

**CITY OF MIAMI GARDENS
REGULAR ZONING MINUTES
JULY 6, 2005**

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

The City Council sitting as the Zoning Board for the City of Miami Gardens, met in regular session on Wednesday, July 6, 2005, beginning at 7:09 p.m., in the City Council Chambers, 1515 NW 167th Street, Miami Gardens, Florida.

The following members of the City Council were present: Mayor Shirley Gibson, Vice Mayor Aaron Campbell Jr., and Council members Barbara Watson, Audrey J. King, and Oscar Braynon II. Councilwoman Sharon Pritchett arrived at 7:15 p.m. Councilman Melvin L. Bratton was not present due to illness.

Also in attendance were: Assistant City Manager Horace McHugh, City Attorney Sonja K. Dickens, City Clerk Ronetta Taylor, Development Services Director Jay Marder and Zoning Administrator Robert Coleman. City Manager Danny O. Crew was not present due to illness.

2. INVOCATION:

Invocation was delivered by Vice Mayor Campbell.

3. PLEDGE OF ALLEGIANCE:

Pledge of Allegiance was recited unison.

4. APPROVAL OF MINUTES:

4A. Zoning Minutes – June 1, 2005.

Moved by Councilman Braynon, seconded by Vice Mayor Campbell to approve the minutes. This motion passed and carried by a 5-0 vote.

**5. AGENDA ORDER OF BUSINESS
(ADDITIONS/DELETIONS/AMENDMENTS)**

Robert Coleman, Zoning Administrator read into the record the Introductory Statement applicable to zoning hearings.

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

- 6A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY MARCIAL RODRIGUEZ TO APPROVE A ZONING DISTRICT CHANGE FROM BU-2, SPECIAL BUSINESS TO RU-TH,**

TOWNHOUSE, FOR PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTHWEST 170TH TERRACE AND NORTHWEST 14TH AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE EXECUTION OF A DECLARATION OF RESTRICTIVE COVENANTS AS SHOWN ON EXHIBIT B 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. (SPONSORED BY THE CITY MANAGER) (Deferred from June 1, 2005)

Mayor Gibson announced that due to a conflict in scheduling Mr. Robert Holland, the attorney representing Marcial Rodriguez asked that this item be deferred until later on the agenda.

Moved by Councilman Braynon, seconded by Councilwoman Watson to defer this item until later on the agenda. There being no further discussion on the **deferral**, the motion passed and carried by a 6-0 vote.

Please note, this item was brought back to the table for consideration after the conclusion of the Ordinances for second reading and public hearings.

Attorney Robert Holland, with a business address at 5559 NE 4th Court, Miami, Florida, appeared before the City Council representing Marcial Rodriguez, the applicant. He said the property is currently zoned commercial and could house a warehouse with as many as 73 bays, as well as a self-storage facility. The City Council had asked the applicant to at least take the time to reach out to the neighbors in this area. That meeting, which had a fairly decent turnout of residents, was held on last week at City Hall. He conveyed his opinion that the presentation went fairly well considering that one could not satisfy everybody. Some of the people walked away saying they had a better understanding of the application and did not have further concerns; whereas others said they still had concerns and did not want this particular project.

Attorney Holland said the proposed project is for 52 townhomes, which has a series of restrictions attached. The Declaration of Restriction has been amended as per discussions from the last meeting to include a provision which requires that the Homeowners Association be created prior to the application for the Certificate of Occupancy and the townhomes can not be rented and are strictly owner occupied. In addition, the Declaration of Restrictions provides that: the townhomes are to be painted no less than every five years; the irrigation system shall be operative and maintained throughout the life of the property; the landscape will be properly maintained to prevent deterioration; excess parking on the rights-of-way is strictly prohibited; the closure of garages for living space shall be prohibited; no additional enclosure spaces shall be added to the front lawn or deviate from the site plan; no derelict or abandoned vehicles allowed on the property; parking on the lawn is strictly prohibited; common area on the front lawn as it relates to the landscaping shall be maintained by the Homeowners Association, no less than every two weeks; graffiti shall be removed

within 14 days; potholes shall be repaired within 14 days; damage to perimeter fence and wall shall be repaired within 45 days; only barrow tile roofs shall be permitted on these buildings; units are non-rentable owner occupied only; Homeowners Association shall be created prior to the issuance of the Certificate of Occupancy; the Declaration of Restrictions shall be posted at the front gate at all times, as well as the Cabana area so that every resident and all visitors know what this developer and the homeowners are responsible for within that development. He opined there is no other development in Miami-Dade County that has these same restrictions.

Attorney Holland also provided real estate sales information on what the homes in this area are selling for, which includes an average selling price of approximately \$165,000.00, with a high average of \$210,000.00. The townhomes units are selling between \$180,000.00 and \$185,000.00, which is over the medium value of the current homes being sold in this area. There was a lot of concern last time about the increase in traffic generated by this development. Staff will confirm that the traffic for this particular area is much less than most parts of the City of Miami Gardens. This particular project if approved would have a lesser traffic impact than if the property was developed as commercial. The easement that goes across PRC is a utility easement and not an easement for traffic. Therefore, even if this site is developed with commercial the traffic generated for this type of development would have to be accommodated on the same roads as would a residential development.

Attorney Holland said the other question raised by the residents was whether his client would be willing to decrease the number of units being proposed. He said it is a matter of economics, because the land is currently zoned commercial the value is much more than if it was zoned single-family. Therefore a developer would need to build enough units to offset the cost of construction, as well as make a profit. The reduction from the proposed 52 units would not be economically feasible. The developer did review this and concluded that he could possible reduce the number to 48 units, which is a lost of four units.

Attorney Holland said his client has gone above and beyond to ensure this is a quality project. This project makes economic sense and raises the value of the properties in the neighborhood. This project doesn't address all of the changes in the neighborhood but it gives less of an impact of what could currently go there today.

Mayor Gibson opened the floor for the public hearing.

Loreatha Burroughs with a residential address at 1361 NW 170th Street, Miami Gardens, Florida, appeared before the City Council to ask that the Council not change the zoning. She conveyed that she was comfortable with the current zoning which is commercial.

Janet Lawrence with a residential address at 17110 NW 14th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this application. She said she did not want 52 townhomes in her neighborhood.

Oswald K. Sands, with a residential address at 1371 NW 173rd Terrace, Miami Gardens,

Florida, appeared before the City Council to express his opposition to this request. He expressed concern about not being notified of this hearing.

Mayor Gibson asked staff if Mr. Sands' address was in the half-mile radius to receive notice of this public hearing. She asked if the notice was sent to every resident within that half-mile radius.

Mr. Coleman indicated that notices advertising this public hearing were sent out in Mr. Sands' neighborhood, and all residents within that half-mile radius.

Betty B. Young, with a residential address at 17135 NW 12th Court, Miami Gardens, Florida, appeared before the City Council in opposition to this request. She said a two story townhome complex would not be aesthetically pleasing.

Vice Mayor Campbell asked Ms. Young if she would rather see a two to three story commercial complex on this site, which it is currently zoned for.

Ms. Young said she did not have a problem with the commercial development as long as there was dialogue between the residents and the developer.

Elder Leggette, with a residential address at 17601 NW 10th Court, Miami Gardens, Florida, appeared before the City Council in opposition to this application. He conveyed concern with sexual predators and other undesirables moving into the neighborhood.

Tony Lawrence, with a residential address at 17100 NW 14th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition of this application. He cited overcrowding at Scott Lake Elementary School and increased school traffic as mitigating factors for his opposition.

Paulette Scott, with a residential address at 17830 NW 10th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this request. She shared she was in attendance at the community meeting hosted by Attorney Holland. She said Attorney Holland never addressed the over crowded school situation.

Ronda Sims, with a residential address at 17200 NW 9th Place, Miami Gardens, Florida, appeared before the City Council in opposition to this application. She expressed concern with the over crowing of schools as the relevant issue for her concern, as well as a quality education for children of color. She said Miami Gardens is a nice community and she wanted to see it remain that way.

Winston Abel, with a residential address a 1245 NW 172nd Terrace, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He cited an increase in traffic and people as his main concern to this development.

Ros Borden, with a residential address at 1250 NW 172nd Street, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He expressed concern that the

townhome complex might actually bring the surrounding single family residential property values down as opposed to bringing property values up. He suggested building single family homes on the site.

Elsie Jones Ferguson, with a residential address at 1350 NW 173rd Terrace, Miami Gardens, Florida, appeared before the City Council to express her opposition to this request. She cited the increase in vehicular traffic along 14th Avenue and the potential increase in the over crowdedness of Scott Lake Elementary School as the pertinent issues for her opposition.

Joan G. Reed, with a residential address at 2010 Service Road, Opa-locka, Florida, appeared before the City Council in opposition to this application. She shared that she grew up in this neighborhood and still has family members living in the neighborhood.

Michael Wright, with a residential address at 4767 New Broad Street, Orlando, Florida, appeared before the City Council in support of this request. He said his company was initially opposed to this project because of some buffering issues, which have been addressed. There was also a concern that residential traffic would be routed through his adjacent property that too has been addressed. He conveyed his support of a townhome environment and shared that he lived and raised his family in a townhome complex, which was located within a single family residential area.

Ann Zanazis, with a residential address at 16920 NW 14th Avenue, Miami Gardens, appeared before the City Council in opposition to this request.

Seyon Dunbar, with a residential address at 17200 NW 16th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this request.

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

Attorney Holland was afforded an opportunity for rebuttal. He shared if the property was developed commercial, which the zoning currently allows, there would still be a large amount of commercial traffic in the area because of the ingress and egress. He further referenced a real estate list of properties recently sold in this area and the listing and selling prices of those properties. He referenced the restrictions placed in the Declaration of Restrictions and shared that he had not put those restrictions into the Homeowners Association because he did not want anyone to ever change those restrictions. By putting the restrictions into the Declaration of Restrictions provided this community with even more protection. He shared that not one variance is being requested for the placement of 52 townhomes in a 4.9 acre lot. Not only are no variances being requested, the complex will have sidewalks. He emphasized these will be quality homes, an asset to the community, which will increase the property value. As it related to school over crowdedness, the assumption is that all the children from this particular development would be the same age, is just that, an assumption.

Moved by Councilwoman Watson, seconded by Vice Mayor Campbell to adopt this ordinance on first reading.

**Regular Zoning Meeting
Minutes - July 6, 2005**

Councilman Braynon inquired about the square footage of the lots the townhomes would be built on.

Attorney Holland said in response to Councilman Braynon's inquiry, the units average 1,600 square feet, with 1,437 of that as living space.

Mr. Coleman further expounded and stated that Model A , has 1,625 square feet, Model B is 1,121.2 square feet.

Councilman Braynon explained that he had asked for this information because he wanted to know how many single family homes could be built on the lot as opposed to townhomes.

Councilwoman Watson referenced the Declaration of Restrictions and indicated that she wanted to have the language relating to thirty year term deleted from the document so that the restrictions would be indefinite.

Attorney Dickens shared that she did in fact draft a new Declaration of Restriction removing that language from the document. However, that new draft did not make this agenda packet. This agenda packet still has the old Declaration. In addition, if the Declaration is being amended, the changes outlined by Attorney Holland would also have to be included in that amendment.

Moved by Councilwoman Watson, seconded by Councilman Braynon to amend the Declaration of Restrictions to delete the provision for 30 years, and to add the amendments as prescribed by Attorney Holland.

The motion to amend the Declaration of Restrictions was passed and adopted by a 5-1 vote.

Councilwoman King:	Yes
Councilwoman Pritchett:	No
Councilwoman Watson:	Yes
Councilman Bratton:	Not present
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Mayor Gibson:	Yes

Councilwoman Watson indicated that she would like to see a recreation facility added to this project. This would serve as a meeting place for the residents and the Homeowners Association.

Attorney Holland said his client has not problem with walling the cabana in, in order to construct a recreation room.

Councilwoman Watson asked if there was a chance to have both a cabana and a recreation meeting room.

Attorney Holland said the Site Plan would not accommodate both. He further explained that the site plan has green space to accommodate a Tot Lot.

Councilwoman Watson said she would have that same concern with not having a recreation room or a place for the Association to hold their meetings.

Vice Mayor Campbell asked what percentage of the 4 acres is allowed for commercial as opposed to townhomes.

Mr. Coleman said as a residential site, the developer is using thirty percent of the site as open space (e.g. parking, landscaping, grass and lawn) the rest of the site would be structures. As a residential site a developer is allowed to use up to forty percent. This developer is using less. As a commercial site, forth-five percent can be used for structures.

Councilwoman Pritchett asked for clarification purposes the difference between a Commercial Easement and an Industrial Easement.

Mr. Coleman explained a commercial easement would allow commercial traffic to flow between two commercial sites. Since the easement is being eliminated, there will be no commercial traffic into the residential area or vise versa.

Councilman Braynon inquired about the maintenance jurisdiction for the roads and stormwater drainage within this development.

Mr. Holland said the roads are privately owned therefore, the City does not bear any of that responsibility, and will be covered under the Homeowners Association documentation.

Councilman Braynon asked if there was another avenue by which this could be handled because there are other similar complexes in the City that have the same type of provision in their Homeowner Association by-laws, and they are not working.

Mr. Holland said the alternative would be a Community Development District (CDD). He said he would research this to see if this project was large enough to warrant a CDD.

Councilwoman King related the Council has seen so many nice developments come through, with the exception of a few. This development appears to be nice, however on the other hand, nice in the wrong place. The homeowners in this area have made it quite clear they want single family homes and if not that they did not care if it is a commercial development. She shared that she has received numerous phone calls, as well as being approached personally by residents and concerned citizens stating this is not what they want to see in that area. She shared that when she walked the streets during her campaigning, the residents told her they wanted to keep their neighborhoods single-family residential. She stated that she would not be able to support this item.

Councilman Braynon conveyed that he has heard the concerns of the residents and wanted to relate a personal story. He said that he lives with his parents and many of the young professionals are doing the same. They are either looking to move into a starter home or looking to move somewhere else. He said he would love to live close to his parents but there is nothing like that around here. Most of the younger people have gone to places like Miami Lakes, Pembroke Pines or Kendall, to find attainable housing (townhomes and condos), which are located in single-family residential areas.

Councilman Braynon said the average monthly payment for a townhome in this development would be approximately \$2,000.00 monthly. He opined the only people who would be able to afford that type of monthly mortgage are professionals, which in his opinion did not include sexual predators. He shared there were some issues raised that he thought were on point, which have to do with the possible over crowdedness of Scott Lake Elementary and a large influx of people into the neighborhood at one time. He conveyed his thought that this development was not going to be another ghetto because of the restrictions being put in place. He emphasized the importance of having attainable housing available in this community for the younger professionals who want to stay in the communities in which they grew up.

Vice Mayor Campbell said there were those who would prefer to have single-family homes built on this site, but we know economically that is not going to happen. And the fact of the matter is that property is already zoned commercial so that is not going to happen. The other option is to have something that is somewhat of a buffer between commercial and single-family residential. He opined the proper thing to do would be to build townhomes. He related that individuals have stated that they did not want additional traffic or higher structures in their neighborhood; however, if the property is developed commercial those things will increase. He recounted, several years prior at a meeting similar to this one the residents were adamant and overwhelming against a proposed development. That governing Body agreed with the residents and voted against the development. Five years later, the residents realized they'd made a serious mistake because what eventually got developed there was much worse than what was originally proposed. He cautioned the residents to be mindful of what it is they want to see in their neighborhood. He said there are a lot of assumptions being made with regard to sexual predators and school over crowdedness; assumptions that may or may not become a reality.

Mayor Gibson stated she has heard the concerns of the residents and opined that all of those concerns are legitimate. She said people are very protective of where they live. However, this area is changing. It can not continue to function the way it is because we need to have a good mix for people coming into this community. She shared that she has a daughter who is a professional, she teaches school. Her daughter has been trying to find a place to live and finally found a place she can barely afford. She related that she has spoken with Councilman Braynon, and can relate to what he is talking about when trying to find an affordable place to live in this community. She shared that a house on her street was on the market for four days, and sold for \$240,000.00. The family that's moving into this house is not a young family like Councilman Braynon or her daughter, because young people can't afford to live here. She asked the audience to be very fair and honest by asking themselves if their sons, daughters or grandchildren could afford to buy a \$200,000.00 home or

townhome right now.

Mayor Gibson said she was giving examples of the reality of what is happening in this community. It is great the community is now getting greater value. What stabilizes a community overall is the fact that younger homeowners come in and begin to live and buy homes here. As the population gets older, those individuals will either stay or transition out of those homes. Who is going to come and live in the community and give the balance needed? The City is looking at ways to attract people to come into the community and do the additional development that is needed and desired by those individuals coming into this area to buy homes (shopping, entertainment, etc.)

Mayor Gibson reiterated the importance of understanding that the characteristics in many of the City's neighborhoods are going to change. She emphasized the importance of understanding commercial zoning and the impact this type of development could have in a community; development that is not required to come before this Council for approval or the citizens' input.

Assistant City Manager McHugh referenced the Declaration of Restrictions and indicated the developer has committed to a 14 day turnaround to remove graffiti.

Attorney Holland indicated his client is willing to decrease that turnaround time frame to seven days.

Moved by Vice Mayor Campbell, seconded by Councilman Braynon to amend the Declaration of Restrictions to reduce the turnaround time frame for the removal of graffiti from 14 days to seven days.

There being no further discussion on this amendment, the motion passed and carried by a 5-1 vote.

Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	No
Councilwoman Watson:	Yes
Councilman Bratton:	Not present
Councilman Braynon:	Yes
Mayor Gibson:	Yes

Councilman Braynon said he did not feel he was compromising the issues he promoted when he campaign for office, which included improving this community so that it can attract the people that grew up in this community to come back. To vote no on giving them somewhere to live in his opinion makes him a hypocrite. Therefore, in line with the campaign promises he had made he was in support of this item.

There being no further discussion on the ordinance as a whole, the motion to adopt on first reading passed and carried by a 4-2 vote.

Regular Zoning Meeting
Minutes - July 6, 2005

Vice Mayor Campbell:	Yes
Councilwoman King:	No
Councilwoman Pritchett:	No
Councilwoman Watson:	Yes
Councilman Bratton:	Not present
Councilman Braynon:	Yes
Mayor Gibson:	Yes

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

ORDINANCE NO. 2005-28-66

- 7A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY GUZMAN HOMES, LLC, TO APPROVE A ZONING DISTRICT BOUNDARY CHANGE FROM GU, INTERIM TO RU-TH, TOWNHOUSE, FOR PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTHWEST 188TH STREET AND NORTHWEST 37TH AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE EXECUTION OF A DECLARATION OF RESTRICTIVE COVENANTS AS SHOWN ON EXHIBIT B 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. (SPONSORED BY THE CITY MANAGER) (1ST READING JUNE 1, 2005)**

Mayor Gibson opened the floor for the public hearing.

Elder Leggette, with a residential address at 17601 NW 10th Court, Miami Gardens, Florida, appeared before the City Council to comment on this request. He cited drug infestation as the mitigating factor for his comments.

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

Councilwoman King expressed concern that the applicant was not present for this public hearing.

Councilwoman Pritchett took Councilwoman King's question a step farther and conveyed her belief that it was agreed upon to send notification by certified mail to the applicant.

Mr. Coleman said the applicant received notification by certified mail. In addition, a courtesy phone call was also done. At that time the applicant did not indicate he/she would not be present for tonight's meeting.

Moved by Councilman Braynon, seconded by Mayor Gibson to adopt this ordinance.

Councilwoman Watson referenced page 2 of the Declaration of Restrictions, specifically Item No. 4. Term, which indicates the Declaration of Restrictions is to run with the land and shall be binding on all parties and all persons under it for a period of thirty (30) years... , which in her opinion is time sensitive. She expressed concern with this provision and shared many covenants that run with the land do not have an expiration date. She opined the thirty (30) year expiration date should be removed, which would allow the Declaration to run with the land and not become time sensitive.

Attorney Dickens explained the thirty year time period was placed in the Declaration so it would not be necessary for someone who owns the property after 30 years to come back to the City to ask that the Declaration be released. Thirty years appears to be a reasonable time frame because in most instances when a Declaration is approved, the applicant is to do something (e.g. construct roads, road improvements, etc.), which will certainly be done in 30 years. There is no legal requirement that the Declaration be limited to 30 years. In fact, if the Declaration is recorded without limitations it could go on for ever.

Councilwoman Watson said this is exactly what she is looking to achieve here. She opined it should run with the land for infinity.

Attorney Dickens said the 30 year provision can be deleted if that is the will of the Council.

Councilwoman Pritchett asked for clarification and commented even if there were specific time frames attached to any Declarations, for any changes that particular developer or group would still come back to the City Council for approval.

Attorney Dickens indicated Councilwoman Pritchett was correct with her assessment.

Councilwoman Watson clarified her concern and stated when time limits are put in place this might not be something that affects the City today, the Council needs to have the foresight and the long vision for 30 years down the road. The Council recognizes that any type of release of lien will have to come back before the Council for approval. However if there is a due date on the release it is not required to come back to the Council for approval after the 30 years are up. She opined if the 30 year provision is deleted.

Attorney Dickens said Councilwoman Watson was correct, the way the provision is written, after 30 years the Declaration of Restrictions would automatically expire.

Councilman Braynon asked what would happen at the end of those 30 years when this Declaration of Restrictions expires.

Attorney Dickens said this particular issue only deals with the name of the Site Plan. However, other Declarations of Restrictions might have other issues and provisions imposed.

Councilman Braynon told Councilwoman Watson that he understood the mitigating factors she had referenced however, this particular issue only deals with the name of the Site Plan.

Moved by Councilwoman Watson, seconded by Councilman Braynon to amend No. 4 entitled Term of the Declaration of Restrictions to delete the language for a thirty (30) years .

Councilwoman King reiterated her concern that the applicant was not present for this application. She recommended staff reinforce the importance of the applicants' presence at these public hearings.

Moved by Councilwoman King, seconded by Councilwoman Pritchett to defer this item to the September 7, 2005, Zoning Meeting.

Mayor Gibson questioned whether this item, if deferred, would require additional advertising and, if so, at whose expense.

Mr. Marder, Development Services Director said a new advertisement is not required. A new notice would be placed on the property.

Attorney Dickens conveyed her belief that every effort was made to notify the applicant. The change being proposed by Councilwoman Watson is an insignificant change. However, the Council might have questions for the applicant, and as Council members you have every right to have those questions and concerns addressed.

Councilwoman Pritchett conveyed concern for the traffic flow in this area because NW 37th Avenue is one of the main traffic arteries in the City.

There being no further discussion, the motion to defer this item until September 7, 2005, **failed** by a 2-4 vote.

Councilman Bratton:	Not present
Councilman Braynon:	No
Vice Mayor Campbell:	No
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	No
Mayor Gibson:	No

Councilwoman Pritchett referenced the Anticipated Facilities Impact, more specifically the Traffic which indicates access to the site is provided from NW 188 Street and NW 37th Avenue. The second sentence in this paragraph indicated at the time of site plan review a traffic assessment prepared by the developer will address the proposed development's traffic impact including roadway capacity to maintain the required level of service. She said her questioned would have been to the applicant, if they were present, why this impact study was not a part of this particular package; and how would this Council know the extent the additional traffic would impact the level of service for the residents and whether or not this would change their quality of life as we know it, with this development.

Attorney Dickens explained what is before the Council tonight is a rezoning and not a Site Plan approval. It is not a certainty the Site Plan would come before this Council for approval. However, if the Site Plan doesn't come before the Council for approval, staff would have the function of ensuring the traffic situation is addressed.

Councilwoman Pritchett indicated other applications on tonight's agenda for consideration did have the traffic impact information as part of their application, which provides the Council with valuable information as it relates to the traffic to be generated by the proposed development. She wondered why this particular applicant had not provided that information.

Attorney Dickens conveyed that the applicant can certainly do this if they so chose, however this is something typically addressed at the Site Plan Review.

Vice Mayor Campbell said he was not concerned as to whether traffic study information was a part of the applicant's package. He said he relied on staff's information, not that of the applicant. He opined traffic issues are taken care of during the permitting process.

Councilwoman Pritchett in response to Vice Mayor Campbell's comments said he was absolutely right, however the more information provided can be shared with the residents. However if the applicant had been present, they could have answered the questions and empowered everyone present with an explanation of what their answers would be in terms of having a better understanding of where they were coming from.

Mr. Coleman the City's Zoning Administrator appeared before the City Council and stated this particular development consists of five homes. The service on 37th Avenue will not be burdened by these five homes. The concurrency issue will be handled during the permitting process.

Councilwoman Pritchett thanked Mr. Coleman for this explanation. She said this is what the Council needed to hear on the public record.

The motion to amend the Declaration of Restrictions to delete the 30 year provision passed and carried by a 6-0 vote.

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

There being no further discussion on the ordinance as a whole, the motion to adopt the ordinance passed and carried by a 4-2 vote.

Councilman Bratton:	Not present
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	No
Councilwoman Pritchett:	No
Councilwoman Watson:	Yes
Mayor Gibson:	Yes

ORDINANCE NO. 2005-29-67

7B) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY M & M DEVELOPMENT, INC. TO APPROVE A ZONING DISTRICT BOUNDARY CHANGE FROM GU, INTERIM TO RU-TH, TOWNHOUSE, FOR PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTHWEST 37TH AVENUE AND 189TH 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.(SPONSORED BY THE CITY MANAGER) (1ST READING – JUNE 1, 2005)

Mayor Gibson opened the floor for the public hearing on this item. There being no interested parties to speak, the public hearing was closed.

Attorney Luciano Isla, with a business address at 1790 West 49th Street, Suite 300 Hialeah, Florida, appeared before the City Council representing M&M Developers, Inc. He explained his client is requesting this rezoning in order to build single family homes on the property. The Unity of Title would solidify two lots into one lot. The homes can be built without any additional

drainage or other changes to the area.

Attorney Dickens said for point of clarification, the Declaration of Restrictions provided in the agenda package will not be the one being executed. In addition the 30 year provision will be deleted from the document prior to execution.

Moved by Councilwoman Watson, seconded by Councilwoman King to adopt this ordinance.

Councilman Braynon questioned whether these would be market rate homes.

Attorney Isla said the current market rate on these homes is approximately \$200,000.00.

Councilwoman Pritchett thanked Attorney Isla for providing the information about the dialogue with the School Board because that is very important to the community.

Councilman Braynon asked about the average square footage of the lots.

Mr. Isla said the interior lot is approximately 5,000 square feet. The corner lot is a bit larger.

There being no further discussion, the motion to adopt this ordinance passed and carried by a 6-0 vote.

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

Please note, Item 6A was considered prior to the below listed items.

8. RESOLUTION(S)/PUBLIC HEARING(S)

RESOLUTION NO. 2005-91-268-Z-28

8A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF LAZARA L. GONZALEZ FOR NON-USE VARIANCES TO LOT FRONTAGE AND AREA REQUIREMENTS, TO CREATE TWO (2) LOTS AND TO PERMIT TWO (2) SINGLE-FAMILY RESIDENCES ON PROPERTY GENERALLY LOCATED AT THE NORTHWEST

CORNER OF NORTHWEST 37TH COURT AND NORTHWEST 163RD STREET MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (Deferred from June 1, 2005)

Laraza Gonzalez with a residential address of 12954 SW 135th Court, Miami, Florida, appeared before the City Council seeking approval of application for non-use variances for two single family homes.

Mr. Coleman said this applicant is seeking very minimum non-use variances. The waiver of plan has already been approved.

Councilwoman Pritchett referenced page 3 of staff report more specifically the *Anticipated Facilities Impact*, and stated usually information concerning water and sewer service, drainage, traffic, and education is provided as part of the packet and wondered why wasn't that information included this time.

Mayor Gibson in response to Councilwoman Pritchett's concern asked Mr. Marder to come forward and provide an explanation as to why the anticipated facilities impact information was not apart of this particular application when it is provided as part of other applications on this zoning agenda.

Mr. Marder said this information can certainly be provided. Staff just thought that one additional dwelling unit did not pose a significant impact.

Councilwoman Pritchett commented even though Mr. Marder might not have thought the information about the anticipated facilities impact was significant in this case, a lot of the time, the Council has to explain these issues to the residents. She shared it is good in her opinion to have all available information to share with the constituents.

Mayor Gibson asked Mr. Marder to add that information to this application.

Mayor Gibson opened the floor for the public hearing. After there were no interested parties to speak on this item the public hearing was closed.

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

There being no further discussion on this item, the motion to approve passed and carried by a 5-0 vote.

Councilwoman King:	Yes
Councilwoman Pritchett:	Yes

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

RESOLUTION NO. 2005-92-269-Z-29

8B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF PAMELA D. WHITE, FOR A NON-USE SETBACK VARIANCE FOR PROPERTY LOCATED AT 4011 NORTHWEST 186th STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (Deferred from June 1, 2005)

Pamela D. White, with a residential address of 4011 NW 186th Street, Miami Gardens, Florida, appeared before the City Council seeking approval of the Non-Use Variance of setback for a utility shed. She said when she purchased this property the illegal structure was already there. She indicated that she is disabled and as such did not have the funds to do everything being asked of her in order to come into compliance.

Attorney Dickens expressed concern with having this item come before the City Council and asked whether there was a current Code Enforcement Violation on this property.

Mr. Coleman said there is a current Miami-Dade County Code Enforcement Violation on this property. Ms. White's application was transferred from Miami-Dade County to the City of Miami Gardens. The issue with Miami-Dade County has to be resolved. The structure has to be removed from the easement. Nothing can be built in that easement area because of the maintenance of the canals. The Code Enforcement issue has been going on for almost three years.

Mr. Coleman said as far as he is aware no lien has been placed against Ms. White's property. A minimum amount has been paid on the Code Enforcement fines; however, there are balances to be paid.

Attorney Dickens said since the City did not have jurisdiction over the Code Enforcement case, she felt better about telling Ms. White to wait. However she did not want to jeopardize Ms. White's case with Miami-Dade County. She said she would review the Code Section to see whether it is written right, since Ms. White purchased the property with this pre-existing condition. She opined if the code is not written right, Miami-Dade County might have the responsibility of removing that shed.

Mr. Coleman said Ms. White is definitely in violation of Miami-Dade County's Code. The structure is set up as an extra living facility, with a bathroom and kitchen facilities.

Attorney Dickens opined the Council could move forward based on Mr. Coleman's statement however she would still review the County's Code.

Mr. Coleman said although this is a financial hardship on Ms. White, it is imperative that the Code be enforced and this structure removed from the easement area.

Attorney Dickens said she did not get involved with financial issues. However, when someone says they have a pending Code Enforcement issue, it is important to know what the status of that pending case is.

Councilwoman Watson expressed concern as to whether the Council should be hearing this item. She opined if Ms. White's code enforcement issues are with Miami-Dade County, why is the City of Miami Gardens getting involved?

Attorney Dickens said if Ms. White violated the Code, then she is properly before this City Council for what she might need as it relates to zoning.

Mr. Coleman said the structure would definitely have to be removed from the easement area.

Mayor Gibson asked Ms. White whether the subject structure was being rented out or ever occupied.

Ms. White said the property was never a rental property. However, she did stay in said property after her heart surgery because it was more convenient to do so, due to her disability. She emphasized that she did not have the funds to come into compliance.

Mayor Gibson suggested Ms. White contact her church for assistance with the removal of this structure.

Moved by Councilwoman Watson, seconded by Councilwoman Pritchett to approve this item.

Councilwoman Pritchett referenced staff's recommendation and stated that according to No. 4. more specifically the language "if the modifications of the existing accessory building required herein are not completed within said ninety (90) days, the structure shall be completely removed", and questioned since Ms. White doesn't have the funds to remove this structure, who would remove it.

Attorney Dickens said if Ms. White can not comply within the 90 day time frame, the approval of this particular request would be null and void.

Councilwoman Pritchett commented although she is sympathetic to Ms. White's situation, the City must enforce the rules and regulations by which it is governed.

Councilwoman Watson asked Ms. White when did she purchase this property.

Ms. White in response to Councilwoman Watson’s question answered she had purchased the property in 2000.

Councilwoman Watson asked Ms. White if she utilized the services of a real estate agent for this purchase.

Ms. White said she did utilize a real estate agent for this purchase.

Councilwoman Watson asked if the real estate agent advise Ms. White of the Code Enforcement infraction.

Ms. White said she was not informed prior to purchasing the property of any Code Enforcement infractions.

Councilwoman Watson asked if Ms. White had explained when she received the first infraction from Miami-Dade County Code Enforcement that this was a pre-existing condition.

Ms. White said she explained the situation at the Code Enforcement hearing because when she had gotten the first notice she did not understand why she would receive a notice of violation.

Councilwoman Watson said this is an unusual situation. Taking no action is a problem and taking action is another set of problems.

Mr. Coleman advised that the Council grant Ms. White approval, with 180 days to remove the structure from the easement area. This would give Ms. White a sufficient amount of time to get church volunteers, etc., to assist with the removal of a portion of the structure from the easement. In addition, the kitchen and bathroom must be removed from the front portion of the structure. The City’s approval tonight would also facilitate Ms. White with getting her issue resolved with Miami-Dade County. If Ms. White doesn’t complete the removal process within 180 days, she will be back before this Council at a public hearing.

Ms. White said the bathroom and kitchen fixtures have already been removed from the structure. She accepted the 180 day time frame. She further conveyed her concern as to whether she could get the church volunteers to assist with this process.

Move by Councilwoman Watson, seconded by Councilwoman Pritchett to amend the resolution by extending the time period from 90 to 180 days.

There being no further discussion on the amendment, the motion **passed and carried by a 6-0 vote.**

Councilwoman Pritchett: Yes
Councilwoman Watson: Yes

Councilman Bratton:	Not present
Councilman Braynon:	Yes
Councilwoman King:	Yes
Vice Mayor Campbell:	Yes
Mayor Gibson:	Yes

There being no further discussion on the resolution as a whole, the motion to approve passed and carried by a 6-0 vote.

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

RESOLUTION NO. 2005-93-270-Z-30

- 8C) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF M & M DEVELOPMENT, INC. FOR A SPECIAL EXCEPTION PERMIT FOR A RESIDENTIAL DEVELOPMENT IN A BU-1A, LIMITED BUSINESS ZONING DISTRICT ON PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF NORTHWEST 179TH STREET BETWEEN NORTHWEST 25TH COURT AND NORTHWEST 27TH AVENUE AND MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (Deferred from June 1, 2005)**

Attorney Luciano Isla, with a business address at 1790 West 49th Street, Suite 300 Hialeah, Florida, appeared before the City Council representing M&M Developers, Inc., and indicated that at the request Councilman Braynon, his client had agreed to come back with a revised Site Plan of what this property would look like.

Mayor Gibson opened the floor for the public hearing. After there were no interested parties to speak on this item, the public hearing was closed.

Moved by Councilman Braynon, seconded by Vice Mayor Campbell to approve this item.

Councilman Braynon thanked Attorney Isla for providing the information he had requested, which was helpful as well as instrumental in answering all of his questions.

Councilwoman Pritchett commended the developer for doing an excellent job in clearing

this lot and preserving the trees. She further stated for the record this application was received by Miami-Dade County prior to the City's adoption of the moratorium and therefore is not being given any special consideration because it was received prior to the moratorium.

Councilwoman Watson said this application does not stipulate the proposed usage.

Mr. Coleman said the BU-1A Zoning allows for a variety of commercial uses as well as residential use.

Councilwoman Watson stated that she did not realize until she got to the Site Plan that this proposed project is a duplex.

Mr. Coleman said a duplex is considered a single-family unit; even though there are two units in one lot. A duplex is a permitted use with a Special Exception in a BU-1A Zoning.

Councilman Braynon shared this is the reason why he had made the request at the last City Council meeting to bring back a site plan.

Moved by Councilman Braynon, seconded by Councilwoman Watson to amend page 2, line 32 of the resolution to read be limited to two (2) attached dwellings , instead of two (2) single-family homes

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

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

There being no further discussion on the item as a whole, the motion to **approve passed and carried by a 5-0 vote.**

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

RESOLUTION NO. 2005-94-271-Z-31

- 8D) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF LEGACY POINTE ASSOCIATES, LTD. FOR MODIFICATION OF PREVIOUSLY APPROVED CONDITIONS; APPROVING A NON-USE VARIANCE; DELETING PREVIOUSLY APPROVED AGREEMENTS AND CONDITIONS; APPROVING A DECLARATION OF RESTRICTIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Attorney Graham Penn, with law offices at Wachovia Financial Center, 200 S. Biscayne Boulevard, Suite 850, Miami, Florida, appeared before the City Council representing the applicant. The request is for approval of revised plans and deletion of restrictions to construct 210 town homes instead of 274 apartments. The property is made up of Tract A and Tract B. The tracts were zones separately in 1970. Tract A was a portion of the subject property of a prior application. That approval was conditioned upon the Tract being developed in accordance with a site plan entitled 274 Unit Apartment Complex Cloverleaf Lifter Enterprises, which was dated May 9, 1973. The 274 Unit Apartment Complex plan depicted Tract A as being developed with several large apartment buildings containing 184 residential units. A Restricted Covenant was recorded at the same time, which provided that the property would be developed in substantial accordance with the 274 Unit Apartment site plan.

Attorney Penn stated that Tract B had a district boundary change to Modified Apartment House. As a condition of this approval, Tract B was required to be developed in accordance with a site plan entitled Golden Glades 468 Unit Apartment Complex, dated July 24, 1971. Tract B is depicted on the Golden Glades plan as being a development with several three-story apartment buildings, parking areas and open space. A Restricted Covenant was recorded at the same time, which provided that Tract B be developed with the Golden Glades site plan. The property never developed as approved and remains vacant.

Attorney Penn said the applicant is proposing to develop the property with an attractive 210 unit condominium townhome community. This new project meets and exceeds all open space, landscaping, parking and parking lot requirements. In order to realize this plan, three major things must be accomplished: 1) Replace the 274 Unit Apartment Complex plan with Legacy Pointe plan for Tract A; and replace the Golden Glades site plan with Legacy Pointe plan for Tract B; 2) Delete the Restricted Covenants for both Tracts A and B; and 3) wave the County Code requirement for the masonry wall that would otherwise be required between the BU-1A zonings on Tract A and the RU-4M zoning on Tract B. The applicant will be offering a Declaration of Restrictions to the City of Miami Gardens that will require the property be developed in substantial accordance with the Legacy Pointe Plan.

Herman Lopez, a representative with Cornerstone Group and the architect on this project appeared before the City Council to further expound on the site plan.

Attorney Penn said the project will be gated with security and will include sufficient setbacks, landscaping, and green space and tot lots. The fenced area will be very heavily landscaped. A traffic study, which has been submitted, demonstrates there would be no adverse affect to the traffic pattern in this area. The developer has agreed to accept all of staff's recommendations and conditions. The developer believes this plan offers great improvements over the currently approved apartment complex plan. Legacy Pointe will offer the residents of the City of Miami Gardens the option of ownership.

Mayor Gibson opened the floor for the public hearing.

Attorney Jerry Proctor, with law offices at 200 S. Biscayne Boulevard, Miami, Florida, appeared before the City Council representing Bennett Lifer, a property owner in this City and the former owner of the subject property. Mr. Lifer sold this property to Mr. Penn's client approximately two years ago. He asked the Council's assistance in resolving a house cleaning issue. He said his client has not objections to this application. He explained, when this property was platted over twenty years ago there was a bond put up by Mr. Lifer to Miami-Dade County, as part of the subdivision improvements. The bond required a sidewalk improvement whenever there would be a project developed on this property. That bond has stayed in place as part of the subdivision improvements. However, the development never occurred on this property. Mr. Lifer discovered after this property was sold that the bond was still in place and is still paying annual renewals and other fees related to the bond. When Mr. Lifer approached Miami-Dade County about getting the bond release, he was told that he had to either: 1) re-plat the property to remove the subdivision improvements; or 2) seek relief from the City of Miami Gardens, since this property is now in the incorporated City. Mr. Lifer does not have the ability to re-plat the property because he no longer owns it. The proposed Site Plan Legacy Pointe has sidewalk improvements along N.W. 7th Avenue, incorporated. He opined this certainly fulfills the objective or intent of the bond.

Mr. Lifer is asking for Council's assistance in directing staff to approach Miami-Dade County, along with Mr. Lifer's representatives in an effort to help get the bond released. That bond is still costing Mr. Lifer funds in terms of renewals on property he doesn't even own any longer.

Mayor Gibson opined Attorney Proctor's request is not a part of this application, and did not see anything in the packet indicating that it would have anything to do with this zoning request. Therefore she asked Attorney Dickens to review this matter and advise Council on how to proceed with Attorney Proctor's request.

Attorney Proctor said his comments are also related to Item No. 9B, which is the plating of this property (Legacy Pointe). He opined his request might be more appropriate during that discussion.

Bennett Lifer, with a business address of 17750 NW 2nd Avenue, Miami Gardens, Florida,

appeared before the City Council and opined the simplest solution would be for the City of Miami Gardens to require as an approval of this zoning, the applicant to replace Mr. Lifter's bond with a bond of their own. This would in turn release Mr. Lifter's bond at the same time requiring that essential sidewalks are installed.

Marilyn Yeats, with a residential address at 745 NW 175th Street, Miami Gardens, Florida, appeared before the City Council to express her concern about the potential increase in traffic this project will bring. She said there is a lot of foot traffic in this area from children and parents walking to and from school, therefore she was also concerned for the children's safety. She further reported that the three way stop sign at NW 7th Avenue and 177th Street is constantly not being adhered to by motorists.

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

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

Councilwoman Pritchett invited the Traffic Engineer to come forward to provide information about the traffic study performed in this area.

Councilwoman King questioned whether the potential traffic from the new Wal-Mart Superstore scheduled to be built in this area was included in this traffic study.

Miles North, with a business address of 12900 SW 84th Street, Miami, Florida, appeared before the City Council to expound on the Traffic Study performed in association with this project. The process of doing the traffic study is pretty standard based upon the type of development and other existing developments. The amount of traffic that would be generated by this development is calculated by the number of units and anticipated vehicles per unit. During the morning peak it was determined there would be approximately 92 trips. During the evening peak it was determined there would be approximately 109 trips. From there the trips were distributed along the roadways, using a study done by Miami-Dade County, looking at where employment and residential sensors are located to see how people would travel from one area to another. The largest traffic generation is going to be less than one trip a minute. In conclusion, this area not only meets Miami-Dade County current traffic concurrency requirement; the impact is going to be very minimum. The basis procedure in doing a traffic study is based upon other similar developments. The traffic to be generated is based upon a study done by Miami-Dade County many years ago. That particular study has been updated continuously. Based upon where people work and based upon the residential areas this type of traffic distribution has been established and the basis procedure used in all traffic studies.

Councilwoman Pritchett asked Ms. Yeats if she had a better understanding of the traffic and whether her concerns were addressed.

Ms. Yeats opined there are too many developments (e.g. Super Wal-Mart, Legacy Pointe)

going on in the area therefore she wanted to bring the traffic concerns to the forefront. She encouraged the City of Miami Gardens to conduct its own traffic study.

Councilwoman Pritchett supported having a City conducted traffic study and questioned the procedure required to move this process forward.

Mr. Coleman shared that staff is working on trying to get a City of Miami Gardens traffic analysis. The Public Works Department is working hard to develop a system to put in place to gather data for this purpose.

Mr. Marder appeared before the City Council and shared that as part of the Wal-Mart development, the intersection at 177th Street and NW 7th Avenue will be redone.

Councilwoman Pritchett placed emphasis on the importance of addressing the concerns raised by Ms. Yeats now. She said the Wal-Mart development and improvements to the 177th Street intersection are future projects. Something needs to be done now to address the existing problem.

Vice Mayor Campbell said the question has been asked several times and has been answered several times. Currently the City does not have staff to perform this task.

Mayor Gibson said even though the City did not have staff, the Council can direct staff to get a consultant to do the traffic study.

Vice Mayor Campbell expressed concern with the number of units being built and asked if a Declaration of Restrictions could be put in place to ensure the townhomes and condominiums do not become rental units but remain owner occupied.

Attorney Penn opined these units would be selling at approximately \$190,000.00, which is too expensive to be rented out.

Vice Mayor Campbell asked for clarification purposes, if this request was not approved by the Council would that mean apartment units could be built without the Council's approval.

Attorney Penn said a developer could come in on tomorrow with a site plan similar to what is currently approved and get approval to build on the site.

Vice Mayor Campbell said he had asked this same question on the previous item. If this request is not approved, the situation could be worse.

Councilwoman Watson conveyed her concern for the lack of respect for the stop sign in this particular neighborhood as reported by Ms. Yeats. She questioned whether a traffic light could be installed at that location. She further expressed concern with the erection of a chain link fence to border the complex.

Attorney Penn explained the fence would be constructed of concrete pillars, with the chain link fencing between each pillar. The fence would then be entirely hidden by hedges.

Councilwoman Watson questioned whether this fence was going to be erected around the entire complex.

Attorney Penn said Wal-Mart would be putting up a ten foot wall on the eastern side of the complex. Therefore, three quarters of the complex would be surrounded by the chain link fence.

Councilwoman Watson questioned whether staff has had any meaningful dialogue with the Miami-Dade County School Board as it related to the potential impact on area schools as a result of an influx of students generated from this development.

Mr. Marder appeared before the City Council and shared that nothing specific on this project has been received. Staff is working with the developer to ensure a line of communication with the Miami-Dade County School Board continues.

Attorney Penn indicated this is a fairly old application. It existed before the City was incorporated. During that time, the developer had dialogue with the School Board. The resolution received from the School Board was basically the number of students generated by this project was being decrease because originally there were 300 plus units, whereas the project has now been downsized.

Councilwoman Watson asked if there were Impact Fees due to the School Board because of the proposed development.

Attorney Penn said applicable Impact Fees were assessed to the developer by the Miami-Dade County School Board.

Councilwoman Watson questioned whether an irrigation system would be installed to provide maintenance for the green space.

Attorney Penn affirmed an irrigation system would be installed for green space as well as for the median areas.

Councilwoman King expressed concern about the aesthetics of the chain link fence.

Attorney Penn provided photos on the concept of the chain link fence, showing the fence covered by green hedges, which caused the fence to be invisible.

Manny Martinez, Vice President of Development Division of the Cornerstone Group, with a business address of 2121 Ponce De Leon Boulevard, Coral Gables, Florida, appeared before the City

Council to expound on the photo. He said there if a fence behind the hedge, which is visible from the street. The single family homes surrounded by this fence are located in the town of Miami Lakes.

Mr. Martinez stated that townhomes, and condominiums are totally different from single family homes. He emphasized the chain link fence would not be invisible from the street. The only purpose of the chain link fence is to provide a sense of security for those people living behind the fence. The hedge surrounding the chain link fence would be fully irrigated. In addition, the landscaping plan provides for the planting of additional trees. He emphasized, the chain link fence would not be seen.

Councilwoman King questioned whether a Declaration of Restrictions could be issued indicating that the dwelling units would be owner occupied.

Mr. Martinez said his client would not be able to commit to that at this point. He opined the average unit is selling for \$190,000.00, which equates to a mortgage of \$2,000.00 a month. He opined, with a mortgage of this amount, Section 8 would not consider subsidizing someone's rent to live in this type of development.

Councilwoman Watson shared that she has witnessed first hand where developers have set aside a certain number of units targeted for Section 8 renters, which creates a mixture of residents. This is why concerns are being raised on the dais.

Councilman Braynon suggested stipulating that a certain percentage of the units would be owner occupied.

Attorney Penn opined his client did not have an issue with the concept. The only issue would be how this would be crafted. It is not the developer's intention to hold back a certain number of units for Section 8 renters.

Councilman Braynon asked whether specific language could be placed in the Homeowner Association documents.

Mr. Martinez said the developer was not prepared tonight and would look to the attorney to find the right language addressing this concern.

Councilman Braynon asked if the developer was willing to commit to addressing the Council's concern.

Mr. Coleman interjected and stated the Council could make no rentals as a condition of approval.

Attorney Dickens said Mr. Coleman is correct, however she would not advise placing this

type of condition as part of the approval. She suggested that the Council work with the developer to address these concerns. She asked the Council to keep in mind this development will have a homeowners association, which would have the same concerns.

Mayor Gibson shared that she was an advocate for no rentals. However when her daughter, who is a professional, started looking for a decent place to live, she had to rethink her position. Home ownership is an excellent thing. She opined this city has been overburdened with Section 8 Housing, which has caused mixed feelings in many. She opined we certainly did not want to discriminate against anyone who needs to have decent housing. She emphasized the importance of having a balance with the kinds of developments being proposed in this City, which includes housing. What is done today will determine how things will be ten years down the road. This City which is predominately African American has the potential to become an absolutely fantastic City; a premiere City in the County and in the Country. However, caution should be exercised in building this great City, so that people can afford to live here. In all the success this City has had in the two years of incorporation, she can see that on the horizon. She opined this Council in doing its job should be very careful about how it deals with some things. She shared in her own enlightenment she has changed her mind. She opined every one here just can not afford to buy a house. There are a lot of outstanding citizens living in this community who can not afford to buy a house, and will probably have to rent the rest of their lives. She asked her Council members to think about this as they deliberate on some of the applications that come before them and as they talk about making some special conditions and exceptions.

Councilwoman Pritchett opined the Council still has not addressed the concerns of Ms. Yeats with regard to the traffic.

Mayor Gibson said Ms. Yeats is correct the traffic in this area is bad and it is going to get much worse because Wal-Mart will be located in this area as well. She shared she has had several conversations with staff about the anticipated traffic situation in this area. She emphasized the importance of addressing the traffic situation before all the development projects are completed.

Vice Mayor Campbell commented, we all know about the traffic problem, the question is how do we mitigate it.

Mr. Marder said the street will be increased to four lanes up to 177th Street. The intersection at 177th and NW 7th Avenue will also be reconfigured. There will be a lot of ways to get to the Wal-Mart, which would not cause a major traffic jam on one street. The City will need to take a look at the Traffic Master Plan to address the 826 roadway.

Moved by Councilwoman Watson, seconded by Vice Mayor Campbell to remove the language from the Declaration of Restriction from 30 years to run with the life of the land.

There being no further discussion on the amendment, the motion passed and carried by a 6-0 vote.

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

At the conclusion of the discussion on the resolution as a whole, the motion to approve passed and carried by a 6-0 vote.

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

Note: Councilwoman King and Pritchett left meeting at 11:45 p.m.

RESOLUTION NO. 2005-272-Z-32

8E) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF GUZMAN HOMES, LLC FOR A SPECIAL EXCEPTION TO PERMIT SITE PLAN APPROVAL FOR FIVE (5) SINGLE-FAMILY HOMES AND APPROVING CERTAIN NON-USE VARIANCES INCORPORATED AND REFLECTED UPON THE SITE PLAN ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Assistant Manager McHugh explained this item is the companion to Item No. 7A. A lot of the issues relating to this item were discussed under Item No. 7A.

Mayor Gibson opened the floor for the public hearing. After there were no interested parties to speak on this item, the public hearing was closed.

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

There being no discussion, the motion to approve passed and carried by a 4-0 vote.

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

Moved by Councilman Braynon, seconded by Councilwoman Watson to extend the City Council meeting past 12 midnight. This motion was passed and carried by a 4-0 vote.

9. RESOLUTION(S)

RESOLUTION NO. 2005-96-273

9A) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A FINAL PLAT FOR THE WAL-MART ON HONEY HILL PROJECT, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER).**

Chris Demeter, PSM, with a business address of 601 21st Street, Suite 400, Vero Beach, Florida, appeared before the City Council representing this applicant. He solicited the Council approval of this final plat.

Mr. Coleman said staff has no objections to this application.

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

There being no further discussion, the motion to approve this item passed and carried by a 4-0 vote.

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

RESOLUTION NO. 2005-97-274

9B) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A FINAL PLAT FOR THE LEGACY POINTE PROJECT, A COPY OF WHICH IS ATTACHED**

HERETO AS EXHIBIT “A”; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Assistant City Manager McHugh said this is also an administrative procedure related to companion Item 8D, which was approved on tonight’s agenda.

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

Attorney Penn indicated that the developer is fully committed to the construction of sidewalks around the property.

Moved by Councilman Braynon, seconded by Vice Mayor Campbell to amend the resolution to include a condition that the sidewalk improvements along 7th Avenue, be included into the plat.

There being no further discussion, the amendment passed and carried by a 4-0 vote.

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

Attorney Proctor re-appeared before the City Council and stated with the approval of this item, which provides for the sidewalk improvements to be incorporated into the plat, he would ask the City’s assistance with Mr. Lifter’s bond removal. He asked for the Council’s expression of support and no objections to the release of Mr. Lifter’s bond be made a part of the motion.

Mayor Gibson reiterated that the Council would adhere to the advice of Counsel, who will not give that advice until she has looked at the bond. Once the City Attorney has reviewed this information she will bring back a recommendation to the City Council as to the appropriate action to be taken. Attorney Dickens was directed to communicate with Attorney Proctor as it related to Mr. Lifter’s Bond.

At the conclusion of this discussion, the motion to approve this item as a whole, passed and carried by a 4-0 vote.

Councilwoman King:	Not present
Councilwoman Pritchett:	Not present
Councilwoman Watson:	Yes
Councilman Bratton:	Not present

Councilman Braynon: Yes
Vice Mayor Campbell: Yes
Mayor Gibson: Yes

10. ADJOURNMENT:

There being no further business to come before this Board, and upon being dully motioned by Councilman Braynon and seconded by Vice Mayor Campbell, the meeting was adjourned at 12:03 a.m.

Attest:


Shirley Gibson, Mayor


Ronetta Taylor, CMC, City Clerk