

City of Coral Gables City Commission Meeting

Agenda Item E-2

November 18, 2008

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

Director of Historic Preservation, Kara Kautz

Public Speaker(s)

F. W. Zeke Guilford, Applicant

E-2 [Start: 11:58:38 a.m.]

Historic Preservation Board Appeal

Case File LHD 2007-04

F. W. Zeke Guilford, Applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Historic Preservation Board at its regular meeting of May 22, 2008.

The Historic Preservation Board, at its regular meeting held on May 22, 2008, made a motion to approve the historic designation of the property at 111 Salamanca Avenue, legally described as Lots 10 and 11 and east 30 feet Lot 12, Block 29, of Coral Gables Douglas Section. (Motion unanimously approved 7-0). The applicant is appealing the decision of the Historic Preservation Board to bifurcate the historic designation from the undue economic hardship determination.

Mayor Slesnick: We have an appeal to the decision of the Historic Preservation Board, who signed a declaration of historic designation of the property of 111 Salamanca Avenue, legally described as Lots 10 and 11 and east 30 feet Lot 12, Block 29, of Coral Gables Douglas Section. Mr. Guilford.

Mr. Guilford: Good morning Mr. Mayor, Commissioners, for the record Zeke Guilford, with offices at 2222 Ponce de Leon Boulevard. I am here today representing Michael Sands, the

owner of the property at 111 Salamanca. Mr. Mayor, Commissioners, I think it is very important that you understand is that the appeal is before you is really a procedural appeal. We are not asking you to make a decision on the historic designation, because frankly as I said on the transcript before, based upon the record, this was designed either by Thaddeus Paste or one of the Finks, it is clearly the Mediterranean design, it clearly meets the age. I can't argue the historic significance of this property. However, what I am here to tell you is at the Board when the Board designated this property, they did not consider the undue economic hardship argument. So when we went to the Board several months ago, we actually, prior to the hearing, filed our papers pursuant to the Code for the undue economic hardship. At that hearing they basically designated the property and said we are going to put off the undue economic hardship until a later date, time of demolition, and that is wrong for several reasons. First and foremost, under our Zoning Code under 3-1115, that deals with the economic hardship, it says in "any instance"; it doesn't say demolition, it says in "any instance", which means any time where there is a claim of undue economic hardship, the information shall be provided to the Board fifteen days prior to the public hearing. The record is clear; there is no argument that we submitted the documents for the undue economic hardship. So that in and of itself required the Board to hear that argument as part of the designation. But also, we also have some policy issues that you must consider; and I don't like framing it in this manner, but it's a bigger policy for the City of Coral Gables; and that is what actually brought this piece of property before you, and before the Historic Preservation Board is, the owner of the property, Mr. Sands, tried to sell this property; a developer came to them to buy this piece of property, that developer doing its due diligence actually went to the Historic Preservation Department, and as soon as they found out that the property does have historic significance, they backed out of the sale. So I think it is important, that it is very important that the undue economic hardship be heard before the designation because what you are doing is essentially quashing any potential sale of this property. Lastly, I kind of had this conversation briefly with the City Attorney, is that what this City is going to face in many instances where people own small investment pieces of property, single family house, duplex, in this case a four-plex. We have a situation where the taxes, insurance, etc. are making these pieces of property unmanageable and unfeasible to maintain any more; and this is the perfect example, and the information is in the packet. This property, and I'm not going to argue this, but just as a matter of information, the property makes forty-eight thousand dollars (\$48,000) a year, the taxes alone are thirty-two (\$32,000), add a mortgage, add insurance, Commissioner Cabrera, you know how much that is, that basically is what's before you. Even mowing the yard you already lost money. So for all those reasons, Mr. Mayor, Commissioners, it is very important that you hear the undue economic, the Code requires you to hear it, but also policy, and I think this City is faced with an issue of determining individual rights versus preserving historic buildings, and for those reasons I ask that you remand this back; I'm not asking you to overturn their decision, but remand it back so that they can hear that argument. Thank you.

Commissioner Anderson: My question to staff and to whomever may be knowledgeable is there really a way, Kara you and I had the discussion awhile back, is there anybody that is equipped to determine the economic hardship and how to apply it to a historic property?- because I saw the papers and I agree with you on that; and I also saw the building, and I think its historically significant, and I feel for the owner. So I'm trying to figure out...by remanding it back, what do we accomplish?

Mr. Guilford: Well, what you do is you actually; Oh I'm sorry; you get the argument which I believe by Code allows the Board to hear it because it's the criteria set forth.

Commissioner Anderson: Let me just ask before, what do you expect Mr. Guilford?- what do you expect by remanding it back by hearing the economic hardship?- what would be your desired outcome?

Mr. Guilford: My true desired outcome is that something could happen where that this property becomes economically viable, and can continue, that would be my ultimate goal. I believe for me and my client. Unfortunately, as part of this designation he needs the ability to sell to have some investment back expectations of this piece of property, and can't continue to move forward because also on our Code under the historic preservation is a requirement to maintain the property. So now not only is he losing money, he has to maintain it on top of it, so it's almost like a "double-whammy", to him.

Commissioner Anderson: OK. Thank you, appreciate that. Do we have the ability of staff to look at the economic hardship and help along in the process to evaluate?

Ms. Kautz:...[Inaudible – off mike]...economic hardship to the Board, we try to give them our best determination and give them factors to consider, so to guide the Board in making a decision; that Board also has the ability, and they have expressed interest in the past to hiring an outside appraiser, somebody to work with them and to help guide them through the process. So they do have that ability to do so. We've not exercised it in the past, and for the most part simply because the Board has not felt that an economic impact based on designation has risen to the level of economic hardship, and that's the reason in this case, they felt the designation alone just merely that, designating the property did not create an undue economic hardship.

Commissioner Anderson: But at the same time I think it would be wise, that's my opinion, to get somebody to come and analyze it, to give it to the Board, to give information to kind of translate it. I'm not saying it wouldn't be historically significant, I'm not saying anything; I just think we need the expertise, the information to be given to the Board in order to try to figure out a best way to have a win/win situation for everyone. I don't think anybody wants to see this property demolished, but there are situations...I mean, if I do my math on this one, I mean, just simple math, it just doesn't...it seems like it would be an economic hardship, but I don't that, so I would urge if it gets remanded back, that we look at getting an appraiser, getting somebody who can help with this economic analysis, and translate it back to the Board in a way that would be meaningful to them to make a comprehensive decision.

Commissioner Cabrera: But here's how...I hear everything you pointed out, and you make very valid points, but here's the reality. This is an extremely old building that requires a tremendous amount of renovation; I happen to know a lot about this building as I said to you outside very briefly, because I, for like five seconds, contemplated even considering purchasing it. This building is going to require all kinds of plumbing, electrical, roofing, work to be done to it, if the owner wishes to keep it, and/or sell it. So let's just "cut to the chase". Ultimately, I think the only alternative left for this owner is to demolish the building and either sell the land or build something on that building that is more economical and make a profit. I am not going to approve

that. I'm not going to let this gem of a building in our City in the northern quadrant be demolished. So you and I could be kidding ourselves, and I know you want to send it back, and I'm willing to do that, and I'm willing to look at economic hardships, and I would be willing to do anything possible as a government to help this property owner continue to exist and make it a viable property, a viable investment property, for himself and his family, but in no way shape or form am I going to allow the demolition of this building, and I think eventually, and let's just get it out in the open, I think that's what this person wants to do. Go ahead, tell me how you feel.

Mr. Guilford: Be honest with you Commissioner, you are a hundred percent correct.

Commissioner Cabrera: OK.

Mr. Guilford: I'm not going to argue with you, matter of fact he had a contract, that contract was to demo it, it was an assembly; you can't make a piece of property work with four units, especially, and I really didn't want to get so much in the merits of this case, is the building sits right dab in the middle of the property. You really can't build anything in front of it; you can't build anything behind it...

Commissioner Cabrera: You can't put parking; you have to rely on on-street parking.

Mr. Guilford: It just...

Commissioner Cabrera: The units are huge; the four units are I think between fourteen hundred (1400) and seventeen hundred (1700) square feet, hardwood floors, each unit has a fireplace, am I right?

Mr. Guilford: I'm not sure about the fireplaces, I know hardwood floors; but the things which you did say are absolutely right, and it's in the packet; it needs a brand new roof, I think sixty to one hundred thousand; it needs all new windows, sixty thousand. Who is going to put that kind of money into a building where you are already losing money?

Commissioner Cabrera: People do that all the time, I mean, I'm about to do something like that to my house, and I'm losing money everyday, but the bottom line is I'm going to get it back.

Mr. Guilford: You didn't put it as an investment; it's your home for you...

Commissioner Cabrera: Oh no, it's an investment; it's ultimately one.

Mr. Guilford: But you didn't go in and say, Oh, I'm going to put this, that I looked strictly as an investment to make money off of...

Commissioner Cabrera: But Mr. Guilford I agree, but nobody held a gun to this person's head and said, here buy this four unit four-plex and make a lot of money, let them tell this person to do this.

Mr. Guilford: But at the time that he purchased it, it was making money; it was only in the past few years where the taxes have sky-rocketed, insurance has gone up, that its...

Commissioner Cabrera: Now we have a responsibility because his economic hardship is such that he can't maintain this glorious historic property to allow him not to give it historic significance, not me; I'm not going to do it, I'm not going to support it; let's make a decision now sir, but I think Vice Mayor Kerdyk made a point a couple of seconds ago, that this individual's intent is to sue the City; OK let's move forward with this then; let's all save a lot of time.

Mr. Guilford: Commissioner Cabrera, I'll never sue the City, I have no intent...

Commissioner Cabrera: No, you didn't say that, well I know that, and I will never suggest, maybe one day you will, but I haven't suggested that you do that, but I think Vice Mayor Kerdyk made a valid point.

Vice Mayor Kerdyk: You know I think there are other alternatives, too; you can add units to this property; you can certainly do the same motif, certainly you can not bifurcate that piece of property and build separate units there, but you could add units to this property here. You could enhance those four units, in a good market you could sell those four units as a condominium building, and furthermore if we ever get an ordinance back here that allows tax reductions for property owners, not only in the City of Coral Gables, but Dade County, then that would help enhance these properties, and that's what I think you need to strategically do, is get these properties...exactly what we were talking about, Commissioner Withers, when we had this discussion last time, these small properties here where we do need to get these land owners some enhancements to keep the real estate taxes...

Commissioner Anderson: Absolutely.

Mr. Guilford: But Commissioner Kerdyk, I'm sorry, but you've actually just proved my point, because all that is part of the consideration of the undue economic hardship, which by the Board; and I respectfully disagree with Ms. Kautz is, the Board said we are not going to look at it now, come back with a demo permit and we'll look at it then.

Commissioner Cabrera: Well, then let's save you time, let's save you and your client some time because why go through – I know what you are trying to do, you are doing a valiant job of representing your client, but the bottom line is we are going to end up right back here with this whole issue of demolishing this property.

Mr. Guilford: Give me the chance, is what I'm asking.

Commissioner Cabrera: OK, I respect you very much professionally and personally, and please respect my position...

Mr. Guilford: I do.

Commissioner Cabrera:...I cannot support this; I know too much about this property; I can't let a gem like this be demolished for the sake of somebody...

City Attorney Hernandez: Can I make a suggestion because...?

Commissioner Cabrera: Absolutely.

City Attorney Hernandez:...I'm hearing what the mindset of at least several Commissioners is. We do have as part of the Zoning Code re-write, and I did speak with Mr. Guilford, it was a very maverick, you know, a decision of the City Commission, to work out tax relief for property owners of multi-family historic properties. The County Attorney's office and the County Appraiser indicated that they would abide by our ordinance, if the Attorney General concurred. The Attorney General concurred; and I believe we should defer this item, meet with Mr. Guilford and his client, discuss the opportunities since we are working out the program, and also attempt to review some of the suggestions that you are making with Ms. Jimenez' office.

Mayor Slesnick: It doesn't need to be deferred for you to do that, I mean, they can do that after we deny it.

City Attorney Hernandez: Well true, but I think he is not looking for denial.

Mayor Slesnick: He's not looking, maybe we are.

Commissioner Cabrera: I'm going to move to approve staff's...

Mayor Slesnick: To deny the appeal.

Commissioner Cabrera: Yes. But having said that, I don't want anyone else on this dais to think that I'm not sensitive to what's been discussed about economic hardship, and I think that falls in line to what Ms. Hernandez was trying to accomplish.

Vice Mayor Kerdyk: I think the question he has is, when should economic hardship be decided; should it be a demolition, or the question is should it be when he gets this letter and at that point when they have an issue should they go ahead and get the economic...

Commissioner Anderson: For me it's a comprehensive package to look at the whole thing.

Vice Mayor Kerdyk: I'm not for it either, believe me; I'm not for knocking down that...

Commissioner Anderson: I've made that clear as well, but I've tried to figure out what's a way for a person to have a property, you know, the Board can condition that.

City Attorney Hernandez: But I think the question before you is, did the Board act in its ultimate discretion and they can bifurcate the issues; the Board absolutely has that authority to do so, and that might not have pleased the property owner and he can appeal it to the Commission; and if

the Commission feels that the property owner is correct, they could direct the Board to act otherwise; but the Board can decide, we want to hear this issue first and then another issue.

Mayor Slesnick: And what I was going to say is, it's not a requirement in our Code for them to consider economic hardship as part of a designation procedure; it's not required, and they didn't do it.

Commissioner Cabrera: But according to Mr. Guilford, it is.

Mayor Slesnick: Well, its not, I asked the City Attorney.

Mr. Guilford: Well under Section 1115 it says, in "any instance", it doesn't say a demolition, it says "any instance", and the instance was, and I provided the material...

Commissioner Cabrera: Economic hardship.

Mayor Slesnick: Where is that?

City Attorney Hernandez: Section 1115, it's the property owner of a historic property because it's in the historic property – historic preservation ordinance.

Mr. Guilford: I respectfully disagree, but I'll read exactly; "in any instance where there is a claim of undue economic hardship, the property owner may submit, by affidavit, to the Board at least fifteen (15) days prior to the public hearing". There is nothing in the record that says I failed to submit that material. It was prior to fifteen days, prior to that public hearing for the designation.

Mayor Slesnick: Is that in the Historic Preservation Code?

City Attorney Hernandez: Yes.

Mr. Guilford: Yes.

Mayor Slesnick: OK. You submitted it?

Mr. Guilford: Yes.

Mayor Slesnick: And you tried to argue it?

Mr. Guilford: Yes.

Mayor Slesnick: And they determined to bifurcate it?

City Attorney Hernandez: Yes.

Mr. Guilford: Yes.

Mayor Slesnick: OK. So they made a decision to bifurcate it. How are your rights denied if they understood what you were arguing and they just made a decision?

Mr. Guilford: Well, they didn't make a decision on the undue economic hardship; what they made a decision is, is to ignore the economic hardship.

Commissioner Cabrera: But that was a decision, that's it, I'm sorry.

Mayor Slesnick: We have a motion to deny the appeal, do we have a second?

Vice Mayor Kerdyk: Second it.

Mayor Slesnick: Moved and seconded; moved by Mr. Cabrera seconded by Mr. Kerdyk to deny the appeal, any further discussion?

Mr. Clerk.

Commissioner Anderson: No

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote 4-1)

Mr. Guilford: Thank you.

Mayor Slesnick: Thank you.

Commissioner Anderson: For the record, because things get distorted always, can I just reiterate? I'm not for demolishing historic properties; I just feel there should be a comprehensive process to look at it in its entirety, and whatever the decision of the Board is at that time with its information, that's what it is. Please be not mistaken.

[End: 12:16:55 p.m.]