

City of Coral Gables City Commission Meeting
Agenda Item E-2
January 14, 2025
Police and Fire Headquarters
2151 Salzedo Street, Coral Gables, FL

City Commission

Mayor Vince Lago
Vice Mayor Rhonda Anderson
Commissioner Melissa Castro
Commissioner Ariel Fernandez
Commissioner Kirk Menendez

City Staff

City Manager, Amos Rojas, Jr.
City Attorney, Cristina Suárez
City Clerk, Billy Urquia
Planning and Zoning Director, Jennifer Garcia

Public Speaker(s)

Edward Baker
David Hartnett
Francisco Senior
Elsa Alica Espino
Carlos Sosa
Turner McKinley
Everett Glines
Jackson Holmes

Agenda Item E-2 [4:06 p.m.]

An Ordinance of the City Commission granting Conditional Use for a Building Site Determination approval pursuant to Zoning Code Article 14, “Process”, Section 14-202.6, “Building Site Determination” and Section 14-203, “Conditional Uses” to

City Commission Meeting

January 14, 2025

Agenda Item E-2 - Ordinance of the City Commission granting Conditional Use for a Building Site Determination approval to separate two single-family building sites on the property zoned Single-Family Residential (SFR) District, legally described as Lots 11, 12, 13 and 14, Block 119, Riviera Section #10 (5810 Maggiore), Coral Gables, Florida; one building site consisting of Lots 11 and 12 (north parcel), and the other building site consisting of Lots 13 and 14 (south parcel).

separate two (2) single-family building sites on the property zoned Single-Family Residential (SFR) District, legally described as Lots 11, 12, 13 and 14, Block 119, Riviera Section #10 (5810 Maggiore), Coral Gables, Florida; one (1) building site consisting of Lots 11 and 12 (north parcel), and the other (1) building site consisting of Lots 13 and 14 (south parcel); including required conditions; providing for a repealer provision, severability clause, and providing for an effective date.

Lobbyist: Edward G. Baker

Mayor Lago: All right, moving on to Item E-2.

City Attorney Suárez: E-2 is an ordinance of the City Commission granting conditional use for a Building Site Determination approval pursuant to Zoning Code Article 14, "Process," Section 14-202.6, "Building Site Determination" and Section 14-203, "Conditional Uses" to separate two single-family building sites on the property zoned Single-Family Residential District, legally described as Lots 11, 12, 13, and 14, Block 119, Riviera Section #10, 5810 Maggiore, Coral Gables, Florida; one building site consisting of Lots 11 and 12 (north parcel), and the other one building site consisting of Lots 13 and 14 (south parcel); including required conditions; providing for a repealer provision, severability clause, and providing for an effective date.

Mayor Lago: Good afternoon, sir.

Edward Baker: Good afternoon. Clerk, if we could get the presentation up, please.

City Clerk Urquia: It's up.

City Attorney Suárez: Mr. Clerk, this is a quasi-judicial item, so we can please swear in anyone who will be testifying today.

City Clerk Urquia: Those who will be appearing on this item, please stand and raise your right hand. The right hand, sir. Do you swear or affirm that the testimony you'll provide today will be the truth and nothing but the truth?

Mr. Baker: I do.

Commissioner Menendez: And by the way, for the record, I've had communications with people involved in this matter.

City Attorney Suárez: With the applicant or others?

Commissioner Menendez: With the people, the residents that are involved in the community.

City Attorney Suárez: Understood.

Commissioner Fernandez: I did as well. They came to my office hours.

Mr. Baker: Sorry, Clerk, this appears to be the presentation of staff. We had put forth a presentation as applicant.

City Attorney Suárez: Jennifer, do you know which number it is on the...? (INAUDIBLE).

Mr. Baker: I can get started while that gets sorted, not to waste any more time here. Eddie Baker, 1450 Brickell Avenue, representing the applicant, Legacy 5810, LLC. We're before you today for a conditional use application. This is to allow for the subdivision of a property at 5810 Maggiore Street. This property is 20,006 square feet, and hopefully, once we get the presentation up, I'll just show you an aerial. But if you can imagine, it's a corner lot. It abuts three rights-of-way, and it's the only home -- rather, property on Maggiore Street that fronts Maggiore Street that only has one home. All the other properties along Maggiore Street consists of two, at the very least, and some even have three homes on pretty much a 20,000 square foot lot. So, what we're proposing is to divide the lot immediately in half, have two resulting lots of 10,003 square feet. The proposed design, which of course, this application is before you with a site plan tied to it, the design, of course, went before the Board of Architects, and they did approve the design with respect to the density of the proposed homes. We're not looking to build the highest, most dense home possible. We're suggesting, or rather proposing, open or green space of 54 percent, where only 40 percent is required. The impervious coverages were about 5 to 10 percent below the maximum, and same for lot coverage. So, again, we're not building the highest and greatest density at each of these proposed lots. There also are no variances being requested. So, that's kind of the short of the proposed sites when divided. And I'd like to show you some illustrations and elevations, but nonetheless, some of the -- some of the requirements of the code, right? You need to do an analysis of the properties within a thousand feet, because the purpose is to really establish whether or not the two resulting lots would be in keeping with the neighborhood. So, we did a study of all the properties within a thousand feet of the subject property, and 60 percent of the lots within the area had 10,000 square feet or less. So, we're slightly above that at 10,003 square feet each. With respect to the frontage, which is another condition to approval of this conditional use application, we are proposing a hundred foot. So, here's the aerial, if we go back. So, you'll see there it's on the west side of Maggiore Street. If you look at the blocks to the north, fronting Maggiore, if you look to the blocks to the south fronting Maggiore, all of them have two homes. This is the only one pretty much from the Chinese Village all the way south that has one home that fronts Maggiore Street. So, it's a very unique site along with the fact that it has three right-of-way frontages or abuts three rights-of-way. So, these are some of the percentages that I had just noted to you before. Lot coverage, we're proposing 31 percent and 32 percent, where 35 percent is allowed. With respect to impervious coverage, proposing 35 and 37, where a maximum of 45 is allowed. But

most importantly, green space, right? We're not building to the highest possible lot coverage. We really want to create a lush landscaping for each of the resulting lots, which is in keeping with the other homes on Maggiore Street. These are some of the percentages I just noted. Most importantly, the first two, because those first two are part of the criteria that must be satisfied for the Commission to make a decision as to whether or not this subdivision should be approved. And again, as I just noted before, the only property fronting Maggiore Street that has one home. So, neighborhood support, as you can imagine, we went -- or not as you can imagine, but rather as required by the code, we had our community meeting. There was about 10 homeowners in attendance. There were a couple people that were not in support of the application, but the large majority liked the design. Subsequent to the community meeting, we did community outreach. These little green stars, those are all of the people that support this application. Overwhelming support, 50 letters of support from the community.

Mayor Lago: May I ask you a quick question? I'm sorry to interrupt you. Did you get any opposition to the project?

Mr. Baker: Yeah, I was just going to touch on that.

Mayor Lago: Thank you.

Mr. Baker: Sure. You'll probably hear from the gentleman today. He represents the abutting property owner, contiguous and adjacent to our property. The concern, at least what was expressed at the community meeting, was that you're going to build a two-story home. We could build a two-story home whether we were before you today or whether we went through the alternative, which I will touch on in a few minutes. So, whether a home is one story or two story, that's within the confines of the code, and we are well allowed to build a two-story home. I appreciate the fact that sometimes a neighbor is going to be impacted more so than the 50 other people that support it, but the reason why they support it is because of this. This is what could be built there. This is a 7,000 square foot lot coverage on a 20,000 square foot lot. This could be built absent approval of the Board of Architects, which again, is largely related to the design and features, not to the scale and density. This is an as-of-right development. We wouldn't be before you today. This is 7,000 square feet across four plotted lots, two stories, so we're talking approximately 14,000 air-conditioned square feet. Completely out of context with the neighborhood. That's not what we're proposing. We're proposing something that's been supported by 50 people in the community because it's in keeping with the landscape, in keeping with the streetscape. We're proposing two homes, obviously, very different. There's the massing. Nobody wants that, but that is likely what would have to happen because there's nothing else that could be built there. And as you'll see right now, I'll just touch on the existing home. So, it was built in 1947. Unlike what we were discussing in the prior matters before you, this is not deemed historical. I received a letter from Historic Preservation deeming so. And over the last or within the last month and a half, I believe it was, we had a structural engineer perform an inspection on this property. And I'll just highlight the items that are bolded and underlined because I think those are the most important. Significant

deferred maintenance with degradation of key building components apparent. And then the final sentence, the building's exterior envelope, structural systems, as well as mechanical, electrical, plumbing and roofing systems appear all to be in poor condition and have long surpassed their estimated useful life. Based on the age and level of deterioration, a complete demolition and replacement is the most practical approach to result in a safe and usable structure. So, this home was built in 1947. It's had some additions done over the last 75 plus years, and it's somewhat of a Frankenstein house, has different structural and roof systems, and it's just not something that could be renovated. It needs to be demolished. So, if it's going to be demolished, there's the two options. What we're presenting to you today, or what I just showed you on a couple slides before. Whether the applicant decides to build something of that scale, I cannot, you know, guarantee it, but that is absent, again, the approval of the Board of Architects, that's what they could build as of right. So, moving on to the next slide, you'll here -- see here the illustrations, elevations of the two proposed homes. This is the northern two lots, which would be what we call the Marmore property, a traditional Florida vernacular. Again, went before Board of Architects and was approved. And then you have the next slide, you have a traditional Mediterranean style for the property to the south. Next slide, please. So, neighboring properties, again, just kind of touching on what I mentioned before for one of the people that had been in opposition to this application was the concern of a two-story home. The Planning and Zoning Board staff also mentioned, oh, there's, you know, this neighborhood has one-story homes. Well, here's homes in the immediate vicinity, two-story homes, they're prevalent. They're not non-existent. The proposed design and architectural style are also in keeping with, as you can see, with what's been built in the area. And if you look at these homes, I'm sure you can see that the large majority of these have been built probably in the last 10 to 20 years. And that's because the architectural style has changed, the prohibitive cost of building a two-story house as opposed to 60 years ago or 70 years ago has changed. So, people prefer two-story homes with a larger green space and less lot coverage. It's just a changing style and design. Next slide, please. I just have the site plans to just kind of show you the layout. The driveways will be on the side streets with the frontages along Maggiore Street. If you see there, little squares to the east or right of the pool deck, that is the mechanical equipment. Those were previously along the lot lines, obviously, within the required setbacks, but given some of the concern with noise of the neighbors, we moved those closer to the properties. Next slide, please. And that goes for the Daroco property as well. Next slide, please. This is just the frontage of Maggiore Street, right? 200 feet of frontage. Again, each property with 100 feet of frontage. So, before I start talking about the code and the criteria for satisfaction of a building site determination, I wanted to bring to your attention a matter that was before this Commission that I believe the Mayor was a commissioner at the time for. It was a property located at 6009 Maggiore Street, right down the street from this property. Very similar situation, very similar facts, but the difference was that property was 15,000 square feet. Ours is 20. So, we have a larger property, we're proposing larger resulting lots, and in that situation, the Commission found that the applicant had satisfied the criteria, whereas the staff report had opined that the criteria was not met. So, I put that before you so that you understand that the prior Commission made a determination as to whether that criteria had been met. And I am going to be asking you today to make a determination as to whether that criteria has also been met. So, let me just touch on the code, if you could please

go to the next slide. So, I've highlighted the most important of the four criteria. So, there's four criteria that must be satisfied. And the fourth criteria really has three sub criteria. So, I'll just touch on the four that -- or the three that are not up on the presentation because there's been no disagreement between the applicant and staff that those have been satisfied. First being that the building site created would have a lot area equal to or larger than the majority of the homes within 1,000 feet. As I noted before, we are at, or 60 percent of the homes within 1,000 feet have a lot size equal to or less than our property. Exceptional or unusual circumstances exist that are site-specific such as unusual site configuration or partially plotted lots. Again, 20,000 square foot lot, nothing comparable in the area. It's, I believe, the only lot that abuts three rights of way. And then third, that the proposed building site maintains and preserves open space and specimen trees. Again, 54 percent of the lot that we're proposing would be preserved for green space, promotes neighborhood compatibility. Again, the design as I showed in the elevations is very much similar to the other properties in the neighborhood and also the percentages kind of speak for themselves in terms of whether this conforms with the other properties in the neighborhood. And then most importantly, the fourth criteria. So, this is the fourth criteria. And to satisfy this fourth criteria, you need to meet two of the three. Earlier, or I guess now 2024, earlier in 2024, this criteria was a subject of a text amendment that I'm sure you all are aware of and remember relating to removing a restrictive covenant as one of the requirements. So, the -- at least my understanding from City Attorney's Office was that the -- or the criteria of having a restrictive covenant, or not having rather a restrictive covenant was superfluous because this Commission would otherwise be approving whether or not this subject site could be released, or rather, divided. So, in effect, that would allow for the restrictive covenant to be released. For this subject property, the restrictive covenant said that it may be released by approval of the City, in other words, the City Commission. So, that criteria had been removed. So, now we're faced with two -- satisfying two of these three criteria. So, first of which -- Can we go back to the last slide? Sorry. First of which is that the street frontage is equal to or larger than the majority of the buildings, or rather, sites within a thousand feet. So, I noted before, 79 percent of the properties in the area have 100 square foot frontage or less. So, we're pretty well beyond that number. And then the second criteria, whether the existing structure would become non-conforming as it relates to setbacks, lot area, lot width, depth, ground coverage, et cetera. The voluntary demolition of a building or structure within the last 10 years, which eliminates any of these conditions identified in this criterion, shall result in non-compliance with this criterion. So, we are of the position that this home is in such a state of disrepair and has not been maintained for likely decades that this is not really a voluntary demolition. We're coming before you to ask for permission rather than coming back and asking for forgiveness. This is a property that we very well, upon purchasing, could have demolished this home, and then we would have had to come before you to make the determination as to whether that was a voluntary demolition, which would have, obviously, obviated our satisfaction of this code, or whether was that a voluntary demolition. So, I just want to kind of lay the groundwork for what I'm going to go into, which is a bit of a statutory interpretation. I want to just also outline the fact that this -- this criteria was formulated and the purpose of it was to disincentivize developers from coming into the City, looking at a property that had a perfectly good, perfectly useful, beautiful home, buying it, knocking it down, and building two new homes. Those facts are

so far removed from this subject property. This is a property -- and the structures that are thereon -- that has been completely neglected. I don't know that I would raise to an eyesore. I'll let the public touch on that. But again, it's a Frankenstein house that's been kind of mashed -- mishmashed together, to use words from earlier. And that's kind of where it stands. So, the structural engineer said that it's really cost prohibitive. There's no alternative. We're not going to keep this structure there and live in it or have anybody live in it because it's just not something anybody would want to live in. I'll just touch on one other item in the code, which isn't outlined here, but the conditions of approval. It's within this section, it says, if an application is recommended for approval, the City Commission may prescribe conditions, restrictions, or safeguards deemed necessary to satisfy the provisions with this section. Number one, single-family residence -- I'm paraphrasing here, not to read every sentence or word -- but the new single-family residences constructed shall meet all applicable requirements of the Zoning Code. No variances shall be required. Again, we've proffered site plans, no variances. We've met all the zoning requirements. The plans depicting the site plans and elevations as part of the conditional use application shall be made part of the approval. And most importantly, the third requirement. A bond shall be required as determined by the building official to ensure the timely removal of any non-conformities as a result of the building site separation approval. So, the code has already contemplated that in the event that you all as a commission approve this building site determination and there is a situation where a nonconformity exists, which is what happens here because there is a home that is on -- across lot lines, that if you approve this application would in effect be nonconforming because it didn't meet setback requirements. But this home is going to be demolished. We could have demolished it before. We chose not to. We chose to come before you first for your input, and hopefully and respectfully, support of this application. But again, there is a mechanism in the code, if you were to approve this application, to impose a requirement that a bond be posted by the applicant in the event that there are any non-conformities that, of course, could create some type of legal ramifications for the City. So, that's kind of all I wanted to touch on for the Zoning Code with respect to that specific requirement. Again, let me just quickly go through the definition of voluntary demolition because it is a term that is defined in the code. If you can move to the next slide, please. Voluntary demolition means the act or process of wrecking, destroying, or removing any building or structure or any part thereof that has not occurred as a result of any disaster. In other words, if it has occurred as a result of a disaster, then it's not a voluntary demolition. And that's what we have here. We have a disaster that occurred that wasn't voluntary, it wasn't natural, it wasn't a hurricane, it wasn't a tornado, it wasn't man-made, somebody didn't break a pipe, create a flood that destroyed the house. No, this was a disaster that was created for a lack of care and maintenance for a property that's become derelict and unlivable. I'll just go to the next slide and won't bore you with this, but hopefully, the City Attorney will appreciate the canon of presumption of consensus usage. There's five different references in the Zoning Code to disaster. Four of the five references explicitly describe disasters as either natural or man-made. So, the absence of natural or man-made from this section infers that such disaster is not limited to natural or man-made, but rather, any type of disaster. Next slide, please. And here...

Mayor Lago: Sir, I'm sorry to interrupt you. How many more slides do you have?

Mr. Baker: This is it.

Mayor Lago: Okay.

Mr. Baker: Disaster, someone or something that's in a very disordered state, something that has very bad effect or result. So, you'll hear from the public, again, 50 letters of support. I'm sure some people here are in opposition, but I think largely the reason for us putting forward this application is because what we're proposing is really in keeping with the neighborhood. We respectfully request your support, and if I also could reserve some time for rebuttal.

Mayor Lago: Thank you, sir.

Mr. Baker: Thank you.

Mayor Lago: Mr. Clerk.

City Clerk Urquia: We still have the presentation from staff, Mr. Mayor.

Planning and Zoning Director Garcia: Good afternoon. Jennifer Garcia, Planning and Zoning Director. If I could have my PowerPoint, please. That's the first one you brought up.

(COMMENTS MADE OFF THE RECORD)

Planning and Zoning Director Garcia: Can you not hear me?

Vice Mayor Anderson: It is a little difficult to hear you.

Planning and Zoning Director Garcia: Oh, I'm sorry.

Vice Mayor Anderson: Check it out.

Planning and Zoning Director Garcia: How's that? Is that better?

Unidentified Speaker: You have to get really close.

Vice Mayor Anderson: You've got to get really close to the mic.

Planning and Zoning Director Garcia: My goodness, okay. I'll put it down my throat. How's that?

Vice Mayor Anderson: That's much better.

Planning and Zoning Director Garcia: Perfect. So, as we know that this property is on Maggiore between Marmore and Daroco. It is on the west side -- sorry, the east side of the block. The future plan use -- the future land use designation is single-family low-density, and the zoning is single-family residential. You can see here in the aerial it's a very mature built-out neighborhood, and it's very unique along this whole length of Maggiore that connects between the Chinese Village down south to basically the French Country Village. It is the only block that's facing Maggiore that has one building site. Every other block side facing Maggiore has two or sometimes three building sites facing Maggiore. And it's a picture of the existing house right now as it sits. So, as you know, a building site separation has to come before the Commission when it's not meeting of criteria to separate it administratively. So, this is a site plan they're proposing. They're proposing two building sites. Right now, it's just one building site. They're proposing two, a north and a south building site. They're just two single-family homes with driveways exiting out on the north and south street. This is a comparison of what they could build on the very, I guess, left column. They could build a 7,100 square foot house, meeting all the setbacks, of course, in the maximum square footage. They're proposing two houses, a north parcel and a south parcel, more or less 4,100 square feet, of course, meeting open space and setback requirements. This is a rendering looking west at the two buildings. This is the north house and the south house, both approved by the Board of Architects. And this was reviewed by DRC back in June of last year, Board of Architects approval back in August. They had a neighborhood meeting with the neighborhoods - - the neighbors within a thousand feet of the property in September. The Planning and Zoning Board reviewed it, recommended denial back in November of last year, and here we are for first reading. Letters to the property owners were sent within a thousand feet of the property. And that was sent four times for neighborhood meeting as well as Planning and Zoning Board meetings, and today's meeting today, as well as property was posted many times, four times; website was posted, newspaper advertisement, as well as our email to subscribers. And our recommendation is denial based on the criteria. As you know, our criteria in our Zoning Code to separate lots is very stringent, very strict. They meet the first three criteria. They are proposing building sites that are equal to or larger than the majority of the sites within the neighborhood. I think, I believe, it's around 60 percent larger. It is an unusual property along Maggiore. It's a large property. It has three abutting streets. And they also do maintain, and they go well beyond the minimum open space. So, it's very compatible with the neighborhood as well. It's the last criteria that we have to meet, two of the three that staff's finding are not recommending approval based on not meeting the second or the third of those three criteria. (INAUDIBLE). Okay, thank you.

Mayor Lago: Thank you.

Commissioner Castro: So, it sounds to me like what you're trying to say is that the only reason that we didn't approve this was because it didn't meet criteria. But from a planning perspective, it makes sense.

Planning and Zoning Director Garcia: So, yes, as far as urban design goes, it makes sense along Maggiore because it's the only property that has one -- sorry, only block that has one building site facing Maggiore. As you can see from the study that they've done, it is meaning majority of the building sites in the area, as well as the length of the property, the frontages along the streets. It's just our code is very stringent as far as meeting that criteria.

Commissioner Castro: Okay.

Mayor Lago: Okay. Mr. Clerk?

City Clerk Urquia: Public comment, Mr. Mayor?

Mayor Lago: Yes, sir.

City Clerk Urquia: First speaker is David Hartnett.

Mayor Lago: Good evening, sir.

David Harnett: Good evening, honorable Mayor, Commissioners. My name is David Hartnett, and I represent my mother, Katherine Hartnett, who has lived at 510 Marmore. That is the property that directly abuts the subject property that's applied for here on the Marmore side just to the west. I'm the attorney of fact for her and a lawyer as well. And Ms. Hartnett has lived at 510 Marmore since the purchase of the property in 1965 with her husband, James Hartnett. James was a son of the former Mayor of Coral Gables, Fred Hartnett. James died in July of 2023. Catherine is 86 and still lives at 510 Marmore. I write to oppose the conditional use application for subdividing 5810 as requested and further oppose the attempts for an application to demolish and remove the existing single-family residence in order to then subdivide and build 2 two-story single-family residence on the existing property. The Planning and Zoning Board previously voted unanimously 7-0 to recommend denial of the application. The staff report also recommends denial of the application because it does not satisfy the criteria of the Coral Gables Zoning Code. My previous November 11, 2024 letter in opposition was submitted to the Planning and Zoning Board, and I think you approved the minutes related to that today. It's attached there. I did not see it attached to any of the public comments as part of the agenda. The subject property is also subject to declarations of restrictive covenants from 1982 and 1983, recorded at Book numbers 11474, page 207, as well as the amended one is Book number 11760, page 606. They restrict the subdivision of the property. Let me say that again. The restrictive covenants entered in the 1980s restrict the subdivision of the property. At the time the application was apparently submitted in early to mid of last year, 2024, the criteria for conditional use application included consideration of whether the property was subject to restrictive covenants, encroachments, easements, or the like existed to prevent the separation of the site. And I think Mr. Baker has mentioned that. That's in sec -- that was in Section 14-202.6(f)(4) of the Coral Gables Zoning Code, in effect as of June of 2024. My understanding is you amended that code, and so now there are only three criteria in subsection

four. We submit the application was defective at the time for the failure to meet three out of the four criteria and should have been rejected. We further note that the Coral Gables Zoning Code also states in 202.6(e)(3) that where a single-family residence is removed, no permit can be issued for construction of more than one building on the building site. Similar provisions exist in other places in the code as well. And the applicant's proposed demolition of the existing home that physically sits on three of the four platted lots should also lead the City to reject the application. I noted for the first time it's been submitted that engineering report that was discussed today that was not in the presentations that I'm aware of that I reviewed either to staff or at the Planning and Zoning Board. As the applicant submittal mentions, in the 2020 -- the September 24, 2024 letter that's attached as part of the staff report before you, it appears the applicant first requested to subdivide the property in 2023. It was advised on December 22, 2023 that the subject property could not be subdivided. Notably, this was before the applicant purchased the property and closed on it on January 26, 2024. My point there is they were already told that it was not subject to being subdivided. We agree with the staff report recommending denial of the application for the criteria expressed in the report. Additionally, contrary to the applicant's original submittal, we submit that the restrictive deeds are valid. And I cite a case, the Calusa Country Club case out of 2026 [sic] from the 3rd District Court of Appeal holding that restrictive covenants recorded in compliance with government-imposed condition of a land use approval was not a title interest subject to the Extinguishable or the Marketable Title Act. Part of that case, the City of Coral Gables submitted an amicus brief at the time defending its right in 2015 to uphold its own restrictive covenants. It was a passionate amicus brief and I believe supported what ultimately became the decision which held that the MRTA did not apply to the -- to the public restrictive covenants. The City of Coral Gables should uphold its restrictions that were imposed through an agreement by the property owner at the time in the 1980s. Mrs. Hartnett and the neighborhood have an interest in the City of Coral Gables maintaining those restrictions. Given that Ms. Hartnett's property abuts the applicant's property, the 3rd District Court of Appeal recently recognized in 2023, she has an interest that is measured greater than the general interest in the community. And that's another part of the Calusa versus Miami-Dade County case of 2023. Additionally, Mrs. Hartnett also opposes the application to build 2 two-story buildings that are not in keeping with the one-story ranch designs that are generally in the area. The proposed structures to the north side of the Maggiore property, which would abut my mother's property, would tower over her property, block her view to the east, and apparently, remove a live oak tree that's approximately 30 feet high, and that's after the owners closed on the property and trimmed it back a little bit. The proposed new homes of four bedrooms each will presumably increase the density and use of the property, including expected addition of the amount of persons and cars and traffic on the streets, as well as other land use issues. Additionally, the proposed buildings we submit would not comport with the neighborhood but would rather give the appearance of an apartment condominium style building in a neighborhood of ranch houses for the most part. There is also nothing in the plan submitted that we have located that would identify where septic tanks will be located, which is a particular concern regarding the potential leaking onto Mrs. Hartnett's property to the immediate west of the avenue. We disagree with the staff's report as to its assessment item under the 202.6(f)(3) that the proposed site maintains and preserves open space and specimen trees and promotes neighborhood

compatibility. Rather, the proposed plans eliminate the north side open space of the current property and replaces open spaces with new building that did not exist. We respectfully request that you uphold your restrictive covenants, apply the building code, and deny the application. I have four other points very quickly. Mr. Baker referenced a previous application that was at 6009 Maggiore, which is the street just north of Hardee in between Caligula. To my knowledge, I reviewed the record, I reviewed the hearings that are available on the agenda of the City of Coral Gables website. There were no restrictive covenants at the time. That was a 1920s house that had fallen into disrepair that they were arguing at the time that would have to be forcibly, involuntarily demolished because of the condition. The fact that they brought up here now for the first time some structural report of which I have not had the benefit of seeing, but I'm sure the expert has opined on it. It didn't dissuade them from listing the property for rent over the past year until they took it down a couple months ago. So, I don't know whether the applicant's telling you that they were trying to rent a house that is so in disrepair that couldn't be used, or whether they're just saying that they're using a report now to argue that it should be torn down now. The last thing that I would point out about that 6009 Maggiore, which was a house owned by Mrs. Hunt, she had died. It went into the trustee. Mayor Lago, I believe you were on the Commission at the time that considered that back in 2013. It came up with no recommendation one way or the other from the Planning and Zoning Board, who had voted 3-2 to deny the application, but because it didn't have four votes, it didn't come up with a recommendation to do that. So, in summary, we'd ask that you uphold the restrictive covenants. The only other point that I would make is that apparently most of those letters that the applicant references, they canvassed the neighborhood, and this is after the Planning and Zoning Commission. I was in touch with at least one neighbor that is directly on the Daroco southeast corner of Maggiore and Daroco, Laura Marandino, who had requested that she -- her person -- her name be removed from supporting it. She was told by Mr. Baker, at least she advised me, that her name would be removed, (INAUDIBLE). And she reported to me that she exchanged emails with Kara Kautz at the City and forwarded the information to the Clerk's Office. I don't know whether that was taken, but between that and the property directly across it, who I believe will speak also in opposition as well. Thank you again for your consideration.

Mayor Lago: Thank you very much. Mr. Clerk?

City Clerk Urquia: Francisco Senior?

Francisco Senior: Good afternoon, neighbor.

Mayor Lago: Good afternoon.

Mr. Senior: My name is Francisco Senior. I'm proud to be a resident since 1961. I want to share my thoughts about the application of Legacy 5810, LLC being presented to the City Commission. For the last few years, I've seen how many of our residents have not been happy with some of the developments that have been approved in the past. Long-time residents are the ones that helped

build Coral Gables, be what it is today. Moving forward, we should be cautious and take into consideration that residents will be affected by splitting this building site in two, allowing two homes to be built to pretty much the max. They will have more square feet than if only one house is built on this site. I definitely would not -- would not like to live in the immediate radius around the proposed development if this were approved. If I'm not mistaken, these restrictions on already built sites and the unity of title required for obtaining a building permit were imposed probably in the late '70s. In 1980 for sure, because I signed a unity of title in 1980 in my house. So, for a reason -- and they did that for a reason, to preserve the neighborhood appearance by preserving larger properties to be demolished and be split into smaller sites. Residents want to preserve their neighborhood. Mistakes have been made in the past, but we should try not to do them again. Like, you know, I'm referring to the other house in Maggiore, I think, between Caligula and Savona. That was a mistake. It didn't even look like houses. It's very close to the Dutch Village, so, you know, it's at the other end. But you know, I think it was really not Coral Gables, because that house that was an -- you know, it's an old -- very old house, it didn't have roof tiles. So, I don't know exactly what the history on that house, but that was split. Okay. I agree with the Planning and Zoning staff report and with the final decision of the Planning Board last November to deny the separation of the building sites. The applicants do not meet all the requirements to divide the property, no voluntary demolition within 10 years, and no -- not owning the property for 10 years or more. I hope a decision is made in this case to think as you live -- if you live in any of the two lots behind the property or close by, how would you feel? What impact would it do to their lives and their property value? Most of the houses in Maggiore are only one-story homes with a few that are two stories, but not that big. If I'm not mistaken, previous zoning limited the square footage on the second floor years ago. The existing two-story houses that are really big are basically at both ends of Maggiore, the Chinese Village on the north and the Dutch Village on the south. The location of the proposed development of two houses built to the -- to that max -- pretty much to the max is not located in either end. It is not in balance with the rest of Maggiore Street. The splitting of the lot for two homes between Caligula and Savona about eight years ago was a mistake. They don't even look like homes. Let's learn from the past. The LLC that purchased the property knew that it was a single -- considered a single building site because of the existing footprint of the house and the unity of title. They can build one home on the property, but two is not a right. The lot street frontage is similar in the neighborhood, but the proposed development is not. It is not in tune with the rest of the neighborhood, and it would look out of place, just like the two houses in Maggiore between Savona and Caligula. I heard there has been some people going around the neighborhood trying to get signatures, but whatever they got is not the general feeling about the neighborhood, because I've been a lot longer than them. With due respect, I ask the Commissioners to consider all the facts with the residents' concerns in making the decision on this application that would split the present site into two sites. Finally, I hope this will follow the same path as the Planning Board denial along with the vision the City had when these restrictions were enacted over 40 years ago. Thank you so much.

City Clerk Urquia: Elsa Alicia Espino? No? Carlos Sosa? Oh, sorry.

Elsa Alica Espino: I'm sorry (INAUDIBLE). I've been sitting a long time. I just came to disagree. I do not want the buildings to have two-story, two buildings there. We've never had that many tall buildings. I've also lived in that area. First, I lived on Gerona, now I live on Bargello. And I drive down that street and there is a monster house on the other side of Marmore now and Maggiore. It would be horrible to have on the other side of Marmore another double story house with two. So, it would be like a big monster house on Marmore and a big monster house on Daroco. So, I would hope that you vote against it. And thank you and I hope everybody has a happy new year and lots of good things for this year.

Commissioner Menendez: Thank you.

City Clerk Urquia: Carlos Sosa.

Mayor Lago: Good afternoon, sir.

Carlos Sosa: Good afternoon. I live right in front of the two houses that are supposed to be built in Maggiore. I haven't seen the deterioration of the existing house as was described today. And I have looked at the information as far as square footage and the look of the house. And I would prefer that the one lot condition remains and not the two houses. I think the spirit of the area would be more maintained. Thank you.

Mayor Lago: Thank you, sir.

City Clerk Urquia: Okay. I'm going to go with Turner McKinley, 600 Biltmore Way.

Turner McKinley: Good afternoon.

Mayor Lago: Good afternoon.

Mr. McKinley: Happy New Year. I'm Terrence McKinley. I live at 600 Biltmore Way, Unit 901. More importantly to this matter, I'm a native of Coral Gables. And as I was growing up in my formative years, I spent a lot of time in the neighborhood where this property is. Many friends, many family members, still some acquaintances and family members that live in the area. I took a look at the proposed development, and in my opinion, it is not inconsistent with everything that's there already. The lot size, the proposed lot size is within the parameters of what's there. As was mentioned, two-story buildings are in that subdivision. And according to earlier reports, a lot of the other specifications of the proposed development meets the criteria that exists in the area. So, as such, in my opinion, I would encourage you to approve the application.

City Clerk Urquia: Everett Glines.

Mayor Lago: Thank you.

Mayor Lago: Good afternoon, sir.

Everett Glines: Good afternoon. My name is Everett Glines. I'm the developer of the two properties that have been mentioned, 6001 and 6009 Maggiore. I happen to reside in 6001. I did develop two-story houses on those two lots which were subdivided and happened to be previously owned by Jeanette Hunt, the previous zoning director for the City of Coral Gables, or previous, previous, previous zoning director. I dealt with her estate. I dealt with the Commission. I was nudged around a lot, even though there was no property on that -- on that site that would stand up for more than a month, let alone a hurricane coming through. And so, Jeanette's family agreed to sell me that property, and I got the permission to subdivide with a fair amount of work, particularly on the architectural design end. I happen to be an architect. We based ourselves and still do in Coral Gables. We happen to have empathy for the Mediterranean design. We did the Coral Gables Hyatt, but we also understand that there are transitional projects, like the Douglas Center, which we also did. I have some empathy for the surrounding properties because this particular site, if it's subdivided, is going to be considerably larger than the two that I developed. And as a result, it's going to have two houses that are considerably larger. I have an email here from the lady that lives -- lady and gentleman that live immediately east of them and on Daroco, or west, I should say. They have objected -- I'd be happy to pass this around -- because what is proposed is inconsistent, incongruent with the neighborhood, the scale of the neighborhood, and relatively the '60s and '70s architecture that exists in this neighborhood. I understand that there are a few other homes that have done pop-up two-stories. I think that terminology is well known around the community. There are others that managed to do two-story homes on larger sites, but I'm not aware of other properties that have actually subdivided and gotten two, I'll call them, Mediterranean-ish homes done. I also know that this has gone through several bouts with the City in order to get those homes to actually conform with something that is more Mediterranean. I have looked with the Zoning and Planning directors at the previous proposals, and I'm kind of surprised to find that they have moved in that direction. So, it's *comme ci, comme ça* from my point of view, other than the fact that there is this incongruent scale and density that they provide to the City -- to the community, which, again, when I talk to my neighbors, they don't like, and I don't like. We were actually fortunate to have the homes at 6001 and 6009 pushed around by this board and by the Architects Review Board until we provided a step-down quality to those homes so that the scale didn't offend people at the street level. We have hedges and walls and gates to the street. And the house then steps back to balconies and terraces and finally up to the second story roof. I don't see much of that in these proposals, and I think that that would be something that would maybe have me come around and be more in favor. But at this point, as an architect, as somebody that graduated from the University of Miami and has lived my entire life since then, I've got to object. And I leave that with you. Happy New Year, folks.

Mayor Lago: Thank you.

City Clerk Urquia: Jackson Holmes.

Jackson Holmes: So, I wonder how well you all know or remember James Hartnett. He was an amazing guy because I used to come to City Commission meetings and there were at times only two citizens sitting in the audience, right? Me and him. Now I just found out he died, so I'm a little bit upset, but here's why I'm taking up your time. He was here for a solid 10 to 15 years, attending virtually every meeting. Now here's the remarkable thing. Think about this. He never, that I remember, he never asked the City for anything. He was just in the audience attending. He never asked for anything. So, I'm sorry he's left us, but on his behalf, I'm asking you to do what his son is asking, what the City is asking. Thank you.

City Clerk Urquia: That's it, Mr. Mayor.

Mayor Lago: So, what is the will of the Commission?

Commissioner Castro: Besides that, it didn't meet criteria, what did the Board say about this when they were discussing it for denial?

Planning and Zoning Director Garcia: The Planning and Zoning Board, I'm assuming?

Commissioner Castro: Yes.

Planning and Zoning Director Garcia: So, there were some concerns about the two-story houses and how it's a built-out mature neighborhood that was built in the mid-century that's mostly of ranch-style houses. So, there was concern about the two-story.

Commissioner Castro: But if that doesn't get approved, aren't they still allowed to build a massive two-story house?

Planning and Zoning Director Garcia: Yes.

Commissioner Castro: So, what would be better?

Planning and Zoning Director Garcia: Yes, as approved by the Board of Architects. I don't want to put words in their mouth.

Mayor Lago: But if you look at the -- but if you look at the -- for example, if you look at the exterior of the building, the façade, you're allowed a two-story building by right, correct?

Planning and Zoning Director Garcia: Right.

Commissioner Castro: Right.

Mayor Lago: How many square feet are you allowed if it was a 20,000 square foot lot to build there?

Planning and Zoning Director Garcia: I believe a 7,100 square feet.

Mayor Lago: No, no, 7,000 -- it's not 7,000 because you got to add the second floor on top. So, it would be 14,000 and change, correct?

Planning and Zoning Director Garcia: I think it's 7,100.

Mayor Lago: It's a two-story building. The footprint would be 7,000. The footprint would be 7,000 and you got to add -- you got to stack.

Commissioner Castro: Yeah, almost 15.

Mayor Lago: You got to stack on top. So, you have a footprint and a footprint. So, it's -- you're allowed by the code as of right a two-story building, and you're allowed 15,000 square feet on the lot.

Planning and Zoning Director Garcia: I think I had a slide for that. I think it was 7,100 square feet.

Mayor Lago: In the entire property?

Planning and Zoning Director Garcia: The square footage.

Mayor Lago: So, you're allowed to build 3,500 square feet. Let me tell you how it doesn't make sense. My home is almost 3,000 square feet. I'm on a 10,000 square foot lot on San Amaro. If I could build a second story, there has to be a way that you can either -- it's more square footage. You understand?

Commissioner Castro: Livable.

Vice Mayor Anderson: Yeah. More FAR.

Mayor Lago: Yeah, more FAR. So, my point is that the square footage is -- we're talking about we're building one home for 5,000 and change square feet, correct?

Commissioner Castro: Um-hmm.

Mayor Lago: And then we're building another home for 5,000 and change? That's 10,000 square feet together if you split the lots. But if you build a 20,000 -- if you allow a 20,000 square foot lot

and you're going to build now, if you're concerned about second stories and you're concerned about the actual FAR of the property, explain to me what happens if you're allowed to have a 20,000 square foot lot.

Planning and Zoning Director Garcia: So, remember, in our single family zoning, we have a sliding scale, right?

Mayor Lago: I understand.

Planning and Zoning Director Garcia: So, smaller properties are allowed to have more square footage or more FAR than larger properties. As you have a larger property, you have less and less percentage of the property being built out.

Mayor Lago: I understand.

Planning and Zoning Director Garcia: So, right now the existing house with I think is 30 -- I'm sorry, 3,900 square feet. They could be 3,151 square feet.

Mayor Lago: How much?

Planning and Zoning Director Garcia: Today. 71 -- 7,151.8.

Mayor Lago: So, that's the max they can build on a 20,000 square foot lot?

Planning and Zoning Director Garcia: Right.

Mayor Lago: With two stories.

Planning and Zoning Director Garcia: Mm-hmm.

Mayor Lago: Okay, and if it's split down the middle and you have 2,000 square foot lots, what are the...?

Planning and Zoning Director Garcia: 4,100 square feet.

Mayor Lago: Per home.

Planning and Zoning Director Garcia: Right.

Vice Mayor Anderson: Per home.

Mayor Lago: So, it's 8,200.

Planning and Zoning Director Garcia: Correct.

Mayor Lago: Okay. What would the setbacks be on that property?

Planning and Zoning Director Garcia: The same, 25 feet.

Mayor Lago: So, 25.

Planning and Zoning Director Garcia: Per setback.

Mayor Lago: So, whether it's a 20,000 square foot lot or it's a -- or it's a 10,000 square foot lot, the setbacks are still the same.

Planning and Zoning Director Garcia: Correct.

Mayor Lago: Okay. You told me that 60 percent of the homes in the area have a 10,000 square foot lot?

Planning and Zoning Director Garcia: Yes.

Mayor Lago: Or roughly around that?

Planning and Zoning Director Garcia: Correct. I think 79 percent of them have a similar width of frontage.

Mayor Lago: Okay. Can you refresh my memory on the property that I voted on on Maggiore that the gentleman, the developer said -- you know, came and spoke about; he's here. What was the outcome of that? You said it was 15,000 square feet?

Planning and Zoning Director Garcia: Yes, it's a little bit smaller. It's a little bit different because I think they were partially platted lots. It was a single-family house that's on partially platted lots.

Mayor Lago: And if I remember, it was around a rotunda, correct?

Planning and Zoning Director Garcia: And they went through a replat process.

Mayor Lago: It was around a rotunda?

Planning and Zoning Director Garcia: No.

Mayor Lago: Was it around a rotunda?

Planning and Zoning Director Garcia: No, it was just a couple blocks south.

Mayor Lago: Okay. And what was the outcome? The lot was split?

Planning and Zoning Director Garcia: Yes.

Mayor Lago: And two homes were built?

Planning and Zoning Director Garcia: Right, and replatted as well, yes.

Mayor Lago: Okay.

Planning and Zoning Director Garcia: To face Maggiore.

Mayor Lago: Okay.

Planning and Zoning Director Garcia: And I guess it was 1,500 -- 15,000 square feet.

Mayor Lago: So, it was...

Planning and Zoning Director Garcia: I don't remember that detail, but...

Mayor Lago: So, it was what, 7,500, 7,500?

Planning and Zoning Director Garcia: I guess so.

Mayor Lago: Split down the middle or so. Okay, Madam Vice Mayor.

Vice Mayor Anderson: The prior one that was split though met the criteria of the -- the ordinance, correct? Staff didn't recommend denial.

Planning and Zoning Director Garcia: On 60 -- 6001, that address? The property -- the...

Vice Mayor Anderson: Not the one...

Planning and Zoning Director Garcia: The precedent south of us or...?

Vice Mayor Anderson: Yeah, yeah.

Mr. Baker: May I?

Planning and Zoning Director Garcia: Yeah, go ahead.

Vice Mayor Anderson: And for the record, I did receive letters. I just was traveling. I just looked at them now.

Mr. Baker: If I can just answer your question and then follow up with some rebuttal on some of the public comment in opposition. With respect to 6009 Maggiore, which was the address of the property prior to this Commission approving the subdivision, it came before the Planning and Zoning Board, and it came before the City Commission with a recommendation of denial. The purpose or the reason why it was a recommendation of denial from the Planning and Zoning Board was that they didn't have the requisite votes to approve. There was only three, I guess, at least through review of the minutes, there was a very poor attendance that night for whether that was on purpose or who know what the reason was. But in the City Commission minutes, the Commission did determine that the criteria was met despite not having a recommendation of approval from Planning and Zoning, nor a recommendation of approval from staff.

Mayor Lago: So, they only had three votes in yes? But they had -- it was 3-2?

Mr. Baker: Three to two, I believe, was accurately represented.

Vice Mayor Anderson: So, that's a little different than what we're dealing with here because here we have two out of the criteria that paragraph B and C, that staff says do not satisfy the criteria. The current property only purchased the property in January 2024, so you didn't -- so the applicant hasn't had it for the minimum of 10 years. And the building -- and the one prior to that says the building site separated or established would not result in any existing structures becoming nonconforming as it relates to setbacks, lot area, lot width, and depth, and lot coverage, and any applicable Zoning Code provisions. The voluntary demolition of a building or structure within the last 10 years, which eliminates any one of these conditions identified in this criterion, shall result in a noncompliance with this criterion. And that's why staff recommended to reject the application. We just relaxed the code a little bit. This was brought by Ms. Castro to relax the code to allow long-time residents that have been here for 10 years because the whole purpose of this code was to discourage developers from coming in and doing lot splits, you know. So, we have an existing code, and the existing code doesn't allow for this type of a lot split to occur. Please explain to me why we should deviate from this code as opposed to amend it.

Mr. Baker: The first point with respect to the non-conformity after an approval. Same situation happened. There was an existing home. It was in a derelict state that hadn't been maintained. And upon approval, it was also nonconforming. But the purpose or the reasoning that the Commission proffered was that it was not a voluntary demolition. It was a demolition that was involuntary. It was required because of the state of the existing home. And that's a very similar situation to what we have here. So, the Commission, in 2013, made a determination that that B,

little B, was met because the applicant was not voluntarily demolishing the existing structure that was creating the nonconformity.

Vice Mayor Anderson: Was that evidence put on before the Planning and Zoning Board?

Mr. Baker: Are you asking me about the prior application?

Vice Mayor Anderson: No, this application.

Mr. Baker: No, because this report didn't become available until the beginning of December.

Vice Mayor Anderson: What is staff's position on voluntary demolition on this site?

Planning and Zoning Director Garcia: So, we did not receive it until this morning. We did not hear about it until last week, so we have not really thoroughly reviewed what was submitted as far as the state of the home. However, it's the Commission's discretion if they feel that this is volun -- not voluntary demolition.

Vice Mayor Anderson: Well...

Planning and Zoning Director Garcia: Staff will always interpret the code more strictly than the Commission can, of course, so the Commission can make a determination.

Vice Mayor Anderson: This is new evidence.

Planning and Zoning Director Garcia: Right.

Vice Mayor Anderson: You haven't had an opportunity to review it.

Planning and Zoning Director Garcia: Correct.

Vice Mayor Anderson: Okay. My preference is staff needs to have an opportunity to review it rather than trying to make a ruling essentially on something that you haven't seen.

Planning and Zoning Director Garcia: Yes.

Vice Mayor Anderson: We haven't seen. It's just a statement. There's no evidence in front of us.

Commissioner Castro: Is there any possibility with the new evidence to take it back to the Planning and Zoning Board to see what --? Maybe they have a change in criteria?

Planning and Zoning Director Garcia: Yeah, that's up to the Commission if they want to put it back to the Planning and Zoning Board. That's perfectly (INAUDIBLE).

Commissioner Castro: I will move to...

Vice Mayor Anderson: Yeah.

Commissioner Castro: I will move to...

Vice Mayor Anderson: Yeah, that's consistent. I would move it. You want to second it?

Commissioner Menendez: And before we do that...

Vice Mayor Anderson: I'll have staff do their evaluation.

Commissioner Menendez: I have a quick question regarding what was mentioned earlier, restrictive covenant. Could you perhaps go a little bit more detailed into that because that's I think one of the pieces of the puzzle?

City Attorney Suárez: Yes. So, the Commission has -- there are existing restrictive covenants. The Commission has the authority to release those covenants, which is why when Commissioner Castro sponsored her ordinance a few months ago to change the criteria, one of them involved the restrictive covenants. And we determined, or the Commission determined that it was appropriate to eliminate that as one of the criteria because the Commission could consequently, as part of this approval, authorize the release of that covenant.

Mayor Lago: Okay, so we have a motion and a second.

Commissioner Fernandez: No, I have a couple of comments.

Vice Mayor Anderson: Sorry, we forgot about you.

Commissioner Fernandez: I'm easy to forget. I have serious concerns with the size of what is being proposed. You're currently allowed 7,150 square feet and you're proposing almost 8,300. Looking at the massing of the two homes side-by-side, it looks like a massive complex. I also have serious concerns with the fact that the neighbors are really not on board. You can have 100 signatures from residents 10 blocks away or who don't even live in the area, but if the neighbors adjacent to this property do not believe that this should be changed, that's a serious concern for me. I drove through the neighborhood. I've seen the sizes of the homes, and most homes in the area are one-story homes. We're not talking about these mega mansions of 4,200 square feet or 4,100 square feet, whatever is being proposed. I -- you know, I would support the motion to remand it back to Planning and Zoning, but I would be a no today if we had to take a vote.

Mayor Lago: All right, so we have a motion and a second.

Commissioner Castro: Yes.

Commissioner Fernandez: Yes.

Commissioner Menendez: Yes.

Vice Mayor Anderson: Yes.

Mayor Lago: Yes.

(Vote: 5-0)

Mayor Lago: Thank you.