

City of Coral Gables City Commission Meeting
Agenda Item F-4
November 18, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Assistant Development Services Director, Charles Wu

Public Speaker(s)

Melody Roadman, Coral Gables Resident

Agenda Item F-4 [Start: 2: p.m.]

Discussion regarding implementation of tree protection measures.

Commissioner Keon

Mayor Cason: Let's do F-4, a discussion regarding implementation of tree protection measures.

Commissioner Quesada: I'm sorry, just to be clear. Cindy, you guys just make a copy of the comments for each one of us?

Ms. Birdsill: Yes. Mike is running down to make the copies.

Commissioner Quesada: Perfect. He can get them in Craig's office, it's probably closer.

Mayor Cason: Alright, who's going to do F-4?

Commissioner Keon: Maybe Brook can help us and Ramon. It deals really with permitting. I'd like you to all meet Melody Roadman, she contacted us, all of us with regard to the house that is being built on Castaneda and it also has some bearing large oak trees. You know this is an issue that's going to continue to surface for us, because there are no or there are so few empty lots in the City, so what we are going to see is redevelopment, people are buying property, their homes where their land value they are going to knock them down, demolish them and then they want to rebuild; and these are lots that have long established trees and vegetation on them that we have made a decision about protecting in our Zoning Code and in our City Code, we reference these specimen trees and we reference the need to show them on a survey and I think...

City Attorney Leen: As I recall, we passed a resolution, you passed a resolution. The Code provisions are still coming up.

Interim City Manager Olazabal: Correct. This is to provide a little bit of a reference, we are giving you the tree protection measures are in place existing ones, a copy of the resolution that was in place which established the survey being requested at the Board of Architects level, and then in addition to that we are working on additional regulations to try to make it stronger, the tree protection measures stronger, and Charles will talk about that, but I don't want to interrupt you. I know you have more to say.

Commissioner Keon: What I'd like you to address also Charles as you speak, is where in the process, where do we begin when looking at trees with regard to the developed on a piece of property?

Mayor Cason: And did this particular case fall again in between, in the gap between when the Board of Architects had information...

Mr. Wu: Yes.

Mayor Cason: So this is one of those anomalies that's sort of left over business, we may have a couple other ones, but...

Mr. Wu: Assistant Director Charles Wu, Development Services. Talk about the process – you approved in September a resolution requiring two things now in terms of the process, you required a tree survey and a tree protection plan as part of the Board of Architect Development Review Committee.

Vice Mayor Kerdyk: Let me ask you a question. Tree survey – that is certified by a surveyor, the tree survey?- is it certified?

Mr. Wu: That's a good question. There is a nuance; we work with applicants. Some surveys have boundary surveys, some surveys have tree information. For those who do not have tree information we ask them to give us the information either by going on the property and writing on the survey the tree information, i.e. species, size and type and buttress that with photographs as part of the application. It's a hardship to have someone go back to redo a survey just because it's lacking trees.

Vice Mayor Kerdyk: OK. So the question to you is, so you have the survey that shows the trees, that's one; and you have a document that does not show the trees so then you ask them to go back in and show the trees, correct?

Mr. Wu: Show the trees, correct.

Vice Mayor Kerdyk: OK. So then to get that back do you go back and visit that site and make sure that they have put the trees in the right places and identified the right trees?

Mr. Wu: We do not have the staff to do that because we have the volume of Board of Architects every Thursday.

Vice Mayor Kerdyk: OK. I thought that was how you were going to answer the question. So then let's talk about surveys – a survey is certified that means that somebody is putting their name on the survey saying, I certify that this is the way its set up on the piece of property, this is where the trees are. Is it possible that we can just make it a requirement that a survey be certified with trees allocated on the survey instead of the second example?

Mr. Wu: You can require it; it's going to be a hardship for everyone.

Vice Mayor Kerdyk: It's a hardship but this is a material issue.

Commissioner Keon: Right. I think you want specimen trees certified on...

Mr. Wu: We ask for all trees because all trees have to be indicated to keep it....we request a tree permit if you want to remove even a non-specimen tree.

Commissioner Keon: OK.

Vice Mayor Kerdyk: My feeling is how much is it going to cost for a survey? Frank, you do surveys all the time - \$1,000?- \$500? OK \$500 to \$1,000, OK to do something like that. That's just the cost of business in doing business in the City of Coral Gables.

Mayor Cason: What you don't want is a developer saying, trust me. We have to have somebody that is accountable that the trees is where they say they are, which are specimen trees?- which are not?- which are protected?

Commissioner Lago: I'll give you an example because we are talking about the cost of doing business in the City of Coral Gables going up. I was dealing with a resident the other day that they are doing an addition to their home. The addition is nowhere near the setback; they still have to get a survey. I mean to me, \$800 for a survey its embarrassing, I think I sent it over to the City Manager or I think Craig was helping me out on that issue, this person had to spend \$800 and they are doing an addition to a living room, which is probably 25 feet from the setback.

Mayor Cason: That's what you want to be able to avoid, those sorts of...

Commissioner Lago: And they can't commence construction until they show that survey, because what they do is, the way that we are unclear as a City, by the way, is that they dig the ditch and before you can lay your rebar or pour your foundation you have to show a, my verbiage is incorrect but it's like a ditch survey or some sort of survey that maybe someone from Public Works or someone from the permitting department can show that right there is a cost of doing business which is absolutely ridiculous. That's something that I want to address in the near future, kind of like what we are trying to address with the dumpsters before and kind of like with this issue.

Commissioner Keon: [Inaudible]

Mr. Wu: For the ones that I've seen recently for the sizable projects do have surveys with tree information on it, that's quite comprehensive. For the ones that are not decent size properties or measure redevelopment does not have those resources. So if it's a policy of the Commission and the Mayor to just requiring updated surveys for every case, we would be glad to implement that.

Mayor Cason: How many do you get?- how many do you get in a year would you say?

Mr. Wu: Actually it involves AC installations, because that requires survey updates, manual expansions, anything that deals with digging something in the ground that has a....setbacks require a survey.

Mayor Cason: So hundreds?

Mr. Wu: I will say easily we encounter maybe 10 projects, 20 projects a week that will involve surveys.

Mayor Cason: 500 a year maybe?

Commissioner Lago: I think I'm going to open up a survey company.

Commissioner Keon: You should be a land surveyor [Laughter]

Commissioner Lago: Right.

Vice Mayor Kerdyk: I think that's substantial. We are focusing on just the big thing where they are knocking down a building and then we are asking for the survey, but actually when you just mentioned that you could say, hey you need a tree survey just for that addition. How do you know you are not taking out an oak to do the addition?

Commissioner Lago: But they have to do it no matter what. I wish we had somebody, I wish we had Bill Minor here. Basically, you have to have a survey anyways if you are going to build a structure on an existing piece of property, so there are less and less empty lots; you probably know the ones kind of on one hand. So the issue is, they've got to get a survey anyways.

Vice Mayor Kerdyk: Right.

Mayor Cason: Of course no matter how old it is – I have a survey...

Commissioner Lago: No, no. You can't...

Commissioner Keon: It should be within five years, isn't it?

Commissioner Lago: You have to provide a survey; I think it's six months.

Mr. Wu: We accept surveys no more than five years...

Commissioner Lago: Five years?

Mr. Wu:...with an affidavit showing that there are no major improvements that will affect the survey, because we've been getting complaints that sometimes the cost of the survey exceeds the cost of the work.

Mayor Cason: I notice for example, on South Greenway where I walk around all the time, there is a house that's been renovated and there is a huge oak tree and they changed out the septic field in the front and the driveway and I saw bulldozers bulldozing tree roots all over the place, and it was like three feet from the side of the oak tree. I wonder if that tree was on the survey or was considered when the permit was given for the renovation, because it sure looked like it did some damage to me.

Mr. Wu: Well the irony is the project that I brought up here, discussion here, did have a survey and did have the tree information on it, it was a certified survey and it was missing a major tree.

Commissioner Keon: And was missing a major tree.

Mr. Wu: By a certified surveyor. So we had the information, it was until our Public Service Director went to the site as part of this review process and realized, wait a minute, the second biggest tree on the property is not on the certified survey. So...

Commissioner Keon: Were they instructed...?- did they just draw in the trees afterwards?- or were they instructed when they got a survey that the survey had to include the trees on it and the stamp on there includes – I mean you can get a survey and then you draw in...

Mr. Wu: I couldn't tell you. I know we are increasingly getting surveys with tree information on it, so I think word is getting out there that if you do a survey in Coral Gables you should put the tree information.

Commissioner Keon: OK. But we should probably change our requirement that when you are required to have a survey, it needs to include trees on the property.

Mr. Wu: Yes. The word is out there and...

Commissioner Keon: But our rules need to also reflect that, so not just a practice, it is also -- it is in our regulations.

Commissioner Lago: Maybe it can be, if we are going to maintain that you have to have a survey even if you are building an addition, it's nowhere near the setback, and maybe it just can be an addition to adding tree specimens on that survey.

Commissioner Keon: Yes.

Commissioner Lago: If you are going to get a survey anyways for the new building structure, you might as well show where the trees are.

Commissioner Keon: Your name and address.

Ms. Roadman: My name is Melody Roadman, I live at 6455 Castaneda Street, right next door to the property we are currently addressing, 6505 Castaneda Street and I do not understand why on the website it says as of September 23rd a tree survey must be submitted with the plans that go before the Board of Architects. So if that's on the website now, why are we – I don't know the difference between a survey and a tree survey. It says specifically on your website, a tree survey is now required to be submitted when you submit your plans before the Board of Architects.

Vice Mayor Kerdyk: But a tree survey could be, I went out and surveyed my property or tree survey could be somebody's stamp.

Commissioner Keon: There is a difference.

Vice Mayor Kerdyk: There is a difference.

Commissioner Keon: There is a difference between it being certified by a professional and putting their stamp on it that says, you know when they do the survey of your land, you are paying a professional to do the survey, and to indicate all of the...

Commissioner Lago: Signed and sealed document.

Commissioner Keon: A signed and sealed document as opposed to – no, what they are saying by survey, unless they are indicating that it is a professional survey that is signed, sealed, documented, whatever, you take the regular land survey you have and you walk out and then you draw in the trees, that's the difference.

Mayor Cason: Because we had a discussion on when we were doing the lot split on Granada. I mean we were asking what's a specimen tree?- none of us knew. We found out later on that its 18 inches, but we also know what trees are protected and are native and non-native, a lot of that information homeowners don't know, we didn't even know it. If a person just goes out and self-certify that there is a tree or it looks like a palm tree to me or something else, I'm not sure that's very helpful, but more than that cost a lot of money.

Interim City Manager Olazabal: Right. Well the other thing is there are some plans that have already been submitted to the Board of Architects and are going through the process and in this particular case, I'm sure exactly when it was submitted, but it might have gone through the Board of Architects prior to the date September 23rd when it was required, so what we are doing with the cases that are kind of in the process is we are adding a review, a Public Service Department review where they review the survey, look for the trees and see – go to the site prior to permitting the process, and that's kind of what we are doing with 6505 Castaneda at this point, where I guess we are in communication with the Public Service Director, right?

Mr. Wu: Yes.

Interim City Manager Olazabal:...to figure out how we can address the issue that this tree was apparently not initially on the survey, but it is there and how we take it into account.

Mr. Wu: We passed out the survey of the property, I don't know if all of you got it, and behind it is the proposed new house, and this is as complex as Lisbon if not more complex. They have a number of mature trees on the front; it is their attempt, like in the Lisbon case to preserve the major trees on the property. The issue is whether they go far enough to protect those trees and that is the process we are at now. A permit has not been issued for this project yet. We visited the site with Jane Tompkins, Public Services Director as well as Troy Springmyer, with the developer and the contractor; five, six of us were on the site for at least two hours, walked through the entire property and as you can surmise as you saw in the Lisbon case, it's very difficult to see on a 2-D rendering how a 3-D project is impacted by the limbs on the trees going every which way. So until we allow the old project to be demolished and then we field survey the new house on the property and go out with a pole showing 20 feet, 25 feet, we don't know how precisely how the new project will impact other than a guessing game saying, that might be in the way, it might not be in the way; we think it is in the way, we show on the plan they are trying to protect it, but those are the things that cannot be resolved until we go through this process.

Commissioner Keon: Until the demolishing takes place?

Mr. Wu: And we field survey, we agreed to do all that, we agree to relook and reposition the drain field, just like in the Lisbon case, so at least they are talking to us, they know they'll have to go through some changes and we have told people they don't want to be in a similar process like in the Lisbon case getting stuck through some kind of appellate appeal process. So far they are working with us and the goal, we all agree with the resident, is to preserve as many trees as we can. It does come down to can we preserve all the trees in a reasonable development.

Mayor Cason: Also when you do demolition, are we careful about the trees, because you can come in with a bulldozer and dig down, I mean the roots could be right under the foundation, but when you come in with a bulldozer and you decide to put a much higher building, you may end up killing all the roots before you even get to the others.

Mr. Wu: That's a good point. We talked through that on the property actually, and if you see on the survey, the only area where we feel sure that it's not disturbed is really the driveway where it's safe to say there are no roots intruding into the driveway. So we asked the contractor and he's agreed to this and we will watch it, that any demolition activity will go through only through the driveway. They are doing extensive tree protection fences around the entire front property and to the side, so that's supposed to go up very shortly.

Commissioner Keon: Are there tree protection fences in place now around these trees?

Mr. Wu: There are orange barriers and we asked them to put up more permanent protection fences.

Commissioner Keon: OK. Now it's my understanding that this project received preliminary approval at the Board of Architects, is that right?

Mr. Wu: As well as final.

Commissioner Keon: OK. And that was prior to them providing an accurate tree survey, is that right?

Mr. Wu: No. We do have a tree survey.

Commissioner Keon: Now. OK.

Ms. Roadman: Now. It wasn't given when they got the approval.

Mayor Cason: It fell between the cracks.

Commissioner Keon: It fell between the cracks. Will this have to go back to the Board of Architects again?- or no?

Mr. Wu: No.

Commissioner Keon: OK.

Mr. Wu: Only if there is a design change that warrants a BOA review and it may well end up that way until we see how the two-story affects the existing trees.

Commissioner Keon: OK. So then will it have to go back to the Board of Architects?- or you will deal with it administratively?

Mr. Wu: It's already approved for final approval.

Interim City Manager Olazabal: If they make changes to the outside they have to move the façade, or they have to do significant changes that affect the appearance of the house, they will have to go before the Board of Architects again.

Commissioner Keon: OK.

Interim City Manager Olazabal: If the issues can be resolved by making sure that the driveway is done in a sand basement so that the roots – you know things of that nature that doesn't affect the aesthetics it won't go back to the Board of Architects.

Commissioner Keon: I see. OK.

Mayor Cason: And be careful when they do the demolition because, as I say, the case that I brought up on South Greenway, it was a driveway and there were roots sticking up all over the place because they came in with the bulldozer and went down deeper than the original and that's where all the roots were because there wasn't many areas that didn't have cement and it was right underneath and they killed them all. So it needs to – I guess the point is moving forward, these are a couple of occasions that fell in between, but we certainly want these specimen trees preserved. If they can't be preserved sometimes they can be moved, we've been told that that's possible.

Mr. Wu: And we are working on it, if it cannot be moved it can be mitigated, so that's the comprehensive co-change package we are ready for you in the very near future.

Commissioner Keon: OK.

Mr. Wu: We have a comprehensive update on a tree protection ordinance.

Mayor Cason: So you'll be coming to us then for that.

Commissioner Keon: OK. So it's coming back to us. But we want to make sure then that's why I'm asking you here today, are we catching those ones that are falling between the tracking...

Mr. Wu: We can do better – because for example, the resolution you had passed, how we can improve it is that we should ask up front the tree disposition plan.

Commissioner Keon: OK.

Mr. Wu: What happens is we have a tiny...tree survey here and we have a large proposed plan and I have to sit down and try to surmise, this is a protected tree and where is it on the big plan and it's a guessing game. What the tree protection plan does, it links the two saying, based on the new plan these are the trees existing that I'm going to save, these are the trees we are going to move, and these are the trees we are going to dispose of, so at a quick glance I can say, wait a minute, this tree is too big, it should not move, this tree is an obnoxious tree, you can take it out. You can move this five more feet that way, it makes the time more productive. So a tree disposition plan is 100 percent improves our process.

Commissioner Keon: And also with your Board of Architects there was a discussion about having an arborist on your Board of Architects, is that right?- or no?

Mr. Wu: We would like, sharing with the City Manager, an option of having a landscape architect, which is allowed by the Zoning Code today. Today we have seven architects, licensed architects on the Board; we do not have someone with landscape expertise. I tried to fill in from an architecture background, but I'm not very good at it, but what will help is, from a design perspective at the Board design level, when they start talking about, oh we have a specimen tree here and the house is proposed five feet away, Mr. Landscape Architect, is this adequate?- and after that you'll say, wait a minute, you can just shift things around, here's what we have to design even better up front, as opposed to way in the back here, where you are trying to catch it in the process.

Commissioner Keon: OK.

Mayor Cason: Anything else Pat, that you need that you want on the discussion?

Commissioner Keon: No. It's going to come back to us?

Vice Mayor Kerdyk: I have one other addition to that if it's OK. I was talking to Brook outside and we were talking about the penalty for somebody cutting down a tree and/or cutting limbs off that were significant and I think there is a plan to possibly increase that fine. Right now I

currently think it's \$500, Brook are we looking at that?- is that what you were telling me?- Yes. OK. Next time you update us just tell us where we are as far as that goes.

Mr. Wu: Yes, we will put together a package for you.

City Attorney Leen: Actually I wanted to comment on that. There are a lot of tools we have now regarding protecting trees, including the one that we did today, the Division 17, that's always available.

Vice Mayor Kerdyk: Right.

City Attorney Leen: We also have the variance procedure; I guess it's viewed as a hardship. I've seen staff in action on a property recently where they have one of these tree surveys, and we were able to work it out so that we could save a ficus tree, as I recall, so was it a fichus tree Charles?

Mr. Wu: Yes, it was a ficus tree on a prominent corner.

City Attorney Leen: And we were able to use these new tools that we are really looking for in the Code to implement. The one issue I wanted to raise though is the same issue you just raised. I do think our Code is little weak on penalties. So for example, if someone goes out in the public right of way and cuts down a public tree, which is government property for the benefit of everybody, what I've been advising and I think what staff is looking at now and this will probably be part of the package, maybe we should treat that as a crime, maybe we should treat that as something that should go to the police, and if it doesn't, we should at least look at it as an irreparable Code Enforcement violation, which allows for fines much larger than \$500.

Mayor Cason: Why don't you put that into this whole discussion, a complete package, so we can cover all the deficiencies and how we protect trees? List the mitigation if it can't be saved, options of moving.

Mr. Wu: Yes. We do have all that listed out.

Mayor Cason: OK.

Commissioner Keon: So it's coming back to us.

Mayor Cason: Carmen, you have another?

Interim City Manager Olazabal: Yes. Just a minor item. We are also trying to work on some guidelines as to what type of protection would be adequate for a certain type of specimen tree and all that, so that we can use that to inform applicants of what is expected, but also to provide a little bit of guidance of what's expected so that they come with proposals that encourage tree protection. So we'll try to make that part of the same package that you receive.

Mayor Cason: OK. Thank you.

Commissioner Keon: And you'll get in touch with them during the demolition process the trees are protected?

Mr. Wu: Yes. We will work with Public Service and Code Enforcement because they are the eyes and ears every day to make sure that they are not doing anything that violates our demolition plan.

Mayor Cason: Thank you very much.

Commissioner Keon: And who is Mrs. Roadman to get in touch with if...

Mr. Wu: She contacts me whenever she has a problem and I will direct Code Enforcement accordingly.

Commissioner Keon: And you have Mrs. Roadman's number, yes?- OK. So are you comfortable that it is being acted on?

Mrs. Roadman: I'll just be curious to know the tree missing from the survey is the one that...

Mr. Wu: You have a copy of the reduce plans?

Mrs. Roadman: Pardon me?

Mr. Wu: Would you like a copy of the...

Mrs. Roadman: I would love one. Thank you. I just think that we need to tighten up.

Commissioner Keon: I think that we are.

Mayor Cason: So do we. So do we and that's why we are going to do it.

Commissioner Keon: And you know we are really much reliant on neighbors at this time to tell us what's happening in their neighborhoods for right now. So thank you for talking to us.

[End: 2:54:45 p.m.]