



To: Jane Tompkins

From: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Gables Station – Expiration Of Approvals

Date: January 24, 2013

The operative words are "submit an application for a building permit," which refers to an event (application) that logically precedes the later obtaining of a building permit. City staff has discretion to determine what act(s) are sufficient to constitute submission of a valid application. Please feel free to seek my opinion as cases come up.

I would also state, however, that this interpretation does not foreclose a determination that an application or approval may lapse in circumstances where an applicant ceases to prosecute an application for a sufficiently long period of time, or where a material change has occurred to the application that necessitates obtaining a new approval of this provision to your specific case.

Hernandez, Cristina

From: Leen, Craig
Sent: Thursday, January 24, 2013 6:08 PM
To: Hernandez, Cristina
Subject: FW: Gables Station - question regarding expiration of approvals

Please place in the opinion folder.

Craig E. Leen
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From: Leen, Craig
Sent: Thursday, January 24, 2013 6:07 PM
To: Tompkins, Jane
Cc: Olazabal, Carmen; Trias, Ramon; 'bthornton@coralgables.com'
Subject: RE: Gables Station - question regarding expiration of approvals

Jane,

I agree with your interpretation of section 1-111. The operative words are "submit an application for a building permit," which refers to an event (application) that logically precedes the later obtaining of a building permit. City staff has discretion to determine what act(s) are sufficient to constitute submission of a valid application. Please feel free to seek my opinion as cases come up.

I would also state, however, that this interpretation does not foreclose a determination that an application or approval may lapse in circumstances where an applicant ceases to prosecute an application for a sufficiently long period of time, or where a material change has occurred to the application that necessitates obtaining a new approval.

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From: Tompkins, Jane
Sent: Thursday, January 24, 2013 5:47 PM
To: Leen, Craig
Cc: Olazabal, Carmen; Trias, Ramon
Subject: Gables Station - question regarding expiration of approvals

Craig,

Based on our discussion yesterday morning, I thought it'd be helpful to put in writing the status of the Gables Station project and confirm our position on the status of the approval(s).

Gables Station is considered a "by right" project meaning that it does not require a Planning and Zoning Board/City Commission review process. The project does require a ROW encroachment agreement and must meet the Zoning Code requirements for Art in Public Places. It's my understanding that the applicant proposes an art installation to satisfy the APP requirement. Further, both of these items must be approved by the City Commission. The project received its first "Final" approval by the Board of Architects (BOA) in July, 2011.

The BOA staff (based on an opinion from the former city attorney) have historically interpreted Section 1-111 of the Zoning Code to mean that a building permit must be issued in order to satisfy the time limitation of Zoning Code approvals. In other words, a permit must be issued within 18 months of the BOA approval (24 months if an extension has been granted). If that does not occur, the entire review process must start again from the beginning.

Section 1-111 actually references, though, the submittal of an application for a building permit within 18 months from the time of the approval. The issuance of a permit is not mentioned.

While there may be very good reasons for imposing a deadline by which the permit must be obtained, I believe that it's contrary to the code to require a permit in order to satisfy the 18 month approval period. Provided that Gables Station has started the permitting process (which it has), I believe the time limits are satisfied and there is no longer a date certain on which the BOA approval expires.

Would you please comment on this position?

Thanks,
Jane

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