

1 THE SECRETARY: Marshall Bellin?
 2 MR. BELLIN: Yes.
 3 THE SECRETARY: Julio Grabiell?
 4 MR. GRABIEL: Yes.
 5 THE SECRETARY: Jeffrey Flanagan?
 6 CHAIRMAN FLANAGAN: Yes.
 7 Okay. Next item on the Agenda is Number
 8 10. It's an Ordinance of the City Commission
 9 of Coral Gables, Florida providing for a text
 10 amendment to the City of Coral Gables Official
 11 Zoning Code by amending Article 3, "Development
 12 Review," Division 2, "General Development
 13 Review Procedures," Section 3-206, "Building
 14 site determination"; and Article 8,
 15 "Definitions," amending the requirements for
 16 applications for a building site separation and
 17 creating a definition for voluntary demolition;
 18 providing for a repealer provision,
 19 severability clause, codification, and for an
 20 effective date.
 21 Charles.
 22 MR. WU: Thank you, Mr. Chair. For the
 23 record, Charles Wu. I'll be presenting this
 24 item.
 25 As you may have seen, past building site

1 waterfront lot and a cul-de-sac come through as
 2 consideration, that the existing criteria was
 3 not the best method of doing that analysis. So
 4 for that consideration, where you have a
 5 waterfront, the City Commission, in the Granada
 6 case, asked us to look at the waterfront as a
 7 frontage, when you evaluate how they're
 8 compatible.
 9 Likewise for a cul-de-sac situation, where
 10 the frontage may be a disadvantage for
 11 evaluation, so we put in there the criteria.
 12 For the cul-de-sac lot, it has to be a like for
 13 like analysis, for a similar cul-de-sac, within
 14 a 1,000 feet. So that clarified the situation
 15 where we have frontage.
 16 Also included, since we have not had it in
 17 a while, but we thought it might be applicable
 18 in this case, is a golf course frontage. Golf
 19 course frontage, it's very similar to a water
 20 frontage. It's that they do have a wider
 21 frontage at the golf course area. So that's
 22 (B.)
 23 (C) The only thing we added was that -- the
 24 voluntary demolition within the past ten years.
 25 In the past, you cannot demolish any portion of

1 determinations and lot splits, we've had some
 2 challenges, based on the current criteria, how
 3 to evaluate certain projects.
 4 And the City Commission challenged us,
 5 based on some of those subdivisions, to come up
 6 with better and clearer criteria as a result of
 7 that, and we have shared this with them early
 8 in October of last year, and they were quite
 9 pleased with the direction we're heading.
 10 So I'd like to summarize the changes. For
 11 clarity, we decided to delete all of the
 12 current standards, and we just reformatted and
 13 retooled everything in the underlying format
 14 starting on Page 3.
 15 To start off with, we would like to require
 16 at least four of the following six criteria.
 17 In the past, applicants had requested
 18 considerations for some of the criteria. Here
 19 we clarified, at least four of the following
 20 six have to be met.
 21 The first one is the same. (A) there's no
 22 change.
 23 (B) is the result of a number of cases
 24 where we've had waterfront lots that come for
 25 consideration. We've had a situation where a

1 the property that we would consider part of the
 2 criteria. Here, we thought that was overly
 3 restrictive, so we put a time line. If you
 4 demolish something longer than 10 years, we
 5 will not consider that a problem of meeting
 6 this criteria.
 7 (D) is similar to, 10-year caveat.
 8 (E) is a response to the City Commission's
 9 concern about protecting specimen trees. And
 10 the remaining of (E) remains.
 11 And (F) is something unique that we had
 12 extensive consultation with the City Attorney.
 13 The original had a deadline, that you have to
 14 own the property prior to September 17th, 1977.
 15 We thought that might be suspect, from a legal
 16 perspective. We thought we'll consider 10
 17 years -- to reduce that to 10 years. In the
 18 past, applicants had requested a waiver
 19 consideration for that.
 20 So, again, out of the six criteria, you
 21 have to meet at least four.
 22 Moving on, in practice, recently, we also
 23 had some conditions when we approved these site
 24 determinations and subdivisions as following,
 25 so we are making it a standard requirement as

1 part of the approval moving forward.
 2 One is, when you subdivide a lot,
 3 apparently when you subside them, the two
 4 buildings can have slightly more square footage
 5 than if it were one lot. And we've had
 6 included conditions that once you split it, the
 7 combinations of the two lots' square footage
 8 cannot exceed if they were to do the lot as one
 9 parcel.
 10 So the City Commission has included that
 11 condition. You've seen those conditions in the
 12 past. We are standardizing that as a
 13 requirement.
 14 Again, Number 2 is something we've been
 15 including in the approvals, that because it's
 16 already subdivided, and they demonstrate they
 17 can build on a subdivided lot, they cannot
 18 request variances in the future. So you know
 19 what you're getting. You have to follow the
 20 Code after it's subdivided.
 21 Number 3, part of the Code is that when you
 22 come through us for a subdivision, you are
 23 required to submit plans for an analysis of how
 24 the project can be built, so there's some
 25 assurances through the public hearing process.

1 worked on with the City Commission. The City
 2 Commission obviously wants your feedback on
 3 this, and, of course, your recommendation. You
 4 know, so none of this is set in stone. But,
 5 you know, this was based on a number of lot
 6 splits that have occurred in the City, and, you
 7 know, what issues came up in those lot splits.
 8 And we tried to incorporate them into here,
 9 so that it would give people more guidance as
 10 to whether they would qualify or not for a lot
 11 split. Obviously, the one, you know,
 12 requirement is, of course, the City never wants
 13 to -- the City has always had a -- at least
 14 we've always said, and it's been said at the
 15 Commission, that we have a general -- we
 16 discourage lot splits, that we narrowly
 17 construe our ordinances regarding lot splits.
 18 And the idea behind that, the legal idea
 19 behind that was, we wanted to give people
 20 notice that if they go in and they buy a house,
 21 that the context of their street is not going
 22 to change substantially by having a whole --
 23 you know, many, many -- much more density, for
 24 example.
 25 MS. MENENDEZ: Right.

1 There is a site plan consideration. And we
 2 thought, since there is some assurances through
 3 the public hearing process, that we need to
 4 make that part of the approval process, because
 5 the Planning and Zoning Board has seen it, the
 6 public has seen it, the City Commission has
 7 seen it, then the public needs to know it's
 8 going to be built accordingly, and if there are
 9 changes, there is a process to change that.
 10 As opposed to you approve something, and
 11 three years later, it's something else that's
 12 built. And so that's what you're trying to
 13 avoid.
 14 Number 4 is, a bond be required to remove
 15 any non-conformities.
 16 Again, the City Commission has previewed
 17 this. They thought we were in the right
 18 direction. And we're here to present before
 19 you this consideration to amend these criteria
 20 for building site determination.
 21 CHAIRMAN FLANAGAN: Okay.
 22 MR. LEEN: If I may, Mr. Chair. May I add
 23 something to this?
 24 CHAIRMAN FLANAGAN: Yes, Mr. City Attorney.
 25 MR. LEEN: This is something that my office

1 MR. LEEN: So that was always the concern,
 2 and which is why, I think, there was that --
 3 you know, some of the provisions were here,
 4 including the one from 1977. You know, this
 5 idea that the historical planned city would not
 6 substantially change with these lot splits.
 7 However, what we were seeing was that a number
 8 of lot of splits were coming up, and a number
 9 of them were approved, and a lot of times -- so
 10 the Commission would be trying to apply these
 11 specific provisions, and there would be
 12 confusion as to how they would apply.
 13 And just to give you one example -- just to
 14 give you one example, there was the issue about
 15 street frontage and whether that should also
 16 apply to water frontage in the back. And the
 17 Commission asked us to take a look at that.
 18 There was the issue about, well, what if
 19 you have a building -- like let's say you have
 20 a tennis court or some sort of secondary
 21 building that would prevent a lot split, but it
 22 was demolished twelve years ago, and now a new
 23 owner is coming forward, and it was a voluntary
 24 demolition. Does that constitute a voluntary
 25 demolition for purpose of the old lot split

1 statute -- pardon me, ordinance? If it did,
2 then they wouldn't meet one of the
3 requirements. If they didn't, then they would
4 meet one of the requirements.

5 So the Commission basically wanted to guide
6 themselves. They wanted these provisions to
7 provide that guidance, so that in each case
8 they wouldn't have to make a determination in
9 that matter, and that it would be clear.

10 So that was the purpose of this, to make
11 these very clear, so that most people coming in
12 will know whether they qualify for a lot split
13 or not.

14 And I still think that the City has a
15 general policy against lot splits, but
16 obviously if you qualify here, and you meet
17 four of the six, you will be able to get a lot
18 split.

19 The last thing I wanted to mention is, the
20 four provisions were different conditions that
21 the Commission kept imposing. Like the one
22 example I would mention is, every time the
23 Commission granted a lot split, they didn't
24 want to have the two -- whatever one house you
25 could build on the one lot, they didn't want

1 as to E. Who is going to make the
2 determination as to whether the lot split does
3 what this is requesting?

4 MR. WU: Well, ultimately the P&Z Board
5 will have to make a determination of whether
6 this is met, and the City Commission. We will
7 make a recommendation whether the intent of E
8 has been met, based on the proposal.

9 Again, when someone wants to do a lot
10 split, we will be asking for a site plan
11 design, and the site layout will inform us
12 whether E would have been met.

13 MR. BELLIN: Okay. I don't know how you
14 determine the compatibility and preserve the
15 historic nature --

16 MR. WU: Those are all existing criteria.

17 MR. BELLIN: Right. I think those ought to
18 be basically determined by the Board of
19 Architects. That's one of the things that
20 they're supposed to look at, is context and --
21 so maybe we ought to be a little clearer as to
22 who is going to make those determinations.

23 I think, in the conditions, Number 1 is a
24 fabulous idea. As far as the no variances
25 shall be required or requested, what happens if

1 the two houses to have more total square
2 footage. They kept imposing that condition.

3 So the idea was, let's take the conditions
4 they've been imposing and put them into the
5 Code.

6 So that's the general background, and I
7 know that the Commission is looking forward to
8 your recommendation.

9 MS. MENENDEZ: I think this is great. I
10 think each of us would tell you that -- you
11 know, I don't want to speak for everybody, but
12 we're all happy, at least for me, to see this,
13 because we've struggled with this in the past.

14 I had one suggestion. On Page 4, Number 4,
15 the bond, I would try to state who determines
16 the bond, you know, and how that's determined.
17 Is the bond determined by the Planning and
18 Zoning Department --

19 MR. WU: It's determined by the Building
20 Official.

21 MS. MENENDEZ: The Building Official? You
22 might want to write that in.

23 MR. WU: Okay.

24 MR. LEEN: That's a good point.

25 MR. BELLIN: I have a couple of questions

1 you split the lot and one of the lots has
2 certain things, like three oak trees on it?
3 That means it's impossible to build anything on
4 it, unless you get a variance with respect to
5 maybe setbacks or some other issue.

6 So I think the variance issue ought to be
7 at least available to people, if for some
8 reason the configuration of the lot or what's
9 on it prevents them from being able to develop
10 the lot.

11 MR. LEEN: My office has given opinions in
12 the past that -- we have a Code provision,
13 obviously, related to trees, preservation of
14 specimen trees, and the Commission has made
15 that a policy priority, through a resolution,
16 where, you know, we're doing tree plants, you
17 know, right at the beginning, when they're
18 going to the Board of Architects.

19 So, you know, my view of this would be, if
20 it involved a tree, obviously we can't allow a
21 tree to prevent development of the lot, and we
22 gave that opinion in the Lisbon Street matter.
23 You know, so we can't do that. So we have to
24 try to preserve both. If we can't, then the
25 opinion my office has given is, it doesn't

1 require a variance. We basically balance the
 2 interest and do our best to meet the Code and
 3 also preserve the tree, because the Code
 4 requires preservation of the tree, to the
 5 extent possible.
 6 MR. BELLIN: Okay. So it's a judgment call
 7 that you make?
 8 MR. LEEN: Yes, but I understand your
 9 point. I agree with you, that if we apply
 10 variances to trees, this could cause a problem,
 11 and maybe we should note that somehow.
 12 MR. WU: There's a section in the City Code
 13 that references, for the sake of protecting
 14 trees, there's a consideration for variances.
 15 I can site that here in Number 2, to make sure
 16 it's linked to that situation.
 17 MR. BELLIN: Yeah, I think that's a good
 18 idea.
 19 MR. LEEN: I don't think that was the
 20 intent. I think the intent was more other
 21 types of variances, where we don't want you to
 22 -- again, this is more a policy issue --
 23 MS. MENENDEZ: A hardship.
 24 MR. LEEN: But, yes, we don't want you
 25 to --

1 MS. MENENDEZ: Create a hardship as a
 2 result of splitting the lot.
 3 MR. LEEN: Create a hardship -- you're
 4 exactly right. That was the concern.
 5 MS. MENENDEZ: I agree with that. I don't
 6 think variances should be granted.
 7 MR. BELLIN: If you'd clarify that, because
 8 it says, "No grievances."
 9 MR. WU: We can clarify that. Thank you.
 10 MR. BELLIN: Okay. And we work with this
 11 all of the time, and to require that you have
 12 two fully developed plans, house plans -- you
 13 want the footprint of the house. You want
 14 elevations of the house. It seems to me that
 15 it's asking an awful lot from the person who
 16 doesn't have any idea if this lot split is
 17 going to be approved or not.
 18 CHAIRMAN FLANAGAN: Then don't apply for
 19 it.
 20 MR. BELLIN: Well, but you've got to spend
 21 all of that money to apply for it, which -- and
 22 it's a significant amount.
 23 MS. MENENDEZ: Isn't it conceptual plans?
 24 CHAIRMAN FLANAGAN: Then live with the lot
 25 as it exists.

1 MR. BELLIN: Conceptual plans are
 2 different. You know, I can see laying out a
 3 footprint showing that you're going to work
 4 around whatever is there, but that's not what's
 5 required. What's required is floorplans for
 6 the house, showing how it works, and elevations
 7 of the house.
 8 And I think elevations really don't --
 9 because what you're going to end up with --
 10 MR. LEEN: If I could comment.
 11 CHAIRMAN FLANAGAN: Yeah.
 12 MR. LEEN: This is more of a policy
 13 decision for you. The Commission's concern,
 14 when it came up, was -- in the few times this
 15 has come up, is they didn't want speculation.
 16 They didn't want someone basically to split the
 17 lot and then hold it for a long time. They
 18 wanted to know, and so the residents could
 19 know, what would be built there.
 20 And my recollection is that, I think that
 21 they would want to have the site -- they wanted
 22 the site plan, so they could almost impose it
 23 as a condition.
 24 CHAIRMAN FLANAGAN: Right.
 25 MR. LEEN: So that it would limit it to

1 that.
 2 CHAIRMAN FLANAGAN: And I think we
 3 effectively imposed that as conditions when it
 4 came through here.
 5 MR. LEEN: It doesn't mean that you have to
 6 do that, but I think that was the thinking.
 7 MR. BELLIN: Well, but just because you
 8 submit a site plan showing two houses on it and
 9 elevations doesn't mean you're going to build
 10 it. It doesn't mean when you're going to build
 11 it.
 12 MR. LEEN: But the thought was, if you did
 13 build it, you would have to do that.
 14 CHAIRMAN FLANAGAN: Right.
 15 MR. BELLIN: You will be tied to the site
 16 plan, but --
 17 MR. WU: Yes. And in a development
 18 respect, there's a process -- if you want to
 19 change it, there's a process to change it.
 20 Again, what the City Attorney is saying
 21 is -- and I agree, is that through the process,
 22 the public has an expectation of what is going
 23 on the property. You are looking at a certain
 24 scenario development. The City Commission is
 25 looking at that.

1 So it's based on some assurances of what's
 2 being proposed. All we're saying is, let's
 3 follow those assurances from beginning to end,
 4 and if it's changed, you have to go through the
 5 process to change it. As opposed to, you
 6 approve one thing, and something else is built.
 7 CHAIRMAN FLANAGAN: When those came before
 8 us, though, I mean, I distinctly remember
 9 seeing the plans, the placement, everything --
 10 MR. BELLIN: The elevations.
 11 CHAIRMAN FLANAGAN: Yeah, it was important
 12 to this Board and important to the neighbors to
 13 understand what it was that may be happening on
 14 the neighboring property if it was split. I
 15 think it's an important part.
 16 MS. MENENDEZ: To me, if they meet the
 17 criteria, four of the six, then why not move
 18 forward and show what you're going to build? I
 19 mean, if not, I mean, you're taking a risk
 20 anyway, because you're not meeting the four of
 21 the six. And you're going to argue, like we've
 22 been hearing arguments --
 23 MR. BELLIN: But you don't know that you
 24 meet four of the six.
 25 MS. MENENDEZ: Sure.

1 MR. BELLIN: You see people come here and
 2 we've disagreed on whether somebody --
 3 MS. MENENDEZ: I know, but if Staff pretty
 4 much agrees with four out of the six, that
 5 gives you a good indication that you're going
 6 to -- you meet four out of the six.
 7 The past criteria wasn't as clear, as Craig
 8 mentioned. You know, there was like, Oh, my
 9 gosh, how do you interpret this? And then
 10 everybody came up with different
 11 interpretations. But I think now it's a little
 12 bit -- I think it's clear.
 13 MR. LEEN: If I may, here's what was
 14 happening. There's a general policy against
 15 lot splits. So Staff rightfully so was
 16 interpreting this strictly. So they would
 17 always come up with two out of six or three out
 18 of six.
 19 Then the Commission would take a look at
 20 it, and they might interpret it, in a given
 21 case, more broadly, and then it would pass.
 22 So the idea was, well, why don't we work in
 23 all of the Commission's, you know, thoughts and
 24 Staff thoughts and your thoughts, so that this
 25 would be -- there wouldn't be such a difference

1 between the Staff recommendation and then
 2 whatever the Commission did, that it would be
 3 more mechanical?
 4 There's still some room for discretion, but
 5 it's a little more mechanical in its
 6 application. We're trying to resolve the
 7 ambiguities. That's basically --
 8 MS. MENENDEZ: Yeah. I think it's clear.
 9 CHAIRMAN FLANAGAN: Frank.
 10 MR. RODRIGUEZ: Yeah, it seems to me
 11 that -- I mean, Marshall is making a valid
 12 point, that the way it's written, it makes it
 13 onerous and difficult to lot split, and I think
 14 that's what the City Commission wants.
 15 I mean, I get it, what Marshall is saying,
 16 but I don't necessarily agree that what's
 17 written here, you know, needs to be changed.
 18 MR. BELLIN: If the Commission finds lot
 19 splits undesirable, then just say, "No lot
 20 splits" and be done with it.
 21 CHAIRMAN FLANAGAN: Julio, do you have --
 22 MR. GRABIEL: No.
 23 CHAIRMAN FLANAGAN: You're good?
 24 MR. GRABIEL: I'm fine with it the way it
 25 is.

1 CHAIRMAN FLANAGAN: Okay.
 2 MS. MENENDEZ: Me, too.
 3 CHAIRMAN FLANAGAN: You're good?
 4 Okay. Anything further? Anybody wants to
 5 move it?
 6 MR. WU: Did you open the public hearing?
 7 CHAIRMAN FLANAGAN: Oh, yeah. Darn, I keep
 8 forgetting that.
 9 We'll open the public hearing. Anybody
 10 here want to talk on the matter?
 11 Seeing none, the public hearing is closed.
 12 MS. MENENDEZ: I'll make a motion to
 13 approve it.
 14 MR. RODRIGUEZ: I second.
 15 CHAIRMAN FLANAGAN: A motion and a second.
 16 MR. WU: I heard two comments for changes,
 17 just to clarify, unless there are more. Number
 18 4, the bond, as determined by Staff. And
 19 Number 2, the site --
 20 MS. MENENDEZ: Is it Staff or is it the
 21 Building Official?
 22 MR. WU: City Staff will include the
 23 Building Official.
 24 MS. MENENDEZ: Okay.
 25 MR. WU: And Number 2, that to cite the

1 City Code provision with respect to the tree --
 2 protecting the specimen trees and a variance
 3 possibility.
 4 MS. MENENDEZ: What did you say, I'm sorry?
 5 MR. WU: That if there's a specimen tree,
 6 there's opportunities to get a variance.
 7 There's a City Code Section that talks about
 8 that. I'll just cite it on this.
 9 MR. BELLIN: But is it a variance or is it
 10 just a decision that's made by the City
 11 Attorney?
 12 MR. WU: It's an administrative variance,
 13 so to speak.
 14 MS. MENENDEZ: I wouldn't mention it. I
 15 mean, if there is a procedure in place for
 16 that --
 17 MR. WU: There's a procedure, but what
 18 Marshall is concerned about, this is an
 19 absolute no variance, where somewhere else it
 20 does make accommodation --
 21 MS. MENENDEZ: But what I'm hearing is that
 22 a tree determination is not tied to a variance.
 23 MR. WU: To protect a tree, if a proposed
 24 structure needs a variance, the protection of
 25 the tree will be valid to consider the

1 variance.
 2 MR. LEEN: And there have been
 3 circumstances where, in order to prevent, you
 4 know, a regulatory taking or a Bert Harris
 5 Action, we've approved it, legally, like
 6 through a City Attorney opinion or through
 7 Staff.
 8 There's been other times they've gone for
 9 variances. It depends on the circumstances.
 10 If it's something where the tree is really
 11 preventing development, you know, we have to
 12 allow development on a lot or else we're
 13 basically making --
 14 MS. MENENDEZ: But what if the tree is
 15 smack in the middle of the second lot?
 16 MR. LEEN: That's what happened in the
 17 Lisbon Street case, was that the tree was very
 18 large, and would require a very, very small
 19 cottage, I think, in order to -- and there
 20 would need to be some variances, as I recall,
 21 related to that cottage.
 22 MR. WU: Substantial.
 23 MR. LEEN: Substantial, and so in that
 24 particular case, as a legal matter, we brought
 25 it to the Commission, and they did a Dispute

1 Resolution Agreement, and they didn't go
 2 through a variance process.
 3 MR. WU: An example is, the tree is in a
 4 side, and in order to protect the tree, you
 5 have to move the structure closer to the
 6 property line. In that case, there's a setback
 7 variance to be had. Then the tree situation
 8 will warrant that setback.
 9 MR. LEEN: But you're absolutely right, the
 10 way it's written could be interpreted by -- you
 11 know, I'm the City Attorney, but what if in 10
 12 years there's a different City Attorney? It
 13 could be interpreted. So we should address
 14 that. I think it's a good comment.
 15 MS. MENENDEZ: Okay.
 16 MR. COLLER: We can do the drafting, but --
 17 something to the effect that with the exception
 18 of preservation for trees or something like
 19 that.
 20 MR. LEEN: Yes, something like that.
 21 MS. MENENDEZ: Okay.
 22 MR. BELLIN: Well, I mean, there may be
 23 some other -- you know, who knows, a sink hole
 24 develops. All I'm saying is, to say absolutely
 25 no variances, maybe you just change the wording

1 to say it's a City Attorney's call or to be
 2 determined by Staff or an administrative
 3 variance -- I mean, things happen, you know.
 4 MR. LEEN: No. I think what we should do
 5 is take your comment and we'll work on it. If
 6 you agree and that's what you recommend, we
 7 will modify it to address --
 8 MS. MENENDEZ: I'm not sold that we should
 9 allow variances for lot splits. I understand
 10 the particular cases, when we're trying to
 11 preserve, you know, but I'm not -- I'm
 12 concerned with then someone taking it and
 13 saying, "Okay, so let me work on these square
 14 footages, and let me do this, and let me ask
 15 for a variance."
 16 You know, I'm just -- I'm not -- I like the
 17 concept of not allowing variances on lot
 18 splits.
 19 MR. LEEN: I understand.
 20 MS. MENENDEZ: But that's just me. I
 21 wouldn't be voting for --
 22 MR. LEEN: Well, that's a policy decision.
 23 What I can tell you, then, is, if you keep the
 24 language the same way as to trees, we've given
 25 opinions in the past that that would not

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1 prevent addressing trees, and we can work that
 2 into this.

3 MS. MENENDEZ: I mean, at this point, we
 4 haven't received any cases that we've seen a
 5 problem with not requiring variances. My
 6 concern is, you know, you then allow them to
 7 ask for variances, then what was the purpose of
 8 the lot -- you know. I'm not comfortable with
 9 that.

10 MR. LEEN: True.

11 Well, another thing that comes up -- this
 12 can often come up through a condition of
 13 approval. What might happen is, the Commission
 14 will say, "We'll split it, but you have to
 15 preserve that tree."

16 Then they say, "Well, then we can't build a
 17 house there," and then the Commission, as part
 18 of the condition, tells them, "Well, you can
 19 move it back five feet."

20 I've opined --

21 MS. MENENDEZ: That they have the right to
 22 do that.

23 MR. LEEN: -- that the Commission can do
 24 that. You know, it's a publicly noticed site
 25 plan review. It's quasi-judicial. People can

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1 come and they can consider that, if they'd
 2 like. The Commission has a tremendous amount
 3 of authority under the Code.

4 MR. BELLIN: I just think we ought to give
 5 them the option, and maybe it's Staff that
 6 determines whether it's a valid request or not,
 7 but to say absolutely no variances I think is a
 8 mistake.

9 CHAIRMAN FLANAGAN: But it sounds like they
 10 have the option now, and I agree with Maria,
 11 actually, and with what Frank said. I
 12 understand the concern, and would usually agree
 13 with that, but if the intent is to take a very
 14 conservative approach to lot splits, if it's
 15 going to be cause that type of a problem, and
 16 if it can't resolved administratively or with
 17 Staff, then unfortunately don't do the lot
 18 split.

19 MR. BELLIN: Yeah, but it doesn't quite
 20 work that way. The problem with the tree on
 21 Lisbon --

22 CHAIRMAN FLANAGAN: Well, it does work that
 23 way, and they resolved it.

24 MR. BELLIN: Yeah, the City bought the
 25 property. That's how they resolved it.

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1 MS. MENENDEZ: The City bought the
 2 property?

3 MR. BELLIN: Yes.

4 MS. MENENDEZ: It's going to be a park?

5 MR. WU: Yes.

6 CHAIRMAN FLANAGAN: A little pocket park.

7 MR. WU: Yes.

8 MR. LEEN: Another thing we could do is
 9 perhaps we could put a sentence that just says
 10 that if the Commission requires something, that
 11 would not allow -- you know, would diminish
 12 development, the Commission, as part of the
 13 condition, can allow for an alteration.

14 That's the current interpretation.

15 MR. RODRIGUEZ: But the Commission can
 16 always do that.

17 MR. LEEN: Yes.

18 MR. RODRIGUEZ: They don't need us to
 19 require something in there to do that. That's
 20 sort of presumptuous.

21 MR. WU: Well, for the sake of moving
 22 along, we already have a motion and a second --

23 CHAIRMAN FLANAGAN: As presented.

24 MR. WU: As presented.

25 MS. MENENDEZ: As presented, with the

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1 exception of determining who determines the
 2 bond or writing who determines the bond.

3 CHAIRMAN FLANAGAN: Okay. So we're adding
 4 that as part of our recommendation?

5 MS. MENENDEZ: Yeah. He already did.

6 CHAIRMAN FLANAGAN: Okay. And we're not
 7 adding -- we're leaving it, then, as written?
 8 That's the motion and the second?

9 MS. MENENDEZ: Yes, that's my motion.

10 CHAIRMAN FLANAGAN: Yes, the motion and the
 11 second.

12 Okay. There's a motion and a second.
 13 Everybody clear?

14 Call the roll, please.

15 THE SECRETARY: Marshall Bellin?

16 MR. BELLIN: No.

17 THE SECRETARY: Julio Grabiell?

18 MR. GRABIEL: Yes.

19 THE SECRETARY: Frank Rodriguez?

20 MR. RODRIGUEZ: Yes.

21 THE SECRETARY: Maria Menendez?

22 MS. MENENDEZ: Yes.

23 THE SECRETARY: Jeffrey Flanagan?

24 CHAIRMAN FLANAGAN: Yes.

25 Next item is 11. An Ordinance of the City