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 3, 2008
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Jovel Shaw, Commission Reporter
(305) 375-1289

CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
JULY 3, 2008

The Board of County Commissioners (BCC) 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 10:01 a.m. on July 3, 2008, there being present upon roll call Honorable Chairman Bruno A. Barreiro; Vice Chairwoman Barbara J. Jordan; Commissioners Jose "Pepe" Diaz, Carlos A. Gimenez, Sally A. Heyman, Dennis C. Moss, Natacha Seijas, Katy Sorenson, Rebeca Sosa and Javier Souto, (Commissioners Audrey M. Edmonson and Dorrin D. Rolle were absent; and Joe A. Martinez was late).

The following staff members were present: Assistant County Attorneys Joni Armstrong-Coffey and Craig Coller; Mr. Marc LaFerrier, Director, Department of Planning and Zoning (DPZ); Ms. Maria Teresa Fojo, Acting Assistant Director for Zoning, Department of Planning and Zoning; Ms. Rosa Davis, Principal Planner, Long Range Planning Metropolitan Planning and Deputy Clerks Diane Collins and Jovel Shaw.

MOMENT OF SILENCE

Chairman Barreiro asked that everyone join the Board in a moment of silence, followed by the Pledge of Allegiance.

THE CLERK SWORE IN ALL WITNESSES AND THE INTERPRETER(S) PRIOR TO MAKING THEIR PRESENTATIONS BEFORE THE BOARD.

Department of Planning and Zoning (DPZ) Director Marc LaFerrier announced, in accordance with the Code of Miami-Dade County, all items heard today had been legally advertised in the newspaper, notices have been mailed, and the properties have been posted. Additional copies of the agenda were available in the chambers. Items would be called up to be heard by agenda number and name of applicant or appellant. The record of the hearing on each application would include the records of the Department of Planning and Zoning and, where an appeal from the Community Zoning Appeals Board was made, the transcript of the CZAB hearing. All these items were physically present today, available to all interested parties, and available to the members of the Board of County Commissioners who examined items from the record during the hearing. Parties had the right of cross-examination. This statement, along with the fact that all witnesses have been sworn in, should be included in any transcript of all or any part of these proceedings. In addition, an official translator was present in the chambers for those individuals requiring such assistance.

Ms. Rosa Davis, Department of Planning and Zoning, presented the following application that was discussed during consideration of the Board's Comprehensive Development Master Plan meeting scheduled for today. (See minutes for the CDMP meeting of July 3, 2008, Agenda Item Substitute Special Item No. 1, Legislative File No. 081999, an

ordinance requesting amendments to Miami-Dade County's Comprehensive Development Master Plan (CDMP) filed for concurrent processing with proposed changes to the Miami Metrozoo Development of Regional Impact):

3. MIAMI-DADE COUNTY PARK AND RECREATION DEPARTMENT (08-7-CC-3/07-186)

Ms. Davis provided an overview of the request seeking a substantial deviation determination pursuant to Section 380.06(19) of the Florida Statutes. In addition, an accompanying request for a modification of the Program Summary for the Dade County Zoological Park and the South Dade Metropolitan Park Development of Regional Impact (DRI), also known as the Miami Metrozoo and Larry and Penny Thompson Park DRI, as defined in the report of the South Florida Regional Planning Council approved pursuant to Resolution No. R-1207-05.

Chairman Barreiro opened the public hearing.

Mr. Maurice Hopwood, 12625 SW 187 Street, appeared before the Board and expressed concern with the traffic impact of the property outlined in this zoning application on SW 184 Street and in the surrounding area.

Hearing no one else wishing to speak before the Board, Chairman Barreiro closed the public hearing.

Responding to the concerns raised by Mr. Hopwood, Ms. Kathy Sweetapple, the Transportation Consultant for the Parks and Recreation Department, stated the new facility could not be accessed from SW 184 Street and all access would be on SW 152 Street. She noted the various County projects for street widening in the surrounding areas for this zoning application that would address traffic concerns.

It was moved by Commissioner Moss that the Board approve the foregoing zoning application and the CDMP. Commissioner Sosa seconded this motion.

A discussion ensued among the Board members pertaining to future positive impacts in the subject area.

Following Chairman Barreiro's comments regarding the need for separate motions for the CDMP and the zoning applications, Commissioner Moss presented and made a motion for approval of the Development Impact Committee's recommendation for the foregoing application. This motion was seconded by Commissioner Heyman and upon being put to a vote, passed by a vote of 10-0 (Commissioners Edmonson, Martinez and Rolle were absent).

The foregoing application was adopted by the Board, set forth in the Record of Resolutions, and assigned resolution #Z-17-08.

Mr. LaFerrier advised the Board of the Department's request for deferral of Items No. 5 and 6 to the July 17, 2008, BCC Zoning meeting. He indicated the reason for deferral was to re-notify the applications with some changes to the site plans. Mr. LaFerrier also advised the Board that AMB Codina Beacon Lakes, LLC requested Item No. 2 be deferred to July 17, 2008, to combine it with a CDMP amendment and the Development of Regional Impact (DRI). In addition, he informed the Board members a quorum was not present at the Community Zoning Appeals Board (CZAB) meeting to hear Item No. 2.

Commissioner Sorenson moved that the Board defer the following applications to the July 17, 2008, BCC zoning meeting:

5. SOUTHWESTERN GRANT LLC (08-7-CC-5/07-303)

6. SOUTHWESTERN GRANT LLC (08-7-CC-6/07-318)

This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 10-0. (Commissioners Edmonson, Martinez and Rolle were absent).

Commissioner Heyman expressed her concern with the deferral to the July 17, Board Zoning meeting due to the scheduling of the CDMP hearing the same date.

2. AMB CODINA BEACON LAKES, LLC (08-6-CZ5-1/07-20)

Commissioner Diaz noted the Community Zoning Appeals Board (CZAB) should hear Zoning Item No. 2 prior to the Board's consideration of this zoning application.

Commissioner Seijas questioned how many times a Community Council would not hear an item due to the lack of a quorum.

Assistant County Attorney Armstrong-Coffey stated that currently the Miami-Dade County Code had no requirement on how many times a Community Council could defer a zoning application due to the lack of a quorum.

Commissioner Seijas asked Assistant County Attorney Joni Armstrong-Coffey to prepare the appropriate legislation permitting the Board of County Commissioners to consider zoning applications without prior consideration by a Community Council when Council meetings were canceled due to the lack of a quorum.

Commissioner Diaz moved that the Board defer the foregoing application to the July 17, 2008, Board zoning meeting. This motion was seconded by Chairman Barreiro, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Edmonson, Martinez and Rolle were absent).

Mr. Joseph Goldstein, attorney representing the applicant, appeared before the Board in support of the deferral of the zoning application.

Mr. LaFerrier presented the following application:

1. **KENDALL GREENS PROPERTY, LLC (08-7-CC-1/06-220)**

Mr. Juan Mayol, Holland and Knight, 701 Brickell Avenue, attorney representing the applicant, appeared before the Board, along with the Kendall Greens Charter School Principal, the Architect Planner for the school, the Kimley Horn Traffic Engineer, and a number of parents and neighbors. He proceeded to provide an overview of the applicant's request for a special exception. Mr. Mayol stated the special exception was to increase the number of students for a previously approved charter school; and to modify the declaration of restrictions to submit new plans indicating the proposed increase in the number of students, number of classrooms; and to comply with the Public Works Department's (PWD) recommendation as outlined in the Development Impact Council Memorandum. Mr. Mayol urged the Board to approve this zoning application as recommended by the DIC.

Chairman Barreiro opened the public hearing and the following persons appeared before the Board:

Ms. Yvonne Campbell, 8045 SW 150 Avenue, spoke in opposition to this zoning application and expressed concern regarding the expansion of the charter school, the traffic impact, the lighting on the homes located behind the school, and the increase in the number of students.

Ms. Livia Cuadrado, 3981 SW 122 Court, a Pinecrest Academy South parent, spoke in support of this zoning application.

Ms. Ana Valdes, 13920 SW 148 Place, a Pinecrest Academy South parent, spoke in support of this application and noted the requirement by the charter school for parental involvement.

Hearing no one else wishing to speak before the Board, Chairman Barreiro closed the public hearing.

Mr. Mayol re-appeared in rebuttal and responded to comments made by Ms. Campbell regarding the traffic at the school and that his client would comply with the PWD recommendations for Kendall Greens Charter School (aka Pinecrest Academy), and would stagger the start and dismissal times.

A discussion ensued between Commissioner Diaz and Mr. Mayol regarding the expansion of the school, the increase in the number of the students, the parking at the school, and the staggered times for drop-off and dismissal.

Ms. Fojo noted the DIC gave a positive recommendation for this zoning application request.

Commissioner Sosa expressed concern regarding the charter school deviating from the original plans and from the community's consensus for a small charter school, as well as the impact of staggered times on the community that would create constant traffic in the subject area.

Responding to Commissioner Sosa's comments regarding this zoning request being incompatible with the CDMP, Ms. Fojo stated the former Interim DPZ Director Subrata Basu concluded the noise and traffic this request would generate were incompatible with the surrounding area.

Commissioner Sosa stated she would not support this zoning application request due to the expansion of the school.

A discussion ensued between Commissioner Sorenson, Ms. Fojo and Mr. Mayol regarding the original approved capacity of 600 kindergartens through fifth grade (k-5) students for the charter school. In addition, they discussed that if the charter school or the applicant desired to exceed 600 students they would have to obtain the signatures of 75% of the neighbors who resided within a radius of 100 feet.

Commissioner Sorenson questioned the enrollment for the public schools in the subject area. She asked that this information be included in future zoning application requests for charter schools.

Responding to Commissioner Sorenson's question, Mr. Mayol stated the information referenced by Commissioner Sorenson was in the exhibit he submitted under Tab Number 6.

Discussion ensued between Commissioner Sorenson and Mr. Mayol regarding the future public schools and the capacity of the public schools in the area.

Commissioner Sorenson expressed concern with a charter school discriminating against the students that attended chartered schools. She indicated she did not support this zoning application request.

Discussion ensued between Commissioner Jordan and Assistant County Attorney Armstrong-Coffey regarding the original Declaration of Restrictions ("covenant") and the conditions of that covenant, and the modifications to the covenant.

Assistant County Attorney Armstrong-Coffey stated the request for Special Exception Standards of Section 33-311(A) (3) of the Miami-Dade County Code applied to Board members and required approved by the Board .

Mr. Mayol informed the Board that the developer proffered the original covenant in 2003 to set-aside 2.8-acres of land for a charter school, and in 2004, the DIC approved the subject 2.8-acres for a charter school for 600 k-5 students.

Commissioner Jordan expressed concern regarding the traffic impact to the neighbors. She also expressed concern with the decline in the economy and the potential decrease in private schools' enrollment. She also expressed concern with the Commission setting a precedent for future zoning requests to expand charter schools.

Commissioner Seijas suggested deferral of this zoning application to the July 17th, zoning meeting due to the absence of the commissioner of the district.

Chairman Barreiro announced the Board would table its consideration of this application until later in the meeting.

Mr. LaFerrier presented the following application:

7. SUMMERVILLE CHARTER SCHOOL, INC. (08-7-CC-7/08-38)

Mr. Felix Lasarte, 5835 Blue Lagoon Drive, attorney representing the applicant, appeared before the Board, provided an overview of the requests to increase the amount of students, to increase the grades, and to modify the schedule for arrival and dismissal of the Charter School.

Vice-Chairwoman Jordan asked for any objectors to this zoning application.

Vice-Chairwoman Jordan opened the public hearing. There being no one wishing to speak before the Board, she closed the public hearing.

Commissioner Sorenson stated she did not have enough information from the School Board of Miami-Dade County that indicated the capacity of the public schools in the subject area of this application. She stressed the need to know and to have the information regarding the capacity of existing schools. Commissioner Sorenson expressed that she did not want to see charter schools supplanting public schools. She urged DPZ staff to obtain and to provide the information regarding the capacity of the public schools.

It was moved by Commissioner Sorenson that the foregoing zoning application be deferred pending the School Board submitting information regarding the capacity of the public schools in the subject area of this application. Commissioner Sosa seconded this motion.

Commissioner Diaz questioned whether the County had a policy that required the School Board to be present at the zoning hearing.

Ms. Fojo stated DPZ staff sent the School Board the information on these types of applications. She noted the School Board had not responded to this zoning application. She stated the Board could defer this application to the July 17, 2008, or the September 4, 2008, BCC Zoning meeting. Therefore, DPZ staff along with the School Board could

provide the capacity information for the public schools in the subject area.

Mr. Lasarte stated this charter school operated under the Miami-Dade Public Schools Charter School Facilities. He noted the initial approval for this school was for kindergarten through eighth grade (K-8) with 750 students.

Commissioner Sosa spoke in opposition to the increase in students if the surrounding community did not initially support this request. She noted the applicant should be sensitive to the concerns of this community.

Commissioner Seijas stated she would not support the deferral of this application.

Commissioner Gimenez asked the Department of Planning and Zoning Director to provide information on the current enrollment capacity of the Miami-Dade County public schools located in the surrounding area as part of charter schools' zoning applications.

Mr. Lasarte noted today's (7/3) zoning request was originated by the parents of Summerville Charter School students.

Chairman Barreiro stated that classroom size should be maintained for no more than 20 students per class at this Charter School.

Mr. Mike Strayder, 10320 NW 6 Avenue, Coral Springs, appeared before the Board, and noted in November 2002 Florida voters passed a state constitutional amendment to implement classroom size reduction over a phase-in period from 2003-2010. He stated this charter school intended to adhere to that constitutional amendment.

Commissioner Diaz stated the issue today was charter schools versus public schools adherence to the classroom size amendment.

Discussion ensued among Commissioner Jordan, Mr. Lasarte and Assistant County Attorney Armstrong-Coffey regarding the deferral and any requirement for the School Board to be present at today's (7/3) hearing on this zoning application.

Assistant County Attorney Armstrong-Coffey advised no requirement existed for the School Board to be present and the Board could invite the School Board to be present as part of the public hearing.

In response to Chairman Barreiro's question if the Board could add a provision to the Interlocal Agreement to require the School Board to be present, Assistant County Attorney Armstrong-Coffey stated she would review the Interlocal Agreement and then seek a request to the School Board to be present and to provide input on this zoning application request.

Commissioner Moss stated the commissioner of the district for this zoning request has requested additional information; therefore, he would support the request for deferral of

this application.

Commissioner Sorenson stated she would not defer this application indefinitely and noted her need for additional information to make an informed decision.

The Board by motion duly made, seconded and carried, deferred the foregoing application to the July 17, 2008, BCC Zoning meeting with no further advertisement.

The Board resumed its consideration of Application no. 1.

1. **KENDALL GREENS PROPERTY, LLC (08-7-CC-1/06-220)**

Assistant County Attorney Armstrong-Coffey stated if it was the will of the Board, Commissioner Martinez may be provided with a summary of the testimony given earlier in today's (7/3) meeting.

Commissioner Martinez indicated he reviewed this zoning application thoroughly.

Assistant County Attorney Armstrong-Coffey asked that, prior to the Board vote on this application, Chairman Barreiro invite any objectors or other members of the public to speak and the applicant to summarize this zoning application request.

Chairman Barreiro asked for any persons wishing to speak before the Board in connection to the foregoing application.

Ms. Yvonne Campbell, 8045 SW 150 Avenue, spoke in opposition to this application. She noted the residents in the surrounding community and she was concerned with the traffic impact and the need to increase the population of the charter school. Ms. Campbell noted the surrounding public schools were losing students and they were below capacity. She stated this community was promised a small charter school for grades K-5.

Mr. Juan Mayol summarized the applicant's zoning request and noted the School Board has reviewed and approved this zoning application. He urged the Board to approve this application with the staff's recommendation subject to the conditions requested by the various County departments as contained in the Departmental memorandum.

Commissioner Sosa objected to this zoning application requesting to increase the number of students and to stagger the start and dismissal times for this charter school.

Commissioner Diaz expressed concern with the traffic impact to the subject area.

In response to Commissioner Gimenez' question regarding open space for children to play, Mr. Mayol stated the charter school had a gymnasium and a multi-purpose room.

Commissioner Sorenson expressed concern with the promise made to the community to keep the school a certain size, the capacity and enrollment of the public schools in this

subject area, and the need to have that information from the School Board.

Commissioner Jordan stated the current economy would cause the enrollment in private schools to decline. She concurred with her colleagues regarding the promise to the community for a small school. Commissioner Jordan indicated the covenant reflected a minimum of 300 students and no maximum was noted.

Assistant County Attorney Armstrong-Coffey indicated the initial development covenant had the minimum number of students, and then the DIC approved the charter school with a site plan. She noted the site plan reflected a maximum of 600 students and that was part of this application.

Commissioner Jordan reiterated her concern with the potential harm to public schools and the increased enrollment into charter schools.

Commissioner Heyman expressed concern with the substantial increase of students and the impact to the surrounding area, including the infrastructure. She noted the non-uniform efforts of the independent school buses used by charter schools.

Discussion ensued among Commissioner Moss, Mr. Mayol, Mr. Victoria La Verde, 615 Maleda Avenue, Coral Gables, Florida, Principal, Pinecrest Academy Charter School regarding the staggered start and dismissal times, and the before/aftercare programs.

Mr. Fernando Zuelta, President, Academcia, 6361 Sunset Drive, appeared before the Board, stated the School Board has reviewed and approved this application for 800 students. He further stated the County's role in this application was to review the traffic impact versus the School Board's role to review the need of having a charter school. Mr. Zuelta noted the charter school had a deficit of 653 student stations in this subject area.

Discussion ensued between Commissioner Moss and Mr. Zuelta regarding the property adjacent to the charter school and the potential use of this property for a park.

Following a discussion between Commissioner Martinez, Mr. Zuelta and Mr. Mayol regarding the student enrollment, Commissioner Martinez asked that the request for increase in the number of students be 150 instead of 200 students.

Assistant County Attorney Armstrong-Coffey advised the Board that the foregoing application could be condition to have four staggered start and dismissal times, and be conditioned for an additional 150 students.

Mr. Mayol stated the Public Works Department (PWD) has requested modifications to the site plan to require curbing. He noted that PWD required a modified site plan be submitted by July 31, 2008, and the developer for the applicant would begin the work immediately upon approval of the permit.

Mr. Rolando Llanes, 8323 NW 12 Street, Suite 206, appeared before the Board, and stated he has met with PWD to address the submittal of plans for the curbing and to address on-site improvements.

Commissioner Martinez moved the following:

- That request no. 1 be approved;
- That request no. 2 be approved as modified to provide for an additional 150 students in the site plan;
- That the modification of paragraph 15 be withdrawn;
- That a condition for the following four start and dismissal times be included: 7:00 a.m. to 2:00 p.m., 7:30 a.m. to 2:30 p.m., 8:00 a.m. to 3:00 p.m., 8:30 a.m. to 3:30 p.m.; and
- That Commission approval was subject to the conditions of approval submitted by staff as modified.

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

The foregoing application was adopted by the Board, set forth in the Record of Resolutions, and assigned resolution #Z-18-08.

Commissioner Gimenez asked that in the future the background information for the zoning applications include information for traffic, physical space and recreation area for the students.

Commissioner Edmonson spoke in support of the comments made by her colleagues regarding the submittal of comments from the School Board.

Mr. LaFerrier presented the following application:

4. **UNITED KENDALL LAKES, INC. (08-7-CC-4/07-294)**

Mr. Graham Penn, attorney representing the applicant, appeared before the Board and provided an overview of this application.

Commissioner Martinez, commissioner of the district for this zoning application, asked for objectors to this application.

Chairman Barreiro opened the public hearing. After hearing no one wishing to speak before the Board, Chairman Barreiro closed the public hearing.

Commissioner Martinez made a motion for approval of this zoning application as recommended by the Department of Planning and Zoning. Commissioner Sosa seconded this motion.

In response to Commissioner Martinez' question on the limitation of ten affordable rental housing units, Assistant County Attorney Armstrong-Coffey stated this zoning request would modify a Declaration of Restrictions submitted in conjunction with a previously approved resolution to allow the applicant the alternative to provide ten rental housing units.

The Board by motion duly made, seconded and carried approved this zoning application as recommended by the Department of Planning and Zoning by a vote of 10-0 (Commissioners Rolle, Sorenson and Souto were absent).

The foregoing application was adopted by the Board, set forth in the Record of Resolutions, and assigned resolution #Z-19-08.

Commissioner Moss stated he envisioned more zoning applications of this nature coming forth because of the current housing market. He indicated people were preferring rental housing.

Commissioner Martinez concurred with Commissioner Moss' comments regarding a preference for rental housing.

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

All exhibits submitted for the record at today's meeting were transferred to the care, custody and control of the Planning and Zoning Department.

There being no further business to come before the Board, the zoning meeting adjourned at 12:43 p.m.

Chairman Bruno A. Barreiro

ATTEST: HARVEY RUVIN, Clerk

By: _____
Kay Sullivan, Deputy Clerk