

ORDINANCE No. 2008-15-151

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY BRANNOCK RUDD, ET AL., FOR THE REZONING OF CERTAIN PROPERTY FROM RU-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, AND RU-5A, SEMI-PROFESSIONAL OFFICE DISTRICT, TO BU-2, SPECIAL BUSINESS DISTRICT, FOR CERTAIN PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF NORTHWEST 27TH AVENUE, BETWEEN NORTHWEST 173RD TERRACE AND NORTHWEST 175TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Brannock Rudd, et al. ("Applicant"), owns certain property located on the West side of 27th Avenue between Northwest 173rd Terrace and Northwest 175th Street, and

WHEREAS, the Applicant seeks approval to rezone the property from RU-1, Single-Family Residential District, and RU-5A, Semi-Professional Office District, to BU-2, Special Business District, and

WHEREAS, the City Council has held public hearings on the application on March 5 and April 2, 2008, and

WHEREAS, the City's Planning and Zoning staff has made a determination that the Application is consistent with the Comprehensive Development Master Plan and recommends approval of the Application subject to certain conditions, and

WHEREAS, the City Council has considered the testimony of the Applicant, if any, and

WHEREAS, the City Council has also considered the testimony of the City's Planning and Zoning staff and the Staff Report attached hereto as Exhibit "B" and incorporated herein by reference,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by Applicant for the rezoning of property generally located on the West side of 27th Avenue, between 173rd Terrace and Northwest 175th Street, more particularly described on Exhibit "A" attached hereto from RU-1, Single-Family Residential District, and RU-5A, Semi-Professional Office, to BU-2, Special Business District.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

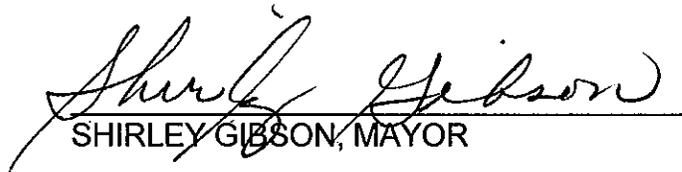
SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made

a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 5TH DAY OF MARCH, 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 2ND DAY OF APRIL, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert
SECONDED BY: Councilman Campbell

VOTE: 5-0

Ordinance No.2008-15-151

Mayor Shirley Gibson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Vice Mayor Barbara Watson	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Out of town
Councilman Melvin L. Bratton	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Aaron Campbell	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilwoman Sharon Pritchett	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Councilman André Williams	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Oliver Gilbert III	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	

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City of Miami Gardens

1515 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice-Mayor Barbara Watson
Councilman Oliver Gilbert III
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams

Agenda Cover Page -- Brannock Rudd et al. Rezoning

PH-2007-000018

(Second Reading)

Date: April 2, 2008

Fiscal Impact: No Yes

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes No

Sponsor Name/Department: City Manager via Planning and Zoning

Public hearing

Ordinance

1st Reading

Advertising requirement: Yes No

Quasi-Judicial

Resolution

2nd Reading

ORDINANCE NO. 2008 –

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY BRANNOCK RUDD, ET AL., FOR THE REZONING OF CERTAIN PROPERTY FROM RU-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, AND RU-5A, SEMI-PROFESSIONAL OFFICE DISTRICT, TO BU-2, SPECIAL BUSINESS DISTRICT, FOR CERTAIN PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF NORTHWEST 27TH AVENUE, BETWEEN NORTHWEST 173RD TERRACE AND NORTHWEST 175TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

This Ordinance was approved on the First Reading by a vote of 6-0. The motion approved the district boundary change from RU-1, and RU-5A to BU-1A in lieu of the requested BU-2. The applicant concurred with the recommendation of staff. The applicant withdrew Lot 6 from the application, which was approved by a vote of 6-0.

Attachments:

Ordinance

Exhibit "A" Legal Description

Exhibit "B" Staff Recommendation

9-C) ORDINANCE
SECOND READING
APPROVING THE APPLICATION
SUBMITTED BY BRANNOCK RUDD, ET AL.

Exhibit "A" Legal Description

1. 34-2109-002-1570 - 9 52 41 MYRTLE GROVE PB 53-90 LOT 5 BLK 8 LOT SIZE 75.000 X 110 OR 16925-3048 0995 4 F/A/U 30-2109-002-1570
2. 34-2109-002-1560 - 9 52 41 MYRTLE GROVE PB 53-90 LOT 4 BLK 8 LOT SIZE 75.000 X 110 OR 20995-2528 0103 1 F/A/U 30-2109-002-1560
3. 34-2109-002-1550 - MYRTLE GROVE PB 53-90 LOT 3 BLK 8 LOT SIZE 75.000 X 110 OR 13440-1720-0987 3 F/A/U 30-2109-002-1550
4. 34-2109-002-1540 - MYRTLE GROVE LOT 2 BLK 8 PB 53-90 LOT SIZE 75.000 X 110 F/A/U 30-2109-002-1540 COC 25432-2383 03 2007 4
5. 34-2109-002-1530 - MYRTLE GROVE PB 53-90 LOT 1 BLK 8 LOT SIZE 85.800 X 110 OR 20437-0627 0502 4 F/A/U 30-2109-002-1530 COC 22793-3698 10 2004 1

STAFF RECOMMENDATION
PH-2007-000018 Public Hearing for Brannock Rudd et al.
(Second Reading)

Applicants: Brannock Rudd et al.
 Site Location: 17330, 17340, 17400, 17410 & 17430 N.W. 27th Avenue
 Property Size: ± 1.00 Acres (5 lots)
 Future Land Use: Neighborhood
 Existing Zoning: RU-1, Single Family Residential District on Lots 1,2,3,5 & 6
 RU-5A, Semiprofessional Office District on Lot 4
 Requested Action: DISTRICT BOUNDARY CHANGE from RU-1, Single Family Residential District and RU-5A, Semiprofessional Office District to BU-2, Special Business District.

Recommendation

Recommend that City Council adopt Ordinance to change the zoning district boundary from RU-1, Single-Family Residential District and RU-5A, Semiprofessional Office District to BU-1A, Limited Business District, instead of BU-2, Special Business District as requested by the Applicant.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use Map
Site	RU-5A (Lot 4);RU-1 (Lots 1,2,3,5&6)	Residential & Office Uses	Neighborhood
North	TCZD, Town Center District	Retail Commercial	Commerce
South	RU-1, Single-Family Residential	Single-Family Dwellings	Neighborhood
East	BU-1A, Limited Business District	Retail Stores	Commerce
West	RU-1, Single-Family Residential	Single-Family Dwellings	Neighborhood

The subject properties are located on the west side of N.W. 27th Avenue, between N.W. 173rd Terrace and N.W. 175th Street. The subject properties are zoned RU-1, but through various use variances at the County, were individually allowed to accommodate semiprofessional office uses. See Zoning History. The properties immediately to the north, along N.W. 27th Avenue, are in the Town Center Zone District (TCZD) and are developed with commercial uses with single family residential uses located west of NW 27th Avenue. The properties to the south, along N.W. 27th Avenue, are zoned RU-1 and comprise a mixture of single-family residences, office and religious uses. The properties to the east, across from N.W. 27th Avenue, are zoned BU-1A and contain a mixture of retail uses. The properties adjacent to and immediately west of the subject lots are zoned RU-1 and have all been developed with single-family residences.

Zoning History

Over the last forty years, the properties along this block face have been the subject of many use variance, unusual use and rezoning applications to permit the conversion of the originally built single-family residences into single-tenant office buildings. The first zoning action dates back in August 19, 1963 when the Metropolitan Dade County Zoning Appeals Board (MDCZAB) passed and adopted Resolution 2-ZAB-380-63, approving a use variance to permit a doctor's office in Lot 2 of said Block 8. In September 1978, the Board of County Commissioners (BCC) overruled Resolution 4-ZAB-136-78 by the Metropolitan Dade County Zoning Appeals Board and ratified Resolution No. Z-204-78, approving an unusual use to permit a palmistry studio on Lot 6 of the block (adjacent to, but not part of this application). In 1980, through Resolution 4-ZAB-126-80, the MDCZAB approved a use variance as well as certain non-use variances of dimensional requirements on Lot 3 to permit an insurance office. In 1989 and 1992, that same lot was granted two other use variances to accommodate a plumber's office and an advertising, notary public, shopper's information services and manufacturers' agent office, respectively. (See Resolution Nos. 4-ZAB-146-89 & 4-ZAB-107-92, attached). In 1996, Brannock Rudd of Tax Clinic, Inc. was granted a use variance along with certain non-use variances of dimensional requirements by Resolution 5-ZAB-340-96 to permit an accountant, attorney, real estate and mortgage broker office on Lot 2. Finally, on April 7, 2004, pursuant to Resolution No. 2004-52-103-Z-14, the City Council of the City of Miami Gardens approved an application by Angelo and Susan LaVecchia to rezone Lot 4 from RU-1 to RU-5A, Semiprofessional Office District.

Background/Project Information

The subject properties comprise five (5) single-family residential lots and cover approximately 1.0 acre. These individually owned properties were originally developed as single-family dwellings, but through various zoning actions, were allowed to accommodate nonresidential, semiprofessional office uses. As shown in the land use table, all five (5) lots on the block face are zoned RU-1, at the exception of Lot 5, which has been rezoned to RU-5A in 2004. Mr. Brannock Rudd, who owns Lot 1, has, in concert with the owners of the remaining properties on the same block face, applied to rezone these lots to BU-2, Special Business District. The Applicant's letter of intent does not identify specific proposed uses, commercial or otherwise.

Comprehensive Development Master Plan (CDMP)

The site is designated Neighborhood on the Future Land Use Map of the Future Land Use Element of the City of Miami Gardens Comprehensive Development Master Plan (CDMP).

Objective 1.2 The "Neighborhood" Land Use Designation states:

"The Neighborhood land use designation applies to areas intended for low and medium density residential development with supporting commercial and office uses. The designation of Neighborhood is specifically intended to protect single family homes from encroachment or intrusion from incompatible uses."

And:

Policy 1.2.1 states:

"Uses consistent with the Neighborhood land use designation shall primarily include low and low medium density residential uses. Medium and medium high densities, suburban commercial and office, and mixed-use planned uses may be permitted subject to the performance criteria set forth in this Plan."

The performance criteria set forth in the plan for Suburban commercial and office is stated in Policy 2.1.3. as follows:

"Purpose. Nonresidential Single Uses, in the form of Suburban Commercial and Office developments, which are designed to accommodate retail sales and services, professional offices and other similar activities, may also be permitted in this land use designation."

"Site Size: Suburban Commercial and Office Development should be smaller than five (5) acres"

The area proposed to be rezoned covers approximately 1.2 acres.

"Uses: Typical permitted uses include retail sales and services, professional offices, restaurants and pharmacies"

The staff-recommended BU-1A, Limited Business District is designed to accommodate retail and service convenience facilities necessary to satisfy the essential and frequent needs of the adjacent residential neighborhood.

"Floor Area Ratio (Intensity): .5 maximum"

The FARs of the existing structures are .35.

"Height: Up to an average height of four (4) stories"

The existing buildings on the property comprise all one (1) story.

"Access: Frontage on one (1) Arterial or adjacent to an intersection of two (2) Collectors or higher"

The site has frontage on N.W. 27th Avenue, which is classified as a principal arterial on the Future Land Use and Functional Roadways Classification Map of the CDMP.

While the site is located on an Arterial roadway and would appear to be appropriate for large scale commercial uses and a "Commerce" land use designation, it is designated "Neighborhood" to more closely reflect the particular configuration of lots and existing layout of existing buildings on the individual sites that front NW 27th Avenue. The site is comprised of small lots designed for single family dwellings. These lots are not adequate in size for more significant and larger commercial activities due to their small size and shallow depth. There is

insufficient room for parking and traffic circulation activities associated with regional, more large-scale commercial activities.

The City's CDMP recognizes with appropriate supportive policies that the NW 27th Avenue Corridor is planned for an extension of Miami-Dade County's MetroRail commuter transit system. The system is planned to be located along the west side of N.W. 27 Avenue abutting the subject property. The MetroRail design provides for an elevated track system and does not adversely affect future access to the site.

Conclusion:

Given the existing Neighborhood land use designation and the specific small-scale characteristics of the site, the site is most feasible for neighborhood scale uses associated with the BU-1A zoning designation which is intended for retail and service convenience facilities necessary to satisfy the essential and frequent needs of the adjacent residential neighborhood. The rezoning to BU-1A would be consistent with the Neighborhood designation which provides for Suburban Commercial and Office development subject to certain criteria of which the site is in conformance.

Analysis and Zoning Criteria:

Section 33-311(A)(8) of the Zoning Code states that the City Council has the authority to:

"Hear and grant or deny applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis except where the (City Council) direct jurisdiction."

In accordance with Section 33-311 (F), in evaluating an application for a district boundary change, the Council shall take into consideration, among other factors:

"Detriments or benefits shall not be denied consideration on the grounds that they are indirect, intangible or not readily quantifiable. In evaluating the application, among other factors related to the general welfare, whether, and the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for (the City of Miami Gardens), Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of (the City of Miami Gardens), including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*

- (3) *The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of (the City of Miami Gardens), Florida;*
- (4) *The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*
- (5) *The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways."*

Copies of the permitted uses for the requested BU-2, Special Business District and the less intensive BU-1A, Limited Business District are provided as attachments to this report. Given the Neighborhood Future Land Use Designation as well as the difference in the permitted uses between the two zoning districts, rezoning to BU-1A, instead of BU-2 is recommended. BU-2 allows, in addition to the retail and service convenient facilities necessary to satisfy the essential and frequent needs of the adjacent residential neighborhood, more large-scale regional commercial uses. In reviewing the BU-2 permitted uses, all but two (2) of the permitted uses in the BU-2, as compared to those in the BU-1A district, would not be permitted without the granting of variances. The two (2) additional uses gained with the BU-2 zoning are "Liquor package stores" and "pubs and bars". The addition to these two (2) uses is not justification for the BU-2 zoning, nor do such uses comply with the intended uses for suburban commercial and office development in the Neighborhood land use designation.

The recommended BU-1A zoning in lieu of the BU-2 zoning also considers existing BU-1A zoning districts already established to the east, as well as the existing character of RU-5A, Semi-professional office zoned properties. BU-1A would permit appropriate convenience neighborhood retail and services while minimizing potential adverse impacts on the surrounding area, consistent with zoning criteria and CDMP policies set forth above.

Conclusion:

Review of this rezoning request indicates that the criteria set forth in Section 33-311(A)(8) of the Code are met with a BU-1A designation, in lieu of the requested BU-2 designation. As outlined above, the recommended BU-1A designation is not detrimental to the area and does not conflict with the basic intent and purpose of the zoning, land use and subdivision regulations.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.

Traffic Circulation: Access to the existing properties will remain from the frontage road adjacent to N.W. 27th Avenue. There is no proposed change of use or development of the

subject property at this time. The requested rezoning will have a de minimus impact on existing traffic conditions: no significant average vehicle trips generation increase is expected.

Public Notification/Comments

In accordance with the Zoning Code, notification of this rezoning request was mailed to property owners within half a mile ($\frac{1}{2}$) of the subject site to provide them an opportunity to comment on or object the application if they so choose. No comments were received from any of the property owners within that radius. (See Mailed Notice Radius Map, attached).

This recommendation to approve this application shall not be construed to be a final development order.

Attachments:

- Public Hearing Checklist**
- Letter Of Intent**
- Hearing Map-Zoning**
- Hearing Map-Aerial**
- Mailed Notice Affidavit**
- Mailed Notice Radius Map**
- Resolution 2-ZAB-380-63**
- Resolution 4-ZAB-136-78**
- Resolution Z-204-78**
- Resolution 4-ZAB-126-80**
- Resolution 4-ZAB-146-89**
- Resolution 4-ZAB-107-92**
- Resolution 5-ZAB-340-96**
- Resolution No. 2004-52-103-Z-14**
- Surveys**
- BU-1A Permitted Uses**
- BU-2 Permitted Uses**
- Transmittal Confirmation**