

**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, July 23, 2009
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Diane Collins, Acting Division Chief
Clerk of the Board Division

Alan Eisenberg, Commission Reporter
(305) 375-2510



CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
July 23, 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 2:39 p.m., July 23, 2009, there being present upon roll call Chairman Dennis C. Moss, Vice Chairman Jose "Pepe" Diaz; and Commissioners Bruno Barreiro, Audrey M. Edmonson, Barbara Jordan, Natacha Seijas, Javier D. Souto (Commissioners Carlos Gimenez, Joe Martinez, Katy Sorenson and Rebecca Sosa arrived later; Commissioner Sally Heyman submitted a memorandum that she would be attending the NACo Conference and Commissioner Dorrin Rolle was also absent); Assistant County Attorneys Joni Armstrong-Coffey and Dennis Kerbel; Department of Planning and Zoning Director Marc LaFerrier and DIC Coordinator Nicholas Nitti; and Deputy Clerks Diane Collins, Doris Dickens and Alan Eisenberg.

Chairman Moss called the meeting to order.

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

Department of Planning and Zoning Director Marc LaFerrier announced that there were five items on today's agenda.

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:

1. IGLESIA CRISTINA EL BUEN SAMARITANO, INC.

Mr. Juan Mayol, Holland and Knight, 701 Brickell Avenue, Suite 3000, Miami, attorney representing the applicant, appeared before the Board in support of this application. He asked that the Board consider vacating the decision of the Community Zoning Appeals Board (CZAB) and remand this application to CZAB 15.

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

Ms. Irene Sevilla, 26001 SW 138 Court Road, Miami
Mr. Vincent Springer 26161 SW 138 Court Road, Miami

Assistant County Attorney Armstrong-Coffey mentioned that a motion would be appropriate to vacate the Community Council's decision and remand it for further consideration, with lead to amend.

Chairman Moss asked Mr. LaFerrier to explain the Planning and Zoning Department's rationale to deny this application for the record.

Mr. LaFerrier noted the department recommended denial of the application based on concerns that: 1) the proposed development was incompatible in terms of the proposed structures and mass; and 2) the size of the cemeteries did not meet the minimum requirements imposed by the State and required a special exception. He said a remand to the CZAB would enable that applicant to seek the State's approval of the special exception, modify the site plan; and resubmit to the application to CZAB 15.

Chairman Moss stated that it would not be in the interest of the Board to consider this Item in its current form at this time.

Assistant County Attorney Armstrong-Coffee noted that the decision for the Board to not consider this Item would be a policy choice.

Chairman Moss relinquished the Chair to Vice-Chairman Diaz.

Chairman Moss moved to vacate the CZAB decision and remanded this application to CZAB 15, with lead to amend. This motion was seconded by Commissioner Sorenson and upon being put to a vote, passed by a vote of 9-0 (Commissioners Barreiro, Gimenez, Heyman and Rolle were absent).

The foregoing resolution was remanded by the Board and set forth in the Record of Resolutions and assigned #Z-20-09.

A. ARCHIMEDEAN PROPERTIES, LLC

Mr. LaFerrier mentioned the foregoing application was a special exception to modify an approved Charter School. He noted no protests and no waivers were filed regarding the foregoing application.

Mr. Ryan Bayline, 201 S. Biscayne Boulevard, Miami, attorney representing the applicant, appeared before the Board in support of this application. He asked for a special exception to modify the site plan to allow six temporary modular classrooms; to allow additional nighttime activities; and to expand the school's curriculum to include high school (grades nine through 12). Archimedean was among the leading Charter Schools in Miami-Dade County. This school was granted a Charter from Miami-Dade County Public Schools for the high school; however, zoning approval was still needed, Mr. Bayline noted. He mentioned that 40 ninth grade students were currently enrolled and were being transported for classes at another facility. This request would not increase the existing 800 student enrollment cap. He also noted that they had voluntarily

offered to not allow any student to drive to school and park on the property in order to minimize traffic concerns. Mr. Bayline indicated that Archimedean was fully aware of the conditions in the Departments analysis and recommendation and stands on this recommendation. He noted the commitment of parents, teachers, and students who were present at today's meeting and submitted letters in support of this application.

The following Archimedean students appeared before the Board in support of this application:

Ms. Diana Rodriguez, 11886 SW 79 Lane, Miami
Ms. Maria Londono, 13835 SW 39 Terrace, Miami
Mr. Ernesto Palacios, 9467 SW 146 Place, Miami

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

Mr. Ron Weeks, 11840 SW 47 Street, Miami, representing the Bird-Kendall Homeowners Association.
Mr. Manuel Gomez, 12055 SW 46 Street, Miami

Mr. Bayline responded to the opposition's comments indicating that the classes held at an alternative location imposed a significant expense on this non-profit institution. He noted the parents were committed to maintaining the feeder pattern and enrolling their children in the school's tenth grade. He clarified that the applicant was not seeking an increase in the enrollment, but was only seeking to reallocate the grades served by the school.

There being no one further to appear before the Board in connection with this application, Vice-Chairman Diaz closed the public hearing.

Commissioner Souto mentioned that this was a good school with an emphasis on the sciences. He noted that horse country was recognized as a special area by the Comprehensive Development Master Plan (CDMP). Commissioner Souto requested the applicant address whether any additional property was acquired by the school, and if so, what was the intended usage;

Mr. Ryan responded that three continuous acres had been acquired in 2004, adjacent to the north side of the property. He noted that a land use change had been requested that could increase the total enrollment.

In response to Commissioner Souto's inquiry about special events that would be held on the property, Mr. Ryan indicated that they were school related. He noted that they were events such as parent-teacher meetings, science-math activities, and prom night. Mr. Ryan explained that these activities would not include carnivals.

Commissioner Souto noted he would vote for approval based upon the following conditions: 1) the student population remain at 800 students; 2) the number of activities/events held at the school be increased from 10 to 12 per year; 3) the applicant

be allowed to resubmit the request to further increase the activities/events after a two year trial period; and 4) the applicant voluntarily agree to add an agricultural sciences component to the curriculum. He noted although he recognized that traffic congestion was a problem in the subject area, he believed the school should be given a chance.

Assistant County Attorney Armstrong-Coffey informed Commissioner Souto that the request to reduce nighttime activities to 12 was appropriate. She advised that the applicant must voluntarily agree to add an agricultural science component to the curriculum, as requested by Commissioner Souto; and the student population was limited to 800 students.

Mr. Ryan responded to Vice Chairman Diaz that the 800 student enrollment would include grades K-12.

Mr. LaFerrier noted that the applicant was requesting to expand through 12th grade, to add six additional modular classrooms and increase the number of nighttime activities with no increase in the student population.

Commissioner Sosa suggested the applicant be allowed to increase the student population proportionately over time consistent with the growth and needs of the community.

Commissioner Souto concurred with Commissioner Sosa and noted he would consider supporting a request to increase the population to 1,000 students, provided the applicant demonstrates a "good faith effort" for a two year trial period.

Assistant County Attorney Armstrong-Coffey recommended the Board defer this application if the intent was to increase the student population, noting this would require re-advertising the application to reflect the increase.

In response to Commissioner Jordan's question regarding the total number of students, Mr. Ryan said 740 students were currently enrolled, and that number was expected to increase 800 students next year. He clarified that the school would only be accommodating the progression of students moving from ninth to tenth grades for the upcoming school year, and there would not be an 11th or 12th grade at this time. Mr. Ryan noted that the school followed the class size amendment.

In response to Commissioner Jordan's inquiry, Mr. LaFerrier indicated that the school filed application for the April 2009 Comprehensive Development Master Plan (CDMP) Amendments requesting to amend the CDMP to add a three acre parcel on the north and the east sides of the property. Mr. LaFerrier noted that number of students to be served following the expansion was not included in the CDMP application.

Commissioner Jordan asked Mr. LaFerrier to report back to the Board on the total number of students that Archimedean Properties, LLC would be serving for the charter school on the pending application submitted to the Department of Planning and Zoning.

Assistant County Attorney Armstrong-Coffey explained that the applicant must be willing to include an agricultural curriculum component in response to Commissioner Seija's inquiry; otherwise it could not be included as a land use condition.

Vice-Chairman Diaz noted that the property was previously a high school with numerous students and was located on Sunset Drive which was a main road. With this in mind, Vice-Chairman Diaz said he would yield to the sentiments of Commissioner Souto as the District Commissioner for the subject area.

Commissioner Souto said he would offer a motion to approve this application with the 800 students; increase the nighttime events from 10 to 12; and add an agricultural curriculum component. He noted the issues involving land use could be addressed later.

Assistant County Attorney Armstrong-Coffey clarified Commissioner Souto's motion for the record.

Commissioner Souto presented and moved a motion to approve the application of Archimedean Properties, LLC as follows: Approved DIC's recommendation as modified to increase the number of night activities or functions at the school per year from 10 to 12; to add an agricultural component with the applicant's consent; and to allow the applicant to submit a revised covenant to the Planning Department within 90 days. This motion was seconded Commissioner Martinez and upon being put to a vote, passed by a vote of 9 - 0 (Commissioners Barreiro, Gimenez, Heyman and Rolle were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-21-09.

3. RIVER CITIES COMMUNITY CHARTER SCHOOL, INC

Mr. LaFerrier mentioned the foregoing application was a special exception to permit a Charter School. He noted no protests and two waivers were filed regarding the foregoing application.

Mr. Juan Mayol, Holland and Knight, 701 Brickell Avenue, Suite 3000, Miami, attorney representing the applicant, appeared before the Board in support of this application. He noted 40 students from within District 12 were enrolled in River Cities Community (RCC) Charter School and were commuting to a temporary location on Miami Beach for their daily education. The applicant was seeking to relocate the RCC to a building located west of the Palmetto Expressway and 63rd Street, which was closer to where the students lived. He noted Councilman Dan Espino and former Councilman Javier Garcia from the City of Miami Springs were present in support of this application along with parents.

Mr. Mayol submitted letters of support from State of Florida Representative Erik Fresen; Miami-Dade County School Board Member Renier Diaz de la Portilla; Mayor Bill Bain, City of Miami Springs; and from adjacent property owners for the record.

Mr. Mayol noted that the request was to provide sixth through eighth grade alternative education to 250 special needs students in a small class environment, with a 15/1 student-teacher ratio.

Mr. Mayol explained that the Comprehensive Master Development Plan (CDMP) allowed schools in all land use designations and the zoning code allowed charter schools in any district, including IU-3. He noted that a motion was made to approve this request before the Developmental Impact Committee (DIC); however, the motion failed by a 3-3 tie vote. Mr. Mayol requested that this application be forwarded to the County Commission due to time constraints. The application was approved by ten County departments with no objections with the exception of the Planning and Zoning Department's finding that a school would be incompatible with the current IU-3 zoning classification for the area, Mr. Mayol noted. He indicated that a close examination of the area showed no heavy manufacturing or hazardous substance usage and the proposed usage was compatible with the area, as noted by adjacent property owners' support. In conclusion, Mr. Mayol stated the applicant had submitted a declaration of restrictions and had tried to address staff's concerns. He was seeking a ten year approval for the school and would come back for a continuation later.

Commissioner Sosa acknowledged and welcomed Councilman Dan Espino representing the City of Miami Springs.

Councilman Dan Espino noted that he had been tracking the progress of this school for several years and the challenges were many, including the zoning issue before the Commission today. The IU3 zoning classification was not the most appropriate use and the building was perfectly suited for a school with multi-purpose classrooms and an auditorium. The location was predominately commercial and so was Westland Promenade High School, which was located in similar surroundings, Councilman Espino pointed out. Councilman Espino asked that this application not be denied solely based upon a classification and requested that the variance be granted

The following persons appeared before the Board in support of this application:

Ms. Alexandra Mirabal, 580 LaVilla Drive, Miami Springs
Ms. Kassandra Mirabl, 580 LaVilla Drive, Miami Springs
Ms. Rebecca Beeche, 1619 NW 22 Avenue, Miami
Mr. Gabriel Mirabal, 580 LaVilla Drive, Miami Springs

There being no one further to appear before the Board in connection with this application, Vice-Chairman Diaz closed the public hearing.

Commissioner Sorenson inquired about outdoor recreational space on the premises. Mr. Mayol noted the school auditorium was multi-purpose room, which was suitable for arts and music programs. Ms. Mirabal noted a credit line was secured from Building Hope to acquire an adjacent space that will be utilized as an indoor gymnasium for basketball, volleyball and other physical education related activities.

Vice-Chairman Diaz noted that the school was extremely positive for the community and moved to overrule the DIC's decision and approved the special exception to permit a Charter School. This motion was seconded by Commissioner Sosa and upon being put to a vote, passed by a vote of 11 – 0 (Commissioners Heyman and Rolle were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-22-09.

2. MIAMI COMMUNITY CHARTER SCHOOL, INC.

Mr. LaFerrier mentioned the foregoing application was a special exception to permit a Charter School. He noted three protests and no waivers were filed regarding the foregoing application.

Mr. Stanley Price, Bilzin Sumberg Attorneys At Law, 200 S. Biscayne Boulevard, Suite 2500, Miami, attorney representing the applicant, appeared before the Board in support of this application. He noted that a recommendation of approval had been granted by the Developmental Impact Committee (DIC) Executive Committee and a Declaration of Restrictive Covenants had been submitted.

Chairman Moss asked Mr. LaFerrier to explain this recommendation.

Mr. LaFerrier mentioned that staff had recommended approval of this application. He noted that it was deemed to be consistent and compatible with surrounding uses and that the applicant has either modified or mitigated the plans in order to accommodate all impacts. Mr. LaFerrier indicated that standard covenants and restrictions must be applied including: limiting the number of students that could drive to the school to 57; verifying the number of students and grades yearly in conjunction with the Certificate Of Use; and staggering the pick-up and drop-off times.

Chairman Moss inquired whether the location was within the Urban Development Boundary (UDB). He was advised by Mr. LaFerrier that the DIC had recommended approval with the property being located within one mile of the UDB.

Commissioner Sorenson inquired about trees and shrubbery. Mr. LaFerrier mentioned the DIC recommendation included a modification of standard landscaping requirements predicated on the fact that this could be the first phase of a larger project. The covenant allows a limited amount of trees located on the site for the next two years and if approval was not obtained for the expanded school, they would need to meet all landscape requirements for trees and shrubbery, Mr. LaFerrier noted. He also noted if expanded

site approval was granted, the new code requirements would be applicable to both the existing and the new sites.

Mr. Price confirmed that the temporary relief from landscaping requirements was requested to allow outdoor recreational space. He noted that all County requirements would be accommodated with the acquisition of additional property to south of the present location. Mr. Price responded to Commissioner Sorenson that the school exceeded the requirements for outdoor space.

Commissioner Sorenson inquired about the total enrollment for the school to which Mr. Price indicated that there would be a total of 640 students composed of 320 in both Junior and Senior High School programs.

Chairman Moss moved to approve the special exception to permit a Charter School as recommended by the DIC. This motion was seconded by Commissioner Sosa and upon being put to a vote, passed by a vote of 11 – 0 (Commissioners Heyman and Rolle were absent).

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-23-09.

4. PALMETTO KTP, LLC

Mr. LaFerrier mentioned the foregoing application was a special exception to permit a Charter School. He noted no protests and no waivers were filed regarding the foregoing application.

Commissioner Sorenson noted her concern about the lack of open space for recreation activities as required by public schools.

Mr. Jeffrey Flanagan, Flanagan & Willard, P.A., 1450 Madruga Avenue, Coral Gables, attorney representing the applicant, appeared before the Board in support of this application. He noted that proposed multi-usage rooms were located inside the building that would accommodate programming for cardio-vascular exercise, yoga, etc.; however, the location would limit any outside activity.


Commissioner Seijas noted that there were parks in the area that would accommodate outside activities.

Commissioner Seijas moved to approve the application with conditions, subject to the acceptance of the proffered covenant, as recommended by the DIC. This motion was seconded by Commissioner Sosa and upon being put to a vote, passed by a vote of 11 – 0 (Commissioners Heyman and Rolle were absent).

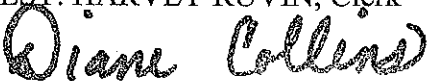
The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-24-09.

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 3:54 p.m.


Chairman Dennis C. Moss

ATTEST: HARVEY RUVIN, Clerk

By: 
Diane Collins, Deputy Clerk