



**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

June 7, 2007
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Zorana Gainer, Commission Reporter
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Clerk's Summary and Official Minutes
Board of County Commissioners Zoning Hearing
June 7, 2007

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., June 7, 2007. the following individuals were present upon roll call: Vice Chairwoman Jordan, Commissioners Rebeca Sosa, Katy Sorenson, Dorrin D. Rolle, Dennis C. Moss, Joe A. Martinez, Sally A. Heyman, Carlos A. Gimenez and Audrey M. Edmonson (Chairman Bruno A. Barreiro and Commissioners Javier D. Souto, Natacha Seijas, and Jose "Pepe" Diaz were absent); Assistant County Attorneys Joni Armstrong-Coffey and Craig Collier; Subrata Basu, Director, Department of Planning and Zoning, Maria Teresa Fojo, Zoning Land Use Development Division Chief, Department of Planning and Zoning; and Deputy Clerks Kay Sullivan and Zorana Gainer.

The Board convened in a moment of silence, followed by the Pledge of Allegiance.

ALL WITNESSES AND THE INTERPRETER(S) WERE SWORN IN BY THE CLERK BEFORE PRESENTING TESTIMONY BEFORE THE BOARD.

Mr. Subrata Basu, Department of Planning and Zoning (DP&Z) Director, announced that 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. He noted additional copies of the agenda were available in the Chambers and presented the procedures to be followed during today's proceedings.

Vice Chairwoman Jordan called for any withdrawals, deferrals or changes to the (6/7) day's agenda.

1. 8 STREET HOLDINGS L.L.C. F/K/A: FRANK & GEORGETTE BREIVOGEL (05-5-CZ10-3/04-389)

Mr. Juan Mayol, attorney representing the applicant, gave a power point presentation in connection with the foregoing proposed application. Mr. Mayol stated there were an additional 26 petitions in support of the foregoing application and in regard to the 165 petitions in opposition to the foregoing application, 45 of them were from residents that did not reside in the subject area. He noted the subject property, before being acquired by the applicant, had not been maintained very well, had accumulated various code violations, and was currently being maintained appropriately. The property owner removed the mobile homes and the subject property is now vacant, said Mr. Mayol. He presented current photographs of the subject property and noted the surrounding area was not residential although it was zoned residential RU-3. Mr. Mayol stated in effort to have the least impact on property owners to the South, the building had been set back 20 feet and an extensive landscape buffer, a fence, and 24 hour security had been proposed. He

further stated the office building would provide much needed professional services in the area and a huge investment had been made on this property by the applicant.

Vice Chairman Jordan opened the public hearing.

The following individuals appeared in support of the foregoing proposed application:

- West Miami Commissioner Luciano Suarez
- Mr. Juan Otero, 936 S.W. 68 Avenue
- Lacy Sosa, 1021 S.W. 66 Avenue

The following individuals appeared in opposition to the foregoing proposed application:

- Ms. Maria Varela, 937 S.W. 68 Court
- Mr. Roberto Varela, 935 S.W. 68 Court
- Mr. Harold Sosa, 1021 S.W. 66 Avenue

Mr. Jose Villalobos, attorney representing the applicant, spoke in support of the foregoing application. He stated that the applicant could only afford to build what he was proposing on the subject property and that no bank would finance homes on the property. Mr. Villalobos stated that the word “industrial” was inappropriate with regard to what was being built and had a negative connotation; he said a medical building and a storage facility would be built that would have minimum impact on traffic in the area.

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

Commissioner Sosa expressed her concerns, noting a medical office building was a plus to the area. She asked how many stories were allowed by the current zoning. In response, Mr. Basu stated 40 feet high or three stories high was the maximum allowed. Commissioner Sosa further stated that she did not want pornography shops or stores that would bring more traffic to the area and asked if the uses of the subject property could be defined and limited to certain types of offices.

In response to Commissioner Sosa’s question regarding limiting use of the subject property, Assistant County Attorney Joni Armstrong-Coffey advised that there was a proper covenant that limited the uses of the subject property to offices and office buildings and a self storage facility, and to further limit those uses, the property owner would have to be willing to voluntarily offer a revised covenant.

Commissioner Sosa expressed concern regarding the impact of a five story building next to residential homes and noted a buffer needed to be worked on. She expressed further concern regarding parking spaces facing the residential homes.

Mr. Mayol stated landscaping would be strictly along the southern boundary, as well as a concrete wall, and that the applicant would be willing to move the 20 foot building back 10 more feet.

Commissioner Sosa suggested adding the following to the covenant: 24 hour security, graffiti removal within 24 hours, and limitation of the storage facility's hours of operation to 7 am-10 pm in an effort to lessen the impact on residents in close proximity to the subject property.

Commissioner Sorenson expressed her concern regarding the applicant having an outstanding violation regarding illegal tree removal on the subject property approximately one year ago and a final notice of court action subsequently issued on June 23, 2006 for non-compliance with requirements of the notice of violation. She stated a consent agreement to replant a replacement canopy in order to resolve the violation was offered along with payment of penalties and applicable administrative costs. Commissioner Sorenson stated that the Department of Environmental Resources Management (DERM) had been in contact with various representatives of the applicant in an effort to resolve the violations, however the consent agreement has not been executed for the subject property and the case was currently being prepared for referral for court action. She noted her support, however she also noted she wanted the applicant to clear up the violation before anything was granted.

In response to Commissioner Sorenson's concerns regarding the applicant's violations, Mr. Mayol stated that depending upon today's (6/7) action, the applicant would replace the canopy if applicable, as well as pay the fines.

In regard to the Aviation Department's objection to the application, Mr. Basu stated that Aviation was objecting because it had no opportunity to review the requirements. However, he noted, DP&Z had such an opportunity, and the building plans were within the height requirements.

Mr. Mayol noted the applicant had revised the proffered covenant and agreed to the following:

- Limit use of office buildings
- Provide 24 hour security at the storage facility
- Limit storage facility hours of operation to 7 a.m. to 10 p.m.
- Prohibit windows on the South side of the storage facility
- Remove graffiti from buildings within 24 hours of discovery
- Limit the height of the 10 foot lineal feet north of the 20 foot setback on the south side of the property to two stories and 20 feet
- Construct a round-about traffic circle at the intersection of S.W. 68th Court and S.W. 12th Street and
- Plant two rows of staggered trees as a canopy on the real property line

Commissioner Sorenson presented and moved to reverse the decision of the CZAB, which denied the application without prejudice, to approve the foregoing application, and to accept the revised proffered covenant. This motion was seconded by Commissioner

Heyman, and upon being put to a vote, passed by a vote of 9-0 (Chairman Barreiro and Commissioners Diaz, Seijas and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned #Z-11-07

2. RICHARD ROAD ESTATES L.L.C (07-2-CZ14-2/06-89)

Mr. Mario Garcia Cerro, attorney representing the applicant, gave a brief overview of the area and the subject property. Mr. Cerro presented an aerial photo of the subject property and the surrounding properties. He noted when the application was originally filed it requested EU-1 and EU-M zoning, and subsequently the application was amended to request EU-1 and EU-S which provided for 28 home sites. However, this application, he noted, was denied and appealed. Subsequent to the appeal the applicant proffered a covenant requesting EU-1 zoning of the entire property and prohibiting the use of Severable Use Rights for the developer, he added. Mr. Garcia noted the subject property complied with the concurrency requirements pursuant to staff's recommendations.

Vice Chairman Jordan relinquished the chair to Commissioner Sorenson .

Commissioner Sorenson opened the public hearing, and the following individuals appeared in opposition to the proposed application:

- Mr. Zivadin Krstic, 19975 S.W. 296 Street
- Ms. Carol Harris, 19425 S.W. 312 Street
- Ms. Frances Zocco, 18912 S.W. 308 Street
- Ms. Patricia Karen Cornelius, 31160 S.W. 195 Avenue
- Mr. Robert Petrucci, 31400 S.W. 194 Avenue
- Mr. Robert Cornelius, 31160 S.W. 195 Avenue
- Mr. James M. Harris, 19425 S.W. 312 Street
- Mr. Roland Harris, 19240 S.W. 304 Street
- Ms. Doris C. Harris, 19240 S.W. 304 Street

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

Commissioner Sorenson relinquished the chair to Vice Chairwoman Jordan.

Mr. Cerro stated the neighbors of the subject property were requesting one acre net on the subject property. He noted that this would make the property inconsistent and would be below the minimum floor of one to 2.5 units per gross acre permitted for density in the area.

Commissioner Sorenson expressed her concerns regarding inserting homes on parcels that were surrounded by agricultural practices such as pesticide use. She noted this was premature and housing was not needed in the area.

Commissioner Sorenson presented and moved a resolution which denied the appeal without prejudice and upheld the decision of the CZAB, which denied the application with prejudice. This motion was seconded by Commissioner Heyman, and upon being put to a vote, passed by a vote of 8-0 (Chairman Barreiro; Commissioners Diaz, Martinez, Seijas and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned #Z-13-07.

3. RICHARD ROAD ESTATES L.L.C. (07-1-CZ14-2/06-90)

Mr. Simon Ferro, attorney representing the applicant, gave a brief overview of the foregoing proposed application and the subject property. Mr. Ferro noted the applicant met with neighbors of the subject property and subsequently modified the site plan and reduced the number of lots from 30 to 28; he said the site plan with 30 lots had a density of 1.5 units per gross acre, that the site plan with 28 lots had a density of 1.4 units per gross acre, and both were well below the 2.5 maximum. Mr. Ferro noted staff recommendations regarding both site plans were positive, however the Community Council had denied the application subsequent to an appeal. Mr. Ferro stated the applicant decided to withdraw his application requesting EU-S zoning and decided to request for EU-1 zoning for the whole 20 acre parcel, and submitted a covenant which limited the development of the property to EU-1 as permitted under the zoning code and prohibit the use of Severable Use Rights (SUR).

Vice Chairwoman Jordan opened the public hearing on the foregoing proposed application, and the following individuals appeared in opposition to the proposed application.

- Mr. Robert Petrucci, 31400 S.W. 194 Avenue
- Ms. Frances Zocco, 18912 S.W. 308 Street
- Ms. Carol Harris, 19425 S.W. 312 Street
- Ms. Patricia Karen Cornelius, 31160 S.W. 195 Avenue
- Mr. Robert Cornelius, 31160 S.W. 195 Avenue
- Mr. James M. Harris, 19425 S.W. 312 Street
- Mr. Robert Harris, 19240 S.W. 304 Street
- Ms. Doris C. Harris, 19240 S.W. 304 Street
- Mr. Zivadin Krstic, 19975 S.W. 296 Street
- Ms. Mary Koziara (phonetic) 19975 S.W. 196 Street

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

Mr. Ferro presented transcripts and read excerpts from a Community Council meeting regarding the foregoing application. He noted that some of the same individuals that appeared before the Board in opposition to the foregoing application at today's (6/7) hearing appeared at the Community Council meeting in support of the application. Mr.

Ferro said that the applicant had changed the zoning request to EU-1 based on what was expressed by the individuals neighboring the subject property at the Community Council meeting. In regard to the issue of flooding in the area, Mr. Ferro noted that by law the applicant had to contain all water draining within the property and not allow water to drain onto other properties. Mr. Ferro stated the applicant would not contribute to an existing flooding problem within the surrounding area.

Discussion ensued regarding flooding and water draining in the area surrounding the subject property.

Commissioner Sorenson noted she appreciated that the developer had reduced to one house per acre. She stated she was inclined to support the application pursuant to the current zoning. However, she added, overbuilding had become a problem, there were many unoccupied homes in the area, and therefore additional housing was unnecessary within this agricultural area and flooding issues could not be resolved in the area.

Vice Chairwoman Jordan concurred with Commissioner Sorenson regarding flooding in the area. She noted, however, there was a need for additional housing even though there was an overabundance of housing available. Placing the burden of the existing flooding problem on the applicant was unfair, said Vice Chairwoman Jordan.

Commissioner Gimenez expressed concern regarding flooding in the area and emergency response time in the area. He asked Mr. Basu to find out the emergency response time to the area and if a new fire station had to be built to serve the area.

Mr. Ferro stated all concurrent standards were met by the applicant, that the existing flooding problem in the area was not the applicant's problem, and that there was no substantial competent evidence to support a denial of the foregoing application. Mr. Ferro stated the applicant could not be held to a higher standard for services or other criteria than what other properties were held to.

In regard to Mr. Ferro's statements regarding the existing flooding problem, Commissioner Sorenson responded that flooding was the County's problem and that it was the Board's responsibility to address the problem. She noted it would be an irresponsible decision to allow anyone to build when an existing flooding problem was present.

Commissioner Edmonson expressed her concern regarding flooding in the area and said DERM needed to research this problem and find a solution.

Mr. Ferro stated that there had been no substantial competent evidence of flooding in the area established by any professional.

Commissioner Sosa suggested having the developers assist with funding the installation of infrastructure and that DERM be aware if there was an existing flooding problem in the area.

Commissioner Moss stated some individuals within the area did not want infrastructure installed in the area because they felt it would promote growth of the area. He further noted it had been the Board's practice to not install infrastructure in areas outside the Urban Development Boundary (UDB) in an effort to discourage development.

Commissioner Sorenson presented and moved a resolution which denied the appeal without prejudice and upheld the decision of the CZAB, which denied the application with prejudice. This motion was seconded by Commissioner Moss, and upon being put to a vote, passed by a vote of 8-1 (Vice Chairwoman Jordan voted "No.") (Chairman Barreiro and Commissioners Diaz, Seijas and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned #Z-12-07.

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 12:31 p.m.

Chairperson

ATTEST: HARVEY RUVIN, Clerk of the Courts

By: _____
Kay Sullivan
Deputy Clerk