

City of Coral Gables City Commission Meeting
Agenda Item E-3
April 12, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Planning and Zoning Director, Ramon Trias

Public Speaker(s)

Agenda Item E-3 [Start: 10:29:46 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, by amending Article 2, “Decision Making and Administrative Bodies,” Article 4, “Zoning Districts”; Article 5, “Development Standards”; and Article 8, “Definitions,” to address Zoning Code matters such as tie votes, restaurant walk-up counters, required parking and bay windows; providing for repealer provision, severability clause, codification, and providing for an effective date.

Mayor Cason: Next will be Item E-3, that’s an Ordinance on Second Reading.

City Attorney Leen: Item E-3 is an Ordinance on Second Reading; it’s 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, by amending Article 2, “Decision

Making and Administrative Bodies,” Article 4, “Zoning Districts”; Article 5, “Development Standards”; and Article 8, “Definitions,” to address Zoning Code matters such as tie votes, restaurant walk-up counters, required parking and bay windows; providing for repealer provision, severability clause, codification, and providing for an effective date. This is an Ordinance on Second Reading, and it’s a public hearing item. There has been an addition to the item, in addition to the edits from First Reading. For an ALF, an assisted living facility it would now be required to be by conditional use review. The Vice Mayor asked me a question about this to do research, to make sure that we can do that. I consulted with Craig Collar, who is the former head of the County Attorney’s office for land use and zoning. I’ve also done my own independent research and we agree that the Commission can make ALF’s a condition use review. There is a limitation in situations where it’s a house, like a half-way house or something like that where you are talking about less than, or an assisted living house, Madam Manager what do you call them?- you had used the word...

City Manager Swanson-Rivenbark: Silver houses.

City Attorney Leen: Silver house.

City Manager Swanson-Rivenbark: That’s because of state regulations that prevent us from intervening.

City Attorney Leen: Yes.

City Manager Swanson-Rivenbark: I don’t want the public to think that we are ignoring them.

City Attorney Leen: I want to be perfectly clear, that’s because of state law, but that only affects smaller houses and what we are talking about here are large ALF developments. So what this would do is it would require them whenever an ALF development is coming in that it has to go to a conditional use review based on the impacts of that ALF development, and also to make sure that it’s providing the appropriate services to its residents. That would have to go to the Commission for a conditional use review. It doesn’t prohibit it by any means, but it does have to come to you, and you can impose appropriate conditions, and determine if it’s an appropriate use for the area, as a conditional use. One other thing, because its being added, I’m giving an opinion, I’ve looked at this, this is well within the scope of the title so it can be added, but I’m going to ask that because this is coming up on Second Reading that you also do a four-fifths vote on adding the ALF provision, because our Charter allows you to act on one reading. I’m not saying we need to do this. This could be done now on Second Reading, because it’s within the scope of the title, but just to be perfectly careful and in an abundance of caution, I would also do

a four-fifths vote, as I mentioned on adding the ALF provision, if that's OK with the Commission.

Mayor Cason: Do we have any speaker cards on this?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing. Discussion.

Commissioner Lago: I think Craig has been sufficiently thorough in regards to his explanation. I also had an issue, like he mentioned in regards to the Vice Mayor, in regards to the issue of ALF being brought up, and that was more on the, not on the land use, but on the backend, on the conditional uses, which I met with Ramon and he thoroughly explained it to me, so I'm in full support of, I hate to use the word restriction, but having little bit of an escalated condition in regards to how we can control the ALF, and if that type of land use is actually used anywhere in the City.

Mayor Cason: And I'm happy this also covers the bay window issue that caused a particular person a lot of hardship because of the ambiguity in that. So that should take care of that issue.

Commissioner Lago: And that's a major issue, that's a major issue. I visited that resident, and I also want to commend Craig's staff and the City Manager for really holding hands with that resident, and helping them in reference with the rare wall, landscaping, a few other issues that they are going to have to basically deal with because of the adjacent property that was constructed.

Mayor Cason: Alright. Do we have a motion on E-3?

Commissioner Slesnick: Do we need two motions?

Mayor Cason: Four-fifths.

City Attorney Leen: I would like you to do a four-fifths vote to add the ALF provision to the ordinance, that complies with both the City Charter and state law. It waives essentially any notice requirements that could exist. Now because it's within the scope of the title, you could just put it in and vote, but again, I'm saying that just to make sure that if it is challenged that we also have a separate independent basis. Also, our City Charter, just to put this on the record, our City Charter has a provision that pre-dates the Municipal Home Rule Powers Act, which allows the Commission to act by a four-fifths vote, even in a non-emergency when you've determined an

expedited vote is necessary, and that is grandfathered into the Municipal Home Rule Powers Act, so you always have that authority as well. So with that, I would ask for a four-fifths vote on adding the ALF provision to the...

Commissioner Keon: Do you want to do that first?- can we do that first? I have a question about – I'd like to make a motion to add the ALF provision to the ordinance under consideration.

Commissioner Lago: Second.

Mayor Cason: Commissioner Keon made the motion, Commissioner Lago seconds. City Clerk.

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

Commissioner Keon: On this ordinance though, I have a question about 4-402(a), in the prohibited uses on certain streets. You have a public garage, I mean I remember the fees were included and why they were included. Is that a public garage, is that a parking garage? I thought that the garage was, garages were prohibited in the old ordinance, right?- was it public garages? What were prohibited were garages that are like automotive sort of...

Commissioner Slesnick: Service garages.

Commissioner Keon: Service-type garages, as opposed to – what's a public garage?- is that parking garage.

City Attorney Leen: This is presently in there.

Commissioner Keon: I know.

City Attorney Leen: Mr. Trias – let me try and look at the definition real fast of public garage.

Commissioner Keon: What's a public garage?- on page 3 of the ordinance.

Mayor Cason: And also should be, or any business, or and any business conducted, because the ones before that are obviously because they are outdoors, they are outside of the building.

Mr. Trias: I believe that the Commissioner is correct. It's referred to activities going on, not a parking situation.

Commissioner Keon: OK. But if public garages – it sounds like a parking garage, so I want you to define. I want this to say exactly what it is.

Mr. Trias: OK.

Commissioner Keon: So what is it? What's it's supposed to be?

Mr. Trias: Certainly we could work on the definition of public garages.

City Attorney Leen: I'm almost there. Just give me a moment.

Commissioner Keon: OK.

City Attorney Leen: A lot of definitions. Here it is. A public garage means a building or premises arranged, designed, and intended to be used for the storage or service of motor vehicles for hire or reward which is not a private garage.

Commissioner Keon: (Laughter)

Mayor Cason: So it's not a private garage. Its option of a private garage.

Commissioner Keon: So you could have a private garage here but you can't have a public... You know a public garage is usually a parking garage, but that doesn't say it's a parking...

City Attorney Leen: I can tell you what a private garage is. It means a building designed and used exclusively for storage on the ground floor of not more than four motor vehicles devoted to the private use of the owner, when such a garage is located on the same premises as an accessory use with the residents or business of the owner of such automobiles so stored. May I make a suggestion? That's presently in the ordinance, why don't we take a look at that. It may also be superseded and maybe able to be stricken.

Commissioner Keon: OK. I think it was from the time when there were a lot of, there was an automobile dealership along Ponce and there were service stations, like over by where Merrick Park is now, there were paint shops and those sorts of things, they were industrial kind of uses.

Mayor Cason: Sort of like having an Auto Nation parking garage, that kind of thing, car storage, car lots.

Commissioner Keon: If that's what it means, yes, but if it means a parking lot, a parking garage, a public parking garage we think of as the City needs to build public parking or if there is a building and there is some public parking spaces in it. I don't want this kind of language to get in the way of what it means and go through conflicting opinions and whatever.

City Manager Swanson-Rivenbark: Mr. Mayor, if I may...

Commissioner Keon: Could you clean that up.

City Manager Swanson-Rivenbark: These are important items that we are looking at amending. I would ask that you go ahead and take a vote on those and that we bring back further clarification and I thank you for bringing up. We'll go through the entire section and make sure that we've updated the....but I wouldn't want to postpone the actions that we are recommending today, as we do that clean up.

Commissioner Keon: Just clean up – have it here what it means.

Mr. Trias: We did not work on the parking garage issue. We will work on that, thank you for pointing that out.

Commissioner Keon: OK. So you could just look at that one word. OK.

City Attorney Leen: One thing Mr. Mayor. I just want to be clear for the record that the ALF conditional use review will be consistent with Florida Law. So we'll make sure that it applies to the larger developments that – you know Florida Law requires these smaller houses, as I mentioned sometimes. I just want to be clear for the record, I'm going to write that in there like that, that it's consistent with Florida Law, but for the larger ALF development, which is the one we are concerned about, it is definitely conditional use review.

Mayor Cason: Alright. Do we have a motion on E-3?

Commissioner Lago: I'll move.

Mayor Cason: Commissioner Lago makes the motion, seconded by?

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Keon. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 10:40:00 a.m.]

[Note: At 10:49:02 a.m., the City Attorney reopened Agenda Item E-3 to do a four-fifths vote]

City Attorney Leen: Mr. Mayor, and I apologize, would it possible to reopen E-3 briefly, to do one further vote, a four-fifths vote on the whole ordinance. I would feel more comfortable with that, based on the City Charter.

Mayor Cason: OK. Have a motion.

Commissioner Lago: So moved.

Vice Mayor Quesada: Second.

Mayor Cason: Commissioner Lago made the motion, the Vice Mayor seconds. City Clerk.

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

City Attorney Leen: Thank you.

[End: 10:49:26 a.m.]