



**MIAMI-DADE COUNTY
FINAL OFFICIAL MINUTES
Board of County Commissioners Zoning Board**

Board of County Commissioners

Stephen P. Clark Government Center
Commission Chamber
111 NW 1st Street
Miami, Florida 33128

February 7, 2008

As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Mary Smith-York, Commission Reporter
(305) 375-1598



CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
FEBRUARY 7, 2008

The Board of County Commissioners met in regular session in the County Commission Chambers on the second floor of the Stephen P. Clark Government Center, 111 N.W. First Street, Miami, Florida at 9:30 a.m. on Thursday, February 7, 2008, there being present: Chairman Bruno A. Barreiro and Commissioners Jose "Pepe" Diaz, Audrey M. Edmonson, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Joe A. Martinez, Dorrin D. Rolle, Rebecca Sosa and Javier D. Souto; (Commissioners Dennis C. Moss, Natacha Seijas, and Katy Sorenson were absent).

The following staff members were present: Assistant County Attorneys Joni Armstrong-Coffey, Director Subrata Basu and Assistant Director Maria Teresa Fojo, Department of Planning and Zoning; and Deputy Clerks Kay Sullivan, Diane Collins, and Mary Smith-York.

Chairman Barreiro opened the meeting with a moment of silence, followed by the Pledge of Allegiance.

ALL WITNESSES WERE SWORN IN BY THE CLERK BEFORE MAKING THEIR PRESENTATIONS BEFORE THE BOARD. THE INTERPRETERS WERE ALSO SWORN IN BY THE CLERK.

Mr. Subrata Basu, Department of Planning and Zoning Director, announced in accordance with the Code of Miami-Dade County, all items on today's zoning agenda were legally advertised, all notices were mailed and all properties were posted within prescribed timeframes. He stated that additional copies of the agenda were available in the Chambers and presented the procedures to be followed during today's proceedings.

Mr. Basu presented the following application:

ITEM: No. A
APPLICANT: LIBERTY STATION, INC. (07-9-CZ8-3/06-192)

Mr. Subrata Basu, Interim Director, Department of Planning and Zoning, noted sixty-two (62) protests and zero (0) waivers had been filed in connection with the foregoing application.

Chairman Barreiro opened the public hearing and the following individuals appeared in support:

1) Mr. Brian Adler, 200 S. Biscayne Boulevard, attorney representing the applicant (Liberty Station, Inc.), appeared and noted he was joined by his colleague, Mr. Jerry Proctor. He advised Request #2 for a non-use variance to allow for a chain-link fence was withdrawn by the applicant. Mr. Adler further noted the site plan referencing a gas station and filed with the original application, was also withdrawn on October 22, 2007. He advised the only request before the Commission today was the rezoning/district boundary change from BU-1 to BU-1A.

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Mr. Adler stated that some neighbors would express objection to the use as a gas station, due to the original site plan; however, the reference to the gas station had been removed. He indicated the location of the subject property (West Dixie Highway between Northeast 118th and 119th Terrace) on a map and in Tab #2 of a handout, which showed the zoning of N.E. 136th to 118th Streets ranged from BU-3 to BU-1. Mr. Adler advised the County's Comprehensive Development Master Plan (CDMP) designated West Dixie Highway as a major roadway and a state minor arterial roadway, for which the current BU-1 zoning was inappropriate. He stated the neighbors' concerns had been incorporated into a revised Declaration of Restrictions and submitted to the Commission.

2) Mr. Jerry Proctor, 200 S. Biscayne Boulevard, attorney and co-counsel representing the applicant, appeared and noted BU-1A zoning was supposed to satisfy the needs of adjacent residential neighborhoods, as well as more specialized, commercial facilities, which may serve several neighborhoods. He emphasized that West Dixie Highway was a thoroughfare, which served many neighborhoods, and BU-1 zoning was inappropriate for this type of roadway.

The following individuals appeared in opposition:

- 1) Ms. Teresa Gillroy, 11925 W. Biscayne Canal Road, Miami;
- 2) Mr. George Millar, 11855 W. Biscayne Canal Road, Miami;
- 3) Ms. Celia Mangels, 350 N.E. 118th Terrace, Miami;
- 4) Ms. Kelly Maynard, 11871 W. Biscayne Canal Road, Miami;
- 5) Mr. Michel Cukierman, 265 N.E. 118th Terrace; and
- 6) Mr. Joseph Collins, 11815 W. Biscayne Canal Road.

Mr. Adler appeared and provided rebuttal arguments.

There being no other persons to appear, Vice Chairwoman closed the public hearing.

In response to Commissioner Edmonson's concerns regarding the reason this area had not already been rezoned BU-1A, Mr. Basu noted requests for rezoning were considered on a case by case basis and explained that no study had been done for this property. He advised that staff felt this request satisfied the five (5) criteria required for rezoning.

Mr. Adler addressed Commissioner Edmonson's concern regarding the subject property being compared to areas located north of this property. He explained that properties adjacent to, across from, and south of the subject property were zoned BU-1A. Pertaining to Commissioner Edmonson's question regarding why the Declaration of Restrictions had been changed, Mr. Adler advised that revisions were incorporated in response to the neighbors' concerns, expressed during the public hearing.

Commissioner Edmonson expressed concern that the applicant failed to indicate the intent to use this property for a gas station, and the applicant had not attempted to negotiate with the neighbors to work out a mutual agreement.

Responding to Commissioner Edmonson's question of whether the Board's decision was limited to the zoning matter only, Mr. Korbel advised other factors, such as compatibility with the surrounding neighborhood, impact on public services, etc., could be considered in determining whether the current zoning was appropriate for this property.

Mr. Adler noted a sign would be posted in an effort to deter traffic, and indicated there might be a way to curve the exit and limit right-hand movement. He advised he received an e-mail message from the applicant this morning, authorizing a provision be added in the covenant that states: "notwithstanding the BU-1A zoning, there would be no gasoline service station on the property."

Assistant County Attorney Joni Armstrong-Coffey advised the Commission that a revised, executed Covenant was needed, along with a written, executed joinder by the lender, in order to incorporate these changes into today's application.

Commissioner Heyman expressed concern that the lighting would greatly impact the surrounding residential areas and that a sign would not be sufficient to change the flow of traffic. She questioned whether the provision restricting the gasoline station use would be applied to the application and run with the land to be adhered to by subsequent owners also.

Assistant County Attorney Armstrong-Coffey advised that all zoning covenants ran with the land and were subject to revision only by public hearing before this Board.

Vice Chairwoman Jordan recessed the zoning hearing to be reconvened at 2:00 p.m.

The County Commission's zoning hearing reconvened at 12:34 p.m. Assistant County Attorney Armstrong-Coffey advised that the applicant, Liberty Station, Inc., had proffered a covenant prohibiting a gas station, contingent upon the Board's approval of rezoning the property BU-1A. She also advised that the revised covenant was proffered after the public hearing was closed, preventing other participants from commenting on the proposed changes. Ms. Armstrong-Coffey noted that if the Board so desired, a motion to reopen the public hearing would be in order.

Commissioner Edmonson asked those neighbors present to signify by raising their hands, whether the revised covenant addressed their concerns; however, the following individual(s) reappeared:

- 1) Mr. George Millar, 11855 W. Biscayne Canal Road, Miami, reappeared and stated proposed changes satisfied his concerns;
- 2) Mr. Joseph Collins, 11815 W. Biscayne Canal Road, Miami, reappeared and expressed further opposition;
- 3) Ms. Teresa Gillroy, 11925 W. Biscayne Canal Road, Miami; reappeared and spoke in support of the amended covenant but noted she still had reservations; and
- 4) Ms. Celia Mangels, 350 N.E. 118th Terrace, Miami, reappeared and expressed further opposition.

Seeing no other persons to appear, the public hearing was closed.

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Assistant County Attorney Armstrong-Coffey advised that any modifications to the covenant being presented today would require a hearing before this Board. She further noted the County Code provided that once a covenant was accepted by the Board, it could not be brought back for any reason until six months had passed.

Mr. Adler assured Board members that, by submitting the revised covenant, the applicant, Liberty Station, Inc., would not place a gas station at this site. He added the applicant was aware of the Code requirements regarding further amendments to the covenant.

Commissioner Edmonson presented and moved a motion to approve the application: Liberty Station, Inc. (07-9-CZ8-3/06-192), with acceptance of the proffered covenant as amended to prohibit the construction of a gas station on this property. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 9-0 (Commissioners Martinez, Moss, Seijas, and Sorenson were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned Resolution #Z-05-08.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 12:45 p.m.

Bruno A. Barreiro, Chairperson
Miami-Dade County Board of County Commissioners

ATTEST: HARVEY RUVIN, Clerk of Courts

By: _____
Kay Sullivan
Deputy Clerk