

**City of Coral Gables City Commission Meeting
Agenda Item F-1
October 27, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

**Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick**

City Staff

**City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia**

Public Speaker(s)

**Tucker Gibbs, Representing the Applicant
Laura Russo, Representing Ponce CAT Catalonia and Ponce CAT Segovia
Peter Gonzalez, Co-Counsel with Laura Russo**

Agenda Item F-1 [Start: 10:29:20 a.m.]

Board of Architects Appeal – Application No. AB-15-04-4865 (555 Catalonia) AB-15-04-4866 (2909 Segovia) AB-15-05-5196 (2915 Segovia Street).

Ms. Maria C. Longo, applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Board of Architects at a special quasi-judicial appeal meeting held on September 9, 2015, wherein the Board of Architects upheld its decision to approve the architectural design of three development sites.

Mayor Cason: Craig.

City Attorney Leen: Thank you Mr. Mayor. Item F-1, this is the Board of Architects appeal. I'm going to read it into the record, I'll just let you know there's been a settlement which I'll talk

about briefly and then each side is going to do a brief presentation. There is no vote; it's just for informational purposes. This is Board of Architects Appeal Application No. AB-15-04-4865, involving 555 Catalonia, AB-15-04-4866, involving 2909 Segovia AB-15-05-5196 2915 Segovia Street. Ms. Maria C. Longo, applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Board of Architects at a special quasi-judicial appeal meeting held on September 9, 2015, wherein the Board of Architects upheld its decision to approve the architectural design of three development sites. That was actually a de novo hearing before the Board of Architects in a quasi-judicial proceeding. The parties have settled the matter; they are going to briefly discuss the settlement with you. I have reviewed it this morning, I was informed this morning of the settlement and I accepted for the City under 2-201(e)6 of the City Code and the City retains the ability to enforce it. With that I will turn it over to the parties to present the settlement. This is a non-voting item at this point.

Mayor Cason: You two are always making settlements. Go ahead.

Mr. Gibbs: We try to help you out a little bit every time we can.

Vice Mayor Quesada: See if there is one more for the next meeting.

Ms. Russo: I've got one more after that.

Mayor Cason: Who is going to start?

Mr. Gibbs: I'll start. My name is Tucker Gibbs with law offices at 3835 Utopia Court in Coconut Grove and I'm here representing Maria Christina Longo, who lives at 2712 Segovia. She is the appellant in this matter and as the City Attorney has said, we've reached a settlement and we are therefore withdrawing the appeal, so that's the official. You want me to explain what the settlement is in terms of the terms?

City Attorney Leen: Because you've withdrawn the appeal and the settlement has been accepted no action needs to be taken, but you can to the extent that you would like, you could describe the appeal.

Mr. Gibbs: I'll let you all do that if you all want. What I wanted to talk about is something else and it's related and this is the reason why this appeal happened and why this has all been going on. This application speaks to, this appeal speaks to a growing issue of neighborhood context and the Board of Architects process, and the application speaks, the appeal speaks in the face of the language in the Comprehensive Plan and the Code regarding neighborhood compatibility in context which we are at issue in this, and regarding proposed architectural designs. I'm going to read you a comment from one of the Board members that was made on the September 9th hearing, which is what the appeal is based on; and he said, I'm wondering whether or not this is one of those periods where we have to re-evaluate how we handle things in the past and how we looked at projects in the past, and that's an issue; that's an issue that is beyond this particular appeal, it's an overall issue of how the Board of Architects deals with these issues of neighborhood context and neighborhood compatibility. So all I want to do today is propose something to you and there needs to be a review of the process by which the Board of Architects addresses these issues, and we suggest a City Commission review of the matter, in fact how the Board of Architects deals with neighborhood compatibility and context and perhaps a workshop that would include members of the Board of Architects, community architects who are involved with these issues, and residents and members of City staff. I think this member of the Board spoke clearly that there are these conflicts that come up and I know Ms. Russo is going to talk about the idea that in this process you want to process and everybody understands that works for everybody, the architects, the neighbors, and City staff; and the concern they had was is that the process...I'm stealing her thunder, so I will stop and I will let her go and speak, let Laura speak to those issues.

Ms. Russo: Good morning Mayor, Vice Mayor, Commissioners, City Attorney, City Manager, and City Clerk, Laura Russo with offices at 2655 LeJeune Road, and I'm here this morning representing Ponce CAT Catalonia and Ponce CAT Segovia, along with my co-counsel Peter Gonzalez of Sanchez Medina Gonzalez. I respectfully ask that the City earnestly study the current Board of Architects process, procedure, including the appeal process. What has happened today and to my client over the last six months has been a travesty. I respect every person's right to speak and I respect every person's to have an opinion. This right however, needs to be

balanced against the inherent rights of property owners to develop their property when they are building as-of-right. We must remember that this country, in this country property rights are the cornerstone of this country, so it's a balancing process. I never want to take away from anyone the right to speak, but when you have someone who has property who is building as-of-right and in six months is mired in a process and in a procedure and more than someone's right to speak is that it is a process and a procedure that is meant to not allow movement forward and on behalf of this property owner and other property owners in this goes to whether someone is developing a single family house or whether someone is developing a project that is as-of-right. Remember this country is founded on property rights and when we forget that I think we are doing damage to the City of Coral Gables and its reputation.

Mayor Cason: Let me ask the City Manager. You have some thoughts that we probably discuss with all the Commissioners going forward in experiences elsewhere, would you like to explain that.

City Manager Swanson-Rivenbark: We did go to the Board of Architects and shared with them what has happened in Charleston, South Carolina, they hired a consultant to help them develop some parameters for review, we shared with them a copy of that. The Board of Architects and staff met in a workshop amongst themselves in a meeting came up with some findings. They are putting those findings into writing and they'll be presenting them to the City Commission probably in December rather than the November meeting, and then certainly it's an opportunity for community dialogue as well.

Mr. Gibbs: And I was just going to say, I hope that there is a real outreach to the community so that members of the community can come in and speak to it, because I think that's what we are talking about is a dialogue and some kind of input because these issues of neighborhood context are really important and they are important to the people who live in those neighborhoods, and the process and I look forward to seeing the Charleston way of doing it and how the Board of Adjustment adapting it to Coral Gables, I mean the Board of Architects is adapting it to Coral Gables, but the public needs to be involved and needs to be engaged, and it's very hard and I understand what Ms. Russo is saying, when you have a professional board of experts in their

field who deal with these architectural issues and the public who may not be experts, there has to be a way of communication, there has to be a way the public has input. Your process allows that input and its very careful because, remember the Board of Architects is a public meeting, not a public hearing, so any involvement in this lengthy process and believe me, I've seen Board of Architects on other projects go on and on and constantly go back. There is a reason why the Board of Architects goes back and that happened in this case. The point is, the Board of Architects allowed my client to speak, that's the process, and my client was involved in every single meeting and brought up her concerns in every single meeting as she is allowed to under your Code, and at the invitation of the Board of Architects because that's the only way she could speak to the Board of Architects. So it is a process, it's a lengthy process, I don't think I'd call it a travesty, because I think this project is a better project for it and therefore, I think that's part of what happens in Coral Gables. I don't know if this is the lengthiest, Laura would probably know more than I, but I know there had been other lengthy architectural boards.

Mayor Cason: I read the transcripts over five hours last night, so it was a lengthy, very lengthy...

Ms. Russo: What I'd like to say and once again the process is, we need to remember that we are going to destroy it with the term as-of-right means. When there is a project that involves any change to the current Code, any change to the Comp Plan, I think absolutely the discussion should be based in community involvement and discussion, but if you have a process that takes six months as-of-right, the term as-of-right has no meaning, so there is no as-of-right, so you buy property in Coral Gables and you have to hope that your neighbor doesn't hold you up for six months to build your house – and it may not be because of context because they can go – this process that we have now just doesn't work. I don't think it works and I think it sends a bad message to people who may want to come buy a home and rebuild or do something and somebody next door doesn't like it, had I known I might have objected to the house in my neighborhood that's two houses away that completely changes the character of the neighborhood.

Mayor Cason: This is going to be very difficult. I hope that we can get closer to the definition of what does context mean?- what does adjacent mean?- what does neighborhood mean?- because

you can give people three miles away to say, I don't want it in my neighborhood. I think the point is, it's going to be very difficult because a lot of this is subjective. We faced this when we discussed pickup trucks and we decided we were going to a referendum because we didn't want to be "Aesthetic Czars." It's going to be tough because everybody has different views of what – beauty is in the eye of the beholder.

Mr. Gibbs: And Mr. Mayor that's a good point. In terms of Laura's comment, Ms. Russo's comment about the fact that everything is not as-of-right or everything – there's an interesting issue that you all have and every city has. You have a Comprehensive Plan and actually the enforcement of the Comprehensive Plan is your job, but the challenge to that enforcement is not an administrative process within the City of Coral Gables. You are subject to Florida Statutes and Florida Statutes say there is an independent cause of action if there is not compliance with your Comprehensive Plan. So in reality every project is issued a development permit or a development order is subject to that, and what happens is you don't even have to be at the City Commission on a project to object to its consistency with the Comprehensive Plan. Every Comprehensive Plan in the State of Florida talks about neighborhood compatibility and consistency, they all do, and yours does too. So the question is, that's – when someone says, I have an as-of-right project, yes, they have an as-of-right project pursuant to your Code, but there are interpretations and those are subject to lawsuits and that's the problem, and that's why I kind of cringe when people say, I've got an as-of-right project, because you don't necessarily do until you get through all the appeals and all the rest of them.

Mayor Cason: But this one really got down to, if I recall, there were no variances or nothing to do with height or density or intensity or anything else, in fact it was smaller than could have gone there. It really got down – what does context mean?

Mr. Gibbs: Incompatibility.

Mayor Cason: Incompatibility – the definition, so I hope some other states will look around the county and find out if anybody has been able to skin this cat.

Mr. Gibbs: But you've defined it. Compatibility, I don't have it, as part of my argument, but compatibility is defined in your Code, but you're right and that's the whole point. This whole thing is an issue between neighbors and people who want to build and that's the only reason why I brought it up. We have a settlement agreement, we think this project is a much better project for it and we've signed it and we are happy with it. That's not the issue. This project is put to bed. Our issue is, where do we go from here as a community and how do you bring together the divergent issues and the divergent opinions here between people who live in the neighborhood and somebody coming in and wanting to build something that people in the neighborhood feel is not compatible and there needs to be a process, and that's why I made the statement I made.

Commissioner Lago: Thank you, thank you very much. I'll just be brief. I agree with you in regards to the fact that I think we need to have some sort of charrette maybe to discuss to see what other cities and other states are doing, but I've always entrusted in the Board of Architecture is going to make an aesthetic decision which is in the benefit and is in mind with what the City of Coral Gables is used to over the last 90 years. Now again, we may have different opinions and I completely respect those opinions, but that's what we have always done for a long time. Now do we need to maybe look into an opportunity to see how we can refine that and make sure that we celebrate and we honor what the City is all about and the Mediterranean design, but I just get a little nervous when we start talking about context of neighborhoods, and defining what is an exact context of that neighborhood?- what is the predominant design of that neighborhood?- because I went to the Board of Architecture second appeal that happened at the museum and I saw how many different types of styles of design that there were in that neighborhood and it wasn't predominantly just one style. Can I say that freely?- I mean you can't just say overwhelmingly on that street it was just Mediterranean or on that street it was like my home which is kind of like a ranch style or on that street it wasn't more French Village type. That was one of the problems that I came away with that there wasn't just one predominant style in that neighborhood.

Mr. Gibbs: And that's compatibility too because you bring another style in, is that compatible or is it not? Those are issues that the Mayor is talking about.

Vice Mayor Quesada: My biggest issue with this is predictability; its predictability for the applicant and for the neighborhood. Everyone should be able to know because I think what happened here reading the transcript over the last few days, quite lengthy transcripts for this appeal is, the applicant had one thing in mind, the neighborhood had something else in mind, so everyone – no one was able to predict what was going to come and that’s a problem with the context argument, and that’s something that obviously we want to try to be very clear with. This wasn’t like an area that had designated as a historic district where there is a certain type of design in that neighborhood, and that’s the biggest problem that we have is the predictability aspect, and that’s why I think the neighbors, some neighbors were upset and the applicant was upset, but obviously if we can somehow figure out how to control that predictability in the sense of context then they’ll be happy because everyone knows what to expect, either the applicant side or the neighborhood side. And how we do that?- obviously our answer has always been the Board of Architects.

Mr. Gibbs: The devil is in the details.

Mayor Cason: And the other point too, I think is, we have to leave some room for change because George Merrick didn’t just do Revival, he built those other villages, modern. People say well we don’t want to have any modern architecture in Coral Gables – no. I think some of these homes are built when they were modern at the time, they weren’t built Mediterranean, they were built modern in the 40’s and 50’s and 60’s, so they were modern then. So we need to allow change and we need to make sure that whatever we can drill down and what does context mean?- how far out does the neighborhood go that gets to make an opinion on it?- how do you choose between people that will just sign a petition and those that actually show up and make very good arguments for one side or the other. I value those a lot more than just somebody signing petitions and they really don’t know what they are signing necessarily. But you have something else you want to say?

Mr. Gonzalez: Yes. Good morning, Peter Gonzalez from the law firm of Sanchez Medina Gonzalez Quesada and Laje. I’m a Coral Gables resident and I’ve had my law firm in the Gables for 20 years at 201 Alhambra Circle, Suite 1205. I just want to add a few more comments for the

completeness of the record. There is process and there is abuse of process and with all due respect to Mr. Gibbs, maybe the reason he doesn't view it as a travesty is because Mr. Gibbs got involved in this matter that's been ongoing for six months over the course of the last week, and we found out at 9:41 this morning that Maria Chris Longo was withdrawing her appeal and agreed to a settlement. But it is a travesty because the Board of Architects review is a peer review. Its open to the public, but it's not supposed to be a hearing where non architects can offer opinions about aesthetics. This is supposed to be a peer review where architects like Mr. Ronnie Mateo who is one of the most gifted and award-winning architects in the country, not just in South Florida, gets to discuss the issue with his peers. And the problem we have is that we had non architects that offered no objective evidence whatsoever, and I just want to clarify that, that that's a part of the problem with the process.

Mr. Gibbs: Mr. Mayor, I'd like to object only because...

Mayor Cason: Look, I think we have a settlement; a lot of this is water under the bridge.

City Attorney Leen: If I could talk. The case is dismissed, we've accepted the settlement, I've evoked my authority under the City Attorney Ordinance, the case is over. One question, this issue is going to be coming before you again and you may want to come in a legislative capacity and talk about these things...

Mr. Gibbs: Absolutely.

City Attorney Leen:...because we are actually, Development Services is, we are looking at amending the Board of Architects procedure to come back before you with removing some of these issues that occurred and that would be the time for debate.

Mayor Cason: I would just hope that we could settle the process and agree on what these terms so that we don't have to become the Czars because we could all vote for purple homes.

Commissioner Lago: That's why I mentioned before when I got a few jeers from the crowd was, we have a trust in the Board of Architecture, these are trained professionals. I've only been here

two years, this is the first time I've seen this and Tucker, you know you've been here some time, how many times have you seen this come before the Commission?

Mr. Gibbs: The "twelfth of never" was the last time.

Commissioner Lago: The "twelfth of never" so again, I think we are doing pretty well for it to be the first time. I'm excited about the fact that we came to a settlement agreement, hopefully we'll get a great design, a great product, which is going to benefit this community, protect the neighborhood. I kind of agree with both parties, especially what you mentioned before, we need to have a change in the process, because something went wrong here and we need to make sure that it doesn't come before the Commission because none of us here are architects, none of us here are licensed architects. We hope that the Board of Architecture will make the decision and we trust their decision, that's why they are in that position.

Mayor Cason: And thank you for reaching the settlement so that we don't.

Commissioner Keon: Can you tell us what the settlement is?- or do we not talk about it?

Mr. Savage: With respect to the settlement, I'm going to provide the City Attorney with a copy of the settlement for the completeness of the record; and just two more points. The Gables Good Government sent out an e-mail making a statement that Richard Heisenbottle who is a recognized expert in historic preservation was against the project and if you read the record Mr. Heisenbottle actually testified on behalf of the project. I just want to clarify that for the record.

City Manager Swanson-Rivenbark: Mr. Mayor I'm having concern with the discussion that is continuing. There is a settlement both parties have entered it, we have agreed that the Board of Architects has had a workshop that they will be developing some new parameters. We will involve the public in it, but what I'm seeing as a non-attorney is both parties are using the opportunity to put additional information into the record when a settlement has been given and I have concern.

Mayor Cason: Let's let the "sleeping dog lie." Thank you very much.

Commissioner Keon: Mr. Mayor and with respect to the Manager, I think that, I don't necessarily want to talk about this particular item as long as it's been settled, but I do think it's a good opportunity for each of us to be able to give some direction as to issues that we feel that could be with the Board of Architects and we would like them to look at. With regard to this, I was surprised, I didn't realize that the Board of Architects could act in a quasi-judicial manner which they have here.

City Attorney Leen: The Code has said that since before I was City Attorney.

Commissioner Keon: And I really think you should look at that.

City Attorney Leen: We are going to recommend that it be taken out.

Commissioner Keon: I would think that it should be taken out, but I think it needs to be looked at more fully to really – I mean I wouldn't say that off the cuff, but I think you should look at that. I also saw in their recommendation they approved it with comments. I have no idea what that means, no idea at all. So when they are going to make a – it's like a couple of things we've gotten from the Planning and Zoning Board lately that, well if the Commission does that you could do this, and if this happens then whatever. You know those are not clear recommendations and that's what these are, are recommending bodies. So, I really don't want to see, you know its approved with comments, either you approve it or you don't approve it, you know, and if you have comments and you need to do it, you need to keep working, but that's almost like when we don't know how to deal with this anymore, we don't want to deal with this anymore so move it on, and that's happened with the Planning and Zoning Board too where they've gotten into very lengthy discussions and all of a sudden you'll see one of the members of the Planning and Zoning Board just move something, and you say, wait a minute there is like no resolution here, you haven't come to any consensus at all and you move it, because you are just passing it off.

Commissioner Lago: And if I could interject. That's not fair to all parties.

Commissioner Keon: It's not good for anybody – no.

Commissioner Lago: The residents, the applicant, to the person who may be in favor or against the project, just drags it on even further and then we end up with a situation like this.

Commissioner Keon: I think it undermines the actual value of that particular Board and the people that are looking at that if you can't come to conclusions or if you can't work with one another even if you disagree that's fine, but come with a vote, come with a recommendation.

Mayor Cason: I think you all don't need to be here anymore on this one.

Commissioner Keon: We'd like you to do that. I think you also need to remember that the Board of Architects is very, very subjective; there are no bright lines here.

City Attorney Leen: So the copy of the settlement is being provided to each of you. Anyone who wants to know more about the settlement just come outside and I'll get copies for you and go over it with you and we can talk about this.

[End: 10:53:34 a.m.]