

find another location for its higher grade school, so as to comply with the original concepts of the zoning that were being defended).

6. Mr. Fleming represented Florida and Tropical Audubon Societies in opposing a landfill project which had been approved by the Corps of Engineers and numerous other governmental entities. The project was ultimately vetoed by one of the first, if not the first, Environmental Protection agency vetos under Section 404(c) of the Clean Water Act. A copy is attached.

7. Mr. Fleming (with other counsel including Parker Thomson) has also participated in numerous other cases on behalf of the Audubon Societies and other environmental groups and public interest groups. These include the "Fair Isle" litigation (upholding a public nuisance concept for challenging a project and reducing it from four 40 story towers to ultimately three 18 story towers on Sailboat Key, a copy of the decision is enclosed). Mr. Fleming also represented Audubon Societies in effectively preventing an after-the-fact permit application for filling of a valuable estuarine area in Key West and successfully opposing, for environmental reasons, the South Shore Redevelopment Project proposal involving numerous canals.

RESOLUTION NO. 86-401

A RESOLUTION AUTHORIZING THE CITY ATTORNEY'S EMPLOYMENT OF THE LAW FIRMS OF JOSEPH Z. FLEMING AND PARKER THOMPSON TO SERVE AS SPECIAL COUNSEL TO ASSIST IN THE DEFENSE OF THE CITY IN AND THROUGH THE TRIAL STAGE OF TWO LAWSUITS BROUGHT AGAINST THE CITY IN CONNECTION WITH ZONING MATTERS INVOLVING PROPERTY LOCATED AT 3471 MAIN HIGHWAY, SAID FIRMS EACH TO RECEIVE COMPENSATION AT THE HOURLY RATE OF \$50 WITH THE TOTAL COMPENSATION FOR BOTH FIRMS LIMITED TO \$50,000 UNLESS FURTHER AUTHORIZED BY THE CITY COMMISSION.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The City Attorney's employment of the law firms of Joseph Z. Fleming and Parker Thompson to serve as Special Counsel to assist in the defense of the City in and through the trial stage of two lawsuits brought against the City in connection with zoning matters involving property located at 3471 Main Highway is hereby authorized.

Section 2. Each of said firms is to receive compensation at the hourly rate of \$50 with the total compensation for both firms limited to \$50,000 unless further authorized by the City Commission.

PASSED AND ADOPTED this 22nd day of May, 1986.

ATTEST:

Matty Hirai
MATTY HIRAI, CITY CLERK

XAVIER L. SUAREZ
MAYOR

PREPARED AND APPROVED BY:

Robert F. Clark
ROBERT F. CLARK
CHIEF DEPUTY CITY ATTORNEY

APPROVED AS TO FORM AND CORRECTNESS:

Lucia A. Dougherty
LUCIA A. DOUGHERTY
CITY ATTORNEY

RFC/rr/M134

CITY COMMISSION
MEETING OF

MAY 22 1986
RESOLUTION 86-401

ter financial position than the husband; and that in order to maintain his used car business and be relieved of "unnecessary and unjust financial hardship" he was in immediate need of "at least \$20,000", which request was made "pending the final hearing when a determination can be made as to the final disposition of these funds".

As is often the case where temporary relief is requested and granted to the wife, the funds received pending final disposition of the petition for dissolution are generally not the subject of accounting or repayment. In this instance it is to be noted that the court directed that the husband keep full accounting of the funds to be used primarily in the husband's business reflecting the likelihood that in the event the court finds for the wife such funds would either have to be returned or taken into consideration in the overall determination of the financial and property rights of the parties. We find no fault with a court order predicated upon the equality of the marital partners. Accordingly, the judgment of the trial court is affirmed.

WALDEN, J., and MOORE, JOHN H.,
II, Associate Judge, concur.



STATE of Florida ex rel. Frank C.
GARDNER et al., Appellants,

v.

SAILBOAT KEY, INC., et al., Appellees.

Nos. 74-8, 74-9.

District Court of Appeal of Florida,
Third District.

May 7, 1974.

On Rehearing June 10, 1974.

Individuals, associations and institutions brought action in the name of the state to enjoin construction and use of

property on an undeveloped island on ground that it constituted both a public and private nuisance and for declaratory judgment. The Circuit Court, Dade County, Grady L. Crawford, J., dismissed complaint as to the first count with leave to amend and dismissed the complaint as to the remaining counts with prejudice. Plaintiffs filed an appeal and an interlocutory appeal. The District Court of Appeal held that complaint was not sufficient to state cause of action for misrepresentation or for violation of the Unfair Trade Practices and Consumer Protection Act and that the fact that the construction of high rise residential buildings, marinas, social clubs and night clubs on undeveloped island was authorized by municipal zoning ordinance did not immunize that use from being held to be a "public nuisance."

Affirmed in part and reversed and remanded in part.

1. Trade Regulation § 864

Property owners' complaint, which alleged that in applying for zoning for island which would permit construction thereon of high rise residential buildings the defendant landowner was guilty of misrepresentations and of deceptive trade practices, was not sufficient to state cause of action for misrepresentation or for violation of the Unfair Trade Practices and Consumer Protection Act. West's F.S.A. § 81776 et seq.

2. Nuisance § 82

An action to abate a public nuisance may be brought by citizen of the county in the name of the state without the necessity of prior application to the state's attorney to bring the suit and without necessity for the citizen relator to show he has sustained or will sustain special damages or injury different in kind from injury to public at large. West's F.S.A. § 60.05(1).

3. Nuisance § 82

One who seeks to enjoin public nuisance and who proceeds as an individual,

STATE EX REL. GARDNER v. SAILBOAT KEY, INC. Fla. 659
Cite as, Fla.App., 255 So.2d 658

and not in the name of the state, must show that he has sustained or will sustain special or peculiar injuries different in kind, not merely in degree, from the injury to the public at large. West's F.S.A. § 60.05(1).

4. Nuisance ¶ 82

Owners of property on mainland had standing to bring action in the name of the state to abate nuisance allegedly being created by the result of city having zoned an undeveloped island to a classification which would permit construction thereon of high rise residential buildings which would be accessible by a bridge connected to a street passing through existing residential area, even though there was no showing that the owners had sustained or would sustain special damages or injury different in kind from that to the public at large. West's F.S.A. § 60.05(1).

5. Nuisance ¶ 85

A public nuisance resulting from the manner of use of property would be subject to abatement even though the project sought to be restrained had been expressly authorized by state or municipal legislation.

6. Nuisance ¶ 82

Where individual plaintiffs, associations and institutional plaintiffs failed to show they had sustained or would sustain special damages or injuries different in kind, and not merely in degree, from injury to the public at large as result of rezoning of undeveloped island, the individuals, associations or institutional plaintiffs did not have standing to bring suit to enjoin the use of the premises for the purpose of which it was zoned on the ground that to do so would constitute a private nuisance.

On Rehearing

7. Nuisance ¶ 85

A given activity may constitute a judicially abatable nuisance notwithstanding its

compliance with a municipal zoning ordinance.

8. Nuisance ¶ 85

Fact that construction of high rise residential buildings, marinas, social clubs and night clubs on undeveloped island was authorized by municipal zoning ordinance did not immunize such use from being held to be a "public nuisance". West's F.S.A. §§ 60.05(1), 817.76 et seq., 823.05.

See publication Words and Phrases for other judicial constructions and definitions.

Paul & Thomson and Joseph Z. Fleming, William Huggett, Miami, for appellants.

Sams, Anderson, Alper, Spencer & Post, Sam Daniels, Horton & Perse, Miami, John S. Lloyd, City Atty., for appellees.

Robert L. Shevin, Atty. Gen., for amicus curiae.

Before PEARSON, CARROLL and HENDRY, JJ.

PER CURIAM.

The plaintiffs below filed an appeal (No. 74-8) and an interlocutory appeal (No. 74-9) from an order entered on motion of defendants to dismiss the plaintiffs' four-count complaint for declaratory judgment, and for supplemental injunctive relief.

In the order appealed from the court dismissed the complaint as to the first count with leave to amend [pursuant to which an amended first count later was filed], and dismissed the complaint as to the second, third and fourth counts with prejudice. On appeal the plaintiffs contend the court committed error in dismissing the complaint as to the second, third and fourth counts.

The complaint as amended was directed to harm which it was anticipated would befall the residential area on the mainland as a result of the city having zoned Fair Isle

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(an undeveloped island in Biscayne Bay lying several hundred feet off shore from a residential section of Miami just north of Coconut Grove), to a classification permitting construction thereon of four high rise residential buildings (two of forty stories and two of thirty-six stories) to house some three thousand persons, with social clubs, nightclubs, marina, etc., said island being connected by a bridge accessible from South Bayshore Drive by a street passing through the existing residential area.

[1] The second count alleged that in applying for the zoning the defendant landowner was guilty of misrepresentations, and of deceptive trade practices violative of the Florida Unfair Trade Practices and Consumer Protection Act, § 817.76 et seq., Fla.Stat., F.S.A. (Ch. 73-124). We find no error in the dismissal of that count. The alleged misrepresentations would not give rise to an action by the plaintiffs. The same is true as to violations of the Consumer Protection Act, if such occurred.

The third count presented an application to enjoin the threatened public nuisance alleging that the construction and use of the property for the purpose for which it had been so zoned would result in construction and maintenance of a place which would tend to annoy the community, as provided for by §§ 60.05(1) and 823.05 Fla.Stat., F.S.A. Numerous factors and results which would constitute such an annoyance to the community were alleged in that count. In the brief of the appellees, with reference thereto, it was stated: "In Counts III and IV, plaintiffs allege that even if Fair Isle is developed and operated

in strict accord with all zoning and building laws as authorized by the appellee City of Miami, it will be both a private and a public nuisance."

The order dismissing the complaint as to the third count did not contain a statement of the reason or grounds therefor. The appellees contend it was proper for two reasons. First, appellees argue that the plaintiffs were without standing to sue to enjoin a public nuisance, in absence of allegation and showing they had sustained or would sustain special damages or injury different in kind from that to the public at large. Secondly, they argue that a construction upon and use of property which has been authorized by the zoning thereof would not constitute a public nuisance.

[2-4] The first of those grounds is without merit. An action to abate a public nuisance¹ may be brought by a citizen of the county in the name of the state (§ 60.05(1) Fla.Stat., F.S.A.), without the necessity of prior application to the state's attorney to bring the suit (*Pompano Horse Club v. State ex rel. Bryan*, 93 Fla. 415, 111 So. 801, 52 A.L.R. 51) and without necessity for the citizen relator to show he has sustained or will sustain special damages or injury different in kind from injury to the public at large. *Pompano Horse Club v. State ex rel. Bryan*, supra; *Kathleen Citrus Land Co. v. City of Lakeland*, 124 Fla. 659, 169 So. 356; *National Container Corporation v. State ex rel. Stockton*, 138 Fla. 32, 189 So. 4, 122 A.L.R. 1000; *Demetree v. State ex rel. Marsh*, Fla.1956, 89 So.2d 493, 502; *State ex rel. Brown v. Sussman*, Fla.App.1970, 235 So. 2d 46.²

1. Suit will lie to enjoin the commission of threatened action of a kind that would be subject to restraint. *Zetrouer v. Zetrouer*, 89 Fla. 253, 103 So. 625, 628; *Lewis v. Peters*, Fla.1963, 68 So.2d 450, 492-493.

2. A different rule applies where one seeking to enjoin a public nuisance proceeds as an individual, and not in the name of the state under § 60.05 Fla.Stat., F.S.A. In that

instance, for there to be standing to so proceed, it must be shown that the complaining individual has "sustained (or will sustain) special or peculiar injuries different in kind, not merely in degree, from the injury to the public at large." See *Bair v. Central and Southern Flood Con. Dist.*, Fla.1962, 144 So.2d 818, 821 and cases cited there in footnote 8.

[5] proceed. This is permitted property by authority of nuisance. *Corporation*, 138 Fla. 1000, an *Duval* C seeking erecting upon a would project expressly lature, n of the Supreme the relation, but tive authentication o be a nuisance abater.

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STATE EX REL. GARDNER v. SAILBOAT KEY, INC. Fla. 661
Cite as, Fla. App., 295 So.2d 658

[5] However, having standing to proceed is not sufficient in this instance. This is so, because construction which is permitted by the zoning and use of the property for the purpose zoned, and thereby authorized through such legislative action of the municipality, would not be a nuisance per se. In *National Container Corporation v. State ex rel. Stockton*, supra, 138 Fla. 32, 189 So. 4, 122 A.L.R. 1000, an action was filed by citizens of Duval County, in the name of the state, seeking to enjoin the defendants from erecting and operating a wood pulp mill, upon a certain site, on the ground that it would constitute a public nuisance. The project sought to be restrained had been expressly authorized by an act of the legislature, notwithstanding common knowledge of the offensive character thereof. The Supreme Court recognized the standing of the relator-plaintiffs to maintain such action, but held that because of the legislative authority for the construction and operation of the wood pulp mill, it would not be a nuisance per se and not be subject to abatement as such.

Here it was municipal legislation which authorized the use of the property in a manner which the plaintiffs contended would be a public nuisance. In theory, municipal legislative authority for a certain use of property should have the same effect as state legislative authority therefor. The weight of authority gives municipal legislation (such as by a zoning ordinance) the effect of immunizing the authorized use from being held to be a public nuisance. See 166 A.L.R. 659, 662-663.

It is indeed a harsh rule, by which a use of property that otherwise would constitute a public nuisance abatable at suit of a citizen in the name of the state, can be held to be immunized from abatement because it was authorized by legislative action—in this case by a city commission by zoning, or special zoning ordinance.³ How-

3. But a public nuisance resulting from the manner of use would be subject to abatement.

Fla. Cases 294-295 So.2d—38

ever, that being the rule, the remedy would appear to be by challenge of the propriety or legality of the enactment of zoning legislation which would authorize a public nuisance and have the effect of immunizing it against abatement. This is not that case.

Accordingly, we hold no error was made by the trial court in dismissing the complaint as to the third count.

[6] By count four, in essence, it was sought to enjoin the use of the premises for the purpose for which it was zoned, on the ground that to do so would constitute a private nuisance. Dismissal thereof was proper for the reason assigned above as to dismissal of the third count, and on the ground of want of the individual plaintiffs to have standing therefor and of the associations and institutional plaintiffs to be in a position to have such standing, because of failure to show they have sustained or will sustain special damages or injuries different in kind, and not merely in degree, from injury to the public at large. See footnote No. 2.

No reversible error having been made to appear, the order appealed from is affirmed.

ON REHEARING GRANTED

PER CURIAM.

By the opinion and judgment filed May 7, 1974, this court affirmed an order dismissing with prejudice the second, third and fourth counts of the complaint.

On consideration of the appellants' petition for rehearing we granted rehearing as to the portion of the petition which suggested that our affirmance of the dismissal of the third count of the complaint was incorrect, and that the ground upon which our opinion based such affirmance was contrary to and in conflict with Florida decisions.

See *National Container Corp. v. State ex rel. Stockton*, supra (180 So. at 17).

Having considered the matter, with benefit of further oral argument thereon, our opinion of May 7, 1974 is hereby amended to hold that the trial court committed error in striking or dismissing the third count of the complaint.

Regarding the third count, which alleged and sought abatement of a threatened public nuisance, we held that those plaintiffs who were citizens of the county had standing to so proceed in the name of the state, but held that because municipal zoning would permit the construction and use of the property, which it was alleged would constitute a public nuisance, it was not subject to abatement as a public nuisance *per se*. In so holding we cited and relied on *National Container Corporation v. State ex rel. Stockton*, 138 Fla. 32, 189 So. 4, 122 A.L.R. 1000, as having held that legislative authority for construction and operation of a wood pulp mill made it immune to challenge as a public nuisance *per se*; and we went further and attributed the same force to a municipal zoning ordinance.

The petition for rehearing has called to our attention that the authorization for the facility involved in the *National Container* case was not statutory, but was conferred by organic law, by an amendment to § 12 of Art. IX of the Constitution of Florida approved November 4, 1930, which related to industrial plants for stated purposes, including wood pulp mills. Moreover, in that case the court noted that the authority therefor was more than statutory, being based on organic law, and further stated: "We have provision of the organic law which is a definite recognition that a pulp mill is not a public nuisance when properly conducted and operated."

In *State ex rel. Shevin v. Tampa Electric Company*, Fla.App.1974, 291 So.2d 45, decided recently by the second district court of appeal, it was said: "But in any case, it is clear to us that a given activity can constitute a judicially abatable nuisance notwithstanding full compliance with either legislative mandate or administrative rule."

[7, 8] Based on that holding, a fortiori, a given activity may constitute a judicially abatable nuisance notwithstanding its compliance with a municipal zoning ordinance. In our filed opinion we noted the existence of authority to the contrary in other jurisdictions. However, we now observe that on the basis of such treatment as has been given the matter in Florida decisions our holding in the main opinion that a use of property in compliance with a zoning ordinance may not be abatable as a nuisance *per se* was not correct.

Accordingly, the provision of the order appealed from by which the third count of the complaint was dismissed is reversed, and the cause is remanded for further proceedings on that count. In other respects the petition for rehearing is denied.

It is so ordered.



Earl N. HIGHTOWER and Agnes Hightower, Appellants,
v.

T. F. RUSS and G. W. Taylor, Appellees.
No. U-129.

District Court of Appeal of Florida,
First District.
June 13, 1974.

Ejectment action. The Circuit Court, Washington County, W. L. Bailey, J., entered judgment for defendants, and appeal was taken. The District Court of Appeal held that plaintiffs were not entitled to prevail where land surveyor employed by them admitted that, based on legal description of land given him by plaintiffs, he was unable to locate two acres to which plaintiffs were alleging a claim, and where plaintiffs did not present a compe-

tent abstract or showing that tit them.

Affirmed.

1. Ejectment ¶9

Petitioner in recover on strer. not on alleged w. ers to the land.

2. Ejectment ¶9 Evidence ¶26

Plaintiffs w. in ejectment act surveyor employ that, based on th land given him b to locate two t were alleging a c did not present competent abstra ments showing t vested in them.

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PER CURIAM

Appellants in: filing an ejectr lees. The jur: who have now:

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4 RESOLUTION NO. 74-1043

5 A RESOLUTION OF THE COMMISSION OF THE CITY
6 OF MIAMI, FLORIDA ADOPTING "A PLANNING
7 STUDY FOR COCONUT GROVE" AS PRESENTED BY
8 THE CITY OF MIAMI PLANNING DEPARTMENT WITH
9 THE MODIFICATION THAT THE ZONING FOR FAIR
10 ISLE BE CHANGED FROM R-5 (HIGH DENSITY
11 MULTIPLE) TO R-3 (LOW DENSITY MULTIPLE).

12 WHEREAS, the Miami Planning Advisory Board, at its
13 meeting of June 5, 1974, item #1, following an advertised hear-
14 ing, adopted Resolution No. PAB 20-74 by a six to zero vote
15 recommending the approval of "A Planning Study for Coconut Grove"
16 as presented by the City of Miami Planning Department, with
17 the modification that the zoning for Fair Isle be changed from
18 R-5 (high density multiple) to R-3 (low density multiple); and

19 WHEREAS, the Commission finds it advisable in the best
20 interest of the general welfare of the city of Miami and its
21 inhabitants to adopt "A Planning Study for Coconut Grove" as
22 modified;

23 NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE
24 CITY OF MIAMI, FLORIDA:

25 Section 1. "A Planning Study for Coconut Grove", as
26 presented by the City of Miami Planning Department with the
27 modification that the zoning for Fair Isle be changed from R-5
28 (high density multiple) to R-3 (low density multiple) be and
29 PASSED AND ADOPTED THIS 23rd day
30 of September, 1974.
31 the same is hereby adopted.

32 Maurice A. Fene
33 MAYOR *RF*

34 ATTEST:

35 Ralph G. Ongie
36 CITY CLERK RALPH G. ONGIE
37 Assistant City Clerk

38 PREPARED AND APPROVED BY:

39 Michel E. Anderson
40 MICHEL E. ANDERSON, Assistant City Attorney

41 APPROVED AS TO FORM AND CORRECTNESS:

42 John S. Lloyd
43 JOHN S. LLOYD, CITY CLERK

CITY COMMISSION MEETING OF SEP 23-1974 RESOLUTION NO. <u>74-1043</u> REMARKS:

44 SUPPORTIVE
45 DOCUMENTS
46 FOLLOW

47 "DOCUMENT INDEX
48 ITEM NO. 8"

Bgs

City of Miami, Florida



Honorable City Commission
Attention: Mr. P. W. Andrews
City of Miami, Florida

June 19, 1974

Re: **A PLANNING STUDY FOR COCONUT GROVE**
RECOMMENDED
Initiated by Planning Department

Gentlemen:

The Miami Planning Advisory Board, at its meeting of June 5, 1974, Item #1, following an advertised Hearing, adopted Resolution No. PAB 20-74 by a 6 to 0 vote recommending the Approval of "A Planning Study for Coconut Grove" as presented by the City of Miami Planning Department with the modification that the zoning for Fair Isle be changed from R-5 (High Density Multiple) to R-3 (Low Density Multiple).

A RESOLUTION to provide for the above has been prepared by the City Attorney's office and submitted for consideration of the City Commission.

Sincerely,

A handwritten signature in cursive script, reading "David Simpson, Jr.", is written over the typed name.

David Simpson, Jr., Director
Department of Administration
Planning and Zoning Boards

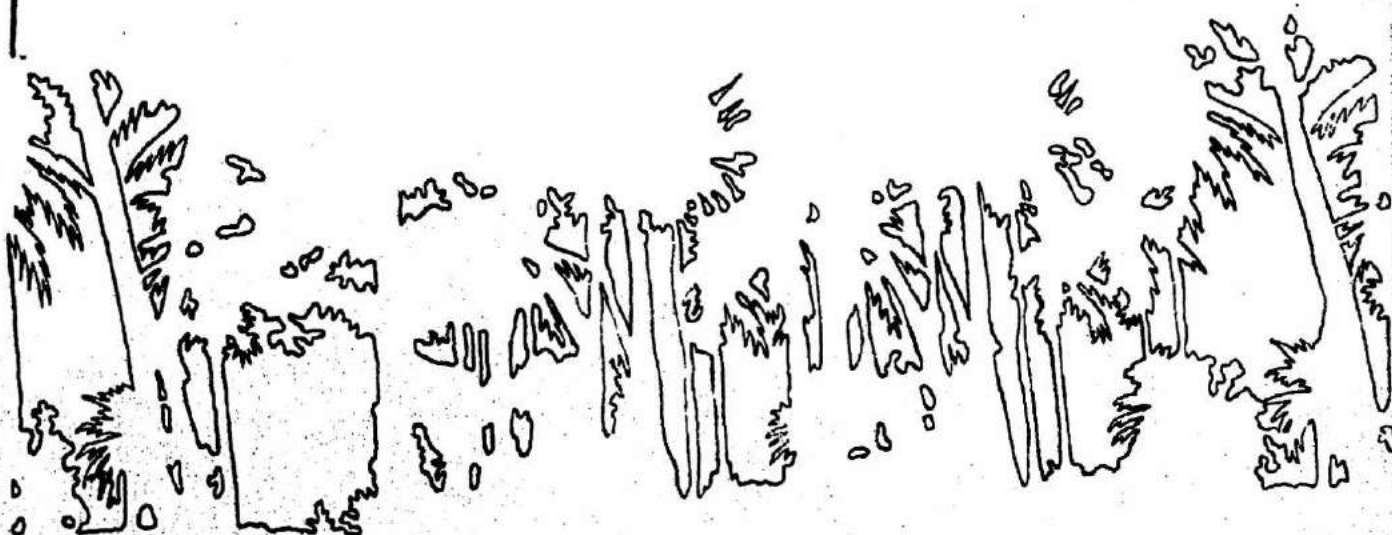
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Attached: Minutes
cc: Law Department

"SUPPORTIVE DOCUMENT

TO: R: 74-1043

PROPERTY OF CITY CLERK'S OFFICE
ORIGINAL DOCUMENT
NEVER LOANED OR SOLD



A PLANNING STUDY FOR COCONUT GROVE

"SUPPORTIVE DOCUMENT
TO R:74-104B

CITY OF MIAMI



COMMISSION MINUTES

OF MEETING HELD ON SPECIAL MEETING - A PLANNING STUDY FOR COCONUT GROVE
September 23, 1974

PREPARED BY THE OFFICE OF THE CITY CLERK
CITY HALL

H. D. SOUTHERN
CITY CLERK

RALPH G. ONGIE
ASSISTANT CITY CLERK

MINUTES OF SPECIAL COMMISSION MEETING
MONDAY, SEPTEMBER 23, 1974

On the 23rd day of September, 1974 the City Commission of the City of Miami, Florida met in Special Session called by Mayor Maurice Ferre to consider business of public import.

Mayor Ferre announced the purpose of this special meeting was to discuss the Coconut Grove Zoning Study.

The meeting was called to order at 5:45 O'Clock P.M. and the following members of the Commission were found to be present:

Mayor Ferre
Commissioner J.L. Plummer
Commissioner Manolo Reboso
Commissioner Rev. Theodore Gibson
Commissioner Rose Gordon

Mayor Ferre: Ladies and gentlemen, those of you who do want to speak tonight who have not signed up would you please come up and give your name. Now we're just going to continue where we left off the other evening and then go down to other speakers who have signed up this afternoon. The next speaker was Dolly Mac Intyre.

Mr. Filer: Excuse me, do we have to sign up now?

Mayor Ferre: No, sir. If you signed up last time..

Mr. Filer: I didn't sign up, I did for Fair Isle but not for the rest of it and another man here didn't either.

Mayor Ferre: Mr. Filer, I've got you... Well, that's all right, I'll recognize you again. If you want to speak, I'll put you down. You will be after Mrs. Reed of Central Grove. Mr. Filer, I'll write it down myself. Mr. Allen after Mr. Filer. All right, the first speaker will be Mrs. Dolly Mac Intyre.

Mr. Plummer: Mr. Mayor, I think it should be announced so that there will be no disappointment that due to another meeting starting in this room at 7:00 O'Clock this meeting will have to conclude at 7:00.

Mayor Ferre: That's why I didn't want to let anybody speak before. You see, we went half an hour on everybody speaking and you know a five minute break was ten minutes and now here we are. All right, let's get going now. How long would you need to speak?

Mrs. Mac Intyre: Less than four minutes. My name is Dolly Mac Intyre. My home is at 1835 S. Bayshore Drive. I'm here today wearing two hats. First is that of a Grove citizen. To begin let me state for the public record and for the media who are here today the impression given in the Miami Herald article last Monday that the Coconut Grove residents had given up their fight to save their community was very much in error. We've only begun to fight. We're fighting to preserve our homes. The same article also inferred that the City Commission has not been responsive to the people. It is my opinion that you do indeed listen to us when we appear before you. I do not envy you the responsibility of the decision making which faces you. The pressures are great from both sides. However, if we wanted to live in a concrete jungle we have quite a few to choose from but we have chosen the uniqueness of Coconut Grove.

SEP 23 1974

I urge you to make decisions that will reflect the wishes and needs of the greater number of Grove Citizens. My other hat is that of a historical preservationist and president of Dade Heritage Trust. The planning Study recommends the development of a program for preservation of historic sites. It will enable us to find acceptable means to preserve our few remaining reminders of the independent individualists who founded this community and whose spirit still exists. We have too long operated under the theory of scraping our land bare to build anew. We must change our way of thinking and develop an attitude of conservation of this non-renewable resource just as we must conserve our other resources if we are to survive. Your Planning Department has recognized this need and has provided for it in their study. We urge you to support them and the Grove citizens also recognizing this need. Thank you.

Mayor Ferre: All right, Mrs. Mac Intyre. Pat Dean. All right, Pat Cox. All right, James Dean. You've already spoken. Frances Gardner.

Mrs. Frances Gardner: My name is Frances Gardner, I live at 1700 S. Bayshore Lane. I've lived there for almost 10 years. My husband and his family have lived there for almost 30 years. During the entire time I've lived there the property has been zoned R-4 and I have an order of Catholic teaching brothers living in single family homes on both sides of me. When other accommodations were found for them those same properties became rental properties. As a consequence, we do not feel it is appropriate for the Planning Board to characterize our neighborhood as single family. Many of the single family homes are not occupied or rented and some that are owner occupied take in tenants. We also had during the full time one home converted into a day nursery. As a consequence, the facts do not show that the requirements of scale, use and intensity in this single family neighborhood dictate a change in the zoning. Therefore, I respectfully request that the Commission not accept the Planning Board's recommendation with regard to the change in zoning that is not in conformity to the actual condition of the neighborhood. You know this is not Fair Isle that I'm talking about. This is behind that from Pelican where the 1600 is already there.

Mayor Ferre: Thank you very much, Mrs. Gardner. Mr. Frank Gardner. Is Mr. Gardner here? All right, Mr. Robert Huyvaert? The Breuton family - I've got five Breutons here- are they here tonight, the Breutons? They'll be here. All right, I'll recognize them when they come. Joe Calay.

Mr. Joe Calay: My name is Joseph T. Calay. I live at 2985 Aviation Avenue. Mr. Mayor, Commissioners, we have for a considerable length of time been exposed to the threat of Fair Island. As you are obviously aware the demonstration by Mr. Jakobi last week clearly indicates the impossibility of the scale of Fair Island as it is presently zoned. I'm speaking as an individual. My own personal feelings are that the original zoning and the zoning under which the man purchased the property were in error and I believe that he should be compensated for it. If the City of Miami were to acquire this property for a park I certainly hope that the access to this park exceeds the access that we have to the park at the end of Kirk Street wherein we have thirteen or fourteen acres of land and we have 12 or 14 parking spaces. I'm certain that the City of Miami is a wealthy establishment but I do not believe that we can continue to afford to provide that sort of luxury accommodations of one or two vehicles per acre of parking space for

our parks. I'm certain that we have much better needs for our money. The use of Fair Island for a park after it has been dredged and bulkheaded and one must clearly realize the hazard of having your children play along a bulkheaded seawall at which the adjoining water has been dredged to a depth that is three or four times the depth of their height constitutes a considerable hazard. In speaking of this hazard one must also recognize the fact that when the City of Miami built their park at the foot of Kirk Street the contour of the bottom and the material used for fill did not conform to what appears to be the requirement of the South Florida Building Code and the Dade County Public Works Manual. Now we have been inundated by comments, and I excuse the word inundated, I believe that Mr. Rice speaks truly and factually and certainly of his own personal convictions. He speaks from the point of a developer and I, as a professional engineer, do also for developers and I realize the importance of their economic position. Mr. Rice has apparently intended to impose upon the residents of Coconut Grove the merits of the developers rights. And a developer does have rights when he purchases land with existing zoning. I do not believe that if this land had been rezoned after the acquisition that the man would be in such a justifiable position. He bought it with certain zoning and he's entitled to certain things. Mr. Dean through his own personal efforts and the efforts on the behalf of his neighbors clearly indicated to us the merits of R-4 versus R-3 zoning and this indication to me clearly demonstrates the error of the R-3 zoning. R-3 zoning which allows anyone to cover that much of the land only allows that person to create the new ghettos of Miami and you can say well how can a ghetto exist in Coconut Grove where a man pays 400 or 500 or 300 dollars a month rent. Yes, Mr. Mayor, I will get on very quickly. The best example of an island development in Dade County is the Sonesta Beach Hotel. It does not interrupt the profile of an island. An island is something sacred. Last week you all were beaten to death in my own personal opinion by history - history of zoning and your appearance on the zoning appeals board. Let me remind you also of the history of the sewers in Coconut Grove wherein the people in the single family residence areas said "Commissioners, we the people do not need the sewers, the sewers are needed in Coconut Grove for the developers." This Commission today is living with that decision. I hope my children do not live with your decision in the future. We talked about traffic last week. I assure you that if you monitor the traffic today after the impact of Blue Dash you will find the back up in traffic on Old Cutler Road and Ingraham Highway is greater than it has ever been and it demonstrates the important thing of Coconut Grove and that is people will live here under any circumstances because it is better than any other and people will take the route through Coconut Grove to get away from the sterilized sanitized Dixie Highway. I must say to you, Mr. Mayor, please, I know you will give this matter every consideration, Fair Island with four forty story buildings is wrong for the Grove and it is wrong for us to take the man's rights away. I wish you the wisdom of Solomon in your decision. Thank you.

Mayor Ferre: Thank you very much. Mr. Colgan Norman for Elizabeth Virrick. Now the statement was made into the record, I guess that might be sufficient, I don't see Mrs. Virrick here tonight. Dr. James Robertson, he's already spoken. Richard Kent is the next speaker. Richard Kent. Mrs. Sparks.

Mrs. Rosalyn Sparks: Mr. Mayor, thank you, City Commissioners...

Mayor Ferre: Excuse me, before you begin, you have four minutes and I would be most grateful if the speakers would try to limit themselves to four minutes to see if we can make some headway tonight otherwise we're going to be back here for another hearing and I'm sure you don't want that.

Mrs. Sparks: Thank you very much. My name is Rosalyn Sparks and I represent the Pact Committee of N.D.P. 4 Coconut Grove. We would like to say to you the Commissioners that we would hope that you would endorse this plan. We have gone through it and we think it is a good plan especially for us. We are in accordance with all of the objections to that others have made and we hope that you will take those into consideration. But particularly we want you to look at page 20 of the yellow book which has to do with the restrictions of multiple units in the Black Grove area. We have seen what has happened to youngsters who grow up in that kind of a neighborhood, in those multiple concrete monsters; particularly, we're talking about the Barbarosa, the Vietnam and on Dixie Highway. If you check out where the youngsters who have done these hideous crimes right here recently, you will find that they grew up either in the Barbarosa or Vietnam and certainly on the Dixie Highway and certainly we are all acquainted with the most recent one of the Miami Co-ed who was found out there floating in a canal. We on the committee come in contact with these youngsters and we are frightened and appalled at their philosophies of life and it simply boils down to existence. Their success in school is an assured failure before they even go because of the kinds of conditions in which they have to live in these multiple units. We do not want anymore multiple units and please, we would ask you to accept all the restrictions of zoning which will keep it down to a minimum. Thank you very much.

Mayor Ferre: Thank you, Mrs. Sparks. Mrs. Reed.

Mrs. Marilyn Reed: I'm Marilyn Reed for the Central Grove Association, I live at 3183 Mac Donald Street. I'll try to stay within four minutes. We were interrupted in the middle of our presentation the other night.

Mayor Ferre: I apologize for that, Mrs. Reed, go ahead.

Mrs. Reed: I may need one extra minute over four, I'll try to keep it close. What I'm doing is really reading into the record what has already been presented to you to get it into the record. Our subject is historical sites and their preservation. We oppose the demolition of old historically designated sites. We feel that a total disservice has been done to the Grove in destroying so many historical sites and houses for so-called progress. We see an example of this progress along Grand and Mary Street, we lost the old three story Coconut Grove Hotel a few years ago to a parking lot then we lost the house where William Jennings Bryant conducted services at the corner of Mary and Grand to another parking lot. There are many other examples. We ask that all sites designated by the historical society and Dade Heritage Trust be preserved now and not later. If you wait until later it will be too late. Our village and our children deserve this much consideration. The preservation of that which remains of South Florida's unique architectural heritage. This is something that should have been handled at the Planning level and unfortunately we could not get it handled there so I have to read it into the record at this time. I'm very sorry about that but it is necessary. The subject is pedestrian walkways otherwise known as sidewalks. The reference is Circulation Plan page 39, 40 and

54. On page 39 of the Circulation Plan there is the statement which reads: Many areas of Coconut Grove do not want sidewalks. At the bottom of the same page sidewalks are assigned to the varied areas that do not want them and cannot afford them. Among all the other reasons which have been used successfully in the past opposing sidewalks here in the Grove we're adding another reason - an economic one. Property owners on Day, Mac Donald, Virginia and Bird cannot afford the proposed 25% of cost assessment which is the funding as set out in the planning statement for sidewalks which we don't want. We call your attention to the City Commission resolution 78-96 reference Virginia Grove Improvement H-4358 of March 8, 1973. Just last year when property owners in the central Grove area came before the Commission with petitions opposing the Public Works Department plans for Florida, Rice, Virginia and Oak Streets this was resolved in a satisfactory manner. Virginia and Oak were deleted from the plan to put in sidewalks. The retired people simply cannot afford them or do they want them. At this point I would like to interject that Jack delivered to us a modification to this and it is suggested that Virginia be deleted. We still have the problem with the other streets. The public works people were directed last year to work with each property owner on Florida and Rice on an individual basis and they had the optional choice. The result of this is that Florida and Rice Streets today maintain the Grove look. Streets were not widened but drains were fixed, trees were left with paving going around them - in general a satisfactory arrangement. We call your attention to the fact that there are many retired resident property owners. Some are founding families of the Grove, on Virginia, Day, Mac Donald and Bird. These people are on a fixed income. We are all overloaded now with a 130% tax on our water bill, sewer assessments and liens proposed higher Metro tax assessments which in central area range from 50 to 75% increase, a proposed increase in City taxes and in addition to the high cost of food, the exorbitantly high FPL rates. The idea of putting the sidewalks where they're not wanted and then taxing for it by more assessment is intolerable by the overburdened homeowner in this area. Mac Donald Street is on a high ridge along the portions of Day and Bird. We do not need go loose our good rain water to gutters which go along with the sidewalks. It goes down the storm gutters and hence to the bay. We need the water to flow on our lawns as it always has done. This not only helps reduce our water bill for lawn care but helps conserve water. Another element which has been projected as a shortage in approximately 2 years. Much of the property in these areas is built close to the street of the front portion of the lots. There is very little space for parking. Many have bus stops on them, telephone company boxes, Florida Power and Light poles guidelines, trash pick up stations. All of this leaves no room for unwanted sidewalks. To conclude we are asking by petition which I have here that the sidewalks proposed for Day, Bird, Mac Donald and Virginia be deleted from the Planning Study. The next subject is traffic, Mac Donald Street and Oak Street. Mac Donald has evolved from a pleasant quiet residential Street into a death trap for people and pets. Noise pollution and dirt from excessive traffic is so bad now that all residents find it necessary to keep closed all their doors and windows which face Mac Donald. Even then it is impossible to sit in one's home and talk in a normal tone of voice. The din from the constant traffic flow is so loud that even TV's have to be turned up high to hear them. Traffic has been clocked by residents, there are twenty big vehicles per minute speeding down this street including huge semi and diesel delivery trucks, motorcycles, fire trucks, police and screaming

sirens 24 hours a day. Nighttime brings no relief, it goes on continuously. Because we cannot tolerate anymore density or traffic we oppose anymore R-4 particularly at Dixie, Bird and Mac Donald. We ask that the highest zoning classification be set at R-3. There are many serious accidents on Mac Donald, too many ending up in the front yards with people maimed or killed. This is regularly happening at the intersection of Mac Donald, and Day, Mac Donald and Oak. It is requested that any traffic planned for congestion areas including the village center be so designed that it will not induce traffic to by-pass and avoid the downtown arteries thereby causing Oak, Mac Donald, Virginia and Day to become a functional by-pass especially from Dixie and the village center. We further ask that a caution light be placed at the corner of Day and Mac Donald and Oak and Mac Donald. The Planning Study has assigned such necessities to other areas but has ignored the needs of this area. This is the last sheet, I'll make it very quick. This is a support statement.

Mayor Ferre: You're over five minutes now.

Mrs. Reed: I'm sorry, may I go ahead?

Mayor Ferre: Go ahead.

Mrs. Reed: Because we were cut off. This subject narrows the elimination of the gasoline station at 3086 Grand Avenue known as the Texaco Station; we absolutely oppose the plan to eliminate the gasoline station in the village core known as the Breuton and Porcher Texaco. We further oppose an unsightly municipal parking garage of three or four stories on this site. We ask that an alternative location be found and suggest the use of property which is presently being used for parking with ingress and egress existing. This area is behind the Blue Water Marine, the Old Post Office Building and the school. Mr. Breuton and Mr. Porcher alike, they will address themselves to this. The entire central Grove area in addition to the community in general support them in their request to delete that portion of the Planning Study which would eliminate this business which services the Grove so well. This next thing is very short, it is a correction we're asking for. It is in the Plan, I've already talked to Jack. One of the women who lives on the street has asked me to read her statement if you can bear with me just a second. This is the shutting off of Virginia Street...

Mayor Ferre: Mrs. Reed, I might recommend to you because with all due respect... And I'll let you do it, but you read so very fast that I doubt very much - you're terrific- but I don't know how many people are really following because you're reading it so fast. You know what I would recommend for you to do, why don't you just give me that and I will place it in the record and then you speak.

Mrs. Reed: You have it already. This was just to read it into the record. I've got two short paragraphs, the shutting off of Virginia and at Coconut on the south side this is devised wrong, we are not against closing Virginia to eliminate the traffic from Dixie. On the contrary, it is a good idea but we ask that it be shut off on the north side of Virginia in this way the residents of Coconut have access to Virginia and other points south. I have the statement from one of the residents she asked me to read it. "If you wish to preserve as much as possible," this is from Pat Earl, 2986 Coconut Avenue. "If you wish to preserve as much as possible residential and

family dwellings in Coconut Grove you're defeating your purpose by closing off Virginia south of Coconut Avenue. If this is done Coconut Avenue will change from private residential and safe to being a by-pass for U.S. 1 and existing high-rises which have one exit onto Coconut Avenue. These high-rises front on U.S. 1 for the most part with entrances on U.S. 1 and Virginia. To close off Virginia south of Coconut Avenue is unnecessary, dangerous and prejudicial to the families and property owners who deserve to keep their privacy. The apartments are accessible from Virginia and U.S. 1. If Virginia is closed north of Coconut Avenue or not all, no rerouting of U.S.1 past our front doors, please. And I have one...

Mayor Ferre: Mrs. Reed, I'm sorry. How long has it been now?

Mr. Ralph Ongie: Seven and a half minutes.

Mayor Ferre: I'll recognize you for another minute later on if we have time.

Mrs. Reed: This is just this section and I'll be through.

Mayor Ferre: Well, it's unfair to other people because we're really going to break up here in less than an hour.

Mrs. Reed: Ok, well you've got it in the book but I did want to get it in the record.

Mayor Ferre: Well, if it is in the record and we have time I'll recognize you for another minute.

Mrs. Reed: Because we were eliminated at the Planning Study, we could have avoided some of this, you know at the Planning Advisory Board level. Some of it should have been.....

Mayor Ferre: All right, thank you, Mrs. Reed. Mr. Filer. Please try to hold your statement to four minutes, Mr. Filer. Please, try to keep it to four minutes so you'll give other people a chance to talk and then if we have extra time I'll be happy to recognize....

Mr. Claire Filer: First this is a redletter week. It was September 28, 1970 that we filled this room the first time with the Fair Isle variance request. Anyway, I thought it might be helpful in connection with the requests on the Glencoe and Fairview Subdivision changes and so forth if you had just a quick picture of the history. In the first place ... Excuse that little economical presentation, we've got a low budget down at Bayshore Homeowners. Anyway, you can see in the 1949 the blue and green area was changed from R-1 to R-3. That's at Glencoe and Steel Park and this is very important, it truly is. Really, we have an important point here. The blue and green area was changed from R-1 to R-3. In 1961 under your city wide zoning change the City changed Glencoe and Steele Park, that's the blue and green from R-3 up to R-4 and then they rolled up from R-1 to R-4 the red area right there. Now in....R-1 boomed to R-4. In 1968 your Planning Department recommended that all of that area be rolled back to R-3 but what the City Commission did in spite of the Planning Department's recommendation, the City Commission rolled back only the Glencoe area which is the blue and green colors. Now naturally some of the owners went to court. In fact, the owners of the 7 Glencoe lots in green there are the ones that went to court. They sued and successfully; and the ruling of the court was, if I could take $\frac{1}{2}$ a second and read it; that

the City under ordinance No. 7688 rezoned only a small portion of the total area within which the City Commission had directed its Planning Board to study and make a report upon for possible change of zoning classifications. In other words, they ruled it as a discriminatory action, they, the City just can't take one little portion and in view of Planning Department's recommendations and pick that out and roll it back to R-3 leaving the others at R-4. Now the point is that if in this Planning Study of the Fair Isle area if you take any of these, you have a request from Mr. Jimmy Dean of the red area, if you picked his out and don't roll it to R-4 you're setting the stage for a similar court suit and you wasted all of this time from scratch as far as the study is concerned. Now it is true that he has had a problem, he's paid 13 years of R-4 taxes but he's been given 13 years of opportunity to do something with that land and plenty of developers would go for that deal anytime. He didn't do anything with it and that's the chance that he took. The threats to build something worse; if we don't like the R-3 or soforth is something that we've been faced many times again. We'd rather take the chance of lower density and then let him come in with what he needs to build and on top of it all he can come in after it is rolled back to R-3, request variances, we have always been open minded about it, we've sat down with several people to work some things out and that is the route it should take. Thank you.

Mayor Ferre: Thank you, Mr. Filer. All right, Mr. Allen.

Mr. Wayne Allen: My name is Wayne Allen, president of the Tigertail Association and I live at 2222 S.W. 27th Terrace - A. Here this afternoon speaking on the entire Coconut Grove Planning Study as a member of the Citizen's Advisory Committee that helped develop part of it, to urge on behalf of the Tigertail Association that you adopt it in all respects with the recommendation of the Planning Advisory Board on Fair Isle, that it be zoned R-3. As to the R-4 area that Mr. Filer just spoke about, we don't see any reason why that area which is directly across the water from Fair Isle should have any higher zoning than Fair Isle itself. One of the things which we're extremely concerned about and which the Planning Study does not address properly in our concern is the continued growth of highrises along South Bayshore Drive and in other areas in Coconut Grove. We feel that a four story height limit throughout Coconut Grove is absolutely necessary to properly protect this area. We would urge this one amendment to the Planning Study. The question has come up by property owners in the area that because the property next door has a higher zoning their's should remain at a higher zoning. Well, that is a very backward... looking attitude in our opinion and we have to look forward, we have to have a little progress here, we have to go back to recognizing the basic beauty and natural amenities in this area and try to preserve them. The only way we're going to do this is to go with these rollbacks which are recommended in this Planning Study. Now we have legal council here if that question comes up as to the legality of the action of this Commission if it should adopt the Planning Study we're fully prepared to address that point. Thank you very much.

Mayor Ferre: Thank you very much, Mr. Allen. The next speaker is Bruce Hermelee of Milledge, Horn and Hermelee, representing Coconut Grove Playhouse.

Mr. Bruce Hermelee: Right, my name is Bruce Hermelee, I'm a member of Milledge, Horn and Hermelee and we represent Grove

Enterprises Corporation, the owner and operator of the Playhouse here in the Grove. We want the Commission to know that we have spent many hours with the Planning Department and that we are very much in favor of the Plan for the Grove. Obviously the Playhouse is a unique parcel of land. There are a few things which affect us in a very direct and personal way and we feel and hope that these will be covered in the special community commercial district ordinance. Now that ordinance has not been finalized. We are still having discussions, Mr. Acton at the last meeting asked that it be deferred and we urge again that it be deferred because there are still some questions unanswered with respect to our situation. For example, on page 23 of the Plan there is a floor area ratio limit of 1.75 which Mr. Acton read into the Plan as an amendment at the last meeting. For the Playhouse property itself we have been working on a floor area ratio that may come out higher because of special bonuses for the operation of the theater on the property and we hope that when the ordinance does come before you that you will not think of this 1.75 figure as an absolute restriction with respect to the Playhouse property which is a special piece of property. Also would like to talk about the two possible sites for parking garages on page 24 of the Plan. We are very much in favor of the central location which would be between Fuller and Commodore Plaza obviously because that is much closer to the Playhouse than the one and perhaps the second one proposed near Mary and Grand. There's been a lot of discussion about the family who presently operates the Texaco Station on that property. We want the Commission to know that we would do our best in any capacity that we could to help that family remain there. This parking, if it comes about as it is planned is going to be a very large one, a three story one with four units of parking and there certainly should be room in that facility for a franchise for a service station set up.

Mayor Ferre: All right, thank you very much. At this time, in keeping with the tradition of the City of Miami Commission has always maintained that we recognize the presence of candidates. I would like to recognize the presence of Judge Carlos Fernandez who is running for the County Commission for this district. Mr. Fernandez. Are there any other candidates that we inadvertently missed? Now, the next speaker is Mr. J.D. Sibert. Mr. Sibert, sir.

Mr. J.D. Sibert: I'm back again. Well, I've been around these parts quite a long time. I came to Miami in 1907 and we've owned property here and it has been in our name since 1910 and the piece of property I'm involved in here now I bought back when I was a young lawyer just starting practice. I have my doctor's degree way back there with the University of Florida and I would be practicing now except for permanent injury but now this property has been very nicely described and if I can have just a minute to get that map again which the man wanted to throw in the trash, can. Right here is the little controversial spot in the green he spoke about just before me. It is controversial, those two lots right there, I've had them since about '29 and I've paid taxes on them all this time. When I bought it for a home and it was zoned for a residence and I enjoyed looking forward to the time when I could get enough money to buy me a nice pretty home and the time never came so now they come along, some fellows; come along and say we're going to rezone that, we're going to put that in apartments. I said no, I don't want that in apartments, I bought that for a home so they come along and they rezone it R-4. Well, I had to go along with it. Now, they come along and

they change it back to R-3 and then they come along R-4 and then they come over here when they change this Fair Isle and somebody gets the big idea - we're just going to change everything when we change it- we're changing Fair Isle and then we find that Glencoe has been reduced again. And it is always those three little lots right in there and two of those lots belong to me and I saved up on that ...all my life thinking someday I'm going to have a pretty little home there. Well.. There is no We've been through court on it once and the Circuit Court of Dade County told us, the City, they had to return that to the R-4. Now, then within three years time when the squabble comes up over Fair Island again they lower it again to R-3. I believe that's in conflict with the court decision. I don't believe it will hold water, I don't think we should be forced to go back to court on it. We spent a whole day, you had your City lawyers, you had all your witnesses, you had your Department of Transportation and all the Planning and everything else there and we whipped them. We whipped them soundly, they didn't dare appeal that case. They were afraid to appeal that that other people might get the same idea that when the County... to lower your zoning they might reverse the, so they kept it pretty quiet. I don't think it is fair at all, I don't think those two little lots there out of the whole place there, on that side is a nine story building, a nine story apartment house on the next lot, two lots over three hundred apartments, over 21 apartments, and right there where I am, I've got to go back to what, R-3. I don't think it is right gentlemen. I belong to the Bay Heights Association, the Heritage; where did Dolly go; ...made a beautiful little speech and the Glencoe Association. And I've talked to them, has anybody heard about this change? Haven't heard about it and yet in this book here it says they've all apparently agreed to it. Another thing that we've got to watch in Bay Heights, you know where that is, they're coming down there through our neighborhood with a bicycle trail they're going to come down Tiger and they're going to run right through Bay Heights, right down through our residential section. The most dangerous thing you can have is bicycles riding up and down through a neighborhood like that at night. There's no way in the world you're going to protect yourself from crime. Automobiles you can follow but a bicycle is quiet. Let me finish up one little thing. Did you know in Bay Heights that we had a kidnapping there? Did you know one of the biggest jewelers in Miami his boy was kidnapped right there in Bay Heights and he sold out and moved out? We don't want anymore losses like that. We don't want to have bicycles like that. Put those trails out on South Miami Avenue.

Mayor Ferre: All right, sir. Thank you. Now, John Riordan, the next speaker is Lorraine Prince and the last speaker, I don't have anybody else.

Mr. John Riordan, 5432 S.W. 62nd Avenue: I own property in the Grove and I'm a practicing landscape architect. I've read the study, I think it is great and it should be adopted. I hate what's happened to the Grove in the past, the changes that have been made. I think the time to act is now while there is anything left. I also think the precedent of rolling back the Fair Isle zoning is important. The \$9,000,000 value of that land was created by zoning and the compromise that has been offered of making it a park is to me just adding insult to injury. The citizens are paying for it both ways. I don't think the City needs another park in that area. I think that kind of money can be spent better somewhere else.

Mayor Ferre: Thank you. Lorraine Prince.

Mrs. Lorraine Prince: I'm Lorraine Prince, a resident of Coconut Grove for the past 38 years and past president of the Chamber and I'm here as a representative of the Coconut Grove Chamber of Commerce. As some of you know I've been working hard for a long long time towards the beautification of the Coconut Grove Business Area. In fact, it is well over a year and a half and I think it is probably two years or better and I would like to say that I appreciate the many hours the Planning Department has given me and has put in working on the plan. Three plans were prepared with the sanction and approval of the City Manager's Office going back as far as the time Mr. Reese served as City Manager. But each plan was not carried through to completion for one reason or another such as new traffic patterns or lack of funds. However, the last plan which is outlined in the Study for Coconut Grove on pages 40-44 was unanimously approved by all civic groups and other interested persons and we felt we were close to implementation of the project only to have it delayed so that the Planning Study could be agreed upon in its entirety. It now appears that everyone seems to be in accord on a beautification plan of Coconut Grove as shown in the Planning Study. I feel that we can now expect immediate attention and the Commission's full cooperation along with the City Manager's assistance that it will be carried out. Also, I would like to ask and respectfully request the City Manager be authorized to begin proceedings to hire a landscape architect and designate the appropriate streets or areas to be beautified and provide for the new traffic circulatory system that is combined with the plan. I would like to ask the City Commission to specifically designate a sum of money to be used for this project if you are able to do so today so we can feel that the implementation of this long-awaited for and needed project will become a reality. Thank you very much.

Mayor Ferre: Thank you, Mrs. Prince. Do we have any members of the Breuton family here now? Yes, all right. Now, as I have these sheets here, these are five pages of speakers that we've had. There are no further speakers that I have on this list. I just want to make that clear at this point. All right, Mr. Breuton.

Mr. Breuton: Thank you, Mr. Mayor fellow Commissioners, I'm sorry I'm late, I apologize and I would just like to thank the people that have spoke and I represent the Breuton and Porcher Texaco Service Station. I've heard it in reference several times as such as a gas station. We are not a gas station, we are a service station. I would just like that to go into the record. Also, I appreciate the many interested parties to state that they would love to see the service station stay there and believe you, I don't think anyone would like to see it stay as much as we do. We feel that we've been responsive to the citizens of this community by serving them and we would like to continue doing so. Also, I would not like to see a parking garage go above that service station. That is all I have to say, thank you.

Mayor Ferre: All right, now questions from the Commission, comments from the Commission. All right, Mr. Plummer.

Mr. Plummer: One of the points that let's say bothers me, Mr. Acton, to you sir, or to Mr. Luft, you know I'm a firm believer that certain people in the same way that these people have rights to want certain amenities for the Grove, that people

have rights who have rights of ownership. I speak now directly to the area as historical sites and we already have one particular situation in reference to a historical site before this Commission. I guess really my question is how much latitude by this declaring a piece of property a historical site or how much restriction do we place on that site or is it the intention of the department that if we're going to place restrictions that we buy the property. I just don't understand that if I lived in a home and I if I wanted to tear it down and build a new one, if I owned the property I personally think I should have this right. It is my home, my property. Now do you understand the problems that are in my mind? Because I understand you've designated some 27 sites.

Mr. Acton: No, just in principle but to answer your question directly, if you recall the Commission did request the administration to go ahead with whatever was necessary in terms of historical preservation grants for those 6 buildings that were presented to the Commission.

Mr. Plummer: Yes.

Mr. Acton: And to take whatever steps necessary. In this report there is a recommendation for the development of historical ordinance that will set forth the guidelines and framework for historic preservation not only in Coconut Grove but elsewhere in the City of Miami. In that ordinance it is expected that we will answer your questions directly whereas now we cannot.

Mr. Plummer: Ok. In other words, there are no designated sites right now.

Mr. Acton: No, sir. There are no designated sites outside of those that are identified in principle nor will there be designated sites until that time that the Commission takes official action on designating sites for historic preservation.

Mr. Plummer: Let's speak to specifics. The bank has a piece of property which they want to turn into a parking lot. They own the property.

Mayor Ferre: They want to turn it into what?

Mr. Plummer: A parking lot. I understand it is presently zoned properly for a parking lot. They want to demolish the building which in principle has been declared a historical site. You're shaking your head no, have I got incorrect information?

Mr. Acton: Not to my knowledge, I don't believe that particular building was declared a historic building.

Mr. Plummer: All right, then does it relate itself to the environmental preservation district?

Mr. Acton: Yes, sir. Moreso.

Mr. Plummer: All right. Now, then I'll come at it in a different way. If the environmental preservation district places restrictions on a man's private home what is your advocacy of your department to purchase it? You know, I'm just getting back to the point: If I owned a home and I wanted to tear it down and build a new home, the way I understand it I couldn't do it.

Mr. Acton: There is nothing in the City of Miami ordinances now that prohibits you from doing that outside of the fact that in Coconut Grove there are certain restrictions in terms of issuance of building permits in connection with this study.

Mr. Plummer: George, you don't follow me. Forget about the restrictions, forget about everything. I own a home in Coconut Grove right now. If my area down there in the so called golden ghetto was changed and it suddenly overnight became an environmental preservation district are you telling me that if I wanted to tomorrow I couldn't tear down my home?

Mr. Acton: That is correct if it is in the Coconut Grove Study area.

Mr. Plummer: That's ludicrous! And you're not going to buy my home but you're going to tell me what I can do with it. Is that right?

Mr. Acton: No, sir. The wording of the Commission resolution was that the Building Department shall take no action on the issuance of building permits if it is not in accord with the Coconut Grove Master Plan.

Mr. Plummer: George, you're not even in the same ball park. George, I own a home on Noc-a-tee Street and Halisee. Tomorrow morning by action of this Commission that area is designated as an environmental preservation district.

Mayor Ferre: I so move.

Mr. Plummer: Are you telling me the time that becomes effective that I cannot do anything, and my area hasn't been designated.

Mr. Acton: That is correct. If in fact it is designated as an environmental preservation district you could take no action on the development or redevelopment of that site until such time as it has gone through the process as outlined in the environmental preservation ordinance which has been before this Commission.

Mayor Ferre: Jack, do you want to add something to that?

Mr. Plummer: Are you in the ball park?

Mr. Jack Luft: When we speak of preservation of historic structures the problem that you posed is exactly the problem that we face - what do we do when someone wants to tear down or move or alter a historic structure or site. Quite frankly, you cannot permanently restrict a man from tearing the structure down not unless you buy it.

Mr. Plummer: That's right.

Mr. Luft: The point of the historic preservation ordinance as it is conceived and this ordinance, I should point out runs directly parallel to that that is in affect in Dade County.

Mr. Plummer: That don't make it right.

Mr. Luft: Ok, but this is a generally accepted practice for ordinances of this type. What it means is that so that you cannot go out tomorrow and tear your structure down the ordinance would provide for a time period commensurate with the

value of the structure to allow either the City or private organizations to pursue a course of actions that may lead to acquisition, it may lead to, maybe the owner is simply not aware of the historic value of the structure. It would simply provide a process where people who are interested in that building could intervene for a period of maybe 60 days or 90 days and work out a solution if possible. If it can't be done it can't be done and we lose another historic structure. But the problem now as you can appreciate is that some of these things happen overnight or the owner is not willing to cooperate and give anybody a chance to do anything. This just simply gives us a short period to try to do this.

Mr. Plummer: All right. The bank came here the other night. I don't know if you were here or not. They offered to give the house to anyone, move it but they want to utilize their property. Now this is the point I'm trying to make. If I am a property owner of a single family residence and I want to tear that thing down and build something half the size or I want to put a pool in there I don't see how this Commission or anybody else can tell me what my rights are in my own castle.

Mr. Luft: That's right, you cannot say that that building has to stay there forever but you can say in the interest of the public that we are going to intervene for a period of time as specified in the historic preservation ordinance. We are going to give the interested parties, the City of Dade Heritage Trust or South Florida Historical Association a chance to try to work out a solution.

Mr. Plummer: So you're speaking about a 30 day.

Mr. Luft: It depends. Sometimes if the structure is of national historic importance it could be 120 days, it could be 180 days, whatever you feel is an adequate period to try to work out a solution. Too often these things just go by the boards immediately.

Mr. Plummer: Fine, I'll go along with that. I'll go along with 30 or 60 or 90 days but don't tell me, a man who is paying taxes, what I can do with my house.

Mr. Luft: That is quite true. What George was referring to was somewhat the same process for environmental preservation.

Rev. Gibson: How much time are you going to ask for? You know just to tell a man: Well you know man, we're thinking about it, isn't enough.

Mr. Luft: What is done is the structures are rated after a historic survey and documentation according to say four categories of importance of extreme value or just simply as a value as a part of a scene. But according to this value attached after this historic survey to this structure it is then listed on the register of historic sites as being a one star or a four star structure and whatever its rating means that then designates what the time period is so that the owner knows that if he has a very important structure he has to wait 120 days; if he has a marginally important one he has to wait 30. But that is on the record and he knows that.

Rev. Gibson: I understand that but whatever you're going to be asking us to do I want to hear some days. You know?

Mr. Plummer: Well that's going to be determined by us, isn't it?

Rev. Gibson: Well, you know you have something in your mind. Let's hear it. Just as well let it all hang out now.

Mr. Luft: For what?

Rev. Gibson: Number of days, give the man who is under construction and he says "look, I want to do this to the property" and you say this is an important structure. Now you say well I need...

Mr. Luft: Mrs. Frances Mac Intyre who has written ordinances of this type and who has worked with the Planning Department in this regard has experience in these time periods and their application. Perhaps she could very briefly answer it.

Mayor Ferre: Mrs. Mac Intyre, do you want to come up and speak to us briefly?

Mrs. Mac Intyre: First of all this process, and I have not seen the ordinance that they're developing here but based on the Coral Gables ordinance which I worked on quite a bit, first of all this process of declaring a property a historic site is done through the Zoning Department in that you have a board who goes through and evaluates these properties and they set certain ratings on them - just for simplicity we'll say four, A, B, C, D. They determine that category A is of national significance and they determine that six months is a reasonable period of time for the negotiations if it becomes necessary. But first of all the property is so designated the homeowner or the property owner if it is commercial has the opportunity to come before the City Commission and either accept or decline a historic designation. The ultimate decision is made by the City Commission because it becomes a zoning decision and then the property if it is an R-1 property for example would become R-1H, R-1 Historic and in addition to its R-1 zoning regulations it has its historic regulations which says that you cannot destroy, alter; you know it is quite a lengthy thing; without the approval of the Historic Review Board. It provides for several review processes hopefully you have a review process before anybody gets in deep so that you can solve some of these problems while they're easy to solve. And there is no reason that a great number of these problems can't be solved to the benefit of everybody. Now the ordinance will provide all the protection in the world for the property owner. You're quite right, Mr. Plummer, you can't dictate to a person just because he happens to have a house that the rest of the City thinks is historic that he can't do anything that he wants with it. But, because it does have historic value to the community the community does have some interest in it and should have the opportunity to find alternate solutions. If you want to tear your house down and I ask you to give me 30 days to find a place to move it. That's going to save you a lot of money because you don't have to tear it down but I've got to have that 30 days to find the money to move it and the place to move it to and that's all that I'm asking and that's the principle of this ordinance to make possible to find solutions.

Mr. Plummer: No problem. Now, I've got another question. I called Mr. Acton about four days ago so that it wouldn't hit him cold - this is not for you, I'm satisfied there - so that this question wouldn't hit him between the eyes and he could give some thought to it. I asked of Mr. Acton two questions and I have not yet heard the answers, we'll hear them together. Question A (1) If this City Commission were

to implement every phase as Lorraine Prince spoke, if we were to implement every phase and suggestion in this book how much would it cost the City? (2) If we rolled back every parcel of zoning that is suggested in this book how much money would we be rolling back (b) what amount of assessment would be taken off of the rolls? George, did I give you enough time?

Mayor Ferre: You'd better repeat those questions, Mr. Acton as you answer them.

Mr. Acton: Yes, sir. The first question pertained to the implementation of all recommendations contained in the Coconut Grove Study as they relate to those improvements which the City of Miami can accomplish. Ok?

Mr. Plummer: Well, that wasn't the entire picture. The entire picture was what would be the total cost of implementing everything in this book? I don't want Lorraine Prince to come back here two years from today and be in the rightful position of saying "Hey, two years ago you approved a book that said we were going to do such and such and here it is two years later and you didn't do it". Now what is the total implementation cost of everything that you recommend in this book?

Mr. Acton: Commissioner Plummer, we only addressed ourselves to municipal or City of Miami costs. We did not include those items which would be provided by Dade County. That is my only point.

Mr. Plummer: The taxpayers of Dade County are the taxpayers in Dade County also so I think we should know. What is your first figure, let's go that route.

Mr. Acton: Ok, we broke it down, Commissioner Plummer and you have to realize, you said these are strictly ball park figures.

Mr. Plummer: I understand.

Mayor Ferre: I wish you wouldn't use that terminology. It is a rather sensitive area around here.

Mr. Acton: We came up with a total cost of two million dollars to implement all of the recommendations contained in the report.

Mr. Plummer: Approximately two million dollars from municipal City of Miami funds.

Mr. Acton: That is correct.

Mr. Plummer: Do you have any idea what the total project would cost, I'm speaking of the parking garage right down to one-waying the streets

Mr. Acton: No, sir, I didn't...

Mr. Plummer: You see, George, I don't ^{want} to be placed in the position George, that somebody is going to rightfully come back to me and say "You watered that document down so bad that it didn't do any good".

Mr. Acton: I understand but I say we didn't take into account items like the erection of a parking garage by the off-street parking authority.

Mr. Plummer: Well, they pay debt service. Ok, something simple like down in my area they're going to close off two intersections proposed in this thing.

Mr. Acton: Those are roadway improvements and we have an estimate excluding storm sewers for all roadway improvements of almost a million dollars, \$950,000, all roadway improvements.

Mr. Plummer: Ok, I didn't get the answer I wanted, give me question two.

Mayor Ferre: No, wait a minute. I want to make a comment now at this point and ask the forgiveness of Dr. Henry Fields and other eminent historians, sociologists and anthropologists that we may have in our midst but I want to make this point. It seems to me that in this modern world of alienation that we have and our problems, you know we get divisions when we make promises that we can't keep; when we make, I think most revolutions that are really revolutions are caused by rising expectations of things that just can't happen and then I think people when they expect that something is going to be fulfilled and it isn't fulfilled then I think they have cause, just cause for indignation and for frustrations. They say "Well, you said you were going to do this and you didn't do it". You see, I think what Commissioner Plummer is pointing out to us and I think this is something that we really should pay very close attention to is that we in the City of Miami, Mr. Andrews, and I'm saying this not specifically to you but to all of us because we all indulge in this little game. We have a tendency to look at what we want, what Utopia is and then we try to implement things and we've got to be very careful. That doesn't mean that we shouldn't try but let me give you a specific case which has us all worried. We want, there has been a tremendous harm done to our community by bulldozing down beautiful trees on properties - it is criminal really. Now hear me through. We all want to stop that and we have implemented now legislation that I hope will start to control this. The question is how much is it going to cost and you see we're talking today about a budget and we're cutting out 6 men on the Police Force and don't kid yourself when a budget like the City of Miami's budget where it is 90% salaries; listen to this: our budget - your budget, you're the tax payers - 90% of your money and the monies that we spend in this City go to salaries. Salaries mean people. People mean services. You want to cut down your taxes - you've got to cut down your services. Don't kid yourself. Now, we're talking about implementing things like we want a tree ordinance. Well ok, that's fine. We all want that - I want that. I just want you to understand and I'm just going to make a prediction that if we do the job that we need to do it will cost well in excess of \$100,000 a year, in my personal opinion. Now we have to weigh whether we want to pay the taxes or what services we're going to cut out for that. So in a grander scale when you're talking about some of these things here we have to keep in mind what the total impact and what the total cost is and when we implement these things we have to say, "This will cost \$23,000,000 over a ten year period" because for us not to do that we're really getting ourselves into a very very sensitive and difficult, continually increasingly difficult position.

Mr. Plummer: Mr. Mayor, I would like to go just a step further so that the record will be clear. You know we have allowed, that's not really a right word but I'll have to use it for lack of something else. We have allowed by presentation from

the merchants of Coconut Grove in the business district, they came in and asked this Commission for specialty things and in the past they've already always been willing to say "We want it, we're willing to pay for it" now is this the same pre-vailing thing George, that you have in mind for all of the improvements of the central business district? That all improvements will be paid for by the abutting property owners?

Mr. Acton: Twenty-five percent of the abutting improvements in the roadway would be assessed to the property owner.

Mr. Plummer: George, that relates to sidewalks, gutters, sewers and... Well, but are you going to apply that same ordinance to all improvements?

Mr. Andrews: I don't think you could do that.

Mr. Plummer: Well, that's what I'm getting at. You remember what I'm getting at is this: They came before this Commission and said "Please allow us the right to put the gas lights". Ok? When they did they were willing and they came forth and they said, "OK, we want the gas lights and we'll pay for them and we'll pay for the maintenance, the upkeep and the actual gas to burn them." Now, is the business district willing to say that for any and all improvements in the business district now?

Mr. Andrews: That's something you would have to ask them directly.

Mr. Plummer: Well, I think it is a very important thing.

Mr. Acton: I think you could have Mrs. Prince speak to that because she has worked with it.

Mr. Plummer: Well, I think it is very important you know, a man who is willing to put his money where his mouth is, I want to listen to.

UNIDENTIFIED SPEAKER: (INAUDIBLE) I have a question of Plummer. How long has Coconut Grove been...

Mayor Ferre: Wait a minute, your name for the record.

Mrs. Lester Pancoast: How long has Coconut Grove been in existence? And what is the tax take from Coconut Grove per year? And isn't it time that we began to put priorities first? We are trying to avoid happening in Coconut Grove what has happened in downtown Miami. We're trying to keep it from happening. We're asking for some of our tax moneys back which we've been paying for for I don't know how many hundreds of years perhaps and we're willing to match funds to some extent. I don't know how much but we've been matching funds a lot longer than any other area in Miami. Haven't we? We've been paying for services that other areas haven't been paying for and we just want some of it back. That's all we're asking.

Mr. Plummer: What services, now just address yourself, what services...

Mrs. Pancoast: The implementation of this plan.

Mr. Plummer: What services have been provided to other residents that you haven't got?

Mayor Ferre: She didn't say that.

Mrs. Pancoast: I didn't say that. I'm just saying that Coconut Grove has been paying for the structure and the running of the City of Miami a lot longer than a lot of other districts have and we're trying to keep it a good viable active business and commercial and residential area.

Mr. Plummer: And I whole-heartedly agree. The only thing that I'm saying is these improvements and this way that we wish to keep Coconut Grove is going to cost money.

Mrs. Pancoast: All I asked you in return was: What is the tax take from Coconut Grove, this district we're talking about per year? That's all I'm asking you.

Mayor Ferre: You know that's a very good point and I think that we really should get some answers on that just so that the community would know. You know that we have those figures for downtown for example. I think it would be a good idea, Mr. Andrews, and Mrs. Pancoast, I might point out... I just wanted to say this and I'm not, we're not arguing, I agree with the statement you made, I just want for the record so we don't get one sided or unfair about it, the City of Miami has been rendering a service to all of its citizens including those in Coconut Grove also for many years, Fire, protection, police, and you may not agree that it is good enough, that's another subject. But the point is that it has been rendered and the monies have been expended for that and as a matter of fact, right now, for every dollar of expenditure that we make directly because through the Federal Government we pay for everything. We're the people, we're the taxpayers. But directly from your property taxes the services rendered to you only cover 1/3...

Mr. Andrews: I was going to say 35%.

Mayor Ferre: Yes, a little bit over 1/3 of the services rendered to you; are paid for by local tax dollars. They come from ad valorem sources. Now true the utility tax and the other taxes indirectly come from all of us, the federal subsidies that we get, the state subsidies, we pay for those taxes too so I'm not arguing that point. I think it is important that we get some of these figures and maybe compile them for the past 10 years.

Ms. Susan Billick: My name is Susan Billick, I'm a member of the Chamber and the Civic Club and I wanted to speak on the point of the shop keepers of which I am one in Coconut Grove and also a homeowner. The point is that members of the Chamber of Commerce have stood before you and discussed this. We are completely in accordance with the Master Plan. Thereby you know that we will back anything that the Master Plan has to do with so far as downtown Coconut Grove, the shops and such. You asked us about the gaslights; we have been providing any kind of sustance for paints, and so forth and so on. Whenever they are broken we replace them. It would all be done, of course, on an individual level. Each shop keeper that is in the Chamber of Commerce is in favor of improving the Grove, anything that has to do with in front of or behind or anything we are behind it 100%. Ok?

Mr. Plummer: Great.

Mayor Ferre: Mr. Andrews, you wanted to say something?

Mr. Andrews: I wanted to bring out the illustration that we finally ended up with and that was that about 35% of each dollar spent in the Grove comes from tax sources. So 35 cents out of each dollar would be from a tax source for all services and that once again I want to point out that that 35 cents does not pay for only police and fire services. Everything else comes from some other source.

Mr. Plummer: I have one final point and then I'll be quiet. Just let me go on the record again understanding properly that if we pass the plan here this evening in principle tonight that each area of zoning will be handled on an individual basis before the Zoning Board and then before this Commission. Do I understand that correct? I'm ready to vote.

Mrs. Gordon: I want to ask a question, please. We heard mention of the fact that there should be a board to designate and to act upon historical sites that are going to be delineated in the Grove and I ask the question simply because in the report there is a board that is to be designated for environmental preservation. Could this be one in the same, Mr. Acton?

Mr. Acton: I don't believe so, Commissioner Gordon, unless we change the composition of the proposed Environmental Preservation District Board because in the case of historic preservation district, obviously you need knowledgeable individuals pertaining to historic preservation.

Mrs. Gordon: Fine, that means we have to set up some other mechanism for the control and delineation of this historical portion. That's all I wanted to know. Are you ready for some motions, Mr. Mayor?

Mayor Ferre: Yes. I'm ready for some motions now.

Mrs. Gordon: This is a study in principle and it is going to be subject to public hearings on any zoning changes. What you have here is a resolution from the Planning Board, item #3(a) which in their opinion designates that they believe that the first item should be R-3 instead of originally you had designated R-4. Mr. Acton, you gave us a group of modifications. We do assume that these are all the modifications that you would include. Is this in total or are there others that you would want included?

Mr. Acton: That is what we have at this time, Commissioner Gordon. Those are the modifications.

Mrs. Gordon: That doesn't mean that there couldn't be some additional modifications at some future time, Right?

Mr. Acton: That's right, these would come about at the time that the particular recommendation is being heard before either the Planning Advisory Board or the City Commission. In other words the application of the recommendation in ordinance form.

Mrs. Gordon: Ok, Then on Item 3 (b) it is delineated here on our agenda as ordinance amending. Has this been heard by the Planning Board and a, or does this have to go back before the Planning Board? It says ordinance amending that means that we're taking action on it. Has this been to the Planning Board? It is the portion referring to the C-2A district. Has that already been heard by the Planning Board?

Mr. Acton: Yes, it has, Commissioner Gordon....

Mrs. Gordon: Then they can take our first reading on that?

Mr. Acton: Well, you have the option of either doing that or else waiting until we come back with the recommended changes in the C-2A as outlined in the modification that we presented to you in those 13 or 14 items. It was our recommendation to the Commission that they defer action on the C-2A until such time as we came back with the modifications to the C-2A district itself.

Mrs. Gordon: What you're saying then is you'd rather we did not take action on 3 (b), (c) and (d)?

Mr. Acton: Yes, at this time, yes.

Mrs. Gordon: Then what you're really saying is for us to adopt 3 (a).

Mr. Acton: That is correct, yes.

Mr. Plummer: 3 (a) does direct itself directly to Fair Isle.

Mayor Ferre: That's right.

Mrs. Gordon: No.

Mayor Ferre: Sure it does.

Mrs. Gordon: It directs itself to this report with the modifications as represented by the Planning Board.

Mayor Ferre: A resolution of the Commission of the City of Miami, Florida adopting a Planning Study for Coconut Grove as presented by the City of Miami Planning Department with the modification that the zoning for Fair Isle be changed from R-5 to R-3. In other words what that says is that it is this report as presented with the exception that this report recommends R-4 in Fair Isle..... No. R-4 and that's where the exception is that this motion says R-3, the one exception to this report.

Mrs. Gordon: Not really because there's a group of other changes that we have handed to us today which we were to include into this also and so actually the resolution would be: A resolution of the City of Miami adopting a Planning Study for Coconut Grove as presented by the City of Miami Planning Department. Because you have already included all the modifications in this report.

Mayor Ferre: And you don't want to say as modified?

Mrs. Gordon: Well, it is already in there, with modifications period because we have a whole list of modifications.

Mayor Ferre: Well then add those two words, as modified.

Mrs. Gordon: With modifications as delineated by the Planning Department.

Mayor Ferre: With modifications, I accept that.

Mrs. Gordon: If we're going to play on words we're going to use the modifications we have on this list.

Mayor Ferre: All right, Rose. It means the same thing, doesn't it? Does it mean the same thing? It doesn't? Would you tell me the difference between as modified and with modifications?

Mrs. Gordon: You have the motion did you have a second?

Mayor Ferre: Is there a difference between as modified legally and with modifications? Seriously? What is the difference?

Mrs. Gordon: With modifications as recommended by the Planning Department is the way the motion is recited.

Mr. Andrews: I would say with modifications would be more broad. As modified means something specific that has already been modified.

Mayor Ferre: That doesn't really make that much difference, does it? With modifications presented with this report, alright. We have a motion and a second.

Mr. Allen: (INAUDIBLE)

Mrs. Gordon: Well I have a comment from the Planning Department. Mr. Acton, will you speak to that.

Mr. Acton: Yes, we had; before you you should have the modifications as recommended to you by the Planning Department and what Mr. Allen just stated is correct. We had recommended that for instance in the case of Fair Isle we had called for modification of R-4 changed to R-3 with Planned Area Development Opportunities to permit a F.A.R. of 1.0, a height of up to 90 feet or eight stories and a density limit not to exceed 500 units based on the traffic impact on Bayshore and the surrounding community.

Mrs. Gordon: Wait a minute. Just let me clear this up, will you? Let's know what we're doing. I mean we are late, we're keeping the Planning agenda from coming on at 7:00 but let's get this thing done properly. Mr. Acton, the intent of the motion is to accept the recommendation of the Planning Board and your recommendation for modification on the other items. I see. In that case we would just delete our recommendation as it pertains to Fair Isle. You would apply an R-3 to Fair Isle instead of

Mayor Ferre: Then we go back to what I started with. May I read it? A resolution of the City of Miami, Florida adopting a Planning Study for Coconut Grove as presented by the City of Miami Planning Department and as modified with the further modification that the zoning for Fair Isle be changed from R-5 (multiple) to R-3. Is that correct, Mr. Acton?

Mr. Acton: Yes.

Mayor Ferre: Does that cover it, Mr. Acton?

Mr. Acton: Yes, sir.

Mayor Ferre: Does anybody have any objections to that wording? Will the maker of the motion accept that recommendation?

Mrs. Gordon: It was already accepted, Mr. Mayor.

Mayor Ferre: Do you accept it, Mrs. Gordon?

Mrs. Gordon: Yes, your honor.

Mayor Ferre: Do you accept it, your honor? Do you have further remarks, Mrs. Gordon?

Mrs. Gordon: No, your honor.

Mayor Ferre: If not, will you please call the roll.

The following resolution was introduced by Mrs. Gordon who moved its adoption:

RESOLUTION NO. 74-1043

A RESOLUTION OF THE COMMISSION OF THE CITY OF MIAMI, FLORIDA ADOPTING " A PLANNING STUDY FOR COCONUT GROVE" AS PRESENTED BY THE CITY OF MIAMI PLANNING DEPARTMENT AND AS MODIFIED WITH THE MODIFICATION THAT THE ZONING FOR FAIR ISLE BE CHANGED FROM R-5 (HIGH DENSITY MULTIPLE) TO R-3 (LOW DENSITY MULTIPLE).

(Here follows body of resolution, omitted here and on file in the City Clerk's Office.)

Upon being seconded by Mr. Plummer the resolution was passed and adopted by the following vote-AYES: Rev. Gibson, Mrs. Gordon, Mr. Plummer, Mr. Reboso and Mayor Ferre. NOES: None.

Mrs. Gordon: Do we have to defer these other items because they're on the agenda and we have to do something? So I'll move that items 3 (b), (c), (d) be deferred on the recommendation of the Planning Department.

Thereupon a motion to defer items 3 (b), (c), and (d) was introduced by Mrs. Gordon, seconded by Mr. Plummer and passed and adopted by the following vote-AYES: Mrs. Gordon, Mr. Plummer, Mr. Reboso, Rev. Gibson and Mayor Ferre. NOES: None.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE CITY COMMISSION, THE SPECIAL MEETING WAS ADJOURNED AT 7:30 P.M.

MAURICE A. FERRE
MAYOR

ATTEST: H.D. SOUTHERN
CITY CLERK

RALPH G. ONGIE
ASSISTANT CITY CLERK



1
2 MEA
3 5/12/76

4 RESOLUTION NO. 76-490

5 A RESOLUTION DENYING THE CHANGE OF ZONING
6 CLASSIFICATION FROM R-5 (HIGH DENSITY MULTIPLE)
7 TO R-3 (LOW DENSITY MULTIPLE) FOR PROPERTY
8 KNOWN AS FAIR ISLE.

9 WHEREAS, the Miami Planning Advisory Board at its
10 meeting of March 10, 1976, Item No. 3, following an advertised
11 hearing, adopted Resolution No. PAB 10-76 by a 4 to 3 vote
12 recommending a change of zoning classification as hereinafter set
13 forth; and

14 WHEREAS, the Commission after public hearing and due
15 deliberation and consideration of this matter deems it in the
16 best interests of the City of Miami and its inhabitants to deny the
17 change of zoning;

18 NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF
19 THE CITY OF MIAMI, FLORIDA:

20 Section 1. The change of zoning classification from
21 R-5 (HIGH DENSITY MULTIPLE) to R-3 (LOW DENSITY MULTIPLE) for
22 property known as Fair Isle be, and the same is hereby denied.

23 PASSED AND ADOPTED this 13 day of MAY,
24 1976.

25 MAURICE A. FERRE
26 M A Y O R

27 ATTEST *H. D. Southern*
28 H. D. SOUTHERN
29 CITY CLERK

30 PREPARED AND APPROVED BY:

31 *Michel E. Anderson*
32 MICHEL E. ANDERSON
33 ASSISTANT CITY ATTORNEY

34 "DOCUMENT INDEX
35 ITEM NO. 42"

36 APPROVED AS TO FORM AND CORRECTNESS:

37 *John S. Lloyd*
38 JOHN S. LLOYD
39 CITY ATTORNEY

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CITY COMMISSION
MEETING OF
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RESOLUTION NO. 76-490
REMARKS: *Bgl*

and certainly it is not for us to ask. We will react if there is actions against us that's all.

Mr. Plummer: Ok.

Mayor Ferre: Ok. Thank you very much Senator for your presence here today and my apologies to the people that are waiting on other items.

67. CONFIRMING RESOLUTION DENY ZONING CLASSIFICATION
FAIR ISLE FROM R-5 TO R-3

Mr. Lloyd: Mr. Mayor, I can explain that, actually your honor passed a motion of intent the last time which routinely according to our custom we have pre-paid into a resolution. Also, in the meantime, your honor's instructed us to get a covenant running with land from Mr. _____ which Mr. Anderson has and which we are ready to approve and with that in hand we have the resolution prepared at any time you wish to do it and we have it ready for the City Attorney reports.

Mayor Ferre: Well, if it's an item -- so that these people can all leave that we can take up quickly. Is that what you're recommending? All right, do you have that in hand?

Mr. Lloyd: Reads the resolution as later adopted into the record.

Mr. Plummer: Let me make the record clear now. This is nothing more in legal form which we've already passed.

Mr. Lloyd: Exactly.

Mr. Plummer: Nothing more?

Mr. Lloyd: Right. And you will notice if you will look at your resolution which is attached you will see that. Gee--one time it didn't get on the resolution, but normally it refers on the resolutions of the motion, but I can tell you that it is in response to your passing a resolution on the motion which you passed the last time.

Mr. Plummer: I moved it before. I'll move it again.

Mayor Ferre: Plummer moves. There's a second on the motion.

The following resolution was introduced by Commissioner Plummer who moved its adoption:

RESOLUTION NO. 76-490

A RESOLUTION DENYING THE CHANGE OF ZONING
CLASSIFICATION FROM R-5 (HIGH DENSITY MULTIPLE)
TO R-3 (LOW DENSITY MULTIPLE) FOR PROPERTY KNOWN
AS FAIR ISLE.

(Here follows body of resolution, omitted here
and on file in the Office of the City Clerk)

Upon being seconded by Commissioner Reboso, the resolution was passed and adopted by the following vote:

AYES: Mr. Plummer, Mr. Reboso, and Mayor Ferre.

NOES: Mrs. Gordon

ABSENT: Father Gibson

NOTE: Mr. Lloyd, let the record reflect we do have the covenant as requested by Commission.

Mr. Plummer: And you're satisfied that they're in order? On the record?

Mr. Lloyd: Yes sir. On the record we are satisfied that the covenant is in order.

54. FAIR ISLE - PUBLIC HEARING ON PROPOSED CHANGE OF ZONING

Mayor Ferre: I repeat for this item, if I saw anything going that this is going to split 2/2, I would just put it off until we had a full commission. With that admonition, let's get going. Mr. Acton.

Mr. Acton: Mr. Mayor and members of the Commission Item # 33A, is very clear in terms of the policy decisions that must be determined by the commission. They basically amount to the number of dwelling units and the heights of buildings that should be allowed on Fair Isle. Our recommendations on both density and scale are based on an indepth study of the traffic conditions, in north Grove and an analysis of the scale of buildings and their relationship to the surrounding area in north Grove. To orient the commission geographically, in terms of additional information, I want to start out by showing that area of north Grove that is under consideration today, the yellow area indicated on the map on the wall, portrays neighborhoods in north Grove that amount to approximately 1,000 dwelling units. Most of them single detached homes. The brown area, is location of Fair Isle, in their present application calls for 800 dwelling units. The existing zoning presently applied to North Grove area, is indicated by this map, you will note with few exceptions along the bayfront facing Fair Isle that it is predominately R-1. The recommendations in the Planning study for Coconut Grove and indicated by this map. These are the recommendations that were approved in principle by the city commission. Our recommendations for Fair Isle, based upon our analysis were no more than 500 dwelling units and no more than 12 stories in height. Now, to give the commission technical information as it pertains to both traffic in North Grove and scale relations, I would like to have Mr. Jack Luft present further information.

Mayor Ferre: While Jack is setting up I might point out that the communications department of the city of Miami has gotten a system at Father Gibson's room in the hospital, at Cedar's Hospital and he is listening to all these proceedings going on here and trying to follow it with whatever material the Manager supplied him with.

Mr. Jack Luft. Mr. Mayor and members of the Commission, ladies and gentlemen, my name is Jack Luft, I am here to represent the City of Miami Planning Department. The major constraint facing the provision of adequate municipal support services to Fair Isle, is the impact on traffic generated by the proposed development of that island. There are other factors, far and away, this consideration presents the most difficult problem for a city that attempting to provide municipal services.

Historical and present traffic flows on Bayshore Drive reveal that there has been a 70% increase in daily traffic in the last 10 years. Bayshore Drive is today the busiest two-lane arterial roadway in Dade County. Bayshore Drive is today 50% over capacity and it is operating at a level of service F. From time to time I will be speaking in terms of level of service. This is a traffic engineering term that is used to describe the conditions under which a roadway is functioning. On the map you see before you on the wall, you will see described conditions ranging A through F. A being essentially free-flow, and B, being close to that, with no problems really, level of service C represents minor problems, but still realistic speeds, level of service D is lowest design level for which roadways are presently designed. This represents some constriction of design speeds, the speed limit, represents some problems in turning movements, represents some congestion at intersections but it is generally deemed to be acceptable for urban traffic situations. Level of service E represents capacity or force flow situations. Level of service E is generally considered to be intollerable. Level of service F is very nearly a breakdown of the system in which traffic is moving a virtual standstill. Dixie Highway is a level of service F. In the morning Bayshore Drive is at level service F, in the afternoon Bayshore Drive is at level of service F in the vicinity of Mercy Hospital.

We know that at present the most immediate impact of traffic on Bayshore Drive is felt by those residences on the Bayfront, of which there are some 100 single family home that depend on Bayshore Drive for thier access. These homes are effectively locked in during the peak hours. Tigertail Avenue has become the bypass for Bayshore Drive. Tigertail Avenue has had a 42% increase in the morning rush hour traffic in the last 3 years and now has over 500 vehicles per hour in the morning traversing that route. Over 1000 homes are served by Tigertail Avenue in the north Grove, Silver Bluff, Natoma Heights and Bay Heights neighborhoods. This becomes their major route as a collector street in and out of their neighborhood. The development of Fair Isle will impact severely traffic conditions on Bayshore Drive and in effect, the entire north Grove Area.

Mr. Luft: If 1000 dwelling units are built as originally proposed, then given a .55 trips per dwelling unit per peak hour generation factor, and 80/20 directional split, meaning that 80% of the cars would go north toward downtown in the morning and 20% would go south, more than 440 trips would be added to the eastbound morning rush hour peak hour traffic by the Fair Isle development. This would represent an increase of 36% over present traffic volumes.

Mayor Ferre: You said 440, it has to be 4,440.

Mr. Luft:---440 person trips, car trips. There are 1000 dwelling units on the island, the standard factor used by traffic engineers supported by the national institute of traffic engineers through extensive research is a trip generation factor of 0.55 trips per dwelling unit per peak hour. If you the factor that down by an 80/20 split, you end up with 440 vehicle trips generated from that island onto Bayshore Drive in eastbound direction.

Mr. Plummer: Where are you pulling this 1000 out of a hat?

Mr. Luft: I am saying that the 1000 was the original proposal for which there is a building permit on file in the building department.

Mr. Plummer: I was aware that was 1200.

Mr. Luft:---200 hotel rooms.

Mr. Plummer: Well, 1200 rooms, is that a fair statement?

Mayor Ferre: It is even worse that what you are pointing out.

Mr. Luft: Yes, I am trying to relate it to morning peak hour rush traffic.

Mayor Ferre: For clarity, you are talking about the original request.

Mr. Luft:--the original proposal.

Mr. Plummer: It was 1200?

Mr. Luft: It was 1200.

Mr. Plummer:--now proposed to be 800.

Mr. Luft: Throughout this presentation, I am going to try to give every benefit of the doubt to the Fair Isle project and I am going to relate at this point the generation by the dwelling units, the permanent residents who will be going to work in the morning rather than the hotel residents who probably will not.

Mr. Plummer: Just so we understand each other.

Mr. Luft: These 440 trips would be placed upon an arterial that I said is 50% overcapacity. 800 units has been the most recent proposal. This would generate approximately 352 trips which would represent a 30% increase in traffic on Bayshore Drive. If we assume that Bayshore Drive is not widened, the numbers of cars that would be added to it in the morning, under the 1000 or the 800 unit proposal, will clearly create traffic problems far in excess of the already critical congestion that we have today. We could say with certainty that such additional loads would result in the diversion of significant numbers of cars to the Tigertail Avenue area which would create greater conflicts, the Silver Bluff, Natoma Heights and Bay Heights neighborhoods. If Bayshore Drive is not widened, it could be said literally that any development on Fair Island will critically burden Bayshore Drive.

I am sorry the entire map does not show. This is a vicinity map depicting Fair Isle and some of the immediate streets around it. If we assume that Bayshore Drive is not being widened, we realize that any traffic generated by that island will have an impact. We then strive to determine what is an acceptable figure in terms of dwelling units. Since we can't relate to the situation on Bayshore Drive, it is already a level of service F, it really can't get much worse, except to back further south and divert more traffic in alternative routes. We can relate for the moment to the condition faced by the vehicles exiting from Fair Isle. Now

under any condition, regardless of what is built on Fair Island the development will require a traffic light at the intersection of Fair Isle Drive and Bayshore Drive. This will be required to permit exiting vehicles access to Bayshore Drive during both morning and evening rush hours. This traffic light will have to be synchronized with the 17th Avenue light which is about 600 ft. away. This will permit about 25 second green time out of every two minute cycle for the Fair Isle traffic to exit. This is a cycle as it is presently set up and we cannot give more green time to 17th Avenue, if anything we may take some away, but assuming we can hold present operational levels, that is the maximum time Fair Isle can have. This amount of time will permit approximately 235 vehicles per hour to exit from Fair Isle, at a level of service C, acceptable level of service. At .55 vehicle trips generated per dwelling unit per peak hour, this would permit no more than 500 dwelling units to be built on the island if we are to maintain acceptable levels of service just for those people exiting the island.

We must keep in mind that there is today a potential for additional development in Coconut Grove. This development will also impact Bayshore Drive. Along Bayshore Drive near 27th Avenue there exists R-C zoning and the close examination of the potential development sites within that district, reveal we have a real opportunity, and real change of increasing the numbers of dwelling units in that area by 400 units. These are realistic, these are not using every piece of property. These are the ones we expect to develop. For Skyline Drive we know that approximately 80 units will be built. This is also closet to Fair Isle. For the south along main Highway immediately adjacent to the Village Center we have potentials for 250 units including some pieces of property near Ransom School. Development proposals are already before the Department concerning the development of these tracts.

For the north along the estate area of Bayshore Drive, we have a conservative estimate of 50 more potential units coming on stream, and I would emphasize that most of these areas are R-1 or R-1B, the lowest intensity zoning we have in the city. Altogether these areas if developed would add a minimum of 350 auto trips to eastbound Bayshore Drive traffic in the morning and almost an equivalent in the evening. This is not take into account for the development yet for the south along Main Highway, more specifically along Cutler Road in the vicinity of Cocoplum which we might well expect to be attracted to Bayshore Drive. Remembering that Bayshore Drive is operating at a level of service F today, even if Fair Isle is not built we know we will be getting additional vehicle trips generated just within the City of Miami, so let's suppose for argument's sake that in the face of this potential development the decision is made to widen Bayshore Drive, by providing an additional eastbound lane between Fair Isle Drive and Mercy Hospital, thus providing two lanes northbound toward town for the morning rush hour traffic, this widening would increase the capacity of Bayshore Drive to approximately 1750 vehicles per hour at a level of service D, it is the lowest acceptable design level for which we can design a roadway, 1750. There are present 1200 vehicles per hour traversing Bayshore Drive, and on occasion we get as much as 1300. We know, we can expect the vicinity of 350 vehicles to be added to this load just in the course of development of existing properties in the Grove area, and that is a conservative estimate.

If we are to provide for responsible planning of this community's roadways we find that a level of no more than 200 vehicles could be permitted to enter into that stream of traffic before we begin to stretch the bounds of level of service D. That would emphasize to you that 500 units is the most we can provide out there and still sustain that traffic flow of 200 vehicles. 800 will not do it, 1000 surely will not. The practical implication is that even if we allow ourself the latitude of widening Bayshore Drive, Fair Isle is developed as proposed _____ we would most certainly be right back where we started approaching levels of service E and F, we would have a two-lane jam instead of one. The proposal therefore in connection with zoning on Fair Isle is to take a responsible position, that will protect the interest of the larger community, allowing for responsible development of the island, consistent with the support system of services that the city must provide. We recommend no more than 500 units on that island.

The second issue I will touch on is the issue of scale. Scale relationships are a difficult thing. We may well ask how high is the sky. Many think that the scale relationships and perceptions of such is very subjective matter, one that is left primarily to the opinions of those that perceive them. There is however a body of literature and architectural work, urban design, landscape architecture -----really over a period of centuries is attempted to define what scale relationships are and what their impacts of buildings within the environment are. I would quote to you from an article in the book "Landscape Architecture" by John A. Simons,

Mr. Simons is a fellow in the American Landscape Architectural Society, he is a long respected member of this profession. The book he has written is an accepted manual of practice.

Mayor Ferre: In addition to that, John Simons is the land planner who did the work for Miami Lakes, among other communities in Dade County. He is one of the most highly respected professionals in the country.

Mr. Luft: Now, if we could reduce this issue of scale on Fair Isle to one clear point, it would simply that the residents of this community respecting the potential for development on the island ask only that they don't have to look at it, or that if they can see it, that it not represent an overwhelming scale burden upon their publicly owned vistas of that bayfront. So the issue really is, what constitutes a burden upon the usual perception of that bayfront. Quoting from Mr. Simon's book, they state that in order to see at its best a building as a whole i.e. leaving aside the detail, the observer should be separated from the building by a distance equaling twice its height, which means we would see it at an angle of 27° and in this latter case the building will fill the entire field of vision of an observer who holds his head motionless in a normal viewing position. The diagram behind me illustrates the angle of vision perceived by a person on the bayfront from any of the homes or parks to which the public has access to in that immediate vicinity of the 40 story building which is 30° in excess of this first point. If the observer wants to see more than just one building, if for instance he wants to see a building as a part of a group he should see it at an angle of about 18° which means he should be separated from the building by a distance of about equal to three times its height. The present proposal for Fair Isle is 25 stories as you can see it occupies a vision angle of some 21° in excess of this. So what he has said is that this represents the best viewing angle for perceiving a group of buildings. And they go on to conclude, if the distance between the observer and the building increases further, and I might add, if the height is lowered, that is the angle between the top of the building and the line of sight to the horizon becomes less than 18° , the building begins to lose its predominance in the field of vision. The Planning Department's proposal in this regard was for 10 stories. We feel that in this respect, the public's view from the bayfront, the development of that island would be harmonious.

That concludes my statements. Thank you.

Mayor Ferre: Mr. Acton are there any other statements to be made by the administration at this time?

Mr. Acton: No, Mr. Mayor.

Mayor Ferre: Then I imagine the proponents of this item will be heard at this time, then we will hear the objectors, then the proponents, then hear the objectors again. Everybody has plenty of time for rebuttal. I will try to recognize as many people as wish to be heard today. I hope that you are patient with us as we will be patient with you in recognizing the time constraint. I do think that hopefully three hours would be sufficient to air this item, if not we will try to extend it further. We will just play it by ear as we go along.

Just so we can at the beginning, before the thing gets heated, see how many speakers at this point wish to be heard. I will not deny you the right to speak later on if you don't raise your hand, but I would like to know how many people would like to speak on this item this afternoon. As opponents, raise your hands. This is a Planning Advisory recommendation, so these are the proponents. The ones in agreement with the statement just made by Mr. Acton and Mr. Luft, would you raise your hands, the proponents? Who wish to be heard, I count 18. Is there anybody here who thinks he needs to speak more than 5 minutes. Would you raise your hands? Would the individual who wishes to speak more than 5 minutes come forward? Are there any who wish to speak more than 4 minutes? I am going down to 3 so you will know where I am going. Anybody more than 3, if not, with the exception of that gentleman who wishes to speak more than 5 minutes, I will limit your statements to 3 minutes. Mr. Patten, I will be as lenient as I possibly can. As you know by Charter, I have the authority of limiting everybody to speak 5 minutes. I will try not to exercise that, but in the interest of trying, if you recognize of course, that if 18 people speak 5 minutes, I don't think it is a secret how many hours that is going to be, I think we would like to get on with this, because that is just on your side. If you have the right to speak 2 or 3 hours, I am sure the other side is going to want 2 or 3 hours, and I know this is an important item for this community. I am just trying to weigh upon you

the importance of brevity, if possible. If not I will just be lenient, as much as I can.

Now, on the other side, opponents of this item. How many wish to be heard? Eight. Now, does anybody wish to speak more than 5 minutes? That is two? Will the rest of you be satisfied with 3 minutes? Here is the way we are going to do it, so that you don't complain. The Clerk will keep the time schedule on this. Whatever the proponents have, the opponents have. If the opponents speak more, I'll give the proponents more time. I am going to try to be as fair as I can on this. You will just have to be patient.

I will then take the proponents and again, try to stick to your three minutes, if you need more time, I'll try to extend it as much as possible.

Mr. Bill Jacoby: Mr. Mayor and Commissioners, my name is Bill Jacoby, I reside at 1946 Tigertail and I am speaking here for a large number of the resident leaders today. There are urgent questions on the Fair Isle issue that must be answered we feel by you, our elected representatives before these proceedings go further. These questions affect the very foundation of our local government and they there are of great concern to all of us. To enable the public here and the days to follow, to intelligently and fairly evaluate the testimony that will follow, we feel that one of the questions that must be put in the record now, and the air cleared before this meeting proceeds further, you may decide once you have heard this question, that you wish to make some change in the conduct of this hearing. I don't know, particularly since Father Gibson is not here, but we stand before you now with this humble request.

Mr. Mayor at the beginning of the Planning Advisory Board meeting of March 4, the Acting Mrs. Selma Alexander, announced that she had been contacted previous to the hearing by representatives of the Fair Isle interest and as Chairman, she was going to enter this fact into the record. Further she stated that the other members must do the same before proceeding with the hearing. She insisted that the nature and the details of these private, previous contacts should also be made a part of the public record. According to the Minutes, Mrs. Alexander and at least one other member stated that they had refused to meet privately with the Fair Isle owners or their representatives. They stated that Mr. Jack Lowell had offered certain exhibits and documents relevant to that matter, and that contrary to Mrs. Alexander's explicit instructions these documents had been delivered to her private residence. This is on the record. The other P.A.D. members stated that they had similarly been contacted and had met with Fair Isle representatives. They were required to outline the nature and the details of these meetings, and it was revealed that they also had been supplied with certain documents and exhibits by the owners. Mr. Mayor and Commissioners, based on this Planning Advisory Board hearing testimony and on the previous reputation of this matter, we ask that you now do the same for the public gathered here and that you state for the record before further testimony is presented whether or not you have been privately contacted in any way on this matter, and the details and the nature of this contact. We think that the minimal details that the public has a right to know now, are as follows and I will supply you and the public with copies of this draft when I have finished reading. Part A,--'have any of you been contacted by representatives of the developers, the owners, or the trustees of Fair Isle'. We request here that each Commissioner answer individually for the record, as was done by your Planning Advisory Board members. B----if so, how were these contacts made, by telephone, in person, by mail, by legal courier or deputy, or otherwise? C---what is the name of the person or persons who made the contact.---D. what was the nature of these contacts, discussion, person-to-person, study of documents or exhibits, a presentation to you of information from expert witnesses, legal opinions or briefs, and what in detail was the subject matter, discussed or studied,--E. were you supplied with documents or exhibits relating to Fair Isle. If so we request a copy of these documents or exhibits for our study and we request a brief recess for our perusal to look them over.

Please understand us here. We don't wish to generate misunderstanding here. We realize that you are in a very difficult position as you sit here and try to come to an equitable decision on this difficult and precedent making issue. It is simply that Fair Isle is of crucial importance for our community. The record will show that the proposed high density development on Fair Isle has upset the citizens of this community long enough. We intend to see this matter settled in a way that is healthy for the community at large and we want the recommendations of the Planning Department to be given a fair trial. We stand firm in our conviction that the public inherently has a right to know the details of all transactions performed by their elected officials and

their regulatory agencies. It is simply under the aegis of the public's right to know that we asked this. In order to judge fairly, the presentations that will be made in this hearing, we need your responses to these questions now.

We yield the floor to you now for your answers. I have some additional questions on the details of Fair Isle activity and the individuals who have been involved over the last several weeks and I would request the right to pose these question to you later.

Mayor Ferre: Mr. Jacoby, I certainly thank you for yielding the floor to us and I might start by answering in the following way. I think that your request is a fair request, however I want to state to you, that you don't work with the Attorney General's office or the State Attorney's office do you?

Mr. Jacoby: No, I don't know who he is.

Mayor Ferre: You are speaking as a citizen, correct?

Mr. Jacoby: That is right.

Mayor Ferre; You are not making any formal accusations of any sort by implication or otherwise?

Mr. Jacoby: We are asking questions.

Mayor Ferre: It seems to me that the request is a fair request because it is a controversial item. I might point out that there is, to the best of my knowledge no law, either federal or state or county that requires for elected officials from the President on down, to reveal who they talked to about what items.

Mr. Jacoby: That is right, there is no law.

Mayor Ferre: Nevertheless, I just for the record to clarify that there are constitutional rights and there are laws. I am not a lawyer, but I am trying to clarify before anybody else does, gets involved here,--nevertheless, I repeat, I think your request is fair because of the controversy of the item. I will go to that point. This is not an inquisition, nor is it an inquest, nor is it a hearing on the propriety of the actions or non-actions of members of this commission. I would recommend to you sir, if you have any complaints or misgivings, the proper place for you to go is to the State Attorney's office and make a formal complaint if you feel that something has been done that is illegal, or wrong, and that a criminal prosecution should be pursued by you or the members of your association, society group or representation.

Mr. Jacoby: That consideration would be far down the road for us. We don't have the feeling in our own minds at the moment that there has been specific improprieties. We simply feel these are questions that the public of not only attendance here today, but in the community at large has a right to know the answer to these before judging what is happening on this matter.

Mayor Ferre: You also believe that would be true in every case of any important item that we consider before this body.

Mr. Jacoby: I think it is a basic element of government in the sunshine, yes. All of the factors that have gone into the deliberation on a public issue, should be open.

Mayor Ferre: I think that that is something obviously is of major importance in the state at this point. I would strongly recommend that you do one of two things. First of all I think you should work with your legislators and I would like to ask you whether you have worked with either the county commission board or any member of the Dade deligation in requesting that laws be instituted similar to what you are wishing to impose upon this commission. Have you worked with any of the Dade delegation to see that laws are written as you are requesting?

Mr. Jacoby: We have given consideration to that but as I say again, until we start with these fundamental questions here, we are not sure that a problem exists. Maybe the problem doesn't exist.

Mayor Ferre: These type of innuendoes have existed as long as I have served on this commission. I might point out some of you that are here, have made them during political campaigns, and I might point out that it is your perfect right to do such things. I might also point out which is my second point, that those of us who serve the people at this level here, run for public office, the Mayor runs every two years, the commissioner every four years, you are perfectly entitled and you have the right to either run yourself, or sponsor people to run against us, as has happened in the past and if the will of the people is in your favor, fine. That is your second alternative as to how to cure these problems. With that off my chest,----

Mr. Jacoby: At this moment then, let me pass these to you, as I do, let me make one disavowal. The copy that you received has the names of the organizations appended. Our attorney has not yet arrived and has not passed on the advisability of having those organizational names appended so would you please receive this with that disavowal that I am presenting this to you on my own.

If you think it is appropriate I think it might be timesaving, I would like also to add a copy of the further detailed questions that we think would be appropriate to pose later on. I'll pass these out at the same time.

Mayor Ferre: Are you going to pass these out now?

Mr. Jacoby: Yes, please. The statement that comes to you was prepared in conversations with several of us, the second appendage, the detailed questions I am presenting on my own as a private citizen.

Mr. Thomas McGlinn: Mr. Mayor I am Thomas McGlinn, I am president of Bayshore Homeowners Association. Our name is on this as is the Tigertail and the Civic Club. Our signatures are not on here, and I want you to know Mr. Jacoby was speaking for himself, and not for these associations.

Mayor Ferre: We have had this type of problem in the past where one person makes a statement for an association, then evidently there was confusion about that, so this is not new to this commission.

Mr. McLean: We just want to clarify,----

Mr. Plummer: You want to take them back?

Mayor Ferre: You have a series of 32 points here, this is a public hearing for the purposes of acting on the Planning Advisory Board. 32 questions, you expect us to answer these 32 questions at this point before we get into the discussion?

Mr. Jacoby: Yes.

Mayor Ferre: I see, that is for Jack Lowell.

Mr. Jacoby: The subsequent questions, questions on the details of Fair Isle activity over the last several weeks, that I would like answers for and several private citizens that I have been working with, we don't know at the moment whether we would need to hold for answers to all these questions or not. Mr. Lowell is here, I would think that other representatives of Cabot, Cabot Forbes might be here, might be able to provide answers to these questions, if it seems the questions are responsive, we may,----

Mayor Ferre: There is no obligation on anybody's part to answer any of this legally.

Mr. Jacoby: No.

Mayor Ferre: It is up to every member individually, and as far as I am concerned I have already stated my position, and I think he is entitled to an answer. Each one of us can state their position, and we can get on with this thing.

Mr. Plummer: Are you going to limit us to 5 minutes Mr. Mayor?

Mayor Ferre: The 32 questions are not for you, they are for Mr. Lowell. There are a series of, it looks like 6 questions here, and I am saying, my statement is, Mr. Jacoby is entitled to an answer, even though it is not the law. I am asking what your position is and we will take it from there. I'll tell you how I am going to do it. While everybody else is thinking about this Mr. Jacoby, I'll tell you what I am going to do. I am going to sign a notarized statement, and I'll send you a copy, and anybody else who wants it, and one to the State Attorney's office, on my answers. I am not going to hold up this hearing and answer your petition.

The question is, so we can get on with this, that,---what is your position on this, you can answer it now or later, I don't care. Mr. Plummer you want to answer?

Mr. Plummer: Mr. Mayor I haven't even read it.

Mayor Ferre: Mr. Reboso, do you want to answer?

Mr. Reboso: Mr. Mayor I don't know who the proponents are. The only papers I have received is this one today together with this one, from Mr. Reed, and this that came yesterday in the mail, signed by Jack Lowell, general manager. I don't know him personally. This one from Wilbur Smith and Assoc. and this one was presented to me today, by James Dean the architect.

Mayor Ferre: Anybody else want to add anything else to that subject matter then we will get on with the hearing.

Mr. Plummer: Mr. Mayor let me state for the record, that I will be happy to answer Mr. Jacoby's questions and I understand it as that, just your questions, in writing and I will respond to you in writing. I am assuming this page, not 32. I will be glad to respond to you in writing.

Mayor Ferre: Who is the first speaker?

Mr. John R. Edwards, Sr.: Mr. Mayor and Commissioners, I am John R. Edwards, Sr. Mrs. Edwards and I own our own home at 1866 South Bayshore Lane, which is the second bayfront house south of the causeway to Fair Isle. I speak as an interested property owner and also as a developer who has followed the Saga and Fair Isle rather closely. I appreciate this opportunity to make two points. First I am strongly in favor of the down-zoning of Fair Isle from R-5 to R-3 as recommended by your Planning Department and approved by the Planning Advisory Board. I urge further that a developer of the island be encouraged to use the P.A.D. approach at a density much lower than the maximum which would be permitted by R-3. P.A.D. would permit establishment of small, high quality interesting community, entirely different from the many high rises around us on the one hand and the luxury single family waterfront homes of Coconut Grove and Coral Gables on the other. It could be compatible with and complimentary to Coconut Grove and of small enough size to keep automobile traffic within what the Planning Department believes to be at least bearable limits. My second point is that I have satisfied myself that this type of P.A.D. project at a level of about 300 units could be sold at prices which would give a reasonable return on investment. Surely I would make this second statement only on careful study. It is an important statement. Questions like how fast will these units be absorbed. What is the realistic value for the island in its present state? What rate of possible return will be need to lure equity into such an undertaking. These are fundamental questions. I have had to make assumptions naturally, but I have checked my thinking by employing the services of a qualified local architect and a local market research firm and by reviewing my own cost estimate with a large, well established local contractor. As for my own qualifications for making such an evaluation, you have a right to know, I am trained as an engineer, later had the top responsibility for locating, designing and building a number of multi-million dollar manufacturing plants, and am now president of Rock Harbor Development Corporation which has built the Rock Harbor Club on Key Largo. The Club incidentally is being developed to a density of only 26% of the maximum density permissible in Monroe County at the time we started. We have found that that discriminating buyers appreciate this fact. We are happy to be 75% sold out.

I have also per force, some personal appreciation of the sensitive nature of the judgement you are faced with making today. I served on the 11 person Ad Hoc Planning Advisory Board which assisted in drawing a land-use policy and the supporting ordinances required by the Governor's designation of the Florida Keys as an area of critical state concern, and now have been appointed to the 5 man county zoning board to help see they are implemented.

Thank you very much for the privilege of speaking in strong support of this part of the City of Miami's land use plan.

Mayor Ferre: The next speaker please.

Mr. Art. Patten: Mr. Mayor, Mrs. Gordon and gentlemen of the commission, my name is Art Patten, I reside at 3500 East Glencoe Street, Coconut Grove. My home is one of the homes that was shown on the original map that presented at the Planning Department's proposal as being one of the streets critically affected by this development. I am here this afternoon, not only to express my concern about what this development will do to my property, I own other property, and if necessary I could leave the City of Miami, I don't want to do so, but this project is not,---I am not here primarily, because I have no place to go, or that this will financially devastate me, but I am here primarily as a matter of principle, and that principle is very simple. This matter has been kicking around before the City of Miami as far as I can remember in recent years, from 1968. This Planning Study which has been presented here today I think was commissioned about 5 years ago, there have been implementing parts of this overall recommendation already passed by the City Commission in reference to properties on the mainland. Now this Planning Department has worked long and hard, extremely diligently carrying out the mission assigned to them by not only this city commission but previous city commissions. I think that the community the adjoining property owners have on so many occasions, I have forgotten all of the appearances but I think that the community has attested to its fear and concern of the potential liability that would be created in this Coconut Grove area by the high density, high-rise development concept as presently proposed on Fair Isle. Let me point this out. I don't think many of us have understood this until we get down to what some of these zoning classification mean. This R-5 zoning which is on Fair Isle, constitutes as far as I know, and I am now relating it what I know of County zoning, is the highest, unlimited zoning category on any zoning books, anywhere in Dade County.

Mayor Ferre: Other than downtown Miami.

Mr. Patten: Fair Isle constitutes R-5 zoning. There is nothing in Dade County permitting more development, higher buildings, more mass density, either on the City books, the county zoning code, or anywhere in Dade County that what is on this island right now.

Mr. Plummer: C-3 allows more.

Mr. Patten: Not in the residential category I don't think. At any rate the matter before us here today both you as our commissioners and we as a community, is whether or not, as the Planning Department projects and Mr. Luft I think has very articulately told this community exactly what is going to happen if this property remains in its present zoning status. And I didn't hear him say anything about any good that was going to come from leaving that property in its present condition. I did hear him speak for almost 30 minutes about all the problems that would come and predictably come if it is not rolled back. All I have to say at this time is simply this. Your Planning Department in carrying out your instructions has come back with answers. They have come back with red flags flying. They are advising you in no uncertain terms that based upon your judgement here today you have the determining factor, the determining ability in the future not only of Fair Island but this entire Coconut Grove community if not indeed maybe the Silver Bluff area and many other adjacent subdivisions adjoining either Natoma Manors or the immediate Coconut Grove residents affected. This Planning Department has come in and told you that serious long reaching problems will occur if this property is allowed to be developed as presently zoned. To me, this all boils down to a logical conclusion. The opportunity the time, is now to solve the problems before the problems occur. If this community, places like Miami Beach and other communities in Dade County had had enough foresight to have Planning Departments, and I compliment this city in bringing together people with the expertise that these gentlemen have, the thoroughness that they have presented this, but if this community had responded to this type of thinking long ago, where we could have preserved public beaches, and etc. in this area instead of waiting until after the fact and saying why didn't somebody think these things out and do something at the time. The time is now. You have complete report from your planning profession. It is in depth. They asked if there were any questions. They have shown serious and far-reaching consequences if that development takes place. The matter is simply before you

as our city fathers to make the decisions, hopefully today to resolve this matter once and for all. Frankly, if you don't agree with the Planning Department as thorough as it has been in this case, it would seem to me only logical to get a new Planning Department. But be that as it may. All we are asking you to do, is, before the problems occur, solve them before they happen.
Thank you.

Mayor Ferre: Next speaker please.

MR. William _____: Mr. Mayor and members of the commission, my name is William _____. I live at 3590 Crystal View Court. I have been here so many time about this that, I know most of you a long way back. I remember we were trying to get a moratorium. Remember that? And as I was sitting here looking at these caterer's trays, it reminds me of an evening about 6 years ago, when a gentleman came in here and said, we are not going to over-develop Fair Isle. We are going to have a very nice and attractive development. It is only going to be 28 stories tall, nothing exorbitant, very very nice within the rules of R-5. You know, he didn't generate too much enthusiasm until he came out in the newspapers that those two towers had given birth to four, and under the law, he could put four towers up. Now today we are going to hear about how these people don't want to do that. They don't want to put four towers up, they don't want the 1200, the 2,000, or any number like that, but I am realistic enough to realize that this property in all probability will be developed by somebody that wants to make some money, which I find is great. If I had the money, I would be standing on the front row doing it. But let's roll back zoning to help keep the man honest. Now he knows that he can put 800 units up there but if he has R-3 let's limit him to 500 units, or 400 units, and not wait until he comes up with his 2,000, and says you see, actually we only wanted to put up 800 but we just couldn't make it, so we are going to have to put up 2,000, and this extends all the way down through the 17th Avenue, all the way down to Mercy Hospital. Intentions are great, we are only going to put up 10 units here and 20 units there, but when the dollars start rolling in, they say sorry about that we are going to have to put up more. Mayor, we have been through this before. Let's cut it off now. Thank you.

Mayor Ferre: Next speaker.

Mr. Thomas McGlinn: My name is Thomas McGlinn, I live at 1872 S. Bayshore Lane, I was one of the citizens advisory committee that the Planning Department worked with when this was originally started, the master plan was originally started in 1974, in September. We have had two meetings, two huge meetings in St. Stephen's Church, over two years ago, explaining this whole thing in detail. I remember very well when this planning was developed, the developer was asking for permits and etc. Members of the City Commission at that time would say well he has his R-5 zoning there is nothing we can do about it. We are very sympathetic with you, R-5 should never have been allowed, but there is nothing we can do about it, except grant his permits. Well today you can do something about it, and we are certainly hoping that you will.
Thank you.

Mayor Ferre: Next speaker please.

Mr. Thomas J. Stokes: My name is Thomas J. Stokes, I live at 1871 S. Bayshore Drive. I think what we need most of all is a little realism, and I don't believe that is it realistic to put the density on Fair Island an island that has only one entrance and exit that they are proposing to put there. If that property was surrounded by other road where it could go off and on in other directions, it might be a lot more realistic. Now, when we were at the Planning Advisory meeting before, there were two plans that were presented, that would be feasible with a lot less density. The price is what always seems to be the problem and we are going to hear from the owners that it is worth 10 million dollars. Well I say it is not worth 10 million dollars. My recollection is that the island was bought in 1969 for about 1 million dollars. It was bulkheaded, the bridge was widened, and was filled. At that time the price was approximately three and one half million dollars. Now, that is what it costs to put the island there, and what do you think is carried on the book, the tax books of the city of Miami? Not 10 million, you don't have to build something to get 10 million dollars. It is carried on the books \$4,290,000. At that price it can be developed at lot less density than

the prevailing plans that are in effect. Now why is that price so high? 10 million dollars? It is very unrealistic. You had all the executive salaries that were out there developing it, you have had the guard sitting there for years, protecting it, you had expensive lawyers fighting the battles, you have had a luxurious house boat office, you have had all the lots up and down the street of Fair Island to make the beautiful entranceway, the helicopters that rose every Saturday morning, took people up 42 stories and said this is what you will see if you buy this penthouse. We have had all the full page ads telling how great it was going to be. The unrealistic interest rates have been paid all this time, that is why it is 10 million dollars. The property is not worth 10 million dollars, the property should be developed at a value of the property, not the value of mistakes that have been made. This reminds me if I were going to sell my house, and I paid 50 thousand dollars for it, and a man comes to me and says I want to buy your house, and I tell him I will take 250 for it. He says why is that, I said well I have lived here 10 years, I have made 20 thousand dollars every year, I have spent all the money, so therefore the house is worth 250 thousand dollars. That is how unrealistic this price is, we are all facing the fact that this property is priced unrealistically and something unrealistic has to be done to bail these people out and the neighbors are being asked to live with this monstrosity, so they will not lose their money and will not be caught with their unrealistic project they started.

Now, Cabot, Cabot and Forbes came into this rather recently and all these battles were being fought long before they came in. They can't be surprised to find out they are in the thick of this battle. They can't say we bought the property and it was zoned R-5 and now you are going to take it away from us. It was so peaceful when we bought it. That is not true. They went in and they bought a nest of worms, and they know it, and that is where they stand right now. The only way this island can be protected is to roll it back to R-3, then whoever wants to do something and appeal for more. Because I think each member of this commission has been on record more or less saying they don't think that it is realistic to put what is out there on Fair Island, that the R-5 zoning is not realistic. Something else should be done. I have heard that R-3 is not realistic either. If we put R-3 on it, then we have a bargaining point. As long as R-5 is on there, the door is wide open, so I ask you to consider this and to roll the zoning back to R-3.

Mayor Ferre: Just one clarification. The tax assessor and tax assessing function is part of Metropolitan Dade County, not the city of Miami. We used to do that, but not for several years now.

All right next speaker.

Mr. Henry Alexander: Mr. Mayor, Mrs. Gordon and members of the Commission, my name is Henry Alexander, I live at 3625 North Bayhomes Drive, I am president of the Coconut Grove Civic Club, and I am speaking on behalf of that organization today. My statements are the only applicable statements on today's subject that the Coconut Grove Civic Club endorses.

The present R-5 zoning classification was established many years ago before Coconut Grove had the benefits of a comprehensive planning study. Today that study exists. The master plan study for Coconut Grove has revealed many of the problems that we the citizens of the Grove have long been aware. The Planning Department addressed these problems, they studied them expertly, and they have developed sound proposals. We only hope that today you will endorse the recommendations of your Planning Department and our Planning Department and downgrade the zoning from R-5 to R-3.

Thank you.

Mr. Dennis G. King: My name is Dennis G. King, I reside at 3236 Emathala Street, I am an attorney, I am president of the Tigertail Association. We have several hundred members in the Tigertail area. We also would like to go on record supporting the Planning Advisory Board, the planning staff. This planning study has taken countless hours of time and dedication to the betterment of the community, the preservation of this community as we know it. We feel it deserves consideration. This is the function before you here today. I think the opponents of this down zoning are going to tell you a great deal about past history but this is 1976, we are here and now. The decision is in your hands as our elected representatives to make the best decision that is in the interest of this community as we desire to preserve it. You are also going to hear a great deal about litigation. Now, I have brought a suit involving this project, they are going to say I am losing my suit. A month ago I would have been able to say I am

winning my suit. There is litigation that we have been forced to incur. Attorney's time, but I would submit to you that no one is going to be able to predict to you the outcome of litigation. The issue before you is to fulfill your function as our elected representatives based on the best evidence we have before you, the advice of your Planning Advisory Board the advice of the your Planning Advisory Staff, we would submit that if the opponents raise these questions of litigation, they like Mr. Jacoby should be relegated to go to their attorneys and seek whatever legal redress they can.

Thank you very much.

Mayor Ferre: Next speaker please.

Mr. R.D. Weakley, Jr.: My name is R.D. Weakley Jr. I live at 3280 SW 17th Avenue, a short 3 blocks from the site of this building. I have two points I would like to point out to you. The first is traffic. Right now on 17th Avenue from 8 o'clock in the morning until 9 the traffic backs up from Bayshore Drive to Tigertail right in front of my house. IN the afternoon the traffic coming off Bayshore Drive backs up from Tigertail because somebody wants to make a left turn and can't make it. All afternoon the traffic is backing up on 17th Avenue from No. 1 Highway.

The other point I would like to point out is that 40 story is the same as I understand, as No. 1 Biscayne Blvd is, 40 stories. I would live within three short blocks of a building like that. According to the things I have heard here at this meeting, there are to four of them that size. Every time I go out in my back yard and look to the south all I could see would be four monstrous buildings sticking up in the air.

Thank you.

Mrs. Gloria Calhoun: My name is Gloria Calhoun, I reside at 3029 Brickall Avenue. Mr. Mayor and members of the commission, Mr. Peter Quincy who is president of the Tropical Audubon Society, was unable to be here today and so I am standing here in his place to make a statement on behalf of Tropical Audubon Society. I was not authorized to concur with the opening statement but I was authorized to concur with the evaluation and the recommendation of the Planning Department and the Tropical Audubon Society also concurs with the wishes of the civic groups that the zoning on Fair Isle be rolled back.

Now as a private citizen I would also like to add my own sentiments, and I think each and everyone of you on the commission is well aware of how I feel about Fair Isle and I think many of you in the past have made statements personal statements to the public that you felt the situation was not fair on Fair Isle, that you thought something as projected of that nature should not be built on Fair Isle, but unfortunately there was no way of changing it. I think your Planning Department has done a superb job in its careful evaluation of the problems and has come up with the proper recommendation. Now, members of the Commission and Mr. Mayor, now today you have your chance to make it right, you have your chance to support the Planning Department and the Zoning Board also recommended a rollback, and you have your chance to make it right with the community who wants this rollback with all its heart and it is only in the interest for the health, and welfare and general well being of this community, and I beg you to do so.

Thank you.

Mayor Farre: All right, next speaker.

Mr. David Dohney: Mr. Mayor, ladies and gentlemen of the commission, my name is David Dohney, I reside with my wife and family at 1778 S. Bayshore Lane, my home fronts directly on Biscayne Bay, about 700 ft. across the water from Fair Isle. I live north of Fair Isle Street and south of the Pelican waterway, and that means that the only access and egress I have to my home is via Fair Isle street then to S. Bayshore Drive so the impact of the proposed project will impact me and my family very substantially. I urge you to accept the recommendation of your zoning Advisory Board and your Planning Department to downzone Fair Isle to R-3. I make this recommendation with the full realization as a lawyer, and as an executive of the major real estate developer, that the final solution to the Fair Isle dilemma is far more complicated than the change of zoning classification here proposed. Many of these issues will be resolved in courts which is the proper forum for their resolutions, and I believe the courts will ultimately prevent the very significant damage to our city which will be

caused by the development of Fair Isle as now proposed. I am confident that the ultimate development of Fair Isle, (and Fair Isle will be developed, make not mistake of that), will be developed by a compromise, intelligently arrived at between the land owner, whoever it may be, be it Cabot, Cabot and Forbes, or whoever it may be,----some third party to who they may sell it, the City Planning Department and the neighborhood residents, based upon a revised plan calling for significantly less units, perhaps in the range of 3 to 4 hundred units and with a configuration in the vicinity of 6 to 7 stories in height at a maximum, and with very substantially reduced ancillary amenities as compared to the current proposal. Such a plan in my judgement is not only economically feasible but can be accomplished in conformity with sound planning principles and with minimum impact on the environment and the intra-structure of the city. The first step in that process of arriving at a fair compromise must be the intelligent action of this commission to establish a reasonable zoning basis for Fair Isle at the R-3 level. The full realization that there may well have to be some adjustments some special modification in the R-3 level to accomodate the type of compromise which I have just alluded to.

Finally let me say as a member of each of the associations contained on the handout that Mr. Jacoby gave out earlier, I specifically disclaim Mr. Jacoby's implication that he represented the Associations, if that is what he intended. I specifically disclaim his representation of me as an individual. I fully respect Mr. Jacoby's right and duty to speak out as a private citizen for himself or anybody else who is authorizing him to speak for them, however I think it is an unfortunate implication that other associations have authorized Mr. Jacoby when this is not the case.

Thank you very much.

MR. Sandy McNaughton: My name is Sandy McNaughton, I reside at 3660 Bougainvillea. I represent the Florida Earth Society and I would like to members of the commission that I am very much in support of rolling back the zoning code to R-3. I feel that most of the people that have come before me have presented to you a very clear reason why this is imperative for Coconut Grove and I feel that unless we do this, there are going to be repercussions to the earth here in Coconut Grove, so I want to thank you.

Mayor Ferre: Next speaker please.

Mr. Joseph Flemming: My name is Joseph Z. Flemming, I am an attorney along with Parker Thompson, I represent plaintiffs in the case described as the Gardner case pending in the circuit court involving this matter. Parker Thompson could not be here but the litigation that we have bought does not relate to the issue before you, assuming the outcome in that litigation pro or con, the question still remains. There is an island here and at some time there will be proposals for certain types of development if the litigation which we are involved in, to be successful. There were a denial of certain permits and a finding of public nuisance. Ultimately the commission would still have to consider any new attempts to develop the land. You have an occasion now when you have a clean slate. The people before that seem to be complaining today are involved in litigation. They would basically claim to be grandfathered in under the old permits if they are successful in court. But the question here is you have had planning studies, you have had recommendations from your own experts, and you do have the right sitting as a commission or you wouldn't be here today in the first place to make decision which affect the public health and safety of the city. The record is complete with respect to the need to take action, and therefore we would recommend that the recommendations before you be basically approved today since the record is so full of the public nuisance factors, the traffic problems, the height problems, which would be advantageous to correct this point.

I would like to state that since we have been involved in numerous proceedings it is quite possible that after the developer make a presentation there may be some questions and if I could reserve a minute for rebuttal, just as to some legal question, I would like to do so at this time.

Mayor Ferre: You certainly have that right.

Mr. Flemming: At that point I would like to return when the developer completes its presentation.

Thank you.

Mayor Ferre: Next speaker.

Mayor Ferre: There are not other speaker remaining?

Mr. J. B. Hires: Mr. Mayor, Mrs. Gordon and members of the commission, my name is J. B. Hires, I reside at 2705 Miola in Coconut Grove. I am here to repeat some of the things that have been said today that you gentlemen have been presented with the very outstanding presentation by your board and by your department suggesting a turnback to R-3 consisting of experts who researched that report and brought back before you, and may I please ask you as the gentleman before me did, to seriously consider your expert's report and do not turn that report down, but go along with them, and if, let's get a new department. I think what I have to say here can best be summed up, before that I want to let you know that I have been a citizen of Florida since 1912 and I have seen a great many things happen in the City of Miami. My father before me, I think woke up after the 1925 boom with land running out of his ears, which he sold for taxes. In my own case I today have a first mortgage on some land out at 117th Avenue which I'll general make an even money bet that I am some day going to get that land back because it has been sold once since I bought to second owners, and it is going to be necessary, --I got all the money the land is worth, probably more than it is worth. But they have to build a highrise apartment on all that land out there to pay the returns such as these gentlemen want on Fair Isle. I think what I want to say too, is best being summed up by a book that is just coming off the press and the heading in the magazine is 'the deflowering of the Florida boom.' The title of the book, 'the Florida experience, land and water policy in a growth state' by Luther J. Carter. Among things that he brought out, we have heard said here before, is what one of our visitors to Miami said in January 1951. In Miami we found everything we sought. The waters were pure the air free of man's contamination, the fishing great, the life jolly and un hurried, Key Biscayne was a wild coconut plantation inhabited by raccoons, we could stroll through hardwood hammocks teaming with wildlife, in those days the tourist season was December to March, the rest of the year most of the hotels closed and the town belonged to the natives. It was one great place to live but the drum beats were busy, soon hotels and motels marched up and down the beaches and one day we took a good look around and suddenly we knew we had kissed the good life goodbye. As you look at Miami Beach today you see what we have over there, and when you hear the tear jerking appeal that Ralph Rennick made last night about building a new million dollar Miami Beach. I think it is ridiculous they allowed to happen what has happened on Miami Beach and my own impression would be, just let them stew in their own juice or their own errors they have made and not saddle the taxpayers of this country with the tremendous debt to build a beach on Miami Beach. I hope you gentlemen will consider the same thing in connection with Fair Island. Let's don't kill the goose that laid the golden egg, not only ruin our community but such things as we have from time to time are going to ruin Miami. I think we all have got to agree, it has been said many times, that tourist business is our real salvation and we are killing the goose that laid the golden egg, and not making it attractive for people to come here and visit us and leave their money here. God only knows our natural resources will not support the number of people that are planned, ---the number of developments that are planned, to fill all the acreage in Dade County. We do not have the water and other natural resources to provide for them.

In closing I just want to quote one thing here from this book and I hope you gentlemen will get this book and read it. As one reads on, it seems as the worst is over and Florida has finally come to terms with own sense of place, and then we learn of another outbreak of what should perhaps be called, the booster-crusher spirit. It remains to be seen whether the citizens of Florida are ready to repudiate the ill-choosen words of Lyndon Johnson spoke in 1964 at a combination ground breaking and barbecue for the Florida cross state canal, 'God was good to this country but in his wisdom the Creator left some things for man to do themselves. The challenge of a modern society is to make the resources useful.' You all know how ridiculous that cross-state canal was and you know how ridiculous some of the things that have been going on in Miami and Dade County, and I know you all read the happenings of the economic society, if you read the transcripts of the talks that have been given by real estate editor of the Miami Herald, Mr. Kendall, he has told us many time we are in trouble and are headed for more deep trouble. Last week we had a talk at the Economic Society by Mr. Hunter Moss and he gave a very inspiring talk but one gave us a _____ that we were on our way to recovery, and let's not kid ourselves, I hope you gentlemen won't make the same mistake and that you will roll back this zoning to R-3 as recommended by your expert department.

Thank you very much,

Mayor Ferre: Next speaker.

Mr. Wayne Allen: Mr. Mayor and members of the Commission, my name is Wayne Allen, I reside at 2222 S.W. 27th Terrace A. I am appearing this afternoon as a director of the Tigertail Association and in my personal representation as a resident of Coconut Grove. I would like to make clear that in both capacities any statements which I have authorized are only those I am going to make to you now. I am an attorney, and as an attorney I guess I take a legal view of this whole proceeding. In viewing what the powers which the commission has to zone in the public health and welfare, I would like to comment on the evidence, substantial evidence which you have before to consider making that decision. That substantial evidence is that which has been stated to you by the people here but over and above that the substantial evidence which was developed in the planning study for Coconut Grove, which was developed by a group put together by your planning department, a broad range of interest in the Grove. Over 10 groups were represented in developing this planning study. It is a very comprehensive document but it represents many hours, many evenings, a great deal of time and effort on residents of the grove and effort on the part of your planning department to determine what is in the public interest, what is the public health welfare and safety required in this matter to be safeguarded by your zoning decision. That recommendation that comes to you with the approval of your zoning board is to rezone Fair Isle to R-3. I strongly urge on that basis that you do so.

Thank you.

Mayor Ferre: All right, Mr. Calhoun.

Mr. Mike Calhoun: Mr. Mayor I am Mike Calhoun, 3029 Brickell Avenue, I would like to reserve a moment or two at the next go-round if possible. I would state now I am in favor of the roll-back to R-3 and I think there has been ample evidence presented especially in the last 6 months to show that there could be lower density built on Fair Island which would create more jobs, could be built quicker, there is a bigger market for it, and it actually raises the value of the land and no one has ever been able to prove that statement to be wrong and that is what I would like to speak to.

Thank you sir.

Mayor Ferre: Mike, let me ask you a question. You brought me, in my opinion, a quite beautiful drawing of what I thought made an awful lot of common sense for development on that island, and I pass that on to several people who I value, have good judgement and they all concur.

Mr. Calhoun: We had a lot of experts concur with the basic principle of it.

Mayor Ferre: I don't have it with me, and I don't remember how many units was proposed in that?

Mr. Calhoun: First 500, then it was reduced to 300 at the suggestion of the neighbors.

Mayor Ferre: When Charles Pawley was the architect, who designed that first, it was a lot more than 500 units.

Mr. Calhoun: No, sir, it was 500 and then we met with the neighborhood groups, and they suggested they might go along with 300. They did not endorse the plan but they all were in unanimous agreement.

Mayor Ferre: Of course in R-3 there would 500 units permitted.

Mr. Calhoun: Yes, sir it has been a proven fact that this proposal that my wife designed and came up with could work almost under any zoning because as was mentioned before, even if you roll it back to R-1 some one is going to come in with a plan. I believe a former speaker presented that will be subject to the approval of this commission, almost anything you have to build there. And we will have the endorsement of the entire neighborhood.

Thank you.

Mr. Plummer: Mike, come back here. Are you making a proposal to buy

Fair Isle? Or to develop Fair Isle?

Mr. Calhoun: No, sir, I am in favor of rolling it back to R-3.

Mr. Plummer: I saw something in the newspaper, a proposal that you and your wife,----I think, a rendering,--

Mr. Calhoun: That was a proposal to try to settle this matter because we came up with some astounding figures. This was a dream of my wife's and when they put down on paper I took it to a lot of experts in the business, in fact world renowned experts, and they all agree that the numbers actually made this land more valuable for something the neighborhood would accept and lower density,--it is a European village is what it is.

Mr. Plummer: To answer my question, the answer is no. You do not plan on developing this island.

Mr. Calhoun: No, sir we merely presented this plan for whoever wanted to buy it.

Mayor Ferre: Just as a comment, I wish you had found somebody who could have bought the island and come up with that and we would have had the thing solved.

Mr. Calhoun: I think there are those around so, once these matters are settled.

Mayor Ferr: Okay, next speaker. Are there any other speakers in the proponent side? Oh, I didn't see you, I apologize. Okay.

Ms. Eleanor Miller: My name is Eleanor Miller, I reside at 3551 Crystal View Court. I am very pleased to have the opportunity to address my elected representatives. I have great faith in the system, surprisingly enough at times. I think we all feel that way at times.

I want to speak in three capacities. First of all as a private citizen in the Coconut Grove area with an R-1 zoning, and who made an implied contract with the City of Miami for a continued R-1 neighborhood. I also have an implied contract with my city and my government for services of a certain quality, that should give me clean air, clean water, disposal of solid waste, access to roads off my street, to just a few. I would like to speak also as an involved member of the community who has spent thousands of hours in consideration of planning for Dade County, as a member of the task force for the land use master plan. In that capacity I learned that the cost of providing services escalates as the numbers to who those services have to be provided for, increases. It doesn't seem very logical, you would think that with great numbers and quantities of people, costs would go down. This is not true. I have also served on a task force for planning for downtown Miami. My third role, that I speak for, (I blush somewhat to say that I speak, my feminist friends will blush for me) as the wife of a responsible general contractor who sits on a county board which monitors and regulates construction, licenses and practices, so the public is protected and that the industry is kept honest also. That is all I have to say, I am obviously for the roll back. I hope that there will be people here, who have worked very hard with the Coconut Grove master plan. I haven't heard anyone speak for them and I know there were hundreds of people involved who put in thousands of hours in a plan that is meant to provide vision for this community. We had some quotations before. Let me add one more. It is a biblical quotation,--'where there is no vision, the people perish.'

Mayor Ferre: Thank you very much. Now, the opponents will be recognized. If the clerk will tell me the cumulative time has been so far,

Mr. Southern, City Clerk: Fifty-eight minutes,----

Mayor Ferre: There are eight of you who want to speak, so try to keep it to three minutes if you can. I know it is going to be difficult, I will not go beyond 58 minutes. So distribute your time however you will. Try to keep it as short as possible.

Mr. Jack Lowell: Mr. Mayor and members of the Commission, my name is Jack Lowell, I reside at 3828 Wood Avenue, in Coconut Grove. I am here representing

the owners of Fair Isle, Cabot, Cabot, and Forbes Land Trust of Boston, and Hospital Mortgage Group of Miami. Both trusts have representatives here today. You have previously sent some materials for background on Fair Isle. I would like to give the package, the same package you have received, to the Clerk so it will be a matter of public record at this time.

Our purpose today, is to demonstrate that a change in zoning as recommended for Fair Isle is inappropriate. We have a long presentation by a number of professionals to demonstrate the inaccuracies in the Planning Study for Coconut Grove, to demonstrate the effect an R-3 zoning might have on this island. It is my pleasure at this time to introduce Mr. Gordon Emerson, the managing trustee of Cabot, Cabot and Forbes Land Trust. Mr. Emerson is former senior vice president for John Hancock Mutual Life Insurance company, he is presently the trustee of Diversified Mortgage Investors, Massachusetts Trust with offices in Coral Gables.

Mr. Gordon E. Emerson: Mr. Mayor, members of the Commission, ladies and gentlemen, my name is Gordon E. Emerson Jr. and I live on Lewis Wharf in Boston, Massachusetts. I am here in my capacity of managing trustee of the Cabot Cabot and Forbes Land Trust, the beneficial owner of Fair Isle, one of the beneficial owners of Fair Isle. The land trust is a publicly owned real estate investment trust with thousands of shareholders throughout the United States. The discussion we are having here today is of great importance and your decision is one of great importance to our trust. In addition to be a trustee of this trust, I am associated with a real estate development firm called Cabot, Cabot and Forbes which is nationally recognized as a sensitive and responsible real estate developer and a corporate good citizen of all of the areas of our activities which are national in scope. As an individual, I am acutely aware of the position that this commission finds itself in passing judgement on such an important issue. I am currently an appointed official of the Commonwealth of Massachusetts, and have to sit in similar roles from time to time, and am also former chairman of a planning board in a seacoast community in New England.

As a trustee of other people's money, we face the loss of substantial sums of money and I must in all conscience seek to recover as much of our shareholders' as is possible. I recognize we have a loss. It is my duty to do this as a fiduciary. On the other hand, I am reluctant, in fact, I am unwilling to behave in a manner other than that of a responsible and sensitive good citizen. We want to be good neighbors and we plan to be good corporate citizens. Recognizing both our position as a fiduciary and our desire to be a good corporate citizen, with our trustee's approval and with the approval of our financial partner, the Hospital Mortgage of Miami, we have authorized Mr. Bob Traurig to lay before you a legal position which I am sure you recognize we cannot waive or throw away, and also remind you of certain important considerations and then after that, have Bob Traurig present some compromises that we hope will serve to reconcile the interest of the several parties that are represented here. We sincerely hope that when all is said and done that the new community on Fair Isle is one that all of can be truly proud of.

Thank you for the opportunity of speaking with you.

Mayor Ferre: All right, Mr. Traurig.

Mr. Bob Traurig: My name is Bob Traurig, I am an attorney with offices at 1401 Brickell. I want to concur with what Ellie Miller said. Her husband is a good builder. He built my house in 1956 and it is terrific. I also have to concur with what she said about the matter of the R-1 zoning because what she said is that the city made an implied contract to keep her zoning R-1 and I think it did. And I think it made an implied contract to keep our zoning R-5, but I am not going to belabor that issue. At any rate, I believe that everyone who has approached the microphones today, as Ellie, has spoken sincerely and honorably and is very concerned about the best interest of the City of Miami. And I know that the presentation which Mr. Luft made, which was as usual brilliant, and I heard him very articulately before the Planning Advisory Board explain with cogent reasons the rationale of the Planning Department of the City of Miami and know that if I had the privilege to serve in your capacity and the responsibility to balance the public interest against the private rights and interests as you must do today, and if I had heard that articulate, cogent presentation of Mr. Luft to all these people, and if I were then asked to consider whether or not you should permit development on this island with 2,000 units and unlimited height and an FAR of 2.2, I wouldn't hesitate long in saying no. Obviously that would be bad and that would impose a very substantial burden on the community's intra-structure and it would impose

very great service requirements on the city and would offend the neighbors. But that is not what you are being asked to consider today. The issue before you today is not whether or not to zone this property R-5, the issue before you today is whether or not land which was zoned R-4 or R-5 for highrise development since 1934, and when the city has issued building permits for development on that land and when in reliance on those building permits the owners have invested millions of dollars including development funds and when the owners in good faith are now as Mr. Emerson told you willing to reduce the density of that land below what R-3 permits, by restrictive covenants, to only 40% of what the maximum would be under R-5, whether in good conscience and equitably, and all good fairness, you could change what we propose and that is, a density limitation which give to you just what everyone has been asking you for, but what would give to us the ability to design something which would be better for the community.

Let me talk for just a bit about the history of the zoning on this island. I said to you we have been either R-4 or R-5 since 1934. That was your first zoning ordinance. This island was formed back in 1924 from soil bank and it was incorporated into the city at the same time the town of Silver Bluff was annexed by the city in 1925, and in 1934 when that first zoning ordinance was passed this property was zoned R-4 and when the second zoning ordinance was passed in 1937 it continued to be zoned R-4 and then in 1957 there was a new ordinance which established development criteria in the R-4 district. Then for the first time they put a height limitation on this island and that was 13 stories with an F.A.R. of 2 and lot coverage of 30%, and a minimum dwelling unit size of only 400 sq. ft. and they could have built hundreds of more units than what we propose. Then in 1961 the present Comprehensive Zoning Ordinance was passed and that changed the zoning from R-4 to R-5 but it retained the development criteria. Until 1966 at which time this commission, or the predecessors of you, made one change, and that was you got rid of the height limitation and it has remained thus ever since. And therefore by way of summary from 1934 through 1957 there was unrestricted height, from 1957 to 1966 there was a height limitation of 13 stories, from 1966 to now it was unrestricted. As far as the zoning classification it was always R-4 or R-5. And we have never sought to change the zoning on this island but there was a effort to do that and that was in 1968. And the Planning Board in 1968 heard this matter, and I don't want to belabor this issue, but I would like you to know that 3 of you either served on the Planning Board or the City Commission at that time, and I would like you to know some of the things ---some of the reactions which you had, at the time of that hearing, or those hearings, on page 51 of the transcript, Mrs. Gordon said,----

Mayor Ferre: What was this?

Mr. Taurig: This was in 1968 when she served on the Planning Board and she heard the application to roll back Fair Isle, and I don't want to embarrass her but I would like to remind her that she has sat in that chair before but in a different capacity and maybe some things have changed and I don't want her to think that she can't change her mind between 1968 and 1976 but we would like you to know that in 1968 Mrs. Gordon did say I would like to put into the record also that the fact is, as all of us know, it is a great hardship to have something taken away from us and enter into agreements as has been done by several people here, to purchase property and buy property and keep it for future development and then have it taken away. It is unfair and unrealistic and therefore I would be in objection to that and on that basis I would state my reason for opposing it. I don't know any human being more honorable than Mrs. Gordon and I would not want her to think that I have asked her to consider that this binds her to a 1968 position.

When that matter was finally decided by the Planning Board unanimously and sent to the City Commission, and the city Commission denied it unanimously, on page 7 of that transcript Mr. Mayor, I would for you to know that these are some of the things which you said. At that time you were a City Commissioner. You said if I were here in 1960 when this thing was changed I would have voted no.

Mayor Ferre: Wait, in 1960 I was not around. When did I say this?

Mr. Taurig: 1968, when you were much younger. What you said basically was, you really can't take away what people have relied upon. I am not going to belabor that issue.

But has happened since 1968? First of all, let's go back a little bit. We built the bridge in 1961, based on permits which were issued in 1958, then

starting in 1970 a lot of things happened. Federal permits were issued for the following. a dredging, filling and bulkheading permit was issued in January 1970, work commenced and was completed on April 7, 1972. A bridge permit was issued in September 1970 and the work was completed in April 1972. The power cable was permitted in September 1970 and work was completed in October 1970. And what did the City do? Now those were federal permits. The city, as a result of numerous, in suits and a moratorium ordinance and after the writ of mandamus was issued by Judge Balaban, issued two permits. It issued a permit on October 18, 1972 for Towers 1 and 2, and a permit on March 20, 1973 for towers 3 and 4. and the result of those permits was that in good faith, and investment of many millions of dollars, in foundation work and piling, and rough-in electric and additions to the bridge and the seawall and the dredging and filling, all took place. I would like you to know as a corollary matter, that just on March 19 of this year, Judge Friedman who once sat as a municipal judge for this city entered an order upholding the board of rules and appeals in saying that that building permit, or those building permits were valid. And just the day before yesterday Judge Friedman denied the city's petition for rehearing on those permit cases and has said that those permits are valid and those permits permit what Mr. Luft was talking about, around 1,000 units plus 200 hotel rooms, or around 1200 total units. And I want you to know we don't want 1200 units, notwithstanding what the courts are saying to us right now, and we will voluntarily proffer restrictive covenants and I am sure you will ask you city attorney about the legal efficacy of those restrictive covenants and I have some cases to tell you that those restrictive covenants particularly in cases where moratoriums were involved, have been ruled upon by the courts as being valid and binding upon the proponent of the restrictive covenant.

What rights do we have? I think we have a package of vested rights. I think we have an equitable estoppel, I don't think the City can do legally what it proposes to do, but I am not going to belabor that issue because I think that each of you has received from Mr. Gold in my office a document, a letter which talks about vested rights and equitable estoppel. And I would like to call your attention to a few paragraphs there. It says that the vested rights doctrine precludes a zone change or amendment from being effective or enforceable as against the property owner who has legally engaged in or who has obtained a permit for a certain use authorized under the regulations and who has substantially altered his position in reliance thereon. Basically that is the guts of our argument on equitable estoppel and vested rights. We came to you at a time we had zoning, we bought a building permit, we spent a lot of money, and we think we have a right to build on that island. I think Mr. Emerson was right. We have to act as corporate good citizens and we have to build responsibly and we have to be responsive to the concerns of very nice people who live on the mainland side, and I think we are going to do that today. But despite all that, why are we here? We are here because there is a Coconut Grove study, that says that this property ought to be rolled back from R-5 to R-3. And I think that when we finish today you will say to yourselves R-5 is a heck of better than R-3, if R-5 is controlled properly.

But listen to what you said in the Coconut Grove study. It says that the R-5 zoning on Fair Isle, this is on page 10 of the study, is in direct conflict with the use character and scale of the single family neighborhood that Mrs. Miller talked about with and severely burdens the capacity of streets, parks schools and sewer systems. I don't want to get involved in whether it overloads the capacity of the schools because we are talking about private schools, public schools and if we had the kind of units we envision on the island and having received documentation from the Dade County public school system, we are convinced that we are not going to impact the schools. And we are convinced that you have a nicer system of parks in Coconut Grove than in any other part of Dade County. And furthermore we are going to have onsite recreational facilities which will amply provide for the citizens of the island. And as to the sewer system and this was dealt in at very great length, and some of Mr. Luft's presentation the sewer system was said to be inadequate if we built to our maximum density. I would like you to know the real story on the sanitary sewer system. The sanitary sewer lines have been installed to our property line at the lot at the entrance to the bridge. The lines have been sized for a population on Fair Isle of 5,000 people. Crystal Bluff pump station which is pump station No. 65 has two pumps, both are rated to pump between 150 and 800 gallons per minute depending on discharge pressure, and one pump serves as a backup pump. At the present time that one pump is operating for 3 minutes every hour, or approximately 5% of capacity. If we built 800 units on this island which we hope we can do, if we had three persons per unit we would have 2400 people and that population would produce

approximately 100 gallons a minute of sewage waste which then would be 13% of the maximum capacity for one pump or 72% of the minimum capacity that that system provides. So we don't have a sewage problem. That is one of the things that the Coconut Grove study said was the rationale for rolling back the zoning. There is a traffic problem. I think anybody who has ever driven on Bayshore Drive knows there is a traffic problem, but we didn't cause it. And we are not going to contribute substantially to it. It is a traffic problem which is a regional problem and I am going to come to that in just a minute, but the other things he said were out of character with the neighborhood. Are we out of character with the Chateau Elizabeth or the 1600 Building, or Mercy hospital? Aren't we as much related physically and geographically with those complexes as we are with any other? And I would like you to look at the picture which I think each of has received but if you haven't I will distribute to you and shows our island and its relationship with those other facilities in the area. I would like you to know also,--here are additional copies of the photographs, when we talk about special relationships, and the proximity of our project to some other project, that the archdiocese for the office of the community service applied for an FHA housing for the elderly project just a few months ago for 238 people, called Immaculata Towers, which would have a 14 story building on the Mercy Hospital complex, and you are asking us to relate to our neighbors, and we suggest to you, that those are our neighbors.

Let's get back to traffic because I think that that is the issue that really bothers so many people. It has been said that we will have traffic generation of 6,000 vehicles and that that traffic generation with certain rates of entering into the mainstream along Bayshore would compound the problem which is already unbearable.

I would like you to know that we won't have 6,000 vehicle trips, that you have in your kits a traffic impact study prepared by Wilbur Smith and Associates which has done studies for this city and county, in which they tell you that we will have 2200 traffic movements off the island and in which they don't say that we are going to have the kind of easterly flow which Mr. Luft indicates, we are going to have much less, and I commend that study to your attention because among other things that study points out very very clearly that the R-5 development creates less traffic than the R-3 because the R-5 type unit is a larger unit, if we get the FAR which we hope we will get, if has a different type of occupant who has different work hours, and therefore impacts the streets differently than the R-3 resident, most of whom would go to work during the peak hours and return during the peak hours. So we ask you to consider whether or not, after you have had an opportunity to think about these traffic figures, its reasonable to have R-3 or R-5 because R-3 might be worse. It should be noted of course that this is a regional street, that the traffic that Mr. Luft described does come from south of the Grove and will come from Cocoplum, and will come from the south end of the Gables and south of that, it will be impacted when the city expands its facilities here on Dinner Key including the marina facilities and you are asking us to bear the burden of the traffic situation on Bayshore Drive, when we have had R-5 or R-4 zoning since 1934, when properties along Bayshore and throughout the Grove have been rezoned since then, and when the impacting comes without one single unit, of our traffic now entering Bayshore, we think that will be a little bit unfair. I would like you to know what the figures are on that R-3 vs R-5.

Mayor Ferre: Excuse me. Mr. Traurig, how are we doing with the time?

Mr. Southern: They have 32 minutes left.

Mr. Traurig: I think it was proposed to you that because of traffic we should have a 500 unit, R-3 limitation, and I am telling you, that the external trips that that would generate would be 2667 trips per day in the peak hour, in the R-3 would 11% and that would be 293 vehicle trips out of Bayshore. Because of the different population profile under the R-5, if we had 800 units and we had a little over 2200 car trips per day, the peak hour, in the R-5 should be around 8%, would generate 177 car trips. That is below the 200 which he said was the kind of peak that should be permitted on the island. So the R-5 would be better than the R-3.

I would like you to know also that it was said in the Coconut Grove study on page 21, in any project of this size, particularly one that staged over a period of several years, the possibility exists that development plans may change. It is conceivable that additional uses or intensities beyond those now proposed, may be requested at a later date. All of this would be possible

under R-5, true, unless we gave you a legally restrictive covenant which we are willing to do which says we will limit the density to 800 units, never exceed it, will limit the FAR to 1.75, will limit the height to 25 stories. That is 40% of the density now permitted in R-5. It is 80% of the FAR and is a substantial reduction in permissible height, and not only that if you compare it to what the building permits presently issued, which were ruled on by Judge Friedman as being valid would provide, that provides a density of 1200 vs. our 800, provides a FAR of 2.2 vs. our 1.75, and it provides a height of 40 stories rather than our 25. Then the study goes on to relate that if the R-3 were approved, it would generate less than 1000 units. But we only want 800. We don't want R-3. R-3 doesn't say 500 units as Mr. Luft said. We do want a viable project. We can achieve it with the heights in the FAR we talked about, and we are telling you that that covenant will be enforceable and now so you can get that visual effect of the difference between R-3 and R-5 I would like to ask Mr. Bill Ziegler and Mr. Thurston Hatcher to address you for a moment to show you my models what we are talking about because the rest of this is rhetoric. This is what we are talking about.

Mayor Ferre: What are you pointing at?

(inaudible)

Mayor Ferre: Well, you have to let these people make their presentation and I'll recognize you later on. F.A.R. is floor area ratio, the ratio between the floor area and the lot size.

Mr. William C. Ziegler: Mr. Mayor and ladies and gentlemen of the commission, I am William C. Ziegler, architect with the firm of Hatcher, Ziegler, Gunn and Associates and reside at 11740 S.W. 70th Avenue, Miami, Florida.

The first model I want to show you is one built to the present R-3 maximum zoning. It is two-story with parking underneath. This is R-3 maximum, it has a F.A.R. of .6, the number of units 916, the allowable units is 989, consists of efficiencies and one-bedroom apartments, the present R-3 zoning for this piece of property would be 989.

Mayor Ferre: Why are they using 500 around here?

Mr. Traurig: 500 is not the R-3 limitation. The R-3 limitation would permit close to 1000 units.

Mr. Plummer: 989 is pretty close to a thousand. Mr. Acton, is he right or wrong?

Mr. Acton: He is right if he is liberally interpreting the R-3 ordinance as it pertains to density.

Mayor Ferre: Mr. Acton you and I went through one of these exercises about 4 or 5 years ago. Remember that time with all the little models?

Mr. Acton: Right.

Mayor Ferre: I am going to remind you of that later on.

Mr. Plummer: You say liberally, what about conservatively.

Mr. Acton: What I am saying is that the R-3 ordinance does allow about 45 units an acre, if you multiply that time 20 you come up with 900,----- that is based on efficiency sized apartments.

Mr. Plummer: This is possibly correct?

Mr. Acton: That is correct if they are going to build units of 450 sq. ft. per unit.

Mr. Ziegler: Parking on this particular project is 1430 cars. The open ground area 183,200 sq. ft. In summary this model complies completely with the present maximum R-3 zoning.

Mr. Plummer: Let me understand, what you are saying, if we do what the planning department has recommended, this is the possible configuration that

could be built on that island, if we do what they recommend.

Mr. Ziegler: Not going with what they are recommending, I am saying what is the R-3 zoning now.

Mr. Plummer: I thought I spoke pretty good English. What I am saying is, that under the present roll back proposal from R-5 to R-3 this is what could be legally built there by whoever the owner is?

Mr. Ziegler: Yes, sir.

Mr. Plummer: Okay.

Mr. Ziegler: The second model shown is a seven-building, ten-story modified concept R-5 concept. This has a same floor area ratio as we are proposing, the number of units is 840, the parking required is 1470, the open ground area is 168,000 sq. ft. The thought of this model is simply that the reduced height of 10 stories, but we do have the same floor area ratio as a proposed model.

This present model is a model of the present building permit designed without part of the recreation and parking decks shown. It consists of two 36 stories and and two 40 stories. Floor area ratio is 2.2, the number of units is 1149, the parking is 2,031, the open ground area at grade was 163,853. The rendering and the model is the reduced tower height model and the present proposed plan of four 25 story towers. The floor area ratio is 1.75. The number of units is 770, parking is 1389 cars.

Mr. Plummer: May I suggest you turn that photograph towards the isle, so everybody in the audience can see it. We can still see it up here. That is fine.

Mr. Ziegler: Open ground area at grade is 289,820. Thank you.

Mr. Thurston Hatcher: Mr. Mayor and members of the commission, my name is Thurston Hatcher, architect and I live at 9301 SW 60th Court. I would like to talk a little about the planning aspects of these three plans, and discuss them very briefly.

As I am sure you realize, good planning is not a factor of any one thing. It isn't one thing over another. When you do one thing, you affect others, and it is very comprehensive and very complex. It is a building in itself, it is the relationship of buildings. It is the space that is created between the buildings. The spacial development that is created by the relationship of the buildings. It is the open ground, and amenities, the vistas and etc. and all of these things come into play and each of these has to be considered as you approach the plan. If you look at this first one, which is completely and every respect what could be built under R-3 zoning and which is the direction that a developer would most likely have to take under this zoning in order to get the density he would need to get. You see very little open ground. It is a terribly monotonous plan, there are no open vistas for the people who live there, and insofar as the barrier, the actual blocking of the view around the island, it provides the absolute maximum from every direction you look at and for any person other than someone with a bird's-eye view of the island, their view around it would be completely blocked off. I think it is a miserable plan, and frankly I think our R-3 zoning has produced some of the poorest concepts we have in the city of Miami. I think it is the poorest zoning category we have, and it makes possible something as miserable as this is, and I certainly couldn't in good conscience recommend that something of this type be done now.

The second model which you see, begins to open up the vista somewhat, and it does have a little bit more open ground, but it creates a very formidable wall to the mainland and anybody looking at either of the ends off the mainland, absolutely have a solid wall. I don't consider it a good solution at all, but it does show as was proposed by some, what would happen if you took this other concept and made it into 10 story buildings. That is a way to go, but as a planner, I couldn't recommend it. I don't think it is a good solution at all.

We come to the 3rd solution, the 25 story buildings, which provides 72% more open ground. Not only does it have more open ground than the middle solution, the second one, but it also has it more concentrated and more in useable places, which is terribly important. You can meet the code and get these little patches of ground to comply, and be called open ground, but are they useable and are they significant enough to really relieve the project and make it something that is a viable environment to the people who live there. So you can see, you begin to

get patches of ground on the 3rd solution, and you begin to open it up. You don't have solid walls there. You can see through it from every direction. Yes, you do have height, but here you had not achieved the advantages. You have the aspect of height, but none of the advantages of it. In the 3rd solution we have taken the height and used it. We have opened up with it. Not only for people inside but for people outside. And in all good conscience, as a planner who has to face planning all the time, there is no question but what that is the superior of the three plans. I hope you would consider something of this type. It is a miserable solution. I honestly believe that most architects and planners if asked to choose between these three approaches, there would be no question as to which one they would choose. It would be the 3rd solution.

Thank you.

Mr. Plummer: The Mayor had to make a phone call, what we ought to do is take brake and not go back, so he doesn't miss anything.

Mrs. Gordon: That is all right if you will give us an accounting of how much time the opponents have.

Mr. Southern: They have 18 minutes more.

Mrs. Gordon: We will take a 5 minute break until the Mayor gets back.

Mr. Traurig: Obviously it needn't be said for the record that Mr. Hatcher has served this community well, not only the City of Miami but the architectural community. Speaking of architects, just so the record would reflect it. On July 20, 1972, at a prior hearing involving Fair Isle, the subject of height came up. It is very obvious when you look at the two-story model, that you say we have to have height in order to improve the profile. The question is then, how much height. I would like to quote from Lester Pancoast on page 58 of the hearing of July 20, 1972 in which he said, 'as an architect and designer, I have always worked toward taller buildings instead of continuous low ones' and I find myself in that position now, frankly. If I were living opposite the project I would prefer four tall slender buildings, to two great fat ones. Even if the taller buildings were much higher. This is an honest answer. Could one expect anything different from Mr. Pancoast. To your question and a difficult one to make because my sentiments are obviously with the people in this room. And it is these people, and he was then referring to 40 story buildings. These buildings that Mr. Hatcher has described would be 25 stories.

Obviously they would have a more beneficial visual effect by designing to what we hope you will accept and that is this declaration of restrictive covenants. We would have a larger FAR, that would generate larger apartments, more ad valorem taxes, and a residential group whose traffic habits would be more favorable to the Bayshore Drive traffic flow than with the R-3. Furthermore, if we have the facilities on the island that the R-5 permits, and that the R-3 doesn't permit that would be the beauty parlor, and the little service grocery and some dining facilities and etc. Obviously then it would keep traffic on the island rather than let it go to the mainland and impact the Bayshore Drive traffic. I intended to talk about the PAB meeting but you have been very courteous and I don't want to belabor this issue. Therefore I would like to talk for a moment about these restrictive covenants. I would like to submit the original which was executed by the Southeast First National Bank of Miami as trustee, to the Clerk and submit additional copies,---those restrictive covenants say what I told you, that we are limiting the height to the 25 stories, that we are limiting the FAR to a designated number which comes out to 1.75 and we are limiting the density to 800 units. But interestingly enough, we have made an application to Mr. Ferencik for revised building permits for this model, and we haven't even asked for that much. We haven't asked for one 1.75, we asked for 1.67. We didn't ask for 800 units, we asked for under 800 units. That goes again to our creditability and to our good faith. We don't intend to impact this community. The objectives obviously are to reduce density, increase unit sizes through the FAR and open up the sight through the height. We do achieve these to our advantage and to the community's advantage by the 25 story model. Anything other than that, with those densities, would create a development that this community would some day in the future abhor, and I think it is the responsibility of this commission to honor good design, and honor good planning. And if the objective is to keep the density under 1000, then certainly under 800, qualifies. We have offered those restrictive covenants in a spirit of compromise with the community and the

neighbors, and as an act of good faith. We would ask you, Mr. Mayor before I summarize to advise us if these models, and the photos and the rendering, the restrictive covenants can be considered in records for the purposes of the record of this hearing, and we submit them for that purpose.

Mayor Ferre: Let the record so reflect. And they become the property of the city of Miami, as part of the minutes.

Mr. Taurig: Therefore I think having successfully answered the Coconut Grove Study and demonstrated to you that R-5 with the restrictions would create a much better development on the island than the R-3, which would permit close to 1000 units. We ask that you deny the application for R-3 and we ask you to go beyond that and to direct the City Attorney not to appeal the circuit court decision of Judge Friedman and to authorize Mr. Ferencik and the building department to approve the amended permit to reduce the density, not to the 800 units but to the 770 units and to permit the change in general contractor to the Robert L. Turchin Company. We previously by letter requested this of Mr. Ferencik who has advised us that he would defer action pending specific advice from the City Attorney who I presume needs specific direction from this commission. What benefit would accrue to the city if you pursued further appeals in the prosecution of that building permit case. If the city won in the appeals court, but if you approve the R-5 with these restrictive covenants, obviously we go out and get new permits, and we could build this. If we won in the appeals court because of the city pursuing this action, obviously we would be in a position to build the 1200 units. We don't want to. We will let those restrictive covenants bind us as a demonstration of our good faith. We are not holding a club to anybody's head saying we are going to ultimately win the 1200 and then we are going to fight you and try to get the 1200 units. The record will reflect my words that we are limited to those restrictive covenants, notwithstanding the outcome of the litigation. But hasn't the city really won? Ponder that. The litigation has resulted in our submitted to you and to the community, a compromise solution which the community wanted. You won't get the 1200,--you won't get that major club, you won't get the 2.2 FAR, you won't get 40 stories in height. And therefore the City has really won, in that building permit case. We ask you to recognize those vested rights, in the fact that that creates a better city for the people of Miami.

Thank you.

Mayor Ferre: How many people remain that want to be heard? There will be time on rebuttal. I just saw Mrs. Calhoun raise her hand. So that will get the clock going on both sides. How much time have we got left at this segment?

Mr. Southern: Nine minutes left.

Mayor Ferre: All right, who are the ones that want to speak, 9 minutes left, those of you on Mr. Taurig's side, the landowner's side, who wants to speak? You have 9 minutes, I would be grateful if you would hold it to 3 minutes and permit others to speak.

Mr. Plummer: Mr. Mayor before he speaks, Mr. Taurig, do you have an additional copy of the Wilbur Smith,----I would like for you to surrender that to the Clerk. If you don't have one with you, I would like for you to get one and surrender it to him as part of the record.

Mr. Souther, City Clerk: I have one.

Mayor Ferre: Is that in relationship to the traffic study?

Mr. Plummer: Correct.

Mr. Taurig: When I asked about the various exhibits being entered into evidence, I really had intended in addition all of those things that had been previously submitted by letter to the Clerk and to members of this commission. He is an extra copy Mr. Plummer.

Mayor Ferre: He already has one.

Mr. Plummer: And I also would ask of Mr. Dean, Jimmy,--do you have an extra copy of this?

Mr. Minat Sheats: My name is Minat Sheats, I represent 40,000 members of the Miami Building trades council, my only interest in this issue is jobs, which I don't think that we have to elaborate too much on how many people are out of jobs, in Miami and Dade County. In the building trades we have better than 50% of our members unemployed. I have to take issue with a member of the Planning Advisory Board, first I can say that I notice that the vote on this issue was 4 to 3, so apparently it is not as bad as it may sound. But for the traffic situation I can remember back a few years ago, I was closely associated with the developers of Point East. They built somewhere around 1400 units in that area, not much bigger than the area of Fair Isle. There is one entrance and one exit to that place and I lived at Point East for a couple of years. I have yet to see more than three cars waiting to get out into Biscayne Blvd. I am surprised that there are not more people here from the Coconut Grove area because traditionally when a project of this size is proposed, you usually have 15 times this many people turn out to oppose it, which again makes me believe this development is not too bad for the community. I would believe that the mistake maybe, that the developer made was by not unveiling these models from the start. As a matter of fact I heard somebody in the group from Coconut Grove comment that it really is not as bad as it looks. I think anybody in here would have to agree that if you had a choice between these three developments, it wouldn't take a too smart a person to decide that by far the one on the end was much better. It seems like a comparison with some of the little developments around Hialeah, and other parts of the county where this type of buildings are built, comparing that area with the Brickell Avenue area, Brickell Avenue has been developed more on the type of buildings that this developer is proposing, and so many times, I know that all of us have heard comments about the skyline, the buildings on Brickell create, and especially coming into the city from Biscayne and Virginia Key. But again I'll say my big interest, and main interest in this development, is for jobs for people, which to me, and I may not be alone in my thinking, is a most important issue facing Dade County today, so with that Mr. Mayor and members of the commission, I would respectfully request that you seriously consider turning down this zoning change.

Thank you.

Mayor Ferre: We have 5 minutes left. Any other speaker? Mr. Sokolsky.

Mr. Sokolsky: Mr. Mayor and members of the commission, I own the Coconut Grove Hotel which is located within approximately 6 blocks of the proposed building site. I have been active in Miami in the construction business for the last 18 years and some of our zoning codes are definitely a penalty on the more innovative type of builders, and I have often wondered why this city could not go to something like the Houston plan where a building stands on its merits. But nevertheless if you take a look at the 20 acres involved in this project and the capabilities of building 800 units, that number of units cannot be denied under R-3 or R-5. It has been the conceptual premise of almost every great designer, including Doxiadis, which the city hired, whom I had the great privilege to work with years ago, and several other land planners, such as Edward D. Stone, to create what we call green areas. In order to create green areas, to give foliage a chance to survive, to give the plants and trees a place to live with the people, you cannot crowd one concrete block against another. Mr. Shears has made a very good reference to what happened in Hialeah, and what happened at Quail Ridge and Pine Ridge, and Stone's Throw, all good names, these projects, were all put on by what I would call pseudo-developers, people who were in for a quick kill, as you well know Mr. Mayor in the real estate business. Not capable of giving thought or time of planning the project, but to do it the cheapest way possible, which is two-story construction, and to sell them as fast as they can turn them out. You can see the cranes flying and the dust gathering on the project because people do not wish to purchase. This property today is in what I would call strong hands and if strong hands are offering this city, and this community, 800 units, I think we should take advantage of making strong hands live up to their commitments.

Mayor Ferre: How much time do we have left?

Mr. Southern: About a minute and a half.

Mr. Bill Oliver: Mr. Mayor and members of the commission, I am not going to say a lot and I represent the carpenters union and we are definitely involved in an economic depression in the construction industry and we badly need jobs.

It looks to me like the commission has before them today an opportunity to take the best of two worlds. You have a design before you which I don't think there is any doubt that the design as planned by the builder is superior to what can be built under other zoning conditions and if you accept their recommendations of letting them proceed with this project now, you can put hundreds of construction workers to work who really need work. And I have heard today of several cases of people talking about the welfare of the community. I submit to you that construction workers who live in this town are part of the community also. And there is a responsibility to that segment of the community as well as the developer and the people who live along Bayshore Drive. So I would hope your decision would be to go along with the request of the developer to turn down this rezoning request, approve their building and hope that they start it Monday morning.

Mayor Ferre: I assume there are no other speakers on this side now. For the second round. Mr. Arthur Patton.

Mr. Arthur Patton: Mr. Mayor and lady and gentlemen of the commission, the opening remarks that I made were relative to planning, and what I consider to be the importance of good planning consideration at this meeting. Now my rebuttal remarks have got to be of necessity directed to the comments made to you here by the applicants for these building permits. I am not going to be as nice in my rebuttal as I was in my original remarks because some of the statements made here I think deserve refuting. We have heard here a number of things from the proponents of these buildings on Fair Isle. A major factor being from Mr. Traurig that they have had this zoning for all of these years, they have had these vested rights to do this and do that for all of these years, furthermore you have heard a great deal of discussion in a very subtle matter here, also from Mr. Traurig to the effect that this city can well expect litigation, law suits and etc. from our good neighbors the developers, if you don't give them what they want. That was really the gist of those remarks. Let me say this about Bob Traurig. Bob Traurig in my estimation is the best zoning lawyer in Dade County. I know because I listened to him as a Metro commissioner for 12 years, and if Bob Traurig had gotten through every zoning application that he ever presented to the Metro Commission, this county would be covered with highrise development from Coconut Grove to the county line and back again five time over. I will give him the greatest credit in the world as being the most enthusiastic, most capable and the most articulate zoning for a price in Dade County. Just that simple. That is his business, that is what he gets paid for and you had better believe that is what he is down here for today. As far as the vested rights of these people are concerned, let me point out a little past history. Why have these development not taken place? If this property has been zoned all this time, for these developments, why hasn't it taken place? For very good reasons. The first applications submitted to this city of Miami in the 60's and approved by your building department was not the current plan you have before you now, but rather two 28 story structures. That permit laid fallow for two years approximately at which time the permit lapsed, nothing was done on it. Those buildings could have been built, but that permit didn't go through because they got two 28 story buildings and they figured if they got that through, in spite of all of the objections, then why not go for more under this zoning. So what was the next thing we heard from the development group? The same inherited ownership that is before you here today, approximately two years later, not 2 twenty-eight story buildings but now 4 forty story buildings. Mr. Hatcher is probably one of the best and knowledgeable architects in this community. Again I respect Mr. Hatcher's professionalism, he is an extremely good architect. Mr. Hatcher was before this very city commission just a few years ago attempting to justify esthetically for our benefit as neighbors in this community, why 4 forty story buildings were better, going to have lower density than 2 twenty-eight story buildings. And the same architect presenting these plans to you today was here just a few years ago telling you then why 4 forty story buildings were the best possible development for this property. I assume possibly Mr. Hatcher was the architect originally for the 2 twenty-eight story buildings which at that time he felt was the best use of the property. I might point out that all of this neighborly good relationship from our good friends the developers from Boston, is not quite as neighborly as you may think. Mr. Lowell who is here today, I assume I may have been one of the first members of this community after the demise financially of Mr. Burton Goldberg, the former developer, Mr. Lowell called me from his Boston office. He asked if could make an appointment with me to discuss the future of Fair Isle. I willingly granted that appointment. I looked forward to meeting the new owners, he flew

into town, met with me and we spent one solid morning on this subject. The last remarks he made to me, which were the same remarks he had repeated to me at least four times during that meeting, was the effect that nothing would be done on Fair Isle without full disclosure to this community, to me personally and to all parties concerned so we could enter into a period of cooperative relationship between all factors involved here and they didn't want any more bad relationships with the community and they would do everything in their power to keep us completely advised at to everything that was going on. I'll say to you this day, that I have never seen nor spoken to Mr. Lowell again until the PAB hearings in this same room some months ago, at which time that development group advised me, and for your information, I was advised that they had already, two weeks prior to the time that PAB hearing was to be held, had already come in with a third set of plans, now 4 twenty-five story buildings, why do you think they applied for 4 twenty-five story structures? For one very simple reason. That if this city commission didn't give them that permit within a reasonable period of time under the grandfather provisions of the zoning as it existed, they intended to sue you. That is exactly what Mr. Traurig has been saying to you in a subtle way all during their presentation. Now if we want to talk about suits, there are three lawyers that I know of in this room standing here, representing people in the community and in the neighborhood who are going to do the same thing so if Mr. Traurig is threatening suit there are three more here, and they can speak for themselves. We are not here threatening you with anything. We are here saying to you, please do not consider the matters which have been presented to you by this applicant as the important factors in the determination of the planning of the City of Miami. I agree with these fellows who are here with hard hats. They are out of jobs but our function in this meeting today is to look to this community 15, 20 or 30 years from now, and I hope for heaven's sake we don't get stampeded into making judgements here tonight predicated on what is going to be good for our children or what is going to be bad for them in this community based upon this type of reasoning.

Now, the simple fact of it is that the previous developer of this property who Cabot, Cabot and Forbes has inherited the property from, went financially busted. That is the problem they have got, and it is a problem. That developer played around with several sets of plans until the final time of accounting to put the money up, to go through with this development and it fell flat on its face. They foreclosed on it, and they inherited it. Now I can say this to you, and I don't think I am saying anything here which anyone can't check and confirm. The very development firm which is before you here today has also got financial problems and serious financial problems. This project is not a matter to recoup money. This project is to pump new money in to a real estate investment trust in Boston Mass. that needs every dime they can get because they are in financial difficulty. That is not to speak badly about them because most of the real estate investment trusts in the entire nation are in trouble, including my industry, the insurance industry. But I hope again, that in order to make a profit to keep Cabot, Cabot and Forbes going in Boston, we are not going to use this planning hearing before the City Commission to do it. Gentlemen, what I am saying to you, and Mrs. Gordon, is that we are not hear listening from our good neighbors. There has been nothing said by this proponent or this development which has smacked of anything than bail us out. And I don't think it is the function of our city government to bail out anybody for any reason other than the concern and the consideration of what is to the best interest of the citizenry of the city of Miami.

Thank you.

Mayor Ferre: Now many minutes was that.

Mr. Tingley: Nine,-----

Mr. Mike Calhoun: Mr. Mayor, I am Mike Calhoun, 3829 Brickell Avenue. There are not three models, there are four models. There is a model here that has already been presented publicly. There it is. That can very easily be built on to R-3 or less, with changes. And there it is. Now this model for 500 units which has been reduced to 3 can very easily fit. Which this does not show. There is a base under this. How high is it from the water level up to here before you even get to the 25 story building. That is not shown on model three. There has to be a base under there. YOU can't get all the parking before 25 story buildings in one or two stories. So there is the base. It is silly to say that this is the only thing they can build on that island. They can build any number of variations, like this or a lot of other variations. AS a matter of fact, more jobs would be created faster as we proved with this project without

even going to other projects. More jobs could be created faster by building to the existing market. Why build highrises that are laying empty and vacant all up and down Brickell Avenue. It would be silly to load Fair Isle up with highrises just for economic purposes. That is the very reason they don't exist there now. And you have had R-5 zoning for over 20 years on the thing. Mr. Mayor that is not a valid argument. The only argument in this thing is to roll the density back and get something over there. We all want something there. No one in this group or any other group to my knowledge has ever said they don't want anything there. That motion is passed long time ago. There was one time a movement to buy Fair Isle as a park. All the cities went broke in the counties, and everybody, so there wasn't any money around for that. Then everybody is agreed that there should be something built there, and I submit to you, sir, based on the knowledge of the real estate industry, in this community now, which is in dire need of construction, we could go there and build something nice on that island right now. They could do it under their present zoning. I submit to you there are other models, and if this two-story model here is only two stories high, people would only be looking at two stories on that, whereas this model here that they show does not show the elevation underneath the 25 story buildings and with this proposed plan, is only 90 ft. high at the highest for 500 units. It could be cut back much lower than that for 300 units. And the market is there for this type of unit.

Mr. Mayor one other quick thing. In the restrictive covenants, I would like to speak to that, having been in the real estate business and dealing with these matters for some 28 to 30 years. Everyone in the real estate business, and I am sure everyone in this room, realizes, and I was told this as a county commission by the county attorney and other attorneys, that you really can't rely on restrictive covenants, even if they are voluntary. The reason is we all know, is common practice in this community to go buy a Brickell reverter for 25 to 30 dollars. A Brickell reverter is a restrictive covenant to put in there to prohibit the sale of alcoholic beverages on any property in pretty near this whole area. There are certain attorneys in this community, even though supreme court has ruled the thing invalid, every time you have a closing, somebody has to run over to the Brickell heirs and for 25 or 30 dollars you have to get rid of this Brickell reverter. Now, that in itself, I have been told, if they gave restrictive covenants, they would build only this unit right here in my hand, 300 or 250, or what have you, it really would not be legal, I have been told by experts. It is a nice gesture but it just doesn't hold up.

Thank you.

Mayor Ferre: All right. Next speaker.

Mr. Joseph Flemming: This may be a case where government should engage in a cover up. We suggest you put the sheets back on this project because it is defective. Basically Mr. Traurig was quite concerned with the constitutional issues and the vested rights. So I would like to say with respect to the taking issue, the council on environmental quality has prepared an excellent book on the taking issue which is available to attorneys, and after a definitive study going back to English common law, tracking the taking issue through our present constitutional works, decisions, this book concludes that the taking issue is more of a fear in terms of a problem than with respect to the actual court decisions, and that where government acts to promote the best interest of the people, regulation is not a taking. With respect to the vested interests, if the developer here has the vested interest with respect to permits it has, then that matter can be resolved in the litigation involving those permits regardless of whether the city continues its appeal which we submit it should continue. There is a public nuisance litigation which is pending. So basically if your decision here is based upon proper facts, you have the right to accept the recommendation and contrary to what Mr. Traurig spent a lot of his time trying to do, and overcome, your planning is basically proper. I say this because first of all, let's take the master plan. There were some vague allusions which only recognize that your plan does justify the type of action that you are being asked to take. With respect to the school system, Mr. Traurig is not in the position to say that the people that live in this type of a unit will not send their children to the public schools, therefore there could be a public school problem. With respect to the pictures, talking about the character. The Union representatives have said that the project that has been proposed by the developer looks a little like Brickell Avenue. But the point is your studies show that in this community, this isn't a Brickell Avenue character. Coconut Grove is a unique type of an area. The pictures that the developer gave you, the pictures you have in front of you, are pictures taken from the air, from the water, with respect to the character. The point that was made in the study was the character wasn't the character as

seen by a bird or a fish, it was the character as seen by the residents of this community. The ultimate commentary on the problem that the developer has here is shown by the plan that it asks you to accept. Look at their final proposal. It is not shaped in terms of parallel structures which would let the people see through. It is shaped in the terms of a wall, a 'C'. And the reason is even the people in the buildings don't want to look at the other buildings. The developer knows this and that is why they made it in a 'C' so the people living in the structure won't have to look at their structure. Which again shows that the character that they say is so great isn't even so acceptable to the people they want to sell to. With respect to the Wilbur Smith traffic study, that traffic study assumed that you could overcome problems and it refers to boating, concepts, use of water transportation not in existence. It suggests that you will bus in the people who work on the island from Mercy Hospital but if people are wealthy and they live in these kind of units and they hire maids and they don't want their maids bussed in, there is no way to stop that. In addition it says these people are wealthy which I guess is supposed to be based on the premise that wealthy people don't work, or if they do work they work at different hours. But the point is if the wealthy people working at different hours get in their very wealthy cars and create a wealthy traffic jam, it is still a traffic jam. When the people try to get on or off the island.

That doesn't say anything with regard to the people who might want to come to the lovely sports facilities and restaurants on the island and see if it is that good. With respect to the developers' representations, it is true that Thurston Hatcher showed you the worst type of possible development that even he didn't say, but if given the limitation he couldn't come up with something better. The point is, this first model is the worst, but no one is saying it has to be done. The last model which is presented just shows that there is a wall being created here and the choices you have been given, the three choices are not the only choices that will exist as I am sure architects and your own planning department can tell you. Lester Pancoast may have said he had rather look at one tall building than two fat buildings, but that is not the choice here. And Lester Pancoast is not here to support this project, so I don't think his name should be mentioned in vain, in a situation where he is not present. With respect to the jobs, the main thing you have to realize is that this is not a case of trying to stop development. There will be jobs for the union on the particular island, depending upon how the construction company that builds is organized, but there will be jobs for one project or another. The ultimate issue here is not keeping this without development. There will be jobs, but the main thing is, Cabot, Cabot and Forbes might have given you a covenant to develop a certain way, but Cabot, Cabot and Forbes hasn't told you that it is going to go ahead, and it will develop and the covenants it may have given you, even if they were utilized aren't good as seen by the 'C' shaped island. Moreover it is questionable as to whether they are saying they are going to bind the property to people in the future. You have here a recommendation for a change from your Planning Department. If you accept it, there can be flexibility and I am sure your Planning Department can explain that the three choices here are not the choices you have. Therefore you should grant the application that has been made here with respect to the change in zoning. They should appeal the circuit court decision with regard to zoning and the one which is pending before Judge Friedman, recognizing that there are other cases too, and finally you should give the project as proposed what it deserves, a decent burial.

Thank you.

Mr. John R. Edwards, Sr.: Mr. Mayor and Commissioners, this is hardly a funny affair, especially at 4 minutes after 7,----

Mayor Ferre: And we have another one coming up, I understand is going to take just as long.

Mr. Edwards: However there is one thing that strikes me very funny and I had a hard time controlling myself when Mr. Thurston Hatcher was demonstrating these models and describing them because all I could picture was knowing his reputation, the pain he must have suffered cutting out and pasting together all of those little two-story town houses, it must have caused him great pain. It obviously ends up looking like an impacted Philadelphia row-house district, of the old style and I am sure it doesn't reflect the kind of imagination that he would bring to an R-3 zoning. If this demonstration could be the product of only one of two things, it is either the product of the delusion that many people have found as a route to bankruptcy that volume necessarily makes for profit, or on the other hand they propagate it as a diversion from what the

issue really is. I think that the gentlemen from organized labor have a very legitimate point they have raised today, and curiously enough it seems to me sitting at the moment on the sidelines that their interest and the developers or the lender's interests are curiously compatible, because I think there is a three-part problem here. The three questions, what will the commission judge to be in the interest of the total community long range, because you sit higher than we do, you are supposed to see farther. No. 2, what kind of a solution will the neighbors sit still for that will call off the dogs and let the project proceed free of litigation and No. 3, what kind of a project will people put equity into or will they make a construction loan for it. And it wouldn't be this first project.

Thank you.

Mayor Ferre: I want to commend you for the great logic, and a very controlled, non-emotional objective approach of your words. They show great wisdom and I thank you.

Mrs. Gloria Calhoun: Mr. Mayor and members of the Commission, I am Gloria Calhoun, it takes great character to admit mistakes even in the community, and I think not only in our own community, but in many communities all over this country. People are looking at the quality of life and what they have to live with and they are realizing their mistakes in zoning matters and the courts and governmental bodies are courageously rolling back zoning everywhere. It stems from a realization that in order to maintain a quality of life, we must protect it.

Mr. Traurig mentioned something about the 1600 Building, Mercy Hospital and the Chateau Elizabeth as examples of the type of neighborhood that they would be moving into, the developers. And I think it also serves another very interesting example and that is, what can happen to a residential area that is destroyed by spot zoning. That was all residential at one time as I understand the zoning in the past and when we broke the zoning there, it destroyed the area. Now people have been wanting to move away, now we are encouraging multi-family development there, and so we must hold tight against further inflicting damage upon residential community. Mr. Traurig's statement that a different element would inhabit an R-5 development is conjecture and not fact. I think it is a matter of interpretation and the type of development that would be projected for an area. And the issue of jobs has been mentioned. I don't want to be redundant but I think the gentleman from the labor unions and the carpenters union should realize that there are just as many jobs created from good developer development that will not harm the community as to bad development that will destroy it ultimately and the character the people want to maintain. Nobody wants to take jobs away. We want to help create them, but let's create them for the benefit of the community, not its destruction.

Mr. Sokolsky mention something about Mr. Doxiadis and how he was brought to Miami to give his opinion on how development should take place. I read a very interesting article that was brought out a couple of years ago. I wish I had it before me, where Mr. Doxiadis claims now in retrospect that he was wrong in advocating high-rise construction as much as he did. That psychologically it is detrimental to many communities and many area. I think that is an interesting point, a point that shows that sometime community welfare must be considered over monetary value.

Unidentified person: Will you give us a copy of that article?

Mrs. Calhoun: I would be glad to. I saved it and framed it. Now as far as the models go, I too an extremely disappointed, I have tremendous respect for Mr. Hatcher. I consider him a friend and we differ but we differ respectfully, but I do think the first two models are really an insult to your intelligence, commissioners, and the intelligence of those people sitting here. Because, as it was stated previously, they do represent the worst kind of development that could be put under R-3 zoning. The first model, we don't have to worry about something like this being put on Fair Isle, because here we are dealing with reputable people. We are not dealing with the kind of developer that would, I hate to say the word, rape the area. It would take a moron with no principles and certainly no sense of design to create the first type of project. The second one also is a manipulation of the wrong thing that could be put under this type of zoning. Only a drop-out from architectural school would plan it that way and in all fairness, Mr. Hatcher knows that. But this was made this way for

a reason. It was made to distort one's opinion of what can be done under R-3. Because with artistry and imagination, you can put the right thing under this. I don't say it is perfect zoning but it is better than R-5 under the circumstances. And Mr. Hatcher has a perfect right to his opinion, that tall buildings, highrises, are better than low-profile. I don't deny him the right to his opinion but height does not necessarily mean superiority. Height has its place. I definitely think so. Like urban areas of downtown Miami, where highrises are appropriate. It can be exciting and beautiful, but in a residential area, they are not appropriate. Think of what a terrible precedent it would set for the whole shoreline south, if 25 story buildings are allowed to be built on Fair Isle. It would be a foot in the door for every person south who wants to put highrises, and it would certainly be Miami Beach revisited. And in a village atmosphere, highrise buildings are not in character. This point I think is a valid one, just as much as another viewpoint. Mr. Traurig said that you can't take away what people have relied upon. I think that is a very true statement and the people of Coconut Grove have relied upon their rights as citizens, to expect protection from what bad zoning can do to destroy a community. And we are counting you, members of the commission, to uphold us in this effort to maintain quality and character of Coconut Grove.

Thank you.

Mayor Ferre: All right, the next speaker. Mr. Jacoby?

Mr. Jacoby: I would like to make a 20 second request. I have the same reservations to whether these models that have been presented to you are truly representative. I would like to hear some commentary from the Planning Department. MR. Luft has most of them, with the particulars on FAR and square footage in apartment areas. I would like to hear comments from the City Planning Department on the validity of these models and whether they truly represent the relative values of these three zoning approaches.

Mayor Ferre: Of course Mr. Luft would have to make a study of that, but I am willing to recognize him for an opinion as long as we all recognize it without going and measuring exactly the sizes. We have been through that one before.

Mr. Acton: Mr. Mayor if I may answer the question of Mr. Jacoby, I was going to ask Mr. Hatcher if he was comparing apples and oranges with these models. Is Mr. Hatcher still here?

Unidentified person: Yes.

Mr. Acton: Much of what I was going to say has been said very capably by the people that preceded me and their criticism of what is portrayed as to what could be done under the R-3 and under the existing R-5. My question to Mr. Hatcher, through the Mayor is, whether or not the R-3 development is an actual portrayal of the R-3, plus the FAR of .6, as allowed under R-3. In other words, the maximum number of units that can be built under R-3 is based on the efficiency apartment, which is 450 sq. ft. Does that model represent approximately 900 units of efficiency apartments for instance at a .6 FAR?

Mr. Hatcher: Mr. Ziegler has the exact statistics on it which he gave earlier and I had rather let him answer that question. You can pin it down to exact figures.

Mr. Ziegler: These models, this particular model was simply a block form. The square footages were actually one and two bedroom. I think they just considered a 600 sq. ft. which I think is the minimum for a one-bedroom, and 400 sq. ft. minimum for an efficiency. We just took the floor area ratio and came up with-----

Mr. Acton: You mean .6 times the,---

Mr. Ziegler:--that is right, .6 x the amount of area we have on the lot.

Mr. Acton: Did you come up with the number of units? For instance?

Mr. Hatcher: You divide that simply by your number of,-----

Mr. Acton: How many units does that show?

Mr. Hatcher:---916.

MR. Acton:---20 acres times the maximum of 48 units based on the efficiency unit. Go to the second model, does that indicate,---what does that indicate in terms of 10-story height buildings.

Mr. Ziegler: It simply indicated basically the height of a 10-story structure, with the floor area ratio of R-5, not the R-3.

Mr. Acton: What we are showing is, in way, unfair in terms----

Mr. Ziegler:--simply from the fact that it is just the 10 story building.

Mr. Hatcher: Let me make a point. I stated at the time, that was shown for one reason only. Someone had suggested a 10-story height. We took precisely what is in 25 story buildings and put it in 10 story. That is all it was shown for, that is the way it was presented.

Mr. Acton: What is lacking then is the recommendation made by the planning study for Coconut Grove which is a 500 units, no more than 500 units, 10 stories in height, with a maximum FAR of say around somewhere between .6 and 1.0, so that has not been shown.

Mr. Hatcher: It wasn't intended to be.

Mr. Acton: I just wanted to point out to the commission that to a certain extent we are looking at apples and oranges. If you recall I did point out at the very beginnings of my presentation the two issues at stake were density, and scale and height relationship. Those were the issues, based upon our traffic analysis, and our analysis of the impact that any building greater than 10 or 12 stories would have upon the adjacent area, that is how we arrived at our recommendation. What has not been said, additionally, although we are recommending R-3, in the study it also recommended R-3 PAD, Planned-area-development. So what you are looking at is an example of an R-3 development on Fair Isle, is an unfair representation of what our actual recommendation was. The R-3 zoning classification on Fair Isle gives the City of Miami the type of control it needs to assure that the community, that the development on that island will be the type that is in accord with the zoning study for Coconut Grove. The other point I wanted Mr. Mayor and members of the commission, is the fact that we knew the developers and owners were coming in with a covenant, restricting their development to an intensity and height much greater than recommended by the Planning study for Coconut Grove. That is the reason we stuck to 500 units and 10 to 12 stories, in height, realizing that if this zoning was rolled back to R-3, the developer would have the opportunity under the planned area development ordinance to get a proper development, certainly not shown by what you see before you in model form, that would be acceptable to a developer that certainly is not going to develop, an economical development on that island, the kind of development that would be acceptable both to the owner of the property and to the mainland residents plus the entire community.

Mayor Ferre: All right, any other questions? You want to expand on that Jack?

Mr. Jack Luft: Mr. Mayor and members of the commission, I would like to briefly respond to the issue of traffic and some of the figures that Mr. Traurig gave you. I have not seen the study that was prepared by Wilbur Smith and Associates, that illustrated as Mr. Traurig said, that the traffic generating capacity of 800 big units is less than that of 500 small ones. I do know some of the suppositions that went into that based upon the testimony at the Planning Advisory Board. I worked with Mr. Joseph Rice in the past on the Downtown Study and I have great regard for his personal and professional integrity, however I do take exceptions to some of his statistics. I quoted to you, a trip generation factor of .55 per unit, per peak hour. This is a factor that was derived first from statistics provided by the National Institute of Traffic Engineers and then later rechecked by the Department of Traffic and Transportation of Dade county, checked against existing development in Dade County, developments similar to those that were proposed for Fair Island and these figures were validated. The supposition again was that large units would attract retirees and people with second homes, and this would proportionately reduce the trip generations. This was taken into account, to the statistics we have. The comment was made that the flows would not be easterly in an 80/20 split. The testimony at the PAB was that it would be closer to 50/50. The critical point there was that the 50/50 split was a general 24 hour split, not a peak hour count. We are

assuming that people would go to the movies and the Grove, to the shops in the Grove, but you don't go to the movies and the shops at 8 o'clock in the morning, because they are not open.

The present split on Bayshore Drive is 90/10. I am being generous in assuming 80/20. Dade department of traffic and transportation figures and their analysis projected 77/23. So I am confident of that split.

These two factors are the critical factors, trip generation, and directional split, and if they hold as I contend that they do, then in fact Fair Isle at 800 units would generate the 375 odd trips that I projected ---the 1000 unit development would project the 440 trips. So I stand by those figures. I have known Lester Pancoast for some time. I do feel compelled to recall his statements, and I would encourage Mr. Traurig to look up the record that the testimony at the C2-A hearings before this commission, as Mr. Pancoast emphasized his support for a four-story height limit in downtown Coconut Grove, in fact a height limit throughout Coconut Grove to preserve the character of this community. I think that would suffice.

Mayor Ferre: Any other speakers at this time?

Mrs. Leaton: My name is Mrs. Leaton, I live in 3590 Crystal View Ct. we own 1828 and 1826 S. Bayshore Lane. We moved from there because of the island. Has it ever occurred to you what happened in an emergency there? A fire engine going over to Fair Island, another car could not pass on the other side. It would be impossible to evacuate the island in an emergency.

Thank you.

Mayor Ferre: Next speaker, this is on the proponent side then we are going to get to the opponent side.

Mr. Joseph T. Calay: My name is Joseph T. Calay, I live at 2985 Aviation Avenue. I am a registered engineer in the State of Florida, and a resident of Coconut Grove. What you have seen here today is summed in the words of my 10-year-old son, who was standing up in the balcony and I asked him 'Robert, what do you think of those plans?' and he said I don't like them. 10 years old, he knows more than the experts.

Mayor Ferre: Was he speaking about all three of them?

Mr. Calay:--all three of them. He said this one is all covered up, that one is all covered up and the other one you can't see through. He is 10 years old. Now what are we talking about here today. Let's be very careful. Mr. Reboso knows and I am sure Mr. Ferre knows, what happened in Cuba,---

Mayor Ferre: I am sure what happened in Cuba, is not limited to just the knowledge of Mr. Reboso, because he is from Cuba, or I, because I speak Spanish.

Mr. Calay: Let's think about it for a minute, because when the government said as the people demanded, let us take the large 'fincas' and divide it among ourselves, the government took the land. They denied individuals the right to their property. My son is 10 years old. He will be brought up in the Christian democratic practices. Those are very fundamental. One, each person is an individual and has rights. It is most important that we realize how serious a thing we are talking about. We are not talking about tall buildings, or low buildings. I said to Mr. Lowell the first time I met him, I said sir, if you want to develop Fair Island, it is very simple. You develop it in step construction, you put a lot of greenery on it, you make it look like a mountain, and it will fly through like a greased pig. We will not have the Chinese wall, or the Boston wall. But let us remember for our own good, for the good of the public, if we deny this development and we do in fact cause this developer damages that so my son will feel secure when he buys a single family residence the government doesn't take it and roll it back to agricultural use. Everyone here would be in the same position. You, you and you, we all have a home, and all the government has to do would come in and roll it back to GU. One home every 5 acres, or roll it back to agricultural, just when we are going to build a home on it, right where it has been zoned R-1 for forty years. Let us think about those when we vote on this issue.

Thank you.

Mr. Plummer: I am lost, are you speaking for or against.

Mr. Calay: I am for it. I think we should reduce the monstrosity, shall we call it the Boston wall.

Mr. Plummer: I am speaking to the issue of rolling back in zoning.

Mr. Calay: Yes, we should roll back the zoning, but when we do,---

Mr. Plummer: ---your comments, I am asking for an interpretation.

Mr. Calay: When we roll back the zoning for our good, let us bear the same responsibility and protect the rights of this corporation who is nothing but a group of individuals under one name, so that this time, 20 years from now, when my son is in the same position I am in, that the government in the interest of the general public will not do the same thing to him, and not treat him fairly and compensate him a loss if he has a loss.

Mr. Plummer: What you are saying is, you are in favor of this, but you think they should be compensated for the roll back.

Mr. Calay: I think their interest should be protected like every individuals' interest should be protected.

Mr. Plummer: Now I understand.

Mayor Ferre: No other speakers on this side? How much time have we rolled up?

Mr. Tingley: Forty-eight and three quarters for the group that just spoke and on the side of Cabot, Cabot, they have 13 minutes left.

Mayor Ferre: Now wait a minutes, you lost me.

Mr. Tingley: They didn't use 13 minutes of their original 58.

Mayor Ferre: Oh, they didn't use 13 minutes of what was left? I think with 48 minutes, shouldn't that be enough? You don't have to settle for 10, you've got 48 minutes, so you go ahead, and you that want to answer the rebuttal, this is your chance to rebut the rebuttals.

Mr. Art Patten: We would simply like to express to you, on the commission under the very difficult circumstances you had to work with this afternoon. We would like to express to you our heartfelt thanks for your courtesy, and your attentiveness to both sides during this hearing and I am sure I speak for the other side too, in simply saying to you, you have a most difficult job and we appreciate the time and attention you have given us.

Mayor Ferre: Art I want to thank you for those kind words. It very seldom happen around here that anybody ever thanks you. Of course, it takes one to know one, Mike knows and you know, and you fellows went through it for many years, and I want to tell you on behalf of everybody here that we are certainly happy that somebody notices it once in a while, even if it is many months in between.

All right Mr. Hatcher.

Mr. Hatcher: For the record I would like to correct one mistatement made by Mr. Patten regarding our action here several years ago. He stated that we were here to request permission for four forty-story buildings, after having come in previously with two thirty story buildings. The situation at that time was that we had a variance on four forty-story buildings, on a proposal, which enabled us to cover the parking and my entire presentation that day was to attempt to keep the cover over that parking so it would not be exposed to everybody's view. That was the only reason we were here. The four forty-story towers were in complete compliance with the zoning that existed on the property. There was no variance, no request, no exception, that is why were here. Today I would request the same thing on any project I was doing. I would like to comment on Mrs. Calhoun's comments regarding the solution in the first plan and Mr. Acton's too. I admitted, and stated, that I felt it was a miserable solution, and I certainly would not put my name

on it. I wouldn't be party to it in any way. But I want to point out the fact that we have heard again and again that this is not what is going to happen, economically or for whatever reason. This isn't going to happen. All I want to do is point out that this is the zoning that is being proposed and under that zoning that can happen, and we don't know what will happen. I very likely would not be the architect for it. WE don't know who the architect will be, we know very little about it. We simply know that would be the zoning on the property, and that is what could happen. What actually will happen, only time will tell. The potential for something miserable is there. Regarding Mr. Flemmings' comments I would like to comment, that it would be an act of kindness if he would once consider that there are other people who have integrity too.

Thank you.

Mr. Traurig: Gentlemen, I have something less than 48 minutes. If you have been hearing this since 1968, and you have heard it ad nauseam and there is no need for us to say very much, because you heard it all time and time again. A lot of people have gotten emotional here. Those are honorable people. Honorable people often disagree so what we have to do at this time is to determine what are the community's objectives with regard to this parcel of property. I would like you to know that we are not threatening litigation as was suggested. WE have been involved litigation. We have been defending it ever since we got involved in this island. We haven't been prosecuting it. We have been involved in the building permit case and the nuisance and the legality of the federal building and dredge permits etc. but always on the defensive. We would like now to build on this island. So we submitted to you some restrictive covenants. It has been questioned by others as to whether or not those restrictive covenants are in fact binding upon us. I would like to call your attention and the City Attorney's attention Walberg vs. Metropolitan Dade County, 1974, 296,-----509 the 3rd District court approved the procedure of filing such a restrictive covenant with a governmental body as a means of avoiding a roll-back to a lesser density. Right on point. In that case it was claimed that the county's resolution denying rezoning was invalid because it constituted contract zoning. The court said a rule which would forbid owners from announcing concessions to the public interest in any proceeding before a zoning authority would not be in the best interest of the public. That is a case out of our 3rd District right here. Why are we here? We are here because it is in the best interests of the community, to reduce the density on this island. And the issue before us is how to achieve it. We all agree to reduce the density on this island. The city sought to accomplish that by suggesting that R-3 was the way to do it. What they were saying is, let's go to R-3 because we guarantee 1000 units. A planning study for Coconut Grove, page 20, that the department further recognizes that the 1000 dwelling units anticipated on Fair Isle can be expected to accomodate etc. They go on to talk about 1000 units, then they add at the very end the recommended R-3 zoning which permits on the average, it say 40 dwelling units per acre, and it is really 48, would guarantee the development of this 20 acre island would be less than presently anticipated development of a thousand dwelling units. They are talking about this, if I am reading it correctly, 40 times 20, I think they meant 48 times 20, but if it is 40 times 20, they are saying let's be sure we get 800 units. And I am telling you, you are looking in model No.3 at 770 units, and that is what we have applied for the revised building on.

Should we have the R-3,---let me find out what Mr. Luft says about R-3. He said on February 18, 1976, two months ago. Are you ready Mr. Luft? These are your words. Now the department went on record both in the report and the public hearings, as stating that the R-3 district, while it severely controlled any modifications that might occur in the development of the island, should the building permit that was on file not be followed, that we did have some reservations from a professional planning standpoint, as to whether or not R-3 would completely suit our purposes for trying to provide the highest quality development of the best nature. By best nature I mean the proper sightings, scale relationships use of the property open space and what have you.

What did Mr. Acton say about it? Mr. Acton in talking about R-3 said 'so our response to the Board was that we are not entirely sure that R--3 is the correct zoning although we concur this was in the roll-back, this was in the Planning Study for Coconut Grove in 1974. So our response to the Board was that we are not entirely sure that R-3 is the correct zoning, although we concur that additional consideration should be given to the rezoning or roll back on that so we can achieve the community objectives of being able to have some visual penetration etc.

Where do you get more visual penetration? In the R-3 at the end. Here is the bridge. (inaudible)-----or this type of visual penetration which could be achieved by the higher buildings. So we suggest to you, that if we submit

to you binding restrictive covenants, you have accomplished the 800 units, you have accomplished the open space, you have accomplished the visual penetration, and you have accomplished what we think based on the report from the Wilbur Smith Associates, is a reduction during peak hours, of the off-island traffic. The issue really boils down to whether we want that one or this one. This is what we propose. And that is what we could have.

I don't think there is much question that the 25 story solution is in the best interest of the community. We hope you concur.
Thank you.

Mayor Ferre: I assume there are no further speakers after that, and with that we come to a conclusion on the public portion of this and Mr. Luft, you are part of the administration, we have been at this for four hours now.

Mr. Luft: Mr. Andrews asked me to make a comment.

Mayor Ferre: You go ahead and make it.

Mr. Luft: I was going to ask Mr. Taurig to help me.

Mayor Ferre: Mr. Taurig, would you help Mr. Luft?

Mr. Taurig: Yes. Now, we have just almost magically transformed an R-3 to an R-5. Except for one thing.

Mayor Ferre: Tell me again how you did that.

Mr. Taurig: All right, I am going to tell you how you do this. There is a site plan. R-5 permits two-story buildings covering 30% of the site, same as R-3. Their restrictive covenant says they will not go greater than 26 stories. But they could go two stories. All you would have to do to that model is put 5 more floors on each one of those buildings and you have got yourself an R-5 development. That is all you have to do. We will make those larger units.

Mayor Ferre: What he is saying is, that this restrictive covenant would permit under R-5 the construction of that project. In addition you could add, 3 or 5 floors to each of those buildings and still live within an R-5. That is what he is saying.

Mr. Plummer: I understand what you are saying.

Mayor Ferre: What he is saying is, all these models and things we always get before us, are sometimes misleading. There are a lot of other things that have been discussed here over the last four and a half hours, that we have to consider besides the models. I don't know how the rest of this commission feels, but I don't vote looking on models.

Do you have to Mr. Sokolsky?

Mr. Sokolsky: Yes,----

Mayor Ferre: You have to,-----all right. Once you get up and talk it opens the doors for others to be able to do that and we are going to be here for another hour.

Mr. Sokolsky: The only reason I want to say something, I am not involved, so that is No. 1, but this is a very valuable piece of Dade county, City of Miami real estate. I heard Mr. Calhoun, they have one of the best zoning lawyers and we have two of the best Metro commissioners here. Maurice, you can be assured of one thing, and I think it is good to stand back and see this thing. The issue in front of the commission is, R-3 or R-5, they have offered you a covenant. Under R-3 that can be built. It is a valuable piece of land. Under R-3 it will be built. There may be some innovations but I don't think much can be done. And they will sell under R-3, and what we are going to have is a barracks and that is exactly what it looks like. The thing I came down to this commission meeting for today, was to say that I was for what the proposed plan of 25 stories and against roll back the zoning. The thing we are losing sight of what everybody is talking about, we are losing the sight of the forest for the trees,----do it this way, do it that way,----it can be done that way. And if I know developers, and I know this company Cabot and Forbes, or any other of the IART's, when they do spin it out, somebody will pick it up, and somebody

will do it that way, and the whole community is going to scream. And they have offered us something good and I think we ought to take it.

Mayor Ferre: if anybody wants to rebut that I will recognize you and that will be the last statement for rebuttal.

Mr. Patten: I would like to say Mr. Mayor you have notices that when I mentioned I said he was one of the best architects in town, and I also said that Mr. Taurig was one of the best zoning lawyers in town although I disagreed with. I would like to also identify Mr. Sokolsky who just stood before you. Mr. Sokolsky does own that hotel across the street, but Mr. Sokolsky happens to have also another claim to fame. Mr. Sokolsky is a developer who tore the Coral Gables building code to pieces, sued the City of Coral Gables, busted out all their height limitations, and their density requirements and built the David William Hotel after years of litigation against the City of Coral Gables. And Al Sokolsky is one of the best developers in Dade County.

Mr. Sokolsky: That is not true. I have a right to defend myself. I would like this audience to know something. NO. 1 is I would like to tell him that I did not tear the City of Coral Gables apart. That I applied for a building permit under the existing laws of the City of Coral Gables and that I did not have one variance under the existing laws of the City of Coral Gables, that height in the City of Coral Gables code was a discretionary thing unto the Commission and that the commission granted me a 12 story building in those days, then they changed the commission and it was voted out and I did fight it, and I did win it, but I didn't tear them apart. They tore me apart. I waited three years to do it. I am telling you right now, I heard Mr. Patton say all those doggone buildings on Brickell Avenue with empty apartment, show me one foreclosure on Brickell Avenue. Show me one foreclosure in this end of the county. You show it to me Art.

Mrs. Gloria Calhoun: Mr. Mayor I want to ask a question. A statement Mr. Sokolsky made confuses me. He said when Cabot Cabot and Forbes spin this thing off, does that mean that Cabot Cabot and Forbes do not intend to build here?

Mayor Ferre: Mr. Sokolsky doesn't represent Cabot Cabot and Forbes, and they can speak for themselves. Mr. Sokolsky with all due respects to you, sir I am not going to recognize you anymore if you have any differences with Arthur Patten, or vice versa.

At this time the public portion of these deliberations have ended and now we can get on with the serious business of this community. I will recognize any of the commissioners to either make question or motions.

Mr. Plummer: I have some questions. In the first question, I think I know the answer, but I want somebody to back it up, and I am going to ask George Acton. He has always been fair before. George, it has been alluded to here,--you know I have lived with this project for the 8 years I have been in public service, 6 on this commission and 2 on the Zoning Board. One of the first decision I made was that on the zoning board in 1968. The comments I have made in the past, somebody has either misunderstood me, or I am not very clear. George, will you tell me, if you can approximately, taking this piece of property, if whoever the owner is, presently, or was a year ago, or 5 years ago, if they bought that piece of property zoned as R-3, rather than R-5, can you give me an idea of what possibly the cost would have been? Can you say that it would be a significant difference between the two.

Mr. Acton: I really can't answer the question, I wouldn't want to venture an answer to the question without some research on it. What I am saying, it is for the public record, and I don't want to stand up here and make a statement that I would not be sure about without some research and facts to back it up. Obviously, we all know that R-3 property would ordinarily sell for less than R-5. That statement we can make,

Mayor Ferre: Let me rephrase the question, if I may Mr. Plummer. Let me ask you this Mr. Acton, I think what Mr. Plummer is trying to get to, if I can interpret, and excuse me for interfrerring here, I think what he is trying to get to is a question of just valuation. Let me rephrase the question this way. In your opinion, is there a difference between a piece of property where you can build 1000 living units and one where you can build 500 living units?

Mr. Acton: Yes.

Mr. Plummer: A significant difference.

Mayor Ferre: Then that means it would be a difference between one where you could build 800 and 500, or where you can build 500 and 1400? Which is what is before the courts. We lost once or twice on that? We lost it in the lower court.

Mr. Plummer: You are getting ahead of my questions now.

Mayor Ferre: I'll let you carry on, on this, but tell me about the court thing. I am not clear where we stand. We took it to one court and lost?

Mr. Lloyd: Yes.

Mayor Ferre: Then we took it to another court?

Mr. Lloyd: No. What happened was the building director took away or voided the building permit on the basis that they hadn't shown substantial progress in the building for a period of over 90 days. They appealed to the Board of Rules and Appeals of the County, the County Board of Rules and Appeals reinstated the building permit, we filed a petition for certiorari in the circuit court. That appeal, that petition, has dismissed after a hearing by the court, so that is where we are now. We are ready to appeal that.

Mr. Plummer: The obvious question Mr. Lloyd has to be, in your considered opinion, what is our chances? I think that has a big bearing on it. We have lost twice, now we are going to the appeal court.

Mr. Lloyd: I have to answer it this way, that any decision of the lower court on appeal, when it goes to the appellate court is clothed with a presumption of correctness and it is the burden of the appellant, that would be the city's burden to demonstrate that that lower court committed reversible error. So I think obviously that translates into that they have a better chance than we do.

Mr. Plummer: The point I am trying to make, we know that a city policy is that you, the law department automatically appeal, unless otherwise directed by this commission.

MR. Lloyd: Yes, although I will say this, that if I thought that we did not have a chance, that the appeal would be frivolous, I would be here recommending to you that you direct me not to appeal.

Mayor Ferre: We have one more item to come before us, Mr. Dean, and Mr. Garner, and the attorneys involved, have been patiently sitting through this for about 4 or 5 hours. It is now 3 minutes to 8, I want to tell all of you people, those of you who sometimes think that the City of Miami and this commission doesn't quite do enough at its job. I got here at 7:30. We started our first hearing at 8:00 o'clock in the morning. In 3 minutes we will have been here 12 hours and I was out of here one-half hour for lunch. I think this is going to continue and I know my commission. We are not known for brevity. And I am not looking at you, so don't look at me.

I think in all fairness to everybody, that we ought to postpone that now. Is there anybody who would object to that our postponing? Is the 27th of May acceptable to all parties. Not this item. I am not talking about Fair Isle, I am talking about the next thing on the agenda. We are not through yet. After this we have another one coming. So in the meantime Mr. Dean, as I understand it, you are getting close to working out your problems somewhere along the line. I sure hope you can work them out. Sorry we took so long in making that decision.

Mr. Plummer: We are part-time politicians. Mr. Lloyd the remark has been made, two contrary opinions, and that I have to be guided by. Covenants are binding, covenants are not binding.

Mr. Lloyd: I'll answer that this way, that if you are going to go into a restrictive covenant, the better procedure, and the safer procedure, to make certain of a binding situation would be to create a special zoning for Fair Isle.

Now, this Walberg case, we are familiar with it, and that case was decided by the 3rd district court of appeals. If we got into extensive litigation on this which is possible it could go to the supreme court and of course I have no answer as to what the supreme court would do in this situation. This is however a 3rd district court of appeal decision. It does state in essence that they are binding, but there are some words in there which I am not awfully happy with. It is not fool-proof.

Mr. Plummer: Mr. Lloyd, I didn't go to law school. Is there a way through this covenant, or some other way you are speaking of, that we can bind really what he says in making do, and no more, a better way.

Mr. Lloyd: A better way would be the special zoning procedure. It can be done this other way.

Mr. Plummer: My other question, and I am sorry because Mr. Patten obviously has been here,-----

Mr. Lloyd: One of the problems could be an issue raised by some other party creating litigation that this was contract zoning.

Mr. Plummer: Can't you by action of this commission not issue a building permit for more than that? Which is in the covenant.

Mr. Lloyd: That is so.

Mr. Plummer: Would please briefly explain to me what is a Brickell reverter.

Mr. Lloyd: Very probably, the commissioner could explain it better than I could. Apparently there was some restrictive covenant in the old Brickell Estates that you couldn't sell it for certain reasons. Actually what it was, you couldn't sell it,--anything that had liquor on the premises.

Mayor Ferre: What it said was, that if you did it, the property would revert back to somebody else. What Mr. Calhoun is saying, that restrictive covenants, for example, no liquor consumed on land, are not fool-proof, because there are legal ways to bypass it and uses as an example the Brickell reverter where people go down to lawyers that specialize on this, and pay \$25.00 and get an heir to waive the reverter.

Mr. Plummer: This doesn't have a big bearing on this particular subject. Mr. Acton-----how soon we forget people are talking about that we don't have anything else like Fair Isle, but you and I know, and I want to ask you some questions about Claughton Island. Claughton Island, as I remember is proposed for a density of 7,000 people. Is that correct?

Mr. Acton: That is correct.

Mr. Plummer: It also has a three-lane bridge. Is that correct?

Mr. Acton: Correct.

Mr. Plummer: And Fair Isle has a three-lane bridge, am I correct there?

Mr. Acton: Two,--

Mr. Plummer: I thought they widened it, Two-lanes? All right. That empties onto Brickell Avenue?

Mr. Acton: Yes, ---eighth street actually, which goes into Brickell Avenue.

Mr. Plummer: But it was proposed for 7,000 people?

Mr. Acton: Yes.

Mayor Ferre: Claughton Island was supposed to have 3,000,-----we approved it for that. How big an island is Claughton Island?

Mr. Acton: 44 acres.

Mayor Ferre: This one is 20?

Mr. Acton: Correct.

Mayor Ferre: That one had 3,000 units, is the bridge larger over there?

Mr. Acton: Yes, substantially larger. Twice as large as Fair Isle.

Mayor Ferre: We are not here talking about Claughton Island.

Mr. Traurig: I don't know much about law, but three lanes vs. two is not twice as big.

Mayor Ferre: Let's not get into it. I think we get the idea. Really we shouldn't get into comparisons but the point is, I understand what you are saying.

Mr. Plummer: What is proposed is 3,000 living units, correct?

Mr. Acton: Yes.

Mayor Ferre: Plus commercial, plus hotels, plus all this other stuff, and all that. I think it is a valid point on that, and that is, that that is right in the core, right next to the core of downtown Miami, which this is not. Then on the other hand, this is really less than one-half, is one-half the size, but less than one-half the density, as being proposed.

Any other questions from members of the commission?

Mrs. Gordon: Mr. Acton, it has been quite a while, you know we have problems with Fair Isle, court cases, and zoning, that more intensified it, possibilities of uses, than anybody wanted it to be developed. What bothers me is, why don't we have a classification suitable for the island, because you, Luft, ----and others, have said R-3 is not the proper way to handle it, and in fact in your material that I received, so states, that we should have an island development, we should have a classification, and we should,----specifically atuned to an island where the people who live on the island would not have to go off the island for minor shopping for a loaf of bread or bottle of milk, or whatever. And under R-3 you know and I know, and everybody else knows, you cannot build anything that is commercial. Am I right?

Mr. Acton: That is right.

Mrs. Gordon: So now you tell me how you have addressed yourself to the solutions that you are proposing, when the solutions you are proposing are not in fact a reality.

Mr. Acton: Well, we did evaluate the different districts to begin with within the zoning ordinance. We have to agree that is no district that meets exactly the needs of Fair Isle. But the situation on Fair Isle, as opposed to Claughton Island are entirely different, where we did develop a special island district, is very different in terms an ordinance within our zoning ordinance that would meet their needs. Whereas in the case of Fair Island, the island will be developed basically pure residential, and we do have pure residential districts. It was the thought of the department, rather than trying to develop a special district for Fair Isle that we could use the R-3 with the Planned Area Development Overlay, which does allow the flexibility in terms of spacing, not height now, height is _____ use, also, accessory uses, that would be needed on that island. So we have felt we could get the type of development under the R-3 pad that is envisioned by both the community and the developer.

Mrs. Gordon: It is not really true, because you just said so yourself. You can't go on the height, unless you go for conditional use.

Mr. Acton: No, no, no, what I am saying is under the planned area development, ordinance, you can deviate from the underlying district. The deviations are not that great from the underlying district as opposed to trying to apply an existing district to Claughton Island where there was not existing district that would allow us the type of regulations, in the underlying district, would be suitable for Claughton Island. What I am saying is, trying to compare apples and oranges. The two situations are entirely different. We felt that the R-3 district would provide a suitable base for a Planned Area Development approach.

Mr. Plummer: But George, you are not comfortable with the R-3.

Mr. Acton: No, we have suggested R-3, PAD for this island.

Mrs. Gordon: Is that a classification, R-3 PAD?

Mr. Acton: No, it is not a classification, but it can be accommodated if the owner applies for Planned Area Development.

Mr. Plummer: George, I don't understand. If you are not comfortable with it, how can you recommend it?

Mr. Acton: We are comfortable with R-3 PAD.

Mr. Plummer: That is not what is before us.

Mr. Acton: PAD is voluntary on the part of the owner, and what he wants can be accommodated in PAD.

Mr. Plummer: Fine, but he doesn't have to. You said volunteer,---supposing, the natural assumption,---

Mayor Ferre: We don't know which way this thing is going. Because you can have R-5 PAD or R-3 PAD, okay?

Mr. Acton: That is correct.

Mayor Ferre: The questions I want are really very simple. I need to know, really somewhere along the line, probably from Mr. Lloyd, how binding really is a restrictive covenant, and how do you get out of a restrictive covenant legally and what assurances then from the developer, the landowner do we have that, one, you are not going to sell this property tomorrow and the people you sell it to, go ahead and try to break this. Or what assurances do we have that you will go to a PAD approach on this? Because, the I think the point that is being made here by Rose Gordon as I understand it, is,--or you asked the question, Plummer, you said to George, you are not comfortable with this are you. And he said no I am really not, with R-3 but I would be with R-3 PAD, but Plummer said that is not what is before us. And I jump in right away to say well, maybe that is what is before us, I don't know. Let's ask the people. You don't know until you ask, what people are willing to do. What are you willing to do? Is there any area here that we could discuss? For example on a PAD basis, you could get certain concessions like, for commercial, and convenience stores, and what-have-you, of course you could't do that with R-3 could you?

Mr. Acton: No,

Mayor Ferre: Even R-3 P.A.D?

Mr. Acton: Yes.

Mayor Ferre: You could with R-3 P.A.D.?

Mr. Acton: yes,---

Mayor Ferre: Okay. Now, they would have to voluntarily say that they go to PAD, wouldn't they?

Mr. Acton: Yes.

Mayor Ferre: But if they said that, that wouldn't guarantee them what would come out of the P.A.D. if it was R-3. Is that right?

Mr. Acton: That is correct. That is the reason Mr. Mayor, at the very beginning I said that there are two issues. They realize it in their covenant, we realize it in our presentation, and that is density. How many units and how much height. It is the same problem you wrestled with with Claughton Island.

Mayor Ferre: But they are not the same problems.

Mr. Acton: No, it is not the same problem, but what we are saying is

Mayor Ferre: One problem is density, and the other one is height.

Mr. Acton: That is correct.

Mr. Plummer: Can he go to 25 floors in a PAD.

Mr. Acton: Yes.

Mayor Ferre: What are you saying George? We ought to go to a PAD?

Mr. Acton: Yes, I am saying that. My recommendation is that it is R-3 PAD.

Mayor Ferre: That is not what,-----

Mr. Acton: I understand that, but the Planned Area Development ordinance is voluntary on the part of the owner of property. In other words he must come in, with an application for Planned Area Development. I realize that the owner of that property is looking for a policy decision from this commission as is, the Planning Department in terms of how much density and how much height. If this commission were to say that you agree upon whatever amount the density is, in the height, that is a policy decision on your part which would give some assurance to the developer that he would be assured of that with a PAD.

Mayor Ferre: Obviously the key point in all this is that there is a difference between R-3 PAD and R-5 PAD. As I understand the difference is this, stop me when I am wrong, No. 1 with R-3 you can't go as high,

Mr. Acton: No, that is not true. Height is no problem.

Mayor Ferre:--but you could not put any commercial development.

Mr. Acton: You could, yes.

Mayor Ferre: You could? Even though it is R-3?

Mr. Acton: You could do that with a Planned Area Development. It so states in the ordinance.

Mayor Ferre: What would be the difference? It would just be smaller?

Mr. Acton: Smaller, yes.

Mayor Ferre: The question really isn't height, it is density?

Mr. Acton: It is height, because they are saying 25 stories, we are saying something about half of that, as reasonable.

Mayor Ferre: If you go half, then of course you are going to cover more ground.

Mr. Acton: No, no, we are also saying, in other words 500 units as opposed to 800. We are also talking about,----

Mayor Ferre: Well, the _____ really is density.

Mr. Acton: If you took the R-3 ordinance by itself, right now, you could develop 500 units, that would be roughly a little over 1,000 sq. ft. per unit. That is what is allowed under R-3 without any increase in the FAR but I am sure they would want, and we would encourage a greater FAR to get larger dwelling units.

Mayor Ferre: How about this PAD approach. I am not saying R-3 or R-5.

Mr. Taurig: I think we have to determine whether there is any inconsistency in the city's position.

Mayor Ferre: That is not the City's position, it is Mr. Acton's

Mr. Taurig: All right, in Mr. Acton's position. On March 10, Mr. Luft in talking about FAR, said, 'I said at the last meeting that we could concede

an increase in the FAR of .6. I didn't say we didn't want .6, I said given appropriate trade-offs for the larger units that Fair Isle developers have repeatedly said they want in which we concur are proper. We can trade off an FAR so the density doesn't increase. Moreover I did not at any time say that I had no concerns with height. I do have concerns with height. I said it for the record at the last meeting. Those concerns topped out on the order of 8 to 10 stories. So what we are saying that we have to go with the middle model, and that is 8 to 10 stories,----that is 10 stories, not 8 stories, and if we have to come in under R-3 and ask for a PAD and have the same neighbors who currently object to our heights, say that it would be spacially incompatible or incongruent with the mainland, then we probably would not get even 8 to 10 stories, and we submit to you that 8 to 10 stories are not proper. Furthermore, when they talked about the increase in FAR they have repeatedly said through the transcripts of the other PAD hearings that they would permit a modest increase in FAR, and when put to the question, they then said that the FAR could go up in a scale which would go somewhere between around .85 and .9. That is even less than the present R-4, and .85 or .89 would not permit much better than .6. And we submit to you then, that R-3 with a PAD would be just as much an architectural abortion as the scale model which Mr. Hatcher said is terrible. And we submit to you that the only way that the community can benefit from the fine planning is to permit the height, and the height would not have any adverse impact upon the community which continually says give us less than 1000, give us 800. And we are saying we will give you 770. I don't know how it can be any clearer. 770 is better than 1000. Twenty-five stories has to be better than two stories and the R-3 PAD is a not a workable solution if we could only have 8 stories with a .85 FAR.

Mr. Plummer: So what you are saying is, no, you are not volunteering. Now, I come back to the same thing that I tried to get to before, before 40 people interjected, that you are not comfortable with the R-3. Correct?

Mr. Acton: That is correct.

Mayor Ferre: Tell me what that hook was,-- I didn't hear that.

Mr. Plummer: Mr. Mayor very simple, the man has stated that he is not going to volunteer. I then asked the question of Mr. Acton, knowing that, you are not comfortable with the R-3. The answer was yes.

Mrs. Gordon: Mr. Luft, may I ask you some questions?

(inaudible)

Mayor Ferre: Look you had plenty chance to talk, four hours. We listened to you very carefully. You listen to us.

Mrs. Gordon: Will you answer me Mr. Luft, since you have worked so directly on this project, what is the highest FAR that could be achieved under the PAD on the R-3?

Mr. Luft: Whatever you decide is proper.

Mrs. Gordon: No, sir, you decide, you tell me. You are the planner.

Mr. Luft: What are we recommending?

Mrs. Gordon: Not the number of units, the FAR.

Mr. Luft: WE have suggested that 1.0, and I will tell you why 1.0. The minimum unit size is 550 sq. ft. per unit. WE are all concerned about getting too many small units. Correct? The developers have said they want large units, the city has said we are in favor of large units. You can increase the FAR, you would want to increase the FAR if you had assurances that the units were going to be larger. You could take that .6 FAR and you could give them a bonus, -----you give them bonus for increasing the unit size, you could also give them a bonus in FAR for covering less of the grounds, say up to a 10 story height limit which would not cover more than 18% of the site. So, we know, based upon marketing studies, what the approximate unit size desirable is based upon condominium development in south Florida. I have calculated that.

I calculated the bonus necessary to achieve that average unit size, 1500--1700 sq. ft. per unit. The average unit is running about 1500 sq. ft. per unit.

Mayor Ferre: Where is this?

Mr. Luft: In Brickell Bay Club,--go right up the line, the Charter Club, we can construct the bonuses, such that the developers can get what they need in terms of unit size, getting the attractive size units, two and three bed-room units that they need, spacious, and in exchange for getting those larger units we can assure that we are not going to comensurately more units by increasing the FAR.

Mr. Plummer: Let me ask the obvious question. The obvious question under 3 PAD can they get the thing on the floor?

Mr. Luft: That assumes an FAR of about 1.67.

Mr. Plummer: Please don't confuse my question. Under a 3 PAD can they get what is on the floor?

MR. Luft: No.

Mr. Plummer: They cannot.

Mr. Luft: No. That has an FAR of considerably larger than 1.0 which is what we are saying.

Mr. Plummer: What you are saying under a 3 PAD the maximum FAR is 1, with bonuses.

Mr. Luft: We would suggest that would be the proper limit, because with an FAR of 1 you could get 500 units sized competitively on the condominium market, providing spacious, attractive units that would compete, that they could sell, you would not have any more FAR than 1.0.

Mr. Plummer: Mr. Luft, I asked you a very simple question and I would like a very simple answer. The answer, if I understand, is no.

Mr. Luft: No. Commissioner Gordon did I answer your question?

Mrs. Gordon: You did and you didn't, but I'll accept your answer. It had been my understanding that there was some measurements that you had thought about that could bring about a 1.3.

Mr. Acton: Commissioner Gordon I stated that under the R-3 approach they could get 500 one-thousand-sq. ft. units. In other words they could develop it under R--3 and with a conditional use they could go to whatever height is deemed appropriate by this commission--by the Zoning Board, rather.

So if you take 1500 as a desirable unit size, if you add .3 FAR to the .6 you will arrive at that, with 500 units. What I am saying is, I hope I didn't confuse Commissioner Plummer, but the best result in terms of both architecture and planning would be achieved through the PAD but in terms of our being satisfied with the zoning at this point in time, R-3 is what we are recommending. In other words, R-3 is what we are recommending for the zoning, but the best results would be through a Planned Area Development overlay on that R-3 zoning which would give the developers the size unit they are looking for, would give the city the type of urban amenities they are looking for on that island.

Mr. Mayor that is the reason I keep coming back to policy, regardless, even if we were to come with a new zoning district, there has to be a policy determined as to the density, and height on that island.

Mayor Ferre: I understand. There is no way to get around from that. I recognize that and I hope all of you recognize that. There is no way, friends and foes alike, that this commission either today or tomorrow, or someday, can shirk the responsibility of making a decision.

Mr. Plummer: George, may I ask another question. Knowing what you know now, that you didn't know yesterday, they will not volunteer, would you still recommend R-3?

Mr. Acton: Yes, and they do have the alternative now of going for, as the first model shows, that was a basically two-story height limit, that this commission recollects, we did amend that ordinance, so you can go higher than two stories, under R-3 with conditional use. So that still would be our recommendation, the R-3.

Mrs. Gordon: I have been quoted from 1968 a couple of times in a few manuscripts, but I have to say this, for those who quoted me, that times change and people's thinking changes too. And I have had to live with traffic jams, so I don't exactly live where these guys do. I live in the middle of the ocean of cars. My viewpoint might be a little bit different than some of the others, and I ask the Attorney a few minutes ago whether I could abstain, he said no way. I have to say it, regardless where the chips are going to fall. Eight o'clock in the morning it is a real chore for me right now.

Mayor Ferre: Let's get on with it.

Mr. Taurig: Mr. Mayor may I reply for a second?

Mayor Ferre: In reference to what?

Mr. Taurig: Mr. Acton was suggesting that the solution might be the PAD. And I was merely going to say, we are not asking for the extra FAR in order to achieve more density, we are not asking for it because we think it will enhance the esthetics of the project. We have already got density in R-3 of 960 units and we have said to you that is more than we want, so we are saying to you, we are not coming to you for density, (as a matter of fact, we are not coming to you for anything, we are here to defend ourselves in what we already have), we are saying to you we are willing to retreat from our earlier position and take less density than the ordinance permits,---just give us the opportunity to build a nice project. That is all.

Mayor Ferre: Okay, who is next. Mrs. Gordon, any questions?

Mrs. Gordon: Well I have stated my feelings and asked the questions I needed to ask, and---

Mayor Ferre: Mr. Reboso, any other questions? I have one other question from the developer, Cabot, Cabot and Forbes. Jack Lowell, are you going to answer this? There was some allegation made today about the fact that your company was not going to complete this project, that weren't really going to develop it, you had no intentions of doing it, and that this would be sold, and somebody else would do that, would you tell us about your intentions? On the record? Do you have the financing?

Mr. Lowell: Mr. Mayor I would like to take a couple of minutes and speak to a couple of trust representatives and make sure we give you the full information.

Mayor Ferre: That was a quick conference. I congratulate you.

Mr. Gordon Emerson: The Cabot Cabot and Forbes Land Trust is a qualified real estate investment trust, and as such it has to be passive which means it cannot be involved in actual development activity. It is a lender, it is an investor in real estate. We are the beneficial owners of Fair Isle as a result of a foreclosure of a real estate mortgage loan. We were originally one of three real estate trusts. One has been bought out, and there are two, the Hospital Trust of Miami, we have two choices available to us. One is to sell the property, to an acceptable buyer subject to the approved zoning, and when I stress the sensitivity of our company and our trust earlier, I was quite sincere, we would not sell the property to someone who would rape the property, as someone spoke about earlier. We are concerned with it. I suspect that we will not maximize the recovery of our investment by asking for a cash sale. There aren't very many cash buyers around today with multi-million dollars to purchase real estate. So the chances are we will have to work out some arrangement where there will be a partial subordination of our position for the benefit of a developer. IN

other words, something in the nature of a joint venture arrangement which would give us a high degree of control over the quality of the development so I am sorry I can't answer your question directly but we cannot be a,--- we would lose our qualifications under the internal revenue statutes if we were active developers by ourselves. However, we could become a joint-venturer with, and in all probability, that is the route we take. Because there aren't many multi-million dollar cash buyers around.

Mrs. Gordon: Do you have a buyer already, or do you have to look for a buyer?

Mr. Emerson: We haven't received any bona fide offers. There have been people who have spoken to us but there is going to be very little interest until the litigation and these questions are,---it is not a salable product as it is today, and no one can act very responsibly until these issues are settled.

Mayor Ferre: Let me ask you this, and I know you can express it, and define in 10 different ways, and I know it is controversial, and it may not be part of the public record, and if it isn't I don't want an answer, is it part of the public as to how much your company has in this property at this time?

Mr. Emerson: We bid in at the foreclosure sale at the Courthouse steps 8 million dollars as I recall. We bid at the foreclosure sale, collectively the three trusts. We currently have about a 70% interest in the property and the other trust has about a 30% interest.

Mayor Ferre: Mr. Acton, going back,---remember this question of value and all that?

Mr. Acton: Yes.

Mayor Ferre: I know that maybe the value of 8 million dollars is there because they had guards and pretty pictures and fancy lawyers and etc., but the fact that the Dade County tax assessor assesses it at four and one-half million dollars is not our fault. It is somebody else's doing. And I know that Brickall Avenue properties are R-5A, which is different. Brickell Avenue property, and Mike, correct me if I am wrong, today is selling for around 10,000. a unit. That is what it works out for. Your common friend and my common friend who has some property down there says he won't sell his for less than \$12,000. a unit. Now, 800 units at 8 million dollars, is \$10,000. a unit, and for \$10,000. a unit, whoever gets that, has got to put luxury buildings. There is no way you are going to put low-cost housing on that island, whether it is this project or that or another one, that is no way you are going to build anything but luxury-type buildings when you have \$10,000. a unit. If you go down to 500 units, that is \$16,000. a unit. Let me tell you this, I don't know of any land, anywhere in Dade County or Palm Beach, Pompano, Boca Raton, Ft. Lauderdale, Miami Beach, Crystal House, King Cole Apartments, Jockey Club, Racquet Club, any club, Palm Bay Club, that the land cost of a property \$16,000. a unit.

Mr. Mike Calhoun: In the United States of America, right here in Florida for years we have been building \$30,000. homes, I am talking about back previous construction costs, on \$50 and \$100 thousand dollar lots, as long as it sold for \$130 or \$150 thousand dollars everybody was happy. You are talking about apples and oranges. You are talking about extremely luxurious units, that only sale made in Dade County recently in the real estate market has been luxurious housing down in Arvida Estates, there is one that just sold for \$1,050,000. Now these are recorded sales. None of this other stuff has been selling to any extent because we over-built it. So you really can't use that comparison in this situation because the sale going on now, the land value or the unit cost really isn't the criteria.

Mayor Ferre: Mike, you might not be able to, but I do, and I can, and that is what I am trying to get to. I am trying to figure out in my mind, with 8 million dollars into a project, what you do when your average cost as is, if \$16,000. a unit,---

Mr. Calhoun: You are extremely accurate and correct if they attempt to build a concept that they are attempting to build if they cut that down

to three or four or five hundred units, they would have extreme trouble.

Mayor Ferre: You know, what you ought to do really, honest to goodness, I am not being sarcastic or facetious, or anything,----you know this has been going on for years and years. You should have put together a group of people to buy that property when it wasn't worth 8 million dollars. You could have bought it a lot less than than years ago.

Mr. Emerson: Mr. Mayor I would like to correct a statement I made. I was correct when I said we bid 8 million dollars at the foreclosure sale. That was based on appraisal that was secured by a third party, but our investment was in excess of that when you count accrued interest and expenses.

Mayor Ferre: Obviously the meter doesn't stop running. If you've got 8 million dollars and obviously you borrow that money from somewhere, if you are the normal American corporation, and you have to pay money for money.

Mr. Emerson: We are a financial intermediary, which means that we have shareholder's money and borrowed money, and we have to service that.

Mayor Ferre: Well, obviously you are in business not to have money sitting there not making,-----so obviously with every month that goes by, you have more and more into the property. That is neither here nor there at this point. The point is you did bid 8 million dollars,

Mr. Emerson: That is correct, sir,-----

Mayor Ferre:--that it is 20 acres, that it was when you bid for it R-5, that you are going to court on this thing, and the point is, that 20 acres, 8 million dollars, R-5, 1400 units, 800 units, 500 units,---that you take all of that into account,

Mr. Andrews: Mr. Mayor and members of the commission, as a potential area of compromise, I wonder if the commission and the developer would entertain ,----and hear me out,----the commission adopt an R-3, that they become an applicant as far as a pat application is concerned, that they initially restrict themselves to an FAR of 1 which would permit 1500 sq. ft. at 500 units. It will take them 3 or 4 years perhaps to initiate the 500 units. You then at the same time would leave the door open to have them come back and they design the project in such a way that the areas of concern expressed by the community and the Planning Department in terms of traffic would be evaluated at that time. If the traffic really didn't really materialize, and the problems did not exist, the door would be open for them to come back and add additional units in. Then Mrs. Gordon adds, that, please add you part,----

Mrs. Gordon: -----transportation, and how many times I have asked for that to go into place, and it hasn't yet, but 5 years from now it might.

Mr. Andrews: Mrs. Gordon when I was discussing this with her said perhaps then the commission might entertain adopting this on first reading giving the developers the opportunity to examine that kind of proposal and come back with the commission and see if they could live within that.

Mr. Plummer: Paul, there is something you are forgetting, Jack Luft alluded to and you know, it is something we have no control over. If I am not mistaken, Cocoplum is proposed for 5,000 units.

Mayor Ferre: It couldn't be, ----500 units,-

Mr. Plummer:-----500 units, I am glad I stand corrected,----

Mr. Andrews: That way you might then entertain after the initial construction reopening to a public hearing to ascertain whether another 150 or 200 units could be added.

MR. Traurig: Mr. Mayor, I am sure that Mr. Lloyd would suggest that perhaps we were indulging in a discussion over contract zoning, and perhaps that is not in the best interest of either party. I would like to make clear that the 1.0 FAR, it can't just be translated into unit size, because all the square footage doesn't go into a unit. WE have the hallways and stairways in a lot of other public space, so we have to have the higher FAR.

Mr. Art. Patten: At the present time we have kinda gotten to the situation of a unilateral negotiation here with these owners as to what they can accept, what they can live with and etc. But you know, there is another party to all of this, and that is those of us who live down there. Now, I know you all are tired and weary after this hearing, but you have to remember that the people here have been to three of these hearings. Two of them before the PAB, including one that lasted until 10 minutes after three in the morning. Now we have come out to these hearings, including the first PAB hearing some 4 to 5 hundred of us, then got turned away after a long discussion and hours of,-----on a deferral, at the request of the developer. And then we were summoned back here again and kept here until 3 A.M. in the morning.

Mr. Mayor what I am saying is this, your Planning Department has come forth with the best known zoning that you have on the books in the City of Miami for this project. Now there is never a legislative body, nor any governmental agency in being, that isn't always looking for the ultimate law and the perfect solution to everything, but unfortunately our government is a government of laws, and we must use the laws we've got. Now, the people in this community here have been kept up in the air, awake a night, running around to meetings, hiring lawyers and everything else, for 6 years now, in a constant state of turmoil and chaos trying to find out what we are going to have down there in the way of neighbors.

Mayor Ferrer: I think in a little while you might know.

Mr. Patten: The point I want to make is this, that the original developer fell flat on his face when it came to the question of money take-out. The gentleman here before you today are the people who funded him and backed him, and when it came time to put up the money, Mr. Goldberg packed up his tent and left for one reason. He couldn't come on that financing and he couldn't come forth with those take-out notes and this project fell apart. But in the meantime, he left you with applications, granted by your City building department for four north-story buildings, which are still in the works. ON top of all of that, this same group now has come back again for four twenty-five story buildings. They have two sets of applications and two permits working with you at the same time. I appreciate what Mr. Gordon Emerson has said here. He has been honest with you. You raise a very important question. Does this development group have the ways and means now, today, to fund either one of those two permits plans that they have gotten from the city or the last one being requested. The answer is no. Now, on that basis, what obligation do you owe to these people to continue to keep this neighborhood in a state of perpetual chaos? We are here for one reason, because we have attended two hearings, and this is now the third, to do one thing, and we have made ourselves clear. We are only asking one thing, and that is, that a decision be made. And No. 2 that you support your Planning Board, your Planning Department. Your Planning Department has told you, emphatically, that the best zoning they have on their books for this area out there is R-3. We are not trying to stop these people from development. We are here to tell you tonight, Godspeed to them, let them go ahead and develop this area in the conjunction of your planning achievement. You have worked 5 years on this plan. Don't throw it out the window. Bob Traurig is somewhat,-----is asking for somewhat more units than what R-3 allows, although he himself admits he can get more units under R-3. I think now, is really the time when you are going to make a decision, is to listen to us and find out finally and once and for all after 6 years of discussion, where we stand. Now we stand for your Planning Department recommendation.

Mayor Ferrer: Who is we?

Mr. Patten: The people here. There has never been any confusion.

Mayor Ferrer: You want me to show you how to prove that. I can say I want to hear the applause of the people on the other side, and it doesn't make any difference.

(loud applause)

Mr. Patten: Mr. Mayor let me ask you this question. How would you like to ask for the people who live in the immediate proximity to this thing and who have been involved with it for 6 years, compared with the interest of somebody who is living in Hialeah or Opa Locka, or somewhere else.

Mayor Ferre: Look, Art I don't want to get into an argument with you, for I happen to have great respect for,-----

(inaudible speech)

Mayor Ferre:----wait a moment,-----what I am saying is, we can get into heated discussions, and get an awful lot of heat, what I have been trying to do is keep cool and hope we can get some light on this. I don't want to get into a discussion with you. You are an individual who has certainly earned the respect of this community, and you have my respect. You served this community for 12 years.

Now you know just as well as I do, Arthur, that your 12 years of service, that department recommendations are something which are very important and this commission follows department recommendations I would say 90% of the time. I don't know how it was in your 12 years, I think it was pretty much the same way. But don't tell me in 12 years, that everything your departments told you to do, you did. So in other words, you have lots of valid arguments that have been presented here. I could rattle off 30 of them that you presented. That doesn't happen to be one of them.

Mr. Patten: Let me ask you this question. You are representing me and my neighbors who are here before. You don't represent Hialeah, you don't represent Opa Locka, or anybody who is here for any other reason than to have an interest in this. You represent us.

Mayor Ferre: I represent the citizens of Miami.

Mr. Patten: The point I am trying to make is this, and the point I am trying to express to you is, if there is anybody in this room, who came down here today on this matter, on the side of rolling back that zoning that does not agree with me,---not with me, but your Planning Department, let them say so now. I don't know where they are. The fact of it is, that your constituency, your residents,----- Jimmy is on the other side,-----

Mayor Ferre: Oh, no, let's not get into that,-----sit down,-----

Mr. Patten:-----but Mr. Mayor all I am trying to say to you is, that unanimously all those who are involved directly and affected and who pay you your taxes, and vote for you in your elections, and do all the other things good citizens should do, are here unanimously to say to you, we ask one thing, after 5 years of study, we concur with your Planning Department. Now, if your Planning Department stands together in saying that this is the best ordinance you have on the books, and it will vastly improve the situation, and if your citizens, stand here unaimously and supports that, what is the problem? Is it a question only of compromising to find out what would be nice for these folks? We just want a decision and want the Planning Department backed up, not only for this case but in the future. We think it is very important.

Mayor Ferre: We are repeating things, and I think we are repeating them over and over. Unless somebody has a new argument or a new thought, or some light to shed on this, I think it is time for us to fish or cut bait. Let's come to decision and see what the will of the majority of the commission is. The Chair is now open for motions.

Mr. Plummer: Mr. Mayor when all else fails, I'll make a motion. It is not going to be popular I'll tell you that. But let me state for the record, so nobody will misunderstand. I came to this meeting with my mind made up. Mr. Traurig didn't allude to me as he did to my colleagues, but I did vote on this project once before. Mr. Simpson says it was 1968, I hate to believe it was that long ago. My vote at that time, the same project, same item that is before us now, was to deny the roll-back, and I will tell you that after 8 years, I have heard the same story, same objections, I am going to tell you that as far as I am concerned as this item stands before us, in my estimation, I cannot vote for roll-back zoning. I have made this statement very clear all through, and Mr. Jacoby will remember it, because we have argued the point down S. Bayshore Drive, I have made this point int he downtown area, and I'll make this point on Fair Isle. Whoever the owner, or purchaser, is now, or was 10 years ago, or 20 years ago, had this property at the time been zoned at a lesser zoning that what it was, he would have bought it at a cheaper price, I think that in my estimation, and I am sure there are those who will question this, I think the very integrity of this city and its zoning is at stake, because if I was an investor, and I were to look at the City

of Miami thinking that you buy a piece of property, and when you buy that piece of property, the value of that property is greatly determined by the zoning which gives you your rights, and the next day the rug is pulled out from under you, and you can no longer do what you had purchased and paid to do. And I have to use my vernacular. I am not a lawyer, I am not an investor, I am not a realtor, I am an undertaker. Laugh if you may. Mr. Mayor I am right now at the point of buying a piece of property and the law says I have to buy within a certain zoning to operate a funeral home, and I am going to have to pay a lot more for that property than if I wanted to put something else on that property. And I would have to believe that I would go out here and pay the premium that I have to pay, to secure that piece of property and if I don't use it in the next 5 years, or build, which I don't intend to, that I have to worry about the fact that some governmental agency is going to turn around and say, hey, I am sorry, what you paid for it is no bearing, we are changing it, and you can't do it, and I am stuck with a piece of property I can't use. And that is the way I look at this situation. I travel by that piece of property every day, and I keep wishing to God it would sink into the water and disappear but it doesn't. And Art, I know what your problems are. I take my child to school right around the corner here, at 8:30 in the morning. It is not pleasant, I agree, it is a problem, but I think that we as a commission are going to say to investors who we want, who are spending a lot of money to get investors to come to this city, come here, ---we have zoning, here it is,---I think we have to back that zoning, OR,---this is the point I made before and Mr. Jacoby will remember,---this city on a number of occasions, since I have sat on this commission, has said, yes, for public welfare we will go out and purchase a piece of property, we will condemn a piece of property for the public good in the name of a park. But we don't go to a man and say, Mr. we are taking your property, because it is for the good of the city. We go to that man hopefully that we can negotiate a price, compensate him for his piece of property. And I think when you take away from someone the property, or what he can do with that property, I think the man has just compensation due him. And I can tell you, because I have inquired, that there is no way that this city can begin, because if we do it here, we have to do it elsewhere, that that city would begin to compensate for what is proposed.

Mitchell Wolfson in the downtown area wrote a letter to the Mayor which he was nice enough to copy us on, and in that statement he said basically this, you all are smarter than I am. I own a lot of ground in the downtown area, and in your wisdom if you feel that what is needed to redo downtown, do it, but when you do, I expect your check to be sent to me, to compensate me for my investment.

Mr. Mayor I am satisfied,---well this has to be a motion in two parts,---I personally think because I sat here and shuddered when I found out, and I won't mention prior owners by name, I'll say prior owners,---that under the R-5 zoning could have built 1900 units on that parcel of property. We know he would not have done it. We know this developer is not going to build that army barracks, but we know that he can. We know that he can possibly come up with 800 units, and I am going to tell you for one, that I am pleased that there are 800 proffered, and I think it is a good proposal, I think Mr. Patten is right because there is no one,---Art I sit here more than you on this side of the fence and I am going to tell you, I wish to God this was the end of it, but it is not, unfortunately. It doesn't look like it is the end of it, either way, regardless of what is the outcome of this commission. So Mr. Mayor, I will make one motion, on 33A to deny then change of zoning in a reduction of zoning to R-3.

Mayor Ferrer: There is a motion is there a second?

Mr. Robeson: Mr. Mayor I agree with Commission Plummer when he said this is not a popular issue in Coconut Grove, because Mr. Patten said a few minutes ago that most of the people against the roll back are people, maybe, that don't live in the City of Miami, but the fact is, I wonder how many people in the same situation, that the developer or the opponents are, would be here asking for the roll back? I don't think many of the people here today can afford to buy Fair Isle, but probably the majority of the people here can afford to buy a R-1 lot in Coconut Grove or the City of Miami, for \$20,000. and I wonder how they would react if we will try to roll back that R-1 lot to agriculture, or telling them that instead of building a 4,000 sq. ft. house, they can build only 1500 sq. ft. when they bought that for a few years ago. A lot of people saying that we should back the Planning Department, and most of the time we have done it. But I recall for example, 6 or 7 months ago, when the Planning Department told us to rezone certain land in the City, Mike Calhoun appeared here and telling us the Planning Department was wrong, because he was representing the owner or part owner of that specific piece of land. So maybe the ideal situation a few months ago,

was to buy the property if we had the money, and make of that property a beautiful park. But we didn't have the money, and they project they are giving us today, is far better in my opinion than what they could build in an R-3. 72% more open ground. So I agree with Commissioner Plummer. I agree we should have environment in this community, for environment with economic development, and right now, we have a big crisis, in the construction industry, especially in the Latin community, because the construction industry is the backbone of our economy, and at this point, I second the motion of Commissioner Plummer.

Mayor Ferre: We have a motion and second, is there further discussion.

Mrs. Gordon: I stated my comments before Mr. Mayor, I respect your position and thinking. I do a lot of real estate appraising and would hate to think that at no time could we ever roll back zoning. That would be a catastrophe, in fact, once zoned, forever more. However I do respect the concerns of the congregations, that Mr. Plummer expressed, however, zoning is not a thing that we own. It is not an inherent right, it is a right of the community, it is within the police power of the community to legislate, to enact zoning for what is best for a community, so called at large. I simply want to say I feel a little bit sick at heart to think that we could not find a what I call a suitable and sensible solution but we have not been able to arrive at it, and it would be my sincere hope that if this property is developed that great consideration will be given by the developers to the very, very, real problem which is that the arterial cannot bear the traffic that 777 units will bring to the area and that they will, even though at this time, they do not expect to, that they might bring in less, units, they might find them more saleable than people might want to pay more money for a unit that was not in as congested a situation.

Mr. Plummer: Mr. Mayor let me make one other comment, and it is really, I have made the comment before, and to be consistent I want to make it now. I would have hoped that there was a way that this city could find the compensation to roll back this piece of property, but it is not there, and I won't expound beyond that.

Mayor Ferre: If there are no other comments, call the roll,---- before voting I want to make into the record several comment. From a technical point of view, Mr. Lloyd, a legal point of view, stop me if I state this wrong, since this is a motion recommended by the department and passed by the Planning Board, a 2 to 2 tie, vote,---in effect is a denial of the application of roll back. Is that correct?

Mr. Lloyd: Well, if it is a 2/2 vote, it amounts to no action, which there fore there is no roll back.

Mayor Ferre: What I am saying is technically, I am being for the record, I could play a very cute trick here, and I could vote no and technically, even though I would have the wrath of some of the members of the construction industry here, some of the people for, this project. I could say, what are you angry about, you got what you wanted. Technically I could do that, but I am not going to do that. I want to state for the record some comments I have on this item.

In the first place, it was bond issue that was offered by this commission and it was put on the ballot for the people of Miami to buy the property, we came up to 11 million dollars, not because we thought it was going to cost 11 million dollars, originally I think it was proposed that it be 10 million then we went to 11, because we had some tentative appraisals and we didn't want to have the problem that we had with Mr. Bail on that downtown property. And as I recall, that vote, was something like 60/40 percent and that went down. There were people in those days who really didn't want anything to be done in Fair Isle and I suggest to you that you search your conscience and that you have the courage to admit like I am going to have the courage to vote on this item openly. That the real majority of you who are against any kind,---who want this roll back, what you really wanted all along is really nothing, no construction there. But you see, well---I was just expressing an opinion. WE are going from leaving nothing there or buying it as a park, and by the way, in the Coconut Grove area, I want to remind you, that vote overwhelmingly passed, as I recall. Most of the precincts along Coconut Grove as I recall,---the park, to purchase that property for a park, passed. But it didn't pass in the City of Miami and the moral of that story is, that what the people of Coconut Grove want is not necessarily always what the people of Miami want in totality. And I feel that that expression of the people of Miami certainly in my opinion is an expression that there certainly was not enough interest. Now you say well, people vote against bond issues, but we passed a housing bond issued for 25 million dollars, that passed.

And we passed bond issues for police stations and Parks for People and this and that,----we passed all kinds of bonds. Some have been rather exorbitant, 40 million dollars of which 27 million dollars was earmarked for just a small piece of property smaller than this in downtown Miami, 27 million dollars. So people vote for bond issued if they believe in them. In my opinion we gave this community the opportunity to pass that bond issue. In my opinion those of you who have been spending night, and years and until 3 in the morning on this, didn't unfortunately gather enough organizational strength and go out and carry the day. You have the opportunity, it didn't come off. People of Coconut Grove voted for it, people of Miami voted against it.

The question in all of this is growth,--no growth, zero growth, planning growth, quality growth, quality light, what will we have left here in 10 20 of 50 years. I recognize that, and I recognize the inherent conflict we in this community live in continually. On the one hand the very same people who oppose any type of density in this area, also want stepped up buildings in downtown Miami and want the lower densities all over this community and they want no urban sprawl, because they don't want to have a repetition of Los Angeles.

Now, I ask you, honestly, in your conscience, we don't live in the Soviet Union, thank God, or in countries that have no regard for the will of the citizens. There is no law as yet in this country that preclude, determine or inhibit an individual, an American citizen, all of us, 220 million of us, from living wherever we please. We can live in California, or Oregon, even though they have no growth policies, there is no law that precludes me from moving or you, from moving to Oregon. There is no way that can happen. Some of you have heard me before. that I had the experience about 6 years ago in the Soviet Union, Moscow. And in Kiev and in _____ in the Georgian Republic. I spent part of the time I was there looking at what they were doing and planning. They have a wonderful way. What they do is, some bureaucrats decides who is going to live where and how, and lay off the ground, and that is it. I am going to tell you, the land planning in Moscow is one of the greatest land plans in the world. You know how they do it. Seriously, this is true, they have their subways going out from the hub city in spokes, and the area in between the spokes is green. It is a beautiful way to develop a community and it works. The only problems with those people, they have perfect planning, but they don't have any liberty, literally. The most amazing thing that happened to me, was one day in the Planning Council of the City of Moscow, when one of the major planners said, admitted to me, made a statement, he said one of our biggest problems in Moscow is keeping all those Ukrainians out of his community. I said what? We have that same problem in the United States and there have been communities that didn't want the Polish, and some didn't want the Irish. Irish and dogs not admitted. This is the thing in Boston, and on, and on, and on. The Puerto Ricans in some neighborhoods and the blacks, and we hear a little bit with the Cubans here, thank God not too much. And I said, I can't believe it. You have work cards. The key in the Soviet Union is a work card. How can you not control people? You can't do it. And that in in a controlled economy, in a dictatorial country, the most severe in the world, yet they can't control the movements of people.

Ladies and gentlemen we are not going to stop the growth of Miami. It is not going to happen. You may believe in zero population growth to the very core of your existence. It is not going to happen. People will move here, they will live here, this community will grow, will continue to grow, there is no way you are going to stop it.

Now, those of you who don't want urban growth, and yet don't want vertical growth, I want to tell you, I disagree with you. I think we have to do a much better job of planning what is going to happen in this core city. You know this core city in 15 years has hardly grown. Fifteen years ago we had 300,000 people, now we have 350,000 people and yet the urban sprawl that everybody is upset about, Commissioner Calhoun, Patten, who served for 12 years, while this community was growing, it didn't grow in the central area of Miami.

I think that finally the arguments Mr. Plummer stated which is the question of value. I don't see how you can really get away from it. In 1968 and here is what I actually said, then, 8 years ago, 'the fact however is that since 1960 for the past 8 years, this area has been zoned R-5. In the first place I think both sides are correct. I think it should not be zoned R-4. The reality is it is zoned R-4. There was a gentleman who pointed out the matter of stability of zoning. We are not talking here about taking an area from R-4 to R-5, from R-3 to R-4, I would be against that. Further on I state, it is eminently unfair in my opinion for you all of a sudden now decide it shouldn't be R-4, and it should be R-3. I recognize the arguments on zoning roll backs, I know we have the ability in government to roll back. Then comes the question. What is it we really want in this piece of property. Mike Calhoun is talking about 500 units. I thought he said 300 units. I am sure if we could come up

200 units that would even be better. But I don't think that this community is going to apartment houses, that are about 16,000. in land cost per unit. It hasn't happened yet, and I think from a practical point of view, I am pragmatic about it, 500 just doesn't do it. I am against 1982, but I think 800 is a practical middle of the road compromise on a piece of property that has been zoned since 1934, for 43 years has been zoned R-5. Before that it was part of the ocean, and that property filled. Wasn't that a dredged out piece of property? For 43 years it has been zoned R-5 which permits these people to build 1982 units. They are willing to go down to 800 and that is more than a reasonable compromise. I am sure if they had come here and said they would down a 100, or 600, the majority of the people would want it to go down to 300, just on, and on. I don't think that is a reasonable approach to it and I think the man who talked about due process, and talked about Cuba, let me tell you something, how can we take the property away without compensation. That is the way they do in Cuba, they take property away and don't compensate you for it. Isn't that what this is about? That is the way I see it. I think it is in the best interest of the people of Miami, therefore on that basis I cast my vote, yes for the motion.

(applause)

Mr. Plummer: Mr. Mayor I said the motion had to be in two parts. The second part I would like to make at this time. I think the second part has to be without question, based upon the fact we have lost twice in court, we are now on appeal, the assumption has to be, that we are not in good shape. I am very well pleased in the reduction to 770 units, and I would like to have that 770 units on that island. I want to guarantee that. I don't want 1200. I want 770, and I want to bind it to 770 units, withdraw the lawsuits and go with the bird in hand. Mr. Lloyd tell me how my motion is to be phrased.

Mr. Lloyd: You should move to instruct the City Attorney to enter into a covenant running with the land with respect to 770 units and with the stipulation that the other party for a dismissal, it won't be a dismissal because we haven't yet appealed.

Mr. Plummer: That will adequately cover and guarantee us we will not have more than 770 units.

Mayor Ferre: In addition to that I think we want to get this restrictive covenant.

Mr. Lloyd: The restrictive covenant would be what we are going to enter into which is a covenant running with the land.

Mr. Plummer: Would you restate for me a motion?

Mr. Lloyd: With the proviso that they will accept a voluntary restrictive covenant and I want Mr. Traurig to state in behalf of this client on the record at this time, that this is voluntary and proposed by them.

Mr. Traurig: Mr. Lloyd, we submitted the restrictive covenant earlier in this hearing voluntarily before any debate as to whether or not the R-3 or R-5 would apply to the property. We consider this a proffer of restrictive covenant binding upon us notwithstanding any other action taken by the city.

Mayor Ferre: Let me understand so we understand ourselves here, that 770 units, period.

Mr. Traurig: Yes.

Mayor Ferre: No hotel units no efficiencies----770 units.

Mr. Traurig: That included I believe 720 apartments and 50 hotel rooms.

Mayor Ferre: I will only vote for as I understand this what you said, which is 770 units.

Mr. Acton: Mr. Mayor if I may, he has 50 hotel rooms in there,---

Mr. Plummer:-----a total of 770 units. Mr. Lloyd would you please

phrase the motion for me since you are the one who would have to defend it so you can put in the proper terminology.

Mr. Lloyd:---move to accept the declaration of restrictive covenants as proffered voluntarily by the Southeast First Nation Bank as trustee and to direct the City Attorney not to appeal from the decision of the lower court.

Mr. Plummer: Mr. Mayor I offer that in the form of a motion.

Mayor Ferre: Is there a second ?

Mr. REboso: Second.

Mayor FERre: As I understand it, what in effect we are doing, before I vote I want to get a clear picture of where we are going. Are you going to drop the lawsuit?

Mr. Lloyd: No, we are doing the dropping.

Mayor Ferre: We are dropping the suit?

Mr. Lloyd:Actually we are not going to appeal from an adverse decision of the lower court.

Mayor Ferre? We are not going to appeal but these people then are going to be restricted by that covenant on that property to these units which is 770 units and that includes hotel units and everything else. Do I understand that correctly?

Mr. Lloyd: Yes, sir.

Mayor Ferre: You are telling me we can vote on this legally?

Mr. Lloyd: Yes.

Unidentified person: I understand what is proposed, you are going to enter into a contract with the developer based upon a document which he has submitted to you which has not been seen by the public, has not been published you have a copy, we have not seen it, ---

Mayor Ferre: Can we do this on first reading?

Mr. Lloyd:No, this is a resolution.

Mayor Ferre: What happens beyond this?

Mr. Lloyd:We will accept it.

Mayor Ferre; There is no coming back on this?

Mr. Lloyd: No, this is the end. You will make it a motion and I will bring it up as a resolution.

Mayor Ferre: All of you who want a copy of all of this, if you will give your name to the clerk he will notify you and send you copies so we will get public exposure on this. I will recognize you forthe purpose of discussing this item when it come up in its final form. Is thatcorrect Mr. Lloyd?

Mr. Lloyd: Yes, sir.

Mr. Plummer: This gentleman would like to bring up some facts about what he feels is pertinent to this case and it is up to the chair to allow it.

Unidentified person:The one concern I have this hotel being suddenly being injected into the matter, when you have a hotel that means a liquor license,that could mean the same as down here in the Grove a private club situation with outside members and this traffic control, by the number of units would be destroyed if they permitted to have things of that kind.

It is bad enough from our standpoint, the point we are at now. Unless it is restricted to use and enjoyment of the actual residents on the premises, it isn't worth a dime as far as controlling traffic.

Mayor Ferre: As I understand what happened before is this, the 1982 units had hotel rooms in the project. Is that correct?

Mr. Plummer; In the 1200 Mr. Mayor, 200 were hotel rooms.

Mr. Traurig: We are cutting it back to 50.

Mayor Ferre: Anybody who wants to be involved in this process, give you name to the Clerk and you have Mr. Lloyd's commitment, as soon as he has it ready, at least 10 days before the 13th, that means you have to have it ready by the 3rd, that gives you tomorrow and all of next week. It that sufficient time?

Mr. Lloyd: Certainly. How do you want me to do that?

Mayor Ferre: They will sign their name to the Clerk and the Clerk will give you the list, you tell your secretary to mail them a copy, and if they want to talk to you, to come in and talk to you, or somebody in your office, whoever it is you designate to do this.

Mrs. Gordon: I have a question Mr. Mayor. To the person who wrote the covenant, Traurig, did you prepare this? Was it your intention in anyway to restrict the uses, the accessory uses to the inhabitants of the island?

Mr. Traurig: We didn't deal on that subject. Mrs. Gordon. We limited the covenants to the three items specifically set forth, that was height density and FAR.

Mrs. Gordon: Would you consider that as part of your covenant?

Mr. Traurig: I would have to discuss that with the representatives of the owners.

Mayor Ferre: Call the roll.

The following resolution was introduced by Commissioner Plummer, who moved its adoption:

RESOLUTION NO. 76-434

A RESOLUTION TO DENY GRANTING CHANGE OF ZONING CLASSIFICATION FROM R--5 (HIGH DENSITY MULTIPLE) TO R-3 (LOW DENSITY MULTIPLE) FOR PROPERTY KNOWN AS FAIR ISLE.

(Here follows body of resolution, omitted here and on file in the Office of the City Clerk.)

Upon being seconded by Commissioner Reboso, the resolution was passed and adopted by the following vote-
AYES:

Commissioner Manolo Reboso
Commissioner J. L. Plummer, Jr.

Vice-Mayor Rose Gordon
Mayor Maurice A. Ferre

NOES: Mrs. Gordon. Absent: Rev. Gibson.

The following motion was introduced by Commissioner Plummer , who moved its adoption:

MOTION NO. 76-435

A MOTION OF INTENT TO ACCEPT THE DECLARATION OF RESTRICTIVE COVENANTS AS PROFFERED VOLUNTARILY ON THIS DATE BY THE SOUTHEAST FIRST NATIONAL BANK OF MIAMI, AS TRUSTEE, AND CONTAINING CERTAIN STIPULATIONS, IN CONNECTION WITH THE DEVELOPMENT OF FAIR ISLE, AND AUTHORIZING AND DIRECTING THE CITY ATTORNEY NOT TO APPEAL FROM THE DECISION OF THE LOWER COURT IN THIS MATTER

Upon being seconded by Commissioner Reboso, the motion was passed and adopted by the following vote:

AYES: Mr. Reboso, Mr. Plummer, Mayor Ferre.

NOES: Mrs. Gordon.

ABSENT: Rev. Gibson.

Mayor Ferre: Now, Mr. Calhoun, on a personal privilege.

Mr. Calhoun: Mr. Mayor, Mr. Reboso used my name as an excuse for his vote, and I resent that because that is untrue, I think he made a mistake. The record will show I never represented a client before this Board. What he is referring to I think, I represented myself in an apparent error made by the Planning Department on Highway 1 frontage, which I own, and Mr. Acton very graciously corrected the error. So I was not here representing any client against a zoning roll back. I would like the record to reflect that sir.

Mr. Reboso: It was a change of zoning, Mike.

Mr. Calhoun: No, you are incorrect. You used it out of context. You didn't mean to, but for the record, it was not me here to represent a client.

Mr. Reboso: What was specifically the case?

Mr. Calhoun: On a piece of property I owned at the time, that had already been built on, by a three story residential building,----

Mr. Reboso:---that is zoned what?

Mr. Calhoun: ----R-5,---

Mr. Reboso: The department was recommending it to be changed to what?

Mr. Calhoun: The department recommended the whole area to be zoned back to R-3 or R-2 and it was already built on, it was already there. I corrected them of the error along with the Hotshoppe Restaurant property. I did not represent anyone. I was here correcting a mistake. I was representing myself. There is no fact to it at all Commissioner, you made a mistake and I want the record to reflect that. I have never represented a client before this board.

MoT-77-348
(4/14/77)
RFC/rb
4/20/77

RESOLUTION NO. 77-373

"SUPPORTIVE
DOCUMENTS
FOLLOW"

A RESOLUTION REQUESTING THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL TO HOLD ANOTHER PUBLIC HEARING REGARDING THE QUESTION OF DESIGNATING THE COCONUT GROVE AREA AS AN AREA OF CRITICAL STATE CONCERN (ACSC) TO AFFORD ALL RESIDENTS AND INTERESTED PERSONS IN COCONUT GROVE THE OPPORTUNITY TO EXPRESS THEIR OPINIONS.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The South Florida Regional Planning Council is hereby requested to hold another public hearing on the question of possibly designating the Coconut Grove area of the City of Miami as an area of critical state concern (ACSC).

Section 2. The South Florida Regional Planning Council is hereby requested to notify all residents and owners of affected business in the area of the aforesaid hearing to afford them an opportunity to express their opinions.

PASSED AND ADOPTED this 28th day of April, 1977.

ATTEST:

Ralph G. Ongie
RALPH G. ONGIE
CITY CLERK

MAURICE A. FERRE
MAURICE A. FERRE
MAYOR

PREPARED AND APPROVED BY:

Robert F. Clark
ROBERT F. CLARK
ASSISTANT CITY ATTORNEY

"DOCUMENT INDEX
ITEM NO. 8"

APPROVED AS TO FORM AND CORRECTNESS:

George F. Knox, Jr.
GEORGE F. KNOX, JR.
CITY ATTORNEY

CITY COMMISSION
MEETING OF

APR 23 1977

RESOLUTION NO.



Coconut Grove

Chamber of Commerce

3437 MAIN HIGHWAY
COCONUT GROVE, FLORIDA 33133
Telephone: 444-7220

Filed

President
Tom Adams
1st Vice President
Harriet Brown
2nd Vice President
Mark Rubin
Secretary
Martha O'Brien
Treasurer
Fred Kleis
Corresponding Secretary
Ann Cooper

April 19, 1977

Lt. Governor J.H. Williams, Secretary
Department of Administration
Room 530, Carlton Building
Tallahassee, Florida 32304

Board of Directors

Joe Bardinella
Dick Danziger
John Harlin
Fred Hutchinson
Bob Kirkendall
Arthur Peacock
Lorraine Prince
Larry Schilit
Tim Sullivan

Dear Lt. Governor Williams:

The Board of Directors of the Coconut Grove Chamber of Commerce wishes to express its disapproval of the action taken by the South Florida Regional Planning Council as reported in the Miami Herald, of April 5, 1977.

Our disapproval is based upon a complete lack of notice concerning this most vital subject to the many organizations, including the Coconut Grove Chamber of Commerce, prior to the meeting.

On Thursday, April 14, 1977, members of the Board of Directors of the Chamber appeared before the Miami City Commission to protest the action taken by the SFRPC. The Miami City Commission voted unanimously to request the SFRPC to hold a public hearing on the Council's recommendation that Coconut Grove be declared an area of critical state concern.

The Coconut Grove Chamber of Commerce is on record as having participated in the development and culmination of the Coconut Grove Master Plan which involved all Coconut Grove citizens and organizations.

Mayor Ferre and the City Commission approved the Master Plan in its entirety and are in the process of its implementation. The Chamber feels that no future meetings should be held without proper notification to all citizens, Civic and Service organizations within Coconut Grove.

We are in complete accord with the decision of the Miami City Commission's request that the SFRPC hold a public hearing on the Council's recommendation so that the many citizens of Coconut Grove who were not advised of your actions will have an opportunity to review your plan.

We would appreciate your notifying the Coconut Grove Chamber of Commerce of any future actions which you will be contemplating.

Sincerely,

Tom Adams
Tom Adams
President

South Florida Regional Planning Council
TA/ar

Joseph R. Grassie
City Manager

April 21, 1977

FILE

Coconut Grove Citizen Request
for Consideration as Area of
Critical Concern

Richard L. Fosmoe, Director
Planning Department

On Monday, April 4, 1977, I attended a meeting of the South Florida Regional Planning Council at which time a request was considered to ask the State of Florida to examine the possibility of designating Coconut Grove as an Area of Critical State Concern. The law governing Areas of Critical State Concern (ACS) allows a Regional Planning Council to request that the Division of State Planning study the possibility of designating the area as an ACSC. It should be pointed out that while this request was on the Agenda of the South Florida Regional Planning Council, for both March and April, there was no direct communication to the City of Miami for their response to a petition submitted to the South Florida Regional Planning Council. Attached is a copy of the petition along with a copy of the Resolution which was adopted by South Florida RPC at their April 4 meeting. South Florida RPC also suggested that while the study of possible Critical Concern designation is being conducted, appropriate bodies consider a moratorium on residential development for any projects other than single family detached construction.

Implicit in the request for consideration as an Area of Critical Concern is the implication that the City is remiss in its responsibility to plan for the proper development and preservation of Coconut Grove. However, a number of actions by the City Commission initiated and passed, since the acceptance of the Coconut Grove Master Plan would serve to refute this petition. Attachment "A" indicates the actions that have been taken toward the implementation of the Grove Master Plan.

I would recommend that the City Commission communicate with the South Florida Regional Planning Council asking them to reconsider their position on requesting the State to designate Coconut Grove as an Area of Critical State Concern. It is my opinion that we can move forward with further implementation of the Coconut Grove Master Plan without the necessity for State imposed controls on development. Further, it is my view that the record of the Commission in its actions to implement the Grove Master Plan speak for themselves and there is no necessity for declaring the Grove an Area of Critical State Concern.

Attachments

SUPPORTIVE
DOCUMENTS R. 77-373
FOLLOW

Attachment "A"

ACTIONS TAKEN LEADING TO IMPLEMENTATION
OF THE COCONUT GROVE MASTER PLAN

1. Zoning changes recommended by the Master Plan including:
 - reduction of densities and elimination of conflicting use zoning in Black Grove.
 - reduction of densities and restriction of uses along Dixie Highway.
 - special district zoning to protect scale and pedestrian character of Village Center shopping district.
 - elimination of rental duplex zoning from South Grove.
 - reduction in intensity and elimination of conflicting use zoning along 27th Avenue.
 - special district commercial zoning to promote pedestrian oriented local commercial uses along Bird Road.
2. Application of height controls to the entire Coconut Grove area which assures nothing more than 4 stories or 50' in height as a maximum. (Bayshore Drive controls deferred and awaiting final recommendations.)
3. Application of site plan review procedures to all commercial and multi-family properties.
4. Adoption of a revised tree ordinance which provides strict controls and penalties for tree removal, pruning and relocating within all front and side yard areas of low density neighborhoods and within all yard areas of commercial and multi-family properties.
5. Adoption and application of Environmental Preservation Districts to all ecologically significant sites in the Grove with review of all development by a review board of design and ecological specialists.
6. Implementation of scenic corridor easements regulating all development public or private along Bayshore Drive, Main Highway, Douglas Road and Ingraham Highway, with review by the EPD Board (see above).
7. Reductions in zoned right-of-way for approximately a dozen environmentally unique streets as a means of protecting them from indiscriminate widening.
8. Successfully resisted County efforts at widening Grand Avenue between Douglas Road and Dixie Highway, limiting development to 2 lanes, a landscaped median and parkways, a bikeway, and sidewalks, as per plan recommendations.

9. Built the Bayshore Drive bike path and allocated funds and prepared construction drawings for improvement of Main Highway bike path, as per plan recommendations.
 10. Begun preparing administrative proposals for street improvements, landscaping, and pedestrian improvements in the Central Grove Village Center in cooperation with property owners, residents, architects and planners from the Coconut Grove community.
 11. Begun administrative negotiations with private property owners and the Off-Street Parking Authority to provide a parking garage for the Village Center as per plan recommendations.
 12. Applied for a Federal Grant for \$150,000 to construct bikeways throughout the Grove as per the plan recommendations.
 13. Constructed a \$200,000 nature pavilion and interpretive nature center in Wainwright Park as per plan recommendations.
 14. Acquired the Underwood Marine property and accepted proposals for commercial development as per Dinner Key Master Plan.
 15. Through administrative action, intervened in the development of two major sites to save historic structures (de Medouville house and Day house).
 16. Constructed children play areas at Silver Bluff, Blanche, Virrick and Grand Avenue Parks as per plan recommendations.
 17. Held public hearings and recommended appropriate action to reduce non-local traffic on Matilda and Florida Streets in Coconut Grove as per plan recommendations.
 18. Funded and accepted a special planning study to recommend alternative courses of action for development of the incinerator site as per planning study recommendations.
 19. Accepted restrictive covenants controlling height and density on Fair Isle. The density confirms with plan recommendation.
 20. Begun administrative proposals for the development of SW 27th Avenue as a prime entryway into Coconut Grove, to include street improvements, a bikeway, landscaped median and pedestrian improvements.
-

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

THAT SOUTHEAST FIRST NATIONAL BANK OF MIAMI, as Trustee, being the fee owner of lands described in Exhibit "A", attached hereto and made a part hereof ("the property"), makes the following Declaration of Restrictive Covenants running with the property, specifying that this Restriction during its lifetime, shall be for the benefit of, and a limitation upon, all present and future owners of the property and for the public welfare.

The property is presently the subject of an application pending before the City of Miami, Florida ("City Commission"), wherein it is sought that the zoning of the property be reclassified from R-5 (High Density Multiple District) to R-3 (Low Density Multiple District), as presently defined in the Comprehensive Zoning Ordinance of the City of Miami (Ordinances 68-71) ("the Zoning Ordinance"). In connection therewith, to assure the City Commission of representations made by the beneficiaries of Land Trust # 9-79121 through its duly authorized agents and counsel at various public hearings, the undersigned covenants, represents and agrees as follows:

1. Floor Area Ratio:

The Floor Area Ratio applicable to the property, as such term is presently defined in Article II, Section 2, Paragraph 31 of the Zoning Ordinance, shall not exceed 1.75. Therefore, based on the property containing 889,930 square feet, the floor area of buildings on the property, as defined by the aforementioned provision in the Zoning Ordinance, shall be limited to a maximum of 1,557,377 square feet.

2. Height:

The maximum height of buildings, as defined in Article II, Section 2, Paragraph 36 of the Zoning Ordinance, shall not exceed 262 feet of vertical distance from the average established grade to the highest point of any mechanical penthouse on such buildings.

Motion

provided, however, that such limitation shall not be applicable to any antennas located on top of such building or buildings.

3. Density:

The total number of residential dwelling units to be constructed on the property shall not exceed 800.

4. Specific Enforceability:

This Declaration of Restrictive Covenants shall be specifically enforceable by the City.

5. Release, Modification and Amendment of Covenants:

These covenants may be modified, amended or released as to any portion of the property only upon the approval therefor by the City Commission after public hearing. Should this Declaration of Restrictive Covenants be so modified, amended or released, the City Manager, acting City Manager, or Assistant City Manager of the City of Miami shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 22 day of April, 1976.

Signed, sealed and delivered in the presence of:

[Signature]
[Signature]

SOUTHEAST FIRST NATIONAL BANK
OF MIAMI, as Trustee

By: [Signature]

RICHARD C. GRAY VICE PRESIDENT

STATE OF FLORIDA)
COUNTY OF DADE) ss.

The foregoing Declaration of Restrictive Covenants was acknowledged before me by Richard C. Gray, as Vice President of SOUTHEAST FIRST NATIONAL BANK OF MIAMI, as Trustee, this 22nd day of April, 1976, for the purposes therein expressed.
My commission expires:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA AT
LARGE

EXHIBIT "A"

Tract A, according to the Revised Plat of
FAIR ISLE, according to the Plat thereof
recorded in Plat Book 34, at Page 70, of
the Public Records of Dade County, Florida.