

**CITY OF MIAMI GARDENS
ZONING MINUTES
FEBRUARY 2, 2005**

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

The City Council of the City of Miami Gardens, sitting as the Zoning Board met in regular session on Wednesday, February 2, 2005, beginning at 7:09 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 Audrey J. King, Barbara Watson, Melvin L. Bratton, and Oscar Braynon, II. Councilwoman Sharon Pritchett arrived at approximately 7:20 p.m.

Also in attendance were: City Manager Dr. Danny O. Crew, City Attorney Sonja K. Knighton Dickens, City Clerk Ronetta Taylor, Development Services Director Jay Marder and Zoning Administrator Robert Coleman.

2. INVOCATION:

Reverend Jimmy King delivered the Invocation.

3. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

4. APPROVAL OF MINUTES:

4A. Zoning Minutes – January 5, 2005

Moved by Vice Mayor Campbell, seconded by Councilwoman Watson to accept the minutes with the following deletion: Page 8, line 31, delete the word “be”. There being no further discussion, the motion passed and carried by a 6-0 vote. Councilwoman Pritchett was not present when this vote was taken.

**5. AGENDA ORDER OF BUSINESS-
ADDITIONS/DELETIONS/AMENDMENTS**

There were none.

6. ORDINANCE(S)SECOND READING/PUBLIC HEARING(S)

ORDINANCE NO. 2005-09-47

**6A) AN ORDINANCE OF THE CITY OF MIAMI GARDENS, FLORIDA
APPROVING THE APPLICATION OF GOLDEN GLADES ACQUISITION
CORPORATION, FOR A DISTRICT BOUNDARY CHANGE OF ZONING
FROM GU TO BU-1A FOR THE PROPERTY DESIGNATED AS PARCEL B**

ON EXHIBIT “A” ATTACHED HERETO, AND FROM RU-4M TO IU-1 FOR THE PROPERTY DESIGNATED AS PARCEL D ON EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE (SPONSORED BY THE CITY MANAGER) (1st Reading – December 8, 2004)

The City Clerk swore in all parties participating in this Quasi-Judicial -Proceeding.

Mayor Gibson opened the floor for the public hearing.

Sharon Frazier-Stephens, with a residential address of 145 NE 193rd Street, Miami, Florida, appeared before the City Council to convey her support of this legislation.

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

Attorney Knighton Dickens indicated that the ordinance specified that certain exhibits as attachments. However, those identified exhibits are not attached. Those items are in fact attached to a related item listed as 7A.

Susan Motley, an attorney representing Wal-Mart appeared before the City Council and explained this rezoning request represents two parcels, which is approximately four acres in size. As part of the overall plan for development of this property, these two areas need to be rezoned. The rezoning is consistent with the City’s Land Use Plan. The areas in question would be used for either parking or dry retention. Currently one parcel is zoned residential, and the other parcel is zoned business and office, which is inconsistent with the Land Use Plan. The remainder of the property is zoned commercial.

Councilwoman King questioned why so many Wal-Mart Super Stores were being constructed within the boundaries of the City of Miami Gardens.

Attorney Motley explained that Wal-Mart is on a big expansion of its super center type stores in South Florida. These general merchandise and combination grocery stores are being built typically every 2-2.5 miles apart. The stores are not only being built in Miami Gardens but all over South Florida.

Councilwoman Watson expressed concern with the economic impact Wal-Mart’s presence would have on surrounding stores (mom and pop stores).

Attorney Motley related that typically, the small mom and pop operations provide a different service or carry a different type of merchandise than Wal-Mart (certain types of goods and merchandise).

She shared that the small business owners in the 163rd Street area in North Miami Beach profits from having a Wal-Mart Super Store in their area because that area was not thriving due to lack of retail

to lack of retail traffic. Each Wal-Mart Super Center brings in between 450-500 new jobs, per super center, which brings a lot of economic vitality to an area.

Councilwoman Watson made referenced to a provision where Wal-Mart indicates its intention to have 80 percent of its startup workforce hired from the Greater Miami Gardens area. She commented that this is generally how it starts off, but not how it concludes. She asked if this language could be modified to indicate that the recruitment for employees from the Greater Miami Gardens area would continue on an on-going basis.

Attorney Motley explained that this language is result of the discussions held at the Miami-Dade County Commission meeting when the other Wal-Mart (Honey Hill) application was under consideration. This language was very carefully reviewed by everyone. She stated that she has no authorization to change the language. She cautioned changing this language because of how it would affect federal, state and local laws in terms of non-discrimination against people in terms of applying for jobs. She reiterated that this is the very best language that all agreed on to show that there is some kind of a commitment is being made in good faith. However one has to always be conscious of the requirements in terms of not having favoritism toward certain groups within a area. She stated that unfortunately she could not agree to change the language, which is the exact language in the Covenant executed for the other Wal-Mart project.

Councilwoman Watson clarified that she was not asking that the language be changed, only that additional language be added. She said the language “at start of opening”, is limited. She was suggesting that language be included language “that all times there after the start of opening.”

Attorney Motley further clarified the rationale for the language in the Covenant. She said the language was very carefully crafted to ensure that no federal, state and local laws were violated.

Attorney Knighton Dickens clarified that the Declaration is suppose to be attached the resolution to be considered later on tonight’s agenda and not the ordinance which is currently under discussion.

Councilwoman Pritchett inquired about the projected number of employees for this particular Wal-Mart.

Attorney Motley indicated there will be between 450 and 500 employees.

Councilwoman Pritchett referenced item no. 10, on page 2 of the Declaration of Restriction asked about the difference between an Enterprise Zone in Miami-Dade County and a Satellite Enterprise Zone, which in her belief is within the City of Miami Gardens.

Attorney Motley said that she was not aware of a designated Satellite Enterprise Zone. She shared that there was a concern that Wal-Mart could get some abatement from real estate taxes. Therefore, that could affect the City of Miami Gardens and Miami-Dade County. This provision provides that Wal-Mart would not participate in any Enterprise Zone that would give them a rebate on

their real estate, or personal property taxes.

Councilwoman Pritchett asked Mr. Coleman the City's Zoning Administrator to come forward to provide additional information and perhaps he has the answer the answer regarding the Satellite Enterprise Zone.

Robert Coleman, Zoning Administrator appeared before the City Council and shared that there are no Satellite Enterprise Zones within Miami-Dade County. In this case Wal-Mart has not applied or will not apply for any of the rebates provided by an Enterprise Zone.

Councilman Bratton referenced the Declaration of Restriction and questioned how the designated names of Norland Wal-Mart and Pro Player Wal-Mart were selected.

Attorney Motley shared that Norland was sort of historical name for that particular area and Pro Player was selected because this is where the stadium is located. She emphasized that these name designations were not etched in stone.

Mayor Gibson explained that the issue under discussion is on the zoning change of two parcels on this property. She shared that her concerns have nothing to do with the benefits that Wal-Mart brings, on the contrary they are related to the quality of life for those living within this area. She said there is a lot of traffic that is going to be generated in that area (e.g. traffic on NW 183rd Street and 7th Avenue going south to 826, the traffic east on 826 to the turnpike, the accessibility of traffic coming off of the turnpike into this site, the traffic that would be diverted coming off of 183rd Street coming south to this site, the traffic coming off of 177th Street and 441 traveling north and south, which would be diverted west into this site). In addition there are condos located on the north side of this site. The west side of 7th Avenue is a residential area, as well as a church and school.

Mayor Gibson shared that she has shopped at Wal-Mart and is aware that these stores generate a lot of traffic. She referenced the traffic report provided, which indicated that there would not be an impact on traffic, and emphasized that from first hand knowledge (residing and daily commuting in this area) this Wal-Mart would definitely affect traffic. She stated that she has some concerns with the statement made in the report that this Wal-Mart will not affect traffic. She further expressed concern with this site location for the Wal-Mart Super Center.

Councilwoman Pritchett expressed concern with not having the benefit of seeing the preliminary traffic assessment. That document would have helped to understand when the traffic assessment was done, and how it would relate to the traffic flow.

Councilwoman Watson indicated that there will be future development occurring along the 441 Corridor. She shared that the 441 Corridor currently has an "F" rating. She did not see how that "F" rating was going to improve. In addition, FDOT has indicated there will be changes made to the entrance ramp for the turnpike, which would create additional traffic stacking to the entrance of the Wal-Mart site. She referenced the "Declaration of Restriction", which indicated that Wal-Mart would be giving the City \$250,000.00 to offset some of the impacts to this City, and opined that this amount would

City Council Zoning Minutes
February 2, 2005

would not be enough. She emphasized that the \$250,000.00 Impact Fee was not enough to get rid of the problem.

Attorney Motley indicated that the \$250,000.00 is basically a good will gesture from Wal-Mart to the City of Miami Gardens as a commitment to being a good corporate citizen of the community. The language in the Covenant indicates that the money can be used in any ways that will benefit the City.

Attorney Motley related that what is before this Council this evening, is approximately two, four acre parcels that will be rezoned. The rest of the property is already zoned appropriately for the Wal-Mart Super Center. Therefore, this is just to finish out the 40 plus acre site. She referenced the Traffic Study and indicated that the language was specific in that this proposed site would not reduce the level of traffic concurrency. Therefore, it would still meet the traffic requirements established by Miami-Dade County and the City in terms of traffic concurrency.

Jay Bernhardt, Traffic Engineer for the Wal-Mart Project, with offices at 137th Avenue and Kendall Drive, Miami, Florida, appeared before the City Council and acknowledged that where ever a Wal-Mart is built, more traffic would be generated. However, the traffic concurrency will remain the same.

Vice Mayor Campbell conveyed his understanding that if this rezoning is approved, the project will have to go through the permitting process. He said that it is at the permitting process that traffic concerns would be addressed.

Councilwoman Pritchett related that she has still not heard anything in terms of addressing a shift in those traffic patterns, and if there are any suggestions to help with that shift that could conceivable occur if the Council decides to approve this zoning application.

Mr. Bernhardt indicated that Wal-Mart does have general information, provided by Miami-Dade County, regarding the current traffic flow. Most of the traffic to this site would be generated from the 177th Street and NW 441 intersection. Additional traffic lanes are planned to be added to this intersection.

Manager Crew indicated that legally, the issue before this council tonight is the rezoning of those two parcels. If you look at the impact of the rezoning of the two parcels, you would find that it is at a minimum. Theoretically, if the two parcels were not rezoned, Wal-Mart could still build on this site. One of the parcels under consideration for rezoning would be used as a retention area, if it is not approved, the retention area would be located somewhere else.

Councilman Braynon referenced the parcel under consideration for rezoning as it related to the retention area and asked whether Wal-Mart had a backup plan to locate the retention somewhere else if this zoning request is not approved.

Attorney Motley stated that Wal-Mart did not have an alternate plan. She said the overall plan

is to develop the Wal-Mart Super Center exactly as planned. The intention is to use the parcel identified for the retention. She shared that there will be another project coming before the City Council for approval, which is a residential project. Therefore, having the retention area located on this particular parcel would be a very nice buffer for the residential property. She concurred with the City Manager that Wal-Mart could build on this site without the rezoned parcels however this is not what Wal-Mart wants to do. She placed emphasis on the fact that the rezoning of these two parcels would be consistent with the City's Land Use Plan. Currently the parcels are not consistent with the City's Land Use Plan and are not suppose to be zoned RU-4A.

Councilman Braynon articulated that the vote to rezone these parcels would be to make the Wal-Mart, which the City would probably be getting any way, more friendly to the area by putting a buffer, and also having the retention area off site.

Attorney Motley clarified that the retention site would not be off site, but apart of the property. This is where Wal-Mart has decided would work best in light of the overall development plan and in light of what is going on the property adjacent to this property.

Councilman Bratton questioned the ownership of the package store, which is being requested as part of the next item.

Attorney Motley said that the package store is a part of the Wal-Mart building, but separated within the store by walls.

Councilwoman Pritchett asked if the rezoning of the retention area is not approved does that mean Wal-Mart would have to consider reducing the size of the actual Super Center in order to accommodate a landscaping area on the boundary of their property.

Attorney Motley related that that would not happen. She referenced the plans and indicated that a portion of this property is undeveloped, at present Wal-Mart is not sure what will go there. She indicated that a portion of the property is proposed for development now, which includes that retention area. She stated that if the Council did not approve the rezoning, Wal-Mart would not be able to use that area for a retention area. She said an alternate retention area, which is consistent with the City's Land Use Plan, would probably be selected.

Councilwoman Watson asked who would be responsible for making the necessary improvements to the roadways.

Jay Marder, Development Services Director for the City of Miami Gardens, appeared before the City Council to respond to Councilwoman Watson's question. He shared that FDOT, Miami-Dade County and the City of Miami Gardens would all be involved in the street improvements.

Attorney Motley shared that any of the transportation improvements to be made will be paid for by Wal-Mart. This is not a part of the \$250,000.00 being offered to the City.

Mayor Gibson asked for clarification about the future land use and asked Robert Coleman, Zoning Administration to come forward to clarify.

Mr. Coleman indicated that the future land use should be industrial and office. He shared that the Planning and Zoning Director of Miami-Dade County had made the suggestion to rezone these parcels to make this area consistent with the Comprehensive Master Plan.

Mayor Gibson conveyed her understanding of this zoning change application, and the fact that she was still not comfortable with the request. She placed emphasis on the fact that she is concerned about the development of this site and the change of zoning at this particular time, since it has been made very clear that the retention area can be located some place else.

It was moved by Councilman Braynon, seconded by Vice Mayor Campbell to adopt this ordinance.

There being no further discussion the **motion passed and carried by a 4-3 vote.**

Councilman Bratton:	Yes
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	No
Councilwoman Watson:	No
Mayor Gibson:	No

7. RESOLUTION(S)

- 7A) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF GOLDEN GLADES ACQUISITION CORPORATION, INC., FOR A SPECIAL EXCEPTION TO PERMIT A PACKAGE STORE SPACED LESS THAN 1500 FEET FROM AN EXISTING ALCOHOLIC BEVERAGE USE AND WITHIN 2500 FEET OF A CHURCH, ON THE PROPERTY DESIGNATED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Moved by Councilman Braynon, seconded by Councilwoman King to approve this item.

Councilman Bratton asked Mr. Coleman if the package store was a separate building.

Mr. Coleman indicated that the package store was a part of the building. The actual entrance to the package store is a completely separate entrance on the outside of the building.

Attorney Motley indicated that this package store is strictly for the purchase of liquor. All of the new Super Centers have this particular aspect. There are a significant number of package stores in Florida that also have a bar feature. However the Wal-Mart Super Center package stores are strictly retail. She placed emphasis on the fact that the package store is completely separate from the Super Center even though it is attached to the building, there is a separate entrance.

Councilman Bratton asked if there was a package store attached to the Wal-Mart Super Center located on 57th Avenue.

Attorney Motley said the Super Center on 57th Avenue was approved approximately three years prior at that time the package store feature was not being added to the store. Wal-Mart has since decided that in order to be competitive with Walgreen's and Costco and all those other stores that have package stores as part of their retail operation, they also needed to offer that component.

Councilman Bratton shared the Walgreen stores located within the City of Miami Gardens do not have package stores.

Mayor Gibson opened the floor for the public hearing.

Marilyn Weeks, residing at 745 NW 174th Street, Miami Gardens, Florida, appeared before the City Council in opposition to this request.

Adirah-Miryam Israel, residing at 1025 NW 155th Lane, Apt. 105, Miami Gardens, Florida, appeared before the City Council in opposition to this request.

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

Councilman Brayton asked for clarification purposes if this request was only for the Special Exception for the package store.

Mayor Gibson indicated that there were two special exceptions being requested. One was 1,500 feet from another establishment selling liquor and the other was for 2,500 feet from a church.

Councilwoman King questioned the operating hours for the package store.

Mr. Coleman said the package store's hours of operation would have to be consistent with the Code.

Councilwoman Watson asked if this is where the Covenant of Restriction is to be considered.

Attorney Knighton Dickens explained that the Covenant is tied into the Special Exception. If the Council approves the Special Exceptions, the Covenant is approved. If the Council votes down the Special Exceptions, the Covenant is not approved.

Councilwoman Watson asked whether additional conditions could be included to address the hours of operation.

Attorney Knighton Dickens indicated that additional conditions could be considered at this point, assuming the applicant would accept those conditions.

Mayor Gibson related that the question had come up about a Satellite Enterprise Zone. The subject property is in a Satellite Enterprise Zone, and there are some criteria that come with this special designation. For example there are a lot of exemptions for a Satellite Enterprise Zones: tax credits; employee tax credits; a business would not have to pay property taxes for the first five years. Wal-Mart during its public hearing before the Miami-Dade County Commission indicated that it would not be seeking any of the tax exemptions provided for by the Enterprise Zone.

At the conclusion of this discussion, the motion to approve, **failed by a 1-6 vote.**

Councilman Braynon:	No
Vice Mayor Campbell:	Yes
Councilwoman King:	No
Councilwoman Pritchett:	No
Councilwoman Watson:	No
Councilman Bratton:	No
Mayor Gibson:	No

Please note Councilman Braynon left the City Council meeting at 8:42 p.m.

RESOLUTION NO. 2005-18-195

7B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A WAIVER OF PLAT REQUIREMENT FOR PROPERTY GENERALLY LOCATED AT NORTHWEST 207TH STREET AND NORTHWEST 28TH AVENUE; PROVIDING FOR A CONDITION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER).

Manager Crew explained the mitigating factors associated with this request.

Moved by Councilwoman Watson, seconded by Vice Mayor Campbell to approve this item.

There being no discussion, the motion passed and carried by a 5-0 vote.

Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Out of room

Councilwoman Watson: Yes
Councilman Bratton: Yes
Councilman Braynon: Not present
Mayor Gibson: Yes

RESOLUTION NO. 2005-19-196

- 7C) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE MIAMI-DADE COUNTY METROPOLITAN PLANNING ORGANIZATION TO DEVELOP A TRANSPORTATION MASTER PLAN, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A"; AUTHORIZING A TWENTY (20%) PERCENT MATCH OF FUNDS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Jay Marder, Development Services Director for the City of Miami Gardens, appeared before the City Council to explain the relevant issues involved with this item.

Moved by Vice Mayor Campbell, seconded by Councilwoman King to approve this item.

There being no discussion the motion **passed and carried by a 5-0 vote.**

Councilwoman King: Yes
Councilwoman Pritchett: Out of room
Councilwoman Watson: Yes
Councilman Bratton: Yes
Councilman Braynon: Not present
Vice Mayor Campbell: Yes
Mayor Gibson: Yes

8. ADJOURNMENT:

There being no further business to come before this Council and upon being duly moved by Vice Mayor Campbell and seconded by Councilman Bratton, the meeting adjourned at approximately 8:45 p.m.



Shirley Gibson, Mayor

Attest:



Ronetta Taylor, CMC, City Clerk