



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

Board of County Commissioners

Stephen P. Clark Government Center
Commission Chamber
111 NW 1st Street
Miami, Florida 33128

Meeting Date:

January 26, 2006
9:30 A.M. Commission Chambers

Prepared by:

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Madry Sullivan, Director
Clerk of the Board Division

Reporter:

Jovel Shaw, Commission Reporter
(305) 375-1289



Zoning Meeting, Miami-Dade County, Florida, January 26, 2006

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 NW First Street, Miami, Florida at 10:03 a.m., there being present upon roll call, Vice Chairman Dennis Moss, Commissioners Audrey M. Edmonson, Jose "Pepe" Diaz, Carlos A. Gimenez, Natacha Seijas, Katy Sorenson, Rebeca Sosa, Javier Souto, (Commissioners Bruno Barreiro, Barbara Jordan, and Dorrin Rolle were late; and Commissioner Sally Heyman and Chairman Joe A. Martinez were absent); Ms. Dianne O'Quinn Williams, Director, Department of Planning and Zoning; Assistant County Attorney Joni Armstrong-Coffey; Deputy Clerks Kay Sullivan and Chiquita Polite (Minutes completed by Jovel Shaw).

Vice Chairman Moss announced no quorum was yet present to consider the agenda items carried over from the January 24, 2006, BCC regular meeting. Therefore, the Board would begin to consider today's BCC zoning agenda.

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

Department of Planning and Zoning Director Dianne O'Quinn-Williams announced, in accordance with the Code of Miami-Dade County, all items to be heard today had been legally advertised in the newspaper, notices have been mailed, and the properties have been posted. Additional copies of the agenda are 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 there was an appeal from the Community Zoning Appeals Board (CZAB), 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 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 was an official translator present in the chambers for those individuals requiring such assistance.

Vice Chairman Moss asked for any deferrals or withdrawals of zoning applications from today's agenda.

2. CORAL REEF DRIVE LAND DEVELOPMENT, LLC F/K/A: IRWIN POTASH ET AL (05-10-CZ14-1/04-255)

Mr. Juan Mayol, attorney representing the applicant along with Co-counsel Jeffrey Flanagan, appeared before the Board and requested deferral of the foregoing application indefinitely with leave to amend. Therefore, this application would be re-advertised when the application came back to the Board Mr. Mayol stated he would like to meet with the surrounding neighbors regarding issues raised at the CZAB meeting.

Commissioner Sorenson presented a motion to defer the foregoing zoning application indefinitely with leave to amend. The motion was seconded by Commissioner Diaz and upon being put to a vote, passed a vote of 11-0, (Commissioner Heyman and Chairman Martinez were absent).

In response to Vice Chairman Moss' question regarding re-advertisement of this application, Ms. O'Quinn Williams advised notices would be mailed and property posted at the expense of the applicant.

Vice Chairman Moss' recommended the applicant meet with other parties to resolve any issues with the zoning application.

3. 6425 CORPORATION (05-10-CZ10-1/04-431)

Mr. Felix Lasarte, attorney, Holland and Knight, 701 Brickell Avenue, along with Mr. Jose Gonzalez, Codina Consulting, appeared before the Board and requested a deferral of the foregoing zoning application to one of the March 2006, BCC zoning meetings. He asked the Board to allow his client to meet with the surrounding property owners and the DPZ staff regarding this application to explore the opportunity to conduct a charrette for the subject area. Mr. Lasarte informed the Board of mailed notices to the surrounding neighbors informing them of his request for deferral of this application.

Vice Chairman Moss called upon any objectors to this application.

Ms. Lourdes Navarro, 6270 SW 25 Street, appeared before the Board in opposition of the deferral of the foregoing zoning application. She noted the letter Mr. Lasarte mailed was not received until yesterday and she had already made arrangements to appear today before the Board. She urged the Board to move forward and consider this application today.

Commissioner Sosa concurred with Ms. Navarro and asked the Board to hear the foregoing zoning application today.

Hearing no further objections, Vice Chairman Moss called for other request for deferrals or withdrawals of zoning applications on today's agenda; and hearing none he announced the Board would move forward and consider zoning application no. 1.

Ms. O'Quinn Williams presented the following application:

1. ESMERALDA LONDONO WHITTLE (05-9-CZ14-6/05-63)

Ms. O'Quinn Williams noted the DPZ's recommendation for approval of the appeal of the CZAB #14 decision and denial without prejudice of the application.

Following Vice Chairman Moss' request for any representation for the applicant, Ms. Esmeralda Whittle, 18890 SW 152nd Street, applicant, appeared before the Board, in opposition of the appeal.

Following Vice Chairman Moss' request if there was any other information the DPZ would like to put on the record, Ms. O'Quinn Williams advised the Board the property was included in the Comprehensive Development Master Plan (CDMP) as an open land category. She pointed out this particular designation would not allow commercial uses of the type as outlined in the zoning request for a dog kennel. Ms. O'Quinn Williams stated the DPZ was concerned with establishing a precedent for approval of this particular use that was inconsistent with the County's CDMP.

Ms. Whittle expressed her discontent with the DPZ procedures. She explained during the preceding week of today's hearing, she received several phone calls from the DPZ advising her to appear before the Board today. She noted that she received a telephone call on January 24, 2006, by a caller who identified himself as Mr. James Murphy who questioned her to find out if an attorney would represent her at today's hearing; and if the State or the Federal Government was offering to purchase her property. Ms. Whittle stated, for the record, her property was not for sale.

Ms. Whittle informed the Board the CZAB approved the use of the dog kennels on her property in October. She stated the DPZ's recommendation made reference to Miami-Dade County Code, Section 33(B)-25 entitled, "Authorized uses" effective after January 1981. She noted her house was built in 1980 prior to the ordinance which prevented the use of the kennels; therefore, her property should be grandfathered under the old Code. She also noted staff advised her of section 33-311(A) (3) of the Miami-Dade Code that would allow for seasonal agricultural uses which would not apply to her because her property was 2 ½ acres. Ms. Whittle noted the proposed use was not in conflict with the allowable use since the property was grandfathered-in and the established residential use predates the Code section 33(B) and the designation of the Master Plan. She reiterated the size of her property did not support agricultural use. Ms. Whittle stated the noise emanated by the kennel would not affect anyone because she lived in a rural area and there were no close surrounding neighbors.

In response to Vice Chairman Moss' questions regarding land uses and grandfathering of Ms. Whittle's property, Ms. O'Quinn Williams stated the applicant requested an unusual use for a dog kennel on an area of 2 ½ acres and the requirement was 5 acres along with setbacks and spacing requirements. She noted staff had not advertised the request for a variance of the lot area for the house, and staff recognized the house was built in 1979. She indicated staff was aware the house preceded the ordinance enacted but the Miami Dade Code required lots for any use to be at least 5 acres. Therefore, staff had to advertise the 5 acre requirement for the kennel and staff was not questioning the use or the grandfathering of the home. Ms. O'Quinn Williams explained as it related to the telephone calls staff was trying to ensure that Ms. Whittle was going to be present at today's hearing.

Ms. O'Quinn Williams informed the Board of the potential purchase of the property located west of Ms. Whittle by the State of Florida (which is the east Everglades Area of Environmental concern); and that was why Ms. Whittle was advised the State may be interested in purchasing her property. She also apologized for any misunderstandings.

In response to Vice Chairman Moss' inquiry regarding setting a precedent and permits for construction of the kennels, Ms. O'Quinn Williams stated the subject area was inconsistent with the Comprehensive Development Master Plan Open Land Sub-area which would not allow for any use involving animals. She indicated staff could not find any records of permits or certificate of use for the kennels.

Responding to Vice Chairman Moss' request why the DPZ had an objection to this zoning application, Ms. O'Quinn Williams stated the Department's objection was based upon the County's Master Plan which did not allow uses of the type outlined in this zoning request. She noted the Master Plan designation of Open Land restricted uses in those areas and the allowance of a commercial use concerned the DPZ, because it could set a precedent which may precipitate further commercial use. Ms. O'Quinn Williams informed the Board the Code classifies dog kennels as a commercial use.

Commissioner Diaz stated he supported the DPZ's request to appeal the decision of the CZAB #14.

In response to Commissioner Sosa's questions regarding neighbors adjacent to the applicant and clarification on the number of dogs in this zoning application, Ms. O'Quinn Williams stated the Miami-Dade County Environmental Quality Control Board (EQCB) approved the application with conditions and she provided an overview of the conditions. She specifically noted one of the conditions was the number of dogs at the facility shall not exceed 30 at any one time.

Mr. Enrique Cuellar, Chief, Office of Code Coordination and Public Hearing, Department of Environmental Resources Management, informed the Board of the EQCB approval of the zoning variance with conditions.

Further discussion ensued among Board members and staff regarding the conditions set forth by the EQCB.

Mr. Orlando Conde, 18992 SW 152 Street, appeared before the Board and expressed concern with the foregoing zoning application regarding the appearance, the noise nuisance and the ordor (I think you mean odor) coming from the dog kennel on the subject property. He noted he had applied on two occasions for a building permit.

Responding to Commissioner Sorenson's question regarding a clarification of the current use on the subject property, Ms. O'Quinn Williams stated when the property was inspected, staff was not aware of any full-term residency there, only the principal residence. She noted the allowance of a guest on the subject property in this particular zoning district but for only short-term use and not year round. Ms. O'Quinn Williams informed the Board west of this subject property was a grove zoned agricultural structure. She also indicated for Mr. Conde's property there was a 1995 permit issued for a storage shed.

Responding to Commissioner Jordan's comments regarding the kennel, Ms. Whittle provided an overview of the previous and current use of the subject property.

Following Commissioner Jordan's comments regarding if the dog kennel was illegally constructed, Ms. O'Quinn Williams stated the DPZ did not have information from the Department of Animal Services. She noted she would obtain information from the Department of Animal Services and provided that information to the Board, if the Board deferred the foregoing application.

Discussion ensued among Board members regarding the Animal Care and Control Division previously under the Public Works Department and in 2001, the Miami-Dade Police Department took over the operation presently known as Animal Services, the permitted use on the subject property whether legally or illegally, the compliance with Miami-Dade County Zoning Code requirements, and records of Code enforcement for the subject property.

Following this discussion, Ms. O'Quinn Williams noted the Team Metro enforcement history reflects no Code violations.

Responding to comments regarding the construction and operation of the kennel, Ms. Whittle advised she purchased the house with the kennels already in use. She also informed the Board of a number of visits by the Animal Care and Control Division currently known as Animal Services, who never advised her, she needed permits or certificates of use to operate the kennels.

Responding to Commissioner Seijas' question regarding the presence of County's staff at the CZAB hearing, Ms. O'Quinn Williams noted three DPZ staff members who were present at the CZAB meeting and informed of the Department's recommendation for denial of this application.

Following Vice Chairman Moss' comments regarding a determination of whether in the past if a permit was granted by the appropriate body, Ms. O'Quinn Williams recommended the Board defer further consideration of the foregoing zoning application until later in the day to allow staff time to investigate, to gather the information and to present the information to the Board later in the day.

Responding to Commission Jordan's comments, if Mr. Conde's could build on his property, Ms. O'Quinn Williams informed the Board, staff would have to research the records to see if Mr. Conde's property was grandfathered into the ordinance.

Vice Chairman Moss announced temporary deferral of the foregoing zoning application until later in the day upon the submittal of additional information by staff.

Ms. O'Quinn Williams presented the following application:

3. 6425 CORPORATION (05-10-CZ10-1/04-431)

Mr. Lasarte reappeared before the Board along with Michael Fuente, George Lavorow and Jose Gonzalez from Codina, and provided an overview of his client's request for an appeal of the CZAB #10 decision which denied the foregoing zoning application without prejudice. He respectfully requested the deferral of the foregoing zoning application because a set of building plans would not require any zoning variances. Mr. Lasarte reminded the Board of his request to meet with the surrounding neighbors to discuss the beautification in the subject area; and also explore the possibility for the creation of a charrette. He stated, if the Board does not defer this application, he would be willing to remove requests nos. 2, 3 and 5 with the exception of the request pertaining to the right-of-way dedication. Mr. Lasarte stated the CZAB denied this application as presented and noted submittal of petitions at the CZAB regarding this application. He concluded by requesting the deferral or approval of the application without request nos. 2, 3 and 5.

Mr. Robert Lopez, on behalf of 6425 Corporation, appeared before the Board, and spoke in support of the foregoing zoning application.

Ms. Janet Mirabel, 6213 SW 26 Street, appeared before the Board, and spoke in opposition of the foregoing zoning application.

Ms. Pilar Benitez, 2431 SW 63 Avenue, appeared before the Board, and spoke in opposition of the foregoing zoning application. She urged the Board to sustain the CZAB decision for denial of this zoning application.

Ms. Lourdes Naranjo, 6270 SW 25 Street, appeared before the Board, and spoke in opposition of the foregoing zoning application and urged the Board to sustain the CZAB decision. She noted 236 objections to this application filed with the Miami-Dade County Public Works Department. Ms. Naranjo submitted to the Clerk 46 additional objections to the foregoing application.

Mr. Lasarte rebutted the comments made by Ms. Naranjo regarding the intent of the foregoing application and the intent would allow his client to have a professional office. He reiterated the need for a charrette in the subject area on Coral Way. Mr. Lasarte urged the Board to defer the foregoing application.

Vice Chairman Moss announced the public hearing was closed.

Commissioner Sosa informed the Board and Mr. Lasarte of a charrette currently in the subject area. She stressed the need for this subject property to remain residential.

Commissioner Sosa presented and moved a resolution to deny the appeal and sustain the decision of the CZAB #10. The motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed a vote of 11-0, (Commissioner Heyman and Chairman Martinez were absent).

The Board adopted the foregoing resolution and it is set forth in the Record of Resolutions and assigned Z-2-06.

The Board recessed the zoning meeting to convene in a regular session.

Following adjournment of the regular session, the Board reconvened the zoning meeting.

4. HELEN BOREK (06-1-CC-1/05-160)

Mr. Felix Lasarte, 701 Brickell Avenue, attorney, representing the applicant, appeared before the Board and provided an overview of the foregoing zoning application requesting a zoning change on the property from Agricultural District (AU), to Modified Single-Family Residential District (RU-1M (a)).

Vice Chairman Moss called for any objectors to the foregoing zoning application, and hearing no other objectors wishing to speak; Vice Chairman Moss closed the public hearing.

Commissioner Sorenson recognized Mr. Juan Mayol, attorney who was very involved in the discussions with the DPZ Director to ensure connectivity and compatibility to avoid the creation of enclaves.

Following Commissioner Sorenson's comments, Ms. O'Quinn Williams stated the surrounding area was consistent with proposed zoning request.

Responding to Commissioner Sorenson's inquiry regarding any planned parks in the subject area, Ms. Lasarte informed the Board of a planned 10-acre park for this area.

Mr. Juan Mayol, 701 Brickell Avenue, attorney, appeared before the Board and informed the Board of a 10-acre parcel at approximately SW 232 Street and 112 Avenue which is owned by one of his client. He noted discussion with the Miami-Dade Parks and Recreation Department regarding the land set-aside for a school or a park. Mr. Mayol noted the Miami-Dade Public Schools (MDCPS) will not acquire this parcel; therefore, the Parks and Recreation Department had the opportunity to acquire the 10-parcel for the development of a County park.

Responding to Commissioner Sorenson's comments regarding preservation of trees, Mr. Lasarte noted the submittal of a proffered site plan adhering to Department of Environmental Resources Management (DERM) tree preservation requirements.

Following Commissioner Sorenson's request for reassurance for a planned park in the subject area, Vice Chairman Moss announced temporary deferral of the foregoing zoning application until later in the meeting.

Assistant County Attorney Armstrong-Coffey presented the following application:

5. SHORES LAND DEVELOPMENT, INC. (06-1-CC-2/05-294)

Ms. Ines Marrero Priegues, attorney, 701 Brickell Avenue, appeared before the Board, representing the applicant, and noted this zoning application seeks a waiver of the zoning regulations requiring half-section line rights-of-way dedication on a portion of SW 122 Avenue south of SW 248 Street and east of Canal C-102-N.

Following Commissioner Sorenson's request regarding the negative impact to connectivity for this application and the surrounding properties, Mr. Raul Pino, on behalf of Miami-Dade County Public Works Department informed the Board the Department does not enforce connectivity but this subject area does not require a half-section.

Commissioner Sorenson presented and moved a resolution to approve the application under Section 33-31(A) (4) (b) (Non-Use Variance) as recommended by the DPZ. This motion was seconded by Commissioner Diaz and upon being put to a vote, passed by a vote of 8-0, (Commissioners Heyman, Jordan, Sosa, Souto and Chairman Martinez were absent).

The Board adopted the foregoing resolution and it is set forth in the Record of Resolutions and assigned Z-4-06.

Following consideration of the foregoing zoning application, the Board resumed its consideration of the following zoning application:

1. ESMERALDA LONDONO WHITTLE (05-9-CZ14-6/05-63)

Ms. Grisel Rodriguez, Assistant Director, Process and Standards Management, Miami-Dade County Team Metro, and informed the Board Team Metro proactively found a kennel use which was an unusual use without a public hearing. She noted a citation issued in 2004 and there was an affidavit of compliance from the code enforcement officer in April 2005. Ms. Rodriguez stated when an affidavit of compliance was issued it means the use has been discontinued.

Following Commissioner Diaz' comments regarding if a resident had called in reference to this subject property, Ms. Rodriguez stated it was a proactive case by the Team Metro's Environmental Investigation Unit and it was not reported by anyone.

Discussion ensued between Commissioner Seijas and Ms. Rodriguez regarding the violation in 2004 which dealt with a chain link fence and the allowance of the dog kennel on the subject property.

Commissioner Seijas stated the Board should permit the dog kennel up to 30 dogs.

Responding to Vice Chairman Moss' comments regarding applicant's licenses or permits required from the Animal Services Department, Dr. Sara Pizano, Director, Miami-Dade County Animal Services Department, stated Animal Services from 2001 up to 2004 issued a breeder permit to the owner of the subject property which expired in August 2005. She noted the breeder permit allowed the applicant to sell one to five dogs per year. Dr. Pizano informed the Board that staff was researching the records to determine the

issuance of any other licenses or permits to the applicant and present this information to the Board later.

Discussion ensued among Board members and staff regarding the licenses and permits for the subject property.

Ms. O'Quinn Williams stated the zoning supervisor approved a building permit application responding to whether Mr. Conde's applied for building permits. She indicated the permit had to comply with a zoning requirement and no grandfather permit existed.

Ms. Rodriguez informed the Board the subject property on November 23, 2004, was cited for unlawfully establishing an unusual use (kennel) without a prior public hearing. She provided an overview of the process undertaken by Team Metro regarding compliance for the use on the subject property.

Responding to Commissioner Gimenez' inquiry regarding if the County license kennel, Mr. Richard Smith, Animal Services Investigator Supervisor, Miami-Dade County Animal Services, informed the Board of the inspection of the subject property and noted a kennel was located on the property. He provided an explanation of what constitutes a breeder versus a kennel permit.

Dr. Pizano stated she would follow-up with staff to determine which license/permit Ms. Whittle possessed.

Discussion ensued in connection with the previous use on the subject property prior to Ms. Whittle acquiring the subject property.

Vice Chairman Moss presented and moved a resolution to deny the appeal and sustain the decision of the CZAB #14 decision, with the conditions recommended by the Department of Planning and Zoning. Commissioner Diaz seconded the motion for discussion.

Following discussion of the motion and the conditions recommended by the DPZ, Vice Chairman Moss the maker of the motion expressed concern with making sure that the maximum number of dogs was 30, the permitting of the current use and the non-allowance of any other uses unless a permit was obtained.

Ms. O'Quinn Williams provided an overview of the DPZ's recommendation with condition nos. 1, 2, 3, 5 and 6. She indicated condition no. 1 the following language would be stricken "the submittal of an application for a building permit" and replace with the following language as follows: "an application for Certificate of Use."

Vice Chairman Moss amended his motion subject to the following conditions:

- (1) that a site plan be submitted to and meet with the approval of the DPZ Director upon the submittal of an application for a Certificate of Use; and no building permit required for the kennel.

- (2) That the applicant adheres to the plan submitted at the hearing for approval.
- (3) That the use be established and maintained in accordance with the approved plan as prepared by Jose Perez dated 4/28/05.
- (4) That a maximum of 30 dogs be permitted on the premises at any one time as recommended by the EQCB.
- (5) That the applicant obtained a Certificate of Use from and promptly renews the same annually with the DPZ.

Responding to Commissioner Sorenson's comments regarding the exemption of the Department of Environmental Resources Management's requirement, Assistant County Attorney Armstrong-Coffey clarified by Code this applicant would have to comply with environmental regulations in any event. She noted the comment made by Commissioner Sorenson regarding the EQCB order having certain conditions in addition to the limitations of 30 dogs.

Ms. O'Quinn Williams noted one of the conditions by the EQCB was that there be no bathing or grooming of the dogs.

Mr. Cuellar stated the applicant would use pesticides and shampoos that would go into the groundwater.

Responding to the comments pertaining to the EQCB's conditions, Vice Chairman Moss stated if the applicant wanted to change any of those conditions it would require another hearing.

Hearing no further questions or comments, the Board by motion duly made, seconded and carried, and upon being put to a vote, passed by a vote of 9-0, (Commissioners Heyman, Sosa, Souto and Chairman Martinez were absent).

The Board adopted the foregoing resolution and it is set forth in the Record of Resolutions and assigned Z-1-06.

Vice Chairman Moss asked the County Attorney to review the issue making a connection between the land use as well as the permitting use.

The Board resumed its consideration of the following application:

4. HELEN BOREK (06-1-CC-1/05-160)

Ms. Barbara Falsey, Chief of Planning and Research, Miami-Dade County Parks and Recreation Department, appeared before the Board in response to comments made earlier today regarding existing and proposed parks in the subject area of this application.

Responding to Commissioner Sorenson's comments regarding planned parks in the subject area, Ms. Falsey informed the Board there was a covenant for 13-acres of County

Park in this development area. She provided an overview of the status of the contract for this project. Ms. Falsey stated existing parks in the area were Goulds Park, Rock Pit 57 Park, Princetonian Park, Goulds Wayside Park, Lakes by the Bay Park, Black Point Park and Marina, the planned Greenway, Homestead Bayfront Park, and the Homestead Air Reserve Park. She noted the interest in a community park in this area which range from 20 to 30 acres.

Commissioner Sorenson presented and moved a resolution to approve with acceptance of a proffered covenant. The motion was seconded by Commissioner Gimenez and upon being put to a vote, passed a vote of 7-0, (Commissioners Heyman, Jordan, Seijas, Sosa, Souto, and Chairman Martinez were absent).

The Board adopted the foregoing resolution and it is set forth in the Record of Resolutions and assigned Z-3-06.

All exhibits submitted for the record at the day'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, upon motion duly made, seconded and carried, the zoning meeting was adjourned at 12:56 p.m..

Vice Chairman Dennis C. Moss

ATTEST: HARVEY RUVIN, Clerk

By: _____

Kay Sullivan, Deputy Clerk