



**MIAMI-DADE COUNTY
FINAL OFFICIAL MINUTES
Board of County Commissioners Zoning Board**

Board of County Commissioners
Stephen P. Clark Government Center
111 NW 1st Street
Miami, Florida 33128

Thursday, July 26, 2007
As Advertised

Harvey Ruvlin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Mary Smith-York, Commission Reporter
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**CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
JULY 26, 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 N.W. First Street, Miami, Florida at 9:30 a.m. on Thursday, July 26, 2007, there being present: Chairman Bruno A. Barreiro and Commissioners Jose "Pepe" Diaz, Audrey M. Edmonson, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Dennis C. Moss, Dorrin D. Rolle, Natacha Seijas, Katy Sorenson Rebecca Sosa, and Javier D. Souto (Commissioner Joe A. Martinez was excused). The following staff members were present: Assistant County Attorneys Joni Armstrong-Coffey and Craig Collier; Interim Director Subrata Basu and Acting Assistant Director Maria Teresa Fojo, Planning and Zoning Department; and Deputy Clerks Diane Collins, Mary Smith-York, and Akira Spann.

Chairman Barreiro called the meeting to order at 10:00 a.m. and asked that a moment of silence be observed followed by the Pledge of Allegiance.

ALL WITNESSES AND OFFICIAL TRANSLATORS WERE SWORN IN BY THE DEPUTY CLERK PRIOR TO MAKING THEIR PRESENTATIONS AND/OR INTERPRETATIONS OF QUESTIONS ASKED AND TESTIMONY GIVEN BEFORE THE BOARD

Mr. Subrata Basu, Interim Director, Planning and Zoning, read into the record the following introductory statement: "In accordance with the Code of Miami-Dade County, all items to be heard today have been legally advertised in the newspaper, notices have been mailed, and the properties have been posted. Additional copies of the agenda are available here in the Chambers. Items will be called up to be heard by Agenda Number and Name of Applicant or Appellant. The record of the hearing on each application will include the records of the Department of Planning & Zoning and, where there is an appeal from the Community Zoning Appeals Board (CZAB), a transcript of that hearing. All these items are physically present today, available to all interested parties, and available to the members of the Board of County Commissioners to examine items from the record during the hearing. Parties have the right of cross examination. This statement, along with the fact that all witnesses had been sworn, should be included in any transcript of all or any part of these proceedings. In addition, there is an official translator present in the Chambers for those individuals requiring such assistance.

Mr. Basu presented the following application:

APPLICATION #A: EUREKA COVE L.L.C. (06-9-CZ14-4/06-3)

Mr. Basu, Interim Director, Department of Planning & Zoning (P&Z), read the foregoing proposed zoning application into the record.

Mr. Felix Lazarte, Esq. (Holland and Knight) 701 Brickell Avenue, attorney representing the applicant, Eureka Cove, appeared before the Board and provided a brief overview regarding Item No. A. He explained that the application before the Board today was for a single-family home project in response to Commissioner Moss' request. Mr. Lazarte stated the plan consisted of seven (7) single-family homes, and included a road to buffer the homes from the Turnpike.

Chairman Barreiro opened the public hearing and the following individual(s) appeared:

Ms. Susan Blake, 11363 S.W. 165th Terrace, appeared before the Board and spoke in opposition to the foregoing proposed application.

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

Commissioner Moss presented and moved a resolution to reverse the CZAB's decision and approve the application as presented, and to accept the proffered covenant. This motion was seconded by Commissioner Diaz, and upon being put to a vote, passed by a vote of 12-0 (Commissioner Martinez was absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-22-07

Mr. Basu read the following proposed zoning application into the record.

APPLICATION #B: VARIETY CHILDREN'S HOSPITAL D/B/A: MIAMI CHILDREN'S HOSPITAL (07-3-CZ-10-9/07-13) 13-54-40

Mr. Peter Walton, Lucas and Lucas, P.A., 1825 Coral Way, attorney representing the Schenley Park Preservation Society, Inc., appeared before the Board in support of the foregoing proposed appeal.

Mr. Stanley Price, Bills and Sumberg, attorney representing the applicant, Variety Children's Hospital D/B/A: Miami Children's Hospital (MCH) appeared before the Board and requested the opportunity to present a motion to dismiss before proceeding with the foregoing item. He distributed booklets to Commission members stated it was a fundamental point of law, that a Board such as this could not entertain a case unless it had jurisdiction over the subject matter or the person seeking to go forward. He stated the applicant's position was that the Schenley Park Preservation Society could not legally file its appeal. He provided a brief overview of the distributed materials in support of his motion to dismiss. Mr. Price asked the Commission to not entertain the foregoing proposed appeal.

Mr. Walton explained the purpose of this appeal and advised the Schenley Park Preservation Society (SPPS) was an umbrella association consisting of five individuals opposed to the CZAB #10's decision.

Assistant County Attorney Joni Armstrong-Coffey advised that the Commission was not required to reach a decision regarding the motion to dismiss until conclusion of the public

hearing. She noted the County Commission had initial jurisdiction to determine whether the parties before you have standing. Ms. Coffey pointed out that this item consisted of two appeals, one by the objector, SPPS; and the other by MCH. She explained that the Commission's position had always been that when an appeal was filed, the entire matter was before the Board of County Commissioners. She further noted even if the objecting neighbors lacked standing, the Commission would need to determine whether they could be heard under MCH's appeal.

In response to Commissioner Heyman's inquiry regarding the appeal by MCH, Ms. Coffey explained the hospital's appeal was in regard to denial of the expansion of the site for the "Grant Office." Regarding Commissioner Diaz' question concerning jurisdiction, Ms. Coffey replied the Commission had jurisdiction to determine whether the parties had standing to hear the entire decision of the Community Council regarding those portions. She confirmed that the Commission could, after the entire hearing, determine that sufficient evidence proved that there was standing by all parties to proceed.

Responding to Commissioner Moss' request for clarification as to what the Commission should look for in its determination of standing, Ms. Coffey advised that since they were hearing two appeals, any individual named in the record below had standing. She noted additionally, any person appearing today and having a demonstrable interest in this land-use decision, would have standing.

Mr. Price stated the purpose of his motion to dismiss was strictly to determine who had the right to open and close this process. He noted under his appeal filed on behalf of MCH, anyone present today had the opportunity to object to that appeal. Mr. Price advised that in order to have standing must be filed by some who had legally justifiable issue at the time of the decision. He asked the Commission to allow him to present first and last, with public hearing speakers appearing as desired. Mr. Price requested an answer, before the hearing concluded, to whether the Schenley Park Preservation League appeared before the Board in the record made on April 17, 2007.

Following Chairman Barreiro's comment that the Commission would hear the case, Mr. Price stated his formal objection to the issue that the Board had not ruled on the "standing" issue.

Mr. Walton spoke in opposition to the Community Zoning Appeals Board's (CZAB) decision to grant approval of major expansion and reconstruction to the Miami Children's Hospital. He displayed a drawing illustrating the project's adverse impact the Schenley Park neighborhood. Mr. Walton listed the following requests approved by the CZAB on April 17, 2007:

- additional 300,000 square feet of building area;
- reduction in the setback on the south side of the property from 50 feet to 35 feet;
- increase in the height of building from three feet to six feet, or from an allowable 60 feet to 98 feet;
- increase in lot coverage from the permissible 40 percent to over 48 percent; and
- reduction in open/green space from 40 percent to approximately 31 percent.

Mr. Walton stated the proposed major expansion would be detrimental to the Schenley Park neighborhood in terms of increased traffic and noise, and loss of aesthetics. He explained how existing traffic problems at the intersections of S.W. 24th Street/S.W. 67th Avenue and S.W. 24th

Street/S.W. 57th Avenue would increase. Mr. Walton also presented information regarding the impact in terms of increased noise and aesthetics to the neighborhood. He advised that denial of the application would not cause the facility to go away, rather ensure the MCH's growth would not be detrimental to the residential neighborhood. Mr. Walton requested the decisions of the CZAB granting this major expansion, major reconstruction, and associated variances, be reversed.

Ms. Marlen Gonzalez (phonetic), 6078 S.W. 33rd Street, appeared before the Board and spoke in opposition. She stated over 600 petitions had been collected from residents within the community opposing the expansion plans, as well as statements from expert architects stating the plans were incompatible with the neighborhood. Ms. Gonzalez asked that the Commission deny the foregoing proposed application.

Mr. Edward Perez-Heydrich, Licensed Real Estate Broker, 7003 N. Waterway Drive, appeared before the Board in opposition. Following an objection by Mr. Price to his right to testify as to property valuation, Mr. Perez-Heydrich provided a comparison analysis addressing noise and traffic impacts of the proposed expansion.

Mr. Price introduced into the record the Property Appraiser's notice of assessed property value for Mr. Perez-Heydrich's home, indicating an increase in value last year (2006) of 18 percent.

Ms. Laura Perez-Heydrich, 5818 S.W. 28th Street, appeared before the Board and spoke in opposition.

Assistant County Attorney Armstrong-Coffey addressed Commissioner Sosa's concern that speakers were expressing complaints unrelated to the issue before the Commission today. She advised the Commissioner's right to request proof of relevance to the foregoing land-use application.

Ms. Perez-Heydrich noted for the record the process by which she obtained the information presented today and advised that property taxes associated to square footage within hospitals were non-exempt. She stated that, other than the \$402.00, MCH had not been paying property taxes for the square footage of physicians' offices leased within the hospital's property.

Mr. Stanley Price, 200 So. Biscayne Boulevard, attorney representing Miami Children's Hospital, advised 11,707 signed petitions, collected from every Commission District in the county, were being submitted as part of today's application. He presented major elements of the foregoing application and provided a brief historical overview of the process to date. Mr. Price stated, for the record, the applicant's appeal was being withdrawn and the use of the home, located next to the hospital's supply center was no longer being sought, and it would remain a single-family home. He continued that the Schenley Park Homeowners' Association (SPHA) initially supported this application and accepted from the applicant a Declaration of Restrictive Covenants which included a request to concede that the hospital would no longer purchase any property in the Schenley Park area for any hospital purposes. Mr. Price advised that the SPHA withdrew its support after the covenant was proffered. Mr. Price further noted for the record his objection to the attorney's testimony relating to his reading of the traffic consultants findings.

Mr. Thomas Rozek, President/CEO, Miami Children's Hospital, 600 Biltmore Way, appeared before the Board in support and requested the Commission's approval of this application. He stated the hospital's mission and listed the benefits of this proposed expansion.

Mr. Robert Nolan, Vice President, Miami Children's Hospital, 1600 S. Bayshore Lane, appeared before the Board and spoke in support. He advised of the hospital's efforts, through the Charette, to develop a relationship with the community and address the issues expressed today. Mr. Nolan provided a PowerPoint presentation highlighting the following:

- Goals;
- Ambulatory Network Impact on MCH Campus Traffic;
- Guiding Principles;
- Accomplishments;
- 25-Year Concept Plan;
- Future Campus Aerial View; and
- Site Lines / Site Plan.

Mr. Armando Rizo, 5805 S.W. 27th Street, architect and 15 year resident of the Schenley Park community, appeared before the Board. He noted research had found that the hospital, indeed, needed this expansion. Mr. Rizo proposed, for the record, the following alternate plan: a collaborative process with the SPHA Liaison Committee be initiated, deleting the park expansion on 33rd Street in lieu of other adequate, properly screened, buffered, walled, and landscaped surfaced parking facilities, and incorporating other refinements introduced through this collaborative process, this expansion would not result in a detrimental impact on the community.

In response to Mr. Walton's inquiry requesting identification of the study that found the hospital in need of a threefold expansion, Mr. Rizo clarified his findings resulted from consultation with experts in the design of hospital facilities in this community. He identified the following firms as his information sources: Maspons, Goicouria, Estevez (MGE) and Perkins & Wills.

Ms. Lourdes Naranjo, 6270 S.W. 25th Street, 17 year resident of Schenley Park and member SPHA, appeared before the Board and spoke in opposition. She stated during the time of the Charette, members were instructed not to discuss expansion of the MCH, therefore, the residents of Schenley Park were unaware of the hospital's plans for expansion. She advised that the SPHA Liaison Committee, consisting of only three (3) members, retracted its letter of support because it contained fraudulent statements that the SPHA Board and members had voted, approved, and supported the plan.

Following Mr. Price's rebuttal comments, Chairman Barreiro, seeing no other individuals to appear, closed the public hearing.

Hearing no objection, Commissioner Sosa presented and moved a resolution for denial of appeal and requests #11 through #22; modified approval of appeal and staff's recommendation of parcel A (requests #1 through #10) and all conditions pertaining to parcel A except as modified (all except request #3 and #13); modification of condition #2 to reduce Building 7 to a maximum of 80 Ft. including the utility and elevator towers; delete the expansion of Buildings 10 and 11, and allow a 90 degree surface parking along the

South and East walls, and provide sound attenuation on existing and new garages; a covenant incorporating all conditions and deletion of any reference to the single family home use be submitted to staff, and approved by the director within 30 days after the Board's decision was final; and approval of placing 4 Ft. above the 80 Ft. of Building 7 for the Helipad. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 12-0 (Commissioner Martinez was absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-23-07

Mr. Basu read the following proposed zoning application into the record.

APPLICATION # 1: MICHAEL MUSKAT (06-5-CZ12-1/05-167)

Mr. Santiago Echemendia, 1441 Brickell Avenue, representing the applicant, appeared before the Board and noted the project's consultant, architect, and the owners, Michael and Phillip Muskat, were also present today. He noted this was an appeal requesting the Board reverse the denial, approve the application, and accept the proffered covenant. Mr. Echemendia advised this plan received a favorable recommendation from staff for 17 units, which was the minimum under the Comprehensive Plan. He presented a PowerPoint presentation overview of the geographical location and density zoning requirements.

Mr. Ralph Quick, Quick & Associates, 4970 S.W. 72nd Avenue, appeared before the Board and provided a brief overview of the site plan design and noted the design met zoning requirements, including the proposed density and parking aspects. He advised that the property design complied with all zoning requirements and was consistent with the area.

Mr. Ken Harrison Robbins, 1224 Washington Avenue, Miami Beach, attorney representing the Continental Park Homeowner's Association and Mr. Michael McKolub (phonetic), an individual homeowner, appeared before the Board in opposition to Application 1. Mr. Robbins requested permission to cross examine all witnesses at today's proceedings.

Mr. Echemendia continued his presentation, highlighting the following points:

- Petitions from several abutting and surrounding non-opposing entities were received;
- Petitions in opposition contained 661 signatures in opposition, of which 149 lived within a quarter mile radius of the property; and
- Only three abutting single-family homes would be affected by this development.

Mr. Jack Loft, 1717 Windward Way, Sanibel Island, Comprehensive Planner, appeared before the Board and provided a detailed description of the proposed boundary change and how it would impact the surrounding community. He noted this change would convert EU-M single-family Modified Estates District to the adjacent Limited Apartment House District, and correct a reverse spot zoning condition. Mr. Loft stated he concurred with staff's findings that this site was within the corridor density impact zone that required the site to have no less than 17 units and submitted for the record the People's Transportation Plan (PTP) as of 2004.

Pursuant to Mr. Robbins' objection to the Board receiving documentation into the record today that was not submitted for review two days prior, Assistant County Attorney Coffey advised since this document was public information and not submitted by an expert witness, the submission was permitted.

Mr. Ken Harrison Robbins, representing the Continental Park Homeowners' Association, appeared and questioned the architect regarding several aspects of the subject development.

It was moved by Commissioner Sorenson that Item No. 1 be deferred to the October 4, 2007 Zoning Meeting. This motion was seconded by Commissioner Diaz, and upon being put to a vote, passed by a vote of 11-0 (Commissioners Martinez and Seijas were absent).

APPLICATION #2: DANIEL & JANE LYONS (07-4-CZ14-2/06-223)

Hearing no objection, Commissioner Sorenson presented and moved a resolution for approval of Application 2 and the foregoing appeal, subject to the Board's proffered covenant. This motion was seconded by Commissioner Rolle, and upon being put to a vote, passed by a vote of 10-0 (Chairman Barreiro and Commissioners Martinez, Seijas were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-24-07.

APPLICATION #3: VELASCO LTD. PARTNERSHIP HOLDINGS, INC. (06-6-CZ12-4/06-158)

Hearing no objection, Commissioner Sorenson presented and moved a resolution for approval of the appeal of Application 3, subject to the Board's proffered covenant. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Heyman, Martinez, and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-25-07.

APPLICATION #4: VALENCIA SCHOOL DEVELOPMENT L.L.C. (07-7-CC-2/07-156)

Hearing no objection, Commissioner Diaz presented and moved a resolution for approval of Application 4, with modification for a maximum of 700 students, subject to conditions and the Board's acceptance of the proffered covenant. This motion was seconded by Commissioner Edmonson, and upon being put to a vote, passed by a vote of 7-3 (Commissioners Gimenez, Sorenson, and Jordan voted No; and Commissioners Heyman, Martinez, and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-26-07.

APPLICATION #5: NORTHWESTERN GRANT L.L.C. (07-7-CC-3/07-157)

Hearing no objection, Commissioner Diaz presented and moved a resolution for approval of Application 5, subject to conditions and acceptance of the Board's proffered covenant. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Heyman, Martinez, and Souto were absent).

The foregoing resolution was adopted by the Board and is set forth in the Record of Resolutions and assigned No. Z-27-07.

ADJOURNMENT

There being no further business to come before the Board, upon motion duly made, seconded and carried, the zoning meeting was adjourned at 5:31 p.m.

All deferral dates on applications considered during today's meeting will be 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.

Chairman Bruno A. Barreiro
Board of County Commissioners