

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

Board of County Commissioners
Stephen P. Clark Government Center
111 NW 1st Street
Miami, Florida 33128

Thursday, May 21, 2009
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Diane Collins, Division Chief
Clerk of the Board Division

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CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS
ZONING HEARING
May 21, 2009

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 10:30 a.m., May 21, 2009, there being present upon roll call Chairman Dennis C. Moss; and Commissioners Audrey M. Edmonson, Carlos A. Gimenez, Sally A. Heyman, Dorrin D. Rolle, Natacha Seijas, Katy Sorenson, Javier D. Souto (Commissioners Barbara J. Jordan, Joe A. Martinez, and Rebeca Sosa arrived later. Vice-Chairman Jose "Pepe" Diaz and Commissioner Bruno A. Barreiro were absent); Assistant County Attorneys John McInnis and Craig Collier; Department of Planning and Zoning Director Marc LaFerrier and Acting Assistant Director Maria Teresa Fojo; and Deputy Clerks Diane Collins and Alan Eisenberg.

Chairman Moss called the meeting to order and asked that a moment of silence be observed followed by the Pledge of Allegiance.

Department of Planning and Zoning Director Marc LaFerrier announced that there were five items on today's agenda; one item previously deferred; three appeals and two new applications. He mentioned that the applicant on Item 1 was requesting a withdrawal.

ALL WITNESSES AND INTERPRETER(S) WERE SWORN IN BY THE DEPUTY CLERK BEFORE PRESENTING TESTIMONY BEFORE THE BOARD.

Mr. LaFerrier announced, in accordance with the Code of Miami-Dade County, all items on today's zoning agenda were legally advertised in the newspaper, notices were mailed, and the properties were posted within prescribed timeframes. He noted additional copies of today's agenda were available in the Chambers and presented the procedure to be followed during today's proceedings.

Mr. LaFerrier presented the following applications:

A. THE DEPARTMENT OF PLANNING AND ZONING

Mr. LaFerrier presented the foregoing application, which he noted was a request to rezone Opa Locka Airport from GU to GP and was a companion item to development regulations approved on May 5, 2009. He noted two protests and no waivers were filed regarding the foregoing application.

Mr. David Ofstein, Planning Director, Town of Miami Lakes (Miami Lakes), appeared before the Board. He acknowledged staff for their efforts in adequately explaining the details of this zoning petition. Mr. Ofstein noted that Miami Lakes was concerned about the impact upon the shared 57th Avenue border with the County. He requested that the

County provide advance notification in the future to allow Miami Lakes sufficient time to review and comment on site plans involving the shared border. Mr. Ofstein said that this Item imposed a new streamlined 15-day site planning process to encourage redevelopment. He noted that Miami Lakes understood that they were in a concurrency infill area and were happy to promote redevelopment efforts; however, they would like the opportunity to review site plans and provide updates to their Council.

Commissioner Seijas welcomed Mr. Ofstein and noted her recent conversation with Miami Lakes Manager Frank Bocanegra. She said that Manager Bocanegra was pleased with the manner in which Miami-Dade County had handled this process. Commissioner Seijas noted the requested rezoning was needed to enhance the Opa Locka airport since 1997 and that she was open to issues related to Opa Locka airport.

Chairman Moss noted that the conversation between Commissioner Seijas and Miami Lakes Manager Bocanegra was a general discussion.

Chairman Moss closed the public hearing after confirming that no persons were present wishing to appear in connection with this application.

Commissioner Jordan noted approval of this foregoing proposed application would establish a level playing field where non-aviation areas of the airport would benefit in order to accommodate appropriate development. She noted she believed that notices were automatically distributed to surrounding property owners relating to redevelopment projects, and she was a strong advocate to issues relating to shared borders.

Commissioner Jordan moved that the foregoing application be approved as recommended by the DIC as follows: approved request #1, with acceptance of proffered covenant and with the final approval of Zoning Ordinance; and approved request #2, as recommended by the Planning and Zoning Department and as deemed sufficient to constitute executing and recording the covenant substantially as presented. This motion was seconded by Commissioner Seijas and upon being put to a vote, passed by a vote of 8-0 (Vice-Chairman Diaz, and Commissioners Barreiro, Edmonson, Sosa and Souto were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-13-09.

1. THE PINELANDS, LLC (F/K/A) F.V. CONSRUCTION CORP.

Mr. Jorge Avino, Managing Member, The Pinelands, LLC, 1350 S.W. 57 Avenue, Suite 207, West Miami, appeared before the Board. He requested that the foregoing application be withdrawn.

It was moved by Commissioner Sorenson that the foregoing application be withdrawn. This motion was seconded by Chairman Moss and upon being put to a vote, passed by a vote of 10-0 (Vice-Chairman Diaz, and Commissioners Barreiro and Sosa were absent).

The foregoing resolution was withdrawn and set forth in the Record of Resolutions and assigned #Z-14-09.

2. RONALD, RAMIRO & MAGALI CHAVEZ

Ms. Melissa Tapanes Llahues, Bercow Radell & Fernandez, P.A., 200 S. Biscayne Boulevard, Suite 850, Miami, attorney representing the applicant, appeared before the Board. She noted Mr. Guillermo Olmedillo, Land Planning Consultant for the applicant was out-of-town and unavailable to attend today's meeting. Ms. Tapanes asked that this application be deferred.

Commissioner Sorenson called for persons wishing to appear before the Board in opposition to the request to defer this application.

Mr. Michael McCullough, 9825 SW 77 Place Miami, Board of Directors Member, Continental Park Homeowners Association, appeared before the Board in opposition to the deferral

Following further discussion, it was moved by Commissioner Sorenson that the foregoing application be deferred to the June 4, 2009 Commission Meeting with no further advertisement. This motion was seconded by Chairman Moss and upon being put to a vote, passed by a vote of 9-0 (Vice-Chairman Diaz, and Commissioners Barreiro, Edmonson and Sosa were absent).

3. BELEN JESUIT PREPARATORY SCHOOL., INC.

Chairman Moss noted Commissioner Diaz, the District Commissioner for the subject area, recently underwent surgery and was unable to attend today's meeting. He recommended this application be deferred to allow Commissioner Diaz to participate in the decision.

Mr. Simon Ferro, Greenberg Taurig LLP, 1221 Brickell Avenue, Miami, attorney representing the applicant, appeared before the Board in support of the deferral.

Mr. Gary S. Brooks, Brooks & Alayon, 4551 Ponce De Leon, Coral Gables, attorney representing Heather Pernas, the appellant, appeared before the Board in objection to the deferral

It was moved by Commissioner Jordan that the foregoing application be deferred to the June 4, 2009 Commission Meeting with no further advertisement. This motion was seconded by Commissioner Rolle and upon being put to a vote, passed by a vote of 9-0 (Vice-Chairman Diaz, and Commissioners Barreiro, Edmonson and Sosa were absent).

4. MADISON HOLMES

Mr. LaFerrier presented the foregoing application. He noted the applicant was requesting a variance on a duplex located within the Perrine Community Urban Center (CUC); and that the department had not received any protests or waivers in connection with this application.

There being no persons wishing to appear before the Board in connection with this application, Chairman Moss closed the public hearing.

Mr. LaFerrier explained that the Planning and Zoning Department's recommendation to deny this foregoing application was based upon variances required to comply with Perrine CUC regulations adopted in 2007. He noted that the duplex was originally constructed in 1956 and a new addition was made to the home in 1993. Mr. LaFerrier noted staff was recommending the Board deny the foregoing application since the goal was for development of properties in the CUC to be consistent with 2007 regulations.

Mr. Marvin Jackson, 3467 NE 4 Street, Homestead, design professional representing the applicant, appeared before the Board in support of the foregoing application. He said that the homeowner was attempting to avoid future code violation by legalizing an addition built in 1986.

Mr. Madison Holmes, 7851 SW 144 Street, appeared before the Board in support of the foregoing application.

Mr. Jackson responded to Chairman Moss's inquiry that he believed the property improvements would comply with permitting and building code requirements.

Chairman Moss relinquished the Chair to Commissioner Jordan. He mentioned that he did not condone the practice of building without proper permits; however, he did support the foregoing proposed application because it would enable Mr. Holmes could bring the property into compliance with current regulations. Chairman Moss cautioned Mr. Holmes that he would not be as tolerant of future violations.

Chairman Moss presented and moved the Community Zoning Appeals Board's recommendation to approve multiple variances to permit a duplex in the Perrine Community Urban Center as recommended by the CZAB. This motion was seconded by Commissioner Martinez.

Commissioner Sorenson questioned whether buildings within the Perrine CUC would be grandfathered-in pursuant to the new code requirements.

Mr. LaFerrier noted the existing buildings would be grandfathered-in; however, any structural changes to these buildings must be in compliance with the new code. He noted the requested use variance would bring the property into compliance with the old code.

Upon being put to a vote, the motion passed by a vote of 8-0 (Vice-Chairman Diaz, and Commissioners Barreiro, Edmonson, Sosa and Souto were absent).

Chairman Moss resumed the chair.

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-15-09.

5. COUNTRY VIEW, LLC & RAM LAND INVESTMENTS LLC.

Mr. LaFerrier indicated that this foregoing application was a request to delete a covenant for a property in the Naranja Community Urban Center (NCUC) Charrette. He noted five protests and no waivers were filed in connection with this application.

Commissioner Sorenson said the covenant shows that the property consisted of 91 acres; however, only 49.04 acres was included in this application. She noted a map depicting the exact boundaries of the subject property was not provided.

Assistant County Attorney Craig Collier indicated that the covenant included a larger area than was being requested by this application. He noted the Board's action today was limited to the 49.04 acres as advertised. Assistant County Attorney Collier said the Board could defer this application pending further advertisement.

Mr. Christopher Korge, 230 Palermo Avenue, Coral Gables, owner of Country View, LLC, appeared before the Board in support of this application. Mr. Korge was requesting that the County release covenants on a property that the County rezoned through the NCUC Charrette. He noted the previous change in zoning for the Charrette created standards of requirements and street grids and that the covenant conflicted with specific requirements established for the Charrette.

Mr. Korge said he participated in a community meeting relating to the passage of the Charrette and that development approved by the Commission was a major concern. Mr. Korge indicated that he purchased property both before and after the establishment of the Charrette, and he relied on the Charrette process to proceed.

Mr. Korge provided a handout with a property site plan, and noted that SW 260 Street ran through the property. He indicated that a portion of the site as depicted on page two, that was to be allocated for industrial use according to the covenant and the Charrette process later modified the use and provided for housing along the transit corridor. Mr. Korge noted on description three of the covenant, a portion of the site that was to be agricultural and not to be rezoned for five years. He noted that on description four of the covenant, was a row of Australian pines running through his property that was created as a buffer.

Mr. Korge said that at the time the County rezoned the property and created the CUC, they should have addressed these issues since the covenant was inconsistent with the requirements of the Charette and presented a title issue.

The following persons appeared before the Board in opposition to the foregoing application:

Mr. John Morales, 26542 SW 149 Court, Homestead
Ms. LouAnne Morales, 26542 SW 149 Court, Homestead
Mr. Paul Hagstedt, 15454 SW 260 Street, Homestead
Mr. William T. Franklin, Jr., 26410 SW 149 Place, Homestead
Mr. Arthur Schoppaul, 15220 SW 260 Street, Homestead
Mr. Randy Natacino, 25651 SW 154 Avenue, Princeton
Ms. Esther Moreno, 25750 SW 147 Avenue, Princeton
Ms. Joan Kennedy, 15001 SW 256 Street, Redland
Ms. Catherine Maneri, 25691 SW 154 Avenue, Homestead
Ms. Corinne Rotalante, 25325 SW 154 Avenue, Princeton
Mr. Antonio Juan, 14885 SW 260 Street, Homestead
Ms. Theresa Dickinson, 25301 SW 147 Avenue, Homestead
Ms. Elsie DuBois, 15791 SW 254 Street, Homestead
Mr. Michael Cruz, 25600 SW 147 Avenue, Homestead
Mr. Eldon Willick, 15255 SW 260 Street, Redland
Mr. Mike , 25145 SW 144 Avenue
Mr. John Randolph, 15305 SW 260 Street, Homestead

Mr. Korge indicated that his property was incorporated into the CUC since it was adjacent to the US1 busway. He noted a similar situation in Princeton where older covenants were removed. Mr Korge referred to page 4 of that application under Staff Analysis and Recommendations, where it said: "all development and redevelopment in the specific urban center shall conform with the guidelines provided in Section 33.284.680 NCUC district requirements of Miami-Dade County Code". Mr. Korge argued that this application was consistent with the CDMP. He urged members of the Board to approve this foregoing application as recommended by staff.

There being no other persons wishing to appear before the Board in connection with this application, Chairman Moss closed the public hearing.

Commissioner Sorenson noted that extensive public input was acquired through the CUC process that resulted in a 2005 zoning change. She questioned why the covenant was not consistent with the Charrette.

Mr. LaFerrier indicated that the covenant was established before the NCUC was created in 1976, which limited the use to industrial. He noted that this request was to remove a thirty-foot wide buffer paralleling the west side of US1 with industrial use on the east and agricultural use on the west. Mr. LaFerrier indicated that the NCUC identified the entire

area as industrial, with no buffer. Residential use was established as an appropriate use along the busway for all CUC's, noted Mr. LaFerrier.

Assistant County Attorney Collier responded to Commissioner Sorenson's question about the reason the covenant was not addressed at the time of the rezoning. He mentioned that large scale rezoning allowed individual parcels with covenants to receive individual treatment, which often occurred with the establishment of CUC's.

Commissioner Sorenson noted that when Mr. Korge purchased the property, he had relied on specific zoning only to discover the covenant was incompatible.

In response, Assistant County Attorney Collier said that zoning might have allowed additional uses not permitted by the covenant; however, those uses may not be inconsistent with the current CUC.

Mr. LaFerrier noted that the development of this site for industrial use as required by the covenant was not deemed to be inconsistent with the CUC.

Mr. Gianni Lodi, Principal Planner, Department of Planning & Zoning, noted the Charrette process began in 2003 and resulted in adoption of the 2004 ordinances. He indicated that the property was adjacent to the Uniform Development Boundary (UDB) and the western portion of this property fell outside the UDB. At the time of the Charrette, the community suggested the residential component would be a welcome addition since not much industrial development existed, noted Mr. Lodi. He said that the parcel remained zoned industrial although it had a residential component, with the transition from transit-supported density on US1 to single family toward the UDB.

Commissioner Sorenson mentioned that the community was involved in the process to examine the impact of future development along the US1 corridor. She noted that the area was rezoned to allow mixed-use development along the transit corridor; to contain development in an effort to reduce the footprint; and to protect the environment. Commissioner Sorenson indicated that the community clearly understood the implications and the desire to contain development within a specific area.

Mr. Korge responded to Commissioner Sorenson that he had no immediate plans to develop the property and was waiting for the economy to rebound. He noted that when the appropriate opportunity arose, it would be developed with consistent uses to the NCUC and in compliance with County plans. Mr. Korge noted he had conversations with interested parties who had submitted development applications to the County through workforce and affordable housing initiatives. He also noted that an application for an Administrative Site Plan Review (ASPR) was submitted.

Mr LaFerrier indicated that an ASPR allowed for Departmental review of development plans for CUC compliance and for administrative approval. He noted any appeal to the Department's decision would be presented to the Board.

Commissioner Sorenson spoke in support of the Charrette process and noted that the plan should be implemented.

Commissioner Sorenson presented and moved to approve the foregoing application. This motion was seconded by Chairman Moss.

Commissioner Martinez inquired whether there were any notification requirements for homes adjacent to agricultural areas. He requested that surrounding residents be notified when ASPR applications were considered by the Planning and Zoning Department. Mr. LaFerrier and Assistant County Attorney Collier indicated that they would examine the Code and provide a response later in the meeting.

Mr. Lodi provided clarification to Commissioner Seijas about the types of construction allowed within the Charrette by indicating that the highest density was along US1; that it transitioned to single family residential development near the UDB; and that single family stopped at the UDB.

Commissioner Seijas expressed concern about the ASPR process and suggested the Board revisit the Charrette process.

Commissioner Moss noted his support for the motion to approve the removal of the covenant. He requested Mr. LaFerrier address whether this action would comply with the overall objective of reducing density.

Mr. LaFerrier responded that the site development required reducing the density consistent with the requirements of the CUC. The difference was that the initial covenant did not include residential usage. This information was disseminated to participants during the Charrette and CUC approval process, noted Mr. LaFerrier.

Mr. LaFerrier clarified, in response to Commissioner Jordan's comments, that the covenant was not in conflict with the Master Plan or the CUC and that both the Master Plan and CUC permitted industrial development.

Commissioner Jordan noted that if the covenant was not in conflict with the Master Plan and the CUC, then the property could be developed without removing or rescinding the covenant.

Mr. LaFerrier explained that the covenant only permitted industrial development, not residential.

Assistant County Attorney Collier noted he reviewed the zoning code as it relates to the notification requirements and it provides that adjacent property owners be notified when agricultural properties were scheduled for spraying.

Following further discussion, Commissioner Sosa requested information in terms of available options under the covenant.

Mr. LaFerrier responded to Commissioner Sosa that the covenant limited site development to industrial use and provided a buffer running parallel to and approximately ¼ mile from US1.

Mr. LaFerrier responded to Commissioner Sosa's question regarding the community impact if the covenant was removed. He explained that residential use would be allowed if the covenant was removed.

Commissioner Sorenson noted the conflict between the CUC and the covenant. She mentioned that the CUC envisioned the area partially residential to maximize the use of the transit corridor. Commissioner Sorenson noted she supported the removal of the covenant, which she felt was in the best interest of the community and its land use policies.

Assistant County Attorney Collier said the motion on the foregoing application should be limited to approval on a modified basis; to the 49.04 acres that was advertised; and to release the covenant on the 49.04 acres.

Mr. LaFerrier confirmed the accuracy of this language as set forth by the Assistant County Attorney.

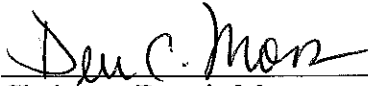
Upon being put to a vote, the Board proceeded to vote on the foregoing motion to approve this application on a modified basis to limit the release of the covenant to 49.04 acres as advertised, passed by a vote of 10-1 (Commissioner Seijas voted No; Vice-Chairman Diaz, and Commissioner Barreiro were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-16-09.


All deferral dates on applications considered during today's meeting were publicly announced.

All exhibits submitted for the record at today's meeting were transferred to the care, custody and control of the Department of Planning and Zoning.

There being no further business to come before the Board, the zoning meeting was adjourned at 12:15 p.m.


Chairman Dennis Moss

ATTEST: HARVEY RUVIN, Clerk

By: 
Diane Collins
Deputy Clerk