



**City of Coral Gables  
CITY COMMISSION MEETING  
October 28, 2014**

**E-1**

**ITEM TITLE:**

Appeal of Tree Permits for 1011 & 1015 Lisbon Street; and Appeal of Board of Architects' decision on 1015 Lisbon Street.

**SUMMARY OF APPEALS:**

Three (3) well-established specimen oak trees exist on Lot 15 of Block 59, Coral Gables Granada Subdivision. These trees are approximately 45 feet in height and spread and are situated at about 20 feet and five (5) feet from the front and side property lines, respectively. The developer, PalmCorp Development, received final design approval by the Board of Architects (BOA) for both proposed residences at 1011 and 1015 Lisbon Street on 06.26.14; as well as Tree Permits approval for both properties by the Public Services Director on 09.23.14. The design for 1015 Lisbon Street depicts the three (3) specimen trees retained on-site, with a residential structure and pool positioned on the remaining portion of the property.

As a result of the appeals filed by Ms. Friedman, the Development Services Department will withhold permit issuance for both properties until the final disposition of the appeals by the Commission.

**BACKGROUND:**

Lot 15 is currently vacant and was previously part of the adjacent property at 1011 Lisbon Street. The residence at 1011 Lisbon Street, situated on Lots 13 and 14, has since been demolished, and Lot 15 was assigned the address of 1015 Lisbon Street.

On 06.25.13, staff issued a building site determination letter, effective 08.19.13, which deemed Lot 15 to be a buildable site. The design for 1015 Lisbon Street depicts the three (3) specimen trees retained on-site, with a residential structure and pool positioned on the remaining portion of the property. Although the developer declined to move the building further away from the trees as suggested by staff, the developer did take the following actions that increased the available area for the roots of the specimen trees by approximately 100 square feet:

1. Proposed an Aerobic Treatment Unit, which is an alternative sewer treatment system that reduces the drain field area by approximately 25%. It should be noted that this system is more costly and requires a higher degree of maintenance, but produces a higher quality effluent than a traditional septic system, thus allowing a smaller drain field area.
2. Requested and was granted a five (5) foot setback variance from the Florida Department of Health on 08.07.14 for the proposed drain field in an effort to shift the drain field further away from the specimen trees.

The Tree Permits approved by the Public Services Director on 09.23.14 includes a Work Plan for both residential properties describing in detail pre-construction activities such as the pruning of tree limbs and

roots, removal of certain palm species, staking of building footprint, application of mulch, and installation of tree protection fencing and temporary irrigation. The Work Plan also describes that during construction, no digging is allowed inside the protection fencing, and one large limb will be removed when the second floor is to be built. Trees will be monitored weekly for health condition, proper functioning of the irrigation, protection of the fence's integrity, and proper supervision of construction workers with respect to the preservation of the trees.

#### History:

- 04.22.13 PalmCorp Development Group LLC purchased 1011 Lisbon Street (Lots 13, 14, 15). (Lot 15 was since assigned 1015 Lisbon Street address.)
- 06.25.13 Development Services Department issued a site determination letter, effective 08.19.13, that Lot 15 is a buildable lot pursuant to Sec. 3-206. No appeals were filed within the 60-day appeal period. The letter allows the developer one (1) year to obtain a building permit.
- 11.14.13 The BOA approved preliminary designs for two (2) separate residences at 1011 and 1015 Lisbon Street.
- 02.14.14 & 02.18.14 Development Services Director issued letters to Ms. Friedman explaining staff actions in relation to the property as well as relevant code sections pertaining to the preservation of specimen trees.
- 04.24.14 Staff requested the developer to bring back both residences before the BOA to explain the design of both homes and associated mitigation measures proposed to preserve the trees.
- 06.26.14 BOA approved final designs for both residences at 1011 and 1015 Lisbon Street.
- 07.01.14 PalmCorp filed Tree Permits to preserve the specimen trees and to remove certain trees on 1011 and 1015 Lisbon Street.
- 07.07.14 Ms. Jorey Friedman filed an appeal of the BOA's decision for 1015 Lisbon Street.
- 07.21.14 PalmCorp filed for a setback variance from the Florida Department of Health (DOH) for the septic drain field for 1015 Lisbon Street.
- 07.31.14 Staff forwarded a letter of support to the developer's septic drain field setback variance.
- 08.07.14 DOH approved the requested septic drain field setback variance.
- 08.11.14 PalmCorp requested a two (2) year extension of the Building Site Determination for 1011 and 1015 Lisbon Street pursuant to House Bill 7023. (Extension granted by staff on 10.15.14 with a new expiration date of 08.19.16.)
- 09.23.14 The Public Services Director approved Tree Permits for 1011 & 1015 Lisbon Street. Ms. Friedman expressed her intention to appeal both permits the following day. A hold is placed on both Tree Permits by staff.
- 10.7.14 City Attorney Craig Leen suggested and received approval from both the appellant and the developer to consolidate both the BOA's decision and the Tree Permits appeals before the City Commission, pursuant to Sec. 3-608(B) of the Zoning Code. Both parties also agreed to forgo the Tree Protection Appeals Committee as that decision can be appealed to the City Commission.
- 10.13.14 Ms. Friedman filed an appeal of the Tree Permits issued for 1011 & 1015 Lisbon Street.

#### Board of Architects' (BOA) Authority and Decision:

Pursuant to Sec. 2-301 of the Zoning Code, the "Board of Architects is created to ensure that the City's architecture is consistent with the City's regulations and to preserve the traditional aesthetic character of the community." It is staff's interpretation that the aesthetic character of the community would include the presence of existing specimen trees. The BOA not only reviews the aesthetic of the architecture, but also the placement of buildings in relation to the character of the neighborhood and any existing specimen

trees that should be preserved pursuant to the City Code. At the 06.26.14 BOA meeting, the full board was satisfied by the developer's proposed efforts to preserve the specimen trees and unanimously approved the final design for both residences.

#### Analysis:

The developer has represented that the proposed residential structure at 1015 Lisbon Street incorporates the specimen trees onsite and has taken specific mitigation measures such as seeking a setback variance to move the septic drain fields away from the tree and using an Aerobic Treatment Unit that reduces the drain field area. Staff requested that the building be shifted further away from the trees, but the developer sought to process the design of the building on 1015 Lisbon Street as proposed. As a result, safeguards such as the installation of tree protection zones and proper pruning of roots and limbs were made part of the approved Tree Permits as required by the Public Services Director. While there is no absolute guarantee that all these measures will lead to the ultimate preservation of the trees, the Public Services Director has determined that the measures taken by the developer is the best workable solution considering the circumstances of the project, the provisions of the City Code and applicable state and federal law. In summary, City staff has done all it can to protect the trees under the current code provisions and applicable state and federal law.

#### Design Options:

Given that most of the property is within the drip line of the specimen trees, there is no option for a traditional residential structure that will completely avoid the roots within the drip line. To significantly reduce removal of branches and cutting of roots within the drip line, the proposed structure will have to move at least 10 feet further away; the second story portion will have to be redesigned; and the septic drain field will have to be reconfigured or relocated to the rear, which, while a possibility, is a challenge for regular maintenance. A combination of those actions will reduce the size or preclude the option of the pool as proposed and possibly result in a smaller footprint of buildable area. Alternatively, a proposal to combine Lots 14 and 15 could produce greater latitude for a redesign that could yield an optimal design more favorable to the trees. This replat will require conditional use public hearings before the Planning and Zoning Board and the City Commission for a building site determination. Also, the developer may request a setback variance for an alternate design of the structure and/or the pool by the Board of Adjustment. Section 82-34 of the City Code provides that the preservation of trees a peculiar hardship for the granting of a variance from the literal interpretation of the Zoning Code.

#### City Commission's Options for Board of Architects' Decision:

Pursuant to Sec. 3-606.D. of the Zoning Code, the appeal shall be based upon the record of the hearing, shall not be a de novo hearing and no new, additional testimony shall be taken outside the record. The granting of the appeal by the Commission shall be by resolution. The City Attorney will explain the process for the hearing at the beginning in an opening statement. The Commission may:

1. Affirm;
2. Affirm with conditions;
3. Override; or
4. Remand to the Board of Architects for further proceedings.

#### City Commission's Options for Tree Preservation Agency's Decision:

Pursuant to Sec. 82-36(b) of the City Code, the Commission may:

1. Affirm;

2. Modify; or
3. Reverse the Tree Preservation Agency's Decision.

The decisions of the Commission shall be final, and no petition for rehearing or reconsideration shall be considered.




**OTHER STAFF/ADVISORY BOARD/COMMITTEE ACTION:**

Date	Staff/Board/Committee	Comments (if any)
06.26.14	Board of Architects	Approval of Final Design for 1015 Lisbon
09.23.14	Public Services Director	Approval of Tree Permits for 1011 & 1015 Lisbon

**PUBLIC NOTIFICATION(S):**

Date	Form of Notification
10.16.14	Notification Letter to Property Owners within 1,000 feet
10.17.14	Miami Daily Business Review

**APPROVED BY:**

Department Director	City Attorney (If Applicable)	City Manager
		

**EXHIBITS FROM APPELLANT:**

- A. Ms. Jorey Friedman Board of Architects' Decision Appeal Request dated 07.07.14.
- B. Ms. Jorey Friedman Tree Permits Appeal Request dated 10.13.14.
- C. Tree Permits Appeal Statement by Jorey Friedman, Bruce Lecuru, Ariel Fernandez, Tamara McKeown, et. al.
- D. Residents' Petition (4 pages).
- E. Communication from Mr. Robert D. Brennan, dated 09.2.2014.
- F. Articles dated 12.12, 07.14 and Tree Resource Evaluation dated 07.30.14 by Mr. Jeff Shimonski.
- G. Communication from Dr. Kenneth Broad, dated 09.09.14, 09.22.14, 10.07.14.

**EXHIBITS FROM STAFF:**

- H. Approved Tree Permit for 1011 Lisbon Street.
- I. Approved Tree Permit for 1015 Lisbon Street.
- J. Live Oak Work Plan from Developer (part of approved Tree Permits) dated 09.22.2014.

**EXHIBIT FROM DEVELOPER:**

- K. Various Support Documents