

**City of Coral Gables
Planning Department Staff Report**

To: Planning and Zoning Board Members

From: Planning Department

Date: January 13, 2010

Subject: **Zoning Code Text Amendment – Article 3, Division 20, “Art in Public Places”**. An Ordinance of the City Commission of Coral Gables amending the Zoning Code, Article 3, Division 20, entitled “Art in Public Places,” in particular Section 20-102, entitled “Definitions”; Section 20-103, entitled “Art Funds”; and Section 3, entitled “Applicability of the Ordinance” to allow for collection of funds to the Historic Public Art Fund and Art Acquisition Fund; providing for severability, repealer, and effective date.

Recommendation

The Planning Department in association with the Economic Sustainability Department recommends approval of the amendment to Zoning Code as noted in the above subject matter.

Background

Attached is the background information regarding the proposed Zoning Code text amendment requested by the Economic Sustainability Department (see Attachment A).

The Economic Sustainability Department will present the proposed amendment to the Board at the meeting and will secure input and testimony from the Board and public.

Public Hearing Timeline

The proposed text amendment is tentatively scheduled to proceed forward for public hearing before the City Commission on February 9, 2010.

Public Notification

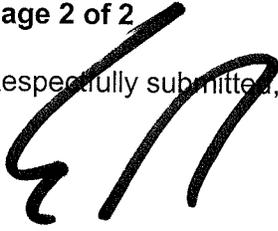
The Planning and Zoning Board meeting agenda has been advertised and posted on the City web page. The staff report and attachments are also posted on the City web page.

Zoning Code Text Amendment – Art in Public Places

January 13, 2010

Page 2 of 2

Respectfully submitted,

A large, bold, handwritten signature in black ink, appearing to read 'ERIEL', is written over the text 'Respectfully submitted,'.

Eric Riel, Jr.
Planning Director

Attachment:

- A. Background packet submitted by Economic Sustainability Department.

N:\P Z B\Zoning Code Amendments\Art in Public Places\01 13 10 PZB Staff Report - ZC Text Amend - art in public places.doc



City of Coral Gables
CITY COMMISSION MEETING
December 15, 2009

ITEM TITLE:

An Ordinance of the City Commission of Coral Gables amending the zoning code, Article 3, Division 20, entitled "Art in Public Places," in particular Section 20-102, entitled "Definitions"; Section 20-103, entitled "Art Funds"; and Section 3, entitled "Applicability of the Ordinance" to allow for collection of funds to the Historic Public Art Fund and Art Acquisition Fund; providing for severability, repealer and effective date.

RECOMMENDATION OF THE CITY MANAGER:

Approval

BRIEF HISTORY:

The City Commission on October 23, 2007, considered on First Reading the Art in Public Places Ordinance and recommended approval by a 5 – 0 vote to approve the Ordinance.

The City Commission on December 11, 2007, considered on Second Reading the Art in Public Places Ordinance and recommended approval by a 5-0 vote to approve the Ordinance.

The Public Art Master Plan, as defined in the ordinance, "means a five-year plan developed to further define the City of Coral Gables as a unique city of artistry and beauty while insuring open access to public art. The document at a minimum will identify locational placement priorities, standards for installation, detailed criteria for artist and artwork selection, and a conservation/maintenance protocol."

At the August 19, 2009, Cultural Development Board meeting members discussed the progress of the Public Art Master Plan and urged that efforts be made to amend the ordinance to allow for the collection of Art in Public Places funds prior to development of the Public Art Master Plan.

In support of this, the Nationally recognized organization Americans for the Arts (AFTA) responded; while strongly supporting the City's decision to have a public art master plan, AFTA recommends removal of the applicability clause and related clauses, which prevent current collection of funds until after development of the public art master plan.

Whereas development has slowed and will ultimately pick up, there is an opportunity not to lose monies in the interim that could be dedicated to Public Art and therefore, dedicated to the further cultural beauty and economic vitality of the City.

At the November 18, 2009 Cultural Development Board meeting, members reviewed an amendment to the Ordinance proposed by the City Manager's office, which, if approved by the Commission, would enable the City to begin collecting the percentage for art as established in the Ordinance. A motion was passed to recommend City Commission approval of an amendment to the Art in Public Places Ordinance.

The Commitment of the Board and financial resources are now in place to complete the initial Public Art Master plan within the current fiscal year.

The proposed amendment allows funds to be in place upon completion of the Public Art Master Plan, and also to be available to the extent that additional funds are needed to complete the master plan process and initial public art project.

Submitted for your consideration in the attached ordinance are amendments updating the Art in Public Places Code to allow for current collection of funds to the Historic Public Art Fund and the Art Acquisition Fund.

APPROVED BY:

Department Director	City Attorney	City Manager
		

ATTACHMENTS:

1. Ordinance (with highlighted changes)
2. Ordinance (without highlighted changes)
3. Excerpt minutes of the August 19, 2009 Cultural Development Board Meeting
4. Excerpt minutes of the November 18, 2009 Cultural Development Board Meeting
5. Letter from the Americans for the Arts dated October 23, 2009, addressed to the Cultural Development Board

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING THE ZONING CODE, ARTICLE 3, DIVISION 20, ENTITLED "ART IN PUBLIC PLACES," IN PARTICULAR SECTION 20-102, ENTITLED "DEFINITIONS", SECTION 20-103 ENTITLED "ART FUNDS"; AND SECTION 3, ENTITLED "APPLICABILITY OF THE ORDINANCE" TO ALLOW FOR COLLECTION OF FUNDS TO THE HISTORIC PUBLIC ART FUND AND ART ACQUISITION FUND; PROVIDING FOR SEVERABILITY, REPEALER, AND EFFECTIVE DATE.

WHEREAS, the City Commission on October 23, 2007, considered on First Reading the Art in Public Places Ordinance and recommended approval by a 5 – 0 vote to approve the Ordinance; and

WHEREAS, the City Commission on December 11, 2007, considered on Second Reading the Art in Public Places Ordinance and recommended approval by a 5 – 0 vote to approve the Ordinance; and

WHEREAS, the City wishes to amend the Article to allow for collection of funds to the Historic Public Art Fund and Art Acquisition Fund;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

Section 1. That Section 20-102, entitled "Definitions"; Section 20-103, entitled "Art Funds, A. General"; and Section 3, Applicability of the Ordinance of The Zoning Code of the City of Coral Gables, Florida entitled "Art in Public Places" is hereby amended to read as follows:

Section 20-102. Definitions.

Art acquisition fund means a separate, dedicated, interest bearing and revolving fund established in the City Treasury into which non-City contributions (those from developers, individuals, foundations, business, etc.) are collected and deposited for the purposes of supporting the City's public art program, including but not limited to, acquiring, installing, maintaining, and promoting world-class public art.

Non-municipal construction project(s) is defined as any non-City construction or renovation in Coral Gables in excess of one million dollars (\$1,000,000.00), excluding single-family homes.

1. Developers may petition to have the public art acquisition incorporated within their project provided there is regular public access at no charge to the public.
2. If the developer seeks to incorporate the art within his/her project, the artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
3. The art acquisition to be incorporated within the project shall have a minimum appraised value of one (1.0%) percent of the construction costs. The value of the artwork shall be confirmed by a certified art appraiser (or a person with professional arts credentials) as determined by the City whose evaluation fee shall be paid by the developer and reviewed by the City. If the appraised value of the artwork is less than one (1.0%) percent of the construction costs of the project, the difference in the value of the artwork and the one (1.0%) percent shall be contributed to the Art Acquisition Fund.
4. Instead of providing credentialed artwork on the project site, the developer may choose to contribute one (1.0%) percent of the aggregate project value as the required art fee.
5. In Lieu of providing artwork on the project site or contributing a one (1%) percent art fee, the developer may choose to donate artwork to the City. The artwork shall be valued at one (1%) percent of the aggregate project value inclusive of the cost of maintenance, insurance, lighting and signage. The artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
6. The Non-Municipal Construction Project one million dollar (\$1,000,000.00) threshold shall be adjusted annually based upon the consumer price index.

Items 1., 2., 3., and 5. will not apply until City Commission approval of the Public Art Master Plan.

Section 20-103. Art funds.

- A. General. Two funds will be established for the Art in Public Places Program. The first fund will be entitled Historic Public Art Fund and will be funded through Municipal Construction Projects. The second fund will be entitled Art Acquisition Fund and will be funded through Non-Municipal Construction Projects over one million dollars (\$1,000,000.00), excluding single family homes. Each of these funds will be interest bearing and revolving and may only be used for the purposes outlined in "The City of Coral Gables Art In Public Places Program: Funding, Goals, and Implementation Guidelines."

Section 3. Applicability of the Ordinance. The provisions of this ordinance are effective immediately upon approval of this amendment by the City Commission. Applicants who

have secured preliminary Board of Architects approval prior to City Commission approval of this amendment shall not be subject to provisions of this Ordinance.

Section 2. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

Section 4. Effective Date.

This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED this _____ day of _____ 2009.

DONALD D. SLESNICK II, MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2009-_____

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1. Developers may petition to have the public art acquisition incorporated within their project provided there is regular public access at no charge to the public.
2. If the developer seeks to incorporate the art within his/her project, the artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
3. The art acquisition to be incorporated within the project shall have a minimum appraised value of one (1.0%) percent of the construction costs. The value of the artwork shall be confirmed by a certified art appraiser (or a person with professional arts credentials) as determined by the City whose evaluation fee shall be paid by the developer and reviewed by the City. If the appraised value of the artwork is less than one (1.0%) percent of the construction costs of the project, the difference in the value of the artwork and the one (1.0%) percent shall be contributed to the Art Acquisition Fund.
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6. The Non-Municipal Construction Project one million dollar (\$1,000,000.00) threshold shall be adjusted annually based upon the consumer price index.

Items 1., 2., 3., and 5. will not apply until City Commission approval of the Public Art Master Plan.

Section 20-103. Art funds.

- A. General. Two funds will be established for the Art in Public Places Program. The first fund will be entitled Historic Public Art Fund and will be funded through Municipal Construction Projects following City Commission approval of the Public Art Master Art Plan. The second fund will be entitled Art Acquisition Fund and will be funded through Non-Municipal Construction Projects over one million dollars (\$1,000,000.00), excluding single family homes, following City Commission approval of the Public Art Master Art Plan. Each of these funds will be interest bearing and revolving and may only be used for the purposes outlined in "The City of Coral Gables Art In Public Places Program: Funding, Goals, and Implementation Guidelines."

Section 3. Applicability of the Ordinance. The provisions of this ordinance are not effective immediately ~~until upon approval of this amendment the City of Coral Gables Public Art Master Art Plan, as referenced herein, is reviewed and approved by the City Commission.~~ Applicants who have secured preliminary Board of Architects approval prior to City Commission approval of the ~~Public Art Master Art Plan~~ this amendment shall not be subject to provisions of this Ordinance.

Section 2. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

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This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED this _____ day of _____ 2009.

DONALD D. SLESNICK II, MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY

**CITY OF CORAL GABLES
CULTURAL DEVELOPMENT BOARD MEETING AND CULTURAL WORKSHOP
EXCERPT MINUTES**

**Wednesday, August 19, 2009, 3:00 p.m. (Board Meeting); 4 p.m. (Workshop)
Coral Gables Commission Chambers
City Hall, 405 Biltmore Way, Second Floor**

MEMBERS	S	O*	O**	N	D	J	F	M	A	M	J	A#	COMMISSIONERS
José R. Garrigó	P	P	E	P	-	P	P	P	P	P	E	P	Mayor Donald D. Slesnick II
Bobbi Litt	P	P	P	P	-	P	P	P	P	P	P	E	Vice Mayor William Kerdyk, Jr.
Dr. Bernice Matalon-Roth	E	P	P	P	-	P	P	P	P	P	P	P	Commissioner Maria Anderson
Dr. Carol Damian	P	P	P	P	-	P	P	P	P	P	P	P	Commissioner Rafael "Ralph" Cabrera, Jr.
Beatriz Pereira	P	P	P	P	-	P	P	E	P	P	P	P"	Commissioner Wayne "Chip" Withers
Andrea Cole	P	P	P	P	-	A	P	P	P	P	P	P	Board Appointee
Ginger Jochem >					-						P	P	City Manager

A = Absent
P = Present
E = Excused
- = No Meeting
^ = Resigned Member
> = New Member
" = Arrived at 3:30 p.m.

* FY2007-2008 Final Reports
 # Regular Meeting + FY2009-2010 Grants Workshop
 ** FY2008-2009 Cultural Grant Applications Review & Scoring

Regular Board Meeting Guests: Patrick Barthet, Linda Eneix, Betsy Adams, Evelyn Budde, Sergio Leymarie, Russell Ettling

Staff In Attendance:
 Catherine Cathers, Arts and Culture Specialist
 Cindy Dorrel, Special Projects Coordinator

Recording Secretary:
 Nancy C. Morgan, Coral Gables Services, Inc.

VI. Public Art Master Plan – Update:

Ms. Cathers advised that funding for the Public Art Master Plan consultant had decreased. In reviewing the ordinance and in consultation with Americans for the Arts, she said the ordinance has an applicability clause that said the master plan had to be in place before the City could put the Ordinance into effect and collect art-related fees. Americans for the Arts indicated the clause appeared to be written backwards. Ms. Cathers suggested the Board review and address on the City's behalf. If the City were allowed to collect its fees, some of the funding could be used to pay for a consultant.

Dr. Damian wondered if the clause would complicate the Althea Merrick statue project since the ordinance states that nothing can be done until the master plan is in place, and that process could take a long time. She urged that efforts be made to amend the ordinance with the guidance of Americans for the Arts. Ms. Cathers said the Board could discuss how to address the ordinance, or recommend to the Commission that the draft in its current form could suffice. Board members will carefully review the ordinance for discussion at the September meeting, and will forward their individual comments to Ms. Cathers prior to the meeting.

Respectfully submitted,

Catherine Cathers
 Arts & Culture Specialist and Secretary to the Board
 City of Coral Gables

Prepared by: Nancy C. Morgan,
 President, Coral Gables Services, Inc.

**CITY OF CORAL GABLES
CULTURAL DEVELOPMENT BOARD MEETING AND CULTURAL GRANTS REVIEW
EXCERPT MINUTES**

**Wednesday, November 18, 2009, 3:00 p.m.
City Hall, 405 Biltmore Way, Coral Gables, Florida 33134**

MEMBERS	D	J	F	M	A	M	J	J	A#	S	O*	N**	N - -	COMMISSIONERS
José R. Garrigó	-	P	P	P	P	P	E	-	P	P	P	P		Mayor Donald D. Slesnick II
Bobbi Litt	-	P	P	P	P	P	P	-	E	P	P	P		Vice Mayor William Kerdyk, Jr.
Dr. Bernice Matalon-Roth	-	P	P	P	P	P	P	-	P	P	P	P		Commissioner Maria Anderson
Dr. Carol Damian	-	P	P	P	P	P	P	-	P	E	P	P		Commissioner Rafael "Ralph" Cabrera, Jr.
Beatriz Pereira	-	P	P	E	P	P	P	-	P"	P	P	P		Commissioner Wayne "Chip" Withers
Andrea Cole	-	A	P	P	P	P	P	-	P	P	P	P		Board Appointee
Ginger Jochem >	-						P	-	P	P	P	P		City Manager

A = Absent
P = Present
E = Excused
- = No Meeting
^ = Resigned Member
> = New Member
" = Arrived at 3:30 p.m.

* Regular Meeting + FY2008-2009 Final Reports
Regular Meeting + FY2009-2010 Grants Workshop
** Regular Meeting + FY2009-2010 Cultural Grant Applications
Review & Scoring
- - Special Board Meeting

Staff In Attendance:

Cindy Birdsill, Economic Sustainability Director
Catherine Cathers, Arts and Culture Specialist
Cindy Dorrel, Special Projects Coordinator

Recording Secretary:

Nancy C. Morgan, Coral Gables Services, Inc.

Motion Summary:

A motion was approved to recommend City Commission approval of an amendment to the Art in Public Places Ordinance.

III. Art in Public Places:

Board members received a proposed amendment to the Art in Public Places Ordinance, which, if approved by the Commission, would enable the City to begin collecting the percentage for art as established in the Ordinance. For clarity, Dr. Damian read the amendment.

Mr. Garrigó made a motion to recommend approval by the City Commission of the amendment to the Art in Public Places Ordinance as proposed. Dr. Matalon-Roth seconded the motion, which passed unanimously.

Ms. Cathers stated that the recommendation would be presented to the Commission at its December 15, 2009 meeting, and encouraged Board members to attend.

Respectfully submitted,

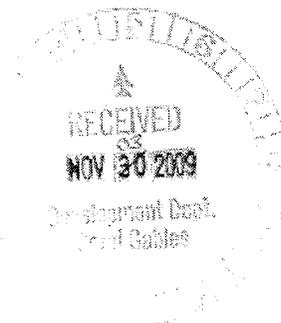
Catherine Cathers
City of Coral Gables Arts & Culture Specialist and Secretary to the Board

Minutes prepared by Nancy C. Morgan, Coral Gables Services, Inc.



SERVING COMMUNITIES. ENRICHING LIVES.

October 23, 2009



Dr. Carol Damian
Coral Gables Cultural Development Board
City of Coral Gables
1115 North Greenway Drive
Coral Gables, FL 33134

Dear Dr. Damian,

The city of Coral Gables has a very successful history of implementing public art projects and is situated as a cultural destination in this country. Americans for the Arts applauds Coral Gables for seeking and approving funds to work with a public art master planning consultant and strongly encourages the City to amend the percent-for-art ordinance to allow for the collection of the percent-for-art funds to be used toward the master planning process and to ensure project art funding is available.

The Americans for the Arts Public Art Network (PAN) works with local arts agencies to establish public art best practices nationwide. Last year, the Public Art Network presented a two-day knowledge exchange workshop entitled: "Public Art Master Planning, Developing a Plan for Your Community". The exchange discussed the best practice of integrating public art into cities' overall master plans and ensuring funding mechanisms are in place to implement public art projects. The exchange cited that successful visioning goals in public art master plans incorporate place-based enhancements that strengthen a community's cultural and economic resources.

It is important to note that public art projects create numerous jobs for architects, engineers, fabricators, suppliers, installers and other professionals. Given current municipal budget challenges, cities are competing to attract tourism dollars to maintain tax revenues and local jobs. Many cities are expediting public art funding and approvals, signing artist contracts and moving projects forward to ensure their city remains attractive and thus, economically competitive. Furthermore, Coral Gables benefits from Florida's outstanding public art leadership statewide. The state has received forty PAN Year in Review Awards over nine years, twelve projects of which are sited in Miami-Dade County. This outstanding regional art collection is inextricably linked to economic success through cultural tourism revenue.

I look forward to hearing that the ordinance is implemented as soon as possible. Good art is good business. Art is what cities need most right now.

Sincerely,

Robert Lynch
President and CEO

cc: Coral Gables Cultural Development Board c/o Catherine Cathers