



# **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:**

March 9, 2006  
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:**

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



Zoning Meeting, Miami-Dade County, Florida, March 9, 2006

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., March 9, 2006, there being present upon roll call the Honorable Chairman Joe A. Martinez and Vice Chairman Dennis C. Moss; Commissioners Jose "Pepe" Diaz, Audrey M. Edmonson, Carlos A. Gimenez, Dorrin D. Rolle, and Katy Sorenson (Commissioners Barbara J. Jordan, Sally A. Heyman, Natacha Seijas, Rebeca Sosa, and Javier D. Souto arrived later; Commissioner Bruno A. Barreiro was absent); Assistant County Attorneys Joni Armstrong-Coffey and Craig Coller; Planning and Zoning Director Diane O'Quinn Williams and Assistant Director for Zoning Alberto Torres, Department of Planning & Zoning; and Deputy Clerks Diane Collins and Alicia Stephenson.

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

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

Chairman Martinez asked for requests for deferrals and withdrawals. Hearing none, he recognized Ms. Diane O'Quinn Williams, Director, Department of Planning and Zoning (DP&Z) who made the following announcements:

Ms. O' Quinn Williams announced that in accordance with the Code of Miami-Dade County, all items on today's agenda had been legally advertised in the newspaper, notices mailed, and the properties posted. She noted additional copies of today's (3/17) agenda, all applications, and an official translator were available. She presented the rules of procedure to be followed during today's proceedings.

Upon conclusion of the foregoing, the Board proceeded with consideration of today's agenda.

A. Ms. O'Quinn Williams presented the following application:

GAIL M. SANTORO (05-10-CZ15-5/05-164) 23-56-39 BCC/District 8

Ms. Gail M. Santoro, 24525 S.W. 122 Avenue, Homestead, applicant, appeared before the Board in connection with and in support of the foregoing application. She noted her original application had been filed in June of 2005, and because of circumstances beyond her control the application had been deferred until today's meeting. She noted when she had filed the application she had not been notified of the ongoing Princeton Charrette, the subsequent adoption of the Princeton Charrette ordinance, and the rezoning of the Princeton Community Urban Center. She noted she may have reconsidered her application had she been aware of them.

There being no other persons to appear in connection with this matter, the public hearing was closed.

Commissioner Sorenson spoke in support of the charrette process, and noted that the busway was meant to influence people to take mass transit. She added that putting low density close to mass transit was not an efficient use of space, nor was it good planning.

Following discussion, and there being no objection, Commissioner Sorenson presented and moved a resolution that the application of Gail M. Santoro be denied without prejudice and that the filing fee be returned. This motion was seconded by Vice Chairman Moss, and upon being put to a vote, passed by a vote of 11-2 (Commissioners Barreiro and Souto were absent).

Vice Chairman Moss asked Ms. O' Quinn Williams to address strategies to resolve concerns relating to the length of time required to implement legislation developed through the charrette process, and how this impacted zoning applications filed in impacted areas. Vice Chairman Moss noted that busway and rapid transit corridors were alternative planning strategies to address population increase.

Ms. O' Quinn Williams stated the department would consider alternative departmental strategies in order to avoid a recurrence of Ms. Santoro's situation.

Vice Chairman Moss emphasized the need to intensify areas around transit corridors and to support urban center ordinances.

Ms. O' Quinn Williams noted that the department would expeditiously process the filing fee refund to Ms. Santoro.

The foregoing resolution was assigned resolution No. Z-7-06.

B. Ms. O'Quinn Williams presented the following application:

ELITE CONSTRUCTION & DEVELOPMENT, INC. (05-10-CZ15-2/05-38)

8-57-39 BCC/District 8

Mr. Juan Mayol, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board in connection with the foregoing application. He noted the applicant concurred with the department's recommendation to approve a zone change to RU-1MB in lieu of RU-1MA, and acceptance of the proffered covenant.

There being no one to appear in connection with the foregoing application, the public hearing was closed.

Commissioner Sorenson presented and moved a resolution that approved the application of Elite Construction & Development, Inc. as recommended by staff. This motion was

seconded by Commissioner Gimenez and upon being put to a motion, passed by a vote of 12-0 (Commissioner Barreiro was absent).

The foregoing resolution was assigned Resolution No. Z-8-06.

1. Ms. O'Quinn Williams presented the following application:

CAP INVESTMENTS, L.L.C. (05-10-CZ10-6/05-67) 13-54-39 BCC/District 10

Ms. O' Quinn Williams noted this item was an appeal from Community Zoning Appeals Board 10 (CZAB 10). She said the applicant originally requested rezoning from RU-5A to OPD and the appellant claimed CZAB 10's decision was a taking. Ms. O' Quinn Williams stated the Department of Planning and Zoning (DP&Z) was recommending deferral of the appeal so the applicant could undergo the usual taking process.

Chairman Martinez noted that the Board would defer the foregoing application to a later time during the meeting when Commissioner Souto, the district commissioner, would be present.

Later in the meeting, upon the arrival of Commissioner Souto, the Board proceeded to consider the Director's recommendation that the foregoing appeal be deferred.

Mr. Charles Baron, 1380 N.E. Miami Gardens Drive, Suite 206, attorney representing the appellants Rodolfo J. Dominguez, Ricardo Won, and Felix and Margarita Quevedo, noted the appellants had withdrawn the takings claim. He asked Chairman Martinez to allow the foregoing appeal to proceed today.

Ms. O' Quinn Williams noted pursuant to the placing of the withdrawal of the takings claim on the record, the department's recommendation was to hear the application today rather than deferring it. Ms. O'Quinn Williams stated the department's recommendation was approval of the original request, subject to acceptance of the proffered covenant.

In response to Chairman Martinez's call for objectors to the foregoing application, Mr. Gilberto Pastoriza, attorney representing Cap Investments, L.L.C., appeared before the Board. Mr. Pastoriza clarified that the item before the Board was an appeal, and DP&Z was recommending approval of the original application and denial of the appeal.

Mr. Baron noted CAP Investments L.L.C. presented a plan to CC10 to construct an 8 story medical office building, a four-story medical office building, and a 6-story parking garage with rooftop parking and bright lights, which would overlook his client's property and be adjacent to their backyards.

Mr. Baron made a presentation in objection to the foregoing application. He showed photographs of the subject property and the surrounding area.

Mr. Rodolfo Dominguez, 11941 S.W. 43 Street, appeared before the Board in opposition to the foregoing proposed application. He pointed out the location of his property in relation to the surrounding area.

Mr. Baron noted in 1997 the subject property was rezoned from residential to semi-professional (office buildings of a maximum height of 2 stories).

Mr. Pastoriza objected to the appellant's rendition of the proposed development.

A discussion ensued regarding membership on community councils and a restrictive covenant for the southern estates second edition which covered the applicant's property.

Mr. Henry Iler, president and principal of Iler Planning Group, 11211 Prosperity Farms Road, Suite 205 B, Palm Beach Gardens, Florida 33410, appeared before the Board as an expert witness for the appellant. Mr. Iler noted the applicant's proposed project was inconsistent with the Comprehensive Development Master Plan (CDMP), the surrounding land use density, and intensity. He stated that development of private office space on this site was not related to an institutional or public facility use.

Elio Espino, Ph.D., PE, PTOE, Advanced Engineering Transportation Consultants, 12905 S.W. 42 Street, appeared before the Board as an expert witness for the appellant, and presented a traffic impact study relating to the proposed project.

Ms. Margarita Quevedo, 11947 S.W. 43 Street, one of the appellants, appeared before the Board in support of the appeal. Ms. Quevedo objected to the proposed development on the basis of traffic impacts.

Mr. Carlos Lumpuy, 11970 and 11980 S.W. 41 Drive, appeared before the Board in opposition to the proposed development.

Mr. Rodolfo A. Dominguez, 11941 S.W. 43 Street, an appellant, appeared before the Board in connection with and in support of the appeal and objected to the proposed development on the basis that it was incompatible with the surrounding development and noted his privacy would be invaded if this application went forward.

Mr. Ricardo Won, 11955 S.W. 43 Street, an appellant, objected to the application on the basis that the development would invade his privacy.

Mr. Felix Garcia 11950 S.W. 43 Street, appeared before the Board in support of the appeal and in objection to the application.

Mr. Pastoriza, attorney representing the applicant, CAP Investments L.L.C, appeared before the Board in opposition to the foregoing appeal. He presented aerial maps, described the zoning of the subject property, and explained that at the CZAB 10 hearing, the application for rezoning from RU-5A to OPD was approved. He noted that at the

hearing the applicant proffered a declaration of restrictions that bound them to developing the property in accordance with the plans on file with Miami-Dade County. He submitted a copy of the covenant.

Mr. Peter Jude, 11750 Bird Road, appeared before the Board in support of the rezoning.

Mr. Louis Naya, Naya Architects, 7400 N.W. 7 Street, designer of the proposed project, appeared before the Board in support of the application. He addressed the height of the structures to be constructed on the subject site and the height of existing hospital and office buildings in the subject area.

Following Mr. Pastoriza's introduction of Mr. Guillermo Olmedillo as an expert witness, Mr. Baron objected to Mr. Olmedillo testifying. He said the County Code required a summary of expert witness testimony be filed 10 days before a hearing, and that Mr. Olmedillo's summary of expert witness testimony did not contain a summary of Mr. Olmedillo's opinion or a basis for Mr. Olmedillo's opinion.

Following discussion, Mr. Olmedillo was not permitted to testify.

Mr. Richard Garcia, 13117 N.W. 107 Avenue, President of Richard Garcia and Associates, Inc., appeared before the Board as an expert witness for the applicant. He provided an overview of a traffic impact study he performed. He stated the appellant's traffic study was not consistent with common practice.

Following cross examination by Mr. Baron, Mr. Pastoriza called Mr. Manuel Pilato to testify regarding property evaluation. Mr. Baron objected on the basis that the applicant had merely submitted a statement that Mr. Pilato would testify instead of a summary of expert testimony.

In response to Vice Chairman Moss's request for an opinion on the matter, Assistant County Attorney Collier advised the Board that the summary of expert testimony had to set out the substance and basis of the expert's testimony and the statement submitted by the applicant did not accomplish this. Mr. Collier noted if Mr. Pilato provided merely data on assessments in the area, that would be fact-based testimony, but if he rendered opinions about how the proposed project would affect valuations, that would be opinion-based testimony. Mr. Collier noted that Mr. Pilato advised the Board he would provide opinions as to valuations, which sounded like opinion-based testimony, which would be inconsistent with the Code's requirement for a 10 day notice.

Vice Chairman Moss said he would not allow Mr. Pilato to testify.

Mr. Pastoriza noted for the record that the Assistant County Attorneys' opinion went contrary to prior hearings at which his client had presented expert testimony. He noted information provided before by Mr. Olmedillo was similar to information he had planned

to provide at today's meeting. He noted the County Attorneys Office shifted in its interpretation of the rules, which prejudiced his case.

Assistant County Attorney Joni Armstrong-Coffey noted the purpose of the Code was to prevent prejudicial events, to provide time for parties to prepare for cross examinations and to bring experts in on complex testimony, that the County Attorney's Office had rendered consistent opinions, rarely were there objections to the presentation of expert testimony, and that in this case, since Mr. Baron raised an objection and Vice Chairman Moss asked for an interpretation the Code, they had advised the Board on the provisions of the Code.

Vice Chairman Moss asked Assistant County Attorney Armstrong Coffey and the Planning and Zoning Department Director to ensure that future Zoning applicants were fully aware that pursuant to the County Code, the written summary submitted to the Department in regard to expert testimony should include the substance and basis of any expert testimony they planned to present before the County Commission.

In response to Commissioner Sosa's question, for the record, as to whether the appellant had provided detailed summaries of expert testimony, Ms. Armstrong-Coffey noted the appellant had done so.

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

Commissioner Souto presented and moved a resolution that the appeal of Rodolfo J. Dominguez, Ricardo Won, and Felix and Margarita Quevedo be denied and the application of Cap Investments, L.L.C. be approved subject to the proffered covenant. This motion was seconded by Commissioner Diaz and upon being put to a vote, passed by a vote of 11-0 (Chairman Martinez and Commissioner Barreiro were absent).

The foregoing resolution was assigned Resolution No. Z-9-06.

2. Ms. O'Quinn Williams presented the following application:

ASPIRA OF FLORIDA (06-03-CC-105-21)

30-52-42 BCC/District 2

Ms. Leila Batties, Holland & Knight LLP, attorney representing the applicant, appeared before the Board in support of staff's recommendation.

Mr. Raul Martinez, president and CEO of Aspira Charter School, and applicant, appeared before the Board in support of the department's recommendation.

There being no one to appear in connection with the foregoing matter, the public hearing was closed.

In response to Chairman Martinez, who asked the County Attorney's Office to clarify the motion, Assistant County Attorney Joni Armstrong-Coffey noted that the recommendation read by Ms. O' Quinn Williams when she presented the application was the one being put forward. Ms. Armstrong-Coffey said the recommendation was approval of request #1, which was not subject to conditions, but acceptance of the covenant and approval of requests # 2-7 except for the withdrawal of request #6, subject to conditions.

Commissioner Rolle presented and moved a resolution that approved requests #1 through #5 and #7 with conditions in the application of Aspira of Florida, acceptance of the proffered covenant and withdrawal of request #6 as recommended by the Planning and Zoning Department. This motion was seconded by Vice Chairman Moss and upon being put to a vote, passed by a vote of 11-0 (Commissioners Barreiro and Souto were absent).

The foregoing resolution was assigned Resolution No. Z-10-06.

3. Ms. O'Quinn Williams presented the following application:

VIRTRAN HOMES AT WALDIN DR. L.L.C. (06-3-CC-2/05-278) 2-57-39/BCC District 9

Mr. N. Patrick Range, 1221 Brickell Avenue, attorney representing the applicant, Virtran Homes at Waldin Dr. L.L.C., appeared before the Board in connection with and in support of the foregoing application.

There being no other persons to appear in connection with this matter, the public hearing was closed.

Vice Chairman Moss presented and moved a resolution that approved the application of Virtran Homes At Waldin Dr. L.L.C. with conditions under Section 33-311(A)(4)(b) (NUV) and denial without prejudice under Sections 33-311(A)(14) (ASDO) and 33-311(A)(4)(c) (ANUV) as recommended by the Planning and Zoning Department. This motion was seconded by Commissioner Sorenson and upon being put to a vote, passed by a vote of 12-0 (Commissioner Barreiro was absent).

The foregoing resolution was assigned Resolution No. Z-11-06.

All deferral dates on applications considered during the day'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 adjourned at 1:26 p.m.

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Chairman

ATTEST: HARVEY RUVIN, Clerk

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