

**CITY OF MIAMI GARDENS
REGULAR ZONING MINUTES
MARCH 7, 2012**

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

The City Council for the City of Miami Gardens, Florida, sitting as the Zoning Board met in regular session, Wednesday, March 7, 2012, beginning at 7:19 p.m., in the City Council Chambers, 1515 NW 167th Street, Building 5, Suite 200, Miami Gardens, Florida.

The following members of the City Council were present: Mayor Shirley Gibson, Vice Mayor Aaron Campbell Jr., and Council members Lisa C. Davis, Felicia Robinson and David Williams Jr. Council members Andre Williams and Oliver G. Gilbert III were not present.

Motion offered by David Williams Jr., seconded by Councilwoman Davis to excuse the absence of Councilman Andre Williams. This motion passed and carried by a unanimous vote.

Motion offered by Councilwoman Robinson, seconded by Councilwoman Davis to excuse the absence of Councilman Oliver G. Gilbert III.

2. INVOCATION:

Delivered by Vice Mayor Campbell

3. PLEDGE OF ALLEGIANCE:

Recited in unison

4. APPROVAL OF MINUTES:

4-A) Regular Zoning Minutes – December 7, 2011

Motion offered by Councilwoman Davis, seconded by Councilman David Williams Jr., to approve the minutes, with necessary corrections, if any. This motion passed and carried by a unanimous voice vote.

**5. AGENDA ORDER OF BUSINESS
(ADDITIONS/DELETIONS/AMENDMENTS) BUSINESS (Items shall be pulled
from the Consent Agenda at this time):**

Motion offered by Councilman David Williams Jr., seconded by Councilwoman Robinson to approve the official agenda, as presented. This motion passed and carried by a unanimous voice vote.

6. PRESENTATION(S):

None

7. CONSENT AGENDA:

RESOLUTION NO. 2012-35-1630-Z-116

- 7-A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ACCEPTING THAT CERTAIN DEDICATION OF A 25.0 FOOT WIDE PASSIVE PARK EASEMENT FROM AMERICAN TOWER, INC., FOR THE PROPERTY LOCATED AT 390 NORTHWEST 210TH STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-36-1631-Z-117

- 7-B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE “PENTAB SUBDIVISION” FINAL PLAT SUBMITTED BY PENTECOSTAL TABERNACLE INTERNATIONAL, INC., FOR THE PROPERTY LOCATED AT 621 NORTHWEST 183RD STREET MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-37-1632-Z-118

- 7-C) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, SUPPORTING THE RELEASE OF DEED RESTRICTIONS IMPACTING THE PERMITTED USES AND DEVELOPMENT FOR THE PROPERTY GENERALLY LOCATED AT 17300 NORTHWEST AVENUE 7TH ROAD, MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-39-1633-Z-119

- 7-D) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA EXPRESSING THE CITY’S POSITION REGARDING THE PALMETTO EXPRESSWAY PROJECT DEVELOPMENT AND ENVIRONMENTAL STUDY CURRENTLY BEING PREPARED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION; DESCRIBING THE CITY’S VISION FOR THE NW 167TH STREET FRONTAGE ROAD; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS;

PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-39-1634-Z-120

- 7-E) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA CANCELLING THE APRIL 4, 2012 ZONING MEETING; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Motion offered by Vice Mayor Campbell, seconded by Councilwoman Davis to approve the Consent Agenda.

There being no discussion, the motion to approve passed and carried by a unanimous voice vote.

8. FIRST READING (ORDINANCE)/PUBLIC HEARING(S):

None

9. ORDINANCE(S) SECOND READING/PUBLIC HEARING(S):

None

10. RESOLUTION(S)/PUBLIC HEARING(S):

RESOLUTION NO. 2012-40-1635-Z-121

- 10-A) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY MARIA NOYA AND JUAN RODRIGUEZ TO ALLOW A REAR SETBACK OF A PRINCIPAL BUILDING OF 9.36 FEET WHERE 25.0 FEET IS REQUIRED, FOR THE PROPERTY LOCATED AT 1871 N.W. 152ND STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Mayor Gibson opened the floor for this public hearing.

Henrique Ruiz, interpreter for the applicant appeared before the Council to present the application. He said when the property owner purchased the property they were not aware of the illegal setback. He said the structure was build in 1963, and was applicable to the building code at that time. He quoted a provision in State Law and stated that this particular issue should have been grandfathered in because it was built at the time this law was applicable.

There being no other interested parties to speak on this item, the public hearing closed.

ZONING MINUTES – MARCH 7, 2012

Motion offered by Councilman David Williams Jr., seconded by Councilwoman Davis to approve this item.

Mayor Gibson asked staff whether they had seen this information prior to this meeting.

Cyril Saiphoo, Zoning Administrator in response to Mayor Gibson's inquiry said staff was not provided with this information prior to this meeting.

Roderick Potter, Code Compliance Division Director appeared before the City Council to expound on this issue. He shared the Housing Inspector visited the property to perform the Re-Occupancy Inspection. During this inspection the Housing Inspector found violations. The property owner representative was advised of the violations at that time. No documentation was presented at that time to indicating this was a permitted use.

Attorney Dickens clarified that the applicant was saying that in this particular case, the property is grandfathered in. The applicant has indicated that the structure was built in 1963, and at that time it was in compliance with the existing building code. No evidence of that claim has been presented here tonight. What staff is saying is that it is a non-conforming use, not grandfathered in and built, to staff's knowledge without the proper permits, at the time.

Vice Mayor Campbell asked the applicant what document did they have to show this structure was permitted by Miami-Dade County.

The applicant indicated that he has floor plans that indicated Miami-Dade County had approved the structure.

Vice Mayor Campbell asked whether staff would review the floor plans to see if in fact, the structure was permitted.

Mr. Saiphoo said from staff's observation, which is also shown in photographs of the surrounding area, the houses are set back twenty-five (25) feet, not nine (9) feet.

Attorney Dickens explained the whole purpose of the Re-occupancy Program, sponsored by Councilman Andre Williams, was so that people will know before they purchase that there are issues. Therefore, the potential property owner is notified before they purchase.

Mayor Gibson asked when would that process apply to the potential buyer.

Mr. Potter said that process would apply at the very beginning. There can be no conveyance of property until the inspection and the certificate is issued. In this situation the property owner came in after purchasing the property. Once the property was purchase the property owner requested the re-occupancy certification, which required an inspection.

Mayor Gibson asked whether the buyer of this property came to the city prior to the sale to get the property inspected.

ZONING MINUTES – MARCH 7, 2012

Mr. Potter in response to Mayor Gibson’s inquiry said, “No.”

Manager Crew asked how would the potential buyer know to come to the city to request this inspection.

Mr. Potter in response to the City Manager’s inquiry said the lenders and title companies have been notified of this requirement.

Attorney Dickens indicated the title companies and lenders can be cited for violating the City’s Code, especially if they transfer or purchase property.

Councilman David Williams Jr., asked whether the City would be citing those lending institutions that are violating the city’s code.

Manager Crew in response to Councilman David Williams Jr., said staff would take care of that.

There being no further discussion on this item, the motion to approved failed by a 0-5 vote.

| | |
|-----------------------------------|-------------|
| Councilwoman Lisa C. Davis: | No |
| Councilman Oliver G. Gilbert III: | Not present |
| Councilwoman Felicia Robinson: | No |
| Councilman Andre Williams: | Not present |
| Councilman David Williams Jr.: | No |
| Vice Mayor Aaron Campbell Jr.: | No |
| Mayor Shirley Gibson: | No |

RESOLUTION NO. 2012-40-1635-Z-121

10-B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY CAPO AND SONS CORPORATION, FOR THE PROPERTY GENERALLY LOCATED AT NORTHWEST 167TH STREET AND NORTHWEST 47TH AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT “A” ATTACHED HERETO, FOR A VARIANCE OF SECTION 34-667(1)(B)(C) OF THE CITY’S LAND DEVELOPMENT CODE TO ALLOW A MONUMENT SIGN WITH A SIGN AREA OF 682.0 SQUARE FEET WHERE A MAXIMUM SIGN AREA OF 200 SQUARE FEET IS ALLOWED, AND TO ALLOW A SIGN HEIGHT OF 25.0 FEET WHERE A MAXIMUM HEIGHT OF 20.0 FEET IS ALLOWED; FOR A VARIANCE OF SECTION 34-667(2)(B)(2) TO ALLOW A WALL SIGN WITH AN AREA OF 1602.5 SQUARE FEET WHERE A MAXIMUM AREA OF 400 SQUARE FEET IS ALLOWED; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN

EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Mayor Gibson opened the floor for this public hearing.

Mr. Capo, a representative of El Dorado Furniture appeared before the City Council to present the relevant issues involved with this application.

After there were no other interested parties to speak on this item, the public hearing closed.

Motion offered by Councilwoman Robinson, seconded by Councilwoman Davis to adopt this item.

Councilman David Williams Jr., asked whether staff was recommending approval of this application.

Manager Crew said the city's code does not take into consideration how far the setback really is. This is something he has directed staff to take a look at.

Councilman David Williams Jr., asked the city manager to explain the differences between this signage and a billboard.

Manager Crew in response to Councilman David Williams Jr., said billboards are advertising media, in other words is it not advertising something for sale on a premise. In this particular case, the company is advertising its business.

Councilman David Williams Jr., said he was referring to in terms of the size of the signage. He said the city manager has always been concerned about the Palmetto Expressway, and the large signs along this roadway.

Manager Crew stated this application involves signage on a building and is not advertising a product or service, not available where it is.

Councilman David Williams Jr., said he understands this and asked what difference does it makes, they are both advertising something.

Manager Crew said in this case approving this application is the appropriate thing.

Councilman David Williams Jr., for clarification purposes asked whether staff will review the sign code to correct the deficiency for wall signage.

Manager Crew in response to Councilman David Williams Jr., said yes, as it relates to setbacks.

Councilwoman Robinson said in reviewing this item, she understood and considered where the business was located. She opined the sign code might need to be looked at on individual cases. She said the signage needs to be placed where it can be seen.

Manager Crew said if the signage becomes damaged the company will not be allowed to replace it.

Mr. Saiphoo explained the purpose of the sign code is geared toward our commercial shopping centers located throughout the city. You will not see a variance coming before the Council for a shopping center along 183rd Street or the 441 Corridor. In this particular case the signage will represent four (4%) percent of the building façade. This company was totally in compliance under Miami-Dade County's Code.

Councilman David Williams Jr., said he did not have a problem with the signage, he just wanted some consistency. He opined if we need to upgrade the city's sign code, then do that. He asked if staff was recommending approving this signage based on the façade, cost or what is right for this type of zoning in that area.

Motion offered by Councilman David Williams Jr., seconded by Councilwoman Robinson to amend the Declaration of Restrictive Covenant with the following language "if the uses of the building changes from a furniture store to something else, or usage become multiple the variance is voided and the business would then need to come into compliance with whatever city sign code is applicable at that time."

There being no further discussion on the amendment, the motion to adopt passed and carried by a unanimous voice vote.

At the conclusion of this discussion on the resolution as a whole, the motion to adopt passed and carried by a 5-0 vote.

| | |
|-----------------------------------|-------------|
| Councilman Oliver G. Gilbert III: | Not present |
| Councilwoman Felicia Robinson: | Yes |
| Councilman Andre Williams: | Not present |
| Councilman David Williams Jr: | Yes |
| Vice Mayor Aaron Campbell Jr: | Yes |
| Councilwoman Lisa C. Davis: | Yes |
| Mayor Shirley Gibson: | Yes |

11. CITY MANAGER'S REPORT:

11-A) Planning Studio Projects

Jay Marder, Development Services Director stated this item basically puts the zoning into the Zoning Administrator's hands and the planning in the planner's hands.

11-B) Sign Plan Compliance Update

Cyril Saiphoo, Zoning Administrator said this is an update to the Sign Code Compliance. He said we are a year away from compliance with the Sign Code adopted, 2008. There are 800 business that are required to submit. There are 419 that have not even submitted even a plan, to date. There is 31% compliance. The Code Compliance Division has issued warning notices to these 419 property owners, indicating they have 30 days to make the submittal. After 40 days there will be a

ZONING MINUTES – MARCH 7, 2012

fine accruing of \$500.00 a day. As it relates to the property owners that have submitted, but have not received approval, they will also be issued warning notices and subsequently fined, if not in compliance. Staff has been working with many of the property owners to assist with the process.

Mayor Gibson asked whether there is a time frame in which the property has to come in for a building permit once they have come into compliance.

Mr. Saiphoo said by February 13, 2013, all signs must be installed. He further shared that between 60-70 properties along the Palmetto Expressway that are affected. Approximately 40 of those have submitted Sign Plans that are in compliance.

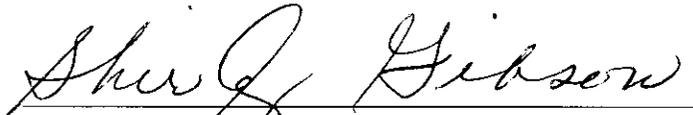
Councilman David Williams Jr., made reference to the list provided in the Agenda Package and asked if these were real businesses.

Mr. Saiphoo in response to Councilman David Williams Jr., said the list contains the names of property owners.

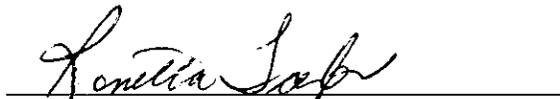
12. ADJOURNMENT:

There being no further business to come before this Body, and upon a motion being duly made the meeting adjourned at 8:15 p.m.

Attest:



Shirley Gibson, Mayor



Ronetta Taylor, MMC, City Clerk