

City of Coral Gables City Commission Meeting
Agenda Item F-10
December 10, 2019
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli

Vice Mayor Vince Lago

Commissioner Pat Keon

Commissioner Michael Mena

Commissioner Jorge Fors

City Staff

City Manager, Peter Iglesias

Assistant City Manager, Ed Santamaria

City Attorney, Miriam Ramos

City Clerk, Billy Urquia

Planning and Zoning Director, Ramon Trias

Public Speaker(s)

Agenda Item F-10 [2:27 p.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 5, "Development Standards," Section 5-107, "Playhouse", and Section 109, "Recreational Equipment", clarifying provisions for play structures and recreational equipment; providing for severability clause, codification, and providing for an effective date.

(Sponsored by Vice Mayor Lago)

Mayor Valdes-Fauli: Okay, F-10.

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City Attorney Ramos: F-10 is 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 5, "Development Standards," Section 5-107, "Playhouses", and Section 109, "Recreational Equipment", clarifying provisions for play structures and recreational equipment; providing for severability clause, codification, and providing for an effective date. This is a public hearing item.

Planning and Zoning Director Trias: Mayor, staff has prepared some amendments to the Zoning Code that clarified the Playhouse section of the Code and expands it to deal with play structures. And there's some development standards that are listed here. If you have any questions, I'll be happy to explain.

Vice Chair Lago: Okay. So, this is pretty simple. This is a matter -- this deals with play structures. And what we tried to do here is address the fact that we've had maybe a handful of examples where there's been a Code issue for individuals who have these very small play structures located on a setback. And what we've tried to do is find a way to resolve these play structures so that they're legal, so that young children in the City of Coral Gables can have these structures in the rear of the house. As you know, there are certain properties that their configuration makes it a little bit tight and those properties do not -- have certain limitations in regards to where the play structure can be located. And this just allows for those play structures to exist, more importantly, to coexist in the neighborhood. Again, we're not allowing -- we're not requesting that they be in the front property, located in the front. We're not allowing for AC, electrical. We're not allowing for them to be attached to a tree where they could cause any harm to the tree. These are just a simple structure within a cer -- I think you said about 120 square feet?

Planning and Zoning Director Trias: That's the maximum size, yes.

Vice Chair Lago: Yes, non-habitable. Let me make that very clear. You can't make it into a separate structure where you're renting out as an efficiency. This is just your standard play structure that does not need to go through the protocol of a building permit here in the city...

Planning and Zoning Director Trias: Right.

Vice Chair Lago: But will allow us to have those properties on a certain portion of the setback.

City Manager Iglesias: It would not be covered by the Building Code.

Vice Chair Lago: And it would not be covered by the Building Code.

Commissioner Keon: Go ahead, but I have something...

Mayor Valdes-Fauli: Do we have any responsibility if the thing collapses or a child is killed or -- because (INAUDIBLE).

Planning and Zoning Director Trias: The language that we have written is that -- do not require a building permit, but shall be designed and constructed to playgrounds standards. That is the best we could come up with in terms of dealing with some of those issues potentially.

Vice Chair Lago: And by the...

Commissioner Keon: I...

City Attorney Ramos: And either way, we have sovereign immunity, sir.

Vice Chair Lago: And by the way -- yeah, we do, so that's more important than anything. I think the big issue here and the reason why I'm bringing this up is because these play structures are

located throughout the City of Coral Gables. These structures already exist. And you have one -
- we had one incident, or maybe two or three different incidents. I remember where residents came
to me that it became a Code issue because of an adjacent neighbor. Now we've been very clear
that this -- these play structures will not be overlooking somebody's window, will not be located
where the person -- or the young child or the person who is in the play structure cannot be peering
into someone's house. Those also will be considered, and I want them to be included in this
ordinance.

Planning and Zoning Director Trias: There's some requirements for landscape and...

Vice Chair Lago: Buffers.

Planning and Zoning Director Trias: (INAUDIBLE) and so on. And there's a five-foot setback
that is included as a minimum.

City Attorney Ramos: Also, yesterday there was an issue that was brought up about when you
have like a strangely-shaped lot, if your side yard ends up being your backyard, that there will be
an allowance for that. So, maybe you can add language, Ramon, that addresses that.

Planning and Zoning Director Trias: The language that we have is that it shall not be visible from
a public street.

Commissioner Keon: But sometimes it is visible from the public street. Sometimes, on a corner
lot, you may only have -- maybe you have only a 15, you know...

Planning and Zoning Director Trias: Yes.

Commissioner Keon: Foot setback from the back property line. And if you come in five feet and you're not up against the house, it gives you a very small area to be able to have something where sometimes some corner lots, the side lot often that goes to the street is often a much...

City Attorney Ramos: So maybe on H...

Commissioner Keon: Is a larger lot. So, I don't know if there's a way that you could...

Planning and Zoning Director Trias: What I was thinking is that the landscape would screen it.

Commissioner Keon: Right, that you could do a landscape. So, I'd ask Commissioner Lago if he would amend it to allow for side lots.

Vice Chair Lago: So, in my case...

Commissioner Keon: Yeah.

Vice Chair Lago: I'm looking to buy a play structure for my two young daughters, and I'm in the same situation as the Commissioner just mentioned. I have a hedge outside of a four-foot wall that I was forced to build, here in the city. And no matter what, I'm going to have to put the structure -- as of right now, I will be putting a structure illegally on my setback.

Commissioner Keon: Right, but that's why it should be allowed to be...

Vice Chair Lago: Because I'm on the corner, on a side...

Commissioner Keon: Right, so it should be allowed...

Vice Chair Lago: That's one of the...

Commissioner Keon: To be placed on the side street. Because I remember that often goes -- that's an issue that goes to Code Enforcement and it never is like a hardship. It's just the conditions. And so, you know, you feel sorry for the family, so they just, you know, pass it. So, it should be something that should be permissible in the Code...

Planning and Zoning Director Trias: Yeah. Or we...

Commissioner Keon: So that families can do that.

Planning and Zoning Director Trias: Or we have here that it says, it shall not be visible from a public street, which from my perspective, it means it could be...

Commissioner Keon: You know, but I think -- but you should spell it out because those are what -- they still come to Code Enforcement. And if there's a neighbor that is, you know, a disgruntled neighbor, it's one -- it's an opportunity for disgruntled neighbors to get in...

Planning and Zoning Director Trias: Sure.

Commissioner Keon: An argument over and to call Code Enforcement on. So, if you just -- that you know, you can -- you know, if it's in a -- on a side lot or however language you use that makes it permissible to be able to put it, you know...

Planning and Zoning Director Trias: Sure.

Commissioner Keon: Or the back of the house, in the side lot, screened by landscaping that that's permissible.

Vice Chair Lago: Ramon...

Commissioner Keon: Whatever that language is.

Planning and Zoning Director Trias: That would be fine.

Vice Chair Lago: Another issue, for example -- and you know which property I'm talking about because we went to the site and visited this play structure slash -- it's not a treehouse. Because it's wrapping around a tree, but it's not actually touching the tree.

Planning and Zoning Director Trias: Right.

Vice Chair Lago: I don't know if that five-foot setback is going to do.

Planning and Zoning Director Trias: We could...

Vice Chair Lago: And by the way, and that five-foot setback wouldn't do for me either because of my pool slab, the deck. And I don't -- I don't have five feet from my neighbor. And in the case of that property owner that I'm talking about, their play structure is not peering into the resident's house. The resident's house is probably 30 feet away from the neighbor's setback.

Planning and Zoning Director Trias: We...

Vice Chair Lago: So, I think that that five-foot setback, when you think about it, when you think about property setbacks, and correct me if I'm wrong, you have five feet on the side, and the overhang is allowed to basically encroach two and a half feet into the setback, correct?

Planning and Zoning Director Trias: Yes.

Commissioner Keon: So, why are we holding play structures to a different standard when you already have your overhang hanging over two and a half feet into the setback?

Planning and Zoning Director Trias: If you prefer, we could remove the setback and just expand on the landscape screening.

Vice Chair Lago: I don't have a problem with the setback. I think it should be the same as the overhang on a property. If you're allowing someone's property to overhang two and a half feet into a setback -- correct? No, correct me if I'm wrong. Tell me if I'm wrong.

Planning and Zoning Director Trias: I see your point.

Commissioner Keon: The difference it's at ground level maybe...

City Manager Iglesias: That's...

Commissioner Keon: And the other is not a ground level.

Vice Chair Lago: Well, my -- for example, my roof is higher than the play structure that I'm going to install on my house.

City Manager Iglesias: Vice Mayor, that setback is basically a fire setback.

Commissioner Keon: Right.

City Manager Iglesias: And so that set -- so you could -- so it's really a fire issue. It's not a setback, so you could really do anything you want there. As far as the setbacks as something that would...

Vice Chair Lago: I just don't want to -- like we just talked about in regards to the sidewalks and we talked about in the fertilizer, I don't want to pass legislation that doesn't work. So, if you're telling me that a person who has a very tight side yard or has a very tight backyard, you know, I don't want to pass five feet as the setback and then they're back to square one when a neighbor brings out a measuring tape and says, listen -- you know, it should be clear and distinct. The person should not be forced to go and get a survey and spend \$1,000 on a survey to justify that they're not encroaching on a setback. So, to me, I think there should be some sort of buffer. And if my colleagues agree, I mean, I think that's what we should have. I think five feet is going to be very difficult for certain people.

City Attorney Ramos: Right now, it says located in rear yard, five feet and fully screened. You could remove...

Vice Chair Lago: Yes.

City Attorney Ramos: The five feet and just have it be fully screened.

City Manager Iglesias: Fully screened.

Vice Chair Lago: Yeah, but I think there should be a limit. I mean, you don't want the person's play structure literally on top of the other person's yard. Maybe we should -- we could have it at two and a half feet as the play structure -- excuse me, as the overhang.

City Manager Iglesias: That would allow two and a half feet of landscaping.

Vice Chair Lago: Yeah.

City Manager Iglesias: For a screening area.

Planning and Zoning Director Trias: Okay.

Vice Chair Lago: And we're talking about young kids. There's no electrical. There's no plumbing. There's no mechanical. It's a structure that someone's going to enjoy in their backyard that right now is not allowed by Code Enforcement, and you know, people are being forced to take them down if you have a disgruntled neighbor

City Attorney Ramos: And then you need language regarding when the rear yard is really not the rear yard; it's the side yard.

Vice Chair Lago: That's a great point.

Planning and Zoning Director Trias: Yeah. What I...

Vice Chair Lago: Which is my case...

Commissioner Keon: Yeah. You need -- that needs...

Vice Chair Lago: Because I'm on the corner.

Commissioner Keon: That needs to be included.

City Manager Iglesias: I think we should also look at the side setback, if it's a 25-foot side setback, so I think we can address those issues on second reading.

Vice Chair Lago: What are you thinking?

Assistant City Manager Santamaria: If I might add, we also have to be mindful of any utilities.

Vice Chair Lago: A hundred percent. You're right, you're right. But don't forget, by the way, this is not anchored to the -- this is not anchored. A (INAUDIBLE) -- no, no. I know, I know. I know that's because this is just...

Planning and Zoning Director Trias: There's no...

Vice Chair Lago: This is an overhang.

Planning and Zoning Director Trias: There's no foundation. There's no foundation.

Vice Chair Lago: No foundation. We're not building a structure here. Your grandmother or abuela, in my case, is not going to be...

City Manager Iglesias: We could look at this as some type of ancillary structure, like we do fences, that if the utility needs to use the easement, then you're responsible for restoring it and that's very standard on...

Vice Chair Lago: Oh wait. Let's use common sense. If the person can stand on the second floor of the play structure, like most of them have a slide and can potentially reach or get anywhere near a power line or low voltage, you know...

Planning and Zoning Director Trias: Vice Mayor...

City Manager Iglesias: We will check to make sure that there's adequate safety. That's the one issue in the easement where you have electrical wires that we want that separation, and that's required by National Electrical Code, so that's a requirement.

Vice Chair Lago: Do you want to clean this up now, take a vote...

Planning and Zoning Director Trias: Let me...

Vice Chair Lago: And between first and second...

Planning and Zoning Director Trias: Let me propose some changes. F, we could add "or side yard."

Vice Chair Lago: Okay.

Planning and Zoning Director Trias: And then say five feet unless it's fully screened, so we can have that option and we have some criteria.

Vice Chair Lago: Perfectly fine. Do you want to have a -- do you want to vote on this on first reading or do you want...

City Attorney Ramos: Instead of the two and a half?

Planning and Zoning Director Trias: Yeah, instead of the two and a half. We keep the five feet unless it's fully screened and that way we have some...

City Attorney Ramos: Whoever moves it needs to just the amendment, that's all.

Vice Chair Lago: That's fine. So, I make that motion.

Commissioner Keon: I second it.

Mayor Valdes-Fauli: Alright. Will you call the roll, please?

City Manager Iglesias: And we will deal with the electrical issue when we issue the zoning...

Vice Chair Lago: I mean, people should use common sense. I mean, that's...

City Manager Iglesias: When we issue the zoning -- it'll be a zoning permit, and when we issue that, we'll make sure that there's adequate...

Vice Chair Lago: And by the way, this permit should be free. I don't want it to have a cost.

City Manager Iglesias: It's just the zoning.

Vice Chair Lago: It's just like solar -- I know, I'm just saying. I'm just saying. I wanted to make it easy as possible. I don't want it to have a...

City Manager Iglesias: No-cost permit.

Vice Chair Lago: No cost permit. This is a child's -- you know, this is for children.

City Attorney Ramos: Ramon, that should also be added between first and second that it's a no-cost permit.

City Manager Iglesias: The only issue that we have...

Vice Chair Lago: Unless my colleagues disagree.

City Manager Iglesias: The only issue that we have, Vice Mayor, on that one was the clearance for the electrical lines, and that's something that we will check.

Vice Chair Lago: Yeah. And also, this is just like solar, which has no cost...

Planning and Zoning Director Trias: If we...

Vice Chair Lago: Except for the County.

Planning and Zoning Director Trias: I mean, I was not thinking of having a zoning permit, but if you want to have that as...

Vice Chair Lago: I wasn't thinking about that either, but if it appeases the City Manager, I'm more than willing to do that. And Zoning -- if Zoning is fine with it, I don't have an issue.

City Manager Iglesias: The only thing I'm saying that is because the only check that we would want included there would be to make sure that there's an adequate clearance of electrical lines to make sure that no child gets hurt. And I think that's reasonable. If you're putting it because now we're talking about zero setback and now you are -- you're within the easement.

Vice Chair Lago: So, why don't we really have that two and a half feet along with the buffer because that gives you even a little bit more of a...

City Manager Iglesias: But you're still within the easement. The easements are generally five and five.

Vice Chair Lago: I know, but...

Commissioner Keon: Well, so it can encroach two and a half feet...

Vice Chair Lago: Yeah.

Commissioner Keon: Into the...

Vice Chair Lago: Exactly.

Commissioner Keon: Setback, if necessary.

City Manager Iglesias: Well, I just want to make sure that we have enough clearance on the electrical lines. That's critical that we have -- something that's placed on a tree so high that it -- that that clearance is not maintained.

Vice Chair Lago: Okay.

Commissioner Keon: Yes.

Vice Mayor Lago: Yes.

Commissioner Fors: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 4-0)

Mayor Valdes-Fauli: Alright.

Mayor Valdes-Fauli: Thank you.