

MEMORANDUM

Agenda Item No. 7(A)

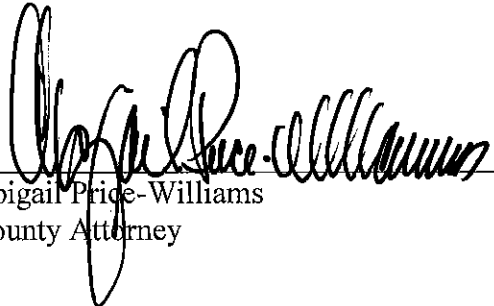
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: (Second Reading 11-7-17)
July 18, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to zoning;
amending sections 33-302 and
33-303 of the Code; amending
regulations for approval of
governmental facilities to
provide for approval of County
facilities where the County
retains jurisdiction in
incorporated areas; reorganizing
existing Code provisions setting
forth the County's zoning
jurisdiction and exemptions for
governmental facilities hearings;
updating definitions

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.


Abigail Price-Williams
County Attorney


APW/cp

Memorandum



Date: November 7, 2017

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Proposed Zoning Ordinance Relating to Governmental Facilities, Amending Sections 33-302 and 33-303 of the Code

Recommendation

It is recommended that the Board of County Commissioners (Board) enact the proposed ordinance relating to the zoning approval process for Governmental Facilities by amending Sections 33-302 and 33-303 of the Code to do the following:

- Allow the Governmental Facility public hearing approval process to be used for County properties within municipalities where the County retains zoning jurisdiction over those facilities;
- Clarify that a Governmental Facility includes facilities that are operated by or on behalf of Miami-Dade County, regardless of ownership;
- Clarify that public housing and homeless shelters owned or operated by the County may be approved as Governmental Facilities and provide more flexibility as to the types of government facilities subject to this process;
- Establish criteria for administrative approval of non-substantial changes to Governmental Facility approvals; and
- Reorganize and clarify the existing code provisions setting forth the County's zoning jurisdiction and the exemptions for Governmental Facility hearings.

Scope

The proposed ordinance has a Countywide impact.

Fiscal Impact/Funding Source

The proposed ordinance is not anticipated to create a fiscal impact to Miami-Dade County, as implementation will not result in additional staffing needs or future operating costs.

Social Equity Statement

Pursuant to Ordinance No. 15-83, no specific social equity benefit or burden can be determined at this time. However, the proposed revisions to the existing Governmental Facilities approval process would facilitate the development of parks, fire stations, police stations, and other County facilities that serve the public interest.

Track Record/Monitor

Implementation of this Section of the Code is administered by Nathan M. Kogon, Assistant Director, Development Services Division, in the Department of Regulatory and Economic Resources.

Background

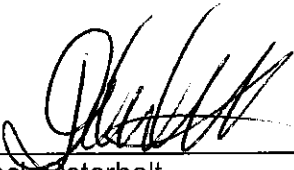
All zoning districts (i.e., residential, business, industrial, etc.) specify allowable uses and standards, such as allowing single-family homes in RU-1 or businesses near residential

neighborhoods in BU-1. The existing Code provides a process for approving public facilities, such as parks, fire stations, police stations, libraries, water and sewer treatment plants, and transit stations in unincorporated areas of the County, where such facilities may not conform to the existing zoning district. The existing process to designate a Governmental Facility sets forth criteria for approval, as well as public noticing and hearing requirements. Upon the conclusion of the public hearing process, the Board approves the designation of a Governmental Facility, as well as the site plan for such project.

The proposed ordinance will allow the Governmental Facility approval process to include public facilities in incorporated areas of the County where the County retains zoning jurisdiction. Without this amendment, and unlike the process in the unincorporated area, approval of County facilities in incorporated areas where the County retains zoning jurisdiction requires a quasi-judicial zoning hearing; the quasi-judicial process limits communications outside of the public hearing between Board members, and both the administration and members of the public.

The proposed ordinance also clarifies that a Governmental Facility may be operated by or on behalf of the County, not just owned by the County. Additionally, the proposed ordinance provides criteria for administrative approval of certain non-substantial changes to Governmental Facility approvals. Finally, the proposed ordinance reorganizes and clarifies the existing code provisions setting forth the County's zoning jurisdiction and the exemptions for Governmental Facility hearings.

In summary, the intent is to facilitate the construction and operation of public facilities that are either owned or operated by or on behalf of the County throughout the County's zoning jurisdiction.



Jack Osterholt
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: November 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
11-7-17

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING SECTIONS 33-302 AND 33-303 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING REGULATIONS FOR APPROVAL OF GOVERNMENTAL FACILITIES TO PROVIDE FOR APPROVAL OF COUNTY FACILITIES WHERE THE COUNTY RETAINS JURISDICTION IN INCORPORATED AREAS; REORGANIZING EXISTING CODE PROVISIONS SETTING FORTH THE COUNTY'S ZONING JURISDICTION AND EXEMPTIONS FOR GOVERNMENTAL FACILITIES HEARINGS; UPDATING DEFINITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated in this ordinance by reference,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-302 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-302. - Definitions.

In construing the provisions hereof and each and every word, term, phrase or part thereof where the context will permit the definitions provided in Section 1.01, Florida Statutes, and Chapter 33 of the Code of Miami-Dade County, Florida, and the following additional definitions, shall apply:

* * *

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (e) Developmental Impact Committee (Committee). The words "Developmental Impact Committee (Committee)" shall mean and refer to the Miami-Dade County Administrative Committee, created by Ord. No. 74-47, adopted on June 18, 1974 >>, and as further described in Section 33-303.1, as may be amended from time to time<<.

* * *

- (g) *Director.* The word "Director" shall mean the Director >>of the<< Department >>, or the Director's designee<< [[of Planning and Zoning]].
- (h) *Department.* The word "Department" shall mean the Department of >>Regulatory and Economic Resources or successor department<< [[Planning and Zoning]].

* * *

Section 2. Section 33-303 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-303. Exclusive procedure >>for zoning in the unincorporated areas or where the County retains zoning jurisdiction in incorporated areas; exception for approval of governmental facilities<<.

- (a) >>Applicability of zoning procedures.<< The procedure>>s<< provided >>in this chapter<< [[herein]] shall be exclusive in the unincorporated area of the County >>and for any airport or seaport properties and other areas where the County retains zoning jurisdiction in incorporated areas of the County. No application for a district boundary change, appeal of administrative decision, special exception, unusual or new use, variance, or other zoning action shall be considered or granted by the Board of County Commissioners or by any County Board except as provided for by this chapter, and shall only be conducted in accordance with the procedure and method so provided.<< [[; provided, however, that]]

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>>(b) Exception; procedure for governmental facilities. Notwithstanding any other provision of this code to the contrary,<< unless a governmental facility is authorized as a designated permitted use in a zoning district, Miami-Dade County and its agencies and authorities shall not be bound by the procedures ~~[[herein]]~~ contained >>in this chapter<< in constructing ~~[[erection]]~~ or operating any governmental facility listed below in the unincorporated area of Miami-Dade County >>or where the County retains zoning jurisdiction in incorporated areas. In the event of a conflict with this Board's Rules of Procedure, the provisions of this subsection shall control.<< ~~[[and the]]~~

>>(1) Governmental facilities enumerated. The<< Board of County Commissioners may >>establish any >>of the following governmental facilities operated by or on behalf of Miami-Dade County<< ~~[[governmental facility listed as follows]]~~ where the Board may direct>>,<< without regard to the zoning or use classification of any particular site or location: public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; >>public housing;<< public hospitals, nursing homes and health facilities; >>homeless shelters;< public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid-waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid-Transit stations and facilities; and >>other governmental facility<< uses >>as<< determined by the Board of County Commissioners ~~[[to be similar to those listed above]].~~

>>(2) Notice and public hearing required.<< ~~[[(b)]]~~ The Board of County Commissioners may only authorize the ~~[[erection;]]~~ construction >>or<< ~~[[and]]~~ operation of the governmental facilities enumerated in ~~[[Subsection (a)]]~~ >>paragraph (1)<< above by resolution following public hearing.

- >>(i)<< The said public hearing shall be held upon at least ~~[[fifteen-]]~~ 15 ~~[[]]~~ days' notice of the time and place of such hearing published in a newspaper of general circulation in Miami-Dade County, which publication shall include the time and place of hearing before the Board of County Commissioners.
- >>(ii)<< A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of ~~[[three hundred-]]~~ 300 ~~[[]]~~ feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder.
- >>(iii)<< To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder.
- >>(iv)<< At the public hearing the Board of County Commissioners shall consider, among other factors, the type of function involved, the public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of the impact of the facility on the surrounding property. After considering these said factors, the Board of County Commissioners shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of Miami-Dade County.

- >>(3) Posting of property.<<[[(+)] In the event the Board of County Commissioners authorizes the construction ~~[[, erection, use]]~~ or operation of a governmental facility in accordance with the procedures delineated above, or in the event the Board otherwise determines that County-owned property >>or property operated by or on behalf of the County<< should be utilized by the County for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The County >>Mayor<< ~~[[Manager]]~~ or designee shall periodically check the property to ensure that the signs provided for in this >>paragraph<< ~~[[subsection]]~~ remain in existence and accurately depict the proposed use of the subject property. This >>paragraph<< ~~[[subsection]]~~ shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the County Commission's action authorizing the use of the property for the designated purposes.
- >>(4) Domestic violence center.<<[[(+)] Any facility which is designated as or intended to be operated as a domestic violence center at the time of consideration, planning, ~~[[erection,]]~~ construction >> << or acquisition, shall be exempt from the notice and public hearing provisions set forth in >>this subsection<< ~~[[Subsection (b) above]]~~.
- >>(5) Deferral by Commissioner. A County Commissioner may request a deferral of any item processed in accordance with this subsection for up to two meetings the first time the item appears on a Board agenda, or the first time the item is raised at a Board meeting, if the impacts of the proposed construction or operation of the governmental facility would be felt exclusively or predominantly in that Commissioner's district. Upon the Commissioner's invoking this right, discussion upon that item shall cease, and the Board shall move to another item of business. The provisions of this paragraph shall be deemed waived unless asserted by a Commissioner

before the Board takes action on the resolution in question.

(6) Administrative Approval of Non-Substantial Change.
For governmental facilities plans approved in accordance with this section, the Director is hereby authorized to approve changes that the Director determines to be non-substantial, as demonstrated by the following factors:

(i) Development density and intensity have not materially changed;

(ii) Design has not materially changed, provided that:

1. Relocation of roadways, including ingress and egress, is determined not to create traffic obstructions and is approved by the Department of Transportation and Public Works or its successor department;

2. Relocation, reconfiguration, or reduction of the parking area and its spaces does not impact adjoining properties, and the Director determines that sufficient spaces for the use are retained;

3. Modification of building setbacks from perimeter property lines does not negatively impact adjoining properties, or the modification is mitigated to a minimize the impact;

4. Reconfiguration of the landscaped open space does not diminish any previously approved buffering or separation from surrounding properties;

5. Modification to walls or fences does not diminish previously approved buffering or separation from

surrounding properties;

6. Conversion of a use, facility, or element to another use, facility, or element remains within the scope of the previously approved plan;
7. Addition of uses, facilities, or elements not shown in the previously approved plans either: do not increase lot coverage, or decrease required open space, by greater than 10 percent; or (ii) consist of uses, facilities, or elements that were described in the resolution, site review committee memo, report, or study presented to the Board in the governmental facility hearing; and
8. relocation or modification of signage remains consistent with the intent of the approved plan in size, height, and class of sign.

(iii) Modifications shall not be eligible for administrative approval in any of the following circumstances:

1. The amount of impervious surfaces approved in the original plan would be increased; or
2. Infrastructure in the public right-of-way or on other properties could be affected, whether the effect is major or minor; or
3. Green space would be significantly depleted; or
4. The proposed modification does not adhere to the original intent of the approved plan.<<

~~[(d) The procedure established by this chapter shall be the exclusive procedure when applicable to any airport zoning regulations in both the unincorporated and incorporated areas of the County, and no application for a district boundary change, change in zoning regulations, appeals of administrative decisions, special exceptions or unusual and new uses or variances shall be considered or granted by any County Board or Commission unless the same is provided for by this chapter and only by the procedure and method so provided; provided, however, the Board of County Commissioners may change the zoning regulations without following the procedure provided therefor in this article; provided, however, that no such change will be made unless the written recommendation of the Director and Zoning Official are first considered by the Board. No special permit shall be considered or granted by any County Board or Commission.~~

(e) ~~A commissioner may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to thirty (30) days the first time the item appears on a commission agenda or the first time the item is raised at a commission meeting if the proposed construction, erection, use or operation of the governmental facility affects that commissioner's district exclusively or primarily. Upon the commissioner's invoking this right, discussion upon that item shall cease and the commission shall move to another item of business. The provisions of this Subsection (d) shall be deemed waived unless asserted by a commissioner before the board takes action on the resolution in question.]~~

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective 10 days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel

APW
D, K