

City of Coral Gables City Commission Meeting
Agenda Item E-1, E-2 and E-3 are related
January 10, 2012
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Frank Quesada

City Staff

City Manager, Patrick Salerno

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Laura Russo, Attorney Representing Somerset Academy

Tucker Gibbs, Attorney Representing Somerset Biltmore Neighborhood Association (BNA)

Agenda Items E-1, E-2 and E-3 are related [Start: 9:11:32a.m.]

Mayor Cason: We’ll move on to Item E, public hearings, Item E-1 through E-3. I understand the parties to this matter are here to ask for some additional time. Ms. Russo and Mr. Gibbs, I think would each like to briefly address the Commission.

Ms. Russo: Good morning Mr. Mayor, members of the Commission, for the record Laura Russo with offices at 2655 LeJeune Road representing Somerset Grace Academy of Coral Gables. Both Mr. Tucker Gibbs and I requested a continuance; I just received the settlement agreement a couple of days ago, it’s under review. We were in the holiday month as you know, and unfortunately people had made plans and there was an inability to get together and try to work through this. So we hope to be before you at the next Commission meeting.

Commissioner Anderson: Great.

Mayor Cason: OK. Good.

Mr. Gibbs: I have nothing really to add. We are working diligently to come to – I think we had a resolution but we are just nailing down the final terms.

Mayor Cason: Any discussion? Anybody like to say anything?

Commissioner Cabrera: Not about their – I'm fine with their continuance, I understand the holidays put us behind, but I was just wondering from the Commission their thoughts pending the next hearing on this item with regards to the land use. I remember that in the First Reading we passed it, and we did so in order to be able to move forward with the application, but I'm just wondering how the rest of you feel these days about the land use, because I've had some discussions with the City Attorney about the land use change, as well as I've done my own little research on it, and I have some pretty strong reservations about it, and I was just curious what you all thought?

Commissioner Anderson: I feel the same way. I heard what our City Attorney said. Like I mentioned I don't like them sticking their long arm into our – potentially sticking their long arm into our business and our decision. So I don't support the land use when it comes before us. I will not be supporting the land use.

Commissioner Cabrera: You know, I'm having this discussion with my colleagues; one, because I want to hear from them like Ms. Anderson, but two, to give you all an indication of how I'm going to be treating this item, so that if that helps you in your settlement agreement all the better, and I share Ms. Anderson's concerns over the land use change. I don't believe I'll be voting in favor of it. So if that somehow changes the landscape of the issue, then it's important that you all know that. Mr. Quesada? Mr. Kerdyk?

Commissioner Quesada: I'm curious. Last time we were here at the last meeting you said you guys would be working things out. I'm sorry I had to step out before you walked in, have you given us an update on where you are currently?

Mr. Gibbs: Yes. We've submitted to Ms. Russo a draft settlement agreement and they are reviewing it as we speak, we submitted it on Saturday.

Commissioner Quesada: OK. Look, I agree with Commissioners Cabrera and Anderson when it comes to land use, but I know you guys mentioned that you'd be working with that provision and I guess I'd want to see what you guys came up with before I come to an opinion on it, if in any

way you were going to modify it in a way that we would feel that would be reasonable to us. So, I think I'd want to hear from you guys before I made a decision on that.

Commissioner Cabrera: Yes – and in my conversations with the City Attorney the impression I received was that there would be a covenant in there...

Commissioner Quesada: OK.

Commissioner Cabrera:...so that if somehow the school leaves the property and it reverts back, the entire property reverts back to the church, then that land use change is no longer applicable. I guess my concern from that standpoint is that it puts the City in a defensible position to try to defend that covenant, and that's a concern for me. So you know the law better than I do.

Commissioner Quesada: That's an interesting point and definitely room for concern.

Mayor Cason: Craig there are schools with more than 260 people that don't have – the land use has not been changed, it's still special?

City Attorney Leen: I believe that there are. I believe there are parochial schools with over 260, but I would want to check that to make sure on the number, I'm not sure if staff could answer that or not. I believe so.

Ms. Russo: But I believe the parochial school you are talking about or at least the one that I can think of is over 260, the land use is education, St. Teresa, the land use in St. Teresa is education.

Vice Mayor Kerdyk: Which one?

Commissioner Quesada: St. Teresa.

Ms. Russo: St. Teresa has an educational land use...they must have distinguished the properties that are religious from the properties that are...

Commissioner Cabrera: And I guess I brought this up also, as I said before, I don't want to repeat myself, but as I said before so you all would hear how I feel about this item. Do you all have concerns over the fact that...

Ms. Russo: I think that as I tried to explain during my presentation on First Reading, our request to change the land use was based on legal opinions of the City Attorney at the time we started the process. You have now been given new advice from your new City Attorney, who in fact advised

the Planning and Zoning Board that they could still hear the conditional use and site plan approval without changing the land use. So our application was still pending from when we had originally started it, and that's why you have the vote you have from me from the Planning and Zoning Board, and the Planning and Zoning Board voted against the change in the land use, but in favor of the conditional use in the site plan.

Commissioner Cabrera: So in essence you would be comfortable, and I don't want to put words in your mouth Ms. Russo, but you would be comfortable if in fact the majority of this Commission decides not to approve the change of land use.

Ms. Russo: I would be more comfortable knowing that the conditional use of the site plan would be approved regardless of the change in land use.

Commissioner Cabrera: OK. OK.

Ms. Russo: From the school's standpoint the goal was only to change the land use because that was the position of the City at the time, not because it was something that wanted to be done for future purposes or future uses of the church or the school. There was no intent other than that was the position taken at the time.

Commissioner Cabrera: OK.

Vice Mayor Kerdyk: I think, Ms. Russo, you were very clear, no doubt about it; and you know how I feel because I mentioned it at the dais at that time, which was I had great reservations changing the land use, and I understand the land use is basically the bible of the City of Coral Gables as far as our zoning goes, and I have some great consternation about moving forward in that direction, but I encourage you as I did last time to make sure you have an agreement when you come up here next time and not to delay it past this two-week period. I think that's plenty of time, time's over and you guys knowing how of good attorneys you are you can make sure that situation gets resolved in that period of time.

Commissioner Cabrera: And I wasn't suggesting for a moment that you had not articulated that very effectively, because you did, you articulated that very effectively first time around. I just thought we'd get it out on the table so both parties would understand the overwhelming feel of the Commission, that's all. We don't have to discuss it any further; I think you all get it.

City Attorney Leen: Mr. Mayor, just if I may clarify. At the time that I made that opinion, I asked our zoning officials for a map of the City and a number of the schools – a number of the churches that had parochial schools attached had the religious institutional designation, as does

University Baptist Church it presently has a school there now. The issue of how large – the general issue in the land use decision would be, can the school be an accessory use to the church?- and at some point the school would become so large that it maybe couldn't be an accessory use, that ultimately is your decision, but it was my opinion based on what I viewed at the time that the number 260 could be an accessory use if you decided it, it would not be unlawful for you to decide that, and if you'd like at the next meeting what I will bring is all the information for the different schools and the numbers if you'd like to hear that.

Mayor Cason: OK, that's fine – great – alright. Well then I'd like to entertain a motion, we have a motion on continuing this for the next meeting.

Commissioner Anderson: So moved.

Vice Mayor Kerdyk: Second.

Mayor Cason: Commissioner Anderson makes the motion, Vice Mayor Kerdyk seconds it.

City Clerk

Commissioner Quesada: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you very much. See you next time.

Commissioner Anderson: Thank you.

Vice Mayor Kerdyk: Thank you.

[End: 9:20:44 a.m.]