

1 CITY OF CORAL GABLES  
2 PLANNING AND ZONING BOARD MEETING  
3 VERBATIM TRANSCRIPT  
4 CORAL GABLES CITY HALL  
5 405 BILTMORE WAY, COMMISSION CHAMBERS  
6 CORAL GABLES, FLORIDA  
7 WEDNESDAY, NOVEMBER 14, 2007, 6:05 P.M.

5

## 6 Board Members Present:

7

8 Tom Korge, Chairperson  
Eibi Aizenstat, Vice-Chairman  
9 Robert Behar  
Jack Coe  
10 Pat Keon  
Cristina Moreno  
11 Javier Salman

12

### 13 City Staff:

14 Eric Riel, Jr., Planning Director  
Walter Carlson, Assistant Planning Director  
15 Lourdes Alfonsin-Ruiz, Assistant City Attorney  
Javier Betancourt, Principal Planner  
16 Jill Menendez, Administrative Assistant  
Cathy Swanson,

17

18 Also Participating: Page

19 Laura Russo, Esq. 5  
Joseph Natali 20

Joseph Natoli  
Executive Producer

20 Perri Lee Roberts 32

Jeffrey Bass, Esq. 42  
Brian Baumgart 64

21 Brian Dursam 64  
Bob de la Fuente 61

22 Bob de la Fuente 91  
Vinton Villaamil Miami-Dade County School

22 VIVIAN VILLAAMIL, Miami-Dade County School Board  
23 representative

25

1 THEREUPON:

2 The following proceedings were had:

3 MR. AIZENSTAT: Since we do have a quorum,  
4 would you call the roll?

5 MS. MENENDEZ: Robert Behar?

6 MR. BEHAR: Here.

7 MS. MENENDEZ: Jack Coe?

8 MR. COE: Yes.

9 MS. MENENDEZ: Cristina Moreno?

10 MS. MORENO: Here.

11 MS. MENENDEZ: Javier Salman?

12 Tom Korge?

13 Eibi Aizenstat?

14 MR. AIZENSTAT: Here.

15 From the other Board members, do we have  
16 that they're going to be coming?

17 MR. RIEL: Yes, everybody confirmed that  
18 they're going to be here.

19 MR. AIZENSTAT: Okay. Should we get  
20 started then --

21 MR. BEHAR: Mr. Chairman, can I --

22 MR. AIZENSTAT: Sure.

23 MR. BEHAR: Just for the record, I have to  
24 be out of here by 7:30 today -- this evening,  
25 just to let you know, please.

1                   MR. COE: The meeting can be done by 7:30.

2                   MR. AIZENSTAT: The first order of business  
3                   will be the approval of the minutes. Did  
4                   everybody get a chance to take a look at the  
5                   minutes for the previous meeting?

6                   MS. MORENO: I move approval.

7                   MR. COE: Second.

8                   MR. AIZENSTAT: Call the roll, please.

9                   MS. MENENDEZ: Jack Coe?

10                  MR. COE: Yes.

11                  MS. MENENDEZ: Cristina Moreno?

12                  MS. MORENO: Yes.

13                  MS. MENENDEZ: Robert Behar?

14                  MR. BEHAR: Yes.

15                  MS. MENENDEZ: Eibi Aizenstat?

16                  MR. AIZENSTAT: Yes.

17                  Walter.

18                  MR. CARLSON: For the record, Walter

19                  Carlson, Planning Department --

20                  MR. RIEL: Hold on, Walter, before you  
21                  start. I just want to note a couple of changes  
22                  from the agenda.

23                  Item Number 9, which is the Building Site  
24                  Separation, has been postponed to a future date,  
25                  and, then, on Item Number 7 -- and I'm looking

1           at the blue revised agenda in front of you, Item  
2           Number 7, there's four ordinances that are going  
3           -- were going to be considered this evening.

4           Item 7-C, which is an ordinance amending  
5           the Zoning Code Concurrency Review, has been  
6           postponed or deferred to a -- a later date, and,  
7           Javier, when he does the presentation, will go  
8           into more detail about that.

9           MR. AIZENSTAT: Perfect.

10           MR. CARLSON: Again, for the record, Walter  
11           Carlson. Before you, on the green sheets of  
12           paper, you have some updated comments which came  
13           in regarding the first item before you this  
14           evening. There were three comments received.  
15           There were no objections in any of them.

16           If you would like, I can give you a brief  
17           presentation. If you would like to proceed  
18           forward without it --

19           MR. COE: We don't need a presentation, I  
20           don't think.

21           MR. CARLSON: You don't need a  
22           presentation?

23           MR. COE: No, I think we can move on.

24           MR. CARLSON: Good. Thank you. Thank you.

25           MR. AIZENSTAT: Thank you. For the record,

1           please note that Javier Salman has joined us.

2           MR. COE: (Inaudible comments.)

3           MR. AIZENSTAT: Do we need to go ahead,  
4           Eric, and swear in any of the parties or -- that  
5           are going to be speaking?

6           MR. RIEL: I -- I don't believe so, no.

7           MR. AIZENSTAT: Okay. Let's get started  
8           with the -- then, is there a presentation that's  
9           going to be made on that first item?

10           MR. RIEL: It's up to you. If you want a  
11           presentation, Walter can --

12           MR. AIZENSTAT: We don't need a  
13           presentation.

14           MR. BEHAR: We've got a motion --

15           MR. AIZENSTAT: I'm sorry, also if we could  
16           note, for the record, that Pat Keon is here.

17           So it looks like we don't need the  
18           presentation.

19           Laura?

20           MS. RUSSO: Good evening Mr. Chairman,  
21           Members of the Board. For the record, Laura  
22           Russo, of Russo & Baker, with offices at 2655 Le  
23           Jeune Road.

24           We are here before you with proposed  
25           tentative plats. There are actually two

1 applications, Ponce Place Villas East and Ponce  
2 Place Villas West, which, in fact, is only  
3 taking our approved site plan of the Old Spanish  
4 Village to allow for the townhouses to be sold  
5 fee simple.

6 We could build the same townhouses today as  
7 condominiums, but we want to sell them as  
8 individual lots, so we're going through the  
9 planning process.

10 So that is all. There is no increase in  
11 building site. There is no change -- there's no  
12 change in the streets. So the PAD Ordinance  
13 does not require replatting, so we could move  
14 forward. We just thought, for our purposes,  
15 it's something we would like to do, and it seems  
16 to be something that prospective buyers out  
17 there want, as well.

18 MR. AIZENSTAT: Let me ask a question of  
19 the Assistant City Attorney.

20 MS. RUSSO: Uh-huh.

21 MR. AIZENSTAT: Should the -- should the  
22 item be read into the record or are we okay  
23 without reading the actual item into the record  
24 that we're discussing now?

25 MS. ALFONSIN-RUIZ: You don't have to read

1           it into that record.

2           MR. AIZENSTAT: Say that again, please.

3           MS. ALFONSIN-RUIZ: You do not need to read  
4           it into the record.

5           MR. BEHAR: And this is only to replat?

6           You're not increasing units, you're not  
7           increasing anything?

8           MS. RUSSO: Nothing. Basically, the  
9           approved master plan remains the same, and one  
10           of the sheets -- and let me see if I'm not  
11           mistaken, I believe it's under 6 and under 7 --

12           MR. COE: Right.

13           MS. RUSSO: -- basically shows -- I think  
14           the last one shows how the townhomes overlay  
15           over the -- the plats. We basically took the  
16           outline of the townhomes and created the lots.

17           MR. BEHAR: I'll make a motion to approve.

18           MS. MORENO: Second.

19           MR. AIZENSTAT: Any comments? Any  
20           questions?

21           MR. SALMAN: To the Chair, are there any  
22           changes to the architectural division between  
23           the two fee simple lots now? Does -- if they're  
24           built out as townhouses, do we have a double  
25           wall situation or how are we making that

1           division of property line effective to the  
2           building?

3           MS. RUSSO: Well, those issues will be  
4           addressed in the homeowner's association  
5           documents versus the condominium association  
6           documents. So we've already created documents  
7           which will be labeled one or the other,  
8           depending on the -- in terms of maintenance --  
9           maintenance of exterior, I mean, there's still  
10          all the conditions that were part of the Old  
11          Spanish Village, in terms of the architectural  
12          integrity and maintenance and stuff, will be  
13          done, whether they're created as condominium  
14          units or townhouses.

15          MR. SALMAN: I mean, I wasn't offering the  
16          question to create a problem, but I just want to  
17          make sure that it's not a problem later.

18          MS. RUSSO: Uh-huh.

19          MR. SALMAN: And if you -- your answer is  
20          satisfactory. Thank you.

21          MR. COE: Mr. Chairman, we need to have  
22          public comments on this.

23          MR. AIZENSTAT: Correct.

24          MR. COE: We should recognize the Chairman  
25          has arrived.

1                   MR. AIZENSTAT: Correct. Tom Korge is  
2                   here.

3                   THE CHAIRMAN: I apologize for being late.

4                   MR. AIZENSTAT: To bring him up to speed,  
5                   we're -- if we can -- are there any public  
6                   comments on this? Anybody in the public?

7                   MR. COE: Move the question, Mr. Chairman.

8                   MR. CHAIRMAN: There's a motion. Is there  
9                   a second?

10                  MR. AIZENSTAT: There is a first and a  
11                  second.

12                  THE CHAIRPERSON: First and second.

13                  MS. MORENO: I second it.

14                  THE CHAIRMAN: Okay. Any discussion on the  
15                  motion?

16                  MS. MORENO: We had.

17                  MR. COE: Right.

18                  THE CHAIRPERSON: You already had your  
19                  discussions. So no further discussion. Let's  
20                  call the roll on the motion.

21                  MS. MENENDEZ: Eibi Aizenstat?

22                  MR. AIZENSTAT: Yes.

23                  MS. MENENDEZ: Robert Behar?

24                  MR. BEHAR: Yes.

25                  MS. MENENDEZ: Jack Coe?

1 MR. COE: Yes.

2 MS. MENENDEZ: Pat Keon?

3 MS. KEON: Yes.

4 MS. MENENDEZ: Cristina Moreno?

5 MS. MORENO: Yes.

6 MS. MENENDEZ: Javier Salman?

7 MR. SALMAN: Yes, to approve.

8 MS. RUSSO: Thank you very much.

9 MS. MENENDEZ: Tom Korge?

10 THE CHAIRPERSON: Yes.

11 Second item on the agenda is the Zoning

## Code Text Amendment, Article 3, Development

13 Review, Division 20, Art in Public Places.

14 MR. RIEL: Mr. Chairman, Members of the

15 Board, I'd like to do just a brief introd

16 this is an amendment to the zoning code,

Creating a new division, Division 20, entered

## ART IN PUBLIC PLACES.

19 The City Commission

## City Administration to Create Two New

legislative regulation programs. The

Impact fee program, and the owner was an arc-

## 25 Public Places Program.

21 The Impact fee program is basically for new

1           upon the potential impacts that new development  
2           would have.

3           The City secured a consultant, and that  
4           resulted in the completion of an Impact Fee  
5           Ordinance, which the City Commission approved  
6           about a couple of months ago.

7           At the time, they also considered an Art in  
8           Public Places Ordinance, when they were  
9           considering the impact fees, and, actually, it  
10           went to the Commission on May 23rd, 2007. They  
11           actually passed it on first reading, but, at  
12           that time, they asked that the Impact Fee  
13           Ordinance be finalized before they enact or go  
14           any further on the Art in Public Places.

15           As I indicated, that Impact Fee Ordinance  
16           was approved.

17           After that -- that point in time -- and let  
18           me just kind of give you a little background, in  
19           terms of Public Art Ordinances.

20           It was in response to the 2002  
21           Charrette, the Comprehensive Plan, and then  
22           basically Miami-Dade County's Art in Public  
23           Places Ordinance.

24           If you look at the whereas clauses in the  
25           actual ordinance, it will give you kind of a

1           good understanding of what the City Commission's  
2           intent was by creating this ordinance.

3           The City's Cultural Development Board  
4           assisted City staff, mainly Cathy Swanson,  
5           Development Director, and the Assistant City  
6           Attorney, in the development of a program. The  
7           City staff has been working on the program, or  
8           the policies and procedures, for well over a  
9           year, and they basically modeled it after  
10          several programs that are throughout the United  
11          States. Some of those have been in existence  
12          for ten or twenty years.

13          Programs -- similar programs in the State  
14          of Florida include Coral Springs, Palm Beach  
15          Gardens, Tampa, Sarasota, Clearwater, and a  
16          little bit closer to home, Miami Beach.

17          The result of the research and the input  
18          from the Cultural Development Board, as well as  
19          Historic Preservation Board, resulted in the  
20          ordinance which you have before you as  
21          Attachment A.

22          The City Commission, on October 23rd,  
23          passed, on first reading, the ordinance that you  
24          have before you, and they recommended approval  
25          on a five to zero vote.

1                   The discussion at the Commission meeting,  
2                   they also requested, obviously, public input,  
3                   and the public input they received was namely  
4                   from the University of Miami, as well as there  
5                   were some other interested parties.

6                   The University has been working closely  
7                   with City staff on drafting some language, in  
8                   terms of amendments to the ordinance regarding  
9                   exemption language.

10                  The City Commission, when they passed it on  
11                  first reading, recommended that the ordinance  
12                  come to the Planning & Zoning Board, prior to  
13                  second reading, which is scheduled for December  
14                  11th, and, specifically, they made a motion.  
15                  They asked City Administration and the Planning  
16                  & Zoning Board to consider an exemption for the  
17                  University of Miami, with periodic review of  
18                  that exemption, and to add language that  
19                  protects the City, assuring the quality and  
20                  monetary value of the collection, and that's on  
21                  Page 32, at Attachment C.

22                  That motion was passed by the Commission by  
23                  a three to two vote.

24                  For that reason, and I believe the  
25                  Commissioners, also the Mayor, asked that this

1           Board specifically comment on that particular  
2           issue of the exemption, as well as anything else  
3           they might have -- you might have, in terms of  
4           the ordinance.

5           So with that, I'm going to turn it over to  
6           Ms. Swanson, Development Director. She's going  
7           to provide you a little bit more details in the  
8           ordinance.

9           We also have a -- Cathy has a presentation,  
10          in which you have copies of examples of art  
11          that -- throughout the United States, as well as  
12          within the State of Florida.

13          THE CHAIRPERSON: Before you begin,  
14          Ms. Swanson, I'd like to note that I've  
15          gotten confirmation from the City  
16          Attorney's Office that I do not have a  
17          conflict of interest on this, because I --  
18          I'm going to be teaching a course at the  
19          University of Miami next semester, I was  
20          concerned that I might have a potential  
21          conflict of interest due to the proposed  
22          exemption, and the City Attorney has  
23          assured me that there is no conflict of  
24          interest. So I just wanted to point that  
25          out.

1                   That's correct, isn't it, Lourdes?

2                   MS. ALFONSIN-RUIZ: That's correct.

3                   THE CHAIRPERSON: Thank you.

4                   MR. COE: (Inaudible).

5                   MS. SWANSON: I got a word from up above,

6                   so to speak, that their PowerPoint needed to be

7                   rebuted, so at some point in my presentation,

8                   you'll start seeing the pictures that are

9                   included in your packet.

10                  Huh.

11                  MR. AIZENSTAT: Got them now.

12                  MS. SWANSON: Thank you. Thank you.

13                  And the purpose of these pictures are just

14                  to try and frame exactly what our hopes are as

15                  we move forward with this art in public places.

16                  Before we begin with the -- the sculptures

17                  and the examples, though, thank you, Eric, for

18                  the summation.

19                  Indeed, the -- Dade County passed an

20                  ordinance in 1973. It was one of the landmark

21                  public art ordinances, that required government,

22                  specifically the County, and all municipalities,

23                  to contribute 1.5 percent of their construction

24                  dollars into the acquisition of new art.

25                  We have had conversations with Dade County

1           on and off. The City has informally complied  
2           with it, and the Manager felt that it was time  
3           that we developed formal regulations that allow  
4           us to actively participate in the art in public  
5           places program, and ours is a little different,  
6           but before I talk about the differences, we'll  
7           see a little bit of the art, so that the public  
8           can see what we're talking about.

9           Art as Identity. This is actually a  
10          Picasso, in the middle of the Federal Square in  
11          Chicago. It is a very well-known piece for  
12          Chicago.

13          Next slide, please.

14          Philadelphia. Philadelphia has over 530  
15          art in public places sculptures, and here are  
16          just two examples. The one on the left is aptly  
17          called the Clothespin, and the other is Ben  
18          Franklin and his printing press.

19          Next one, please.

20          Chicago, again. This is at Calder. It's a  
21          Flamingo. Miami, with the Metrorail program.  
22          As Metrorail took off, so did art in public  
23          places, and here's an example.

24          Next, please.

25          This is an example of a Chihuly ceiling.

1       As you look into our ordinance, you'll see that  
2       you are able not only to develop free-standing  
3       sculpture, but also to incorporate it in  
4       architecture, provided the public has access to  
5       it, and so here's an example of a ceiling, and  
6       then also an example of a mosaic.

7       Next slide, please.

8       Crevices, bas reliefs, incorporated in the  
9       architecture, all through a process.

10      Next, please.

11      Here's an example of a wheelchair ramp,  
12     designed by an artist, the etching, and how that  
13     also could qualify for the art in public places  
14     programs for developments.

15      Next, please.

16      The Miami Airport, and here's a public  
17     school in New York, the mosaic up on the top is  
18     part of their art in public places program.

19      Next, please.

20      More examples on New York, mosaics, doors,  
21     and how we can use architect -- art in  
22     architecture.

23      Next, please.

24      Here's a public school in New York, and,  
25     unfortunately, it doesn't show in the slide, but

1           it says, "The Sky's The Limit," written on the  
2           base of the curve.

3           Next, please.

4           We have our own great example of art in  
5           public places, and that's the cut fire heads  
6           done in '38, '39, by a female artist, a  
7           full-time professional artist, who went by the  
8           name of John, because she didn't think she'd be  
9           hired as a male (sic), but those are -- those  
10           are great examples of how it becomes a defining  
11           piece of the building and also a piece of art,  
12           and then just another shot of mosaics in New  
13           York.

14           Next, please.

15           The library has a Kay Pancoast sculpture of  
16           Coral Gables. It's a beautiful, beautiful map,  
17           that is done on tile. We would encourage you to  
18           go look in their Community Room. That would be  
19           an example.

20           And in San Francisco, we're showing an  
21           example of a parking garage and how the mural on  
22           the base of the park -- on the first level of  
23           the parking garage was actually an art in public  
24           places program.

25           Next, please.

1                   More examples. Whether it's a manhole  
2                   cover or a pedestrian walkway.

3                   Next, please.

4                   Other examples, where the pedestrian, a  
5                   plaza -- an urban plaza that is done in  
6                   consultation with an artist, through the  
7                   process, would qualify, as well as there's a --  
8                   a fountain in the -- on the left side as an  
9                   example.

10                  Next, please.

11                  Whether Overtown or Tampa, examples of art  
12                  in public places.

13                  Next, please.

14                  Here's a story. It tells the whole story  
15                  of the community and how it gathered, through  
16                  these -- these art sculptures. They're actually  
17                  glass and metal.

18                  Next, please.

19                  Banners. Now, these were banners, each  
20                  commissioned by -- on a project for individual  
21                  artists, and then they became a permanent  
22                  collection.

23                  Next, please.

24                  Urban furnishings. We think this is a  
25                  fabulous example of -- of functional art, where

1           people can enjoy the beauty and also have a  
2           seat.

3           Next, please.

4           West Palm Beach, as an example of the  
5           benches.

6           Next, please.

7           So these are all urban furnishing examples.

8           You have a close-up, on the right, that  
9           shows that it's actually cactus. Not  
10           necessarily appropriate for Coral Gables, but  
11           certainly for Scottsdale, but it's actually from  
12           a bus bench.

13           Next, please.

14           This is in a public housing project. It's  
15           Lincoln, with a small child on his lap. So  
16           we're giving you now some -- more examples on  
17           artists' sculptures.

18           Next, please.

19           Tampa, Miami, as examples.

20           Next.

21           This is actually right in front of the City  
22           Hall for Tempe.

23           Next, please.

24           Both, Palo Alto and Dan Diego, we  
25           studied -- there are over 350 public art

1           programs around the country. Every one is a  
2           little bit different, but California clearly set  
3           the stage for art in public places, and here are  
4           just a few examples.

5           Next, please.

6           New York, Miami, and a lot of Miami came  
7           through the Metrorail project and the County's  
8           infrastructure projects.

9           Next, please.

10           Central Park, Eleanor Roosevelt. Palm  
11           Desert, California started in the 1980s. They  
12           have every development, public and private,  
13           participate, even single family homes.

14           Next, please.

15           Some Washington examples. If you look over  
16           to the right, the commuter is on roller skates,  
17           and we can all understand that need, given the  
18           commuter traffic.

19           Next, please.

20           Minneapolis, as an example.

21           Next, please.

22           Another example with Philadelphia.

23           Next, please.

24           Salt Lake City, Scottsdale. Scottsdale and  
25           Salt Lake City, these are examples in private

1 developments, that we've selected.

2 Next, please.

3 Los Angeles. The Commission enjoyed the  
4 one on the left, and felt that they could relate  
5 to that sometimes, and Coral Springs, private  
6 development, copper, and it's a very impressive  
7 building -- door entry for a private  
8 development.

9 Next, please.

10 Other private developments, and Namingha  
11 sculpture, the City has something similar by  
12 Namingha in Ponce Circle Park in our temporary  
13 art display, but both of these are in private  
14 office developments.

15 Next, please.

16 These are actually in retail centers in  
17 Scottsdale, under their arts in public places  
18 ordinance.

19 Water is just as much a part of the art  
20 development as metal or bronze.

21 Next, please.

22 Other examples with Scottsdale, the -- the  
23 palm trees, and also the elevator, and how they  
24 used that as a stainglass piece.

25 Next, please.

1                   Overpasses, you all looked at -- probably  
2                   at the County's overpass for the University of  
3                   Miami. Here's an example of how Marshall Fields  
4                   qualified through their overpass connection.

5                   Next, please.

6                   Some of you had already seen this. This is  
7                   the San Diego campus, a beautiful serpentine  
8                   mosaic, counting as art in the campus.

9                   Next, please.

10                  Now, we looked also at art in the  
11                  universities. Many of them are obligated to  
12                  participate, because their artists stay and they  
13                  have to do 1.5 percent, and some, like  
14                  Massachusetts Institute of Technology, chose to  
15                  institute their own art in public places  
16                  program, where they charged themselves 1.5  
17                  percent for all their construction projects.

18                  University of Wisconsin, we used as an  
19                  example.

20                  Next, please.

21                  Another MIT example. Duquesne example,  
22                  where they actually embedded it on the building.

23                  Next, please.

24                  The University of California, over to the  
25                  left, is actually a bear, and so once you know

1           the name of it, it starts to make a little more  
2           sense, and then University of Utah, there's an  
3           example of how they incorporated light into  
4           their sculpture, their glass sculpture.

5           Next, please.

6           Some other examples. The University of  
7           Akron. That's actually a Chihuly. We've seen  
8           Chihuly with Fairchild. This is done in resin.  
9           And then we used St. Michael's College in  
10           Vermont as another example, all through a formal  
11           art in public places program.

12           Next, please.

13           Just an example of a professor explaining  
14           the dynamic nature of the art.

15           Next, please.

16           Okay. Our process is a little different,  
17           in that we have looked at two different ways to  
18           celebrate art in public places. One is, and  
19           you'll see in reviewing the ordinance, if it is  
20           a City construction project, City builds a  
21           garage, then the City would need to set aside  
22           one percent of those construction costs, but  
23           that one percent would be used for the  
24           restoration of historic civic art.

25           It is such a defining piece in Coral

1           Gables, the water tower, the plazas, the  
2           fountains and all, that it's appropriate, and  
3           we've had dialog with the County, and they  
4           agree, that the restoration of that civic art,  
5           that everyone can enjoy, is a legitimate expense  
6           in our public art program, and we set aside  
7           public municipal projects that would restore the  
8           civic art and it would be the Historic  
9           Preservation Board that would prioritize --  
10           recommend a priority to the City Commission, and  
11           have the City Commission be the final  
12           determinant, but they would manage that fund,  
13           whereas the Cultural Development Board, in  
14           consultation with an Art's Advisory Board, and  
15           I'll go into that in greater detail, would  
16           recommend to the City Commission on private  
17           development art, as well as new art acquisition.

18           Next, please.

19           Just some examples of what would qualify  
20           with the City restoring its own historic civic  
21           art.

22           Next, please.

23           All of these would qualify, the Prado --  
24           redo of the Prado, Let There be Light.

25           Next, please.

1                   And that's the end of the examples. So  
2                   we're seeing new art, artists' sculptures,  
3                   artists' architecture, art that is related more  
4                   to the pedestrian, with urban furnishings, and  
5                   then art historic, civic art.

6                   We did have conversations with Ivan  
7                   Rodriguez. He has since retired, but we  
8                   reviewed with him, from the very beginning, the  
9                   direction that we wanted to go with our Art in  
10                  Public Places Ordinance, and he was very  
11                  supportive of the direction that we were going.

12                  We've also conversed with many, many, many  
13                  municipalities. Both, the City Attorney's  
14                  Office has made calls and inquiries, from a  
15                  legal standpoint, and we've made inquiries, from  
16                  an implementation and management standpoint, so  
17                  we've been able to pick and choose what works in  
18                  different cities and what is perhaps problematic  
19                  in different cities, so that we could build an  
20                  ordinance that we believe would have great  
21                  success.

22                  Now, when we talk about one percent, that  
23                  also includes not only the acquisition of the  
24                  art, but also the maintenance, the insurance,  
25                  the signage, the lighting, the installation, and

1           all the other costs that come with an art piece.

2           With the two funds, then we've talked about  
3           the historic civic art element, and I'd like to  
4           just walk through how the non-City process would  
5           work.

6           Now, we defined it as non-City, and  
7           provided a series of exemptions. Obviously, if  
8           you're already in the County process and  
9           contributing to the County 1.5 percent, you  
10           don't have to pay again in Coral Gables. So if  
11           the County comes in and does a project or  
12           something else that is County qualified, they  
13           have -- they would follow the County process.

14           Single family homes, the way that we've  
15           done this ordinance, the single family homes are  
16           exempt.

17           Duplexes, townhomes, multi-family, though,  
18           would qualify to participate in this program.

19           Anything under a million dollars would be  
20           exempt, and that would be renovation, new  
21           construction. If you don't meet that threshold  
22           of a million dollars, you are not needing to  
23           participate. The City Attorney can provide you  
24           additional clarification on, that doesn't mean  
25           that you can phase it over three years and go

1           below the radar and not qualify, it's an  
2           aggregate figure that is counted in the process,  
3           and then the Commission asked us to develop  
4           another exemption and the City Attorneys -- the  
5           Assistant City Attorney can review that  
6           language, and that language would exempt, under  
7           certain circumstances, educational institutions.

8           So that would mean, the University of  
9           Miami, it would mean St. Philip's, it would mean  
10           public and private.

11           Dade County Public Schools are under a  
12           little different process, as it relates to the  
13           City and the County, so we don't believe that  
14           they would be a participant in the program, but  
15           I'm happy to go over the ordinance in detail.  
16           I'm happy to answer questions. I'm also happy  
17           to refer the exemption language that's now being  
18           contemplated to our Assistant City Attorney.

19           THE CHAIRPERSON: Well, should we take  
20           questions now or do we want to hear  
21           comments from the --

22           MR. COE: Why don't we take public  
23           comments, Mr. Chair?

24           THE CHAIRPERSON: Take the public  
25           comments first?

1                   MR. COE: Yes.

2                   THE CHAIRPERSON: Is there anybody from  
3                   the public who wishes to comment on this  
4                   proposal?

5                   Please state your name and address, for the  
6                   record.

7                   MR. NATOLI: My name is the Joe Natoli.  
8                   I'm the Senior Vice-President of Business and  
9                   Finance for the University of Miami. I live at  
10                  10 Edgewater Drive, in Coral Gables, and I'm  
11                  here with a bunch of colleagues from the  
12                  University of Miami, whom I will introduce in a  
13                  moment, and thank you for having us here this  
14                  evening.

15                  What we'd like to do is share a little bit  
16                  more -- share with you about the art in public  
17                  places programs that the University of Miami has  
18                  had in place.

19                  At first reading -- as Eric mentioned to  
20                  you, at first reading, the City Commission  
21                  passed our exemption and directed the City  
22                  Manager to work with the Planning & Zoning Board  
23                  to exempt the University and develop a process  
24                  for periodic review of the University's  
25                  sculpture program, and so we're really here

1 tonight to seek your support for that.

2 From our perspective, and, we believe, from  
3 the perspective of the City Commission, the  
4 University's ongoing commitment to providing art  
5 in public places fully satisfies the objectives  
6 that -- that Coral Gables is embracing with this  
7 -- with the Art in Public Place -- Are in Public  
8 Places Ordinance, and we'll describe some of  
9 what we do, to you, tonight, and at the end of  
10 our presentation, we'll present some recommended  
11 language for the exemption. It's a little  
12 different than what you have before you, but we  
13 think we can probably work out language that  
14 would work for both of us.

15 Let me just tell you who's here with me  
16 tonight. Larry Marbert, who's our new  
17 Vice-President of Real Estate and Facilities.  
18 He's the new Sergio Rodriguez. Senior Associate  
19 Dean of Arts and Sciences, Dr. Perri Lee  
20 Roberts, who will be making a brief  
21 presentation, mostly showing the sculptures that  
22 we have throughout our Coral Gables campus.  
23 Campus Planner -- Planner Janet Gavarrete, who  
24 you've no doubt met before. Irma Abella, from  
25 our General Counsel's Office. Brian Dursam, who

1           runs the Lowe Art Museum. Rudy Fernandez, who's  
2           Vice-President of Public Relations for us, and  
3           our legal counsel, Jeff Bass. We travel in  
4           large crowds -- large crowds at the University  
5           of Miami, as you have no doubt seen.

6           I'd like to point out just a couple of  
7           things about the University as -- as developers.  
8           We're not your basic developer. We don't come  
9           into Coral Gables and do one project and then go  
10           someplace else and do another project.

11           We are here. We intend to stay here. We  
12           don't plan on growing our student body  
13           population on the Coral Gables campus, but we do  
14           plan on improving everything having to do with  
15           the quality of the experience. So whether  
16           that's starting with the quality of the students  
17           and faculty and the facilities and what visitors  
18           experience when they step foot on our campus,  
19           we're all about quality, and, frankly, art in  
20           public places is a part of that. We want people  
21           to appreciate the University of Miami campus,  
22           whether it's our neighbors, other folks in Coral  
23           Gables or -- or -- or the thousands and  
24           thousands of visitors who come to our campus for  
25           one reason or another in the course of a year.

1                   So between our sculpture program, our art  
2                   master plan, the Lowe Art Museum, the Beaux Arts  
3                   Festival, the University makes a wide variety of  
4                   art available to the public.

5                   Our basic position is that the City should  
6                   recognize our existing collections, and avoid  
7                   the imposition of -- of a new obligation on us.

8                   We believe that the most effective and  
9                   efficient way of doing that would be through an  
10                   exemption.

11                  So with that, I'd like to introduce you to  
12                  Dr. Perri Lee Roberts, who will briefly walk you  
13                  through the art that we have on our campus, and  
14                  then Jeff Bass will come up and talk a little  
15                  bit about the specific language that we are  
16                  recommending.

17                  MS. ROBERTS: Thank you very much.

18                  Good evening, ladies and gentlemen. My  
19                  name is -- my name is Perri Lee Roberts. I'm  
20                  the Senior Associate Dean for Arts and  
21                  Humanities for the College of Arts and Sciences.  
22                  I am an artist/drawer by training, although I  
23                  specialize in 14th and 15th Century Italian Art,  
24                  not the contemporary art that I'm about to talk  
25                  to you about.

1           I reside at 1 Grove Isle Drive, in Coconut  
2           Grove.

3           At the end of my presentation, I will  
4           hand out a two-page description of the  
5           University of Miami's public sculpture program  
6           that will summarize the mission statement, how  
7           sculpture is selected, the makeup of the  
8           committee that makes those selections, the  
9           criteria we use for acquiring a sculpture, and  
10           also how we maintain that, and what I'd like to  
11           do, since we're not on the campus, is to walk  
12           you through the sculpture that we currently have  
13           in place.

14           The program was started six years ago  
15           by Donna Shalala, and at that time, she  
16           requested that Elizabeth Plater-Zyberk, who  
17           is the Dean of the College of  
18           Architecture -- School of Architecture,  
19           rather, and that the Director of the Lowe  
20           Art Museum, Brian Dursam, who is with us  
21           tonight, that they look at the campus, the  
22           200 plus acres, and plan sites for public  
23           sculpture, and they had proceeded to  
24           identify 72 sites for a sculpture.

25           At present, we have 23 sculptures in

1 place, and there are five waiting in the  
2 queue to be placed.

3 One was in place, and has been moved,  
4 because of construction.

5 The sculptures that we have in the current  
6 sculpture collection, the 28 of them, are made  
7 up of sculptures that are primarily in the  
8 round, they're monumental sculptures. There are  
9 two Veggerby sculptures that are embedded into  
10 buildings, but, otherwise, like I said, they're  
11 large monumental sculptures in the round.

12 Twenty-five different sculpturors were  
13 responsible for the sculptures on the campus.  
14 They come from diverse backgrounds and different  
15 nationalities, including a Dutch artist, German  
16 artist, Greek, Guatemalan, Spanish, Mexican,  
17 Italian, Cuban, Haitian, and, of course,  
18 American.

19 In terms of gender, there are six women  
20 sculptors, who's works are represented in the  
21 collection, and nineteen men, and they are  
22 spread throughout the campus. They're made up  
23 of a variety of materials, ranging from Cor-ten  
24 steel, to aluminum, to stainless steel, marble,  
25 and other stone materials, and I'm just going to

1 walk you through and show you all 28 sculptures.

2 You'll notice the little star on the map  
3 shows you the location of the work. This is a  
4 piece that's in front of the Wellness Center.

5 By the way, the sculptures date between --  
6 1958 is the oldest work we have on campus, and  
7 the most recent is 2003.

8 Most of them are abstract. This is an  
9 exception. This happens to be a figure by an  
10 American sculptor by the name of William King.  
11 It's entitled, Up There.

12 Thank you.

13 I don't know if you can see, it's a male  
14 figure, reclined, who has his arm reaching up  
15 towards the tree, and, appropriately, as I said,  
16 this is in front of the Wellness Center, to  
17 encourage people to make use of its facilities.

18 Around the corner, in front of one of the  
19 dorms, is this work by an American -- well, a  
20 Cuban-born artist, who currently resides in  
21 America. Actually, he's a local artist, who has  
22 also produced a piece for the campus Downtown,  
23 the Medical Campus.

24 This, as I said, is more typical of our  
25 sculptures, in that it's an abstract. It's a

1           large circular work, and it's painted red, and I  
2           don't know if you can tell from the  
3           reproduction, but we're having problems with the  
4           paint. That's slated to be repainted.

5           One of the things we've discovered in the  
6           process of putting sculpture outdoors, is that  
7           the climate in South Florida is not necessarily  
8           that conducive to having monumental works  
9           outside. We've been most success with our  
10           marble pieces. They seem to be -- survive the  
11           best.

12           Moving on, around the Student Union, is  
13           this work by two women who collaborated, Jane  
14           Manus and Rotraut Klein. Actually, an American  
15           team and a German team, and if you're familiar  
16           with moundrian sculptures, this is a moundrian  
17           sculpture that has been brought to life. These  
18           kinds of a shapes that he uses in his paintings  
19           are incorporated here.

20           The sculptures, by the way, as I said, are  
21           everywhere on campus, and we're happy to report  
22           that there has been absolutely no vandalism,  
23           that the students respect the sculptures, and, I  
24           think, actually enjoy seeing the works as they  
25           walk to class and go about their daily

1                   activities.

2                   This piece has actually been moved, and  
3                   it's slated to be moved yet again. It's by an  
4                   American sculptor by the name of Del Geist.

5                   This is around the corner of Lowe Art Museum and  
6                   it was moved, because we're constructing the  
7                   Paley Pavilion, and it will be relocated at a  
8                   future date.

9                   One of the pieces that has currently been  
10                  removed is this work by John Henry, who's  
11                  well-known around Miami for his public  
12                  sculpture. In fact, he's well-known throughout  
13                  the country. In Chicago, they've renamed a  
14                  street after him, because of his contribution to  
15                  public sculpture there.

16                  This sculpture, as I said, needs to be  
17                  relocated. It was removed, because of the  
18                  construction of the Paley Pavilion, attached to  
19                  the Lowe Art Museum.

20                  This work is currently in front of the Lowe  
21                  Art Museum, and I think it's really the  
22                  signature piece of the sculpture program. This  
23                  is by a Dutch-born artist, Hans Van de  
24                  Bovenkamp, and -- and it's a wonderful work  
25                  incorporating circles and waves, from 1987.

1           We've just recently repainted this work, at  
2           the cost of \$5,000.

3           Moving yet further away from the Lowe, by  
4           the Engineering Building, is this work by Oliver  
5           Seguin, who is a Mexican, but who was born --  
6           actually, works in Mexico or worked in Mexico,  
7           and he was born in France.

8           What you're not seeing is, this is in a  
9           beautiful piazza, that has three fountains,  
10          waterspouts, around it, and it is made out of a  
11          volcanic rock like material. It has a kind of  
12          organic life to it, and this was a gift of Esso  
13          International America, who gave two pieces to  
14          the campus. You'll see the other one shortly.

15          We do have a fair number of Latin American  
16          artists represented in the sculpture collection.

17          Cardenas is a sculptor who's represented by  
18          two pieces in the collection. This work, The  
19          Fruit of Memory, is, again, by the Engineering  
20          Building or in the quadrangle behind it, made  
21          out of marble. He is an artist who is Cuban, an  
22          Afro-Cuban, who moved to France, and his  
23          sculptures are generally by morfik, very soft  
24          looking. As I said, this -- it's so hard to  
25          tell from the slide, but it's actually a work

1                   made from marble.

2                   In front of the Engineering Building is  
3                   this rather industrial looking piece. We've  
4                   chosen sculptures or they've been selected for  
5                   certain sites, because of connections to the  
6                   building that they front.

7                   This work by Joel Perlman is one of two in  
8                   the collection.

9                   In front of Ashe Building, this very large  
10                  work by Fletcher Benton, who's a San Francisco  
11                  artist, who's known for his public sculptures.

12                  Another work that was a gift of the Esso  
13                  Interamerican Corporation, by a Guatemalan  
14                  artist. This is a siren. You may not be able  
15                  to make out, but that's a woman's face in a  
16                  bird's body, and she's enticing students to  
17                  enter into their classroom building.

18                  A work, which by the way, is by a local  
19                  artist, Jane Washburn, is this rather poetic  
20                  looking marble sculpture of a woman.

21                  Out among the trees, by the Communication  
22                  Building, this large sculpture by George  
23                  Sugarman, which is on loan from the Foundation,  
24                  and this is also slated to be repainted shortly.

25                  In front of the Nursing School, another

1           work by Cardenas, who is a -- an Afro-Cuban  
2           artist, again, out of marble, entitled The  
3           Family. Appropriately, a subject matter chosen  
4           for the Nursing School courtyard.

5           By the library, one of two gifts given to  
6           us by Marty Margulies, is this large brushed  
7           aluminum gateway, and we thought this was  
8           appropriate for the library, as a way of --  
9           again, of enticing students into the library.

10          In front of the Music School are two piece,  
11          stainless steel pieces, by Leonardo Nierman,  
12          who's a Mexican-born artist. This work,  
13          Fantasy, and this violin, Music for your Eyes.

14          In the Business School yard -- courtyard,  
15          by a Greek woman artist by the name of Chryssa,  
16          this large B, that if we can -- I've had  
17          arguments with people, they're not two Ds, but a  
18          B, reminding us of its Business School location,  
19          and two other works, also, in the Business  
20          School quadrangle by another female sculptor  
21          from Spain, Elisa Arimany. This was a gift of  
22          the de la Cruz's. This is another work by her,  
23          that is in front of the Business School  
24          building.

25          This is one of the few representational

1 pieces. It's actually a ceramic piece. It  
2 celebrates the life of Simon Boliva and  
3 Alexander Humboldt, who were two important Latin  
4 American pioneers.

5 This work is across from the Judaic Studies  
6 entrance, a bronze sculpture that commemorates  
7 Dr. Korzjack, who in Europe is known as well as  
8 Anne Frank. This is a memorial to someone who  
9 was a hero during the period of the Holocaust.

10 Don Quixote de la Mancha, a sculpture that  
11 is adjacent to the Music Building, by the  
12 American artist Ralph Hurst.

13 In front of Casa Bacardi, this work by an  
14 Italian-born artist, who was an artist and  
15 resident for many years at the University of  
16 Chicago. His sculpture is spread all over their  
17 campus.

18 This work is currently waiting to be  
19 installed. It will be installed on the green in  
20 front of the library or immediately adjacent, by  
21 Ralph Provisera, who is a graduate of the New  
22 World School for the Arts.

23 This work also is waiting to be installed,  
24 by Tony Rosenthal.

25 Also to -- slated to go on the green, in

1 front of the library, Beverly Peppers' work, out  
2 of steel. This is a work that is currently  
3 being restored, so that it could withstand the  
4 elements, and, lastly, this very large sculpture  
5 by Joel Perlman, donated by Marty Margulies,  
6 and, actually, this is a photo montage. This  
7 sculpture is not currently in place in front of  
8 the library, but we were just out the other day  
9 trying to locate it properly and that are --  
10 that's a summary of the 28 sculptures that are  
11 on campus. I'll be happy to answer questions.

12 As I said, I have a handout that will  
13 describe the sculpture program for you.

14 Thank you very much.

15 THE CHAIRPERSON: Thank you.

16 Mr. Shubin.

17 MR. BASS: Mr. Chair, Members of the Board,  
18 nice to see you, Jeffrey Bass --

19 THE CHAIRPERSON: Oh.

20 MR. BASS: That's okay. Even my mom calls  
21 me Mr. Shubin, as well.

22 THE CHAIRPERSON: He's your partner.

23 I apologize.

24 MR. BASS: I'm very, very used to that.

25 It's a pleasure to see everybody this evening,

1 and thank you -- thank you for your attention.

2 If you were lacking any art history  
3 credits, we've assured that that presentation  
4 will satisfy the remaining obligations you all  
5 have, so no more need for nightmares on that.

6 Very briefly, we're here at the express  
7 direction of the City Commission, in response to  
8 our request that the University of Miami be  
9 exempt from the Art in Public Places Ordinance.

10 At the start of the hearing this evening,  
11 there was a question, should the witnesses be  
12 sworn this evening, and the answer was, no, and,  
13 interestingly, that was the correct answer, for  
14 a reason that really should weigh on all of you  
15 this evening.

16 The answer was, no, because this evening's  
17 hearing is not a quasi judicial hearing. We're  
18 here making policy. We're here in your  
19 legislative capacity, and we're here at the  
20 direction of the Commission, in its legislative  
21 capacity, to help refine the language of this  
22 legislation, to exempt the University.

23 So the reason the witnesses weren't sworn  
24 is, nobody's presenting evidence. Nobody is  
25 weighing evidence against a code, rendering a

1           quasi-judicial power. We're here in a different  
2           context this evening, and I think that's  
3           important.

4           We believe that the direction of the  
5           Commission was pretty simple to understand,  
6           although the hearing itself was long. The  
7           Commission wanted to do a few things. Number 1,  
8           it wanted to exempt us, and the motion to exempt  
9           us carried by a vote of three to two. That part  
10           has been stated.

11           Number 2, the Commission wanted to exempt  
12           us from a bureaucratic process that would  
13           continue to cause us to come to this City and  
14           would spare the City and its staff the  
15           consumption of its resources by having us  
16           continuously come to the City.

17           Our collection is significant, and it's  
18           significantly static, and so rather than  
19           engaging in a constant demonstration of why we  
20           should get a credit for a particular art, the  
21           decision was that we should be exempt.

22           Now, I have proposed some exemption  
23           language that I'd like to publish for you all,  
24           specific exemption language which we believe  
25           satisfies every objective of the Commission, and

1           then talk to you, very briefly, about why the  
2           language in front of you, as previously drafted  
3           by your City Attorney, is not ideal for us, but  
4           I don't think we're terribly far apart.

5           The exemption language that we propose, and  
6           I think showing fidelity to the record before  
7           the Commission, is to exempt colleges and  
8           universities, not just all educational  
9           facilities.

10           MR. COE: Excuse me. Do you have a  
11           handout? I can't read that print.

12           MR. BASS: I don't have a handout. I  
13           previously provided a copy of the text to the  
14           City Attorney, but I'll be brief as I publish  
15           it, and if somebody technologically more  
16           sophisticated than I could zoom that in or make  
17           it bigger, I welcome them to do so, but  
18           basically the exemption language would work like  
19           this: Colleges -- it would be an amendment to  
20           the existing exemption section of your code, and  
21           let me stop on that for a second.

22           Whenever you engage in the legislative  
23           process, you draw lines. You say, some people  
24           will be included, some people will be excluded.  
25           You've already crafted exemptions.

1                   MR. COE: Of course.

2                   MR. BASS: Single family homeowners are  
3                   exempt. Duplex, garden homes, multi-family are  
4                   inside. So you've already drafted exemptions,  
5                   and we thought the logical place to put our  
6                   exemption would be in that section.

7                   We propose the following: Colleges and  
8                   universities shall be exempt from the  
9                   obligations arising under this ordinance, if at  
10                   the time of building permit application, the  
11                   college or university submits a qualified  
12                   appraisal to the City Manager to demonstrate  
13                   that it possesses art on its campus with a fair  
14                   market value in excess of the one percent  
15                   obligation otherwise arising under this  
16                   ordinance for the construction at issue.

17                   Notwithstanding any provisions to the contrary  
18                   in this ordinance, art is -- art that is owned,  
19                   professionally curated, maintained and publicly  
20                   displayed by the college or university shall  
21                   qualify for this exemption.

22                   Now, we believe, as drafted, the City has  
23                   protection. It has protection that at the time  
24                   we make the application, the value of our art  
25                   would exceed that obligation, that one percent

1                   obligation, as measured at that point in time,  
2                   that would otherwise arise. That value would be  
3                   demonstrated by a qualified appraisal, submitted  
4                   to the City Manager to inspect, and as long as  
5                   we own that art, and it was professionally  
6                   curated, and we're pledging to maintain it, we  
7                   should be exempt.

8                   That's how we believe we can simultaneously  
9                   eliminate the process of having to present to  
10                   the Cultural Development Board, as it's  
11                   presently contemplated under the language before  
12                   you. We believe that that would be condemning  
13                   us to the bureaucratic process that the  
14                   Commission itself sought to avoid.

15                   We give you assurances, along,  
16                   periodically, that as we come in for permits,  
17                   the value of the art that we're proposing  
18                   satisfies the obligation that would otherwise  
19                   exist, and by having it as a qualified  
20                   appraisal, you know that the opinion of value  
21                   is -- is beyond fair debate.

22                   Now, the language in front of you required  
23                   a covenant, as propounded by the City Attorney,  
24                   a covenant. That is not ideal for us, because  
25                   that is essentially a restraint on our

1 alienation of that piece of property. We would  
2 say, and we'll be happy to say, that if ever we  
3 were to sell a piece of qualifying art, we would  
4 replace it with a piece of equal or greater  
5 value, so that, again, commensurate with the  
6 cost of construction, there would always be an  
7 assurance that we would have that art on our  
8 campus to satisfy the obligation, without us  
9 having to spend new monies to acquire art, in  
10 recognition of the extensive art we already have  
11 on our campus, and I think, really, that is the  
12 gist of it.

13 We already have an exceptional amount of  
14 art on our campus, of a quality, quantity and  
15 magnitude, in terms of valuation, that is  
16 greater than anything else within the City, and  
17 I think that's what prompted the City Commission  
18 to recognize that, as the Mayor said, we are  
19 different from other developers, and it is  
20 rationally, logically, legally and substantially  
21 supported by the record evidence before you,  
22 that we maintain a lot of art, and there's a  
23 reason to treat us differently, and that's  
24 because we're a university.

25 As it relates to the valuation, the

1           language here eliminates any discussion about  
2           that. It would be an appraisal based on fair  
3           market value. I always like to say, what's  
4           unfair about fair market value? When you can  
5           come down to two times valuation, that is a very  
6           well tested and accepted valuation methodology,  
7           and we would ask that you would adopt this  
8           language of an exemption.

9           One comment. You'll learn, as you get into  
10          these processes, particularly as a lawyer, that  
11          from an administrator's perspective, things that  
12          sound good to a lawyer or sound good to a lay  
13          person, would be a disaster, in terms of cost  
14          and expense to an administrator.

15          If the University were to submit every  
16          three years a comprehensive appraisal of our  
17          entire art collection, we would probably spend  
18          more money in generating that appraisal than  
19          would be our corresponding obligation, because  
20          of the vastness of our collection. We would  
21          have to find expert appraisers in every one of  
22          the fields that we possess, and the time and  
23          expense to do that, we believe, is -- is  
24          outweighed by the salutary purpose that would be  
25          served by it.

1           Under our methodology, we come in. If we  
2        have a building that costs 25 million, we show  
3        you a qualified appraisal, that shows an opinion  
4        of value of the art, one percent, 250,000, it's  
5        inspected by the City Manager, and for purposes  
6        of that building and that obligation, we're  
7        exempt.

8           We think it works easily and cleanly, and  
9        we would hope that you would adopt it, and I'm  
10       here to answer any questions you might have.

11           MR. COE: Mr. Chairman, I have one question  
12        of the speaker.

13           MR. BASS: Sure.

14           MR. COE: So I understand what you are  
15        suggesting, the educational exemption, as  
16        currently drafted by the City Attorney, I'm  
17        looking at Page 7, begins at Paragraph 4, and  
18        it's 4, Subparagraphs A, B, and C. Are you  
19        proposing a substitution of your language for  
20        all of Paragraph 4-A, B, and C?

21           MR. BASS: Yes.

22           MR. COE: And so what about non-colleges  
23        and universities, because the -- the City  
24        Attorney's language is broader than colleges or  
25        universities?

1                   Frank, right now, the only college or  
2                   university within the City is UM, but there's  
3                   other preparatory schools within the City that  
4                   would be bound by the educational institution  
5                   exemption.

6                   Are they going to be deleted or  
7                   incorporated in yours? Are you going to expand  
8                   it or are we going to have two separate  
9                   educational exemptions? What -- what -- you  
10                  don't really address that in your proposed  
11                  exemption language.

12                  MR. BASS: Well, thank you for the  
13                  opportunity to address it now.

14                  I spoke only on behalf of the University.  
15                  The debate in front of the City Commission was  
16                  only about the University, institution of -- as  
17                  an institution of higher learning.

18                  I was very deliberate, because, again,  
19                  we're in the legislative line drawing arena  
20                  here, to present our request for an exemption as  
21                  narrowly as possible, so as to avoid expanding  
22                  it to other educational facilities or  
23                  not-for-profits, because I was not sure that it  
24                  was the will of the Commission to do so.

25                  So I can't tell you, Mr. Coe, respectfully,

1           that that expansion would be faithful to the  
2           direction of the Commission, and I don't feel  
3           qualified to address whether that is a policy  
4           decision that this Board should make, absent  
5           that expressed.

6           So I'm sorry that I can't answer the  
7           question more specifically. I was just  
8           proposing exemption language for us. It's not  
9           my intent to throw anybody else off the bus,  
10           that might otherwise benefit from that language.  
11           It's just, they weren't on the bus to begin  
12           with, and I would be hesitant to invite them on  
13           it here, so -- but the specific answer to your  
14           specific question is, yes, this would be a  
15           substitute language to that language that's  
16           already on there.

17           THE CHAIRPERSON: Cristina, you had a  
18           question?

19           MS. MORENO: I have a couple of comments.  
20           First, I don't think that your language  
21           addresses the problem of double counting pieces.  
22           In other words, you cannot use the same piece of  
23           sculpture to meet the one percent requirement.

24           MR. BASS: I absolutely agree.

25           MS. MORENO: Okay. And I don't think your

1                   language -- I don't think that was your intent,  
2                   but I don't think your language addresses that.

3                   Secondly, I would be uncomfortable making  
4                   it only for the University and not for other  
5                   educational institutions. It seems to me that  
6                   if we are exempting the University, we should  
7                   also be exempting any university -- any  
8                   educational institution that maintains an art  
9                   program.

10                  My understanding of the reasons for the  
11                  exemption is that, in fact, you are complying  
12                  with the spirit, if not the procedure, of the  
13                  ordinance, and to the extent that another  
14                  institution, a preparatory school, also chose to  
15                  do that, and found it easier to do that, because  
16                  they could obtain donations of art, as does the  
17                  University, it should be allowed to comply, and  
18                  I don't see why we would -- we would omit that.

19                  MR. BASS: I agree with both your  
20                  points.

21                  MS. MORENO: And the third point that I  
22                  have, and this is addressed not just to you, but  
23                  also to the City Attorney, is that I think two  
24                  things need to be clarified.

25                  One is that in reaching the one percent

1           criteria, it is my understanding that the intent  
2           is to include in that not just the appraised  
3           value of the art, but also the cost of  
4           maintaining, installing, et cetera. That is not  
5           at all clear by this language, and I would point  
6           out, in particular, in Item -- I had it in front  
7           of me, and I've -- now I've lost it, but when  
8           you talk about the private developer, you talk  
9           about the appraised value, as opposed to -- of  
10           the piece of art.

11           Yeah, it's 11, Sub C, on Page 4, and it  
12           says, "The art acquisition to be incorporated  
13           within the project should have a minimum  
14           appraised value of one percent of the  
15           construction costs."

16           My understanding is that it's not just the  
17           appraised value, but you're also giving credit  
18           for cost of installation, maintenance. So I  
19           think that needs to be corrected, and the -- I  
20           lost -- I lost my thought about the second  
21           point.

22           I had the double count -- oh, also the  
23           replacement issue. We -- we need to be clear  
24           that if an owner, be it the University, be it an  
25           educational institution, or be it a private

1 developer, wants to sell a piece of art that has  
2 been proffered to meet this requirement, it can  
3 replace it with a piece of art with an appraised  
4 value of the original requirement, not of the  
5 then value of the piece of art.

6 We -- we believe that that should be the  
7 criteria, and that that should be clarified, or  
8 that the developer can then -- and I think that  
9 the easiest way might be, where you say that  
10 when they sell, they can make a contribution,  
11 that shouldn't be limited to sale of the  
12 building, it should be at any time that they  
13 want to remove the piece of art, they should  
14 have the right to either replace it with a piece  
15 of art that meets the criteria or make the  
16 payment into the fund, and I don't believe that  
17 that's clear.

18 MS. ALFONSIN-RUIZ: Thank you.

19 MR. BASS: As it relates to, I think,  
20 the only of your comments to which I can  
21 really reply, substantially, if we were to  
22 have language that said something like, no  
23 art used to qualify for an exemption under  
24 this ordinance shall be used to justify a  
25 second request for an exemption.

1                   MS. MORENO: I think you're better off  
2                   treating it in the aggregate, so that -- the way  
3                   that I would suggest you redraft it, and I can't  
4                   do it for you at this minute, is that the value,  
5                   the appraised value of the art you have on  
6                   campus at any one time must exceed your one  
7                   percent requirement for all projects after this  
8                   statute is adopted. That seems to be more along  
9                   the lines of what you want to do.

10                  MR. COE: Ordinance.

11                  MS. MORENO: In other words, Project 1  
12                  required a contribution of \$250,000. You have  
13                  art on campus that requires 250,000.

14                  MR. BASS: Okay.

15                  MS. MORENO: Now, when you get to Project  
16                  2, you have the first 250, plus now you need a  
17                  million dollars' worth of art, you must show  
18                  that you've got a million two fifty, at least,  
19                  of art.

20                  MR. BASS: That I understand. Okay.

21                  Thank you. That clarifies it.

22                  MS. MORENO: Does -- does that make sense  
23                  to you, City --

24                  MS. ALFONSIN-RUIZ: Yes. The only issue  
25                  that I have with that is that we need to have a

1           process, aside from that, and I don't have  
2           problems with the language, if we have that  
3           aggregate language in there, but we also need to  
4           have a process by which we would ascertain that  
5           the University still qualifies for the  
6           exemption, if there -- if there are years  
7           between development projects.

8           In other words, if they have a project  
9           coming up in 2008, but they don't have another  
10           project until 2013, we need to have something in  
11           place that will ascertain that they still have  
12           the art in place on campus.

13           THE CHAIRPERSON: Why?

14           MS. MORENO: You need to have the same  
15           for any developer or any other project.

16           MS. ALFONSIN-RUIZ: Correct.

17           MS. MORENO: I would not except them -- or  
18           let me restate that.

19           Once you develop whatever you're going to  
20           do for private developers, I would have that  
21           incorporated in your exemption language.

22           THE CHAIRPERSON: Why?

23           MR. COE: That's --

24           MS. MORENO: Because -- because once  
25           you -- once you --

1                   MS. ALFONSIN-RUIZ: You have to treat all  
2                   developers --

3                   MS. MORENO: -- have the exemption, they  
4                   can't remove it.

5                   THE CHAIRPERSON: So they -- they  
6                   can't, if they used one piece of art to  
7                   qualify -- you know, 'cause they're not  
8                   going to appraise all their art.

9                   The gist of the problem, as I see it,  
10                  is that it's not inexpensive to appraise  
11                  art. So, you know, constant reappraisals  
12                  end up costing too much money.

13                  MS. MORENO: No, the way that I'm  
14                  suggesting --

15                  THE CHAIRPERSON: Wait. Wait. Wait.

16                  MS. MORENO: I'm sorry, Tom, the way I'm  
17                  suggesting, because it addresses your specific  
18                  point --

19                  THE CHAIRPERSON: Okay.

20                  MS. MORENO: They do an appraisal right  
21                  now, and they show us that what they've got on  
22                  campus has a value of two million dollars.  
23                  They've got credits of up to two million  
24                  dollars, without giving another appraisal,  
25                  unless they sell or remove a piece.

1                   THE CHAIRPERSON: Okay. If they sell  
2                   or remove a piece, what are they going to  
3                   do, a complete reappraisal?

4                   MS. MORENO: No, they only have to  
5                   cover that one piece.

6                   THE CHAIRPERSON: Is that acceptable?

7                   MR. BASS: That's acceptable, yeah, for  
8                   the -- for the qualifying piece.

9                   I just want to be clear. I think we're  
10                  saying the same thing, but what we're appraising  
11                  is that amount of art to satisfy the one percent  
12                  obligation, not a campus wide appraisal, but if  
13                  our obligation were, say, \$250,000, on a 25  
14                  million dollar building, we would give you an  
15                  appraisal that says, "This piece of art cost 250  
16                  -- has a fair market value of \$250,000." That  
17                  would satisfy and give us an exemption for that  
18                  that 25 million dollar building.

19                  If ten years later we come in with another  
20                  building of 25 million dollars, with a new  
21                  \$250,000 exemption, we would have to come up  
22                  with a different piece of art, and a new  
23                  appraisal, to show that that piece of art, on  
24                  its face --

25                  THE CHAIRPERSON: In addition, if --

1           someone's going to have to track that piece  
2           of art that you first qualified with,  
3           because if you dispose of it, you're going  
4           to have to substitute some other art.

5           MR. BASS: Right. That's a little  
6           cumbersome, but we're happy to keep those  
7           reports on file, and we're happy to give  
8           compliance and give those reports to you  
9           all at the time of building permit, to make  
10          sure that we are compliant, and for every  
11          new building that we build, if you'd like  
12          to have a look back, and make sure that we  
13          are compliant -- historically compliant --  
14          let's say we got three buildings  
15          exempt --

16           MR. BEHAR: But if you got credit for an  
17          art work five years ago, okay, and that art  
18          work, when you come back for a new project, it's  
19          worth double what it was worth at the time, are  
20          we going to give the credit -- are we going to  
21          revise that appraisal and that art work keeps --

22           MR. BASS: No, no. As I understand  
23          this --

24           MR. COE: No, that --

25           MR. BASS: How I understand these comments,

1           that piece of art is retired, once it serves as  
2           a predicate for that exemption five years ago,  
3           and that one now is off the table, and we're not  
4           coming back in to use that art or the flow or  
5           appreciation on that art, to justify that  
6           exemption, and then, you know, maybe some more.

7           Once that art is used to qualify that  
8           exemption, it's retired, it's out of our cabinet  
9           of qualifying art, and each new building would  
10          have to have a new piece of art or pieces of  
11          art, with appraised values, to satisfy the one  
12          percent obligation.

13          THE CHAIRPERSON: You know, if it were  
14          up to me, I'd give you like a five-year  
15          exemption, no reporting, nothing. At the  
16          end of five years, you know, you come back  
17          and we renew it, if you, you know, got a  
18          similar or a better quantity of art,  
19          without dealing with all these appraisals.  
20          I mean, this is just incredible.

21          MR. BASS: That's fine by me.

22          THE CHAIRPERSON: That's an incredible  
23          bureaucracy we're imposing, just -- I mean,  
24          maybe there's some legal reason we need to  
25          do it that way, but from a practical

1                   standpoint, it sounds to me like we're  
2                   overlawyering the heck out of this thing.

3                   MR. BASS: That's fine by me, if you  
4                   just want to exempt us like you do for  
5                   single family homes.

6                   MR. SALMAN: For the Chair --

7                   THE CHAIRPERSON: With a sunset for,  
8                   you know, like a five-year period, so that  
9                   at the end of five years, we're going to  
10                  come -- you're going to come back and  
11                  you're going to show us, "Hey, we still got  
12                  all this great art," or we -- you know, "We  
13                  got more," and then we could exempt it  
14                  again for another five years, and with a  
15                  sunset. That to me made the most sense,  
16                  but I guess that's not on the table here.

17                  MR. BASS: If that's the will -- oh, I  
18                  think that was absolutely with -- that's  
19                  consistent with the spirit and the letter  
20                  of what the Commission wished. So if  
21                  that's -- that's the will of this Board, I  
22                  think that that would be -- that certainly  
23                  would be satisfactory to us.

24                  MR. AIZENSTAT: To the Chair, let me ask a  
25                  question, if I may. The pieces of art -- I've

1           got a couple of questions for you.

2           The pieces of art that you have, how do you  
3           acquire them?

4           MR. BASS: Let me, if I may, defer to  
5           Dr. Roberts on that, because she can give  
6           you a far better and more competent answer  
7           than I could.

8           MR. AIZENSTAT: I mean, I guess maybe --  
9           maybe I'm looking for something more basic, as  
10           to say, are these pieces of art that the  
11           University purchases or are these pieces of art  
12           that is donated?

13           DR. ROBERTS: They're donated. To date,  
14           they've been donated.

15           MR. AIZENSTAT: All the art has been  
16           donated?

17           DR. ROBERTS: Yes. There are a few that  
18           are on loan.

19           MR. AIZENSTAT: Now, out of -- that was my  
20           next question. Out of these pieces of art, how  
21           many does the University physically have title  
22           to or owns?

23           DR. ROBERTS: Let me defer to Brian Dursam,  
24           who is the head of the Sculpture Committee and  
25           he can tell you exactly.

1                   MR. DURSAM: If they're on loan --

2                   MR. AIZENSTAT: So you got 28? Am I right?

3                   Am I looking at this right? You have 28 pieces

4                   of art?

5                   MR. DURSAM: I'm Brian Dursam, Director of

6                   the Lowe Art Museum. Do you need my residence?

7                   I'm --

8                   MR. COE: Yes.

9                   MR. DURSAM: I live at 1249 Mariana Avenue,

10                  in Coral Gables.

11                  We currently own all but -- recollection

12                  would be the one, which is a work by George

13                  Sugarman, and that's on loan from their

14                  Foundation.

15                  MR. AIZENSTAT: So you -- out of 28, you

16                  own 27 pieces?

17                  MR. DURSAM: Yes.

18                  MR. AIZENSTAT: Okay. The other question

19                  that I have is, you stated that about six years

20                  ago you started this process, when Donna Shalala

21                  came in to the presidency. What happened before

22                  her tenure?

23                  MR. DURSAM: We didn't have such a program.

24                  MR. AIZENSTAT: Okay.

25                  MR. DURSAM: This is -- was her -- this is

1                   really her initiative.

2                   MR. AIZENSTAT: What happens down the road,  
3                   if she steps down or so forth, and there's  
4                   another philosophy, the way the University deals  
5                   with its art program, how do you handle that  
6                   situation?

7                   MR. BASS: Let me answer that.

8                   As it relates to this Board -- this Board's  
9                   charged in the ordinance, we would handle it  
10                   precisely the same way. We would come in and  
11                   show you, through the City Manager's Office, an  
12                   appraisal of a piece of art, commensurate with  
13                   what our one percent obligation would be, and I  
14                   just want to qualify, we own sizably more than  
15                   28 pieces of art.

16                   The Lowe Art Museum itself has 17,000  
17                   pieces in its collection.

18                   MR. AIZENSTAT: Right. I'm more interested  
19                   in what's open to the public, as opposed to what  
20                   is --

21                   MR. BASS: Well, I think that -- that's  
22                   an important point. The Lowe is open to  
23                   the public.

24                   MR. AIZENSTAT: Twenty-four hours, where  
25                   somebody -- a resident can walk in there and see

1           it or so forth?

2           MR. BASS:  Certainly not 24 hours, but  
3           a resident can certainly walk in there,  
4           under the same terms and conditions that  
5           one might walk into, say, the Venetian  
6           Pool, or one might want to access the  
7           Granada Golf Course or the Biltmore Golf  
8           Course or those other public places --

9           MR. AIZENSTAT:  What about -- what about if  
10          the developer -- let's say a developer goes in  
11          and is going to do a piece of work, does it have  
12          to be open to the public?  It's got to be on the  
13          first floor and it's got to be accessible 24  
14          hours?

15          MS. ALFONSIN-RUIZ:  Yes --

16          MR. RIEL:  No.

17          MS. ALFONSIN-RUIZ:  Not 24 hours, but it  
18          has to be accessible, and the way it's defined  
19          in the ordinance is publicly accessible at no  
20          large to the public.

21          MR. AIZENSTAT:  Does the Lowe Art Museum --

22          MR. ALFONSIN-RUIZ:  And museums are  
23          exempted under the ordinance, as well.

24          MR. RIEL:  Correct.

25          MR. AIZENSTAT:  So can you walk into the

1           Lowe Art Museum for free?

2           MR. BASS: For free, no.

3           Now, previously we have said that Coral  
4           Gables residents -- Mr. Natoli, who is here,  
5           said Coral Gables can -- residents -- to avoid  
6           this debate, about what is public and publicly  
7           accessible, to avoid the debate, we will make  
8           the Lowe open to residents of Coral Gables for  
9           free.

10           Now, we don't believe we have to do that,  
11           because publicly accessible does not mean for  
12           free. The Lowe Art Museum is publicly  
13           accessible, just like the Venetian Pool is  
14           publicly accessible.

15           You all use, in your Comprehensive Plan --  
16           you designate the Granada Golf Course and the  
17           Biltmore Golf Course as public land, okay?  
18           They're not accessible to me for free, and  
19           they're not accessible to me 24 hours a day.  
20           They are publicly accessible, under reasonable  
21           terms and conditions, and we think that we have  
22           gone well above what would be required, in order  
23           to avoid this debate, but I think that I have to  
24           come back to where I started.

25           You're in a legislative capacity. There is

1           no law that says, "Exempt museums," none, okay?  
2           Your drafters chose to do that.

3           We believe, however, if you're on a college  
4           or university, who qualifies for the exemption,  
5           and we show you a piece of art that's in the  
6           Lowe Art Museum or not in the Lowe Art Museum,  
7           if it's on our campus, if it's professionally  
8           curated, if it is maintained and owned by us,  
9           not on loan -- maintained and owned by us -- we  
10           qualify, and we believe that that satisfies the  
11           spirit and the letter, and there would be no  
12           rational basis to exclude a museum, that is open  
13           to the public, under reasonable terms and  
14           conditions.

15           I would ask anybody to think about a museum  
16           that you've gone into, almost anywhere in the  
17           world, where you didn't pay an admission fee.

18           MS. MORENO: Washington, DC.

19           MR. BASS: There are some, but you can  
20           go to New York -- you can go to New York  
21           and go into others where you pay.

22           MS. MORENO: Let's study, again, what Tom  
23           is suggesting. Okay. Tom is suggesting a  
24           blanket exemption for a period of time, to be  
25           reviewed again at the end of that period of

1                   time.

2                   The -- the reason that I find that  
3                   attractive is that I think we can determine  
4                   today that what the University has in art should  
5                   support a building program for quite some time,  
6                   particularly if you include the Lowe, and I --  
7                   I, for one, do find the argument that it is  
8                   available to the public very persuasive, even if  
9                   it's for a fee.

10                  The reason for that exemption would be to  
11                  avoid the appraisal expense to -- to the  
12                  University, which would be a -- a not  
13                  non-significant expense.

14                  So I think we should -- I'm not saying that  
15                  I'm a hundred percent convinced, but I think  
16                  it's something we should consider, whether you  
17                  can create the exemption, without having to deal  
18                  with this one percent all the time, just based  
19                  on the University coming before the Commission  
20                  and saying, "Look, we've got enough art there to  
21                  support what we currently have programmed for  
22                  the next "X" years, and in three years or five  
23                  years or whatever, we'll come before you again  
24                  and demonstrate that we have enough art for the  
25                  next proposal, and for everything we've done in

1                   the past, and if not, we'll have to comply."

2                   I mean, that will be a way of approaching  
3                   it, without having to require an appraisal of  
4                   each piece of art at this time.

5                   MR. AIZENSTAT: Let me ask you a question.

6                   What would you say is the value of the  
7                   properties or the buildings that the University  
8                   of Miami has at this time?

9                   MR. BASS: The properties in the  
10                  buildings?

11                  MS. MORENO: No, but this would only apply  
12                  to future.

13                  MR. BASS: This only applies --

14                  MR. AIZENSTAT: No, I understand that,  
15                  but I'm just curious. At the present time.

16                  MR. BASS: I have no idea what the  
17                  value of the property is.

18                  MR. AIZENSTAT: I mean, would the art  
19                  that's there -- they're talking about doing some  
20                  kind of credit.

21                  MR. BASS: No, I don't see that as a  
22                  credit. I think it's an exemption on a go  
23                  forward basis.

24                  MR. AIZENSTAT: An exemption?

25                  MS. MORENO: Uh-huh.

1 MR. AIZENSTAT: I wouldn't support that.  
2 THE CHAIRPERSON: Well, the concept is  
3 really very simple. That is, based on what  
4 they own right now in public art, that we  
5 know about, they've shown it to us, it  
6 takes -- whether you take into account the  
7 Lowe Art Museum or not, the -- the public  
8 art they have now is more than adequate to  
9 meet the projected construction, if we were  
10 going to apply the more complicated one  
11 percent valuation procedure, for, let's  
12 say, the next three years or the next five  
13 years. So we would say, "Okay, we're going  
14 to exempt you for the next three years or  
15 five years, based on UMCAD that we know now  
16 is in place, and at the end of that time,  
17 the exemption ends. If you want to come  
18 back and get the exemption again or if we  
19 want to impose on you a new one percent  
20 requirement, that will happen." I mean,  
21 automatically they'll be under the one  
22 percent requirement of the general  
23 ordinance, assuming it's adopted, in the --  
24 in the absence of an affirmative decision  
25 by the City to regrant that exemption.

1                   So all we're really doing is, we're saying,  
2                   "We're comfortable with where you are now, in  
3                   relation to this limited period of time, both in  
4                   terms of the anticipated construction" -- we  
5                   know what's in the pipeline, generally -- "and  
6                   the art work that you have on public display  
7                   currently, so we'll just -- rather than go  
8                   through a bureaucratic process of appraising art  
9                   everytime you get a new building permit, during  
10                   this five-year period, say, we're just going to  
11                   exempt you.

12                   "Now, at end of the five-year period,  
13                   you come to us, you show us the construction --  
14                   the next five-year plan of construction, show us  
15                   what art you have in place then, and we'll make  
16                   a decision whether to regrant that exemption or  
17                   not grant the exemption, in which case you're  
18                   under the one percent rule and you're going to  
19                   have to apply like everybody else," or we are  
20                   going to create another rule for them at that  
21                   time.

22                   MS. MORENO: Well, the other possibility  
23                   would be to have them appraise the 28 pieces  
24                   they now have. Let's say that the value of  
25                   those comes out to five million dollars. So

1           they get five million dollars worth of credit  
2           towards future building.

3           THE CHAIRPERSON: That's fine, but I  
4           think that's a big expense for them.

5           MR. BEHAR: Well, but you know what --  
6           Simultaneous speaking.)

7           MR. BEHAR: And you know what, you give  
8           them the credit today for that 27 pieces.

9           MS. MORENO: Right. We give me -- and they  
10          can build up to that.

11          MR. BEHAR: And if they're -- I agree. I  
12          personally -- I personally, you know, don't want  
13          to give them a blanket cover, because it is not  
14          right. I mean, we're asking other developers  
15          whether -- to comply with the requirement.

16          MS. MORENO: Yeah, I think the easiest --  
17          the easiest way would be to come up now with a  
18          value, and say, "Look, you have -- you have art  
19          worth five million dollars. That gives you, you  
20          know, one percent. You can construct up to  
21          \$500,000,000 and you're exempt."

22          MR. AIZENSTAT: What would happen if a  
23          developer or a project had a lot of art, and  
24          they had a certain project or a building,  
25          like -- we're looking at the Old Spanish

11 MR. RIEL: No. This program is for  
12 ownership of art, not a credit program.

15 MR. RIEL: That's what -- that's not before  
16 you this evening. This evening, what's before  
17 you, is an ownership art program.

18 MR. AIZENSTAT: But what Cristina is  
19 discussing right now is a credit ownership.

20 THE CHAIRPERSON: For the University of  
21 Miami.

22 MR. RIEL: Yeah, for the University of  
23 Miami. That's not the same program that private  
24 developers will be subject to.

25 MR. AIZENSTAT: Okay. See, where I see it

1           is, the University of Miami is a private  
2           institution.

3           MS. MORENO: It's a non-for-profit --

4           MR. AIZENSTAT: It's a non-for-profit.

5           MR. MORENO: -- educational institution  
6           that instituted art in public places on its own,  
7           without being forced to do so.

8           MR. AIZENSTAT: Correct. I don't disagree  
9           with that, but I just don't see such a credit.  
10           I'm not convinced with giving them such a --

11           MS. MORENO: Okay.

12           MR. BEHAR: Mr. Chair, I agree. I  
13           don't see --

14           MR. BASS: If I may, I think on the  
15           rolling basis, as I had proposed, where we  
16           come in with one specific appraisal, tied  
17           to the one specific building -- although I  
18           appreciate the simplicity and the  
19           tremendous elimination of bureaucratic  
20           process in the exemption mode that was  
21           being pursued, I think we'd be very  
22           comfortable traveling under the "We come in  
23           with the art to justify the exemption on a  
24           rolling basis."

25           I think -- although I appreciate the

1 exploration of that idea, I think, in actuality,  
2 this might be an easier way to keep everybody  
3 up-to-date as to -- on a building by building  
4 basis -- what art was being used, at what value,  
5 and we can quantify that appraisal for that  
6 building, and as long as we're clear that, you  
7 know, with -- the art in the Lowe is a candidate  
8 for that, I think we end up exactly where we  
9 want to be.

10 MR. COE: Mr. Chairman, I just want to make  
11 a comment. It seems to me we're talking  
12 specifically about the University of Miami. I  
13 realize they're here to make their -- their  
14 pitch.

15 The way the proposed ordinance is drafted,  
16 it deals with educational institutions, *per se*,  
17 not public schools, but prep schools. St.  
18 Philip's, for example, being one of them.

19 Now, are we going to talk about an  
20 exemption to the exemption, carving out another  
21 exemption for the University of Miami?

22 Do we have what is now Paragraph 4-A, B and  
23 C, where it talks generically about educational  
24 institutions, to apply not to colleges and  
25 universities?

1           I think we're going down a slippery slope  
2           here.

3           MR. AIZENSTAT: Right. I agree with you.

4           MR. SALMAN: To the Chair --

5           MS. MORENO: I think the way that -- the  
6           way that the University is proposing it, on a  
7           one for one basis, would also work for other  
8           education institutions, and one of the reasons  
9           I'm interested in seeing that is that I think  
10           educational institutions can meet this  
11           requirement through donations.

12           I, at least, have been involved with a  
13           number of schools that have a very difficult  
14           time raising money for any kind of building. To  
15           impose on them an additional one percent, that  
16           they have raised as cash, strikes me as -- as  
17           difficult. Whereas if they can meet it through  
18           a donation of a piece of art by some, you know,  
19           alumni, et cetera, it eases the burden on that  
20           institution. I --

21           MR. AIZENSTAT: But they have that option,  
22           don't they? In other words, instead of putting  
23           in that one percent, they can produce that art  
24           piece? And it's -- we're not telling them how  
25           to get the art piece, whether they have to go

1 and purchase it or it's donated to them.

2 MR. COE: Mr. Chairman, I have a question

3 for --

4 MS. MORENO: But what this does is it  
5 allows them to use existing art that they have,  
6 right?

7 MR. COE: Staff, Mr. Riel, is it your  
8 position that we have to vote on this entire  
9 ordinance tonight --

10 MR. RIEL: Yes.

11 MR. COE: -- or can we exempt out -- which  
12 I don't think we're going to have any agreement,  
13 can we exempt out the -- maybe exemption is the  
14 wrong word. Can we not consider the section  
15 dealing with educational institutions and  
16 perhaps approve the rest of it, because I don't  
17 think we're going to get a consensus?

18 MR. RIEL: Well --

19 MR. AIZENSTAT: By doing that, what do we  
20 get to?

21 MR. RIEL: Let me back up. I mean, the  
22 Commission passed the ordinance, five-zero.  
23 They asked that this Board provide input on that  
24 ordinance, as well as the exemption, and asked  
25 staff to create exemption language, which we've

1           done so. We feel comfortable with that, and we  
2           feel it has established the Commission's intent.  
3           We asked for your input on your language, if you  
4           feel they should be exempt, they should not. If  
5           you feel that there should be changes to the  
6           exemption language, provide that information to  
7           us, but it's our responsibility to go to the  
8           Commission on December 11th and indicate what  
9           this Board's position is.

10           MS. MORENO: But we've already --

11           MR. COE: You've made that -- you've made  
12           that clear. However, it's obvious, from this  
13           discussion, in terms of exemption language, I  
14           don't think if we stay here until three o'clock  
15           in the morning, we're going agree on exemption  
16           language.

17           MR. BASS: If I may, the resolution  
18           before you by the City, which is in the  
19           record, Resolution 2007-242, mentions the  
20           University of Miami by name, together with  
21           the exemption. It does not say, "Others."  
22           However, you all make a very good point,  
23           and you're here to give a recommendation.  
24           There was nothing that would stop you from  
25           taking action on the narrow exemption for

1           the University, and forwarding together  
2           with that a recommendation, if it's the  
3           will of the Board, that the exemption  
4           should be expanded, to accommodate St.  
5           Philip's or other educational facilities.

6           I think, by doing it that way, you  
7           would fulfill your duty to, Number 1,  
8           consider the exemption language for the  
9           University, and, Number 2, provide your  
10          comments on -- on the exemption and the  
11          ordinance in general. So you could do  
12          both.

13          MS. MORENO: The problem I have with  
14          adopting it now are the comments I made before.  
15          I mean, you need to revise this, to -- to -- to  
16          clarify that the one percent includes  
17          installation and maintenance, and to clarify the  
18          point about replacement of the art.

19          I don't know how we can vote on that,  
20          unless you vote on it with the proviso that  
21          these things get clarified. Can we do it like  
22          that?

23          MS. ALFONSIN-RUIZ: Yes.

24          MS. MORENO: Yes?

25          MR. COE: And that's my -- that's my whole

1           point. I mean, we don't have language that  
2           we're suggesting to vote on. So how are we --  
3           we're going to vote on a generality, we're not  
4           voting on language.

5           MR. RIEL: No, I think staff has presented  
6           language to you, and if you feel that's not  
7           appropriate --

8           MR. COE: Well, and maybe we should take a  
9           vote, Mr. Chairman. I don't know if we're done  
10           with the public comments.

11           THE CHAIRPERSON: Well, I think the way  
12           -- the way to handle it is, we have a draft  
13           ordinance before us. If we have changes  
14           that we would like to make, we don't have  
15           to dictate necessarily the verbiage to be  
16           used by the draftsman, but if we have  
17           changes --

18           MR. COE: I think we have to dictate  
19           the verbiage. I don't think we can just  
20           say do something like that. I don't think  
21           that --

22           THE CHAIRPERSON: We're a committee.  
23           We're not -- we're not finalizing this  
24           ordinance. We're going to vote on the  
25           ordinance.

1                   MR. COE: Well, the way I understood  
2                   it, we are to approve the language of the  
3                   ordinance. Are we not?

4                   MR. AIZENSTAT: That's why we're giving the  
5                   language.

6                   MR. RIEL: You're recommending to the City  
7                   Commission --

8                   MR. COE: The language.

9                   MR. RIEL: -- the language.

10                  MR. COE: And then, if we -- if we're just  
11                  raising some generality, we're not approving the  
12                  language.

13                  THE CHAIRPERSON: Well, on that basis,  
14                  we can never amend an ordinance.

15                  MR. AIZENSTAT: Well, that's my whole  
16                  point.

17                  THE CHAIRPERSON: And I don't think  
18                  that's correct. I don't think that's the  
19                  way a committee operates.

20                  MR. COE: You may be correct,  
21                  Mr. Chairman, but my point is, if what the  
22                  City Commission has asked us to do is to  
23                  approve language for an ordinance, how can  
24                  we tell the City Attorney, well, you know,  
25                  make up some language that deals with

1           exemptions and try to get these other  
2           things in, without coming back and voting  
3           on it? So we're not setting that out  
4           today --

5           MS. MORENO: Then why -- can I make a  
6           motion?

7           MS. KEON: I would like to ask a question  
8           with regard to an item you talked about, with  
9           the maintenance and whatever. I didn't think  
10           any place in here it addressed the -- the  
11           contribution to the purchase of an art work -- a  
12           piece of art, that included in that it dealt  
13           with the maintenance, installation and whatever  
14           else. I thought it was the piece of art itself,  
15           and that the numbers that you're looking for  
16           don't include the maintenance, installation and  
17           all those other things, because I thought part  
18           of the fund that was being set up dealt with --  
19           or, I thought that they were required -- aren't  
20           they required to maintain this art?

21           MS. MORENO: Cathy Swanson had said to us,  
22           when she made her presentation, that you could  
23           meet the one percent requirement if you were  
24           retaining private ownership of the piece of art,  
25           by also including in that -- in those dollars,

1           the cost of maintaining the piece over time, as  
2           well as the cost of installing it -- of  
3           installation.

4           (Simultaneous voices.)

5           MR. MORENO: It doesn't say that there.

6           MS. KEON: Yeah.

7           MS. MORENO: That's why -- that's one of  
8           the points that I'm making.

9           MS. KEON: Right, No, but not for anyone.

10          This is for -- for any person or any builder,  
11          developer, anyone that's involved in this --

12          MR. AIZENSTAT: Why don't we ask Cathy  
13          Swanson?

14          MS. KEON: Cathy, is there -- is there  
15          language about the installation and maintenance?

16          MS. SWANSON: I understand the concern.

17          Clarification needs to be made, because included  
18          in the guidelines, which is going to be our  
19          governing document, it actually reads,  
20          "Including but not limited to installation,  
21          artist's fees, transportation, insurance, site  
22          separation, maintenance, protection from natural  
23          disasters, signage and lighting."

24          So as it got converted or translated into  
25          ordinance, that section wasn't included, but

1           it's clearly in our guidelines, and we'll have  
2           to add that clarification in the ordinance.

3           MS. MORENO: See, the problem is, in  
4           Section 11, which is the non-municipal  
5           construction projects, it talks specifically  
6           about the art acquisition shall have a minimal  
7           appraised value of one percent. That is not  
8           what you intend.

9           What you intend is that the appraised  
10          value, plus maintenance --

11          MS. SWANSON: And the cost of keeping that  
12          art --

13          MS. MORENO: Uh-huh.

14          MS. SWANSON: -- is considered as a part of  
15          that total obligation.

16          MR. COE: And the one percent is gross.

17          MS. SWANSON: The way that we wrote the  
18          guidelines, it absolutely is a gross number.

19          MS. MORENO: Yes.

20          MS. KEON: But that's not what it says  
21          there, because you have the appraised value is  
22          one percent. So you wouldn't -- you wouldn't  
23          appraise based on maintenance, installation --

24          MS. SWANSON: Well, I think it's a  
25          clarification that can be added to that the --

1           we have two different groups working on one  
2           ordinance, and it's a matter of adding a  
3           sentence and clarifying. The intent is that it  
4           is a total cost that is considered with that  
5           acquisition. I mean, we clearly spelled it out  
6           in one part of our governing document, and it  
7           did not translate into the ordinance, and we'll  
8           have that corrected.

9           MS. KEON: Okay.

10           MR. RIEL: If you look at Page 9, the  
11           section on Ownership and Maintenance -- and,  
12           again, I want to go back. The City is the owner  
13           of this property, the art --

14           MS. MORENO: No, that's -- that's when you  
15           acquire with a City fund, but not when you --  
16           the developer puts it and retains ownership.

17           MR. RIEL: Right. Right.

18           MS. MORENO: There's two different  
19           situations.

20           MR. BEHAR: And another question, Cathy.  
21           The City will have -- in order to do it, a  
22           private developer will have to be an approved  
23           artist, who gets commissioned to do the art  
24           work.

25           MS. SWANSON: Uh-huh.

1                   MR. BEHAR: The University of Miami may  
2                   have some beautiful art work, but does that meet  
3                   the same guidelines that you're going to have,  
4                   that the artist must be approved? Example, a  
5                   Romero Brito may not be an approved artist to be  
6                   displayed on a -- on a private developer's  
7                   building, but yet it will qualify for the  
8                   University's program?

9                   MS. SWANSON: When we were presenting to  
10                  the City Commission, and this was before they  
11                  determined the exemption, with certain  
12                  conditions, so when we were presenting, we did  
13                  believe that the sculptured garden could qualify  
14                  for a credit. You know, you were using that  
15                  example. We actually used, assume that those 28  
16                  pieces were each worth \$200,000, then basically  
17                  you had a \$480,000,000 credit moving forward  
18                  that could be charged against or those pieces  
19                  could be retired moving forward.

20                  The Commission really wanted to look at  
21                  that exemption concept instead, and develop  
22                  language not related to credit, but exemption,  
23                  but I should also say, that it's included in  
24                  your minutes, that the Commission also realized  
25                  or felt that the Lowe was not a piece of this

1 equation. It was the sculptured garden that was  
2 the focus of what qualified for art in public  
3 places, and the discussion came forward, that  
4 the City Attorney raised, that public access  
5 doesn't mean just public access for residents,  
6 it means for everybody, and so as they look --  
7 as the language -- I think that the language is  
8 interesting, that they're proposing, but I'd  
9 really like to understand what does public  
10 display mean, and is that really public access?  
11 Isn't the focus exclusively on the sculpture  
12 garden or does the Lowe figure in?

13 The Commission did not feel that the Lowe  
14 figured in. In fact, in your minutes, they  
15 specifically talk about.

16 MR. BASS: And I just need to respond  
17 to that. It is a bedrock principle of  
18 municipal law that a Commission speaks  
19 through its resolution, not through the  
20 individual comments of any one  
21 Commissioner. That's the Blumenthal case.

22 So it is true that Mayor Slesnick focused  
23 some of his comments on the sculptured garden,  
24 and it is true that there was discussion about  
25 the Lowe, but it is untrue to suggest that the

1           Commission determined that the Lowe should not  
2           count, and I maintain it would be nonsensical to  
3           suggest that the Lowe should not count, because  
4           you don't need to be a member of the Lowe, or  
5           any other special club, other than a member of  
6           the public, to go to the Lowe, and pay a normal  
7           admission fee, and the Lowe is open, by way of  
8           clarification, 250 days a year, during normal  
9           hours, and is therefore publicly accessible.

10           I would suggest to you, as against the  
11           standard that needs to govern your legislative  
12           action, that it would be arbitrary and  
13           capricious to say, "There is a wonderful display  
14           of significant, professionally curated art, to  
15           which any member of the public can walk in,  
16           under reasonable terms and conditions, but we're  
17           not going to count it."

18           I don't think that would pass scrutiny,  
19           under the rational Nexus test, unless you're  
20           about to say that your Venetian Pool, your  
21           Biltmore Golf Court and your Granada Golf  
22           Course, and the entire island of Key Biscayne,  
23           is not open to the public, because I have to pay  
24           a dollar every time I drive over that causeway  
25           to get there.

1           It's absurd.

2           THE CHAIRPERSON: I'd make two comments  
3           to that. The first is that it's very clear  
4           to me now, whatever we do, it's -- there  
5           shouldn't be any doubt about how the Lowe  
6           is to be treated. That's Number 1.

7           It's too big of an elephant in the room  
8           to ignore.

9           MS. MORENO: Uh-huh.

10          THE CHAIRPERSON: And, Number 2, if we  
11          include the Lowe in the program, I'm  
12          totally convinced that we should just give  
13          you an exemption and be done with it,  
14          because the Lowe -- the value of the Lowe  
15          is going to grossly exceed one percent of  
16          the value of any future development you  
17          ever do in that -- that campus for a  
18          lifetime.

19          So this is silly.

20          MR. SALMAN: To the Chair.

21          THE CHAIRPERSON: Yes.

22          MR. SALMAN: I equally agree that this is,  
23          I think, putting the cart before the horse. I  
24          think you've got more \*\*\*stewards of art that  
25          you'll ever need to qualify. To ask for the

1           exemption is really putting the cart before the  
2           horse.

3           I mean, you can go for -- every time you  
4           present a building, you have to submit it for  
5           permit, and it's about qualification.

6           There is a process for qualification within  
7           the ordinance, that I'm sure it's a fairly easy  
8           enough threshold for you guys to meet.

9           So I don't see why you need a special  
10          exemption. I think you're overloading it with  
11          unnecessary --

12          MR. COE: It's starting to be repetitious,  
13          Mr. Chairman. Are we going to close the public  
14          comments so we can vote?

15          THE CHAIRPERSON: Well, is there  
16          anybody, other than the University of  
17          Miami, who wishes to speak to this  
18          ordinance?

19          MR. DE LA FUENTE: Yes, very briefly. Bob  
20          de la Fuente, with Law Offices at 1441 Brickell.  
21          I'm here on behalf of Amace Properties.

22          There was a second resolution that was  
23          adopted by the Commission, when they considered  
24          this item. This was regarding a clarification  
25          on when you vest the project from complying with

1 this new legislation, and this is Resolution  
2 Number 2007-243.

3 I don't believe you have proposed language  
4 yet from the City Attorney on this.

5 MS. ALFONSIN-RUIZ: No. The proposed  
6 language will be included. It's not in the  
7 ordinance at this time, but what it will say is  
8 that it shall not apply to applicants having  
9 secured preliminary Board of Architect's  
10 approval as of the City Commission's approval of  
11 the Master Art Plan.

16 MS. MORENO: The Master Art Plan or the --  
17 or the ordinance?

18 MS. ALFONSIN-RUIZ: The Master Art Plan.

19 MS. MORENO: Which is some ways away?

20 MS. ALFONSIN-RUIZ: Yes.

21 MR. DE LA FUENTE: Thank you.

22 THE CHAIRPERSON: Thank you.

23 MR. COE: We're closing the public hearing?

24 THE CHAIRPERSON: Any -- any -- well,  
25 let me make sure. Is there anybody else,

1           other than the University of Miami, who  
2           wishes to speak at this time?

3           Well, then we'll close it for the  
4           public comments, and --

5           MR. COE: At this time, Mr. Chairman, I'll  
6           move staff's recommendation as drafted.

7           THE CHAIRPERSON: Is there a second on  
8           that?

9           MR. BEHAR: Before we do that, I have a  
10          question -- a couple of questions for  
11          Cathy.

12          MR. RIEL: You need a second, Mr. Chair.

13          MS. KEON: You know, I'll second it, for  
14          the purpose.

15          THE CHAIRPERSON: What?

16          MR. RIEL: You need a second.

17          MR. KEON: I'll second it, so that we can  
18          have a discussion.

19          THE CHAIRPERSON: Pat Keon second it,  
20          for purposes of discussion.

21          THE CHAIRPERSON: Go ahead. You have  
22          the floor.

23          MR. BEHAR: Cathy, the -- the guidelines,  
24          the developer, on the private sector now -- the  
25          University, I think we're clear -- the private

1           sector will have to comply with your  
2           requirement, have to come for your approval, and  
3           then it goes to the Commission, correct?

4           MS. SWANSON: The Cultural Development  
5           Board and the Arts Advisory Panel will converse  
6           with the developer and the City Architect, and  
7           their architect. In this process, reach  
8           consensus, and then that recommendation will  
9           come from the Cultural Development Board to the  
10           City Commission.

11           MR. BEHAR: Okay, but there will be --  
12           there will be an approved list of artists that  
13           one will go to or how's that going to work? How  
14           -- if we're doing a project, and we plan to do a  
15           beautiful fountain, that's going to get approved  
16           by the Committee and then pass it on to  
17           Commission? That's one question.

18           And the second question is, if we're  
19           talking about a 25-million-dollar project,  
20           that's about \$250,000 that's going to be  
21           dedicated to an art work, but what if -- and I'm  
22           going to use the example of the Old Spanish  
23           Village. I would assume that that project may  
24           be in excess of a hundred million dollars, as a  
25           combined project, between the office building

1 and the rest of the components. Obviously that  
2 has to contribute at least one million dollars  
3 towards this program or incorporate at least one  
4 million dollars' worth of art work in the  
5 project. Is there a cap that we're going to set  
6 or it's going to be an unlimited amount? If a  
7 project exceeds, you know, 200 million dollars,  
8 you have to contribute to that effect, or you're  
9 -- in your mind, there will be a cap that will  
10 be assessed to each project?

11 MS. SWANSON: Your second question first.  
12 There is no cap. Some cities do set caps. The  
13 -- in the public discussion related to it, we  
14 felt that the bigger the project, if you install  
15 the cap, you'd create a regressive fee, rather  
16 than an equitable fee.

17 Now, on that Old Spanish Village, excellent  
18 example, they could invest that in art onsite or  
19 near site, including Ponce Circle Park. So  
20 investing -- you know, if they -- they could  
21 choose to use the art acquisition fund, they  
22 could choose to put it into their architecture  
23 through the process or they could -- or a  
24 sculpture or to do something that qualifies on  
25 Ponce Circle Park or some of the other public

1                   right-of-ways near there.

2                   MR. BEHAR: But hypothetically say that  
3                   we're going to incorporate it, it would then be  
4                   on the site, not through the donation, where  
5                   they're controlling, there's no cap? Whatever  
6                   it -- is the one percent of the total  
7                   construction cost, they have to be, in effect,  
8                   put in place?

9                   MR. SWANSON: There is an appeal or a  
10                  waiver process that's in here, that they could  
11                  apply for, if they felt that that was beyond  
12                  what was reasonable and appropriate, and that's  
13                  the -- I'll turn to the City Attorney as to  
14                  where. While she's looking at that section,  
15                  I'll answer your first question, and that is the  
16                  selection of artists.

17                  We will define that in the Art Master Plan.  
18                  Some cities give -- and you can go to the  
19                  website, Coral Springs is a great example,  
20                  approved artists.

21                  We were not intending to be so restrictive.  
22                  MR. BEHAR: And I hope you're not, and  
23                  that's part of the question.

24                  MS. SWANSON: No.

25                  MR. BEHAR: I hope you're not, because that

1           gives more of a -- of a variety of art work to  
2           be incorporated throughout the City.

3           MS. SWANSON: No, in fact, when we were  
4           talking to some cities that have that approved  
5           list, they found that it was a hindrance, rather  
6           than a help. It became too restrictive in  
7           presenting art to the public. So that was not  
8           an intention on this -- in this process, but we  
9           did look at the Art Master Plan to be the  
10           document that would fill in those kinds of  
11           processes.

12           MR. BEHAR: Okay. And lastly, I want to  
13           make sure, on the record, that I commend you and  
14           the staff, everybody who's put this together, I  
15           think it's a great task to be able to start  
16           incorporating art in public spaces in our City,  
17           and at this point, we don't have sufficient. I  
18           think it will be a great -- and, again, I  
19           commend you for your efforts.

20           MS. SWANSON: Thank you.

21           Did you find the section that's Appeals and  
22           Waivers?

23           MS. ALFONSIN-RUIZ: Yes. "A developer may  
24           seek a reduction, adjustment or complete waiver  
25           of the requirements of this ordinance."

1                   We gave examples of two, in particular, in  
2                   the ordinance, but at any time, for good reason,  
3                   they can go before the City Commission.

4                   MR. AIZENSTAT: Let me ask the Assistant  
5                   City Attorney, the items that Ms. Swanson spoke  
6                   about, as far as -- that would include, I'm not  
7                   sure if it's the insurance, the maintenance, the  
8                   lighting, and so forth, you have that clear as  
9                   to how you would incorporate that into this  
10                   ordinance?

11                  MS. ALFONSIN-RUIZ: Absolutely. And, in  
12                  fact, if we go to Page 4, it would be under 11,  
13                  subsection C, and all we have to do is add an  
14                  additional sentence that say -- that says that  
15                  the one percent value shall include maintenance,  
16                  lighting, insurance.

17                  MS. KEON: I don't know why you'd -- why  
18                  would you bother?

19                  MS. ALFONSIN-RUIZ: Pardon?

20                  MS. KEON: Why would you bother with that?  
21                  I mean, how do you know -- are you going to  
22                  project that out with the maintenance --

23                  (Simultaneous voices.)

24                  MS. ALFONSIN-RUIZ: It's a percent.  
25                  There's a value.

1                   MR. AIZENSTAT: It's usually they have -- I  
2                   think they have separate --

3                   MS. MORENO: There's -- there's a value.

4                   MS. KEON: This -- I mean, go ahead and  
5                   finish, and then I'll --

6                   MR. BEHAR: But I'll tell you why, Pat,  
7                   because if, for example, you did a plaza, okay,  
8                   and a fountain --

9                   MS. KEON: Right.

10                  MR. BEHAR: And that constitutes as part of  
11                  the art work, there's a maintenance associated  
12                  with that.

13                  MS. KEON: Right, but you also have in here  
14                  an art fund, that in lieu of a piece of art or  
15                  whatever, the developer can make a cash -- a  
16                  contribution, that is the one percent of  
17                  whatever the value, whatever, and it's put into  
18                  this art fund.

19                  It calls out here that the -- it is that  
20                  fund that is responsible for the maintenance --

21                  MS. MORENO: No. (Simultaneous speaking.)

22                  MR. AIZENSTAT: No, Pat, I think we're  
23                  talking about only the pieces --

24                  MS. KEON: When you own it.

25                  Sorry. When it's a private -- when you --

1           when own it?

2           MR. BEHAR: But, Pat, I will assure you,  
3           nine out of ten times, the developer will choose  
4           to apply that one percent, to his credit, on the  
5           project, rather than put it into a fund that he  
6           may not see any benefit directly in the project.

7           MS. MORENO: The problem that happens is  
8           that when it is owned by the developer, when it  
9           is owned by the building, then that private  
10           owner is required to insure and maintain that  
11           piece of art and install it.

12           If you put it into the fund, then the City  
13           takes over that insurance and maintenance  
14           obligation.

15           MS. KEON: But doesn't it -- I thought the  
16           ordinance calls out for -- that they're, then,  
17           required to maintain it, and I would assume they  
18           would want to insure it, if they're responsible  
19           for keeping it, and if they chose not to insure  
20           it, let them not insure it.

21           I mean, we don't care if they chose to  
22           insure it or if they chose not to insure it.  
23           That's their business.

24           You, as the City, are saying to them, "You  
25           have to replace it. If you don't want to insure

1           it, don't insure it, but if something happens to  
2           it, you need to replace it."

3           MS. MORENO: It's inequitable, because the  
4           guy that contributes the one percent for the  
5           City's project, is only limited to one percent,  
6           but the guy who retains it is --

7           MS. KEON: But you don't know that going  
8           forward. I mean, somebody could donate a piece  
9           that's made out of one material, that has a  
10           lifespan of so many years, and somebody else  
11           donate something that's a metal, that only has a  
12           lifespan of so years, are you going to say to  
13           them, "Well, the lifespans of these two -- the  
14           components of these pieces of art aren't equal,  
15           so you get less, you get more."

16           I mean, I think --

17           MS. MORENO: I was told that there was a  
18           formula where you determine the maintenance  
19           obligation for the pieces, and that that would  
20           be known upfront.

21           MS. ALFONSIN-RUIZ: Yes, that's correct.

22           MR. AIZENSTAT: Cathy.

23           MS. ALFONSIN-RUIZ: Yes, please.

24           MR. AIZENSTAT: The developer would have  
25           the option as to which route he wants to go.

1 MS. RUIZ-ALFONSIN: That's correct.

2 MS. KEON: Right, and that's fine, but, I  
3 mean, I would think that a developer, if it's  
4 sitting in front of your property, that you're  
5 either trying to rent space off -- out of or  
6 you're trying to sell to somebody else, I would  
7 think you would maintain it. You would maintain  
8 it, just by the nature of being yours, and the  
9 value that it adds to your property, but, I  
10 mean, if you feel you need to lay it out, I  
11 think that's fine -- I don't -- I think the one  
12 percent should be the value of the piece of art  
13 itself, and the other components, those are --  
14 that's a choice they make, if they choose to do  
15 it on their property and it's insured with their  
16 property, and it's maintained with their  
17 property and it's theirs and they have all of  
18 the rights that that -- having that piece of art  
19 incorporated into their building brings with it,  
20 with the increased valuation of their building  
21 because of it, and so on and so on.

22 I mean, I don't -- I wouldn't worry about  
23 that number. I mean, what -- what the -- the  
24 maintenance and everything else, that one  
25 percent, I think the one percent should be that

1           it is a piece of art that is commensurate with  
2           the value of that building, and that's the one  
3           percent.

4           I mean, and that's why -- you know, for the  
5           ones that the City is responsible for or the  
6           fund that goes into -- you know, the dollars  
7           that go into a fund, that the City can purchase  
8           art work out of, you can also maintain and care  
9           for and whatever.

10           As far as the University of Miami, I think  
11           that their sculptured garden is -- is beautiful.  
12           I would only hope that, in their art plan, they  
13           would also have some of those sculptures on the  
14           perimeter of their building, so that you don't  
15           have to -- on the perimeter of their property,  
16           so you don't have to just go inside the  
17           University to see it, but that as you walk down  
18           the street or you drive by or whatever, you get  
19           -- that you have the opportunity to see and  
20           enjoy the art in a -- in a maybe more public  
21           place, than in the interior of your building,  
22           but that you would incorporate that on the  
23           outside.

24           I wouldn't think that the museum should  
25           qualify, because I think you have to go inside

1           to do it, any more than any museum in any city  
2           or whatever, other than the building itself, and  
3           maybe if the design and the structure or  
4           something that's built into the building, that  
5           as you're walking by, you can appreciate, but I  
6           don't -- I don't think that going into it -- I  
7           don't think that the Lowe and the holdings of  
8           the Lowe Art Museum should be part of this, but  
9           I would think that your sculptures should exceed  
10           it.

11           Is your concern, with the University, is  
12           that if you -- that they're going to look for  
13           you to -- to increase your holdings going  
14           forward, over the base that you have now?

15           I mean, is that -- is that what part of  
16           your concern is?

17           MR. NATOLI: No. I mean, really, the  
18           -- we just feel like we complied with the  
19           spirit of where the City is trying to go.

20           MS. KEON: I do too, yeah.

21           MR. NATOLI: There's a lot of different  
22           ways to try to add the numbers up.

23           MS. KEON: Yeah.

24           MR. NATOLI: Now, the wording that -- as it  
25           exists today would require us to get an

1           appraisal every three years --

2           MS. KEON: Why bother?

3           MR. NATOLI: -- of all our art which would  
4           cost us a bunch of money. So that's really what  
5           we're trying to say here, we've already complied  
6           with the spirit.

7           MS. KEON: Yeah, I mean -- I mean, I would  
8           think that for as long as the University of  
9           Miami, you know, complies with the spirit of the  
10           ordinance, it should retain an exemption from --  
11           and that would be end of it, and it can be  
12           revisited at any time.

13           I mean, at such time as they -- you know,  
14           the Commission feels that they no longer comply,  
15           then, you know, you can go back and hold them to  
16           it. Until -- as long as they do, they  
17           shouldn't -- they shouldn't be exempt, and they  
18           shouldn't have to give you all those appraisals  
19           or anything else.

20           I think you should let them go about the  
21           business of educating.

22           MR. COE: Mr. Chairman, at this time, I  
23           call the question.

24           THE CHAIRPERSON: Well --

25           MR. COE: We're starting to be

1           repetitious.

2           MS. KEON: And I -- yeah --

3           THE CHAIRPERSON: You called the  
4           question. Is there any further discussion?

5           I have some discussion.

6           MS. KEON: Yeah, I have -- I have a  
7           question, also. There is a --

8           THE CHAIRPERSON: We have to vote on the  
9           calling of the question, when it's called, to  
10           see if the discussion will be shot down. Okay.  
11           So let's call --

12           MR. AIZENSTAT: The question is -- can you  
13           -- is --

14           MR. COE: Approving the ordinance as  
15           drafted.

16           MR. AIZENSTAT: With adding what needs to  
17           be added for that one percent?

18           THE CHAIRPERSON: No, he's just calling  
19           the question on his motion at this time.

20           MS. KEON: He's calling the question.

21           MR. AIZENSTAT: Can I ask --

22           THE CHAIRPERSON: So we're voting on  
23           -- excuse me --

24           MR. COE: We're voting on calling the  
25           question. We're not voting on the substance of

1 what we're going to vote on yet.

2 THE CHAIRPERSON: We're voting on  
3 whether we're going to continue the  
4 discussion.

5 MR. RIEL: Correct.

6 THE CHAIRPERSON: So go ahead and call.

7 A yea vote is for continuing the -- for  
8 stopping the discussion.

9 MS. MENENDEZ: Robert Behar?

10 MR. BEHAR: Yea.

11 THE CHAIRPERSON: Jack Coe?

12 MR. COE: Yes.

13 THE CHAIRPERSON: Pat Keon?

14 MS. KEON: I think, no. If -- I want to  
15 vote, no, if I want to continue the discussion?  
16 Is that what you're saying to me?

17 MR. RIEL: That's correct.

18 MS. KEON: No.

19 THE CHAIRPERSON: Cristina Moreno?

20 MS. MORENO: No.

21 THE CHAIRPERSON: Javier Salman?

22 MR. SALMAN: No.

23 MS. MENENDEZ: Eibi Aizenstat?

24 MR. AIZENSTAT: Yes.

25 MS. MENENDEZ: Tom Korge?

1                   THE CHAIRPERSON: No.

2                   MR. COE: Could we please take a break,

3                   Mr. Chairman?

4                   THE CHAIRPERSON: Yeah, sure. We'll  
5                   take -- we'll take a three-minute break.

6                   MR. BEHAR: Mr. Chairman, you weren't here  
7                   at the beginning of the meeting. I have to  
8                   leave at 7:30. At this point I will excuse  
9                   myself.

10                  THE CHAIRPERSON: Okay.

11                  (Recess taken.)

12                  THE CHAIRPERSON: We have a very packed  
13                  agenda. We've already lost Robert Behar.

14                  MS. KEON: Could I just ask you another  
15                  couple of questions, and then we'll come --

16                  THE CHAIRPERSON: And I have a few  
17                  comments.

18                  MS. KEON: If I may, on Page 7 of this --  
19                  Page 7 (1) "Projects that cause a purchase,  
20                  designation, restoration, and perpetual  
21                  maintenance of historically significant  
22                  buildings equal to or greater than the  
23                  calculated dollar contributions otherwise  
24                  required," would that be like with the Old  
25                  Spanish Village, now, they have -- they've

1       incorporated a building into that project, that  
2       was -- is a historically significant building,  
3       have they not?

4           So would what they project to be the  
5       maintenance and restoration and whatever of that  
6       particular building, in their project, could  
7       that qualify as what their contribution to this  
8       would be?

9           MS. ALFONSIN-RUIZ: That would be an  
10       adjustment. That's why -- it falls under the  
11       "Waivers."

12           MS. MORENO: It would be an adjustment,  
13       because it needs Commission approval.

14           MS. ALFONSIN-RUIZ: Correct.

15           MS. KEON: They -- all right, but they can  
16       go before the Commission.

17           You know, I have -- I have a little concern  
18       over that. I think that -- I think that anyone  
19       that would include a historical building in  
20       their project would care for, would maintain,  
21       and -- and already is under the -- the  
22       regulations -- the Historic Preservation  
23       regulations of the City and the code and  
24       everything else, would be required to maintain  
25       it, like they would any other building.

1                   So I would -- I'm not so sure I like the  
2                   whole waiver provision. I think it's easy for  
3                   people to substitute those types of things  
4                   instead of having the money available for what  
5                   would be public art, and -- and they'll use it  
6                   for -- the waiver provisions to maintain  
7                   property that they would have maintained anyway.

8                   So I have a -- I have a concern about  
9                   that if - in going forward to the Commission. I  
10                  would have a concern with that.

11                  The other item that I -- it seems that  
12                  you're looking at -- that the -- that art work  
13                  either has to be apparently owned by the City or  
14                  owned -- or the funding is used either to  
15                  purchase art either by the City or by the  
16                  private developer to purchase the art on  
17                  their -- within their project.

18                  Is it permissible, under that fund, for the  
19                  City to participate in a traveling art program?

20                  No.

21                  I think you should include that. I really  
22                  do. I think that there are lots of very  
23                  significant art works that we would never have  
24                  the money to buy or never be able to purchase  
25                  or -- or that no developer is likely to purchase

1 for us, that could be made available to us, to  
2 participate in, you know, a visiting art  
3 program, where you might have it for six months  
4 or whatever, and I think that -- I think maybe  
5 it would be a good thing to incorporate into  
6 this ordinance, the ability to use those funds  
7 to participate in, you know, that type of a  
8 program, and I would assume that it would go  
9 before your Cultural Board, that would make that  
10 decision, but I would -- I wouldn't like to see  
11 you not allow consideration of that.

12 MR. AIZENSTAT: If I may, Pat. Are you  
13 talking about like sort of like when they had  
14 the Flamingos outside?

15 MS. KEON: No. I know that there is now a  
16 -- and I would say, often, in New York, along  
17 Park Avenue, because it's -- you know, it's the  
18 divided boulevard, and it's so pretty there,  
19 they often are -- there will be installations  
20 that maybe come from -- they're on loan from  
21 some artist, that they'll travel from city to  
22 city, that are on display, and there is a cost  
23 to the city to be able to participate in having  
24 that art work that is internationally recognized  
25 art work be in your --

1                   MS. MORENO: Like when we had Christo wrap  
2                   the islands?

3                   MS. KEON: Yeah. What's the artist there  
4                   -- what is the one that -- there's one that's  
5                   now traveling the country that I read about.

6                   DR. ROBERTS: Large Botello was in  
7                   September.

8                   MS. MORENO: Yes, they were.

9                   MS. KEON: Okay, the Boteros are one, but  
10                  there is another one, and their heads, it's  
11                  really pretty.

12                  Simultaneous speaking.)

13                  THE CHAIRPERSON: Well, I don't mean to  
14                  cut you short too much, but, I mean, that's  
15                  an admirable suggestion, however, I think  
16                  that would require a lot more thought and  
17                  consideration that we're going to be able  
18                  to give it tonight.

19                  MS. KEON: No, I think that is -- maybe --  
20                  there's a provision in here that says, you know,  
21                  ownership, it has to belong to one or the other.  
22                  I think that they maybe would take a look at  
23                  having consideration for being allowed to use  
24                  the fund to participate in a traveling art  
25                  program.

1           There is a better word for that, that I'm  
2           sure that Cathy and the -- the people involved  
3           in drafting this could tell you, but it would  
4           allow it to participate in that type of a  
5           program.

6           THE CHAIRPERSON: Okay. Any other  
7           comments?

8           MS. KEON: That's all.

9           MR. SALMAN: I have two comments.

10           THE CHAIRPERSON: Yes, sir.

11           MR. SALMAN: Under "Exceptions", Item  
12           Number 3, "Non-Municipal Projects whose  
13           aggregate project value is less than one million  
14           dollars," I'd like to see that value indexed  
15           over time. Otherwise it's going to have an  
16           interesting effect over time, but I'd like -- I  
17           don't think it was the intent of the writers to  
18           create, because ten years from now, a million  
19           dollars is going to be worth a lot less. So I'd  
20           like to see that indexed.

21           THE CHAIRPERSON: Indexed to what?

22           MR. SALMAN: To CPI.

23           THE CHAIRPERSON: CPIU?

24           MR. SALMAN: Yes.

25           THE CHAIRPERSON: Okay.

1                   MR. COE: Is that an amendment to the  
2                   motion?

3                   MR. SALMAN: That's an amendment to the  
4                   motion.

5                   MR. COE: I'll accept that amendment.

6                   THE CHAIRPERSON: Okay. We've got a  
7                   friendly amendment to the motion.

8                   Anything else?

9                   MR. SALMAN: And the second issue will be  
10                  that we delete the exemption for educational  
11                  institutions in its entirety.

12                  THE CHAIRPERSON: Do you accept that as  
13                  a --

14                  MR. COE: That's being proposed as a  
15                  friendly amendment?

16                  MR. SALMAN: That's a friendly amendment.

17                  MR. COE: I'll accept that one, as well.

18                  THE CHAIRPERSON: Okay. That's a  
19                  friendly amendment.

20                  MS. KEON: I'm sorry, so you would just  
21                  delete this entirely?

22                  MR. SALMAN: Delete it.

23                  MS. MORENO: And not --

24                  MR. SALMAN: Delete it. They're a  
25                  developer. To hold them to a different issue --

1           whether they're private or public, I think that  
2           they can meet what they have through the normal  
3           process that's set up within the ordinance, but  
4           to create a special exemption is actually going  
5           to hurt them in the long run, forcing them to do  
6           appraisals, periodic reporting, and they should  
7           do it on a building by building basis, just like  
8           everybody else. I mean, I think that, honestly,  
9           it's to their betterment.

10           THE CHAIRPERSON: Any other questions  
11           or comments?

12           MR. COE: Call the question.

13           MS. MORENO: I disagree.

14           THE CHAIRPERSON: I have some -- I  
15           have some --

16           MS. MORENO: I strongly disagree.

17           THE CHAIRPERSON: Okay. Go ahead.

18           MS. MORENO: I'm sorry. You've been  
19           waiting patiently, Tom. Please, go ahead.

20           THE CHAIRPERSON: All right. Okay.

21           MR. RIEL: Mr. Chair, I just want to make  
22           sure that that friendly amendment was accepted  
23           by the --

24           MR. COE: Yes, I accepted it.

25           MR. RIEL: Thank you.

1 THE CHAIRPERSON: It was accepted.  
2 The definition section, 20-102, Paragraph  
3 7, "Construction costs means total value of the  
4 construction or renovation work." Do we mean  
5 total cost, not value? It's on Page 4 of 11.  
6 The top of Page 4, the first one, definition of  
7 construction costs means total value of the  
8 construction or renovation work or does it mean  
9 total cost of the construction? I would submit  
10 that the value is usually greater than the cost.  
11 MR. COE: I think it means cost.  
12 THE CHAIRPERSON: Okay. So would you  
13 accept inserting cost as --  
14 MR. COE: Yes, I would accept that as a  
15 friendly amendment.  
16 THE CHAIRPERSON: Okay. I have another  
17 question, and that question relates to what  
18 is included within the cost. Do cost  
19 include soft costs, such as architectural  
20 or legal fees, impact fees?  
21 MS. ALFONSIN-RUIZ: No.  
22 MS. MORENO: It says -- the next sentence  
23 says what costs are included.  
24 MR. COE: I think it defines it in the next  
25 sentence.

1                   THE CHAIRPERSON: Okay. So that -- I  
2                   just want to be clear about that. Now, the  
3                   costs are calculated on the date of the  
4                   building permit. So am I correct in  
5                   assuming that if there are later change  
6                   orders made to the building, the increased  
7                   cost or decreased cost resulting from the  
8                   change orders will not affect the fee that  
9                   has to be paid or the contribution that has  
10                  to be made?

11                  MS. ALFONSIN-RUIZ: If you look at Page  
12                  3, Number 1, "Aggregate project value means  
13                  the total of all construction costs  
14                  associated with a particular site plan  
15                  project, regardless of the number of  
16                  permits associated with the project, or  
17                  whether it's a phased project."

18                  So if there are any changes, they will be  
19                  included.

20                  (Simultaneous speaking.)

21                  THE CHAIRPERSON: And how are you --  
22                  how are you going to monitor that? Well, I  
23                  don't really care. I just wanted it to be  
24                  clear. You might want to clarify that,  
25                  when it gets to the Commission, because

1           I -- I did not know -- read it that way.

2           Section 11, on Page 4, Paragraphs A, B, C  
3           and D, I don't understand -- I understand what  
4           they mean, so I'm not going to ask you about  
5           that, but why are they under Section 11? They  
6           don't seem to relate directly to Subsection 11  
7           of this section.

8           You might want to look at whether that  
9           belongs organizationally in a different place --

10          MR. AIZENSTAT: For non-municipal  
11           construction?

12          MR. COE: It's non-municipal construction.  
13           It's talking about private development.

14          THE CHAIRPERSON: This is non -- just  
15           take a look at it, just as a drafting  
16           matter. I don't want to -- I don't want to  
17           waste a lot of people's time on this, at  
18           this point.

19          MS. ALFONSIN-RUIZ: It's just tries to  
20           define to developers, under the  
21           non-municipal construction project, what  
22           options they have.

23          THE CHAIRPERSON: Well, it defines a  
24           non-municipal construction project to be  
25           any non-City construction, renovation in

1           Coral Gables in excess of one million  
2           dollars, excluding single family homes, and  
3           the next sentence says, "Developers may  
4           petition to have the public art acquisition  
5           incorporated within their project, provided  
6           there is regular public access at no charge  
7           to the public."

8           I don't know how that has to do with  
9           defining a -municipal construction project.  
10          That was my point. So I think A through D  
11          don't belong in there. That's all I'm  
12          saying.

13          They belong here somewhere, but that's not  
14          the place they belong.

15          I'm trying to do this quickly, so if I  
16          sound rude, I apologize.

17          Throughout here, I noticed that we used the  
18          term construction costs and aggregate project  
19          value as a defined term, but I think you need to  
20          capitalize those wherever you --

21          MS. ALFONSIN-RUIZ: Okay.

22          MR. COE: Is that another friendly  
23          amendment?

24          THE CHAIRPERSON: Yeah or whatever.

25          MR. COE: I would accept that as a

1 friendly amendment.

2 THE CHAIRPERSON: Thank you.

3 Let me see. Okay. I think this has  
4 already been addressed, to some extent.

5 Page 7 of 11, the top of the page,  
6 Paragraph Numbered 1, subparagraph or  
7 whatever, "Projects that cause the  
8 purchase, designation, restoration and  
9 perpetual maintenance of historically  
10 significant buildings," is the word "and"  
11 intended to be used there or do you mean  
12 the word "or"?

13 Could it be any of those or do you have to  
14 do all of those?

15 MR. COE: Or.

16 MS. ALFONSIN-RUIZ: Or.

17 MR. COE: It's a scrivener's error.  
18 I'll accept that as a friendly amendment,  
19 as well.

20 THE CHAIRPERSON: Okay. And the CPI  
21 regulation -- adjustment, we've already  
22 discussed, and that will placed throughout  
23 here, wherever it needs to be.

24 The term educational institution, well,  
25 that's already --

1                   MR. COE: Yes, it's structured now, that's  
2                   deleted.

3                   THE CHAIRPERSON: That's why I'm not  
4                   going to discuss that at all.

5                   And I think -- give me one more second.  
6                   I apologize.

7                   Okay. I think that -- that should do it.

8                   Any other --

9                   MR. AIZENSTAT: At this point, one other  
10                  friendly amendment, if I may, to implement the  
11                  one percent to include what Cathy Swanson had  
12                  said --

13                  MR. COE: Yes, I think that was assumed.

14                  MR. AIZENSTAT: Okay. I didn't know.

15                  MS. MORENO: So we have eliminated any  
16                  exemption for the University of Miami? That is  
17                  completely contrary to what the City Commission  
18                  said.

19                  MR. AIZENSTAT: Well, then they can bounce  
20                  it back.

21                  MR. COE: Actually, I disagree with that,  
22                  Ms. Moreno. I don't think it is. I think the  
23                  City Commission was asking whether or not we  
24                  thought there should be an exemption, and as it  
25                  stands now --

1 MS. MORENO: The way it's written --

2 MR. COE: -- as constituted, it's that it's  
3 not going to have an exemption. Now, we may  
4 vote that down, but that's the way it is right  
5 now.

6 MR. AIZENSTAT: But can't they --

7 MS. MORENO: The way you have it -- the way  
8 you do that, is penalize the University of Miami  
9 for having engaged in an art in an public places  
10 initiative before this ordinance was adopted,  
11 because they don't get any credit for what  
12 they've already done, and that's not right.

13 THE CHAIRPERSON: Let me ask -- let me  
14 ask another question of Eric about all  
15 this.

16 Eric, could the University of Miami Art  
17 in Public Places Program be molded into the  
18 UMCAD approval, so that it's just reviewed  
19 when UMCAD is -- comes up again, instead of  
20 having it as part of this ordinance?

21 MR. RIEL: I wouldn't suggest those be  
22 intermingled, because I just don't see the -- I  
23 think those UMCAD discussions are -- I just  
24 think I would not suggest that.

25 THE CHAIRPERSON: Well, the reason I

1 ask is, I don't think there's a real issue  
2 about whether the University of Miami  
3 complies in spirit with the goals and  
4 purposes of this proposed ordinance.

5 Rather, it's just a question of accounting,  
6 and if it could be rolled into the UMCAD,  
7 maybe that's an easier way to deal with all  
8 this.

9 MR. RIEL: Well, if it's just a  
10 question of accounting, I mean, that's  
11 something that they can just do an annual  
12 report to us, but I would just not like --  
13 I wouldn't want to roll it into that UMCAD  
14 process --

15 THE CHAIRPERSON: Okay.

16 MR. RIEL: -- because the UMCAD process is  
17 to change the plan.

18 THE CHAIRPERSON: Okay. Okay. Fair  
19 enough.

20 MR. RIEL: Okay.

21 MR. COE: Call the question, Mr. Chairman.

22 THE CHAIRPERSON: The question is  
23 called.

24 Any more discussion?

25 MR. RIEL: Mr. Chair, I don't know if you

1           want me to take thirty seconds and just frame  
2           what the changes were. Would you like me to do  
3           that?

4           THE CHAIRPERSON: You're welcome to  
5           try.

6           MR. RIEL: Okay. There was a motion  
7           for staff's recommendation, including  
8           changes -- including the vesting language  
9           that was introduced, including maintenance  
10           language on Page 4, clarifying that that  
11           includes maintenance, insurance, upkeep,  
12           inclusion of language regarding indexing  
13           over time to CPI, clarification language  
14           you asked for on costs, the fact that the  
15           exemption language for educational  
16           institutions will be deleted entirely, and  
17           that -- clarifying the construction costs,  
18           aggregate costs terminology. If I missed  
19           anything --

20           MR. SALMAN: Indexing.

21           MR. RIEL: No, I got the indexing.

22           MS. ALFONSIN-RUIZ: Page 7, Subparagraph 1,  
23           "or."

24           MR. RIEL: "Or", okay.

25           MS. KEON: Cathy, could I ask one question?

1                   THE CHAIRPERSON: We've called the  
2                   question again, so if you want to vote on  
3                   calling -- on whether we can cut off  
4                   debate, to bring it to a vote. There's no  
5                   objection to the question being called,  
6                   we'll move to a vote on the ordinance as --

7                   MR. COE: Amended.

8                   THE CHAIRPERSON: -- as amended.

9                   MS. MENENDEZ: Jack Coe?

10                  MR. COE: Yes.

11                  MS. MENENDEZ: Pat Keon?

12                  MS. KEON: No.

13                  MS. MENENDEZ: Cristina Moreno?

14                  MS. MORENO: No.

15                  MS. MENENDEZ: Javier Salman?

16                  MR. SALMAN: Yes.

17                  MS. MENENDEZ: Eibi Aizenstat?

18                  MS. AIZENSTAT: Yes.

19                  MS. MENENDEZ: Tom Korge?

20                  THE CHAIRPERSON: No.

21                  MR. RIEL: The vote's three-three.

22                  MR. COE: Right.

23                  THE CHAIRPERSON: Three-three? So it  
24                  goes up with a three-three.

25                  That's what it does.

1 MS. MORENO: Now, can I --

2 MR. RIEL: It goes forward as no  
3 recommendation, I believe.

4 MR. COE: It goes as no recommendation.

5 MS. MORENO: Can we make a separate motion?

6 MR. COE: Actually, you want to do another  
7 motion?

8 THE CHAIRPERSON: Yeah, I'll take a  
9 motion.

10 MS. MORENO: What I'd like to do is to  
11 approve it, the changes that were proposed, and  
12 that Mr. Riel has presented, with a blanket  
13 exception for the University of Miami, in  
14 recognition of its contributions to art to date,  
15 not only -- not only by the sculptured garden,  
16 but by the Lowe, by its programming, et cetera.

17 The University has been meeting its obligation  
18 to the cultural development of the City of Coral  
19 Gables for years, and to me, they should receive  
20 an exemption from this requirement and should  
21 not be penalized by having already done it,  
22 because the rest of us haven't done it before.

23 So that's 1.

24 And the second one is, I believe you need  
25 to clarify that if a private developer is using

1           a piece of art to meet the requirement, and he  
2           elects to sell that piece of art, he needs to  
3           replace it with art of a value equivalent to the  
4           exemption that he received.

5           He can do that at any time, whether it is  
6           in connection with the sale of the property  
7           itself or with the sale of a piece of art only.  
8           I think that clarification needs to be made.

9           And I think, just as a point of discussion  
10          for a future date, I would certainly think that  
11          you could have works of art on loan, and that  
12          don't have to be actually owned, as long as you  
13          replace them, but I'm not putting that in the  
14          motion, because that's too -- so my motion is,  
15          all of the other changes, except I've replaced  
16          the deletion of the educational, with a blanket  
17          exception for the University of Miami, and I  
18          request a clarification that if a developer  
19          sells a piece of art, he has to replace it -- he  
20          has the right to sell it, but he has to replace  
21          it with a piece that is of equivalent value or  
22          pay that money into the fund, similar to the  
23          language that you have in the event of the sale  
24          of the building, but also applicable to the sale  
25          of the art.

3 MS. KEON: I'll second it.

4 MR. COE: Call the question.

5 MS. KEON: I have a question. I have a  
6 question I'd like to ask, before the question  
7 gets called.

10 MS. KEON: Rather than just a blanket  
11 exception for UM, would you consider that as  
12 long as they have an art in public places  
13 program in effect, that that would meet --

14 MS. MORENO: Yes. I'll accept that  
15 friendly amendment.

16 MS. KEON: -- rather than just a blanket  
17 exception, as long as they have one and can  
18 provide it, present it, defend it, that that --

19 MS. MORENO: I'll accept that as a friendly  
20 amendment.

21 MS. KEON: Okay.

22 THE CHAIRPERSON: Okay.

23 MS. KEON: What about the issue of being  
24 able to use these funds to participate in  
25 traveling internationally recognized art

1                   programs?

2                   MS. MORENO: I think that's a great idea,  
3                   but I think your -- that is going to require  
4                   more redrafting than we have here.

5                   MS. KEON: Um, I just think it's something  
6                   that they should consider. I mean, would you --  
7                   it's my understanding that we are not -- we are  
8                   not voting on the ordinance.

9                   They asked us to look at it, to make  
10                   recommendations on this ordinance. You know,  
11                   that's something --

12                   MS. MORENO: Simultaneous speaking.)

13                   MR. RIEL: Not true.

14                   MS. KEON: I would like them to look at --  
15                   to look at whether it is appropriate, and I  
16                   think you have boards here that can make that  
17                   determination, that, you know, to consider for  
18                   inclusion --

19                   THE CHAIRPERSON: I think Cristina is  
20                   saying --

21                   MR. COE: Pat, I think that's wrong. I  
22                   think we're voting on the language of the  
23                   ordinance.

24                   THE CHAIRPERSON: And it's probably  
25                   premature, because they haven't really --

1 what you're asking them to do is think  
2 about it and come back with a proposal, as  
3 I understand it.

4 MS. KEON: Well, I think, before it  
5 gets to second reading, I'd like to look at  
6 it and see if it's appropriate.

7 (Simultaneous speaking.)

8 MR. COE: We've already had a reading of  
9 this thing. We've already had -- the Commission  
10 already had Reading Number 1. This is going to  
11 come up for Reading Number 2, and approve it.

12 MS. KEON: The other question -- the other  
13 question that I have is, why would you do it at  
14 permitting, as opposed to when you -- when they  
15 get their CO? Was there a reason why you would  
16 do it at permitting, rather than at CO?

17 MS. ALFONSIN-RUIZ: The Building Inspector  
18 determines, at the time of building permitting,  
19 what the cost of construction is.

20 MS. KEON: Okay. It's just that if you --  
21 and you didn't have any opposition from  
22 developers on that at all?

23 MS. ALFONSIN-RUIZ: No.

24 MS. KEON: I would think it would be an  
25 upfront cost that they would rather delay until

1                   the CO.

2                   MS. ALFONSIN-RUIZ: The -- the code,  
3                   actually, currently reads that construction  
4                   costs are determined by the Building Inspector  
5                   at the time of permitting.

6                   MS. KEON: Right, but I know, like permit  
7                   fees and that sort of thing -- I mean, a lot of  
8                   the other fees are not paid -- are paid at CO.

9                   MR. SALMAN: All -- all impact fees or  
10                  associated fees, contributions, however you want  
11                  to say it, are assessed at the time of permit,  
12                  as determined by the Building Official, as to  
13                  the cost of construction.

14                  He has to be in agreement --

15                  MS. KEON: Right.

16                  MR. SALMAN: -- that the permit is being  
17                  issued, and the costs being assigned are  
18                  comparable.

19                  MS. KEON: Right. They're assessed,  
20                  they're not paid. A lot of them are paid at CO.

21                  MR. SALMAN: That number is used for the  
22                  assessment for those costs.

23                  MS. KEON: Right.

24                  MR. SALMAN: What you're arguing is, when  
25                  do they get paid?

1 MS. KEON: Yeah, I thought that they -- I  
2 thought this said that it would be paid, not  
3 assessed. That's why I'm asking.

4 MR. SALMAN: They're assessed and paid at  
5 the time of building permit issuance, as a  
6 condition for building permit issuance.

7 MS. KEON: I'm going to tell you, they're  
8 not. They're generally paid at CO, for most  
9 impact fees.

10 MR. SALMAN: No.

11 MR. RIEL: No, really, no.

12 MS. MORENO: No.

13 MR. SALMAN: No, that's not correct.

14 MS. KEON: I'm going to tell you, they're  
15 not.

16 MR. SALMAN: That's not been my experience.

17 MS. KEON: It's mine.

18 THE CHAIRPERSON: All right. Any  
19 further discussion on the motion?

20 MS. KEON: No.

21 MS. MORENO: As I understand your  
22 amendment, it's that the University of  
23 Miami will be exempt from this requirement  
24 for so long as it is maintaining an active  
25 art in public places program of its own?

1 MS. KEON: Yes.

2 MS. MORENO: I accept that amendment.

3 THE CHAIRPERSON: Okay. So that --

4 that would the motion, with the friendly  
5 amendment. No further discussion? Let's  
6 call the roll.

7 MS. MENENDEZ: Pat Keon?

8 MS. KEON: Yes.

9 MS. MENENDEZ: Cristina Moreno?

10 MS. MORENO: Yes.

11 MS. MENENDEZ: Javier Salman?

12 MR. SALMAN: No.

13 MS. MENENDEZ: Eibi Aizenstat?

14 MR. AIZENSTAT: No.

15 MS. MENENDEZ: Jack Coe?

16 MR. COE: No.

17 MS. MENENDEZ: Tom Korge?

18 THE CHAIRPERSON: Yes.

19 Okay. So we're done with this.

20 MR. COE: Mr. Chairman, no, I have one more  
21 motion.

22 THE CHAIRPERSON: You want to do  
23 another motion?

24 MR. COE: One more motion. And I fully  
25 agree with Ms. Moreno, that what the University

1           of Miami has done in public art is laudable. I  
2           just don't think they should have a blanket  
3           exception.

4           I, then, therefore, make a final motion and  
5           proposal, that we adopt everything that we had  
6           previously on the table, except we include now  
7           the existing Paragraph 4, on Page 7, dealing  
8           with educational institutional exemptions.

9           MR. RIEL: As drafted by staff?

10          MR. COE: As drafted by staff.

11          THE CHAIRPERSON: Is there a second for  
12           that motion?

13          MR. SALMAN: I'll second it.

14          THE CHAIRPERSON: Second it.

15          Is there any discussion on that motion?

16          MR. COE: Call the question.

17          THE CHAIRPERSON: The question is  
18           called.

19          MS. KEON: Did they -- was there -- there  
20           was an objection. They had an objection to the  
21           restrictive covenant; is that right?

22          MR. COE: Correct.

23          MS. KEON: And they have to have all the  
24           certified appraisals and whatever else?

25          MR. COE: Correct, as drafted.

1                   THE CHAIRPERSON: Okay. Well, let's  
2                   call the question, please.  
3                   MS. MENENDEZ: Cristina Moreno?  
4                   MS. MORENO: No.  
5                   MS. MENENDEZ: Javier Salman?  
6                   MR. SALMAN: Yes.  
7                   MS. MENENDEZ: Eibi Aizenstat?  
8                   MR. AIZENSTAT: Yes.  
9                   MS. MENENDEZ: Jack Coe?  
10                  MR. COE: Yes.  
11                  MS. MENENDEZ: Pat Keon?  
12                  MS. KEON: No.  
13                  MS. MENENDEZ: Tom Korge?  
14                  THE CHAIRPERSON: No.  
15                  Okay. That's it. That's it.  
16                  MR. COE: That's it.  
17                  THE CHAIRPERSON: Next item on the  
18                  agenda, are we going to take Number 7 next,  
19                  Eric?  
20                  MR. RIEL: Yes.  
21                  THE CHAIRPERSON: How long is Item  
22                  Number 8 going to take?  
23                  MR. RIEL: 8? About five minutes.  
24                  THE CHAIRPERSON: Well, let's do that  
25                  one right now.

1                   MR. RIEL: My preference is to go to 7. We  
2                   have a School Board member here that's been  
3                   waiting for this item.

4                   THE CHAIRPERSON: But if it's really  
5                   only going to be five minutes, we may not  
6                   get to it, if we go to --

7                   MR. RIEL: I think we'll get to it this  
8                   evening.

9                   THE CHAIRPERSON: Okay.

10                  MR. RIEL: I'd like to proceed forward with  
11                  this item, figuring the time spent.

12                  THE CHAIRPERSON: Okay.

13                  MR. COE: We're going to do last one?

14                  MR. RIEL: No, we're going to do Number 7.

15                  THE CHAIRPERSON: We're doing Number 7,  
16                  and then Number 8.

17                  MR. RIEL: Go ahead, Javier, do Number  
18                  7.

19                  MR. BETANCOURT: Good evening Mr. Chair,  
20                  Mr. Vice-Chair, Members of the Board. For the  
21                  record, Javier Betancourt, Principal Planner.

22                  You have before you amendments to various  
23                  City regulations to meet State of Florida  
24                  mandated public schools concurrency  
25                  requirements.

1           I'm going to go extra ordinarily quick. If  
2        you need me to spend more time on an item, by  
3        all means, please interrupt me.

4           The easiest way to probably do this is to  
5        simply go through the Staff report packet with  
6        you. You'll see that we're proposing a number  
7        of amendments for your recommendation, including  
8        amendments to the Comprehensive Plan, City Code.

9           We're actually pulling the item that was to  
10       amend the Zoning Code, and we'll bring that back  
11       to you at the next meeting, and, finally, we  
12       have an amendment to the Interlocal Agreement.

13        A lot of the background was provided to you  
14       at your last meeting, so I'm not going to go  
15       over those issues again, but just quickly to  
16       refresh your memory, what we're simply doing is  
17       implementing State mandated requirements for  
18       public school concurrency.

19        In short, these require the establishment  
20       of levels of service for public schools, much  
21       like we have for other public services --  
22       services and facilities.

23        We've been participating in an  
24       intergovernmental effort with DCA, the School  
25       Board, Miami-Dade County and other

1                   municipalities to implement these requirements.

2                   The County has taken the initial steps, and  
3                   is acting as a model for the local governments,  
4                   and our proposed regulations largely mirror the  
5                   County's language.

6                   If you turn to Attachment A in your packet,  
7                   you'll find the proposed Comp Land amendments.  
8                   These will provide for a New Educational  
9                   Element, and revised Intergovernmental  
10                  Coordination and Capital Improvements Elements.

11                  These amendments include goals, objectives  
12                  and policies that promote stronger  
13                  intergovernmental coordination, establish levels  
14                  of service for public schools, establish  
15                  concurrency service areas, allow for proportion  
16                  and shared mitigation options when capacity is  
17                  not available, incorporates the School Board's  
18                  facilities work program into the City's Capital  
19                  Improvements Program, and promotes siting  
20                  standards of compatibility of Public School  
21                  facilities with their surrounding communities.

22                  Attachment B in your packet provides for an  
23                  amendment to the City Code, providing for the  
24                  removal of concurrency regulations in the City  
25                  Code, that are duplicative of identical

1                   regulations that are in the Zoning Code.

2                   In other words, the same regulations are  
3                   currently found in two places, and we want to  
4                   remove them from the City Code, in order to  
5                   avoid any potential inconsistencies or  
6                   conflicts.

7                   Attachment C, again, is the proposed  
8                   amendment to the Zoning Code. That item has  
9                   been pulled.

10                  MR. COE: Has been pulled.

11                  MR. BETANCOURT: Will be brought back to  
12                  you.

13                  And, finally, Attachment D in your packet  
14                  provides for an amendment to the existing  
15                  Interlocal Agreement between the City's School  
16                  Board, and all other local governments in  
17                  Miami-Dade County.

18                  All the changes proposed in this agreement  
19                  are pursuant to State mandated requirements, and  
20                  the entire agreement has to be approved in  
21                  identical form, word for word, by all  
22                  signatories.

23                  Attachment E is an executive summary of  
24                  Public School concurrency and implementation  
25                  efforts.

1                   Attachment F is the minutes from the last  
2                   meeting, at which no review, this item was  
3                   presented by the School Board.

4                   Exhibit G is the School Board's response to  
5                   questions raised at the last meeting, and Vivian  
6                   Villaamil, a School Board Staff, is here to  
7                   answer any question that you might have.

8                   Exhibit C (sic) is a notice that is being  
9                   provided to applicants and developers via the  
10                   Building & Zoning Department, and the City's  
11                   website, that puts them on notice regarding  
12                   concurrency requirements.

13                   Exhibit I provides for DCA required data  
14                   and analysis.

15                   And, finally, Exhibit J is the public  
16                   notice of this agenda item.

17                   These items will be considered on first  
18                   reading by the City Commission on December 11th.  
19                   It will then go to DCA for review. Come back to  
20                   the City for second reading and adoption  
21                   sometime in early 2008.

22                   With that, I conclude my very quick  
23                   presentation, as promised.

24                   I'm available to answer any questions, as  
25                   is staff from the Building & Zoning Department

1 and the School Board.

2 Thank you.

3 MS. SALMAN: To the Chair.

4 To the City's Legal Advisor, my firm  
5 currently works for the -- has as a client the  
6 Dade County Public Schools.

7 Does that present a conflict of interest  
8 for me? I'm sorry for not having brought it up  
9 earlier.

10 MS. ALFONSIN-RUIZ: I'm sorry? Could --  
11 could you repeat --

12 MR. SALMAN: We're currently under contract  
13 with Dade County Public Schools. Does that  
14 present a conflict of interest?

15 MS. ALFONSIN-RUIZ: Not in this situation,  
16 because this is a statutory requirement.

17 MR. SALMAN: Okay.

18 MS. MORENO: As I understand this  
19 presentation, we have no choice. So what's the  
20 purpose of discussing it all?

21 I do want to point out that my concern --

22 MR. AIZENSTAT: That's a good point.

23 MS. MORENO: -- is borne out by the  
24 statistics that they presented to us, which is,  
25 you know, you look at Ponce de Leon Middle,

1           twelve percent of the students reside in the  
2           City of Coral Gables, Coral Gables, fourteen  
3           percent, but -- and what this does is, it says a  
4           developer in the City of Coral Gables cannot  
5           pull a permit if the schools are not -- do not  
6           have seats for those children, but there's  
7           nothing here that says that we're going to get  
8           seats for those children, because we only have  
9           fourteen percent residents.

10           Be that as it may, we're told, it's  
11           mandatory, we have no choice, so let's why  
12           discuss it?

13           THE CHAIRPERSON: Well, the only -- the  
14           only reason for discussing it, and the only  
15           concern I have about doing this in this  
16           manner, as a quick item, is, you know, are  
17           we bound to do it in exactly this way?

18           MR. COE: Yes.

19           MR. RIEL: Yes.

20           THE CHAIRPERSON: Exactly this way? We  
21           can't do anything different than what is  
22           here?

23           MR. COE: (Simultaneous speaking.)

24           MR. RIEL: What has happened is,  
25           Miami-Dade County drafted the regulation.

1                   MR. COE: It's pre-emptive.

2                   MR. RIEL: And what we've gone -- they've  
3                   gone through the DCA, gotten their comments. We  
4                   drafted language that addresses -- attempts to  
5                   address those comments, but, yes, this is the  
6                   model ordinance that other local governments are  
7                   adopting the same.

8                   So we did, you know, do some minor changes  
9                   to adapt it to Coral Gables, but, yes, it is a  
10                  mandated provision.

11                  THE CHAIRPERSON: Well, let me just  
12                  make sure I understand this correctly. If  
13                  we adopt a different ordinance than the one  
14                  that's before us, it would be illegal?

15                  MR. RIEL: No. No. I can't --

16                  MR. COE: The County preempts the City.

17                  You have to correspond to what --

18                  THE CHAIRPERSON: I understand, but I  
19                  asked a very simple question. If we change  
20                  something in this ordinance, we make some  
21                  modifications --

22                  MR. COE: And if it's in variance to  
23                  what the County has done, yes, you can't do  
24                  that.

25                  MR. BETANCOURT: Mr. Chair, if I may. In

1           terms of the Interlocal Agreement, that has to  
2           be adopted word for word, identical with what  
3           other local governments have done, because  
4           everyone is going to be a signatory to the same  
5           agreement.

6           MR. COE: Exactly.

7           MR. BETANCOURT: In terms of the  
8           educational facilities element, there is some  
9           room for tweaking there.

10           We could add, additionally, those  
11           objectives and policies that we feel are  
12           important. In fact, if we've done so,  
13           particularly as it relates to being compatible  
14           with the surrounding communities and whatnot,  
15           but the --

16           MR. COE: That's already in there.

17           MR. BETANCOURT: Right, but in terms of  
18           LOS, concurrency service areas, regulations,  
19           some of the meat of it, more or less, that's got  
20           to be the same.

21           THE CHAIRPERSON: The Interlocal  
22           Agreement, I guess, was drafted by the  
23           County Attorney, and everybody just  
24           conforms?

25           MR. BETANCOURT: It's been an

1           intergovernmental process throughout the  
2           past year and a half. All the local  
3           governments have gotten together, but it's  
4           -- the primary players have been the County  
5           and the School Board.

6           THE CHAIRPERSON: I just wanted -- I  
7           just wanted to be sure that if we -- if we  
8           really don't have true input into this, you  
9           know, changes and so forth, then I'm fine  
10           with just, you know, a pro-forma of  
11           approval, but otherwise we don't have time  
12           for this.

13           MR. COE: With that, Mr. Chairman, I'll  
14           move staff recommendation, based on the findings  
15           of fact contained in this package.

16           THE CHAIRPERSON: Is there a second?

17           MR. SALMAN: I'll second.

18           MR. COE: Call the question.

19           THE CHAIRPERSON: Any discussion? No  
20           discussion, call the roll, please.

21           MS. MENENDEZ: Javier Salman?

22           MR. SALMAN: Yes.

23           MS. MENENDEZ: Eibi Aizenstat?

24           MR. AIZENSTAT: Yes.

25           MS. MENENDEZ: Jack Coe?

1 MR. COE: Yes.

2 MS. MENENDEZ: Pat Keon?

3 MS. KEON: Yes.

4 MS. MENENDEZ: Cristina Moreno?

5 MS. MORENO: Yes, only because I'm  
6 mandated.

7 MR. CHAIRPERSON: Yes.

8 MR. KEON: Yes.

9 MS. MENENDEZ: Tom Korge?

10 THE CHAIRPERSON: Yes.

11 That's done.

12 Sorry to drag you down here.

13 MR. COE: I hope they paid you overtime for  
14 this.

15 MR. RIEL: The last item on the agenda,  
16 Mr. Chair, Members of the Board, is an amendment  
17 to the Zoning Code, Article 3, Division 5,  
18 Planned Area Development.

19 Very quickly.

20 The Commission, in 2005, went out for an  
21 RFK, to look for a public and private  
22 partnership to do adult -- a senior housing  
23 facility on City-owned land. The Commission, in  
24 fact, at Tuesday's meeting, approved, on second  
25 reading, that lease agreement with those

1 individuals.

2 As a part of that, that property owner has  
3 to come through the City of Coral Gables' review  
4 process. They're going to have to do a change  
5 in land use and come to this Board for a site  
6 plan approval via the PAD requirements. And the  
7 reason they're doing a PAD, because a PAD allows  
8 flexibility, and, you know, an adult care  
9 facility is something that's unique to the  
10 community. One of the things that we found out  
11 when they started to doing their analysis was,  
12 there were two provisions of the code that  
13 caused concern to them.

14 One was the minimum lot depth and the other  
15 was the fact that the parcels had to be  
16 contiguous.

17 These parcels that the City is in  
18 partnership with, are separated by Andalusia  
19 Avenue.

20 So we suggested alternative language that  
21 only allows for an exception to that contiguous,  
22 if it's an adult facility or affordable housing,  
23 and we're also suggesting that the lot depth be  
24 reduced from what is currently 200, to 100 feet,  
25 and that would be available to all PADs, and the

1           reason for staff supporting that is, if you're  
2           doing a PAD in the CBD, you look at the half of  
3           the block depth, it's typically 100 feet. It  
4           would be very difficult for someone to get a  
5           200-foot lot depth.

6           So we're suggesting these two changes to be  
7           made to the current code.

8           THE CHAIRPERSON: Eric, could I ask you  
9           a quick question?

10           MR. RIEL: Sure.

11           THE CHAIRPERSON: Is this something  
12           that could be handled with the application,  
13           when it comes to us, or should it be done  
14           beforehand?

15           MR. RIEL: We would like to have it  
16           done before, because obviously the property  
17           owner would like the assurance that they  
18           could proceed forward. I can tell you the  
19           site plan will be before this Board in the  
20           next month or two.

21           THE CHAIRPERSON: Yeah. Okay.

22           MS. MORENO: I move to adopt.

23           MR. COE: Second.

24           THE CHAIRPERSON: Is there any  
25           discussion? Yes.

1                   MR. SALMAN: I have a problem with  
2                   extending it to affordable housing. We're  
3                   making an exception here that we may not  
4                   want to live with later. I would limit it  
5                   only to this particular use.

6                   MR. AIZENSTAT: You would only limit it to?

7                   THE CHAIRPERSON: ALFs.

8                   MR. SALMAN: ALFs.

9                   MS. MORENO: I do not accept that  
10                  amendment.

11                  MR. COE: Okay. Call the question,  
12                  Mr. Chairman.

13                  THE CHAIRPERSON: Any further  
14                  discussion?

15                  MR. AIZENSTAT: Yes. Could I ask why  
16                  you're saying that?

17                  MR. SALMAN: Because we've got a series of  
18                  parcels of land to the south of us that are  
19                  going to be either developed as affordable  
20                  housing or have major affordable housing  
21                  components, which would qualify them under this  
22                  amendment, and as such, we may not want to have  
23                  that privilege extended to them.

24                  I'm thinking about some large pieces of  
25                  property and some smaller ones down there.

1                   THE CHAIRPERSON: But why? I mean, why  
2                   wouldn't --

3                   MR. SALMAN: Because this is a case by  
4                   case basis. This is about a project. It's  
5                   too project specific, because this is the  
6                   property behind Miracle Mile, I believe,  
7                   and the parking lot on the other side of  
8                   Andalusia --

9                   MR. RIEL: Yeah.

10                  MR. SALMAN: It is very site specific, and  
11                  you're providing a blanket change to the code.

12                  THE CHAIRPERSON: I see. So --

13                  MR. SALMAN: I think it's much more  
14                  specific to the use. I have no problem  
15                  with either the project or the need for the  
16                  change, and the assurance from this Board  
17                  that they are going to get it, however I  
18                  would like to limit it to this specific  
19                  project, rather than go back into the code  
20                  and monkey with that, because we are going  
21                  to deal with the consequences later and I  
22                  don't think we've had the time to digest  
23                  this thing in its entirety as to what the  
24                  possible implications in the rest of the  
25                  City are going to be.

1                   THE CHAIRPERSON: If you want to offer  
2                   that as an amendment, and you can get a  
3                   second, then it can be considered.

4                   MR. SALMAN: I offered it as an  
5                   amendment to limit it only to ALFs.

6                   MS. MORENO: No.

7                   MS. COE: Mrs. Moreno did not accept it.

8                   THE CHAIRPERSON: He can offer it as an  
9                   unfriendly amendment.

10                  MR. SALMAN: I offer it as an  
11                  unfriendly amendment.

12                  MR. AIZENSTAT: Cristina, and I ask you  
13                  why --

14                  MS. MORENO: Because I think that it's  
15                  indispensable that we create affordable housing  
16                  in the City of Coral Gables and anything that  
17                  would promote that, I'm in favor of it.

18                  MR. AIZENSTAT: Do you think that people  
19                  look at affordable housing, to benefit them, and  
20                  not really what is, quote/unquote, affordable  
21                  housing?

22                  MS. MORENO: I am trusting that when we  
23                  define affordable housing facilities, we will  
24                  deal with that issue.

25                  MR. COE: It's an ordinance.

1                   MR. AIZENSTAT: You feel comfortable with  
2                   that, Eric?

3                   MR. RIEL: Yes.

4                   MR. COE: There is a second.

5                   MR. RIEL: We feel comfortable, because  
6                   there's criteria, there's minimum criteria in  
7                   this, and, also, PAD is discretionary,  
8                   conditional use review, so it's got to come to  
9                   this Board, no matter what. So the Board has  
10                  the opportunity --

11                  MR. AIZENSTAT: Javier, if it comes to the  
12                  Board --

13                  MR. SALMAN: Then I withdraw.

14                  MR. COE: Mr. Chairman, call the question.

15                  MR. RIEL: PADs are only through this Board  
16                  and the Commission approval.

17                  THE CHAIRPERSON: Okay. So -- the  
18                  proposal as presented by the staff is on  
19                  the table for vote. Would you call the  
20                  question, please?

21                  MS. MENENDEZ: Eibi Aizenstat?

22                  MR. AIZENSTAT: Yes.

23                  MS. MENENDEZ: Jack Coe?

24                  MR. COE: Yes.

25                  MS. MENENDEZ: Pat Keon?

1 MS. KEON: Yes.

2 MS. MENENDEZ: Cristina Moreno?

3 MS. MORENO: Yes.

4 MS. MENENDEZ: Javier Salman?

5 MR. SALMAN: Yes.

6 MS. MENENDEZ: Tom Korge?

7 THE CHAIRPERSON: Yes.

8 Anything else?

9 MR. RIEL: That's it.

10 THE CHAIRPERSON: We are adjourned.

11 When is the next meeting?

12 MR. RIEL: December 12th.

13 THE CHAIRPERSON: Thank you.

14 (Thereupon, the meeting was concluded at 8:30

15 p.m.)

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1 C E R T I F I C A T E

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3 STATE OF FLORIDA:

4 ss.

5 COUNTY OF MIAMI-DADE:

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9 I, NIEVES SANCHEZ, Court Reporter, and a  
10 Notary Public for the State of Florida at Large, do  
11 hereby certify that I was authorized to and did  
12 stenographically report the foregoing proceedings  
13 and that the transcript is a true and complete  
14 record of my stenographic notes.

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16 DATED this 23rd day of November, 2007.

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NIEVES SANCHEZ