

City of Coral Gables City Commission Meeting

Agenda Item E-1

January 27, 2009

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael "Ralph" Cabrera, Jr.

Commissioner Wayne "Chip" Withers

City Staff

Interim City Manager, Maria Alberro Jimenez

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

City Clerk Staff, Billy Urquia

Planning Director, Eric Riel

Public Speaker(s)

Maria de la Guardia, Architect, de la Guardia Victoria Architects

Bob de la Fuente, Attorney, Law Offices at 1441 Brickell Avenue

E-1 [Start: 10:00:55 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, amending the text of the Official Zoning Code, Appendix A, Site Specific Zoning Regulations providing for changes to the allowable townhouse building height for specific properties from 35 to 45 feet pursuant to a City of Coral Gables City Commission Settlement Agreement; providing for repeal, providing severability, providing for codification thereof, and providing for an effective date.

Mayor Slesnick: We have a series of ordinances on second reading, these are ordinances that have been considered and discussed once before by the City Commission, and this time they come before us on second reading, and we will start with E-1, and ask the City Attorney to assist us in this.

City Attorney Hernandez: Mr. Mayor, Commissioners also item I-2 is related to E-1. This is An Ordinance of the City Commission of Coral Gables, Florida, amending the text of the Official Zoning Code, Appendix A, Site Specific Zoning Regulations providing for changes to the allowable townhouse building height for specific properties from 35 to 45 feet pursuant to a City of Coral Gables City Commission Settlement Agreement; providing for repeal, providing severability, providing for codification thereof, and providing for an effective date.

Mayor Slesnick: Would you please explain to us and the public, and I know that you have in front of us also I-2, the Settlement Agreement, how this comes before us, why this comes before us, and what the effect of the ordinance is.

City Attorney Hernandez: What you have before you is a second reading on a zoning text amendment, which proposes to provide site specific amendments to the Zoning Code, allowing townhouse building heights for the properties which are affected by a Bert Harris claim, from 35 to 45 feet, which is in total resolution of the claims that Mr. Fernando Menoyo has brought regarding a Zoning Code change that is brought under the Bert Harris claim, under Florida Statutes, which a property owner may bring if they are of the position that their property has been inordinately burdened by a regulation of the City of Coral Gables.

Mayor Slesnick: OK, this is an item that we had discussed, we had presentations; my question is do I have a motion first?

Commissioner Withers: Well, I'll move it, but I wanted to ask a question.

Vice Mayor Kerdyk: I'll second

Commissioner Cabrera: I'll second.

Mayor Slesnick: We have a motion from Mr. Withers seconded by Mr. Kerdyk or Mr. Cabrera or both, and we have a question from Mr. Withers.

Commissioner Withers: Is there a map that is attached to this at all?- because I remember the exhibits.

Mayor Slesnick: Here's one.

Commissioner Withers: If we approve this, we are approving everything that's red hashed, is that what we are doing?

Mr. Riel: No, let me explain. Eric Riel, Planning Director with the City. Basically, the legal description that's attached includes these two parcels known as...

Commissioner Withers: Just the first page, we are not dealing with anything on the second page, OK, that's fine.

Mr. Riel: Assembled property as well as the remaining portions of Almeria Row.

Commissioner Withers: That's fine, just wanted to make sure we weren't going on the second page.

Commissioner Anderson: That includes Almeria Row, right.

Mr. Riel: Yes. Lots One through Five are constructed on; Six through Ten are not, they are included in the legal descriptions, yes.

Commissioner Anderson: I have a question of the applicant; I know that you are intended...that this will give you 45 feet on Almeria Row, are you hopefully, my concern and my hope is that when you design that it will match the street that you already started. My worry is that it's going to be too high on Almeria once you jut up, I don't know if that's the intent; I would hope that you keep that in mind when you are designing, that's my concern.

Ms. de la Guardia: Having designed the first phase and possibly being retained to design the second phase, we would do everything possible for the continuity of the street, but it doesn't mean that the whole street has to be the same...

Commissioner Anderson: No, I understand that.

Ms. de la Guardia:...just like you have projects in New York City and Boston where you have streets of townhouses, and even though they vary some in height, by playing with the built to line, you can maintain sort of that continuity and the rhythm established.

Commissioner Anderson: OK, no problem, I just wanted to put it out there, that's fine; I trust your design ability.

Commissioner Withers: Just so we are clear on the record, are you finished Maria?

Commissioner Anderson: Yes.

Commissioner Withers: It does not include, what do you refer this to?- as Block 30?

Mr. Riel: Yes, does not include that.

Commissioner Withers: Block 30 between Sevilla and Palermo...

Mr. Riel: It doesn't include anything on the second and third page.

Commissioner Withers: OK, I just want to go on the record with the specific block; 30, 33, 28, 27, 34, 35, which is between LeJeune, Hernando, Segovia, Cardina, and Malaga to the north and Anastasia to the south.

Mr. Riel: It does not include those blocks.

Mayor Slesnick: Madam City Attorney, my concern is that we are considering this in settlement of a lawsuit, why are we considering changing it for lots of land which were not owned by the person when the suit was filed?- Excuse me, not when the suit was filed; when our action was taken to set the height limitations?

City Attorney Hernandez: Let me give you background. When they filed their claim, our position and the position of my office continues to be, that they have absolutely no claim of properties purchased after the date of the affected Code; however, we recommended to the Commission that the property owner be allowed to go through the public hearing process, as do with any applicant, they could have done this without filing a claim, for specific text amendments. The Commission agreed and this went through the Planning and Zoning Board, which felt that for purposes of consistency and uniformity, they wanted to consider everything; they did; the property owner is here to make their case on that. I'm certainly not making their case for them.

Mayor Slesnick: I think you've answered my question. The answer to my question is then this: If we were to consider this purely of settlement of lawsuit, there would be no reason to consider properties that were not owned at the time.

City Attorney Hernandez: Right, and that's why it's separate.

Mayor Slesnick: But on the other hand, we agreed for them to go back and make their case to Planning and Zoning Board; Planning and Zoning Board did consider those properties, and now recommends to us as part of, but yet separately, the text amendment that we are considering.

City Attorney Hernandez: And what was presented to the Planning and Zoning Board was similarly situated properties that would benefit from this particular text amendment; it just so happened that's its all the properties that he has. The Commission has expressed a desire to review addition...you know, to consider additional reviews for other properties, but that's separate and in the future, and that was discussed at the first public hearing, and the property owner was concerned that he did not want future considerations to impact him in a negative fashion. So this is just part one of a review of specific areas to determine if our Zoning Code needs to be amended to provide for different types of architecture and different types of buildings, and I don't know if the property owner wants to submit any...

Commissioner Cabrera: Mr. Riel, before you leave, I'm sorry, I got one letter from I guess an affected property owner in the vicinity of this application, and in my response to that property owner, I let them know that staff would continue to brief them on the outcome; do you know who I'm speaking of?

Mr. Riel: Ms. Zayas? I've spoken to her prior to and the e-mail is attached to Exhibit "C".

Commissioner Cabrera: Would you be kind enough to have someone in your staff to let her know the outcome of whatever?

Mr. Riel: Absolutley. I indicated to her I would let her know.

Commissioner Cabrera: Thank you Mr. Riel.

Ms. de la Guardia: I think something that should be also mentioned to the property owners is how these types of projects impact density, because if I lump all three groups, or all five groups together, the number of existing units in all five groups is fifty-eight; the number of allowed

units on all five groups is forty-five, and the most that we can build under townhouse code would be thirty-four. So density is coming down considerably, which is one of the attractive, you know one of the...

Mayor Slesnick: Would you identify yourself for the record, please.

Ms. de la Guardia: Maria de la Guardia, Architect, for Fernando Menoyo Properties.

Mayor Slesnick: Address.

Ms. de la Guardia: 2508 Columbus Boulevard, it's a home address; and 224 Valencia Avenue is the office address, de la Guardia Victoria Architects.

Mayor Slesnick: Thank you very much.

Commissioner Anderson: So there would be a reduction of density with the creation of this?

Ms. de la Guardia: Considerably...

Commissioner Anderson: It's important to put on the record as well.

Vice Mayor Kerdyk: Just a follow up question on what you had to say; which of these five sites are the ones that were purchased after?

City Attorney Hernandez: OK, here it is; Group One, Two and Three were purchased prior to January 9, 2007; Group four and five were purchased after January 9, 2007.

Mayor Slesnick: You don't have those numbers on the chart?...

City Attorney Hernandez: Oh I'm sorry, the addresses on Group Four are 731 Almeria, 735 Almeria; and on Group Five its 734 Almeria, 2615 Anderson, 760 Valencia.

Mayor Slesnick: Mr. Riel could you show us?

Bob de la Fuente: [Inaudible – off mike]

Vice Mayor Kerdyk: Yes, I think that's what we have here.

Mr. de la Fuente: Bob de la Fuente, 1441 Brickell; I'm going to pass out the packages...

Mayor Slesnick: Could you say that louder?- I don't think we can hear you.

Mr. de la Fuente: Bob de la Fuente, with law offices at 1441 Brickell Avenue.

Mayor Slesnick: You got that Walter?

Mr. de la Fuente: I'm going to pass out again the packet from last time, and if you look at "A", Exhibit "A" on this, you'll see how the groups break out, and that will make sense on the City's....

Mayor Slesnick: OK, I'm looking at "A", it has three blocks in yellow, what is that?- let's make this simple instead of fumbling around. The first page in "A" is a map with three yellow blocks.

Mr. de la Fuente: That's correct. If you go from along Anderson...

Mayor Slesnick: Just tell me, what are those three yellow blocks?

Mr. de la Fuente: The three yellow blocks are all of the properties that are part of the site specific modifications.

Mayor Slesnick: But wait, we have five.

Vice Mayor Kerdyk: Those are the three that were the changes, or were these part of the lawsuit?

Mayor Slesnick: Would you come here?

Mr. de la Fuente: Yes.

Vice Mayor Kerdyk: I think what you are showing us are these three right here, which is synonymous with these three here. So the question is, are these three the initial three that they had prior to January 1st?

Mr. de la Fuente: [Off mike]...if you look on here on the exhibit...this is group one...this is five, this is three, four...[inaudible]...

Vice Mayor Kerdyk: So this is it right here, right.

Mr. de la Fuente: Right, exactly; groups one, two and three are all prior; and groups four and five are a part of that.

Vice Mayor Kerdyk: Then what are these two?- these two right down here?

Mr. de la Fuente: This is not ours.

Vice Mayor Kerdyk: It's not yours.

Mr. de la Fuente: No.

Mayor Slesnick: Then Eric can you tell us what these two block are?- are we not concerned with these at all, Eric?

Commissioner Withers: The Village at Carriage House.

Vice Mayor Kerdyk: He's saying these are his properties...

Mr. Riel: These are the ones that are a part of the legal description, which....these are just examples of other properties that were built, as I understand it this property was purchased after and this property was after.

Mayor Slesnick: Here is the key question, I think, for all us; are all the properties we are talking about, purchased before and purchased after located in those three blocks?

Mr. Riel: Yes.

Mayor Slesnick: OK.

Vice Mayor Kerdyk: That's good.

Mayor Slesnick: Eric, explain to me when I look at this, how do I know that I'm not considering these two properties?- I mean...

Mr. Riel: Because its site specific regulations.

Mayor Slesnick: I know that, but I mean, listen as the lay person here serving in public office, when you give me this thing, I'm trying to consume four thousand pages and understand something that I don't practice in my law or in daily life, and I'm not a developer, so I'm looking at this, how is it...for future reference this is very misleading; I think I looked at it and we talked about five blocks; one, two, three, four, five, so I'm looking for the descriptions of these five blocks.

Mr. Riel: And understand that was the information provided by the applicant; this was part of my presentation as part of understanding the entire...how the impact would be. This is not the exhibit that actually delineates the properties. The actual legal descriptions are in the site specific regulations plat book and block, that's part of their package...

Mayor Slesnick: I understand. Please be careful sometimes...

Vice Mayor Kerdyk: It was confusing from the standpoint....that particular portion was confusing.

Mayor Slesnick: Tell me about Valencia Village II and Valencia Carriage Homes.

Mr. Riel: Those are just examples of projects that have been through the BOA approval process either started on constructed on in the process; they are just examples.

Mayor Slesnick: Under the old height limitations?

Mr. Riel: Under the previous 35 foot height limitation.

Mayor Slesnick: And they are going forward?

Mr. Riel: Yes, I'm not sure where they are at in the process, but they have received BOA approval.

Mayor Slesnick: Are they in a position of maybe stopping and coming back to us for further...

Mr. Riel: I can't answer that question because obviously that is something that they could possibly do. Anybody that is shown in the hatched red area could possibly come back and answer that same relaxation of standards, that's the purpose of this exhibit.

Mayor Slesnick: Yes, thank you. Any other questions?- any other comments?

Mr. Clerk

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

City Attorney Hernandez: And I need a motion on I-2, which is the settlement.

Mayor Slesnick: Can I have a motion on I-2.

Vice Mayor Kerdyk: So moved.

Commissioner Anderson: Second that.

Mayor Slesnick: It's been moved by Mr. Kerdyk second by Ms. Anderson. This is the proposed settlement of the lawsuit, and you have confirmed its form and you recommend this?

City Attorney Hernandez: Yes sir.

Mayor Slesnick: OK, the City Attorney recommends this to us and she has confirmed its accuracy and form.

Mr. Clerk

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: Thank you all.

Commissioner Withers: Thank you Fernando.

Commissioner Anderson: Thank you.

Vice Mayor Kerdyk: Thank you.

[End: 10:17:22 a.m.]