

MEMORANDUM

Agenda Item No. 7(B)


TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 2-6-24)
November 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning procedures; amending section 33-314 of the Code; revising procedures relating to reconsideration of Board action on zoning applications; providing that zoning applications may be reconsidered after initial action and further acted upon at the same meeting under certain circumstances; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001

Memorandum



Date: February 6, 2024

To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive style and is positioned to the right of the printed name.

Subject: Fiscal Impact Statement for Ordinance Relating to Reconsideration of Board Action on Zoning Application

The implementation of this Ordinance will not have a fiscal impact to the County.

A handwritten signature in blue ink, which appears to be "Jimmy Morales". The signature is written in a cursive style and is positioned above a horizontal line.


Jimmy Morales
Chief Operations Officer

Memorandum



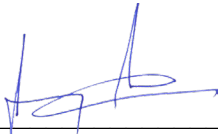
Date: February 6, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Zoning - Revising
Procedures for Reconsidering Zoning Applications

The proposed ordinance amends Section 33-314 of the Code of Miami-Dade County (Code) to revise procedures for reconsidering zoning applications before the Board of County Commissioners (Board). The new procedures would allow the Board to reconsider zoning applications and take further action at that same meeting. Adequate notice must be provided to all interested parties at or before the time of initial action. This ordinance will provide the Board with additional flexibility in deciding zoning applications but may lead to parties no longer being present at the time of reconsideration.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".

Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 6, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

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(B)
2-6-24

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING PROCEDURES; AMENDING SECTION 33-314 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROCEDURES RELATING TO RECONSIDERATION OF BOARD ACTION ON ZONING APPLICATIONS; PROVIDING THAT ZONING APPLICATIONS MAY BE RECONSIDERED AFTER INITIAL ACTION AND FURTHER ACTED UPON AT THE SAME MEETING UNDER CERTAIN CIRCUMSTANCES; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 33-314(D) of the Code of Miami-Dade County provides, in relevant part, that the Board may reconsider its action upon a zoning application “only at the same meeting at which the action was taken and solely for the purpose of avoiding a manifest injustice”; and

WHEREAS, this provision further provides that, “if a motion to reconsider is adopted, no further affirmative action shall be taken until notice of such reconsideration and time and place of final action is provided,” unless such affirmative action is taken “before the next item on the zoning agenda is called for consideration or before a recess or adjournment is called, whichever occurs first”; and

WHEREAS, this Board wishes to amend this procedural requirement to provide that where a zoning application is acted upon, but such action is later reconsidered at the same meeting, the Board may nonetheless take additional action on the application at that same meeting, provided that adequate notice is provided to all interested parties at or before the time of the initial action that such action may be reconsidered and further action on the application may be taken at that same meeting; and

WHEREAS, if such notice is provided at or before the Board first takes action upon the zoning application, then the applicant and interested parties will have actual notice that, notwithstanding such action, further action may be taken that same day, and they can govern themselves accordingly by remaining for the duration of the meeting, if they so choose; and

WHEREAS, modifying the procedural requirements in section 33-314(D) in this manner will provide the Board with additional flexibility and efficiency in deciding zoning applications and provide convenience for applicants and interested parties, while also ensuring that such parties are accorded all necessary notice and due process,

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

Section 1. Section 33-314 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

* * *

(D) >>The following provisions shall govern the Board's consideration and action upon direct applications and appeals:

(1)<< The Board, after hearing why the application should or should not be granted, shall consider the matter in accordance with the criteria specified in this chapter, and shall by resolution either grant or deny the application.

>>(2)<< In granting any variances, special exceptions, new uses>>;<< or unusual uses, the Board [~~of County~~

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.

~~Commissioners]]~~ may prescribe any reasonable conditions, restrictions² and limitations it deems necessary or desirable in order to maintain the plan of the area and compatibility therewith.

>>(3)<< Such action of the Board ~~[[of County Commissioners]]~~ shall be final² provided~~[[7]]~~ no such action shall be taken until notice of time and place of the meeting at which the Board ~~[[of County Commissioners]]~~ will consider and take final action on the application has been first published as provided in >>section<< [[Section]] 33-310 hereof.

>>(4)<< Anything in this article to the contrary notwithstanding, when an application for a district boundary change or special exception, new use, unusual use² or variance is filed by the Director² it will only be decided by the >>Board<< [[County Commission]] after receiving the recommendation of the Director and after the required noticed public hearing, and such decision shall then be final.

>>(5) The following provisions shall govern the Board's reconsideration of action upon zoning applications:

(a)<<Notwithstanding anything in this article or the Code ~~[[of Miami Dade County]]~~ to the contrary, the Board ~~[[of County Commissioners]]~~ may reconsider its action upon a zoning application only>>:

(i)<< in accordance with >>section<< [[Section]] 33-319(k) of this Code >>when an administrative moratorium is in effect;<< or

>>(ii)<< ~~[[only]]~~ at the same meeting at which the action was taken >>as provided in this section or<< [[and]] solely for the purpose of avoiding a manifest injustice.

>>(b)<< Except as otherwise specified >>in this section<< [[hereby]], if a motion to reconsider is adopted, no further affirmative action shall be taken until notice of such reconsideration and time and place

of final action is provided in accordance with >>section<< [[Section]] 33-310 hereof[; provided, however, that such]>>.

(c) It is provided that<< affirmative action may be taken >>after reconsideration either:

(i) where the motion to reconsider was adopted, and such affirmative action is taken,<< before the next item on the zoning agenda is called for consideration >>and<< [[ø]] before a recess or adjournment is called[; ~~whichever occurs first~~]>>; or

(ii) at any time during the same meeting, provided an announcement is made, at or before the time that the Board first takes action upon an application, advising the applicant and interested parties that such action may be reconsidered and additional action may be taken on the application at that same meeting, notwithstanding the initial action taken<<.

* * *

Section 2. 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 3. 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 4. 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

Prime Sponsor: Senator René García