



**Village of El Portal
Planning and Zoning
Date: 12/8/20
Meeting Start: 6:30 PM
Meeting End: 8:22 PM
Meeting Length: 01:52:56**

Councilman Luis Pirela: Good evening. I would like to call the P&Z committee meeting on Tuesday, December 8th at 8:32 PM.

Speaker: 6:30

Councilman Luis Pirela: 6:30 PM. May I please have a moment of silent meditation followed by the pledge of allegiance.

Audience: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Councilman Luis Pirela: Madam clerk, may I please have a roll call?

Clerk: Vice Chair Urbom?

Vice Mayor Anders Urbom: Present.

Clerk: Mayor Nickerson?

Mayor Omarr C. Nickerson: Yes.

Clerk: Chairman Pirela?

Councilman Luis Pirela: Here.

Clerk: That's all.

Councilman Luis Pirela: Thank you. If there's any addition or deletions of agenda? Everything is okay? No? Perfect. May I please have a motion to approve the agenda?

Mayor Omarr C. Nickerson: Our motion to approve tonight's agenda.

Vice Mayor Anders Urbom: I second that motion, Mr. Chair.

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Councilman Luis Pirela: Okay, motion approved by Vice Mayor Urbom and second by Mayor Nickerson. There are no minutes to be approved, we are waiting on those right?

Mayor Omarr C. Nickerson: [inaudible 00:04:51]

Councilman Luis Pirela: I'm sorry. All in favor say aye.

Mayor Omarr C. Nickerson: Aye.

Vice Mayor Anders Urbom: Aye.

Councilman Luis Pirela: Any names? Okay. Like I said, there are no minutes to be approved. We're waiting on those right? We're going right to the item, zoning site plan review, the applicant Gonzalez Benito at 101 Northeast 87th Street. We have Mr. Bruce.

Victor Bruce: Victor Bruce, yes.

Councilman Luis Pirela: Victor Bruce from the architect office, right?

Victor Bruce: Yes.

Councilman Luis Pirela: He's going to go and present the plans. Welcome. First of all, we'll have to congratulate you, that's a beautiful addition that you guys accomplished here. Very nice not interfering with the facade of the house and adding a beautiful part to it. Welcome.

Mayor Omarr C. Nickerson: Mr. Chair, if I may?

Councilman Luis Pirela: Yes.

Mayor Omarr C. Nickerson: We want to see his presentation but we also want to hear from PlusUrbia, who's here also, who's going to advise us. We have Attorney Geller with his name up Mr. Chair, I don't know if you want to recognize Attorney Geller.

Councilman Luis Pirela: I'm sorry?

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Mayor Omarr C. Nickerson: I don't know if you want to recognize Attorney Geller, he has his hand up.

Councilman Luis Pirela: Yes, Mr. Geller, go ahead.

Attorney Joseph Geller: We don't have the mic over here. I don't think we need to do that, but before we begin we want to swear anybody who will be giving testimony in. I can do that if you'd like, Mr. Chair.

Councilman Luis Pirela: Sure.

Attorney Joseph Geller: Let me just ask if anyone is going to give any testimony, please raise your right hand. Stand. Raise your right hand, and just say I and state your name.

Camila Zablah: I, Camila Zablah-

Victor Bruce: I, Victor Bruce-

Attorney Joseph Geller: - do solemnly swear-

Camila Zablah: - do solemnly swear-

Victor Bruce: - do solemnly swear-

Attorney Joseph Geller: - that any testimony I provide this evening-

Camila Zablah: - that any testimony I provide this evening-

Victor Bruce: - that any testimony I provide this evening-

Attorney Joseph Geller: - will be the truth-

Camila Zablah: - will be the truth-

Victor Bruce: - will be the truth-

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Attorney Joseph Geller: -the whole truth-

Camila Zablah: - the whole truth-

Victor Bruce: - the whole truth-

Attorney Joseph Geller: - and nothing but the truth-

Camila Zablah: - and nothing but the truth-

Victor Bruce: - and nothing but the truth-

Attorney Joseph Geller: - either I swear to God or I affirm either one.

Camila Zablah: I affirm.

Attorney Joseph Geller: Thank you. Your witnesses are sworn in, Mr. Chair. The procedure just very quickly, typically, we would first hear the staff report and that will go into the record as evidence. Then immediately following that, the applicant gets to present. Again, if anybody has any questions, they're welcome to raise their hand and seek recognition from you. If they have a question of the staff, if they have a question of the applicant, they can question each other. The three of you have the right to ask a question of anybody that you want to at any time. That's the whole process.

Councilman Luis Pirela: Perfect. Thank you, Mr. Geller. We have our Planning and Zoning staff, Camila from PlusUrbia. She's going give us a quick presentation of what is being presented over here.

Camila Zablah: Thank you, Councilperson Pirela. Good evening, I'm Camila Zablah, Planning and Zoning consultant. This application is requesting a site approval for the construction of an addition. Consider the new construction because the area is greater than 50% of the existing building at 101 Northeast 87th Street.

The property has a frontage facing Northeast 87th Street and a secondary frontage facing Northeast 1st Avenue. The project consists of a two-story addition to the existing single-

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family residence consisting of a new kitchen, a family room in the lower floor, and a new master bedroom, bathroom in the upper floor. The project also includes an addition to the accessory building in the rear consisting of a new garden room and a garage addition in the Northwest corner of the property.

The recommendation for the application is approval with conditions pursuant to Section 1753 requirements and procedures for site permit review. The applicant shows good cause for compliance with the land use regulations and the development standards of this chapter and chapter 24 except for parking standards driver regulations which we will go in-depth after the presentation by the applicant.

Therefore, approval with conditions is recommended for this new construction with the following conditions removal of the center driveway from the secondary front setback and either approval for a variance is obtained or the proposed rear addition is moved an additional 5 feet to comply with the 15-foot setback, we'll go into that after the applicant's presentation regarding those conditions.

In addition, application and supporting documentation, the construction of the proposed project should be in conformance with the submittal package dated 11/09/2020. All presentations offered by the applicant as part of the review at the public hearings in addition to all comments made by staff reviewers submitted to the applicant to be addressed prior to obtaining the building permit. Thank you.

Mayor Omarr C. Nickerson: Thank you. Mr. Chair, if I may? Before we get to the presentation, her recommendation with conditions-- We're going to let you go through the presentation, but her recommendation with conditions, those conditions that she stated, do you feel as though any of those cannot be done?

Attorney Joseph Geller: Excuse me, Mr. Mayor, Mr. Chair, here is one of the recommendations that is in the alternative where the staff has provided a choice that the committee makes first and then the council. I just want to clarify, and certainly you can ask the question there, that's your privilege. But just point out to the applicant, the applicant has a preference between those two which I suspect they do, they can state that but ultimately, it's up to you to choose one of the two because they are presented in the alternative.

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Mayor Omarr C. Nickerson: The reason why I was asking was example, let's say if she made a condition that they felt physically because of what they had in mind they just couldn't do, I didn't want him to waste the time going through that part of the presentation if he felt-- You see what I'm saying? That's what I'm just trying--

Attorney Joseph Geller: Absolutely, appropriate. I just wanted to clarify.

Mayor Omarr C. Nickerson: Thank you very much, Mr. Attorney, I appreciate that. Thank you, Mr. Chair.

?Victor Bruce: I got a little distracted trying to get this back on, because we have a variance and it's also the conditions that you talked about. Do you mind saying those again so I can pick up what everybody else heard? I apologize, I got this distracted.

Camila Zablah: No, absolutely. We can talk about the items of the application before the applicant has presented the application itself.

Attorney Joseph Geller: You can present the staff report including what conditions the staff is recommending, but as I said, please do point out both to the applicant and to the council there's one place where the council has an alternative. While the applicant can express a preference, the council has to make that choice. I think [unintelligible 00:13:03] tonight in the committee.

Councilman Luis Pirela: Which is the building setback and the driveway, right?

Camila Zablah: Yes.

Councilman Luis Pirela: Those are the two conditions that which we're concerned about, right?

Camila Zablah: Yes. The applicant has also applied for a variance because the addition to the outbuilding encroaches on the 15-foot required setback for secondary frontages. The applicant has applied for a variance to be able to build the addition encroaching those five additional feet therefore the condition is if the variance is granted by the committee or the applicant builds in compliance with the 15-foot secondary front setback.

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The other condition is the removal of one of the driveways along the secondary frontage as well because it has an adverse impact toward pedestrians who are walking along the street. All the additional curb cuts not only does it not comply with the driver requirements, but the additional curb cuts provide a safety hazard for any pedestrians walking along that street.

Attorney Joseph Geller: The other conditions, I'm sorry to interrupt [unintelligible 00:14:15] they're not difficult but they're [unintelligible 00:14:19]

Camila Zablah: Correct. Yes, those are the first two. The third is update the application package identifying all perimeter walls and their dimensions to be compliant with the zoning code conditions. Number four, application supporting documentation, construction of the proposed project shall be in conformance with the applicant submittal package dated 11/09/2020 and subsequent revisions. Five, all representations proffered by the applicant is part of the review of the application at public hearings. Six, all comments made by staff reviewers and submitted to the applicant to be addressed prior to obtaining the building permit. Thank you.

Attorney Joseph Geller: Before you begin as part of your presentation, Mr. Applicant, if I might, Mr. Chair, if you would address the mayor's point, there really are two conditions. One condition is removal of that third driveway that's just the condition. That goes directly to the mayor's question. The other condition other than the standard ones is constructed in conformance with the code and with your application.

The other one, the council will have to decide if you can address whether we could move it and are willing to move it five feet to preserve the setback or as I suspect that you prefer the variants, but that's really the council's choice, not yours. If you could address those two specifically in response to the mayor's question. Other than that, Mr. Chair, unless--

I should add also, members of the public, of course, can question staff, they can question the applicant because although with the formal public hearing actually occurs at the council, but this is in the nature of a public hearing by opening it to the public. As a public hearing, you may be able to cut down on the time you have to spend in council. You should treat this as a public hearing, and that means if the applicant or a member of the public has a question of

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the staff report or of the applicant when they present, it's appropriate for you to ask if anyone has any questions now that she's completed respectively.

Councilman Luis Pirela: Any questions from the council before I open it to the public?

Mayor Omarr C. Nickerson: No questions. I would just say and once again, Mr. Attorney Geller, we appreciate it, man, all the expertise you're giving us to help move us forward quickly. I would just say that I think that we should open it up to the public after he does his presentation because they might have questions, between the two of them they might answer those questions, so then people might come and ask questions that he's probably going to go over anyway or she'll go over anyway. I think before we actually go to the possible vote after they do their presentations, then we should open it up to the public after they get all the information.

Attorney Joseph Geller: Mr. Mayor, you're correct, but let me just say it's also appropriate to open it to the public now that the staff report is done and then open it again to the public after the applicant presents.

Mayor Omarr C. Nickerson: Thank you, Mr. Chair.

Councilman Luis Pirela: Do I open it to the public? If there's anyone in the public that wants to comment or have any questions?

Attorney Joseph Geller: Questions. We'll get comments later.

Councilman Luis Pirela: Correct. No? Let's close it to the public and back to the council. Are you done?

Victor Bruce: The presentation is still not going, no, sir. You have copies of--

Councilman Luis Pirela: Yes.

Victor Bruce: All I have was the same thing I was going to put it up on the screen at a point but I can narrate it and you can see what I'm talking about with the submittals that I have input there.

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Mayor Omarr C. Nickerson: It's all okay. No problem.

Victor Bruce: May I?

Mayor Omarr C. Nickerson: Yes, go ahead and start with your presentation, please.

Victor Bruce: The two conditions, I'll go right into the conditions unless you'd like me to explain the project, I'd rather just go to the conditions.

Attorney Joseph Geller: [unintelligible 00:18:42] explain it but since the staff just did it very briefly because there's something in the record. Just very briefly what the project is in like 50 words. They have the written documentation in front of them it is your application just so you say something for the record then you can address the conditions to answer the mayor's question.

Victor Bruce: Very good. If you can turn to page A1, I'll describe what the project is through the site plan and it's the architectural sheet A1. The existing house is a two-story house. The second floor is an attic space. It's a beautiful home, it's a historical looking home, it has historical significance. It's also connected to a garage through a covered walkway. It almost looks like an accessory structure that's separated but it is attached through that walkway.

The two-story with the attached garage, we're adding another two stories and through the process of the design and working with the client, we made every intention of not taking away from the existing home as much as possible. Our connection was not expanding it to the east, our connection is pushed to the back of the front elevation, trying to maintain as much as possible the overall volume.

Our intent in this project was to try to protect the existing as much as possible. It's a two-story addition to the northeast, it has a bedroom on the second floor for the owner and his wife, and then the first floor is an expanded kitchen with living space. The house needed a little bit more space, and rather than expanding its size, we decided to do the addition, like I said, towards the northeast.

They also needed a little bit more space for parking, so we took the existing garage and we added two more bays to it to the north and a pool. Then, as far as the conditions, we would

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prefer to have the three driveways. The client would really love the three driveways, but we understand that if it's too much, we'd rather not ask for that, we'd rather talk about the setback. If the driveway needs to be removed, and instead of having three driveways we have two, then that's something that's acceptable.

Now, the setback issue is not so much where we're choosing to encroach on the setback, but we're actually continuing the existing location of the house, because when this house was built, it was built 10 feet from the property line, not the current setback of 15. The whole site on the west side of this house is 10 feet from the property line. What we did was we expanded where we basically extended that by adding to the north of the garage at the same line, so it looks in harmony with what's already there.

It is a non-compliant, but the house is already non-compliant on the west side. It's already five feet closer than the 15 that's supposed to be. If we had done it differently, it would have looked awkward. It just made a natural move to add those two spaces to those two bays to the north of the existing garage lined up. I didn't necessarily follow it. If I could show you the drawings, I would show you.

[crosstalk]

I did a little bit of a step back and copied the gable end of the existing on the other side. There's some architectural play, but I kept it that simple because it just made sense. Respectfully, we're requesting for that variance.

Vice Mayor Anders Urbom: Okay, thank you. If there's any question-- Any questions over here, at the Council?

Speaker: Good evening. How are you doing? As you realized in your planning, that setback was essentially-- You're talking about a grandfathered property. 1931, I think I saw, was the original build. Did you spitball or discuss Plan B, C, or D in the event that a variance would not be given for that setback?

For example, I understand that the way the property is currently situated, it makes sense aesthetically to continue the line. I'm just curious to know if there were ever a plan B or C or

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D on the table as to, "Okay, if we're not able to continue that line because of the code on the setback." Was there any discussion taking place of what your options might be to accomplish the same goal of--

Victor Bruce: I explored it in design, I explored it with the client, but I would have shown you this if I had it up on the screen. When you see it, it makes a lot more sense to have followed that line. This is the existing, and we did a couple of more alongside of that. To have done something different, I think would have taken away from the quality of the house, from the local on the side, on the west side, and it would have taken away from the character of the house.

These houses, when it comes to these styles, they're simple styles. Anything that would have looked awkward would have thrown off the original completely if I had done something different over here. The intent of following, it seemed more harmonious than anything else.

Vice Mayor Anders Urbom: Okay. I actually have a question for Camila. The plans as presented, do we know what percentage of the lot we're talking about in terms of coverage by structure

Camila Zablah: Yes, I'm going to look it up in the-- It's in the report.

Vice Mayor Anders Urbom: Okay. I'll look for it here. I can look for that, well.

Camila Zablah: It's at 30.6%.

Vice Mayor Anders Urbom: Currently, in these plans?

Camila Zablah: With the additions.

Vice Mayor Anders Urbom: Okay. The plans as presented, it's 30-point something.

Camila Zablah: Yes. It's almost 31. The requirement is 40.

Vice Mayor Anders Urbom: Okay, so the limit is 40 and we're at 30 something?

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Camila Zablah: Yes.

Vice Mayor Anders Urbom: All right. I agree the design is lovely, it certainly seems like a really wonderful plan for that property. This facade that we're looking at right now, I am glad to hear that the elimination of a driveway is not going to be a huge issue because I do feel that it's-- I don't want to say monolithic, because it's not, because there's plenty of lines and there's things that break up the view of it. It's not just a wall of a building, but it does have a feeling of compound almost.

For someone on the street walking by, with the continuing that line at the 10-foot setback down the length of the property, it has a feeling of gated community. It has a feeling of exclusion, as opposed to the more open aspects of almost every other property in the village. My concern is really, quite simply, that-- The word convenience comes to mind. It seems convenient to just extend the line, because I agree, aesthetically, just extending that line with the rest of the house, makes sense.

I'm concerned I'm going to run into a moral dilemma where, yes, it's a 1931 property, so it's one of the longer properties in the village. Just as you said, the property, as it sits today, is essentially one of our oldest examples in the neighborhood. My concern is that we take-- Do we know what percentage the lot is at right now with the current structure?

Camila Zablah: Oh, that was with the-- Without the commission?

Victor Bruce: If I may, can you see the arrow?

Vice Mayor Anders Urbom: Yes.

Victor Bruce: This is the existing two-story volume. The existing house ends here, so that's about 60 feet. We're adding almost 30% of that, so we're not really adding so much. This right here, it does make it seem you're feeling it, this doesn't have to happen, because this is really where the building ends, this is where our setback is. What we're adding is really these two doors.

[crosstalk]

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Vice Mayor Anders Urbom: All right. Then, let me ask. In that discussion, both of safety and then the code itself in terms of what percentage of a front can be driveway, in that, it seems clear that we're saying that you're going to need to lose one of the driveways and you're saying that that's agreeable. What is your plan? Is it just to simply reduce it down to two garages or try to incorporate those into, say, a two-car garage with a narrow driveway at the curb and then expands to the two garages? What would your plan be?

Victor Bruce: Before I answer that, I'd like to clarify, because this is a little bit of a rendering freedom, artistic freedom by the renderer just so we're somewhat clear what the intent would be for this approval. It's more like this, one driveway here and another driveway with the grass in the center. This is where one door would be and the other door would be here.

Going back to the rendering, you'll see how it makes a difference. This will be grass. The sidewalk continues here in front of the house. This would also be grass. There's a lot of artistic freedom. This doesn't necessarily have to be solid that creates that walled-in effect. It should be a little bit more open. We keep two operable garage doors. This would be more of a window, maybe something different because there's no longer a drive going up to it.

[00:41:02]

Vice Mayor Anders Urbom: Okay, and then in the initial presentation, it was discussed that the owners of the property seem to have a need for extra parking. It sounds like they need the three-car garage. What would their plan be for dealing with only two garages if they set out with this with the intent that they needed three?

Victor Bruce: Well, sometimes people don't necessarily park inside the garage. It would have been more if they were going to be parking outside. Sincerely, they have four spaces now. They have two spaces to park inside and two spaces to park outside. It's still a good amount of parking. Unfortunately, we have to do on-site parking. There's not much more alternatives because if I go back to this, we have nowhere else to park. I'll show you why. The light green is the property. The dark green is the swale of the El Portal. This is all septic so there's really no other place to park. That's why this was always the garage and that's where the existing garage is located.

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Vice Mayor Anders Urbom: If we're saying that they need to reduce that down to the two garages, are the owners amenable to that?

Victor Bruce: I believe so. That's why I think the driveway is something that it's not as important as keeping this line of addition on the Northside.

Vice Mayor Anders Urbom: Right. Yes. Then I think the larger issue certainly is the setback. The reason for that I think is that if you look at the map of El Portal, you see a hodgepodge of lot sizes, for example, in lot shapes even. Going forward, because a lot of our lots are actually quite small, there's going to be a desire for people to increase the coverage of a structure on a lot. People will be more interested in having volume within the house as opposed to necessarily saying maintaining a large backyard.

That proportion is a significant part of what I think is unique about El Portal because we have small lot sizes, yet, we still have the aesthetic of larger yards. Yes, that's because the homes are older and essentially smaller. I think you found a good plan here. I think the square footage of habitable goes up to 2,900 on this plan which is huge for El Portal. It really is absolutely massive in terms of comparing it to other properties in the village.

My concern is that if we grant a variance because it looks nice on this property, we're going to have an incredibly difficult time telling anybody else know. For example, right now, we're trying to update the code so that we don't have to issue variances any longer on garage conversions. We're trying to make the code such that anyone doing a garage conversion has to do it in a way that it doesn't look like a garage conversion. The idea is that it's supposed to look like that was the original construction of the house.

This is something different because those setbacks are important because they help us maintain the aesthetic overall of the village. This one is a tricky one because the house already exists within a grandfathered scenario. This is a tough one to be sure. I can't tell you where I sit as far as a decision on that yet. As always, our planners do an incredibly diligent job.

Overall, I agree that really the only two issues we're dealing with here are driveway and that setback. I certainly do hope the owners are amenable to reducing it to two garages. I think it

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will make the property as a whole seem a lot more inviting. Then as far as a setback goes, that's going to be a tough discussion for the three of us to have I'm sure.

I just wanted to know if there were any alternatives that you already had in the event that we shot you down and said we can't issue a variance for that setback. I don't think we can say one way or the other tonight whether or not we're going to be able to accommodate that.

Councilman Luis Pirela: Let me say something for me, please. Because it is a little contradictory here that you have it drawn us, in the picture looks like a garage, but in reality, it's a cabana room. It's not actually a garage. That portion of the house in the middle has a bathroom, a full bathroom. It's a room, so it's not actually a garage. It was never designed inside as a garage. Why was the driveway and the garage door there?

Victor Bruce: Basically, providing him with the flexibility. Yes, we needed the bathroom for the pool. Right now, taking the driveway out it's somewhat fluid so we're definitely willing to update whatever we have to do in the plan to be able to achieve the approval. If it's two driveways and then two garages behind it, that adjustment could be made without any issues.

Councilman Luis Pirela: I don't know if Mr. Geller or the survey can answer these. I hear a lot about grandfathering and all of that, but if the construction is over 50%, don't you lose the grandfathering and you have to actually conform with the new code?

Camila Zablah: Yes. I would like to state for the record that our recommendation for the variance is basically denial. We recommend [crosstalk]

Councilman Luis Pirela: Because there's only 50% of the construction, right?

Camila Zablah: Because with every new improvement, we require it to comply, to come closer to the code. Also, to answer your question, Vice Mayor, the not covered to the existing footprint is 15% versus 31% with the addition. Thank you.

?Speaker: [unintelligible 00:38:03]

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**Village of El Portal
Planning and Zoning
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Vice Mayor Anders Urbom: My question had been the existing structure today as we look at it, what percentage of coverage on that lot? She's saying it's 15% currently and then with the additions that will grow to 30% coverage, but 40% is our max so that's still those--

Victor Bruce: Still within the-- Right.

Vice Mayor Anders Urbom: Right. I do think that the elimination of one of those driveways, at least from the artists rendering, would go a very long way towards making the property more inviting and then the considerations are real in terms of the safety of the pedestrians on the sidewalk as well as the code requiring of putting a limit on how much of a frontage can be used for a driveway. I think it's all going to come down to the discussion on the setback I believe. Again, that's why I go back to wondering what if any discussions were--

Can I ask at what point in the design phase that you became aware of a possible issue with the setback on that one front?

Victor Bruce: I always knew that the house was encroached by five feet because the first thing any architect does, he does in so many research, he applies setbacks to the property. I already knew that the house was non-compliant on the west side and that it extended so much on that side. I'm also aware and that's why I joined the site plan so you can see in color the property itself in a lighter green and the swales parkways to the south and the west. There's a lot of green there.

Even though we know through a plan and a survey where the property lines are set, what visually we see, we see the house and the street, and everything else in between is grass. The distance itself, it's still greater than most of other properties in El Portal. El Portal has few streets that have this much parkway on one side. This one doesn't even have a sidewalk, so the grass goes from asphalt to the house. That perception of having this extension encroached, it's not perceived, and that's why I felt comfortable.

Also, it's so much of the house on the westside. It's already set on that 10-foot, and you can see it here again. It's from here to here. Adding this little bit, I really felt like this is fine, because it really falls in line with the existing house, and doesn't make it be like [background

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noise] or [unintelligible 00:40:56]. If I did anything different, I think it would have just made it so awkward back there in that. It felt correct to continue that line.

Doing this where we step backed the front made a lot of sense. Setback in the front, there's no problem with a setback there, but the moves made all in conjunction made a lot of sense. If I pushed that upper part closer to the east, it affects the whole backyard. The percentage of how much I'm encroaching, it's not even half. At 5 feet, still keeping 10, still keeping with the house makes sense to me.

Speaker: Chairman Pirela, [crosstalk] question answered as well.

Attorney Joseph Geller: I'm just asking if you got your question of the applicant here.

Councilman Luis Pirela: No. About the percentage of being a new construction with it being over 50%, and you have to comply with the new code, it's not necessarily grandfathered in, and that's what we're considering here.

Vice Mayor Anders Urbom: For example, anyone wishing to redo a driveway right now, for example, they might have a driveway that's grandfathered and out of code currently, but as soon as they decide to overhaul that driveway, it's got to be brought up to code. To Councilperson Pirela's point-- You're putting us in a little bit of a difficult situation, because if we were to approve as variance, because of the age of the neighborhood, because of the homes, and because of the owners--

Let me ask you this, the owners, are they planning on living in this or are they planning on selling this property?

Victor Bruce: They're living in it. The owners are here as well.

Vice Mayor Anders Urbom: Okay. The precedence we set have carry a lot of consequences. What's happening right now is you have developers looking for properties almost exactly like what we have in El Portal to essentially come in, and the square footage is an issue. COVID's changing everything, but it was already headed that way. I'm sure you're aware that one of the discussions that's taking place is, "Which major city is it going to be that outlaws single-

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family residences soon?" This is a discussion that takes place around the country in urban centers because of the need for that square footage.

Density is becoming a huge factor. To understand that what's happening in Miami right now I don't need to tell you, but with the gentrification that's taking place, because some of the poorest people in Miami live in some of the highest land. El Portal is traditionally a poor neighborhood. We have our low-lying areas, but we also have a lot of areas in El Portal that are at higher elevation than the surrounding area. Not to mention the fact that we are further aided by the railroad.

In the event of someone seeing catastrophic storm surge washing up 87th Street from the bay, that railroad track gives us an extra 2 or 3 feet of coverage. Which could end up being making a difference in some catastrophic event in the next 20 years. With that, we are a target now. We have developers coming in looking to overhaul the square-footage of our property, overhaul the lot coverage, because of these trends and because of these needs.

The best outcome for this village in the long-term is really to maintain what has been going on here for quite a number of decades. A great deal of that has to do with the aesthetic of the neighborhood. Because of our lots, we don't have the ability ever to become like Miami Shores, who has huge lots with huge homes on those huge lots.

We don't have that type of square footage. We are between a rock and a hard place on this setback issue because of what it could mean for the near future of having people coming in to make the argument. "You accepted this variance for this property. It was built in 1931. We're redoing this property. It was built in 1932, and has a similar issue," only that person wasn't looking to beautiful a place for long-term residency, maybe they're looking just to flip it.

We need to take the issue of that setback incredibly seriously I believe, clearly. I might be a little frustrated that there wasn't a Plan B or C, that there might have been an assumption that, "They'll have to approve the variance because it makes sense aesthetically, because it's convenient, because X, Y, and Z." I'm certainly sympathetic to that need. For example, if you lose 5 feet of a setback in your design, you might end up losing two garages instead of just one, because there may not be enough room to accommodate a vehicle if you lose another 5 feet.

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Yes, we are stuck. It is a rock and hard place. This something the three of us will have to figure out, and we'll do that. I'm a little bit concerned that there's not ready-at-hand a Plan B for the event that we would not grant that variance.

Victor Bruce: If I may? Most of my projects are in these three villages. I do a lot of work in Miami Shores, I do a lot of work in Biscayne Park, and El Portal. I have various projects here. I would go for a variance 100% of the time ever, never. I don't go for variances because I know the hardship has to be a real hardship. Miami Shores does not approve any kind of variance because there's no hardship to be able to explain that doesn't give an alternative. The Biscayne Park is the same.

Vice Mayor Anders Urbom: 100% of this project is elective for example, right?

Victor Bruce: I'm sorry?

Vice Mayor Anders Urbom: 100% of this project is elective for example, right?

Victor Bruce: I understand.

Vice Mayor Anders Urbom: There's not an imminent danger or need to do additions and things. This is all--

Victor Bruce: There's no hardship, but there's enough already with the existing structure. Many other jurisdictions see it this way. I know it's the word "variance" has a stigma.

Vice Mayor Anders Urbom: It's more that would setback. We discuss variances frequently. Like I said, we had so many garage variance, garage conversion [unintelligible 00:48:53]. It's really the word "setback" that becomes an issue. That's one of the primary protections that El Portal has for property values at all, really. It is a lot of those set back regulations, because--

Victor Bruce: Usually when it comes to side properties. Usually, you don't to be too close to your neighbors on either side. It is a thing that, yes, thanks for the clarification. It is setback, very.

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Vice Mayor Anders Urbom: I was going to ask, it's your property, so it's your right to do it. I was just curious if the additional height of the addition, if there was any consideration given to what happens to a neighbor's view or things like that, shading, all of these issues-- Camila might be able to tell me if they saw any concerns that way of any obstruction to neighbors with additional height here. I don't see it in the plans. The plans are beautiful, so that's not the issue at all. It does look like even with the additional height, it doesn't really-- Like I said, it's not monolithic, it's--

Victor Bruce: There's no additional height, we're two stories. We're getting a condo where there's a shadow being created. Two-story, we're within the height restriction.

Vice Mayor Anders Urbom: Okay, very good. [00:50:25]

Victor Bruce: What I was going to say about the setback and in situations like this, other jurisdictions when they have a non-compliant condition like this one, they don't even-- in many cases, they don't even call it a variance, they call it a continuing of a non-compliant. When it's something like this, like I said I don't go for setback variances ever because there's no way to get it approved because there's really no hardship, but when it's a non-compliant like this, this one I felt like the whole house is already there. You can't make the owner move the house, so that is already an existing condition. To extend it by two bays--

Councilman Luis Pirela: Excuse me that-- because that was my question, even though we're adding over 50% of existing, so it's considered no construction, that's why we're discussing this here. Even if you're doing a whole new house, you're adding double the amount of square footage that is existing now, you don't really have to-- you have to comply with the new code, is that correct?

Camila Zablah: Correct.

Councilman Luis Pirela: Okay.

Camila Zablah: I apologize, I couldn't answer your question before but even if it was-- With every new site improvement, no matter how small, we try to get closer and compliance to the code, which is why our recommendation is as it is, to comply with the set standards.

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Victor Bruce: It's understandable because setbacks are very important, but then again as I was saying, many jurisdictions see this as a non-compliant. Even though of course, everything in this house is going to be up to code because I can't get a building permit, I can't do anything if it's not up to code. The only issue is that this house is already existing, encroached.

What we were expanding, we didn't do the addition of the habitable spaces to the north which would have been a completely different volume, those are to the east. This is a continuation of an existing use which is parking which is 10 feet from the parking lot. The moment we put two garages five feet back--

Councilman Luis Pirela: No, I understand, I walk by the property every single day and as a matter of fact, it has an existing almost like a 40 feet driveway in width at 30 something, with a 12 feet approach and--

Victor Bruce: Which would change.

Councilman Luis Pirela: Which will change because now you have-- Now, will there be any changes or any other consideration of like having the two car garages like next to each other and then the other room being-- Because of the situation that you're saying that like to actually continue the design and stuff like that, it will make more sense to have the two garages next to each other, right? Then the next room or whatever the cabana or bathroom being out of the five feet setback, extra five feet setback, so that wouldn't make the whole side of the house approaching the setback.

Vice Mayor Anders Urbom: Right, and so-- [unintelligible 00:53:35]

Councilman Luis Pirela: It'll be only an extra 10-foot or what, 15 instead of 27.

Vice Mayor Anders Urbom: Right. Again, one of our biggest challenges is because of the way El Portal exists right now, so we're in the process of updating ordinances, [unintelligible 00:53:58] architecture, both and all of these things. A lot of this comes out of drama and the headaches that have happened in the past, from having a difficult time, being able to apply

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our own code uniformly because of the great disparity of houses built in the '30s, houses built in the '70s, houses built in the '50s.

Then the fact that a lot of this is on us as a village because the code had not been updated since 1984 or something like this. That is our focus right now is to get us to a place where the village can apply the code uniformly going forward because there are frequently the discussions of well, you accommodated that resident, why can't you accommodate me.

My concern is that, if we don't get this right on this one, it's going to create potentially a lot of headaches for a lot of future administrations. A lot of residents in the future too because people might operate on the assumption that, "well, the president is there, we should be fine," then they're going to be told no, and that's going to-- **[unintelligible 00:55:27]**

Again, we have a lot at stake here in El Portal and we have a lot to protect because right now, specifically right now, there are just a lot of entities looking to completely change absolutely everything about single-family resident neighborhoods. [chuckles] We're small, we're poor and so we are a target, so we must think critically about absolutely every single one of these details that comes across in front of us.

Certainly, don't take it personally. Who's to say, we might end up agreeing with you and giving you the variance, we just can't say that right now at this time. I'll say that and then it be done, but it is just a little bit concerning that there was not any type of a plan B in the event that variance would not be granted.

Councilman Luis Pirela: Okay, well I see it more like a case-by-case basis. I don't see it like because once you approve a variance for a certain applicant then everybody else is going to come and-- We're doing exactly what we're doing here, starting and seeing what's the possible way of-- but yes, yes, many points you're right. You have a lot of investors just coming by and doing whatever they think is more appropriate and maximizing the square footage on the properties and forgetting about the green space, but that's why we'd have to serve you here.

If they really think that there's nothing with the addition of what is being presented here, so then it still falls into the percentage ratio building to green space, we're still good, right?

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Victor Bruce: Yes.

Councilman Luis Pirela: Yes, okay perfect.

Mayor Omarr C. Nickerson: Mr. Chair, if I may?

Councilman Luis Pirela: Yes?

Mayor Omarr C. Nickerson: I do want to hear from the homeowner also but we're at the point right now, I think you guys, where we got to make a choice, right? Choice number one would be, which I don't think anybody's for it, but it is just laying out the choices, so choice number one would be to take everything that they want, not even considering the conditions. That's choice number one.

Choice number two would be to take the project considering the conditions, with the conditions, to pass it with the conditions but then let's say, passing it with the conditions giving them the variance. That's choice number two. Then we have passing it with the conditions without giving them the variance, that's choice number three.

We also have you guys, choice number four which would be, we're not comfortable with this, we would like to see another option. We tell them more or less what we would like to see, we have them go and do that and come back to us. Now that would be the next committee meeting which would be March.

Councilman Luis Pirela: For planning and zoning?

Mayor Omarr C. Nickerson: For planning and zoning. We're bi-monthly, because remember, this is a special-- Yes, Mr. Geller?

Attorney Joseph Geller: For a procedural purposes, the council is actually already in discussion, so what you may want to do for procedural purposes is allow the applicants to conclude their presentation. Then open it up and see if there is anyone from the public who would like to comment. Then it comes back to the council, at which point somebody should make a motion and the motion and a second, and then you're properly in discussions to what you want to do.

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At the moment, I don't think that you-- I haven't heard that the applicant has concluded and you still have to have-- I recommend having a public. It's mandatory as a full council but you might as well have it here or that may cut your contact. You do those couple things then you're back to discussion in the council as you can choose between the options as the mayor's laid them out.

Mayor Omarr C. Nickerson: Yes. I wanted to thank you very much, Mr. Attorney. I'm laying them out so they start to think about what they want to do because I did say I still want to hear from the applicant, which means that that would be the public and they're still up here. I'm at the point where I think that we're about to end this part. I want them to start to think about what they want to do now that they know the options. I'm going to hear from the applicant. We're going to check this, Mr. Chair you'll bring up the advocate. Then we can go from there, decide and from a decision we can guide what we want with them.

Victor Bruce: I can close with after hearing some of the comments and some of the things that have been said. This is an owner of a property who's going to live in the property the way we've designed this edition. To me, it's obvious that they're going to be moving in, but nobody, no developer would have gone through the amount of work that we did for this edition if you can see the front elevation.

There's elements that were repeating. Most developers won't take so much of that into consideration. It is going to be a family is going to live there, their baby has been born now a couple months ago. I believe that they're going to have a couple more kids because there's bedroom space for that. They have a pool, we've worked very hard on terraces. These are living purchasers. This is not going to be a flip.

Then going back to that elevation on the side, again I want to make sure that we all see the same thing. I understand the whole issue with setbacks but also the house it starts here and it ends here and there's garage on that side. It's much more than half of the facade facing that side. As an architect, I've been practicing 28 years. I've lived in Miami shores for 14 years.

I understand setbacks and variances for setbacks, but I feel strongly that this is the best option for this house. Again just like you said, case by case there's enough circumstances

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here that lends itself to add two more base to 67 feet, adding about 20 feet to that. I didn't find it to be a detriment to the community or to the village. Thank you.

Mayor Omarr C. Nickerson: Thank you very much.

Councilman Luis Pirela: Thank you very much.

Mayor Omarr C. Nickerson: Mr. Chair if I may.

Councilman Luis Pirela: [crosstalk] Yes.

Mayor Omarr C. Nickerson: The only thing that I would say Mr. Chair as far as a case by case I understand the sentiment with that, the only thing I would say recently we were having a discussion about the permit fees. I was speaking with the village manager, we were in a meeting and we were talking about the permit fees with the development that's happening right now.

We were in there and Mr. Attorney you were also in that conference call.

They'll tell you, I said, "You guys, I want to get to a point to where we decide exactly what's going to be there exactly the percentage what's going to be written down, so that anybody that comes anytime after that they don't have to ask us right and get special approval because it's there. You can read it yourself." I understand what you're saying about case by case basis. I think Vice Mayor Urbom said, "No we're trying to set up a system to where before they even get in front of us they should know what our answer is going to be because it's there in writing." I think that's the point we're trying to get to.

Councilman Luis Pirela: No I understand clearly all that. Yes. Okay. Any more questions? Any more comments?

Attorney Joseph Geller: If the presenter is done and there are no further questions from the council or staff of the presenter, then it's appropriate for you to move to the public hearing.

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Councilman Luis Pirela: Thank you, Mr. Keller. Thank you, Victor. Let's open it to the public. Any public comments? You can come up to the-- Yes. Please say your name and address for the record.

Gustavo Gonzalez: Hello my name is Gustavo Gonzalez. I'm the owner of the house. First I would like to thank all of you for making this happen. I know you guys went ahead of schedule just for us. Just to touch a few points, this is going to be our main home. This is going to be our first home. We just started a family. We picked Victor especially for this project just because the way he builds everything he takes in account the old architecture of the home.

We didn't want to take anything away from it, we wanted to add to it and improve the neighborhood, the house, and make a little more space for our growing family. He did tell us about the setbacks. We looked at what we can do. We didn't really see any other way of building another car garage 5 feet back and for it to make sense. That's why we went with this design where the middle section is a little more push-backed than the other side to do a little bit of a break.

The three-car garage or three parking spaces it was something that we wanted for visitors, things like that. I know we have to give and take a little bit something. Removing the third driver was something that we really didn't mind to compromise. The compound feature of the house, how you're saying that the doors makes a little bit unclosed, I think that's what the main architecture of this house goes for. It's the old Spanish architecture. We build those arches, those doors to make it fit that kind of theme. I would like to ask you guys who could really take in consideration the setback. I really don't know what else we can do for this house to keep the look and feel that we're looking for and the look and feel that house deserves.

Councilman Luis Pirela: Okay. Thank you.

Mayor Omarr C. Nickerson: Mr. Chair if I may.

Councilman Luis Pirela: Yes. Go ahead.

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Mayor Omarr C. Nickerson: Camila, in your expertise, with what you guys, because you guys see many different properties, homes, and things like that, from his last comment that he just said where they feel like there's no way that they would be able to get what they want without adjusting the setback, in your view, have you seen other single-family homes that have this type of situation where the conflict between trying to have the straight line opposed to the setback situation?

Camila Zablah: I can't think of another example like this. Usually, we try to find actually a break in the facade. You were able to accomplish that with the primary frontage in which the edition is actually set back. The main facade is it stands out and the original architecture still has the main view. We even recommend it to include more landscape in front of the addition not that it's not beautiful in itself, but to give more prominence to the new building. That is why our recommendation remains for the secondary frontage and it remains consistent with the one for the frontage as well.

Mayor Omarr C. Nickerson: Yes. Mr. Bruce, can you come back to the mic please? Do you understand the point that she's trying to make?

Victor Bruce: I do but it's two different conditions. It's two different strategies. The front is on purpose not to take away from a beautiful volume that this house has. That's why you have the picture in the office.

Mayor Omarr C. Nickerson: If we're here saying that we follow the lead of Preservia and we're saying that for us to pass this there must be an adjustment, can you see any possible adjustment for us to get to the point to where we feel comfortable to pass this, or is it just a dead-end issue?

Victor Bruce: If I may I'll show you what I mean by two different conditions. At the front of the house this volume right here is what makes the house such a beautiful home. This is your first story and these dormers are the second floor to the house. Right here you see the the dormer here, and this is windows of the bedrooms in the second floor. There's a bedroom on the east on the west. The intent was to maintain this volume. This was pushed back as much as I could so that when you drive on 87, you can see this corner, you can see the gable end on

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this side, and you'll see it, just like in the rendering from this side, you see the house. This distance, although the setback is not dictating it, we made that voluntarily.

Then, when you come back to this side, which is the elevation that has the garage doors, this is of less importance than this volume. This is accessory, this is supplement to the house. This, right here, where my arrow is going, this is all existing. This is only supplementing a small volume, that's not the big house, and it's just expanding it a little bit. It's two different strategies. One is on purpose to not take away from the house and the other one's just taking the supplemental accessory structures and continuing it, because the moment I change this roof line this gable, it's going to look a third house.

Right now, this is the most important, then there's the addition, and then there's these three guys that are smaller, less impactful. The moment I break this, it's going to look a loose end. I can't say it any other way, it's going to look ugly.

Mayor Omarr C. Nickerson: This is where we're at, this is the impasse. From where he just said, because this is a committee and we're the only ones on a committee, so this would have to be passed anonymously. That being the case, if whatever I think, if Vice Mayor Urbom or Chairperson Pirela, if you don't get all of us to agree to a certain thing, then this is going to be dead in the water.

I'm trying to find a way to find a compromise position to where we can stick to our guns as far as what we've worked so hard on and hired the survey to do, so we can stick to that, but that you guys can still do something that you guys would be able to live with. Because I want you guys to succeed, but I want us to also stick to what [unintelligible 01:12:52], we're working so hard to stick to.

What I will say is, right now, these types of decisions, it's not going to be made right here right now. I would just say, unfortunately, and this is just me saying this, he's a chairperson, he'll make promises as far as what we're going to do with this, but I would just say that we stop it here, we communicate, and we see if we could find a way to--

Victor Bruce: May I go [unintelligible 01:13:27]?

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Mayor Omarr C. Nickerson: Yes, sure. Okay, just a couple of more questions here. I've got a couple of more questions whenever--

[crosstalk]

Attorney Joseph Geller: This question is directed to the owner who is the public speaker or back to the architect, because, at some point, we should let the public hearing close and then, again, whenever [crosstalk]--

Vice Mayor Anders Urbom: I can make [unintelligible 01:13:55].

Attorney Joseph Geller: You can ask anybody.

Vice Mayor Anders Urbom: I can wait until the discussion.

[crosstalk]

Speaker 1: Right now, we're having a public hearing.

Vice Mayor Anders Urbom: A public hearing, yes.

?Attorney Joseph Geller: Gentlemen, I don't know if anybody else wants to be heard, if anybody's registered with the Zoom to be heard with questions, if there's another member of the public, if that person has questions. I'm just saying, close the public hearing if there's anybody else who wants to be heard, hear from anybody else who wants to be heard. At that point, when you're done with the public hearings, it's the province of the council. If the vice mayor has questions, he can ask questions to anybody he wants to?

Mayor Omarr C. Nickerson: I think what we may have to do is that-- Because Mr. Bruce has sworn in, but now we're in public hearing, Mr. Bruce is still part of the public, but we may have questions. I think what the problem might be is that, even though we're in public hearing, we may have questions for the owner also, along with Mr. Bruce. What we could do is close the public hearing, but if we close the public hearing, then the owner had to be sworn in, like Mr. Bruce.

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Attorney Joseph Geller: I think the owner was sworn.

Speaker 1: I think the owner was sworn. You did it.

Mayor Omarr C. Nickerson: No, he was not. That's why I'm saying--

Speaker 1: We can swear him.

Mayor Omarr C. Nickerson: That's why I brought the--

Attorney Joseph Geller: In order to testify and all, sir, you also need to take the oath. You do that if you're providing testimony. If you're going to sit here and not talk, that's fine, but I didn't see that your hand did go up. Are you willing to take the oath?

Gustavo Gonzalez: Yes.

Attorney Joseph Geller: Okay. Please, raise your right-hand say, "I," and state your name.

Gustavo Gonzalez: I, Gustavo Gonzalez.

Attorney Joseph Geller: "Do solemnly swear."

Gustavo Gonzalez: Do solemnly swear.

Attorney Joseph Geller: "That the testimony I may give tonight."

Gustavo Gonzalez: That the testimony I may give tonight.

Attorney Joseph Geller: "Be the truth, the whole truth, and nothing but the truth."

Gustavo Gonzalez: Be the truth, the whole truth, and nothing but the truth.

Attorney Joseph Geller: "So help me god," and you can affirm it.

[background conversation]

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Gustavo Gonzalez: So help me god.

Mayor Omarr C. Nickerson: I think we're at the point, Mr. Chair, if I may--

Attorney Joseph Geller: Just procedurally, if this gentleman has anything else to say as part of the public hearing, he can go ahead and do that. You should then see if there are any other persons [crosstalk] to offer testimony, then you can close the public hearing. At that point, it comes back to the council. For instance, if the Vice Mayor has some questions, they can be asked to anybody he chooses, the same for questions the Mayor is asking or you. Anybody can ask whatever they want to, but at least you would have completed those other steps towards getting us done possibly at some point in time.

Councilman Luis Pirela: Perfect. Thank you, Mr. Attorney Geller. Now, that you're sworn in, come back to the podium. Do you have something to say, Mr. Bruce?

Victor Bruce: If they offered [unintelligible 01:16:55] discussion, and, for example, if you were to ask me, like the Mayor was suggesting, if there was any option that I would investigate, to then conform to the setback, I'll give you an option that I would think of.

Mayor Omarr C. Nickerson: Give me one second, Mr. Bruce. Give me one second. Mr. Chair, what you want to do, we still have a public hearing, so what you want to do you, you want to ask if there's anybody else that has anything for the public hearing, they don't have to sit down yet, if there's nobody else that has anything they want to say for the public hearing, you can close the public hearing. They can stay right there, and then we can continue right where we left off.

Councilman Luis Pirela: Good, thank you. If there's anybody else from the public that wants to come and have any comments or questions for the applicant or for any of us. Close the public hearing and back to the council and to the applicants.

Victor Bruce: Picking up again, you have suggested what could be an alternative that I could provide. Let's say I'm starting a new, I would most likely suggest to tear down the existing garage and the connection, because it's just going to be a way to make this addition makes sense. That will be taking existing characteristics of the house. Going back to the rendering,

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if I were to do this addition and respect the 5 feet, it most likely means that we would want to demolish this, because it won't make any sense. It'll be a clear change if I do it at the house.

I demolish this walkway, which is existing and this existing garage, demolish everything and push everything over, then it makes sense as a wing of the house, but that was never taken into account, because it's the existing house, it's part of the house. That would be an option, but I wouldn't feel comfortable with it. That's why I never proposed it. Another idea would be to do something different. Maybe you make a big gable here, but then it competes with this house.

This one is compatible with the existing. That's another option that I don't think would have worked. A flat roof would never have worked. Any flat volume back here that's pushed back would look like a modern addition to an existing Spanish style. There's a lot of things that go into the process of design. Unfortunately, and this is one thing I learned in school, what architects do, and designers, and interior designers, we look for beauty. Beauty is not one plus one equals two. In some cases, there's these exceptions. This is the only setback in a variance that I've ever applied for. I feel like I just don't know other options I could give the client to make this work.

Mayor Omarr C. Nickerson: No, like I said, the design is beautiful. Congratulations. This is a beautiful design but take into consideration what has been-- What Preservia had to say and in respecting the setback and all of that, that's where we are right now with this project. Like I said, I don't know if there's any suggestions that I made or that we could make to make this work. If the Council will feel more comfortable instead of doing the whole-- I don't know, Camila, if you think that instead of having the whole new addition approaching those 5 feet, having just one structure, and the remaining being a setback of five. It doesn't feel like Mr. Urbom was saying like a compound or like a fence or like a concrete structure which I see those beautiful doors, and I see the gates and it looks just amazing.

Again, that will make everybody else a little bit more comfortable. I don't know if a design point of view will still look good. Like I was saying, maybe either the middle structure been at five. Meeting the extra 5 feet of setback, and just having the extra additional parking garage at the same level as the existing one, or making the two-car garage next to each other, and the other structure setback the extra 5 feet.

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Then, like I said, instead of having a whole new addition approach at the same level, having at least that only the garage situation because it's true. Less than 22 feet, you're not going to park your car inside of a garage. You need it. I'd much rather see a car parked in a driveway than having it parked in the grass because that's what ended up happening. Everybody parked in the grass. That'll be-- I think if you cannot accomplish that or go meet halfway to the design so that-- I don't know if members of the council will consider that a little more than having to then demolish the whole thing, the whole garage, and that entrance, and try to push it in more towards the property line.

Victor Bruce: Just so you know, this right here, this dashed line--

Councilman Luis Pirela: That's where it's supposed to be.

Victor Bruce: This is the 10 feet here. That's how much the house-- The house is basically 5 feet, and it's the whole walkway and a fifth of the garage is--

Councilman Luis Pirela: The house behind it actually has a two-car garage, two-story and is actually-- It's at the same level. It's not like it's--

Victor Bruce: It's just unfortunate that they're buying a house that sitting like this. They didn't cause this situation. It's something to contend with. That's why we're having this discussion because I think it's worth having this discussion because again, it's not a developer, he's not flipping this. This addition does not have the look of plugging in square footage just for the sake of plugging it in. I don't work in projects like that. I don't like to be told how to design.

We knew about the setback, but it just made sense. Again, I've worked in Miami Beach, I've worked in other jurisdictions where they take this and they consider it. Sometimes it doesn't make any sense but in a case like this, it just makes so much sense that the alternative, it's words that are not like beauty and ugly. They're words that are spoken more in a studio. It is a tricky situation of adding the garages on this side. If you ask us to change it, then we'll have to come back. We have to come back.

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Councilman Luis Pirela: Like Mr. Urbom said, you never presented the owner with Plan B or C just in case these wouldn't pass?

Victor Bruce: Honestly, I wouldn't want to give you an out, because the out will not look good. We're going to have to work on something. If we can't get approval, we were just saying we can't do this addition on the north side. We want to hold the addition of the overall project if we can't do it the way the north side is. I wouldn't. We would just give up on that and will work on something else. Unfortunately, it's not going to look as nice. There is a sense of quality to the village. Even though it's small properties, even the small homes, you want to maintain some type of continuity, and that was maintaining continuity in the local house. Albeit 5 feet, but still, the house is encroaching 5 feet already.

Councilman Luis Pirela: Mr. Geller, you have something to say?

Attorney Joseph Geller: I was going to say Mr. Chair, that you may want to now see the two questions that the Vice Mayor had and then that'll shed some further light on.

Councilman Luis Pirela: Perfect. Thank you, Mr. Attorney. Okay, go ahead.

Vice Mayor Anders Urbom: I'm patient. I know where we're getting. I think my first question is actually for Camila. In the recommendations is the reference to landscaping. Could you remind us which phase are we talking about in terms of your recommendation for landscaping and what type of landscaping specifically are you referring to?

Camila Zablah: That recommendation refers to the front facade in front of the addition. Although I believe they already have some landscape. It was just an encouragement to further make original [crosstalk]--

Vice Mayor Anders Urbom: The primary mass. Then, for the owner and the architect, I don't want-- First, I know that my language is strong in terms of a compound, but I'm searching for

an exact word. I think my comment about gated community was probably closer to where I was trying to go with that in terms of invitation or not. Now, looking at a combination of the

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plans and then the artist's rendering, I will tell you again, that the design is beautiful and the preservation of the original structure, the incorporation of that architecture

is definitely going a long way towards making me think that the variance might be possible.

Again, I can't tell which way I'll go in that at this point in time. I wanted just for clarity for everyone's sake. What you're saying is that in all of the considerations given of what to do with the addition of a garage and that extension, you are convinced that to do anything more drastically than what you've done with that line because in the middle garage in the artist's rendering, you have it-- you can see it here, it's a matter of inches but it's there in the plans as well. That one little interruption. Anything more than that you're saying is going to make that entire section seem out of place, incongruent, and overall distract essentially from the rest of the design, correct?

Victor Bruce: Yes.

Vice Mayor Anders Urbom: I don't disagree either, that that might end up being the possibility. I would say to the council that there is a possibility here that if we were to just outright decline the variance and say redesign it, that what ends up happening is that we end up with a property that does seem incongruent or out of place. I certainly take into consideration what the architect is saying. I don't think that he's just making it up to get what he wants. I think that he's right that it seems clear and obvious that he's put a great deal of effort into this design, even agonized over it.

It does seem that's obvious. I don't doubt your concern that if we force you to redesign that, that it's going to end up looking far different than where you intended it. Even far different than what we intended it by making that decision to hold your feet to the fire on the variants. I wanted to ask the question about the landscaping because I do take into consideration what you're saying in terms of the overall extension of the the variance violation is a matter of feet.

It's a small percentage of the overall length of that phase. If we redesign it, it's going to potentially destroy. I don't think that's too strong. I think your concern is that you're going to destroy the aesthetic that you're going for if we alter it significantly. I think my question is

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just to clarify the larger points here. From our perspective, we have no choice but to debate this to the bitter end, because of that reality of the setback issue.

Having said that in that debate, a highly reputable experienced architect is stating very clearly that if we do not accommodate this design, they're either going to go back to the drawing board on that entire section, or they're going to end up with a piece that completely-- Nobody gets what they want at that point. If he just redesigns that one section to please us, then we very well could end up with a property that does not look congruent or consistent, let alone aesthetically pleasing.

I just want to tell you that your points are very well taken. I've got a couple of friends who are architects, and I'm fascinated by architects. In another life, maybe I'll have the attention span to become an architect, but that's not how it's going for me this time around. I really do appreciate your concern of what could happen if we get what we want in terms of an alteration on that, that we could end up shooting ourselves in the foot and end up with a property that just doesn't look right. Then the question becomes-- Going back, I really appreciate your honesty when you said-- I didn't want to give you an out on a plan B or plan C.

I really do appreciate your honesty in that. It is going to come down to how strongly we feel that we would need to see a plan B to make a decision on whether or not we're going to accommodate a variance. That's going to be the tricky part. I will say that for me personally, the effort that you've gone through to get to this point and the consideration that you took into the existing architecture, and everything you put into it makes me feel like we should strongly consider meeting you halfway here certainly at a minimum as a consideration.

I'm sorry that I can't give you more clarity on really where I'm going to land on this. I do want to try and be clear that what we're talking about here is a very real possibility that if we refuse to consider the variance that we could end up getting something that we did not intend in terms of design. It's a very good consideration to take into account. I don't know if I helped anybody with these questions, but there you go.

Councilman Luis Pirela: Thank you, Vice Mayor. Mr. Geller-- I'm sorry, Mayor Nickerson.

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Attorney Joseph Geller: Could you try to just assist the point that the Vice Mayor is making. He asked about the landscaping. If I understand correctly from what I heard before, is it correct that you accept on the record the additional condition of adding landscaping to the site plan approval?

Victor Bruce: It was the plan.

Attorney Joseph Geller: Say for the record into the mic.

Victor Bruce: Yes, we agree. When you see the site plan, we have every intention of adding landscaping to a beautifully-- There's like five oaks which are on El Portal property. They were going to add to that. They had every intention. It's one of the things that they spoke to me from the beginning. Yes. Landscaping is part of the-- yes.

Attorney Joseph Geller: I get that and I appreciate your answer but the question is, do you accept that condition on the record?

Victor Bruce: Yes, we accept that condition on the record.

Attorney Joseph Geller: Also, to be clear, do you accept on the record that condition that the third driveway be deleted?

Victor Bruce: Yes, we accept on the record that the third driveway be deleted.

Attorney Joseph Geller: Other than the setback, the other conditions which were just standard conditions, you accept on the record construct in accordance with the plans and the other standard conditions, those are accepted on the record?

Victor Bruce: Yes, as a registered architect in the State of Florida, yes, I accept those conditions on the record.

Attorney Joseph Geller: I would suggest to you, Mr. Chair, at this point, one of you should make a motion to grant or to deny the 5-foot setback variance that they're asking for. Once the motion is made and seconded, you can continue to discuss and debate it. I'll get there in one second. It would seem that to try to move you towards a resolution, somebody needs to

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bite the bullet and say whether or not-- Make a motion and get a second to grant or deny. You can't do both.

It's one or the other and somebody needs to lay that out there. If it passes, then you can adopt the proposal as it's in front of you with that one variance and the other conditions accepted on the record. If the motion to grant fails, or if a motion to deny passes, then perhaps at that point they'll need to withdraw for the moment and reconsider other options. Sir, you have a question for me?

Victor Bruce: Yes. If there's any way of avoiding getting to a point where if they do not approve the variance where the project is stopped, we'd rather not do that.

Attorney Joseph Geller: The answer would be they need to decide. There needs to be a motion and a second. The motion and the second does not end debate if there is further debate. There needs to be a motion, a second, and then a vote depending on what they vote. If they go your way-- You got a pretty good recommendation here out of the Vice Mayor, but that's not a vote. If they go your way, then you're good. If they don't, then you need to consider your remaining options as to what you're going to do. At least that will tee the issue up.

The only other thing before I suggest that you see if you have someone willing to make a motion, let me just say because when someone uses the word precedent, it may imply that they're using it in a legal sense. Let me just say just my own opinion, which is all that any lawyer has. We don't wear black robes. We're not judges. We don't make decisions. If you grant something like this, you may feel that you've set a precedent and that you're going to vote in accordance with that in the future.

You're perfectly permitted to feel that way if that's your choice. Legally speaking, if you were to grant this variance based on the testimony tonight which is from a licensed architect and has to do with questions of aesthetics, what is or is not beautiful? What is or is not appealing? If that is a basis for your decision, no one really has the right to come before you subsequently and demand that you were legally required to vote in a similar fashion because no two circumstances are identical.

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Even if it's the exact same setback but the structure is different and it strikes you as being less appropriate because this is a matter of discretion. Like I said, you may feel that you want to be consistent. Well, I voted for one. I have to vote for another. That's your choice. I don't think that someone can successfully come in front of you and say you were legally obligated to vote for some future variance simply because you vote for this one because The circumstances of each decision, as I think it was you that said that or it was you that said that chairman. You're correct that the circumstances of each one are different--

Councilman Luis Pirela: Different, yes.

Attorney Joseph Geller: It is not a legal binding precedent on you, at least in my opinion, okay.

Councilman Luis Pirela: Thank you for clarifying that because that's what it refers to when they said in a case by case. Yes, thank you Mr. Geller. Back to the council, Mr. Mayor you had something to say, you had a--

Omarr Mayor Omarr C. Nickerson: From what Attorney Geller said, remember you guys before I laid out your four options, that was one of the options, so those are options. We just need to make a decision because I think we've heard everything that they're going to say, I think that we all know how we feel up here, so we just need to pick one of those four options and make a decision.

Councilman Luis Pirela: No, excuse me I do have a question. The paving on the property, is that over asphalt or is it on the, on, on--?

Victor Bruce: Well, the plan is to put pavers on sand.

Councilman Luis Pirela: On sand, okay.

Victor Bruce: Impervious and [unintelligible 01:41:10]

Councilman Luis Pirela: Okay, pavers okay, it makes a huge difference, okay thank you. Well, do I--

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Mayor Omarr C. Nickerson: All right let's--

Councilman Luis Pirela: What's the decision here?

Mayor Omarr C. Nickerson: You would need to ask for a motion for one of those four options and go from there. If/or you have the option to where if you don't agree with any of it, then you can-- then there could be no motion made and we're at a standstill and it stops right here.

Councilman Luis Pirela: Right. Well, like I said, I reviewed the client since Mr. Gonzalez send us the emails and I saw the everything and like I said, I pass by the property almost every day, I said that again, the plans are amazing. Again, is based on the situation and how the house is actually situated and being like their parking situation is not-- they're actually willing to take one they're going more for the setback then the driveway, so without-- I know you're still looking at the three driveway situation right there on the drawings and all of that. I think taking that out and even though and again, the house behind it, it has a double car garage, two-story that is on the same property and it follows that same line. To me, even though, [unintelligible 01:42:50] they're just doing their work, their job and they're letting us know that the property is-- it put the whole property like we've seen here, it's already approaching the setback, or the new setback.

Attorney Joseph Geller: Mr. Chairman, it's my understanding, in consulting with the manager, since I have the deductible, is that for these committee meetings, at least, because you've frequently only got three members. That any member of the committee, including the committee chair, is allowed to make a motion without [unintelligible 01:43:29] that's my understanding of what you've been doing. If that's not correct, please tell me but I just want to make that point. Any of the [unintelligible 01:43:37]

Councilman Luis Pirela: Okay, thank you.

Vice Mayor Anders Urbom: I will take a stab at it, though.

[laughter]

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All right, if it-- all right, so I will say that in light of the overall design, in light of the owner's willingness to agree to lose one of the garages, at least one of the driveways, as well as again, the overall design with the lock coverage that we're talking about and the other facing sides, outside of the one with the issue of the setback, then I will say the following. I will make a motion to approve this application to go forward to the general council, with the understanding that there is an agreement to eliminate one of the driveways and with an agreement for all of the other conditions--

Attorney Joseph Geller: Granting.

Vice Mayor Anders Urbom: Granting the one-- right and granting the variance to the one condition of the setback again, in light of all the efforts that they have made to meet us halfway. I don't know if that needs to be part of the motion but if I need to rephrase all right, then that is my motion.

Councilman Luis Pirela: Okay, there's a motion made by Vice Mayor Nickerson, I mean, Vice Mayor Urbom [laughs] to approve the application with the condition of removing one of the driveway and all the other conditions on the applicant-

Attorney Joseph Geller: Granting that one variance

Councilman Luis Pirela: -and granting that one variance.

Attorney Joseph Geller: The setback.

Councilman Luis Pirela: The setback. Okay, there's a motion.

Mayor Omarr C. Nickerson: Just for clarification, so we're basically accepting what Preservia wrote, we're accepting--

Vice Mayor Anders Urbom: Making the decision for [crosstalk]--

Mayor Omarr C. Nickerson: Yes, because number two is the variance, so we're basically accepting what Preservia said.

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Vice Mayor Anders Urbom: Yes.

Mayor Omarr C. Nickerson: Okay.

Councilman Luis Pirela: Can I get a second.

Vice Mayor Anders Urbom: I'll second that motion.

Mayor Omarr C. Nickerson: You need to ask Madam Clerk for a roll-call and this is the this is to move it to, for clarification purposes, this is to move it to full council meeting, December full council meeting you guys?

Attorney Joseph Geller: There's a recommendation to move it, a recommendation of approval that moves it along. You can recommend it now while it still goes to the full council but this is a recommendation of approval as stated.

Vice Mayor Anders Urbom: As stated on there.

Attorney Joseph Geller: Everything that the Vice Mayor said.

Vice Mayor Anders Urbom: Yes.

Councilman Luis Pirela: Okay, so we have the motion made by Vice Mayor Urbom, second by Councilperson Pirela. Madame Clerk, do I get a roll call?

Village Clerk Yenise Jacobi: Vice-Chair Urbom.

Vice Mayor Anders Urbom: Yes.

Village Clerk Yenise Jacobi: Mayor Nickerson.

Mayor Omarr C. Nickerson: [laughs] Yes.

Village Clerk Yenise Jacobi: Chairman Pirela.

Councilman Luis Pirela: Yes.

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Village Clerk Yenise Jacobi: [unintelligible 01:47:14]

Mayor Omarr C. Nickerson: Let me say this, you guys are maybe the last of the Mohicans.

[laughter]

Let me just put it that way because Vice Mayor, we're not--

Councilman Luis Pirela: I put a goal in the future. [laughs]

Mayor Omarr C. Nickerson: In the future we're not, we're sticking to what's written down in black and white and so congratulations on your young child, that did go into making my decision. We've been going back and forth and the communication's been great and that's why, so--

Gustavo Gonzales: I appreciate it.

Mayor Omarr C. Nickerson: That's the reason why I gave you the yes but you guys are definitely, the last of the Mohicans because we're going forward, we're not going to be--

Vice Mayor Anders Urbom: Yes.

Mayor Omarr C. Nickerson: Yes, any variances.

Participant: This is the last, I know.

[laughter]

Vice Mayor Anders Urbom: Perfect.

Mayor Omarr C. Nickerson: What you guys want to do, Mr. Chair, if I may. Next week, so we're moving to the full council, so next Tuesday, just like tonight but next Tuesday is a full council meeting starting at 7:00 PM. That's where we'll be passing it at the full council and that's like the last, as far as the council or committee goes, that's the last what you'll have to go over with that, all right, so next Tuesday seven o'clock PM will be the full council

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**Village of El Portal
Planning and Zoning
Date: 12/8/20
Meeting Start: 6:30 PM
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meeting, okay? Listen, you guys don't have to do the whole presentation and stuff in this much detail but you guys need to come prepared with your materials, okay? All right.

Councilman Luis Pirela: Perfect thank you and congratulations again.

Vice Mayor Anders Urbom: Yes, because there very well, could be more public discussion at the general council. Yes, for me it came down to the design and well done and I'm sure Mr. Gonzalez will consider a bottle of champagne for you.

[laughter]

Victor Bruce: Thank you very much.

Councilman Luis Pirela: Perfect, thank you and now we have Good and Welfare, if anybody has any comments or is it open to the public, anybody can come and say anything they want to. Hearing none.

Vice Mayor Anders Urbom: Hearing none--

Participant: Mayor, I'm sorry or chairman of the [unintelligible 01:49:41] rep down before you go, the Preservia representative correctly points out that we probably do not have enough time for advertising--

Mayor Omarr C. Nickerson: Advertising, yes.

Attorney Joseph Geller: Meeting next week.

Vice Mayor Anders Urbom: Next week.

Attorney Joseph Geller: We're going to have to go to some subsequent meeting, it can't be--

Vice Mayor Anders Urbom: Advertised.

Attorney Joseph Geller: [crosstalk] as soon as next week, but any different, we have to advertise it. Yes, as the Mayor pointed at, that there's no guarantee that [crosstalk]

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Participant: With-

Attorney Joseph Geller: -the public can say or do. Regardless, it can't be. Thank you for pointing that out.

Participant: Thank you.

Vice Mayor Anders Urbom: What is the timeline required for that [crosstalk]--

Speaker: It's the 19th day.

Vice Mayor Anders Urbom: How many?

Village Clerk Yenise Jacobi: No, it's the 10th, because the chance of getting it [crosstalk] now.

Vice Mayor Anders Urbom: It is 10 days on this activity? [crosstalk]

Village Clerk Yenise Jacobi: Yes, so 10 days, but we couldn't [crosstalk]

Attorney Joseph Geller: On the other hand, if you didn't have this Special Meeting tonight you'd be talking at least February before you could have gotten it approved. Under these circumstances it could probably be approved in January in the regular meeting, unless, it turns out that then for some reason something special meeting [unintelligible 01:50:51]

Mayor Omarr C. Nickerson: Basically, what you're--

Speaker: Not a problem.

Mayor Omarr C. Nickerson: Basically, what you're looking at right now would be January 26th. Our council meetings are always the fourth Tuesday of the month, so January 26th-

Vice Mayor Anders Urbom: Almost always.

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Mayor Omarr C. Nickerson: -almost always. That's usually how it goes. January 26th would be that meeting where this item would come back up for the full council. If you pass at that particular point, then you don't need to see our faces anymore.

Attorney Joseph Geller: You'll be notified [unintelligible 01:51:23].

Mayor Omarr C. Nickerson: I know that you guys were looking to do it sooner. Is that going to be a problem?

[papers shuffling]

Gustavo Gonzalez: [inaudible 01:51:33] we wanted to get it done.

Mayor Omarr C. Nickerson: Can you come to the mic for me? Sorry Mr. Chair, if I could just?

Councilman Luis Pirela: That's okay.

Mayor Omarr C. Nickerson: I appreciate it.

Councilman Luis Pirela: Yes, no problem.

Gustavo Gonzalez: We wanted to get it done by this year if it's possible if there's anything we can do-

Mayor Omarr C. Nickerson: Can you wait until the first-

Gustavo Gonzalez: -let advertise it, or-

Mayor Omarr C. Nickerson: -month of next year? Can you do that? [crosstalk] We passed the variance, that we're never going to pass again, for you. Can you wait until the first month of next year for us?

Attorney Joseph Geller: It's a legal requirement.

Gustavo Gonzalez: All right.

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Mayor Omarr C. Nickerson: [chuckles]

Attorney Joseph Geller: It wouldn't be valid if we did it next week. It would be subject to challenge.

Mayor Omarr C. Nickerson: You'd be starting off the New Year with a kick. We appreciate it, man. Thank you for your patience.

Gustavo Gonzalez: No problem. [crosstalk]

Mayor Omarr C. Nickerson: We appreciate it. You guys take care. [crosstalk] Thank you, Mr. Chair.

Councilman Luis Pirela: No problem.

[background conversation]

Once again, Good and Welfare. Anybody has anything to say?

Attorney Joseph Geller: Yes.

Councilman Luis Pirela: Yes?

Attorney Joseph Geller: I want to congratulate Councilperson Pirela in chairing his first committee meeting.

[laughter]

Great job.

Councilman Luis Pirela: Thank you, so [chuckles] thank you for your help. Thanks, everybody, so--

Mayor Omarr C. Nickerson: You can get a motion [crosstalk] to adjourn.

[01:52:56] [END OF AUDIO]

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