

City of Coral Gables City Commission Meeting
Agenda Item E-3
June 14, 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

Public Speaker(s)

Eugenio Silva, Coral Gables Resident

Agenda Item E-3 [9:19:31 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida requesting conditional use with site plan review pursuant to Zoning Code Article 3, "Development Review," Division 4, "Conditional Uses," and Article 4, "Zoning Districts," Division 2, "Overlay and Special Purpose Districts," Section 4-204, "Special Use (S) District"; for site plan approval of a new country club house located within a Special Use (S) District, for the property commonly referred to as the "Riviera Country Club" and legally described as portions of Tracts 1 and 5, Riviera Country Club; a portion of Miami-Biltmore Golf Course of Riviera Section Part 4 and Lots 10-14, Block 112, Country Club Section Part 5 (1155 Blue Road), Coral Gables, Florida; and including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. (Legal description on file at the City) (PZB recommended approval, Vote 6-0).

Mayor Cason: Let's do E-3.

City Attorney Leen: Mr. Mayor Item E-3 is an Ordinance of the City Commission of Coral Gables, Florida requesting conditional use with site plan review pursuant to Zoning Code Article 3, "Development Review," Division 4, "Conditional Uses," and Article 4, "Zoning Districts," Division 2, "Overlay and Special Purpose Districts," Section 4-204, "Special Use (S) District"; for site plan approval of a new country club house located within a Special Use (S) District, for the property commonly referred to as the "Riviera Country Club" and legally described as portions of Tracts 1 and 5, Riviera Country Club; a portion of Miami-Biltmore Golf Course of Riviera Section Part 4 and Lots 10-14, Block 112, Country Club Section Part 5 (1155 Blue Road), Coral Gables, Florida; and including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. The legal description on file at the City. Planning and Zoning Board is recommending approval by a vote 6-0. It's an item on Second Reading, public hearing item; it's also quasi-judicial so if anyone speaks they should be sworn in.

City Manager Swanson-Rivenbark: And Mr. Mayor just so that you know, our staff met personally with the adjacent neighbor who had some concerns with the plan. Peter Iglesias our Assistant City Manager for Operations reviewed the plans with him and also reviewed the prior plans for approval. We believe that there is agreement and the country club was very helpful in reaching that agreement.

Mayor Cason: OK. Anybody want to speak on this? Do we have any cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing. Any discussion? We have a motion on E-3?

Commissioner Keon: I'll move it.

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

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 9:21:13 a.m.]

City Commission Meeting

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Site plan review pursuant to Zoning Code – Riviera Country Club

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[Note: The Commission resumed this item at 12:04:30 p.m. to allow a resident to speak].

City Attorney Leen: Mr. Mayor, if it's OK with you Mr. Mayor, we have a resident that's here on Item E-3, which has already been passed by the City Commission, adopted by the City Commission on Second Reading, it was an ordinance, it was quasi-judicial, that's the one that relates to the Riviera Country Club. Mr. Silva is here and he has an e-mail that he wants to discuss, which was in the record, it has been provided to the Commission as part of the record that's what Mr. Trias informed me, but he's also provided me a copy to provide to you today. It's your discretion; he wasn't here when the item was called, so you can hear from him. There is no action that you can take with regards to it unless you basically rehear the matter or if you direct staff and it's something that staff can do.

Mayor Cason: I suggest you put it in the record. We've already voted for it.

City Attorney Leen: Yes. You have already adopted on Second Reading.

Commissioner Lago: I don't have an issue, if Mr. Silva is willing to do two minutes, if he can be brief.

Mayor Cason: Come on up and tell us what the issue is, but you should have been here during the discussion of it.

Mr. Silva: It's not an excuse but that item was moved from first to whatever it moved.

Mayor Cason: That's right; we move things around a lot.

Mr. Silva: And I wasn't here.

Commissioner Keon: Can you introduce yourself and your address for the record please.

Mr. Silva: Huh?

Commissioner Keon: Your name and address for the record please.

Mr. Silva: Eugenio Silva, 1215 Blue Road, 33146.

Mayor Cason: Go ahead.

Mr. Silva: I'll give you all a chance to glance at it.

City Attorney Leen: Mr. Silva to the extent the Commission decides to take any action on this, Mr. Silva needs to be put under oath.

City Clerk Foeman: Raise your right hand. Do you solemnly swear or affirm that the testimony you will provide would be the truth and nothing but the truth.

Mr. Silva: I do. I presented this letter, I sent it over the weekend to Mr. Trias and his assistant Scott, and he has indicated to me that the paperwork had already been submitted to the Commission and that I could come in and pass it out, or do whatever I needed to do to make you aware of my concerns. I think it was stated or misstated by error when this item was being heard today that these items had been worked out with Mr. Iglesias. I never met with Mr. Iglesias.

City Manager Swanson-Rivenbark: Thank you sir. I was under the impression not related to these items, but that you met – Peter if you can come up, that the issues that were between you and the country club, except for your desire to put a drainage system or other things within their property, had been worked out. Peter can you just speak to that item.

Mr. Iglesias: Yes. I believe we met. We were looking at the drawings at microfilm and my understanding from you the time that you...[inaudible]

Mr. Silva: With all due respect Mr. Iglesias, that was not the meeting that we got in Mr. Trias' Office where the country club manager, the building contractor and City officials, which you were not included, discuss the items. There was a memo from the entity that's requesting the project dated June 2, itemizes....and you are not listed on that.

Commissioner Lago: Mayor if I may. Mr. Silva let me just interject real quickly because I don't want to get caught up in the weeds here, we have a really long agenda. So moving forward, after reading the e-mail here, it seems to me that the only item which the Manager just mentioned was a point of contention that I think was resolved amicably and was understood that it was a drain field, it was not going to be a possibility in regards to the setback.

Commissioner Keon: Or anything in the setback is not appropriate.

Commissioner Lago: But everything else that's stated in your e-mail has been agreed upon, correct by the club?

Commissioner Keon: No.

Commissioner Lago: No. So I just want to put it out there so we can get to the point.

Commissioner Slesnick: I don't think the club has agreed to any of this.

Commissioner Keon: Other than the wall. I think at the last meeting they said that they would move the wall...

Commissioner Lago: With a six foot height.

Commissioner Keon: And they would build it with a six foot height, and they would maintain the buffer zone on the west side, the south side of the wall.

Commissioner Lago: If you look at the e-mail, excuse me Mayor, let's go item by item. We have a proposed placement of a wall is to be located after ten feet, correct?

Mr. Silva: Excuse me?

Commissioner Lago: The proposed replacement wall is to be located after the ten foot buffer zone and not on the center.

Mr. Silva: Right.

Commissioner Lago: So that was approved.

Commissioner Keon: Oh, I don't know if it was approved.

Mr. Silva:....center according to the memo that the young lady from, the name of the company, the people that are doing the work for the club, she made a summation summary memo of the May 31 meeting that took place on the Planning and Zoning Division, and she gave us all a summary of that; and then I'm commenting on the summary and I said, we basically agree on everything, but we wanted the buffer zone to be ten feet from not straddled. The reason for that I don't want it straddled is because at some point in time, if I wanted to acquire and the club wanted to sell me that ten foot buffer, I don't want that wall to interfere as an encroachment. So we are talking about inches there, but I want it on their side.

Mayor Cason: That's a hypothetical; they haven't agreed to sell it to you.

Mr. Silva: Huh?

Mayor Cason: They haven't agreed to sell it to you.

Mr. Silva: No, no, I said at some point in time in the future.

Commissioner Lago: So what was the club's response in regards to your hypothetical proposal?

Mr. Silva: This one here?

Commissioner Lago: Yes.

Mr. Silva: Well they said they will give me an easement. I didn't discuss this with the club; there were items that I...

City Attorney Leen: Look, at this point the Commission has already acted, so what they can do is they can authorize staff to talk to you about it, and perhaps the club will agree to some of these things and you can work it out, but there is nothing really else we can do.

Mr. Silva: It's very, very simple items.

Commissioner Keon: I know, but I think in order for them – I thought the decision to center the wall was to give them access to the landscaped area that is on their land next to the wall without having to go onto your property and I mean generally that's when you would place something so that they don't have to go on your property in order to maintain their wall or to maintain whatever the landscaping is that's going to be placed there, because you don't want to give someone the right to be on your property at that time. It's my understanding that's why it was placed that way is that, is Mr. ____ here is that correct?

Mr. Iglesias: Well, I think that ten feet – the inside of the wall would be ten feet four inches from the property line, so placing in the center would be an average between nine eight and ten foot.

Commissioner Keon: Right.

Commissioner Slesnick: Mr. Silva when you purchased your house, did you have a survey done on your property?

Mr. Silva: Yes, I did.

Commissioner Slesnick: So you knew that the country club property was twenty feet away from your property line?

Mr. Silva: My survey did not include doing a survey of the club.

Commissioner Slesnick: No, no, but it showed you where your property line was; so you bought your property knowing it was five feet from your house.

Mr. Silva: And I saw the wall there...

Commissioner Slesnick: Let me just say. I feel strongly that the country club has bent over backwards to accommodate you, by even giving up ten feet of their own property to put trees in there and move the wall over. You could technically have a four foot or six foot barrier within five feet of your house and they are extending it out another ten feet by putting trees all along there, so that you have it. To me this is private property rights and I don't care whether there is a house next door or a country club, you are trying to impose your restrictions on somebody else's private property.

Mr. Silva: I beg to differ with you. I do not impose my restrictions.

Commissioner Slesnick: You are asking them to put mulberry trees.

Mr. Silva: Do you have the memo from the people that are doing the club, the people I met on, was it June 2?

Commissioner Slesnick: Yes.

Mr. Silva: In there they specify everything that I have here...

City Attorney Leen: OK. At this point Mr. Silva, they are not here, the country club is not present, this matter has been decided. So what I suggest is that you raise the matter with Mr. Iglesias. There is only so much that the City may be able to do at this point because they have substantive rights now, the country club based on the approval, but if the country club agrees to some of these things, we may be able to help you, but there is nothing really that the Commission can do at this point. The matter has been approved.

Commissioner Lago: But it's not some. Just so you are aware, it's not some, there is only one issue an issue here that hasn't been approved.

City Attorney Leen: So what is the one issue?

Commissioner Lago: He wants the location of the wall to be exactly.

Commissioner Slesnick: No, he's asking for a covenant for 99 years and so forth.

Mr. Silva: They said that they would give me that.

Commissioner Lago: They also said that the height increase, we discussed that last time; we discussed about the no car wash area, the car wash area would be relocated that has been approved; they would provide maintenance on both sides, that's been approved already. These are issues that...

Mayor Cason: Let's do this. We've already approved, let's have the City Attorney with staff see if there is any remaining items that they haven't agreed on see if they can work them out, but right now there is nothing more we can do. They are not here to answer – we've approved it.

Mr. Silva: Were they here when the item was heard this morning?

City Attorney Leen: No, but I don't know if they were aware that there was going to be a... back and forth regarding their private property line.

Mayor Cason: We already approved it on First Reading.

City Attorney Leen: The Commission only has the authority to – the Commission can address some of these things, but anything involving the sale or use of their private property the Commission really can't control, so they would need to be here, because maybe they would be willing to proffer that or agree to it, but they are not here, so what I would suggest is, you heard what the Mayor said, Mr. Iglesias and I can meet with you and them, but just understand they have certain rights and so we are limited in what we can do.

Mr. Silva: This was always done on a gentleman's – of talking back and forth with the Manager, there was no attorney involved, that was not my intent. My intent – even the club manager said, I wouldn't want that wall to be placed right on my property line, so I agree with you. This has all been worked out with them, the only items, that I guess it hasn't is, the moving of the wall on their property instead of on my property.

Commissioner Keon: But the wall is not on your property. The wall is on their property.

Mr. Silva: Well on the easement....

Commissioner Keon: But they have made no – they have not told us. If you go back and make an agreement with them then you can discuss it. At this point, your discussion needs to remain with the manager of Riviera Country Club. There is nothing we can do.

Mr. Silva: Let me ask you a question. Why did the City Manager make the statement that I had worked everything out with Mr. Iglesias when I believe that's an error and that's not the truth.

Commissioner Lago: Madam City Manager, I think the issue, I think she misspoke and everybody makes an error once in a while. It's OK. You are perfect, but I think you are getting a lot of benefits here, like Commissioner Slesnick stated. We could put a four foot wall there; you are getting a six foot wall. They are kind enough to relocate the car wash station, the trees, the maintenance. Why don't you do me a favor – let's move this forward, the Assistant City Manager and our City Attorney will sit down with you and to see if maybe they can have a conversation with the country club, and if they are amenable to your needs and to your request.

Mayor Cason: Maybe they'll agree. You have to work it out with them.

Commissioner Lago: This is private matters again; this is private property matters, OK.

Mayor Cason: Thank you very much.

Mr. Silva: There is a very important memo I don't think you people have received and that's the one from the petitioner of the property, I think its Morton or somebody like that, that they wrote a summary of what was going on; and in there they said everything that they would agree to.

Mayor Cason: Then maybe they have.

City Attorney Leen: Look, in good faith we are going to work with you, but I'm just telling you we are limited by private property rights, and most of these have already been agreed with is my understanding. So the Commission has done everything that they can, because this last item is something not within their power.

Mayor Cason: And hopefully we can work this out with them, so we'll try.

Mr. Silva: So we'll leave it like that.

Mayor Cason: Yes. Thank you.

Commissioner Keon: Thank you.

[End: 12:18:00 p.m.]