

Page 5

1 speaks today must complete the roster on the
 2 podium. We ask that you print clearly, so the
 3 official records of your name and address will
 4 be correct. Now, with the exception of
 5 attorneys, all persons who will speak on agenda
 6 items before us today, please rise to be sworn
 7 in.
 8 (Thereupon, the participants were sworn.)
 9 MR. BEHAR: Thank you.
 10 In respect to everybody on the Board, can
 11 you please make sure your cell phones, your
 12 pagers and all other devices are turned off,
 13 not to have any interruptions?
 14 Now we must proceed with the agenda.
 15 We have, I think, a request to make some
 16 movement, but before we get there, do we want
 17 to get the Approval of the Minutes?
 18 MR. TORRE: I'll move the minutes.
 19 MS. VELEZ: I'll second.
 20 MS. ANDERSON: I have one correction.
 21 There's a missing question mark on Page 2, line
 22 13.
 23 MR. MURAI: And on Page 46, Line 8, it
 24 says, "Is there lightning in the parking park?"
 25 That's not what I said. "Is there lightning in

Page 7

1 text amendments to the City of Coral Gables
 2 Official Zoning Code, Article 3, "Development
 3 Review," Section 3-606, "Procedures for
 4 Appeals," to afford staff an additional 72
 5 hours to appeal City Board decisions if a filed
 6 appeal is determined to be deficient; providing
 7 for a repealer provision, severability clause,
 8 codification, and providing for an effective
 9 date.
 10 Item E-3, public hearing.
 11 MR. TRIAS: Mr. Chairman, Attorney Ceballos
 12 will make a presentation.
 13 MR. BEHAR: Okay. Thank you.
 14 MR. CEBALLOS: Good evening, Mr. Chair and
 15 Board Members, Assistant City Attorney Gus
 16 Ceballos.
 17 Before you is E-3, which is just a
 18 modification to Section 3-606 of the Zoning
 19 Code. In that amendment, what it is basically
 20 allowing is a safety net for a particular issue
 21 that we had recently with a Historic
 22 Preservation property, where a Historic
 23 Preservation property went forward and then an
 24 appeal was put forward. The appeal period ran,
 25 and the City Staff would have liked to have

Page 6

1 the parking lot?"
 2 MR. BEHAR: You don't want lightning?
 3 Any other corrections, modifications? If
 4 not, we have a motion and a second.
 5 Jill, can you please call the roll?
 6 THE SECRETARY: Rene Murai?
 7 MR. MURAI: Yes.
 8 THE SECRETARY: Venny Torre?
 9 MR. TORRE: Yes.
 10 THE SECRETARY: Maria Velez?
 11 MS. VELEZ: Yes.
 12 THE SECRETARY: Chip Withers?
 13 MR. WITHERS: Yes.
 14 THE SECRETARY: Rhonda Anderson?
 15 MS. ANDERSON: Yes.
 16 THE SECRETARY: Robert Behar?
 17 MR. BEHAR: Yes.
 18 Now, we have a slight change to the agenda.
 19 We are going to request to move Item E-3 and
 20 E-4 to the front. Is there any objections to
 21 that?
 22 Seeing none, Mr. City Attorney, can you
 23 please start with Item E-3, please?
 24 MR. COLLER: Item E-3, an Ordinance of the
 25 City of Coral Gables, Florida, providing for

Page 8

1 appealed, but that appeal period had already
 2 run.
 3 So what happened is, the original appellant
 4 had been determined to not have standing in
 5 that appeal and since that ten-day period had
 6 already passed, there was no mechanism to allow
 7 Staff to come back and appeal that decision.
 8 This basically just creates that extra 72-hour
 9 window in the unlikely event that in the future
 10 another individual appeals and is found to be
 11 without standing, that Staff does have an
 12 additional 72 hours, if they so choose, to
 13 appeal the decision of the --
 14 MR. MURAI: To appeal, what, the decision
 15 that there's no standing?
 16 MR. CEBALLOS: A decision of the Historic
 17 Preservation Board. In the particular case
 18 where this item stems from, it was an
 19 individual who was determined not to be an
 20 aggrieved party, so they did not have standing
 21 to move forward with the appeal.
 22 MR. MURAI: And what did the City want to
 23 do at that point?
 24 MR. CEBALLOS: At that point, the City
 25 couldn't do anything, but the Historic

Page 9

1 Preservation group or department had originally
 2 decided they had wanted to appeal, but did not
 3 move forward with an appeal, because somebody
 4 else had submitted the appeal. This is
 5 basically just a way to prevent that issue from
 6 happening in the future.
 7 MR. MURAI: So, in that case, the City
 8 wanted to appeal, but it did not --
 9 MR. CEBALLOS: Correct.
 10 MR. MURAI: -- because an appeal had
 11 already been filed?
 12 MR. CEBALLOS: Correct.
 13 MR. MURAI: So their objections to the
 14 decision were going to be considered in the
 15 appeal? Is that what you're saying?
 16 MR. CEBALLOS: They could not move forward
 17 with the appeal, because Staff was outside of
 18 the appeal period.
 19 MR. MURAI: I understand.
 20 MR. BEHAR: But how long do you have? How
 21 long does it exist between the time you have to
 22 file an appeal?
 23 MR. CEBALLOS: Ten days.
 24 MR. BEHAR: And if somebody appeals on the
 25 tenth day --

Page 11

1 the Commission or anybody else is willing to
 2 reduce the current appeal period of ten days.
 3 MR. COLLER: Yeah. Well, actually, the
 4 time is really not based on the ten days. The
 5 way the Ordinance is written, when it's
 6 discovered that the actual appellant didn't
 7 have standing, at that point, the three
 8 additional days kicks in, to give the City
 9 Staff an opportunity to take the appeal.
 10 So if the City Staff was relying on an
 11 appeal, saying, "Well, it's already been
 12 appealed. There's no reason for us to take an
 13 appeal," but in the unusual circumstance that
 14 it determines that that appeal is somehow
 15 deficient, it doesn't deny the
 16 County Commission -- the City Commission
 17 jurisdiction to look at it, because the City
 18 Staff will still have an opportunity, if it
 19 feels an appeal should have been made, to make
 20 that appeal.
 21 MR. MURAI: But that is -- would the City's
 22 appeal be on the same grounds as the appeal
 23 that was found deficient?
 24 MR. COLLER: Well, the grounds for the
 25 appeal is that something occurred at the

Page 10

1 MR. CEBALLOS: Yes.
 2 MR. BEHAR: -- you want the three extra
 3 days for Staff to --
 4 MR. CEBALLOS: We want the -- the
 5 Commissioners had originally suggested the
 6 three days to basically allow -- so, let's say,
 7 what you're describing -- the scenario you're
 8 describing is, tenth day, somebody submits a
 9 document. It's unlikely that the Clerk's
 10 Office will get that information to the City
 11 Attorney's Office, for us to make a
 12 determination on whether they have standing.
 13 So let's say it happens on the twelfth day,
 14 this would give -- on that twelfth day, if that
 15 decision is made, that this person lacks
 16 standing or there is some sort of deficiency in
 17 their application for an appeal, that Staff
 18 will still have an additional 72 hours, from
 19 that moment, in order to appeal.
 20 MR. BEHAR: And would it not work the same
 21 if you said, instead of ten days, seven days to
 22 file the appeal, and then you have three days
 23 to respond to that? Because right now you're
 24 going to extend it to thirteen days, basically.
 25 MR. CEBALLOS: At this point, I don't think

Page 12

1 Historic Preservation Board that the City Staff
 2 feels that the Board erred in its decision.
 3 MR. MURAI: Should be appealed.
 4 MR. COLLER: So that would be the basis for
 5 a City appeal, if it's determined that the
 6 appeal by the particular party lacks standing.
 7 MR. MURAI: Okay. I understand that.
 8 Now, the City shall have 72 hours from the
 9 date of that determination to appeal the
 10 decision.
 11 MR. COLLER: Correct.
 12 MR. MURAI: So that could be a month later?
 13 MR. COLLER: Potentially it could be --
 14 MR. MURAI: Or a year later?
 15 MR. COLLER: Well, I don't think it would
 16 be a year, because these appeals get processed
 17 in due order, but it might be that the City
 18 Attorney might determine, a week after the
 19 appeal is filed, once it finally gets to them
 20 from the Clerk's Office, that, no, we don't
 21 think this person legally can even present this
 22 case. So it's from that determination that the
 23 three days clicks in.
 24 So we're not talking about a year.
 25 MR. MURAI: No, but my question to you is,

1 could the City make the determination thirty
 2 days after the appeal was filed?
 3 MR. CEBALLOS: In theory, yes, but it's
 4 just not a realistic timetable. Typically
 5 that's going to be turned around in a much
 6 quicker timetable. It could, but our --
 7 MR. MURAI: Under this language, it can,
 8 right?
 9 MR. CEBALLOS: It could, but what you have
 10 to understand is, there's another provision in
 11 those sections for appeals that require that
 12 the appeal be heard at the very next Commission
 13 Meeting, unless there's not sufficient time to
 14 provide notice. So I don't actually think you
 15 could pass thirty days, because of that
 16 requirement.
 17 MR. MURAI: Unless the City Commission is
 18 not going to meet next month.
 19 MR. CEBALLOS: That is possible.
 20 MR. TORRE: But --
 21 MR. MURAI: Let me finish.
 22 MR. COLLER: But in that circumstances, if
 23 I may interrupt, the appeal wouldn't be heard
 24 within that time period anyway.
 25 MR. CEBALLOS: Correct.

1 modification.
 2 MR. MURAI: Or fifteen days or whatever you
 3 guys think is reasonable, but I wouldn't leave
 4 it open. The way this reads is open-ended,
 5 depending on the City Commission, whether it
 6 meets, doesn't meet. So I would have a no
 7 later than. You guys decide what the no later
 8 than should be.
 9 MR. TORRE: I'm interested in talking about
 10 the reason for the appeal to happen, and I
 11 think you have tried to explain why Staff would
 12 take the approach of filing an appeal that
 13 somebody initiated.
 14 MR. CEBALLOS: The Staff would not carry
 15 over their appeal. Staff would typically do
 16 their own appeal. They are not required to go
 17 on the same grounds as the original appellant.
 18 MR. TORRE: That goes to my point. If the
 19 Staff didn't make the appeal, and then it
 20 faltered, this appeal by this aggrieved party
 21 faltered, all of a sudden, some new information
 22 came about? Why would Staff all of a sudden
 23 pick up on that aggrieved person's or party's
 24 grievance to take over something that they
 25 didn't initiate to begin with?

1 MR. COLLER: It would have to go to the
 2 following month, if there isn't sufficient time
 3 to get notice.
 4 MR. CEBALLOS: This would, in no way, hold
 5 back a development or any another individual
 6 beyond three days. The reason why I say that
 7 is, if you file an appeal and the appeal has
 8 not yet been heard, but let's say it takes two
 9 weeks to hear the appeal, and then that
 10 decision is made, that, oh, this person doesn't
 11 have standing, the only additional timetable,
 12 the only additional delay on, let's say, a
 13 development, would be those three days.
 14 MR. MURAI: Three days from the fifteen
 15 days after the decision was made --
 16 MR. CEBALLOS: After there's an appeal that
 17 has been submitted.
 18 MR. MURAI: -- or three days after 30 days
 19 that the decision was made? You see what I'm
 20 saying to you? There's no -- I would insert
 21 here, that in no event would that appeal by the
 22 City would be filed more than thirty days from
 23 the initial determination, so you have at least
 24 cut it up and not just leave it open.
 25 MR. CEBALLOS: That's a reasonable

1 MR. CEBALLOS: In this particular
 2 situation, it was a very unique situation that
 3 brings up this issue. Historic Preservation,
 4 their department, wanted to appeal the
 5 decision. So within that ten-day period, they
 6 were planning to move forward with an appeal.
 7 They had a desire to move with an appeal. They
 8 did not, because they found out that somebody
 9 else was appealing. Obviously, they should
 10 have appealed. They should have had a second
 11 concurrent running appeal and this would have
 12 never happened. There is no denying that.
 13 MR. TORRE: But let's talk about that. So
 14 when can Staff appeal a vote of that
 15 Preservation Board?
 16 MR. MURAI: If they don't agree.
 17 MR. CEBALLOS: Whenever they --
 18 MR. TORRE: Doesn't that mean they get two
 19 cracks at -- two bites at the apple? I mean,
 20 they prepare the Staff preparation, they had a
 21 full vote, they have this sort of thing that
 22 we're doing today, and then they don't like the
 23 vote, and then they appeal it?
 24 MR. MURAI: Yeah, but the Board -- I mean,
 25 the grounds would be, the Board did not agree

1 with the Staff recommendation.
 2 MR. TORRE: But that's two bites at the
 3 apple.
 4 MR. CEBALLOS: But that's no different than
 5 the applicant.
 6 MR. MURAI: That's always the case. That's
 7 always the case. I just --
 8 MR. CEBALLOS: Either party can appeal.
 9 MR. MURAI: That's right.
 10 MS. ANDERSON: I know, but if you look at
 11 the regular procedure in our court system,
 12 somebody wants to appeal something, they have
 13 to do so by the time a Notice of Appeal is due.
 14 There are some distinctions, if there's a
 15 Notice of Cross Appeal that needs to be filed.
 16 And I believe Historic Preservation is
 17 ultimately important, but there needs to be a
 18 process where, if we were to allow this 72-hour
 19 window, that the issue of standing should be
 20 determined in a finite period of time.
 21 And that's not difficult for someone to
 22 figure out, whether or not someone has
 23 standing. You know, there's a set of criteria,
 24 just like if someone lives within a thousand
 25 feet, they either do or they don't, or they're

1 MR. TORRE: I understand. It just seems
 2 that -- I didn't know that.
 3 MR. CEBALLOS: As you can tell, by the fact
 4 that you've been there for eight years and it
 5 had never happened --
 6 MR. TORRE: Correct.
 7 MR. CEBALLOS: -- it's just explaining how
 8 unlikely this scenario is to ever happen in the
 9 near future.
 10 MR. WITHERS: Okay. But here is my
 11 question, the Commission has the last bite at
 12 the apple, right?
 13 MR. CEBALLOS: If there's an appeal, yes.
 14 MR. WITHERS: If there's an appeal. That's
 15 what we're talking about, if there is an
 16 appeal.
 17 MR. CEBALLOS: Yes.
 18 MR. WITHERS: So it's going to be reviewed,
 19 whether it's appealed by the City or not; is
 20 that correct?
 21 MR. CEBALLOS: No. Historic Preservation
 22 is the final deciding board. It does not go to
 23 Commission.
 24 MR. WITHERS: On any of the appeals?
 25 MR. CEBALLOS: If there's an appeal filed,

1 appearing there as counsel for a party that is
 2 within that thousand feet radius --
 3 MR. MURAI: Yeah, but what you said is that
 4 you might not get it on time. You might not
 5 get notice of the Notice of Appeal on time.
 6 MR. CEBALLOS: This particular situation,
 7 where this stems from, we received it on the
 8 Friday of the final day of the appeal period at
 9 2:00 something p.m.
 10 MR. MURAI: Yeah, and everybody was out
 11 playing golf.
 12 MR. TORRE: I still find it -- I sat on the
 13 Board for eight years and I was -- I never knew
 14 that our decision could be not liked and
 15 overridden by the Staff. I mean, if we're here
 16 to vote on something, the Staff presents, makes
 17 their case, that's how the case is read and
 18 that's how a case is presented, with evidence.
 19 We vote. The vote is not respected? I mean,
 20 you don't like the vote?
 21 MR. MURAI: The Staff didn't like the vote.
 22 MR. TORRE: I know, but how often can that
 23 just --
 24 MS. VELEZ: It happens on our Board, as
 25 well.

1 then it would go to the Commission, but if
 2 there is no appeal filed, which is what
 3 happened in this case, the only appeal that was
 4 filed was a deficient appeal, the person lacked
 5 standing, so it never got to Commission.
 6 MR. WITHERS: I understand.
 7 MR. CEBALLOS: The decision that was made
 8 was not a recommending decision.
 9 MR. WITHERS: I was referring to us. I
 10 apologize.
 11 So why would a person not have good
 12 standing, if they've filed an appeal? Why
 13 couldn't that be determined at the time the
 14 appeal was filed?
 15 MR. MURAI: They may just not get notice.
 16 The City may not get notice on time.
 17 MR. WITHERS: No. No. What is the reason
 18 for not being in good standing? What would be
 19 the, not have good standing? Give me an
 20 example.
 21 MR. CEBALLOS: The way that our Code
 22 defines an aggrieved party is an individual who
 23 receives notice, that lives within 1,000 feet
 24 of a property. This individual that appealed
 25 did not receive notice, because they were not a

1 property owner within that area. They were a
 2 renter. So, as the way our Code defines it,
 3 the only person that received notice was the
 4 main building, so not the individual.
 5 MR. WITHERS: Okay. So does the City jump
 6 in on these appeals as a Me Too on most on
 7 these appeals when they get appealed?
 8 MR. CEBALLOS: Typically, no. Typically,
 9 when an appeal moves forward, it's the person,
 10 the appellant, who is moving it forward, it's
 11 not the City.
 12 MR. WITHERS: The City doesn't care?
 13 MR. CEBALLOS: This was, like I said, a
 14 very, very unique situation.
 15 MR. WITHERS: I understand.
 16 MR. BEHAR: But it could happen. It could
 17 be the Friday at two o'clock and you don't have
 18 -- and I understand.
 19 MR. CEBALLOS: I think, more importantly, I
 20 think it's a policy. I think the Historic
 21 Preservation Department or any other department
 22 that feels that there was something done
 23 incorrectly, they're probably not going to wait
 24 those ten days, and this is simply a catch-all
 25 safety measure that the City Commission asked

1 MS. ANDERSON: Yes.
 2 THE SECRETARY: Robert Behar?
 3 MR. BEHAR: Yes.
 4 MR. COLLER: Okay. Did we ask for, were
 5 there any other -- I don't think we did yet.
 6 I'm sorry.
 7 MR. BEHAR: You didn't -- excuse me, you
 8 did not --
 9 MR. COLLER: Are there any other interested
 10 parties --
 11 MR. BEHAR: Wait. Wait. Wait. You did
 12 not call --
 13 THE SECRETARY: We have a speaker for E-4.
 14 MR. BEHAR: No. No. You did not call Rene
 15 Murai on that last item.
 16 THE SECRETARY: Rene Murai?
 17 MR. MURAI: What's going on? Yes. Yes.
 18 MS. ANDERSON: You didn't get to vote.
 19 MR. COLLER: Okay. I think we have to hold
 20 off on that, because I do not believe we asked
 21 if there are any persons in the audience who
 22 wish to speak on the item.
 23 MR. BEHAR: I apologize. Do we have
 24 anybody from the public on this item that would
 25 wish to speak?

1 that we put forward.
 2 MR. BEHAR: I don't have a big problem with
 3 it at all. I think Rene's point is a good one.
 4 We need to close that, you know.
 5 MR. CEBALLOS: No problem.
 6 MR. BEHAR: I think, that, for me, it makes
 7 sense, a lot of sense.
 8 MR. MURAI: May I move it?
 9 MR. BEHAR: Please do.
 10 MR. MURAI: Yeah. I move the adoption of
 11 this amendment, but with a proviso that in no
 12 event will the City Notice of Appeal be filed
 13 more than thirty days from the initial
 14 determination by the Board, whatever that Board
 15 is.
 16 MR. BEHAR: Do we have a second?
 17 MS. ANDERSON: I'll second it.
 18 MR. BEHAR: Jill, please.
 19 THE SECRETARY: Venny Torre?
 20 MR. TORRE: Yes.
 21 THE SECRETARY: Maria Velez?
 22 MS. VELEZ: Yes.
 23 THE SECRETARY: Chip Withers?
 24 MR. WITHERS: No.
 25 THE SECRETARY: Rhonda Anderson?

1 MR. COLLER: Let the record reflect that no
 2 one has stepped forward. I don't think it's
 3 necessary, given that, to have a re-vote on the
 4 item.
 5 MR. BEHAR: Okay. Thank you.
 6 All right. Next item, E-4.
 7 MR. COLLER: E-4, an Ordinance of the City
 8 of Coral Gables, Florida, providing for text
 9 amendments to the City of Coral Gables Official
 10 Zoning Code, Article 3, "Development Review",
 11 Section 3-606 to include Dade Heritage Trust
 12 Inc. as a party that may appeal decisions of
 13 The Historic Preservation Board; providing for
 14 a repealer provision, severability clause,
 15 codification, and providing for an effective
 16 date.
 17 Item E-4, public hearing, and there was
 18 a -- or something distributed on this, I think,
 19 to the Board, an e-mail.
 20 MR. BEHAR: Yes. There is.
 21 All right. Go ahead, please.
 22 MR. CEBALLOS: So E-4, building on E-3, is
 23 another modification to the exact same section
 24 to the Zoning Code, 3-606, and once again
 25 provides another safety measure in regards to