

Section 14-208.4. Appeals from decisions of City Staff.

Other than a request for reconsideration of a decision of the City Architect, where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these regulations by City Staff, an appeal shall be taken by an aggrieved party to the Board of Adjustment or the Historic Preservation Board, in the case of an appeal from a decision of the Historic Preservation Officer, no later than ~~sixty (60) days~~ fifteen (15) days after the decision has been made. Application for postponement of the public hearing of an appeal shall be considered according to the provisions stated in Sections 14-208.6. and 14-208.8.A. See Section 15-103. for City Architect reconsideration provisions.

Section 14-208.6. Procedures for appeals.

The following procedures shall govern the filing of appeals:

A. Appeals of City Staff administrative decisions other than the City Architect.

An aggrieved party may file a written Notice of Appeal to the Board of Adjustment or the Historic Preservation Board with the designated Development Review Official or Historic Preservation Officer, as provided in Section 14-208.4., within ~~sixty (60) days~~ fifteen (15) days of the administrative decision being appealed from. The Notice of Appeal shall identify with particularity the decision appealed, the basis for standing, the specific grounds of appeal, and the relief requested. Any issue not specifically raised in the Notice of Appeal shall be deemed waived. Within 14 days of filing the written Notice of Appeal, the appellant shall provide to the City Clerk the completed appeal application, the appeal fee and two sets of mailing labels to affected property owners within 1,000 sq. foot radius. The appeal shall be accompanied by any relevant documents related to the appeal as determined by the Development Review Official. The appeal shall be considered by the Board of Adjustment or Historic Preservation Board at the next available meeting after the required advertising has been completed. The Board of Adjustment or Historic Preservation Board shall grant the appeal, with or without conditions, deny the appeal, or respond for further proceedings. Only final decisions shall be appealable under this Section. Staff comments, requests for additional information, completeness determinations, scheduling decisions, recommendations, and other non-final or procedural actions are not appealable.

B. Appeals of Board of Adjustment, Board of Architects, Historic Preservation Board, and Planning and Zoning Board.

Any aggrieved party desiring to appeal a decision of the Board of Adjustment, Board of Architects or Historic Preservation Board, or a tentative plat decision of the Planning and Zoning Board, shall, within ten (10) days from the date of such decision, file a written Notice of Appeal with the City Clerk. The Notice of Appeal shall identify with particularity the decision appealed, the basis for standing, the specific grounds of appeal, and the relief requested. Any issue not specifically raised in the Notice of Appeal shall be deemed waived. Within 14 days of filing the written Notice of Appeal, the appellant shall provide to the City Clerk the completed appeal application, a copy of the transcript (not required for Board of Architects), the appeal fee and two sets of mailing labels to affected property owners within 1,000 sq. foot radius to the City Clerk. ~~whose duty it shall then become to send a written notice of such appeal to all persons previously notified by the Board in the underlying matter.~~ For the purpose of appeals from the Historic Preservation Board only, Dade Heritage Trust, Inc. is included as a party that may file an appeal of a decision of the Historic Preservation Board. If any time after the initial ten (10) day appeal period has lapsed, City Staff determines that the written Notice of Appeal is deficient or that the party that filed the Notice of Appeal lacks standing, the City Staff, where it deems appropriate, shall have seventy-two (72) hours from the date of that determination to appeal the decision. The appeal shall then be heard by the City Commission at its next meeting, provided at least thirteen (13) days has intervened between the time of the filing of the ~~Notice of Appeal~~ completed appeal application, as well as at least thirteen (13) days from the date of mailed notice as required pursuant to subsection E below, and the date of such meeting. If thirteen (13) days shall not intervene between the time of the filing of the ~~notice~~ completed appeal application and the date of the next

meeting or thirteen (13) days shall not intervene between the sending of the mailed notice and the date of the next meeting, then the appeal shall be heard at the next regular meeting of the City Commission and the City Commission shall render a decision, without any unnecessary or undue delay, ~~unless application for deferral has been made as permitted in Section 3-608 of this Article~~ subject only to postponement as expressly authorized in Section 14-208.8.

C. Stay of proceedings.

An appeal shall stay all proceedings in the matter appealed from until the final disposition of the appeal by the City Commission or other Board with jurisdiction. The pendency of an appeal shall toll all time periods applicable to the decision which is subject to appeal until final disposition of the appeal by the Commission or other Board with regard to the appeal.

D. City Commission decision.

The City Commission shall conduct a review of the decision of the Board of Adjustment, Board of Architects Special Master, Historic Preservation Board, or Planning and Zoning Board. The appeal shall be based on the record of the hearing, shall not be a de novo hearing, and no new, additional testimony shall be taken. A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition. The transcript shall be provided seven (7) days prior to the City Commission meeting at which the appeal will be heard with a sufficient number of copies for the City Commission, the City Attorney, the City Manager and the affected departments. The City Commission is authorized to affirm, affirm with conditions, override the decision of the Board of Adjustment, Board of Architects Special Master, Historic Preservation Board or Planning and Zoning Board, or remand for further proceedings to the applicable Board. A remand shall be ordered only where necessary to resolve a material issue that cannot be resolved on the existing record, and any remand shall be limited to the specific issue or issues identified by the City Commission. Any decision by the Board of Adjustment, Board of Architects Special Master, Historic Preservation Board or Planning and Zoning Board can only be reversed by a majority vote of the City Commission. The granting of any appeal by the City Commission shall be by resolution. Following remand and return to the City Commission, the subsequent City Commission action shall constitute final local action on the appeal.

E. Notice of hearings of appeals before the Board of Adjustment, Board of Architects, or City Commission.

Notice shall be in accordance with the provisions of Article 15 of these regulations; provided however, notice shall be mailed at least thirteen (13) days prior to the date of such public hearing.

F. Consolidation; related approvals; finality.

1. To the maximum extent practicable, all appeals involving the same property, applicant, development order, site plan, plat, or materially related approvals shall be consolidated and heard together.

2. No separate appeal shall lie from a later ministerial permit, staff approval, plan revision, or implementing action that is substantially consistent with a previously approved development approval and does not materially alter the approved use, density, intensity, circulation, access, building envelope, or exterior architectural character of the project.

3. Issues actually raised and decided, or that could have been raised, in a prior final appeal concerning the same project or phase of project shall not be relitigated in a subsequent local appeal to the fullest extent permitted by law.

4. Failure of an appellant to timely prosecute an appeal, provide required materials, or appear at a duly noticed hearing may result in dismissal of the appeal as abandoned.

Section 14-208.7. Appeals from decision of the City Commission.

B. Challenges to development order decisions based on consistency or inconsistency of the development order with the City of Coral Gables Comprehensive Plan shall be governed by the provisions of Section 163.3215, Florida Statutes ~~(2006)~~, as may be amended from time to time.

Section 14-208.8. Postponement of appeals.**A. Applicant or aggrieved party postponement.**

Applicants ~~and/or~~ aggrieved parties desiring postponement of an appeal before the City Commission shall adhere to the following provisions for postponements:

1. First postponement.

Requests for initial postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the appropriate board secretary and the City Clerk. The request shall include a specific time frame for postponement. ~~No more than ninety (90) calendar days may be requested and will be automatically granted. No postponement shall be automatic. One postponement may be granted upon a showing of good cause, and such postponement shall not exceed twenty-one (21) days.~~

2. Second postponement.

Requests for second postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the appropriate board secretary and the City Clerk. ~~The second postponement request may not exceed thirty (30) calendar days. The City Manager's Office shall evaluate the request and may administratively grant the request or schedule the request for City Commission review and approval. A second postponement may be granted only upon extraordinary circumstances and shall not exceed fourteen (14) days. A second postponement request shall be scheduled for City Commission review and approval unless waived by the non-requesting party in writing.~~

3. Third postponement.

~~If the appeal is not considered by the City Commission within the one hundred and twenty (120) calendar days as provided above, the application shall be scheduled for City Commission consideration at the next available City Commission meeting. The City Commission shall evaluate the application and determine if additional postponements are warranted. The maximum time frame an appeal can be postponed from the initial date the application was scheduled for City Commission consideration is one hundred and eighty (180) days. No third postponement shall be granted except in the event of a declared emergency, a natural disaster, or other extraordinary circumstance beyond the control of the parties, as determined by the City Commission. Nothing in these sections would prevent additional postponements upon agreement of all parties.~~

4. Appeal postponement fees.

Applicants ~~and/or~~ aggrieved parties shall be required to pay all costs for all postponement requests including any fees established by the City Code. If the City Commission requests adjacent property owners be notified or advertised, all costs shall be the responsibility of the applicant or aggrieved party.

5. Applicant responsibility.

~~It shall be the responsibility of the applicant to adhere to the requirements provided in this Article, which shall include monitoring and insuring the application proceeds forward for City Commission consideration. Failure of the applicant to follow the above provisions shall terminate the appeal and appellant to adhere to the requirements provided in this Article, including monitoring and ensuring the appeal proceeds forward for City Commission consideration. Failure of the appellant to timely comply with the requirements of this Article shall constitute abandonment of the appeal.~~

6. Appeal review expiration.

Appeals which do not secure City Commission consideration as provided in the above sections or are not considered by the City Commission within six (6) months shall be deemed abandoned and void. Any appeal not heard within the time frames established herein due to repeated postponement requests by the appellant shall be deemed abandoned and void unless otherwise expressly extended by the City Commission upon a finding of extraordinary circumstances.

B. City postponement.

The City Manager (or the Development Review Official (DRO)) may postpone an appeal whenever it is deemed necessary to ascertain a complete record, ~~to allow for the filing of a foreseeable related appeal (which would then be heard concurrently)~~, to maintain an orderly hearing or in the best interests of the City but avoiding any unnecessary or undue delay. Any postponement initiated by the City Manager or the DRO shall be limited to the shortest time reasonably necessary. Postponement may be requested by the applicant or an aggrieved party as described in Section 14-208.8.A. or be at the initiative of the City Manager (or the ~~Development Review Official~~ DRO). After the City Manager (or the ~~DRO Development Review Official~~) makes the decision regarding postponement, the applicant or aggrieved party may seek review of that decision to the City Commission within ten days and the matter will be scheduled for Commission consideration at one of the next two regularly scheduled meetings. The applicant or aggrieved party may request that a prior decision to hear appeals concurrently be modified where factual circumstances have changed so that the matter should be reconsidered. A request for modification will be handled in the same procedural manner as an application to hear appeals concurrently.