

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

**Agenda Item E-1**

**November 9, 2010**

**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 City Clerk, Billy Urquia**

**Planning Director, Eric Riel**

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

**Rip Holmes, Coral Gables Resident**

**Dr. Sandy Rafkowsky, Applicant**

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E-1 [Start: 12:21:32 p.m.]

Application No. 09-10-119-P. Change of Land Use. An Ordinance of the City Commission of Coral Gables, Florida amending the Future Land Use Map of the Coral Gables Comprehensive Plan pursuant to small scale amendment procedures subject to ss. 163.3187, Florida Statutes, from “Commercial Use, Mid-Rise Intensity” to “Commercial Use, High-Rise Intensity” for a 0.6 acre parcel legally described as Lots 1-10, Block 7, Craft Section (246-296 Andalusia Avenue), Coral Gables, Florida; and providing for severability, repealer, codification and an effective date. (PZB recommended approval, vote: 5-0) (Passed on First Reading October 26, 2010).

Mayor Slesnick: We have an Ordinance on Second Reading, I’m sorry; Ordinance on Second Reading E-1 Madam City Attorney.

City Attorney Hernandez: Change of Land Use. An Ordinance of the City Commission of Coral Gables, Florida amending the Future Land Use Map of the Coral Gables Comprehensive Plan pursuant to small scale amendment procedures subject to ss. 163.3187, Florida Statutes, from "Commercial Use, Mid-Rise Intensity" to "Commercial Use, High-Rise Intensity" for a 0.6 acre parcel legally described as Lots 1-10, Block 7, Craft Section (246-296 Andalusia Avenue), Coral Gables, Florida; and providing for severability, repealer, codification and an effective date. (PZB recommended approval, vote: 5-0) (Passed on First Reading October 26, 2010).

Commissioner Anderson: I'll move it.

Commissioner Withers: I'll second it.

Mayor Slesnick: It's been moved and seconded, E-1. I had asked the last time that we were here that the Planning Department give us a little bit of an overview of what our Master Plan for downtown Coral Gables is, how long it's been in effect and what it says about this area of the Gables, and why.

Mr. Riel: For the most part in terms of the downtown, Miracle Mile is high-rise commercial development, however the Commission did place an overlay which provided for an opportunity to reduce the height of the Mile and provide replacement of more high-rise on the back portions of the property, but for the most part the downtown area is high-rise commercial. There is no specific pattern that is in effect, the last time the actual map was looked into dates back to the early '80's. As you know, we recently just redid the Comprehensive Plan, however we did not look at the map and make changes to the map, we just did changes to the text of the Comprehensive Plan. So it's been a number of years since....

Mayor Slesnick: Mr. Riel, I served on the Board in the late '80's and we did a full Comprehensive Plan, which included downtown, and as Commissioner Kerdyk, excuse me, Vice Mayor Kerdyk, or Commissioner Withers related the last time which I remember distinctly the conversation about moving high-rise intense use to the big streets and keeping it off of the smaller streets. Now where have we gone wrong in remembering that?- from your recollection that never happened.

Mr. Riel: Well that plan, unfortunately we went through our files, we went through our legislative files, and we do not have that information. I do recall when I first started with the City reading the minutes of the Planning Board minutes, and you actually appeared before the Board prior to being on the Board, but in terms of the actual looking at the downtown, we haven't done that as a part of the rewrite of the Comprehensive Plan, so like I said the '80's.

Mayor Slesnick: Since the 80's, OK. Now, if you look at the map without finding the historical files, which sort of depresses me to think that we can't, but without finding or without being able to determine if we can find them or not or if they are even existent, if you looked at a map of downtown Coral Gables right now the way it is, would you find that most of the side streets, if you will, the Andalusia's, the Valencia's and the Almeria's are mid-rise, and the frontage on Ponce is high-rise, if you have the right frontage, and the frontage on LeJeune Road and Douglas Road is high-rise?

Mr. Riel: The Ponce frontage I would agree; Merrick's initial plan the height of the buildings were related to the width of the street, one is half times the height. That's basically what the width of the street, one and-a-half times was the adjoining height. Has that been implemented consistently throughout?- no it has not. Has it been implemented consistently on Ponce?- yes. Have we made changes on LeJeune Road, if you look has high-rise on it, directly across the street from single family and multi-family uses. So this property, this request is before you, the public site has the ability to go to 16 stories high-rise; the City's parking facilities has the ability as well, pretty much all the properties to the west of this toward LeJeune is in the high-rise is category.

Vice Mayor Kerdyk: What is "has the ability", what does that mean?- define that. Every piece of property has the ability to if you rezone it to have high-rise. What does that mean? Explain that to me.

Mr. Riel: Basically by right review is allowed, whatever the underlying land us is, whether its 8 floors or 97 feet, that's what they are permitted by right, in other words that just goes by Board of Architect's review. Now if the property owner selects mixed use development, then it has to go through conditional use review; conditional use review requires Planning and Zoning Board and City Commission review, basically three public hearings. Now under the conditional use criteria, the Planning Board and this Commission has the right to recommend denial, that's very specific criteria; there are 5 or 6 criteria, you can recommend denial, or you can obviously recommend approval subject to changes or going back to the Planning and Zoning Board. But you are certainly within your authority to recommend denial on conditional use, and that's basically what this applicant has done; they heard you after the First Reading. They had proffered to come forward that anything over 97 feet; they would go through the conditional use review. So any development beyond 97 feet would be subject to Planning and Zoning Board and the City Commission no matter what the use.

Mayor Slesnick: Is there even a higher standard?- is there something like development agreements?

Mr. Riel: There is a higher standard. The applicant's proffered to a restrictive covenant that runs with the land; yes the additional protection can be a development agreement, which does have development parameters outlined.

Mayor Slesnick: And when would that be brought together?- when would that be determined? I mean, what would we do?- would we do that now before we vote yes on the Second Reading?- or would we do that as a condition of the motion on Second Reading to say that there would...?

Mr. Riel: I would have to defer that to the City Attorney when that would need to be enacted, because I know there....

Mayor Slesnick: I'm not sure if that's fair to defer that right this second, because she hasn't been thinking about it, so.

City Attorney Hernandez: We would have to research that and get back to you.

Mr. Riel: I don't know the answer.

Mayor Slesnick: OK. Well it seems to me that would be an important thing for us to understand, at least me, I'm not speaking for anybody else, but me, I would like to know all of the opportunities we would have if we were to approve this to come back and make sure that when the land is proposed to be developed that it's the right thing at the right place at the right time at the right site plan, and so forth, and there is no specific urgency at this moment because 1) there is no site plan, 2) it hasn't been proposed for development in the near future, 3) Amendment 4 failed, so. If we keep it alive and keep working with Sandy Rafkowsky, the applicant, to get it just right where all of us can reach a consensus, I would personally prefer that than to push it forward at this second, because it bothers me greatly, not Sandy, in fact I podcast there last night Sandy so I am a user of the property. One of the things that came up to me though was, what would have Ralph Sanchez and Willie Bermello been able to do on their property? Mr. Kerdyk had brought up Dean Colson's building and that we might never see another wonderful building like Dean Colson's building if we went around rezoning all of the back streets of the Gables downtown. Well, closer to home Ralph Sanchez and Willie Bermello built a beautiful 4 story building next door, that we are about to rezone, a next door neighbor is high-rise; if I were them I would consider tearing down my building and going up, I mean, that would be very destructive of that street, and very destructive of what we are doing here. So, I'm still very uncomfortable; I am not desirous of voting no and cutting this discussion off, but I would hope that maybe other members of the Commission would agree with me to slow it down for the City Attorney to opine as to how we can best control the property if we rezone it, and what the impact may be on other persons, I don't know.

Vice Mayor Kerdyk: That's a very good point.

Mayor Slesnick: That's my thinking.

Vice Mayor Kerdyk: And by the way, just a couple other; I disagree with you totally, and I'm not going to debate the issue with you anymore because I've already said my piece, but just a couple other properties that would be high-rise zoning in your location under your methodology is, the Edelstein property; remember the Edelstein property on the corner of Majorca and Salzedo, that's an 8 story structure there that has not been built, but is a hole in the ground, but that was 8 storey, that will now go to 16 stories. The Lancaster property, again, one that is not built that is on Majorca there, that's an 8 story structure there, that was zoned 8 story structure, those interior roads that have that 8 story designation, I'm finished with it, I've said my piece, and we are moving forward. Thank you.

Commissioner Anderson: I just want to speak a little bit. We received a letter, and I'm not going to go into the content of the letter, criticizing the Commission's stance on development, and I just want to put on the record my view, I'm not questioning Commissioner Kerdyk's, that's his stand and I respect that, but my stand is that there are buildings there, we look to the right, to the left, to the north, to the south, there are high rises all over the place, and I feel really uncomfortable not allowing it if you allow it for someone else, and that's all I'm really going to say, that's how I base my – try to do it on some semblance of fairness. Having said that, I wish we could have had some height controls at some point that would have followed a more rational pattern, but we didn't. So, I deal with it the best I can within the limitations that I have.

Commissioner Cabrera: That's a train that left the station though.

Commissioner Anderson: Absolutely that's why I'm – this is at the intersection of goodbye and hello.

Mayor Slesnick: Before we move to a motion and a vote, and I know we have a public speaker, but before we move that, Maria would you willing to delay a second approval long enough to get the City Attorney's opinion on how we can protect the future of this site as far as whether it should be a development agreement or whether it should be conditional approval or whatever?

Commissioner Anderson: Well...

Mayor Slesnick: Let's put it off until next time is what I'm saying.

Commissioner Anderson: That's fine, I don't have any problem with that, but I will continue to support that at the end.

Mayor Slesnick: OK. We have a public speaker; we have Rip Holmes, 928 Sevilla, #206. Good morning Rip.

Mr. Holmes: Good afternoon, thank you for allowing me to speak. I'm a neighbor, you know I own property within a block from there, Dr. Rafkowsky, my eye doctor, but I oppose this thing. I hope you all will vote against, and this really comes back to this issue that the Commission faces month in-month out, trying to protect the residential charm and nature of the City of Coral Gables. You had to fight over this kind of problem with the outdoor dining at the Liberty Café; you had to fight it with the project right over here across from LeJeune Road; you had to fight it all the time, and – quick thing here, if I had to pick our best asset in the City of Coral Gables and of course I was born here 59 years ago, it would be our wealthy citizens, the people that we are so proud that live here, just to mention two, Roy Black, Jeb Bush, what keeps them here, or what would chase them away? They are able to raise their kids here in Coral Gables in a residential neighborhood free of crime. Let's suppose that with this project that you have to vote on today. If we left our downtown urbanized that will bring crime, OK. People can say you can urbanize without crime, but I don't buy it. I just don't think we should stop our efforts to protect the residential charm and character of Coral Gables. Let's say no to this project, let's say no to urbanization, let's say no to crime, and let's keep our best assets, our wealthy talented residents. Thank you.

Mayor Slesnick: I don't have a card from you James.

Mr. Hartnett: I thought it was open for discussion.

Mayor Slesnick: Oh yes, let me invite you, Mr. Hartnett you are always here, so come on up would you file a card after the fact? We can't turn down Mr. Hartnett. Before you start let me just say one thing to Rip. Rip you absolutely are right about our citizens are our most important product and we want to keep them here, and only one thing, and as you know I concern myself with over development all the time, but the only one thing I do think is that we always need to weigh and balance a healthy and vibrant downtown supports the tax base to the point where our wonderful citizens some of them you named, are not paying double the real estate taxes, I mean, that is an important thing to consider as we go forward, and we will continue to weigh and balance that. Thank you. Mr. Hartnett.

Mr. Hartnett: Before I start, I think your Clerk wants to swear me in.

Mayor Slesnick: No, this is not a quasi-judicial hearing and we are not swearing people in, but if you would like to.

Commissioner Anderson: I can't imagine Mr. Hartnett saying anything other than the truth.

Mr. Hartnett: I'm not a Pinocchio.

Mayor Slesnick: But since we don't have a card, would you give us your address?

Mr. Hartnett: If the Master Plan...

Mayor Slesnick: Would you give us your address, your address?

Mr. Hartnett: I'm Jim Hartnett, I live at 510 Marmore Avenue, I've lived there born and raised in Coral Gables. In the Master Plan why didn't they designate why all of these places are being changed and what they intend to do with these scenarios. Secondly, and I don't know if anybody has answered that, is there an answer to it?- why they are asking for this action to close all these changes?

Mayor Slesnick: Oh, I'm sorry, we are not on that subject, we are on E-1, that's E-2. We haven't gotten to that one yet; do you want to wait till we get to that, that's next.

Mr. Hartnett: I'll do that.

Mayor Slesnick: OK, that's next, OK.

Vice Mayor Kerdyk: I'll make a motion to defer it.

Commissioner Withers: To defer for....?

Mayor Slesnick: Till the next meeting...

City Attorney Hernandez: That will be December 14<sup>th</sup>.

Mayor Slesnick: I've asked the City Attorney to give us options which we can maybe some of us Chip, could have better confidence that we will be able to control the future of the property as we go forward with this; it's a one month deferral.

Commissioner Withers: The fellow that was here, doctor...

Commissioner Anderson: He's right there, Doctor Rafkowsky.

Commissioner Withers: I mean, he doesn't have any site plans, he's not, he is just doing it...with Amendment 4, I was going to ask him a question.

Mayor Slesnick: Doctor Rafkowsky....

Commissioner Withers: With the vote of Amendment 4, because I know that was a concern...

Dr. Rafkowsky: Good afternoon by the way.

Commissioner Withers:...good afternoon, how you doing?- With the defeat of Amendment 4, I guess the heat is off a little bit on this for you?

Dr. Rafkowsky: That's correct.

Commissioner Withers: So I have absolutely no problem.

Dr. Rafkowsky: May I make a comment?

Mayor Slesnick: Sure – just identify yourself for the record.

Dr. Rafkowsky: I'm Doctor Rafkowsky, good afternoon and I do hear all your comments and your concerns, legitimate. My question is that you had mentioned that you wanted the City Attorney's opinion; I have no problems with a restrictive covenant, I had written a letter to all of you, I hope you read my letter where I offered to do that, and that might solve the problem right away.

Mayor Slesnick: Sandy, I'm just asking our attorney to give us a synopsis of the choices we have of working with you to make sure that – some of the Commission has already said they felt comfortable moving forward; one person at least has said that he is not comfortable at all moving forward. I have expressed just the fact that I would feel more comfortable if I knew what our choices were on making sure this Commission could play a more active role in the future on how the property is developed, that's all.

Dr. Rafkowsky: I agree, I just don't want to sit another five hours waiting for my turn.

Mayor Slesnick: I'm sorry for your five hours, but you are close to your office, so you are not...

Dr. Rafkowsky: Yes. So I need to speak to the State Attorney?

Mayor Slesnick: The City Attorney, yes.

Dr. Rafkowsky: City Attorney....

Mayor Slesnick: Well, yes you may speak to her of course, while she deliberates on that.

Dr. Rafkowsky: And then the next meeting I'm to be here?

Mayor Slesnick: Next meeting – we'll try to – I'll tell you what?- because of you being here twice, we can try to tell you a time so you don't have to sit her for five hours.

Commissioner Anderson: Plan your day better.

Mayor Slesnick: In fact, we'll go to you first after our opening stuff.

Dr. Rafkowsky: Just one comment too. Commissioner Cabrera you are right again, your comment two weeks ago about the off-site parking, you are right about the number of cars that were...I just want you to know that.

Commissioner Cabrera: Thank you sir. I appreciate you saying that.

Mayor Slesnick: He is always right.

Dr. Rafkowsky: He is always right.

Mayor Slesnick: About off-street parking.

Dr. Rafkowsky: Thank you.

Commissioner Withers: So do you need a second for that deferral?

Mayor Slesnick: Yes. Mr. Kerdyk moves to defer until the next meeting and Mr. Withers seconds it, and we've explained the rationale for that. All those in favor say aye.

All: Aye.

Mayor Slesnick: Opposed like sign. December 14<sup>th</sup> I believe is the date.

Commissioner Cabrera: And I'll stay on top of him to make sure. (Laughter)

[End: 12:41:47 p.m.]