



AGENDA ITEM NO. _____

City of Coral Gables CITY COMMISSION MEETING January 13, 2009

ITEM TITLE:

Proposed Zoning Code Text Amendment pursuant to a Proposed Settlement Agreement with Fernando Menoyo and Almeria Row, LLC, represented by Tew Cardenas, LLP

Zoning Code Text Amendment – Appendix A, Site Specific Zoning Regulations. An Ordinance of the City of Coral Gables amending the text of the Official Zoning Code, Appendix A, Site Specific Zoning Regulations providing for changes to the allowable townhouse building height for specific properties from 35 to 45 feet pursuant to a City of Coral Gables City Commission Settlement Agreement; providing for repeal, providing severability, providing for codification thereof, and providing for an effective date.

RECOMMENDATION OF THE CITY MANAGER/PLANNING DEPARTMENT:

Staff does not support the proposed change as presented.

If the City Commission desire to accommodate the property owners' representatives' proposal for increased height, a draft ordinance providing for an amendment to the text of the Zoning Code Site Specific Regulations with the proposed text of the claimants' legal counsel is attached as Exhibit A.

PLANNING AND ZONING BOARD RECOMMENDATION:

Recommended approval (4 – 1 vote) of the following:

1. Proposed text language/amendment provided by the Claimants legal counsel attached as Exhibit B.
2. Request City staff complete a study of Multi-Family Special Area (MFSA) properties adjacent via streets to Single Family Residential (SFR) zoned properties.

BRIEF HISTORY :

The City Attorney advised the City Commission of the property owners' representatives' desired Settlement Agreement at the 09.28.08 City Commission meeting. The City Commission requested the item be scheduled for Planning and Zoning Board consideration, therefore the item was advertised immediately for the 10.08.08 Board meeting. The item was discussed at the 10.08.08 meeting and the Board provided comments and requested the Claimant provide the necessary information to City Staff in order for the Building and Zoning Department and Planning Department to review and present findings of fact to the Board (See Exhibit C - 10.08.08 Planning and Zoning Board Verbatim minutes).

Building and Zoning Department (BZD) staff requested submission of various background information from the property owners' representatives to allow City staff to provide an analysis. The BZD completed a preliminary Zoning Analysis based upon limited information which is not typical of the minimum information required to complete a preliminary zoning analysis for a pending development project. The information submitted by the Claimant was necessary in order for City staff to provide findings of fact thereby allowing the decision makers to provide for an informed direction and/or decision.

This item was deferred from the 11.12.08 Planning and Zoning Board meeting due to the inability of the

Board to complete all of the agenda items scheduled for that evening; therefore this item was rescheduled for the 12.10.08 Board meeting.

The 11.12.08 Staff report provides a detailed background and history, City staff findings of fact and City staff basis for its position. The staff report is attached as Exhibit D and includes numerous attachments.

The Board verbatim minutes are attached as Exhibit E and this exhibit also includes several documents entered into the record by both City staff and the Claimant's legal counsel.

A summary of City staff basis of not supporting the proposal presented by the Claimant legal counsel pursuant to City Staff findings of facts is as follows:

1. Current MFSA height provisions limit building height to 35 feet within 50 feet and 3 floors or 45 feet, whichever is less, on the remaining portions adjacent, abutting or contiguous (including streets, waterways, or alleys) to an SFR and/or MF1 property.
2. The proposed site specific text amendments are assigned to the property and not to a specific property owner.
3. The potential exists that the subject property owner, subsequent property owners, successors or assigns may seek and secure variations or variances to the provisions of the MFSA provisions outside of this settlement/zoning code amendment process.
4. No specific building typology limitation has been proffered as a part of the proposed site specific amendments. Townhouses are not the mandatory building typology.
5. The proposed site specific text amendment does not include a site plan as a part of the Settlement Agreement.
6. The assignment of site specific standards does not provide for the same opportunities for development commonly enjoyed by identical/similar properties within the same zoning district adjacent, abutting or contiguous (including streets, waterways, or alleys) to SFR and/or MF1 properties or other properties adjoining SFR and/or MF1 properties.

Please see the 11.12.08 Staff report (Exhibit D) for a detailed basis and findings of facts for not supporting the proposal as presented.

City staff would also note that other properties have satisfied the maximum 35 feet height provisions as provided for in the Zoning Code exhibited in illustrative form on Exhibit F.

The City Attorney's Office/City Staff have discussed the above findings with the property owners' representatives in an attempt to secure resolution. The representatives have indicated to the BZD, Planning Department and City Attorneys Office their desire to allow the Planning and Zoning Board and City Commission to provide direction prior to any initiation of changes to the submitted text amendment.

The property owners' representatives' responsibility is to provide evidence and testimony to substantiate their claim/request.

BZD staff shall also be in attendance to address zoning code related questions.

Numerous exhibits and attachments are provided as background information to this request, a comprehensive listing of the Exhibits and Attachments for clarity of the records is as follows:

- A. Draft Ordinance with Claimants proposed Zoning Code language.
- B. Claimant proposed Zoning Code language.
- C. 10.08.08 Planning and Zoning Board Verbatim Minutes (with Attachment C).

Exhibit C – Attachment C: Document entered into the record by Bob de la Fuente re: Menoyo.

D. 11.12.08 Planning and Zoning Board Staff Report with all Attachments (A thru J).

Exhibit D – Attachment A: 01.08.08 Fernando Menoyo Claim Letter.

Exhibit D – Attachment B: Map of Groups.

Exhibit D – Attachment C: City of Coral Gables CLUP Map with properties outlined.

Exhibit D – Attachment D: City of Coral Gables Zoning Map with properties outlined.

Exhibit D – Attachment E: Proposed Site Specific Zoning Regulations.

Exhibit D – Attachment F: Current MFSA provisions (complete copy).

Exhibit D – Attachment G: Ordinance #2004-25 – A District/Special Area Ordinance.

Exhibit D – Attachment H: 09.22.08 City Attorney’s Office memorandum to the City Commission.

Exhibit D – Attachment I: 10.08.08 Planning and Zoning Board verbatim minutes.

Exhibit D – Attachment J: Ordinance #2004-16 – 120 Day Moratorium Ordinance.

E. 12.10.08 Planning and Zoning Board Verbatim Minutes (with Attachments I thru M).

Exhibit E – Attachment I: Document entered into the record by Eric Riel – 11.08.06 City Commission matrix request for additional information/further review pursuant to 10.17.06 meeting.

Exhibit E – Attachment J: Document entered into the record by Eric Riel - 12.12.06 City Commission matrix request for further review.

Exhibit E – Attachment K: Document entered into the record by Eric Riel – Zoning Map: 50’ Setback from SFR and/or MF1 Properties.

Exhibit E – Attachment L: Document entered into the record by Bob de la Fuente and Santiago Echemendia (A thru L).

Exhibit E – Attachment M: Document entered into the record by Bob de la Fuente and Santiago Echemendia – Drawings prepared by de la Guardia Victoria Architects & Urbanists, Inc./Menoyo Properties, dated 12.10.08.

F. MFSA Map identify subject parcels, 50’ setback, previously approved projects.

LEGISLATIVE ACTION:

Date:	Resolution/Ordinance No.	Comments
N/A		

OTHER ADVISORY BOARD/COMMITTEE RECOMMENDATION(S):

Date	Board/Committee	Comments (if any)
10.08.08	Planning and Zoning Board	Item discussed and the Board requested additional information be provided to City staff.
11.13.08	Planning and Zoning Board	Item was deferred. Board did not complete all scheduled agenda items
12.10.08	Planning and Zoning Board	Board recommended approval (4 – 1 vote) of Claimant proposed text amendments

PUBLIC NOTIFICATION(S):

Date	Form of Notification
04.24.08	City Attorneys Office provided written mail notice per the Bert J. Harris Private Property Rights Protection Act notice requirements [F.S. 70.001(4)(b)] to all property owners contiguous to the Claimants properties.
09.24.08	Agenda item was posted on Planning Department web page/City Hall as a part of 10.08.08 Planning and Zoning Board Agenda.
09.24.08	Agenda item was advertised as a part of 10.08.08 Planning and Zoning Board

	Agenda.
10.03.08	All 10.08.08 staff reports, background items, etc. were posted on Planning Department web page
10.29.08	Agenda item was posted on Planning Department web page/City Hall as a part of 11.12.08 Planning and Zoning Board Agenda.
10.29.08	Agenda item was advertised as a part of 11.12.08 Planning and Zoning Board Agenda
11.07.08	All 11.12.08 staff reports, background items, etc. were posted on Planning Department web page
11.26.08	Agenda item was posted on Planning Department web page/City Hall as a part of 12.10.08 Planning and Zoning Board Agenda.
11.26.08	Agenda item was advertised as a part of 12.10.08 Planning and Zoning Board Agenda
12.05.08	All 12.10.08 staff reports, background items, etc. were posted on Planning Department web page
01.02.09	Advertised agenda item for possible First Reading consideration at 01.13.09 City Commission
01.06.09	City Attorneys Office provided written mail notice per the Bert J. Harris Private Property Rights Protection Act notice requirements [F.S. 70.001(4)(b)] to all property owners contiguous to the Claimants properties.
01.09.09	All 01.13.09 City Commission staff reports, background items, etc. were posted on Planning Department web page

APPROVED BY:

Department Director	City Attorney (If Applicable)	Interim City Manager
Eric Riel, Jr. Planning Director	Elizabeth Hernandez	Maria A. Jimenez

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