

City of Coral Gables Planning Department Staff Report

To: Planning and Zoning Board Members

From: Planning Department

Date: December 10, 2008

Subject: **Zoning Code Text Amendment – Article 2, Division 7, “Administrative Decision Makers and Enforcement Officers”.** An Ordinance of the City of Coral Gables amending the Zoning Code, Article 2, “Decision Making and Administrative Bodies”, Section 2-702, entitled “City Attorney”, to provide the proper procedures to follow to review rulings of the City Attorney; and providing for severability, repealer, codification, and an effective date.

Background

Attached are proposed Zoning Code text amendments requested by the City Attorney's Office regarding procedures for review of decisions by the City Attorney. The City Attorney's Office has provided for the Planning and Zoning Board's review and information a completed Planning Department Zoning Code Text Amendment Request form, cover memorandum providing background for the amendment and a draft Ordinance containing the specific language in strike thru / underline format (see Attachments A, B and C).

The City Attorney's Office will present the proposed amendments to the Board at the meeting and secure input and testimony.

Public Hearing Timeline

This Zoning Code amendment is under the purview of the Planning and Zoning Board and City Commission since it requires public hearing review. Upon recommendations from the Planning and Zoning Board, the proposed text amendments are tentatively scheduled to proceed forward for public hearing before the City Commission as follows:

*City Commission, 1st Reading –January 13, 2009, 9:00 a.m.
City Commission, 2nd Reading –February 10, 2009, 9:00 a.m.*

The above dates and times are subject to change.

Public Notification

The Planning and Zoning Board meeting agenda has been advertised and posted on the City web page. The Planning Department staff report and attachments are also posted on the City web page.

Zoning Code Text Amendment – Administrative Decision Makers

December 10, 2008

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Respectfully submitted,


Eric Riel, Jr.
Planning Director

Attachments:

- A. Planning Department Zoning Code Text Amendment Request form.
- B. 11.10.08 City Attorney cover memorandum.
- C. Draft Ordinance.

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City of Coral Gables Zoning Code Text Amendment Request

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Date of request:

11/24/08

Sponsoring department(s):

Legal

Code section(s) to be amended (attach additional sheets as necessary):

Section 2-702, City Attorney

Purpose or explanation of text amendment (attach additional sheets as necessary):

Providing for a procedure to be followed when an aggrieved party wants to challenge a decision of the City Attorney.

Proposed text amendment (attach additional sheets as necessary):

An action to review any decision of the City Attorney may be taken by any person or persons, jointly or separately, aggrieved by such decision by filing with the Circuit Court in the manner and within the time prescribed by the Florida Rules of Appellate Procedure.

Sponsoring department(s) signature:

Lawdes Atty's Office
Print name

Signature

11/24/08
Date

CITY OF CORAL GABLES**OFFICE OF THE CITY ATTORNEY****-MEMORANDUM-****TO: PLANNING & ZONING BOARD****DATE: November 10, 2008****FROM:**

Elizabeth M. Hernandez
City Attorney

SUBJECT:

Zoning Code Amendment
Appeals of City Attorney
Rulings

Lourdes Alfonsin Ruiz
Assistant City Attorney

Attached hereto please find a copy of a draft, proposed amended ordinance regarding the appeals of rulings made by the City Attorney related to the interpretation or implementation of the Zoning Code. Section 2-702 of the Zoning Code currently states that the City Attorney has the following powers:

- The City Attorney serves as the final authority with regard to legal issues involving interpretation and implementation of these regulations.

However, this section does not provide a means for an aggrieved party to appeal said decision by the City Attorney. Therefore, the following language is proposed to be added to the aforementioned section:

An action to review any ruling of the City Attorney may be taken by any person or persons, jointly or separately, aggrieved by such decision by presenting to the Circuit Court in the manner and within the time provided by Florida Rules of Appellate Procedure.

This shall provide all aggrieved parties the proper procedures to follow under any such appeals.

Attachments.

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE CITY OF CORAL GABLES AMENDING THE ZONING CODE, ARTICLE 2, "DECISION MAKING AND ADMINISTRATIVE BODIES", SECTION 2-702, ENTITLED "CITY ATTORNEY", TO PROVIDE THE PROPER PROCEDURES TO FOLLOW TO REVIEW RULINGS OF THE CITY ATTORNEY; AND PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the section on City Attorney provides for the City Attorney being the final authority with regard to legal issues involving interpretation and implementation of the Zoning regulations, however, it does not state the procedure to be followed when an aggrieved party wishes to review a ruling by the City Attorney;

WHEREAS, the City Commission of Coral Gables wishes to provide for the proper procedure to be used by any aggrieved party desiring to review the decisions of the City Attorney.

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The Zoning Code of the City of Coral Gables, Florida is hereby amended as to Article 2, "Decision Making and Administrative Bodies", Section 2-702, entitled "City Attorney" to read as follows:

ARTICLE 2. DECISION MAKING AND ADMINISTRATIVE BODIES

2-702. City Attorney.

The City Attorney serves as the final authority with regard to legal issues involving interpretation and implementation of these regulations. An action to review any decision of the City Attorney may be taken by any person or persons, jointly or separately, aggrieved by such decision by filing with the Circuit Court in the manner and within the time prescribed by the Florida Rules of Appellate Procedure.

Section 3. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

Section 5. Codification.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED this _____ day of _____ 2008.

DONALD D. SLESNICK II, MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY