



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:

September 14, 2006
As Advertised

Prepared by:

Harvey Ruvin, Clerk
Board of County Commissioners

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Clerk of the Board Division

Reporter:

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Zoning Meeting, Miami, Florida, September 14, 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 NW First Street, Miami, Florida at 9:30 a.m., September 14, 2006, there being present upon roll call, Commissioners Dorrin D. Rolle, Carlos Gimenez, Katy Sorenson and Javier Souto; (Chairman Joe Martinez and Commissioners Dennis Moss, Audrey Edmonson, Barbara J. Jordan, Rebeca Sosa and Bruno Barreiro were late); (Commissioners Jose "Pepe" Diaz, Sally Heyman and Natacha Seijas were absent); Assistant County Attorneys Joni Armstrong-Coffey and Craig Collier; Department of Planning and Zoning Director Diane O'Quinn Williams; and Deputy Clerks Kay Sullivan and Jill Thornton.

In the absence of a quorum, Commissioner Rolle opened the meeting with a moment of silent prayer, followed by the pledge of allegiance. He asked that the Director's Statement be read into the record and that the witnesses be sworn.

Department of Planning and Zoning Director Diane O'Quinn Williams announced, in accordance with the Code of Miami-Dade County, all items on today's zoning agenda were legally advertised, all notices were mailed and all properties were posted within prescribed timeframes. She stated that additional copies of the agenda were available in the Chambers and presented the procedures to be followed during today's proceedings.

ALL WITNESSES WERE SWORN IN BY THE CLERK BEFORE MAKING THEIR PRESENTATIONS BEFORE THE BOARD.

The interpreters were sworn in by the Clerk.

At the request of Commissioner Rolle, Assistant County Attorney Joni Armstrong-Coffey read the Rules of Decorum into the record.

Upon a quorum being present, the Board proceeded to consider today's agenda.

In the absence of Chairman Martinez and Vice-Chairman Moss, Commissioner Rolle called for requests for deferrals

6. LEXUS OF KENDALL AUTO PARK (06-9-CC-2)

Ms. Diane O'Quinn-Williams, Director, Department of Planning and Zoning (DP&Z), requested the foregoing application be deferred indefinitely to be referred again to the Departmental Impact Committee (DIC) for review of the legal advertisement for the property, which was incorrect in the application. She advised that the applicant was at fault and would therefore, be liable for the costs to re-notice.

There being no objection, it was moved by Commissioner Sosa that the foregoing application be deferred to no date certain. This motion was seconded by Commissioner Sorenson, and upon

being put to a vote, passed by a vote of 7-0. (Chairman Martinez and Commissioners Barreiro, Diaz, Heyman, Seijas and Moss were absent).

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

A. VALENCIA SCHOOL DEVELOPMENT, LLC (06-8-CC-2)

Mr. Juan Mayol, Holland & Knight, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board in support of the foregoing application. He noted the following solutions were proffered by the applicant to address the traffic problems: direct proper egress/ingress to the school; prohibit entrance to the school from the westbound lane, promote use of buses/carpools; and additional conditions for on-site improvements to accommodate an increase in student enrollment to 800. Mr. Mayol further noted the applicant proposed to phase in the enrollment; agreed to complete the onsite improvements before increasing enrollment beyond 700 students and was prepared to add these conditions to the declaration of restrictions.

Commissioner Rolle opened the public hearing on the foregoing application, and the following individuals appeared in support of the foregoing application:

1. Mr. Keith Vaughn, 27450 SW 138th Path, Homestead, Florida
2. Ms. Consuelo Garcia-Menocal, 17600 SW 144th Avenue, Miami, Florida
3. Mr. Richard Hernandez, 15252 SW 138th Terrace, Miami, Florida
4. Mr. Bobby Lee, 14751 SW 136th Place, Miami, Florida
5. Ms. Stacy Medina, 10741 SW 154th Street, Miami, Florida
6. Ms. Omaid Bicharra, 13881 SW 153rd Avenue, Miami, Florida

The following individuals appeared in opposition to the foregoing application:

1. Ms. Alicia Arellano-Pelletier, 18701 SW 134th Avenue, Miami, Florida, appeared before the Board and noted the subject school was approved for grades K-5 but operating through the 7th grade level, and that its current enrollment exceeded the 600 student limit.
2. Ms. Carol Corson, 18651 SW 134th Avenue, Miami, Florida.
3. Mr. Charles Corson, 18651 SW 134th Avenue, Miami, Florida.
4. Mr. Enrique Pertuz, 18386 SW 134th Avenue, Miami, Florida, appeared before the Board and noted a Pre-K existed at this school.

Mr. Mayol reappeared before the Board in rebuttal.

Discussion ensued regarding whether this charter school was in violation of the contract approved by the School Board by enrolling more students than permitted, and by operating through the 7th grade level and operating a Pre-K.

Mr. Mayoral clarified the name of the school was Somerset and the name of the owner was Valencia. He noted this school offered a care program that assisted parents dropping off and

picking up students before and after school and that the school was currently operating through the 7th grade level.

Ms. Patty Good, Miami-Dade County School Board representative, appeared before the Board and advised that charter schools often get contracts approved by the School Board. She noted the contract approved by the School Board for the subject school permitted only grades K-8, not Pre-K and that it was approved subject to the zoning approval and receipt of a certificate of occupancy. Ms. Good noted she contacted Schools of Choice who confirmed that 706 students were enrolled at this school as of August 25, 2006.

At Commissioner Sorenson's request, Ms. Good advised there were four elementary schools within a two-mile radius of the subject charter school that were under utilized, as well as two high schools, South Dade Senior High and Miami Southwest Senior High.

In response to Commissioner Sorenson's question regarding what mechanisms were in place to enforce non-adherence of covenants, Ms. Diane O' Quinn-Williams, Director, P&Z, advised that a certificate of use was issued for the subject charter school for a maximum of 600 students, grades K thru 6. She noted Team Metro would enforce penalties for violations.

Members of the Board expressed support of the request to expand grades to K-8, but expressed concern with increasing the number of students beyond the currently permitted 600.

Commissioner Sosa suggested a cap be set with restrictions to accommodate the number of students currently enrolled.

Commissioner Edmonson spoke in support of the request for grades K-8 but noted her concern with the applicant seeking forgiveness for non-compliance and with the possibility of the subject school operating a Pre-K. She suggested consideration be given to the quality of life of surrounding neighbors since they too were constituents of the district commissioner and had not dealt with these traffic problems when they moved into the neighborhood.

Mr. Mayol explained that his client was asking forgiveness to permit the school to serve the 74 students currently enrolled in the 7th grade through the remainder of this school year. He asked the Board to approve grades K-8 with the number of students limited to 700. He stated as a condition of the approval, the applicant was willing to accommodate at least 100 students with public transportation to and from the school to alleviate traffic concerns in the area.

Commissioner Sorenson noted her acceptance of the request to approve grades K-8 subject to an enrollment limit of 600 students, and allow the 706 students currently enrolled to finish out this school year. She stated, however, that she wanted to ensure enforcement was done by Team Metro should a Pre-K exist at this school.

Following a discussion regarding the need to amend condition #1, pertaining to a parking lot to be built on the east side of the subject property, Mr. Mayol stated the applicant would commit to make all onsite improvements, including stacking and parking spaces, by December 31, 2006.

Assistant County Attorney Joni Coffey-Armstrong noted all conditions stated on the record needed to be included in the covenant, to be provided to the County within 30 days.

Upon conclusion of the discussion, Commissioner Sorenson presented and moved a motion to approve the application as modified, to approve the request for expansion of grades K to 8; the student enrollment limit remain at 600 students, provided that 706 students currently enrolled may remain until the end of the 2006-07 school year and that students who leave during the 2006-07 school year would not be replaced; subject to the condition that there be no Pre-K at the school and subject to the Development Impact Committee (DIC) conditions, except as modified by the following additional conditions proffered by the applicant: The school shall provide or cause to be provided public transportation other than individual passenger vehicles to and from the school for up to 100 students; vehicles shall be prohibited from entering the school premises from the west bound lane; subject to the completion of onsite improvements by December 31 and subject to submittal and acceptance of the proffered covenant. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 9-0 (Commissioners Diaz, Heyman, Seijas and Moss were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-30-06.

3. EMILY DEVELOPMENT, LLC (06-4-CZ14-4)

Mr. Simon Ferro, 1221 Brickell Avenue, attorney representing the applicant, appeared before the Board and requested the foregoing application be deferred for 30 days to allow the applicant to continue discussions with the neighbors.

Chairman Martinez called for any opposition to the request for deferral.

There being no objection, it was moved by Commissioner Sorenson that the foregoing application be deferred to October 12, 2006, pending further discussions with the surrounding neighbors, as requested by the applicant; and with no further notice to be provided. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Diaz, Heyman and Seijas were absent).

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

B. ARCHIMEDEAN PROPERTIES, LLC (06-8-CC-3)

Chairman Martinez suggested that the Board hear only the two filed protestors, Michael Miller and Phillip Alexander, followed by rebuttal argument, since this application was heard before.

Mr. Tucker Gibbs, representing Bird Kendall Home Owners Association, appeared before the Board and requested he be allowed to make his presentation, limited to the legal issues.

Chairman Martinez proceeded with the entire presentation.

Mr. Juan Mayol, Holland & Knight, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board in support of the foregoing application. He noted a minor, legal issue concerning this application involved a CDMP requirement that the applicant demonstrate the subject school would support the rural residential population within the agricultural area. He noted the applicant was seeking approval of the request to expand enrollment to a full capacity of 1,080 students, subject to the conditions enumerated in the DIC report and requested a waiver of the filing period to adjust the grade levels, if needed.

Chairman Martinez opened the public hearing on the foregoing application, and the following individuals appeared in support of the application:

1. Mr. Paul Dyer, 7423 SW 127th Place, Winston Park Neighborhood.
2. Mr. George Kafkoulis, 15015 SW 49th Lane, Miami, Florida
3. Ms. Noemi Rubalcava, 11502 SW 149th Path, Miami, Florida
4. Mr. Aleco Haralambides, 901 N. Venetian Drive, Miami, Florida
5. Mr. Carlos Hernandez, 15857 SW 44th Street, Miami, Florida
6. Ms. Olga Bardoutsos, 14816 SW 72nd Terrace, Miami, Florida
7. Mr. Alfonso Perez, 5940 SW 87th Street, Miami, Florida
8. Mr. Antonio Fernandez, 6500 SW 125th Avenue, Miami, Florida

The following persons appeared in opposition to the foregoing application:

1. Mr. Tucker Gibbs, 215 Grand Avenue, Coconut Grove, representing the Bird Kendall Home Owners Association, appeared before the Board in opposition to the foregoing application. He contended this application should be denied because it exceeded the 540 student population originally agreed upon by the neighbors and it was in violation of the County's Code and the CDMP, which required that non-agricultural uses be ancillary as necessary to support the rural residential community of the agricultural area,
2. Mr. Michael Miller, 11923 SW 45th Street, Miami, Florida
3. Mr. Phillip Alexander, 6900 SW 123rd Avenue, Miami, Florida

Mr. Mayol reappeared before the Board in rebuttal.

Hearing no other person in connection with this matter, the public hearing was closed.

Commissioner Souto presented a motion to approve the application of Archimedean Properties LLC, with conditions that student enrollment be capped at 800, subject to a 10% annual growth rate over the next five years and subject to an annual review by the County Commission. This motion was seconded by Commissioner Barreiro for discussion.

Following Commissioner Souto's proposal, Assistant County Attorney Armstrong-Coffey noted issues with approving an annual growth rate were whether the school needed to return every year for approval and whether it needed to file an application each year. She suggested an alternative would be to have staff review the certificate of occupancy annually and report as to whether growth had occurred.

Commissioner Souto noted he offered a compromise to avoid future problems with growth and traffic in the area but he totally opposed doubling the number of students.

Assistant County Attorney Armstrong-Coffey suggested the application be approved, subject to a 10% annual growth rate over the next five years provided that it would be approved annually only if the level of service on Sunset Drive did not drop below a certain point; and provided that the school enrollment did not exceed the maximum capacity of 800 students.

Chairman Martinez spoke in opposition to the foregoing motion while other members of the Board spoke in support of it.

Commissioner Gimenez suggested approving a gradual growth to the academy that the community could absorb. He offered an amendment to increase student enrollment by a set number per year with a higher number set at the front end of the five years.

In response to Commissioner Sorenson's request of the number of students currently enrolled in the subject school, Ms. Patty Good, Miami-Dade County School Board Representative, appeared before the Board and provided information she obtained from Schools of Choice. She explained that charter schools often obtained approved contracts from the Miami-Dade School Board before a zoning hearing and that this facility had an approved contract from the School Board for K-8 and a total of 740 students. She noted that as of September 8, 2006, Schools of Choice reported the current enrollment for this school was 620 students, which was 80 students more than the 540 approved by the County Commission.

Mr. George Kafkoulis, President and Board Chair, Archimedean, reappeared before the Board and noted this school offered a special curriculum and its over-enrollment was due partly to the priority given to siblings of students enrolled at the school.

Commissioner Jordan expressed concern with applicants obtaining approval for a higher amount of students by the School Board and then exceeding the maximum enrollment approved by the Board of County Commission. She asked that this process be reviewed and reversed so that applicants would come before the BCC prior to getting approval from the School Board. She also asked that she be provided with a report from the School Board on the ethnic breakdown of enrollment on all Charter Schools, countywide.

Commissioner Souto concurred with comments of Commissioner Jordan regarding the process.

Ms. O'Quinn-Williams noted she explained to Mr. Mayol that schools were allowed in the Agriculture area within the UDB, as long as they complied with any conditions imposed by the Agricultural Use (AU) category. She noted her recommendation was based on the text of the Comprehensive Development Master Plan (CDMP) that states principal uses in the AU category should be used as ancillary to and directly supportive of agriculture and necessary to support the residential community of the agriculture area.

At the request of Commissioner Souto, Mr. Gibbs re-appeared before the Board and advised that he spoke with his clients and they were in full support of the foregoing motion.

Ms. O'Quinn-Williams clarified that upon compliance with the conditions; a Certificate of Use would be authorized in October that would show a student enrollment of 620 students for the 2006-07 school year.

Following a discussion regarding whether to delete the existing requirement concerning night activities at the school, Commissioner Souto presented and moved a motion to approve the application as modified to allow a maximum of 800 students over the next five years as follows: a total of 620 students for the school year 2006-07 and 60 additional students each year thereafter until the maximum capacity of 800 was reached; subject to conditions that the number of night time activities at the school be limited to 10 events per year and that the times of such activities do not exceed 10:00 PM. This motion was seconded by Commissioner Barreiro and upon being put to a vote, passed by a vote of 9-0. (Commissioners Diaz, Edmonson, Heyman, and Seijas were absent)

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-31-06.

Ms. O'Quinn Williams presented the following application:

1. ROYD LEMUS & RAQUEL LAU (06-3-CZ14-2)

Mr. Juan Mayol, Holland & Knight, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board in support of the foregoing application. He noted two letters of support were submitted for the record on behalf of the applicant from a Farm Bureau representative who could not attend, and from Homestead Councilwoman Judy Waldman. He further noted that in order for the request to rezone this property to commercial be approved, the applicant must show that the property was located on an existing arterial roadway; that the property had adequate water and sewage service; and that the business or industrial use would be directly supportive of local, agricultural production. He noted the applicant met two of the three-pronged criteria but a narrow, legal issue existed with the last element involving business use. Mr. Mayol stated the problem was with the language in the CDMP that did not clarify what was meant by "directly supportive" and "ancillary to the agricultural community" and did not indicate that all the patron property needed to be devoted to the sale of locally produced agricultural products. He also noted the case law was not very clear, as well.

Mr. Mayol advised that the applicant proffered to restrict the landuse to a Farmer's Market, and agreed that 65% of the total patron area would be dedicated to the display and sale of locally produced agricultural products, while the remaining 35% would be stocked with products that would directly support the rural residential area. He noted this farmer's market would be regulated by the terms of the declaration of restrictions proffered; that it would be directly supportive of and ancillary to the agricultural community and would serve the needs of the residential and transit population to the Redlands and would provide an outlet for local produce as required by the covenant. He stated it was his hope that this farmer's market would become

another agricultural destination. He further noted the applicant withdrew the request for outdoor seating, thus making the application entirely consistent with the P&Z Director's recommendation. He asked that this Board grant the appeal, vacate the denial of the CZAB, and approve the application in accordance with the Department's recommendation, which excluded the unusual use for the outside seating area.

Vice-Chairman Moss relinquished the chair to Commissioner Rolle due to the subject property being located in District #9.

Commissioner Rolle opened the public hearing on the foregoing application, and the following individuals appeared in opposition to the foregoing application:

1. Charlie McGarey, 13990 SW 192 Street, Redland, Florida, representing Redland Citizens Association
2. Ms. Gail Parker, 17991 SW 210th Terrace, Miami, Florida
3. Ms. Judith Webb, 24025 SW 157th Avenue, Miami, Florida
4. Karen Esty, 14445 SW 200th Street, Miami, Florida

Mr. Mayol reappeared before the Board in rebuttal. He clarified that this building was not a two-story structure but the second floor plan designated a small area strictly for office use to run the farmer's market. He further noted that many intersections and section line roads on Krome Avenue were designated in the Master Plan as business uses, distinguished between restricted and unrestricted and that commercial uses already existed in mid-block.

At the request of Commissioner Moss, P&Z Director O'Quinn-Williams responded to the concerns raised by opposing speakers. She noted the second floor consisted of a small, 351 square foot area dedicated for office use only and that the plan indicated there were three access points adequate to serve this size facility. She further noted her recommendation was based on her belief that the applicant had met all the specifications of the agricultural portion of the CDMP; that the covenant indicated 65% of the floor area would be dedicated to locally grown agricultural products; that this site was uniquely situated on Krome Avenue with access and that there were business uses already in the area.

Regarding Commissioner Moss' concern for opposing comments regarding the well field, Mr. Enrique Cuellar, DERM, appeared before the Board and noted the subject property was not located in a wellfield protection area, therefore, there was no legal basis for Departmental objections.

Following a discussion regarding Commissioner Moss' concern on how the covenant condition requiring 65% of the floor space be dedicated to locally, produced agriculture products would be enforced, Commissioner Moss suggested this application be deferred briefly to allow the appropriate covenant to be signed and notarized by the owners.

Ms. O'Quinn-Williams advised that the language "floor area" in the resolution needed to be changed to read "patron area."

Commissioner Sorenson spoke in opposition to the application, expressing concern that no other commercial nodes along Krome Avenue had been identified where this farmer's market could be developed and expressed concern for creating a trend with no end.

In response to Commissioner Jordan's question regarding what safeguards were in place to ensure the sale of local products rather than imported products, Ms. O'Quinn noted the County could rely on the annual inspections of the property prior to renewal of the Certificate of Use or require the farmer's market operator to provide a report on the amount of locally grown products prior to this inspection.

Commissioner Jordan suggested the motion be amended to require the owner to submit reports as suggested by Ms. O'Quinn, including the designations of purchase areas in the local community, as well.

Commissioner Moss noted the conditions suggested by Commissioner Jordan were acceptable to him. He asked that the applicant state for the record that the conditions proffered today would indeed ensure what would be developed at the subject location and that the operations would be limited to a farmer's market.

Mr. Roy Lemus, 9001 SW 94 Street, Unit #103, Miami, Florida, the applicant, appeared before the Board and stated the location would be developed exactly as described in today's hearing.

Ms. Coffey-Armstrong noted for the record that the draft of the proffered covenant had been signed and notarized by all concerned parties and it was now safe to proceed with the vote.

Commissioner Moss presented and moved a motion which approved the appeal and overruled the decision of the CZAB; approved the foregoing application as recommended by the Planning and Zoning Department as follows: Approved requests #1, #3 and #5; approved request #2 in part, as it pertained to waiving a required wall along the west property line, allowing deletion of the west wall; denied requests #4 and #6; and accepted the proffered covenant as modified to include restricted use to a farmer's market; 65% of the patron area be dedicated to provide locally grown agricultural products; and require the owner to submit written reports reflecting the amount of locally grown products and designation of purchase areas within the local community, before certificate of use inspections. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 7-1. (Commissioner Sorenson voted No), (Commissioners Barreiro, Diaz, Heyman, Seijas and Souto were absent)

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-32-06.

Ms. O'Quinn Williams presented the following application:

2. **MARCOS CENTURION AND ALFREDO GARCIA-MENOCAL **(06-4-CZ12-2)****

Mr. Juan Mayol, Holland & Knight, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board in support of the application. He noted the applicant requested a

zoning change for a non-use variance and proffered a declaration of restrictions that would tie this property to the proposed plan and limit the density to four lots. He noted the area was largely zoned agricultural use (AU) but designated in the CDMP for estate density residential use and that the character of the area was residential, not agricultural. He also noted the applicant proposed to build four home sites, all accessed from SW 95th street, and only requested a variance to allow two of the lots to have a frontage of 113 feet. He noted staff found this application to be compatible and consistent with the CDMP.

Vice-Chairman Moss opened the public hearing on the foregoing application, and the following individuals appeared in support of the foregoing application:

1. Mr. Marco Centurion, 11530 SW 93rd Street, Miami, Florida
2. Mr. Jorge Morales, 18600 SW 100th Street, Miami, Florida
3. Mr. Charles Cunningham, 11564 SW 93rd Street, Miami, Florida
4. Ms. Dottie Cunningham, 11564 SW 93rd Street, Miami, Florida
5. Mr. Patrick Schomberg, 10800 SW 95th Street, Miami, Florida
6. Ms. Elda Centurion, 11530 SW 93rd Street, Miami, Florida
7. Mr. David Apache-Guzman, 9490 SW 112 Avenue, Miami, Florida

The following persons appeared in opposition to the foregoing application:

1. Mr. Jason Bunch, 10950 SW 95th Street, Miami, Florida
2. Mr. Peter Ostrowsky, 11401 SW 93rd Street, Miami, Florida
3. Dr. Eugene Villacian, 11000 SW 95th Street, Miami, Florida
4. Mr. Antonio Anillo-Sarmiento, 10805 SW 95th Street, Miami, Florida
5. Mr. Scott Bunch, 10950 SW 95th Street, Miami, Florida
6. Mr. Manny Escobar, 11481 SW 95th Street, Miami, Florida
7. Mr. Jose Barros, 9920 SW 115th Avenue, Miami, Florida
8. Ms. Celeste Juarez, 11441 SW 95th Street, Miami, Florida
9. Ms. Rosa Bunch, 10950 SW 95th Street, Miami, Florida
10. Mr. Fernando Llerena, 11401 SW 95th Street, Miami, Florida
11. Mr. Tony Valadares, 10930 SW 9rd Street, Miami, Florida
12. Ms. Leonor Andreu, 10821 SW 93rd Street, Miami, Florida
13. Mr. Pablos Tejeda, 10980 SW 91st Street, Miami, Florida
14. Dr. Jaimy Yoham, 9045 SW 112 Avenue, Miami, Florida

Mr. Mayol reappeared before the Board in rebuttal.

Commissioner Sorenson questioned the legality of the Petition of Support used by the applicant to obtain signatures, noting that the wording was misleading to residents who could believe the property might be used for commercial development or religious uses.

In response to Commissioner Sorenson's question regarding tree enforcement and an allegation that many pine trees were removed from the property, Mr. Enrique Cuellar, Chief, Office of Code Coordination and Public Hearing, DERM, appeared before the Board and noted his office responded to two complaints and found no violations after inspecting the property. He further

noted this area was essentially single family residents, exempted from code requirements to obtain permits when removing trees of regular size but permits were required for removal of specimen size trees.

Following a brief discussion between staff and Sorenson regarding the area's agricultural boundary and the development pattern, Commissioner Sorenson noted she would support two houses for this lot, one house per acre, but not the four houses proposed.

Following comments by Chairman Martinez regarding a recent item sponsored by Commissioner Diaz that specifically targeted misleading petitions, Commissioner Sorenson presented and moved a motion to deny the application and affirm the decision of the CZAB. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 8-0. (Commissioners Diaz, Edmonson, Heyman, Jordan and Seijas were absent)

The foregoing resolution was denied by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-33-06.

Ms. O'Quinn Williams presented the following application:

4. WRC PROPERTIES, INC. (06-6-CZ12-6)

Vice-Chairman Moss opened the public hearing and called for anyone in opposition to the foregoing application. There being no one to come forward in opposition, the public hearing was closed.

Mr. Alan Krischer, 701 Brickell Avenue, Holland & Knight, attorney representing the applicant, appeared before the Board and noted for the record, that the applicant accepted all of the conditions requested.

Hearing no comments or discussion, Commissioner Souto presented and moved a motion that the foregoing application be approved, with conditions of requests #2 and #3; approval of request #4 subject to the Board's acceptance of the proffered covenant as recommended by the Developmental Impact Committee. This motion was seconded by Commissioner Rolle, and upon being put to a vote, passed by a vote of 8-0. (Commissioners Barreiro, Diaz, Edmonson, Heyman and Seijas were absent).

The foregoing resolution was approved by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-34-06.

Ms. O'Quinn Williams presented the following application:

5. CENTURY HOMEBUILDERS OF SOUTH FLORIDA, LLC (06-9-CC-2)

Mr. Gill Pastoriza, 2665 S. Bayshore Drive, attorney representing the applicant, appeared before the Board and spoke in support of the application. He noted this application involved a very narrow issue concerning whether mixed-use development consisting of multi-family residential

and retail should be allowed on a property that lied within the City of Miami, but in close proximity to the Miami International Airport. He noted this application had undergone an extensive approval process with more than six public hearings with the City of Miami, who substantially reviewed and properly addressed the landuse issues accept for Airport regulations, and concluded that providing much needed infill housing at this location was in the City's best interest.

Mr. Frank Castielle, Chief of Staff for City Commissioner Angel Gonzalez, appeared before the Board and presented a letter from City Commission Chairman Gonzalez requesting the BCC support the Public Hearing Application #5-219 filed by Century Homebuilders of South Florida, LLC, culminating in the City's adoption of resolution #05-0487 that approved this project.

Mr. Guillermo Medillo, 330 Brickell Avenue, Suite #108, Coral Gables, Planning Expert, appeared before the Board and noted this development was already approved by resolution of the City of Miami but the narrow issue was the variance issue that the county had reserved as its jurisdiction. He suggested the landuse compatibility be considered with what already existed in the area.

Following Assistant County Attorney Armstrong-Coffey's clarification on the critical area established in the revised MIA ordinance adopted in 2004 and effective February 2005, Commissioner Sosa noted this application fell within the MIA critical area that was established in the revision of the MIA ordinance and that she discovered this application was already filed prior to the revised ordinance becoming effective.

Ms. Diane O'Quinn-Williams, Director, P&Z, indicated for the record that under the prior MIA ordinance, a particular area was set aside entitled the Critical Area of Approached/Departure Surface which prohibited places of public assembly, schools, churches, hospitals and single or multi-family residents. She noted that ordinance was amended to call the area the Outer Safety Zone, which continues to prohibit residential uses in this area.

Commissioner Sosa asked whether this application was in the process when the revised ordinance was approved. She indicated she recalled what was said publicly was that those applications that were in the pipeline would be taken into consideration because they had already applied prior to the ordinance revision.

Assistant County Attorney Armstrong-Coffey noted the regulations in effect at the time this application was filed were those under the original ordinance which meant the old process for approving a variance would be the one used today.

Mr. Medillo reappeared before the Board and spoke about permissible uses and over-flight exposure to residents and public assemblies.

Mr. Gary Sebine, 65 NW 60 Street, Gainesville, Florida, Building Environmental Acoustics expert, appeared before the Board and was qualified as a noise expert by examination of Attorney Pastoriza. He provided an overview on noise regulation and reduction.

Mr. Pastoriza, attorney representing the applicant, introduced into the record, some letters of support from neighbors, banks and owners of existing development within the immediate area.

Mr. Jose Canscella, 2655 Lejeune Road, Board Member, Century Home Builders of South Florida, appeared before the Board in support of the foregoing application.

Vice-Chairman Moss opened the public hearing on the foregoing application, and the following individual appeared in opposition to the foregoing application:

1. Christina Cantero, 4780 NW 2nd Street, Miami, Florida, appeared before the Board and noted she collected several signatures from concerned residents who opposed this project.

Mr. Bruce Drum, Assistant Aviation Director, Aviation Department, provided a power point presentation that demonstrated the maximum height of the proposed development. He noted the Aviation Department had never objected to the building height, only the proposed landuse.

Commissioner Gimenez asked whether this application was more about noise factors than safety of people underneath a flight path since landuses of hotels and a hospital were permitted under the current code. He asked whether the proffered covenant was sufficient in providing a disclosure to potential homebuyers regarding the noise and to protect the airport from complaints or potential lawsuits.

Mr. Drum noted the national trend was for airports to try to buy out surrounding residential areas and minimize the noise. He noted the theory was that those people who owned residents in the area were more inclined to complain about the noise. He further noted the FAA approved the height of the project but the County had jurisdiction over local zoning, and that any decision to allow incompatible land use to the vicinity of the airport could be in violation of federal grant agreements, since the County owned and operated the airport. He also noted that FDOT did not concur with the proposed residential development at MIA's runway #12 and that he would not object if it were for commercial use, as the height was not an issue.

Responding to Commissioner Sosa's inquiry whether any of the City of Miami public hearings were attended by staff from the Aviation Department, Mr. Drum noted staff attended all of the meetings and that he personally attended three. He noted his objection was the same at all of the meetings, that the primary concern was noise and complaints from residents regarding quality of life and that the Aviation Department was duty bound to defend the landuse ordinance.

Responding to Commissioner Jordan's question concerning which code the application should be evaluated by, Assistant County Attorney Coffey-Armstrong noted the provisions under the old code that were in effect prior to 2005, which provided that the Critical Area Approached/Departure Surface and landuses lying beneath that area shall not include places of public assemblies, schools, churches, hospitals, single and multi-family residents without an approved variance.

Mr. Pastoriza reappeared before the Board in rebuttal.

Hearing no further speakers in connection with this application, the public hearing was closed.

Commissioner Sosa asked staff to provide an answer to a concerned constituent regarding insurance coverage of development's that had been granted an intrusion variance. She noted she would be inclined to deny this application if safety were an issue, but since it was not, the City of Miami officials would have to control the noise and provide disclaimers regarding this property. She asked whether the developer had set aside any units for workforce housing.

Assistant County Attorney Armstrong-Coffey noted the opportunity for workforce housing no longer existed since the City of Miami had already approved this development.

Following a discussion as to whether the application could legally be reviewed again by the City of Miami to provide workforce housing, Mr. Jose Canscella, 2655 Granada Boulevard, reappeared before the Board and stated he could commit to have the applicant look into the possibility of this and advise the P&Z Director of the answer.

In response to Commissioner Moss' question whether the County would be in violation of any grant agreement with the FAA if this application were approved, Mr. Drum referred to a letter from the FAA that stated the FAA holds the Aviation Department to a standard to uphold the County's landuse zoning ordinances and would probably judge it case by case.

Commissioner Barreiro spoke in support of the foregoing application. He suggested impact windows be installed at this development to minimize the noise impact.

In response to Commissioner Jordan's question regarding whether the proffered covenant would protect the County from any liability should someone decide to sue because of the noise, Assistant County Attorney Armstrong-Coffey noted the proffered covenant purports to waive on behalf of the owners any complaint because of the noise or operations at the airport and it would serve as a defense. She noted there was a disclosure requirement as well.

Commissioner Jordan expressed concern with an opportunity missed for workforce housing. She stated she preferred that the foregoing application be deferred to get an affirmed commitment from the applicant that workforce housing would be provided.

Commissioner Sorenson spoke in opposition to this application because of her concern for quality of life issues.

Commissioner Sosa asked Assistant County Attorney Armstrong-Coffee to provide all County Commissioners with a list of all pending applications that were in the pipeline prior to the revised MIA ordinance becoming effective. She also asked the legal department to review with her the provisions of the new Code that allowed for hospitals.

Upon conclusion of the discussion, Commissioner Sosa presented and moved to approve the foregoing application and accept the proffered covenant. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 6-2 (Commissioners

Jordan and Sorenson voted No), (Commissioners Diaz, Edmonson, Heyman, Seijas and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned resolution #Z-35-06.

All deferral dates on applications considered during the day's meeting were publicly announced.

All exhibits submitted for the record at the day'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, upon motion duly made, seconded and carried, the zoning meeting was adjourned at 5:15 p.m.

Chairperson

ATTEST: HARVEY RUVIN, Clerk

By: _____
Kay Sullivan
Deputy Clerk