

City of Coral Gables City Commission Meeting
Agenda Item E-2
April 12, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Planning and Zoning Director, Ramon Trias

Public Speaker(s)

Agenda Item E-2 [Start: 10:15:20 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code by amending Article 3, "Development Review," Division 2, "General Development Review Procedures," Section 3-206, "Building Site Determination"; and Article 8, "Definitions," amending the requirements for applications for a building site separation and creating a definition for voluntary demolition; providing for a repealer provision, severability clause, codification, and providing for an effective date.

Mayor Cason: Item E-2 also an Ordinance on Second Reading.

City Attorney Leen: Thank you Mr. Mayor. Item E-2 is an Ordinance on Second Reading.

City Clerk Foeman: Thank you Mr. Mayor. Item E-2 is an Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code by amending Article 3, "Development Review," Division 2, "General Development Review Procedures," Section 3-206, "Building Site Determination"; and Article 8, "Definitions," amending the requirements for applications for a building site separation, and creating a definition for voluntary demolition; providing for a repealer provision, severability clause, codification, and providing for an effective date. It's an Ordinance on Second Reading. It's a public hearing item. The comments that were raised by the Commission have been addressed from First Reading and its ready to be considered.

Mayor Cason: No Mr. Mayor.

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: Close the public hearing. Discussion? Motion?

Commissioner Keon: I have one question under G, in this ordinance G (1), it says a total square footage of the residents allowed on the separated building site shall be equal to or less than the total square footage that could be constructed on the property, if developed as a single building site. Is there a way to make that just a little bit simpler? Can you just say, shall be equal to but not more than?- or something?- but it kind of goes or less than.

City Attorney Leen: Understand. Let me state the intent just so its clear for the record. The intent is that if you add the two houses together, the total square footage would be the same or less than. The total of the two added together would be the same or less than the one that could be built on one lot.

Commissioner Keon: OK.

City Attorney Leen: And we can try to clarify that even further.

Commissioner Keon: Right. I have another question also. The conditions here, it has to meet the first one, the way this is written, is that right?

City Attorney Leen: Yes.

Commissioner Keon: It has to meet the first one, and then it can make at least four of the other ones?

City Attorney Leen: Yes.

Commissioner Keon: There is the one here about, you know this one on D. That always seem to be a significant issue. You know some of these items, this one E, that preserves and maintains the neighborhood feel. That's kind of very subjective, its pretty subjective, where the other ones are very clear, those are kind of very clear bright lines to them.

City Attorney Leen: One (1) and five (5), (A) and (E) have more discretion for the Commission.

Commissioner Keon: And I think those are the two items that so often when an applicant to have a site separated or a land use attorney comes before us, those are always the two that they always go to first, like I have those. And so then, the other – we only had two of the others and it strikes me that the others are a little more, they are clearer, they are cleaner, they are more of a bright line; and I know that always, that these two always are always, OK, I've got two, I only need two more which of these other two can I get. Where some of the others are like so important, like B to me is almost, you should have to have that.

Mayor Cason: Are you saying that we should have like four out of five?- and not have E?

Commissioner Keon: Four of the six, yes.

Mayor Cason: It would be five then if you took it out.

Commissioner Keon: The aesthetic is important, but I don't know how to....

City Attorney Leen: One thought. E is what allows you to basically have the community come, make their objections known based on compatibility and then that allows you to consider E.

Commissioner Keon: Right. Right.

City Attorney Leen: You know one thing you could do, based on your comment is you could, since you are saying that A and E are almost always in existence, you could always require A and E, and then it would make this two out of four, so A and E would always be required. Obviously, I have to be neutral as to that, but that would meet your goal of not making those discretionary.

Commissioner Keon: Yes – because the one about the restrictive covenants and encroachments, easements which would prevent the separation of the site. You know so often it is the restrictive

covenants that are on parcels, are what give the neighborhood that sense of there is a restrictive covenant, this isn't going to happen.

Commissioner Lago: Without some necessary public hearing.

Commissioner Keon: Yes, without you know...

Commissioner Lago: Notification.

Commissioner Keon: You know its almost – and I think D is really important because I don't want to see – we saw this voluntary demolition of a building. You know when they can't go through or whatever, they demolition the building, and it sits, they'll sell it for land value and the next person comes along and applies for the lot separation.

Commissioner Lago: The issue also in regards to what you talked about demolition, a portion of this ordinance deals with the fact that before you even get to demolition or consider for demolition, it stays in disrepair for such a long time in an effort for the property to potentially be condemned, and say listen, there is no other choice but to demolish the property. So that becomes an issue for the entire neighborhood.

Mayor Cason: And this replace 1977, was this the one that replaced where you used to have 1977...

Commissioner Keon: Yes, that it had to take place before.

Mayor Cason: Now its arbitrary...

City Attorney Leen: We were concerned about 1977, it was getting to be a long time ago, and we weren't clear – we believe that the reason for that was because of a change in the law around that time, but we thought that ten years, if the goal is to promote stability, that ten years did that, and its something that people could meet. Whereas '77 you couldn't meet even if you were there for 50 years, at this point 38 years, but you had bought it in '78.

Mayor Cason: So what's the way to handle (E) on this?- would that be to say, you have to have (A) and (E), and then of the others three of the four?- two of the four?

Commissioner Lago: (E) discusses also specimen trees.

Mayor Cason: Right – which was an issue on that lot split.

Commissioner Keon: Right. So maybe we can make (A) and (E) just be part of – follow one up there that you have to have, you know, and then what are the discretionary ones?

City Attorney Leen: So, if you do that what it would say is that the application must satisfy the following three criteria, and it would list 1, 2(A), and 2(E), we would reconfigure this, but it would list those three, and then it would say that the application satisfies two of the four following criteria.

Mayor Cason: That would do it.

City Attorney Leen: That would require an amendment. It could be a friendly amendment, if the Commission agreed, otherwise it would be, you would vote on that.

Commissioner Keon: From your experience who is that?– Ramon, you deal with the lot splits, can you comment on this?

Mr. Trias: Yes Commissioner. I think that the advice that I would give a Commission in terms of Code writing is you should have a balance between very specific criteria and some more aspirational ideas.

Commissioner Keon: Right.

Mr. Trias: And I think that keeping the aspirational ideas and making them mandatory is a very good suggestion, that's what I would do. In terms of the request, certainly it should be compatible with the neighborhood, otherwise why would we approve it, right?

Commissioner Keon: Right.

Mr. Trias: So I think that's better. And the specimen tree is a very good point, because that is yes for now, that can be verified.

Commissioner Lago: That what I wanted to mention before and you frame my argument in reference to why I think this ordinance is important. I don't want there to be so many gray areas as there's been in the past, where people are fighting, did I meet (D)?- did I meet (E)?- did I meet (F)? I want it to be well defined, either the subject property should have a lot split or it should not have a lot split. The City of Coral Gables, I think we've had a handful of lot splits since I've been here, less than five, and all of them have met certain requirements, except for maybe that one lot which didn't meet the requirements, the one on the waterway. The only issue there was,

Vice Mayor Kerdyk brought up, which was the issue of frontage up on the waterway that was also very ambiguous, because I remember they brought up that giant chart, which talked about all the waterways within a certain area, and the actual widths of the lot. I think you had some lots that were oddly shaped, so it just kind of, I felt that they were kind of trying to grab at straws to try to make it work, and try to figure out a way so that lot could be split and save that historic home.

Mayor Cason: Let's address, I think the various issues we've seen in lot splits. The question of the, do you get more housing if you do a split?- so we've taken care of that; take care of the question of the water frontage, the cul-de-sac, the tree that we had, the specimen trees; and then the question of the voluntary demolition that was in the Wackenhut house.

Commissioner Lago: And I want people to be aware who are listening today, this is not about making lot splits easier, that's not the purpose of this ordinance. If that was the case, I would vote no, because I've had people call me about that issue. This is about making it clear in the sense of, before you even come before this Commission, before you even apply use your own personal resources and staff, that you know that you will meet your attorney or your land use attorney would tell you, you meet the following requirements, so your home or property could potentially receive a lot split.

Mayor Cason: So what would be the motion on this one?

Commissioner Keon: Well, I'd like to ask Ramon then, should (A) and (E) be part of, should follow one, you just have to have that.

Mr. Trias: They should be mandatory...

Commissioner Keon: OK. So (A) and (E) would be mandatory.

Mayor Cason: Which would be 1, 2, 3.

Mr. Trias: 1, 2, 3.

Commissioner Keon: So there are three that are mandatory and then that leaves one, two, three, four, four other items, so do we ask for three of the four?- two of the four?

Mr. Trias: Two out of four would be reasonable, I think, compromise.

City Attorney Leen: How many?- how many did you say?

Mr. Trias: Two out of the four.

Mayor Cason: Alright. Someone want to make – any more discussion or motion on that?

Commissioner Keon: I kind of think there should be three out of four.

Commissioner Lago: I think it should be three out of four, in my opinion.

Mr. Trias: Its discretionary on your part, so certainly that would be fine.

Commissioner Keon: I would tell him three out of four.

Commissioner Lago: Three out of four should be....

Mayor Cason: Why don't you make a motion?

Commissioner Keon: OK. I'd like to make the motion that on page 3 of the ordinance, number one is mandatory. I'd like to add (A) and (E) as mandatory also, that leaves...

Commissioner Lago: Point 2, correct?

Commissioner Keon: Yes. So 2 would be discretionary, and we could make three of those, three of the four would be discretionary. There would be four items, three of which you will have to meet.

City Attorney Leen: Yes and that is legal, but the one point I want to make is, you should be just aware that that would effectively make it extraordinarily difficult for someone to a lot split, unless they've owned the property for ten years. Just be aware of that.

Mayor Cason: Alright. So we have a motion.

Commissioner Lago: I'll make the motion.

Mayor Cason: Commissioner Lago makes the motion.

Commissioner Slesnick: Second.

Mayor Cason: Commissioner Slesnick seconds. City Clerk.

Commissioner Lago: Yes
Vice Mayor Quesada: Yes
Commissioner Slesnick: Yes
Commissioner Keon: Yes
Mayor Cason: Yes
(Vote: 5-0)

Vice Mayor Quesada: I just want to say thank you to City Attorney on this one, this is one that we had a lot of problems with in the past and I think this makes it a lot clearer, because just the ambiguity and the way it was written with the double negative, it was so difficult every time we had to look at one of these to really follow the law properly.

Commissioner Lago: And that's why I mentioned before and it goes to your statement right now. I just think that the amount of resources that staff has to go through to clean this up before, and it was, we had maybe a handful in the three years that I've been here that have come before us, and it doesn't need to be that way.

Vice Mayor Quesada: And it's also clear for the property owners or anyone coming in thinking about doing a lot split, because it's going to be so clear when they read it now. Hopefully, on the situation where it doesn't deserve it, they won't even try.

City Attorney Leen: And just to clarify, with the ten years, so for example, if you have to demolish a building or change an encroachment, you would do that, and own the property and wait for ten years, then you might be eligible under this, but only if the mandatory requirements are present, so it is much more restrictive, I think the Commission has made that clear today.

Mayor Cason: Going back to the issue of on the buttons, I think Commissioner Lago would like to vote on that.

Commissioner Lago: City Clerk I stepped out, I apologize, to go to the bathroom. I'd like to vote on E-1 – yes on Second Reading in regards to the buttons.

[End: 10:29:44 a.m.]