

EXHIBIT "E"

TRANSCRIPTION OF
TOWN OF PALM BEACH
ARCOM MEETING
MARCH 25, 2022

ITEM C(10) - 425 CHILEAN AVENUE
ARC 21-101

Transcribed by Louanne Rawls

Notary Public, State of Florida

Esquire Deposition Solutions, #J8152390

T R A N S C R I P T I O N
- - -

CHAIRMAN KIRCHHOFF: The next item on the agenda is item 10 -- excuse me. That's been deferred.

CLERK: Well, the agenda, discussion of 425 Chilean, just in case it wasn't clear because it is marked deferred on your agenda.

CHAIRMAN KIRCHHOFF: Okay. I'll let you take it over.

CLERK: So ARC -- ARC 21-101 located at 425 Chilean Avenue has been reopened for discussion purpose only. It will not be -- no motion will be made today. I don't know if James would like to elaborate.

MR. MURPHY: Yes, thank you.

This file was last heard on December 17th, 2021. Staff has not received additional documentation to submit to the applicants -- to the Commission to weigh upon, so it's listed as deferred.

Upon conference with the Vice -- with the then Vice Chair after the owner's representative reached out to me asking if they could meet -- please make a brief presentation for discussion purposes only, the owner had flown into town, they take -- this concern very seriously.

As you may recall, the application is for a landscape plan that included the removal of two trees in the front yard that was part of the previously approved ARCOM plans.

So as for the timeline, after December 17th, the design

1 direction was provided by this Commission, they were
2 deferred to the January 26th meeting, 2022, then to the
3 February 23rd, meeting, 2022, and then today.

4 So again, I believe the applicant would just like to
5 discuss the progress that they've made, reiterate their
6 perspective on the removal of the trees, and play a movie
7 that they supplied to us and we forwarded to you. So thank
8 you.

9 CHAIRMAN KIRCHHOFF: Okay. Thank you.

10 Ken, any ex-parte communication?

11 CLERK: Your microphone, please.

12 (BACKGROUND DISCUSSION BEING HAD)

13 CHAIRMAN KIRCHHOFF: Good question. Skip?

14 CLERK: I don't believe he heard the question, Mr.
15 Kirchhoff.

16 MR. RANDOLPH: I understand.

17 CHAIRMAN KIRCHHOFF: Your sound.

18 MR. RANDOLPH: I would do ex-parte even though it's for
19 discussion purposes only because, ultimately, you may be
20 making a motion, not today but a subsequent time.

21 CHAIRMAN KIRCHHOFF: Okay. 425 Chilean -- Chilean
22 Avenue.

23 MR. MURPHY: Again, there are no plans. This was listed
24 as deferred item. They just want to, kind of, get a little
25 update on where they are and provide, again, their

1 perspective on the -- on the removal of those two trees.

2 CHAIRMAN KIRCHHOFF: I did receive an email from Mr.
3 Lynch with a video.

4 COMMISSIONER SHIVERICK: I received the same email.

5 COMMISSIONER COREY: I received the email, as well,
6 with the video of the car parked out in the driveway.

7 COMMISSIONER KARAKUL: I also -- I also received the
8 video. I went to the site. I drove into the site head in. I
9 also drove -- I also backed into the site to experience the
10 situation so I have a better idea.

11 COMMISSIONER CONNAUGHTON: I also received the video.

12 COMMISSIONER SMITH: I received the email and the
13 video.

14 MR. LYNCH: Good afternoon. Frank Lynch --

15 COMMISSIONER GRACE: I received the email and the video
16 too.

17 MR. LYNCH: I apologize.

18 Good afternoon. Frank Lynch. I'm here on behalf of
19 Lorraine and John Charman who are here with me today, along
20 with Dustin Mizell of Environment Design Group. We are here
21 before you seeking what we hope is a simple solution to what
22 has become a very complicated problem.

23 This is a house that was approved on Chilean Avenue and
24 it was approved with a front-facing garage. Obviously, a
25 front-facing garage is permitted by code, but we understand

1 your policy has been in years past to try to site screen
2 those front-facing garages to the extent possible.

3 We would suggest to you that site screening this
4 particular garage is not possible because of the safety
5 issues that it creates. Upon moving into the house in 2020,
6 Mr. and Mrs. Charman experienced this firsthand, and as the
7 trees grew and matured the problem became even worse.

8 This is a garage that is approximately 25 feet from the
9 sidewalk. There is to the west a significant hedge, probably
10 15 feet in height, that creates at least some screening,
11 although not ours, for the garage.

12 There were two trees that were approved to be placed on
13 the -- on the property. In practice, that did not work. They
14 became visual impairments to backing out of the driveway and
15 the safety of those, especially those using the sidewalk.

16 As you know, Chilean Avenue allows parking on both
17 sides of the street. There are parking spaces within 12 feet
18 of the opening in the site wall backing out onto the street.
19 In addition, there is a significant pitch leading from the
20 street up to the driveway which exacerbates the problem.

21 There are a number of houses already existing on
22 Chilean Avenue with front-facing garages. The site screening
23 in those particular instances are perpendicular hedges that
24 run from the structure of the building towards the sidewalk
25 and meet the sidewalk. That creates an issue even for those

1 people that are living there. And we have had discussions
2 with a number of the neighbors who are in support of the
3 removal of these trees -- now to the removal of the trees.

4 My clients have never lived in Palm Beach before. This
5 is their first experience. They are not familiar with all of
6 the codes and ordinances that we have. When they experienced
7 this problem, in light of the fact that it was a safety
8 concern, they chose to remove the trees to eliminate that
9 safety concern. They were not aware of the ordinance that
10 would require that we apply to remove those trees or even
11 come back here to seek approval.

12 They did not do it intentionally. They had no intention
13 of ignoring Town codes. It was an oversight on their part
14 for which I have apologized before code enforcement. And
15 Mrs. Charman here will speak to that, as well.

16 But our consideration here is to come before you. You
17 had asked us last time to consider a few different options.
18 One option included making a cir -- somewhat of a circular
19 driveway across the property so that we could exit on the
20 other side. And again, that took away a lot of greenspace
21 which the Charmans do not want to do.

22 In addition, if there's a consideration for another
23 curb cut, well, we've already eliminated one curb cut by
24 combining two houses here into the one house that currently
25 exists. So again, that's not an issue.

1 At code enforcement things were discussed like mirrors.
2 And you'll see from the video, because of the proximity of
3 the driveway to the sidewalk, and the fact that the garage
4 doors do not line up with the site wall opening, there is
5 some maneuvering that has to be done in that 25 feet to get
6 out to the street.

7 So if you're going to put mirrors somewhere, you're
8 going to be putting a lot of mirrors because your
9 perspective changes as you move out.

10 The Charmans are not opposed to placing something
11 there, but their concern is anything that exceeds the site
12 -- the height of the site wall is going to be a visual
13 impairment and is going to be adversely affecting what
14 happens there.

15 We've now got the marina and it's enhanced. We expect
16 that there's going to be more foot traffic along the
17 sidewalk. We don't want to have a problem. This was all
18 about avoiding a problem, not creating one. But,
19 nonetheless, here we are before you and we're seeking some
20 solutions here.

21 I know you say on many occasions we don't design
22 projects but you do provide suggestions. And here what we're
23 looking for are some suggestions that give consideration to
24 the Charmans' safety concerns, while addressing some ability
25 to site screen the garage, keeping in mind that this is a

1 very difficult site to work with.

2 So I have a video that I'd like to show you. Sir, can I
3 -- there we go. And this just is a very short video that
4 shows you us backing out of the driveway. And you can see
5 what has to happen in order to get out.

6 (VIDEO BEING PLAYED)

7 MR. LYNCH: Again, as you can see the apron for the
8 garage is not overly large. It's probably 25 by 25. And
9 again, we did that to make sure we could maintain
10 significant landscaping.

11 But with that, I will turn this over to Mrs. Charman
12 and be available to answer any questions you may have. Thank
13 you.

14 MRS. CHARMAN: First, I want to thank the Committee for
15 allowing me to speak today. I really appreciate that.

16 COMMISSIONER SHIVERICK: Can you just state your name
17 and your address?

18 MRS. CHARMAN: My name is Lorraine Charman and I live
19 at 425 Chilean Avenue when I'm in the United States.

20 My understanding is that a great deal of the distress
21 for the committee is because I did not ask for permission.
22 As Frank pointed out, I didn't realize I needed to ask for
23 permission.

24 I did not speak to the landscape architect when I took
25 the trees down. So the landscape architect that did the

1 design on the -- on the property didn't know that I did
2 this. I just called a tree removal company and had them
3 remove it.

4 Mr. Floershemier, anecdotally, we were just chatting
5 before the meeting started, and others have said well, why
6 don't you just back, which sounds pretty practical but at
7 the risk of boring you, I have two bays. The east bay can
8 only be used for a very, very low car that I have and I must
9 back that in. I only take it out very, very rarely because
10 it's very, very difficult for me to get it back in.

11 There's pedestrian traffic, there's people with prams,
12 they are all wearing those ear things now, they don't
13 listen, they don't see where they are going, so I think this
14 is going to be an issue that you are going to face well
15 beyond my property.

16 But, nonetheless, you saw I have a big car. That's in
17 the west side. And it's just not practical for me on a
18 day-in-day-out basis to back in. It's quite an awkward angle
19 because I can back in slowly and carefully to the east side,
20 but what I would have to do for the right side would be
21 very, very difficult and it's distressing and it's not
22 really practical for me to do that.

23 So I understand the whole site screen, as Frank pointed
24 out. I walk through the neighborhoods. I walk all through
25 Palm Beach. We're very, very happy to be residents of Har --

1 Palm Beach.

2 I was one of the first people to sign up for the
3 pre-payment of moving the easement of the utilities. I'm
4 sure the tax collector will tell you I pay my taxes very,
5 very quickly. I am a good neighbor. I look after the people
6 in my area.

7 I also wanted to mention that there's three
8 Bougainvillea that we were having trouble with that will,
9 actually, shield the whole front of the garage. We
10 purposefully stucco'd it so that it can grow through that
11 whole area. And we've seen significant progress since John
12 and I have been able to come down and talk to a landscaper
13 about really trivial things, like feeding it and watering it
14 properly.

15 So from my perspective, what I'm looking for is some
16 common sense and really just some kindness to understand
17 that this is an issue I have. As Frank said, it was not
18 intentional to avoid the process. I certainly will, again,
19 apologize to whoever I have offended, but we love Palm
20 Beach, we want to live here when we're in America.

21 I am a permanent resident of Palm Beach. My husband is
22 not American. So we're showing in good faith trying to
23 figure out why safety can't -- my safety and the safety of
24 other people is not considered paramount by anybody. Thank
25 you.

1 CHAIRMAN KIRCHHOFF: Thank you. Yes? Ms. Shiverick?

2 COMMISSIONER SHIVERICK: Well, I think that the house
3 was flaw -- flaw -- flawed when it was designed initially.
4 And I don't remember what year that was, but it was at least
5 three -- it was before you bought it, Mrs. Charman.

6 MRS. CHARMAN: No, no. I built it. Sorry. Excuse me.

7 COMMISSIONER SHIVERICK: Oh, you built it?

8 MRS. CHARMAN: I did build it. But we went through from
9 -- again, I wasn't living in American when this house was
10 built. I was predominantly coming back for meetings with the
11 builder or the landscape architect. But really I was coming
12 back from the UK because I had an ailing mother.

13 So I bought the townhouses with the intention of
14 putting them together. When we stripped the inside we found
15 some fairly significant structural issues. I didn't buy it
16 to demolish it, which was a comment that someone made
17 earlier, I bought it to renovate it. So --

18 COMMISSIONER SHIVERICK: Well, it just appears to me
19 that it's a pretty large house and it's set way back from
20 the road. And I've never understood, as I walk by it a lot,
21 why it doesn't have a circular drive.

22 And I know you think it's going to reduce your
23 hardscape, but there's lots of driveway material and ways to
24 do driveways that actually look like they could incorporate
25 green.

1 MRS. CHARMAN: And the -- sorry.

2 COMMISSIONER SHIVERICK: And I just believe that, in my
3 view having walked by it while I'm observing, that this is a
4 good solution.

5 I don't know what your budget is. I don't know how far
6 you want to go with, you know, another construction project.
7 We have no idea. But if it were my home, I would say that
8 makes a huge amount of sense because the house can take it,
9 the property can take it, and I think it would be a really
10 gracious way to enter and exit.

11 MRS. CHARMAN: I am opposed to a circular driveway. The
12 entire design of the front landscape was to enhance and
13 maximize the greenspace and not to -- and to minimize
14 hardscape. Unfortunately, I don't have a photo of my house
15 available in front of me or to show you, but it has a main
16 walkway directly in the middle of the -- of the property.
17 The entire entrance is designed around that entry.

18 So anything that would -- first of all, I would lose
19 about 25 percent of the existing area that's mostly grass
20 but lots of hedges and lots of plantings. So -- but, more
21 importantly, I think it would be really a lot of dissonance
22 because you would look at it and say, well, where's --
23 where's the rest of that wall.

24 It would be a substantial expense for me to do that and
25 -- but it's what I've got. You know, I think our house is

1 beautiful. I will tell people have stopped me all the time
2 when I'm in the front of my yard thanking me for what I've
3 built, thanking me for improving the area.

4 Most of the area around us are really unattractive
5 condominiums, to be honest, on our block. It's not a pretty
6 block.

7 So we feel we've really enhanced the block because it's
8 a single family. We supported the city mandate of trying to
9 reduce the density by going from two homes to one. As I
10 said, we -- I follow all the rules. Frank makes sure that I
11 get everything on time because I'm often not here for
12 different schedules.

13 But I think that, as Frank mentioned, on our block
14 there is only one house with a side entry garage, only one,
15 which I think is why the committee kindly allowed us to have
16 a front entry.

17 And the trees when they were built -- or, sorry, when
18 they were planted, there were two big things I did not
19 notice when I signed off on the plan. One was I had no idea
20 the garage exit -- what do you -- what do you call that? The
21 apron.

22 MR. LYNCH: Site --

23 MRS. CHARMAN: The apron was -- was not the same width
24 as the garages. It's narrower. Didn't notice that. And then
25 as Frank pointed out, I've got eight feet to make up in a

1 very -- eight feet of an incline to make up in a very short
2 spot.

3 The other thing I didn't think about was when those
4 trees grew how much foliage there would be, and that's when
5 it became a problem.

6 So for me a circul -- I don't want to do anything to
7 detract from what I believe is a very, very beautiful house.
8 My husband and I have been very fortunate. We have houses in
9 other parts of the world. We think this is the best one
10 we've ever done.

11 COMMISSIONER SHIVERICK: I think a well designed
12 driveway would actually enhance it. If you could do a motor
13 court, a pretty entry, that's my personal opinion. I mean, I
14 think we're all here just throwing ideas.

15 MR. MURPHY: Yep.

16 MRS. CHARMAN: Yeah.

17 MR. MURPHY: And if I may, again, having conferred with
18 Mr. Corey, this was brought to your attention out of
19 deference for the owners' travel schedules and they wanted
20 to speak with you. They were -- they understand that the
21 plans weren't submitted and you're not making any decision
22 today.

23 This was really -- and I relayed this to Mr. Lynch.
24 This was as a courtesy to the Charmans so that they can --
25 they weren't able to be here in December to make their case.

1 This is really just to weigh upon.

2 I sent Mr. Lynch the minutes from the December meeting
3 specific to his application which provided the landscape
4 design direction provided by the then Commission. He's
5 acknowledged that. He just wanted the opportunity for Mrs.
6 Charman to speak to you all and he understands that any --
7 any of the proposed direction, even if they come next month
8 with no changes, seeking approval, but they just wanted to
9 have the opportunity to have Mrs. Charman make her case for
10 her family and, you know, I didn't mean it to have all the
11 Commissioners begin to weigh in and make this a long,
12 lengthy discussion. It was a courtesy to have them being
13 heard.

14 CHAIRMAN KIRCHHOFF: Mr. Corey?

15 COMMISSIONER COREY: Then I won't -- then I won't
16 design anything for anybody but thank you for approaching
17 the Commission. I think we'll probably move on but I
18 probably were (sic) to say, you know, Betsy's idea is
19 fantastic but maybe it's not practical. I'm not quite sure.

20 But I think fundamentally the issue is that the garage
21 was moved to front-facing and the Commission saw an
22 opportunity to screen it in a way. So you have already a
23 talented landscape architect. I would put some designs
24 together and present it to the Commission. I don't think it
25 needs to be so drawn out. I think you could probably get

1 some consensus up here.

2 CHAIRMAN KIRCHHOFF: Ms. Grace?

3 COMMISSIONER GRACE: Yeah. I agree with Ms. Shiverick.

4 I think it's important if we have front-facing garage is to
5 try and screen them. But there are a lot of attractive
6 driveways that use nice materials and find ways to make them
7 look attractive. So I hope you can find a way to do it.

8 CHAIRMAN KIRCHHOFF: Mr. Floershemier?

9 COMMISSIONER FLOERSHEMIER: Thank you. Please correct
10 me if my memory is wrong, but I believe, in regards to this
11 project and the time when the trees were removed there was a
12 letter that referred to a sculpture in the front yard that
13 was lit, and because of the removal of the landscaping that
14 offended some of the neighbors.

15 Do I have the right property or not?

16 MR. LYNCH: You have the right property.

17 There was a discussion that we had at the meeting as to
18 which landscape plan was approved and the final landscape
19 plan was that -- I believe it was approved administratively,
20 I think Mr. Martin may have been a part of that, and it did
21 include the sculpture. It did also include the two trees
22 that were removed. But that was the extent of the landscape
23 plan that was approved, constructed, and based on which the
24 certificate of occupancy was issued.

25 COMMISSIONER FLOERSHEMIER: All right. So my question

1 is when I went to the property I was looking at the
2 driveway, I wasn't looking around so much, is the sculpture
3 still there and is it lit at night?

4 MRS. CHARMAN: So you make a very good point. It's very
5 difficult to see the sculpture from the gentleman who wrote
6 the letter which is in the condominium across from us,
7 because the garage comes out and the house is recessed and
8 the sculpture is in that recess in a 90 degree angle.

9 So if he can see it, I guess if he comes outside and
10 gets on the sidewalk he could probably see it, but I'm not
11 sure he can see it from the property. When he sent you the
12 letter, because Frank also sent me the letter, he provided
13 photographs.

14 COMMISSIONER FLOERSHEMIER: He did?

15 MRS. CHARMAN: In the photographs you can see the angle
16 to which he sees the house. So he can probably see part of
17 the sculpture. It's a fairly large sculpture but I also have
18 -- you know, if it's letters you want, I've got letters.
19 I've got letters from the people -- other people who live in
20 that building --

21 COMMISSIONER FLOERSHEMIER: It was a simple there.

22 MRS. CHARMAN: Yeah. So that's it.

23 COMMISSIONER FLOERSHEMIER: The sculpture is there. Is
24 it --

25 MRS. CHARMAN: The sculpture is there and, from what I

1 understand, is it lit, is that what you said?

2 COMMISSIONER FLOERSHEMIER: Is it lit at night?

3 MRS. CHARMAN: It is lit at night --

4 COMMISSIONER FLOERSHEMIER: Okay.

5 MRS. CHARMAN: -- by three small lights.

6 COMMISSIONER FLOERSHEMIER: Thank you.

7 CHAIRMAN KIRCHHOFF: Mr. Murphy?

8 MR. MURPHY: Yes. So, Mr. Lynch, please submit to the
9 department the plans that you would like to be considered at
10 next month's meeting. Review the minutes from the December
11 meeting that gave more design direction. Take any direction
12 that's been provided today in order to reflect a decision
13 that the Board can contemplate with a set of realized plans
14 and photographs.

15 CHAIRMAN KIRCHHOFF: Is there anyone from the public
16 that would like to speak about this? Hearing none. Okay.
17 Then let's move on to the next item.

18 MR. LYNCH: Thank you.

19 (AGENDA ITEM CONCLUDED)
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C E R T I F I C A T E

I, LOUANNE RAWLS, certify that I was authorized to and did listen to and transcribe the foregoing proceedings and that the transcript is a true and complete record to the best of my ability.

Dated this 23rd day of April, 2022.



LOUANNE RAWLS, #J8152390



LOU ANNE RAWLS
Commission # GG 285854
Expires January 25, 2023
Devised True Budget History Services