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COMMUNITY ZONING APPEALS BOARD - AREA 10

RUBEN DARIO MIDDLE SCHOOL

350 NW 97 AVENUE, MIAMI

wednesday, December 11, 2013

6:30 p.m.

ITEM NO:

TADPOLE INVESTMENTS, INC.

10-16

BOARD MEMBERS

Present:

Richard M. Gomez, Chairman  
Julio Caceres  
Robert J. Suarez  
Miriam "Mimi" Planas  
Toufic Zakharia

STAFF PRESENT:

Carl Harris  
Jorge Ubieta  
David Hope, Assistant County Attorney

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I N D E X

BOARD MEMBERS

PAGE NO.

Chairman Gomez 5,7,10,13,14,15,17,  
18,19,20  
Councilman Caceres 10,11,15,16,17,18,19,20  
Councilman Suarez 12,13,20  
Councilwoman Planas 10,11,12,18,20  
Councilman Zakharia 13,20

STAFF

Mr. Harris 3-5,14,18,19,20  
Mr. Hope 13,14,16,17,18

APPLICANT

Mr. Diaz 5-10,11,12,13,14,15  
16,17,18,19,20

OPPOSERS

(None)

1 \* \* \* \* \*

2 THE COURT REPORTER: Do you swear the  
3 testimony you're about to give is the truth,  
4 the whole truth, and nothing but the truth, so  
5 help you, God?

6 ALL WITNESSES: I do.

7 \* \* \* \* \*

8 MR. HARRIS: In accordance with the Code  
9 of Miami-Dade County, all items to be heard  
10 this evening have been legally advertised in  
11 the newspaper, notices have been mailed and the  
12 properties have been posted. Additional copies  
13 of the agenda are available here at the  
14 meeting. Items will be called up to be heard  
15 by agenda number and name of applicant. The  
16 record of the hearing on each application will  
17 include the records of the Department of  
18 Regulatory and Economic Resources. All these  
19 items are physically present this evening  
20 available to all interested parties and  
21 available to the members of the Board who  
22 examine items from the record during the  
23 hearing. The parties have the right of  
24 Cross-Examination.

25 This statement, along with the fact that

1 all witnesses have been sworn, should be  
2 included in any transcript of all or any part  
3 of these proceedings.

4 In addition, the following departments  
5 have representatives present here at the  
6 meeting to address any questions: Zoning  
7 Evaluation and Planning and Traffic Review  
8 Sections of the Department of Regulatory and  
9 Economic Resources, the Department of Public  
10 works and Waste Management, and the County  
11 Attorney's Office.

12 All exhibits used in presentation before  
13 the Board will become part of the public record  
14 and will not be returned unless an identical  
15 letter size copy is submitted for the file.

16 Any person making impertinent or  
17 slanderous remarks, or who becomes boisterous  
18 while addressing the Community Zoning Appeals  
19 Board, shall be barred from further audience  
20 before the Community Zoning Appeals Board  
21 by the presiding officer, unless permission to  
22 continue or again address the Board be granted  
23 by the majority vote of the Board Members  
24 present.

25 The number of filed protests and waivers

1 on each application will be read into the  
2 record at the time of hearing as application is  
3 read. Those items not heard prior to the  
4 ending time for this meeting will be deferred  
5 to the next available zoning hearing meeting  
6 date for this Board.

7 \* \* \* \*

8 MR. HARRIS: Next item on the agenda, Item  
9 No. 1, 13-12-CZAB10, Tadpole Investments, Inc.  
10 application No. 10-016, zero protests, zero  
11 waivers.

12 MR. DIAZ: Thank you for your time. My  
13 name is Jose Diaz. I'm with the law firm of  
14 Akerman, LLP, and I'm here on behalf of the  
15 Alvarado family which owns Tadpole Investments,  
16 also known as Marquis Jewelry.

17 To put this --

18 CHAIRMAN GOMEZ: Your address, for the  
19 record.

20 MR. DIAZ: My address is One Southeast  
21 Third Avenue, 25th Floor, Miami, Florida 33131.  
22 That is my work address.

23 To put this in context, you have driven by  
24 this property many times. The Marquis Jewelry  
25 Shop is right in the Westchester Shopping

1 Center where Ross is, Taco Bell, on 87th Avenue  
2 and Coral way. The Alvarado family has owned  
3 this jewelry shop for the last 19 years. It is  
4 a family-run business owned by husband and  
5 wife, Lino and Maria. Their daughter, Jayline,  
6 has been working there since she was 16. It is  
7 a small business. It has integrated as part of  
8 the community. They have been very involved  
9 with law enforcement throughout their career.  
10 They've helped law enforcement catch people  
11 that have broken into homes and tried to sell  
12 them things. And, throughout this business  
13 endeavor, like every other business, there are  
14 ups and downs. And, they've, historically,  
15 have had a pawn license. They've paid for a  
16 pawn license with the state for over 15 years.  
17 They've paid the local business tax receipt at  
18 that property since 2008, for a pawn use. And,  
19 in 2010, what could only be assumed was a  
20 competing business, called the County and said  
21 that they were operating a pawn use, something  
22 that they did not understand was a BU-3 use,  
23 and they are in a BU-2 zone.

24 In the infinite wisdom of the County code,  
25 the pawn use is a BU-3 use, which is an

1 auxiliary use for a jewelry shop, while things,  
2 like, big markets are considered BU-2 uses.

3 This is really, at the end of the day, an  
4 after-the-fact variance because they have been  
5 operating that pawn use for many years, and  
6 they've had a great relationship with the  
7 community, without ever causing harm.

8 I think it needs to be pointed out --  
9 first of all, I would like to pass out some  
10 pictures of their shop, and some surrounding  
11 shops, if that's okay with the Chair.

12 CHAIRMAN GOMEZ: Go ahead.

13 MR. DIAZ: There is enough copies for  
14 everybody.

15 CHAIRMAN GOMEZ: You'll need to give one  
16 to Staff.

17 MR. DIAZ: You'll notice, there are two  
18 stark differences in the stacks of pictures.

19 what I did is, with my iPhone, I just went  
20 around, on Monday, and, one, I took pictures of  
21 Marquis Jewelry so that you could see it is a  
22 classy establishment. They are not gaudy in  
23 their pronouncement of them pawning. As a  
24 matter of fact, if you compare them to other  
25 jewelry shops that are up and down the Coral

1 way corridor, from 107th Avenue to 67th Avenue,  
2 you'll see that they are very, very restricted  
3 in their advertisement. It is an organic part  
4 of the mall. It doesn't look like it doesn't  
5 work there.

6 In our research, we discovered, within  
7 three miles north, south, east and west, over  
8 25 shops that are advertising pawn and a  
9 jewelry use. The record reflects that there  
10 are 11 approved BU-3 uses in the BU-2 zone,  
11 from 57th Avenue to 107th Avenue, from 8th  
12 Street to Bird; ten of them have been approved  
13 unanimously, and there has never been, in the  
14 history of this area, at least that I could  
15 tell, one pawn shop that has applied for -- one  
16 jewelry shop that has applied for a pawn use  
17 that has been rejected.

18 The reason why -- this is a minimal  
19 increase in the workload. As a matter of fact,  
20 I have been working with them for the last  
21 three years, and I've gone to that shop once or  
22 twice a week because I happen to have a UPS box  
23 next to them, and I get to say hi to them all  
24 the time, and it is never full. I mean,  
25 because business has been tough, because the

1 market has been tough, if they have one or two  
2 customers when I'm there, it's a lot. And I  
3 think that it needs to be described, because,  
4 you know, one of the standards is a hardship.  
5 And, because gold prices have gone up so high  
6 since 2008, when they started paying the County  
7 for a pawn use, that is really what has kept a  
8 lot of these stores alive. If you drive  
9 anywhere in Westchester, anywhere on 8th  
10 Street, anywhere on Bird, you can't go more  
11 than a block without finding a jewelry shop.  
12 And what keeps these jewelry shops in business  
13 is the fact that they are lending to the  
14 community. If a BU-3 use is what is required  
15 there, and what they are really doing is  
16 lending to the community at five percent, which  
17 is low a rate as there is in the County, then  
18 it strikes me that in the same shopping center  
19 there are check advancing places, across the  
20 street there are check advancing places, across  
21 the street there are two jewelry shops with  
22 pawn uses right on 87th Avenue and Coral Way  
23 that are both approved by this Council.

24 with that, I just wanted to let you know  
25 that our request is simple. It is a non-use

1 variance. It is limited to jewelry pawn, which  
2 is a steep departure of what a BU-3 allows,  
3 which is full pawn. And, I wanted it to be on  
4 the record that what we are asking for is an  
5 ancillary use that extinguishes, should the  
6 jewelry shop ever cease to exist.

7 Again, they have been there for 19 years.  
8 They are going to be around for a long time.  
9 But, if they are gone, it is up to whoever  
10 comes next, if that use does extinguish, to  
11 reapply. Those are my comments.

12 CHAIRMAN GOMEZ: Thank you.

13 Is there anyone here that wishes to speak  
14 against this application?

15 Is there anyone here that wishes to speak  
16 for this application?

17 None? For the record, no one came  
18 forward. With that, I'll close the public  
19 hearing and open it up to the Council for  
20 questions.

21 Councilman Caceres?

22 COUNCILMAN CACERES: If you could come  
23 back to me.

24 CHAIRMAN GOMEZ: Councilwoman Planas?

25 COUNCILWOMAN PLANAS: You know, I just

1 want -- for full disclosure, I just want to say  
2 that I know Jose Felix Diaz, Mr. Diaz. We have  
3 been friendly in the past. It should not  
4 affect my judgment. So, full disclosure.

5 COUNCILMAN CACERES: I have a friend  
6 called Jose Diaz. It is not this Jose Diaz,  
7 but it's Jose Diaz. Just kidding.

8 MR. DIAZ: There is a few of us, I  
9 promise.

10 COUNCILWOMAN PLANAS: You know, just out  
11 of -- you said -- you had mentioned that they  
12 have already been in the pawn business for a  
13 couple of years already, they just realized  
14 they needed this switch, right?

15 MR. DIAZ: Correct.

16 COUNCILWOMAN PLANAS: I, actually,  
17 frequent that shopping center all the time.  
18 This jewelry shop has fixed my watch, you know.  
19 So, I know this jewelry shop. I know what it  
20 looks like on the outside. I know that they  
21 are classy because I go by there all the time.  
22 I don't have any insecurities that it is going  
23 to turn into some sleazy pawn shop because --  
24 well, there is a bunch of them in the  
25 neighborhood. I have seen those. But, I have

1           seen the signage. And, you know, it doesn't  
2           get packed with people.

3           And, you know, I think, as well, that this  
4           is going to help their business. And, the way  
5           things are today, we need all the help we can  
6           get. I mean, I'm not seeing any problem with  
7           this application. I know that there have been  
8           other applications that have been approved for  
9           BU-3 use in a BU-2, so I know that part. And I  
10          know it is up to our judgment. So, you know, I  
11          really don't have any questions, other than  
12          that one.

13          So, that's it. Thank you.

14          COUNCILMAN SUAREZ: I do want to disclose  
15          that I played ball with his dad when we were  
16          young.

17          I have no questions. I just want to make  
18          sure that you are limiting the pawn to jewelry.

19          MR. DIAZ: And, it is in the record. It  
20          is in the record. We, specifically, sent out a  
21          letter to limit it because we didn't want it to  
22          be an expansive pawn use. This is a simple  
23          family-run business. If somebody comes in  
24          because they have gold, they need some pay  
25          advance, they come to them and they are honest

1           brokers. I mean, they have become, like,  
2           family for me. I've really grown to appreciate  
3           them, and they are kind-hearted people. They  
4           are not going to take advantage of that.

5           COUNCILMAN SUAREZ: That would be the only  
6           condition that I would accept, was that they  
7           limit it, solely, to jewelry.

8           MR. DIAZ: Absolutely.

9           COUNCILMAN SUAREZ: So, if that is in  
10          there, I don't have any other concerns or  
11          questions.

12          CHAIRMAN GOMEZ: Vice Chair Zakharia?

13          COUNCILMAN ZAKHARIA: No questions, thank  
14          you.

15          CHAIRMAN GOMEZ: I just have a couple of  
16          quick questions for staff. That limitation  
17          that he is talking about, that was one of my  
18          concerns, too. That is a viable limitation  
19          that it is only -- I'm not familiar with --

20          MR. HOPE: What limitation?

21          CHAIRMAN GOMEZ: That it is only jewelry  
22          pawn.

23          MR. HOPE: I'm confused.

24          CHAIRMAN GOMEZ: He is limiting the pawn  
25          for jewelry only. If we approve this, it is

1 not -- it is not something that is not  
2 enforceable, is what I'm asking.

3 MR. HOPE: Where are you saying, in the  
4 request?

5 MR. HARRIS: No, he is saying -- through  
6 the Chair, I think you're saying that if you  
7 were to approve it, you would want to limit it  
8 to jewelry only.

9 CHAIRMAN GOMEZ: It says right here, under  
10 the project description and project history,  
11 "The applicant seeks a pawn broker for the  
12 pawning of jewelry only."

13 MR. HARRIS: Okay.

14 MR. DIAZ: Mr. Chairman, there are  
15 numerous examples, in the binder I have, where  
16 the other pawn shops that have had BU-3 uses,  
17 have limited their uses, as well. And Staff  
18 had, actually, asked us, specifically, if that  
19 was our request, which we complied with.

20 CHAIRMAN GOMEZ: I just want to make sure  
21 that that is something that is enforceable.

22 MR. HOPE: We can get there. Let me say  
23 this, we'll get wherever you need to be, based  
24 upon the vote.

25 CHAIRMAN GOMEZ: And, then, if you can

1 just explain the last part, you said if they  
2 move out of there --

3 MR. DIAZ: Again, that is a prerequisite  
4 that I saw in the other Development Orders, or  
5 the other Orders that were granted. Like any  
6 use, there is grandfathering in, if somebody  
7 acquires the property as is. But, if they sell  
8 it and it becomes a Dunkin Donuts, somebody  
9 wants to come in and take advantage of the pawn  
10 use, they can't because that use has expired  
11 after six months of non use.

12 CHAIRMAN GOMEZ: Okay.

13 MR. DIAZ: So, most of these have said  
14 that, specifically.

15 I'm sorry, I jumped ahead of you and I  
16 forgot to bring it back to you.

17 COUNCILMAN CACERES: That's okay.

18 I have a quick question. Is there going  
19 to be a signage change?

20 MR. DIAZ: No, they have a small --

21 COUNCILMAN CACERES: I know they have a  
22 sign there. We saw the pictures. And I also  
23 bought a watch from Mr. Alvarado a few years  
24 back, so I know the business very well, as  
25 well.

1           But there is not going to be any signage  
2 change, like, empeño, five percent?

3           MR. DIAZ: To the best of my knowledge,  
4 no. And, if they did, they would have to get  
5 approval from the County anyhow.

6           COUNCILMAN CACERES: Okay.

7           So we can move forward today, would your  
8 client be okay with the condition, because we  
9 can condition it, because it is a variance. It  
10 is not a zone change, it is a use variance,  
11 with putting a condition to the approval that  
12 the pawn business will be limited to jewelry?

13          MR. DIAZ: Yes, absolutely.

14          MR. HOPE: Mr. Chair, if I may. What I  
15 would prefer is a Declaration of Restrictions,  
16 because since -- since they are asking for a  
17 use variance for a BU-3 use, I would want it to  
18 be limited, specifically, in the Declaration of  
19 Restrictions to that specific BU-3 use, so  
20 there is no question of any other BU-3 use.  
21 And, that is what we've done in a lot of other  
22 instances, we'll, specifically, limit it to a  
23 Declaration of Restrictions which attaches  
24 to the property. And, that is the only BU-3  
25 use that could go on there. And that would be

1 tied to the jewelry shop/pawn.

2 COUNCILMAN CACERES: Mr. Hope, would we be  
3 able to put that as a condition, that within 30  
4 days he submit this Declaration?

5 MR. HOPE: Yes, yes.

6 COUNCILMAN CACERES: Mr. Diaz, how does  
7 that sound?

8 MR. DIAZ: That's fine. We already  
9 submitted a letter, per the County's request.  
10 But if we have to submit a Declaration to  
11 formalize it, we will. And you can put that as  
12 a condition.

13 I'm looking at another resolution in 94,  
14 condition six was, "That the applicant submit a  
15 Declaration of Use meeting with approval of the  
16 Zoning Director, that the pawn shop activities  
17 be limited to the sale of used jewelry and  
18 jewelry only."

19 COUNCILMAN CACERES: My last question is,  
20 does Mr. Alvarado have a barbecue at the  
21 jewelry store? Just kidding.

22 MR. DIAZ: Not this weekend. But on  
23 Sunday, at the Dolphins game, my dad does a  
24 caja china, which he does every year. So, if  
25 you are at the Dolphin's game, you can get free

1       lechon.

2               COUNCILWOMAN PLANAS: I can pawn --

3               MR. DIAZ: You can pawn stuff and then buy  
4 a Dolphins ticket.

5               COUNCILMAN CACERES: Mr. Chair, I'm ready  
6 for a motion whenever you are, sir.

7               CHAIRMAN GOMEZ: Go ahead.

8               COUNCILMAN CACERES: I'm going to make the  
9 motion to approve this application, as  
10 requested, with the condition that the  
11 applicant submit a Restrictive Covenant  
12 limiting the pawn use of this property to  
13 jewelry only, and has 30 days to do that; is  
14 that right? Does it sound good?

15               COUNCILWOMAN PLANAS: I second that  
16 motion.

17               MR. DIAZ: It's a Declaration of Use, not  
18 a Restrictive Covenant.

19               MR. HARRIS: Declaration of Restrictions.

20               MR. DIAZ: That is what you want, that is  
21 what you'll get.

22               MR. HARRIS: Declaration of Restrictions.

23               MR. HOPE: Right, limiting the only BU-3  
24 use to jewelry pawn.

25               MR. DIAZ: Understood, perfect.

1 MR. HARRIS: Through the Chair, if I might  
2 just ask Mr. Caceres. If you would also add  
3 conditions to this, and some of the suggested  
4 conditions, apart from the standard conditions  
5 that I was just looking at, is that you obtain  
6 a renewable -- annual renewable Certificate of  
7 Use for the pawning of jewelry only, for this  
8 store, okay? And that you could also add the  
9 condition which would be in the Declaration of  
10 Restrictions that only jewelry will be pawned,  
11 and that if the jewelry store goes away, that  
12 the pawn use will also go away, at that point  
13 in time.

14 COUNCILMAN CACERES: Carl reads my mind  
15 every minute. That sounds good, Mr. Diaz?

16 MR. DIAZ: Yes. And, they, again, have  
17 been getting the state approval for pawn for  
18 the last 15 years. They have been applying for  
19 the Certificate of Occupancy with the County  
20 for that already.

21 CHAIRMAN GOMEZ: Okay?

22 MR. HARRIS: There's a motion on the floor  
23 to approve the application, as requested, with  
24 conditions. And, specifically, with an  
25 additional condition that the applicant submit

1 a Declaration of Use within 30 days to the  
2 department, restricting the use of the  
3 property, or the store, to the pawning of  
4 jewelry only.

5 This motion was moved by Councilman  
6 Caceres, seconded by Councilwoman Planas.

7 Councilman Caceres?

8 COUNCILMAN CACERES: Yes.

9 MR. HARRIS: Councilwoman Planas?

10 COUNCILWOMAN PLANAS: Yes.

11 MR. HARRIS: Councilman Suarez?

12 COUNCILMAN SUAREZ: Yes.

13 MR. HARRIS: Vice Chair Zakharia?

14 COUNCILMAN ZAKHARIA: Yes.

15 MR. HARRIS: Chairman Gomez?

16 CHAIRMAN GOMEZ: Yes.

17 MR. HARRIS: Motion passes five to zero.

18 MR. DIAZ: Thank you and happy holidays.

19 (Item was concluded.)  
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CERTIFICATE OF OATH

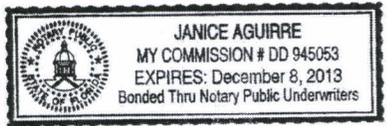
STATE OF FLORIDA  
COUNTY OF DADE

I, Janice Aguirre, Registered Professional Reporter, Notary Public, State of Florida, certify that the following witnesses personally appeared before me on December 11, 2013 and were duly sworn.

WITNESS my hand and official seal this 7th day of January, 2014.

  
JANICE AGUIRRE

Registered Professional Reporter  
Notary Public, State of Florida



## 1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)

3 COUNTY OF DADE)

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I, JANICE AGUIRRE, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the CZAB BOARD 10 MEETING of December 11, 2013; that a review of the transcript WAS requested; and that the foregoing transcript, pages 1 through 20, is a true record of my stenographic notes.

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I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties; nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

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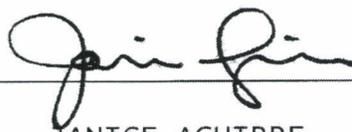
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JANICE AGUIRRE,  
Registered Professional Reporter

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STEPHEN CLARK CENTER  
MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS  
111 NW FIRST STREET, COMMISSION CHAMBERS  
Miami, Florida 33128  
Thursday, April 24, 2014

ITEM

FIVE STAR JEWELERS, INC.  
(13-053)

Board of County Commissioners  
(Present)

Rebeca Sosa, Chairwoman  
Jean Monestime  
Juan C. Zapata  
Esteban Bovo, Jr.  
Dennis C. Moss  
Jose "Pepe" Diaz  
Javier Souto  
Audrey Edmonson

County Attorney's Office

Craig Coller  
Assistant County Attorney

## COMMISSIONERS

CHAIRWOMAN SOSA: 3-4, 6-8, 13, 23-35, 37-38,  
40-42, 47, 50-51, 54, 56-58, 61, 63, 65, 68,  
72-73, 75-80, 82, 88-0, 92-100, 103-105.

COMMISSIONER ZAPATA: 42-47, 67-68, 74, 82-88,  
90-93, 95-96, 98-99, 104.

COMMISSIONER DIAZ: 47-53, 56, 79-82, 87-90,  
93-101.

COMMISSIONER MONESTIME: 47, 58-61, 76-78.

COMMISSIONER MOSS: 65-72, 86, 96, 100-102,  
105.

COMMISSIONER SOUTO: 61-65, 105.

COMMISSIONER BOVO: 5, 26-27, 57-58, 103-104.

COMMISSIONER EDMONSON: 27, 54-57, 66, 74, 92.

## STAFF

MR. SILVA: 4-7, 38-40, 58-61, 63, 66, 73-74,  
83, 87, 105.

MR. COLLER: 7-8, 26, 30, 37, 41, 48, 51-56,  
62-63, 74-75, 81, 84, 88-90, 93-103, 105.

SGT. HERNANDEZ: 64.

## SPEAKERS

## OBJECTORS

MR. CARVAJAL:	MS. GUTIERREZ: 33-34.
MS. VALENTI: 24-25.	MS. CARVAJAL: 34.
MS. CASTILLO: 28.	MS. MIRABEL: 35.
MR. MARTIN: 28.	
MS. LEGRA: 29-30.	
MS. PEREZ: 30-31.	
MS. MORALES: 32.	
MS. ZUNIGA: 32-33.	

1 CHAIRWOMAN SOSA: We have a quorum.  
2 Please join us in a moment of  
3 silence, then the Pledge of Allegiance.

4 (Pledge of Allegiance).

5 CHAIRWOMAN SOSA: Good morning, and  
6 welcome to our zoning meeting. Thank you  
7 for the patience to all of you, and thank  
8 you to all the Commissioners who are here  
9 today.

10 Mr. Clerk, can we swear the witnesses  
11 and translators at this point?

12 THE CLERK: Yes.

13 Witnesses, please rise and raise your  
14 right hand. Please rise and raise your  
15 right hand.

16 Do you solemnly swear that the  
17 testimony you're about to give will be the  
18 truth, the whole truth and nothing but the  
19 truth, so help you God?

20 THE WITNESSES: I do.

21 THE CLERK: Thank you. You may be  
22 seated.

23 Do you swear or affirm you will make  
24 a true interpretation of the questions  
25 asked and the testimony given?

1 THE INTERPRETERS: I do.

2 THE CLERK: Thank you. Be seated.

3 CHAIRWOMAN SOSA: Thank you, Mr.

4 Clerk.

5 (Thereupon, other items were heard by  
6 the Board, whereupon the aforesaid item  
7 continued as follows:)

8 MR. SILVA: "In accordance with the  
9 Code of Miami-Dade County, all items to be  
10 heard today have been legally advertised  
11 in the newspaper, notices have been mailed  
12 and the properties have been posted.  
13 Additional copies of the agenda are  
14 available here in the chambers. Item will  
15 be called up by agenda number and name of  
16 applicant.

17 The record on file for the hearing on  
18 each application will include documents  
19 from the public, agencies, the Department  
20 of Economic and Regulatory Services. And,  
21 and where there is an appeal from  
22 Community Zoning Appeals Board, you also  
23 have the transcript from those hearings.

24 All documents are physically present  
25 today, available to all interested parties

1 and available to the members of the Board  
2 of County Commissioners, who may examine  
3 these items from the record during the  
4 hearing. Parties have the right to  
5 cross-examination.

6 This statement, along with the fact  
7 that all witnesses have been sworn, should  
8 be included in any transcript of these  
9 proceedings. In addition, there's an  
10 official translator present in the  
11 chambers for those individuals requiring  
12 such assistance.

13 The first item on today's agenda is  
14 Five Star Jewelers, Incorporated, Hearing  
15 No. 13-053. This application is an appeal  
16 by the Department of Regulatory and  
17 Environment -- Regulatory and Economic  
18 Resources.

19 COMMISSIONER BOVO: Say that five  
20 times, please.

21 MR. SILVA: I got my E's confused,  
22 environment and economics.

23 On your agenda today, it lists 151  
24 protests. And I just wanted to clarify,  
25 those are 151 petitions in support of the

1 application that were submitted prior to  
2 the Community Council meeting. So now  
3 it's an appeal by the Department of that  
4 approval, so these are protests to the  
5 appeal at this point.

6 CHAIRWOMAN SOSA: So on this first  
7 item, the Department is really the one  
8 that's appealing the decision.

9 MR. SILVA: Yes, we're appealing the  
10 decision of the Community Zoning Appeals  
11 Board. The Community Zoning Appeals Board  
12 approved a jewelry pawn use. And the  
13 Department is appealing it, because the  
14 requirements in the Code require a  
15 hardship.

16 So what that means, basically, is,  
17 the applicant has to demonstrate that  
18 there's no reasonable use of the current  
19 zoning district, which is BU-1A. And  
20 under that zoning district, as noted in  
21 the staff report, there are 84 permitted  
22 uses that can go into that shopping plaza.

23 So our staff has recommended denial  
24 based on the hardship. There's no  
25 hardship demonstrated. The board, the

1 Community Zoning Appeals Board approved  
2 it, and we are continuing to uphold our  
3 recommendation. And that's why I brought  
4 it to the Board today.

5 You might remember we had application  
6 similar to this last March called Lady  
7 Cash, and it was just south on 104 Street  
8 and 147 Avenue Southwest. It was for the  
9 same exact use, a jewelry pawn use in an  
10 existing shopping plaza that had an  
11 existing jewelry store. And those are the  
12 reasons why we appealed this application.

13 CHAIRWOMAN SOSA: Do you need more  
14 time for any explanation or can I just  
15 open for the public?

16 MR. SILVA: I'd just like to mention  
17 that we also have two other similar  
18 applications, same thing, jewelry pawn  
19 use, that will be on the agenda in May,  
20 okay?

21 CHAIRWOMAN SOSA: Thank you very  
22 much. We'll come back to you.

23 Mr. Attorney, now it's proper for the  
24 public to speak?

25 MR. COLLIER: That would be correct,

1 the applicant at this point is essentially  
2 the appellee.

3 CHAIRWOMAN SOSA: Okay. Anyone who  
4 wants to do a presentation on behalf of  
5 the applicant before I call those who have  
6 signed to speak on the item?

7 Please, when you come, state your  
8 name, your address, who you represent.

9 And how much time do you need?

10 MR. CARVAJAL: I believe 15 to  
11 20 minutes, depending how nervous I get.

12 CHAIRWOMAN SOSA: So you're asking  
13 for 20 minutes?

14 MR. CARVAJAL: Yes, ma'am.

15 CHAIRWOMAN SOSA: Maybe it can be  
16 done in less time. Okay, you got the  
17 20 minutes. The clock is ticking.

18 MR. CARVAJAL: Good morning, Madam  
19 Chair and Commissioners, my name is Jorge  
20 Carvajal and my family owns Five Star  
21 Jewelers. The store address is 16271  
22 Southwest 88 Street, Miami, Florida,  
23 33196. I also live in Kendall off of 122  
24 Avenue.

25 I opened and have owned this business

1 for the past 14 years. And have managed  
2 the business, along with my family and  
3 employees. This has been a great  
4 experience, as we have served and  
5 supported our community as well as offered  
6 jobs and made many friends along the way.

7 I stand before you this morning as a  
8 confused small business owner. I'm  
9 confused, because I have already done  
10 this. I have already had a public  
11 hearing, a public hearing with  
12 overwhelming support and no objections, a  
13 public hearing where evidence was  
14 provided, showing countless similar  
15 applications that have been recommended  
16 for approval and been approved and others  
17 that were recommended for denial and still  
18 been approved just as mine was, yet were  
19 not appealed. Not one that I was aware  
20 of.

21 These are copies of those prior  
22 presentations. Just six months prior to  
23 our previous hearing, Community Council 15  
24 approved a similar application, yet it was  
25 not appealed. I wonder if there's a

1 double standard from one community to  
2 another.

3 After receiving hundreds of requests  
4 over the years from customers for a loan  
5 service at this location, I went about the  
6 process in place with the County that  
7 would give me the opportunity to achieve  
8 the license needed to provide this service  
9 to our customers.

10 After a very lengthy and costly  
11 process, we had well-respected attorney  
12 Juan Mayol make an exceptionally detailed  
13 presentation to Community Council 11,  
14 detailing our intent, as well as  
15 presenting our self-imposed conditions,  
16 which we believed would make our  
17 application a positive one to our  
18 community. These conditions are more  
19 restrictive than any of the previously  
20 approved and not appealed applications.

21 On the night of the hearing, we left  
22 with what we believed was a positive  
23 result, after receiving a majority passing  
24 vote from our Community Council. The  
25 approval was given by active, involved

1           Community Council members that have  
2           dedicated their time to serve and have a  
3           vote on what the community approves and  
4           disapproves it, to protect and promote the  
5           local neighborhoods and do exactly what  
6           they were elected to do. I value and  
7           appreciate their service to the community.

8           The approval was given by our  
9           community, after understanding that we did  
10          not have any opponents, but presented  
11          hundreds of supporting petitions as well  
12          as having over 160 neighbors, customers,  
13          and employees present in support of this  
14          application. There was absolutely nothing  
15          negative about that evening. And it was  
16          very humbling, to see the support that our  
17          small business received.

18          I believe respect and appreciation is  
19          not something someone could buy. Respect  
20          and appreciation is something that is  
21          earned by one's actions.

22          Unfortunately, over a week later, we  
23          were notified that the assistant director  
24          of zoning had appealed our application.  
25          It was explained to me that most appeals

1 are filed by unhappy neighbors who object,  
2 and that the County rarely files an  
3 appeal. With no neighbor objectors, and  
4 the fact that the County had never  
5 appealed an approval of a similar  
6 application, I was shocked.

7 I was faced with the fact that I  
8 would, once again, have to defend our  
9 application, my employees, our company to  
10 another Board in order to achieve a  
11 business license. I have to admit, I felt  
12 defeated and frustrated, because I cannot  
13 comprehend why the County would make it so  
14 difficult for a small business to obtain a  
15 license, if we have done everything asked  
16 by law and only do things by the book.

17 Nevertheless, I recognize that as a  
18 leader of this organization, I have a  
19 responsibility to my employees, my  
20 customers and my family to continue to  
21 pursue what we all have worked so hard for  
22 over the years.

23 As you might have guessed, I'm not an  
24 attorney or a public speaker. Believe me,  
25 I wish I could have afforded Juan Mayol to

1 be here making this presentation for me.  
2 I'm simply an honest, small business owner  
3 wanting to get licensed to offer another  
4 service to our community. I am asking for  
5 the support of our Commissioners.

6 I would like to explain what I'm  
7 requesting from the County. First, I will  
8 show you what my store looks like. I have  
9 some booklets that I'd like to -- for each  
10 of you to receive, so you could follow.

11 CHAIRWOMAN SOSA: To the clerk.

12 MR. CARVAJAL: Thank you.

13 We're a small neighborhood jewelry  
14 store within a big shopping strip, as  
15 shown in the aerial view, first page of  
16 your packets. All our stores are similar  
17 with the same design and colors as we  
18 attempt to build a brand. This can be  
19 seen on the second page of your pamphlets  
20 and the second board -- I'm sorry, our  
21 first board here. I apologize. That's  
22 this board here.

23 We're security conscious. We have  
24 camera systems of over 30 cameras on each  
25 of our stores. We have an audio alarm

1 system, including safety glass. And our  
2 stores are setup as jewelry stores. And  
3 they don't even allow the space to store  
4 anything else besides jewelry.

5 Now, I will talk about our  
6 application. I filed an application  
7 seeking a pawn license, because I have to.  
8 I have to make it really clear that I do  
9 not intend to run a pawn shop. I simply  
10 want to offer my retail jewelry store  
11 customers the opportunity to borrow money  
12 in time of need using their jewelry as  
13 collateral. The only items that we would  
14 lend on would be jewelry items. I show  
15 that on the next board, and the next page  
16 of your booklets.

17 We offered a self-imposed condition  
18 that was recorded at our hearing, which  
19 would make it illegal for us to lend on  
20 anything besides jewelry. We also agree  
21 to offer the lending service in addition  
22 to our jewelry store service as shown next  
23 on the next page and our next board.

24 If at anytime we're not operating our  
25 business as a retail jewelry store, we

1 would not be allowed to conduct known  
2 transactions. We offered to not use the  
3 word "pawn" in any of our signage. We  
4 really wanted the County and the neighbors  
5 to know our intent was to be a jewelry  
6 store. We offered all of this, again,  
7 with no objections, only because we felt  
8 it was the right thing to do.

9 Let me be clear that we're not  
10 requesting a license for the stereotypical  
11 pawn shop. Instead, we're operating a  
12 local, small, family-owned jewelry store  
13 that offers loans to its customers in need  
14 of fast, short-term loans.

15 You might ask yourself why, and who  
16 would need the service. Even regular pawn  
17 shops aren't what most people think they  
18 are.

19 Here's some published reported facts.  
20 The average loan transaction is \$115.  
21 Over 80% of loans are reclaimed. 40% of  
22 United States population has no  
23 relationship with a banking institution.

24 The pawn business is an \$8 billion  
25 industry. And less than 1/10 of 1%, less

1           than 1/10 of 1% of pawn transactions deal  
2           with stolen property.

3           I share these facts with you to help  
4           explain the need and clarify some ideas  
5           that you may have of the business. For  
6           many years, Five Star Jewelers has been a  
7           licensed secondhand dealer by the state  
8           and the County to purchase any jewelry  
9           items that customers bring into our  
10          stores. Our secondhand dealer license has  
11          always allowed me to purchase any jewelry  
12          offered by a customer in our store.

13          Again, I can buy it now. I just  
14          can't offer a loan on the jewelry. That  
15          forces many customers to sell personal,  
16          family, sentimental items in a time of  
17          need when they would prefer not to.

18          In order to purchase jewelry, we must  
19          fill out a detailed application, which  
20          describes the items as well as collecting  
21          the customer's names, address, phone  
22          number, driver's license, signature and  
23          even their fingerprint. This is shown on  
24          the next board on the next page of your  
25          booklet.

1           This information is filed for five  
2 years. And also sent to our local police  
3 department on a weekly basis as well as  
4 inspected by the state on a regular basis.  
5 And I must add that the police department  
6 have no objection to our application.  
7 We're in very good standing with the  
8 police department as we have always  
9 assisted them whenever there has been an  
10 issue.

11           After purchasing these items we're  
12 legally bound to hold them for 15 days  
13 before we decided we would sell them to a  
14 refinery, polish and resell them or do  
15 with them as we like. What I can't do is  
16 give our customers the legal right to  
17 reclaim their items.

18           The approval on December 10, 2013, by  
19 Community Council 11, would actually make  
20 restrictions more stringent, offering even  
21 more protection to our neighbors. We  
22 would now hold items 60 days, rather than  
23 15, while still taking all other  
24 precautionary measures. More importantly,  
25 it would give our customers the legal

1 right to reclaim their personal jewelry.

2 As we walked our neighborhoods and  
3 talked to our community, I understood a  
4 few concerns about bringing a pawn shop to  
5 our neighborhood. Once our community  
6 understood that we're not bringing the  
7 perceived pawn shop, but instead offer a  
8 loan service for jewelry only and that, in  
9 fact, it was Five Star Jewelers requesting  
10 the license, not only did they approve,  
11 but they signed the petitions and over 160  
12 of them came out to our hearing in our  
13 neighborhood to voice their support. I  
14 would like that attendance to be very  
15 strongly noted.

16 To be quite honest, I was embarrassed  
17 to ask our supporters to take a morning  
18 off from work and drive to downtown to be  
19 here today when they were all scratching  
20 their heads after hearing the news of the  
21 appeal. They also wondered what went  
22 wrong in our system.

23 The only objection our application  
24 had was one department. And to my  
25 understanding, their explanation for the

1 appeal was that we did not show a  
2 hardship. I have to share what I believe  
3 is a hardship.

4 I believe that approximately \$20,000  
5 in processing fees I have paid the County,  
6 only to get my application approved, then  
7 appealed by someone who is not even  
8 present at our hearing and failed to  
9 listen to the complete presentation is a  
10 big hardship.

11 I believe having to close a business  
12 of 14 years and laying off employees  
13 because we can't offer our community  
14 additional services that would generate  
15 much needed revenue to the business is a  
16 hardship.

17 For the record, as of December, I had  
18 to build -- I had built my business to  
19 three stores in Kendall. The original  
20 flagship is in the Country Walk area, and  
21 was one of those approvals in this book  
22 for this license over 17 years ago at that  
23 location. I have never had a single  
24 complaint in all of these years. Not one.  
25 Some of my support came from neighbors of

1           this location, who believed we're an  
2           appropriate and honorable business and in  
3           this community.

4           I was very proud to have a letter and  
5           the support of Ms. Ory Dawes and the  
6           Country Walk Association proving that we  
7           are a good business neighbor.

8           The second location is the store  
9           we're here about today. I opened the  
10          store 14 years ago with my father, who's  
11          here, to try and grow our family business.

12          The third location was next to the La  
13          Carreta on Kendall and 117 Avenue. We  
14          were trying to get approval for both of  
15          these locations. Again, we have no  
16          objections.

17          The second council, second community  
18          council, heard about the appeals, and I  
19          believe were inclined to deny it based on  
20          that issue. The point of this exhibit is  
21          to explain my opinion of hardship.

22          My original location has been funding  
23          these two stores to keep it afloat. They  
24          have not been profitable for years. The  
25          only hope to keep them open was to add the

1 service. The denial of the license by  
2 Community Council 12 forced me to close  
3 the store on 117 Avenue after four years  
4 of hard work. I had to let go of three  
5 people. I was heart broken. But I simply  
6 cannot afford to lose money at these  
7 stores.

8 If you approve this appeal, therefore  
9 denying the license, then I will be forced  
10 to close this store as well, which means  
11 that at least 2 to 3 more of these  
12 employees that are here with me today will  
13 be let go as well. If that is not a  
14 hardship, then what is? Please explain  
15 that to them and their families. If you  
16 say no to me today, I will have to close  
17 that store within a week. It's that  
18 simple. We have tried to run a successful  
19 business, but the changing economy and  
20 financial hard times has affected  
21 everyone.

22 The reality is that I cannot continue  
23 to operate this business with losses month  
24 after month unless there's a light at the  
25 end of the tunnel. Unless I can offer

1 more services and cover expenses, we  
2 simply cannot stay in business.

3 In closing, I will state that my  
4 family and I have been part of this  
5 community for over 35 years. My kids, who  
6 also attend today, have been raised in  
7 this community. And my wife and I have  
8 been involved, and invested years and  
9 money to the same community that the  
10 County has to protect. It would not make  
11 sense for us to want to bring anything to  
12 the community that would lower the  
13 standard or quality of life to the place  
14 where we have chosen to raise our family.

15 Commissioners, I value your service.  
16 And understand you have to make tough  
17 decisions at times, but this particular  
18 decision should be an easy one. And I  
19 respectfully request your support for our  
20 application and request denial of this  
21 appeal, therefore, granting us the  
22 approval, which we were granted by our  
23 community.

24 I plead that if there are any  
25 questions you may have about my

1 presentation or my application, you ask,  
2 but please do not leave any stone  
3 unturned.

4 This has been a 17-month project for  
5 our Five Star family. We are eager to  
6 stay in business and get back to work and  
7 continue to serve our community.

8 Thank you for your time. And I would  
9 like to request time for rebuttal.

10 Thank you very much.

11 CHAIRWOMAN SOSA: Always. Thank you.

12 Okay. I'm going to start calling  
13 everyone who have signed to speak. You  
14 have two minutes. The clock is there.  
15 I'm going to try to be fair with everyone.

16 Please, when the two minutes are  
17 over, it's over, because if I give more  
18 time to one and less time to the other  
19 than someone is going to feel bad.

20 Let me start by calling Amarilys  
21 Castillo.

22 MR. CARVAJAL: Madam Chair.

23 Yes, sir.

24 I'm sorry to interrupt. I have one  
25 person who's here to speak on our behalf

1 and she actually has to drive three hours  
2 for a meeting. Would it possible to bring  
3 her up --

4 CHAIRWOMAN SOSA: Same amount of  
5 time.

6 MR. CARVAJAL: Would it be possible  
7 to bring her up first, because she has to  
8 be in Cape Coral today.

9 CHAIRWOMAN SOSA: Do you mind Ms.  
10 Castillo if I bring her up.

11 MR. CARVAJAL: Thank you.

12 CHAIRWOMAN SOSA: Welcome. Please  
13 state your name, your last name, your  
14 address for the record. And you have two  
15 minutes.

16 MS. VALENTI: Hi, my name is Eliza  
17 Valenti. My address is 5915 Southwest 108  
18 Place.

19 First of all, I'm totally overwhelmed  
20 just listening to him. And how he has  
21 been so humbled to have poured his soul  
22 out here and to see such a big man, you  
23 know, really pour his soul out and work so  
24 hard. And he -- he spoke from his heart.

25 And I happen to be somebody who is a

1 recipient from the benefit of what he's  
2 trying to offer at this other store. And  
3 I think from all of you sitting here, at  
4 one point or another in your lives or have  
5 family members who at one point have  
6 needed that loan that he's willing to  
7 offer.

8 I was a recipient. I almost lost my  
9 house, not once, but a couple of times.  
10 And I was able to benefit from that  
11 service that he provided. And I'm here  
12 only representing many other people that  
13 are not present here that were present at  
14 that other meeting that he's talking  
15 about.

16 So I truly ask you to reconsider this  
17 appeal and allow this man, who truly, him  
18 and his family and his employees are  
19 trying to do what is expected of him in  
20 compliance with the regulations, that as  
21 he spoke, he's been in compliance with all  
22 the steps and even surpassed the standards  
23 that were expected by the community.

24 Thank you for the time.

25 CHAIRWOMAN SOSA: Thank you for

1 coming.

2 Ms. Amarilys Castillo, then Jorge  
3 Luis Carvajal, then Filiberto Martin, then  
4 Alicia Legra. If you can be ready, one in  
5 one podium, one in the other podium, so we  
6 can expedite the meeting, please.

7 Go ahead, please state your name and  
8 your address for the record. Welcome.

9 MS. CASTILLO: My name is Amarilys  
10 Castillo.

11 COMMISSIONER BOVO: Madam Chair, just  
12 a question. Is there anybody that has  
13 filled out a card to speak against?

14 CHAIRWOMAN SOSA: I don't have  
15 anyone. No card to speak against.

16 Is there any opposition in the  
17 audience to this item?

18 MR. COLLIER: Madam Chairwoman, there  
19 might be some confusion in the way you've  
20 asked the question, because the  
21 applicant -- the Petitioner in this case  
22 is the Department.

23 So the question is, is there anyone  
24 in opposition to the application for the  
25 pawn shop use for jewelry only.

1                   CHAIRWOMAN SOSA: Anyone who opposes  
2 allowing the jewelry store over there, the  
3 application for the pawn shop?

4                   Nope, I don't have anyone.

5                   Can those who are here in favor  
6 stand, in favor of the pawn shop, right?  
7 Okay.

8                   Does that answer your question?

9                   COMMISSIONER BOVO: Just for the sake  
10 of time, Madam Chair, if everyone here is  
11 in favor, I think they're all going to  
12 basically say the same thing. And I think  
13 we got it.

14                  COMMISSIONER EDMONSON: Uh-huh.

15                  CHAIRWOMAN SOSA: The problem I have,  
16 and I want to be very, very fair with  
17 everyone, we don't have any intention to  
18 take away your right to speak. If you  
19 still want to say something, if you still  
20 want to speak, you're more than welcome.

21                  What the Commissioner is saying is,  
22 to hear from the commissioner of the  
23 district and from everyone, is up to you.

24                  If you just want to say your name,  
25 your address for the record and say I am

1 in favor of the pawn shop, and then sit  
2 down, that will expedite. If you just  
3 don't want to speak because you already  
4 stood up and show everyone that you're in  
5 favor, it's up to you.

6 What I don't want is anyone leaving  
7 this room today thinking that we don't  
8 want to let you talk. Is that fair  
9 enough? Okay.

10 Ms. Castillo.

11 MS. CASTILLO: My name is Amarilys  
12 Castillo. My address is 989 Southwest 129  
13 Lane and I'm representing Horizon  
14 Properties of Miami. I represent the  
15 landlord of the shopping center.

16 I was at the first hearing. And I am  
17 in favor of these services.

18 CHAIRWOMAN SOSA: Thank you.

19 MS. CASTILLO: Thank you.

20 MR. MARTIN: Good morning. My name  
21 is Filiberto Martin and my address is  
22 15315 Southwest 76 Terrace, Miami, Florida  
23 33193.

24 And I approve the petition.

25 CHAIRWOMAN SOSA: The pawn shop.

1 Thank you.

2 Next.

3 MS. LEGRA: Good morning. My name is  
4 Alicia Legra, 13721 Southwest 173 Terrace,  
5 Miami, Florida 33177.

6 I approve this application, because I  
7 believe the -- it's going to be a good  
8 opportunity, not only for the owner, it's  
9 going to be a good opportunity for the  
10 community, it's going to be a good  
11 opportunity for more than five employees,  
12 for more than five families and more than  
13 a lot of families believe along the  
14 community.

15 I just want to share one experience  
16 that I have in one of the stores. I  
17 remember one day that a woman walks into  
18 the store, and she was asking to get a  
19 loan from the jewelry that she got from  
20 her husband that pass away. And  
21 unfortunately we couldn't help her. So I  
22 just want to share with you to let you  
23 know that like her, there is a lot more  
24 people that are in her situation, that  
25 doesn't have job, that doesn't have the

1 opportunity to get a loan or a credit card  
2 and a banking card.

3 So we can offer that opportunity. So  
4 please give us the opportunity to do that.  
5 Thank you.

6 CHAIRWOMAN SOSA: Thank you.

7 Anyone else?

8 I have Rosalia Perez, Olga Morales.  
9 Remember when you come, if you just want  
10 to state your name, your address and say I  
11 am in favor of the pawn shop, or I am in  
12 favor of the Department's appeal, you can  
13 do either.

14 Am I right saying that, Mr. Attorney?

15 MR. COLLER: You are correct.

16 CHAIRWOMAN SOSA: Thank you.

17 Go ahead.

18 MS. PEREZ: Good morning,  
19 Commissioners, my name is Rosalie Perez  
20 (phonetic), and my address is 21368  
21 Southwest 112 Avenue, Miami, Florida  
22 33189.

23 I have been working for Five Star  
24 Jewelers for almost five years and I have  
25 the pleasure of seeing Jorge's success all

1 along the way.

2 This is a company that cares about  
3 not only the community, but for the  
4 employees, too. I have been able to grow  
5 with this company not only professionally,  
6 but personally. They even taught me how  
7 to speak English and write professional  
8 e-mails.

9 I am working in the store where we  
10 have the license to loan money for jewelry  
11 and it is amazing to see how many benefits  
12 this service offer. I have seen people  
13 being able to fix their car, feed their  
14 children, pay their school loans just  
15 because they go to a store and they feel  
16 they're part of the family. And we're  
17 here to help when no one else can.

18 If their license doesn't get approved  
19 a lot of employees, including myself, are  
20 going to lose a job causing an impact, not  
21 only in the family, but economy in  
22 general.

23 I really hope today, can walk out of  
24 this room with satisfaction of being able  
25 to offer another great service to our

1 community.

2 Thank you.

3 CHAIRWOMAN SOSA: Thank you.

4 MS. MORALES: Good morning, Chairman  
5 and Commissioners. My name is Olga  
6 Morales. And my address s 16663 Southwest  
7 91 Lane. I'm literally two blocks away  
8 from the store. I'm in Zapata's district.

9 I know that you're for small  
10 businesses, so I urge you to please let  
11 this go through. Thank you.

12 CHAIRWOMAN SOSA: Thank you.

13 Eliza Valenti, Madeline Zuniga,  
14 Dailin Gutierrez, Venessa Carvajal, and  
15 Jorge Luis Carvajal. That's all I have.

16 MS. ZUNIGA: Good morning, my name is  
17 Madeline Zuniga. I live at 401 Northwest  
18 39 Avenue. I do work -- I haven't worked  
19 long for Mr. Carvajal, but I do work at  
20 the store that we are petitioning the pawn  
21 license. I have been there, and I see  
22 personally the people that go there for a  
23 loan. I have to turn them down, because I  
24 cannot give it to them.

25 Please not only are you going to help

1 the community, they're going to get money  
2 for the jewelry, which they're going to  
3 get back. You're going to be saving my  
4 job, my mortgage and my kids' college.  
5 Thank you.

6 MS. GUTIERREZ: Good morning,  
7 Commissioners, my name is Dailin  
8 Gutierrez, and I live in -- my address is  
9 19219 Southwest 128 Avenue, Miami, Florida  
10 33177.

11 It's been two years tomorrow since I  
12 started working for this company. It's  
13 been an honor and a pleasure to be part of  
14 this family, because that's what Five Star  
15 Jewelers means to me. This is my family  
16 in this country. I personally work  
17 directly with the customers. And I've  
18 been a witness of how much we help them.

19 Actually, last week, I had an old  
20 customer -- I'm sorry, an old customer who  
21 came to increase the loan he already has  
22 in our store to take their children -- I  
23 mean, his grandchildren to Disney World.  
24 So that's only one of the few examples I  
25 can give of how many customers we have and

1           how much we help them.

2           Everyday at Five Star jewelers  
3           represents satisfaction to help a customer  
4           and realize how much they trust on us and  
5           how important our company and services to  
6           them.

7           I strongly hope this store gets the  
8           license. It would allow a lot of people  
9           to be helped and also the opportunity of  
10          many of our employees to keep their jobs.  
11          Thank you very much.

12          CHAIRWOMAN SOSA: Thank you.

13          Welcome.

14          MS. CARVAJAL: Good morning. My name  
15          is Vanessa Carvajal. I'm sorry.

16          CHAIRWOMAN SOSA: We have been there  
17          many times. Before we were here, we were  
18          there. So go ahead, Vanessa, try your  
19          address now.

20          MS. CARVAJAL: I live at 11921  
21          Southwest 126 Terrace.

22          I'm sorry, it's personal.

23          CHAIRWOMAN SOSA: I understand.

24          MS. CARVAJAL: I just ask that you  
25          please pass this. It's a big --

1 CHAIRWOMAN SOSA: You're in favor of  
2 the petition for the pawn shop?

3 MS. CARVAJAL: I am.

4 CHAIRWOMAN SOSA: Thank you.

5 MS. CARVAJAL: Thank you.

6 CHAIRWOMAN SOSA: Feel better?

7 MS. CARVAJAL: Yes.

8 CHAIRWOMAN SOSA: Thank you.

9 Next.

10 MS. MIRABEL: Good morning, my name  
11 is Clara Mirabel (phonetic) and I live at  
12 11267 Southwest 33 Street. I'm employed  
13 by Five Star Jewelers, but I've only been  
14 employed for five years. I know Mr.  
15 Carvajal's family for 25.

16 I was born in this country, and I  
17 love my country. What I love about it is  
18 the most is that we do have rules,  
19 regulations. We do have laws to keep the  
20 peace and to keep order.

21 What I love is community service.  
22 What I love is what the Commissioners and  
23 what you all bring to us. My parents came  
24 here 60 years ago, 65 years ago, actually.  
25 So they have seen, we have seen and we're

1 so thankful to them and to you.

2 With that I'm saying, because what I  
3 have seen in this jewelry store and in  
4 this organization, and this business, is  
5 nothing like what the ordinance realize.  
6 This is not a pawn shop. We are not pawn  
7 brokers. We are simply a family that  
8 loans money on jewelry to people that are  
9 here for the same reasons we are. They're  
10 trying to pay their bills. They're trying  
11 to buy medication. They're trying to  
12 survive.

13 I have been in the situation myself  
14 many years ago, and heaven's knows if I  
15 will be again. What we need to take into  
16 consideration, is that with the laws and  
17 the decisions that are made, we need to  
18 modify. These are people that need  
19 businesses, and family members,  
20 family-owned businesses like Five Star  
21 Jewelers to be compassionate, that when  
22 they come, they understand what it is to  
23 be sick, what it is to turn over a piece  
24 from, let's say, my father, my  
25 grandparents. This is what we have left.

1           This family, this business, the way  
2 they deal with their business is with  
3 compassion. That's what we need to give  
4 -- what we need to give our community,  
5 which is what I have always felt our  
6 community and have served everyone that  
7 gives service is that compassion, the  
8 compassion to be understanding and  
9 compassion to be humble, the compassion  
10 not to insult, and to be, you know, just  
11 as compassionate as possible to those who  
12 come with a need. I ask you today to  
13 please take this into consideration.

14           CHAIRWOMAN SOSA: Thank you very  
15 much.

16           MS. MIRABEL: Thank you very much.

17           CHAIRWOMAN SOSA: Anyone else who  
18 wishes to speak at this point?

19           I called all the cards that I have.  
20 Mr. Attorney.

21           MR. COLLER: Yes, ma'am.

22           I believe technically the Department  
23 has the rebuttal, so...

24           CHAIRWOMAN SOSA: Yes. Okay. We go  
25 to the Department and then we afford the

1 opportunity.

2 Go ahead, Mr. Silva.

3 MR. SILVA: Thank you.

4 I just wanted to mention something  
5 about the request. The use variance  
6 request for the jewelry pawn, it's a trend  
7 that we've seen five times in the last  
8 year and a half. The first time was Lady  
9 Cash that was before this Board last  
10 March, and that jewelry pawn use was  
11 denied by the Board.

12 And then we had another application  
13 that went to CZAB 15, as mentioned by the  
14 jewelry store owner, in the Naranja area.  
15 That application was basically the same  
16 request, the jewelry -- it was actually a  
17 pawn shop, a full pawn shop, that was a  
18 use variance for a pawn shop. And in that  
19 case, in Naranja, staff did recommend  
20 denial, but it was for an existing pawn  
21 shop. It had been there 16 years. And  
22 what was happening with that pawn shop was  
23 FDOT was widening Dixie Highway, so he  
24 was -- he was losing his parking. It was  
25 existing use that was there for 16 years.

1 He was losing his parking, so he was going  
2 to move down the street.

3 So we actually, staff, were kind of  
4 leaning towards, you know, approval of the  
5 application, but based on the code, we  
6 still had to recommend denial of that  
7 application, but we did not appeal it,  
8 considering the circumstances with FDOT.  
9 That's why we did not appeal that  
10 application.

11 The other three, the one before you  
12 today and as I mentioned earlier, those  
13 other two will be on hearing for next  
14 month.

15 And it's really, the way the Code is  
16 written now, the use variance requires a  
17 hardship for this site. You know, it's  
18 not a compatibility analysis. It's just a  
19 hardship of the site. In all those  
20 instances, the three appeals that will be  
21 before you, is an existing shopping plaza  
22 that has a store that's asking for the  
23 jewelry pawn use. So it's very, very  
24 difficult to prove a hardship of this  
25 site.

1           Craig just reminded me, when the last  
2 application was here in March, we did talk  
3 about one option was a code amendment and  
4 staff, you know, has discussed that. And  
5 we do have some ideas, if anybody wants to  
6 discuss.

7           CHAIRWOMAN SOSA: I'm pretty sure  
8 you're going to have someone discussing  
9 that with you soon, to make sure we do  
10 things right and we appreciate that  
11 coming.

12           Do you need time for any rebuttal  
13 from what Mr. Silva just responded?

14           MR. CARVAJAL: Thank you.

15           I guess the only thing that I can say  
16 is that, yes, it is difficult to show a  
17 hardship for the location, but the fact is  
18 that there are hundreds of other jewelry  
19 stores throughout Miami-Dade County  
20 offering the same service that we're  
21 asking to be licensed to do, and --  
22 including one being ours and we're not an  
23 issue.

24           So I understand that the book is the  
25 book and that's what's written, but I

1 believe that the reason why this system is  
2 put in place, the community council, the  
3 government, the commissioners, I believe  
4 that the reason is for common sense to be  
5 put in.

6 CHAIRWOMAN SOSA: The law.

7 MR. CARVAJAL: And, you know, take  
8 everything in consideration.

9 So, listen, I go to the County and I  
10 say this is what I want to do. What do I  
11 need to do? They say fill out all these  
12 applications, these are our fees and this  
13 is the process that you have to go  
14 through. Great. I didn't have an option.

15 If there would have been a license  
16 that I could have applied for that would  
17 have been a jewelry store offering loans  
18 on jewelry, that's what I would have done.  
19 So isn't that a hardship, the fact that I  
20 didn't have an option?

21 Thank you very much.

22 CHAIRWOMAN SOSA: Thank you.

23 Okay. Now, it's proper for me to  
24 close and then come back to the table.

25 MR. COLLIER: Yes.

1                   CHAIRWOMAN SOSA: Commissioner  
2                   Zapata, this is your district.

3                   COMMISSIONER ZAPATA: Thank you,  
4                   Madam Chair.

5                   And, you know, these zoning meetings  
6                   are always tough. And, you know, Mr.  
7                   Carvajal, you've made an excellent  
8                   presentation. And I wish I could base it,  
9                   my decision and my position on this, based  
10                  on, I guess, the content of your  
11                  character.

12                  I think you, today, and your family  
13                  here have shown that you guys are  
14                  upstanding folks, but the reality is that  
15                  when we make these decisions, we can't go  
16                  by our emotions, although many times we  
17                  do. But what I've tried to do since I've  
18                  been here is I try to be consistent.

19                  We had an application come up in  
20                  March last year. Pretty much the same  
21                  thing. The owners were before us. They  
22                  seem like great people too and we turned  
23                  them down, because the code is very clear.  
24                  It states that there has to be that  
25                  hardship.

1           And I agree with staff. I mean, the  
2           property is still intact. There hasn't  
3           been anything that has happened there that  
4           has impacted your ability to do what  
5           you're doing now or, as staff mentioned, I  
6           believe 84 other uses that you could have  
7           in that property.

8           So I'm going to be supportive of  
9           staff's recommendation.

10           But let me share with my colleagues  
11           something, the last time we did this in  
12           March, I thought -- this is tough. This  
13           is not easy. There's a lot of social  
14           issues that come into play.

15           And we talked with staff about how we  
16           can maybe create a change in the code so  
17           that we can allow for some flexibility in  
18           the process. So we started this. And I  
19           believe we started with Mr. Silva six  
20           months back and forth trying to find  
21           something.

22           And the problem we found is state  
23           law. State law in a way forces you to put  
24           the word pawn in that business. I know  
25           it's -- unfortunately, it's state law.

1           So, you know, you can't tailor these  
2           things. And, you know, so say we would  
3           approve this, then somebody else is going  
4           to come up. And then we start going down  
5           in a different direction, where the Code  
6           doesn't have meaning, because we've  
7           already approved so many people come  
8           before. And then everybody comes to  
9           modify to their convenience.

10           There is a proven fact that pawn  
11           shops attract a certain element. Now,  
12           we're not saying you're going to do a pawn  
13           shop. And I believe you. The thing is  
14           that what we're actually allowing for is a  
15           pawn shop. I understand and I see you  
16           nodding your head. And I understand that.  
17           But once you approve that, you can't deny  
18           the next guy, and you can't deny the next  
19           guy.

20           And there's actually two pawn shops  
21           within a mile and a half of your property,  
22           I believe, on 152 and Sunset.

23           And I've had conversations with the  
24           police department, and I've had neighbors  
25           approach me, not on this specific item,

1 but just in general terms, and expressed  
2 concern, that it is a concern, a  
3 legitimate concern.

4 Again, this is not a judgment of you.  
5 We're talking here in the way I make my  
6 decisions.

7 You know, we approve you, we approve  
8 three other people. Then guess what,  
9 you're all doing the business. So then  
10 your business starts to have some  
11 competitive pressures. So now, instead of  
12 just doing jewelry, you have to come back  
13 and do something else. And over time, and  
14 over time, this is the way these things  
15 happen.

16 And I've been involved in zoning and  
17 know about zoning for many years. And  
18 this is what bothers me, you know, we'll  
19 do something with good intentions, 'cause  
20 we hope for the best. And we look at this  
21 presentation, it's an excellent  
22 presentation. From what I know, you're  
23 great. My office is nearby and you run a  
24 good business. And you're upstanding  
25 citizens in the community.

1           But we say yes to you, then we've got  
2 to say yes to other folks and then that's  
3 where we go down the slippery slope.

4           And there was a reason why this Code  
5 was created and why we have this the way  
6 it is, because we help create rules to  
7 protect the people who we represent. And  
8 as much as I would like to help all of  
9 you, I have a district that I have to look  
10 out for. And, you know, every decision  
11 has an impact. And we establish a  
12 precedent. And we have already, at least  
13 in my district, with these kinds of  
14 applications, we've established a  
15 precedent.

16           When that application came back in  
17 May of last year, March, May, March of  
18 last year, there was a similar request.  
19 And, you know, we -- you know, I made a  
20 position to support staff in their  
21 recommendation to deny or to appeal the  
22 application.

23           And, Madam Chair, if a motion is  
24 appropriate at this time, I'll make that  
25 motion to accept staff's recommendation to

1 deny without prejudice this application.

2 CHAIRWOMAN SOSA: It was moved.

3 Do I hear a second?

4 MR. CARVAJAL: Madam Chair, I'm sorry  
5 to interrupt.

6 CHAIRWOMAN SOSA: I'm sorry, but we  
7 have a rule. And I will always be  
8 flexible, but now this Board is talking.  
9 Thank you. You had your opportunity.

10 MR. CARVAJAL: Understood.

11 CHAIRWOMAN SOSA: You may sit down.  
12 Thank you, sir.

13 There is a motion. Do I hear a  
14 second?

15 COMMISSIONER MONESTIME: Second.

16 CHAIRWOMAN SOSA: Second for  
17 discussion by Commissioner Monestime, then  
18 I have Commissioner Diaz, Commissioner  
19 Edmonson.

20 Go ahead, Commissioner Diaz.

21 COMMISSIONER DIAZ: Thank you, Madam  
22 Chair.

23 Mr. Attorney, why is the reason that  
24 if anything gets appealed or brought up in  
25 zoning that it comes before this body?

1           Isn't it for the discretion of this body  
2           to take a case to case base and decide at  
3           that point what they feel is proper, yes  
4           or no? -----

5           MR. COLLER: That's a hard yes or no.

6           COMMISSIONER DIAZ: I know. That's  
7           why I'm asking you.

8           MR. COLLER: I would say, yes, it's  
9           the Board's discretion based upon the law  
10          that you have before you.

11          COMMISSIONER DIAZ: And based upon  
12          the law, the law is actually giving us  
13          that discretion, so it's a Catch 22. We  
14          interpret the law as we feel fit, based on  
15          the issue. And Commissioner Zapata has  
16          basically said that.

17          The issue that we have is, that we  
18          don't want to be narrowed so much to a  
19          point where we don't have that  
20          flexibility. I always felt that I had  
21          that flexibility up here. And for the  
22          last 12 years, I and I know my colleagues  
23          that have been here, and before that when  
24          I was in another elected capacity, I did  
25          the same thing, I went with my best

1 feelings based on what's before me.

2 Not every case is the same. Not  
3 everybody is forced to be done in a  
4 certain way. Just because you live  
5 two blocks one way or two blocks the  
6 other, could be thrown into a different  
7 situation.

8 So there's a lot of variables that --  
9 Silva is a great person that does the job  
10 the way is told has to be done by the  
11 variables in front of him, but those  
12 variables are up to us, because at the end  
13 of the day, we could change those  
14 variables as needed. And maybe some of  
15 them need to be changed.

16 And I think the Chairwoman was wise  
17 when she looked at me, knew that I'm going  
18 to be speaking on this later on, because  
19 this are the kind of things that are truly  
20 hardship.

21 And, by the way, those are the same  
22 people that pay everybody's salary here.

23 (Applause).

24 COMMISSIONER DIAZ: No, no, no, no,  
25 please.

1                   CHAIRWOMAN SOSA: Like this  
2                   (indicating) only.

3                   COMMISSIONER DIAZ: And that is what  
4                   we have to look at.

5                   Because I understand what the  
6                   Commissioner said. He's right, he doesn't  
7                   want to create something that's going to  
8                   continue on. I've done that in my  
9                   district and I've had those issues, too,  
10                  but also we have to take the leniency of  
11                  looking at this.

12                  I know Commissioner Edmonson had an  
13                  issue in her district. It was not easy.  
14                  And there was a lot of people that came.  
15                  She took the side of the people. And all  
16                  of us here have been in the same position,  
17                  but in the end of the day, I have to feel  
18                  what is right.

19                  The argument that you said, sir, was  
20                  100%. This is what this country is based  
21                  upon. This is what we are all about. And  
22                  this is not a speech to just look good or  
23                  anything else. It's just honestly, to me,  
24                  it's the right thing to do.

25                  So I will, in my vote, I'm going to

1 be going against the recommendation or the  
2 appeal of staff in favor -- and, by the  
3 way, can somebody explain to me, because  
4 it's a zoning matter, 'cause it's a couple  
5 of blocks, but why is it that it doesn't  
6 have a secondhand license, and now he has  
7 to get a pawn shop license? Is it because  
8 where he's at?

9 CHAIRWOMAN SOSA: State law.

10 COMMISSIONER DIAZ: I hear state law.  
11 Explain to me what triggers that state  
12 law.

13 MR. COLLER: With respect to where  
14 he's at, he's in a BU-1A zoning. Under  
15 BU-1A, a pawn shop -- and they don't make  
16 a distinction between the different types  
17 of pawn under our code. BU-1A, pawn shops  
18 are not permitted.

19 In BU-3, it's a special exception,  
20 which under -- in BU-3, it's really just a  
21 compatibility analysis. Had the code read  
22 differently, and this was BU-1A, but pawn,  
23 jewelry pawn specifically -- had the code  
24 read jewelry pawn is a special exception  
25 in the BU-1A zone, then we wouldn't be

1 looking at it under the legal zoning  
2 hardship standard. We'd be looking at it  
3 at the compatibility standard. And the  
4 compatibility standard is much easier.

5 The reason why is, because a use  
6 variance is a use that's not permitted in  
7 the Code. So obviously the standard for  
8 approval is going to be much more  
9 difficult than approval -- a special  
10 exception, which is approval after public  
11 hearing, like what we do with schools and  
12 churches and other types of uses.

13 COMMISSIONER DIAZ: Mr. Attorney, but  
14 you just told me that this is the Code. I  
15 didn't hear you say any state law.

16 MR. COLLIER: No, the issue that we  
17 have here I believe is a Code issue. It's  
18 not a state law issue. It's our code.

19 COMMISSIONER DIAZ: I thought so. I  
20 just wanted to hear you say it.

21 MR. COLLIER: It's the way our Code is  
22 currently drafted. It's not -- it's a use  
23 variance. It's not a special exception,  
24 so the standard is different. And the  
25 showing that an applicant must make is

1 much greater than if it were a special  
2 exception.

3 COMMISSIONER DIAZ: Okay. So if I  
4 were to say in the next meeting that now  
5 BU-1A -- that's the proper term.

6 MR. COLLER: Right.

7 COMMISSIONER DIAZ: Has a special  
8 exception for this.

9 MR. COLLER: You couldn't just say  
10 it.

11 COMMISSIONER DIAZ: No, you know what  
12 I mean. Yeah, let's go technical, Mr.  
13 Attorney, you're absolutely correct.

14 The body of this Commission says it  
15 is based on this, or we could say that due  
16 to the Code, we want to have a difference  
17 in the types of pawn shop or we want to  
18 have a variance to be put in for jewelry  
19 stores that loan and have that as a  
20 special exception, we could also do that.  
21 Am I correct?

22 MR. COLLER: You are correct.

23 COMMISSIONER DIAZ: Thank you. We  
24 will be talking about this later on.  
25 Okay.

1 CHAIRWOMAN SOSA: Thank you.

2 Commissioner Edmonson.

3 COMMISSIONER EDMONSON: Thank you.

4 And I think Commissioner Diaz covered just  
5 about everything I wanted to cover, but  
6 when a variance comes before this Board,  
7 we do have the law that allows us to make  
8 subjective type decisions, correct?  
9 Meaning, we do not have to abide  
10 completely by what the Code is saying.

11 MR. COLLER: No.

12 COMMISSIONER EDMONSON: That's the  
13 purpose of --

14 MR. COLLER: I wouldn't -- I wouldn't  
15 want it to say it that way. I would say  
16 it this way.

17 The Commission decides the facts of  
18 the case. The law is what's in the Code.  
19 It's your job to apply the Code to a  
20 unique set of facts that you hear.

21 It would not be a subjective  
22 decision, because subjective would mean  
23 that you're not guided by anything.

24 You are guided by the standards in  
25 the Code, but it's the Board's decision to

1 assess the facts and to apply the Code as  
2 it's written.

3 COMMISSIONER EDMONSON: So if this  
4 Board sees that there is a hardship --  
5 because I see a hardship here, especially  
6 when it comes down to jobs and people  
7 losing their jobs. If we decide that  
8 there is a hardship, then we can vote in  
9 favor of the store or vote to deny the  
10 appeal.

11 MR. COLLER: You have the ability to  
12 do that.

13 I do want to clarify something on  
14 hardship, because the Third District Court  
15 of Appeal in decisions 1992 and 1993  
16 reaffirmed that a hardship has to be  
17 related to the land. And so they were  
18 pretty tough with the issue of hardship,  
19 that it has to be that you've lost all  
20 reasonable use of your property.

21 So I would be concerned -- I would  
22 not want to lead the Board astray that's  
23 simply --

24 COMMISSIONER EDMONSON: You just want  
25 to cut down everything I say, Mr.

1 Attorney.

2 MR. COLLER: No, I just know that  
3 there are other cases --

4 COMMISSIONER EDMONSON: So it's still  
5 a hardship on the land, because he would  
6 have to close down.

7 MR. COLLER: It's your judgment as to  
8 whether he meets that hardship. I'm just  
9 going to tell you what the law is. That's  
10 all my -- it's you all decide if there is  
11 a hardship in that particular case.

12 COMMISSIONER EDMONSON: Okay, you've  
13 just proven to me there is a hardship,  
14 because he would have to close down on the  
15 land. How's that?

16 COMMISSIONER DIAZ: That's good.

17 COMMISSIONER EDMONSON: No, don't  
18 answer.

19 Normally, I would go along with the  
20 district commissioner, Commissioner  
21 Zapata, but I can't do that at this time.  
22 I'm going to have to vote to deny the  
23 appeal. So I'll be voting against your  
24 motion.

25 CHAIRWOMAN SOSA: Any other

1 Commissioner who wishes to speak?

2 Commissioner Bovo.

3 COMMISSIONER BOVO: I thought I seen  
4 a second for --

5 CHAIRWOMAN SOSA: He second for  
6 discussion, but he hasn't requested the  
7 floor.

8 COMMISSIONER EDMONSON: He has no  
9 discussion?

10 CHAIRWOMAN SOSA: He hasn't requested  
11 the floor yet.

12 COMMISSIONER BOVO: Yeah, I just, you  
13 know, am conflicted with this concept of  
14 hardship and further conflicted that  
15 lawyers are the ones that decide what  
16 hardships are and whatnot and usually  
17 lawyers don't run any businesses.

18 So the way -- you know, the way I see  
19 this, is that this is a very limited use  
20 of what they're asking. I think we, as  
21 government, are the ones that impose the  
22 hardships in many cases. That's not to  
23 say that places should run amuck.

24 But I, like Commissioner Edmonson, I  
25 like to normally side with the

1 Commissioner of the district, but on this  
2 one, I'm going to have to go the other way  
3 and I'm going to be supportive of the  
4 store also.

5 CHAIRWOMAN SOSA: Do you want to  
6 speak, Commissioner Monestime?

7 COMMISSIONER MONESTIME: Mr.  
8 Director, I've been places, many places,  
9 where I see similar stores. What's the  
10 difference -- before I ask you this  
11 question, let me preface by asking you,  
12 what's the difference between a pawn shop  
13 and a used jewelry shop? Because the  
14 gentleman, the owner, clearly stated that  
15 he's not running a pawn shop. He's  
16 running --

17 CHAIRWOMAN SOSA: Limited use.

18 COMMISSIONER MONESTIME: Limited use  
19 jewelry shop. What's the difference?

20 MR. SILVA: That's correct, BU-1  
21 currently allows buying and selling of  
22 used jewelry. That was amended in 1997 to  
23 add that to BU-1A. The pawn use is, you  
24 bring in your watch, you get a loan, you  
25 payoff a loan in a couple of weeks, a

1 month or so, and pay the interest and you  
2 get your watch back. So the difference is  
3 the loan aspect. The loan aspect is not  
4 allowed now by the BU-1A.

5 COMMISSIONER MONESTIME: But did he  
6 have to request an amendment in order to  
7 do the loan aspect?

8 MR. SILVA: The loan aspect he needed  
9 to request a use variance, but the buying  
10 and selling of used jewelry, he didn't  
11 request anything from us. It was  
12 already permitted by the Code.

13 COMMISSIONER MONESTIME: So you're  
14 appealing the entire application or you're  
15 just appealing the portion that he  
16 requested the variance on, which would  
17 require -- which would allow him to offer  
18 loans to his customers. Which one was it?

19 MR. SILVA: We're appealing the  
20 request -- we're appealing the request for  
21 a use variance, which allows him to offer  
22 the loans. We don't have anything to do  
23 with the buying and selling of used  
24 jewelry. That's already a permitted use.  
25 He can do that now. Nothing to do with

1           that.

2           COMMISSIONER MONESTIME: He could do  
3 that without offering the loan?

4           MR. SILVA: Correct.

5           COMMISSIONER MONESTIME: So the only  
6 thing that the Department is uncomfortable  
7 with is the portion that, you know, of the  
8 loan that his companies wants to offer?

9           MR. SILVA: We're uncomfortable with  
10 the request for the use variance. That's  
11 what we're uncomfortable with.

12          COMMISSIONER MONESTIME: Which would  
13 qualify him to do loans.

14          MR. SILVA: Exactly.

15          COMMISSIONER MONESTIME: So the issue  
16 here is the Department agrees that it's  
17 not a pawn shop. If it were that he was  
18 asking to simply buy and sell the jewelry,  
19 that would be acceptable.

20          MR. SILVA: Correct, that's already  
21 permitted by the Code.

22          COMMISSIONER MONESTIME: And so  
23 monies would be exchanged there  
24 regardless.

25                 So the only difference is that in

1 buying and selling something, the person  
2 gets the materials. One party -- in that  
3 case, he's going to have to issue papers,  
4 probably notes, promissory notes, to the,  
5 you know, folks. So that's the only  
6 difference?

7 MR. SILVA: That's the only  
8 difference, the loan use. That's the only  
9 difference.

10 COMMISSIONER MONESTIME: Yeah, this  
11 is kind of, like -- I don't know. This is  
12 a tough one, but, you know, I know some of  
13 my other colleagues have not spoken. Let  
14 me hear them, but thanks for answering my  
15 questions.

16 CHAIRWOMAN SOSA: Senator Souto and  
17 then Commissioner Moss.

18 COMMISSIONER SOUTO: A question, a  
19 question to the attorney.

20 I have to believe that, correct me if  
21 I'm wrong, all these activities, all these  
22 activities, all the activities involving  
23 the jewelry and back and forth, they're  
24 apparently controlled by the state, I  
25 guess, and is also observed closely by our

1 police. And I hope it is. And if it is  
2 not, then I want to do something about  
3 that in the future, but I think it is.

4 For any merchant in Miami-Dade County  
5 today applying for anything that person be  
6 immediately under the microscope. I mean,  
7 this is no secret. It's a way of  
8 business. It's another -- it's a way of  
9 obtaining money, if you have -- if you  
10 have to -- if you need some money. And  
11 it's a legal activity. Banks are not the  
12 only way. We know that.

13 This is also, as I said before,  
14 observed by all the police agencies that  
15 you can imagine. I guess local police,  
16 FBI, DEA, et cetera, et cetera, et cetera.  
17 So I have no doubt in my mind that all  
18 this is -- is that the case, Mr. Attorney?

19 MR. COLLIER: I believe that there are  
20 statutory requirements for -- and I  
21 believe the applicant mentioned certain  
22 requirements that he was under as far as  
23 operating a jewelry pawn business, so  
24 there are regulations related to that.

25 And I don't have specific knowledge,

1 but maybe the Department has more  
2 knowledge about the police oversight, but  
3 I believe that we've seen in other cases  
4 come up where there is police oversight.

5 COMMISSIONER SOUTO: Is anybody here  
6 from the police that can shed some light  
7 on this regarding activities of Miami-Dade  
8 Police involving pawn shops and all that  
9 and jewelry. I think that they have  
10 quite, quite a bit of control over all  
11 that. Anybody here? We have sergeants.  
12 We have other people here.

13 Madam Chairwoman.

14 MR. SILVA: Senator Souto, I'm not  
15 with the police department, but at the  
16 CZAB meeting, the community council  
17 meeting, the applicant did mention that  
18 they do file a form with the police  
19 department when they're pawning items  
20 that is required.

21 CHAIRWOMAN SOSA: Senator, we have  
22 our sergeant, lead sergeant-at-arms here.

23 COMMISSIONER SOUTO: Maybe the  
24 sergeant can shed some light on this.  
25 He's a capable person with a lot of

1           experience.

2                   MR. HERNANDEZ: Paul Hernandez, 111  
3 Northwest 1 Street, sergeant-at-arms.

4                   Back then, when I was on the road and  
5 actually worked in investigations, our  
6 police department did have what we called  
7 the pawn detective. And one of the things  
8 that they did was, they had a relationship  
9 with all the pawn owners and they would  
10 actually go in and check the merchandise,  
11 compare the merchandise that were actually  
12 in the pawn to whatever property loss  
13 reports that we've had to try to match  
14 some of that to some stolen items. And  
15 that's one of the things that we did on a  
16 regular basis.

17                   COMMISSIONER SOUTO: Thank you.

18                   Well, that I think that suffices my  
19 questions of the attorney.

20                   It's clear to me that the law  
21 agencies are pretty much active on all  
22 these matters. This is an activity, in my  
23 understanding, legal activity, under the  
24 microscope all the time. It's another  
25 way, another avenue, another way of

1 financing. There's many ways of working  
2 with finance as long as it's legal, and  
3 honest and under the law, it's fine with  
4 me.

5 Thank you.

6 CHAIRWOMAN SOSA: Thank you, Senator.  
7 Commissioner Moss.

8 COMMISSIONER MOSS: Thank you, Madam  
9 Chair.

10 To staff, the definition of pawn is  
11 anytime someone basically brings an item  
12 in, they receive money in exchange, and  
13 they're able to come back and reclaim the  
14 item. That's the definition of pawn.

15 And I'm asking that question, because  
16 can something of this nature be termed  
17 differently, or, you know, identified  
18 differently, defined differently than a  
19 typical pawn.

20 Because when I think of a typical  
21 pawn shop, I think of, you know, guitars,  
22 and bongos, and jewelry, and, you know,  
23 musical instruments, my TV that might  
24 have, you know, crept out of my house.  
25 You know, I think about those kinds of

1 things, so --

2 COMMISSIONER EDMONSON: Creeped out.

3 COMMISSIONER MOSS: So what I'm  
4 trying to understand is that in what  
5 Commissioner Diaz is saying, I guess he's  
6 going to be getting with you in reference  
7 to looking at the Code. You know, is  
8 there a way that it could be defined  
9 differently, so you specifically, you  
10 know, homing in on this particular  
11 situation as opposed to what the general  
12 perception is of a pawn shop.

13 MR. SILVA: Commissioner, we were  
14 thinking exactly the same thing, because  
15 the Code now -- just as a pawn shop in  
16 BU-3, so the ordinance that we've been  
17 working on states a jewelry loan center is  
18 the way it's phrase and it could be after  
19 a special exception under certain  
20 conditions. Special exception would still  
21 require to go to public hearing and just  
22 have a compatibility analysis.

23 COMMISSIONER MOSS: And, you know,  
24 I've been in the store there in Country  
25 Walk. And they do run a very nice

1 operation. I think I bought a watchband.  
2 It's a very nice situation. This is a  
3 tough, tough issue, but I understand the  
4 Commissioner of the district is saying, he  
5 doesn't want some precedence started,  
6 because you've had two, two up now, and  
7 some others probably in the pipeline.

8 And, again, I don't have a concern  
9 with the well-run establishments, you  
10 know, like this. I have a concern about  
11 the proliferation of pawn shops.

12 COMMISSIONER ZAPATA: Uh-hum.

13 COMMISSIONER MOSS: You know,  
14 because -- for example, in my district,  
15 they tend to be located, you know, near  
16 some of the most disadvantaged  
17 neighborhoods in the community, and other  
18 things kind of happen. And I'm not so  
19 sure that, you know, the kind of police  
20 checking that goes on, you know, maybe at  
21 this shop here necessarily happens all the  
22 time at these other shops. And, you know,  
23 it becomes a magnet for, unfortunately,  
24 you know, some unscrupulous, you know,  
25 individuals in the community. So that's a

1 concern that I have in reference to the  
2 issue.

3 Mr. Carvajal, could you come to the  
4 mike for a minute?

5 You've talked about, you have to --  
6 when someone comes in and, you know, they  
7 basically I guess the one store you can do  
8 the loans? In one of your stores now?

9 MR. CARVAJAL: I'm sorry. Do I have  
10 to go through the Chair or directly?

11 CHAIRWOMAN SOSA: No, directly.

12 COMMISSIONER MOSS: That was back in  
13 time.

14 COMMISSIONER ZAPATA: Through the  
15 former Chair.

16 CHAIRWOMAN SOSA: Respond to the  
17 question.

18 MR. CARVAJAL: I'm sorry, the  
19 question once again.

20 COMMISSIONER MOSS: When someone  
21 comes -- does one of your store now allow  
22 you to basically do the loans?

23 MR. CARVAJAL: Yes, sir, for the past  
24 17 years, the store in Country Walk has  
25 done jewelry loan transactions, pawns.

1                   COMMISSIONER MOSS: And I've never  
2 really seen anything, and I'm in that area  
3 all the time.

4                   But when someone brings in a piece of  
5 jewelry, for example, how long do you have  
6 to hold that jewelry? I think you --

7                   MR. CARVAJAL: Okay. So in the store  
8 that we're speaking about today, I'm  
9 licensed as a secondhand dealer. Somebody  
10 brings in an item, I buy it from them and  
11 we fill out the same application, the same  
12 form that we give to the police  
13 department, we file one and we give one to  
14 the customer, today, we only hold it  
15 15 days, because we're licensed as  
16 secondhand dealers.

17                   With the new license that I'm hoping  
18 for, now we would have to hold the items  
19 by state law 60 days. So if there was an  
20 issue, in reality, the item will be held  
21 in our store for a longer period of time.  
22 If that's the concern for some of you, the  
23 items would actually sit in our store a  
24 longer period of time, giving the police  
25 or anybody that wants to -- you know, has

1 an issue with it, and wants to come and  
2 inspect it, it's actually going to be  
3 there 45 more days.

4 COMMISSIONER MOSS: Let me ask this  
5 question. So are you required to send  
6 something into the police department?

7 In other words, when someone comes  
8 in, you've got to take a picture of it,  
9 you've got to send it? How does that  
10 whole process work?

11 MR. CARVAJAL: We have a computer  
12 program. Not a picture, but a detailed  
13 description of the item, 14-karat yellow  
14 gold, men's bracelet, with three stones,  
15 red color, fully described, the weight.

16 And on that form, before we get to  
17 the description of the items, we have to  
18 fully describe the customer: Name,  
19 address, phone number, place of  
20 employment, driver's license, signature,  
21 fingerprint. So it is very, very  
22 well-documented. And overlooked, not just  
23 by local city police, but by Tallahassee.

24 COMMISSIONER MOSS: Okay, continue to  
25 walk me through the process. Okay, so you

1 fill out this form. Where does the form  
2 go from there?

3 MR. CARVAJAL: So we give one copy to  
4 the customer. We keep a file. We keep on  
5 file. We have to keep it for five years  
6 and one goes to the police Department. So  
7 once to twice a week, we deliver those  
8 application, you know, those forms,  
9 however many we've gathered during the  
10 week to the police department, if they  
11 don't visit us, but usually they visit us  
12 every two weeks or so.

13 So we actually have a nice  
14 relationship with the local police  
15 department.

16 And, you know, again, they weren't  
17 opposed to what we're requesting.

18 COMMISSIONER MOSS: All right. Thank  
19 you very much.

20 MR. CARVAJAL: Thank you.

21 COMMISSIONER MOSS: Yeah, this is a  
22 difficult one, but I understand the  
23 Commissioner of the district want it to  
24 not be overrun.

25 And I've got a similar concern. You

1 know, I don't want to have a whole bunch  
2 of pawn shops in my district, because,  
3 like I say, typically, you know, the kind  
4 that I've seen, are the kind, in my  
5 opinion, that attracts trouble.

6 And it's not in the case of this,  
7 because, like I said, I've been in your  
8 store, been by your store many times. You  
9 run a top notch quality business there.

10 Thank you, Madam Chair.

11 CHAIRWOMAN SOSA: Thank you.

12 I don't have any other commissioner.  
13 Can I ask a few questions before I go back  
14 to the commissioner of the district.

15 If I can ask you one question. How  
16 much time do owners have today, in the  
17 ones you have to reclaim the merchandise?

18 MR. CARVAJAL: So the contract that  
19 we fill out, the note, as somebody  
20 referred to it, it's a 30-day agreement,  
21 but by law, I have to hold it another  
22 30 days, a 30-day grace period.

23 Now, if in that time, they can't  
24 reclaim it, they come in and they pay us a  
25 service fee and then we hold it another 30

1 days.

2 CHAIRWOMAN SOSA: If this is  
3 approved, and this will give you the  
4 ability to hold the item 60 days?

5 MR. CARVAJAL: We would be -- yes,  
6 yes.

7 CHAIRWOMAN SOSA: Will that also be  
8 to hold the items for the owners to  
9 reclaim?

10 Mr. Attorney, can we establish a  
11 number of days for the owners to reclaim  
12 items or we cannot?

13 MS. ATTORNEY: Madam Chair, I'm not  
14 sure, but I believe that's set for state  
15 law, and this is a state process, that a  
16 pawn shop or secondhand dealer is subject  
17 to.

18 CHAIRWOMAN SOSA: Thank you. Thank  
19 you, sir.

20 Mr. Silva, or Mr. Attorney, is this  
21 request for variance consistent with the  
22 CDMP?

23 MR. SILVA: The use is consistent,  
24 yes.

25 CHAIRWOMAN SOSA: It's consistent.

1           Is this use consistent with the  
2           criteria for land use element policy  
3           LU-4A?

4           MR. SILVA: Yes, it is consistent.

5           CHAIRWOMAN SOSA: So the only part  
6           that is in question here is the  
7           subjectivity of who determines the  
8           hardship.

9           MR. SILVA: That's the question, the  
10          hardship, yes.

11          CHAIRWOMAN SOSA: And this is limited  
12          use, what they've requested, it's not a  
13          full blast.

14          The desire will be for those with  
15          limited use not to have to write pawn shop  
16          in the front, but the state law requires  
17          to do that. That's something we can start  
18          working on, because you don't want  
19          proliferation of pawn shops full blast.

20          COMMISSIONER ZAPATA: They're not.

21          COMMISSIONER EDMONSON: They're not  
22          required.

23          CHAIRWOMAN SOSA: They are not  
24          required?

25          MR. COLLIER: The issue with the use

1 of the word pawn, and there's a condition  
2 in this application, the problem is we  
3 can't pass content-based sign regulations,  
4 dictate what somebody is going to put on a  
5 sign. I don't think they're necessarily  
6 required to put a pawn on the site. If  
7 the applicant proffered a voluntary  
8 covenant saying they're not going to put a  
9 pawn on there.

10 CHAIRWOMAN SOSA: Thank you for the  
11 clarification. And, of course, no one  
12 wants proliferation of anything in our  
13 district, but I always say that I prefer a  
14 well-run establishment by family that  
15 works together with the local police  
16 department.

17 I remember that when they broke into  
18 my house and took everything, the  
19 communication between the police  
20 department and my city and the pawn shop,  
21 they were able to go immediately, take the  
22 pictures, tell them -- they broke into  
23 three houses it was at that point. And  
24 sometimes you can identify those items.  
25 So I think that the correlation between

1 the police department working with the  
2 pawn shops is very good for us.

3 I also believe that holding an item  
4 60 days is fair. And holding items for  
5 the owners to reclaim is better. I prefer  
6 people who have been working on this  
7 without problems for a longer time, but I  
8 also have into consideration the binding  
9 situation of the district commissioner  
10 that we always look for. And we, in this  
11 table, knows what each commissioner, more  
12 or less, we know our district. And I feel  
13 an incredible respect when the  
14 commissioner expresses, because you tend  
15 to favor that commissioner that knows the  
16 needs of the district.

17 But I think that what we're seeing  
18 here today, there's a little bit of  
19 flexibility. It's consistent with the  
20 CDMP. It's consistent with the land use.  
21 And the hardship is very subjective. It's  
22 not a full blast. It's a limited use.

23 And I'm going to let the Commissioner  
24 close, but I think --

25 COMMISSIONER MONESTIME: Madam Chair,

1 before you close --

2 CHAIRWOMAN SOSA: Of course.

3 COMMISSIONER MONESTIME: -- with the  
4 district commissioner.

5 CHAIRWOMAN SOSA: Of course. Go  
6 ahead, Commissioner.

7 COMMISSIONER MONESTIME: I just want  
8 to comment to the Department. Again, when  
9 it comes to pawn shop, I don't think -- if  
10 you hear the comments here, I don't think  
11 anybody is a huge fan of pawn shops.  
12 There are differences, as many people have  
13 stated here, but the rules are to be  
14 applied across the Board. Because  
15 sometime last year, there was a pawn shop,  
16 which requested a variance in my district,  
17 and which I find out later, after the pawn  
18 shop opens, well, how did that open here?  
19 Well, it was -- everything went through  
20 administratively, and that wasn't  
21 appealed. And I've spoken to people after  
22 that who thought that could have been  
23 appealed by the administration, because  
24 those of us who want to promote our  
25 district, wants to promote economic

1 development, who wants to promote changing  
2 the image of our district, like  
3 Commissioner Moss just said, some of the  
4 times, some of these shops, they don't  
5 help the quality of life in our district.  
6 I'm not talking in regard to this  
7 particular shop.

8 And that's exactly why Commissioner  
9 Zapata insists that, you know, he  
10 understands what's happening. These  
11 things can get out of hand. Sometimes  
12 staff gets these done and we don't know  
13 about it, because we're not supposed to  
14 discuss them with people until they get  
15 there. And we just see them taking over  
16 our district, and we don't know why that  
17 happened. So I just want to put that  
18 remark on the record.

19 CHAIRWOMAN SOSA: Thank you,  
20 Commissioner.

21 And I assure you that the Code will  
22 be looked at and we will have this  
23 discussion, but it's like everything, pawn  
24 shops are legal, they are authorized to  
25 exist, and we are the ones who have to set

1           the rules around them, that if they are  
2           not performing the way they should, then  
3           we can interfere. It's like when you talk  
4           about halfway houses, you talk about  
5           senior centers in residential areas. We  
6           talk about ideal, we talk about respect  
7           residential, but we also have to look at  
8           the law. And we are here to determine  
9           based on the terms of the law who has the  
10          right to do it and what we expect for them  
11          to do it right, because we prefer to have  
12          someone who has a track record --

13                   COMMISSIONER DIAZ: Absolutely.

14                   CHAIRWOMAN SOSA: -- that proves a  
15          hardship. And for me a big hardship, it  
16          have to be attached to the land. If you  
17          close a business today, it's going to hurt  
18          the land. It's not going to have people  
19          to operate. We talk about jobs, jobs,  
20          jobs. And we're going to have a lot of  
21          people without a job tomorrow. The market  
22          is not easy yet.

23                   And I think that what we need to work  
24          on is some regulations for these pawn  
25          shops to be looked at by the police and to

1 work closely with the police.

2 With that, I go to Commissioner Diaz  
3 and then allow Commissioner Zapata to  
4 close.

5 COMMISSIONER DIAZ: Thank you, Madam  
6 Chair.

7 I just want to be clear on the facts  
8 as we've heard them here, and as we  
9 deliberate and the Commissioner is going  
10 to close.

11 I understand the Commissioner's  
12 position wholeheartedly, as all of us have  
13 said, and we have respect to each other  
14 commissioner's district.

15 The issue here is, this is a very  
16 unique situation. And that already  
17 have -- you already have an e-mail from my  
18 staff, from myself already addressing this  
19 and setting up a meeting to address this  
20 particular situation.

21 He is forced into this position,  
22 which I see as a hardship because of our  
23 Code, and because of the way we put it.

24 So I see a hardship. And most of us  
25 from what I understand or all of us

1            basically understand that.

2            As to the sign, I understand what my  
3            colleague, Commissioner Moss, is saying  
4            wholeheartedly. We do not want maybe --  
5            and we'll look at this again, as the  
6            Chairwoman just said, we don't want this  
7            proliferation of pawn shops, especially in  
8            the areas to prey on certain groups of  
9            people, which I concur exactly what the  
10           Commissioner is saying.

11           So in this case, I don't think that  
12           they're going to put pawn shop out there.  
13           I believe I saw their logo and it says  
14           jewelry store with this. They're not  
15           required to have pawn shop put on there.  
16           Am I correct? I think the Chair was  
17           asking that earlier.

18           MR. COLLER: That's correct.

19           COMMISSIONER DIAZ: Okay. So based  
20           on that -- and may I ask if -- can you  
21           come back up here a second, sir?

22           I think everybody here is pretty  
23           clear you run a very good family business  
24           and one that we are all proud to have in  
25           our community.

1 MR. CARVAJAL: Thank you.

2 COMMISSIONER DIAZ: The issue is that  
3 -- I understand my colleagues with the  
4 issue of pawn shops. And, again, we'll  
5 address this down the road, but right now  
6 this is what's in hand.

7 Are you going to put that in a sign  
8 outside that says pawn shop or you're  
9 going to keep it as Five Star Jewelers?

10 MR. CARVAJAL: Not only am I not  
11 going to put it, but we voluntarily  
12 offered it as a condition of our  
13 application.

14 COMMISSIONER DIAZ: Okay. Thank you.

15 MR. CARVAJAL: Thank you.

16 COMMISSIONER DIAZ: And I wanted to  
17 be clear, Madam Commission, because as a  
18 Commissioner, I do not like to also go  
19 against any commissioners in any district,  
20 but in the wisdom of this is the  
21 difference, Commissioner.

22 CHAIRWOMAN SOSA: Let's hear from the  
23 Commissioner.

24 COMMISSIONER ZAPATA: Commissioner  
25 Diaz, and I would respectfully strongly

1 disagree with that statement.

2 Let me just -- 'cause I think it was  
3 interesting, and I thank Commissioner  
4 Monestime for seconding it to allow  
5 discussion.

6 Let's be clear, we're allowing for a  
7 pawn shop. It's a pawn shop. We  
8 basically have a code. And there's a  
9 reason for that Code.

10 And, Madam Chair, yes, it may be with  
11 the CDMP, and the land use, whatnot, but  
12 there was a reason why we kept pawn shops  
13 in BU-13 (sic).

14 MR. SILVA: BU-3.

15 COMMISSIONER ZAPATA: BU-3. BU-3.  
16 There's a reason why we have them there.  
17 These BU-1 tend to be near neighborhoods,  
18 tend to be near parks.

19 I think we all understand that pawn  
20 shops don't bring an attractive component  
21 to your community, to your neighborhood.  
22 It's not something that helps you sell  
23 your community.

24 Fortunately, my job, as compared to  
25 some other of my colleagues, I have to

1 just maintain, because it's a community  
2 now, but I cannot allow potential threats.

3 This man has a constitutional right  
4 to put pawn on his store. And Mr.  
5 Attorney, I mean, am I incorrect, he has a  
6 constitutional right to put that? Would  
7 that be --

8 MR. COLLER: The way I would answer  
9 it is, we cannot restrict what somebody  
10 places on a sign, and that's a  
11 content-based regulation.

12 COMMISSIONER ZAPATA: Correct. So,  
13 you know, and this is a good example of  
14 what we probably would want to have.

15 So what I would suggest, and what  
16 I've tried to do is, let's work on the  
17 Code. And, Commissioner Diaz, you want to  
18 work on the Code, let's work on the Code,  
19 but what we're doing here is establishing  
20 a very dangerous precedent.

21 And understand that what we do for  
22 this gentleman, when other folks come  
23 around -- and I understand hardship.  
24 Trust me, I'm sure there's plenty of  
25 people who have a piece of land that is

1 under water, but if we all of a sudden  
2 turn it from residential to high-rise,  
3 that hardship that they have now would be  
4 gone away. That's not the standard that  
5 we should have. That is not a good, clear  
6 standard. That's not the way you do  
7 proper planning or proper zoning.

8 My fear is, we allow this to happen,  
9 we allow other folks to happen. This  
10 gentleman becomes -- is successful, will  
11 continue to be successful and he decides  
12 to sell his business. Will the same owner  
13 -- how about if a chain -- by the way,  
14 there's a lot of consolidation in the pawn  
15 shop industry. You know, how do we know  
16 that some corporate folks aren't going to  
17 come in here and do something else  
18 contrary to what this gentleman has done?  
19 That is my fear. It is the fear of the  
20 unknown, of what will happen after him, or  
21 who is the next Mr. Carvajal. Maybe not  
22 to the standard of Mr. Carvajal.

23 So it's easy to say, listen, I  
24 sympathize with you, 'cause I do. I mean,  
25 if it was based on what my heart tells me

1 to do, I'd say I'm with you.

2 You know, the other thing is, he has  
3 another shop. Is it in my district or is  
4 it across the street?

5 COMMISSIONER MOSS: It's in your  
6 district.

7 COMMISSIONER ZAPATA: It's in my  
8 district, in Country Walk, the Country  
9 Walk side.

10 COMMISSIONER MOSS: It's your  
11 district.

12 COMMISSIONER ZAPATA: So it's --  
13 yeah, it was. I have a hard time keeping  
14 track of all the businesses, because we're  
15 like right there, in that intersection  
16 there. He gets three quarters of that  
17 intersection. I get a quarter.

18 So he can send his clients now to  
19 that Country Walk store. It's not far.  
20 It's 10-minute drive, down 157. It's a  
21 pretty simple drive.

22 You know, Commissioners, we all have  
23 challenges in our districts, and we manage  
24 them, they're all different, they're not  
25 easy, you know, but to do these

1 exceptions, we go down a very slippery  
2 slope.

3 I want to help this guy, and I  
4 actually made an effort to.

5 Commissioner Diaz, if you want to  
6 take on this issue. Where I got stuck was  
7 in this simple matter. And the attorney,  
8 Craig, and Eric will tell you, that at the  
9 end of the day, we couldn't prevent them  
10 from putting the word pawn on their  
11 stores. That was kind of -- that was what  
12 got me stuck, because this guy is not  
13 running a pawn shop or doesn't want to run  
14 a pawn shop, but he's doing it.

15 What was the name you used, Eric,  
16 jewelry --

17 MR. SILVA: We called it a jewelry  
18 loan center.

19 COMMISSIONER ZAPATA: A jewelry loan  
20 center. I could live with that. I could  
21 live with that, but the pawn shop issue  
22 was something that kept coming back up.

23 COMMISSIONER DIAZ: Commissioner  
24 Zapata, can you yield for a second?

25 COMMISSIONER ZAPATA: I'll yield for

1 a second.

2 COMMISSIONER DIAZ: Mr. Attorney, if  
3 they put that in a covenant, make is  
4 strong within the covenant -- because I  
5 understand Commissioner Zapata, he's right  
6 on key with basically everything that's  
7 said, but if he puts that in a covenant,  
8 that takes away that issue of a pawn shop  
9 being named there and so on. So could  
10 that be done?

11 MR. COLLER: Yes.

12 CHAIRWOMAN SOSA: Wait, wait,  
13 Commissioner Diaz, besides the conditions  
14 proffered already by the applicant, that  
15 reads as follows: In addition, the terms  
16 pawn, pawning and pawn shop shall not be  
17 used in any outdoor signs.

18 COMMISSIONER DIAZ: Correct.

19 MR. COLLER: If the applicant  
20 voluntarily covenants to not use the word,  
21 that they've essentially waived whatever  
22 constitutional right they have.

23 What we couldn't do in this ordinance  
24 is to require somebody to voluntarily  
25 covenant.

1                   COMMISSIONER DIAZ: We understand.  
2                   And that's what I'm asking you.

3                   MR. COLLER: That's correct.

4                   COMMISSIONER DIAZ: You legally  
5                   voluntarily can do it?

6                   MR. COLLER: Absolutely.

7                   CHAIRWOMAN SOSA: So if he comes in  
8                   front of us today and he says that he  
9                   volunteers to abide by that and offer a  
10                  covenant, then if he uses the word, he  
11                  will be violating this approval, if it's  
12                  approved?

13                  MR. COLLER: If he's coming today and  
14                  saying I'm going to proffer a covenant  
15                  saying that I will not use the word pawn  
16                  in any sign, either outside or inside this  
17                  store, then he is bound by his voluntary  
18                  covenant.

19                  COMMISSIONER DIAZ: And to add one  
20                  more point.

21                  CHAIRWOMAN SOSA: Wait.

22                  COMMISSIONER DIAZ: Any ownership  
23                  change.

24                  CHAIRWOMAN SOSA: He has the floor.

25                  COMMISSIONER DIAZ: I'm sorry, I

1 thought Zapata --

2 CHAIRWOMAN SOSA: Ownership change.

3 COMMISSIONER ZAPATA: Commissioner

4 Diaz --

5 MR. COLLER: If the covenant is  
6 recorded -- am I hearing my voice?

7 Well, it's red. Let me just say  
8 that.

9 If the covenant is recorded, and  
10 there's a provision in voluntary covenants  
11 that they run with the land, that's a  
12 provision that's in the covenants, then it  
13 runs with the land. Anybody buys it, it  
14 would be under the same restriction.

15 CHAIRWOMAN SOSA: That makes sense.

16 COMMISSIONER ZAPATA: Listen, and  
17 that's something that I would like, but we  
18 go back to the problem, that the problem  
19 is the way the Code is written.

20 And I would -- but this is the thing.  
21 We're going to create an exception to the  
22 current Code, then we can maybe change the  
23 Code. So then we create -- listen, it  
24 becomes tough. And we don't set a  
25 standard. And I think we should be -- and

1 I understand that. And if we want to go  
2 and take a crack at changing the Code, I'm  
3 for it. I'm not against this business,  
4 but the Code doesn't allow for this and us  
5 deviating for that opens up a slippery  
6 slope. That is my point.

7 That this gentleman is willing to  
8 proffer, that is, again, a testament to  
9 the man's character, okay, which I think  
10 is what compels people to do -- to help  
11 him, to do what we want to do, which is  
12 help him out.

13 But, again, you know, what do we do  
14 for the next cases that come before us,  
15 and how can we then sit here and say,  
16 well, you know what, you know, it's --  
17 we're going to kind of case-by-case basis.

18 When it comes to something that could  
19 have potential detrimental effect to a  
20 community, I don't think that's the  
21 standard we should apply.

22 So, look, you know, I would love to  
23 see a covenant there. It would make me  
24 happy, but it's not going to get me to  
25 support this, because I think we need to

1 change it.

2 CHAIRWOMAN SOSA: You have heard the  
3 comments of this table. That have to be  
4 coming from you. We cannot tell you to do  
5 it.

6 COMMISSIONER EDMONSON: Or ask you.

7 CHAIRWOMAN SOSA: Or require you or  
8 ask you to do it, but there are two items  
9 that have been here, one, that covenant to  
10 run with the land, if this is approved, to  
11 give you that authority. If you want to  
12 sell tomorrow, then it stops right there.  
13 And the use of the word pawn inside or  
14 outside.

15 So state your name.

16 MR. CARVAJAL: My name is Jorge  
17 Carvajal, owner of Five Star Jewelers.

18 And I agree with providing a  
19 covenant--

20 CHAIRWOMAN SOSA: No, you volunteer.

21 MR. CARVAJAL: I volunteer, I  
22 volunteer. I volunteer a covenant that  
23 would restrict me from using the word pawn  
24 in any signage.

25 CHAIRWOMAN SOSA: Inside or out.

1 MR. CARVAJAL: Inside or out of our  
2 store as well --

3 CHAIRWOMAN SOSA: Mr. Attorney.

4 MR. CARVAJAL: -- as it carrying over  
5 if I were to some day sell the business.

6 CHAIRWOMAN SOSA: Mr. Attorney.

7 MR. COLLER: Well, obviously, we  
8 would get the covenant and hopefully the  
9 joinder from who owns the property. And,  
10 you know, that's certainly an appropriate  
11 thing that somebody can volunteer to do.

12 CHAIRWOMAN SOSA: Perfect.

13 COMMISSIONER ZAPATA: Madam Chair,  
14 can we defer this item until we get a  
15 legal document, a covenant?

16 I'll make a motion.

17 CHAIRWOMAN SOSA: That I respect you,  
18 because you're the district commissioner  
19 and I think --

20 COMMISSIONER DIAZ: Could I -- and on  
21 the deferral --

22 CHAIRWOMAN SOSA: Wait, Mr. Diaz, I  
23 will go to you, but the district  
24 commissioner first.

25 The district commissioner have come.

1           The owner is offering something that  
2           apparently is suitable to make everyone  
3           feel better. Not only that; to work on  
4           the Code, to be approved.

5           What I recommend is two things. We  
6           can do two things. Defer the item until  
7           the next meeting, that is going to be like  
8           a month, or to approve with the condition  
9           that they sign the covenant and the  
10          attorneys provide a memorandum with a copy  
11          of the covenant signed to all the members  
12          of the Commission so we can approve with  
13          the condition of that promise that was  
14          voluntarily made.

15          Is that something -- Mr. Attorney,  
16          guide us properly, because that we have  
17          done before.

18          COMMISSIONER DIAZ: I agree with you.

19          MR. COLLIER: I think what we can do,  
20          in this unusual circumstance, if you want  
21          to say that since he's voluntarily  
22          proffered the covenant that he provide the  
23          voluntary proffered covenant within  
24          30 days. We can include that in the  
25          motion to --

1                   CHAIRWOMAN SOSA: That is condition  
2 to the signature of the voluntary covenant  
3 offered by the owner. We have done that  
4 before.

5                   COMMISSIONER DIAZ: Yes.

6                   MR. COLLER: We have.

7                   CHAIRWOMAN SOSA: Commissioner  
8 Zapata, this is your district.

9                   COMMISSIONER ZAPATA: Madam Chair, I  
10 would just say, you know, I'm willing --  
11 and just hearing everybody out and  
12 understanding that maybe this kind of  
13 opens the door to try to find a compromise  
14 for future folks in this position, I'm  
15 willing to do it, but I want to see the  
16 covenant and I want to see what other  
17 covenants he's willing to put forth.

18                   I know some of these things have some  
19 conditions and all that stuff, those are  
20 okay, but I'd like to see the applicant,  
21 you know, thinks about maybe adding some  
22 more covenants that maybe -- help me out  
23 here, Craig, that don't -- you know, that  
24 kind of give this a little bit more legal  
25 standing as this moves forward. So that,

1           you know, we can be clearly protected when  
2           other applications come forth. We're not  
3           kind of like on shaky ground.

4           So, Madam Chair, you know, it's not  
5           an issue of trust. I just like to see the  
6           document. And I think --

7           CHAIRWOMAN SOSA: And your motion is?

8           COMMISSIONER ZAPATA: The motion  
9           would be to defer to the next meeting, at  
10          which time, you know, the applicant would  
11          submit covenants.

12          CHAIRWOMAN SOSA: Do I hear a second  
13          for that motion?

14          COMMISSIONER MOSS: I'll second it.

15          COMMISSIONER DIAZ: On the deferral,  
16          Madam Chair.

17          CHAIRWOMAN SOSA: By Commissioner  
18          Moss.

19          On the deferral.

20          COMMISSIONER DIAZ: Thank you.

21          We've heard this for two-and-a-half  
22          hours, okay?

23          With all due respect to everybody, I  
24          think what you're proffering, Madam Chair,  
25          is more than sufficient. Our attorneys

1 are extremely efficient in creating, and  
2 looking at documents and making sure that  
3 is exactly the way it is stated by this  
4 Board's wishes.

5 CHAIRWOMAN SOSA: Which we've done  
6 before.

7 COMMISSIONER DIAZ: Which we've done  
8 several times before.

9 So I personally, with all due  
10 respect, you're great people, awesome, but  
11 I really don't want to hear you again.  
12 And I don't think the commissioner of the  
13 district either. And I understand what  
14 he's looking for.

15 But I really strongly suggest that we  
16 do not defer this item again, because it  
17 is a hardship on the people at this point.  
18 It has been and it will continue to be.

19 So to the member of the --

20 CHAIRWOMAN SOSA: Let me call the  
21 vote on the deferral, because if not,  
22 we're going to be here 10 more hours.

23 COMMISSIONER DIAZ: Yes, ma'am.

24 CHAIRWOMAN SOSA: If we approve the  
25 deferral, then they will come back and

1 speak at the next commission and present a  
2 covenant.

3 MR. COLLER: Madam Chairperson,  
4 you've closed the public hearing, so you  
5 do not have to reopen the public hearing.

6 CHAIRWOMAN SOSA: But it's up to me.

7 MR. COLLER: But it's up to the  
8 Chair.

9 CHAIRWOMAN SOSA: Thank you.

10 If the deferral is not approved, then  
11 we can hear another motion to solve the  
12 problem.

13 So on the deferral, if you are in  
14 favor of deferring this item, please raise  
15 your hand.

16 (Hands raised).

17 CHAIRWOMAN SOSA: Three votes.

18 Do we hear an alternative motion?  
19 Because that motion fails.

20 COMMISSIONER DIAZ: I make a motion  
21 to accept what you stated, Madam Chair.

22 CHAIRWOMAN SOSA: Out of respect.

23 COMMISSIONER DIAZ: Oh, absolutely.  
24 I agree.

25 COMMISSIONER ZAPATA: I won't be

1 making that motion.

2 CHAIRWOMAN SOSA: You won't be making  
3 that motion.

4 So then you have the right --

5 COMMISSIONER DIAZ: Based on what the  
6 Chair --

7 CHAIRWOMAN SOSA: Get the mike.

8 COMMISSIONER DIAZ: Can you repeat  
9 what the Chair said before, Mr. Attorney?  
10 Save the time.

11 CHAIRWOMAN SOSA: That this is a  
12 tentative approval.

13 MR. COLLER: It's approval of the --

14 CHAIRWOMAN SOSA: With the condition.

15 MR. COLLER: Of the appeal.

16 Oh, excuse me. Well, there's two  
17 ways to do this. We can do denial of the  
18 appeal on -- and the approval of the  
19 application on the condition that the  
20 applicant submit within 30 days his  
21 voluntary proffered covenant indicating it  
22 will not put a pawn sign either inside or  
23 outside, I assume in any language, be it  
24 English, or Spanish, any sign  
25 indicating --

1 CHAIRWOMAN SOSA: Or Creole.

2 MR. COLLER: -- that it's a pawn  
3 shop, which covenant will run with the  
4 land, which will be approved by our  
5 office.

6 COMMISSIONER DIAZ: Or could you add  
7 any advertisement, too, because I  
8 understand that could be an issue, and I  
9 know they won't do it.

10 MR. COLLER: The applicant --

11 COMMISSIONER DIAZ: I'm sorry, I  
12 apologize, I did not say that.

13 MR. COLLER: The applicant apparently  
14 has indicated by nodding his head that he  
15 would agree to any advertisement or sign  
16 indicating that this is a pawn shop.

17 CHAIRWOMAN SOSA: Commissioner Moss.

18 COMMISSIONER MOSS: Question, to the  
19 attorneys, I thought that we had  
20 difficulties conditioning zoning  
21 application. And, in the past, what we've  
22 said is, Counselor, you know, we're going  
23 to trust that you're going to do these  
24 things, because, if not, you're going to  
25 come before us again and we're going to

1 remember that you reneged on what you  
2 said. So could you clarify that?

3 MR. COLLER: And that would be true.  
4 And that's my only concern about this,  
5 like -- this is not a rezoning. So we  
6 have a little bit more flexibility, but  
7 typically in a rezoning, we would want  
8 that covenant up front.

9 COMMISSIONER DIAZ: Absolutely.

10 MR. COLLER: And once in a while,  
11 when a regular attorney comes up here, we  
12 have said, listen, we're going to let this  
13 -- we're going to do this condition,  
14 provide the covenant in 30 days, but it's  
15 obviously better to have a covenant up  
16 front in a rezoning.

17 This is not a rezoning, but, still,  
18 obviously the covenant in hand is better,  
19 but this is a reasonable alternative.

20 COMMISSIONER MOSS: One other  
21 question. In terms of having a covenant  
22 running with the land, wouldn't you have  
23 to be the land owner to sign off on that  
24 in order to run with the land?

25 MR. COLLER: Yes.

1           COMMISSIONER MOSS: Or does it run  
2 with the application? How does that work?

3           MR. COLLER: Yes. In this case, in  
4 this case, we had a representative, I  
5 believe, of the shopping center come up.

6           The covenant is going to require an  
7 opinion of title. Every covenant that we  
8 accept has an opinion of title. The  
9 opinion of title shows who owns the  
10 property. So if he's merely the lessee,  
11 in order for it to be a valid covenant, it  
12 would have to be joined by the owner and  
13 any mortgagees. If there's a mortgagee on  
14 the property, if a bank --

15           COMMISSIONER MOSS: But we don't have  
16 those individuals before us?

17           MR. COLLER: We don't.

18           COMMISSIONER MOSS: The kind lady was  
19 here, but she represents, I guess, the  
20 leasing company. And I don't see --

21           MR. COLLER: Right. And this could  
22 get to be problematic, if they're not able  
23 to produce the proper joinders. And so  
24 that is why the preference really is to  
25 have the covenant up front.

1           In this case, I think we're saying  
2           that you don't get it within 30 days, and  
3           they fail to provide it, they're not in  
4           compliance with their zoning and they will  
5           not be able to get the C.U., as I've been  
6           advised by the Department, to add this  
7           use.

8           So we do have that to hold over them,  
9           if they fail to provide the covenant.  
10          That's a little different than the  
11          rezoning issue. And that's why we're  
12          pretty strict on the rezoning's.

13          CHAIRWOMAN SOSA: We have one more  
14          item after this one, so I'm asking you, we  
15          don't have enough quorum, Commissioner  
16          Bovo.

17          COMMISSIONER BOVO: Madam Chair, I  
18          was originally not contemplating deferring  
19          the item, but I think the attorney brings  
20          a whole series of issues.

21          If they do not have to speak before  
22          us again, and this is just a matter now of  
23          them getting all their paperwork in order,  
24          I see no problem in deferring.

25          I think the Commissioner from the

1 district has come a long way from where we  
2 started this meeting. And all we're  
3 talking about now is just coming back to  
4 us with --

5 CHAIRWOMAN SOSA: With the papers.

6 COMMISSIONER BOVO: The paperworks,  
7 everybody that needs to sign off that  
8 needs to sign off. I think a month is  
9 what we're talking about. That's plenty  
10 of time.

11 CHAIRWOMAN SOSA: So you're moving to  
12 reconsider?

13 COMMISSIONER BOVO: Yes, reconsider.

14 CHAIRWOMAN SOSA: Because you're on  
15 the prevailing side, and I will gladly  
16 second that.

17 COMMISSIONER BOVO: You're very  
18 welcome.

19 CHAIRWOMAN SOSA: Anybody wishes to  
20 be considered no on the reconsideration?  
21 Then the item is back on the item.

22 And Commissioner Zapata --

23 COMMISSIONER ZAPATA: I make a  
24 motion.

25 CHAIRWOMAN SOSA: Based on the new

1 regulations and concerns from the  
2 attorney, you are moving to defer the item  
3 based on --

4 MR. COLLER: Defer the item, but we  
5 need to get the specific date, because  
6 there will be no more notices sent out,  
7 because the notice that we're giving now  
8 is the notice of the next hearing, so can  
9 you give us the date.

10 CHAIRWOMAN SOSA: That will be May  
11 the 22nd.

12 MR. SILVA: Correct, May 22nd.

13 MR. COLLER: At 9:30.

14 CHAIRWOMAN SOSA: At 9:30.

15 That's the motion, seconded by  
16 Commissioner Moss.

17 COMMISSIONER MOSS: Second.

18 CHAIRWOMAN SOSA: Anyone wishes to be  
19 recorded no? Then that item is deferred  
20 pending that.

21 You don't have to come and speak.  
22 Only present the papers. And that will  
23 make life easier for everyone.

24 (Thereupon, the hearing was continued  
25 until May 22, 2014, at 9:30 a.m.)

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CERTIFICATE OF REPORTER

I, Lorena Ramos, National Registered Professional Reporter and Florida Professional Reporter, do hereby certify that I was authorized to and did report the foregoing proceeding, Five Star Jewelers, Inc., 13-053, heard by the Board of County Commissioners on the 24th day of April 2014; and that the transcript, pages 1 through 105, is a true and correct record of my stenographic notes.

DATED this 11th day of May 2014, at Miami-Dade County, Florida.

*Lorena Ramos*

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LORENA RAMOS, RPR & FPR  
COURT REPORTER