



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:

April 27, 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:

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CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
APRIL 27, 2006

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 N.W. First Street, Miami, Florida on April 27, 2006, at 9:30 a.m., there being present upon roll call Chairman Joe A. Martinez, and Commissioners Jose "Pepe" Diaz, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Dorrin D. Rolle, Natacha Seijas, Katy Sorenson, Rebeca Sosa, and Javier D. Souto (Commissioners Barreiro, Edmonson, and Moss were absent); Deputy County Manager Pedro Hernandez; Assistant County Attorneys Craig Collier and Joni Armstrong-Coffey; Zoning Land Use Development Division Chief Maria Teresa Fojo (DP&Z); Deputy Clerks Kay Sullivan, Diane Collins, and Mary Smith-York; and COB Clerk Nelson Diaz.

Chairman Martinez asked that a moment of silent meditation be held followed by the Pledge of Allegiance.

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

THE OFFICIAL TRANSLATORS WERE SWORN IN BY THE CLERK PRIOR TO INTERPRETATION OF QUESTIONS ASKED AND TESTIMONY GIVEN.

Chairman Martinez asked if there were any requests for deferrals or withdrawals on today's agenda and the following requests were made:

Attorney Jeffrey Bercow, 200 South Biscayne Boulevard, asked that the Commission allow Application No. 2, Richard Morton, Et. Al., to be heard first on today's agenda.

Department of Planning & Zoning Assistant Director Al Torres requested that Application No. 4, Silver Palm Holdings Of Homestead L.L.C., be deferred to May 25, 2006 due to an error in advertising.

Hearing no further requests for changes to today's agenda, it was moved by Commissioner Sorenson that the request for deferral of Application No. 4 be approved. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Barreiro, Edmonson, and Moss were absent).

Mr. Torres announced, in accordance with the Code of Miami-Dade County, all items to be heard today have been legally advertised in the newspapers, and notices have been mailed and the properties have been posted. Additional copies of the agenda are available in the chambers. Items will be called up to be heard by agenda number and name of the applicant or appellant. The record of the hearing on each application will include the records of 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 of these items are physically present today and available to all interested parties, and available to the members of the Board of County

Commissioners who examine items from the record during the hearing. Parties have the right of cross examination. This statement, along with the fact that all witnesses have been sworn, should be included in any transcript of all or any part of these proceedings. In addition, there is an official translator present in the chambers for those individuals requiring such assistance.

Following the foregoing statement of protocol, Mr. Torres proceeded to read the first item to be heard into the record.

APPLICATION NO. A: LAZARO BOMBALIER (05-9-CZ14-3/04-449)

Assistant Director Alberto Torres read the foregoing proposed application into the record. He noted for the record that the P&Z Department's report incorrectly listed the Community Zoning Appeals Board-14's (CZAB-14) action as denied without prejudice; but that the attached resolution reflected the correct action of denied with prejudice.

Chairman Martinez opened the public hearing and the following individual(s) appeared:

Mr. Tony Reshill (phonetic), 2665 South Bayshore Drive, attorney representing the applicant, appeared before the Board and provided a brief overview of Application No. A. He pointed out that the applicant had proposed a reduction in density to six (6) units and had submitted two (2) covenants: one to the County and one to the neighbors. In response to Commissioner Sorenson's inquiry pertaining to streetlights and sidewalks, he advised that there would be no streetlights or sidewalks.

Mr. Clive Campbell, 12901 SW 188 Street, appeared before the Board and expressed objection to alleged changes in the foregoing application to increase lot size from ½ acre to 1 acre. Upon hearing Mr. Reshill's response that the original application requested 15,000 sq. ft. lots (approx. 1/3 acre) which was changed to 2/3 acre lots, Mr. Campbell maintained his opposition to increasing the lot size.

Mr. Reshill read the following two provisions from the proffered covenant into the record:

- 1) A continuous buffer of 15 ft. mahogany trees at time of planting located at 20 ft. intervals shall be located at south and north property lines;
- 2) The owner acknowledges that the property abuts agriculturally zoned properties on three (3) sides, and the owner, as well as all subsequent owners, tenants, and/or assigns shall not in any way object to, complain, seek to enjoin, or otherwise restrict any bona fide legally permissible agricultural activities upon adjacent properties, either through applicable code enforcement action or in a court of law; the owner, and all subsequent owners, tenants, and/or assigns shall not use vapor lights of any kind, including sodium and mercury vapor lights, or any form of continuous outdoor lighting on the property; there shall be no spillover of light onto adjacent properties.

There being no other persons to appear, Chairman Martinez closed the public hearing.

Assistant County Attorney clarified that the preceding covenant was private and not enforced by Miami-Dade County. She advised that the developer did proffer a separate covenant with the County that addressed the mahogany trees and limited the number and sizes of proposed lots.

Mr. Raul Pino, Miami-Dade Public Works Department (PWD), pointed out that sidewalks would be required along 137th Avenue. In response to Commissioner Sorenson's comment that the residents rejected sidewalks and her question of why sidewalks were required, he noted the sidewalks were required as safe routes to school.

Mr. Tucker Gibbs, representing the neighbors, appeared before the Board and stated that sidewalks already existed on the east side of 132nd Street, and advised that the neighbors objected to sidewalks on both sides of the street.

Mr. Pino noted he would research whether sidewalks currently existed on both sides of 137th Avenue and report his findings to Commissioner Sorenson during consideration of this item.

Commissioner Sosa indicated that the County needed to deviate from its practice of using double standards regarding sidewalks to ensure compliance with Americans with Disabilities Act (ADA) requirements.

Commissioner Diaz concurred with Commissioner Sosa's comments regarding the importance safety and noted sidewalks should be on both sides of the street.

After receiving confirmation from staff that there were no sidewalks along 137th Avenue, Commissioner Sorenson stated that for safety reasons, sidewalks needed to be installed on the exterior roads of this project.

Mr. Torres advised that the appropriate motion in this case would be partial approval of Request No. 4, to waive the sidewalks within the interior of the development and require the sidewalks along the half section line right-of-way.

Ms. Colette Raker, 13251 SW 192 Street, appeared before the Board in support of adding sidewalks on the east side of 132nd Avenue, and stated there currently were no sidewalks in place along SW 132nd Avenue.

Commissioner Souto commented that sidewalks were also important for promoting health and well being, as well as conserving gasoline, since sidewalks made walking more inviting.

Mr. Reshill stated that the agricultural property owners adjacent to the foregoing proposed project had indicated there would be no sidewalks on their property; therefore, the sidewalk would need to end at the applicant's property line.

Mr. Pino noted that whenever the adjacent property decided to develop their property, they would be required to install sidewalks. He advised that not requiring this applicant to install sidewalks would prove detrimental to staff's ability to enforce sidewalk installation with future developers.

Mr. Gibbs suggested that rather than requiring the applicant to build the partial sidewalk to nowhere, the applicant should be required to deposit funds into an escrow account that would be used in conjunction with adjoining projects or reimbursed to the developer if no sidewalks were built in that area within a five-year period.

Mr. Pino advised against Mr. Gibbs' suggestion noting that if the cost to build the sidewalk had increased when it was required, the additional cost would be the tax payers' burden.

Discussion ensued among Commission members, staff, and representatives for the applicant regarding the plan's compliance to EU-S zoning designation. Mr. Torres confirmed that the revised site plan conformed to the requirements for EU-S zoning.

It was moved by Commissioner Sorenson that the Board approve Request No. 1 with a zoning change to EU-S, and Requests Nos. 2 & 3, with acceptance of the covenant; and Request No. 4 as modified to include sidewalks as required on the exterior road. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Barreiro, Edmonson, and Moss were absent). The foregoing resolution has been assigned Resolution No. Z-14-06.

APPLICATION NO. 1: JV INVESTMENTS AT THREE M. LLC F/K/A: THREE M DEVELOPMENT, INC. (06-1-CZ14-2/05-188)

Assistant Director Alberto Torres read the foregoing proposed application into the record.

Chairman Martinez opened the public hearing and there being no one to appear, closed the public hearing. There being no discussion regarding this application, the Board proceeded to vote.

It was moved by Commissioner Sorenson that the Board approve Application No. 1 with acceptance of zoning change to EU-M. This motion was seconded by Commissioner Rolle, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Barreiro, Edmonson, and Moss were absent). The foregoing resolution has been assigned Resolution No. Z-15-06.

APPLICATION NO. 2: RICHARD MORTON, ET AL (06-4-CC-1/05-268)

Assistant Director Alberto Torres read the foregoing proposed application into the record.

Chairman Martinez opened the public hearing and the following individual(s) appeared:

Mr. Jeffrey Bercow, 200 South Biscayne Boulevard, attorney representing the applicants, appeared before the Board in support of the foregoing application. He recognized Mr. Manny Martinez of the Cornerstone Group, Transportation Consultant, Ms. Kathy Sweetapple, Planner Rob Curtis, Co-council Mr. Robert, and colleague Graham Penn, also present today in support of Application No. 2. Mr. Bercow provided an historical overview of prior zoning applications related to the stadium and parcels to the east, west, and south of it, for which the Development of Regional Impact (DRI) Development Order had been amended six times. He noted the

foregoing application related only to the property known as “Dolphin Center South” located at the southeast corner of 199th Street and 27th Avenue in Miami Gardens. Mr. Bercow advised that this application requested to modify the land uses permitted in Dolphin Center South as follows:

- Increase retail to 429,951 sq. ft.
- Reduce trademart to 20,000 sq. ft.
- Reduce office to 25,000 sq. ft.
- Eliminate the hotel and replace with 638 residential units.

Mr. Bercow noted the site plan for this project, along with its related zoning applications, were submitted to the City of Miami Gardens for approval.

Ms. Kathy Sweetapple, transportation consultant for the applicant, appeared before the Board and summarized the results of the transportation impact study for the proposed changes to the DRI Development Order. She noted the results verified there were no increases in trips over the originally approved uses; but that a 500 trip reduction in the A.M. peak hours and a 73 trip reduction in the P.M. peak hours. Ms. Sweetapple advised that the traffic concurrency analysis had been updated to ensure that each count station surrounding the site met standards required. She highlighted the following points relating to proposed roadway improvements:

- Seven signalized intersections from NW 215th Street to Miami Gardens Drive;
- Video detection cameras;
- Three monitoring cameras; and
- Pedestrian streetscape improvements from NW 191st Street to 215th Street.

Ms. Sweetapple noted the approved DRI specified protections for the Crestview community, including the exclusion of extensions into the area, which had remained intact.

Mr. Rob Curtis, Curtis & Kimball Company, 7520 Red Road, appeared before the Board and provided a brief overview of the water and sewer demand, and the sanitary sewer and solid waste generation that would be created by the proposed changes. He noted nominal increases that were below the state’s definition of a significant change.

Mr. Bercow acknowledged a need and vowed to provide further outreach to residents of the community and the neighborhood associations before the application’s projected completion in June 2006. He asked those residents from Miami Gardens attending in support for Application No. 2 to stand and be recognized.

Mr. Torres advised that the revised list of conditions approved by the Developmental Impact Committee (DIC) had been distributed to Commission members and that staff’s recommendation remained unchanged.

Former Commissioner Betty Ferguson appeared as a private citizen before the Board and spoke in opposition to the zoning notice she received pertaining to the substantial deviation determination on property located at 199th Street and 27th Avenue sought by Richard Morton, et. al. She provided the Commission with a petition signed by more than 100 residents requesting that Application No. 2 be deferred until the applicant met with residents and activists in the community to address concerns that further developmental regional impact review was needed.

Mr. Bercow expressed his apologies to Former Commissioner Ferguson in regard to not meeting with her Association, but pointed out that the issue before the Commission today dealt only with whether the proposed changes created significant additional regional impact. He reiterated that the analyses conducted by County staff revealed that no additional regional impacts created by Application No. 2. Mr. Bercow stated his team's commitment to reach out to Former Commissioner Ferguson's associations and the Crestview community before the end of the zoning process and as quickly as possible after this hearing.

Ms. Henrietta Lacy (phonetic), Executive Director, Miami Gardens Junior Chamber of Commerce, 20073 NW 36th Court, appeared before the Board in support of Application No. 2.

Mr. Bercow advised that an agreement had been reached with Miami-Dade County Public Schools which provided that the developer would pay a mitigation fee greater than the approximately \$2.2 million current impact fees.

In response to Chairman Martinez' inquiry on whether having the applicant commit to meet with her association on the coming Saturday, Former Commissioner Ferguson replied this was not acceptable because it would allow the applicant to circumvent a review process necessary for the total impact of the proposed changes to the community.

Ms. Laura Betti (phonetic), 2180 NE 199 Street, Miami Gardens, appeared in support of Application No. 2.

Commissioner Jordan requested four members of the group of the individuals present in support of Application No. 2 to come forth and provide their names and addresses for the record.

Deputy Clerk Diane Collins administered the oath and swore-in the following individuals:
Ms. Bernice Pryce, 115 NW 202 Terrace, Miami Gardens, representing Sharp Towers Development;
Ms. Alice Miller, 175 NE 203 Terrace, Miami Gardens, representing Sharp Towers Development; and
Ms. Marilyn Doberson, 20310 NE 2 Avenue, Miami Gardens, representing Ro-Mont South Development.

There being no other persons to appear, Chairman Martinez closed the public hearing.

Commissioner Jordan indicated her disappointment regarding plans to eliminate the hotel and instead develop dwelling units and noted that because of the increase in the area's size and population, a hotel would be more meaningful to the community. She also expressed concern with the development's impact on schools in the area and provided current statistics supporting the issue of overcrowding. She requested that the Application No. 2 be deferred.

Upon Chairman Martinez' recommendation that this item be deferred to May 25, 2006, Mr. Torres asked that in consideration of potential changes to the advertisement, the motion be amended to allow leave for amendment to the advertisement. He advised that May 25th would be too soon and suggested June 22, 2006.

Mr. Bercow expressed concern that a deferral of this application would adversely impact this project's closing deadlines and asked that the hearing be set for the earliest date possible.

It was moved by Commissioner Jordan that Application No. 2 be deferred to June 22, 2006 with leave to amend. This motion was seconded by Commissioner Souto, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Barreiro, Edmonson, and Moss were absent).

APPLICATION NO. 3: MANUEL & BARBARA DIAZ (06-4-CC-2/05-91)

Assistant Director Alberto Torres read the foregoing proposed application into the record.

Chairman Martinez opened the public hearing and the following individual(s) appeared:

Mr. Miguel Diaz de la Portilla, 2525 Ponce de Leon Boulevard, Coral Gables, attorney representing the applicants, appeared before the Board and provided a brief overview of the foregoing proposed application. He described the area as being 82.64 acres between 248th Street on the north; the Homestead Extension of the Florida Turnpike on the south; 113th Avenue on the eastern boundary; and 119th Avenue on the western boundary. Mr. de la Portilla noted the applicant's proposal was exactly consistent with the future land use plan map, which requested less than six units to the acre. He advised that the applicant was requesting to change the zoning from AU to RU-3M along with a waiver of a required right-of-way requirement of 80-foot width, to allow for 50-foot on a portion of 117th Avenue on the site plan. He further noted no apartments were proposed in the site plan and that the applicant had included a covenant which was before the Board under Tab 1 of the handouts. Mr. de la Portilla displayed a picture of the unique Spanish Colonial styled design of the elevations and noted the bike paths, extensive green areas, a central park that would be developed as a passive park by the developer, and the specimen trees, which would be preserved. He proceeded to describe the dwelling units/townhouses proposed for the area and noted that the school impact was being mitigated by providing for 500 additional student stations at the Silver Palm Charter School on 248th Street. Mr. de la Portilla pointed that a community meeting was noticed and held on April 17, 2006, and that with the exception of a few, the majority of the residents of that community embraced the project into their neighborhood. He mentioned that some residents had circulated a petition against plans for apartment buildings. Mr. de la Portilla read into the record a letter from the Goulds Community Development Corporation in support of this application. He then introduced Ms. Kathy Sweetapple, and asked those present in support of this application to stand in recognition of their support. Mr. de la Portilla reserved the right to call those persons forth to speak in support during the rebuttal argument if he deemed it necessary. He requested that the Board approve Application No. 3.

The following individuals appeared in opposition:

Ms. Lavenia Freemon, 12106 SW 251 Terrace, Biscayne Point Subdivision, appeared and expressed concern with the RU-3M zoning designation being sought by the applicant because it allowed for 12.9 units per acre. She also stated that no Community Council hearing for this proposed application and therefore she did not have sufficient information regarding the impact

to schools. She expressed support for the proposed green spaces and parks, but requested reports from the different departments regarding the impact of this development.

Chairman Martinez asked that Mr. de la Portilla provide Ms. Freemon with the information she requested during today's public hearing.

Mr. Edward Jakowski, 12125 SW 249 Street, appeared and stated he had initiated the petition referenced by Mr. de la Portilla and which contained 87 signatures. He advised that the petitioners were opposed to changing the community to that of an apartment district and to the low number of schools being provided to the area. Mr. Jakowski noted Community Council 15 was currently inactive, pending the two appointments by Commissioner Moss. He asked that this application be deferred and referred to Community Council 15, since the community meeting held by Mr. de la Portilla did not allow for community input.

Mr. de la Portilla reiterated the proposed development's consistency with the density and design compatibility requirements approved by the County Commission and recommended by the DIC.

There being no other persons wishing to speak on this application, the public hearing was closed.

Noting that the applicant offered 500 student stations at a Charter School that was already at 1100 students, Commissioner Sorenson inquired as to what level the proposed school would be.

In response to Commissioner Sorenson's inquiry, Mr. de la Portilla responded that grade levels from Kindergarten through 12 would be conducted in separate buildings on two campuses on two parcels. Regarding the street grids versus cul-de-sacs issue, Mr. de la Portilla noted the proposed site plan could be approved with the condition to modify that section without decreasing the number of homes.

P&Z Assistant Director Torres advised that the modifications could be attached as a condition today, provided the language was flexible enough to allow coordination of the connectivity with the site plan developments that had already been approved.

Following further discussion, it was moved by Commissioner Sorenson that the Board approve the foregoing proposed application with acceptance of the covenant revised to include the requested roadway connectivity changes. This motion was seconded by Commissioner Diaz, and upon being put to a vote, passed by a vote of 9-0 (Commissioners Moss, Edmonson, Sosa, and Barreiro were absent). The foregoing resolution has been assigned Resolution No. Z-16-06.

APPLICATION NO. 4: SILVER PALM HOLDINGS OF HOMESTEAD LLC (06-4-CC-3/05/245)

Assistant Director Alberto Torres read the foregoing proposed application into the record.

Chairman Martinez opened the public hearing and there being no one to appear, closed the public hearing.

It was moved by Commissioner Sorenson that the Board defer Application No. 4 to May 25, 2006. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Moss, Edmonson, Sosa, and Barreiro were absent).

APPLICATION NO. 5: PRINCETON PARK HOMES LLC (06-4-CC-4/05-357)

Assistant Director Alberto Torres read the foregoing proposed application into the record.

Chairman Martinez opened the public hearing and the following individual(s) appeared:

Mr. Mario Garcia Sera, 1221 Brickell Avenue, attorney representing the applicant, appeared before the Board in support of Application No. 5.

There being no other individuals to appear, the public hearing was closed.

It was moved by Commissioner Sorenson that Application No. 5 be adopted. This motion was seconded by Commissioner Sosa, and upon being put to a vote, passed by a vote of 10-0 (Commissioners Moss, Edmonson, Sosa, and Barreiro were absent). The foregoing resolution has been assigned Resolution No. Z-17-06.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 11:33 a.m.

Chairman Joe A. Martinez

ATTEST: HARVEY RUVIN, Clerk of Courts

By: _____
Kay Sullivan, Deputy Clerk