

City of Coral Gables City Commission Meeting
Agenda Item E-5
September 11, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Historic Preservation Officer, Dona Spain

Public Speaker(s)

Dean Warhaft, Florida East Coast Realty

E-5 [Start: 10:25:50 a.m.]

Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, Article 3, "Development Review", Division 10, "Transfer of Development Rights (TDR)", by expanding the area for qualifying TDR sending sites to include historically designated properties within a Multi-Family 2 (MF2) District located in the area north of Central Business District (CBD) bounded by S.W. 8th Street (north), Navarre Avenue (south), Douglas Road (east), and LeJeune Road (west); providing for severability, repealer, codification and an effective date.

Mayor Cason: Item E-4, is an Ordinance on First Reading relating to Zoning Code Text Amendment Development Review, Division 10, Transfer of Development Rights. Madam Interim City Manager, please read the title of the agenda.

Interim City Manager Olazabal: Thank you Mayor. E-5 is a Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, Article 3, “Development Review”, Division 10, “Transfer of Development Rights (TDR)”, by expanding the area for qualifying TDR sending sites to include historically designated properties within a Multi-Family 2 (MF2) District located in the area north of Central Business District (CBD) bounded by S.W. 8th Street (north), Navarre Avenue (south), Douglas Road (east), and LeJeune Road (west); providing for severability, repealer, codification and an effective date. Dona.

Ms. Spain: Good morning, Dona Spain, Historic Preservation Officer. This is a recommendation from the Historic Preservation Board and from the Planning and Zoning Board. They were unanimously in favor of this amendment to the Zoning Code. It’s actually quite simple – right now you have the Transfer of Development Rights program, just within the Central Business District. That means that the ascending sites which are the historic properties are located within the Central Business District and the receiving sites, which are the new developments are also located within the Central Business District. What this proposal does is to expand only descending sites, so that they would be allowed to be outside the Central Business District to the north, the north Ponce area; and the boundaries of the proposed ascending sites would be in addition to the Central Business District, Navarre, 8th Street, LeJeune and Douglas. So if those properties which are historically designated MF2, they would be able to also send Development Rights to developments within the Central Business District.

Mayor Cason: How many of those are there that you’ve identified?

Mrs. Spain: We did a survey; you have a report that my department did, we identified 25 properties within there that definitely would qualify as historic. There is already, I believe five (5) that are designated, there may be others, but those are definite. I have a PowerPoint, I just want to briefly go through that explains it. Again, these are the parameters that are located within the North Ponce, they are zoned Multi-Family 2, and they are either duplex multi-family or bed and breakfast. Those are the boundaries of the North Ponce area; these are the ones that are already currently designated within that area; and this came about because a property owner that owns 235 Majorca wanted to demolish the property, it was for sale; and as you know there is an ordinance in place that requires a preservation officer’s signature on demolition permit’s and it was a historically significant property. So we blocked the demolition, took it to the Historic Preservation Board and the owner said, well if that’s the case, I’m going to have to keep this property, I would like to be able to transfer my air rights to a development, and that made perfect sense. So we went and did the research and recommended to the Planning and Zoning Board.

Commissioner Lago: Just one quick question.

Mrs. Spain: Yes.

Commissioner Lago: Dona, in regards to sending and receiving. In the last few years since this program has been in place in regards to the TDR's, how many transfers in regards to development rights have you seen?

Mrs. Spain: Quite a few actually had that.

Vice Mayor Kerdyk: 156,000 square feet.

Mrs. Spain: Pretty good.

Vice Mayor Kerdyk: I think so – yes, to date. Currently available in downtown is about 226,000 square feet.

Mrs. Spain: That's right – and more than half of that is city-owned historic properties.

Vice Mayor Kerdyk: I've got a question for you though. In the CBD we now have upped the FAR from 3.0 to 3.5.

Mrs. Spain: Yes.

Vice Mayor Kerdyk:...for the sites. What is the FAR for our MF2's?- is it 1.9?

Mrs. Spain: 1.9.

Vice Mayor Kerdyk: Is it actually 1.5 and with a Mediterranean bonus it's 1.9?

Mrs. Spain: That's right. That's right. So it's consistent with the 3.5.

Vice Mayor Kerdyk: And when I was reading this thing it's says that basically, you mentioned 59,000 square feet are available right now from identifiable sites, and then I think I read that the other – there is another 107,000 that may be identified, total of 167,000 square feet in that area.

Mrs. Spain: Yes.

Vice Mayor Kerdyk: That's taking into account what structures?- the 1920's structures, the 1930's structures, where is the point of demarcation when you start thinking that these qualify?

Mrs. Spain: That's interesting, that's a very good question because as you know anything over 50 years of age may be eligible to be historically designated, but in that area they are basically not significant properties. They were built really as fabric and sometimes not as significant as the 1920's and 1930's. What our survey looked into was just architecture. We did not do any further

research into who lived there, who owned it, so there may be other extenuating circumstances that would qualify those other buildings that are not really wonderful architecture, but have something special.

Mayor Cason: Like the famous architect.

Mrs. Spain: Like the famous architect, although you won't be able to tell that.

Commissioner Lago: The homeowner.

Mrs. Spain: Or the property owner or someone who lived there. So there are other qualifying, but I don't think very many.

Vice Mayor Kerdyk: And I think this is important because not so much as it applies to that area, but as it applies to the CBD, because you think well, we are capped or whatever I mentioned in the – but not capped, but there is basically currently available 226,000, but those are mostly from our structures that we built in the 1920's. I think we have designated maybe one or so that was built in the 1940's or 50's, I think on Miracle Mile, it was not a 20's structure, but whatever it is certainly as the City matures either properties come into play, so it won't strictly be the 1920's structures, it would be 30's, 40's, and 50's structures, so those TDR's will actually go upward, and I also with the caveat, I've mentioned before here, there are those TDR's that are out there, that the School Board has that we have never actually taken away from them, but they are out there and they are significant because they are with Coral Gables Elementary School.

Mrs. Spain: I'm not sure that they haven't been taken away from them. I would have to ask the Planning Department on that.

Vice Mayor Kerdyk: Would you check that and bring that back to us.

Mrs. Spain: I will. I will.

Vice Mayor Kerdyk: We've had this discussion on numerous occasions. I think we sent a message to them that we would not do it, but I don't think we actually took it away from them and you may want to explore that.

Mrs. Spain: I'll check on that. I'm just not sure about it. I remember that whole discussion, we went back and forth. I'm just not sure what the outcome is.

Commissioner Quesada: To Bill's point. Looking through the packet here and obviously the presentation, I think it would be nice if you can create this for us, you don't have to bring it back before the other Commission meeting, but the actual properties that we are taking the TDR's from, can we do like an aerial map where you mark off which ones?

Mrs. Spain: I have that. I'll be happy to provide that...

Commissioner Quesada: Please. It's a little bit easier to see in that format because here you have the boundaries which is very nice to see, it's easier rather than just listing them off, if that's OK.

Mrs. Spain: That's fine.

Commissioner Quesada: It doesn't have to be fancy, just a little red dot.

Mrs. Spain: There is a slide here that shows the potential ones; I have that on the slide here, it's difficult to see, but there should be the PowerPoint.

Commissioner Quesada: I'm flipping through it here.

Mayor Cason: You have the photos of the...

Commissioner Quesada: Yes, you have the photos.

Mrs. Spain: There is also – it's very difficult to read, but there is a map there that shows where...

Commissioner Quesada: OK. If you could just get an easier one to read just e-mail it to us.

Mrs. Spain: Absolutely.

Commissioner Quesada: Any time next week.

Mayor Cason: You anticipate looking at other criteria before it comes back on Second Reading?

Mrs. Spain: No.

Mayor Cason: So this will be the 25 properties...

Mrs. Spain: Yes.

Mayor Cason:... and my only advice is make sure they really are significant properties, because as the years go through we may end up getting properties that really aren't that great, that I'd like to see not everything designated historic.

Mrs. Spain: You know that's interesting, because we have had in the past properties in that area that the property owners wanted to demolish them, and we have taken those to the Historic Preservation Board and they have allowed them to be demolished. So there is a certain standard that's already in place.

Commissioner Lago: Can we talk a little bit about receiving sites, locations, the requirements, what are we doing in regards to that?

Mrs. Spain: This proposal does not change that. The receiving sites are only with the Central Business District.

Commissioner Lago: Let me ask you a question in regards to that. As we move forward and as the City matures, like the Vice Mayor said, you are going to have probably more and more properties become historic and as the CBD gets built out further due to as-of-right projects that are forthcoming that we all know which ones they are, do you foresee kind of like a backlog or an inability for those ascending sites to find receiving sites, if you just place the receiving sites within the CBD? My question to you is real simple. Why don't we maybe entertain taking a look at ascending sites being able to sell TDR's or transfer TDR's, whichever way you want to put it, to commercial or industrial projects within the City? What are the drawbacks?- what is your opinion?

Mrs. Spain: I actually do not have a problem with that. When we originally did the very first TDR ordinance that was discussed we wanted to proceed with an abundance of caution, because this was something new to the City and it meant more square footage and so we were very cautious when we went forward with that, but that certainly was discussed at that time with staff and also with the Commission.

Commissioner Lago: And the reason why I bring it up is because the Vice Mayor made a great point. As the City matures we are going to put ourselves in a position where we want to salvage these great properties that have true, true, historic value that the Mayor said, the importance was the architect, the engineer, the homeowner that maybe something transpired in regards to the property that was significant. We want to make it enticing for those property owners to say, you know what?- let's not let these properties just become derelict or let us let them fall over. No, let's sell these TDR's, give them the necessary capital to basically salvage these properties and make sure for a long time and I have a feeling that we may, not today, but maybe in 5-10 years you may run into a situation where receiving sites are tapped out in the CBD, and I'm trying to see what the drawbacks are of extending that to let's say commercial and industrial, not residential.

Mrs. Spain: I understand.

Vice Mayor Kerdyk: I can tell you what we thought at that time. Basically, the height has a lot to do with it, the height in the Central Business District and the density there is of course 16 stories, so that you can throw in these extra TDR's and have much more of a box to build it. If you throw in these extra TDR's on the 8th floor, we just talked about it with the trolley building, you throw it on the 8th floor structures which is in the other areas of commercial throughout the City and it boxes up the buildings and sometimes they can't utilize them, but more importantly if we thought by throwing it in the CBD, putting them in the CBD we can handle the density in that

location, but I agree with you, I don't think in my opinion maybe not in the next few years, but in the future, maybe 10 years or whatever when the surplus is not there, then maybe that's something that's to be considered. I can just tell you one other thing, is the TDR's – I read a question when I was reading the dialog in the discussion points in Historic Preservation, they were talking about what were they selling for. Basically, when we drafted this ordinance they were selling probably about \$15 a square foot, I think the last transfer was about \$35 a square foot.

Commissioner Lago: And also to your point and to Dona's point, we are not seeing a transfer of TDR's on a weekly basis or on a monthly basis, this is very sporadic, it's very, very controlled transaction.

Mrs. Spain: And it's not appreciable in the built form. If you look at the Central Business District it's really, which is what our concern was, everything was going to be bulked up, we are not going to have any of these wonderful architecture for the developments, but that didn't happen.

Commissioner Lago: Far from the case.

Mrs. Spain: And it is not intended to increase the height, it's only intended to increase the mass.

Commissioner Lago: Do you know how many TDR transactions are currently being contemplated, let's say like for a developer?

Mrs. Spain: You mean now?

Commissioner Lago: Yes, right now.

Mrs. Spain: We have no application now.

Commissioner Lago: No applications.

Vice Mayor Kerdyk: The last one was Codina of course.

Commissioner Lago: That was what?- how many years?- how many years ago?- before that, I apologize, excuse me.

Mrs. Spain: That was a while ago.

Mayor Cason: So rarely used.

Commissioner Lago: So rarely. So one time in let's say 5 years?- 4 years?

Mrs. Spain: Honestly, it all depends on the economy. When you start getting developments they'll start looking for TDR's.

Vice Mayor Kerdyk: Allen Morris did it, Codina on Alhambra did it, the one on LeJeune Road did it, over there where Baccardi's at.

Mrs. Spain: On Miracle Mile – Starwood.

Vice Mayor Kerdyk: Miracle Mile Starwood did it...

Mrs. Spain: They actually purchased properties and designated them...

Vice Mayor Kerdyk: Whenever you get a 16-story structure, whenever somebody is going to build a 16-story structure this is what they are looking for...

Mrs. Spain: So as development gets more and more then they'll be more people looking for it. I don't have a problem with it being city-wide. Shall I continue with this or...?

Mayor Cason: We have a public hearing and we have one person who would like to speak, Dean who would have to be sworn in.

Commissioner Lago: Thank you for your insight.

Mayor Cason: Thank you.

City Clerk Foeman: Do you solemnly swear or affirm that the statements you are about to make will be the truth and nothing but the truth?

Mr. Dean Warhaft: I do. Good morning Mayor, Commissioners, staff, Dean Warhaft with offices at 100 South Biscayne and also part of Florida East Coast Realty, where we are stakeholders in multiple properties around the City of Coral Gables, including the recently designated 42 Navarro that was designated historic in December meeting of the Historic Preservation Board; and it's actually part of a larger project that we are proposing for that entire block that eventually will end up before this Commission. I'm actually here today specifically to talk about the receiving sites for TDR's where what I think is important, is that Commissioner Lago brought it up just now about the supply and demand that's created and the lack of transfers that you see over time and look at a broader spectrum of time with regard to the TDR's. When you have a supply chain that's going to continue to grow over time because you are going to continue to have more historic sites that are designated and you have a CBD that over the last two economic cycles has seen some significant growth, and as we come into this next cycle that we are in now we are seeing again some significant growth. We are going to reduce the amount of sites that are available within the CBD and what will happen is that this is something that will create a situation where this Commission will be back-peddling in the future, if you don't make a small amendment to this particular, this amendment if you don't add in some language in Section 3-1005, and specifically all you would need to do is change it, where it says the location of the

boundaries of the CBD, would say commercial and industrial and remove the portion that regards the CBD. Now here's the reason why?

Commissioner Quesada:.....[Inaudible]...repeat that location.

Mr. Warhaft: It's Section 3-1005(a). So right now it says, use the TDR's on receiving sites. Receiving sites shall be located within the boundaries of the CBD and designated commercial zoning. What I'm proposing is that you remove, "located within the boundaries of the CBD" and change it to "designated commercial or industrial zoning"; and there is a specific rationale for that, which is that the process – and I ask that Dona please chime in after I'm done, the process with which TDR's are transferred it's part of an overall site planning process that requires the requestor or the receiving site to go to Historic and get approval for the actual TDR's that they want to receive or the site that sending them has to at least go through Historic because the planning – it goes to the Planning and Zoning Board and then it comes to this Commission, so the protections that are in place already within this actual Code allow for this Commission to make proper determinations as to which sites should receive them and which sites shouldn't. So with regard to Commissioner Kerdyk's issue with the massing situation that can be dealt with both by the Planning staff and by this particular Commission, so I don't see where those issues would become a problem and what it does is, it creates an ongoing market for these TDR's, which I think is the key, because in the end what we are all really trying to do is we are trying to preserve these historic sites, create a market for the owners of those sites, so that they have enough money to maintain these site for the public benefit.

Commissioner Quesada: And considering your amendment, staff would still have to approve and the Commission would still have to sign off on it based on what we've seen.

Mrs. Spain: Absolutely. One slight correction – the only time the Historic Preservation Board looks at the receiving site, those new developments, if they are within 500 feet of a historic site.

Commissioner Lago: I'm sorry, I didn't hear you.

Mrs. Spain: They need to be within 500 feet of a historic property in order for them to review it, but other than that he is absolutely right....

Commissioner Quesada: The receiving sites still receive TDR's, it still has to be reviewed by the Commission...

Mrs. Spain: Absolutely – Planning and Zoning Board and the City Commission.

Commissioner Lago: So you have multiple layers of oversight prior to anything being approved.

Mrs. Spain: And it also goes to the Board of Architects, also.

Mayor Cason: Bill what's your...

Vice Mayor Kerdyk: I'm strongly against it because just to make the change up here after we've had this in place without testing exactly what we are talking about. I just don't think that's good policy. This is something that could change, some dynamics that we are not thinking about up here, I mean really, just a five word sentence – no, I disagree with this totally. I think we are all here to protect the residents and I don't know where this would throw the additional FAR. I think we need to do a study on it. This Commission doesn't need to move that quickly on this whatsoever, we can go ahead and pass it, and if we want to come back at a later date and deal with this issue, I'm more than happy to discuss it at that point.

Commissioner Lago: I'm with you 110 percent. I would like to do exactly what the Vice Mayor said. Let's do a study, let's get...

Mrs. Spain: Why don't we just research it? We can find out how many properties are out there outside of the Central Business District that are zoned commercial....

Vice Mayor Kerdyk: And how it affects the residents?- how close it is to the residents?- this is a big study.

Mr. Warhaft: If I may? The one thing that I would like to say with regard to the Vice Mayor's comment about how it affects the residents? You had stepped out for one second; one of the things that I was saying before was that one of the beauties of this particular Code amendment is that it doesn't change the rest of this particular piece of the Code, which requires Planning and Zoning review. It requires this Commission's review before any property can actually receive those.

Vice Mayor Kerdyk: I understand that perfectly. The "camel has it's nose under the tent" at that point and then you don't know where it spouts after that. Until we understand the full impact of anything, I am not going to approve it from my standpoint of this Commission.

Mayor Cason: So Dona you could look into this, come back, show us...

Mrs. Spain: It's the same type of research that we did on the ascending sites, we can do on the receiving sites.

Commissioner Keon: I think you can also if you send it to the Planning and Zoning Board.

Mrs. Spain: Yes.

Commissioner Keon: You send it to the Planning and Zoning Board for review and they can solicit public comment, I think that's a better process.

Mrs. Spain: Yes. That makes a lot of sense and it will come to you as a recommendation.

Mayor Cason: OK.

Commissioner Quesada: One quick clarification. When 2020 Salzedo project came up here we had a discussion on TDR's, I just want to understand, clarify – I think we agreed to this on the dais that the sending sites the interpretation is that they have 3.5 FAR rather than 3.

Mrs. Spain: Yes. That's right.

Commissioner Quesada: So your analysis is based on sending sites...

Mrs. Spain: In this case it's a MF2 property so the 3.5 isn't the number, it's 1.5 goes to 1.9.

Commissioner Quesada: So 1.9 would be how much the sending site can send.

Mrs. Spain: That's right.

Commissioner Lago: Just to clarify. So we are going to take a vote on this ordinance on First Reading, we are going to come back next Commission meeting hopefully, Dona and her staff will put together something which will...

Vice Mayor Kerdyk: Yes.

Commissioner Keon: I don't think you are going to have time to do what needs to be done.

Commissioner Lago: Whenever you are ready.

Commissioner Keon: Go to Planning and Zoning and everything else. I think it should go to Historic Preservation because I think their view on this is significant and I think the view from Planning and Zoning is a little different, I mean I think that each needs to weigh in and I think it's really important, but I think it requires more time than two weeks.

Mayor Cason: I think we are all together.

Commissioner Quesada: I'd like to make a motion.

Mr. Warhaft: Before you make a motion, sorry, just so we can continue to move this forward in the process. You are all suggesting, may I enter this one document into the record which kind of lays out a synopsis and also the proposed change to the Zoning Code.

Mayor Cason: Yes. No problem.

Commissioner Quesada: So I'm going to make a motion that this item is deferred until staff has a chance to review the item as was discussed by the Commission.

Commissioner Keon: I think we could pass it and ask to amend it and pass it at a later date.

Commissioner Quesada: I'm OK with that. So I make a motion to approve that on the first amendment, however before it comes back, I'm sorry, on First Reading before it comes back on Second Reading that staff does an additional review.

Mrs. Spain: Could I ask that you approve this on First Reading, it comes back on Second Reading in the same form and then after that at some future date, once we've done the research we can take it to the Planning and Zoning Board, the Historic Preservation Board and then come forward.

Commissioner Lago: I don't have a problem with that. Can you just do me a favor?- can you just give me a timeframe in regards to when you think you'll have the information?- when it will go to Historic?- when it would be vetted properly through all the channels, for my own.

Mrs. Spain: Is Charles here somewhere?- two or three months.

Vice Mayor Kerdyk: Probably two or three months process

Commissioner Lago: Perfect.

Mayor Cason: We have a motion.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds it – and that ends the public hearing, no other speakers.

City Clerk

Commissioner Quesada: Yes

Commissioner Keon: Yes

Vice Mayor Kerdyk: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mrs. Spain: Thank you so much.

Commissioner Keon: Thank you – and so now that goes with direction to staff to study the amendment. Thank you.

[End: 10:49:56 a.m.]