

City of Coral Gables City Commission Meeting
Agenda Item E-3, E-4 and E-5 are related
July 22, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon (Appeared by Skype)

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Assistant Director, Development Services, Charles Wu

Director, Development Services, Jane Tompkins

Public Speaker(s)

Zeke Guilford, Representing the Applicant

Richard J. Heisenbottle, FAIA, President, R. J. Heisenbottle Architects, PA, HP Board

Gil Haddad, Coral Gables Resident

Agenda Item E-3, E-4 and E-5 are related [Start: 4:01:10 p.m.]

E-3: Conditional Use Review for a Building Site Determination. An Ordinance of the City Commission of Coral Gables, Florida requesting Conditional Use Review for a Building Site Determination pursuant to Zoning Code Article 3, "Development Review", Section 3-206, "Building Site Determination" to create two (2) separate single-family building sites on property assigned Single-Family Residential (SFR) zoning and Local Historic Landmark; one building site consisting of Lot 1 and the other of Lot 2, submitted concurrently with a proposed re-plat for the property legally described as Tract 2, Cartee Homestead Section (6801 Granada Boulevard), Coral Gables, Florida; including required conditions;

providing for severability, repealer and an effective date. (Passed on First Reading May 13, 2014 and deferred from Second Reading June 10, 2014)

E-4: Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code Appendix A, "Site Specific Regulations", by adding Section A-17.1, "Revised Plat of Cartee Homestead", to indicate Lots 1 and 2 are separate building sites; providing for severability, repealer, codification and an effective date. (Passed on First Reading May 13, 2014) (Items E-1 through E-3 are related and will be continued to July 22, 2014 and deferred from Second Reading June 10, 2014)

E-5: Final Plat. A Resolution of the City Commission of Coral Gables approving the Final Plat entitled, "Revised Plat of Cartee Homestead" pursuant to Zoning Code Article 3, Division 9, "Platting/Subdivision", being a re-plat of an approximately 3.0 acre single tract into two (2) platted lots for residential, single-family use on property assigned Single-Family Residential (SFR) zoning and Local Historic Landmark, legally described as Tract 2, Cartee Homestead Section (6801 Granada Boulevard), Coral Gables, Florida; providing for an effective date. (Continued from the June 10, 2014 meeting)

Mayor Cason: Let's do E-4 and E-5, that's the lot split. These are all related they are ordinances on Second Reading. E-5 is a resolution pertaining to the matter, City Attorney would you read those into the record please?

City Attorney Leen: Yes. This is a Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code Appendix A, "Site Specific Regulations", by adding Section A-17.1, "Revised Plat of Cartee Homestead", to indicate Lots 1 and 2 are separate building sites; providing for severability, repealer, codification and an effective date. This was passed on First Reading May 13, 2014. Item E-5 and this is related to E-4 is a Final Plat. A Resolution of the City Commission of Coral Gables approving the Final Plat entitled, "Revised Plat of Cartee Homestead" pursuant to Zoning Code Article 3, Division 9, "Platting/Subdivision", being a re-plat of an approximately 3.0 acre single tract into two (2) platted lots for residential, single-family use on property assigned Single-Family Residential (SFR) zoning and Local Historic Landmark, legally described as Tract 2, Cartee Homestead Section (6801 Granada Boulevard), Coral Gables, Florida; providing for an effective date. My recommendation Mr. Mayor is to hold the public hearing on both and to listen to staff's comments on both together and then vote on them separately.

Mr. Wu: Mr. Leen did you read both topics for the ordinance?- there are two ordinances.

Mr. Guilford: Excuse me, I believe there are three; E-3, E-4 and E-5.

City Attorney Leen: Oh, I thought it was E-4 and 5. In addition there is Item E-3 – Conditional Use Review for a Building Site Determination. An Ordinance of the City Commission of Coral Gables, Florida requesting Conditional Use Review for a Building Site Determination pursuant to Zoning Code Article 3, “Development Review”, Section 3-206, “Building Site Determination” to create two (2) separate single-family building sites on property assigned Single-Family Residential (SFR) zoning and Local Historic Landmark; one building site consisting of Lot 1 and the other of Lot 2, submitted concurrently with a proposed re-plat for the property legally described as Tract 2, Cartee Homestead Section (6801 Granada Boulevard), Coral Gables, Florida; including required conditions; providing for severability, repealer and an effective date. This was passed on First Reading May 13, 2014; both E-3 and E-4 had been deferred, pardon me, continued and are here today before you, and E-5 is a Resolution that would enact the plat related to the two ordinances. I now turn it over to the Manager and staff.

Mayor Cason: Mr. Wu.

Mr. Wu: Thank you Mayor. If you could have the slides pulled out, I’ll just like to cover the salient points and we have some updates for you between First and Second Reading. Based on Commissioner Keon and the Commission’s direction to look at the lots located on the east side of Granada. The applicant has come back and revised the application to include from 130 foot configuration you heard on First Reading to 150 foot configuration today. Again, we have this for you highlighted in blue the new property line spanning lots 1 and 2 on 150 foot configuration. Our analysis today is based on 150 foot version. This is the update, it’s the result of a site visit between staff, myself, Troy and Brook Dannemiller, the Public Services Director along with the applicant and a certified arborist called Lisa Handler, and we identified 18 specimen trees on the property which consist of 13 live oaks, 3 gumbo limbos and 2 strangler figs.

Mayor Cason: If I can say something here. I think we had a discussion last time what a specimen tree is and I was told it was 18 inches in diameter, is that correct?

Mr. Wu: Yes.

Mayor Cason: So we now know what a specimen tree is.

Mr. Wu: And based on site visit we determined collectively which are the trees that are more success rate of surviving, so a combination of those number of things and whether they are....species, etc., etc.; and based on the 18 trees the applicant has come back and showed us an illustration, just for your information how they can design around the 18 trees and still protecting the 18 trees, again this is for illustration purposes, and they will get into that a little bit. This is the existing conditions based on the 130-foot configuration, of course the driveway will have to be demolished, the circular circulation will have to be demolished. There is a tennis court, some pathways we discussed at the First Reading will all have to be demolished. Commissioner Keon did raise a question about the drain fields for the septic tanks, and here we have a slide showing the drain field superimposed on the property with 150-foot configuration. Obviously we have two drain fields would have to be removed from the encroachment, that would be a condition upon your approval. This is a second request by the Commission, again the first request is the specimen trees, the second request is the drain fields we have before you, and a third request is an analysis based on the properties on the east side of Granada between Sunset and Hardee. Our analysis shows there are 18 properties just on the east side and if the property width would change to 150 feet it would reach 56 percent of those properties on the east of Granada, and there are 44 percent of properties of 151 foot or wider. If it includes both properties the ratio goes up higher of course, but we want to share with you on the east side and on both sides on the screen.

Mayor Cason: So you are saying it meets, it's OK in terms of the neighborhood. You said before the 1,000 foot had met, but in terms of define the neighborhood is east Granada....

Mr. Wu: It meets it modify at 150 foot.

Vice Mayor Kerdyk: Can I ask you two questions, really one question on that. There is a piece of property on the end of Granada as it approaches Sunset. You know that property there, it showed as white. It might have a frontage of – it has a frontage on Granada for sure – yes, that piece. Why is that not included because that has like so much large frontage there, is that because it fronts Sunset?- is the address on Sunset?- is that the concept?

Mr. Wu: Well our charge was to look at the properties between Sunset and Hardee, so.

Vice Mayor Kerdyk: There is that one there – and then another question is the property that's right on the other side of the waterway as the Maji Canal comes into the main waterway there, it looks like you are showing it as two separate properties there. There is 100 feet and 160 feet, I think there is only one building on that site, the three lots out there, but right now there is one building on those three lots, correct?

Mr. Wu: I don't remember how many...

Vice Mayor Kerdyk: There are two?

Mr. Guilford: Commissioner, Zeke Guilford for the applicant.

Vice Mayor Kerdyk: There are two lots that have one house.

Mr. Guilford: There are actually three lots and two houses, so what you are comparing them to is the other lots whether they have a house on them or they don't have a house on them, because it's a frontage analysis.

Vice Mayor Kerdyk: OK. OK. I'll buy that. I guess I had three questions. I guess the other issue is that if you look at it and we look at it from 150 feet, basically there are 150 feet, there are one, two, three others that are 150 feet, so conceptually there are blank amount under 150 feet, blank amount over 151 feet and three additional ones at 150 feet, which is basically the same.

Mr. Wu: Yes.

Vice Mayor Kerdyk: My issue again is, we'll talk about it later.

Mr. Wu: The next slide is to show we have passed out a revised ordinance and the two new conditions. One is really to address Commissioner Keon's concern and for the record, Commission Keon we added under number 4 the new sentence saying that the applicant needs – shall recall a landscape plan for a lot to depicting specimen trees to preserve and/or relocated on site, that is a new condition reflected on your ordinance; and condition number 7, we updated that from 30 days to 60 days to remove the encroachments. That concludes staff's presentation and the updates between First and Second Reading. Thank you.

Mayor Cason: I have a question about the – there was a discussion earlier on about the wall and the fig tree that's built into it and the one entrance. When I walked the property it seemed to me that you didn't necessarily have to touch that wall because you have an entrance that could split and there is also a path that could go to each property that could be....

Mr. Wu: The applicant has graphics to show how that might work.

Mayor Cason: OK.

Mr. Guildford: I was going to say good morning Mr. Mayor, but I think we are way past that. Good afternoon Mr. Mayor, Commissioners and for the record again, Zeke Guilford with offices

at 400 University Drive. It gives me great pleasure to be here today representing Califon Company and the Dalmau family regarding the property at 6801 Granada Boulevard, which they've owned over 30 years. Before I begin to get into the presentation, I just want to thank Mr. Haddad. As you know Mr. Haddad is the neighbor across the street. He has given many hours of time meeting with us and telephone conversations, as much as yesterday he spoke to the City Attorney and I, and he requested that we, if we would add two additional conditions to this approval if this Commission approves it. We've agreed to do it and I just want to tell you what they are. First that, in the future we would file no other applications to separate Lot 1, which would be this Lot right here, and also that during construction that no cars would park in the swale. They'd all have to be located in the property so when he goes out in the morning/afternoon he's not looking at 30 cars in his front yard. We have no problems with those conditions. Now what I'd like to do is on First Reading there were a couple of comments and requests for additional information and I want to cover those items now, and then I'll get back to something and it's really, I'll leave it up to this Commission to decide and that is regarding the frontages. We applied for on First Reading, you looked at an application that had a frontage of 130 feet. Even though the Code is clear that the circle that you looked at is 1,000 feet or half a mile, Commissioner Keon requested that we only look at those between Hardee and Sunset that abut the water, and when we did that 130 feet we were only 30 percent of those lots. So we are only larger than 30 percent; however, one thing we all have to remember is the size of this lot. We would still be larger than 78 percent of those lots, but when you look at both sides of Granada because to me you look at both sides of a street, you just can't look at one. Our frontage was larger than 54 percent and larger in size than 90 percent of the lots, but what we had done because in order to try to keep the property similar along the waterway, we have proffered to move the line to 150 feet and in doing that our frontage is larger than 58 percent of the lots on the water and larger in size than 84 of the lots. From our perspective we believe we meet the Code at 130. We are willing to have 150. I know Mr. Haddad would prefer 130, to us it doesn't matter. We think 150 is more complimentary, our original application was 130, we are amenable to accept either one. The second issue pertains to the tree. We heard comments from a lot of different people, there were 90-some odd trees, 100 trees, we actually went out with our arborist and the City's arborist and actually there is only 18 specimen trees on the property, and in fact they are in the middle of the property....lords like valley open space, but what we have done is we've showed these trees, they are here, which is actually about 40 feet from the driveway, and we've actually showed a perspective house of how it could be designed without affecting any of the trees, and I think it's also very important here that anything that happens on this lot is going to take a lot of work between the Public Service Department and the architect designing this. We also have to remember that there are other safeguards in place, that what you have here is one of the conditions. First of all, anything that is built on this property, Lot 2 is what I'm referring to, has to go to Historic Preservation Board to make sure it is sensitive to the Alfred Browning Parker House and also how it fits on the lot, so we can also have Historic Preservation. I believe

there is also a condition that anything that's built on there has to be approved by the Public Service, Public Works, and the Development Services. So we have multiple layers that are in place to protect the specimen trees. What I'd like to do is just take a moment at this point to have Mr. Heisenbottle come forward and just go through a couple of exhibits. We've had a couple of exhibits regarding landscaping and I think it's important of what you can see from the front of the property.

Mr. Heisenbottle: Commissioners we have certainly tried to be as sensitive to the request that came back from the neighbors and from Commissioner Keon as one could possibly be and we wanted to understand what the real situation is out there. We looked at two different things over here that I want to point out to you. On the right hand board over here with this big five-foot diameter balloons. We wanted to see whether or not a home on this site, 35-foot tall that's about the maximum we could have on a height that we could ever possibly imagine, whether or not it would be visible from the street. So we sent some of the folks from the office out and they threw three balloons and they were found close to over 200 feet back from the road about where the proposed house that we are showing exist; and as you can see from the photographs down below that depict that they are virtually invisible. So I said, what if we move them up to 50 feet?- and so we went and we flew a balloon at 50-foot setback, and in fact once again, you just can't see, you are not going to see any of these houses, any house that might be built in there.

Commissioner Lago: Excuse me, just a quick question. What is the height?- 50 feet?

Mr. Heisenbottle: No, 35.

Commissioner Lago: No, I'm saying in regards to the height of the balloons?

Mr. Heisenbottle: 35.

Commissioner Lago: 35 – OK.

Mr. Heisenbottle: So the balloons are flown at a height of 35, which would be the absolute top of any eave that we could ever allow. So notwithstanding, the point of this is that going forward here whoever builds the final house on that site, whatever is designed like it is certainly not going to be visible from Granada Boulevard and what we've agreed to do is to proffer a 50-foot setback at the front of Granada Boulevard just to accommodate the concerns of our neighbors. Now on the far side over here you are going to see some photographs that some of you might remember. Mr. Mayor, I don't know if you were at the fundraiser at Adrienne Arsht House a year ago for the Coral Gables Museum, but if you were you saw some pretty exciting landscape work that was done over there to make this William Jennings Bryan home separated from the

rest of the neighborhood, so that it really would not be visible, and one of the things that occurred to me as our neighbors were discussing, the visibility to the site was the fact that between the ground cover that you see on the top drawing and the tree canopy that you see on the bottom drawing. You notice in these photographs is that on the left side you see the original house, next door the neighbor's house, but with as little as a 10-foot landscape buffer the final result on....landscape after the fact is you are by yourself. You have no idea that the adjoining neighbor's home is there, and the seclusion and tranquility of that for both parties exist; and the same thing occurs on the bottom, this is just another shot. Yes – in the beginning of this project you could see the adjoining house right over there very clearly, but by nothing more than a 10-foot landscape buffer along that edge. We can literally wall it off and no one will know the difference as to what you do on your own private property. So we are proposing again to landscape along the property edge to completely enclose the property and to mitigate the impact on the neighbors. Thank you.

Mayor Cason: Thank you.

Mr. Guilford: Alright Mr. Mayor, I don't know if you heard, having a conversation with Mr. Haddad. What I want to make it clear is, we were happy with the 130 frontage, it was because of a concern of Commissioner Keon that we changed it. I'm leaving it up to this Commission. Again, Mr. Haddad would prefer 130. I'm trying to do everything possible to – I believe you need to work with the neighborhood and I'm trying to do that, but again, I'm also trying to address concerns of the City. Now Mr. Mayor we believe from the First Reading, and not going to get back into criteria, except to touch on a couple, we believe we meet 5 of the 6 criteria. The first criteria are that the property is unique. I think we went through that, the history of the property was originally platted as four lots, it had a porch behind it, had a commercial yacht basin. I even believe Commissioner Kerdyk and Commissioner Keon mentioned that was a through lot, which is actually one of the criteria that would require the City to say we met those criteria. We also believe that staff was wrong, we also meet criteria 4, and that is encroachments, because there is a second sentence to that criteria that says, you cannot remove a building to come to compliance. The encroaches we have are not buildings, I believe our City Attorney opined to that at the Planning and Zoning Board meeting many, many months ago. Again, we have worked around the trees, we have given this Commission suggestions, your Historic Preservation Board has reviewed this application, approved it; your Planning and Zoning Board has recommended the application and approved it; you have approved it on First Reading. We ask with the information that we have provided that you would approve it on Second Reading. If you have any questions or have any comments we are more than happy to answer them at this time.

Mayor Cason: The wall in the front.

Mr. Guilford: Yes sir.

Mayor Cason: There were some concerns before about the fig trees built in, it's beautiful. I thought it was very nice, is there anything you have to do with that?- or are you going to leave one entrance?

Mr. Guilford: Here is the fig tree here and there is the proposed...about 40 feet away, so I think there would be no issue with the root structure.

Mayor Cason: Would you have two entrances or one and split it?

Mr. Guilford: We would have two entrances just because we can do it without – actually showed the Historic Preservation Board was two entrances at the time and they did not have any objection to that.

City Attorney Leen: Mr. Mayor, I just wanted for the record, Zeke I'm sorry if I missed it, but did you agree to the condition that Gil Haddad had the one about no further separation of the site?

Mr. Guilford: Oh yes, absolutely.

City Attorney Leen: And you are willing...

Mr. Guilford: Also the other one, I'm sorry, Mr. City Attorney.

City Attorney Leen: And that it would be included in a restrictive covenant if the Commission approves this.

Mr. Guilford: Right – all the conditions would be included in a restrictive covenant. Also, I just want to add to that which Mr. Heisenbottle said, is that we would also proffer a condition of a minimum of a 50-foot setback, again that setback is going to be determined by the trees, but I think its again, a good gesture on my client's part to double the setback and as you can tell you cannot see – you would not see actually the top of the ridge of a house at 50 feet.

Mayor Cason: Since this is a public hearing Mr. Haddad do you want to speak?- you have a card, this is the only speaker that I have up to now.

Mr. Haddad: Thanks Mr. Mayor. I'm so glad Commissioner Quesada came back into the room, because what we have here is a situation where two trollers are standing in the hall, they stipulate to items 1, 2, and 3, shake hands, walk into the courtroom and one of the lawyers tells the judge, 1 and 2 are OK, but 3, well he wants it, but I'll leave it up to you Your Honor. Now was that what was agreed to in the hall?- no. What we agreed to and the reason I'm here without my neighbors, all of whom have been advised regarding the agreement with Mr. Leen and Mr. Guilford on three points, three points only to resolve this issue that has been rolling in front of my City since '05. This Honorable Commission and its agencies have had 8 formal hearings regarding this property, 8, this is the 8th one; and I came in here this morning at 9 o'clock with an agreement on three points. Point one is that there will be a covenant running with the land, recorded as to Cartee Homestead site; number two, they would bind the owner and bind any future owners that they would not seek to divide proposed Lot 1, which is the Alfred Browning Parker site extending it from the waterway to Granada, not now, not tomorrow, and the future, and that Mr. Leen would prepare such a covenant and have it appropriately recorded. Three – that Lot number 2, this was agreed to and by telephone we shook hands, which as Mr. Quesada would say, that's good enough for professionals; two, that Lot number 2 would be 130-foot frontage on Granada. It would be 130-feet wide until its north lot line approach the pavillia and then it would jog as required by the Historic Preservation Board, so as to preserve the pavillia that would create 104-foot frontage on the canal. So Part 2 was essential to the element of the entire agreement. Part 3 was that the City would enforce as to this owner and any other owner in the future, Statute 74-100, which provides that no vehicle may be parked on City property without the consent of the City Manager or the Chief of Police and the agreement was that such approval would never be granted and under any construction whether on Lot 1 or Lot 2 that there would be no parking on City property outside this property because as they have extoled for seven years now this is a 3-acre parcel and there is plenty of room to park in the event of any construction. Now all of these pretty pictures, all of these drawings, all of this comment about how wonderful it's going to be, I think we can pretty well forecast that this proposed Lot 2, which I've agreed to, and told my neighbors about and that's why they are not here. I've told the neighborhood association about it, I've told the Audubon people about it and that's why they are not here. This proposed Lot 2 will be sold so that the mortgage at the bank will be paid off. That's what the family has been talking about now for seven years, is why they want to divide this property to pay off this mortgage, so there is going to be a future owner. The future owner is going to be a point of tension with the City as to what the Code allows and what the Code doesn't allow and all these words and all these pictures that we've had for seven years absent conditional specifications and your finding today will be for naught. Now my colleague Mr. Guilford, if he wants to stand up here and agree that on the telephone, we had a three-way conference, shook hands over the phone on 130 foot Lot 2, I'll happy to extend my hand in front of you. It's not what I prefer; it's what we agreed on. You know what I prefer; I've been seven years telling you what I prefer.

Mr. Guilford: The City Attorney was also a part of that meeting and I think he had a different understanding as well. Again, we are happy with 130-foot lot...

City Attorney Leen: Mr. Mayor, Mr. Haddad, I made very clear that ultimately this is still a regulatory, it's still an approval of the Commission basically for a lot split, so you can't contract that away, but you can reach a settlement and the Commission can approve it, but ultimately they still have to find these factors, so with that 130 or 150 is a reason you want to do it, you can't bind the Commission...

Mr. Haddad: I didn't come here – no, this is entirely up to this Commission and Mort, not Mort that's my dear friend Mort, Zeke said what Mr. Haddad would prefer. Well I'm not going to say what I prefer today, because yesterday I agreed to an agreement that's why I'm not going to argue my case. I'm fully prepared, I've got thousands of dollars in what I would prefer we had that seven years' time in what I would prefer, but today for the purposes of this hearing what I would prefer is Item 1, 2, and 3 that was specifically agreed upon.

City Attorney Leen: Mr. Guilford is proffering those and you can approve this with those proffers, they can be put into a restrictive covenant. Just as to the parking issue though, I just want to be clear that the Code presently gives the City Manager the authority over the City's rights-of-way and whether there can be cars parked there. I do believe as a condition of approval you could direct, I guess staff for all time not to allow parking there, but you should be aware generally that's within the discretion of the Manager.

Mr. Haddad: Yes part of the Code 74-100 specifies that the City Manager or the Chief of Police may grant permission to park on City property, but Item 3 of our agreement was that, that would be prescribed in the conditions of your approval should you in your discretion approve this.

Mayor Cason: Is that on Lot 2 or Lot 1 and 2?

Mr. Guilford: 1 and 2.

Mr. Haddad: 1 and 2.

Mr. Guilford: 1 and 2, and to be honest with you also there is an extra regulatory that any construction must provide a parking construction plan that has to be approved by staff and I looked to the City Manager and staff that not only will we have it in the covenant that when they review the parking management plan that they ensure that no cars are in the swale.

Mayor Cason: Any other speakers?

Mr. Haddad: One second to compliment Mr. Leen on his courtesies to me, to my neighbors, to Mr. Guilford, throughout all the years this thing has been going on and to compliment this morning on the precision of his advice to his client. It is rare that an attorney steps forward and gives such precise advice and I'd like to compliment the client for not touching pen to paper without a detailed analysis of the advice, so both your professionals acted in the highest in professionalism.

Mayor Cason: Thank you very much and we'll close the public hearing and open it up to discussion.

Interim City Manager Olazabal: I just want make a quick clarification because typically we don't have parking construction plans for residential permits, so I'm going to....

Ms. Tompkins: Good afternoon, Jane Tompkins, Development Services Director. Just for clarification, I think Mr. Guilford mentioned the construction staging plan that's typically required for larger projects. In my experience we don't require those for single family construction, those requirements are reserved for multi-family or commercial projects, so this new residence if its approved by the Commission wouldn't necessarily go to that construction staging plan.

Interim City Manager Olazabal: Now is more of a question if it's something that can be included on the restricted covenant, it's just something that – it's not typically done that way, so if we don't clarify it, it's likely to fall through the cracks.

City Attorney Leen: I don't know if I would put the construction staging plan into the restrictive covenant, although I guess you could. We'd have to make a caveat because that's not something generally that would apply to every property in the future, but we could do it. I'm sure – or we could reach an agreement of some sort if you wish. I do think everything else though should probably be in the restrictive covenant, so it would bind the future property owners, but we can if the Manager and staff would like I could include it and I could just put that this just applies during this particular construction.

Mr. Guilford: Actually Mr. City Attorney, we will proffer that as a condition. I think Mr. Haddad has dealt with the applicant myself in such good faith, I think it's my obligation to do what I can do to protect him.

Mayor Cason: Any discussion Frank? Pat Keon?

Commissioner Keon: [Inaudible]...if it's within 1,000 feet that that needs to be looked at...I spoke to Craig earlier also about those specimen trees and that they have been identified and that...follows the title...

City Attorney Leen: Commissioner Keon is raising the fact that the specimen trees, you saw a condition related to that, that's not put together, that the specimen trees be identified and protected and she wants that put into the restrictive covenant which it will be and we'll make it doubly clear so anyone who purchases this property will see it in the chain of title and will know that the specimen trees are receiving special protection here, up to the Commission of course, but that's what I was planning to do.

Commissioner Keon: Does that then follow the time...[inaudible]

Mayor Cason: We've agreed to that, that's in the resolution.

Commissioner Keon: But what I'm asking is, you know, does the purchaser only knows this once they purchase it or if the covenant made known to them through the title when they go to do a title search?

City Attorney Leen: Yes Commissioner, I'm calling you right now, I did not hear the complete comment...on your phone.

Commissioner Keon: OK.

Mayor Cason: Meanwhile does anybody else have a comment?

Vice Mayor Kerdyk: I think I should just speak briefly. I spoke enough at the first meeting for sure. I do just want to compliment Mr. Guilford for working with the neighbors and Mr. Heisenbottle who I have the ultimate respect for getting these plans worked out and looking through this issue. I won't be supporting it because it is a lot split and fundamentally I just disagree with it. Furthermore, what bothers me and I think there is a flaw in our ordinance that needs to be looked at is that navigable waterway there where veers down to 104 feet. If you do look at the frontages on the waterway there, there may be one other one that has 100 feet, so I think the quality of life, yes it may be agreed upon on the frontage of Granada and that's how its written, so I understand that, but for me there needs to be at some other point we need to address that from our Code perspective that we look when it is on the waterway to make sure that it doesn't affect the waterway, people that go up and down the waterway is quality of life too. So that's where I'm having a really big issue here and that's why I won't be supporting this.

Mayor Cason: OK. Any other – Commissioner Keon you’ve gotten her on the phone?- but you understood.

City Attorney Leen: I understand...Hi Commissioner; I’m going to put you on the microphone. I think we got your comment directly about the specimen trees...but just repeat it to make sure.

Commissioner Keon: Yes...[Inaudible]...or whatever document goes along with the covenant, so that it shows the specimen trees and that it is very clear that they are protected and that they can’t be removed, they can’t be whatever...that, that be included in the covenant...I have a problem with the waterway side as well...

City Attorney Leen: As I understand the comment, Commissioner Keon wants me to put the site plan itself with the specimen trees circle into the public record as attachment to the restrictive covenant. That’s fine we can do that, it would be an attachment. Would there be any objection from staff though or any of the applicants that’s what I would ask?

Mr. Wu: It’s not a site plan, it’s a tree survey.

City Attorney Leen: Pardon me, the tree survey, the tree survey. I can do that and just reference it and attach it, is that OK? That’s been accepted Commissioner.

Mayor Cason: Any other points Commissioner Keon? If not do we have a motion, we’ll start with E-3.

Commissioner Quesada: I’m going to make a motion, I’m going to be voting an approval of the split, but I just want to put my rationale on the record. I think based on – at the last meeting it was a long discussion of the different types, of the history of the property and if you really go back and look at where this property was originally laid out, I think it shows a lot of the intent of George Merrick behind this. I looked at the six criteria, we went into pretty detailed analysis last time around and I don’t want to rehash that, but I think it’s evident that the criteria are met here. What Vice Mayor Kerdyk mentions I would absolutely welcome adding additional criteria to this because I think when Commissioner Keon was here at the last meeting we all discussed. We all went into an analysis that Mr. Haddad had presented to us, we put it up there on the podium, if you recall, and we had that in depth discussion, but considering I think that it meets the requirements under the Code and you really look at this lot and the revisions that were made and also the agreement that I hear, I’m glad to see that the agreement was honored by both sides here. The neighbors are willing to live with this, at least with those conditions. I will be making a motion to support, I won’t make it yet so we can have that discussion.

Commissioner Lago: Like what Vice Mayor said, I think we voiced our opinions pretty loudly at the first hearing. The applicant has gone a step further and really reformed the product which is going to appeal not only to the neighbors, but also to the City. One of my big concerns was obviously ensuring that the historic structure was protected, so they've gone to a great length to making sure that's protected, that the adequate setbacks are in place. I was very happy with Mr. Heisenbottle's presentation, which detailed the length the inability to see any construction from the street. I was also very happy to see that the 18, I think it was 18 specimen trees are going to be protected and that's going to be placed in a covenant, correct?- which will obviously be – whoever purchases that property will find it through title and they would be responsible for protecting those trees. So I know I didn't vote for it in the first round, but I've changed my tune because I along with Commissioner Quesada and the Vice Mayor think that we need to maybe take a look at the process and see where we are right now in reference to the fact that this meets 4 out of the 5, or 5 out of the 6?

Mayor Cason: 5 of those.

Commissioner Lago: 5 out of the 6. For the lot split I think we need to maybe take a look at it and make it a little more stringent or tighten it up because currently how could you after meeting all of these requirements and going that extra step, I find it hard, especially what threw me over was the presentation in regards to the Granada Boulevard frontage that was my final issue in regards to the waterway. So I appreciate the extra length that the applicant has done, especially with the attorneys have done an incredible job. So I'll be in support of this today.

Mayor Cason: And I also will be in support of it. I walked the property, I wanted to look at the trees after listening to autobahn it sounded like all the trees were in jeopardy, but went and walked it with the Audubon, with the arborist and I saw that there was a huge area where a ficus tree had blown down in a hurricane or something, and where that house could be located, and I think with the setback no one will see that house and I think for that reason and especially because the neighbors are now on board with these three restrictive items in the covenant that I'm going to support it. Pat you want to say anything else?

Commissioner Keon: [Inaudible]

Mayor Cason: Alright, we have a motion?- we have a motion? Let's do it on each one, on E-3...

Commissioner Quesada: Hold on Mr. Mayor, hold on one second.

Mr. Haddad: Your motion includes three items...?

Commissioner Quesada: I'm sorry, let me clarify, thank you for that.

Mr. Haddad: Your motion includes the three items that Mr. Guilford and I have agreed on?

Commissioner Quesada: That is absolutely correct and also includes the amendment or the proposal made by Commissioner Keon.

Commissioner Keon: [Inaudible]

Commissioner Quesada: Craig, I think what we need to do is I think you need to speak to her on the phone, make sure we understand her correctly. Maybe we move onto the next item to complete that vote to make sure we are incorporating her thoughts. I'm sorry to delay us any further, but we need to make sure that Commissioner Keon's thoughts are heard before we vote on it.

Commissioner Lago: I think her issue is in regards to the setback.

Commissioner Quesada: But it's very difficult to hear her.

Commissioner Lago: Yes, that's why I want to hear what she has to say.

City Attorney Leen: The three conditions with the tree survey.

Commissioner Lago: Commissioner Keon's statement in regards to the tree survey.

Commissioner Quesada: Unless there were any other statements that she had.

Mr. Guilford: We have the three agreements that Mr. Haddad and I had agreed to, which is the 130 versus 150...

Commissioner Quesada: You are referring to the frontage.

Mr. Guilford: To the frontage, I'm sorry. We also have the parking management plan and we also have the...

Commissioner Quesada: binding current future owners.

Mr. Guilford: That future Lot 1 would not be – no applications to re-subdivide Lot 1.

Mr. Wu: If I can clarify a couple more things made in the presentation. The 50-foot minimum front setback for Lot 2, I just wanted to know if that was part of the motion.

Commissioner Quesada: Yes.

Mr. Wu: And a landscape buffer at the property edge where the new Lot 2 meets the adjacent property, if that's part of the motion.

Commissioner Quesada: Yes.

Mayor Cason: Alright – we have Commissioner Quesada made a motion on E-3, do we have a second?

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds it.

City Clerk

Commissioner Keon

Interim City Manager Olazabal: I thought we were going to wait until we heard back.

Commissioner Quesada: Yes, that is true; we still got to wait on to see what Commissioner Keon...

Vice Mayor Kerdyk: He is talking to her.

City Attorney Leen: Let me put you on the speaker.

Commissioner Keon: [Inaudible]

Commissioner Quesada: Why don't you be her proxy and repeat...

City Attorney Leen: She wants to....what you don't agree with, so she needs to probably state her position for the record.

Commissioner Quesada: OK.

City Attorney Leen: Commissioner Keon you are on the phone, so please state your view.

Commissioner Keon: I emphatically want 150 so that it is consistent with the other homes along the waterway side of Granada Boulevard that's why it has to keep the setback and for everything else, but the...150, it's on the record as 150, with all due respect to Mr. Haddad, Mr. Haddad is not going to live there for next 50 or 60 years as the rest of the community, the other people would come and go the homes along there we will maintain that site.

City Attorney Leen: What she said was that she wants it to be 150 because she believes that that is more consistent with that area and I can't restate it as eloquently as her, but she doesn't agree, that's basically what she said.

Mr. Haddad: Granada is the waterway side and the waterway side is dictated by the pavillia.

Mayor Cason: It can't be the waterway side.

City Attorney Leen: Commissioner are you talking about the frontage on the roadway or the frontage on the waterway?

Commissioner Keon: I'm talking about the frontage on Granada.

Mayor Cason: Roadway not the water.

City Attorney Leen: She is talking about the frontage on Granada; she wants it to be 150-feet.

Commissioner Keon: [Inaudible]

Mayor Cason: Mr. Haddad, your neighbors, what are the druthers of your neighbors?

Commissioner Keon: But it isn't Mr. Haddad's.....we are making decisions for people in perpetuity what is consistent along....standard along that unique street.

Mr. Haddad: Well the lady is absolutely correct that if we considered what the Code says to consider, not as the public interest then I won't argue, because I've reached an agreement and I won't argue, but the people in the neighborhood and I won't argue, but the people in the neighborhood, the Riviera Neighborhood Association, none of these people are represented by an attorney, but they have imposed on me for seven years and this all started with manatees propagating in the Maji canal that's how they first got me into this; and in any regard if it's not

130-feet then we don't have an agreement and I respectfully ask that we merely defer this so that I and my neighbors can come here and show you why they have not met 4 out of the 6 site separation criteria. Now, I respectfully suggest that we go ahead and vote in accordance with the suggested agreement made by the applicant and myself that's why we are here. That's why I didn't bring my charts, that's why we sat here...that's why we did this because we had a hand shake, we had an agreement subject to your discretion.

Commissioner Quesada: My motion doesn't change; I just want to make sure the Commissioners heard.

Mr. Haddad: You want us to come back and fight?- I don't want to fight, we had an agreement.

City Attorney Leen: Commissioner Keon wants it to remain at 150-feet and she feels that even though there is an agreement that's what she thinks is more consistent and she wants to go with that. So ultimately it is up to the Commission to decide, she understands there is an agreement, but she feels that, that's the better way to go and that's basically what...

Commissioner Quesada: Considering the agreement, considering the history behind it, considering the residents and the neighbors, my motion right now is consistent with the terms that Mr. Guilford and Mr. Haddad had proffered. So I want to leave the motion at that based on their input. If it doesn't pass then I guess someone else can make a motion saying 150, if that's the case.

City Attorney Leen: So just for Commissioner Keon, the motion is with all the conditions but it would be 130, that's the motion, is there a second Mr. Mayor?

City Clerk Foeman: Commissioner Lago seconded it.

Mayor Cason: For 130? You can take a minute.

Commissioner Lago: No, I might take two minutes. It's not like we haven't been here all day, right? (Laughter), you guys going somewhere?

Commissioner Quesada: I'm going to do this, for the time being so you can think about it, ask questions, I'll withdraw the motion temporarily so that he can consider it or have additional discussion if he needs it.

Commissioner Lago: Let me get some clarification. From the first go around, Bill what did we discuss?- we discussed 150 or was it 130?

Vice Mayor Kerdyk: 130.

Commissioner Keon: It wasn't....

Commissioner Lago: That's why I'm confused here, I need to find out.

Mr. Guilford: Commissioner Lago our application that came to you on First Reading was 130, and that complied with the criteria of 1,000 feet. It was then a discussion with Mr. Haddad and with Commissioner Keon that you shouldn't look at 1,000 feet you should just look at the waterway and that's reason before start speaking with Mr. Haddad again; we moved the line to 150 so that we would then be compatible with just those lots on the waterway.

Vice Mayor Kerdyk: See if you do 130 you can do the figures of waterway and it drops dramatically from the 56 percent...

Mr. Guilford: It drops to 30.

Vice Mayor Kerdyk: It drops to 30 percent...

Commissioner Lago: We have 450 feet – I'm wrong here because when I sat down with you, when I sat down with you we went over this and on Granada, I even have my notes from my meeting. I have 450-feet and from what I understood it was broken off the frontages, it was going to be 300 and 150.

Mr. Guilford: And that's based upon the comment of Commission Keon that's what we came back with. Mr. Haddad and again, have no objection whatsoever to keep it at 130. We want to do what is appropriate, but we want you to do what is appropriate here.

Vice Mayor Kerdyk: Commissioner, I got to ask Mr. Haddad a question here. It's confusing to me, I mean, 95 percent of the people would say, I want a larger frontage as opposed to a smaller frontage, there has got to be a reason why you want the 130 feet, I'd just like to know.

Mr. Haddad: It started at 120 and they wanted four lots.

Vice Mayor Kerdyk: OK.

Mr. Haddad: Our City wouldn't allow that. Then they came back, they wanted 120 and three lots. I said they didn't allow that. Then they came back at 130 and two lots and our City unanimously

voted no until last April, when on First Reading you voted 3 to 2, yes, for the 130-foot lot separation, on First Reading you voted that. Now between the two readings they want to change it, it's within your discretion, you have the power to do that, but...

Commissioner Lago: Hold on, you are saying in the First Reading we voted at 130 feet?

Mr. Haddad: Yes sir.

Commissioner Lago: And now it's going to 150.

Mr. Guilford: 150 to address the concerns of Commissioner Keon.

Mr. Haddad: No, they are going to 150 for many more complicated reasons as Mr. Kerdyk must suspect, 150 feet increases substantially the size of the building that's going to encroach on the Alfred Browning Parker House. It brings the north property line, which there is a 5 or 10 foot setback, it brings it virtually to the front porch of the Alfred Browning Parker House. It requires changing the entrances, so it's a slippery slope. There are multiple reasons why incrementally they've gone from 120 to 130 to 150.

Commissioner Quesada: It better protects the neighborhood and also protects that building.

Mr. Haddad: Absolutely.

Commissioner Lago: Hold on, but Commissioner Keon is insisting on 150.

City Attorney Leen: Commissioner just so you know I spoke with her, Commissioner Keon feels that the 150 – she told me that, that's why that was sent back just like you said Zeke, to look at that issue to see if it was more compatible with the neighborhood that's why it's being brought back here. One thing you can consider, I hear what Mr. Haddad said, but you can consider limiting the size of the building, particularly if it's agreed to so that it would be the equivalent of a 130 foot lot.

Mr. Haddad: Mr. Heisenbottle has scientifically shown us that whatever the dimensions of Lot 2, that house is not going to be seen from the street, that's his balloon study, so increasing it to 150 does not make it more compatible with the neighborhood because the house there is not going to be seen at any dimension. I think it's just immensely unfair to come here under the assumption that an agreement would be welcomed and an amicable resolution.

Commissioner Lago: Let me ask you another quick question. Gil, in regards to the actual waterfront frontage, what are we looking at in regards to linear feet?

Vice Mayor Kerdyk: 104 feet.

Commissioner Lago: 104?

Vice Mayor Kerdyk: I think so.

Mr. Haddad: Its 104 by the plans that you approved on your First Reading, 104 feet.

Mr. Guilford: And that has not changed.

Mr. Haddad: Right, that's not changed, but you can pick up a few feet over there on the water side if you want to by making that line – you can swing the line a little bit along the waterway to the north.

Mr. Guilford:...back this way and pick up 20 or 30 feet.

Mayor Cason: Craig, the way that we understood the criteria read 1,000 feet or a neighborhood.

City Attorney Leen: Yes.

Mayor Cason: Are we obligated to go in the neighborhood angle, can we go with the 1,000 feet, which is 130?

City Attorney Leen: It's up to your discretion; you have to determine whether the neighborhood or the 1,000 foot is more appropriate.

Mayor Cason: If we went with the 1,000 feet the 130 fits, right?

Mr. Guilford: Yes – within 1,000 feet the 130 more than fit. Again, and I have great respect for Mr. Haddad, the only reason that line was changed was to address the concerns so that we were over 50 percent of the lots to move it to 150, that was strictly the only reason to move that line.

Mayor Cason: So we are not obligated to do one or the other?

Commissioner Keon: [Inaudible]

City Attorney Leen: Say again Commissioner?

Commissioner Keon: One of the criteria is that...[Inaudible].

City Attorney Leen: Commissioner could you not speak into the microphone and just speak into the phone. Say again.

Commissioner Keon: [Inaudible]

City Attorney Leen: So Commissioners, you probably heard it, but she said that her vote on First Reading was based on this and she doesn't feel it's comparable, that's ultimately a decision. I think Commissioner your view has been heard, so ultimately it's a decision for the Commission-as-a-whole.

Mr. Haddad: I can say gentlemen that your vote on First Reading was the impetus for the neighborhood coming together and agreeing that what was voted on, on the First Reading 130 feet, is what they would accept.

Commissioner Lago: So the neighborhood is in favor of....

Mr. Haddad: Your vote on First Reading is what we relied on.

Commissioner Lago: So the neighbors are in favor of 130-foot frontage on Granada.

Commissioner Quesada: For the reasons that he expressed earlier. If you widen it up you could almost be on the doorstep of the Browning Parker Home.

Commissioner Lago: We are riding a little bit more of a buffer for the home.

Mayor Cason: Let's make a motion and see if we have a second.

Commissioner Quesada: Before I make the motion, Commissioner Lago, I tabled the motion based on your additional inquiry, you know what my motion is going to be, you want to suggest any amendments to that?

Commissioner Lago: No, I don't have any amendments. I just want to make sure that Commissioner Keon was heard.

Commissioner Quesada: OK. So my motion is to, I've forgotten (laughter) in favor of the lot split with the three conditions that we discussed and agreed to between Mr. Haddad and Mr. Guilford as well and the tree condition that Commissioner Keon mentioned when we could hear her...

Mayor Cason: The 50-foot setback.

Commissioner Quesada: The 50-foot setback. Were there any other items?

Mayor Cason: And the trees along the property line to shield the other houses.

Commissioner Quesada: And that one as well, that is my motion.

Mayor Cason: OK. Do we have a second?

Commissioner Lago: I'll second the motion.

Mayor Cason: Alright – Commissioner Quesada made the motion, Commissioner Lago seconds it, this is on E-3.

City Clerk

Commissioner Keon?

Vice Mayor Kerdyk: With 130 feet.

Mayor Cason: 130 feet.

City Attorney Leen: Commissioner Keon, this is at 130 feet, every other condition has been put into...

Commissioner Keon: No

Vice Mayor Kerdyk: No.

Commissioner Lago: Yes

Commissioner Quesada: Yes

Mayor Cason: Yes

(Vote: 3-2)

Mayor Cason: Item E-4

City Commission Meeting

July 22, 2014

Agenda Items E-3, E-4, and E-5 are related Conditional Use Review for Building Site Determination; Zoning Code Text Amendment; Final Plat (6801 Granada Blvd.)

Commissioner Quesada: Same motion.

Mayor Cason: Commissioner Quesada makes a motion.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds it.

City Clerk

Vice Mayor Kerdyk: No

Commissioner Lago: Yes

Commissioner Quesada: Yes

Commissioner Keon: No

Mayor Cason: Yes

(Vote: 3-2)

Mayor Cason: And the Resolution on E-5.

Commissioner Quesada: Same motion.

Mayor Cason: Same motion – Commissioner Quesada makes the motion.

Commissioner Lago: I will second it.

Mayor Cason: Commissioner Lago seconds it.

City Clerk

Commissioner Lago: Yes

Commissioner Quesada: Yes

Commissioner Keon: No

Vice Mayor Kerdyk: No

Mayor Cason: Yes

(Vote: 3-2)

Vice Mayor Kerdyk: Could I ask staff at this time to draft an ordinance on the waterfront to give some criteria to the waterfront as far as, should this ever come in front of us again, we at least have some conditions set forth.

Interim City Manager Olazabal: I already sent an e-mail on that matter.

Vice Mayor Kerdyk: OK. Thank you.

Mayor Cason: Thank you.

[End: 5:05:12 p.m.]