

City of Coral Gables City Commission Meeting
Agenda Item E-6
December 12, 2023
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Rhonda Anderson

Commissioner Melissa Castro

Commissioner Ariel Fernandez

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Deputy City Attorney, Stephanie Throckmorton

Public Speaker(s)

Agenda Item E-6 [Start: 10:02 a.m.]

An Ordinance of the City Commission amending Section 14-103.3. “Meeting; Panel Review; Full by Full Board; Conflict Resolution Meeting; Special Master Quasi-Judicial Hearing” in order to amend certain procedures related to the conflict resolution and Special Master Quasi-Judicial Process for appeals of decisions by the Board of Architects; providing for repealer provision, severability clause, codification, enforceability, and providing for an effective date. (Sponsored by Vice Mayor Anderson)

Mayor Lago: We’ll just hear E-6 before we move onto the time certain item at 10.

City Attorney Suarez: E-6 is an Ordinance of the City Commission amending Section 14-103.3. “Meeting; Panel Review; Full by Full Board; Conflict Resolution Meeting; Special Master Quasi-Judicial Hearing” in order to amend certain procedures related to the conflict resolution and Special Master Quasi-Judicial Process for appeals of decisions by the Board of Architects; providing for

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repealer provision, severability clause, codification, enforceability, and providing for an effective date. This is a public hearing item.

Mayor Lago: Madam City Attorney how are you.

Deputy City Attorney Throckmorton: Hello again. Thank you. As we all updated you a few meetings ago, the City Attorney's office is taking a wholesale look at the appeals process for everything across the board. The Vice Mayor has brought forward this ordinance today, which is specific to the Board of Architects appeals process. So just wanted to give you a brief overview of the proposed changes. As you all know, we have now implemented a policy where if there is a settlement reached at the Special Master Conflict Resolution stage, it now goes to the Special Master for approval at a public hearing. So, there's a change from a "may" to a "shall" and other way around, from a "shall" to a "may" in the code there. Also, this specifies that for non-single family residential projects, they will be heard by a panel of Special Masters rather than one Special Master so that would be three Special Masters who are licensed architects in the State of Florida as outlined in the city code. They are paid for their time, so we thank them. The two that we have right now, but we will need to get some more Special Masters in our wheel to make sure that we have sufficient panels. So those are the main changes. One other change that I want to highlight which is already the case, but we want to codify it is that, if the design of a project should change substantially as determined by the City Architect, during the Conflict Resolution or Special Master hearing process, the Board of Architects shall be required to review the changes to those designs. So, if it changes substantially, the City Architect determines it needs to go back to the board, it will do so.

Mayor Lago: Madam Sponsor.

Vice Mayor Anderson: You had touched upon, there is a cost for having each Special Master.

Deputy City Attorney Throckmorton: Yes.

Vice Mayor Anderson: In our discussions, we discussed the necessity of having more than one Special Master for single-family. I felt that where we really have the greater need is for these larger projects. So, the commercial projects are the ones where we have a greater need to have more than one opinion on whether or not something is in compliance with the code. The other major issue that we addressed was that situation where plans are changed after the Board of Architects has already rendered an opinion as to a project and if there's a substantial change there's a need for the Board of Architects to weigh in on the new design rather than just have a single individual like a Special Master weigh in on that design. So those were two of the biggest items that I felt was necessary to achieve as well as the mandatory requirement that you must go in front of the Special Master, that there must be notice of this to the interested parties involved. So, I think this helps get us closer to the goal of having greater transparency and process, efficient process where we can have the public weigh in on projects.

Deputy City Attorney Throckmorton: And I'll note that most of the appeals are those single-family residential homes. So, we don't expect a major increase in cost or an increase in the number of appeals. It's just once in a while we have a larger project that goes through, but as you all know, most of the Board of Architects appeals are smaller windows, roofs, shutters, etc.

Vice Mayor Anderson: Right, and we don't want to put that kind of cost burden on the residential community. So that's the thinking behind it.

City Attorney Suarez: Vice Mayor, given that we may have a practical challenge to enlisting these additional architects to serve as Special Masters, we would ask for additional time for implementation of this ordinance, so perhaps between first and second reading we can work with you on determining an appropriate effective date for this ordinance.

Vice Mayor Anderson: Yes. We are going to have that discussion, because the goal here is to select individuals to be Special Masters that are not currently practicing architects. They are retired, not going to feel compelled to lean one way or another on a friend's design, so to speak. Try and eliminate that conflict. That's part of the reasoning you want three as well to have that balance, not just one. That potential for bias doesn't exist there, so it's balanced out. I'm prepared to move it, if anybody else has any other comments or questions.

Commissioner Castro: Thank you so much for bringing this up. I think we need to find like a clear definition of what is substantial change, what actually qualifies. It's not very clear.

Deputy City Attorney Throckmorton: Sure. I understand that hesitation. We discussed that with the sponsor. There is a lot of detail that goes into that City Architect's determination and to put that in the code would require listing out hundreds of factors that the City Architect considers, the sitting, the massing, the style, the aesthetics. It's not just one thing that would change. We looked at similar cities that have design review boards and this is language that comes from their appeals process, and we also think it's what we've used in the past with the City Architect's details to determine when something has changed, there are various factors that go through. Obviously, redoing a small amount of massing is one thing, but completely changing that is another, but there's no like percentage threshold or anything that we could put in the code that would capture all of those details. So, we're comfortable with this language. I believe this is what the City Architect does anyways, but we're happy to take any suggestions. I know this was a discussion we had with the Vice Mayor as well.

Commissioner Castro: I just foresee this being, oh, the owner thinks this is not a substantial change, but the City Architect and the Special Master does, but I agree. If that's what you find is best in the language, I agree with you. Another thing. We have two of them right now, but they don't work as a panel, correct.

Deputy City Attorney Throckmorton: No. Right now, we have, we should rotate. We haven't had very many recently, so I don't know that we've had a chance for our new Special Master to sit yet, but that would be the plan, would be to rotate between the two of them.

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Commissioner Castro: So, its rotate, not as a panel. Now what she's proposing is three as a panel for commercial bigger jobs.

Deputy City Attorney Throckmorton: For non-single-family residential, yes. It would be a panel of three.

Commissioner Castro: So that means three different signatures.

City Attorney Suarez: It would be a vote. It would be a vote. They would review it at one hearing.

Commissioner Castro: And the three of them agrees.

Deputy City Attorney Throckmorton: It would be a majority of them.

City Attorney Suarez: A majority of the three.

Commissioner Castro: Okay.

Vice Mayor Anderson: Just like the Court of Appeals. We have an Appellate District Court, if you have three judges sitting on a panel, like we do in our local trial court level here when it goes on appeal, two out of three have to vote in favor or against a particular item. We're moving the code in a more transparent direction to avoid bias. This is an important first step, I think, and we can always come back and adjust as necessary. My original thought was to have three Masters across the board, but that becomes quite a cost burden for residents. I don't see that that's necessary if you're changing your roof style or little things like that on residential homes that usually don't matter.

Commissioner Castro: And also, what determines what is a commercial big job. Do we have square footage.

Deputy City Attorney Throckmorton: So, its non-single-family residential properties is how its defined in the code.

City Attorney Suarez: In other words, only the single-family residential appeals of decisions of the Board of Architects relating to single-family homes, those are the ones that would be heard by a single Special Master. Everything else would go before the panel of three.

Commissioner Castro: Okay.

City Attorney Suarez: As proposed today.

Deputy City Attorney Throckmorton: Yes, as proposed. Exactly. That's the definition of the distinction. A single-family residential, one path. Everything else, another.

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Vice Mayor Anderson: So, I'll give you a brief background. For instance, when you're changing zoning from apartments to townhomes, there is a significant loss in setbacks. That does affect the aesthetics of the street and the compatibility of the street, the amount of tree canopy loss. It's important to have balance there and that's why I felt that three were necessary for anything beyond a single-family home.

Commissioner Castro: I'm comfortable with that.

Vice Mayor Anderson: Okay.

Commissioner Castro: I think it's a great idea.

Vice Mayor Anderson: Thank you.

Commissioner Fernandez: Thank you for your work on this and thank you for staff, staff working on this. I think this is a step in the right direction. As far as the panelists, are they going to also rotate with the other two that are currently two that are currently in rotation for single-family, or are they just going to work on the commercial?

City Attorney Suarez: I think what was contemplated was, we would probably have like four Special Masters, and we would rotate from both the single-family residential property reviews and the non-single family.

City Manager Iglesias: That is correct.

City Attorney Suarez: It would be like a pool; you know that we would rotate in that manner.

Commissioner Fernandez: I think what Commissioner Castro was mentioning is a concern that has come up before, is there a way of including maybe as opposed to including it in the code, referring to an addendum that is currently used by the City Architect to make the determination.

City Manager Iglesias: Commissioner, I think it's very difficult when you're dealing with architectural design, that's why we have a very good City Architect. Our Board of Architects and our City Architect won't deal with cookie-cutter design. They are very good architects. They are very solid. I think we have an excellent City Architect that can determine when something is beyond what the original work entitles, and it's very difficult to quantify that, because we are dealing with design concepts. So that's why – we are very fortunate that our city has this City Architect that can make these kinds of determinations and I believe he's very qualified to do so.

Commissioner Fernandez: I'm happy with the direction we're taking and that's maybe something we can revisit in the future and maybe figure out a path that we can all be happy with on that, but I think this is a very important first step.

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Vice Mayor Anderson: I can tell you, I consulted with the City Architect on another thing, and I asked the questions of substantial change, if they are increasing the setback or step-back on a building and usually that's looked as a positive thing. So no, it wasn't. So, there was no need for that project to go back to the Board of Architects for something that residents want.

Mayor Lago: So, would you like to make a motion?

Vice Mayor Anderson: Thought I did.

Commissioner Castro: I'll second.

Mayor Lago: Mr. Clerk, we have a first and a second.

Commissioner Castro: Yes

Commissioner Fernandez: Yes

Commissioner Menendez: Yes

Vice Mayor Anderson: Yes

Mayor Lago: Yes

(Vote: 5-0)

Deputy City Attorney Throckmorton: Thank you.

Mayor Lago: Thank you very much.