

Approved: \_\_\_\_\_ Mayor

Veto: \_\_\_\_\_

Override: \_\_\_\_\_

**RESOLUTION NO. Z-5-13**

WHEREAS, MIAMI GARDENS PARK, LLC applied to Community Zoning Appeals Board 5 for the following:

- (1) DISTRICT BOUNDARY CHANGE from IU-C to RU-4L.
- (2) DELETION of a Declaration of Restrictions recorded in Official Record Book 11507, Pages 577 through 581, only as it applies to the subject property.

The purpose of the request is to remove the requirements that calls for a 50' no building area, a 50' greenbelt open space and a 10' utility easement along the west property line.

- (3) UNUSUAL USE to permit an entrance feature; to wit: an entrance feature consisting of decorative masonry walls 8' in height and signage.
- (4) UNUSUAL USE to permit the filling of a portion of an existing lake.
- (5) NON-USE VARIANCE of setback requirements to permit certain buildings setback 15' from the rear (south) property line (25' required).
- (6) NON-USE VARIANCE of spacing requirements to permit the clubhouse to be spaced a minimum 23'-8" (20' required) from other residential buildings
- (7) NON-USE VARIANCE of spacing requirements to permit certain residential buildings to be spaced 16' (20' required) from each other.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Proposed 178 Apartments for Miami Gardens Park" as prepared by Oscar J. Gonzalez Architect consisting of 17 sheets and "Lake Section" as prepared by Ludovici & Orange Consulting Engineers, Inc., consisting of 1 sheet, with all plans dated stamped received 10/25/12, Plans may be modified at public hearing.

SUBJECT PROPERTY: Tract "A" of Garden Park Subdivision PB 167, PG 29

LOCATION: Lying West of NW 59 Avenue and South of theoretical NW 182 Lane, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 5 was advertised and held, as required by law, and all interested parties concerned in the matter were given

an opportunity to be heard, and upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 5 that the requested district boundary change to RU-4L (Item #1) would be consistent with the Comprehensive Development Master Plan and would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that requested deletion of a Declaration of Restrictions recorded in Official Record Book 11507, Pages 577 through 581, only as it applies to the subject property (Item #2), the requested unusual use to permit an entrance feature; to wit: an entrance feature consisting of decorative masonry walls 8' in height and signage (Item #3), the requested unusual use to permit the filling of a portion of an existing lake (Item #4), and the requested non-use variance of setback requirements to permit certain buildings setback 15' from the rear (south) property line (Item #5), would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and would be consistent with the Comprehensive Development Master Plan, and that the requested unusual uses (Items #3 and #4) would not have an adverse impact upon the public interest and should be approved, and that the requested non-use variance of spacing requirements to permit the clubhouse to be spaced a minimum 23'-8" from other residential buildings (Item #6), and the requested non-use variance of spacing requirements to permit certain residential buildings to be spaced 16' from each other (Item #7) was withdrawn per the Department's recommendation, and said application was approved by Resolution No. CZAB5-1-13, and

*WHEREAS, MOORS PATIO HOME MAINTENANCE ASSOCIATION, LLC, ET AL* appealed the decision of Community Zoning Appeals Board 5 to the Board of County Commissioners for the following:

1. DISTRICT BOUNDARY CHANGE from IU-C to RU-4L.
2. DELETION of a Declaration of Restrictions recorded in Official Record Book 11507, Pages 577 through 581, only as it applies to the subject property.
3. The purpose of the request is to remove the requirements that calls for a 50' no building area, a 50' greenbelt open space and a 10' utility easement along the west property line.
4. UNUSUAL USE to permit an entrance feature; to wit: an entrance feature consisting of decorative masonry walls 8' in height and signage.
5. UNUSUAL USE to permit the filling of a portion of an existing lake.
6. NON-USE VARIANCE of setback requirements to permit certain buildings setback 15' from the rear (south) property line (25' required).
7. NON-USE VARIANCE of spacing requirements to permit the clubhouse to be spaced a minimum 23'-8" (20' required) from other residential buildings
8. NON-USE VARIANCE of spacing requirements to permit certain residential buildings to be spaced 16' (20' required) from each other.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Proposed 178 Apartments for Miami Gardens Park" as prepared by Oscar J. Gonzalez Architect consisting of 17 sheets and "Lake Section" as prepared by Ludovici & Orange Consulting Engineers, Inc., consisting of 1 sheet, with all plans dated stamped received 10/25/12, Plans may be modified at public hearing.

SUBJECT PROPERTY: Tract "A" of Garden Park Subdivision PB 167, PG 29

LOCATION: Lying West of NW 59 Avenue and South of theoretical NW 182 Lane, Miami-Dade County, Florida, and

*WHEREAS*, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the appellant requested permission to withdraw the appeal, and

*WHEREAS*, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

*WHEREAS*, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 5 and after having given an opportunity for interested parties to be heard, it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the request to withdraw the appeal should be granted, and that the decision of Community Zoning Appeals Board 5 to approve Items #1 through #5, and to withdraw Items #6 and #7 as per the Department's recommendation should be sustained, and

*WHEREAS*, a motion to withdraw the appellant's appeal and to sustain the decision of Community Zoning Appeals Board 5 was offered by Commissioner Barbara J. Jordan, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	absent	Barbara J. Jordan	aye
Lynda Bell	absent	Jean Monestime	aye
Esteban Bovo, Jr.	absent	Dennis C. Moss	absent
Jose "Pepe" Diaz	aye	Sen. Javier D. Souto	aye
Audrey M. Edmonson	absent	Xavier L. Suarez	aye
Sally A. Heyman	absent	Juan C. Zapata	aye
		Rebecca Sosa	aye

*NOW THEREFORE BE IT RESOLVED* by the Board of County Commissioners, Miami-Dade County, Florida, that request to withdraw the appeal be and the same is hereby granted and that said appeal is hereby withdrawn without prejudice.

*BE IT FURTHER RESOLVED* that Resolution No. CZAB5-1-13 remains in full force and effect and that the conditions of said resolution shall be as follows:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Proposed 178 Apartments for Miami Gardens Park" as prepared by Oscar J. Gonzalez Architect, consisting of 17 sheets, and "Lake Section"

as prepared by Ludovici & Orange Consulting Engineers, Inc. consisting of 1 sheet with all plans dated stamped received 10/25/12, except as herein amended to show an increased landscaped buffer along the west property line. Said landscape buffer shall consist of dual, row of trees planted in staggered rows along the west property line, spaced 25' on center and be a minimum of 12' high at the time of planting.

3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department of Regulatory and Economic Resources for review and approval a landscape plan which in addition to the submitted landscape plans shall include the required landscape buffer along the west property line. Said landscape buffer shall consist of a dual row of trees planted in staggered rows along the west property line, spaced 25' on center and be a minimum of 12' high at the time of planting, and shall be installed along that portion of the west property line prior to the issuance of the first Certificate of Occupancy.
5. That the applicant shall be permitted to operate construction activities for the proposed development between the hours of 7:00 A.M. and 7:00 P.M. on weekdays, may be permitted by the Director only if the same does not become objectionable, in his opinion to the surrounding area.

#### **Lake Fill Conditions**

6. That in the event the existing 8' high wall along 2/3 of the west property line is removed by the neighboring residential development to the west the applicant shall install a similar buffer within the zoning regulations.
7. That no portion of the property subject to the approved excavation fill plan and permit shall be transferred without the approval of the Director, unless the filling of the subject excavation has been completed in accordance with the excavation fill plan and permit for the fill project and unless the bond has been released.
8. That no fill be permitted with the adjacent rights-of way.
9. That if in the opinion of the Director the lakefill is hazardous to the surrounding area, the hazardous area shall be fenced in or otherwise protected, by the applicants as directed by the Director.
10. That the applicant shall obtain all permits required by this Code and comply with all permit requirements and all applicable conditions of the Division of Environmental Resource Management of the Department of Regulatory and Economic Resources as well as the Public Works and Waste Management Department for the duration of the fill project.
11. That only such clean fill material as allowed by Chapter 24 of this Code and approved in writing by the Division of Environmental Resource Management of the Department of Regulatory and Economic Resources, as set forth herein, shall be used in the fill project.

12. That in order to insure compliance with all terms and conditions imposed, a cash bond or substantially equivalent instrument meeting with the approval of the Director shall be posed with the Department of Regulatory and Economic Resources, payable to Miami-Dade County, in an amount as may be determined and established by the Director of the Department of Regulatory and Economic Resources; said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County and said instrument shall be executed by the property owner and any and all parties who may have an interest in the land, such as mortgagees, etc. The bond amount shall be based on the volume of cut required to create the approved slope configuration.
13. That any unacceptable fill material shall be stored in containers; shall not be permitted to remain on the project site for more than thirty (30) days; and shall not exceed a volume of forty (40) cubic yards.
14. That neither the clean fill material piles; nor the unacceptable fill material piles, nor the piles awaiting sorting shall be permitted to exceed a height of 10 feet above the applicable flood elevations for the property.
15. That the fill project shall meet all storm water management requirements of the Code of Miami-Dade County and the filled excavation or portion of excavation filled shall not exceed the applicable flood elevations for the property.
16. That if the fill project is discontinued, abandoned, falls behind schedule or time expires under the permit, the remaining excavation shall immediately be sloped to conform with the previously approved excavation plans and all equipment and concomitant uses shall be removed from the premises, unless an application to extend the time is filed with the Department prior to expiration of the approval and provided that good cause is demonstrated as to the delay in completing the filling of the excavation. In no event shall such extension allow the fill project to continue beyond three (3) years after issuance of the permit.
17. That the property shall be suitably posted to meet with the approval of the Director; said posting shall denote the fill project and shall warn the public concerning the possible hazards prior to commencement and for the duration of the fill project.
18. That the property shall be staked to meet with the approval of the Director of the Department of Regulatory and Economic Resources; said stakes shall be maintained in proper position so that the limits of the lake fill, slopes and grade levels may be easily determined.
19. That all Federal, State and local permits be obtained prior to commencement of the lake fill. In the event that any Federal, State or local permit is revoked or otherwise held to be invalid, the lake fill operation shall immediately cease.
20. That the deadline date for the completion of the fill project, including final closure and completion of all tasks set forth in the approved plans and permit shall be determined by the Director and established in the permit. All authorized work shall be carried on continuously and expeditiously so that the filling will be completed within the allocated time, but in no event for any more than three (3) years from issuance of the fill permit.

21. That upon completion of the project, the property shall be restored and left in an acceptable condition meeting with the approval of the Director of the Department of Regulatory and Economic Resources.
22. That the applicant shall be permitted to operate between the hours of 7:00 A.M. and 7:00 P.M. on weekdays, may be permitted by the Director only if the same does not become objectionable, in his opinion, to the surrounding area.
23. That the grading, leveling, sloping of the banks and perimeter restoration shall be on a progressive basis as the project as the project develops and the lakefill operation progresses. In accordance with this requirement, the applicants shall submit "as built" surveys prepared and sealed by a Florida licensed surveyor and/or professional engineer at one-fourth, one-half, three-fourths and final completion of the lake fill operation or at six-month intervals, whichever is of a lesser duration, or upon request of either the Division of Environmental Resources Management of the Department of Regulatory and Economic Resources when it appears that the lake fill is proceeding contrary to approved plans.
24. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda that are incorporated herein by reference.
25. That any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the conditions herein agreed to are being complied with.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Regulatory and Economic Resources and to issue all permits in accordance with the terms and conditions of this resolution.

***THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED*** this 20<sup>th</sup> day of June 2013, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 13-1-CZ5-1  
ej

HARVEY RUVIN, Clerk  
Board of County Commissioners  
Miami-Dade County, Florida

By CHRISTOPHER AGRIPPA  
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 26<sup>TH</sup> DAY OF JUNE, 2013.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Regulatory and Economic Resources as designated by the Director of the Miami-Dade County Department of Regulatory and Economic Resources and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-5-13 adopted by said Board of County Commissioners at its meeting held on the 20<sup>th</sup> day of June, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 26<sup>th</sup> day of June, 2013.



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Earl Jones, Deputy Clerk (3230)  
Miami-Dade County Department of Regulatory and  
Economic Resources

SEAL

