

PZB Minutes re: DYL Merrick with
Attachments A thru H

Exhibit F

City of Coral Gables
Planning and Zoning Board Meeting
December 10, 2008
Coral Gables City Commission Chambers
405 Biltmore Way, Coral Gables

Members:	J9	F13	M12	A9	M14	M28	A13	O8	N12	D10	Appointed by:
Eibi Aizenstat	P	E	P	P	P	E	P	E	P	P	City Manager
Robert Behar	P	P	P	E	P	P	P	P	P	P	Commissioner Rafael "Ralph" Cabrera, Jr.
Jack M. Coe	E	P	P	P	P	P	P	P	P	E	Mayor Donald D. Slesnick, II
Jeffrey Flanagan	X	X	X	X	X	X	X	P	P	P	Commissioner Maria Anderson
Pat Keon	P	P	E	P	P	P	P	P	E	P	Planning & Zoning Board
Tom Korge	P	P	P	P	P	P	P	P	P	P	Commissioner Wayne "Chip" Withers
Javier Salman	P	P	P	P	P	P	P	P	P	P	Vice Mayor William H. Kerdyk Jr.

P = Present

E = Excused

City Staff:

Eric Riel, Jr., Planning Director
Walter Carlson, Asst. Planning Director
Scot Bolyard, Planner
Jill Menendez, Adm. Assistant
Elizabeth Hernandez, City Attorney
Lourdes Alfonsin, Asst. City Attorney
Ed Weller, Building & Zoning Director
Martha Salazar-Blanco, Zoning Official
Carlos Mindreau, City Architect
Dulce Conde, Zoning Technician
Alberto Delgado, Public Works Director
Kevin Kinney, Parking Director

Court Reporter:

Joan Bailey

(See attached Verbatim Transcript of Planning and Zoning Board Meeting
prepared by Joan L. Bailey & Associates)

Attachments:

- A. 12.10.08 Planning and Zoning Board Meeting - Verbatim Minutes.
- B. 12.10.08 Attendance/Speaker Sign In Sheets.
- C. Letter to Elizabeth Hernandez from Vincent E. Damian, Jr. dated 12.05.08.
- D. Letter to Elizabeth Hernandez from Mario Garcia Serra dated 12.05.08.
- E. Document entered into the record by Eric Riel: Miami Daily Business Review - Notarized copy of the Notice of Public Hearing published on 11.25.08.

December 10, 2008 - Planning and Zoning Board Meeting

Page 2

- F. Document entered into the record by Jose Gelabert Navia, Perkins & Will – Building Setback 8'-0" from property line at south LeJeune and façade stepping at corner of LeJeune and Granello.
- G. 10.08.08 / 11.12.08 Planning Department DYL PowerPoint Presentation.
- H. 10.08.08 / 11.12.08 Applicant DYL PowerPoint Presentation.
- (Note: Attachments I thru M are related to Agenda Item # 6 – Menoyo).
- I. Document entered into the record by Eric Riel – 11.08.06 City Commission matrix request for additional information/further review pursuant to 10.17.06 meeting.
- J. Document entered into the record by Eric Riel - 12.12.06 City Commission matrix request for further review.
- K. Document entered into the record by Eric Riel – Zoning Map: 50' Setback from SFR and/or MF1 Properties.
- L. Document entered into the record by Bob de la Fuente and Santiago Echemendia (A thru L).
- M. Document entered into the record by Bob de la Fuente and Santiago Echemendia – Drawings prepared by de la Guardia Victoria Architects & Urbanists, Inc./Menoyo Properties, dated 12.10.08.

12.10.08 Verbatim Excerpts of PZB
Meeting Minutes

Attachment

A

25

1 MR. BOLYARD: Yeah.
2 MR. AIZENSTAT: I'm sorry?
3 MR. BOLYARD: Yeah, that's correct.
4 We're just increasing the amount of
5 required architects.
6 MR. BEHAR: I think that's a great
7 idea. I make a motion to approve.
8 MR. AIZENSTAT: It makes a lot of
9 sense.
10 MR. FLANAGAN: Second.
11 CHAIRMAN KORGE: A motion and a
12 second. Any discussion?
13 None?
14 Call the roll, please.
15 MS. MENENDEZ: Eibi Aizenstat?
16 MR. AIZENSTAT: Yes.
17 MS. MENENDEZ: Robert Behar?
18 MR. BEHAR: Yes.
19 MS. MENENDEZ: Jeff Flanagan?
20 MR. FLANAGAN: Yes.
21 MS. MENENDEZ: Tom Korge?
22 CHAIRMAN KORGE: Yes.
23 MR. BEHAR: Those architects are
24 very valuable.
25 CHAIRMAN KORGE: Item Number 12,

26

1 Zoning Code Text Amendment, Article 5,
2 Division 8, "Docks, Wharves, Mooring
3 Piles and Watercraft Moorings."
4 MR. BOLYARD: This request --
5 sorry. This request is for a text
6 amendment to permit an additional set of
7 davits for single-family or duplex
8 properties that have a minimum water
9 frontage of 200 feet. This item was
10 first approved by the Planning and
11 Zoning Board on November 14, 2001, and
12 was approved on first reading by the
13 City Commission on January 9, 2002.
14 However, the item was inadvertently
15 omitted from the second reading, as it
16 was grouped with nine other text
17 amendments. We're just trying to get it
18 to proceed forward now.
19 CHAIRMAN KORGE: Is there a motion
20 on this?
21 MR. AIZENSTAT: Well, just a
22 question, if I may. How do you treat
23 properties that might have currently,
24 let's say, davits and some kind of a
25 floatation system for another boat?

27

1 MR. BOLYARD: Well, currently,
2 you're only permitted one set of davits,
3 watercraft lifts or floating watercraft
4 lifts, and that's it.
5 MR. AIZENSTAT: So it's currently
6 that. Have you had a lot of problems
7 with that issue?
8 MR. RIEL: No.
9 MR. AIZENSTAT: No?
10 CHAIRMAN KORGE: I doubt if anybody
11 notices.
12 CHAIRMAN KORGE: Is there a motion?
13 MR. AIZENSTAT: Just a boater.
14 CHAIRMAN KORGE: Is there a motion?
15 MR. AIZENSTAT: Yes, I make a
16 motion.
17 CHAIRMAN KORGE: There's a motion.
18 MR. BEHAR: Second.
19 CHAIRMAN KORGE: Seconded. Any
20 discussion?
21 Let's call the roll, please.
22 (Thereupon, Ms. Keon arrived.)
23 MS. MENENDEZ: Robert Behar?
24 MR. BEHAR: Yes.
25 MS. MENENDEZ: Jeff Flanagan?

28

1 MR. FLANAGAN: Yes.
2 MS. MENENDEZ: Eibi Aizenstat?
3 MR. AIZENSTAT: Yes.
4 MS. MENENDEZ: Tom Korge?
5 CHAIRMAN KORGE: Yes.
6 For the record, Pat Keon has
7 arrived.
8 Pat, we have approved Items 7
9 through 17, and we were waiting for you
10 to start on Old Business, which are
11 Items 5 and 6, the development on
12 LeJeune and Ponce.
13 So we're going to proceed to Items
14 5 and 6. Are we taking these together?
15 MR. RIEL: No, they're separate.
16 CHAIRMAN KORGE: Oh, I'm sorry, 6
17 is the proposed settlement agreement.
18 MR. RIEL: Yes.
19 CHAIRMAN KORGE: And 5 is the site
20 plan review and vacation of public
21 alleyway. So we'll start with Number 5?
22 MR. RIEL: Yes.
23 CHAIRMAN KORGE: Application Number
24 06-08-076-P.
25 MR. RIEL: As you know, Mr. Chair,

29

1 this was considered at the last meeting.
2 We did include public input at the last
3 meeting. The Board, at nine o'clock,
4 adjourned. Therefore, the item was
5 continued to this evening's meeting.

6 So Staff is prepared to answer any
7 questions you may have, however you
8 would like to proceed.

9 CHAIRMAN KORGE: Well, if there's a
10 motion, one way or another, I'll take
11 the motion. If not, we'll open it for
12 Board discussion and questions.

13 MR. BEHAR: Mr. Chairman, if I
14 recall, in the last meeting, the Board
15 had expressed some concerns with the
16 project. I just want to bring up the
17 architect to find out if anything has
18 been done since the last meeting, and I
19 remember that one of the issues that
20 came up was the setback on LeJeune Road,
21 and I want to see if they have
22 addressed -- if anything has been done
23 in regards to that matter.

24 MR. AIZENSTAT: Or even if there's
25 any changes.

30

1 CHAIRMAN KORGE: Or any other
2 changes, for that matter, I guess, yes.

3 MR. DAMIAN: Mr. Chairman, if I
4 might, I have a point of order that I'd
5 like to address before any testimony is
6 taken from any witnesses.

7 CHAIRMAN KORGE: Well, we're not
8 taking any more testimony. We really
9 wanted to hear if there were any
10 proposed changes, in light of what had
11 been presented, and then we would open
12 it up again if there are changes. So
13 we're not -- I'm not -- we're not
14 interested in taking any more testimony
15 at this time.

16 MR. DAMIAN: The point of order is
17 this.

18 CHAIRMAN KORGE: Okay.

19 MR. DAMIAN: At the end of the last
20 meeting, when the meeting was adjourned
21 because of time and it was to be reset
22 on December the 10th, I had requested at
23 that time that notice of this meeting be
24 mailed, published and posted, just in
25 case there was going to be anything

31

1 further, and so that the residents of
2 the affected area would have an
3 opportunity to be here during the public
4 hearing.

5 We were told two things: First,
6 that there was no need to do publishing,
7 posting or noticing, because this was
8 not the kind of hearing that required
9 it, that previously it was done just as
10 a matter of consideration and it was
11 optional and didn't need to be done, and
12 in fact, we are here today at this
13 meeting and no publishing has taken
14 place, no posting has taken place, no
15 letters to the affected residents has
16 taken place, and if you'll notice,
17 there's nobody here.

18 The statement -- the information
19 you received as to the requirement for
20 posting of a public hearing was
21 incorrect. The Code does require any
22 public hearing to have a publishing and
23 a posting. It is not optional; it's
24 mandatory. And I think that the
25 decision made, not to republish and not

32

1 to post, was incorrect. This is a
2 public hearing and it continues, and it
3 is not an optional point. It is one
4 that is required by the Code.

5 The importance of this comes up
6 because the public hearing continues.
7 The very fact, Mr. Chairman, that you
8 would call upon the applicant again, to
9 clarify, make a statement of any sort
10 whatsoever, shows that the public
11 hearing portion, that the public -- the
12 right to talk is continuing here, right
13 now, and I think it was improper --

14 MR. BEHAR: Very simple,
15 Mr. Chairman, then, excuse me. Then I
16 will retract the request to get the
17 applicant to come up, and I will make a
18 motion based on the last meeting that we
19 had, a motion to approve the project as
20 presented then.

21 CHAIRMAN KORGE: But before I take
22 your motion and see if we have a
23 second --

24 Liz, do we have any -- What is your
25 position or where do we stand respecting

33

1 notice?

2 MS. HERNANDEZ: We received the
3 positions of all the parties, including
4 the Planning Department, and it was the
5 position of our office that there was no
6 legal requirement for additional
7 publication or posting.

8 However, that always leaves the
9 Chair and the Board, if you decide that
10 it is in the interests of due process or
11 you feel that it is appropriate, you can
12 always direct the Director to continue
13 this matter and publish notice, if you
14 feel it's appropriate, under the
15 circumstances. It is absolutely within
16 your province, because there is, as far
17 as my office is concerned, no legal
18 issue, and all the objections are
19 preserved in the event of an appeal.

20 MR. RIEL: And just for a matter of
21 record, the agenda was published two
22 weeks in advance. The agenda was posted
23 at City Hall, the agenda was posted
24 online, as well as all the information
25 presented to the Board is posted online,

34

1 as well.

2 CHAIRMAN KORGE: And at the last
3 meeting, everybody was told that we
4 would continue it at the next meeting.

5 MR. RIEL: At the last meeting, the
6 public hearing was continued to this
7 point, this meeting specifically, and
8 the Department policy is, on continued
9 meetings, we do not renote, repost.
10 If the item is deferred, we do, because
11 if the item is deferred, it's not
12 considered that evening. So our opinion
13 is, the hearing was continued,
14 therefore, we do not send out notice.

15 CHAIRMAN KORGE: Okay. Well, I'll
16 accept your motion, if there's a second.

17 MR. DAMIAN: I haven't finished my
18 point of order, if I may.

19 CHAIRMAN KORGE: Okay, go ahead.

20 MR. DAMIAN: First, the comment by
21 Mr. Riel that the agenda was posted here
22 at City Hall does not answer the
23 requirements of the Code. The Code only
24 has three requirements that's in the
25 Code for Planning and Zoning hearings:

35

1 Posting on the property, mailing to the
2 affected persons, and publication in a
3 newspaper. None of those things were
4 done, so the fact that you may have done
5 it online or anywhere else does not
6 satisfy any of those requirements.

7 The second thing is that Mr. Riel
8 made a statement to this Board which
9 also affects the public hearing point,
10 and the statement that he made -- and it
11 was in direct response to one of the
12 questions, and that is, does the
13 applicant, as a matter of right, have
14 the right to do a mixed-use development
15 on this property, and is this just site
16 plan approval?

17 This is not site plan approval. If
18 somebody has the zoning and the right to
19 build, they go to the Building
20 Department, they get site plan approval.
21 The ordinance that adopted the mixed-use
22 overlay on this industrial property --
23 and that's what this is, is industrial
24 property, zoned industrial and
25 commercial. The ordinance that adopted

36

1 the mixed-use overlay on this says,
2 Section 8(e), that approval, site plan
3 approval by the City Commission, and
4 that ultimately is who's going to do the
5 site plan approval, is not mandatory, it
6 is discretionary, and you are bound by
7 the same requirements that the City
8 Commission is here. It is not
9 mandatory. They do not have a right to
10 this. It is purely discretionary.

11 The fact that it is a
12 discretionary -- that you're in a
13 discretionary point here is why the
14 publication was necessary the first
15 time. It was not optional, and it
16 wasn't done as a matter of courtesy, it
17 was done because it was required, and
18 the fact that it's stated that we don't
19 have to do it -- we didn't have to do it
20 the first time, and therefore, we're not
21 redoing it, is incorrect, and in order
22 to satisfy the requirements of the Code,
23 and more importantly, Mr. Chairman, in
24 your discretionary role, to assure that
25 the citizens, who are the affected

37

1 citizens, are here when discussion of
2 this matter is before this Planning and
3 Zoning Board, I think that you should
4 continue this meeting, send out a mail
5 to the affected residents, and there
6 were loads of them here the last time
7 and they're not here tonight -- send out
8 by mail notice to the affected
9 residents, post the property, and
10 publish it as required by the ordinances
11 of the City of Coral Gables.

12 CHAIRMAN KORGE: Do you have a copy
13 of the ordinance you're referencing?

14 MR. BEHAR: Mr. Chairman, a quick
15 question and just clarification.

16 CHAIRMAN KORGE: Yeah.

17 MR. BEHAR: And the information
18 that Mr. Damian is providing us today,
19 is this part of the public hearing that
20 was closed last meeting? You know --

21 MS. HERNANDEZ: This is a point
22 of -- no, this is -- he's preserving
23 legal arguments --

24 MR. DAMIAN: This is a point of
25 order.

38

1 MS. HERNANDEZ: -- and he has the
2 right to do so.

3 MR. BEHAR: Okay.

4 MR. DAMIAN: Liz, do you have a
5 copy -- or actually, Eric, I believe you
6 provided to Liz and Liz provided to me a
7 copy of Section -- Ordinance Number
8 02-004-04. Do you have a copy of that?

9 MR. RIEL: No, I don't.

10 MR. GARCIA-SERRA: Mr. Chairman --

11 MS. HERNANDEZ: I didn't print it.

12 MR. DAMIAN: I can state to you,
13 Liz sent it to me, Section 8(e).

14 MS. HERNANDEZ: Right, I know, but
15 I didn't print it.

16 MR. DAMIAN: Do you agree with me,
17 Liz, that it is not mandatory, that it's
18 discretionary with the Commission, and
19 Section 8(e) --

20 MS. HERNANDEZ: I would have to --

21 MR. DAMIAN: -- specifically says that?

22 MS. HERNANDEZ: I would have to --
23 I would have to -- Vince, I would have
24 to --

25 CHAIRMAN KORGE: I'm not -- That's

39

1 not what I'm -- I'm interested in the
2 ordinance that relates to the notice
3 requirements.

4 MR. RIEL: Mr. Chair, I have a
5 certified copy of the notice published
6 in the Daily Business Review, if Mr. --
7 would like to see it.

8 CHAIRMAN KORGE: Yeah, that would
9 be helpful.

10 MR. GARCIA-SERRA: And Mr. Chair,
11 if I could assert the point of privilege
12 of procedure so I can respond, perhaps,
13 to some of these comments.

14 CHAIRMAN KORGE: Yes.

15 MR. GARCIA-SERRA: My client does
16 have an interest in this.

17 My name, again, Mario Garcia-Serra,
18 with offices at 1221 Brickell Avenue,
19 representing the applicant, the DVL
20 Group, and I would just, in response to
21 Mr. Damian's points of procedure, want
22 to go over the procedure that's taken us
23 up until tonight.

24 If you remember right, we were
25 scheduled for our first public hearing

40

1 at the October meeting. That meeting
2 was deferred because it was a Jewish
3 holiday, it was Yom Kippur. That
4 meeting had been fully noticed.
5 Advertised notices had gone out to all
6 the neighbors. That meeting -- that
7 hearing never started. The matter was
8 deferred, before it even started, to the
9 November meeting.

10 For that reason, Staff sent out
11 notices again, advertised and did
12 everything that's required for the
13 November hearing.

14 At the November hearing, the
15 hearing was actually conducted. Public
16 comment was taken. You remember that
17 the hearing was closed. The Board was
18 actually in Board discussion when the
19 time came to adjourn at 9:00 p.m. and it
20 was adjourned, and clearly, on the
21 record, in the transcript, it's
22 indicated Mr. Riel saying that this
23 matter was continued to a date certain
24 of December 10th. So everyone that was
25 at that hearing was on actual notice

41

1 that the hearing was being continued to
2 December 10th.
3 Because the hearing was continued
4 to December 10th and the public hearing
5 aspect had already actually been closed,
6 there was no need -- and consistent with
7 Staff's policy all along, as long as
8 I've been practicing -- to send out any
9 additional notices or anything else,
10 because every interested party that was
11 at that hearing had actual notice that
12 the hearing was going to be continued to
13 December 10th.
14 I researched, also, case law, and
15 the case law is pretty clear on this,
16 too. The notice that has to be provided
17 for this sort of hearing is a reasonable
18 notice. Keep in mind that an advisory
19 board isn't even, under the case law,
20 necessarily required to provide notice,
21 because you are here in an advisory
22 capacity, you're not making a final
23 decision. There will be two more public
24 hearings on this matter before the City
25 Commission.

42

1 At the same time, there's an
2 interesting other aspect of the case law
3 which provides that parties that are
4 present at a hearing can be found to
5 have waived the claim of defect in
6 notice if they're actually there at the
7 hearing. You know, their presence here
8 at the meeting indicates that they did
9 have actual notice of this hearing going
10 on today, so they can be construed as
11 having potentially waived that claim of
12 a defect.
13 And most importantly, please keep
14 in mind that if we were to sincerely
15 think that there was any problem with
16 notice in this hearing, we would be the
17 first to be telling you that it should
18 be deferred, because we don't want to
19 give Mr. Damian the ideal opportunity to
20 just shoot down our project, once it's
21 approved, in court, with a notice
22 defect.
23 The appellate division of my firm
24 has reviewed this issue. We're
25 confident that there was no defect in

43

1 notice and that this hearing could
2 proceed, as Robert's Rules of Order
3 require. The meeting should start up at
4 right where it was at, at the point at
5 which it was adjourned, which is after
6 the public hearing being closed, and the
7 Board discussion, which is what you're
8 proceeding to do.
9 CHAIRMAN KORGE: Okay.
10 Anything further, anybody?
11 MR. ALZENSTADT: I would tend to
12 agree with that, only because we had
13 closed the public hearing. If we had
14 not closed the public hearing, then I
15 would agree with Mr. Damian's point.
16 That's my comment.
17 CHAIRMAN KORGE: Right. We're not
18 taking any more testimony or evidence.
19 So, at this point, we're just continuing
20 the hearing, the hearing that occurred
21 last month, and in the absence of some
22 clear statement in the ordinance
23 prohibiting us from continuing this
24 meeting without an additional written
25 notice being mailed out to all the

44

1 residents, in light of all of that, I'll
2 just go ahead and accept your motion, if
3 there's a second.
4 The motion was for approval of the
5 project.
6 MR. BEHAR: Correct.
7 MR. FLANAGAN: Second, for
8 discussion.
9 CHAIRMAN KORGE: Second, for
10 discussion. Let's take some discussion
11 now. Do you want to start for us, Jeff?
12 MR. FLANAGAN: Are we allowed to
13 ask questions now of the applicant?
14 CHAIRMAN KORGE: Well, I --
15 MR. FLANAGAN: It's not a public
16 hearing, it's --
17 CHAIRMAN KORGE: I can tell you --
18 I'll start.
19 MR. FLANAGAN: I think if I have
20 questions, I mean, I'm probably going to
21 ask, I just want to make sure I'm not
22 stepping out of bounds.
23 CHAIRMAN KORGE: Why don't I start?
24 MR. FLANAGAN: Okay.
25 CHAIRMAN KORGE: I can tell you

45

1 what my concerns are, right away. The
2 project is very massive for the site,
3 and there is -- I've been thinking about
4 this a little bit, and there is -- you
5 know, there's -- we're vacating the
6 alleyway, and I don't have any problem
7 in principle with vacating the alleyway
8 and substituting a different alleyway.
9 However, in the process of vacating the
10 alleyway, we're increasing the FAR for
11 the project, which, yes -- because that
12 FAR is calculated based on the land that
13 is owned by the developer after the
14 alleyway is vacated.

15 As a result, the FAR and density
16 can increase as what it would be and the
17 site can be increased -- excuse me, not
18 the site, the project itself can be
19 increased as a result of that, and I
20 have some problems with that.

21 In addition, you know, it's an
22 incredibly massive project. It's nice,
23 and I don't have an issue with mixed-use
24 development in this location, but it's
25 right on top of LeJeune Road, and those

46

1 are my big concerns with the project. I
2 don't know if anybody shares those
3 concerns.

4 I think, overall, it's good to have
5 a development here at this location, and
6 it will benefit the entire neighborhood
7 in the long run to have a mixed-use
8 development at that location, but this
9 is a very massive project and I have
10 some serious misgivings about that,
11 especially in light of the additional
12 massing made possible by vacating the
13 public alleyway.

14 MR. AIZENSTAT: I agree with you.
15 For me, I also think that this project
16 is too massive. I understand your point
17 about the FAR being allowed for the
18 alleyway. I would feel more comfortable
19 if that FAR was not given.

20 But there's also a give-and-take,
21 in that the developers are going to be
22 paying property taxes to the City on
23 that portion that was not being paid for
24 before, so I would have to weigh those
25 two things. But I would like the

47

1 developer to reduce the FAR or not use
2 the FAR for the alley that is being
3 given.

4 I, too, feel that the property, to
5 me, is very massive. I feel it's
6 abutted too close to LeJeune, where the
7 sidewalk is and so forth, among some
8 other complaints, but that's mainly my
9 point.

10 MR. BEHAR: Mr. Chairmen, on that
11 point, I remember last -- that's why I
12 asked earlier today if that was -- we
13 expressed some concern, and I wanted to
14 know, to find out if something had been
15 done, you know, to remedy that concern.

16 Apparently, we are not -- we cannot
17 ask the applicant to come back and tell
18 us --

19 MS. HERNANDEZ: Yes, you can.

20 MR. BEHAR: -- if something was to
21 be, you know, done or not to that
22 effect, on the setback on LeJeune.

23 MR. AIZENSTAT: Why can we not --
24 are we not allowed to?

25 MS. HERNANDEZ: You can.

48

1 MR. BEHAR: Liz -- then I would --

2 MS. HERNANDEZ: No, you can. You
3 absolutely can. Mr. Damian has voiced
4 his objections. The applicant is
5 proceeding at their own risk. You
6 can -- This Board is free to conduct the
7 activities of the Board as it deems
8 appropriate.

9 MR. BEHAR: Then I have a couple --
10 you know, a couple points of
11 clarification. One, I want to ask the
12 Planning Department to make sure that
13 everything that you have reviewed
14 complies with all the Code requirements.

15 MR. RIEL: The Building and Zoning
16 Department has the responsibility of
17 interpreting the Zoning Code. They
18 complete a zoning analysis. Yes, they
19 have indicated that it does comply with
20 the Code.

21 The Planning Department, as a part
22 of our review, also kind of look over
23 the shoulder of Building and Zoning. We
24 also agree with the interpretation that
25 it does comply with the Code.

49

1 MR. BEHAR: Then what I would do,
2 since I know that one of the -- a member
3 of the Zoning Department, Dulce, is
4 here, I would like to bring her up to
5 make sure that, you know, she confirms
6 that everything has been reviewed and
7 they meet all the Code requirements.
8 Can we do that?

9 MR. RIEL: I think it would
10 probably be more appropriate for Ms.
11 Salazar.

12 MR. BEHAR: Oh, I see her, I'm
13 sorry, seated behind her.

14 Ms. Salazar, could you please -- I
15 apologize. You were behind --

16 MS. SALAZAR-BLANCO: That's okay.
17 I was hiding.

18 MR. BEHAR: I'm glad to see you
19 here.

20 MR. AIZENSTAT: She was hiding.

21 MS. SALAZAR-BLANCO: Martha
22 Salazar-Blanco, Zoning Official for the
23 City. I do want to introduce Dulce
24 Conde. She is the zoning technician
25 that did the zoning analysis and knows

50

1 the project up and down, and she can
2 answer any questions that you might
3 have, okay?

4 MR. BEHAR: Okay. Thank you, and
5 once again, I apologize.

6 MS. BOLTON: I have a point of
7 personal privilege.

8 CHAIRMAN KORGE: Ma'am?

9 MS. BOLTON: Yes, sir?

10 CHAIRMAN KORGE: Ma'am, what?

11 MS. BOLTON: I want to ask a point
12 of privilege, personal privilege,
13 please.

14 CHAIRMAN KORGE: What's that?

15 MS. BOLTON: Sir?

16 CHAIRMAN KORGE: What do you want?

17 MS. BOLTON: I want -- I have two
18 statements to make that's crucial to
19 this.

20 CHAIRMAN KORGE: Come up and make
21 your statements, but please make them as
22 short as you can.

23 MS. BOLTON: Yes, sir.

24 Good evening. My name is Roxcy
25 Bolton. I live at 124 Cadima Avenue.

51

1 Number one, as I look at the
2 audience, sir, I do not see a single
3 face from that community that will be
4 impacted by this tremendous project.

5 If you would be kind enough, sir,
6 to ask anyone from that community that's
7 being affected to stand, I think you'll
8 find there's no one here. They were not
9 noticed. This is very --

10 CHAIRMAN KORGE: Yes, that point
11 has already been made, ma'am. Any other
12 point you wanted to make?

13 MS. BOLTON: The second point I
14 want to make is about preserving the
15 alley. When we give away the people's
16 alley, we're -- that is a very serious
17 thing.

18 CHAIRMAN KORGE: Yes, ma'am. You
19 made that point in the last hearing, and
20 I tend to agree with you and I've
21 already expressed that, so we don't need
22 to repeat that at this time, but I
23 appreciate your bringing that back to
24 our attention.

25 MS. BOLTON: And I appreciate you

52

1 allowing me to come and address the
2 point. Good evening.

3 CHAIRMAN KORGE: Thank you.

4 MS. BOLTON: I'm glad to see you
5 back.

6 MR. BEHAR: Can we get Dulce to
7 come up again, please? Thank you.

8 Dulce, in your review, has the
9 applicant complied with all the
10 requirements necessary for this project?

11 MS. CONDE: Yes. There are a
12 couple things that, you know, we need to
13 still work on and address, but however,
14 yes, they have met -- it's a very
15 lengthy review, due to the mixed-use
16 component, and they have met the
17 requirements of that review.

18 MR. BEHAR: Okay. Thank you.

19 MS. CONDE: Any question in
20 particular?

21 MR. BEHAR: No, I just want to make
22 sure that everything had been, you know,
23 confirmed, verified and they do comply
24 with all the requirements.

25 MS. CONDE: Yes. What I would like

53

1 to do is make a clarification on the
2 requirement for being so close to
3 LeJeune. The reason why this project,
4 which is different than Gables Gateway,
5 is close to LeJeune, is because of the
6 facing of the lots. In the Gables
7 Gateway project, the front facing, which
8 is your front setback, is on Greco and
9 Granollo. However, on this project,
10 since it's parceled with lots facing
11 LeJeune and then a big tract behind it,
12 LeJeune becomes a front setback instead
13 of a side setback, and that's why the
14 difference in the setbacks, that, you
15 know, I hear a lot of discussion, and I
16 just wanted to point that out so that
17 you would be aware why, in comparing the
18 two projects, one has a 15-foot setback
19 and one is literally at zero. So I just
20 wanted to point that out, so that --

21 MR. BEHAR: Let me, then, clarify
22 that point. The Gables Gateway project
23 had a self-imposed 15-foot setback. You
24 could bring the arcade to the property
25 line, as long as the building -- the

54

1 step-back --

2 MS. CONDE: Then everything had
3 to -- right, then you had to comply,
4 but --

5 MR. BEHAR: So it's a little
6 different.

7 MS. CONDE: Right, but it was
8 because of facing, and I just want to
9 clarify that, because all the lots on
10 the Gateway project face --

11 MR. BEHAR: But that was a
12 self-imposed setback.

13 MS. CONDE: None of them face
14 LeJeune. It's a side setback on
15 LeJeune.

16 MR. AIZENSTAT: So the Gables
17 Gateway, if I understand this correctly,
18 could have been brought up to LeJeune?

19 MR. BEHAR: The arcade.

20 MS. CONDE: With --

21 MR. AIZENSTAT: Or a section?

22 MS. CONDE: With step-backs --

23 MR. BEHAR: Yes.

24 MS. CONDE: -- correct.

25 MR. AIZENSTAT: Okay.

55

1 MS. CONDE: But not in order to do
2 step-backs, they complied with the
3 required setback of 15 feet --

4 MR. AIZENSTAT: Understood.

5 MS. CONDE: -- as a side setback,
6 not as a front setback.

7 MR. AIZENSTAT: Thank you.

8 MR. BEHAR: Now -- thank you,
9 Dulce -- I'd like to call the architect
10 or the applicant to see if anything was
11 made, any attempt made to address our
12 concern from the last meeting.

13 MR. DAMIAN: Excuse me, I have to
14 rebring my point of order. This is
15 opening up the public hearing again.
16 The point that was made by the Chairman
17 was -- and by other members was, the
18 reason I go along with this, that we
19 didn't need to do another publication,
20 was the public hearing is over, there is
21 no more testimony. It's over.

22 MR. AIZENSTAT: I was actually
23 going to ask that question to the City
24 Attorney, that if there are any changes
25 in the project, does that then open up

56

1 the public hearing again, if there's
2 changes from the last time?

3 MS. HERNANDEZ: Again, as I
4 indicated previously when you asked the
5 question as to whether or not you can
6 inquire, you can ask questions of any of
7 the individuals who have testified on
8 this project, of the Planning Director.
9 The applicant proceeds at their own
10 risk. Mr. Damian has issued an
11 objection, saying, "By doing so, I
12 believe you are reopening the public
13 hearing process and you are therefore
14 not just continuing the deliberations of
15 the Board."

16 As you know, the deliberations of
17 the Board have always included questions
18 and answers. So that is an issue that's
19 going to be decided between the parties
20 at a later date in a court of law, you
21 know.

22 MR. AIZENSTAT: No, I understand
23 about the questions and answers, but I'm
24 just wondering if you actually -- if
25 there is a change, and I don't know that

57

1 there is, but if there is a change,
2 then --
3 MS. HERNANDEZ: Well, once you get
4 your answer, you may decide that you
5 want to continue this or not, I mean,
6 you know --
7 MR. DAMJAN: My point is -- my
8 point of order is made.
9 CHAIRMAN KORGE: Yes, thank you.
10 MR. GELABERT-NAVIA: Can you hear
11 me?
12 MR. AIZENSTAT: Yes.
13 CHAIRMAN KORGE: Yeah.
14 (Thereupon, Mr. Salman arrived.)
15 MR. GELABERT-NAVIA: As you can
16 imagine, you know, we've been working on
17 this project now for about a year and a
18 half, and we've examined a lot of
19 alternatives, and frankly, after the
20 last meeting, even though we had not had
21 the opportunity to hear your concerns as
22 we have today, our client came to us and
23 said, "If this comes up, you know, what
24 could we do? If this --"
25 CHAIRMAN KORGE: Excuse me for

58

1 interrupting you.
2 For the record, Javier Salman has
3 arrived. Continue.
4 MR. GELABERT-NAVIA: So our client
5 has kept us busy since the last meeting,
6 trying to anticipate any concerns that
7 you might have.
8 Laura -- maybe I should -- One of
9 these days, the architect will be able
10 to talk.
11 If Laura can speak about the alley,
12 please.
13 MS. RUSSO: Good evening,
14 Mr. Chair, Members of the Board.
15 For the record, Laura Russo, with
16 offices at 2655 LeJeune Road. What I
17 had just written in a note was to ask
18 Jose to allow me to clarify the question
19 you had asked regarding the FAR and the
20 alley. And you may or may not have
21 noticed this package that Staff gave
22 you, we do not use the total 3.5 FAR
23 that would be allowed on the project.
24 We're under the FAR.
25 And your answer is, we used some of

59

1 the alley. The alley is 6,000 square
2 feet. It could go to 3.5 times 6,000,
3 for about 21, 22,000 square feet. We
4 only used six.
5 CHAIRMAN KORGE: So it adds an
6 extra 6,000 square feet?
7 MS. RUSSO: Excuse me?
8 CHAIRMAN KORGE: It adds an extra
9 6,000 square --
10 MS. RUSSO: Adds an extra 6,000,
11 not the potential -- whatever 6,000
12 times 3.5 -- I think it's twenty-one
13 five.
14 CHAIRMAN KORGE: Right.
15 MS. RUSSO: So it does not use its
16 entire potential.
17 So, yes, we did use some, but we
18 did not use the entire amount, so we're
19 leaving FAR on the table in what would
20 have been the scenario that you
21 proposed.
22 CHAIRMAN KORGE: Right.
23 MS. RUSSO: So I just wanted
24 that -- because it isn't clear-cut and,
25 you know, it may work into some of the

60

1 things that Jose is going to discuss.
2 MR. GELABERT-NAVIA: I'm actually
3 not upset about the attorneys taking all
4 the attention. I'm married to one, and
5 I can't get a word in edgewise, anyway,
6 at home or other places.
7 Basically, there are two issues
8 that have been brought up, the --
9 whether we are using -- you know,
10 Mr. Korge is concerned about using the
11 additional FAR, and I know that, again,
12 there is a concern about the presence of
13 the building over on LeJeune Road, and
14 again, like I was saying before, we've
15 examined a number of alternatives, and I
16 brought in a number of boards just in
17 case there might be an opportunity to
18 present what -- what we can show you
19 today, addressing those concerns.
20 MR. RIEL: You're going to -- you
21 need to bring the mike.
22 MR. GELABERT-NAVIA: Our -- again,
23 from Day One, we really have tried to be
24 a good neighbor. Our client would be
25 willing to move the whole building back

61

1 eight feet, which would align the
2 building exactly with the way one
3 building that is there already, which is
4 Village of Merrick Park -- the Nieman
5 Marcus and Village of Merrick Park has
6 this kind of section.

7 So, by moving the building back, we
8 actually lose close to 9,000 square feet
9 of area. So, if that is a condition
10 that you would like to, you know, impose
11 on the project, hopefully for a positive
12 recommendation, again, our client would
13 be willing to move the whole building
14 back the eight feet, and also on the top
15 floors -- I'm sorry, I can't -- I've got
16 to take the mike.

17 Can you hear me?

18 UNIDENTIFIED MAN: Go to the easel.

19 MR. GELABERT-NAVIA: Okay.

20 The other thing that again --
21 again, we would be willing to move the
22 whole building back, and also, we would
23 be willing to cut the building back on
24 the fourth floor and the fifth floor.
25 So the building would be cut next to the

62

1 area -- next to Gables Gateway, which
2 has been a concern in terms of the
3 massive -- massiveness of the project.
4 So we would be willing to do both
5 things, if that, you know --

6 MR. BEHAR: And by doing that, you
7 eliminate the arcades, what appears to
8 be eliminating the arcades, correct?

9 MR. GELABERT-NAVIA: We would have
10 to eliminate the arcade.

11 MR. AIZENSTAT: Is that all you'd
12 eliminate?

13 MR. GELABERT-NAVIA: Well, we
14 eliminate the arcade, and we actually
15 have, on top of the arcade, a whole
16 floor of offices.

17 MR. AIZENSTAT: Correct.

18 MR. GELABERT-NAVIA: By pushing the
19 thing back the eight feet, we're losing
20 eight feet times the whole length of the
21 building that we previously had in
22 offices.

23 MR. AIZENSTAT: Are you then
24 stepping -- are you then going to step
25 back, also?

63

1 MR. GELABERT-NAVIA: Right. So
2 then what -- the reason we're not
3 pushing it back further, we're allowing
4 those two feet --

5 MR. AIZENSTAT: Right.

6 MR. GELABERT-NAVIA: -- those two
7 feet are critical, because the elevation
8 that was approved by the Board of
9 Architects, which we felt was -- you
10 know, again, we went to the Board of
11 Architects, you know, a couple of times,
12 showed them that on that second floor
13 there was a step-back, there was a
14 trellis, which would allow for
15 landscaping to exist at that point, and
16 then the step-backs continue.

17 What we're, in essence, doing by
18 pushing the whole thing back is that
19 instead of having a balcony on that
20 third floor, we now have a planter,
21 because --

22 MR. BEHAR: But there's a break in
23 that facade. There is --

24 MR. GELABERT-NAVIA: There is -- it
25 goes again there and then it breaks

64

1 back --

2 MR. AIZENSTAT: Okay.

3 MR. GELABERT-NAVIA: -- moves back,
4 and then the step-backs continue the
5 same way they were before, but then in
6 addition, we would cut the building off
7 on the corner and then step it back on
8 that direction, as well.

9 MR. AIZENSTAT: But you're not
10 illustrating that on here.

11 MR. GELABERT-NAVIA: Yeah.

12 MR. BEHAR: Yeah.

13 MR. AIZENSTAT: Where is it cut on
14 the corner?

15 MR. GELABERT-NAVIA: Right here.

16 MR. BEHAR: Right here.

17 MR. FLANAGAN: When you're cutting
18 the corner on the south side, how far
19 back, how deep in the project is that?

20 MR. GELABERT-NAVIA: That is 10
21 feet.

22 MR. BEHAR: Have you -- Let me ask
23 a question. Have you had an opportunity
24 to meet with either the City Architect
25 or the Board of Architects to show

65

1 them --

2 MR. GELABERT-NAVIA: Well, we have

3 not met with the Board of Architects,

4 because, again, we wanted to see which,

5 you know, direction you wanted us to go,

6 but we have met with the City Architect,

7 and we showed the City Architect four

8 different options, again hopefully

9 anticipating that we could move past the

10 meeting today, and again, whatever

11 recommendation you give us, Mr. Mindreau

12 told us that we then have to take it to

13 the Board of Architects, to make sure

14 that it is consistent with what they had

15 approved before, so we don't want to

16 override their approval.

17 MR. AIZENSTAT: By doing these

18 cutbacks, how many square feet are you

19 cutting back on your project, or what

20 percentage of your project are you

21 cutting back?

22 MR. BEHAR: You stated 9,000

23 square -- is that right?

24 MR. GELABERT-NAVIA: There's about

25 9,000 square feet that we --

66

1 MR. AIZENSTAT: Out of -- Your

2 project is how many square feet?

3 MR. GELABERT-NAVIA: There's about

4 280,000.

5 MR. AIZENSTAT: It's a very small

6 percentage.

7 MR. SALMAN: Four and a half

8 percent.

9 MR. AIZENSTAT: What?

10 MR. SALMAN: Four and a half

11 percent.

12 Now, you are leaving the colonnade

13 as part of the facade and still

14 installing the awnings?

15 MR. GELABERT-NAVIA: We are putting

16 the awnings, but what we have done is,

17 we have pushed it back, but now -- we

18 have a deep elevation -- actually, in a

19 way, I'm copying myself, because that's

20 what we had done in the Village of

21 Merrick Park in the office building that

22 we did a number of years ago, that we

23 had a sort of similar situation, because

24 we actually had a parking garage behind,

25 and the -- in that case, the Rouse

67

1 Company and the City did not want to

2 shorten the retail spaces too much or

3 else they wouldn't work.

4 So what we did is what we're

5 proposing here, is that on the ground

6 floor, the building comes out several

7 feet, so that as you're walking past the

8 street, what you experience is that

9 first plane.

10 MR. SALMAN: The articulation.

11 MR. GELABERT-NAVIA: And then it's

12 deep enough so that we can actually grow

13 things on it, although Rouse has never

14 planted anything on it, but that was the

15 idea, and then the trellis still exists.

16 So you would still have the landscape --

17 in essence, it's the same elevation,

18 except it's been pushed back, and as you

19 can see in the plan, what we are able to

20 do now is, instead of having the five

21 feet of landscaping, we would have 13

22 feet.

23 MR. BEHAR: For the back of the

24 curb, the street curb, you have 13 feet

25 to the front -- to the face of the

68

1 building --

2 MR. GELABERT-NAVIA: Right.

3 MR. BEHAR: -- which now gives you

4 an adequate area to grow some plants.

5 MR. GELABERT-NAVIA: To grow, yeah.

6 MR. BEHAR: Yeah. You're showing

7 here a continuous green space on LeJeune

8 Road.

9 MR. GELABERT-NAVIA: Yeah.

10 MR. BEHAR: Let me ask you a

11 question. Do you really think that --

12 When I -- My office is very close to

13 here. As a matter of fact, I come

14 through here to walk to Havana Harry.

15 To cross the street here, you're going

16 to force me to go or force the

17 pedestrians to go to the corners.

18 MR. GELABERT-NAVIA: Yeah.

19 MR. BEHAR: You don't think that

20 interrupting that continuous landscape

21 may be, urbanistically, a better

22 solution?

23 MR. GELABERT-NAVIA: Then we'd be,

24 you know -- whatever, you know, you

25 would like us to do there, we'd love to

69

1 do it. At this point, we tried to do as
2 much landscaping as we could on LeJeune
3 to soften that side.

4 MR. SALMAN: Yeah, but I think
5 Robert's comment had to do with
6 crossing, crossing LeJeune Road.

7 MR. GELABERT-NAVIA: No, it would
8 be cutting -- cutting this part, you
9 mean?

10 MR. BEHAR: Yeah. It shows to be
11 an entrance.

12 MR. SALMAN: Uh-huh.

13 MR. BEHAR: I mean, you're not
14 emphasizing -- you've got -- you can't
15 even access it, so it's really a
16 symbolic entrance there, because you've
17 got to come around the side.

18 MR. AIZENSTAT: Is there a light
19 there presently?

20 MR. BEHAR: No, there's -- the
21 only --

22 MR. AIZENSTAT: Then let me ask you
23 a question. LeJeune is a State highway?

24 MR. BEHAR: Yes, it is.

25 MR. AIZENSTAT: That means it's

70

1 controlled by the DOT --

2 MR. BEHAR: Definitely.

3 MR. AIZENSTAT: -- as far as the
4 light? Then would you want pedestrians
5 crossing a busy street like LeJeune when
6 there's not a light?

7 MR. BEHAR: But it's not so much
8 for crossing; it's just the visibility.
9 It's not the crossing. I'm not
10 encouraging the crossing.

11 MR. AIZENSTAT: Oh, okay.

12 MR. BEHAR: Just the visibility.

13 MR. GELABERT-NAVIA: We can take it
14 off. Actually, the entrance, even
15 though there's not a crossing there,
16 actually lines up with Vilabella. If
17 you look down Vilabella, that's where
18 the entrance is.

19 MR. BEHAR: You did say you met
20 with the architect, with the City
21 Architect?

22 MR. GELABERT-NAVIA: Yes, and he's
23 here and maybe --

24 MR. BEHAR: Can I -- Mr. Mindreau,
25 can I ask you a question, please?

71

1 Good evening. How are you?

2 MR. MINDREAU: Good evening.

3 MR. BEHAR: Having had, maybe, an
4 opportunity to review this proposed or
5 possible solution, how do you feel about
6 the fact that the applicant is setting
7 the building back in order to address
8 some of the concerns that I particularly
9 had and now today we hear that other
10 Board members have had, as well, where
11 you get a relief on LeJeune Road?
12 What's your position?

13 MR. MINDREAU: For the record,
14 Carlos Mindreau, City Architect, for the
15 City of Coral Gables.

16 I met with Jose Gelabert-Navia
17 earlier this week. In my opinion, the
18 solutions, the alternate solutions that
19 they are considering in response to your
20 desires are all three very, very
21 appropriate solutions for the problem.

22 My thought, personally, and I think
23 that the Board would respond in the same
24 way to all three solutions, those
25 being -- pushing the building back being

72

1 one, the second one being removing the
2 corner, the upper corner of the fourth
3 and fifth floors, to lessen the mass of
4 the building and the impact of that
5 building on LeJeune, and the third one,
6 a combination of those in some way.

7 I think the Board would respond
8 favorably in terms of both the approval
9 for the solution as well as the
10 Mediterranean bonus issue that the
11 project requires.

12 My personal feeling was that the
13 arcade was a nice relief, although it
14 keeps the building very close to LeJeune
15 Road, at the zero lot line. I really
16 feel that all three solutions are
17 equitable and they respond well to the
18 idea.

19 If the Board, if your Board -- if
20 you feel very strongly about the
21 separation, the distance of the building
22 between the building and the curb at
23 LeJeune, I would be very favorable to
24 that solution, as well.

25 MR. BEHAR: Thank you.

73

1 I -- Mr. Chairman, I feel that the
2 applicant has a solution here, a
3 proposed solution, that will -- will
4 address some of my concerns,
5 particularly the setback on LeJeune
6 Road. If they feel that they could make
7 this doable, I would amend my motion for
8 approval to incorporate moving the
9 building back the eight feet from the
10 east -- from the west property line,
11 from LeJeune Road, in order to
12 accommodate this setback.

13 I would ask the applicant to look
14 at the landscape area, just to possibly
15 introduce a break where that element,
16 the entrance element, occurs, at least
17 to visualize that all the way through
18 the building and the ground, not
19 necessarily to promote a crossing there,
20 but just visible -- you know, the
21 aesthetics, take that piece all the way
22 down. But that's -- that's at their
23 discretion, to work with Staff on that.

24 CHAIRMAN KORGE: Does the second --
25 Does the second of the --

74

1 MR. DAMIAN: Excuse me. Is the
2 public hearing closed yet?

3 MR. BEHAR: The public hearing was
4 closed already, last --

5 MR. DAMIAN: Excuse me. We had the
6 attorney for the applicant up here,
7 making argument. We had --

8 CHAIRMAN KORGE: Mr. Damian, is
9 there something else you'd like to add?
10 Go ahead.

11 MR. DAMIAN: Yes. Yes, I would. I
12 believe, in fact, that we have reopened
13 testimony by the applicant, and what we
14 find is, in response to the concerns of
15 this Board of the massiveness of this
16 project in that area, that the applicant
17 is willing to make certain changes to
18 the project, all well and good.

19 The notice -- we'll go back to your
20 notice. The notice that was sent out to
21 the residents of the area was based upon
22 a plan which no longer is the one that
23 the applicant is now presenting to the
24 Board. Therefore, the notice that was
25 given to the residents is inadequate, in

75

1 that it is not the plan that's coming
2 before this discretionary Board -- the
3 Board for discretionary review, and
4 that's what we have, is discretionary
5 review.

6 It ought to be renoticed with the
7 new plan, number one.

8 Number two, the order presented in
9 the zoning ordinance of the manner in
10 which a discretionary review takes place
11 requires Board of Architect review prior
12 to presentation to this Board. Again,
13 there has been changes to the project
14 that require architectural approval,
15 Architectural Board approval. Having
16 the City Architect say he thinks that
17 the Board of Architects will approve it
18 is not approval. We have a very
19 specific procedure for discretionary
20 review. The Board of Architects must
21 approve. They have not approved this
22 project as now being presented.

23 I would respectfully request again
24 that this project be sent to the Board
25 of Architects for approval in the manner

76

1 that has been suggested, in which the
2 applicant has said they will do it. The
3 Board of Architects, if they should
4 approve it, it would then come back to
5 this Board. This Board would advertise
6 the project as it is being proposed to
7 be permitted, and then there would be
8 public comment on the project as it is
9 being presented to this Board.

10 CHAIRMAN KORGE: Thank you.

11 Yes, sir.

12 MR. GARCIA-SERRA: Okay, just a
13 quick response to Mr. Damian's points
14 here.

15 Again, the public hearing was
16 noticed. The continuation was noticed.
17 Everybody who was at the November
18 hearing had actual notice of this
19 hearing taking place now on December
20 10th, and the public will have again
21 even another opportunity to present any
22 comments that they might have on any
23 plan that's proposed or recommended for
24 approval by this Board at the City
25 Commission, at the public hearings that

77

1 are going to happen there.

2 As far as procedure is concerned,
3 the Board of Architects did previously
4 approve this application. What's being
5 discussed is a revision to one
6 elevation. It's possible, if this Board
7 so deemed, to recommend approval of the
8 application as modified with a condition
9 that that elevation be approved by the
10 Board of Architects prior to it going to
11 the City Commission.

12 We have ample opportunity, several
13 Board of Architects meetings between now
14 and the next City Commission meeting.

15 And, of course, in fairness, this
16 is the third time we've been up here
17 before this Board, and we would just
18 like to proceed and be able to go on to
19 the City Commission.

20 MR. AIZENSTAT: Eric, can I --

21 MS. RIVERON: So, excuse me, does
22 the public now have an opportunity to
23 respond to the proposed changes at all?

24 CHAIRMAN KORGE: If you'd like to
25 respond, I'll --

78

1 MR. BEHAR: No --

2 MR. FLANAGAN: Can I --

3 MR. BEHAR: No.

4 MR. AIZENSTAT: You're going to
5 open up the --

6 MR. FLANAGAN: Can I ask a
7 question?

8 CHAIRMAN KORGE: Hold on.

9 MR. FLANAGAN: I'm sorry.

10 CHAIRMAN KORGE: Hold on a second.

11 First of all, as far as I'm concerned,
12 if there are going to be architectural
13 changes, it's going to have to go back
14 to the Board of Architects, and I don't
15 know if I'm speaking for everybody here,
16 but I suspect that I am.

17 MR. AIZENSTAT: That was the
18 question I had.

19 CHAIRMAN KORGE: So -- and we're
20 really not in a position to make --
21 although we have two very fine
22 architects on our Board, we're not in a
23 position to make, you know, these types
24 of determinations respecting the
25 architectural integrity and the

79

1 conformity to the Mediterranean
2 Ordinance. There have been changes or
3 proposed changes that may affect
4 Mediterranean bonus, for all I know. I
5 don't know.

6 So I would expect that if you're
7 going to modify your motion, it's going
8 to, at a minimum, provide architectural
9 review, go back to the Board of
10 Architects. Is that --

11 MR. AIZENSTAT: If I may, before
12 you answer that --

13 Eric, are we -- on a procedural
14 basis, do we need to go back to the
15 Board of Architects' approval before we
16 approve this?

17 MR. RIEL: Let me answer that by
18 telling you what the Board has done in
19 the past. You have recommended approval
20 of projects subject to changes in
21 architecture or landscaping or other
22 matters, subject to further review by
23 City Staff or the Board of Architects.

24 MR. AIZENSTAT: Correct. Okay,
25 so --

80

1 MR. RIEL: So, for instance, if you
2 wanted a different plant material, it
3 would go to the Public Service
4 Department, they would provide comments,
5 and that approval would be secured by,
6 you know, the Public Service Department
7 and then it would go forward to the
8 Commission.

9 Now, in the past, also, if the
10 Board has felt that they wanted to see
11 the project again, they've continued it
12 to the next meeting, allowing the plans
13 to be revamped and then brought back to
14 this Board.

15 So, basically, it's up to the
16 Board, but for the most part, in my
17 opinion, they can proceed forward, go to
18 the Board of Architects. Obviously,
19 your recommendation and the Board of
20 Architects plan will go to the
21 Commission when this is scheduled.

22 MR. AIZENSTAT: And then, Liz, if I
23 can --

24 MS. HERNANDEZ: Yes, sir.

25 MR. AIZENSTAT: -- as far as the

81

1 City Attorney is concerned, or the
2 position of the City, they're satisfied
3 with the procedure that has gone on? I
4 understand that it would be up to either
5 attorney, if they want to appeal it or
6 not appeal it; that's between
7 themselves.
8 MS. HERNANDEZ: Right.
9 MR. AIZENSTAT: But from the City's
10 point of view, the City is okay?
11 MS. HERNANDEZ: It is the
12 determination of our office that we have
13 proceeded in accordance with our rules
14 and with statutory requirements.
15 MR. AIZENSTAT: Thank you.
16 MS. HERNANDEZ: Okay.
17 CHAIRMAN KORGE: So, procedurally,
18 I guess we are -- You were going to
19 amend your motion to accommodate the
20 proposed revisions to the architecture,
21 the setback in particular.
22 MR. BEHAR: That's correct.
23 CHAIRMAN KORGE: And did you want
24 to make it subject to further approval
25 by the Board of Architects or --

82

1 MS. RIVERON: I'm sorry, excuse me.
2 I believe my question wasn't answered.
3 I think we kind of got off track. So my
4 question was, now that there is a
5 proposed change, will it be open to the
6 public again or not, before we take
7 the -- the proposed motion?
8 MR. BEHAR: Mr. Chairman, I don't
9 think it needs to be opened to the
10 public again, based on what I'm hearing
11 from our attorney. I think that we make
12 a recommendation --
13 MS. HERNANDEZ: Right.
14 MR. BEHAR: -- that we pass it on,
15 it goes forward, if we decide that it
16 goes to the Board of Architects, and
17 then it moves with that recommendation.
18 But I do not personally feel that it has
19 to be opened to the public again.
20 MS. BOLTON: It's essential to be
21 opened to the public, essential.
22 MS. RIVERON: I would like an
23 opportunity to be heard on what was just
24 said. It's going to take me five
25 minutes.

83

1 CHAIRMAN KORGE: Take your five
2 minutes, please.
3 MS. RIVERON: Okay. My name is
4 Adis Riveron, and I live at 426 Almar
5 Avenue.
6 The proposed changes, the setback,
7 the eight feet, the cutting the building
8 here and there, I mean, I'm not an
9 architect and it doesn't mean a whole
10 lot to me. I'm a resident that lives
11 half a block away from this area, and
12 this is a massive, massive project.
13 What I've heard the architect say
14 doesn't change that at all.
15 When I stand in front of my house
16 with my kids, I'm going to see this
17 massive structure, and this is not going
18 to change. The fact that it's going to
19 be cut here or there is not going to
20 change that. It's going to change the
21 property value of my home. People are
22 not going to want to buy this house.
23 This area is a single-family area, and
24 the LeJeune area, I understand, is
25 different, but there's single-family

84

1 homes there, and this massive building
2 is going to obstruct my view, the view
3 of everyone from my block, and the view
4 of anyone who may, at some point in the
5 future, want to buy my home or any of
6 the other homes in this neighborhood.
7 The changes that are being proposed
8 don't, in any way, affect that situation
9 and it doesn't change the concerns that
10 I had from the last meeting at all. I
11 don't know if it changes your concerns,
12 I know that you raised that, as well,
13 but I just wanted to point that out.
14 Thank you.
15 CHAIRMAN KORGE: Thank you.
16 MR. BEHAR: Mr. Chairman, I made a
17 motion and I amended my motion.
18 CHAIRMAN KORGE: Yes.
19 MR. BEHAR: And I don't know if it
20 was seconded or not.
21 CHAIRMAN KORGE: What was the
22 amendment, again?
23 MR. BEHAR: For -- to accept the
24 proposed setback of the building, of the
25 eight-foot setback --

85

1 CHAIRMAN KORGE: Uh-huh.
 2 MR. BEHAR: -- contingent that it
 3 go to the Board of Architects, and get
 4 it -- between today and the time it goes
 5 to the Commission, and get the approval
 6 of the Board of Architects.
 7 CHAIRMAN KORGE: Uh-huh.
 8 MR. RIEL: Just two questions,
 9 Mr. Chair. Subject to Staff's
 10 conditions that --
 11 MR. BEHAR: Yes.
 12 MR. RIEL: -- we've recommended?
 13 MR. BEHAR: Yes, correct.
 14 MR. RIEL: Okay. And then just one
 15 other clarification. You had -- The
 16 architect had indicated to cut back the
 17 building on the fourth and fifth floor
 18 corner. Was that included in your
 19 motion or not?
 20 MR. BEHAR: Yes.
 21 MR. RIEL: I just wanted to make
 22 sure, make sure we're all clear.
 23 MR. BEHAR: Yes.
 24 CHAIRMAN KORGE: The second, does
 25 the second accept --

86

1 MR. SALMAN: I'll second it.
 2 CHAIRMAN KORGE: No --
 3 MS. MAROON: Excuse me. I sat here
 4 very calmly, Mr. Korge --
 5 MR. FLANAGAN: I seconded it
 6 earlier. I seconded the motion earlier.
 7 MS. MAROON: Excuse me. I sat here
 8 very calmly, Mr. Korge. I've been --
 9 My name is Shirley Maroon. Since
 10 this is a public hearing which was never
 11 supposed to take place here, and that's
 12 why my neighbors aren't here -- so now,
 13 if everyone is going to speak, it's
 14 turned into a circus, and then I intend
 15 to speak, too. I have a few things to
 16 say.
 17 First of all, this lovely lady, Pat
 18 Keon, one of your Board members, wasn't
 19 even here at the last meeting. Is she
 20 going to be voting or is she not going
 21 to be voting? Because she was not privy
 22 to any of the information. She didn't
 23 see the concerned neighbors. She didn't
 24 hear about the 300 signatures that I and
 25 along with my other neighbors and my

87

1 daughter over there, in the heat of the
 2 summer, went to notify our neighbors --
 3 CHAIRMAN KORGE: Ms. Maroon, she's
 4 got the transcript of the prior --
 5 MS. MAROON: That's not good
 6 enough. I serve on a Board, also, and I
 7 don't think it's fair. I don't think
 8 it's fair.
 9 CHAIRMAN KORGE: Well, let's calm
 10 down, now, okay? Because you need to
 11 calm down.
 12 MS. MAROON: I'm going to calm
 13 down. I just want to express my
 14 feelings. I sat here very patiently.
 15 We pay an attorney, and my neighbors
 16 have a right to be here, because they're
 17 paying for this man. They have hired
 18 him, along with myself, and they deserve
 19 to be here, first of all. Second of
 20 all --
 21 CHAIRMAN KORGE: Well, they were --
 22 ma'am, ma'am, you know, everybody was
 23 noticed at the last meeting. I don't
 24 understand this. Everybody was noticed
 25 at the last meeting that at the next

88

1 meeting we're going to hear this and
 2 finish it.
 3 MS. MAROON: Okay, fine.
 4 CHAIRMAN KORGE: It was cut short.
 5 Now --
 6 MS. MAROON: But that wasn't their
 7 understanding.
 8 CHAIRMAN KORGE: Well, then, they
 9 didn't listen very closely.
 10 MS. MAROON: So that's why we're
 11 here to discuss it. That's why we're
 12 here calmly to discuss it.
 13 CHAIRMAN KORGE: We can't -- but we
 14 can't hold up public business every time
 15 somebody is upset or every time that we
 16 get a continuance on a hearing, because
 17 somebody wasn't paying attention.
 18 You're here, Mr. Damian is here, and
 19 we've heard all their concerns.
 20 MS. MAROON: Well, I was waiting
 21 until --
 22 CHAIRMAN KORGE: I can tell you --
 23 I can assure you that I heard all their
 24 concerns. I saw all of them. They
 25 spoke very forcefully, they made some

89

1 very good points --
 2 MS. MAROON: But Pat Keon didn't.
 3 Is she voting today?
 4 CHAIRMAN KORGE: I'm not here to
 5 speak for Mrs. Keon, she's got --
 6 MS. MAROON: Well, what are the
 7 rules of order? Is she allowed to vote
 8 or not, because she was not here for the
 9 public hearing, and that's my question.
 10 MS. HERNANDEZ: She is absolutely
 11 allowed to vote on the matter.
 12 MS. MAROON: Well, I sit on a
 13 Board, and I would be very uncomfortable
 14 if I had to vote, not hearing the
 15 concerns of everyone. This is only half
 16 of the concerns, and it's mainly that
 17 half. They've got about 15 people over
 18 here, to two of us, or three. Roxcy
 19 Bolton was kind enough to come.
 20 I didn't even know that this
 21 meeting was going to take place until
 22 3:30 this afternoon.
 23 CHAIRMAN KORGE: Well, weren't you
 24 at the last meeting?
 25 MS. MAROON: I was waiting for an

90

1 answer, and I spoke to Mr. Riel last
 2 Thursday and I asked him what was going
 3 on, and he told me that he was waiting
 4 to hear from the City Attorney, then she
 5 told me she was waiting to hear from
 6 you, and everybody seems to be passing
 7 the buck.
 8 I don't want to be -- I don't want
 9 to be ugly up here. I really want to be
 10 calm. It's just that I have a
 11 responsibility, because I have 300
 12 neighbors and I'm telling you they
 13 signed petitions and they have a right
 14 and they've hired an attorney and they
 15 have a right to come back and hear this.
 16 MR. AIZENSTAT: Can I --
 17 MS. MAROON: And the fact that
 18 you're going to send this project, this
 19 massive, 200,000-square-foot project
 20 that is going to disrupt our
 21 neighborhood, then these people have a
 22 right to come, and you people have a
 23 right and should ask for this project to
 24 come back to you, not to send it for
 25 Staff to approve it or this one or that

91

1 one. It's only your right and duty as
 2 Board members to ask it to come back,
 3 and they have a right to bring it back,
 4 but what I'm asking you today is to,
 5 please, if you want to hear it again,
 6 make a motion to bring it back after the
 7 architects' approval.
 8 MR. AIZENSTAT: I just want --
 9 MS. MAROON: And that's only fair.
 10 CHAIRMAN KORGE: All right. But we
 11 have a motion on the floor now.
 12 MS. MAROON: And that's what my
 13 request is.
 14 CHAIRMAN KORGE: It's been -- it's
 15 been seconded. It's not out of order,
 16 and we're going to hear -- we're going
 17 to discuss and hear that motion, and Pat
 18 will vote however she chooses to vote.
 19 I don't control her vote.
 20 MR. BEHAR: Mr. Chairman, we had a
 21 motion and a second. You should call
 22 the roll.
 23 CHAIRMAN KORGE: There's a motion
 24 and a second, and I'm going to call the
 25 roll. Now we have more discussion, if

92

1 anybody wishes to discuss.
 2 MS. MAROON: No, I don't even know
 3 what it was that --
 4 CHAIRMAN KORGE: The motion was to
 5 approve this project, subject to all the
 6 conditions imposed by the City and
 7 including the additional setbacks and
 8 cut-backs and so forth or the
 9 architectural changes that were proposed
 10 by the applicant to address some of our
 11 concerns, subject to Board of
 12 Architecture approval.
 13 MS. MAROON: Well, why can't you
 14 ask it to come back again? Bring it
 15 back and let the neighbors see it. This
 16 woman just told you it's not fair.
 17 CHAIRMAN KORGE: Because that's not
 18 the motion on the table right now.
 19 MS. MAROON: Well, I'm asking,
 20 then, please, as a request.
 21 CHAIRMAN KORGE: I don't --
 22 MS. MAROON: My plea is to --
 23 CHAIRMAN KORGE: The motion is
 24 not -- but the motion --
 25 Ma'am, the motion is not out of

93

1 order. It's not for me --
 2 MS. MAROON: Okay, and I'm not out
 3 of order by asking.
 4 CHAIRMAN KORGE: Actually, you are
 5 out of order, but I'm letting you,
 6 anyway, because I understand that
 7 you're --
 8 MS. MAROON: Frustrated.
 9 CHAIRMAN KORGE: I understand your
 10 frustration and your concern.
 11 MS. MAROON: That's right.
 12 CHAIRMAN KORGE: The point is, the
 13 point is, the motion is not out of
 14 order. I don't have the power to kick
 15 his motion off, when it's been seconded,
 16 because I may or may not disagree -- may
 17 or may not agree with it. So the
 18 motion's in order. We're going to take
 19 discussion on the motion, and after the
 20 discussion on the motion, we'll take a
 21 vote, and the motion will pass or fail
 22 on its merits. That's the best I can
 23 do.
 24 MS. MAROON: But when I --
 25 CHAIRMAN KORGE: It may not be what

94

1 you want, but it is the best I can do.
 2 MS. MAROON: But the objection by
 3 my attorney was that this was a meeting
 4 that was supposed to be voted on, on the
 5 original site plan, and now everything
 6 has been changed, without a public
 7 hearing to the neighbors to understand
 8 what you people are voting on today.
 9 This is not right.
 10 MR. FLANAGAN: Can I --
 11 MS. MAROON: It's unconstitutional,
 12 in fact.
 13 MR. FLANAGAN: Can I just ask --
 14 MS. MAROON: It's unconstitutional.
 15 MR. FLANAGAN: In regards to --
 16 CHAIRMAN KORGE: Jeff.
 17 MR. FLANAGAN: -- modifying the
 18 site plan, procedurally, or under the
 19 City Code, the applicant is allowed to
 20 modify a site plan, I imagine,
 21 especially because this is less
 22 intense --
 23 MS. HERNANDEZ: Absolutely.
 24 MR. FLANAGAN: -- than the site
 25 plan that was advertised for the

95

1 hearing?
 2 MS. HERNANDEZ: The intensity of
 3 original application. It's absolutely
 4 within the powers of this --
 5 MR. FLANAGAN: And going to the
 6 motion, Robert, if we could also
 7 include -- at the last hearing there
 8 was, I think, a decent amount of
 9 discussion regarding the alleyway, and
 10 the applicant offered to include a
 11 restrictive covenant --
 12 MS. HERNANDEZ: Right.
 13 MR. FLANAGAN: -- that would ensure
 14 that the alleyway would remain open to
 15 the public -- I mean, it's under private
 16 ownership, but that it won't be gated,
 17 it won't be closed. It would
 18 effectively serve like a public alley
 19 that we all know within the City.
 20 So I just want to make sure,
 21 because there was a lot of concern from
 22 the neighbors, and the applicant agreed
 23 to it, that that -- if it's appropriate
 24 to be --
 25 MS. MAROON: But the neighbors

96

1 aren't here. The neighbors aren't here
 2 to discuss it with you.
 3 MR. FLANAGAN: I'm sorry, it was
 4 discussed last meeting at length --
 5 MS. MAROON: But not this plan, not
 6 this plan.
 7 MR. FLANAGAN: -- their concern
 8 about the alleyway. And so --
 9 MS. MAROON: You can't change
 10 things in midstream, I'm sorry.
 11 MR. FLANAGAN: It's appropriate as
 12 a condition to the approval --
 13 MR. BEHAR: I'll accept a friendly
 14 amendment.
 15 MR. RIEL: And just for a matter of
 16 record, the applicant agrees? Just a
 17 simple yes or no.
 18 MR. GARCIA-SERRA: Yes, we reviewed
 19 the properties and went over the new --
 20 right.
 21 CHAIRMAN KORGE: And did the second
 22 agree with the --
 23 MR. FLANAGAN: Yes.
 24 CHAIRMAN KORGE: Yes, okay. Thank
 25 you. Discussion on this?

97

1 MS. KEON: May I ask a question?
 2 CHAIRMAN KORGE: Yeah, by all
 3 means.
 4 MS. KEON: With respect to the
 5 changes that you are proposing for this,
 6 those are the changes along LeJeune Road
 7 that you're -- that you will move this
 8 back, but you're also eliminating the
 9 arcade; is that -- is that correct?
 10 That's correct, you're omitting the
 11 arcade but you're going to push it back?
 12 MS. RUSSO: That is correct.
 13 MS. KEON: All right. When the
 14 zoning -- when they spoke about the
 15 review of the project and you questioned
 16 what the setback on LeJeune was, I think
 17 we were told that they were able to
 18 bring it closer to LeJeune because that
 19 was a front setback; is that right?
 20 MS. CONDE: Yes.
 21 MS. KEON: But yet you've also
 22 raised the concern about the entrance to
 23 this building, that it doesn't actually
 24 act as the entrance to the building. It
 25 isn't the entrance to the building? It

98

1 is --
 2 MR. BEHAR: No, Pat, I wasn't
 3 referring to the entrance. I was just
 4 referring to a small portion of the
 5 landscape that appears to be a green
 6 space, but it's a matter -- all I asked
 7 was a consideration to look at that.
 8 MS. KEON: Because that is the
 9 entrance to the building -- if that is
 10 the front setback, you would assume that
 11 that would be the front of the building.
 12 Is that -- I mean, I would assume that
 13 that -- I would assume that that's what
 14 it was and you've taken advantage of
 15 that setback and moved it closer, yet I
 16 think when the architect spoke, he said
 17 to you, when you asked him about that --
 18 I thought he said that that wasn't
 19 really the entrance to the building,
 20 that the entrance was on the side.
 21 MS. RUSSO: It is a real entrance.
 22 It serves as an entrance.
 23 MS. KEON: It serves as an
 24 entrance --
 25 MS. RUSSO: It serves as an

99

1 entrance.
 2 MS. KEON: -- but it's really not
 3 the front of the building; is that
 4 right?
 5 MS. RUSSO: It's a focal
 6 entrance --
 7 MS. KEON: I thought that's what
 8 you said.
 9 MR. GELABERT-NAVIA: The
 10 building -- there's several entrances to
 11 the building, because the building takes
 12 over what is, in essence, a very large
 13 block. So there's an entrance from
 14 LeJeune, there's an entrance from Greco,
 15 and there's an entrance from a future
 16 City park which will be at the
 17 intersection of Greco and Granello.
 18 MS. KEON: Right.
 19 MR. GELABERT-NAVIA: And there's
 20 vehicular entrance from Granello. So
 21 there's actually an entrance from every
 22 street that the project faces.
 23 MS. KEON: But then just -- I mean,
 24 then, because of the site plan and then
 25 with the application of the Code to the

100

1 site plan, you have to set one as a
 2 front setback, and that's the one that
 3 is chosen to be the front setback, I'm
 4 assuming, LeJeune? That would appear,
 5 because if that wasn't -- if that wasn't
 6 the front, then it would have to be --
 7 you would require that it be pushed back
 8 the same as the sides, right? Isn't
 9 that --
 10 MS. CONDE: Right, and the front
 11 setback is determined by the facing of
 12 the lots.
 13 MS. KEON: The facing.
 14 MS. CONDE: Right.
 15 MS. KEON: Okay.
 16 MR. BEHAR: Essentially, what
 17 they're doing, Pat, they're self-
 18 imposing, with this proposal, a setback
 19 which is not required. The required
 20 setback is zero. They're proposing to
 21 have an eight-foot setback.
 22 MS. KEON: No, I understand that,
 23 but I think as a -- as a -- from -- if
 24 I, as a resident, were looking at
 25 this -- and I think that the size of

101

1 this project is of grave concern, and I
2 did read the transcript, because, no, I
3 wasn't here, but I did read the
4 transcript, and I will agree with you,
5 it probably does not give you the same
6 flavor in reading it as you would have
7 if you were here and participated in it,
8 but I did read it, and I did read the
9 documents that came with it, but -- and
10 the thing that concerned me was truly --
11 was the size of it, and particularly
12 this on LeJeune Road, and wondered, you
13 know, as long as -- you know, when you
14 have -- when it fronts on something and
15 the rationale for that setback being
16 different from side setbacks is because
17 it is your entry, it is forward, it is
18 where you face, it is all those reasons,
19 and yet, you know, that isn't the case
20 with this. It's -- it's -- that isn't
21 the case. Every side of this is really
22 the front of this building. It appears
23 that every side is the front.
24 So that doesn't do anything for the
25 concerns that I have about that, even if

102

1 they move it back, because I think that
2 the loss of the arcade is a tremendous
3 loss for the people that use this and
4 use those sidewalks and everything else,
5 and yes, I think it should go back, I
6 don't think we should lose the arcade,
7 and I think that the concern, the point
8 that was brought up that when we vacate
9 an alley you have a parcel of land that
10 people aren't paying taxes on and now
11 you do -- I'll tell you that there are a
12 lot of people in this community that
13 would prefer not to pay taxes and
14 maintain their public space. They don't
15 mind giving up that tax dollar, not for
16 one minute, as long as they can maintain
17 their public space and their alleys and
18 all of those other things.
19 So I -- I -- and like Ms. Maroon
20 said, I really was very troubled with my
21 being able to vote on this project,
22 because I wasn't here for that public
23 hearing, but -- and nothing I've heard
24 has made me feel more comfortable that
25 the size of this project doesn't -- is

103

1 not more -- more than I think would be a
2 good thing for the City to be here.
3 So, you know, I'm still troubled
4 whether I abstain, because I wasn't here
5 for it, or I just say no.
6 MR. AIZENSTAT: Could I just ask a
7 question, maybe, to City Staff?
8 One thing -- this is not indicative
9 of whether I agree or don't agree with
10 the motion, but I think that you should
11 include, also, in the motion -- I don't
12 know if we need to, as far as the land
13 swapping for a park. I don't know if
14 that has to be anywhere in ours.
15 And then my other question would
16 be, as far as the park and the swapping
17 of land, is the square footage that's
18 being swapped the same? Is one greater,
19 one smaller?
20 MS. RUSSO: The land swap is
21 identical in terms of square footage.
22 MR. AIZENSTAT: Thank you.
23 MS. RUSSO: It's square foot for
24 square foot.
25 MR. AIZENSTAT: Thank you.

104

1 MS. RUSSO: The park will be bigger
2 than the lot, than the land swap, but
3 that is because the City has requested a
4 reconfiguration of the Greco-Granello
5 intersection that will enlarge the park
6 area, but it will be public right-of-
7 way, and the park will be public, but
8 the actual land swap is square foot by
9 square foot.
10 CHAIRMAN KORGE: Javier, do you
11 have any comments, any questions?
12 MR. SALMAN: My comment is that --
13 it addresses the concern of the Board of
14 Architects review. Although the change
15 is substantial from a square footage
16 point of view and from a massing point
17 of view, in my opinion, the
18 architectural elevation has been
19 preserved and it is -- from an
20 elevational point of view, will be
21 identical in that although the setbacks
22 have been reduced a little bit within
23 the building, the imposition of the
24 building on the street addresses all the
25 concerns that I have with regards to

105

1 this project.

2 The reintroduction of green and
3 green surface area in front of the
4 building between LeJeune Road and the
5 building will go a long way to bringing
6 back the building in line with the
7 surrounding proposed structure.

8 This section of LeJeune is -- is an
9 area that is in transition. We are in
10 an overlay district. The intent of that
11 overlay district is to promote a certain
12 level of density, which the LeJeune
13 right-of-way has to separate between the
14 remnants of single-family behind
15 commercial and these properties.

16 Now, you've exercised your right to
17 not build as much as you wanted to or
18 you could, and I think that that is a
19 neighborly issue and I think that given
20 the fact that you're going to allow the
21 alleyway to be and remain, for all
22 intents and purposes, public, you've
23 addressed all of my concerns.

24 CHAIRMAN KORGE: I still have some
25 concerns about the massing, and it's

106

1 hard for me to judge, from the picture,
2 the differences. I can see some of the
3 differences. I'm really like sitting on
4 the fence on this one, mainly because of
5 the massive size of the structure at
6 that location. I mean, I -- I'm -- it's
7 a coin toss for me. The fact that
8 you'll move it back moves me a little
9 bit. I was going to vote definitely no.
10 I mean, there was no question in my
11 mind, because it was just -- not only
12 too massive, but too close to the
13 street. You've moved that back and
14 you've addressed some of the other
15 concerns regarding green space. I still
16 have the concerns that Pat expressed
17 about the -- what do they call that?

18 MS. KEON: The arcade.

19 CHAIRMAN KORGE: The arcade, and I
20 don't know if losing that arcade costs
21 you points on the Mediterranean
22 Ordinance such that you would lose that,
23 but that's what causes a lot of the
24 massing to begin with, which is not the
25 fault of the developer; that's the fact

107

1 of the Mediterranean Ordinance, by --

2 MS. RUSSO: Well, and also the MXD,
3 which the purpose of the MXD is to
4 internalize, and when you internalize
5 your service, when you internalize the
6 alley -- in essence, the idea of the MXD
7 was to create interesting, friendly,
8 usable streets on all sides of a
9 building and have the ugly stuff hidden
10 inside, which is what we've done, and
11 the alley that we're giving, or the
12 easement, whatever mechanism the City
13 Attorney determines to be the best to
14 effectuate the public access through the
15 alley, is twice the size of the alley
16 that it has now.

17 And I think what's also being lost
18 a little bit is that this site is
19 developable, with only Board of
20 Architects review. It would be a
21 different project. We've shown some
22 examples of it, not that -- what it
23 would be, but it would be a building on
24 the south side of the park -- I mean, on
25 the south side of the surface lot, and a

108

1 separate building that would take the
2 remainder of the block as a triangle,
3 and the square footage would be very --
4 just a little bit less than the square
5 footage being proposed now, and the
6 height would be identical, with 75 feet,
7 or 77 on LeJeune and a hundred feet for
8 the rest of the block.

9 So what we're here -- and I think
10 what's being lost is that the MXD, when
11 you go through the MXD, which if we went
12 the other way -- the City benefits from
13 the Streetscape Master Plan, which if we
14 were to build the other way, there would
15 not be an implementation of a
16 Streetscape Master Plan.

17 In addition, one of the conditions
18 that Staff has put in is an
19 implementation of the Streetscape Master
20 Plan on property that doesn't even abut
21 our property, that isn't even across the
22 street from our property, but it's
23 across from Gables Engineering, from the
24 point where our property ends all the
25 way to Ponce Circle and on the other

109

1 side.

2 There will also be an entire
3 repaving of the street, which would not
4 occur if this were to be built as of
5 right. There will be a public park
6 which will be maintained in perpetuity,
7 at the expense -- so I think what's
8 being lost here, too, is that a building
9 of very close to this mass, which would
10 look identical to the naked eye, to the
11 untrained eye, can be built on this site
12 in a slightly different configuration,
13 which will leave a hole on LeJeune Road
14 and will be built out to the other end.

15 At the end of the day, it's a
16 balancing act as to whether or not this
17 project is bringing to the neighborhood
18 benefits that exceed the detriments to
19 the community, because the zoning is
20 there to do this, okay?

21 And with respect to the alley
22 vacation, under the new Code, the
23 criteria for vacating an alley has been
24 met. You know, the criteria for
25 vacating an alley has been changed under

110

1 the new Code, and it's whether or not
2 there's specific plans that the City has
3 for the use of that property, whether it
4 meets the Comprehensive Plan, whether it
5 meets the Zoning Plan, and whether or
6 not it's a necessary part and whether or
7 not what the alley's purposes are
8 served, are being served by the new
9 project. And if the MXD wants you to
10 internalize, then by vacating the alley,
11 allowing public access and internalizing
12 all your service uses, you're
13 accomplishing that.

14 So I think this project tries to do
15 what's best for everyone that's
16 concerned, in view of what's allowed
17 under the Code, and is trying to give
18 the most beautiful face to everything
19 surrounding it and offer the public a
20 benefit, as well.

21 CHAIRMAN KORGE: Okay.

22 MS. LISA MAROON: May I take a
23 minute?

24 CHAIRMAN KORGE: Any further
25 discussion?

111

1 MR. AIZENSTAT: Yeah.

2 MS. LISA MAROON: May I say
3 something?

4 MR. AIZENSTAT: The way I see it
5 is, while I do feel that in this
6 neighborhood a mixed-use project is
7 needed and it is correct -- I also feel
8 that this neighborhood does need a park,
9 which it does not have, for the
10 development that is going on, so I favor
11 that. I just --

12 MS. BOLTON: What's the amount of
13 the park?

14 MR. AIZENSTAT: Please let me
15 finish.

16 MS. BOLTON: What's the size of the
17 park?

18 MR. AIZENSTAT: While I disagree
19 with what Laura said, that -- with the
20 fact that this brings a benefit to the
21 neighborhood -- from what I've heard
22 from the neighbors, they're actually in
23 disagreement. I think the project, the
24 size and the massing, is very big.

25 While I agree that a project of a

112

1 mixed-use should go in that area, I
2 think the project which is presented
3 today, to me, is just too large for
4 where it is. I just want you to know
5 that feeling. I don't disagree with the
6 project. I think it needs it. I think
7 the swapping between the park and the
8 parking lot, I think that's good. All
9 that is great, and you're creating an
10 open park.

11 I don't have a problem, myself,
12 with the alley, because of the fact that
13 whether you have an alley that goes
14 straight or you have an alley that
15 zigzags, as long as you meet Fire Code
16 for the fire trucks, as long as it's
17 open 24 hours, I'm fine with it, plus
18 the fact that the property owner is
19 paying taxes on it, which is a benefit
20 to the City, I like that even better as
21 a resident. So, in that way, I don't
22 have a problem.

23 Where I do have a problem, I just
24 think that the entire structure is just
25 very massive.

113

1 CHAIRMAN KORGE: Pat, do you have
2 anything else?
3 MS. KEON: I wanted to ask the
4 architect again, you believe that your
5 project couldn't be built by -- if you
6 maintain the arcade and pushed it back,
7 too? You said you would give up too
8 much space to do that?
9 MR. GELABERT-NAVIA: No --
10 MS. KEON: Is that what you said?
11 MR. GELABERT-NAVIA: No. The --
12 When we did Village of Merrick Park, I
13 think we did a lot of good things and we
14 did a lot of right things, but I can
15 tell you one thing that we did wrong,
16 and that was -- and this was something
17 that the Rouse Company, which is no
18 longer in existence, was a specialist
19 in, which was retail. And when we did
20 the housing in Village of Merrick Park,
21 the depth of that retail is only 35
22 feet. This was done against the better
23 judgment of the Rouse Company, but they
24 needed to do it because the original DRI
25 said that there was going to be retail

114

1 all around it. They also -- We tried to
2 put the parking inside. That depth does
3 not work, and if you go to Village of
4 Merrick Park, you will notice that
5 almost all those stores are vacant.
6 They don't work.
7 One of the things that we tried to
8 do here, as Laura said before, is, we've
9 internalized all the parking, so that
10 this building that we're talking about
11 is actually a liner, so that you don't
12 see the parking.
13 We put all the services inside, and
14 we have also created and we've worked --
15 the owner has had a separate broker that
16 just does retail, to make sure that
17 those stores are not empty, that those
18 stores are places that they will have a
19 use for.
20 If we cut 10 feet from those
21 stores, they will not work, and what we
22 will have is another Village of Merrick
23 Park housing project with retail around
24 it that will be open.
25 Again, this is something that we

115

1 actually discussed with the Board of
2 Architects, should we have the arcade,
3 and we said to them, "Do you want the
4 arcade or do you want the additional
5 setback?" And we went back and forth,
6 and at the end of the day, they said,
7 "Okay, we want the arcade."
8 But from the sentiment of the Board
9 here, it seems that you'd rather have
10 the setback, rather than the arcade, and
11 again, we've discussed it with the
12 owner, and we said, "Okay, fine, we
13 won't have the arcade."
14 MS. KEON: And there's no way to be
15 able to achieve both --
16 MR. GELABERT-NAVIA: No.
17 MS. KEON: -- some sort of
18 additional setback from what it is now
19 and to preserve the arcade?
20 MR. BEHAR: Ideally, we would have both.
21 MR. GELABERT-NAVIA: Ideally --
22 ideally, we would have both, but this
23 site, even though it looks big and all
24 that, it's triangular.
25 MS. KEON: Uh-huh.

116

1 MR. GELABERT-NAVIA: It's very,
2 very difficult, and has been very, very
3 difficult to try to do all these things,
4 so --
5 MR. BEHAR: What is the depth of
6 those retail spaces now, the way you --
7 the way it was originally --
8 MR. GELABERT-NAVIA: They're about
9 60 feet.
10 UNIDENTIFIED MAN: 45.
11 MR. AIZENSTAT: What?
12 UNIDENTIFIED MAN: 45.
13 MR. GELABERT-NAVIA: 45.
14 MR. BEHAR: 45 with the -- with
15 this proposal?
16 MR. GELABERT-NAVIA: With that,
17 it's 45. So, if we cut it, we're at 35,
18 and we're back to Merrick Park, and the
19 owner, you know, said that they won't do
20 it, because they're not going to have,
21 you know, the ground floor empty.
22 MS. KEON: I'm sorry, with the
23 setback that you have proposed now to
24 move it back, the retail space is what
25 depth?

117

1 MR. GELABERT-NAVIA: No, it remains
2 at 45.
3 MS. KEON: At 45?
4 MR. GELABERT-NAVIA: The problem
5 is, if we put the arcade beyond that,
6 then it becomes 35.
7 MS. RUSSO: You have to take the
8 arcade off of the front of that.
9 MS. KEON: Right, and there's not a
10 way -- I mean, I'll ask you as an
11 architect. There's not a way to figure
12 out between all of that space, a way to
13 accomplish some setback and maintain
14 some arcade?
15 MR. BEHAR: Pat, off the top of my
16 head, no. You have to sit down and --
17 MS. KEON: You would have to come
18 back and take a look at it and maybe
19 redo it; is that right?
20 MR. AIZENSTAT: You'd have to redo
21 the project.
22 MR. GELABERT-NAVIA: Well, we
23 have -- we have, obviously -- we've been
24 doing this for about a year and a half,
25 and it simply -- it's an either/or

118

1 situation.
2 In Village of Merrick Park, in the
3 office building, there is no arcade, but
4 actually, except for The Palm, which
5 went black now, all the other retail
6 spaces are rented. And at the end of
7 the day, I think what you want is the
8 life there. You want a store that is
9 viable.
10 Personally, we would -- you know,
11 that's why we put the arcade in the
12 first place, but you also have to think
13 how many people are going to walk down
14 LeJeune Road.
15 MS. KEON: I just -- you know, I
16 have a very strong feeling that that
17 arcade affects the street experience,
18 and I think that's what we all have
19 tried so hard to do with the new Zoning
20 Code and with so many of the things
21 we've done, is to really affect the
22 street experience. I think that
23 really -- that makes such a difference.
24 MR. GELABERT-NAVIA: We feel -- I
25 mean, again, it's an either/or. If you

119

1 go to the Colonnade, the arcade goes all
2 the way to the street. If you go to the
3 new Bacardi building, it goes -- also on
4 LeJeune -- it goes all the way to the
5 street.
6 I mentioned it before, and I -- not
7 all the neighbors agreed with me -- in
8 Paris, the arcades go all the way to the
9 street. But at this point, the owner
10 has said, "We need to move on, so stop
11 arguing that point."
12 So, if it is your preference to
13 move it back, we'll move it back.
14 CHAIRMAN KORGE: Any further
15 discussion on the motion?
16 MR. RIEL: Just a point of
17 clarification. I want to make sure the
18 motion included it was approval for a
19 mixed-use site plan and also vacation of
20 the public alleyway.
21 MR. BEHAR: Yes.
22 CHAIRMAN KORGE: Yes, I understood
23 it to be approval of the entire project,
24 subject to the various conditions that
25 have been mentioned previously.

120

1 MR. BEHAR: That's correct.
2 CHAIRMAN KORGE: Is there any
3 further discussion?
4 Would you call the roll, please?
5 MS. MENENDEZ: Robert Behar?
6 MR. BEHAR: Yes.
7 MS. MENENDEZ: Jeff Flanagan?
8 MR. FLANAGAN: Let me just put on
9 the record a real quick comment. It is
10 a bit of a massive project. I do have
11 that concern, but I do appreciate that
12 they -- the applicant has come back, has
13 agreed to step it back eight feet, has
14 shaved off the corner on the south side
15 a little bit -- I think it's a bit of a
16 minor concession on that one, but I
17 appreciate that it's done -- and I'm
18 cognizant of the fact that they could
19 build a similar or I think even larger
20 project under the Code, as of right. It
21 seems as though what they're coming in
22 for today is actually less than what
23 they're entitled to come in with.
24 It's an interesting architectural
25 detail. I appreciate the effort that's

121

1 gone into it. I was torn, coming in
2 tonight, but the concessions that were
3 done, and I think really stepping it
4 back, has helped to change my mind to
5 vote yes on it.
6 MS. MENENDEZ: Pat Keon?
7 MS. KEON: No.
8 MS. MENENDEZ: Javier Salzman?
9 MR. SALMAN: I would beg the
10 applicant to look at the possible
11 exploration of reintroduction of that
12 arcade for that section of LeJeune. You
13 have an arcade all the way around the
14 building, and the affected area for
15 that limit is fairly limited that you
16 would bring back down to 35 feet, so I
17 would strongly suggest that you look at
18 that as a possibility.
19 The loss of square footage is not
20 horrible, it's not that substantial, and
21 it doesn't have to be the full 16 feet
22 on this elevation, it could be something
23 less. But notwithstanding, I'm going to
24 go ahead and vote yes on it.
25 MS. MENENDEZ: Eibi Aizenstat?

122

1 MR. AIZENSTAT: While I feel that
2 the project, a mixed-use project, is
3 what should belong there, and as I
4 stated before, I feel that the park is a
5 plus, I do feel that the massing and the
6 size of the project is quite large, and
7 that's why I would say no.
8 MS. MENENDEZ: Tom Korge?
9 CHAIRMAN KORGE: I'll agree with
10 the nos. It's a close one for me, and I
11 have some hesitation about voting no,
12 because possibly, by right, they could
13 build a similar massive project --
14 MR. SALMAN: As of right.
15 CHAIRMAN KORGE: And that would
16 probably be less advantageous to the
17 neighborhood. I mean, this is just a --
18 it's a coin toss for me, but I'm going
19 to have to go no on this, for the
20 reasons that were expressed. It's just
21 a close call.
22 MR. RIEL: Just for a matter of the
23 record, so the vote is three-three.
24 That's considered a no recommendation.
25 That recommendation will go forward to

123

1 the City Commission on January 13th,
2 2009.
3 MS. RUSSO: Thank you very much.
4 MS. KEON: So the record will show
5 the concerns over the arcade?
6 MR. RIEL: We provide a verbatim
7 record to the Commission.
8 MS. KEON: Thank you.
9 MR. RIEL: Can we take a five-
10 minute break?
11 MR. SALMAN: Sure.
12 CHAIRMAN KORGE: We've
13 got something left?
14 MR. RIEL: Yes.
15 CHAIRMAN KORGE: Oh, yes, we've got
16 the settlement.
17 MR. RIEL: Can we take a
18 five-minute break?
19 CHAIRMAN KORGE: Five? We'll have
20 a five-minute -- we'll be back here in
21 five minutes.
22 Item Number 6 is next on our
23 agenda.
24 MR. BEHAR: Mr. Chairman, I have to
25 excuse myself.

124

1 (Whereupon, there was a recess,
2 during which Mr. Behar left the
3 meeting.)
4 CHAIRMAN KORGE: We're ready. Call
5 the meeting back to order.
6 The next item on the agenda is Item
7 Number 6, proposed Zoning Code text
8 amendment pursuant to a proposed
9 settlement agreement with Fernando
10 Menoyo and Almeria Row, LLC, represented
11 by Tew Cardenas, LLP.
12 How are we proceeding with
13 presenting this?
14 MR. RIEL: I believe the City
15 Attorney wanted to make a couple
16 comments, and then I'll give a brief
17 presentation.
18 CHAIRMAN KORGE: Liz?
19 MS. HERNANDEZ: This application
20 comes to you as a result of a Bert J.
21 Harris claim that was filed by the
22 applicant. The City has -- My office is
23 taking no position with regard to
24 whether or not the applicant can
25 successfully win on the merits of their

Planning & Zoning Board Meeting Attendance/Speaker Sign In Sheet – December 10, 2008

	Name	Mailing Address	Phone	(If you wish to be a speaker, please check the appropriate box)
1.	Porey O'Neal Beller	124 Codrington Ave Concord Harbor, Fl 33134		<input checked="" type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
2.	Shirley Merrick			<input type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
3.	Adis Riveron	426 Almar Ave.		<input checked="" type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
4.				<input type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
5.				<input type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
6.				<input type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)
7.				<input type="checkbox"/> Item # 5 (DYL Merrick MXD) <input type="checkbox"/> Item # 6 (Proposed Settle Agreement w/Menoyo) <input type="checkbox"/> Items # 7 – 12 (Various ZC Text Amendments)

Attachment

B

SALOMON, KANNER, DAMIAN & RODRIGUEZ, P.A.

ATTORNEYS AT LAW
2550 BRICKELL BAY VIEW CENTRE
80 S.W. 8th Street
MIAMI, FLORIDA 33130

Telephone (305) 379-1681
Telecopy (305) 374-1719
E-mail: vdamian@skdrlaw.com

December 5, 2008

VIA EMAIL *chernandez@coralgables.com*

Elizabeth M. Hernandez
City Attorney
City of Coral Gables
City Hall
405 Biltmore Way, 1st Floor
Coral Gables, FL 33134

Re: DYL Application Public Hearing
Application No. 06-08-070P

Dear Ms. Hernandez:

The Application of DYL respecting its plans for a mixed use development has been set for public hearing on December 10, 2008. The Coral Gables Charter and Code require that public hearings be appropriately advertised and that mailed notices go to affected residents within the designated perimeter and that the property be posted. We have checked for public advertising and posting and none has taken place. The residents of the affected area have not received mailed notices. I have checked the Code and I find no exception for the public notice requirements for public hearings which are continued. If there is not a specific exemption then a public hearing must have such publication, notice and posting.

It is requested that this hearing be continued to another date after the Christmas holidays and that the hearing be properly advertised, noticed and posted. If this hearing should go forth without appropriate advertisement, notice and posting, then whatever the outcome, the hearing procedure will be challenged on appeal by one party or the other. It would be a terrible waste of the Boards time, the staff's time, the applicant and the public if this hearing is not cancelled and reset.

My client made this request upon Mr. Riel and he said that you should be the person to make that decision.

A copy of this letter is also sent to Mr. Korge, the Chairman of the Planning and Zoning Board.

Elizabeth M. Hernández
December 5, 2008
Page 2

Please respond as soon as possible so that we will know what action to take.

Yours very truly,



Vincent E. Damian, Jr.

VED/rrs

cc: Eric Riel, Director, Planning (via email, eriel@coralgables.com)
Tom Korge, Chairperson, Planning and Zoning Board (via mail)
Laura Russo, Esq. (via email, laura@russobaker.com)
Client (via U.S. Mail)

Greenberg Traurig

Mario J. Garcia-Serra
Tel. (305) 579-0837
Fax (305) 961-5837
garcia-serram@gtlaw.com

December 5, 2008

Elizabeth Hernandez, Esq.
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

**Re: DYL / Planning Department Application No. 06-08-07P / Response to Mr.
Vincent Damian's Letter of December 5, 2008**

Dear Ms. Hernandez:

We are in receipt of a letter which was delivered to you and dated today from Mr. Vincent Damian, counsel to Ms. Shirley Maroon, regarding the above referenced project. In that letter, Mr. Damian asserts that the continuation of the Planning and Zoning Board's discussion of the above referenced application requires the mailing of another courtesy notice to neighboring properties and the re-posting of a notice on the subject property. Mr. Damian also requests that this matter be scheduled for another meeting of the Planning and Zoning Board "after the Christmas holidays". For the reasons stated below, we disagree with Mr. Damian's assertions and his recommended course of action.

The public hearing portion of this quasi judicial matter was already opened, conducted, and closed at the November 12, 2008, meeting of the Planning and Zoning Board. As the attached excerpts of the verbatim transcript of the November Planning and Zoning Board indicate, the Chairman of the Planning and Zoning Board had closed the public hearing, the Applicant had concluded its rebuttal, and the Board was well into its discussion of the application when the meeting was adjourned at 9pm in compliance with the City's rules of procedure. Robert's Rules of Order specifically provides that

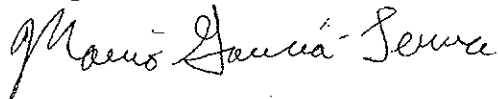
"the effect of an adjournment on a pending motion or an uncompleted order of business...When the adjournment closes the session in an assembly having its next regular business session within a quarterly time interval and having no members whose term of membership expire before the next regular session..." is that, "The complete order of business is followed at the next regular session. If a question was pending at the time of adjournment, it is taken up as the first item under unfinished business...resuming the question at exactly where it was previously interrupted." (copy attached).

MIA 180338037v1 December 5, 2008

In compliance with this rule, the Planning Department staff has listed the subject application as "Old Business" on the December 10th agenda of the Planning and Zoning Board. Since the Board will resume its discussion of this matter at the point where it was previously interrupted, which is after the closing of the public hearing, there is no need to send or post notices of a public hearing which has already taken place. At the December 10th meeting, the Board will conclude its discussion and entertain Board member's motions as to what the Board's recommendation should be. The members of the public who participated in the November 12th public hearing were already on notice that the public hearing had been closed and that the Board's discussion would be concluded at the December 10th meeting.

Mr. Damian's claim that public hearing notices are required for the conclusion of the Board's discussion is not supported by fact, law, or the rules of procedure. We respectfully submit that Mr. Damian's request that this matter be continued to a later meeting of the Planning and Zoning Board is inappropriate, unnecessary, inconsistent with the applicable law, rules of procedure, and past City policy and practice and should not be granted. If you would like to discuss this issue further, please contact me at 305-579-0837. Thank you for your attention to this matter.

Best regards,



Mario J. Garcia-Serra

cc: Mr. Eric Riel, Planning Director
Vincent Damian, Esq.
Laura Russo, Esq.
Clifford A. Schulman, Esq.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared
SOOKIE WILLIAMS, who on oath says that he or she is the
VICE PRESIDENT, Legal Notices of the Miami Daily Business
Review t/k/a Miami Review, a daily (except Saturday, Sunday
and Legal Holidays) newspaper, published at Miami in Miami-Dade
County, Florida; that the attached copy of advertisement,
being a Legal Advertisement of Notice in the matter of

PLANNING AND ZONING BOARD OF THE CITY OF CORAL
GABLES - PUBLIC HEARING - DECEMBER 10, 2008

in the XXXX Court,
was published in said newspaper in the issues of

11/25/2008

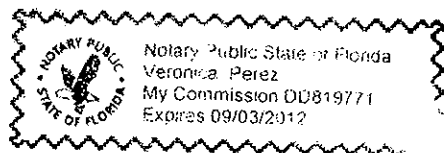
Affiant further says that the said Miami Daily Business
Review is a newspaper published at Miami in said Miami-Dade
County, Florida and that the said newspaper has
heretofore been continuously published in said Miami-Dade County,
Florida, each day (except Saturday, Sunday and Legal Holidays)
and has been entered as second class mail matter at the post
office in Miami in said Miami-Dade County, Florida, for a
period of one year next preceding the first publication of the
attached copy of advertisement; and affiant further says that he or
she has neither paid nor promised any person, firm or corporation
any discount, rebate, commission or refund for the purpose
of securing this advertisement for publication in the said
newspaper.

Sworn to and subscribed before me this

25 day of NOVEMBER, A.D. 2008

(SEAL)

SOOKIE WILLIAMS personally known to me



NOTICE OF PUBLIC HEARING

All interested persons are hereby notified that the Planning and Zoning
Board of the City of Coral Gables, Florida, will conduct the following
public hearing at its meeting scheduled for Wednesday, December 10,
2008, City Commission Chambers, City Hall, 405 Billmore Way, Coral
Gables, Florida, commencing at 6:00 p.m.

Public Hearing Item(s) — Planning and Zoning Board

Old Business:

1. Application No. 06-08-070-P. Mixed-Use (MXD) Site Plan
Review and Vacation of Public Alleyway. Planning and Zoning
Board review of a development proposal which includes two (2)
separate applications for the proposed project referred to as
"DYL Merrick MXD" on property legally described as all of Block 16,
Industrial Section (4601 LeJeune Road), bounded by LeJeune
Road, Greco Avenue and Granello Avenue, Coral Gables, Florida,
as follows:
1) Mixed use (MXD) site plan review for the proposed mixed use
project.
2) Vacation of public alleyway.
2. Proposed Zoning Code Text Amendment pursuant to a
Proposed Settlement Agreement with Fernando Menoyo and
Almeria Row, LLC, represented by Tew Cardenas, LLP.

Zoning Code Text Amendment — Appendix A, Site Specific
Zoning Regulations. An Ordinance of the City of Coral Gables
amending the text of the Official Zoning Code, Appendix A, Site
Specific Zoning Regulations providing for changes to the allowable
townhouse building height for specific properties from 35 to 45 feet
pursuant to a City of Coral Gables City Commission Settlement
Agreement; providing for repeal, providing severability, providing for
codification thereof, and providing for an effective date.

3. Zoning Code Text Amendment — Article 5, Division 16,
"Roofs", and Article 8, "Definitions". An Ordinance of the City of
Coral Gables amending the text of the Official Zoning Code, Article
5, Division 16, providing for clarification of the permitted roofing
material of copper roofs, and Article 8, providing for a definition of
"copper," providing for repeal, providing severability, providing for
codification thereof, and providing for an effective date.

New Business:

4. Zoning Code Text Amendment — Article 2, Division 7,
"Administrative Decision Makers and Enforcement
Officers". An Ordinance of the City of Coral Gables amending the
Zoning Code, Article 2, "Decision Making and Administrative
Bodies", Section 2-702, entitled "City Attorney", to
provide the proper procedures to follow to review rulings of the City
Attorney; and providing for severability, repealer, codification, and
an effective date.
5. Zoning Code Text Amendment — Article 8, "Definitions". An
Ordinance of the City of Coral Gables amending the Zoning Code,
Article 8, entitled "Definitions" to amend the definition of "Family" to
reflect the appropriate constitutional requirements; and providing for
severability, repealer, codification, and an effective date.
6. Zoning Code Text Amendment - Article 5, Division 19,
"Signs". An Ordinance of the City of Coral Gables amending
Zoning Code Article 5, Division 19, entitled "Signs", Section 5-1909,
"Campaign", by providing for the allowance of campaign or political
signs in residential districts, providing the size of campaign and
political signs in residential districts, providing for the length of time
campaign or political signs are allowed in the City of Coral Gables
following elections; and, Article 8, "Definitions", by adding a
definition for "political signs" and "campaign signs"; and providing
for severability, repealer, codification, and an effective date.

CITY OF CORAL GABLES
2009-1 PM 3:44

7. **Zoning Code Text Amendment — Article 2, Division 5, "Historic Preservation Board"**. An Ordinance of the City of Coral Gables amending Zoning Code Article 2, Division 5, "Historic Preservation Board", Section 2-502, entitled "Membership; Terms; Vacancies; Removal", to amend the current membership to require two architects on the Historic Preservation Board; and providing for severability, repealer, codification, and an effective date.
8. **Zoning Code Text Amendment — Article 5, Division 8, "Docks, Wharves, Mooring Piles and Watercraft Moorings"**. An Ordinance of the City of Coral Gables amending Zoning Code Article 5, Division 8, Section 5-805, entitled "Davits, watercraft lifts and floating watercraft lifts", to amend the number of davits permitted on a property; and providing for severability, repealer, codification, and an effective date.

Discussion:

9. **Comprehensive Land Use Plan "Evaluation and Appraisal Report (EAR) Based Amendments" (Update of Comprehensive Land Use Plan pursuant to the Department of Community Affairs comments on the EAR)**. An Ordinance of the City of Coral Gables amending the text of the City's Comprehensive Land Use Plan (CLUP) pursuant to the findings and recommendations of the City's adopted 2006 Evaluation and Appraisal Report (EAR) and State of Florida growth management statutes and requirements, providing for repeal, providing severability, providing for codification thereof, and providing for an effective date.

(This is an introduction and discussion of update to the CLUP; a recommendation for approval is not being sought at this time.)

10. **Adjournment.**

Planning Department
City of Coral Gables
Eric Riet, Jr.

Next Meeting: January 14, 2009, 6:00 p.m.

All meetings are telecast live on Channel 77.

Any person, who acts as a lobbyist pursuant to the City of Coral Gables Ordinance No. 2006-11, must register with City of Clerk, prior to engaging in lobbying activities before City Staff, Boards, Committees and/or the City Commission. A copy of the Ordinance is available in the Office of the City Clerk, City Hall.

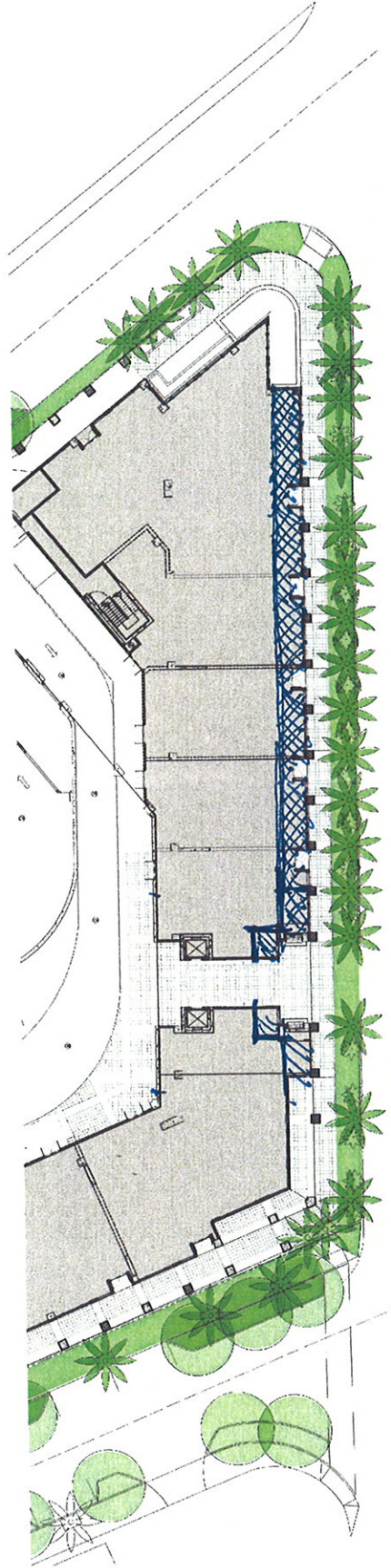
If a person decides to appeal any decision made by a Board/Committee with respect to any matter considered at a meeting or hearing, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

A copy of the Planning Department staff reports for each item will be available for review in the Planning Department office the Friday before the meeting as well as on the Planning Department's web page at www.coralgables.com.

Any person requiring special accommodations for participation in the meeting should call Walter Carlson, Assistant Planning Director (305) 460-5213, no less than three working days prior to the meeting.

11/25

08-3-241/1126102M



PERKINS
 + WILL

BUILDING SETBACK 8'-0" FROM PROPERTY LINE AT SOUTH LE JEUNE
 FACADE STEPPING AT CORNER OF LE JEUNE AND GRANELLO

Coral Gables Mixed-Use Development

DYL
 GROUP

“DYL Merrick MXD”

Mixed Use (MXD) Site Plan Review and Vacation of Public Alleyway

10.08.08 PZB Meeting

1

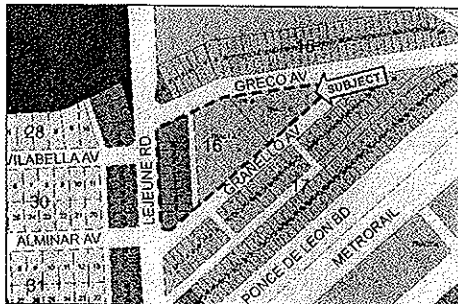
Background

- Project located in Industrial District, 1 block south of Village of Merrick Park.
- Property zoned “C”, Commercial along LeJeune Road and “I”, Industrial along Granello and Greco Avenues.
- Within Mixed Use Overlay (MXD) District.
- Project site is 2.3 acres in size.
- Public alleyway bisects block from north to south.
- Site occupied by low-rise commercial buildings and surface parking.

10.08.08 PZB Meeting

2

Land use designations

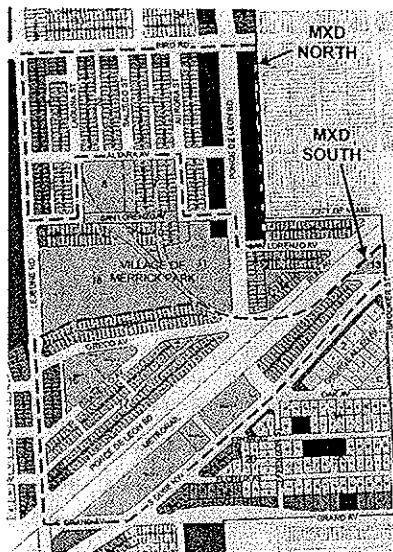


- “Commercial Low-Rise Intensity”
 - Along LeJeune Road
- “Industrial Use”
 - Along Granello and Greco Avenues

10.08.08 PZB Meeting

3

MXD overlay districts



- “North Industrial MXD District”
- “South Industrial MXD District”

10.08.08 PZB Meeting

4

Proposed project

- Mixed-use (MXD) project consisting primarily of office use (187,000 SF), retail and restaurant uses (42,000 SF) and 42 residential units.
- Maximum 3.5 FAR is permitted – 3.35 FAR
- 1,081 parking spaces are required and 1,083 spaces are provided (not including 34 public replacement parking spaces for a total 1,117 parking spaces).
- Proposed public park is not a part of the MXD site plan review.

10.08.08 PZB Meeting

5

Project height

Permitted by Comprehensive Plan	Permitted by MXD Overlay District	Proposed DYL Merrick Project
"Commercial Low-Rise Intensity" <ul style="list-style-type: none"> • 6 stories* • Max. 77 feet • +25 feet architectural features 	"Commercial Low-Rise Intensity" <ul style="list-style-type: none"> • No max. stories • Max. 77 feet • +25 feet architectural features 	"Commercial Low-Rise Intensity" <ul style="list-style-type: none"> • 6 stories • 77 feet • +15 feet architectural features
"Industrial Use" <ul style="list-style-type: none"> • 8 stories* • Max. 99 feet • +25 feet architectural features 	"Industrial Use" <ul style="list-style-type: none"> • No max. stories • Max. 100 feet • +25 feet architectural features 	"Industrial Use" <ul style="list-style-type: none"> • 8 stories • 99 feet • +25 feet architectural features

*with Mediterranean design bonuses

10.08.08 PZB Meeting

6

MXD objectives

- Current MXD provisions originally adopted in 2004, and revised in 2006 with Zoning Code rewrite, are intended to:
 - Promote unified “planned” developments.
 - Encourage public realm improvements.
 - Utilize physical characteristics of the site.
 - Create diversity of uses and a “walk-able” pedestrian environment.
 - Promote public transit.
 - Strong emphasis on Med. architectural design.

10.08.08 PZB Meeting

7

Issues and analysis

- Detailed analysis and discussion of the following issues are provided in Staff's report (page numbers indicated):
 1. Compliance with the Zoning Code (page 7).
 2. Mixed Use District (MXD) purpose and objectives (page 7).
 3. Site plan review criteria (pages 8-10).
 4. Street and alley vacation requirements (pages 10-12).

10.08.08 PZB Meeting

8

Issues and analysis

5. City Commission identified issues (pages 12-14).
6. Traffic study (pages 14-15).
7. Proposed public City park (page 15).
8. Concurrency management analysis (page 15).
9. Public school concurrency review (page 15).
10. Attainable housing (pages 15-16).
11. Compliance with Comprehensive Plan goals, objectives and policies (pages 16-20).

10.08.08 PZB Meeting

9

Findings of fact

- Consistent with Comprehensive Plan's goals, objectives and policies.
- Satisfies site plan review criteria for a proposed MXD project.
- Satisfies standards for review for the vacation of a public alleyway.
- Property owner shall provide two signalized pedestrian crosswalks.
- Public ROW improvements are provided in compliance with City's Master Landscape Plan.

10.08.08 PZB Meeting

10

Findings of fact

- Additional off-site improvements are provided, including landscaping, lighting, street re-paving, curbing, crosswalks, drainage and undergrounding of utilities along both sides of Granello and Greco Avenues between LeJeune Road and Ponce de Leon Boulevard.
- Provides residential component and pedestrian environment in accordance with MXD objectives.
- All delivery services, trash pick-up and valet parking are contained within the building.

10.08.08 PZB Meeting

11

Findings of fact

- Satisfies all City concurrency standards.
- Secured Board of Architects review and approval for Mediterranean design.
- No variances are requested/required.
- Satisfactorily addressed all City Department comments via the Development Review Committee (DRC) process.
- Assists City efforts in the promotion of attainable housing as mandated by the State.

10.08.08 PZB Meeting

12

Recommendation

- The Planning Department recommends approval of the MXD site plan and vacation of the public alleyway with conditions of approval, as follow (condition numbers referenced):

10.08.08 PZB Meeting

13

Conditions of approval

- 3a. All valet stations, stacking and vehicular circulation must be contained entirely within building.
- 3b. Payment for 13 lost on-street parking spaces.
- 3c. Provide directional signage plan for on-site and off-site vehicular circulation.
- 3d. No signage permitted above the second floor facing onto LeJeune Road.
- 3e. No building lighting permitted above the second floor facing onto LeJeune Road.

10.08.08 PZB Meeting

14

Conditions of approval

- 3f. No building encroachments permitted onto LeJeune Road.
- 3g. All off-site landscaping shall be irrigated, and shall be supplied and controlled from the ROW.
- 4b. Two signalized pedestrian crosswalks shall be provided. One across LeJeune Road, and the other across Ponce de Leon Boulevard.
- 4c. FDOT approval is required for the proposed landscaping/pedestrian easement along LeJeune Road.

10.08.08 PZB Meeting

15

Conditions of approval

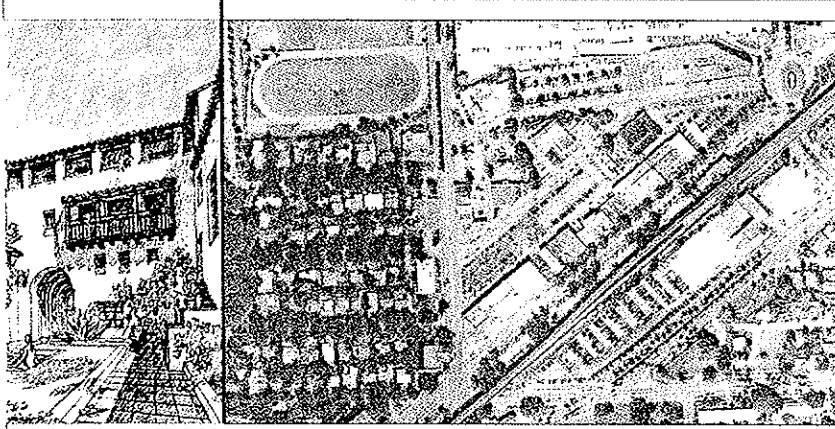
- 5. Site plan for the public park shall be subject to future City review and approval.
- 6. Any private use of the public park shall require City review and approval.
- 7. As proffered by the property owner, funds are being contributed to assist the City in its efforts to promote attainable housing.

10.08.08 PZB Meeting

16

PERKINS
WILL

**DYL MIXED USE DEVELOPMENT AT THE VILLAGE OF MERRICK PARK, CORAL
GABLES**



DYL
GROUP

Planning Board Presentation 11/12/08



Agenda

PERKINS
WILL

- Introduction
- Site Analysis
- Precedents
- Project Presentation
- Discussion

Site

PERKINS
WILL



Fact and Fiction

PERKINS
WILL

- Streets that are currently closed will be opened.
- Not true. *No existing street closures are being touched.*
- The current height limitations is being exceeded.
- Not true. *Project conforms to 77 foot code limit.*
- The project will have subsidized housing.
- Not true. *The project has 42 units of luxury housing.*
- The alley is being eliminated completely.
- Not true. *The service alley is being relocated & enlarged.*

Fact and Fiction

PERKINS
WILL

- The City is giving away the surface parking lot.
- Not true. The lot is being replaced with a public park.
- The City is losing parking spaces.
- Not true. There will be over 280 spaces available to the public.
- The Developer is going to damage existing utilities.
- Not true. All utilities will be buried and modernized.
- The Project will add a financial burden to the City.
- Not true. The project will add a multi-million tax

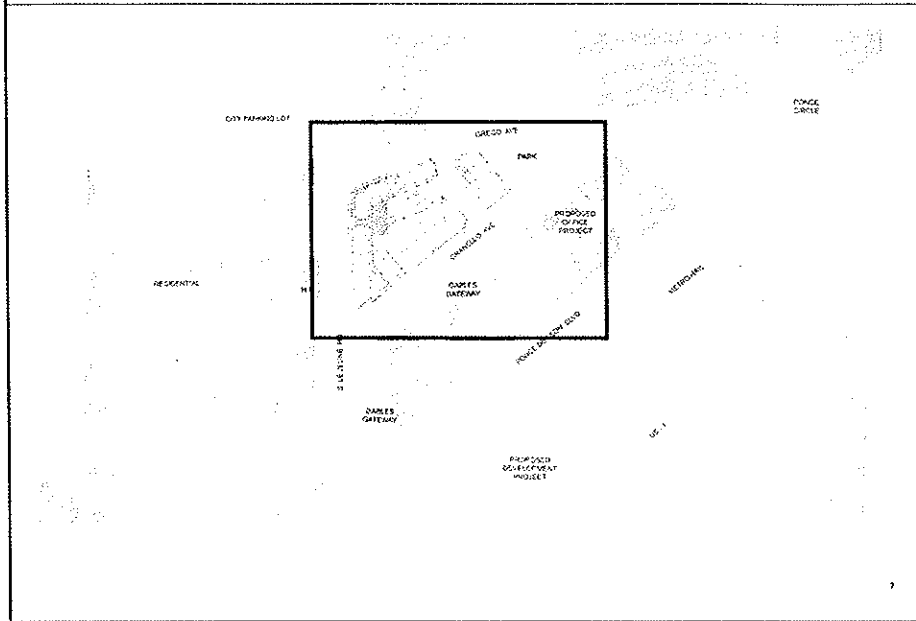
PERKINS
WILL

ZONING COMPARISON INDUSTRIAL, LIMITED COMMERCIAL & MXD OVERLAY LEVEL 2 MEDITERRANEAN BONUS

ZONING REQUIREMENTS	INDUSTRIAL ZONE	LIMITED COMMERCIAL	MXD OVERLAY DISTRICT
MAXIMUM HEIGHT	99'	77'	INDUSTRIAL 99'
FAR ALLOWABLE	3.5	3.5	3.5
SETBACKS (SETBACKS CAN BE REDUCED TO ZERO IN ALL DISTRICTS PER THE MEDITERRANEAN DESIGN STANDARDS, TABLE 3, NO. 1)			
FRONT	NONE W/ 10' SETBACK @ 40'	NONE	NONE W/ 10' SETBACK AT 45'
SIDE	INTERIOR SIDE - NONE STREET SIDE - NONE	INTERIOR SIDE - NONE STREET SIDE - NONE	INTERIOR SIDE - NONE STREET SIDE - 15'
REAR	ALLEY/STREET - NONE NOT ALLEY/STREET - 10'	ALLEY - 5' NO ALLEY - 10'	ALLEY/STREET - NONE NO ALLEY/STREET - 10'
PARKING REQUIRED (SPACES)			
RETAIL	1/250	1/250	1/250
RESTAURANT	12/1000	12/1000	10/1000
OFFICE	1/300	1/300	1/250
RESIDENTIAL	NA	PER ARTICLE 5, DIV 14	PER ARTICLE 5, DIV 14

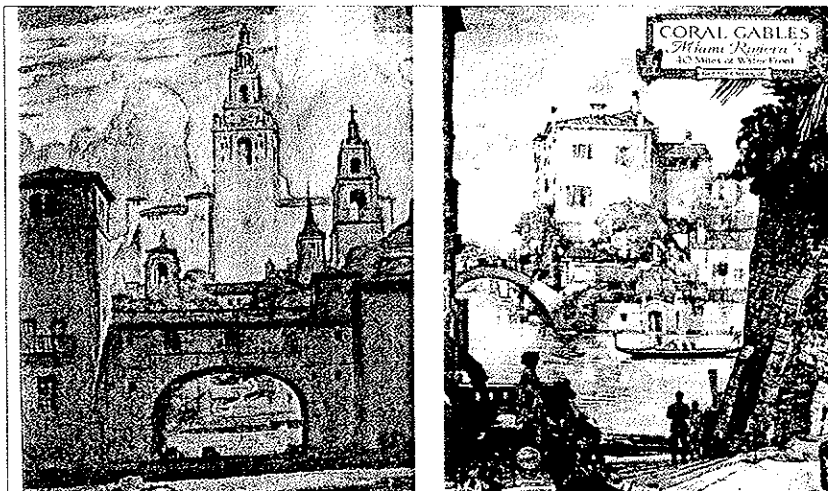
Location Map

PERKINS
WILL



Precedents: Coral Gables

PERKINS
WILL



Precedents: Coral Gables

PERKINS
WILL



9

Precedents: Coral Gables

PERKINS
WILL



10

Precedents: Coral Gables

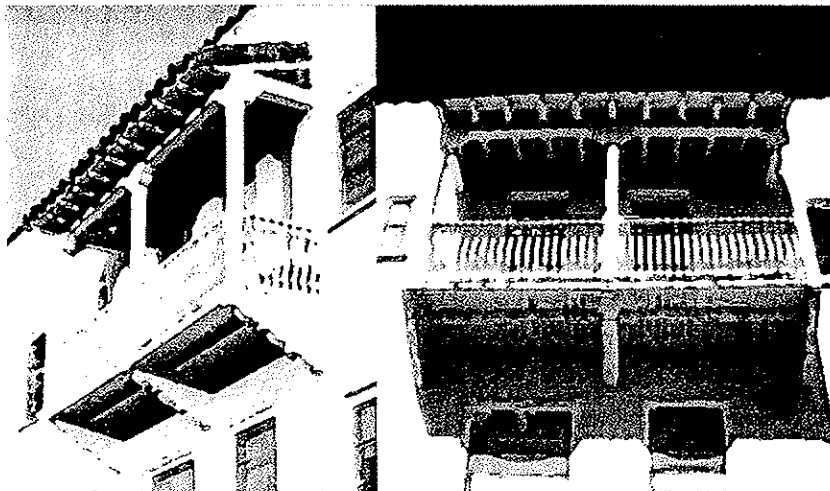
PERKINS
WILL



11

Precedents: Coral Gables

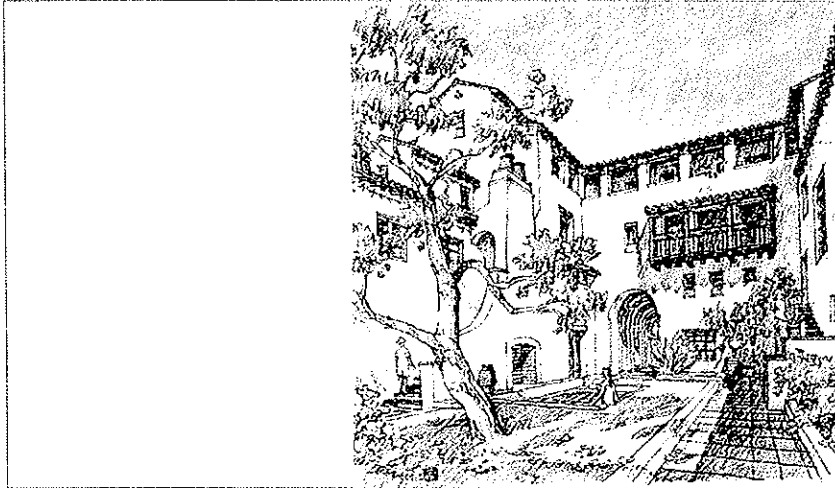
PERKINS
WILL



12

Precedents: California

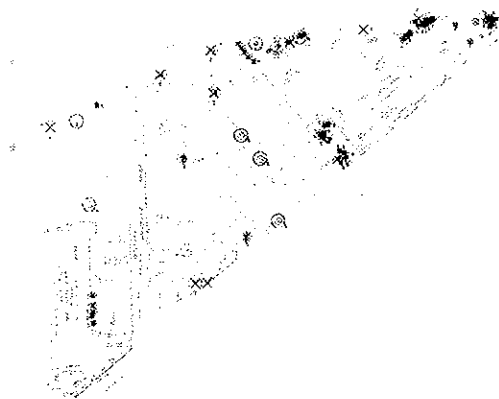
PERKINS
WILL



13

Alley Vacation

PERKINS
WILL



14

Site Conditions

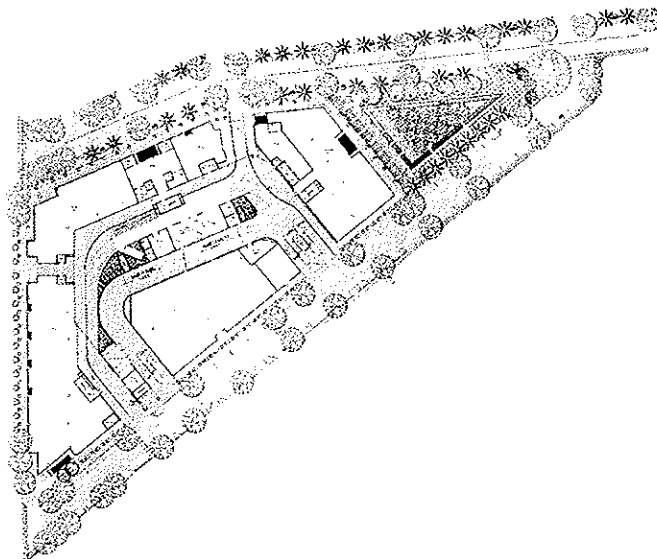
PERKINS
WILL



15

Location Map

PERKINS
WILL



16

Alley Comparison

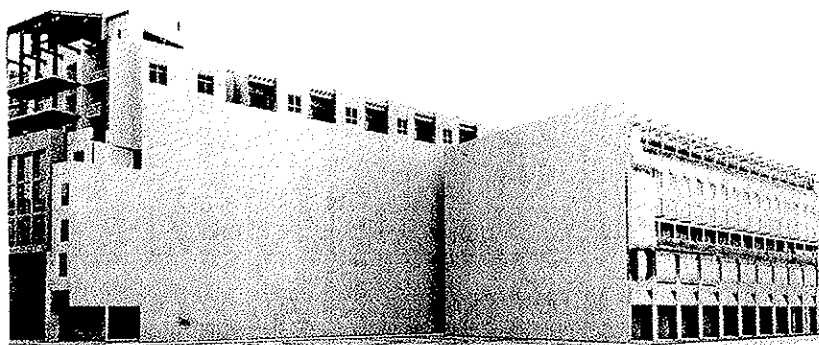
PERKINS
WILL

PERKINS WILL
ARCHITECTS
CHICAGO, ILL.

17

View from Le Jeune-Greco

PERKINS
WILL



PERKINS WILL
ARCHITECTS
CHICAGO, ILL.

18

View from Le Jeune-Greco

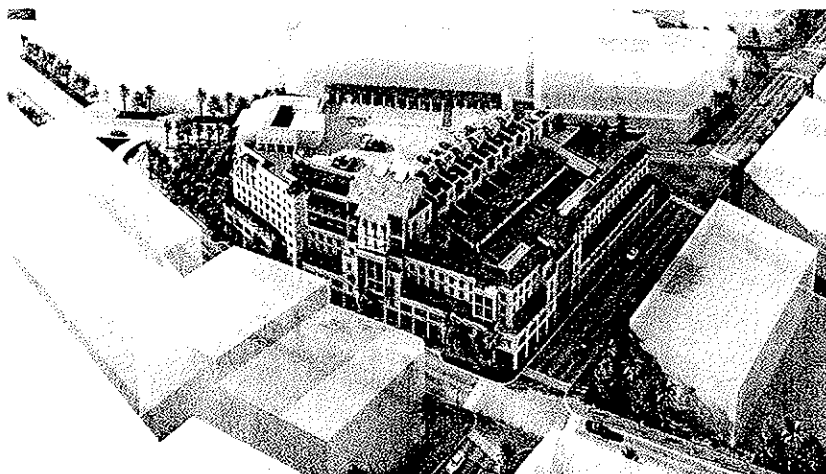
PERKINS
WILL



19

View from Le Jeune-Greco

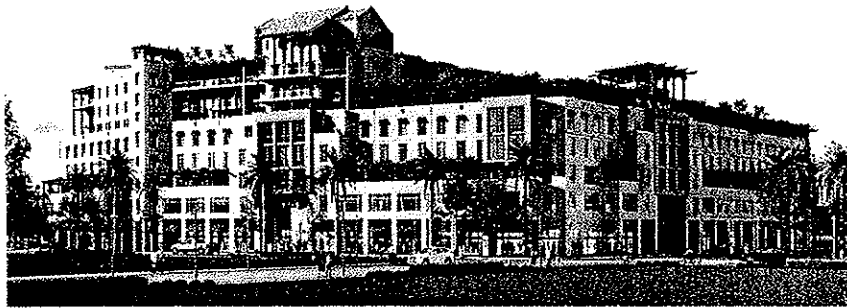
PERKINS
WILL



20

View from Le Jeune-Greco

PERKINS
WILL



21

View from Ponce Circle

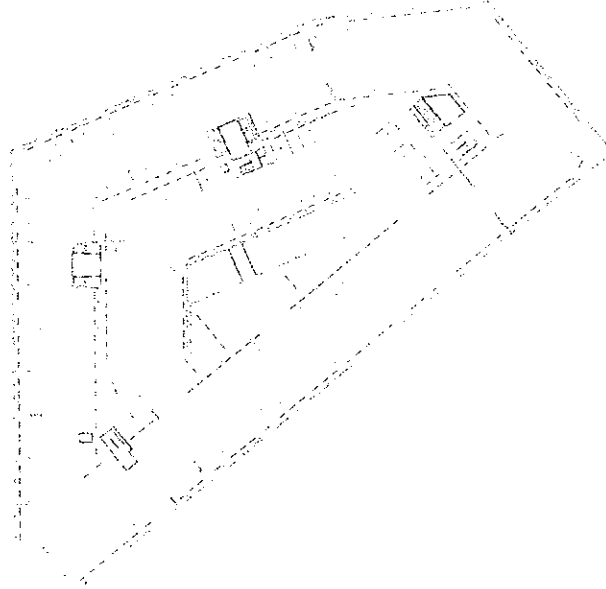
PERKINS
WILL



22

Project Presentation: Level - 1

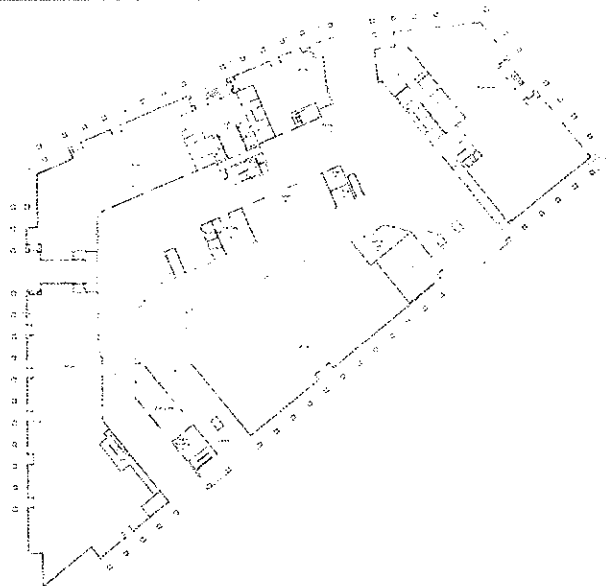
PERKINS
WILL



23

Project Presentation: Level + G

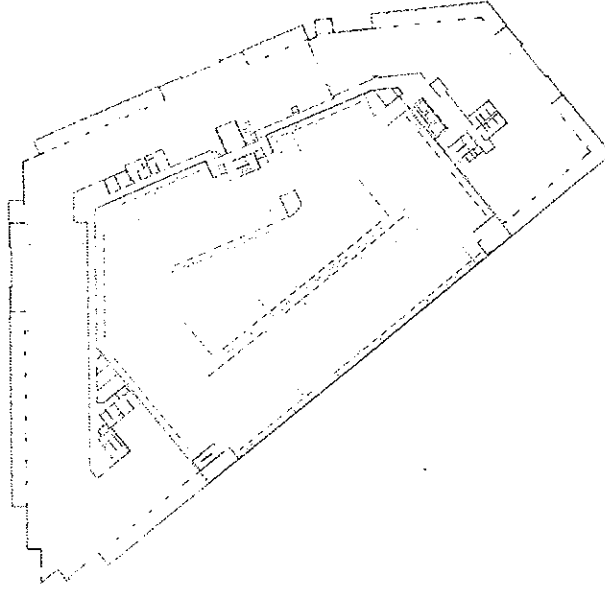
PERKINS
WILL



24

Project Presentation: Level + 2

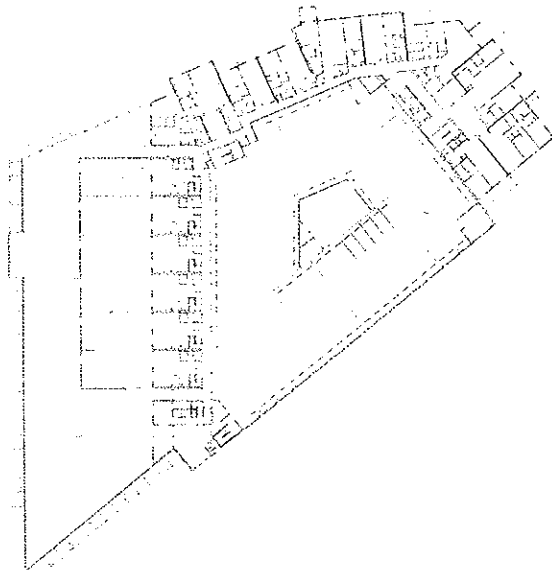
PERKINS
WILL



25

Project Presentation: Level + 7

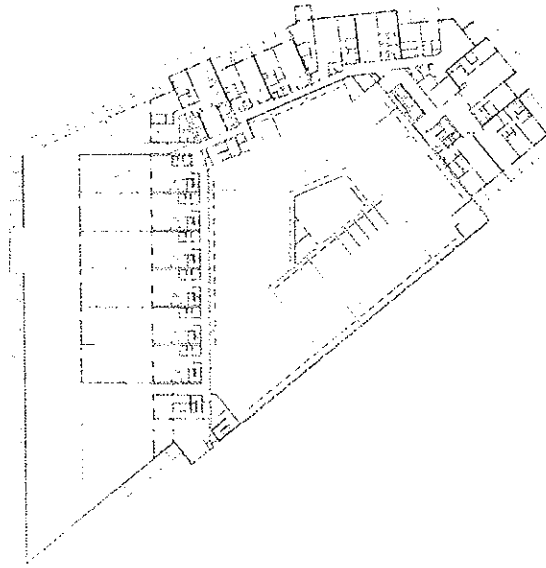
PERKINS
WILL



26

Project Presentation: Level + 8

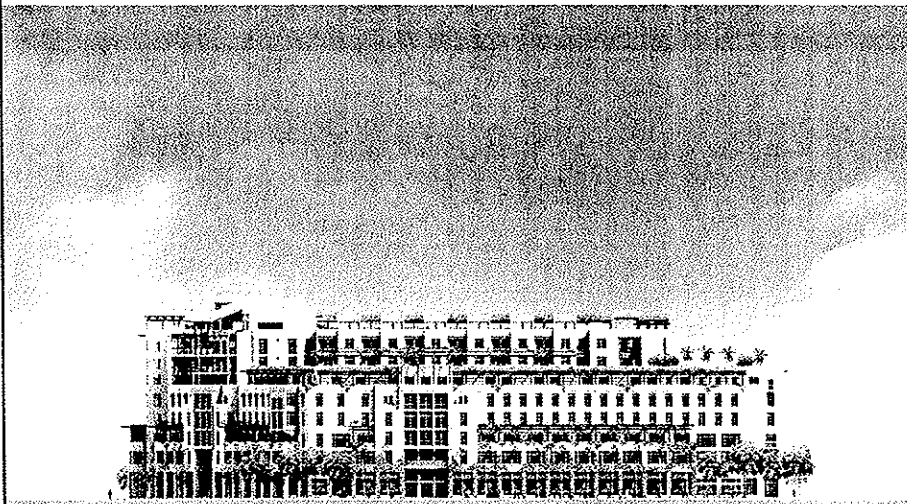
PERKINS
WILL



77

Le Jeune Elevation

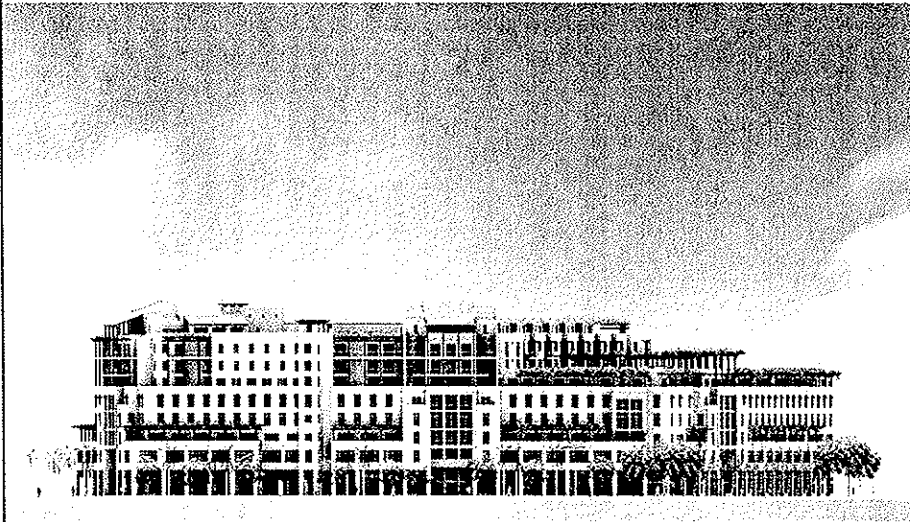
PERKINS
WILL



78

Greco Elevation

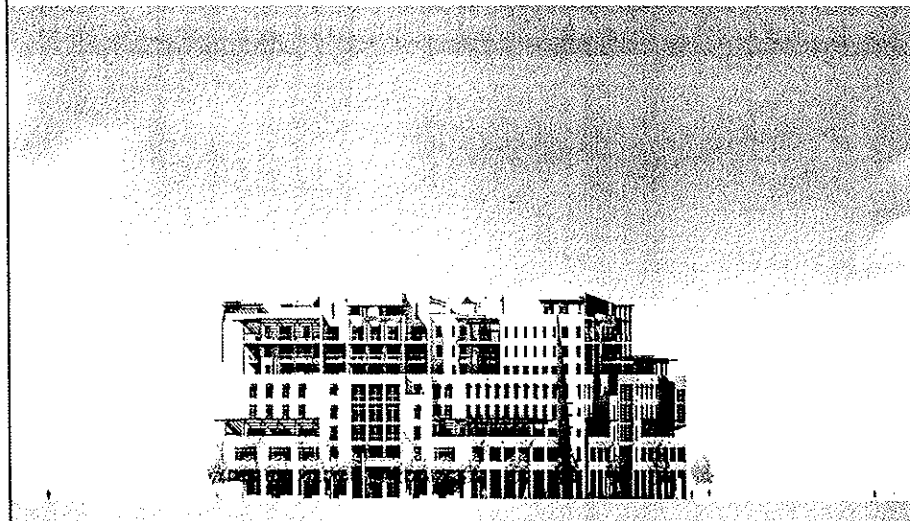
PERKINS
WILL



79

Greco-Granello (Park) Elevation

PERKINS
WILL



30

Granello Elevation

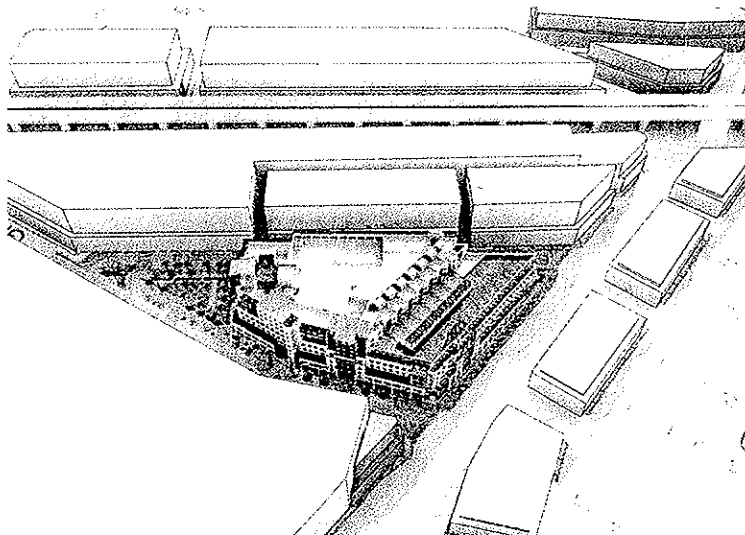
PERKINS
WILL



31

View from Le Jeune-Greco

PERKINS
WILL



32