

City of Coral Gables City Commission Meeting
Agenda Items E-8, E-9 & E-12
May 26, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Planning Director, Ramon Trias

Public Speaker(s)

Mario Garcia-Serra, Representing Coral Gables Luxury Holdings, LLC
Tim Plummer, Traffic Consultant, 1750 Ponce de Leon Blvd.
Jim Docherty, 1230 Catalonia Avenue

Agenda Items E-8, E-9, & E-12

E-8: Zoning Code Text Change. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, Article 4, “Zoning Districts,” Division 2, “Overlay and Special Purpose Districts” Section 4-201, “Mixed Use District (MXD),” to allow for proposed mixed use projects located within a designated Mixed Use Overlay District (MXOD) with an underlying zoning designation of Industrial District (I), subject to City Commission approval, the following: 1) up to an additional twenty (20) feet of habitable building height above the one hundred (100) foot maximum permitted building height for the purpose of increased floor-to-ceiling height and aesthetics; and 2) increase the maximum permitted height of non-habitable

architectural features based on the aesthetics and design; providing for a repealer provision, severability clause, codification and providing for an effective date. (PZB Vote 7-0, recommended approval) (Passed on First Reading March, 25, 2015).

E-9: Ordinance of the City Commission of Coral Gable requesting vacation of a public alleyway pursuant to Zoning Code, Article 3, Division 12, “Abandonment and Vacations” and City Code Chapter 62, Article 8, “Vacation, Abandonment and Closure of Streets, Easements and Alleys by Private Owners and the City; Application Process,” providing for the vacation of the thirty (30) foot wide alley which bisects the entire length of the block, and the dedication of a public cross-block easement on the property legally described as all of Block 3, Industrial Section, Coral Gables, Florida; providing for a severability clause, repealer provision, codification and providing for an effective date. (PZB Vote 7-0, recommended approval).

E-12: The following resolution for mixed use site plan review is provided for reference and not for consideration at this time. This resolution shall be included with the above ordinances, E-3 through E-5, on Second Reading, if the ordinances are approved on First Reading. Mixed Use Site Plan Review. A resolution of the City Commission of Coral Gables requesting mixed use site plan review and conditional use review pursuant to Zoning Code Article 4, Division 2, “Mixed Use District (MXD),” for the construction of a mixed use project referred to as “The Collection Residences,” on the property legally described as all of Block 3 and the public alleyway, Industrial Section (multiple street addresses), Coral Gables, Florida, including required conditions and providing for an effective date. (PZB Vote: 7-0, recommended approval with conditions).

Mayor Cason: All right, moving on to agenda item E.-8. This is a Zoning Code text change. It's an ordinance of the City Commission of Coral Gables, providing for text amendments to the City of Coral Gables official Zoning Code, Article 4, “Zoning Districts.” Madam City Manager.

City Attorney Leen: Actually, Mr. Mayor, it's second reading. So, I will do the reading.

Mayor Cason: OK.

City Attorney Leen: Items E.-8, E.-9 and E.-12 are related items. Item E.-8 is a Zoning Code text change. This is on second reading. It's an ordinance of the City Commission of Coral Gables, Florida, providing for text amendments to the City of Coral Gables official Zoning Code, Article 4, "Zoning Districts," Division 2, Overlay and Special Purpose Districts, Section 4-201, Mixed Use District, to allow for proposed mixed use projects located within a designated mixed use overlay district with an underlying zoning designation of industrial district, subject to City Commission approval, the following: (1), up to an additional 20 feet of habitable building height above the 100-foot maximum permitted building height for the purposes of increased floor-to-ceiling height and aesthetics; and (2), increase the maximum permitted height of non-habitable architectural features based on the aesthetics and design; providing for a repealer provision, severability clause, codification and providing for an effective date. Planning & Zoning Board voted 7-0, recommending approval. This was passed on first reading March 25, 2015. Item E.-9, which is related, again on second reading. It's an ordinance of the City Commission of Coral Gables requesting vacation of a public alleyway pursuant to Zoning Code Article 3, Division 12, "Abandonment and Vacations," and City Code Chapter 62, Article 8, "Vacation, Abandonment, and Closure of Streets, Easements and Alleys by private owners in the City application process; providing for the vacation of the 30-foot-wide alley, which bisects the entire length of the block, and the dedication of a public cross-block easement on the property legally described as all of Block 3, Industrial Section, Coral Gables, Florida; providing for a repealer provision, severability clause, codification, and providing for an effective date. Legal descriptions on file at the City. This also passed on first reading. Item E.-12 is a resolution. It's being considered in conjunction with items E.-8 and E.-9, although it's a different standard, and we'll talk about that in a second. It's a mixed use site plan review. A resolution of the City Commission of Coral Gables requesting mixed-use site plan review and conditional use review pursuant to Zoning Code Article 4, Division 2, "Mixed Use District," for the construction of a mixed use project referred to as the "Collection Residences" on the property legally described as all of Block 3 and the public alleyway, Industrial Section (multiple street addresses), Coral Gables, Florida; including required conditions, and providing for an effective date. The Planning & Zoning Board voted 7-0, recommending approval with conditions. Items E.-12, E.-8, and E.-9 are being consolidated for purposes of the public hearing. Each one will have a separate vote. I just want

to say for purposes of the record, that item E.-8 is a Zoning Code change. For that, it's a legislative determination. You will be applying a fairly debatable standard to that, and ultimately, it's within the Commission's discretion whether to change the Code or not, as long as you do not abuse that discretion or act arbitrarily. Item E.-9 is a vacation of a public alleyway. That has both a proprietary and a regulatory component. You will be looking at it under both standards, but ultimately, when you do your regulatory review of the matter, the City has determined that it will apply a quasi-judicial standard, even though that's not clear in the law, but providing the extra process is good. So, you would take testimony, you would apply the standard, and you make a determination whether the alley should be vacated or not. And lastly, item E.-12 is the mixed use site plan review. This is clearly quasi-judicial. You will be determining basically whether there's competent substantial evidence in the record supporting the item. Anything that there is competent substantial evidence for, you can do; you have that discretion. You will be looking at the site plan determining if there's a harm that's being caused to affected parties. And if there is a harm, you can determine to impose a condition. All of that, you need substantial competent evidence in the record to support that. And you should hear testimony from the affected party, and all of these are public hearing items, and then you would make your determination. Each one will be voted on separately.

Mayor Cason: OK. Do we have any speaker cards on E.-8?

Mr. Foeman: No, Mr. Mayor.

Mayor Cason: If not, we'll close the public hearing on E.-8.

City Attorney Leen: Mr. Mayor, we are having a public hearing on all three together.

Mayor Cason: Right.

Mayor Cason: We have one speaker that wants to speak on the alley, E.-9.

City Attorney Leen: Oh. Well, he should speak as to all of them, because we've consolidated them, I'm sorry, sir. I should have been clear. We're consolidating for the public hearing. So if there's anyone on E.-8, E.-9, or E.-12, they should speak now.

Mayor Cason: All right. We have Orlando Capote who wants to speak on the alley closure.

City Attorney Leen: Mr. Capote is not here, and I think he wanted to speak on the Mediterranean Village alley closure, and so he left because of that.

Mayor Cason: OK.

Mayor Cason: All right. So we have no speaker cards?

Commissioner Keon: Wait, wait. I think you might be getting one.

Mr. Foeman: We have one, Mr. Mayor.

Commissioner Keon: Mayor Cason.

City Attorney Leen: He should be placed under oath.

Mayor Cason: Mr. Docherty, Jim Docherty. Just state your name and address.

Jim Docherty: Yeah. Hi. Jim Docherty. I live at 1230 Catalonia. My wife and I own two buildings on Ponce de Leon Boulevard within blocks of the property.

Mr. Foeman: Excuse me. Let me swear you in.

Mr. Docherty: Oh, sorry.

City Clerk Foeman: Raise your right hand.

Note for the Record: The City Clerk administered the oath to those giving testimony on zoning items.

City Clerk Foeman: Thank you.

Mayor Cason: Go ahead.

Mr. Docherty: So, I'm here in support of the Development Collection Residences. I think it's important that the alley be vacated for them to build the development they're proposing. It's important because I believe that what our neighborhoods sorely needs is a higher level of residential condominium units. The neighborhood has been filled with small apartments, which are mostly rental apartments, and they will be bringing a truly luxury apartment product into the neighborhood, which I think will augment what the mall has already been doing in the area, and I think it will go a long way to making the area around the Merrick Park Mall even a better neighborhood in the long time, in the distance. The alley vacation is critical because you can see other buildings in the area that have been built on half a block, like One Village Place. Those buildings are very narrow lots, and with center hallways running along the blocks, the buildings don't allow large apartments. They really only allow small apartments on either side of long hallways, and so, it's important that the alley be vacated, because it will allow them to build larger residences. I know a lot of people that would love to buy a 2 or 3 or 4,000 square foot apartment in Coral Gables, and they really don't exist today. So, I think it's very important the City look at this as really a transformative development, something that will bring the area around the mall up to a very much nicer standard.

Mayor Cason: Thank you very much.

Mr. Docherty: Thanks.

Mayor Cason: Any other speaker cards?

City Clerk Foeman: No, Mr. Mayor.

Mayor Cason: If not, we'll close the public hearing portion. Mario.

Mario Garcia-Serra: Good morning, Mr. Mayor and Commissioners. Mario Garcia-Serra, representing the applicant, Coral Gables Luxury Holdings, LLC (Limited Liability Company), office address at 600 Brickell Avenue; joined today by Art Murphy with Coral Gables Luxury Residences, LLC; our project architects, Alejandro Gonzalez and Liz Plater-Zyberk; Alejandro from Arquitectonica and Liz, of course, from Duaney, Plater-Zyberk; our traffic consultant, Tim Plummer, as well as Johanna Mead from Witkin & Associates, our landscape architect; also joined by Zeke Guilford, our co-counsel on this matter. At first reading, we had pretty much, I'd say, three open issues, which can be summarized as the issue of shade trees. We're looking to incorporate as many shade trees as we can. We were thinking primarily along Salzedo and Altara, which are the eastern and western boundaries of the property. Between first and second reading, we also had an e-mail submitted by residents encouraging shade trees along Bird. I think the issue of along Bird has to be studied, and that could be a condition of our approval. The issue, of course, being that Bird is a State road. FDOT is very strict on its permitting requirements as to what can go onto the right-of-way. And we also have an arcade that goes on the north side of the property which limits our ability to potentially plan shade trees there.

Mayor Cason: If I recall, when we had a discussion of LeJeune on the size of the trees in the median, we were told at the time that the State wouldn't allow trees, something like over 18 inches around; is that correct?

Mr. Garcia-Serra: Correct. What I'll do is I'll ask Tim Plummer, if I can, who's probably the person who knows most about it on our team to opine as to what FDOT requires.

Tim Plummer: Good morning. Tim Plummer, with offices at 1750 Ponce de Leon Boulevard in the City Beautiful. What the State requirement is, that the face of the trunk needs to be a minimum of four feet setback from the face of the curb. So, those medians that were created on LeJeune, those small islands, didn't fit that criteria, so the tree trunks have to be four inches or less in order to be able to have the criteria closer to the face of the curb. So, if you're looking at shade trees, like Oaks, it's got to be a minimum of four feet from the face of the trunk at maturation to the face of the curb.

Mayor Cason: So, the resident who wanted to Oak trees in the median on Bird, is that possible, given the width of the median?

Mr. Plummer: Well, I think there's going to be some challenges, as Mario alluded to, with the arcade and other issues. But where it starts with FDOT is you look at the face of the curb on Bird Road and the face of that Oak, for instance, at maturation has to be a minimum of four feet setback.

Mayor Cason: On each side?

Mr. Plummer: On each side.

Commissioner Lago: OK. When you say at maturation, you mean 10, 20 years from now?

Mr. Plummer: Well, you can't put an Oak tree in that is, that its trunk is six or eight inches in diameter now, and then knowing that it's going to grow to two feet, three feet so you have to estimate that.

Commissioner Lago: Could I ask you a quick question? What is the reasoning behind that?

Mr. Plummer: Well, because trees grow.

Commissioner Keon: Visibility.

Mr. Plummer: So, you can't encroach. So, if you start with a tree trunk that's six inches, you have to set it back a little more than four feet from the face, because you know it's going to grow and encroach into that four-feet criterion, and that's

Mr. Garcia-Serra: Commissioner Lago, what I think you're getting at, the ultimate rationale is visibility.

Commissioner Lago: Yeah, I know.

Mr. Garcia-Serra: That it blocks too much of the view.

Mr. Plummer: It's part of that and it's...

Commissioner Lago: That's the answer I wanted you to give, because we received that one e-mail, which was inquiring in reference to why there wasn't more tree coverage or potential canopy located on Bird Road, and I wanted to come from you guys basically stating that the issue was that FDOT had a restraint on what could be placed there due to visibility concerns.

Mr. Plummer: That's correct.

Vice Mayor Quesada: Well, the issue is also...

Commissioner Keon: Is there..

Vice Mayor Quesada: I'm sorry. Go ahead.

Commissioner Keon: I'm sorry. There isn't an island currently an implanted median on that part of Bird Road, is there?

Mr. Plummer: It's not curbed. You're talking about the existing median on Bird Road?

Commissioner Keon: I'm talking about the existing median on Bird Road. There isn't a median there in front of the collection or the residences, is there? Doesn't it start pass LeJeune, the median?

Mr. Plummer: Yes. So, there's a median in front of this project.

City Attorney Leen: Mr. Mayor, while they're looking for that, the e-mail that's being talked about for purpose of the record should be placed in the record. I've asked that it be placed in the record. It would require a ruling from you.

Mayor Cason: That's fine.

City Attorney Leen: OK. Mr. Clerk, the Mayor's directed that it be placed in the record. This is a May 25, 2015 e-mail from Jeffrey Stone to the City Commission, and it's been provided to the applicant.

Mr. Plummer: So, what we're talking about is adjacent to the building on the south side of Bird Road, not in the median. We're talking about trees on the south side.

Commissioner Keon: Right, but the letter from the residents asked for trees to be planted in the median on Bird Road, and I said I don't think that there is a planted median on Bird Road at that site. It doesn't start until west of Lejeune.

Mr. Plummer: West of the next block.

Mr. Garcia-Serra: Commissioner, we're actually just looking at an aerial photograph right now. The median comes up to our property.

Mr. Plummer: Right.

Mr. Garcia-Serra: So, it isn't in front of the Collection car dealership, but it is in front of this site.

Commissioner Keon: In front of your property.

Mr. Plummer: Correct.

Mayor Cason: OK.

Mr. Garcia-Serra: And I think what it comes down to is because of FDOT requirements on the median, we certainly would not be able to. Our frontage along Bird, there is perhaps a possibility, but it would require a modification to the arcade that exist there right now that's proposed there right now, you know, the pedestrian arcade that's proposed ...

Commissioner Lago: But that would be a possibility?

Mr. Garcia-Serra: Yeah. That's why I'm suggesting perhaps, we list it as a condition to be studied. You know, in other words, what's the balance between.

Commissioner Lago: Can we hear from Ramon one second? Mr. Trias.

Commissioner Keon: You know, I also think that we should dispel the notion that palm trees don't provide shade. Palm trees do provide shade, the way they're planted and the type of palm that is planted. And the spread of those fronds, they do provide shade.

Planning Director Trias: They do. And in fact, arcades also provide shade, buildings provide shade. There's a variety of design components that I would recommend that we look at

comprehensively. The concern from the citizens was that the canopy also provide shade on the asphalt, which contributes to less heat, and so on, which is a very valid discussion. Now, there's some dimensional issues that we have to worry about. One, is the setback from the curb, four feet, and the other one is that the sidewalk is twelve feet, if I remember, twelve or ten feet. So it's a little bit tight in terms of a kind of large canopy tree, but we certainly can look into it. Brook sent me an e-mail this morning expressing his concerns about the dimensions, but we can further study this.

Commissioner Lago: I think these are items that we can discuss later that we can, you know, potentially hash out. I think it shouldn't hold back the project.

Mr. Garcia-Serra: Sure. OK.

Mayor Cason: Go ahead, Mario.

Mr. Garcia-Serra: So that was the issue of shade trees. Second issue was green construction and what can we commit to, and we are willing to do a commitment that the building be LEED Certified (Leadership in Energy and Environmental Design) or LEED or functional equivalent because, Commissioner Lago, correct me if I'm wrong, there's LEED and there's other organizations that also certify green.

Commissioner Lago: Let me just commend the developer on this, because this is something that I want to make sure that we put it on the record, and I think that my colleagues will concur. Every development that comes to this Commission or comes to this City, should do everything in their power to hold their self to the highest standard, and when I say the higher standard, I mean like Ramon will tell you, the highest design standards, the highest sustainability standards. You know, when you think of Coral Gables, you think of a place that is of the utmost quality, of high quality, high sustainability practices. And I think that what we need to look forward to is not just do the bare bones minimum, even though our standards are high, much higher than other communities, and the bare bones minimum would be suffice to get through Commission, but I

think that we need to just think a little bit about the future, and what I mean the future, I don't mean the next five years; I mean the next 15 or 20 years, and this is an example of a developer that heeded our advice and said, "You know what; I'm willing to spend just a little bit extra to build something that's going to be long-lasting, it's going to set an example for everyone who's going to be coming after us." So, I commend the developer for really taking this forth and, you know, putting on a great product.

Mr. Garcia-Serra: Thank you.

Planning Director Trias: And, Commissioner, just to clarify, there are four levels of certification. Are you satisfied with the LEED certified, which is the lowest?

Commissioner Lago: At the present moment, I'm just happy it's certified.

Planning Director Trias: Very good.

Commissioner Lago: And when we as a city, and I know we're moving in that direction with the sustainability plan, with a multitude of different programs that were chasing after. Every city up to a certain threshold...again, I'm not saying it right now, but I think other municipalities around this community have a threshold of 25,000, 50,000 square feet, should have a LEED component in that project. It should be just like coming before the BOA (Board of Architects), the P&Z (Planning & Zoning), the DRC, your project should be LEED.

Mr. Garcia-Serra: OK, very good.

Commissioner Lago: And by the way, if any developers are listening, I'm going to save you the time now. If your project comes before the Commission, I'm going to request that it be LEED. I'm going to ask you to please, you know, think about the future.

Mr. Garcia-Serra: Let me make one point, would a Florida Green Building certification also being...

Commissioner Lago: Yeah, of course. And I make the mistake of saying LEED because Florida Green Building is just as effective and contains all the points that LEED has. It's just a lot of us make that mistake saying, you know, "I'm a LEED." A lot of individuals in here are LEED accredited professionals. It's just we make that mistake of saying that. You can also include Florida Green Building practices.

Mr. Garcia-Serra: And I believe the condition has it already, but in case it hasn't, that that certification be achieved within one year of TCO (Temporary Certificate of Occupancy), because I'm pretty sure the building has to be up and running in order for the certification to be issued. So that was on the green construction standards. Then the last issue, which is probably the one that's going to have the most discussion, was the issue of our contribution to an open space, off-site open space improvement. Ideally, it would be the Underline, which, of course, you had a presentation about earlier today, which we are all big fans and supporters of, but I think the condition is written in such a way that if, for whatever reason, the Underline doesn't happen, that money could be used for other off-site open space improvements. We had proffered \$50,000 contribution; staff had recommended a \$385,000 contribution. I have one way of thinking of it, which incorporates other improvements that we're doing and I think need to be taken into consideration, which, if you want, I could sort of discuss, and that could be the subject of discussion, but we, of course, would also be looking for input or guidance from you. It's a difficult issue to address, because it's like we discussed last time, not a straight sale of the property. We're looking at the benefit that the current alley provides and are the benefits that the vacation of the alley and the new project providing equal to a greater to those benefits. We certainly think they are, but, you know, the issue becomes when you try to put a number to it, how do you get there.

Commissioner Lago: I think we should have the discussion.

Mayor Cason: Yeah, tell us what you have in mind.

Mr. Garcia-Serra: I'll tell you what I'm thinking. If you look at the alley right now, the benefits that it provides is the parking that you have on there, but it is not metered parking, so the City's not getting any income or revenue from it. And there's a small, perhaps, benefit of access. You know, there's ability for the property to be served, loading and delivery functions to happen along the alley. Those sort of functions of delivery and loading are going to be replaced by the internal drive that we're doing in providing the City with a public easement over, and we're also providing pedestrian enhancements within that easement to the tune of about half a million dollars as far as the width, the space being provided, the quality, the space being provided. You look at the parking issue, and we're also replacing the parking that you have there, so approximately about 42 parking spaces that are being lost, most of those within the alley. We're putting them in the garage, and those are going to be managed by the City, pursuant to a permit program. So, you'll be able to get income from those parking spaces now, pursuant to issuing out permits. So, you sort of look at all those benefits, and then you factor in the other things that we're doing, such as pedestrian safety improvements for crosswalks and so forth in the area. It's about \$85,000; the bicycle improvements that we're willing to do also, meaning giving money to the City to encourage cycling activity there, and make it safer for cyclists is another \$10,000. You look at the intersection improvements that we're proffering for emergency vehicles. In other words, when a fire-rescue or police vehicle's approaching the intersection and they have their sirens on, they're addressing an emergency, those intersections will now have signals that can receive a signal from that car and change lights, so that the emergency vehicle can get faster and more easily to where it's going. If you factor in all those sort of other improvements, it comes out to about \$665,000. You look at the parking spaces are probably worth about 1.7 million, and then there's also an increase to the City of about a million dollars in additional tax revenue every year to the project. So it's already considerable, the amount of money that we're giving. We already proffered \$50,000. You guys want \$385. You know, if you look at it in terms of property that's out there, half of it is probably taken up by parking; we're giving that to you in the garage, so maybe if we divide that 385 in half, get you to a 190-something number. And then, if you look at the fact that we're doing about \$665,000 worth of other improvements between the

paseo, the pedestrian improvements, the emergency vehicle improvements, the bicycle improvements, that sort of thing, that should be factored in also. And then, let's say if you take that 665 and you say, "OK, that's enough to divide that 190 number in half," then you get to a number of about 96,000. And I was thinking, trying to use some sort of rationale or logic. Using both the numbers you've provided and the numbers that we're proffering, that gets us to 96,500 as far as a potential donation, so higher than what we were proposing before; not as high as you guys want it. We're also having to factor in a lot of other improvements that we're doing that are going to cost money.

Commissioner Keon: Can I start?

Mayor Cason: Yes.

Commissioner Keon: I really don't like the idea of holding up developers for contributions to, you know, amenities within the City. I think if, you know, there really is an exchange for one value for another, I think you should pay whatever that value is, you know, but I don't think you should be unreasonably charged, you know, to provide public amenities, you know, in a city. Whatever the value of the, you know, the alley is, I think, under our Code, that's what you can do. I guess what I would like to see developers do is that, you know, developing in this City and although our Code, and particularly in this instance, calls for, you know, a certain height, a certain square footage, a certain whatever, but we also know that you will bring a better product to us if we make some adjustments and grant you some leeway in building your building, because just like you, we want the best building for our city; we do. It adds to our tax bills. It is of great benefit to us and everything else, but it also gives to you, and it gives a great deal more dollar in your pocket also. So, I think what I would rather see than us have a sense of charging you, I would really like to be able to develop those relationships with developers to the point where they want to give back to some of the public amenities in our City. I don't think you should be charged, you know, to pave roads that we should already pay. But I think it was particularly pertinent with Meg Daly's presentation this morning with the Underline and how much of that Underline is really contributions. Now, that Underline is just blocks from where

you are. So, I would think that it would be more a gesture on your part to be willing to contribute and become a member of the Friends of the Underline and contribute, you know, a dollar that will have an impact on the funding for the Underline. Our Code doesn't allow for us to do that, and I don't think that we should hold you hostage for what you build, but I hope that you would be as good a partner with the City as we as a legislative body are willing to be with you, because in the end, all we want is a great project that just improves our city, in general. So, I don't know what that number is. If, you know, they've told you it's whatever the value of the alley is, that's the value of the alley. You know, I would hope that you would be more generous, but we certainly can't dictate that to you. Thank you.

City Attorney Leen: If I could say, I just want to read the standards you're applying here in terms of the...

Mr. Garcia-Serra: Vacation.

City Attorney Leen:...the proffer. No, in terms of the proffer of the funds. The vacation, there's one of the things you're looking at and you have to find exist is that the vacation or abandonment will provide a material public benefit in terms of promoting the desired development and improves the City's long-term fiscal condition, and the applicant provides beneficial mitigation in the form of a proffered mitigation plan which mitigates the loss of real property, the increase in the intensity of use and/or impacts on the public health, safety and welfare, including increase parking and traffic. Now, what we can't do, we're not able to, obviously, sell the right-of-way, and it's really they're coming to us with a plan, and you either accept it or reject it. You can provide them feedback, and we can always meet again, maybe even right now, and see if we can come to another number, if that's what the Commission wants, but ultimately, I don't believe we should impose a number. It really should come from the applicant, but we could reject the plan, and then they'd have to come back.

Mayor Cason: Well, I think you've made a good case. I mean, I think the mitigation is correct in that, that alley right now serves a purpose, but once you consolidate it, it doesn't serve a purpose.

And the parking which we're not collecting for right now, you've already shown us that we're going to collect a lot of money from that. And I think the new alleyway that's going through is certainly much better, is going to be beautiful. So, I don't have a problem with that. I want to ask you one question about the crosswalks. Are you going to make sure that those are ADA (Americans with Disabilities Act) compliant, especially for blind people? We were discussing this on Miracle Mile as well, the crossways, to make sure that you have the beeps on...

Mr. Garcia-Serra: Yes.

Mayor Cason:...all of those things that will enable that community to be able to cross safely.

Mr. Garcia-Serra: Right. That's part of the \$85,000 that we're putting into pedestrian safety improvements in the area, including crosswalks which are state-of-art so that they're ADA compliant also.

Mayor Cason: OK. Anymore discussion? Do we have a motion?

Commissioner Keon: I'll move it.

Mayor Cason: Commissioner Keon makes the motion.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk.

City Attorney Leen: Before you vote, what is the proffered amount then?

Mr. Garcia-Serra: Right now, \$96,500.

City Attorney Leen: OK.

Mayor Cason: City Clerk.

City Clerk Foeman: Commissioner Keon?

Planning Director Trias: There are some conditions that -- to the motion, I assume, that you are including those?

City Attorney Leen: Yes.

Commissioner Keon: Yes.

City Attorney Leen: Do the motions include the conditions?

Commissioner Keon: Yes.

Mayor Cason: Yes.

City Attorney Leen: Does everyone agree? So Mr. Clerk, the motion is with the conditions.

Commissioner Keon: Do you want to read the conditions. Just so it's clear to everyone, Ramon, what the conditions were.

Planning Director Trias: The conditions are in the ordinance. Some are fairly typical. I would just highlight perhaps the replacement of the parking spaces that was spoken of. Then I will also highlight that there's a condition 13 which deals with Bird Road; that one included palm trees, and we may want to revise that or review that a little bit further.

Commissioner Keon: Yes.

Planning Director Trias: And there's some underground of overhead utilities, utility upgrades also; there's a condition which are typical, and also the right-of-way public improvements that the applicant was speaking of. So those are the conditions of approval, and they're in the ordinance.

Mr. Garcia-Serra: And did you go over the green --?

Planning Director Trias: And we need to add the green.

Commissioner Keon: And the green, yes; that it comply with the Green Building.

Commissioner Lago: The Green initiatives. The Green Building.

Commissioner Keon: The Green initiatives.

Commissioner Lago: But do me a favor. If you're on the cusp of getting a potentially higher certification, it's worth the effort. It's worth the effort. You're coming before the Commission before a time that this is mandatory, and you're also showing the level of quality you're going to be putting forth in this building. So, I appreciate that again. So, if you're on the cusp of potentially being between, let's say, just a standard certification, a gold certification, mere points, it's worth the effort.

Mr. Garcia-Serra: We will aim for the highest we can get.

Commissioner Lago: The best that you can do. And again -- and also what Commissioner Keon stated in regards to for example, the Underline. That is essential to this community, as you know.

Mr. Garcia-Serra: Of course.

Commissioner Lago: So, anything that you can do in reference to the Underline we're incredibly grateful for.

Mr. Garcia-Serra: An amenity and a benefit to our project.

Commissioner Keon: Yes.

Commissioner Lago: Yes, immediate benefit. Immediate benefit.

City Attorney Leen Leen: And Mario, is your client then agreeing to and proffering all the conditions?

Mr. Garcia-Serra: Yes. On the Green, we want to make clear it is LEED or equivalent certification within one year of issuance of TCO, and that there aren't any other sort of restrictions in regards to time or anything like that or how long or how short the certification may be, because that appeared at one point in the one of the recommended conditions of approval.

Commissioner Keon: And the proffer of dollars was?

Mr. Garcia-Serra: Is \$96,500.

Commissioner Keon: Yes. And it's held in the form of a bond or whatever, in the event when the Underline becomes...is that right? How is it?

Mr. Garcia-Serra: The idea of the 96,500, we contribute that to the City prior to issuance of building permit.

Commissioner Keon: OK.

Mr. Garcia-Serra: And then the City would ultimately convey it over to the...

Commissioner Keon: Would hold it or whatever. OK, thank you.

Commissioner Lago: Mario, in reference to the arts, you're donating to the fund or are you actually...?

Mr. Garcia-Serra: Right now, the bulk of the money would probably be contributed into the City's Art in Public Places fund, but there is a possibility of some freezes being incorporated onto the Altara elevation of the building, for which we would be seeking, you know, your approval of it in order to be factored into the contribution.

Commissioner Lago: So, you would be going before the Commission again in reference to the freezes?

Mr. Garcia-Serra: Right.

City Attorney Leen: And Mario, particularly for Commissioner Lago, because I know he raised the issue you said about the time. I just want to make sure he heard that.

Mr. Garcia-Serra: Right. At one point there had been a proposal to try to say that the certification is maintained for 25 years. We of course, want to maintain in perpetuity, but we also recognize that there's going to be an association that ultimately is going to be controlling this property that we have to hand over to at some point. So, we will get the certification within one year of TCO. Presumably, all the work has been done, and so it only makes sense to keep that certification in place because it's efficient and helps with the overall improvement, and the Association should want to do it because it should lower their energy cost and so forth. But it was important to us not necessarily to tie the hands of an association which, you know, we have not...

Commissioner Lago: ... understand.

Mr. Garcia-Serra: -- or hand over to them. The important thing, I think, is getting it in place. Once it's in place and the cost has been incurred, everybody wants to keep it.

City Attorney Leen Leen: So you do proffer, though, and agree, subject to the comments you made, to everything all the conditions?

Mr. Garcia-Serra: Correct.

City Attorney Leen: OK.

Commissioner Keon: OK.

Mayor Cason: City Clerk.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Mayor Cason: Yes.

Mr. Garcia-Serra: Thank you very much.

Mayor Cason: Thank you.

Mr. Garcia-Serra: We appreciate it tremendously.

Commissioner Lago: Thank you.

Mr. Garcia-Serra: It's going to be a great project.

Commissioner Keon: Is that it?

Mayor Cason: All right.

Commissioner Keon: Could I ask a question of the developer? I have a question for...

City Attorney Leen: Actually, I would like...I'm sorry. I don't mean to be difficult, but we should have a separate vote on each one.

Commissioner Slesnick: Oh, OK.

Commissioner Lago: That's fine.

City Attorney Leen: So that was basically on the site plan, because...Mario, we should have a vote on each one. It's understood that you're proffering that as to all three.

Mr. Garcia-Serra: Right.

City Attorney Leen: OK.

Commissioner Keon: OK.

Mayor Cason: So, that was on E.-12. So, let's have a vote on...do we have a motion on E.-8?

Commissioner Slesnick: E.-8.

Vice Mayor Quesada: So moved.

Commissioner Lago: I'll second the motion.

Mayor Cason: Vice Mayor makes the motion; Commissioner Lago seconds. City Clerk.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Mayor Cason: Yes.

Commissioner Slesnick: E.-9.

Mayor Cason: E.-9.

Vice Mayor Quesada: So moved.

Mayor Cason: Vice Mayor makes the motion.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago second. City Clerk.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Mayor Cason: Yes.

Mr. Garcia-Serra: Thank you. Makes it official.

Commissioner Keon: I have a question to the developer. How do you ensure that you don't use Chinese drywall or any of these products that are of concern and that we're reading about lately? How does a developer or a contractor?

Commissioner Lago: Because, and I'm happy she actually brought that up, because it's my understanding is that last week there was another case of Chinese drywall that was found in downtown.

Commissioner Keon: On Brickell.

Mr. Garcia-Serra: Yes, it was on 500 Brickell.

Commissioner Keon: Yeah. How do you ensure that, that not happen in your building?

Mr. Garcia-Serra: Well, it's an issue, of course, of quality control. You know, I think if there's one thing that this project's committed to is the level of quality that it's going to have. I think you see Chinese drywall, those substandard products being used when it's just a race to get the project done and to sell as far as you possibly can.

Commissioner Keon: I know. But the burden falls to the homeowner, particularly in condos. The burden then falls to the homeowner, and they have to go through a suit. I was talking to Craig about it before. Is there a way that you can ensure that it is not used in any project within this City?

Mr. Garcia-Serra: Every homeowner, I think, would turn around and ultimately, your association would turn around and sue the developer if that was the case, as happens in all these cases. And so certainly, we're conscious of it. And, you know, you look at the projects that both either Shoma or the Collection Group has done in the past, you think their record, I can't say for sure, because I haven't seen a hundred percent, but I would think that their record speaks for itself as far as...

Commissioner Keon: I just want to make sure.

Commissioner Lago: The way that you ensure it is very simple. In the process prior to construction commencing, you have a certain time frame where the contractor and subcontractor submit submittals to the architect and to the engineer, and those have to be approved prior to the purchase of any item that's going to go into that building. So, what the architect and the engineer do is they make sure that all the products that are being used are signed off and adhered to what the design is calling for.

Commissioner Keon: Well, I'm sure that happened in the buildings that we're talking about.

Commissioner Lago: That was before there was any knowledge or any issues of Chinese drywall.

Commissioner Keon: OK.

Commissioner Lago: Now the architect or the developer can say, do not use the following, you know, suppliers of drywall or framing material.

City Attorney Leen: Commissioner, I forwarded your request, and copied the City Manager too, to Bill Miner, our Building director, and he's here to talk on that issue, if you would like.

Commissioner Keon: OK. Would you rather do it at the end?

Mayor Cason: Let's do it during the discussion.

Commissioner Keon: OK, we'll do it at the discussion. Thank you.

Mr. Garcia-Serra: Thank you very much.

Mayor Cason: Thank you, Mario.

Commissioner Keon: Thank you.