

02.02.17 City Attorney email RE: North Ponce Infill Regulations

From: Leen, Craig
Sent: Thursday, February 02, 2017 5:53 PM
To: Trias, Ramon
Cc: Iglesias, Peter; Wu, Charles; Ramos, Miriam; Suarez, Cristina; Craig Coller
Subject: RE: North Ponce Infill Regulations
Importance: High

City Attorney Opinion

I have reviewed your question under both the City Code and Zoning Code, and provide the following opinion:

The matter should be placed on the City Commission agenda for its consideration, consistent with section 2-203 of the Zoning Code (discussed below), as well as the stated direction at the most recent City Commission meeting. Indeed, under section 2-69(i) of the City Code, it is clear that the Mayor or any Commissioner (as well as the City Manager, City Attorney, and City Clerk) may place an item on the agenda. Here, Commissioner Keon requested that this matter be placed on the February 14 agenda in open session of the Commission without objection. Accordingly, under the City Code, the matter should be placed on the agenda.

Please note, the Zoning Code supports the same outcome. Section 2-203 of the Zoning Code provides that where more than 4 members of the Planning & Zoning Board are present, and where 4 members are not obtained for a recommendation, that there are two options: (1) the applicant (in this case City staff) may request a continuance or (2) the matter proceeds to the City Commission without a recommendation. This provision was recently placed in the Zoning Code by the City Commission and provides the Commission's will and intent. I would also note, it is my understanding that this is not a situation where the presentations, public hearing, and reasonable deliberations could not be completed because of time (where a continuance might be required). Instead, the hearing was completed and the matter presented for Board action. In such circumstances, section 2-203 applies. Here, City staff did not request a continuance and instead informed the Board of the Commission request to hear the matter at the February 14th meeting. Accordingly, under the Zoning Code, the matter should now be placed on the Commission agenda.

In considering the matter, the Commission should be informed of the Board's desire to continue the matter. The Commission would then have the ability to proceed to consider the item without a recommendation, or remand the matter to the Planning & Zoning Board with instructions as to how to proceed. Such instructions could include continuing the matter until the workforce housing study is presented to the Planning & Zoning Board. This decision is ultimately the Commission's decision as the governing body of the City.

This opinion is issued pursuant to section 2-201(e)(1) and (8) of the City Code and section 2-702 of the Zoning Code.

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From: Trias, Ramon
Sent: Thursday, February 02, 2017 7:42 AM
To: Leen, Craig <cleen@coralgables.com>
Subject: North Ponce Infill Regulations

Craig:

During last night's Planning and Zoning meeting the board voted 4-3 to continue the item related to North Ponce Infill regulations. The members were informed during discussion that the City Commission expected that this item would be scheduled at the February 14, 2017 Commission meeting.

Should the item be scheduled for the February 14 Commission Meeting, as requested by the City Commission? Thank you for your advice on this issue.

Ramon