



To: Suramy Cabrera, Development Services Director
Jennifer Garcia, City Planner

From: Miriam Soler Ramos, City Attorney *MSR*

RE: Legal Opinion Regarding Recommendations from Planning & Zoning Board on
Comprehensive Plan Amendment

Date: June 29, 2022

At the June 8, 2022 Planning & Zoning Board (“PZB”) meeting, the following item was heard:

An Ordinance of the City Commission of Coral Gables, Florida amending the Future Land Use Map of the City of Coral Gables Comprehensive Plan pursuant to Zoning Code Article 14, “Process,” Section 14-213, “Comprehensive Plan Text and Map Amendments,” and Small-Scale amendment procedures (ss. 163.3187, Florida Statutes), from “Commercial Low-Rise Intensity” to “Commercial High-Rise Intensity” for Lots 8 through 21, less the West ½ of lot 8, Block 29, Crafts Section, together with that portion of the 20-foot platted alley lying east of Lots 11 and 19, of said Block 29, (3000 Ponce de Leon Blvd, 216 & 224 Catalonia, 203 University Dr, and 225 Malaga), Coral Gables, Florida; providing for a repealer provision, severability clause, and providing for an effective date.

A motion was made to recommend denial and the PZB voted 3-2.

Section 14-102.3(B) of the of Coral Gables Zoning Code, states “...the affirmative vote of four (4) members shall be necessary for the adoption of any motion. A vote of less than four (4) members on a motion regarding an application shall be deemed a tie vote. Whenever a tie vote occurs, and no other available motion on the application is made and approved...the application shall proceed to the City Commission without a recommendation.” Accordingly, the ordinance above would proceed to the City Commission meeting without a recommendation. However, Section 163.3174, F.S. requires that PZB, as the local planning agency, “make recommendations” to the City Commission regarding amendments to the Comprehensive Plan.

The Zoning Code section and 163.3174, F.S. must be read in *pari materia* with each other and with Section 2-82 of the City Code which reads, in pertinent part: “In the event of the [sic] tie vote...the proposed ordinance or resolution shall be carried over to the next regular or special meeting of the commission. In the event that the proposed ordinance or resolution does not receive a majority vote at the subsequent meetings, it shall be deemed to have failed...” However, Section 14-102.3(B) of the Zoning Code cannot be read to deny an applicant the ability to present before the City Commission in perpetuity. Consequently, the ordinance above shall be presented to the PZB one additional time in order to attempt to break the “tie” that results from a reading of Section 14-102.3(B) of the Zoning Code, together with Section 2-82 of the City Code. Should that presentation result in a vote of less than four (4) members in favor of the motion, the ordinance can be considered by the City Commission with an explanation of all motions recommending either for or against the ordinance and an accounting of the number of votes for and against said motion, in each instance.

This opinion is issued pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 14.107.2 of the Zoning Code.