



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 1st Street
Miami, Florida 33128

Meeting Date:

March 23, 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:

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Board of County Commissioners, Miami, Florida
Zoning Meeting, March 23, 2006

The Board of County Commissioners convened a Zoning Meeting on March 23, 2006, at 10:00 a.m. in the Commission Chambers, Second Floor of the Stephen P. Clark Government Center, 111 N.W. First Street, Miami, Florida. There being present Chairman Joe A. Martinez, Commissioners Bruno A. Barreiro, Jose "Pepe" Diaz, Audrey M. Edmonson, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Dorrin D. Rolle, Natacha Seijas, Katy Sorenson, Rebeca Sosa, and Dennis C. Moss (Commissioner Javier D. Souto was absent), Assistant County Attorneys Craig Coller, Joni Armstrong-Coffey, and Department of Planning and Zoning Director Diane O'Quinn Williams, Assistant Director for Zoning Alberto Torres, and Deputy Clerks Kay Sullivan and Flora Real.

Upon calling the meeting to order, Chairman Martinez invoked "A Moment of Silence" followed by the Pledge of Allegiance.

ALL WITNESSES AND THE INTERPRETER WERE SWORN IN BY THE CLERK PRIOR TO MAKING THEIR PRESENTATIONS BEFORE THE BOARD.

Chairman Martinez requested that applicants asking for deferral of their application be considered first.

2. LAZARO BOMBALIER (05-9-CZ14-3/04-449)

2-56-39 BCC/District 8

Mr. Tony Recio, Law Offices at 2665 South Bayshore Drive, Miami, Florida, counsel for the applicant, requested deferral of the foregoing application because the applicant was negotiating an agreement with the neighbors. He asked that this application be considered either in late April 2006 or early May 2006.

There being no one in objection, it was moved by Commissioner Sorenson that Application Number 2 be deferred. This motion was seconded by Commissioner Heyman; and upon being put to a vote, the motion passed by a vote of 9-0. (Commissioners Barreiro, Jordan, Moss, and Souto were absent)

Planning and Zoning Director Diane O'Quinn Williams, Department of Planning and Zoning (DP&Z), announced that the application would be deferred to the Zoning Meeting of April 27, 2006, without further notice.

Upon concluding consideration of all deferrals, the Board returned its consideration to the zoning agenda.

Planning and Zoning Director O'Quinn Williams stated, into the record, the required statutory statement, noting 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. She noted that the records pertaining to each application scheduled for consideration today, additional copies of the today's agenda, and an official translator were available. She also noted that all parties had the right of cross-examination. Upon conclusion of Ms. Williams' introductory statement, Chairman Martinez relinquished the chair to Vice Chairman Moss; and he proceeded to continue consideration of the zoning agenda.

1. **WOTTSAMATTA COMPANY & PAHOKEE LUMBER COMPANY**

(05-4-CZ8-2/04-295)

16-53-41 BCC/District 2

Planning and Zoning Director O'Quinn Williams advised that the department had recommended and supported approval of a zoning change from BU-1 and BU-1A to BU-1A subject to the Board's acceptance of a proffered covenant. She stated that the proffered covenant restricted 15 feet of the northeastern portion of the subject property for landscaping only ensuring that no business uses would be conducted on this portion of the site; and as such, the proposed zone change to BU-1A would be consistent with the Comprehensive Master Plan Development (CDMP) and compatible with the BU-1, BU-1A, and residential districts found within the surrounding area. She stated it would also permit commercial uses similar to those already permitted along this corridor.

Mr. Craig Sherar, President and counsel for Wottsamatta Company & Pahokee Lumber Company, explained that the firm owned three pieces of properties and the southern most property was already zoned BU-1A while the upper portion of the property was zoned BU. He advised that a BU-3 zoning had been originally requested to increase the marketability of the property after holding meetings with staff members of the Department of Planning and Zoning and based on staff's recommendation.

Mr. Sherar explained that Planning and Zoning staff had recommended that the Community Council approve a BU-3 zoning classification, but staff's recommendation of a BU-3 zoning classification was disapproved by the Community Council due to the incompatibility of that zoning classification with the CDMP. He noted that the Community Council had recommended approval of a BU-1A zoning classification; therefore, the application was changed to request approval of a BU-1A zoning classification.

Mr. Sherar explained all of the misunderstandings encountered throughout the application process due to the neighbors' impression that the applicant intended to start a lumber yard in the property. He clarified that the intent of rezoning the property was to make it more marketable, and he assured that a lumber yard business would not be built on the subject property. He reviewed the zoning classifications within the surrounding area and the reasons for desiring the

zoning change, noting that no substantial competent evidence existed to deny the zoning change from a BU-1A to BU-3.

Upon concluding his presentation, Mr. Sherar requested that the Board overturn the Community Council's decision and requested approval of the BU-1A zoning only as it related to the one half acre since it was consistent with the CDMP and there was no substantial competent evidence to sustain denial of this application.

Planning and Zoning Director O'Quinn Williams clarified that the department had recommended approval of the BU-1A zoning classification and acceptance of the proffered covenant.

Discussion ensued in connection with whether a proffered covenant could be submitted at today's hearing.

In response to Chairman Martinez's request that objectors to the foregoing application approach the podium, the following persons appeared before the Board in objection:

1. Reverend William McCray, 3100 NW 67 Street, Miami, Florida 33147
2. Ms. Christine Walden, 3130 NW 67 Street, Miami, Florida 33147

Mr. McCray expressed his concerns regarding the increased truck traffic the adjacent residential area would experience if this application was approved.

Ms. Walden expressed her concerns for the approval of this application because the applicant had failed to set forth the future use of the subject property and the increased truck traffic the adjacent residential area would experience if this application was approved.

Mr. Sherar explained how he had acquired the subject properties and the costs incurred to clean and upgrade these properties.

Discussion ensued in connection with the reasons for the adjacent residential area experiencing increased truck traffic.

There being no additional objectors, Chairman Martinez closed the public hearing.

Following discussion regarding whether the applicant had failed to submit the proffered covenant, Mr. Sherar advised that he would proffer a covenant if required to do so; but under the

existing criteria for the BU-1A zoning classification, a lumber yard could not be built on the subject property.

In response to Commissioner Rolle's question, County Attorney Armstrong-Coffey advised that the existing or future owner of the subject property would have the right to the full extent of the BU-1A uses in the event the Board granted BU-1A without a restriction as to any of the BU-1A uses.

Following discussion regarding the uses of the BU-1A zoning classification and the ability of the property owner to build a lumber yard on the subject property if the uses for the BU-1A zoning classification changed, Assistant County Attorney Armstrong-Coffey advised that public hearings to consider proposed legislative changes to the BU-1A zoning classification ordinance would not require mailing notices to residents within the vicinity. She noted that notices were mailed whenever there was an application requesting rezoning of a property.

Following discussion on whether the applicant should be required to submit a proffered covenant, Assistant County Attorney Armstrong-Coffey advised that it would be legal to require a proffered covenant to prohibit the use of the property for a lumber yard business. She reminded the Board that the previously proposed covenant had not yet been executed and presented at today's meeting for acceptance.

Commissioner Rolle recommended that the foregoing application be remanded to the Community Council and that a proffered covenant be required. He also asked that Mr. Sherar meet with the Homeowners Association to discuss their concerns.

Mr. Sherar requested that the Board grant a waiver of the mailing costs.

Discussion ensued in connection with whether a requirement could be placed to restrict the use of the property to prohibit lumber yards in the event the BU-1A uses were changed.

Commissioner Rolle asked that staff members of Team Metro meet with residents residing in the vicinity of N.W. 32nd Avenue, between N.W. 67th Street and N.W. 68th Street, to discuss the enforcement of posted traffic signs prohibiting the traveling of trucks through the subject residential area.

Following a discussion on Commissioner Rolle's and Mr. Sherar's proposal that a covenant be prepared for acceptance at today's meeting and prior to the approval of the foregoing application, Commissioner Rolle noted that the residents had voiced their desire to have the application remanded back to Community Council.

Upon conclusion of the foregoing discussion, Commissioner Rolle moved that Application Number 2 be remanded back to Community Council. This motion was seconded by Commissioner Sosa; and upon being put to a vote, the motion passed by a vote of 11-0. (Commissioners Barreiro and Souto were absent)

Assistant County Attorney Armstrong-Coffey clarified that the motion vacated the decision of the Community Zoning Appeals Board Number 8 and remanded back this application to Community Council for review.

Commissioner Rolle asked that Reverend McCraig apprise him on the date that Team Metro had met with the residents of the subject area to discuss traffic enforcement related issues regarding trucks traveling through the adjacent residential neighborhood.

Pursuant to Mr. Sherar's request regarding approval of a waiver for publication and mailing costs, Assistant County Attorney Craig Collier advised that the expense of notification could be charged to the department as part of the Board's motion.

Subsequent to Planning and Zoning Director O'Quinn Williams' clarifying that the notification expense would be \$183.00, Mr. Sherar withdrew his request for a waiver.

Chairman Martinez asked that the subject area residents write a description of exactly how they wished to see the property developed.

The foregoing resolution was adopted by the Board and was set forth in the Records of Resolutions as Resolution Number Z-12-06.

**3. UNITED AT KENDALL LAKES, INC. (06-2-CC-3/05-252)
33-54-39 BCC/District 11**

Planning and Zoning Director O'Quinn Williams advised the applicant had made two requests to modify the plans and covenant previously submitted, and the department had recommended approval of request number 1 and partial approval of request number 2. She advised that the department had also recommended that in lieu of the language submitted by the applicant that the modified language in the covenant read as follows: "in no event shall the residential density exceed 240 units, the use shall be limited to very low, low, and/or moderate income housing." She noted that the applicant had originally proffered a covenant requiring that this property be developed as a seniors only affordable housing project; but the applicant was now requesting removal of that restriction. She stated that the department had recommended a modified approval of the applicant's request to have this housing development always remain as low, very low, or moderate income housing.

Following a discussion of the applicant's requested change in the application and the previous requirement that the applicant collect signatures for the approval for a seniors only affordable housing project, Planning and Zoning Director O'Quinn Williams clarified that the applicant had priced the units at market rate.

Since there were no objectors to the foregoing application, Chairman Martinez closed the public hearing and relinquished the chair to Vice Chairman Moss.

Mr. Jeffrey Bercow, 200 South Biscayne Boulevard, Miami, Florida, counsel for the applicant, appeared before the Board to summarize the major changes in the application, noting that the applicant was requesting modification of the covenant to change the site plan from number 1 to number 2 to eliminate the requirement that this property be developed as a seniors only affordable housing project. He noted Mr. Silvio Cordozo, the applicant, was present at today's hearing to explain the rationale for the requested changes.

Pursuant to Mr. Bercow's request, all persons present in the Commission Chambers in support of the applicant's request stood up to show their support.

Chairman Martinez moved that Application Number 3 be approved as requested to change from seniors only affordable housing to market rate and approve the request as advertised without the change requested by the department. This motion was seconded by Commissioner Sosa, and the floor was opened for discussion.

Assistant County Attorney Armstrong-Coffey clarified that the motion included the condition that the revised declaration be submitted within 90 days of the approval date.

Pursuant to Commissioner Jordan's request that 10 units be made available for workforce housing, Mr. Bercow advised that it was his understanding that the existing workforce housing ordinance did not include any provisions requiring workforce housing for residential projects built at the level of 20 units or more to the acre because there was a recognition of how difficult it was to provide workforce housing in those type of projects. He noted that this project would be built at a net density of approximately 22 units per acre.

Upon consulting with Mr. Cordozo as to whether workforce housing units could be provided, Mr. Bercow advised that the applicant would be unable to commit any of the units to workforce housing. He noted that the County was organizing a task force to address multi-family related issues.

Commissioner Sorenson suggested that the County should study communities, such as San Francisco, who were including affordable and workforce housing in multi-family development projects.

Commissioner Sorenson commented that the Board was not addressing the overall needs of the County if this application was approved. She asked that the aspects of low income, affordable housing, or workforce housing be included in the foregoing application.

Planning and Zoning Director O'Quinn Williams commented on the availability of subsidy programs for workforce or affordable housing, and she suggested that the Board seek an opinion from the Miami-Dade Housing Agency. She said that the County's proposed workforce housing ordinance, as currently drafted, did not prevent an applicant from using the benefits provided by the proposed ordinance, even though, it suggested that higher density developments would not have to comply at this time.

Commissioner Sorenson suggested that representatives of the Miami-Dade Housing Agency should be asked to attend zoning hearings to address affordable or workforce housing related issues raised by members of the Board and to allow an opportunity to explore the feasibility of including workforce or affordable options in zoning applications for multi-family developments.

In response to Commissioner Sorenson's inquiry on school mitigation related issues, Mr. Bercow replied that the approval of the foregoing site plan in 2003 had been made subject to the dedication of a 2.8 acre charter school site and construction of the school to be operated under a charter from the Miami-Dade School Board to provide a minimum of 300 student stations for grades K through five (5). He stated that the charter school was named Pinecrest Academy at Kendall Greens and had the capacity to serve a total of 600 students. He also stated that the approval of the site plan had also been made subject to the development of a 26 acres park parcel, which had to be improved and offered to the County for ownership and use as a public park upon the approval of the application. He stated that the applicant, in his opinion, had exceeded his responsibilities for the impact of this application on the community and had complied with the mitigation impact.

In response to Commissioner Sorenson's inquiry, Mr. Howard Gregg, Assistant Director for Planning and Development, Miami-Dade Parks & Recreation Department, noted that the applicant was in full compliance with the conditions set forth in the amended covenant and had met all of its obligations regarding the development of a 26 acres park parcel.

Commissioner Sorenson expressed her desire to have the affordable housing component incorporated into the application.

Discussion ensued in regards to the number of units that would be developed, unit pricing, and whether workforce or affordable housing options could be provided.

Pursuant to Chairman Martinez's inquiry, Mr. Al Brewster, Director of Miami-Dade Housing Agency, explained the department's definition of affordable housing, noting that the units could not exceed the sales price of \$225,000 to participate in the subsidized affordable housing program. He stated that it was possible to exercise a buy down option of \$25,000 for some of the units at the market rate of \$250,000 in order to have the units meet the criteria and guidelines of affordable housing at the \$225,000 price range. He indicated his willingness to work with the applicant in the process of identifying families with up to 140% of area median income that could qualify to exercise a buy down.

Mr. Bercow noted that the applicant would also be happy to work with the Miami-Dade Housing Agency in those efforts.

Discussion ensued in connection with whether the applicant could incorporate affordable housing in the proposed project application, the median price per home in that area, and whether the sales price of 10 units could be reduced to incorporate affordable housing.

Mr. Silvio Cordozo, the applicant, 7975 NW 154th Street, Suite 400, Miami Lakes, Florida, indicated that he would be unable to provide 10 units for the purpose of affordable housing at the sales price of \$225,000 due to the mitigation requirements costs that had to be met in order to have the project approved. He explained that the parcel could not be expanded to provide affordable housing due to its small size, and it would be impossible to expand vertically due to the increased costs of building upward.

Following discussion regarding whether the applicant would include affordable housing units in the foregoing application, Mr. Silvio Cordozo agreed to provide 10 units at a sales price of \$225,000 for the purpose of affordable housing.

Following discussion as to whether the 10 units were for workforce or affordable housing, Mr. Brewster advised that the maintenance, insurance, and property taxes costs for workforce housing units would continue to increase.

Assistant County Attorney Armstrong-Coffey clarified that the motion on the floor was to approve the application as requested subject to the condition that the revised declaration be submitted within 90 days.

Chairman Martinez clarified that the motion included 10 units of affordable housing without subsidy.

In regards to Assistant County Attorney Armstrong-Coffey's inquiry regarding whether the sales price of \$225,000 was subject to a Consumer Price Index (CPI) modification provision

or whether it was market price, Chairman Martinez clarified that the CPI provision would be included.

Mr. Brewster concurred with the inclusion of the CPI provision.

Assistant County Attorney Armstrong-Coffey clarified, for the record, that the motion on the floor for the Board's consideration was to approve this application as requested with the proviso that the applicant provide at least 10 units of affordable housing at a sales price of \$225,000 subject to an annual CPI adjustment.

Pursuant to Mr. Bercow's request that the motion state "10 units at the sales price of \$225,000," Assistant County Attorney Armstrong-Coffey stated that the request was acceptable.

Upon concluding the foregoing discussion, the motion was put to a vote and passed by a vote of 11-0. (Commissioners Barreiro and Souto were absent)

The foregoing resolution was adopted by the Board and was set forth in the Records of Resolutions as Resolution Number Z-13-06.

There being no further business to come before the Board, the Zoning Meeting was adjourned at 11:05 a.m.

Following the adjournment of the Zoning Meeting, the Board reconvened the Regular Meeting of March 7, 2006.

Chairman Joe A. Martinez
Board of County Commissioners

ATTEST: HARVEY RUVIN, Clerk of Courts

By: _____

Kay Sullivan
Deputy Clerk