO: Excuse me. My question has not
16 been answered.

17 MS. TOYOS: Okay.

18 MS. KAUTZ: The application that came forward
19 was an historic significance request, and they are
20 for the demolition of any structure is what's on
21 the application.

22 MS. ROLANDO: Would that request be required
23 if there were interior demolition going on?

24 MS. KAUTZ: No.

25 MS. ROLANDO: So the City then filed the

1 request for designation as a reaction to that
2 request for demolition permit.

3 MS. KAUTZ: Correct. What the letter states
4 -- this is from Donna Lubin, who was the director
5 at the time -- Coral Way, legally described as,
6 meets the criteria for designation of local
7 historic landmark. The residence was built in
8 1910. It was one of the original Merrick family
9 homes. The historic designation of the property is
10 tentatively scheduled for the next available
11 Historic Preservation Board meeting on September
12 25, 2003, to be held here, blah, blah, blah.

13 So staff initiated the designation. From what
14 I -- I wasn't here at the time, but from my
15 understanding, the staff initiated designation
16 based on the potential threat to the property.

17 MS. ROLANDO: Okay. So it was commenced
18 before the property was acquired, and it was
19 requested on behalf of the Toyoses. And the City
20 designated it -- or our Board designated it in
21 April 2004. So for two-and-a-half years between
22 the acquisition of the property before the property
23 collapsed, was it occupied?

24 MR. KUVIN: No, it was not.

25 MS. ROLANDO: So it was a vacant property

1 during that time --

2 MS. TOYOS: ...(off mic.)

3 MS. MACINTYRE: Please speak into the
4 microphone.

5 MR. KUVIN: Did the first set of plans that
6 you had drawn up incorporate the house that was
7 there, that collapsed?

8 MS. TOYOS: Yes, it did.

9 MS. ROLANDO: Okay.

10 MR. KUVIN: So that makes sense that they
11 weren't expecting it to collapse because they had
12 it as part of their plans.

13 MS. ROLANDO: And, Kara, was a set of plans
14 approved by the City and this Board after the
15 designation, after the collapse, after the removal?
16 But there was a set of plans approved for the
17 behemoth house, let's call it, the 7,000-plus, and
18 so that has been approved, variances were granted,
19 and a three-year variance was granted to allow you
20 to pull building permits?

21 There has been a change in financial condition
22 in our economy, so now you want to come back with
23 plans for a -- a smaller house. Not a small house,
24 but a smaller house. And you're asking the
25 de-designation of a lot because you don't want to

1 deal with the Board?

2 MR. KUVIN: No.

3 MR. HEISENBOTTLE: Say what you're saying,
4 because you're shaking your head no, but you are
5 not saying no.

6 MS. ROLANDO: Yes, so --

7 (Off mic.)

8 MR. HEISENBOTTLE: You said no to her first
9 comment, and now you're saying no to her second
10 comment, but no one can hear you saying no.

11 MR. KUVIN: I think the misunderstanding of
12 her, they are looking to build another house there,
13 but the problem that they have is is that they
14 would like to build not necessarily smaller in
15 square footage, but a more compact house with a
16 second story on it for their children, and that
17 would not be allowed with the designation on the
18 property as of right now.

19 MS. ROLANDO: Wasn't that house that was
20 submitted for approval and was granted approval,
21 weren't there two stories there?

22 MS. KAUTZ: Yes.

23 MS. ROLANDO: And were they -- according to
24 the minutes that they read, the homeowner was
25 requested to preserve as much of the materials from

1 the collapsed structure. Was that done?

2 MS. TOYOS: Yes.

3 MS. ROLANDO: Okay. So you still have
4 building materials preserved for incorporation in
5 the new structure?

6 MR. TOYOS: We don't know how much of it could
7 be used.

8 MS. ROLANDO: I understand, as somebody who
9 has an old house.

10 MS. TOYOS: Ms. Rolando, you spoke so fast to
11 clarify some things, and Kara, that I think a lot
12 has been misinterpreted, and I didn't want to
13 interrupt and be rude --

14 MS. ROLANDO: Okay.

15 MS. TOYOS: -- but I do not believe the form
16 that was filled out was for demolition. It was
17 because we have construction to the exterior. I
18 wanted to clarify that because it was important to
19 me. It may not be important to anyone else, but it
20 was never filled out to demolish the home. When we
21 purchased the home, there was no intent to do such
22 thing.

23 Second, when the house was purchased, we
24 automatically started working with them in order to
25 add the addition onto the home.

1 MS. ROLANDO: When you say "them," you mean
2 the Historic --

3 MS. TOYOS: Yes, the Historic Preservation.

4 We went back and forth for a year and a half.
5 It was a very intensive process. There was a lot
6 on our side, a will to do it, and on their side,
7 impositions put forth that we had to work around
8 and hoops we had to jump through in order to
9 preserve the home. We went ahead and designed the
10 home in order to preserve the original structure.

11 So as far as two years that lapsed -- the
12 years that lapsed or the time that lapsed was us
13 working back and forth with them in order to build
14 around the original structure, not to impact the
15 original structure of the home. So I just wanted
16 to clarify that because it's very important to me.

17 MS. ROLANDO: Thank you.

18 MS. MACINTYRE: I think Gay was asking for
19 recognition.

20 MS. BONDURANT: I was on the Board for the --

21 RECORDING SECRETARY: Speak into the mic,
22 please, Gay.

23 MS. BONDURANT: I was on the Board for most of
24 this situation, so -- and speaking from memory,
25 which, as the days go by, fails me more and more,

1 but there were a couple things I'd just like to say
2 in terms of context and history here.

3 Number one, that house, prior to Mr. and Mrs.
4 Toyos' purchase, was owned by a very old lady who
5 was unable to take care of it. The house was in
6 horrible condition when it was put up for sale. In
7 fact, the lady, I believe, had been placed in --
8 not an institution, but a caregiving facility.

9 The floors were -- had holes in them, she had
10 lots of dogs and/or other animals that she kept in
11 the house. The house was in terrible condition, so
12 that anyone who had gone to purchase that house
13 only had to take one look or one whiff of that
14 house to know that major stuff was going to have to
15 be done, if not demolition.

16 And I can't -- and this is my opinion and I'm
17 not speaking as a lawyer or anything else, but if I
18 were going to purchase that house, number one, I
19 wouldn't have unless I had demolition in mind,
20 because the house was in deplorable condition. And
21 what I remember -- again, not reading anything,
22 what I remember is that very, very soon after the
23 purchase of the house, if not like within the same
24 week, a demolition permit was requested.

25 And Mrs. Toyos indicates that she didn't sign

1 a paper asking for demolition. Well, when you sign
2 a paper, you have to look at what you're signing,
3 and if it said either/or, and/or, whatever, as a
4 lawyer -- you know, please tell me if I'm wrong --
5 you can't come back later and say, okay, oh, I
6 didn't mean it to be that.

7 Furthermore, before the previous city manager
8 left the City, I believe -- and I'm not sure why he
9 was involved in it, but I believe that Mr. and
10 Mrs. Toyos came to some agreement with Mr. Brown
11 about how the house would be, number one, resited
12 on the property. In other words, they were given
13 dispensation to move the house more forward and
14 more easterly so that it sat in a more sensible
15 location, because there was no property
16 particularly behind the house as it was sited
17 originally. Very small setback, whereas they had a
18 huge setback in the front.

19 So whatever agreement, whether it's legal or
20 was appropriate or not, it's my memory that
21 Mr. Brown and Ms. and Mrs. Toyos came to some
22 agreement about what the house would look like
23 subject to review by the preservation staff, and
24 where it would be sited so that -- I guess the
25 point of this whole discussion -- dissertation here

1 is that there has been quite a bit of effort on the
2 part of the City and the Board to accommodate what
3 Mr. and Mrs. Toyos wanted, but by the same token,
4 keeping the standards of Historic Preservation
5 intact.

6 The two years that -- I drove by that house at
7 least once a week, maybe more, and sat there and
8 wondered what was happening to this vacant piece of
9 property, and suddenly now it comes back and it's
10 come to life again or whatever.

11 I don't want this whole story to be pointless,
12 but the point is, from my standpoint, there has
13 been a great deal of give and take on pretty much
14 both sides. But to come before this Board and say
15 we are demanding that they build a house that looks
16 just like the one that was there is completely
17 wrong.

18 There have been, as Ms. Rolando points out,
19 agreements to add this or move that or fix this or
20 put another story or whatever it was. And
21 Mr. Brown, the previous city manager, had come to
22 some sort of agreement with them, and it was not to
23 replicate the house. And I don't know that that's
24 in any way written down. This is off the cuff. It
25 may be possibly illegal, but I don't think so. He

1 was the city manger, where he said they had come to
2 some agreement about how the house would be built,
3 what it would look like and where it would be sited
4 on the property. So there is no demand -- as far
5 as I understand, no demand to have them replicate
6 the house.

7 MR. KUVIN: May I make one comment on that?
8 I'm sorry.

9 MS. THOMSON: Madam Chair, may I continue on
10 with what Gay Bondurant has spoken about? I would
11 like to say that I'm personally, more or less, I
12 guess you might say, aware of this property. It
13 was a troubled property throughout the 1990s.

14 When I was on the commission here, the lady
15 that was -- Ms. Bondurant was referring to would
16 call me at my office here across the hall on many
17 occasions thinking that the City was after her
18 house.

19 And I would -- you know, I would tell her, no,
20 that you -- that's not so.

21 But she was being cited by the Code
22 Enforcement Board because of the roof. The roof
23 needed cleaning, and she wouldn't let anyone on her
24 property. And we realized it, and the neighbors
25 across the street were very caring neighbors for

1 her, and they would call me and say, what can you
2 do for her?

3 And I would ask the City Manager's Office to
4 please go out, inspect the property, do something
5 about it.

6 Consequently, Paul Hunt, a senior citizen
7 advisor/director here in City of Coral Gables did
8 indeed go out to her home, knocked on her door.
9 She refused to let him in. He could see through
10 the window that not only was the house
11 deteriorating on the outside at that point, but it
12 was indeed -- it was in very bad condition in the
13 interior.

14 And the City was sort of in a situation where
15 they didn't know what to do about it, so they sort
16 of left it alone.

17 So here's a little bit of negligent, I think,
18 that Gay Bondurant was referring to, too. There is
19 a little bit of blame on both sides because this is
20 going back to the 1990s, years before, 2003, 2004,
21 when it was designated, and this being -- at the
22 time that the building was still existing was the
23 second oldest structure or home in the City of
24 Coral Gables, a very, very important building.

25 And why this City or the Historic Department

1 or the City of Coral Gables was not active in
2 getting that house designated then, it was
3 incumbent I think at that point because the City
4 was zeroing in on it through the Code Enforcement
5 Board, through the City Manager's office, through
6 the Senior Citizens Division. So that house had a
7 lot of attention being given to it.

8 What happened after I left office, I don't
9 know. But now we're jumping to 2004, and I was not
10 in office anymore. So now I see that the thing
11 went down completely. And somewhere in the
12 minutes, it does refer, Gay, to what you're talking
13 about, about resiting of the property. And this
14 Board, you were on it; you were the original on it.
15 You know it backwards and forwards I think. They
16 did discuss that.

17 But the Board -- I'm trying to see. If it was
18 designated in 2004, which is way too late, it
19 should have been designated in the 1990s when
20 things were popping over in that property.

21 I think that when the Toyoses bought it,
22 obviously, they had a great big problem on their
23 hands, as has been already pointed out as well.
24 How it was -- something has fallen through that
25 proverbial crack not only once, but several times

1 it looks like, because it comes back, reading the
2 minutes of this Board over the years. And somehow
3 or another, it comes to the point where the whole
4 building collapses.

5 MS. MACINTYRE: I think we need to bring this
6 to --

7 MS. THOMSON: Wait a minute. I'd like to
8 finish what I was saying here.

9 From what I understand, here -- the request is
10 here for the -- to remove the designation on the
11 property. We are not -- I don't know why we are
12 talking so much about the house when the house
13 doesn't even exist.

14 To me, I don't know, maybe it includes this
15 without actually spelling it out, the consideration
16 is the removal of local historic designation of the
17 property at 1044 Coral Way. As it was pointed out
18 at the outset of this discussion by the attorney,
19 there is a mixed bag of architecture along that
20 whole Coral Way. We do want to -- it is a
21 prestigious and a very beautiful street in Coral
22 Gables. We want to continue on with as much as we
23 can to keep the historic value there. This house
24 no longer exists, it is true.

25 I would think that use a little bit of common

1 sense, too, and say that if this would be
2 de-designate -- and I know there is no vehicle in
3 the City to do that, however -- and as a matter of
4 fact, if I can digress one moment, we did
5 de-designate one property here at this Board before
6 the meeting was over. We did it and we undid it.

7 But, nevertheless, if it should be
8 de-designated and a reasonable house was put up
9 there that could be under the auspices of the City
10 staff as to how it should not be overbuilt and so
11 forth, could we not have some sort of historical
12 marker placed on the outside of the property
13 similar to Roxy Bulltitan's (phonetic)?

14 MR. KUVIN: You read my mind.

15 MS. THOMSON: Oh, I did? Okay. Well, I was
16 thinking about that, to give it the proper
17 credibility --

18 MR. KUVIN: Yes.

19 MS. THOMSON: -- and respect that it deserves.

20 MR. KUVIN: With a bronze plaque that I've
21 seen used in other places with the picture of the
22 original house on it.

23 MS. THOMSON: Yes. When was the heavy roofing
24 put on there? They said in one of the articles
25 here it sort of contributed, they think, to the

1 actual collapse of that. When was that done? Did
2 the Toyoses do that?

3 MS. KAUTZ: It was a very early addition.

4 MS. MACINTYRE: Okay. Ladies and gentlemen,
5 let's bring this to some sort of -- I'm not sure if
6 conclusion is the right word --

7 MR. HEISENBOTTLE: Have we closed the public
8 hearing?

9 MS. MACINTYRE: No, we haven't.

10 MR. KUVIN: I have just one more comment I
11 think.

12 You do have the power to designate this piece
13 of property. And I'll point to -- in the City's
14 own zoning code at 3-1112A1, it speaks about
15 demolition -- reconstruction of destroyed historic
16 landmarks. If it's more than 50 percent destroyed,
17 then you have the power to say what's going to
18 happen to whatever is left over. Obviously, the
19 Board before issued a demolition permit, had
20 everything moved away.

21 However, if it's less than 50 percent
22 destroyed, then I believe you are of the mandate
23 that you must in some way designate that it be
24 rebuilt. However, I would believe that that
25 particular zoning code, along with the CFRs that

1 I've cited before, would enable you to de-designate
2 a piece of property without any problem.

3 MS. MACINTYRE: Okay. Is there anyone else in
4 the public who wishes to speak to this issue? No?

5 MS. ALFONSIN-RUIZ: I'm going to try to make
6 this as briefly as possible because I can't stay
7 standing for too long.

8 Two matters --

9 THE COURT REPORTER: May I have your name,
10 please?

11 MS. ALFONSIN-RUIZ: Lourdes Alfonsin-Ruiz,
12 assistant city attorney for the City of Coral
13 Gables.

14 First of all, in December of '06 -- I'm sorry,
15 December -- June of '07, there was a denial of a
16 request for a de-designation. That was not
17 appealed. They had an opportunity to appeal that
18 decision, and it was not appealed.

19 Secondly, in December of '06, and, more
20 importantly, this Board allowed for the demolition
21 of the property and placed conditions on the
22 demolition. Again, they had an opportunity to
23 appeal, and they did not appeal that decision
24 either.

25 MS. MACINTYRE: Are there any questions of the

1 city attorney?

2 Did you want to respond to that, please, sir?

3 MR. KUVIN: Yes, please, Ms. Macintyre.

4 The Toyoses have given you direct testimony
5 that they withdrew that particular request to have
6 it de-designated. The Toyoses -- also, the record
7 lacks any type of discussion about it.

8 For the -- for someone to come up and say this
9 happened without reviewing the record and saying
10 that as a matter of procedure, I believe that's --
11 that's incorrect. I believe that the Toyoses gave
12 direct testimony as per that. This was allowed on
13 the agenda, it was heard. I believe that's the
14 correct way.

15 Secondly, the demolition permit was issued.
16 And if you'll read at that particular juncture, it
17 says, or with other designation that we may give to
18 the property, I think was the language that was
19 used when the demolition permit was issued.

20 This Board definitely is charged and has full
21 authority to de-designate this property. There is
22 no procedural problems whatsoever, as I would see
23 them. And if there had been, I would have
24 discussed it with my clients and told them such.

25 Thank you, Ms. Macintyre.

1 MS. MACINTYRE: Is there anyone else in the
2 audience who wishes to speak? If not, the public
3 hearing is closed now.

4 Now, it seems clear to me that we can sit here
5 and tit-for-tat all day long and we can drag this
6 out for another four years. We need to find a
7 solution. We have some good heads in here. Let's
8 find a solution.

9 I feel that the Board has bent over backwards
10 to accommodate the homeowners. They were granted
11 their demolition permit with conditions. It was my
12 understanding that those conditions were going to
13 be met and that everybody was going to live happily
14 ever after. And here we are years later making no
15 progress whatsoever. So let's find a solution,
16 ladies and gentlemen.

17 I'm not sure de-designation is a solution
18 because I don't want to see, personally, one of
19 those contemporary structures that you showed a
20 picture of on that street.

21 What is the problem? Why can't the homeowners
22 live up to their agreement? Is -- does it not work
23 for them?

24 This Board bends over backwards, and certain
25 staff is helpful in trying to find solutions to

1 these problems. If you've got a problem, let's
2 find a solution, and let's get it underway now.

3 Anybody else have comments?

4 Ernesto. I'm sorry. Wait a minute. Debbie
5 asked --

6 MS. TACKETT: I have a question for staff. I
7 think there was -- there was some confusion, at
8 least on my part.

9 The historic home is gone now. The property
10 could still be considered historic. So we would
11 be -- the property would be historic. If new
12 construction was built on that property, that new
13 construction would not be then, de facto, an
14 historic building. It would be a new building
15 located on an historic site, which we have all over
16 the country.

17 MS. KAUTZ: Correct.

18 MS. TACKETT: So I just wanted to clarify that
19 the new construction would not be an historic
20 building, as designated by this Board, but the
21 property could remain historic.

22 And I also have one more question. If the
23 owners change their mind now and are not happy with
24 the initial design and want to radically shift from
25 that, could they not come back to this Board?

1 MS. KAUTZ: Absolutely.

2 MS. MACINTYRE: Ernesto, I apologize.

3 MR. SANTOS: No problem.

4 I was here on this Board since the beginning
5 of this ordeal, and I think this Board had some of
6 the guilt, I would say. I saw a great opportunity
7 when the Toyoses brought their solution to the
8 house, and this Board denied their application
9 essentially because of square footage.

10 Obviously, no one understood exactly what they
11 were doing when we were looking at the plans.
12 Their solution saved completely the existing
13 structure. There were -- and I can tell you, I
14 walked that house. I went into that house before
15 it collapsed. And I called the collapse of that
16 house a month before. I said if we don't do
17 something quick, we are going to lose it, and we
18 lost it.

19 Their solution made a lot of sense in plan
20 detail-wise. They -- we could have worked with
21 them in details. Essentially, it had a courtyard.
22 And, as you know, Richard, courtyards count for 100
23 percent of the space in Coral Gables, and it's open
24 to the sky.

25 So little things like that, connecting

1 elements between the new house -- or the new
2 portion of the house and the existing, which were
3 an open breezeway to some extent, covered walks.
4 All of those numbers were counting at the time.
5 The code has changed since then.

6 And that brought it up to a number which I
7 think was close to 2,000 square feet. And the
8 Board -- you know, at the time, the McMansions were
9 in fashion, and everybody was petrified. I thought
10 it was a good opportunity to save the house and
11 give in on something that really had no impact
12 whatsoever.

13 Having said that, I have a question to the
14 Toyoses. What would be your objection to keep the
15 designation? How is that affecting you, other than
16 us?

17 MS. TOYOS: Well, the problem is that with my
18 experience with this Board and my experience with
19 the City, the guidance is very contradictory and
20 the obstacles are always set very high. And no
21 matter how hard we try to meet their goals, no
22 matter how much we try to work with the City and
23 with the Board -- and, granted, all of you are
24 new -- it was never possible to reach an agreement
25 on the first, second, third meeting, sometimes even

1 the fourth meeting. We had to go do it again, do
2 it again and do it again.

3 And then finally when we thought we were set,
4 then someone would disagree, and then we would have
5 to start over again. It's too many people having a
6 say in exactly what we're doing and nobody actually
7 taking a look at what we need as a family. So that
8 was my original objection.

9 Like I said, to come to crossroads for us was
10 hard. This is not something -- that is why it's so
11 important to me, that piece of paper. This is not
12 something that we ever wanted to get to, but it got
13 to the point where I've sat down and we discussed
14 it and we said we cannot continue any further. So
15 that is the reason why we're here.

16 MR. SANTOS: I don't think this Board has ever
17 indicated to you to replicate, because we do not
18 replicate. You can have a design that is
19 sympathetic with your house. And I'm sure this
20 Board will be more than accommodating, like we were
21 accommodating you before.

22 Unfortunately, I couldn't control my Board,
23 and they didn't listen to me. And perhaps that
24 will happen again. But I think that there is
25 enough history on that site that it's worth keeping

1 it. You have something that is valuable. It has a
2 value. It has an economic value, not against you,
3 but for you.

4 I think that if the designing of your house,
5 which is smaller, is sympathetic with the house that
6 was there -- I mean, the house that was there was a
7 beautiful house.

8 MS. TOYOS: I agree.

9 MR. SANTOS: The house next door, I restored
10 that house. That house was in exactly the same
11 condition as your house. I almost lost that house.
12 Almost. And the owners went through a very
13 difficult time to fix it. It was fixed, and
14 it's -- it's a beautiful house.

15 I don't see why you can't come up with a
16 design that was sympathetic with what was there.
17 That's all I have to say.

18 MR. TOYOS: Mr. Santos, trust me, we
19 appreciate your comments. We did come back in --
20 was it November or December of 2009 -- with a new
21 set of plans. In fact, we got rid of the bulky
22 (phonetic) structure, okay. And this house --
23 you've got to understand the geometrics of this
24 house, okay? You know, the height clearance on the
25 flutes. It's a very difficult house.

1 We came back to the Board of Architects. We
2 came back in 2009 with a new set of plans. In
3 fact, we got rid of the bulky structure, okay?

4 And this house -- you have to understand that
5 the -- the geometrics of this house, okay? You
6 know, the high clearance on the flutes -- it's a
7 very difficult house.

8 We came back to the Board of Architects. I
9 don't know if they have it.

10 MS. TOYOS: That's the old house.

11 MR. TOYOS: That's the old house.

12 MR. SANTOS: That's the old house.

13 MR. TOYOS: We came back in 2009.

14 MR. SANTOS: I remember.

15 MR. TOYOS: No, no, no.

16 MS. KAUTZ: This was four months ago.

17 MR. TOYOS: We came back with a new set of
18 plans. We got rid of basically the second story,
19 the big thing. And the only thing that we asked
20 was let's make the house a little wider, okay?
21 Kara was at that Board of Architects; we weren't.
22 But the architect that went there and presented the
23 plans -- here we have a house that's almost
24 identical to what was there.

25 MS. TOYOS: Exact same.

1 MR. TOYOS: What they did was the dormers I
2 think -- what I understood were seven feet wider.
3 The dormers were seven feet wider.

4 So guess what? It's not in keeping with what
5 the Historical Board -- that -- those were the
6 comments made to the Board of Architects. It was
7 not in keeping with what the Historical Board
8 requested. We have tried again.

9 MS. KAUTZ: Just so you know, those plans --
10 the brand new architect had no idea of the history
11 of this property and what --

12 MR. TOYOS: That's not true.

13 MS. KAUTZ: He came to me, and I had to verse
14 him on where this is.

15 Again, they went to the Board of Architects
16 with a new design, and they wanted to know what the
17 Board had approved in the past. They had an
18 approved set of plans by this Board that were ready
19 to go.

20 To then bring in a brand new set of plans to
21 the Board of Architects, probably they wondered
22 what was going on. They did not match what you all
23 had approved. That is -- they don't. The --

24 MR. SANTOS: Why didn't they come to us?

25 MS. KAUTZ: Because it hasn't gotten there

1 yet. They went to the Board of Architects first.

2 MS. TOYOS: That's a point of contention.

3 MR. TOYOS: She was there, and she said it's
4 not in keeping with what the Historical Board
5 wants. Defer it. We can't keep on like this.

6 MR. TORRE: If we deny the de-designation,
7 what does it mean to them in terms of the
8 approvals? What are they stuck with if we deny
9 this? What does that mean?

10 MS. KAUTZ: If you deny?

11 MR. TORRE: If we deny taking away of the
12 historical --

13 MS. KAUTZ: Design review.

14 MR. TORRE: Are they stuck with the design as
15 it stands?

16 MS. KAUTZ: The COA that has -- was approved
17 previously --

18 MR. TORRE: The elevation study and the whole
19 thing is what they are stuck with or --

20 MS. KAUTZ: No, that COA technically expired.
21 Unless you-all want to --

22 MR. TORRE: Do they have free rein to do what
23 they want in that house?

24 MS. ROLANDO: Didn't they have three years on
25 it?

1 MS. KAUTZ: For the variance.

2 MS. ROLANDO: So that was approved in
3 July '07. So that is still in place unless it
4 expires, right.

5 MS. KAUTZ: COAs expire after two years.

6 MS. ROLANDO: So only the variance from the
7 FAR have a three-year life. Okay. So there are no
8 plans to approve currently?

9 MR. SANTOS: The FAR was not --

10 MS. THOMSON: Could not a --

11 MR. SANTOS: The FAR was not approved?

12 MS. THOMSON: Could not a new plan be --

13 MS. MACINTYRE: Wait, wait, wait. One at a
14 time, please. Our court reporter can't record
15 twice.

16 MS. THOMSON: Exactly. Sorry.

17 Could not new plans be submitted that would
18 include maybe a stone facade so that it would give
19 that allusion from the outside? And I'd like to
20 ask a question. The assistant city attorney stated
21 here that they -- the Toyoses, the owners of the
22 property, had not appealed the decision -- previous
23 decision of the board. Does that imperil them
24 somehow or what does that -- what's the
25 significance of the fact that they did not appeal

1 the decision at that time? Does that put them
2 behind the eight ball or something?

3 MS. KAUTZ: There was an appeal made -- just
4 to clarify that. There was an appeal made that
5 conditions were placed on the -- on the demolition.
6 The appeal was submitted, but it was never acted
7 upon, so it lapsed.

8 MS. THOMSON: What does that mean exactly,
9 that they've lost some rights for appeal now or
10 what? I don't know.

11 MR. HEISENBOTTLE: It doesn't preclude them
12 from coming back again, so what's the difference?
13 The point is moot.

14 MS. MACINTYRE: Can she use the hand mic?

15 MS. ALFONSIN-RUIZ: Yes, they've lost their
16 right to a new appeal. You can't keep on coming
17 back and take a second bite of the apple or third
18 bite or a fourth bite because you're not getting
19 what you wanted; however --

20 MR. HEISENBOTTLE: So for eternity --
21 Counselor, for eternity, you're telling me, they
22 cannot come back in here to take the historic
23 designation off their property? That's absurd.

24 MS. ALFONSIN-RUIZ: Well, they had an
25 opportunity to appeal the de-designation of the

1 property.

2 MR. HEISENBOTTLE: We understand that. But
3 you're saying permanently, no matter what, you
4 cannot take the designation off the property. And
5 I'm saying to you that that is absurd.

6 MS. ALFONSIN-RUIZ: No, if there is another
7 reason for the designation of the property,
8 absolutely. And if that one comes up, absolutely.
9 But for the reasons that this Board heard,
10 originally in '06, no. And they can't come back --
11 they are coming back for the same reason and trying
12 to get a second bite at the apple now.

13 However, I will state this. They're
14 questioning whether that de-designation ever came
15 before the Board and whether it was heard and
16 whether they had withdrawn that. And what we need
17 to do at this point is -- whether that was heard by
18 the Board or not, we need to get the verbatim
19 transcript of that board meeting to see if that, in
20 fact, did occur.

21 MS. THOMSON: Was the house on the property at
22 that time?

23 MS. ALFONSIN-RUIZ: That house was demolished.
24 Well, it collapsed.

25 MS. THOMSON: But it was still -- there was

1 the carcass of the house, if you will.

2 MS. ALFONSIN-RUIZ: In the de-designation?
3 No, it was not. There is another -- there was
4 another -- second item that they could have
5 appealed, which they did not appeal, which was the
6 demolition. The allowance of this -- by this Board
7 of the demolition with conditions.

8 MS. THOMSON: Were they advised by --

9 MS. ALFONSIN-RUIZ: They had counsel.

10 MS. THOMSON: Did they ask you what they
11 should do at this point? Because I know people
12 many times who don't have many things to do with
13 the City, they are at a loss as to the next step or
14 what they should be doing, and they are guide by
15 our staff.

16 MS. ALFONSIN-RUIZ: Madam Mayor, they have had
17 counsel throughout the process, at least since I
18 have been here.

19 MS. THOMSON: Were they --

20 MS. ALFONSIN-RUIZ: They were represented by
21 counsel.

22 MS. ROLANDO: I don't know if it was Zeke or
23 if it was Guilford was their counsel.

24 MS. ALFONSIN-RUIZ: It was Zeke Guilford.
25 That was their counsel. And they did, in fact,

1 file an appeal, and they did not follow through
2 with the appeal.

3 MR. KUVIN: I just want to say something real
4 quick. The -- and this is reading from what the
5 City sent to me is that it says that the future
6 home and allowed the demolition with understanding
7 that the original historic building would be
8 recreated, unless the Board agrees to a lesser
9 solution when they see the specific plans with
10 additions.

11 We don't care about the demolition. I mean,
12 we keep talking about it. Let's just save some
13 time and just --

14 MS. ROLANDO: But the Board had in July of '07
15 approved another set of plans which showed that
16 they were open to considering alternatives. And
17 what we're -- and what I think Mr. Santos and I
18 agreed -- or are saying is come back with a set of
19 plans that's compatible with the site. Let's look
20 at it again.

21 MR. KUVIN: And I'd just like to say one thing
22 about that, Ms. Rolando, is that they had the
23 plans, the plans had been approved; however, at
24 that particular time -- shortly thereafter, they
25 weren't able to afford to build the house.

1 MS. ROLANDO: I understand that. I'm just
2 talking about the new set. The old plans, the
3 certificate of appropriateness has expired. So you
4 have to come back regardless, so come back with
5 your plans so we can look at them and move on.

6 MR. KUVIN: I just wanted to point out one
7 other thing. The Toyoses have five children. And
8 so when we talk about the size of a house for a
9 family with seven people living in it, it's
10 different than when we talk about a family who may
11 be in their 60s and all their children have gone to
12 college. So that's the problem. That is it
13 exactly.

14 Plus, we are going through a very difficult
15 time throughout this entire process, 2004 to today,
16 and going through. In 2007, you could not receive
17 a construction loan. It just was not going to
18 happen. Banks were not lending money.

19 Hopefully, we are going in the right direction
20 now. That's why all these delays have occurred.
21 It's not that the Toyoses are screaming and
22 yelling, we don't get our way and therefore we are
23 going to come back for another bite of the apple.
24 That's not the condition. That's not what's
25 happening here. I just wanted to point that out.

1 MS. MACINTYRE: Debbie?

2 MS. TACKETT: I think -- you know, I wasn't
3 here for all the back history, but I think -- and
4 correct me if I'm wrong, Kara -- our job here now
5 is to determine whether or not this site without
6 the structure is historic -- is continued to be
7 historic.

8 So I think all of this talk about
9 reconstruction or not reconstruction is a different
10 issue. That would come at a different time when
11 plans are presented to the Board again, if they
12 are. But I think right now our job is to determine
13 whether the site without the structure is still
14 historic.

15 And, frankly, the argument that it's not part
16 of the Revolutionary War or the Civil War and
17 George Washington wasn't there doesn't make any
18 sense to me. I've lived in Virginia myself. I'm
19 from the Northeast, and I think our history is just
20 as important. This site has just as much richness
21 as the earlier sites.

22 You know, this is one of the oldest homes
23 built in Coral Gables. Someone chose that site to
24 build one of the earliest houses, and, to me, that
25 site is very significant. And that's why I think

1 everything else would be for a later discussion in
2 terms of reconstruction. Personally, I'm not a big
3 fan of reconstruction, but I don't think that has
4 anything to do with the continued designation of
5 the site.

6 MR. HEISENBOTTLE: Madam Chairman, may I have
7 the floor?

8 MS. MACINTYRE: Yes.

9 MR. HEISENBOTTLE: I have been quiet for a
10 better portion of this meeting. That's probably
11 amazing.

12 We have -- what we have here, unfortunately,
13 is -- you know, is -- it's a preservation disaster,
14 which is an unfortunate situation that has occurred
15 from the get-go. The original owner appears to not
16 have been able to keep up the property, it falls
17 into complete disarray. You know, new owner takes
18 over the property, has some good intentions,
19 proceeds with plans that ultimately they cannot
20 afford to build, home falls down.

21 I mean, if we had to write this, we couldn't
22 script anything as unfortunate as the circumstances
23 that we have outlined today. I think -- we have to
24 put all of that motion that went on aside and ask
25 some very basic questions that Debbie began to

1 outline.

2 I think there are more -- maybe one more
3 question that we need to outline from a legal
4 perspective. No matter what we chose to do today,
5 whether it's designable -- whether we determined it
6 designable to be able to retain its designation or
7 not, there is the question of the motion that the
8 prior Board enacted and the requirements of that
9 motion when it authorized the demolition. When it
10 authorized that demolition, it required, as a
11 condition of that, that this Board review the plans
12 for the new home.

13 Does that order -- Madam City Attorney, does
14 that go away the moment we de-designate the
15 property or does that continue to -- because that
16 was the motion and -- and the -- that was agreed on
17 at the time, that was the condition. Does that
18 disappear?

19 I would suggest that probably it doesn't
20 disappear, but I'll let you answer that as a
21 question anytime you want.

22 MS. ALFONSIN-RUIZ: I don't understand your
23 question.

24 MR. HEISENBOTTLE: The Board granting an order
25 of demolition, and -- and ultimately as a condition

1 of that, this Board had to review the plans for the
2 proposed new home.

3 MS. ALFONSIN-RUIZ: Yes.

4 MR. HEISENBOTTLE: Does that -- if we
5 de-designate the property today, does it change the
6 prior requirement?

7 MS. ALFONSIN-RUIZ: Absolutely.

8 MR. HEISENBOTTLE: It would no longer be
9 required that we review this?

10 MS. ALFONSIN-RUIZ: It would no longer be
11 required.

12 However, I will say that the Board entered its
13 order at that meeting, reviewed plans subsequent
14 thereto and approved plans subsequent thereto.

15 MR. HEISENBOTTLE: We know that.

16 MR. KUVIN: I believe Ms. Thomson has framed
17 the issue the best here, and it's that --

18 MR. HEISENBOTTLE: Isn't the hearing closed?

19 MR. KUVIN: I'm sorry.

20 MS. MACINTYRE: Yes.

21 MR. KUVIN: I'm sorry. I apologize.

22 MR. HEISENBOTTLE: Have a seat then.

23 MS. THOMSON: What I'd like to hear as a
24 member --

25 MS. MACINTYRE: I'm not sure Rich was

1 finished.

2 MR. HEISENBOTTLE: Let's go back, because I'm
3 really not finished.

4 MS. THOMSON: All right. Fine.

5 MR. HEISENBOTTLE: The point -- yes, that
6 answers the first part of the question.

7 The second part of the question comes down to
8 is this property still -- is it justifiable that
9 this property still remains designated?

10 Certainly one of the things that Kara points
11 out from the secretary -- from the National Park
12 Service would be that the property cease -- ceases
13 in my mind to meet the criteria for designation
14 based on the qualities which cause it to be
15 originally designated. They have been lost or
16 destroyed in this particular case, except for the
17 relationship to Merrick.

18 Is that -- does that kind of frame the issue
19 again that -- it's certainly not the architecture
20 anymore, it's not the style of that house. It's
21 gone, the unfortunate situation that it is. It is
22 gone.

23 So the -- so our justification for keeping it
24 today would be some sort of significance associated
25 with the prior owner. And let's clarify that so

1 that we understand that. This is not a special
2 archeological site, it's not a world monument site
3 or it's not a battlefield site, which would all
4 justify that. It's not a great garden, like the
5 gardens of Vizcaya which is just because of the
6 grass and the design. This is -- this is now --
7 what you're -- Kara, the point you were trying to
8 make to us, could you perhaps succinctly tell us,
9 so we can dwell on it for a moment, why you believe
10 that that site has not lost all of its historic
11 integrity, and therefore --

12 MS. KAUTZ: As outlined in the initial
13 designation report -- and I'll state it again --
14 the owners of this property were direct relatives
15 of the Merrick Family and came here for a reason,
16 to assist the Merrick Family in their development
17 in both the plantation and of the city.

18 And that isn't -- I mean, yes, it's on a
19 portion of the Merrick groves, which most of the
20 city is. But this was an aunt of George Merrick
21 who came here for a reason and didn't just, you
22 know, buy a lot and live there. They are direct
23 and lasting ties to this family.

24 Coral Way is one of the most -- is home to
25 some of the earliest homes in Coral Gables because

1 they surrounded George Merrick's original
2 plantation. This is believed to be the second
3 oldest house, beyond the Merrick house, in the
4 Gables or this section of the Gables, at least,
5 we'll say.

6 MR. HEISENBOTTLE: It is the significance of
7 the aunt, though, that is the issue here. If this
8 were a historic district, we wouldn't have the
9 discussion.

10 MS. KAUTZ: Correct. I think that Debbie
11 nailed one of the important points of this site,
12 and that is it was the site of one of the earliest,
13 if not the second home built in Coral Gables. Why
14 did they select that site? That makes it an
15 important site.

16 MS. THOMSON: I'd just like to, I guess,
17 reiterate a little bit and recap what my feelings
18 are on this property. I think it's a very historic
19 site. It has been pointed out we don't -- I don't
20 think any one of us disagree with that.

21 The problem is that the house no longer
22 remains. I think the historic site -- since we do
23 not have -- I started a new sentence. Forget the
24 first sentence.

25 Since it's been pointed out by other director

1 that the City of Coral Gables has no provision for
2 de-designating a historic site, then I guess we're
3 sort of plowing new ground here in that either we
4 stick with our guns and say this is an historic
5 site and so be it.

6 And despite the fact that it's been pointed
7 out, the City was -- is thoroughly aware of the
8 problems of this wonderful old home for 20 years
9 probably before anything was done to it.

10 But I think that if it was properly
11 designated -- and I'm talking about designation not
12 in the legal sense, but designated by a marker of
13 some sort that would designate the property and
14 show the world what a wonderful piece of property
15 this is and what significance to the history of the
16 City of Coral Gables -- it would do -- it would do
17 just fine.

18 However, I do not want, also, to see any
19 modern structure or McMansions or whatever you want
20 to call it, going up on Coral Way. Even though
21 there are a couple of them already, we don't want
22 to see that perpetuated. I think that if we don't
23 have a rule in place, let us make a rule of some
24 sort that we can forge an agreement with the owners
25 of the property that they will indeed stay to

1 certain parameters in a new building on that
2 property provided that it remains designated, not
3 legally, but designated through visible signage.

4 That's my feeling, okay? Take it for what
5 it's worth.

6 MR. TORRE: I'd like to get in before --

7 MS. MACINTYRE: Rich, did you have anything
8 else you wanted to say?

9 MR. HEISENBOTTLE: Someone asked me to call
10 the question -- we are all a little frustrated
11 here.

12 MR. TORRE: Let's get the pragmatics here --

13 MR. HEISENBOTTLE: I know you want to say
14 something.

15 MR. TORRE: I follow Dolly, and then I'll
16 follow the other people here.

17 I think what I'm hearing from them is they
18 have a problem with the Historic Board approving
19 their drawings. I think that -- first of all, I
20 take exception to that; and, second, I think it's
21 incorrect. And I'll tell you why.

22 The issues of Coral Gables that begin with
23 zoning have to do with a lot of things that maybe
24 people like to think is Historic. That's not
25 necessarily correct.

1 But, you know, you bought your property during
2 the height of the boom that probably already looked
3 like it was to be demolished. And shame on the
4 City for not having it designated before. So
5 that's what we got.

6 But the restrictions that you have come to
7 with this Board are no less than the ones you are
8 going to have for the BOA and for zoning. And if
9 you think that this is the problem, again, I take
10 exception. You have issues with zoning. They are
11 not our issues. Those are zoning issues, so don't
12 bring those and say those are issues that -- we
13 look at things on a different matter.

14 The BOA begins by looking at it aesthetically.
15 But if we are in it or not, you are still going to
16 have to go through the BOA, you'll still have to go
17 through structural and zoning.

18 So you are saying it's going to get easier. I
19 don't know how it's going to get easier. You're
20 still facing the same thing. You're telling us you
21 are going to redesign a brand new home because the
22 one you have doesn't fit your needs. You're
23 starting over.

24 If you get the right architect -- you had Glen
25 Prat on before. If you get somebody who knows how

1 to work the system, knows what you are looking for,
2 you shouldn't have any difficulties getting
3 approval. You have -- you have been saying that
4 the issue is that -- let me finish. Your issue, as
5 I hear it, is the difficulties you're finding as
6 you go forward in getting this approval, and I
7 disagree with that. And I think that having the
8 designation is not going change anything for you.
9 On the contrary, I think you're going get a lot of
10 help from this Board, which we continually do
11 through -- for people that can't get zoning
12 variances, and we give them because they relate
13 correctly to the site and things like that. So I
14 think you're totally incorrect in that matter, and
15 I would not vote to de-designate, but I would give
16 you the latitude to come back and open the floor
17 for a new design that we like and we approve,
18 because that's what was agreed to during that --
19 this demolition stage.

20 So I -- I vote that we go forward with
21 declining the de-designation and giving them the
22 parameter to come back before us for review that
23 works on that site, and we're all happy with. And
24 I think that's what's been agreed to previously.
25 No difference.

1 MS. BONDURANT: If that was a motion, I second
2 it.

3 MS. MACINTYRE: Was that a motion?

4 MR. TORRE: That was a motion.

5 MS. MACINTYRE: All right. It has been moved.

6 RECORDING SECRETARY: Repeat it.

7 MR. HEISENBOTTLE: You'll try, anyway.

8 MS. MACINTYRE: Let Nancy repeat it.

9 RECORDING SECRETARY: No, no. I think he
10 needs to repeat it.

11 MR. HEISENBOTTLE: Why don't we shorten it?

12 MR. TORRE: Want me to shorten it?

13 MR. HEISENBOTTLE: You made it. You need to
14 shorten it.

15 MR. TORRE: My motion is to deny the
16 de-designation, allowing the proponents to come
17 back, knowing that the Historical Preservation
18 Board has to approve the drawings, because that's
19 the agreement that was previously granted, with the
20 latitude -- with latitude to change the size of the
21 house from what was previously approved for you.

22 MR. HEISENBOTTLE: I second that.

23 MS. MACINTYRE: It's been moved and seconded.

24 Is there any further discussion?

25 MS. THOMSON: Yes, do I.

1 What you're saying then is that -- you're, in
2 essence, saying that if they would come back with a
3 new set of plans and all that, that probably this
4 Board would be more helpful than apparently some
5 things that have occurred in the past that they
6 were denied at the Board of Architects.

7 Should they go to the Board of Architects
8 first?

9 MR. HEISENBOTTLE: They have to. That's the
10 rule.

11 MS. THOMSON: That's the number one thing you
12 have to do. But with a recommendation from the
13 Board or the director or --

14 MR. HEISENBOTTLE: No, they just need to go
15 through the Board of Architects like everything
16 else does.

17 MR. TORRE: They'd do that for any home they
18 put together. That's no different than any other.

19 MS. THOMSON: That's the same process, but
20 from what I understood here, too, is that they
21 felt -- I'm not putting words in their mouth --
22 they felt that they were deep-sixed by their
23 recommendation of the director.

24 And whether that's so or not, I'm not saying
25 it is or not; I wasn't there. But I am saying if

1 the Board, you know, gives indication to our
2 director that we need to be very cognizant of their
3 efforts to bring forward a plan that will be
4 acceptable to us on the Historic Preservation
5 Board, that we are here to help --

6 MS. MACINTYRE: We have been doing that.

7 MS. THOMSON: -- and they don't feel they're
8 up against a brick wall.

9 MS. KAUTZ: If I can just ask the question
10 then. With that motion and saying that you would
11 give them latitude to come back, is that then again
12 holding them to the same board standard of
13 recreation of a portion of the building?

14 MR. HEISENBOTTLE: Kara, that's not -- that
15 shouldn't be in the discussion.

16 MS. KAUTZ: I know -- well, it is because they
17 are going to leave here with questions about what
18 you-all want to see. If that is in any way part of
19 this discussion, then they need to know yes or no.

20 MS. MACINTYRE: Well, it seemed to me the
21 original approval of demolition with the
22 reconstruction also had a little clause in there
23 that allows some flexibility --

24 MS. KAUTZ: Yes.

25 MS. MACINTYRE: -- in the design.

1 MS. KAUTZ: And that's what the second --

2 MS. MACINTYRE: Then we're not -- at this
3 point, we're not putting in iron that it has to be
4 an exact replica.

5 MR. SANTOS: Sympathetic.

6 MS. KAUTZ: I don't mean -- the motion -- I'm
7 not trying to get them to build what was there,
8 because I'm not doing that. The question is, the
9 motion said replicate or come back with something a
10 little more palatable.

11 What was approved by this Board was what was
12 agreed to by generally all parties as not ideal,
13 but agreeable. Is there going to be any component
14 of this new design that you're asking them to go
15 make that is going to have any portion of the house
16 included in it? That's my only question--

17 MS. THOMSON: I think the stone facade should
18 be evident.

19 MR. TORRE: Let me answer it. I made the
20 motion. You can agree or disagree with me.

21 I think what they are looking for is some
22 latitude to do a design that works for them today.
23 And I'm saying have at it, be sympathetic, make it
24 work on Coral Way, make sure it fits the street and
25 the historic character of the street. And if you

1 need some input along the way, that's fine. Kara,
2 am I missing some words there?

3 MR. HEISENBOTTLE: I think we don't need to
4 make this motion. The motion is already there.

5 MS. MACINTYRE: I think the intent is clear.

6 MS. BONDURANT: If these folks don't know what
7 the Board is looking for by now, you know...

8 MR. HEISENBOTTLE: There may be some confusion
9 as to what we're looking for. The issue is are we
10 looking for replication or are we not?

11 MS. BONDURANT: No, we are absolutely -- we've
12 never said that.

13 MR. HEISENBOTTLE: So all of us stand by our
14 words here tonight. We are not looking for a
15 replication.

16 MS. THOMSON: How about a marker of some sort
17 to designate that spot as being --

18 MR. HEISENBOTTLE: I think that we can take
19 that matter up as a good suggestion, perhaps, when
20 this comes back to us.

21 MS. THOMSON: It can be part of this
22 conversation right now since we are deeply into it.

23 MS. MACINTYRE: But we have the motion on the
24 floor that needs to be taken care of.

25 MS. THOMSON: That's fine. This is the

1 discussion period. We are talking about what
2 should -- what the motion should include then.

3 MS. ROLANDO: I'd like to call a question.

4 MS. MACINTYRE: Okay. A question has been
5 called.

6 Nancy, would you please call the roll?

7 RECORDING SECRETARY: Ms. Rolando?

8 MS. ROLANDO: I vote in favor Mr. Torre's
9 motion, which is a denial of the application to
10 de-designate.

11 RECORDING SECRETARY: Mayor Thomson.

12 MS. THOMSON: That's the motion, is it,
13 Mr. Maker of the motion? It is.

14 Denial, yes.

15 RECORDING SECRETARY: Mayor Thomson?

16 MS. THOMSON: I said yes.

17 RECORDING SECRETARY: Mr. Heisenbottle?

18 MR. HEISENBOTTLE: Yes.

19 RECORDING SECRETARY: Ms. Bondurant?

20 MS. BONDURANT: Yes.

21 RECORDING SECRETARY: Ms. Tackett?

22 MS. TACKETT: Yes.

23 RECORDING SECRETARY: Mr. Torre?

24 MR. TORRE: Yes.

25 RECORDING SECRETARY: Mr. Santos?

1 MR. SANTOS: Yes.

2 RECORDING SECRETARY: Ms. Macintyre?

3 MS. MACINTYRE: Yes.

4 Okay. You know, we truly want to work with
5 you and get this thing resolved so that we are all
6 happy. It's not the purpose of this Board to make
7 your lives miserable. Give us a chance to make it
8 better.

9 (Thereupon, the foregoing proceedings were
10 concluded.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF BROWARD)

I, NICOLE C. WOODS, Florida Professional Reporter,
do hereby certify that I was authorized to and did
stenographically report the foregoing proceedings, and
that the foregoing transcript, pages 1 through 89, is a
true and correct record of my stenographic notes.

DATED this 17th day of June, 2010 at Fort
Lauderdale, Broward County, Florida.



NICOLE C. WOODS, FPR