



**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, December 4, 2008
As Advertised

Harvey Ruvlin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Karen Leonard, Commission Reporter
(305) 375-1296



**CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
DECEMBER 4, 2008**

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 10:23 a.m. on December 4, 2008 there being present upon roll call, Chairman Bruno Barreiro, Vice Chairwoman Barbara Jordan, Commissioners Audrey Edmonson, Carlos Gimenez, Sally A. Heyman, Joe A. Martinez, Dennis Moss, Dorrin Rolle, Katy Sorenson, Rebeca Sosa, Natacha Seijas, and Javier Souto; (Commissioner Jose "Pepe" Diaz was absent); Assistant County Attorneys: Craig Coller; Department of Planning and Zoning Acting Assistant Director Maria Teresa-Fojo; Joni Armstrong-Coffey, Department of Planning & Zoning Director Marc LaFerrier; and Deputy Clerks Kay Sullivan and Karen Leonard.

Chairman Barreiro opened the meeting with a Moment of Silence followed by the Pledge of Allegiance.

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

Mr. Marc LaFerrier announced that in accordance with the Code of Miami-Dade County, all items on today's (12/4) zoning agenda had been legally advised, notices mailed and the properties posted. He noted additional copies of the agenda and an official translator was available. Mr. LaFerrier presented the rules of procedure to be followed during today's proceedings.

Responding to Chairman Barreiro's question regarding additions to, deletions from or deferrals on today's agenda, Mr. LaFerrier and noted that DP&Z staff requested application 1 to be deferred as well as application 6. He added that applicants may also request a deferral of application 4 and 5.

1. THOMAS & MICHELLE TORBERT (08-12-CC-1/07-124)

Mr. Miguel Diaz de la Portilla, 121 Ohambra Plaza, Coral Gables, attorney representing the applicant, appeared before the Board and noted he agreed with the request for deferral. He requested to set the hearing date for January 22, 2009, due to the length of time the item had been pending.

Mr. LaFerrier noted that DP&Z was prepared to move the item to January 22, 2009.

Commissioner Moss noted that he would move to defer the item, and he asked whether this issue could be placed on hold until more information was provided. Commissioner Moss noted that his intent was to not have a regular Board meeting on January 20, 2009 because it was the day of inauguration for the new president. He added that a number of people would be absent and he intended to move the zoning hearing to January 22, 2009.

In response to Commissioner Moss' question regarding the number of applications planned for the zoning hearing on January 22, 2009, Mr. LaFerrier noted that tentatively three applications

were scheduled and now one more applicant had requested a deferral would add a fourth agenda item.

Commissioner Moss noted his intent was to move forward with the deferral, but to have the application set for hearing on February 5, 2009 rather than January 22, 2009.

Attorney Diaz suggested that the Board consider allowing his clients, Thomas & Michelle Torbert, to be heard on January 22, 2009 because their application had been pending the longest.

Discussion ensued regarding the decision not to set the date for the zoning hearing.

Chairman Barreiro noted the foregoing application would be deferred today.

It was moved by Commissioner Moss that the foregoing application be deferred to no time certain. This motion was seconded by Commissioner Sosa and upon being put to a vote, passed by a vote of 12-0 (Commissioner Diaz was absent).

Later in the meeting Commissioner Moss noted for the record that he was requesting the foregoing item be deferred to February 5, 2009. There being no objections, the item was deferred to that date.

2. DREAM OF FIELDS GROUP, INC. (08-12-CC-2/08-109)

Mr. LaFerrier presented the foregoing application and noted that no protests or waivers were received on this item.

Chairman Barreiro opened the public hearing

The following members of the public appeared before the Board requesting the appeal be denied with prejudice based on the doctrine of res judicata and lack of standing as rendered by the client:

Mr. Jeffrey Flanagan, attorney with Flanagan and Willard.

Mr. Robert Eber, 10761 SW 104th Street, attorney representing the owner of the property.

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

It was moved by Commissioner Sorenson that the foregoing application be denied with prejudice based on the doctrine of res judicata and lack of standing as rendered by the client's attorney. This motion was seconded by Commissioner Gimenez and upon being put to a vote passed by a vote of 11-0. (Commissioners Diaz and Seijas were absent).

Mr. LaFerrier introduced the following application:

3. RIO'S PET SPA & BOARDING (08-12-CC-3/08-125)

Chairman Barreiro opened the public hearing

Ms. Sharon McDonald Hollis, 512 NE 167th Street, North Miami Beach, attorney representing the applicant, appeared before the Board.

In response to Commissioner Martinez question regarding the request to increase the footage on application 5, Mr. Mayol explained that the request was not to increase the number of students on application 5. He continued to explain that the request was an appeal to the Director's determination regarding the grade levels of the school and his determination that 5th grade should be changed to kindergarten through 8th grade.

Commissioner Martinez noted the issue was the school already had kindergarten through 8th grade.

Commissioner Barreiro noted that he did not want to decide on the zoning hearing date for the foregoing items and he would leave the decision to Chair-Elect Moss.

Commissioner Martinez asked that Chairman Barreiro allow individuals from District 11 who opposed to the deferral of the applications 4 and 5 to speak.

Assistant County Attorney Joni Armstrong-Coffey-change any others like this advised that the speakers could be allowed to make comments and then a member of the Board could motion for deferral of the application.

Commissioner Heyman asked whether any opponents to the foregoing application were present.

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

Commissioner Heyman noted the application was for expansion of an existing business in an unincorporated area. She requested that the application not cause any issues by compromising the designated bicycle lane on West Dixie Highway.

It was moved by Commissioner Heyman that the foregoing application be approved in accordance with recommendations of Community Zoning Appeals Board (CZAB). This motion was seconded by Commissioner Rolle and upon being put to a vote passed by a vote of 10-0 (Commissioners Diaz, Sosa and Seijas were absent).

4. MEADOW VIEW SHOPPING CENTER LLC (08-12-CC-4/08-149)

5. KENDALL GREENS PROPERTY, LLC (08-12-CC-5/08-165)

Mr. Juan Mayol, 701 Brickell Avenue, attorney representing the applicant, requested that the foregoing applications be deferred to February 5, 2009.

Commissioner Martinez noted he visited the site of application 4 and he was not in support of the request to decrease the footage.

The following members of the public appeared before the Board in opposition to the deferral of applications four and five:

Ms. Gertrude Diaz, 15112 SW 81st Street, Kendall

Ms. Yvonne Campbell, 8045 SW 150 Avenue, Kendall

Mr. Mayol gave his rebuttal noting that the appeal was regarding the director's determination of required procedures for that expansion and noted he would have notified the opponents of the deferral had he known of their plans to attend the hearing.. He asked that the application be heard on February 5, 2009 and noted if his client decided not to pursue, he would inform the opponents in advance.

Assistant County Attorney Joni Coffey, for the record, presented the following applications: (4) Meadow View Shopping Center LLC (08-12-CC-4/08-149) and (5) Kendall Greens Property, LLC (08-12CC-5/08-165)

It was moved by Commissioner Martinez that the foregoing application (4) be deferred to February 5, 2009. This motion was seconded by Commissioner Heyman and upon being put to a vote, passed by a vote of 12-0 (Commissioner Diaz was absent).

At the request of Commissioner Martinez, Chairman Barreiro allowed the following individuals to speak for the record before the foregoing applications were deferred:

Ms. Gertrude Diaz appeared before the Board and expressed concern regarding the approval of application 5 because of a safety issue as well as increase in traffic.

Commissioner Martinez welcomed the speakers to come back to the hearing on February 5, 2009, and he pointed out that the school had already increased its grade level to 8th grade.

Ms. Yvonne Campbell appeared again before the Board. She noted she was unaware that the school had 8th grade level because the covenant was signed and released for grades kindergarten through 5th grade. Ms. Campbell also noted that the school she was employed by in the same district had an under-enrollment of 400 students. She expressed concerns regarding construction issues that were addressed at the last Board meeting, but not resolved.

Commissioner Martinez advised both speakers that their comments would be part of the record for the February 5, 2009 BCC Zoning meeting if they chose not to attend.

In response to Commissioner Sosa's request for clarification on whether the declaration of initial approval for construction for the expansion of a grade level in that school would require the neighbor's consent prior to filing a public hearing, DP&Z Acting Assistant Director Ms. Marie Theresa Fojo noted this was correct, and the requirements needed regarding the request to change grade levels prompted the DP&Z Director to make an appeal because the covenant required a minimum of 300 students starting with kindergarten through 5th grade.

Commissioner Sosa asked that the Director of DP&Z to provide the procedures in following up and ensure that zoning changes approved by the Board were complied with, including declarations or covenants, and those terms of the law were followed by the school. She also wanted information on what the penalty would be if schools did not abide by the terms of the law.

It was moved by Commissioner Martinez that application (5) be deferred to February 5, 2009. This motion was seconded by Commissioner Sosa and upon being put to a vote, passed by a vote of 12-0 (Commissioner Diaz was absent).

6. DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING (08-12-CC-6/08-204)

Mr. LaFerrier noted that the foregoing application along with the two carryover items 5J and 8F1D from the BCC December 2, 2008 meeting had been requested to be deferred to February 19, 2009.

Chairman Barreiro noted that the foregoing application would be addressed first and then the Board would reconvene the BCC meeting to address the carryover items.

Commissioner Sorenson requested the public hearing be opened on behalf of the foregoing application that would be deferred in the same manner as items were addressed from District 11.

Chairman Barreiro opened the public hearing.

The following members of the public appeared before the Board in support of the foregoing application:

Ms. Carla Sanchez Sabola, 7410 SW 82 Court, appeared before the Board and she questioned whether the Parks Department could purchase the property if the library and park would not be developed in a period of ten years due to the budget cuts.

Ms. Wendi Norris Director of General Service Administration (GSA) explained that following the acquisition of the property, a detailed site plan would be presented at a public hearing in order to make any revisions.

Ms. Karen Lear, 11000 Galloway Road, also appeared before the Board and noted that she supported the foregoing application.

Mr. Chuck Conkling, 8850 SW 112 Street appeared before the Board and provided photos of trees that were cut down and noted he supported the foregoing application. He also noted that the trees were cut because six parcels were allowed on that property rather than five, which resulted in a sight distance issue, which was decided during a public hearing on October 21, 2004. Mr. Conkling asked that some grass and landscaping be placed in that area prior to the construction of the library.

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

Commissioner Sorenson noted the foregoing application should be deferred because the existing appraisal was old and staff could negotiate a better price for that parcel.

It was moved by Commissioner Sorenson that the foregoing application be deferred in addition to legislative carryover items 5J and 8F1D. This motion was seconded by Commissioner

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

Chairman Barreiro noted that the foregoing application and the carryover items had been opened and closed to the public.

Chairman Barreiro also noted that before closing he would like to reconsider a CDMP application that was approved in the last BCC meeting. He noted for the record that the item would have to be re-advertised and was in District 8 regarding housing lots that were changed into commercial property. He also noted that Council Gautier was present.

Assistant County Attorney Joni Armstrong-Coffey noted the item to be reconsidered from substitute item 3 which had two applications was application 4, which was described by Chairman Barreiro.

Discussion ensued regarding why that item should be reconsidered, with Chairman Barreiro noting that he had looked further into the item and wanted to reconsider his vote.

Assistant County Attorney Joni Armstrong-Coffey advised that the previous vote on the ordinance that incorporated everything was 12-0; however, she agreed with Chairman Barreiro that the specific vote for item 3 was 11-1.

Commissioner Moss recommended that a copy of the item be provided to the Commission and that the item be revisited on a later date so the item could be reviewed and a decision could be made on whether to reconsider the item. He noted he remembered the item, but he was not familiar with the vote and did not know the consequences if the item was reconsidered.

Chairman Barreiro relinquished the Chair to Vice Chairwoman Jordan.

Chairman Barreiro continued explaining the voting process that took place during the CDMP meeting, noting that in order to address that item the Board would have to reconsider the entire CDMP application.

Commissioner Seijas asked for clarification on the number of items involved. She noted she was not clear on the item.

Discussion ensued regarding the issue of whether to reconsider one of the two applications in the ordinance that remained in that particular cycle during the CDMP meeting.

Commissioner Seijas clarified she should have been advised by a representative, an attorney, or DP&Z, and she was not in favor of voting on reconsidering the item.

Commissioner Martinez also noted he was not in favor of voting to reconsider the foregoing item.

Mr. Miguel Diaz de la Portilla, attorney representing the applicant, requested the Board oppose the vote to reconsider the application because this would prolong the process, which would be unfair to the applicant.

Commissioner Souto noted he made the previous motion responsibly and based his decision on how to address that issue on a similar situation that had been resolved. He noted that he felt the previous vote was good and the Board should move forward.

Commissioner Sosa asked that Commissioner Sorenson give some guidance regarding that item because it was in her district and she may have more knowledge of what was needed and the reason for reconsidering the item.

Commissioner Sorenson advised that the foregoing item involved a zoning issue the area located on 117th Avenue and 95th Street, which initially came back as a CDMP issue. She noted that due to the community not wanting the area to be zoned residential, it was zoned commercial. Commissioner Sorenson noted that she had no illusion that the vote to reconsider the item would make an impact.

Vice Chair Jordan noted for the record that she respected the fact that this was a call for reconsideration because a member of the Board wanted to change his vote and she would like to give him the opportunity to do that. She also noted she would not be changing her vote, and she expressed concern regarding additional money needed to advertise if the vote passed.

In response to Vice Chair Jordan's question as to what would happen if the motion to reconsider failed, Assistant County Attorney Coffey noted the initial vote would remain the same.

Commissioner Souto noted for the record that the location of that zoning issue was across the street from his district, which made him a part of this.

It was moved by Chairman Barreiro that item 3 of the CDMP application be reconsidered. This motion was seconded by Commissioner Sorenson and upon being put to a vote, the foregoing motion failed 9-3 (Commissioner Diaz was absent).

Commissioner Sosa gave her condolences to the family of Carlos Alvarado, a guard for Dunbar Armor Truck, who was killed in the line of duty.

Commissioner Sosa requested that staff provide an updated report to the Board regarding the amount of resources available to protect residents and visitors against the high crimes committed during this holiday season. She added that this report should include a plan on how to inform the community of the efforts made by this Board and to notify the Commission if more money was needed for legislative action.

All deferral dates on applications considered during today'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 Department of Planning and Zoning.

There being no further business to come before the Board, the zoning meeting was adjourned at 11:27 a.m.

Chairman Bruno A. Barreiro