

**City of Coral Gables City Commission Meeting
Agenda Item C-12
December 16, 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

City Manager, Cathy Swanson-Rivenbark

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Melisa Tapanes Llahues, Bercow Radell & Fernandez

Jorey Friedman, Resident, 1019 Lisbon Street

Tamara D. McKeown, Resident, 910 Lisbon Street

Agenda Item C-12 [Start: 11:11:24 a.m.]

Request for Ratification of Dispute Resolution Agreement as to Lots 13, 14 and 15 in Block 59 of Coral Gables Granada Section, according to the plat thereof recorded at Plat Book 8, Page 113, in the Public Records of Miami-Dade County, Florida, presently referred to as 1011 and 1015 Lisbon Street (pursuant to section 3-1705(D) of the Zoning Code, this item may only be pulled by a supermajority vote of four Commissioners).

Mayor Cason: We're going to do C-12 now and then F-3, because we have some people waiting.

City Attorney Leen: Mr. Mayor, what I would suggest is we do have a report on F-6, so we go to C-12.

Mayor Cason: Yeah, C-12.

City Attorney Leen: And then we can come back.

Mayor Cason: C-12 and then we'll do F-3, all right. C-12, will you take the lead on that one?

City Attorney Leen: Yes, Mr. Mayor. Thank you. I asked that this matter be pulled, because we have a dispute resolution agreement. We've complied with our Zoning Code; it's executed, but there's a few changes that came up in consultation with the residents and with Palmcorp Development Group and with individual meetings with the Commissioners, and I'm going to read those into the record now, and then I will open it up to the floor, if anyone wanted to speak, Mr. Mayor. The three changes to the agreement are, one, there's going to be additional language emphasizing that the variances will be interpreted, applied in conformance with the site plan in Exhibit A. And at this time, I'm going to hand out Exhibit A. This is the same exhibit you looked at last time. Secondly, there's going to be some language introduced. This is more of a form issue, but there's language introducing arborist Jeff Shimonski and his role in a "whereas" clause. He's already mentioned in the operative clauses. It is just introducing his role. And then lastly, there's going to be language indicating that the masonry wall behind lots 13 and 14 will have a design feature, such as a pier, indicating the property line in an aesthetically appropriate manner, and that would also be written into the agreement. In addition, I just wanted to give a few interpretations with everyone present. The way that this agreement would be applied in the end is basically pursuant to the site plan, which has been agreed on by everybody. In addition, there was a question about the three oak trees and how we would measure the tree protection zone. The tree protection zone is 25 feet from the three oak trees. And you basically draw a circle with the three oak trees and then go 25 feet out in a radius, and my understanding is, it's depicted in Exhibit A. So that's the way that that would be applied. In addition, I've given an interpretation, and it's actually written into the agreement and was agreed to by Palmcorp that the Board of Architects still retains full design authority and they get to review the matter, the

different properties and the different houses that are placed on the properties, and ultimately, the City still retains all of its regulatory authority. Of course, this agreement that you approve is giving development rights and we would be bound to the agreement, but we still have our regulatory authority when we review, and that's all written into the agreement. So with that, I will turn it over to the residents and also to Palmcorp. If you have any comments on what I've said, please provide them to the Commission now.

Mayor Cason: Is there basically an agreement, both parties, to these three clarifications?

City Attorney Leen: Could you state it on the record?

Melissa Tapanes Llahues: Yes. Good morning. Melissa Tapanes Llahues, Bercow Radell & Fernandez, 200 South Biscayne Boulevard, representing Palmcorp Development, LLC (Limited Liability Company). Thank you. City Attorney, we're in full agreement with these recommended changes to the settlement agreement that was proposed and discussed at the last meeting. Thank you.

City Attorney Leen: Yes. We also have the appellant present, Ms. Jorey Friedman, if she could come up. This dispute resolution agreement resolves that appeal, those two appeals. They're not parties to the agreement, but this is how the City is choosing to resolve the two appeals that were filed; one regarding the Board of Architects design approval and one regarding protection of the tree. And what we've done is we are establishing this tree protection zone. So with that, that would resolve the appeal. And Ms. Friedman, do you have anything to say?

Jorey Friedman: No. We're in agreement. I think we came to a good resolution. Our only concern was expressed last time about the actual construction, when it happened relative to lot 15 and the height of that eve, wherever it is. So we just want to go on record saying we want to make sure we're kept in the loop as the design of that house evolves.

Commissioner Lago: So that's your basic and only concern right now?

Ms. Friedman: Yes, and I don't think there's an issue, that I just get notified when it comes up that the Board of Architects, or whatever, and I, you know, can review things at that point. But I don't think it's an issue. I just --

Mayor Cason: All right, thank you.

Commissioner Quesada: Sorry. I'm going to make a motion to approve C-12 and also a requirement that the applicant is notified.

Commissioner Keon: I'll second your motion. I have one question, though, for the attorney.

Commissioner Quesada: Let me just finish the sentence.

Commissioner Keon: Yes.

Commissioner Quesada: Notified when it goes before the Board of Architects.

City Attorney Leen: Would you make the motion subject to these additional changes?

Commissioner Quesada: And subject to the additional changes.

City Attorney Leen: Thank you.

Mayor Cason: All right, so we have a motion from Commissioner Quesada; Commissioner Keon seconds it on C-12. City Clerk.

Commissioner Keon: Could I ask one question of the attorney before we vote? If for some reason Palmcorp would decide to not move forward with this, could we sell these parcels under all of this, or would it come into a new agreement?

City Attorney Leen: Well, my view is this is resolving this matter for all time. It's going to be a recorded document.

Commissioner Keon: OK.

City Attorney Leen: So it would apply to the three properties.

Commissioner Keon: So it would apply to the properties.

City Attorney Leen: Do you have a different view?

Commissioner Keon: Is that right?

Ms. Tapanes Llahues: No. I just wanted to understand Commissioner Quesada's...

City Attorney Leen: By, no, do you have a different...Just because sometimes on the record it's hard to understand. Do you agree that it would be recorded and the document applies to the three properties, no matter who the owner is?

Ms. Tapanes Llahues: That's correct.

City Attorney Leen: OK.

Commissioner Keon: OK, thank you.

Mayor Cason: All right. City Clerk.

Ms. Tapanes Llahues: Yeah. Just to understand the motion regarding notice.

Commissioner Quesada: She mentioned that she wanted to be made aware when the project was coming before the Board of Architects. Now, determination of what's going to be the design is ultimately up to the Board of Architects.

Ms. Tapanes Llahues: Of course.

Commissioner Quesada: But I still want her to be notified, to be present when that project goes up. So when you are scheduled, when your project is scheduled to go before the Board of Architects, she'll receive a notice from the City the same way you would receive a notice from the City.

Ms. Tapanes Llahues: Right.

Mayor Cason: Standard.

Ms. Tapanes Llahues: Just wanted to make sure the responsibilities were clear so that we could...

Vice Mayor Kerdyk: It should be posted anyway.

Ms. Tapanes Llahues: Thank you.

Commissioner Quesada: Yeah. And the aesthetics also comes down to the Board of Architects.

Ms. Tapanes Llahues: Understood. I just wanted to make sure if it was us that had to provide notice.

Commissioner Quesada: Yes.

Ms. Tapanes Llahues: But it will be the City that provides -

City Attorney Leen: So the motion is that the City would provide notice?

Commissioner Keon: Yes.

City Attorney Leen: Because we need to make sure then that we have that. I know our Development Service Director is here. So for any of these three properties when they go before the Board of Architects for this initial approval, I don't assume that means for all time.

Ms. Tapanes Llahues: Lot 15. I believe the comment was just lot 15.

City Attorney Leen: This is just lot 15, Jorey?

Ms. Friedman: All of them would be (UNINTELLIGIBLE).

Vice Mayor Kerdyk: They're going to all be posted. You're going to be able to see it when they post them. They're going to be posted. We have to post them.

City Attorney Leen: For this first time, we'll let them know for all three of them.

Vice Mayor Kerdyk: Yeah, we'll let you know.

City Attorney Leen: But that's not going to be an obligation forever. It would just be this first time so you're aware of what's happening.

Ms. Friedman: OK.

City Attorney Leen: OK.

Mayor Cason: All right, City Clerk.

Vice Mayor Kerdyk: Yes.

Commissioner Lago: Yes.

Commissioner Quesada: Yes.

Commissioner Keon: Yes.

Mayor Cason: Yes.

Commissioner Keon: I'd like to thank -- I really would like to thank Palmcorp for working with our residents, working with us. You know, it shows developers in a very good light when you're willing to come to the table and have a discussion with the residents and your neighbors and in -- the City. We know that it eventually affects your bottom line and that you have enough consideration for this community that you're willing to have that conversation, so thank you very, very much.

Mayor Cason: And thanks the residents for bringing this.

City Attorney Leen: I think Ms. McEwan would like to speak.

Tamara Mckeown: I would like to speak, if I could. I'm Tamara Mckeown. I'm a resident of Lisbon Street. And I want to say, first, I'm very grateful that the Commission has been so receptive to our concerns about saving this tree. It really is. And I hope you've all had an opportunity to drive by and look at Sherman's Oak; it's magnificent.

Mayor Cason: Yes.

Ms. Mckeown: It's really a tremendous specimen. And I'm also pleased that the developer and the City were able to work this out in a manner that preserves the tree. I am hopeful that the developer will be mindful of the character of our neighborhood, which is a small older neighborhood with a lot of, you know, small, the really cozy Coral Gables cottages. But thank you for all the support you've given in the preservation of the tree.

Mayor Cason: Thank you all.

Commissioner Keon: Thank you.

City Attorney Leen: Thank you.

[End: 11:19:42 a.m.]