



City of Coral Gables Planning and Zoning Staff Report

Applicant: City of Coral Gables

Application: **Comprehensive Plan Text Amendment: Property Rights Element**

Public Hearing: Planning and Zoning Board / Local Planning Agency

Date & Time: November 10, 2021; 6:00 – 9:00 p.m.

Location: City Commission Chambers, City Hall,
405 Biltmore Way, Coral Gables, Florida 33134

1. APPLICATION REQUEST

The City of Coral Gables is requesting review and consideration of the following:

An Ordinance of the City Commission of Coral Gables, Florida granting approval of proposed amendments to the text of the City of Coral Gables Comprehensive Plan, pursuant to expedited state review procedures (S.163.3184, Florida Statutes) and Zoning Code Article 14, "Process," Section 14-213, "Comprehensive Plan Text and Map Amendments;" to provide for a Property Rights Element with Goals, Objectives, and Policies; providing for a repealer provision, providing for a severability clause, and providing for an effective date.

2. BACKGROUND INFORMATION

This summer, the State of Florida amended the Community Planning Act to require every city and county "to include in its comprehensive plan a property rights element." FLA. STAT. § 163.3177(6)(i)1. (2021). Each city must adopt this new element "by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan." FLA. STAT. § 163.3177(6)(i)2. (2021)

The City of Coral Gables values open and transparent decision-making. Such process is the best protection for property rights. Therefore, Staff has drafted the proposed text amendment to the Comprehensive Plan based from the model property rights element from '1000 Friends of Florida,' that will memorialize the importance to protect the rights of all people to contribute to local government decision making.

Staff also coordinated with the Department of Economic Opportunity (DEO) to ensure compliance with the adopted Florida State Statute. The DEO recommended minor changes that clarified that that property rights are not only considered during planning decisions, but in all local decision making. The proposed text have been updated accordingly.

3. PROPOSED COMPREHENSIVE PLAN AMENDMENTS

The proposed Comprehensive Plan text amendment is provided as Attachment A.

4. FINDINGS OF FACT

Zoning Code Section 14-213.7 provides review standards for Comprehensive Plan amendments:

Standard	Staff Evaluation
1. Whether it specifically advances any objective or policy of the Comprehensive Land Use Plan.	Yes. The proposed text amendments further advance goals and policies to engage public/community participation of Goal FLU-3 and to promote public participation which is the vision of the Governance Element.
2. Whether it is internally consistent with the Comprehensive Land Use Plan.	Yes. The proposed text amendments are internally consistent with the Comprehensive Land Use Plan as it furthers the vision of the Governance Element to promote public participation.
3. Its effect on the level of service of public infrastructure.	The proposed text amendments that respect property rights and the rights of all people to participate in local decision making have no effect on the level of service of public infrastructure.
4. Its effect on environmental resources.	The proposed text amendments that respect property rights and the rights of all people to participate in local decision making have no effect on the environment.
5. Its effect on the availability of housing that is affordable to people who live or work in the City of Coral Gables.	The proposed text amendments that respect property rights and the rights of all people to participate in local decision making have no effect on the availability of housing.
6. Any other effect that the City determines is relevant to the City Commission’s decision on the application.	These Comprehensive Plan Text Amendments reinforce the City’s strategic priorities to be more transparent with an open form of government where information is easily accessible, disclosed, and available to the community and to enhance civic engagement.

The standards identified in Section 14-213 for the proposed Comprehensive Plan Text Amendment are **satisfied**.

5. PUBLIC NOTIFICATION

The following has been completed to provide notice of the request:

Type	Date
Legal advertisement for PZB meeting	10.29.21
Posted agenda on City Hall	10.29.21
Posted Staff report on City web page	11.05.21

6. STAFF RECOMMENDATION

The Planning and Zoning Division recommends **approval**.

7. ATTACHMENTS

- A. Draft Ordinance with Proposed Comprehensive Plan Property Rights Element text amendment.
- B. Florida House Bill 59.
- C. Legal Advertisement.

Please visit the City's webpage at www.coralgables.com to view all materials, notices, applicable public comments, minutes, etc. The complete background information also is on file and available for examination during business hours at the Planning and Zoning Division, 427 Biltmore Way, Suite 201, Coral Gables, Florida 33134.

Respectfully submitted,



Ramon Trias, Ph.D., AIA, AICP, LEED AP
Assistant Director of Development Services
for Planning and Zoning
City of Coral Gables, Florida

Attachment A

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA GRANTING APPROVAL OF PROPOSED AMENDMENTS TO THE TEXT OF THE CITY OF CORAL GABLES COMPREHENSIVE PLAN, PURSUANT TO EXPEDITED STATE REVIEW PROCEDURES (S.163.3184, FLORIDA STATUTES) AND ZONING CODE ARTICLE 14, "PROCESS," SECTION 14-213, "COMPREHENSIVE PLAN TEXT AND MAP AMENDMENTS;" TO PROVIDE FOR A PROPERTY RIGHTS ELEMENT WITH GOALS, OBJECTIVES, AND POLICIES; PROVIDING FOR A REPEALER PROVISION, PROVIDING FOR A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3167, *Florida Statutes*, part of the Florida's *Community Planning Act*, requires the City of Coral Gables to maintain a Comprehensive Plan to guide its future development and growth; and,

WHEREAS, Section 163.3177(6)(i)1., *Florida Statutes*, requires the City of Coral Gables Comprehensive Plan to include a property rights element; and,

WHEREAS, the City of Coral Gables respects judicially acknowledged and constitutionally protected private rights; and,

WHEREAS, the City of Coral Gables respects the rights of all people to participate in land use planning processes; and,

WHEREAS, this ordinance will amend the Comprehensive Plan by adding a Property Rights Element; and,

WHEREAS, the City of Coral Gables, pursuant to Florida Statutes and the City of Coral Gables Zoning Code, has designated the Planning and Zoning Board as the Local Planning Agency; and,

WHEREAS, to promote public outreach and participation in the public hearing process, the City has provided the following notice: 1) required advertising per State Statutes and Department of Economic Opportunity guidelines; 2) City webpage posting of the public hearing agendas; and 3) electronic mailing to interested parties; and,

WHEREAS, the application, legal description, ordinances, mapping, legal

advertising, public comments and all other supporting documentation were available for inspection and review at the City of Coral Gables Planning Division and City Clerk's office; and,

WHEREAS, in advance of public hearing consideration, the City's staff analysis and recommendation are available for inspection at City of Coral Gables Planning Division and City Clerk's office and available on the City's Web page at www.coralgables.com for easy retrieval; and,

WHEREAS, Comprehensive Plan Text Amendment is proposed in 'Exhibit A;' and,

WHEREAS, at a public hearing held on November 10, 2021, the Local Planning Agency (Planning and Zoning Board) recommended approval (vote: _ – _), finding that the proposed amendments are in furtherance of the Comprehensive Plan (CP) Goals, Objectives and Policies and the Zoning Code provisions as subject to all plans, exhibits and descriptions submitted by the applicant; and,

WHEREAS, the City Commission held a public hearing on (month) (day), 2021 at which hearing all interested persons were afforded an opportunity to be heard, and the item was _____ on first reading (vote:); and,

WHEREAS, amendments to the Comprehensive Plan Text are subject to Expedited State Review and are required to be transmitted to the Department of Economic Opportunity, South Florida Regional Planning Council and other review agencies for review prior to consideration by the City Commission on second reading.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The requested amendments to the City of Coral Gables Comprehensive Plan as provided below in 'Exhibit "A"' are hereby approved:

SECTION 3. The City Commission, pursuant to First Reading approval of the Ordinance authorizes transmittal of the request, as required by State Statutes, to the Department of Economic Opportunity, South Florida Regional Planning Council and other review agencies for review prior to consideration by the City Commission on second reading.

SECTION 4. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 5. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 6. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Comprehensive Plan of the City of Coral Gables, Florida, as amended.

SECTION 7. This Ordinance shall become effective 31 days after the Department of Economic Opportunity determines the amendment submittal package is complete and no petition is filed by an affected party. If the Department of Economic Opportunity requests a hearing by the Division of Administrative Hearings, this Ordinance shall become effective upon the issuance of a final order by the Division of Administrative Hearings determining the amendment is in compliance.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D.
2021.

APPROVED:

VINCE LAGO
MAYOR

ATTEST:

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY



Vision Statement: Respect private property rights and the rights of all people to participate in the City of Coral Gables' planning processes.

Goals, Objectives and Policies:

Goal PRP-1. Respect property rights and people's rights to participate in decisions that affect their lives and property in the City's local decision making.

Objective PRP-1.1. Respect judicially acknowledged and constitutionally protected private property rights in the City's local decision making.

Policy PRP-1.1.1. The City shall consider the right of a property owner to physically possess and control their interests in the property, including easements, leases, or mineral rights.

Policy PRP-1.1.2. The City shall consider the right of a property owner to use, maintain, develop, and improve their property for personal use or another person's use, subject to state law and local ordinances.

Policy PRP-1.1.3. The City shall consider the right of the property owner to privacy and to exclude others from the property to protect their possessions and property.

Policy PRP-1.1.4. The City shall consider the right of a property owner to sell or gift their property.

Policy PRP-1.1.5. Adhere to the rule of law in making land use decisions, whether legislative, administrative, or quasi-judicial.

Objective PRP-1.2. Provide transparency in the decision-making processes and procedures so that all people may reasonably participate in decisions that affect their lives and property.

Policy PRP-1.2.1. Allow public participation from any affected person, as is consistent with controlling law, and be a party to a hearing on any land use decision.

Policy PRP-1.2.2. Allow public participation from the general public which may not have true legal standing under controlling law.

Policy PRP-1.2.3. Respond to true and accurate information when making any planning and development decisions and provide every affected person an opportunity to be heard, to present, and rebut evidence and be informed of all information on which the City bases its decision as required under controlling law.

Policy PRP-1.2.4. Provide public notice as required by controlling law and shall adhere to a policy of open meetings and freedom to review and copy public records.

Policy PRP-1.2.5. Allow every affected person the opportunity to participate early and throughout the decision-making process.

Policy PRP-1.2.6. The City will not grant any affected person a greater opportunity to be heard than another affected party during a public hearing process.

Objective PRP-1.3. Provide planning processes that are reliable and predictable to support sound land development regulations that promotes long-term investments in the community.



PRP

Property Rights

Policy PRP-1.3.1. Respect the right of people, including elected and appointed officials, citizens, and property owners, to fairly evaluate proposed decisions relating to real property.

Policy PRP-1.3.2. Ensure that public meetings and public hearings afford the right to participation by the public as a general matter and afford administrative due process about matters that are decided during quasi-judicial hearing processes and procedures.

**Excerpted from Florida House of Representatives
CS/CS/CS/HB 59
2021 Legislature
Effective 7/1/2021**

Be It Enacted by the Legislature of the State of Florida:

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE:**

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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. 10, 2021

in the XXXX Court,
was published in said newspaper in the issues of

10/29/2021

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Guillermo Garcia

Sworn to and subscribed before me this
29 day of OCTOBER A.D. 2021

C. Ravix

(SEAL)

GUILLERMO GARCIA personally known to me



**CITY OF CORAL GABLES, FLORIDA
NOTICE OF PUBLIC HEARING
HYBRID MEETING ON ZOOM PLATFORM**

City Public Hearing **Local Planning Agency / Planning and Zoning Board**
Dates/Times **Wednesday, November 10, 2021, 6:00 p.m.**
Location **City Commission Chamber, City Hall**
 405 Biltmore Way, Coral Gables, FL 33134

PUBLIC NOTICE is hereby given that the City of Coral Gables, Florida, Local Planning Agency (LPA)/ Planning and Zoning Board (PZB) will conduct Public Hearing on the following:

1. An Ordinance of the City Commission of Coral Gables, Florida, providing for text amendments to the City of Coral Gables Official Zoning Code, Article 5, "Architecture," Section 5-200, "Mediterranean Standards;" to limit the Mediterranean Bonus program to Coral Gables Mediterranean Architectural Style and expand the Board of Architects review process to include an optional conceptual review; providing for severability, repealer, codification, and for an effective date.
2. An Ordinance of the City Commission of Coral Gables, Florida, providing for text amendments to the City of Coral Gables Official Zoning Code, Article 4, "Zoning Districts," Section 2-100, "Residential Districts" and Article 5, "Architecture," Section 5-200, "Mediterranean Standards;" to remove the Mediterranean Bonus of height for Multi-Family 4 (MF4) properties; providing for severability, repealer, codification, and for an effective date.
3. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 1, "General Provisions," Section 1-109, "Construction Rules," to clearly state that where the provisions of this Zoning Code vary from the applicable requirements of any law, statute, rule, regulation, ordinance, or code, the most restrictive or that imposing the higher standard shall govern, including within the Miami-Dade County Rapid Transit Zone; providing for severability, repealer, codification, and an effective date.
4. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 3, "Uses," Section 3-206, "Home Office," to provide additional requirements and allowances for a Home Office consistent with the requirements of Chapter 2021-202, Laws of Florida; providing for severability, repealer, codification, and an effective date. (ON 10 13 21 ITEM WAS DEFERRED TO THE NOVEMBER MEETING.)

Local Planning Agency

5. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 10, "Parking," Section 10-110, "Amount of required parking" and Article 16, "Definitions," to clarify parking requirements related to single-family building alterations and update the definition for a single-family residence regarding the use of covered open air walkways, and location of porte-coches and carports; providing for severability, repealer codification, and an effective date. (ON 10 13 21 ITEM WAS DEFERRED TO THE NOVEMBER MEETING.)
6. An Ordinance of the City Commission of Coral Gables, Florida granting approval of proposed amendments to the text of the City of Coral Gables Comprehensive Plan, pursuant to expedited state review procedures (S.163.3184, Florida Statutes) and Zoning Code Article 14, "Process," Section 14-213, "Comprehensive Plan Text and Map Amendments;" to provide for a Property Rights Element with Goals, Objectives, and Policies; providing for a repealer provision, providing for a severability clause, and providing for an effective date.
7. An Ordinance of the City Commission of Coral Gables, Florida granting approval of proposed amendments to the text and maps of the City of Coral Gables Comprehensive Plan, pursuant to expedited state review procedures (S.163.3184, Florida Statutes) and Zoning Code Article 14, "Process," Section 14-213, "Comprehensive Plan Text and Map Amendments;" to provide updates to the Recreation and Open Space Element and all corresponding map series; providing for a repealer provision, providing for a severability clause, and providing for an effective date.
8. An Ordinance of the City Commission of Coral Gables, Florida granting approval of proposed amendments to the Mixed-Use Overlay District Map of the City of Coral Gables Comprehensive Plan, pursuant to expedited state review procedures (S.163.3184, Florida Statutes) and Zoning Code Article 14, "Process," Section 14-213, "Comprehensive Plan Text and Map Amendments;" to update the Mixed-Use Overlay District Map (FLU-2) to be consistent with the Future Land Use Map; providing for a repealer provision, providing for a severability clause, and providing for an effective date.

The Planning and Zoning Board will be holding its regular board meeting on Wednesday, November 10, 2021, commencing at 6:00 p.m. Pursuant to Resolution No. 2021-118, the City of Coral Gables has returned to traditional in-person meetings. Accordingly, any individual wishing to provide sworn testimony shall be present physically in the City Commission Chambers. However, the City Commission has established the ability for the public to provide comments (non-sworn and without evidentiary value) virtually. Accordingly, only individuals who wishes to provide public comment in this format, may appear and provide those comments via Zoom.

Members of the public may join the meeting via Zoom at (<https://zoom.us/j/83788709513>). In addition, a dedicated phone line will be available so that any individual who does not wish (or is unable) to use Zoom may listen to and participate in the meeting by dialing: (305) 461-6769 Meeting ID: 837 8870 9513. The public may comment on an item using the City's E-Comment function which may be found on the City's website at: (www.coralgables.com/pzb) once the meeting's agenda is published, or by sending an email to planning@coralgables.com prior to the meeting.

The meeting will also be broadcasted live for members of the public to view on the City's website (www.coralgables.com/cqtv) as well as Channel 77 on Comcast.

Sincerely,
Ramon Trias
Assistant Director of Planning and Zoning
City of Coral Gables, Florida
10/29

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