

1 MS. MENENDEZ: Eibi Aizenstat?
2 MR. AIZENSTAT: Abstain. I was not here.
3 MS. MENENDEZ: Robert Behar?
4 MR. BEHAR: Yes.
5 MS. MENENDEZ: Tom Korge?
6 CHAIRMAN KORGE: Yes.
7 The first item on the agenda for tonight is
8 Application Number 11-09-095-P, Change of
9 Zoning, Zoning Code Text Amendment, Master Site
10 Plan Amendment, Planned Area Development
11 Assignment and Site Plan Review for Fairchild
12 Tropical Garden.
13 Mr. Guilford, are you making a
14 presentation?
15 MR. GUILFORD: Yes, sir, Mr. Chairman, I
16 am.
17 CHAIRMAN KORGE: Okay.
18 MR. GUILFORD: Thank you, Mr. Chairman,
19 Members of the Board. For the record, my name
20 is Zeke Guilford, with offices at 2222 Ponce de
21 Leon Boulevard. It gives me great pleasure to
22 be here this evening, representing Fairchild
23 Tropical Garden.
24 Here with me, as part of the Fairchild
25 team, is Mr. Bruce Greer, the president,

1 Nannette Zapata, Chief Financial Officer,
2 Albert Cordoves, the project architect, as well
3 as Mr. Tim Plummer, traffic engineer.
4 Mr. Chairman, what I'd like to do is have
5 Mr. Greer come forward and say a couple words,
6 and then I'm going to give you an extremely
7 brief presentation.
8 CHAIRMAN KORGE: Thank you.
9 MR. GREER: Members of the Board, good
10 evening. I'm Bruce Greer. I'm Chairman of the
11 Board of Fairchild Tropical Garden.
12 It's with great pleasure that I appear
13 before you all tonight to tell you about a
14 project or at least to introduce it. We've
15 worked on this project for a number of years.
16 As it stands now, we have raised 20 million
17 dollars for this project. We have 40,000
18 members who have -- who have affirmatively
19 supported this project, 40,000 Fairchild
20 members, and of the 20 million dollars that
21 we've raised, specifically six million comes
22 from Coral Gables residents who are backing
23 this project, and of course, we'll have naming
24 opportunities in the project, and we hope to
25 raise quite a bit more money and really put

1 Fairchild in a position forever not to have to
2 raise money after we're gone.
3 We're very excited. It's a new science
4 center. It's new greenhouses. It cleans up a
5 lot of the infrastructure at Fairchild, which
6 is quite old. We are, in fact, the oldest
7 cultural institution in Miami-Dade County.
8 Fairchild will celebrate its 75th anniversary
9 next year, and we think we've been good
10 stewards. We've had a very good experience
11 with Staff and with the neighbors in this case.
12 We've been able to come forward with very nice
13 agreements, and we just look forward to
14 proceeding.
15 We have our construction contracts
16 negotiated, and hopefully, if you see it the
17 way we do and our members do, we'll break
18 ground in September and we'll be able to abide
19 by our contract.
20 So thank you very much, again, for having
21 us. We know you have a big agenda. I've been
22 known oftentimes to go for hours, talking about
23 Fairchild. I only want to say one other thing.
24 In some major publications, Fairchild has been
25 listed recently as one of the two greatest

1 tropical botanic gardens in the world, and they
2 list Singapore and they list Fairchild. When
3 we finish this project -- we actually believe
4 this to be the case today, but when we finish
5 this project, we hope there will be a book
6 written that makes it very clear that Fairchild
7 is the number one tropical botanic garden and
8 doesn't share that denomination with Singapore.
9 Thank you very much.

10 MR. GUILFORD: Mr. Chairman, we believe
11 that Eric and Walter did an excellent job in
12 the Staff Report, and obviously, you have a
13 rather lengthy, rambunctious crowd waiting to
14 come in, so I'm going to just touch on the
15 various four applications that are before you,
16 and of these four applications, most of them
17 are cleanup. What I mean by that is, it's
18 really to correct something that should have
19 been corrected a while ago.

20 For example, we're asking for a change of
21 zoning from "SFR," Single-Family Residential,
22 which actually has an "X" on it, to permit the
23 botanical garden, to actually an "S" zoning
24 classification, which is actually the zoning
25 classification that it's in, in the Zoning

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1 Code.

2 We're also asking for an enumeration of the
 3 uses permitted at Fairchild. In talking with
 4 various City members, basically, they were
 5 saying a botanical garden was permitted, but a
 6 cafe was not; a botanical garden was permitted,
 7 but a gift shop is not. So we felt it was to
 8 make it clear of what the uses, permitted uses,
 9 are, versus what are not permitted. We went
 10 ahead and created a zoning text amendment to
 11 include those uses.

12 Under the "S" zoning designation, it
 13 clearly provides for a botanical garden with an
 14 approved Master Plan. We have never created a
 15 Master Plan. So what you have before you is,
 16 in fact, the first Master Plan for Fairchild.
 17 Again, a cleanup item.

18 And lastly, in discussing with Staff, and
 19 really due to the size of the property, we're
 20 requesting to be considered as a Planned Area
 21 Development, which will give us flexibility in
 22 the future for the development of the Garden,
 23 as far as facing, setbacks, et cetera. So
 24 we're asking that you approve those, as well.

25 Also, as Mr. Greer has stated, Fairchild

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1 has worked very hard and diligently with the
 2 homeowners' association, and they entered into
 3 an agreement recently, which I believe you have
 4 as part of your packet.

5 So, with that being said, Mr. Chairman,
 6 again, that's our application in a nutshell.
 7 We're here and will be happy to answer any
 8 questions that you may have, and I would ask to
 9 keep five minutes for rebuttal, if necessary.

10 MS. HERNANDEZ: Mr. Guilford, is the
 11 covenant recorded? Because I don't see -- I
 12 don't know that it's recorded.

13 MR. GUILFORD: No, it is not. It has not
 14 been recorded yet.

15 MS. HERNANDEZ: Will it be recorded?

16 MR. GUILFORD: Yes, it will.

17 MS. HERNANDEZ: Okay.

18 MR. GUILFORD: Also, Mr. Chairman, I'm
 19 sorry for -- actually, for the record, we do
 20 accept Staff's recommendation with the
 21 conditions.

22 CHAIRMAN KORGE: Would anybody from the
 23 Board like to question Mr. Guilford at this
 24 time?

25 MS. HERNANDEZ: The public?

15

1 CHAIRMAN KORGE: No? Let's -- I'm sorry,
 2 go ahead.

3 MR. BEHAR: No, I do.

4 When this application, I think, came before
 5 us for something else in the last -- within the
 6 last year, you had some neighbors that were
 7 somewhat opposed to what was being proposed at
 8 the time. Has that been resolved with the
 9 neighbors?

10 MR. GUILFORD: We have come to an agreement
 11 with -- I want to say 95 percent of the
 12 neighbors, 98 percent of the neighbors. There
 13 may be one or two here, objecting, but we've
 14 come to agreement as far as additional
 15 landscaping, changes to the fence, that was
 16 originally picket, it's now opaque, for the
 17 emergency entrance.

18 So a lot of the items that they were
 19 concerned about, we have addressed and believe
 20 we have taken care of those issues. But again,
 21 I believe there's a couple neighbors who are
 22 still opposed to this application.

23 MR. FLANAGAN: Let me ask, Mr. Guilford,
 24 what's the current setback of the structures on
 25 the south side of the property from Campana

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1 Avenue?

2 MR. GUILFORD: They vary, but the one
 3 closest is thirteen six, and that's the reason
 4 we kept that setback, going forward.

5 MR. FLANAGAN: So that's existing?

6 MR. GUILFORD: That's existing, correct.

7 MR. FLANAGAN: Okay.

8 CHAIRMAN KORGE: Any other questions?

9 Is there anybody here from the public who
 10 would like to speak on this application?

11 MR. RIEL: Mr. Chair, just for the record,
 12 I just want to note, Staff does recommend
 13 approval of the four ordinances attached,
 14 subject to the conditions contained in the
 15 Staff Report.

16 MS. HERNANDEZ: Okay.

17 CHAIRMAN KORGE: Yes. Thank you.

18 Is there anybody here from the public who
 19 would like to speak at this time?

20 Yes, sir.

21 MR. COE: Are they signed in?

22 MR. RIEL: We have two people that signed
 23 up to speak.

24 MS. HERNANDEZ: They have to be sworn in.

25 MR. PALLOT: Good evening, and thank you

1 very much. My name is Joe Pallot. I'm a
2 resident of Hammock Oaks.

3 MR. COE: They have to be sworn, don't they?
4 MR. PALLOT: My property --

5 MS. HERNANDEZ: Yes.

6 MR. PALLOT: -- is 385 Campana, I -- but --

7 MR. COE: Mr. Chairman -- Mr. Chairman, if
8 I may interrupt, this witness has to be sworn.

9 CHAIRMAN KORGE: Yes, you need to be sworn
10 in.

11 MS. HERNANDEZ: Well, can we do -- Any
12 persons who are going to be testifying this
13 evening on this application, if they could
14 please stand, to be sworn in.

15 (Thereupon, all who were to speak were duly
16 sworn by the court reporter.)

17 MS. HERNANDEZ: Thank you.

18 MR. PALLOT: A point of order, how much
19 time do I have?

20 CHAIRMAN KORGE: Two or three minutes.

21 MR. PALLOT: Okay. I don't expect to take
22 very long. I live at 385 Campana Avenue, and
23 I've lived there for over 10 years. Our
24 neighborhood is on the southern border of
25 Fairchild Gardens, and it is true that the

1 Garden has met with the homeowners on a few
2 occasions. It is also true that the neighbors
3 have had some significant concerns regarding
4 the development of Fairchild.

5 Our concerns and my purpose for being here
6 is that I believe that the Staff recommendation
7 is very instructive. Although they are coming
8 to talk to you primarily about a science
9 project, which they have talked to the
10 neighbors about, and the neighbors who are most
11 directly involved and affected by that have
12 entered into an agreement with Fairchild
13 regarding some conditions on that, part of what
14 they're trying -- what they're here to do is to
15 rezone the project as part of the entire
16 82-acre facility of Fairchild Gardens.

17 When Fairchild built their Visitor Center
18 on the northern side of the property, all part
19 of the adjacent gardens which they come to you
20 to unify in zoning, they began a program of
21 renting out facilities in that Visitor Center
22 and just outside the Visitor Center, on a
23 regular, frequent basis. They run parties out
24 of that, just as any other rental facility
25 will, and those parties are amplified and very

1 loud. The music and noise travels across the
2 garden, and frankly disturbs the peace in a way
3 that violates your Code.

4 We have talked to the community -- to the
5 Garden for years about this, received a number
6 of promises. Sometimes they would live up to
7 some of the promises for a brief period of
8 time, sometimes not.

9 We believe, I believe, it's perfectly
10 appropriate as you look at the conditions to
11 this Master Plan, this PAD that they're talking
12 about, to put conditions on the amplified music
13 and sound, such that it does not disturb the
14 peace, which it is, in fact, disturbing every
15 time they rent this facility out.

16 So my request is not to deny the request to
17 build the science project. We love the Garden.
18 I'm a member of the Garden. I think the Garden
19 is fantastic. I think what they plan to do
20 with the science project is a great thing. But
21 as you look at the overall project, it is
22 important to remember the people that live
23 around it and that we not be disturbed by it.

24 When they started to run these projects,
25 they didn't run them through the City, they

1 didn't get any permission. They just started
2 doing it. We complained. The City -- We tried
3 not to become public with this issue. We tried
4 to do it neighborly. And to be very candid and
5 very blunt, that hasn't worked. And now is the
6 time, when they come before you to rezone the
7 project, to take this and deal with it the way
8 it should be dealt with, and that is to control
9 the amplified sound so that it does not violate
10 your Code, and, therefore, us.

11 CHAIRMAN KORGE: Do you have any
12 suggestions on how they would do that?

13 MR. PALLOT: Well, among other things, they
14 built a beautiful Visitor Center, which has a
15 large room. If they held their functions
16 inside that room and kept the doors closed and
17 the amplified sound inside those doors, I think
18 that would do a significant amount of
19 improvement.

20 I think the other thing they could do is
21 turn it down dramatically. I think the other
22 thing they could do is -- I'm not an engineer,
23 I'm not a scientist, I'm not a sound expert,
24 but I suspect there are ways they can run
25 functions there, make the money they claim they

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1 need to make -- which I don't object to them
 2 making any money, but I object to them
 3 intruding on my peace, because this is a
 4 residential neighborhood. It's a garden, not a
 5 party facility.

6 CHAIRMAN KORGE: Thank you.

7 MR. PALLOT: So my request is that you
 8 include, as conditions into this approval,
 9 conditions regarding the amplified sound, from
 10 throughout the garden, not simply the science
 11 project.

12 CHAIRMAN KORGE: Thank you very much.

13 MR. PALLOT: Thank you.

14 CHAIRMAN KORGE: Call the next witness,
 15 please.

16 MS. MENENDEZ: Arlene Zakarin.

17 CHAIRMAN KORGE: For the record, Pat
 18 Salerno, our City Manager, has arrived, I guess
 19 to keep an eye on us.

20 MS. ZAKARIN: Good evening, gentlemen,
 21 ladies. My name is Arlene Zakarin. I live at
 22 375 Campana. I've lived in our home for 37
 23 years. We chose Hammock Oaks because of its
 24 beauty, its peace, its quiet, its proximity to
 25 the Garden. I, too, am a member of the Garden.

22

1 (Thereupon, Ms. Keon arrived.)

2 MS. ZAKARIN: When the new party venue was
 3 built, the new Visitor Center, we knew
 4 immediately we had a noise problem.

5 CHAIRMAN KORGE: Excuse me for interrupting
 6 you.

7 Just for the record, Pat Keon has arrived.
 8 I'm sorry, go ahead.

9 MS. ZAKARIN: That's okay.

10 I had called the Garden to see who I needed
 11 to speak to about it, and I was directed to Ann
 12 Schmidt, who I'm not quite sure of her title, I
 13 would say party venue coordinator, and she said
 14 that right away, they realized they had a
 15 problem with the noise. They were going to
 16 address it. She said in the contracts that had
 17 been written at that point, they had not
 18 included in the contract the issue of where the
 19 music had to be. She gave me the number of
 20 parties going forward and the date that that
 21 would end, and all new contracts would include
 22 the music being in the room, with the doors
 23 closed.

24 That did not happen. The noise continued.
 25 It's like they're on my patio. It's like

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1 they're in my bedroom. I've spoken to Ann
 2 Schmidt on many occasions. She has told me
 3 they were looking at sound walls, they were
 4 looking at various things. The bottom line is,
 5 what she said was, there was nothing we could
 6 really do about it.

7 I will tell you, one night the noise was so
 8 loud -- it was midnight -- that my husband
 9 called the previous director of the Garden at
 10 midnight, held up our telephone and said, "I'm
 11 awake and I would like you to be awake, too.
 12 Do you hear the noise that's in my house?"

13 So the noise issue is a definite, definite
 14 problem, and I would like you to address that
 15 issue.

16 Just to give you one other example of how
 17 bad it is, I'm giving a party at the end of
 18 August. I had to call Ann Schmidt at the
 19 Garden to see what night would be available for
 20 me to have a party in my home, so that my
 21 company would not have to listen to the noise
 22 from the Garden.

23 Thank you very much.

24 CHAIRMAN KORGE: Thank you.

25 Call the next witness, please.

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1 MS. MENENDEZ: Norman Segall.

2 MR. SEGALL: May it please the Commission,
 3 I'm Norman Segall. I live at 495 Campana
 4 Avenue.

5 MR. COE: Mr. Segall, we're not the
 6 Commission.

7 MR. SEGALL: My --

8 MR. COE: You elevated us.

9 MS. HERNANDEZ: And they feel good.

10 MR. SEGALL: I -- well, you deserve to be
 11 elevated. How's that for pandering?

12 In any event, I am the past president of
 13 the Hammock Oaks Homeowners' Association. I'm
 14 counsel that was involved in the drafting of a
 15 covenant running with the land that was
 16 negotiated between the association and
 17 Fairchild Garden over a period of some time,
 18 and I don't know if you have that document in
 19 front of you. I assume --

20 Bruce, has it been supplied?

21 MR. GREER: Yes.

22 MR. COE: Yeah, we have it.

23 MR. SEGALL: All right, so they have that.

24 Based upon those negotiations and those --
 25 and the documents and the agreements contained

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1 in the covenant running with the land, as
 2 amended, and you probably don't have an
 3 amendment, because it hasn't been written yet,
 4 but as amended, as to Paragraph 9, on -- 9G, I
 5 believe it is -- J, I'm sorry, which now reads
 6 that all future development of structures by
 7 Fairchild Gardens shall be no less -- shall be
 8 located no less than 125 feet, measured from
 9 the back property lines of the homes located on
 10 the north side of Campana Avenue, we've agreed
 11 to amend that to reflect 250 feet with a
 12 carve-out of -- for the existing amphitheater
 13 that is there, and so that, with that
 14 prohibition, the association will enter into --
 15 well, already has -- will enter into an
 16 amendment of the covenant with Fairchild
 17 Gardens, and based upon this agreement,
 18 supports the application.

19 MS. HERNANDEZ: And you'll be recording --

20 MR. SEGALL: Yes.

21 MS. HERNANDEZ: You know, these rights
 22 accrued to your organization, so --

23 MR. SEGALL: Right, and --

24 MS. HERNANDEZ: -- you will be recording --
 25 okay.

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1 MR. SEGALL: We will -- well, Fairchild
 2 will.
 3 MS. HERNANDEZ: Okay, well, somebody will.
 4 MR. SEGALL: As part of the thing. It will
 5 be recorded --
 6 MS. HERNANDEZ: Okay. Thank you.
 7 MR. SEGALL: -- let's put it that way.
 8 MS. HERNANDEZ: I appreciate that.
 9 MR. SEGALL: And based upon the
 10 understandings, as I say, we do support it.
 11 MR. AIZENSTAT: If I may, how did you come
 12 up with the 250 feet? Did you hire an expert
 13 or somebody that told you that that was the --
 14 MR. SEGALL: No. That was -- that was a
 15 footage that was more or less negotiated as to
 16 what was there, with -- the original idea was
 17 that these structures that are in the existing
 18 line would go down so far, and I will say that
 19 my house is the one that is the most directly
 20 affected. It comes right next to my house, so
 21 to speak. And we wanted to make sure that in
 22 future years, nothing farther to the east would
 23 happen, and so we -- we talked about a line
 24 going back from the houses that are on the
 25 north side of Campana. Originally, it was an

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1 indefinite thing, and then we said, "Wait a
 2 minute, it goes all the way across their
 3 property."

4 So we came to this number. It isn't a
 5 surveyed number. It's a number that we felt
 6 was reasonable, in our negotiations with
 7 Fairchild, that would keep future structures,
 8 if there were any to be out there, from coming
 9 close to the houses on Campana, hopefully not
 10 adding to the noise problem, which is a
 11 different issue than what I'm speaking about
 12 today.

13 I'm not -- I'm not saying that I'm against
 14 what the previous speakers have said, because
 15 that is an issue, but it's not this issue.

16 MR. COE: Is it an issue for you,
 17 personally, the noise?

18 MR. SEGALL: It is an issue to our house,
 19 as well, but like I said, that's an enforcement
 20 issue. My belief is that there are existing
 21 laws and ordinances on the books that deal with
 22 noise coming from one property onto the other.
 23 As to whether or not they can -- they could or
 24 should build a structure or structures of the
 25 proposed ones here, and we have negotiated --

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1 one of the covenants is that there will be no
 2 amplified music from the proposed structures,
 3 so that is its own issue.

4 What happens at a wedding or a bar mitzvah
 5 on the other end of -- you know, emanating from
 6 the other structures that already are there,
 7 is, in my view, a different issue, and if we
 8 were here arguing -- talking about that, I
 9 might be taking another side, but I'm only
 10 going to speak to these structures and this
 11 proposal.

12 And if you have any other questions, I'm
 13 here, and if not, I'm there.

14 MS. HERNANDEZ: Okay.

15 MR. SEGALL: Thank you.

16 CHAIRMAN KORGE: Any other questions? No?
 17 Call the next witness, please.

18 MS. MENENDEZ: There's no further speakers.

19 MR. COE: That's it.

20 CHAIRMAN KORGE: Mr. Guilford, do you want
 21 to add anything before we take it up for
 22 discussion?

23 MR. GUILFORD: Just -- I'll take less than
 24 a minute. We understand the concerns of the
 25 neighbors. We actually did a noise and sound

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1 study and actually went in front of Mr.
 2 Pallot's house and recorded the noise levels,
 3 but this is obviously a concern by more than
 4 one neighbor. What we have agreed to do is
 5 turn the speakers so they do not face -- they
 6 are 180 degrees away from Campana, so actually
 7 the back of the speakers would be facing
 8 Campana.

9 Again, this is a City ordinance issue.
 10 It's not before this Board. The four
 11 applications are before this Board. So we ask
 12 that you recommend approval of the applications
 13 before you. Thank you.

14 CHAIRMAN KORGE: I'll close the public
 15 portion of the meeting, and we'll open it for
 16 discussion or a motion.

17 MR. FLANAGAN: I'll just ask a question of
 18 Staff. In Attachment B, we have a zoning
 19 analysis that says -- there's a multiple --
 20 there's a bunch of items that says it does not
 21 comply with certain provisions of the Code.
 22 But this was done, I think, back in January.

23 MR. RIEL: I'm trying to find it here.

24 MR. FLANAGAN: I'm assuming and wondering
 25 if those have all been remedied in subsequent

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1 meetings or different modifications to the
 2 application.

3 MR. RIEL: Well, basically, what it is, is
 4 when the Building & Zoning Department does an
 5 analysis, they indicate "Does not comply,"
 6 because it's basically the strict
 7 interpretation of the Code, and as a part of
 8 this amendment, most of the things that you'll
 9 note on the -- that does not comply, are the
 10 setbacks, which they've asked for a PAD, which
 11 allows the relaxation of.

12 So that's basically -- that's what made all
 13 these, "Do not comply." And in lieu of
 14 putting, "Not applicable," they just put, "Do
 15 not comply."

16 MR. FLANAGAN: Thank you.

17 CHAIRMAN KORGE: Did you look at any
 18 methods by which -- and talk with them about
 19 methods by which they could mitigate the sound
 20 problem? It's nice to say, you know, it
 21 violates the Code, but if you have to -- if you
 22 live there and you have to call every time
 23 there's a noise problem, and it's a recurring
 24 problem, you know, enforcement isn't the
 25 easiest way to live, you know.

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1 MR. RIEL: It was an issue that Staff did
 2 discuss with the applicant. That's one of the
 3 reasons they did the sound study, and that's
 4 why they proffered to turn the speakers,
 5 although -- since we were mainly dealing with
 6 the science center, which is adjacent to
 7 Campana, we did discuss with the Police
 8 Department, and they're a part of the
 9 Development Review Committee. The issue did
 10 not come up. You are correct and the applicant
 11 is correct that there are decibel level, you
 12 know, provisions in the Code that everybody
 13 needs to adhere to. So, if there is a problem,
 14 they obviously need to call the Police
 15 Department or Code Enforcement, and they'll go
 16 out and do the noise sampling, and that can be
 17 done, obviously -- if Fairchild is having an
 18 event coming up, they can certainly do that,
 19 you know, as a part of that, but right now,
 20 we're of the opinion that, you know, the Code
 21 has provisions for decibel levels, and that's
 22 adequate, so --

23 CHAIRMAN KORGE: Eibi?

24 MR. AIZENSTAT: Can you bring us up-to-date
 25 as to what the Code is right now for noise?

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1 MR. RIEL: That is about an eight or
 2 nine-page document.

3 MR. AIZENSTAT: Can you sum it up?

4 MR. RIEL: I'm going to be honest with you,
 5 I can't. It gets into decibel levels, and I
 6 just -- I'm not an expert in noise.

7 MR. COE: It's not only at decibel levels.
 8 It's at times of day and days of the week.

9 MR. RIEL: Duration. There are a lot of
 10 different variables.

11 MS. HERNANDEZ: Right.

12 MR. COE: The homeowner that made reference
 13 to loud music at midnight, it is illegal and a
 14 Code violation anywhere within the City.

15 MS. HERNANDEZ: Right.

16 MR. COE: And all the homeowner had to do
 17 was to call the Police or Code Enforcement and
 18 file a complaint, and that would go in front of
 19 the Code Enforcement Board, who will crack down
 20 very hard on Fairchild Gardens or anybody else
 21 that has loud music at midnight.

22 MS. HERNANDEZ: That is correct.

23 MR. BEHAR: But a question, Mr. Riel. If
 24 we approve the PAD, do we essentially give a
 25 carte blanche as far as setback requirements

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1 for the entire property?
 2 MR. RIEL: No, because they would have to
 3 amend the PAD. And if you note, on Page 3 of
 4 your Staff Report, Condition 2b, as you know,
 5 the PAD ordinance does allow for minor
 6 amendments. We specifically indicated in here
 7 what amendments are available. So we clarified
 8 that. So it's much more restrictive than PAD
 9 requirements. Right now, the setbacks are 25
 10 feet on Campana.

11 MR. COE: It's a substantial --

12 MR. BEHAR: The other question I have is,
 13 I'm seeing three proposed buildings, two office
 14 and one cafe, but I don't see where the service
 15 area, trash enclosure, will be. Can we get
 16 somebody to clarify that for us, please? How
 17 is the service going to be --

18 MS. HERNANDEZ: Yes.

19 MR. BEHAR: -- conducted? Because that was
 20 one of the issues I remember from the previous
 21 meeting, that the trucks, service trucks, will
 22 be on Campana. I think that under your
 23 proposed plan, it should be done, all the
 24 service, within your property.

25 MR. COE: Well, the PAD --

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1 MR. GUILFORD: That is correct. It's
 2 actually going to be on the north side of the
 3 property, on the road. If you want me to come
 4 forward, I'll be more than happy to show you
 5 where it's going to be located.

6 MR. BEHAR: Sure.

7 MR. RIEL: While the applicant is coming
 8 forward, I mean, at the present time, they
 9 access all service from Campana. One of the
 10 conditions here is, that will be closed and
 11 gated. The only access will be permitted for
 12 emergency fire access.

13 MR. BEHAR: Yeah, but you have -- This is
 14 your cafe area.

15 MR. GUILFORD: Right.

16 MR. BEHAR: Where's your trash and all --

17 MR. GUILFORD: Everything is over here.

18 MR. AIZENSTAT: You're going to take it
 19 from there all the way around --

20 MR. GUILFORD: They have golf carts and
 21 various carts that will move it.

22 MR. FLANAGAN: What shade is that?

23 MR. BEHAR: He's pointing to the portion of
 24 the shaded area, Number 29, all the way on the
 25 other side of the facility. I --

35

1 MR. GREER: They've asked us to agree not
 2 to have the trash where it is now and not to
 3 have any Coca-Cola trucks or anything come down
 4 Campana, and in fact, not to use Campana,
 5 whatsoever.

6 One of my board members, when we approved
 7 this written agreement, the question that she
 8 had to me was, "Is Campana a public street?"
 9 She suggested I am the worst negotiator in
 10 Miami, but I may be, but we think that -- Maury
 11 Donsky, who's the head of the homeowners'
 12 association, we worked with him for two years.
 13 We went to more than one homeowners' meeting.
 14 This is not particularly convenient for us, to
 15 do this this way, but we just didn't want to
 16 have the wrath of the homeowners' association.
 17 So, while it's not convenient, we do have golf
 18 carts. We do do it this way now. We've been
 19 doing it this way for a year, so we know we
 20 can. It's not Disney World. We're not doing,
 21 you know, like the trash is three feet from
 22 Mickey's Starland. The trash is quite a bit a
 23 ways, now, from Mickey's Starland. But we
 24 have -- Maury was a pretty tough negotiator, as
 25 was Mr. Segall, and if you read the whole

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1 agreement -- I'll just give you one other
 2 example. I understood from Staff that they
 3 were going to require a 75-foot setback. Even
 4 knowing that, I agreed with Maury to 125 feet,
 5 because I just didn't want to have any more of
 6 these discussions, and even two nights ago,
 7 after Maury went on vacation, I heard from one
 8 of the board members, not the board, that she
 9 actually wanted 250 feet, and I'm such an
 10 excellent negotiator, I agreed to that.

11 I just want to build it. I have the money.
 12 I have the 40,000 members. I just want them to
 13 be happy. I'm not trying to get them all to be
 14 happy, but I'm going to do everything I can to
 15 get as close to a hundred percent as I can. I
 16 know we have a written agreement that doesn't
 17 even allow us to use Campana unless there's a
 18 fire. It doesn't even say we can use it in a
 19 hurricane. So, I mean, we're doing everything
 20 we can to be a good neighbor.

21 MR. BEHAR: And we're appreciating that,
 22 and I am in support of the project. I just
 23 want to make sure that, you know, the basic
 24 components of the project are done correctly.

25 MR. GREER: Yes.

1 MR. BEHAR: And to me, Campana being in
2 such close proximity to the neighborhood, you
3 want to make sure that the service area is not,
4 you know --

5 MR. GREER: We felt that way. You know, we
6 had a trash pile there before, and that's where
7 we brought all of our trash and all the
8 Coca-Cola trucks, and even though we made them
9 come into our property, they didn't abide by
10 it, they would change drivers, and they would
11 idle in front of Maury's house --

12 MR. BEHAR: Right.

13 MR. GREER: -- and we'd get a call that the
14 Coca-Cola truck's there again. We just had to
15 end it all.

16 MR. BEHAR: Okay.

17 MR. GREER: And you know, I mean, we're
18 just basically ceding the public road, for just
19 the residents, and we can live with it. We can
20 live with it. But it's not the most convenient
21 thing in the world, but it's going to make
22 their lives a lot better.

23 MS. HERNANDEZ: Right.

24 MR. GREER: They think, at least. I mean,
25 I hope their lives are good. But it's going to

1 make their lives -- they're not going to have
2 to worry about our interference.

3 MS. HERNANDEZ: You indicated that you
4 received a call from a board member. What
5 board are you talking about?

6 MR. GREER: One of the board -- a board
7 member of the Campana Homeowners' Association.

8 MS. HERNANDEZ: I just wanted to be sure.

9 MR. GREER: Yeah, she was -- she was --

10 MR. BEHAR: She's referring to one of us.

11 MR. GREER: Yeah. No, no, no, no, no. No,
12 we knew -- we knew it's like -- you know.

13 MR. COE: We got terrified, what board
14 you're telling us.

15 MS. HERNANDEZ: We just got paralyzed when
16 you said that.

17 MR. GREER: No, no. I'm terribly sorry.
18 We've met -- Maury Donsky has made this a
19 career, this negotiation, and Mr. Segall is a
20 very good lawyer, and, you know, it is what it
21 is. I mean, we have agreed to virtually
22 everything they -- not virtually, everything
23 they have proposed, and more.

24 Maury's on vacation, thinking it was 125
25 feet, the Staff thought 75 was enough, and I

1 have agreed to 250. You know, I mean, I hope
2 that just says it all. We really just want to
3 move forward with peace and harmony, so --

4 MR. AIZENSTAT: If I may ask you, when you
5 have events, parties and so forth --

6 MR. GREER: Yes.

7 MR. AIZENSTAT: -- do you only have them at
8 certain times, or are you open -- is your
9 calendar fully open, any day that's open --

10 MR. GREER: It's open any day. It's open
11 any day, and we try to comply with the Code,
12 and we have all sorts of restrictions on people
13 coming. We have fines if they play too loud,
14 too long. We always have policemen at all of
15 our events for security, so it wouldn't be that
16 hard to monitor what we do, because they're
17 there anyway, and we would welcome the
18 monitoring. We don't -- you know, we're not
19 trying to violate the law. We're just
20 trying -- That's what pays our bills. This is
21 a charity, and that's what pays our bills. We
22 need to have those events. We don't have those
23 events because we love events, although we do
24 love events. We have those events because
25 that's how we keep Fairchild alive.

1 MR. COE: So you never have loud music at
2 midnight?

3 MR. GREER: I'm sure we have had loud music
4 at midnight, and I'm sure that there have been
5 times when the band played too long. We have a
6 provision that they forfeit a thousand dollar
7 deposit and that they're never allowed to come
8 back, and we would pleased to have a policeman
9 standing there, you know, with one of those
10 switches to turn off the electricity.

11 Whatever it's going to take, we want to
12 stay within the Code. We want to be good
13 neighbors. This is a wonderful place. I'm a
14 volunteer. I've been volunteering there for 30
15 some years, and I've been going to outside
16 events there since I was in high school. So I
17 understand the issues. Why did I agree to
18 everything on Campana? I want them to be
19 happy. Can I agree never to play music? No.
20 That would bankrupt us. But I can agree to
21 abide by every single law that there is, and to
22 have teeth in it, as you suggested. You don't
23 need to send the police out. We have police
24 already there, and we have fines for the people
25 who might violate. We don't want to violate

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1 the law. We just want to run what we think is
 2 the best, but some people think is only one of
 3 the two best, tropical botanic gardens in the
 4 world. That's all we want to do. So, you
 5 know, we feel good about what we're doing, and
 6 that we're a good neighbor.

7 MR. AIZENSTAT: So is it that you do
 8 require the individuals who are holding the
 9 events to hire off-duty police officers?

10 MR. GREER: No, we do.

11 MR. AIZENSTAT: You hire them?

12 MR. GREER: We do, because we are --

13 MR. AIZENSTAT: And you hire them for every
 14 single event?

15 MR. GREER: Yes. Yes. Mango Festival,
 16 this week -- We have -- you know, we -- yes,
 17 because we don't want to have -- We, so far,
 18 thank goodness, have never had any event, so to
 19 speak, and we have that because we have a lot
 20 of security. We have one of the most
 21 world-famous plant collections. Our original
 22 motivation, and maybe our primary motivation,
 23 is that we not have theft, because we have a
 24 very important plant collection, and we don't
 25 want people roaming around. We had, before, at

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1 one of the hurricanes, we had somebody steal
 2 something, and so we have now 24/7 security, at
 3 our own expense, plus we take off-duty
 4 policemen, because we think it adds a little
 5 sort of seriousness to anybody's thought that
 6 they might want to get out of hand.

7 So it wouldn't be hard if you wanted to
 8 monitor our sound or anything else.

9 MR. AIZENSTAT: That would be -- I was just
 10 thinking that would be a great way to handle
 11 the noise and the time frame and so forth, if
 12 they have a police officer. Is there a way --
 13 Is it written in here that during any events,
 14 that they would have to have an off-duty police
 15 officer? What better person to control the
 16 level of noise and the times and so forth than
 17 such an individual?

18 MS. KEON: But when that person is there
 19 and present, they're there as an employee of
 20 the Garden.

21 MR. AIZENSTAT: True.

22 MS. KEON: They're not there as an employee
 23 of the City, and it would really be from the
 24 City's perspective that you need to do that
 25 monitoring.

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1 MR. AIZENSTAT: That's true.

2 MS. HERNANDEZ: Are we talking about the
 3 officers?

4 MS. KEON: Yes.

5 MR. AIZENSTAT: Yes.

6 MS. HERNANDEZ: When a police officer is on
 7 an off-duty assignment, any incident, they're
 8 on duty, if they have to take any action for
 9 law enforcement purposes, so --

10 MR. AIZENSTAT: I mean, I would feel more
 11 comfortable if it was --

12 MS. HERNANDEZ: Sorry, but they are,
 13 because I would have to cover their workers'
 14 comp.

15 MR. COE: Feel more comfortable with what?

16 MR. AIZENSTAT: I would feel more
 17 comfortable if we could incorporate something
 18 like that within what is allowed or what is
 19 required for an event, to try to control the
 20 noise a little better.

21 CHAIRMAN KORGE: In other words, codify
 22 what you already are doing and clarify that the
 23 officers will be instructed to be sure that the
 24 event complies with the sound ordinance, the
 25 noise ordinance.

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1 MR. COE: Mr. Chairman, I think we're
 2 overstepping the jurisdiction of this Board.

3 CHAIRMAN KORGE: Why is that?

4 MR. AIZENSTAT: Why? I've read in the next
 5 agenda that we're requiring them to have an
 6 off-duty officer.

7 MR. COE: But they already have off-duty
 8 officers at their expense. The four
 9 applications -- I think what you're suggesting,
 10 which is all fine and good, I think that goes
 11 beyond the purview of what's in front of us,
 12 and I don't think to now require them to --
 13 what they've already volunteered that they
 14 have, to have off-duty police officers at
 15 events, is -- has anything to do with any of
 16 these applications. I think you've gone beyond
 17 the scope of that. And the concern I have,
 18 this may now require the redrafting of these
 19 applications, and they may require the
 20 renegotiation with the homeowners' association,
 21 because once you start going down that slippery
 22 slope of having police -- and we're now going
 23 to start incorporating its own noise violation
 24 sections of the Code, site-specific to Tropical
 25 Gardens, which then may become spot zoning. I

1 think it's very dangerous, what you're
2 suggesting, with all due respect, Mr. Chairman.

3 MR. AIZENSTAT: I'm only suggesting it
4 during events on behalf -- whether they be at
5 night or at certain times. For me, I don't see
6 a problem with that.

7 MR. COE: The applicant has already told
8 you, they do that as a matter of course.

9 MR. AIZENSTAT: There should be no problem
10 putting it in, then.

11 MR. BEHAR: As part of the covenant.

12 MR. AIZENSTAT: As part of the covenant
13 that's being done.

14 CHAIRMAN KORGE: What do you think?

15 MR. GREER: I'm going to do whatever you
16 all say. I just want to build my building. We
17 already do it. I mean, don't -- I bristle a
18 little at having these requirements, because I
19 think I'm just a citizen who follows the law.
20 I don't think you have to tell me again. You
21 know, a little bit, that -- but if you told me
22 I had to do it, I mean, I'm not going to -- I'm
23 not going to say anything except "Yes, sir" or
24 "Yes, ma'am," you know, but I don't think you
25 need to do that to me. I mean, we're doing it,

1 and, you know, we have our own penalties we've
2 created. But if you said, "You have to do it,"
3 I'll do it.

4 MR. AIZENSTAT: I just want you to
5 understand, for me, personally --

6 MR. GREER: Yeah.

7 MR. AIZENSTAT: -- I can't speak for the
8 rest of the Board --

9 MR. GREER: Yes, sir. Yes, sir.

10 MR. AIZENSTAT: -- I have a concern with
11 the noises that emanate out of the property
12 during night weddings, bar mitzvahs or whatever
13 it is.

14 MR. GREER: Right.

15 MR. AIZENSTAT: And you may not be there
16 that night.

17 MR. GREER: Right.

18 MR. AIZENSTAT: There may be somebody else
19 that's just working that shift or working that
20 time, and to deal with the problem, you'll hear
21 about it the next day or the following day or
22 afterwards.

23 MR. GREER: Yeah.

24 MR. AIZENSTAT: I'm just trying to have a
25 way to deal with it at that point. Obviously,

1 I also do understand that the residents can
2 just pick up the phone and call the police, to
3 enforce the Code.

4 MR. GREER: Yeah, but that doesn't -- I
5 mean, I don't believe that's happening on a
6 regular basis, if even occasionally --

7 MS. ZAKARIN: Yes, it is. Yes, it is.

8 MR. GREER: But if it is -- If it is -- I
9 said if it is -- I didn't finish my sentence.
10 But if it is, I'm open to anything. I mean, we
11 have people who enforce it. They don't feel
12 it's being enforced, they've stated that. If
13 you want to put it in there and it's legal,
14 we're going to do it, because we just want
15 everybody to be happy.

16 MR. AIZENSTAT: Thank you.

17 MR. GREER: You know, we want to abide by
18 the law.

19 MR. COE: All they have to do, with all due
20 respect, Mr. Chairman, if noise is an issue and
21 there's a violation of the Code, is, Code
22 Enforcement will handle that. There's a
23 hearing in front of the Code Enforcement Board,
24 that if they're found guilty of that, will
25 start fining them. Any continuing violations

1 will be to the extent, if it's not resolved,
2 Fairchild Gardens would be shut down by the
3 Code Enforcement Board. So, I mean, there's
4 your teeth. That's the way it's supposed to be
5 done. I think we're now getting into the
6 purview of the Code Enforcement Department.

7 This is a slippery slope, because people
8 will just start coming in with all these other
9 little things that you want. You cannot have
10 site-specific zoning for one area like
11 Fairchild Gardens, when you have zoning that
12 covers it City-wide. There's noise abatement
13 ordinances that cover the City, including
14 Fairchild Gardens. I think it's inappropriate
15 to now try to include this, either in a
16 covenant running with the land or any of the
17 four proposed applications that are currently
18 in front of us.

19 MR. AIZENSTAT: Let me ask it a different
20 way, then.

21 Eric, when they hold a party, do they have
22 to come before the City to get a special permit
23 or anything?

24 MR. RIEL: No.

25 MR. AIZENSTAT: They're not required?

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1 MR. RIEL: Special event permits are only
 2 required for events that are on the
 3 right-of-way.

4 MR. AIZENSTAT: That are -- I'm sorry?

5 MR. RIEL: On the right-of-way.

6 MR. AIZENSTAT: Or public land or so forth?

7 MS. HERNANDEZ: Right.

8 MR. AIZENSTAT: Let me ask the City
 9 Attorney, would that be against the law, as
 10 Mr. Coe says?

11 MS. HERNANDEZ: Well, it depends on how
 12 you're doing it. You know, when we do
 13 school -- school applications, we require them
 14 to hire off-duty police officers during certain
 15 times, to make sure that they keep the flow of
 16 traffic going, make sure there's no stacking
 17 and so forth.

18 It's totally within the province of this
 19 Board to say, you know, you will have off-duty
 20 police officers, a certain number of off-duty
 21 police officers, at whatever event.

22 I don't know whether Zeke already has that
 23 in the application or not, you know.

24 They do not?

25 MR. RIEL: No. So, before --

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1 MS. HERNANDEZ: You know, Mr. Guilford,
 2 don't you typically -- I know you -- I go to
 3 events there, so I see off-duty police officers
 4 there.

5 MR. GREER: Well, if I might -- if I might
 6 make a suggestion that might satisfy your
 7 concerns, too. We could stipulate, in part of
 8 the covenant, to always have an off-duty
 9 policeman there.

10 MS. HERNANDEZ: When there's an event.

11 MR. GREER: And in fact, since you say that
 12 all off-duty policemen are there to enforce the
 13 law --

14 MS. HERNANDEZ: They always -- yeah.

15 MR. COE: They have to be.

16 MR. GREER: -- if it's okay with your
 17 interpretation of that, too, then that's fine.
 18 Then we'll have somebody there --

19 MR. AIZENSTAT: That's what I'm asking for.

20 MR. GREER: -- and that will be good.

21 We'll just agree, all the time, to absorb that
 22 expense. I was hesitating a little because --

23 MS. HERNANDEZ: No, no, but it's only
 24 during special events --

25 MR. AIZENSTAT: Right. It's not --

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1 MS. HERNANDEZ: -- when you have you have a
 2 special -- It's not all the time.

3 MR. GREER: Yeah, yeah. Yes, exactly.
 4 Yes, I meant it that way. You know, we always
 5 hold out hope that we don't have to have a
 6 policeman at some point, but as a matter of
 7 fact, we do, all the time, so it's not
 8 really -- it's probably going to add 10 percent
 9 to our expenses, because maybe there's a time
 10 when we don't, but yeah, I think that will make
 11 everyone --

12 MS. HERNANDEZ: But you already do that.

13 MR. GREER: If it works for you, and I
 14 think it works -- Liz, if it works for you --

15 MR. AIZENSTAT: Is that acceptable?

16 MR. BEHAR: Yeah.

17 MR. AIZENSTAT: Okay. That will be great.

18 MR. GREER: Yeah, we'll agree to add that
 19 in. Okay. We're happy to do it.

20 MR. SALMAN: If I may, through the Chair, I
 21 think the issue here is one of night noise, and
 22 the condition should be really modified for any
 23 nighttime events, not during normal operating
 24 hours of the --

25 MR. GREER: For nighttime events.

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1 MS. HERNANDEZ: Right. I think it was only
 2 for special events.

3 MR. GREER: Well, that would make it a
 4 little easier. I think that's a great point.
 5 That's a great point, because not always do we
 6 -- I don't think you're worried about it during
 7 the day, and maybe during the day, sometimes,
 8 we don't need off-duty, but the fact is, for
 9 the last few years, we've had off-duty every
 10 time, so --

11 MS. HERNANDEZ: Right.

12 MR. COE: Right.

13 MR. GREER: I think we can just agree to it
 14 across the board, but I appreciate it.

15 MR. SALMAN: Whatever. I just don't want
 16 to overly burden you with --

17 MR. GREER: Yeah, but if it will make
 18 anybody happy --

19 MR. BEHAR: Well, if you have a special
 20 event during the day, you are going to
 21 have off-duty police there.

22 MR. GREER: We are. We are, because we're
 23 concerned about --

24 MR. BEHAR: And this is for special events.

25 MR. GREER: Yeah. You've got it. You've

1 got it.
 2 MR. AIZENSTAT: Thank you.
 3 MR. COE: Put it as special events. That
 4 will make everybody happy.
 5 MR. GREER: I think so.
 6 MS. HERNANDEZ: Right.
 7 CHAIRMAN KORGE: I just have a quick
 8 question, for clarification. There are a
 9 couple of covenants, one for landscaping and
 10 the other for drainage, and when I read them, I
 11 wasn't entirely sure. I assume it includes
 12 maintenance of the landscaping and the
 13 drainage, but it wasn't quite clear, and if you
 14 could clarify that language when you --
 15 MR. GREER: We can do that. We're pretty
 16 excited about helping them with the
 17 landscaping. I mean, that's our thing.
 18 CHAIRMAN KORGE: I assume you can do it.
 19 MR. RIEL: It's a City Code requirement, in
 20 terms of maintenance.
 21 CHAIRMAN KORGE: Okay. Thank you very
 22 much.
 23 MR. GREER: Okay.
 24 CHAIRMAN KORGE: Any more questions or
 25 discussion of the Board? If there's going to

1 be a motion, we need to break them into four
 2 motions, for the four recommendations,
 3 Paragraphs 1 through 4, at the top of Page 2 of
 4 our memo from the Planning Department.
 5 MS. ZAKARIN: Excuse me, I don't know what
 6 the protocol is, but may I just add something?
 7 CHAIRMAN KORGE: Yes, please.
 8 MS. HERNANDEZ: You have to come -- I'm
 9 sorry, but in order to do so, you have to come
 10 up to the podium.
 11 CHAIRMAN KORGE: Come up to the microphone.
 12 MS. ZAKARIN: I will be happy to.
 13 I think an off-duty policeman --
 14 CHAIRMAN KORGE: Would you state your name
 15 again, please?
 16 MS. ZAKARIN: I'm Arlene Zakarin, and I
 17 live on Campana, for 37 years.
 18 I think an off-duty policeman certainly
 19 could be helpful. I will tell you, over the
 20 years, I have called the police many a time at
 21 night, who have gone over there. I'm not sure
 22 what they've done. But in speaking to Ann
 23 Schmidt, even recently, and I asked, "Who is
 24 there to make sure the rules are followed," she
 25 told me the maintenance people. An off-duty

1 police officer, or any police officer, is not
 2 going to tell the band, "Turn the speakers back
 3 where they're supposed to be." You really need
 4 somebody of authority there from the Garden, on
 5 the staff, who will say, "Don't move the
 6 speakers. Face the speakers away."
 7 An off-duty policeman, that's not their
 8 job. They're there for security and safety.
 9 So, if we're going to move ahead with this and
 10 try to quiet it down when there's an event
 11 there, I think the Garden has to have somebody
 12 in place, of authority, who will make sure that
 13 all the equipment is where it's supposed to be.
 14 Thank you.
 15 CHAIRMAN KORGE: Thank you.
 16 MS. HERNANDEZ: No, Mr. Chairman, it is
 17 routine and part of the protocol that the
 18 police officers who work off-duty jobs, in all
 19 events, will, at the appropriate time, say,
 20 "It's time to shut down," and when the noise is
 21 out of hand and there's a complaint, will
 22 require that the noise be contained.
 23 CHAIRMAN KORGE: Well --
 24 MS. HERNANDEZ: And on more than one
 25 occasion, I've been called because someone's

1 been arrested because they have failed to
 2 comply, so, you know, I know this occurs.
 3 CHAIRMAN KORGE: Well, I think the point --
 4 MR. COE: And also, Mr. Chairman, I do want
 5 to clarify, we keep using the term "off-duty
 6 policeman." There's no such animal.
 7 MS. HERNANDEZ: Right.
 8 MR. COE: An off-duty policeman does not
 9 exist. Sworn officers are police officers,
 10 24/7, and they may not be on a particular
 11 assignment; they're not off duty. Police
 12 officers are police officers.
 13 CHAIRMAN KORGE: Right, but they're still
 14 getting the noise. I think that was the point.
 15 MS. HERNANDEZ: Right.
 16 CHAIRMAN KORGE: You know, the officers are
 17 there, and maybe they're enforcing, maybe
 18 they're not enforcing, but there is a noise
 19 problem, and what I hear from the Gardens is
 20 that they don't want there to be a noise
 21 problem and they're going to be more aggressive
 22 in addressing that, perhaps instructing the
 23 officers to be sure that there is no noise
 24 problem, and to turn the speakers away, like
 25 they've agreed in their covenant, and if

1 enforcement, as you said, Jack, is a recurring
 2 problem, I guess it will go before the Code,
 3 because I think the neighbors are ready to, you
 4 know, pounce, at this point, understandably so.

5 So, anyway, any further discussion or
 6 questions? A motion, perhaps?

7 MR. FLANAGAN: Mr. Chair, I move the first
 8 item, the rezoning from Single Family
 9 residential to Special Use, in accordance with
 10 Staff's rec (sic).

11 MR. BEHAR: Second it.

12 CHAIRMAN KORGE: Incorporating the findings
 13 of Fact in the Staff Report, and subject to the
 14 conditions recommended, which have been
 15 accepted by the applicant?

16 MR. FLANAGAN: Yes.

17 CHAIRMAN KORGE: Okay, a motion and a
 18 second.

19 MR. COE: That's including, Mr. Chairman,
 20 the changes to the covenant that runs with the
 21 land.

22 MS. HERNANDEZ: That's not -- That's a
 23 private remedy.

24 MR. RIEL: Just a point of clarification.
 25 Does that include the speakers turned away?

1 MR. COE: Well, wait a minute. If you say
 2 it's a private remedy --
 3 MS. HERNANDEZ: It is a private remedy.
 4 MR. COE: Well, then, we're going to do it
 5 two different ways. If it's a private remedy,
 6 then --

7 MR. RIEL: If I may, Mr. Chair --
 8 CHAIRMAN KORGE: Yeah.

9 MR. RIEL: A point of clarification. Does
 10 that include the speakers turned away from the
 11 residential? And does it also include --

12 MS. HERNANDEZ: Is that Staff's
 13 recommendations?

14 MR. COE: No. It's not part of it.

15 MR. RIEL: No, it's not included in Staff's
 16 recommendations.

17 MS. HERNANDEZ: Is it proffered by the
 18 applicant?

19 MR. RIEL: It's proffered by the applicant.

20 MS. HERNANDEZ: Then the Board can accept
 21 what's been proffered by the applicant, and
 22 include it in the conditions of approval.

23 MR. COE: Including the --

24 MR. RIEL: Correct, but the applicant
 25 indicated as part of the covenant. Staff would

1 like it in as part of the conditions of
 2 approval.

3 MR. COE: Right, including the off-duty
 4 policeman and so forth.

5 CHAIRMAN KORGE: Will you have a problem
 6 including it in the conditions of approval,
 7 Mr. Guilford?

8 MR. GUILFORD: No, we do not, Mr. Chairman.

9 CHAIRMAN KORGE: Okay, thank you.

10 MR. FLANAGAN: While we're on that, Madam
 11 Attorney, is it appropriate to do it on the
 12 rezoning, or is it more --

13 MR. RIEL: Item number --

14 MR. FLANAGAN: -- better suited on the PAD
 15 agreement?

16 MR. RIEL: Item Number 4, the PAD.

17 MS. HERNANDEZ: On the PAD.

18 MR. FLANAGAN: So those are inapplicable to
 19 this current motion.

20 MS. HERNANDEZ: Okay.

21 MR. COE: Second the motion.

22 CHAIRMAN KORGE: Moved and seconded. Any
 23 discussion?

24 Hearing no discussion, we'll call the roll,
 25 please.

1 MS. MENENDEZ: Jack Coe?

2 MR. COE: Yes. Yes.

3 MS. MENENDEZ: Jeff Flanagan?

4 MR. FLANAGAN: Yes.

5 MS. MENENDEZ: Pat Keon?

6 MS. KEON: Yes.

7 MS. MENENDEZ: Javier Salman?

8 MR. SALMAN: Yes.

9 MS. MENENDEZ: Eibi Aizenstat?

10 MR. AIZENSTAT: Yes.

11 MS. MENENDEZ: Robert Behar?

12 MR. BEHAR: Yes.

13 MR. SALMAN: Jeff, go.

14 MS. KEON: Keep going, Jeff.

15 MS. MENENDEZ: And Tom Korge?

16 CHAIRMAN KORGE: Yes.

17 Jeff, do you want to --

18 MS. KEON: Do the next one.

19 MR. SALMAN: Do the next one.

20 MR. FLANAGAN: All right.

21 MR. COE: You're on a roll.

22 MR. BEHAR: You're on a roll.

23 MR. FLANAGAN: A motion to approve Item
 24 Number 2, which is the amendment to the Zoning
 25 Code, Special Use District, providing for the

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1 permitted uses within a botanical garden, all
 2 in accordance with Staff's recommendation.
 3 MR. COE: Second the motion.
 4 CHAIRMAN KORGE: And subject to the
 5 conditions --
 6 MR. FLANAGAN: Subject to the conditions --
 7 CHAIRMAN KORGE: Moved and seconded.
 8 MR. FLANAGAN: -- and anything proffered.
 9 CHAIRMAN KORGE: Moved and seconded. Any
 10 discussion?
 11 Hearing none, we'll call the roll.
 12 MS. MENENDEZ: Jack Coe?
 13 MR. COE: Yes.
 14 MS. MENENDEZ: Jeff Flanagan?
 15 MR. FLANAGAN: Yes.
 16 MS. MENENDEZ: Pat Keon?
 17 MS. KEON: Yes.
 18 MS. MENENDEZ: Javier Salman?
 19 MR. SALMAN: Yes.
 20 MS. MENENDEZ: Eibi Aizenstat?
 21 MR. AIZENSTAT: Yes.
 22 MS. MENENDEZ: Robert Behar?
 23 MR. BEHAR: Yes.
 24 MS. MENENDEZ: Tom Korge?
 25 CHAIRMAN KORGE: Yes.

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1 Jeff, do you want to --
 2 MS. KEON: Go, Jeff.
 3 MR. SALMAN: Come on.
 4 MR. COE: Once you start these things,
 5 you've got to --
 6 CHAIRMAN KORGE: You just got it down
 7 right.
 8 MS. HERNANDEZ: You're on a -- You're on
 9 a --
 10 MR. COE: You're on a roll.
 11 MR. FLANAGAN: All right, motion to approve
 12 Ordinance Number 3, the amendment to the
 13 Fairchild Garden Master Site Plan, all in
 14 accordance with Staff's recommendation, the
 15 findings of fact, anything proffered by the
 16 applicant, and whatever else we need.
 17 MS. HERNANDEZ: Okay. Is there a second?
 18 CHAIRMAN KORGE: Second, anybody?
 19 MR. COE: Second the motion.
 20 CHAIRMAN KORGE: Second. Any discussion?
 21 Hearing none, we'll call the roll, please.
 22 MS. MENENDEZ: Jack Coe?
 23 MR. COE: Yes.
 24 MS. MENENDEZ: Jeff Flanagan?
 25 MR. FLANAGAN: Yes.

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1 MS. MENENDEZ: Pat Keon?
 2 MS. KEON: Yes.
 3 MS. MENENDEZ: Javier Salman?
 4 MR. SALMAN: Yes.
 5 MS. MENENDEZ: Eibi Aizenstat?
 6 MR. AIZENSTAT: Yes.
 7 MS. MENENDEZ: Robert Behar?
 8 MR. BEHAR: Yes.
 9 MS. MENENDEZ: Tom Korge?
 10 CHAIRMAN KORGE: Yes.
 11 MR. FLANAGAN: All right, I move to approve
 12 the fourth item, which is the approval of the
 13 PAD for Fairchild Tropical Garden, in
 14 accordance with the Staff rec, findings of
 15 fact, and the items proffered and accepted by
 16 the applicant, which include turning of the
 17 speakers and the off-duty police officer.
 18 MR. COE: And those contained in the
 19 covenant, the proposed covenant, running with
 20 the land between the homeowners' association
 21 and Fairchild Gardens? Is that part of your
 22 motion?
 23 MS. HERNANDEZ: Mr. --
 24 MR. FLANAGAN: No, that's not part of my
 25 motion. I don't think we can make that.

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1 That's an agreement between two private
 2 parties.
 3 MR. COE: I would.
 4 MS. KEON: But they're asking that we do.
 5 MS. HERNANDEZ: And my recommendation is
 6 not --
 7 MR. COE: I would.
 8 MS. HERNANDEZ: -- to include a private
 9 restrictive covenant. There are certain
 10 provisions of private restrictive covenants
 11 that, while private parties may engage in,
 12 should the City engage in, it may
 13 potentially -- I would have to sit down and go
 14 through each condition that has been submitted
 15 and take it up as a separate matter and enter
 16 into a tri-party agreement. So I would
 17 recommend at this time that they keep it as a
 18 private restrictive covenant between the
 19 parties, and it's a private cause of action
 20 that they have.
 21 The City has to follow its Staff -- I don't
 22 even know that Staff has reviewed these
 23 conditions or looked at any of that, you know,
 24 so I can't make a recommendation to include
 25 that.

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1 MR. COE: Well, under the advice of the
 2 City Attorney, which I always follow my
 3 attorney's advice --
 4 MS. HERNANDEZ: Thank you, sir.
 5 MR. COE: -- I'll withdraw that portion of
 6 my second. I guess you want to withdraw it
 7 from the main part of your motion.
 8 MR. FLANAGAN: It wasn't accepted, so --
 9 MR. BEHAR: I'll second it.
 10 CHAIRMAN KORGE: Okay. So we're good to go
 11 on this, right? Any discussion?
 12 No, okay. Let's call the roll, please.
 13 MS. MENENDEZ: Jack Coe?
 14 MR. COE: Yes.
 15 MS. MENENDEZ: Jeff Flanagan?
 16 MR. FLANAGAN: Yes.
 17 MS. MENENDEZ: Pat Keon?
 18 MS. KEON: Yes.
 19 MS. MENENDEZ: Javier Salman?
 20 MR. SALMAN: Yes.
 21 MS. MENENDEZ: Eibi Aizenstat?
 22 MR. AIZENSTAT: Yes.
 23 MS. MENENDEZ: Robert Behar?
 24 MR. BEHAR: Yes.
 25 MS. MENENDEZ: Tom Korge?

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1 CHAIRMAN KORGE: Yes. Thank you very much.
 2 MS. HERNANDEZ: Mr. Segall, will you have a
 3 recorded covenant --
 4 MR. GUILFORD: Thank you all very much. We
 5 appreciate it.
 6 MS. HERNANDEZ: -- by the time it goes to
 7 the City Commission?
 8 MR. COE: Thank you, Zeke. Good job.
 9 MR. AIZENSTAT: Good luck.
 10 MS. HERNANDEZ: Will you have a recorded
 11 covenant? It's always good to see you. Will
 12 you have a recorded covenant by the time it
 13 gets to the City Commission?
 14 MR. GUILFORD: Yes.
 15 MS. HERNANDEZ: Okay, great, and you'll
 16 give me --
 17 MR. GUILFORD: That's August 24th, right?
 18 MS. HERNANDEZ: And you'll give me --
 19 Right. You'll give me a copy of it so that we
 20 have it as --
 21 (Discussion off the record)
 22 (Thereupon, a brief recess was taken.)
 23 CHAIRMAN KORGE: We're back. Let's
 24 continue with the next application, which is
 25 Application Number 00-09-092-P, Planned Area

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1 Development Assignment and Site Plan Review for
 2 Gulliver Academy, Master Campus Site Plan.
 3 Ms. Russo?
 4 MS. RUSSO: Good evening, Mr. Chairman,
 5 Members of the Board. For the record -- I'm
 6 trying to get that just right.
 7 For the record, my name is Laura Russo, and
 8 I'm here this evening representing Gulliver
 9 Academy.
 10 I would like, at this moment, to introduce
 11 some of the other people who are here with me
 12 on the team. I have Mrs. Marian Krutulis, who
 13 is Director Emeritus of Gulliver Academy.
 14 If you could raise your hand for me, Ms.
 15 Krutulis.
 16 I also have here Mr. John Krutulis, who is
 17 head of the school, and Mr. Jeff Bartel, who is
 18 Chairman of the Board of Trustees and the
 19 President of Gulliver Schools.
 20 MR. RIEL: Ms. Russo, I'm sorry, may I
 21 interrupt you? We need to close the door,
 22 because we're getting feedback, and we can't
 23 hear.
 24 MS. RUSSO: Oh. Is there any way to see if
 25 the volume can be adjusted on the monitor

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1 that's outside? I know earlier -- We have a
 2 lot of people, supporters here, and there is
 3 that TV, and they can follow and listen if we
 4 can perhaps ask the audio consultants upstairs
 5 if they can make sure that --
 6 MR. RIEL: We'll do that.
 7 MR. COE: Wally, will you take a look and
 8 see if that's done?
 9 MS. RUSSO: Thank you.
 10 I'd also like to introduce the rest of the
 11 team. I have Gary McGraw, of Gili-McGraw
 12 Architects; Mr. Tim Plummer, of David Plummer
 13 and Associates, my traffic engineer; and
 14 Mr. Ken Gardner, our landscape architect.
 15 I'd like to take a little moment and give
 16 you a history, for those of you who do not know
 17 the history of Gulliver in our community.
 18 Gulliver was actually founded back in 1926, but
 19 the Gulliver that we know today is the Gulliver
 20 of Mrs. Marian Krutulis, when she took over in
 21 the '50s, and then more so, when she moved
 22 first the campus to Coral Gables, on the site
 23 that it currently has right now, at 12595 Red
 24 Road.
 25 Gulliver Schools is now composed of five

Speaker Sign In Sheet – July 14, 2010

Planning & Zoning Board Meeting

Fairchild Tropical Gardens

	Name	Mailing Address	Phone
1.	Joe Paout	3855 CAMPANA AV	305 33741745 ①
2.	Arlene Zakarin	375 CAMPANA	305 6612674
3.	Melissa Scogin	795 CAMPANA	305-666-1204
4.			
5.			
6.			
7.			
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14.			
15.			

Attachment

B

Menendez, Jill

From: seckrad@aol.com
Sent: Wednesday, July 14, 2010 1:31 PM
To: Planning
Subject: Fairchild Tropical Gardens Application No. 11-09-095-P

To: Planning Department
City of Coral Gables
427 Biltmore Way
Coral Gables, Florida

From: Daniel Seckinger
Resident, City of Coral Gables
487 Rovino Ave
Coral Gables, FL 33156

RE: Fairchild Tropical Gardens Application No. 11-09-095-P

Date: July 14, 2010

I am writing to oppose the Fairchild Tropical Gardens request for a zoning change, to oppose the amendment to the Fairchild Master Site Plan and to oppose the addition to the Science Village as outlined in Mr. Riel's staff report: <http://coralgables.com/NR/rdonlyres/09EB47A8-BEEB-4C8D-9526-BDEF50543061/2024/fairchildstaffreport.pdf>

Fairchild Gardens was established by Mr. Robert Montgomery in 1936 to provide a location for Dr. David Fairchild to introduce and grow exotic plants he collected world wide to the United States; the climate of our great city appropriate for tropical plants. My neighborhood, Hammock Oaks was a swamp then, but our neighborhood was built and has for the most part co-existed peacefully over the years with Fairchild Gardens immediately to our north, late night parties and fireworks notwithstanding.

Fairchild Gardens has become a prime tourist destination and local favorite in part due to the great plant collections, but also in part due to it being a beautiful garden with wide green spaces, something seldom seen in our urban environment. While I appreciate the desire for Fairchild Gardens to build research facilities and a Science Village, I oppose their desire to cover more of the grounds with concrete and buildings.

Please keep our green spaces green. And if Fairchild wants to build research facilities and a Science Village, perhaps they could do so just up LeJeune Road on some of the already covered land near US 1. If that is not an option, please at least make Fairchild modify their plans to locate the new buildings on the north side of their property, so as not to be right next to our neighborhood.

Thank you for your attention - I urge the City of Coral Gables Planning Department to deny the application as submitted by Fairchild Gardens. This has always been residential property; the Fairchild founders were comfortable with that, the current Fairchild administration needs to appreciate that and not try to build commercial style buildings so close to their neighbors.

Sincerely,
Daniel Seckinger

FAIRCHILD TROPICAL BOTANIC GARDEN

Exploring, Explaining and Conserving the World of Tropical Plants

COVENANT RUNNING WITH THE LAND

This Agreement dated July 9, 2010, is between Fairchild Tropical Botanic Garden, Inc. ("Fairchild Garden") and the Hammock Oaks Homeowners Association, Inc. ("Hammock Oaks"). The parties agree as follows:

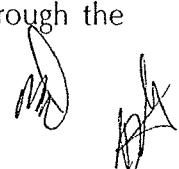
1. Fairchild Garden owns and/or leases the property located at 10901 Old Cutler Road, Coral Gables, FL.
2. Hammock Oaks is an association of persons who own and reside in property contiguous to or proximate to Fairchild Garden in the Hammock Oaks development in Coral Gables, FL.
3. In connection with the construction and expansion of facilities at Fairchild Garden, Fairchild Garden has submitted Planning Application No. 11-09-095-P "Fairchild Tropical Botanic Garden-Science Village" to the City of Coral Gables (the "Application").
4. In such Application, Fairchild Garden has requested approval for the construction of a Science Center comprised of a science classroom building, a laboratory building and a shade house (the "Proposed Science Facilities").
5. Fairchild Garden and Hammock Oaks have engaged in good faith discussions as to the Application and the Proposed Science Facilities in order to develop a set of guidelines for the Proposed Science Facilities as well as protections for Hammock Oaks which shall apply to the Proposed Science Facilities.



6. Hammock Oaks agrees that, in consideration for the concessions and limitations on Fairchild Garden's use and development of its property as set forth herein, it
 - a. supports and is in favor of the Application,
 - b. will not oppose the Application before the City of Coral Gables, any division or department thereof or in any subsequent appellate proceedings or reconsideration of the Application as modified, and
7. At a Special Meeting of the Board of Directors of the Hammock Oaks Homeowners Association, Inc., held on June 8, 2010, a resolution was passed approving the Agreement which is made a part hereof. If requested, the Board will provide a copy of the minutes of the Board meeting.
8. The agreements set forth herein are based upon the Proposed Science Facilities as set forth in the pending Application and any "material modification" to such Application shall void the Hammock Oaks consent given herein.
9. In consideration of Hammock Oak's support of the Application and contingent upon such support and the approval of the Application by Coral Gables, Fairchild Garden agrees to execute and record this Covenant Running with the Land and to agree to the following conditions for the construction of the Proposed Science Facilities for which approval is requested in the Application and for any subsequent expansion, renovation, reconstruction, modification or other work on the facilities at Fairchild Garden:

Access

- a. Vehicle access into Fairchild Garden shall be prohibited from Campana Avenue, other than such access as may be required by the City of Coral Gables for emergency vehicles responding to an emergency, including access during hurricanes or necessary testing.
- b. The emergency entrance shall not be used for deliveries or waste removal at any time.
- c. Persons using the facilities shall not park at or access the facilities through the emergency entrance.

Two handwritten signatures are present in the bottom right corner of the page. The first signature, on the left, appears to be 'MM' and the second, on the right, appears to be 'JP'.

- d. There shall be no pedestrian access to Fairchild Garden from Campana Avenue. Subject to the foregoing, Fairchild Garden shall construct a pedestrian gate in proximity to the emergency entrance for use only by Hammock Oaks residents who are current members of Fairchild Garden. Fairchild Garden employees are prohibited from using the pedestrian gate in all circumstances other than emergencies.
- e. Except as set forth herein, there shall be no access to Fairchild Garden from Campana Avenue.

Beautification/Landscape

- f. Fairchild Garden shall accommodate the reasonable requests of the current property owners of 495 Campana Avenue and 470 Campana Avenue for beautification of the emergency driveway and foliage to screen the proposed structures from view. There shall be sufficient landscaping behind the proposed structures to screen those structures from view from Campana Ave. to the greatest extent possible.
- g. Fairchild Garden shall landscape, beautify, improve and maintain the border between Fairchild Garden and Campana Avenue south of the coral rock wall. The wall shall be made sturdy, repaired with the same material and maintained, and shall slope to the height of the emergency gate.

Development/Facilities

- h. No construction vehicles will enter via Campana Avenue during or after construction, but access to Fairchild Garden will only be through Fairchild Garden's premises.
- i. The Proposed Science Facilities shall not be expanded any further to the east.
- j. All future development of structures by Fairchild Garden shall be located no less than 125 feet measured from the back property lines of the homes located on the north side of Campana Avenue.
- k. The back windows of the structures in the Proposed Science Facilities in the Application shall be niche windows.
- l. Current and future construction shall not have greater height than presently shown on the plans for the Proposed Science Facilities, nor shall any future construction encroach towards Campana Ave. closer than the Proposed Science Facilities.

Use

- m. Amplified sound shall be prohibited at all times from the Proposed Science Facilities and the property that is now known as the Davis house.



10. This Covenant is contingent upon the approval of the Application by the City of Coral Gables and the expiration of any appeal rights, and the issuance of a permit or permits for the construction of the Proposed Science Facilities; in the event the Application is not approved or a building permit is not issued for the Proposed Science Facilities, then the recording of this Covenant may be deferred until such time as such events occur. Cost of recording shall be borne by Fairchild Garden.

FOR Fairchild Tropical Botanic Garden, Inc.

By:



Bruce W. Greer, President

FOR Hammock Oaks Homeowners Association, Inc.

By:



Maurice Donsky, President

