

# **City of Coral Gables City Commission Meeting**

## **Agenda Item E-1**

**August 26, 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**

**City Manager, David Brown**

**City Attorney, Elizabeth Hernandez**

**City Clerk, Walter J. Foeman**

**City Clerk Staff, Billy Urquia**

**Zoning Administrator, Martha Salazar-Blanco**

### **Public Speaker(s)**

**Laura Russo, Attorney for Sunstate Bank**

**Robert Londono, CEO of SunState Bank**

**John C. Lukacs, Chairman of the Board of Adjustments**

**John Admire, City of Coral Gables Resident**

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E-1 [Start: 11:41:25 a.m.]

Mayor Slesnick: OK, we are now on E-1 this is an Appeal from the Board of Adjustment. Do we have the appellant ready to speak? Here she is.

Ms. Russo: Good morning once again, Mr. Mayor and members of the Commission, for the record Laura Russo with offices at 2655 Le Jeune Road, representing here this morning SunState Bank. We are here on an appeal from the Board of Adjustment. We had requested a sign on the south elevation of the Sunstate building, bank building, which is actually owned by Charles Battisti and his wife, located at 2901 Le Jeune Road. Some of you may or may not recall, it is the two story building that is south of the City National Building that used to have signage that said Sofisa Bank. Sofisa Bank is now SunState Bank not as a result of a merger, not as a result of an acquisition just simply a bank name change. Post the name change new signs were prepared for both the north elevation and the south elevation, the bank took down the signs.

Mayor Slesnick: Is it still a Brazilian company?

Ms. Russo: Yes, it still is. And they went to put the signs on the south side they were told that it was no longer allowed under the new Zoning Code. We understand that it is the south elevation which faces an alley that alley; then faces a vacant parcel of land. The owner of that parcel of

land also owns other land in the block. He signed saying he has no objection. He did not object to the previous signage of Sofisa bank; and one of the reasons for having signage is what we call way finding or directions; and as you heard from the previous application Le Jeune is heavily trafficked road. A lot of the bank's customers do come from the south. There are approximately 22,000 trips northbound on Le Jeune and about 20,000 southbound on Le Jeune. Without the signage on the south elevation, no one becomes aware that it is Sunstate Bank until they have passed it, because the signage is on the north. Now we do have the right to have signage on the Le Jeune elevation. However, we would be willing to waive the Le Jeune sign elevation it does face the duplex, or the M1 across the street which is not a heavily traffic road and don't believe it will serve any sort of directional purpose or signage purpose. Although there is a unique hardship in the sense that the property is located at the end of a district, it is on a heavily trafficked road and while the sign code, would allow a sign common sense would tell you that the side that is allowed should be traded for the sign that we are requesting on the south elevation of the building.

Commissioner Withers: Is it the same size sign and everything?

Ms. Russo: I believe it is the same size as previously allowed I believe it matches the north side elevation, it is 17 feet long and the letters are 18 inches high and it is chanelit sign; it has been approved by the Board of Architects both the southern elevation sign on the south side facing the alley or facing Le Jeune road traffic heading north bound, as well as the sign on Le Jeune. And again interestingly enough, one the quirks that I said is the sign on Le Jeune facing the residential can be illuminated. So we are willing to.

Vice Mayor Kerdyk: Something is wrong.

Commissioner Withers: Wait, say that again. The one on Le Jeune but is facing...

Ms. Russo: It faces west, we proffer the elimination of the west elevation sign for the south elevation sign; and what I am saying to you is that the west elevation sign could be illuminated facing the residential. We are proffering waiving that signage for the south signage which we believe really address the need for the bank to be identified by vehicular traffic that is coming north bound on Le Jeune Road.

Commissioner Anderson: Previous incarnation of the bank it was there?

Ms. Russo: In other words, this is not a situation where new people came in and there has been a change, but rather is the same tenant. The tenant that is the sole tenant of the building and has spent some substantial dollars in renovation of that building, which is a nice addition to the Le Jeune corridor.

Mayor Slesnick: In the renovation, has the parking area on the south side been enclosed a little bit more? Or is that an open bay?

Robert Londono: Could I identify myself, I am Robert Londono I am president and CEO of Sunstate Bank.

Mayor Slesnick: The south side of the building where we are talking about the sign.

Robert Londono: Has it been constructed?

Mayor Slesnick: No there was an open parking bay.

Robert Londono: Yeah that still exists.

Mayor Slesnick: I would just ask as a favor this has nothing to do with my vote one way or the other, but I would ask can you take a look at the lighting in there at night. It stays on all night and it is very bright.

Ms. Russo: Some way to block the light.

Mayor Slesnick: Industrial Lighting.

Robert Londono: Oh, OK well that is a reasonable suggestion.

Mayor Slesnick: I mean I pass by there all the time. No I haven't looked at it really lately but it is almost looks like an industrial area. We talked about a sign facing the residences so does this area.

Robert Londono: It is brightly lit. I think we did that...

Mayor Slesnick: Is there an empty dumpster in there or something?

Robert Londono: Yes there is an empty dumpster I think we did that as much for security purposes as anything else. I am trying to recall if we have a TV.

Mayor Slesnick: I have to tell you though it is very bright light it takes the attraction at night.

Robert Londono: OK we will take that into account.

Mayor Slesnick: It is just a request. That is all.

Robert Londono: It is a useful suggestion.

Mayor Slesnick: And by the way I still appreciate the fact that I met the Brazilian race car driver there that later became the Dancing With the Stars Champion.

Robert Londono: That is right.

Commisisoner Cabrera: He taught me how to drive a go cart. He did. Helio.

Robert Londono: That was a great opening, a lot of fun.

Commissioner Anderson: I'll go ahead and made the motion to approve the appeal.

Commissioner Cabrera: Second it.

Mayor Slesnick: Ms. Anderson has moved that we approve the appeal, which would mean over turning the actions of the Board of Adjustment and Mr. Cabrera seconds it. And I would just ask if the department feels any need to make a presentation. We certainly would like to hear from them. Martha.

Martha Salazar-Blanco: Good morning, I would just like to clarify the size of the signs because after looking at the plans, I know they said that the previous signs were 18, they were, but the signs that they are showing the letter of the sign is 20 inches and the logo is 30 inches, so I want to clarify that that height of letter, that is not allowed; the maximum is 18 inches.

Ms. Russo: There was a mistake in putting together the package, if you talk to Elizabeth there is another set of plans.

Mayor Slesnick: I'll tell you what Martha thank you, we'll make that part of the motion.

Commissioner Anderson: Part of the motion that it conforms to.

Martha Salazar-Blanco: I also wanted to recognize John Lukacs, the chairman of the Board of Adjustment.

Mayor Slesnick: WE always like to recognize John Lukacs, come on John, you may, John welcome. Mr. Chairman.

John Lukacs: Thank you very much this is actually the first time I have appeared before this Commission in my capacity as the chairperson of the Board of Adjustment.

Elizabeth Hernandez: Can I include a comment on the record then Mr. Mayor.

Mayor Slesnick: Yes.

Elizabeth Hernandez: Has the board asked you to attend the meeting and represent the interest of the Board here?

John Lukacs: No, I am taking to do that myself.

Elizabeth Hernandez: Under the City's rules, as well as the due process consideration that have previously been brought before this City Commission, and specifically a member of a Planning and Zoning board after a manner was discussed in said board attempting to address the Commission individually, and the Commission did adopt a rule that a board can designate a speaker to come before the Commission to represent or advocate the position of the board;

however an individual who is involved in a quasi-judicial manner cannot come forward then, and as a citizen or as an individual advocate one position or the other.

John Luckas: I am not here to advocate one position or the other, the mere facts.

Mayor Slesnick: The chair will allow the chair to speak.

John Luckas: Thank you Mr. Mayor, but for the record I am here simply to recap facts that actually occurred in the record, as oppose to put a spin.

Commissioner Cabrera: I am not comfortable with that, I am not.

John Luckas: As oppose to put a spin on it, and if I may Mr. Mayor.

Mayor Slesnick: Unless you want to move to overrule the chair?

Commissioner Cabrera: Well, No I don't want to overrule you, because I mean we have been through this once before and it was a much tenuous situation so you know how I feel about you and what a wonderful job you do as a member of the Board of Adjustment, but I have to side with the City Attorney on this one Mr. Mayor.

Mayor Slesnick: Well but she said that he couldn't advocate, and he said he is not.

Commissioner Cabrera: Well, but I think by the mere fact that he is going to bring up some testimony of facts, I think that there could be an interpretation that you are advocating one position over the other.

John Lukacs: I am not advocating any particular position.

Commissioner Cabrera: I know you wouldn't do that purposely.

John Lukacs: If you allow me to merely speak.

Mayor Slesnick: Wait a minute, excuse me, I said you could speak, Mr. Cabrera has raised an objection I like to know how the Commission.

Commissioner Withers: I would love to hear what Mr. Lukacs has to say.

Commissioner Cabrera: Well there you go.

Mayor Slesnick: No, wait.

Commissioner Cabrera: No I retract my comments, sir go ahead, it is okay.

Mayor Slesnick: No.

Commissioner Cabrera: No, it is okay, it really is.

Commissioner Withers: It is just my opinion.

Commissioner Cabrera: Well I accept your opinion. You know I guess we get a little bit this way when it is a hot topic, this is not a hot topic so fire away.

Mayor Slesnick: No, please excuse me John, Madam City Attorney I would like to relook at what we do as far as chair people coming to give us some explanation of what their board did. We may not decide to change what we do, but I would like to at least look at that and have you poll the Commission because the chairperson is elected by their board; and if they come to just explain to us what happened there, well that is my personal opinion. But you can certainly poll the Commission and see if they have any other thoughts on that.

Elizabeth Hernandez: Again, Mr. Commissioners, Mr. Chairman I am more than happy to revisit the issue, this is an issue of fundamental due process and I just want to be sure that we are preserving whatever record we are creating in the event of an appeal, that is all that I am doing.

Mayor Slesnick: And you know what, I remember one of the situations where an irritated board member came to oppose the action of their board, and that is very upsetting and troubling to me, but this is the chair of the board coming to give us a background statement about what the board did. OK.

John Lukacs: I merely most respectfully wanted to bring to this Commission's attention that scope of the review that occurred in the lower hearing was one of a determination, or request by the applicant to make determinations to whether or not a hardship existed. There was nothing that was presented that I heard this morning that address the issue of the hardship. We as our board are charged with that responsibility in our quasi-judicial role of evaluating the evidence, that is presented in determining whether or not a hardship exists. The City of Coral Gables was involved in litigation last year which stemmed from a hearing that started at the Board of Adjustment; and it was a request by a citizen of the City of Coral Gables for a hardship we found there to be no hardship. The matter came to this Commission on appeal, the Commission affirmed and upheld our determination. The matter went forward to the Third District Court of Appeals in which opinion the Third DCA essentially said: a hardship has generally been defined as a non self created characteristic of the property in question which renders virtually impossible to use the land for the purpose or in the manner for which it is zoned. That is simply the criteria that one would follow. The guideline if you will for the determination of a hardship, I simply remind this Commission that we as our board take our responsibilities extremely seriously when we evaluate applicants; when we elicit comments from the public itself, in terms of whether or not in the guidelines and the definitions of a hardship this type of variance request should be granted. The record is clear that our board found otherwise unanimously. And I do thank you for your time.

Mayor Slesnick: No thank you Mr. Chairman, but let me respond to that. Number one is we take our boards recommendations and votes very seriously particularly your board, and I think that our history has shown a deference of this Commission to the decision of the board and its

position. Secondly, Mr. Cabrera and I and others sitting here have dealt with hardship arguments for a long time in our various positions in the City and know how pleading they are as far as actually being able to capture the essence of hardship once and for all; and finally if I support this motion it will be because I feel that based on the change in the law and the positioning of the building and their inability to attract customers that there is in fact a financial hardship if they are not allowed to put the sign in the right location. If that is my vote, I appreciate the opportunity to be able to explain that.

Commissioner Anderson: Thank you for your comments.

Mayor Slesnick: We also, one more comment; we also know that boards are a little more hand strong than we are; and in my conversation with Martha, we spoke about that, that you are put in a position of being much more careful and we appreciate that, about following the letter of the law as opposed to the Commission which may in fact determine the meaning of the law. Thank you. Mr. Admire has signed up to speak. This is John Admire of 730 San Esteban.

John Admire: Good morning Mr. Mayor, and Commissioners, I am here to support the application. I feel that it is a minimal request, I feel that the location of the sign on the building is precedent for been there; and the truth is if they are not allowed to put the sign there nobody can see the building you just don't what is there. And Sunstate offering to waive the sign on Le Jeune, is certainly justification for supporting this application, so I urge you to pass it.

Vice Mayor Kerdyk: Thank you. Speaking of a person that has sat on many boards in the City of Coral Gables.

Commisisoner Cabrera: I wanted to personally thank Mr. Admire, because my first three years on the Board of Adjustment I had the privilege and honor to serve with you. So I thank you very much for being here this morning.

Mayor Slesnick: The statute of limitations on you being able to appear has ran so.

[laughter]

Mayor Slesnick: You made the motion right Ms. Anderson?

Commissioner Anderson: Yes I did.

Mayor Slesnick: And you seconded it? Mr. Kerdyk?

Vice Mayor Kerdyk: No.

Mayor Slesnick: Mr. Cabrera seconded it. Would the maker of the motion and the seconder accept the two things, because the motion needs to be cleared, that we are making part of the motion the bank's willingness to waive their right to a sign on the Le Jeune road side.

Commissioner Withers: Is that forever or is that just while the sign is up on the side facing the alley?

Mayor Slesnick: Well while the sign is up facing the alley. That is a good point.

Commissioner Anderson: I think that is a good point.

Mayor Slesnick: While the sign on the south side exists. Good point. And secondly that the sign be the same size as the 18 inches that the old sign was or that law requires how is that. The sign be the size, we are not waiving the size of the sign. OK, is that acceptable to both of you?

Commissioner Anderson: Absolutely.

Mayor Slesnick: Ralph?

Commissioner Cabrera: Yes Sir.

Mayor Slesnick: Any other comments. Mr. Clerk.

City Clerk Foeman: Vice Mayor Kerdyk?

Vice Mayor Kerdyk: Yes.

City Clerk Foeman: Commissioner Withers?

Commissioner Withers: Yes.

City Clerk Foeman: Commissioner Anderson?

Commissioner Anderson: Yes.

City Clerk Foeman: Commissioner Cabrera?

Commissioner Cabrera: Yes.

City Clerk Foeman: Mayor Slesnick?

Mayor Slesnick: Yes.

Ms. Russo: Thank you very much.

Vice Mayor Kerdyk: Thank you.

**(Vote: 5-0)**

Mayor Slesnick: Thank you all, and John due thank the board for their good work, and I am serious about that and Martha and Ed, thank you for yours.