



To: Jennifer Garcia, City Planner

From: Gustavo J. Ceballos, Assistant City Attorney

Approved By: Miriam Soler Ramos, City Attorney

CC: Suramy Cabrera, Development Services Director

RE: Legal Opinion Regarding Scrivener's Error in Zoning Code

Date: December 16, 2022

During the normal course of business, a typo was identified in the City's Zoning Code. Specifically, in the last line of "Section 14-208.6. Procedures for appeals," subsection (B), it states the following:

.... unless application for deferral has been made as permitted in Section 3-608 of this Article.

The referenced section (3-608) is the Zoning Code's section on "Temporary land development sales office" which is not relevant to the appeals procedures and based on discussions with City staff it is merely a typo. The correct section to reference is 14-208.8, not 3-608, and therefore should be corrected.

The City Attorney has been granted express authority to take such action under Section 2-252(e)(9) of the City Code. Accordingly, please make the following administrative correction¹:

Section 14-208.6. Procedures for appeals.

- B. Appeals of Board of Adjustment, Board of Architects, Historic Preservation Board, and Planning and Zoning Board. Any aggrieved party desiring to appeal a decision of the Board of Adjustment, Board of Architects or Historic Preservation Board, or a tentative plat decision of the Planning and Zoning Board, shall, within ten (10) days from the date of such decision, file a written Notice of Appeal with the City Clerk, whose duty it shall then become to send a written notice of such appeal to all persons previously notified by the Board

¹ Deletions are indicated by strikethrough and insertions indicated by underline.

in the underlying matter. For the purpose of appeals from the Historic Preservation Board only, Dade Heritage Trust, Inc. is included as a party that may file an appeal of a decision of the Historic Preservation Board. If any time after the initial ten (10) day appeal period has lapsed, City Staff determines that the written Notice of Appeal is deficient or that the party that filed the Notice of Appeal lacks standing, the City Staff, where it deems appropriate, shall have seventy-two (72) hours from the date of that determination to appeal the decision. The appeal shall then be heard by the City Commission at its next meeting, provided at least thirteen (13) days has intervened between the time of the filing of the Notice of Appeal, as well as at least thirteen (13) days from the date of mailed notice as required pursuant to subsection E below, and the date of such meeting. If thirteen (13) days shall not intervene between the time of the filing of the notice and the date of the next meeting or thirteen (13) days shall not intervene between the sending of the mailed notice and the date of the next meeting, then the appeal shall be heard at the next regular meeting of the City Commission and the City Commission shall render a decision, without any unnecessary or undue delay, unless application for deferral has been made as permitted in Section ~~3-608~~ 14-208.8 of this Article.
