



# **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 1<sup>st</sup> Street  
Miami, Florida 33128

### **Meeting Date:**

November 17, 2005  
9:30 A.M. Commission Chambers

### **Prepared by:**

Harvey Ruvin, Clerk  
Board of County Commissioners

Kay Madry Sullivan, Director  
Clerk of the Board Division

### **Reporter:**

Alicia Stephenson, Commission Reporter  
(305) 375-1475



Zoning Meeting, Miami-Dade County, Florida, November 17, 2005

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 10:26 a.m., November 17, 2005; Assistant County Attorneys Joni Armstrong-Coffey and Craig Collier; Planning and Zoning Director Diane O'Quinn Williams and Assistant Director for Zoning Alberto Torres, Department of Planning & Zoning; and Deputy Clerks Kay Sullivan and Alicia Stephenson.

Upon the conclusion of roll call and achieving the required quorum for zoning meetings, Vice Chairman Moss called the meeting to order and announced that he would chair today's meeting until the Chairman of the Board arrived.

The Board convened in a Moment of Silence, followed by the Pledge of Allegiance.

ALL WITNESSES AND THE INTERPRETER WERE SWORN BY THE DEPUTY CLERK BEFORE MAKING THEIR TESTIMONY BEFORE THE BOARD.

**A. IRENE G. ATHANS (05-7-CZ10-5/04-435) 01-54-39 BCC/District 12**

Mr. Simon Ferro, 1221 Brickell Avenue, represented the applicant. He noted that the foregoing application was deferred in October 2005. He requested the foregoing application be remanded to the Community Zoning Appeals Board 10 (CZAB 10) with a leave to amend.

Mr. Julio Burgos appeared before the Board in objection to this deferral and made allegations of alleged misconduct by a representative of the applicant.

In response to Mr. Burgos' request regarding the site plans, Mr. Alberto Torres, Assistant Director for Zoning, Department of Planning and Zoning, said that he would meet with Mr. Burgos to provide him with a point of contact and make available as much information as possible on the site plans and the foregoing application.

Mr. Ferro stated that, for the record, he wished to deny Mr. Burgos' version of events.

It was moved by Commissioner Diaz that the Board vacate the decision of CZAB 10 and remand the foregoing application to CZAB 10 for further proceedings. This motion was seconded by Vice Chairman Moss; and upon being put to a vote, passed by a vote of 10-0 (Chairman Martinez and Commissioners Barreiro and Souto were absent).

Vice Chairman Moss interrupted consideration of the zoning agenda to allow Planning & Zoning Director O'Quinn Williams to state the parliamentary procedures.

Ms. Diane O'Quinn Williams, Director, Department of Planning and Zoning (DP&Z) announced that, in accordance with the Code of Miami-Dade County, all items on today's

agenda had been legally advertised, notices mailed, and the properties posted. She presented the rules of procedure to be followed during today's proceedings and noted that the records of the hearing on each application on today's agenda, additional copies of the today's agenda, and an official translator were available. She noted that all parties had the right of cross-examination.

Vice Chairman Moss proceeded to continue consideration of the zoning agenda.

**2. JOSE A. REY (04-1-CZ12-4/03-306)      26-54-40 BCC/District 7**

Mr. Santiago Echemendia and Ms. Patricia Baloyra, 1441 Brickell Avenue, representing the applicant, appeared before the Board.

Ms. Baloyra introduced Ms. Andreina Figueroa as the attorney representing the applicant, Mr. Jose A. Rey as the applicant, and Mr. Ralph Puig as the project architect. She provided a PowerPoint presentation on the intent of the application. She noted that the foregoing application had been previously considered by the Developmental Impact Committee (DIC) Executive Council pursuant to a takings claim. She advised that the DIC Executive Council had confirmed at their meeting, that the County Commission could avoid the takings claim by allowing these variances to move forward and approving them under the following options in accordance with the County's Code:

- 1) under the alternative site development plan;
- 2) under a non-use variance; or
- 3) under the alternative non-use variance.

Ms. Baloyra explained the options allowed by the Code, the requirements for setbacks, and the correspondence relating to the foregoing application.

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

- 1) Mr. Jose Reboredo
- 2) Ms. Lizette Reboredo, 6850 S.W. 75 Avenue
- 3) Mr. Gustavo Mejido, 6940 S.W. 75 Avenue

Vice Chairman Moss asked the Planning and Zoning Director to find a letter submitted by Ms. Lizette Reboredo and her neighbors objecting to the proposed lot frontage in the foregoing application and to distribute copies of the letter to all commissioners.

In response to Commissioner Sosa's questions regarding flooding and percolation issues, Ms. Jacqueline Carranza, Project Supervisor, Department of Environmental Resources Management (DERM), testified that DERM had reviewed the foregoing application and had no flooding concerns in regards to the subject property.

Commissioner Sosa asked that Ms. Carranza document the statement she made at today's meeting. She noted that future applications should indicate whether DERM utilized a one-year or five-year stormwater analysis.

Discussion ensued in connection with DIC's recommendation to the County Commission, the court cases on eminent domain takings reviewed by the County's legal department, and the opinion rendered by the County Attorney's Office on the cases cited.

The applicant's legal counsel confirmed, for the record, that the motion would be to deny request number two and not number 1, which was previously withdrawn by the applicant.

Planning & Zoning Director Williams questioned whether the applicant had officially withdrawn request number 1.

The applicant's counsel explained that the applicant had stated that if the inclination of the Board was to deny the application, the applicant would withdraw request No. 1, and was seeking the Board's approval of request No. 2 with a favorable recommendation.

Planning & Zoning Director Williams advised that, if the applicant had withdrawn request number 1, the Planning & Zoning Department could now reconsider request number 2 as a stand alone application. She noted that request number 2 met the alternative site development option standards and staff would be supportive of that request.

Commissioner Gimenez restated his motion as approval of request number 2 based on staff's recommendation.

In response to Commissioner Sosa's concerns regarding the lack of background information provided on this application and the process used to approve it, Planning & Zoning Director Williams responded by noting County staff had evaluated both requests in terms of the lot frontage, lot area, and required setbacks. She noted that the new size of the lot had not been presented to the Board because the size would have to conform to zoning regulations for setbacks, lot coverage and height. Therefore, the development on the property was limited to that permitted in the Code. She noted the full analysis would be conducted at the building permit stage.

Discussion ensued in connection with the issue of right-of-ways.

Commissioner Barreiro advised the neighbors of the subject property that a larger parcel would help avoid safety and maintenance issues.

Assistant County Attorney Joni Armstrong-Coffey corrected a previous statement that a substandard parcel was not necessarily created by the takings in connection with the construction of the 826 Expressway.

Commissioner Sosa asked Gimenez to include in the motion a request for a flood analysis for the subject property because of the size and density.

Upon conclusion of the foregoing discussion, it was moved by Commissioner Gimenez that the Board approve the withdrawal of request No. 1 and approve request No. 2 with the condition that the subject property must comply with all Miami-Dade County Code and Ordinance requirements, except for lot area and frontage. This motion was seconded by Commissioner Diaz; and upon being put to a vote, passed by a vote of 10-0 (Chairman Martinez and Commissioners Heyman and Souto were absent).

**1. IRA AND BAMBI GRABOW (05-6-CZ12-1/04-270)      31-54-41 BCC/District 7**

Mr. Juan Mayol, 1221 Brickell Avenue, represented the applicant. He requested that the Board overturn the decision of Community Zoning Appeals Board (CZAB) 10 and follow DP&Z's recommendation. He gave a presentation on the location, zoning, acreage of the surrounding area due to variances, acreage of the proposed lots, the proffered covenant, and density.

Mr. Joseph Krause, 3195 Ponce De Leon Blvd, appeared before the Board in opposition to the foregoing application.

Following discussion regarding the proposed density, lot size, land use patterns surrounding the application site, a letter regarding the change in the character of the neighborhood if this application was approved, DP&Z's recommendation, and whether a variance would set precedence, it was moved by Commissioner Diaz that the Board vacate the decision of Community Zoning Appeals Board (CZAB) 10 and remand the application to CZAB 10. This motion was seconded by Vice Chairman Moss; and upon being put to a vote, passed by a vote of 10-0 (Chairman Martinez and Commissioners Barreiro and Souto were absent).

**3. SUMMERVILLE DEVELOPMENT, INC. (05-11-CC-1/04-309)  
19-56-40 BCC/District 7**

Following discussion regarding requirements that the developer provide mitigation for the clearance of specimen size trees on the subject property without a permit and the issuance of permits to the developer after the unlawful removal of the trees, Commissioner Seijas asked that she be apprised on the type of trees which were destroyed in order to be able to establish the appropriate mitigation.

In response to Commissioner Sorenson's inquiry relating to the type of trees which were destroyed and how the trees would be mitigated, Mr. Mayol advised that the report prepared by the Department of Environmental Resources Management outlined all of the information on the type of mitigation established and how the permits and fines were addressed.

Following discussion regarding to Commissioner Sorenson's inquiry as to whether the developer would be willing to plant trees 12 feet or taller, Mr. Mayol agreed, on behalf of the developer, to plant trees with a height range between 18 to 20 feet.

Commissioner Carey-Shuler asked that the County Manager be asked to make a categorized assessment of all trees destroyed by the hurricanes to include the oaks and that the lost trees be replaced with trees which could withstand a category 5 hurricane.

Chairman Martinez commented that the County Manager had been previously requested to prepare a report on the estimated recovery to replace the canopy during hurricanes.

Commissioner Carey-Shuler recommended that the Board require all building permit holders to include tall trees in the landscape plans of proposed projects.

Commissioner Moss noted he wished to inform the members of the Board that Ms. Alyce Robertson, Community Image Manager, Office of Community Image, was organizing a Tree Summit in December 2005 to review and develop recommendations on how to replace lost canopy with trees that could withstand hurricane force winds and other issues.

Chairman Martinez asked that Ms. Robertson also include, as part of the Tree Summit, a discussion on planting trees close to sidewalks.

Commissioner Carey-Shuler asked that Ms. Robertson include, in addition, a discussion of trees that do not grow large roots over the ground, especially when replanted near sidewalks.

Commissioner Jordan recommended that the County Manager work with Community Image Manager Robertson to ensure the Tree Summit was coordinated with other affected County departments and that an arborist with the expertise to determine which trees should be utilized be available to provide input.

Commissioner Seijas requested that other cities/municipalities not be invited to participate in the Summit because they should conduct an independent review process within their jurisdictions. She noted that the County should not provide other cities/municipalities with trees unless the County was provided with information on their review process.

Commissioner Carey-Shuler recommended that a policy be developed to govern the process before the County assisted other municipalities in replacing trees.

Upon the conclusion of the foregoing discussion, it was moved by Commissioner Sorenson that the Board approve the application with special exemption with the condition to require that the applicant plant 18 to 20-foot Florida Grade number 1 trees on the site and to modify condition number 11 on handwritten page 24 of the application

as follows: “That phase 1 of the charter school facility be limited to a maximum of 300 students, and that the total enrollment at buildout be limited to a maximum of 455 students.” This motion was seconded by Vice Chairman Moss; and upon being put to a vote, passed by a vote of 9-0 (Commissioners Barreiro, Diaz, Heyman and Souto were absent).

**4. DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING**  
**(05-11-CC-2/05-253) 13-56-39 BCC/District 7**

Planning & Zoning Director Williams presented the foregoing proposed application.

Mr. Jeff Tucker, 3241 Florida Avenue, appeared before the Board and voiced his concerns regarding the foregoing proposed application due to the down zoning of certain areas within the Goulds district. He noted that the areas being down zoned were as follows: between S.W. 218<sup>th</sup> Street and 220<sup>th</sup> Street and between S.W. 120<sup>th</sup> Avenue and the Busway. He presented a brief overview of his discussions with the Department of Planning & Zoning in regards to this matter and the impact of the foregoing application on the zoning of the aforementioned areas, which would down zone those areas from BU-2 to residential modified.

Ms. Williams commented on the location of Mr. Tucker’s property in relation to the foregoing proposed application.

In response to Mr. Tucker’s comments, Ms. O’Quinn Williams said that the County administration would present before the Board a proposed ordinance to modify an existing ordinance to include a previously omitted boulevard along S.W. 120<sup>th</sup> Avenue and allow a greater range of land uses in the subject area.

Mr. Tucker noted that approval of the foregoing application represented a down zoning and would constitute a taking of the property owners’ rights. He questioned the applicant’s intent to deliver any changes to the application without written documentation.

In response to Chairman Martinez’s inquiry in regards to Mr. Tucker’s comments, Assistant County Attorney Joni Armstrong-Coffey advised that the evidence was insufficient to show rezoning would constitute a taking and that Ordinance Number 05-144 relating to preserving existing uses contained a grandfathering clause; but the ordinance failed to address existing zoning.

Discussion ensued in connection with the applicant’s commitment to deliver on all of the issues agreed on.

In response to Commissioner Seijas’ request that it be stated for the record when the proposed ordinance would be presented before the Board for approval, Planning & Zoning Director Williams advised that it had been completed and needed review by the

County Attorney's Office. She noted that the department intended to present it before the Board for first reading at the next scheduled Board meeting of December 6, 2005, following committee review and second reading in late January 2006.

Commissioner Seijas asked that the proposed ordinance be scheduled for the Infrastructure and Land Use Committee meeting of December 13, 2005.

Chairman Martinez noted that he would approve a request from Commissioner Seijas for a waiver of the Board's rules and procedures and schedule the proposed ordinance for the Board's meeting of December 20, 2005, if it was reviewed in Committee on December 13, 2005.

Discussion ensued in connection with the requirements which needed to be met before this proposed application was considered at the Board meeting on December 20<sup>th</sup>.

It was moved by Commissioner Souto that the Board approve the foregoing application. This motion was seconded by Commissioner Sorenson and upon being put to a vote, passed by a vote of 9-0 (Commissioners Barreiro, Diaz, Heyman and Souto were absent).

Following discussion regarding the impact the application would have on traffic, noise, density, schools, public services, and mitigation for these impacts, Commissioner Seijas requested that she be apprised of how this application would impact traffic in that area. She recommended that the Department of Planning & Zoning include the impact on traffic in the staff's recommendations of rezoning-related applications. She also requested the same information for application number 5.

Discussion ensued in regards to the issues of concurrency and traffic connectivity.

**5. DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING**  
**(05-11-CC-3/05-254) 22, 23, 26 & 27-56-39 BCC/District 8&9**

Planning & Zoning Director Williams presented the foregoing proposed application.

Mr. Kevin Winkler, 14095 S.W. 256 Street, warehouse owner, appeared before the Board and asked how this application would affect the industrial-use warehouses in the area of the application. He expressed concerns regarding traffic congestion.

In response to Mr. Winkler, Ms. Williams said that his property would remain in industrial use; and Ms. Nancy Rubin explained that streets would be constructed.

Mr. Jerry Matelo, who was building a warehouse at 25590 S.W. 141 Avenue, appeared before the Board and expressed his concerns regarding whether remaining vacant lots in the subject area could be developed as apartment buildings.

In response to Mr. Matelo, Ms. Williams said she would write a letter explaining the uses allowed on his property.

Mr. James G. Brown, Jr., owner of a commercial warehouse located at 14107 S.W. 254 Street, appeared before the Board and said his concerns were the same as Mr. Matelo's. Staff met with him and satisfied all his concerns.

Mr. Robert Willoughby, Jacksonville, Florida, appeared before the Board and voiced his concerns that this application would restrict him from selling his property located on 13500 S.W. 240 Street. He stated that he had spoken with DP&Z staff and would meet with them regarding his issues of concern.

Mr. Rene Enfante (phonetic), 24420 South Dixie Highway, appeared before the Board in support of the foregoing proposed application.

Following comments from Vice Chairman Moss in support of the foregoing application, it was moved by Commissioner Sorenson that the Board approve the application. This motion was seconded by Vice Chairman Moss; and upon being put to a vote, passed by a vote of 9-0 (Commissioners Barreiro, Diaz, Heyman, and Souto were absent).

There being no further business to come before the Board, the Zoning Meeting was adjourned at 4:00 p.m.

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Chairperson

ATTEST: HARVEY RUVIN, Clerk

By: \_\_\_\_\_  
Kay Sullivan, Deputy Clerk