

**City of Coral Gables City Commission Meeting**  
**Agenda Item E-1**  
**April 22, 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**

**Assistant City Manager, Carmen Olazabal**

**City Attorney, Craig E. Leen**

**City Clerk, Walter J. Foeman**

**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

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Agenda Item E-1: [Start: 10:19:30 .m.]

Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to Article III “Development Review” of the City of Coral Gables Official Zoning Code to modify existing procedures and create new procedures to resolve disputes and provide relief from the application of the Zoning Code; providing for severability, repealer, codification and an effective date. (Passed on First Reading April 8, 2014).

Mayor Cason: Moving onto Agenda Item E-1, this is an Ordinance on Second Reading relating to a Zoning Code Text Amendment. Mr. City Attorney would you please read the item into the public record.

City Attorney Leen: Thank you Mr. Mayor. Item E-1 is a Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to Article III “Development Review” of the City of Coral Gables Official Zoning Code to modify existing procedures and create new procedures to resolve disputes and provide relief from the application of the Zoning Code; providing for severability, repealer, codification and an effective

date. This was passed on First Reading, 5-0, April 8, 2014). I wanted to briefly go over a few changes that had been made between First Reading and Second Reading, based on comments made by the City Commission and also based on review by outside land use and zoning counsel. We have both of them in the audience and they are going to be coming up soon, Steve Helfman and Javier Vasquez. Basically the changes we made were to address a comment made by Commissioner Quesada and then discussed more generally which was, are we sure that this proposed ordinance will be able to resolve, for example, the trolley litigation?- although it's not solely intended to resolve the trolley litigation and it will apply more broadly, we wanted to take another look at that, but without getting into too much of the details of the trolley litigation. One of the theories behind why this can be used to resolve the trolley litigation is because there is an administrative component. Essentially, the FTA has an administrative proceeding related to us right now, it's an informal proceeding at this point, but we are resolving the matter with the FTA, and as part of that there is a federal claim in that administrative proceeding under Title 6, and that's also been raised in a lawsuit brought by the City against the developer. However, there is always a possibility that, that administrative proceeding may resolve before this lawsuit resolves. What's important is that its related to it and what we wanted to do in this proposed ordinance change is to make sure that even if that proceeding is no longer pending, but that there is a judicial proceeding that has claims related to state or federal rights brought by a private party. For example, or that has something related to due process or fundamental fairness that, that claim could also be resolved through this procedure; and so let me just go through the changes that were made. First on 3-1801(a), which revised slightly the form, the word "City Commission" was removed from the beginning, because actually both staff and the City Commission have a part in this process and we didn't want to just emphasize the City Commission, it is the City and the City Commission ultimately that makes this decision. We also added at the end, you'll see where it says, as well as others who have bona fide claims, which are the subject of pending judicial proceedings, and that's to relate to other parties other than the federal, state, or other governmental agencies. So this could also be used to resolve claims where there is a private party and that's more described below. If you go to Governmental Proceedings, there is a change made there as well, there is a sentence added to Governmental Proceeding.

Commissioner Quesada: What section is that?

City Attorney Leen: This is 3-1801(e)(1), the last sentence says, governmental proceedings shall also include judicial proceedings involving private parties in the City in which matters of federal or state protected rights or fundamental fairness, which is a due process concept, are implicated or at issue. In addition, on the next page, number 2, Government Settlement, there was a typographical error and I actually have the new page, it says "County Commission", it was intended for that to say "City Commission", it's on the last line, you can see that, it says, "City Commission" now, and I have a page for each of you and for the Clerk. In addition, F, one of the

requests made by Commissioner Quesada was to show this to Astor and we had shown it to Astor, but we did take some of their proposed revisions into consideration as well. One of those considerations was expanding it so that it's clear that it applies to private parties. Also F, this division may be applied in conjunction with Division 17 of Article III of the Zoning Code. What that allows is, there may be some hybrid cases where there is a Burt Harris-type claim made against the City or where there is a claim that there is an inordinate burden and this just gives us more flexibility to use both processes together, and I thought that that was implied anyway, but it's better to have it expressly stated. The other changes were already mentioned on First Reading, if you look at 3-1803(a), it's clear in there now that this shall be published in a newspaper of general circulation, the notice that's provided. Finally, I just want to say, the purpose of this ordinance is not to subject city uses or city land to the Zoning Code. The purpose of this ordinance is for situations where there is a development approval that may involve a city use of land, so there may be a mixed use, for example, it may involve both a private and public element, and in those situations there needs to be – and where that's part of a resolution of a lawsuit that fits within this ordinance, there needs to be a mechanism to both settle the case for then for the City Commission to consider and determine whether to grant the development approval related to that and this provides the quasi-judicial process for that to occur. I would now like to ask the two outside counsel that we've asked to help us to come up to the microphone and to provide any additional analysis you think is warranted and then we are all available to answer questions, this is also a public hearing, so in case anyone in the audience wants to comment.

Mr. Javier Vazquez: Good morning Mayor and Commission members, my name is Javier Vazquez with law offices at Burger Singerman. Once again we've been honored to assist the City in the drafting of this ordinance. I think Craig's summary this morning is very thorough, very complete, you have before you an ordinance that has the revisions that we've talked about, an ordinance that is very thorough, very complete with all aspects of the law covered from notice provisions to the public hearing quasi-judicial aspect of the proceeding, very specific standards and an appellate right, which we spoke about last time as well. There is complete transparency in the process and I believe this is what the Commission aim to accomplish and again, we are here to answer any questions that you may have.

Mayor Cason: Anybody have any questions? Frank?

Commissioner Quesada: No, I don't have any additional follow-up questions. Thank you for addressing those points. I think it's a little bit clearer now and I think it was good the first time around, I just wanted to feel that much more comfortable, but I have no problems at this time.

Mayor Cason: Anyone else have a question?

Commissioner Quesada: I'll make a motion.

Mayor Cason: Do we have any speaker cards Mr. Clerk?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing, so do I have a motion?

Commissioner Quesada: I will make that motion.

Mayor Cason: Commissioner Quesada makes the motion.

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Keon seconds it.

City Clerk

Commissioner Quesada: Yes

Commissioner Keon: Yes

Vice Mayor Kerdyk: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you very much.

Commissioner Quesada: Thank you both.

[End: 10:27:19 a.m.]