

MEMORANDUM

Agenda Item No. 7(H)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

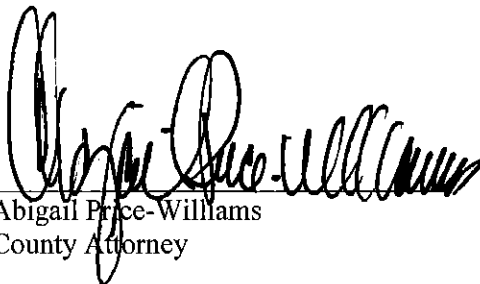
FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to zoning; amending sections 33-311 and 33-314 of the Code; providing jurisdiction for the Board of County Commissioners to directly hear applications for day care or day nursery facilities; expanding jurisdiction for the Board of County Commissioners to directly hear all applications for private schools, as opposed to only applications for private schools of a certain size; making conforming changes to cross-references

This item was amended at the 5-14-19 Infrastructure and Capital Improvements Committee to provide the Board with jurisdiction to hear appeals from the Community Zoning Appeals Boards for applications to approve, expand, or modify (i) day care facilities or day nursery facilities and (ii) private schools other than where this Board has direct jurisdiction. The original item provided the Board with jurisdiction to directly hear such applications.

Rule 5.06(h) of the Board's Rules of Procedure provides that committee amendments shall be uniquely identified in the item itself so as to distinguish committee amendments from the original item, such as by underlining and strike-through in the case of a resolution amended in committee and by double underlining and double strike-through in the case of an ordinance amended in committee, or where such an approach would not clearly show committee amendments or is not practical, by providing footnotes or comments on the item. Based on Rule 5.06(h), the preceding comprehensive description of the differences between the original item and the amended item is provided in lieu of double underlining and double strike-through.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Rebeca Sosa and Co-Sponsor Commissioner Joe A. Martinez.



Abigail Price-Williams
County Attorney

APW/uw

Memorandum



Date: June 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Fiscal Impact Statement for Ordinance Relating to Zoning Jurisdiction

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as it will not result in additional staffing needs or future operational costs. The proposed changes may result in an increase of zoning applications seeking review, which will be absorbed by the Department.

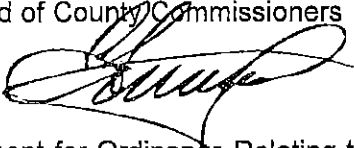
A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

FIS02919 190686

Memorandum



Date: June 4, 2019
To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Social Equity Statement for Ordinance Relating to Board of County Commissioners Zoning
Jurisdiction

The proposed ordinance relating to zoning, amends Sections 33-311 and 33-314 of the Code of Miami-Dade County (Code), providing jurisdiction for the Board of County Commissioners (Board) to directly hear applications for day care or day nursery facilities and expanding the Board's jurisdiction to directly hear all applications for private schools.

The proposed ordinance allows the Board, rather than the Community Zoning Appeals Board, to hear all applications for day nurseries and private schools.



Jack Osterholt
Deputy Mayor

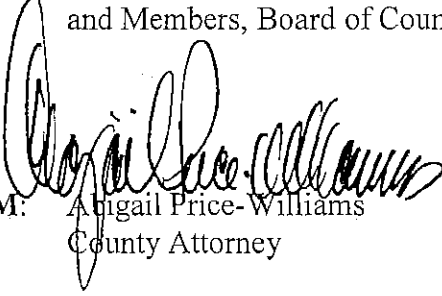
190686



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: 
Angail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(H)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(H)
6-4-19

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING SECTIONS 33-311 AND 33-314 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING JURISDICTION FOR THE BOARD OF COUNTY COMMISSIONERS TO DIRECTLY HEAR APPLICATIONS FOR DAY CARE OR DAY NURSERY FACILITIES; EXPANDING JURISDICTION FOR THE BOARD OF COUNTY COMMISSIONERS TO DIRECTLY HEAR ALL APPLICATIONS FOR PRIVATE SCHOOLS, AS OPPOSED TO ONLY APPLICATIONS FOR PRIVATE SCHOOLS OF A CERTAIN SIZE; MAKING CONFORMING CHANGES TO CROSS-REFERENCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, Chapter 33, Article XXXVI of the Miami-Dade County Code, also referred to as the “Zoning Procedures Ordinance,” provides that the Community Zoning Appeals Boards shall have jurisdiction to hear and approve “special exceptions” and “unusual uses” in accordance with the applicable Code-prescribed criteria and procedures; and

WHEREAS, examples of “special exceptions” and “unusual uses” include, among other things, day nurseries and educational facilities; and

WHEREAS, when located in single-family zoning districts, such uses have impacts that are oftentimes felt beyond the immediate neighborhood and affect a much larger area than the one over which the relevant Community Zoning Appeals Board has jurisdiction; and

WHEREAS, for example, such uses may draw attendees from outside the particular neighborhood where they are located, and can create traffic, roadway, and similar impacts reaching into other parts of the County; and

WHEREAS, this Board currently has jurisdiction to directly hear applications for private elementary, middle, and senior high schools only where the proposed school will serve 500 or more students and have more than 100,000 square feet of building facilities; and

WHEREAS, to ensure that these types of uses are appropriately located and managed for the good of the County as a whole, it is desirable for this Board to hear appeals from the Community Zoning Appeals Boards on applications for day nurseries and private schools, other than where this Board has direct jurisdiction over such applications,

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

Section 1. The foregoing recitals are approved and are incorporated as if set forth herein.

Section 2. Section 33-311 of the Code of Miami-Dade County is hereby amended to read as follows:¹

Sec. 33-311. Community Zoning Appeals Board – Authority and duties.

- (A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310.2. The Community Zoning

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.

Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

- (3) *Special exceptions (for all applications other than public charter schools >>and as provided in section 33-314<<), unusual and new uses.* Hear application for and grant or deny special exceptions, except ~~[[applications]]~~ for (i) public charter schools>>,<< ~~[[and]]~~ (ii) self-service mini-warehouse storage facilities>>, and (iii)<< as >>otherwise<< provided in section 33-314; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses>>,<< and unusual uses>>,<< which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the

Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.

* * *

Section 3. Section 33-314 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 33-314. Direct applications and appeals to the County Commission.

* * *

(C) The County Commission shall have jurisdiction to hear appeals from decisions of the Community Zoning Appeals Boards as follows:

* * *

>>(11) Applications to approve, expand, or modify: (i) day care facilities or day nursery facilities; and (ii) private elementary, middle, or senior high schools (grades K to 12), other than where the

County Commission has direct jurisdiction over such applications.<<

* * *

Section 4. 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 5. 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 6. This ordinance shall become effective ten (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:

James Eddie Kirtley
Dennis A. Kerbel

Handwritten signature in black ink, appearing to be 'APW' with a flourish underneath.

Prime Sponsor: Vice Chairwoman Rebeca Sosa
Co-Sponsor: Commissioner Joe A. Martinez