

**City of Coral Gables City Commission Meeting**

**Agenda Item E-3, E-4, and E-5 are related**

**July 29, 2009**

**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, Patrick Salerno**

**City Attorney, Elizabeth Hernandez**

**City Clerk, Walter J. Foeman**

**Deputy Clerk, Billy Urquia**

**Planning Director, Eric Riel**

**Public Speaker(s)**

**Laura Russo, Attorney Representing St. Thomas Church/School**

**Tucker Gibbs, Representing**

**Chris Cobb, Resident Representing St. Thomas School**

**Debbie Augenstein, Coral Gables Resident**

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E-3 [Start: 9:28:58 a.m.]

An Ordinance of the City Commission of Coral Gables approving a change of land use from “Residential Use (Single Family) Low Density” to “Religious/Institutional Use” for a 1.0 acre parcel proposed for use as an athletic field for the St. Thomas Church/School, located on portions of Lot 2, Avocado Land Company’s Subdivision (5450 North Kendall Drive), Coral Gables, Florida (legal description on file); providing for a repealer provision, a savings clause, a severability clause, and providing for an effective date. (Passed on First Reading July 7, 2009).

E-4

An Ordinance of the City Commission of Coral Gables approving a change of zoning from Single-Family Residential (SFR) to Special Use District (S) for a 1.0 acre parcel proposed for use as an athletic field for the St. Thomas Church/School, located on portions of Lot 2, Avocado Land Company’s Subdivision (5450 North Kendall Drive), Coral Gables, Florida (legal description on file); providing for a repealer provision, a savings clause, a severability clause, and providing for an effective date. (Passed on First Reading July 7, 2009).

E-5

An Ordinance of the City Commission of Coral Gables granting site plan approval for the new St. Thomas Church/School athletic field and modifications to the

existing parking lots, located on portions of Lot 2, Avocado Land Company's Subdivision (5450, 5690 and 5692 North Kendall Drive), Coral Gables, Florida (legal description on file); providing for a repealer provision, a savings clause, a severability clause, and providing for an effective date. (Passed on First Reading July 7, 2009)

Mayor Slesnick: We will address them by motion one at a time, but all three of these items for those watching or listing understand deal with a proposal that deals with the St. Thomas Church and School property – Mr. Riel.

Mr. Riel: Thank you Mr. Mayor; and good morning members of the Commission. Basically, last meeting the Commission voted to recommend approval of the change in land use, zoning and site plan. Several issues came up as conditions of approval, those have been included within the new basically revised ordinance regarding the hours of operation of the new field, and I'm referring to the City Commission memo; no parking signs along Banyan Drive, the Commission asked for a four foot masonry or concrete panel wall along the back property line of Banyan Drive; and also limitation on school hours from 7:30 a.m. to 5:00 p.m., and we also asked the applicant to work with the neighboring property owners on these issues as well as any other issues that might come up as a part of the discussion of the public hearing. Other issues that came up at the public hearing were regarding having the adjoining property owner select the color of the wall facing their property, that has been included; The athletic field, the existing one, remain in its natural state, that has been included; that the wall has architectural details and only require City Architect review and approval; and that that applicant deed that portion of the property that is actually the right-of-way of North Kendall Drive and Banyan Drive. The applicant has agreed to all of those and as of yesterday, since the meeting was only about 22 days ago, the applicant has been working with the neighbor's legal counsel, and they are going to present a compromised solution of some other issues and further refining these that were discussed at the public hearing. So with that – they have that and they will present that to you; I did receive that this morning; I did review it, and I can comment appropriately, if the Commission so desires, but I'll turn it over to the legal counsel, the applicant as well as the neighbors, and they can address that compromise solution.

Mayor Slesnick: OK – all those of you who intend to testify on this, if you'd please stand to be sworn in and raise your right hand and the City Clerk will give you instructions.

City Clerk Foeman: Would you raise your right hand please. Do you solemnly swear and affirm that the statements that you are about to present today would be the truth and nothing but the truth. Proceed.

Mayor Slesnick: Thank you, that was for this item, these three items. Ms. Russo, Mr. Gibbs. Unlike the NFL we don't have jersey's with the player's name, but to your left on your TV screens and right, if you are watching back is Ms. Laura Russo, attorney for St. Thomas Church and School, and on the other side is Mr. Tucker Gibbs, attorney for the

homeowners in the area, or certain homeowners in the area, I don't know if you've defined specifically who your client is.

Mr. Gibbs: The Banyan Drive Preservation.

Mayor Slesnick: Thank you – the Banyan Drive Preservation Organization.

Mr. Gibbs: Yes.

Ms. Russo: Good morning Mr. Mayor, for the record Laura Russo with offices at 2655 LeJeune Road. I'd like to turn into you now it's a one page additional conditions which the applicant is offering to make a part of the ordinance, and we respectfully request that you include these additional conditions as part of the approval for the three applications that we have before you today. Since we were here last, Mr. Tucker and I have met on a couple of occasions, in addition we had a meeting with representatives from both sides in order to iron out some issues that still existed post our last appearance here. What you have before you is a compromise that we think will address the majority of the issues in which you will hear shortly from Mr. Tucker, the church is committed to continuing to work with the neighbors and with the neighborhood, they have been their since the early '50's, will continue to be there, and it is their goal to be good neighbors. So we think this is the beginning of a relationship which will just get stronger and richer. Mr. Gibbs.

Mr. Gibbs: Mr. Mayor we have been meeting with the church and we've agreed to withdraw our opposition with the adoption of these conditions; we had a couple of questions – I know Ms. Russo would be happy to elaborate on them, a couple of questions dealing with the language on that sheet, just to clarify that the solid wall is going to end where? - I think you said....

Ms. Russo: It is going to end at the western end of the playground, as shown on sheet L-3 which has been submitted to the City and is part of the package.

Mr. Gibbs: Right – and the issue of the landscaping along the wall, you talked about that.

Ms. Russo: What we've represented to the neighbors is until such time as the wall, whether it be a concrete panel wall or a masonry wall, we do not know yet the extend of damage, there will be some damage to existing landscaping; at the time that the wall is completed, or once its known what the extent is a landscaping plan would be submitted. As you can see here we have proposed that the landscaping plan be approved by the Directors of Planning, Public Service and Public Works, with notice to the neighbors, so that they have an opportunity to review the plan that will either address filling in what was, if a good majority of it is able to be saved and sustained, or if not a plan, it has been made clear that the City does not want to see a huge expanse of solid wall for the 900 feet that the wall will extend, a little over 900 feet on Banyan Drive.

Mr. Gibbs: We want that clarification of the goal was that the wall would be obscured by the landscaping, and I think that was....One question on the western end, we had shown,

Ms. Russo had shown our clients exactly where it was going to be, if she could show the Commission so it could be noted on the record where the end of the wall is going to be, I think that will clarify some things.

Ms. Russo: For the record, this is sheet L-3 of what was submitted should be in your package.

[Note: Map L-3 is shown to Commission]

Commissioner Anderson: Where is the lunch area for the pre-school?- is that shown on there?

[Note: Map L-3 is pointed out]

Commissioner Withers: I think it was the edge of the two-story building.

Ms. Russo: There is more than one lunch area, some picnic....

Commissioner Anderson: My question is does the wall include the lunch area for the pre-school, or does it end at somewhere before that?- it's not clear.

Mr. Cobb: I'm sorry, I'm Chris Cobb, I'm with the school; the lunch area needs to be define the pre-schoolers eat indoors, so I believe that Mr. Arnold is talking about the picnic tables that are in the extreme southwest corner of the area where some of the older kids eat outside, and if that is what we are talking about, its not on this plan, a portion of it is on this plan, it might show more clearly on this plan over here; the wall is coming along here and stopping where this property line comes down, the dotted line...[inaudible – off mike]...

Mr. Arnold: Originally the four foot wall was going to go to that spot there, now you are proposing the six foot wall to here and there is activity behind there, why doesn't it go to the property line?

Mayor Slesnick: Wait, wait, wait, we don't need to be...I don't believe that's what we asked for.

Commissioner Withers: We agreed to go to the edge of the two story building.

Mayor Slesnick: That's right, that's what we requested last time.

Ms. Russo: And then the other thing that my client would like me to clarify of record is that we have agreed, as you see here, to a six foot wall, which would be measured from grade which is on the property line where the wall would be erected, so along the eastern portion of Banyan, OK, as you're headed toward west, it will be a six foot wall. As the elevation changes there is an approximate two foot elevation grade change. The wall as you head further west would be six feet from grade, but if you are down on the road will

appear taller. OK, we just wanted that to be known so that someone doesn't say, oh my God, they put in a tall wall, its six feet measured from grade which is where the wall will be placed, not from the...

Mayor Slesnick: I think six feet is better than four feet anyways.

Ms. Russo: Excuse me?

Mayor Slesnick: I think six feet is better than four feet anyway.

Commissioner Anderson: Much better and it's allowed by site specific.

Mayor Slesnick: I'm surprised you are willing to do that, that's good.

Ms. Russo: The wall where we proposed it to end on the western edge of the playground...

Mayor Slesnick: At the start...Mr. Withers has said at the start of the building, at the start of the two story building, does that make sense?

Mr. Gibbs: That was the condition that we had asked, that we had agreed on.

Vice Mayor Kerdyk: They've done it farther to the west.

Ms. Russo: We are extending it further to the west of the edge of the two story building.

Mayor Slesnick: I know you are, that's fine, all we were saying was that all we asked and you are going further...

Ms. Russo: Right and we are extending it further than what you asked for, that's the clarification accepted.

Mr. Gibbs: Exactly.

Mayor Slesnick: So with the paper that we are looking at as part of the record, and the explanation that Ms. Russo put on the record, are we...

Mr. Gibbs: Yes, we are in agreement, and we withdraw our opposition based on that.

Mayor Slesnick: Thank you.

Commissioner Withers: Don, can I ask an unrelated/related question?- at the last Commission we discussed the issue with the staging of the cars that go back out into Kendall, was there any discussion about changing school hours for the different classes from what happened...?

Ms. Russo: There has been consideration of looking at that, the problem is that there is a good percentage of students that are siblings, so you are not going to...you are just going to increase it if a parent has to come back two or three time because kids are in the different staggered areas, so you are not really, well you may be, if they have to come back you are adding to the volume, and if they weren't siblings and you were just staggering then you are not eliminating the number of cars on the road, you are just extending the hours in which the number of cars exist...so it has been looked at, but because of the high number of siblings it doesn't...

Commissioner Withers: What's a high number?- like twenty-five percent.

Ms. Russo: I want to say...almost thirty-sum percent (30%) are siblings; there are 425 families and 325, no 325 and 229 students, no the other way around; 229 families, 325 families; it's approximately a third, I'm going to be wrong if I give you the numbers, but its approximately a third of the students are siblings.

Commissioner Withers: Well, I still think it might be a workable solution.

Ms. Russo: It's something that they will continue to look at, it was on the list that Tim Plummer did. All the other recommendations that Tim Plummer requested have been implemented and I'm sure that's something that will be looked at on an annual basis.

Mayor Slesnick: OK, we have other speakers signed up; we'll see if they still need to speak.

Ms. Russo: I think that we are OK with everybody that...

Mr. Gibbs: My side the same.

Mayor Slesnick: I'm just going, wait a minute, I'm going to go through the cards, if you wish to pass on your speaking then please say so; Chris Cobb, you've already spoken, thank you; Bill Fernandez.

Mr. Fernandez: I'll pass.

Mayor Slesnick: Thank you; Ofi Fernandez, thank you; these will be filed by the way in the City record that you were here, you showed up, and that you had an appearance; Debbie Augenstein.

Ms. Augenstein: My question is just all about this gate. I don't know what you have in front of you, what we received yesterday talks about the only opening in the wall will be by fire code and...

Mayor Slesnick: No, excuse me; it says that there will be a gate at the old rectory, the driveway of the old rectory. "No proposed openings except for driveway of old rectory, and no others unless required by Fire Department or applicable accreditation uses".

Ms. Augenstein: OK, that's similar language to what I have. My specific question is about that very large gate, its about sixteen feet in width, and is that a fire gate number one; number two, if it is a fire gate and its left open all the time, then how are we going to keep the people from not going through in violation of the covenant, it's a question, I don't think there's been any clarification.

Mayor Slesnick: I guess it's more of a code enforcement issue than it is, in other words....

Ms. Russo: I think what I want to clarify for the record is that the applicant would be submitting a solid, either concrete panel wall or a masonry wall, and that the openings as stated on the sheet will be for access to the old rectory building, and we are not proposing any openings, and only if the Fire Department were to come back and say, I'm sorry an opening of "X" is required, we would of course immediately advise you guys, but we are not proposing to show any openings except for allowing access.

Ms. Augenstein: Right and I totally understand that; my question is, is that particular gate a fire opening?

Ms. Russo: A current fire opening?- I don't know.

Ms. Augenstein: OK and number two, if it is does it have to be right there, because its right sort of in the middle and all of the playground opens onto the field.

Ms. Russo: I am unaware of any...

Ms. Augenstein: I know you don't know, I'm asking the question so we get the answer from whoever can answer it.

Mayor Slesnick: Debbie, I think that's a detail to be worked out; I think they are going to be building a wall and they have said specifically and we are adopting as part of this that the only openings will be for the old rectory, and what's required by fire code, and then the openings will have to be, as I said, if they are left open inappropriately that would be a code enforcement issue, or if they are not open to bowl then that would be a fire issue, I think it goes beyond the detail of what we are approving is what I'm saying.

Ms. Augenstein: OK, but it will be addressed.

Mayor Slesnick: Yes, absolutely.

Ms. Augenstein: Thank you.

Mayor Slesnick: Well thank you Debbie. Roger Walker.

Mr. Walker: [Inaudible – off mike].

Mayor Slesnick: Thank you Roger. Joel Arnold.

Mr. Arnold: Pass.

Mayor Slesnick: Thank you Joel. Gary Tarbe.

Mr. Tarbe: Pass.

Mayor Slesnick: OK. That concludes the public hearing. Madam City Attorney.

Commissioner Anderson: I have a couple of questions.

Mayor Slesnick: OK, I was going to ask a question but go ahead.

Commissioner Anderson: I have some questions about hours, operations, I mean, I don't have any problem with the Monday through Friday hours, those are normal for me, as far as normal what's stated here; what I'd like to get is some thoughts from the Commission about Saturday and Sunday; I think Saturday is early that's the day we all try to rest a little bit and Sunday for sure, how does the Commission feel about Saturday and Sunday being the same hours, both days being 10:00 to 4:00?

Ms. Russo: The change of the hours of the new field you'll notice, the new field, the proposed new field, we changed the hours on Sunday from 10:00 to 4:00.

Commissioner Anderson: How about Saturdays, is what I'm asking for, what I'd like is some continuity Saturday and Sunday.

Ms. Russo: For the new field?

Commissioner Anderson: For both, I mean for me they are one in the same.

Ms. Russo: The problem is, remember the fields are also used by the church...

Commissioner Anderson: I understand.

Ms. Russo:...and the church has certain activities whether it's with their youth group, their Cub Scout group...

Commissioner Anderson: But you know I'm trying to find a balance here.

Ms. Russo: But you don't have a six foot wall that's going to be obscuring both and working at both the noise and the visuals, so this was something...these hours were worked out with the neighbors and...

Commissioner Anderson: You know that's fine, I respect you a lot, but I'm the Commissioner, and I can also ask my colleagues, and if they don't agree then you have your votes, but I do have the right to ask that, because I would feel...

Ms. Russo: No, absolutely...

Commissioner Anderson:...and I don't take it that way either, but I just wanted to clarify; you may have an agreement, but I'd like to talk to my colleagues...

Ms. Russo: Sure.

Commissioner Anderson: Any thoughts on Saturday and Sunday.

Commissioner Withers: I'm just curious on what our policy is on our public parks? What are the hours of our...

Mr. Riel: I conferred with Fred, Director with Parks and Rec., basically its dawn to dusk; lighted fields are allowed till 10:00 p.m.

Commissioner Anderson: But those are public parks, right?

Commissioner Withers: But your concern...maybe...your concern is the noise and the aggravation.

Commissioner Anderson: Saturday and Sunday is when we expect a little quiet, and I don't care about Monday through Friday, I think those are reasonable hours.

Vice Mayor Kerdyk: We are talking about the existing field, not the new field here, right?

Commissioner Anderson: For me, I know that they are legally different and we are talking about two different things, for me they are both the same for Saturday and Sunday for me, because there are still people out there on the field on a Saturday and Sunday.

Vice Mayor Kerdyk: But as I look here the existing field proposal is 7:30 and the new field is 8:30, so there is...

Commissioner Anderson: Right, but I'm talking Saturday and Sunday only 10:00 to 4:00; any thoughts?- no takers?

Commissioner Withers: I'm OK with the hours....

Commissioner Anderson: Alright, then fine, no problem; I just wanted to raise the question, living next to something I certainly wouldn't like to hear the pitter patter of small children that early in the morning, although I love my child and he was once young, but he's now grown. I appreciate it; I just wanted to put it out there to find out.

Mayor Slesnick: I'd go with a little later time.

Commissioner Anderson: What would you consider Mr. Mayor?

Mayor Slesnick: Well, I think you made a good point about early morning, I would stick with the 5:30 though, I see no harassment of people having children playing.

Commissioner Anderson: I'm more concerned about the beginning hours.

Mayor Slesnick: Well I'd say 9:00 o'clock would be – I mean, 9:00 or 9:30, I don't care, listen it's not a big thing.

Commissioner Anderson: Not a problem, it's a democratic process.

Vice Mayor Kerdyk: How would that impact?

Ms. Russo: I think the big impact is that the field will also be used by the church as you understand; so the church is different from the school and the church has a lot of different programs, I think you heard some of the explanation of that...

Mayor Slesnick: Laura, Laura, we are asking about are there church programs at 8:30 on Saturday mornings?

Ms. Russo: You'd have to speak a little bit louder.

Mayor Slesnick: Are there church programs at 8:30 on Saturday morning for the field, I mean?

Ms. Russo: I'd have to see if there is someone here who can answer that.

Mayor Slesnick: What Mrs. Anderson is looking for is maybe a little comfort zone for the early morning on Saturday, and I'm not looking, the church has been magnificent in their work with the citizens, and what they have agreed to do, all I'm asking is if Mrs. Anderson is concerned is there some critical need for 8:30 versus 9:00, I don't know.

Mr. Cobb: I'm afraid we don't have that answer here today with any of our participants, but I would just like to point that we don't anticipate any great changes in how we've been operating the church and school for the last few years. I know that there is a lot of time spent discussing these times, but I can't answer that specific question regarding 8:30 versus 9:00 on a Saturday.

Mayor Slesnick: Thank you Chris, I appreciate your, and by the way I want you to know that my comments about the church acting responsibly here I hope you'll transmit, I don't see the Reverend here today, but I hope you'll transmit back to him too.

Ms. Russo: We let Father Tobin stay on vacation; we didn't have him come back and flown back for the last hearing. He was volunteering as late as yesterday to come back, if we needed him.

Mr. Cobb: A little more clarification, if and when the new field is available for our use, we would like to have our kids play soccer there, and games usually start at 9 o'clock, which means people begin arriving in advance of the 9 o'clock games.

Mayor Slesnick: OK. Anything else Ms. Anderson?

Ms. Anderson: No.

Mayor Slesnick: OK. Thank you all we are going to take E-3; E-3 has been read in the record; a question for the City Attorney; Madam City Attorney where should we insert this sheet which has been negotiated and become part of the record and part of the agreement, at what stage would this be part?- should it be part of E-3, E-4, and E-5?

City Attorney Hernandez: It should be a part of E-5 for the site plan approval.

Mr. Riel: That's correct, E-5.

Mayor Slesnick: OK, very good. Could I have a motion on E-3?

Vice Mayor Kerdyk: So moved.

Commissioner Withers: Second.

Mayor Slesnick: Moved by Mr. Kerdyk, seconded by Mr. Withers; any further discussion or comment?

Mr. Clerk

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: No

Mayor Slesnick: Yes

(Vote 4-1)

Mayor Slesnick: E-4 may I have a motion?

Vice Mayor Kerdyk: So moved.

Commissioner Withers: Second.

Mayor Slesnick: Moved by Mr. Kerdyk seconded by Mr. Withers; any further discussion?- any further comment?

Mr. Clerk

Vice Mayor Kerdyk: Yes  
Commissioner Withers: Yes  
Commissioner Anderson: No  
Commissioner Cabrera: Yes  
Mayor Slesnick: Yes  
(Vote: 4-1)

Mayor Slesnick: E-5 Mr. Kerdyk.

Vice Mayor Kerdyk: So moved.

Mayor Slesnick: E-5 as amended with the sheet entitled St. Thomas Church and School as identified by the parties before us as their agreement, is that OK with you? So this is on E-5 as amended, moved by Mr. Kerdyk, seconded by Mr. Withers; any further discussion or comment.

Mr. Clerk

Commissioner Withers: Yes  
Commissioner Anderson: No  
Commissioner Cabrera: Yes  
Vice Mayor Kerdyk: Yes  
Mayor Slesnick: Yes  
(Vote: 4-1)

Commissioner Anderson: May I make a comment Mr. Mayor?

Mayor Slesnick: Absolutely.

Commissioner Anderson: Because I feel really strongly about a couple of issues...

Mayor Slesnick: Please do.

Commissioner Anderson:....and you know I'm glad that the school and the church made an agreement with the neighbors, that's fine, but what's sticking in my craw is how it got here, and actually I fault the City for such an expansive use of the interpretation and the intrusion into neighborhoods. I watched the Planning Board meeting and three of our Planning Board meeting members had serious reservations, they voted for it, but one of them said if we'd really looked at the strict view of how the criteria got there, they wouldn't have passed, two of them, three of them, and it passed; and I have no problem with school and churches living together, my son was a beneficiary of an excellent

education, what I really have a problem with is the way it got here, the expansive nature of how...it gave more, for me the weight goes more to the neighbors because they live there all the time, and there could be a balance, but there was no balance. I'm glad that there is an agreement, but I sure as heck didn't like the way it got here; the expansive interpretation and the character, you know making neighborhood character, I just don't see it; and I wanted to put that on the record not that my somewhat eloquent soliloquy was going to make a difference, but I really wanted to put it on the record, I really think we really need to tighten up how we interpret it. I remember one particular project that came before us that was denied, there was a seven acre project that was denied for one property, for one residential property; and here we have several residential properties by what you could call, and I would say loosely, a developer say institutional use, certainly not the same way but, so I would ask our City Manager to look at that and look at how we can interpret consistently because it troubled me greatly that three of our Board members, although they voted for it, and I asked by own Board member that, that's the way it happened; and I wish you all well, I hope you all abide by your covenants, and happily ever after. I want to recognize Mrs. Charlton, because if she'd been involved with the negotiations this would have been resolved a long time ago...

Mrs. Charlton: I was.

Commissioner Anderson: Not enough, not enough; you are the gold standard as far as I'm concerned, as far as school administrators and my son was a beneficiary of a great education and I thank you for being here, he is doing well.

Mayor Slesnick Thank you all, as Mrs. Anderson said the great hope of this Commission is that in the end everyone will succeed in living peacefully with each other, and that the church will support the neighborhood, and their neighbor the church. Thank you.

[End: 10:00:06 a.m.]