

**CITY OF MIAMI GARDENS
REGULAR CITY COUNCIL ZONING MINUTES
SEPTEMBER 7, 2005**

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

The City Council sitting as the Zoning Board for the City of Miami Gardens, Florida, met in regular session on Wednesday, September 7, 2005, beginning at 7:10 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 Oscar Braynon II, and Council members Barbara Watson, Aaron Campbell Jr., Melvin L. Bratton and Sharon Pritchett. Councilwoman Audrey J. King was not present due to illness.

Moved by Vice Mayor Braynon, seconded by Councilwoman Pritchett to excuse Councilwoman King's absence due to illness. This motion passed and carried by a 6-0 vote.

Also in attendance were: City Manager Dr. Danny O. Crew, City Attorney Sonja K. Dickens and Administrative Assistant Mercedia Williams, sitting in for City Clerk Ronetta Taylor, who was out on bereavement leave.

2. INVOCATION:

Dr. Lester Brown delivered the Invocation.

3. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

4. APPROVAL OF MINUTES:

4A. Zoning Minutes – July 6, 2005

Moved by Vice Mayor Braynon, seconded by Councilman Campbell to approve the minutes as presented. There being no discussion the motion passed and carried by a 6-0 vote.

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

Moved by Councilman Campbell, seconded by Councilwoman Watson to move Item 7A to be heard prior to the first reading of ordinances. This motion was seconded by Councilwoman Watson.

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

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

The discussion for Item 7A, appears in its respective place on the official agenda.

Moved by Vice Mayor Braynon, seconded by Councilman Campbell to approve the official agenda with the amendment. There being no further discussion, this motion passed and carried by a 6-0 vote.

Robert Coleman, Zoning Administration read into the record the procedure utilized for zoning matters.

The Clerk swore in all parties participating in the quasi-judicial proceedings.

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 REZONING OF PROPERTY GENERALLY LOCATED AT 3550 NORTHWEST 189TH STREET FROM AU-AGRICULTURAL TO RU-1Z, SINGLE FAMILY ZERO LOT LINE DEVELOPMENT, 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).**

Mayor Gibson opened the floor for the public hearing.

Attorney Robert Holland, with law offices at 5955 NE 4th Court, Miami, Florida, appeared before the City Council representing the applicant Mr. Marcial Rodriguez. The applicant is requesting a rezoning to build 13 single-family homes, which would have the Mediterranean Style, with 4,500 square foot lots. This request is consistent with the Land Use Master Plan.

Robert Coleman, Zoning Administration explained this application consist of 13 homes, zero lot line development. It is consistent with the Comprehensive Development Master Plan. The

homes average 1,800 square feet, three bedrooms, two bathroom homes, with garages. The Planning and Zoning Department likes this application, and recommends approval.

Jay Marder, Development Services Director stated the lot sizes associated with this application are consistent with those in this particular area.

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

Moved by Councilwoman Watson, seconded by Councilman Bratton to approve this item on first reading.

Councilwoman Pritchett questioned why no report from the Fire Department was included along with reports from the other governmental entities (e.g. DERM, School Board, Public Works, etc.). She conveyed concern with whether the fire department would have a problem getting emergency vehicles through an area with zero lot lines.

Mr. Coleman said Dade County Fire Department will review this application for consistency with applicable ordinances, which is done at the construction document phase.

Attorney Dickens clarified this is a re-zoning and not a site plan approval or variance.

Councilman Bratton asked that when the School Board is making its assessment that the correct schools directly impacted by this development be used.

Mr. Coleman said the School Board is in the process of reviewing this application.

Councilman Bratton said he wanted to make sure the School Board, when making its recommendation was identifying the correct schools and projects.

Councilwoman Watson expressed concern with the overall impact of developments, and opined the City needs to know where it stands with the local schools.

Mr. Coleman shared the City now has a cohesive working relationship with the School Board. Staff has expressed concerns with the numbers. A representative from the School Board will be forthcoming with a presentation to the City Council about their Five-Year Plan.

Councilwoman Pritchett asked when would this presentation be scheduled for, and placed emphasis on the importance of this meeting as it relates to the zoning applications coming before this Council for approval.

Mayor Gibson suggested having this meeting take place prior to the next Zoning hearing scheduled for October 5, 2005. She asked administration to be mindful of the scheduling constraints

due to the various entities' budgetary process.

Mayor Gibson asked Attorney Dickens if the Council has concerns about the impact of a project on a school, and sufficient information is not received in the Council's opinion to make a decision on the application, can that application be deferred.

Attorney Dickens in response to Mayor Gibson question stated, Yes you can.

Mayor Gibson conveyed, if this Council so desires, it can defer any application because of lack of information as it related to the impact on schools. She asked that staff coordinate with the School Board to come up with a date for the presentation before Council, preferable prior to the next Zoning Board meeting.

There being no further discussion on this item, the motion to approve on first reading passed and carried by a 6-0 vote.

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

6B) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY MARVEL JONES TO APPROVE A REZONING FROM RU-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO RU-5A, SEMIPROFESSIONAL OFFICE DISTRICT FOR PROPERTY LOCATED AT 340 NORTHWEST 183RD STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE EXECUTION OF A DECLARATION OF RESTRICTIVE COVENANTS AS SHOWN ON ATTACHED 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)

Mr. Coleman conveyed staff's recommendation of approval based on the Comprehensive Master Plan and the particular use as shown on the plat.

Marvel Jones, 340 NW 183rd Street, Miami Gardens, Florida, appeared before the City Council to ask for approval of her application.

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There were no interested parties to speak for against this project.

Moved by Councilwoman Watson, seconded by Councilman Bratton to approve this ordinance on first reading.

Councilwoman Watson indicated she did not see any provision in the Declaration of Restrictions to address the irrigation system, and whether that system would be maintained throughout the life of this use.

Mr. Coleman said staff would make sure the irrigation issue is addressed when the applicant applies for a building permit.

Councilwoman Pritchett inquired about the hours of operations for this business.

Mayor Gibson stated for clarification purposes the Council is to only deal with the rezoning matter before them. When the application comes back for the Site Plan review process, conditions would be set at that particular time.

Councilwoman Pritchett conveyed her understanding of the process. She shared usually that kind of information is provided with the rezoning application.

Attorney Dickens suggested striking out anything to do with the Declaration of Restrictions until the second reading of this item. In addition, the hours of operations are not an issue on the application. Only those issues the applicant is seeking to change or if there is a particular issue that staff believes, based upon the location of the property, or the particulars of the application, the hours may be limited. She said she did not believe that to be the case in this particular situation.

Moved by Councilwoman Pritchett, seconded by Councilwoman Watson to amend the ordinance to delete the provision relating to the Declaration of Restrictive Covenant, which will come back at the next here with the Non-use Variance application.

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

There being no further discussion on the ordinance as a whole, the motion to approve this item on first reading passed and carried by a 6-0 vote.

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

Councilwoman Pritchett: Yes
Mayor Gibson; Yes

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

ORDINANCE NO. 2005-31-69

- 7A) **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) (1st Reading July 6, 2005.**

Attorney Robert Holland, with law offices at 5955 NE 4th Court, Miami, Florida, appeared before the City Council representing the applicant Mr. Marcial Rodriguez. He recounted the sequence of events leading up to the second reading of this ordinance. He emphasized this townhome development is not the typical development but a luxury townhome development, and is a fully gated community. The complex will have a homeowners association to ensure all rules and regulations, and maintenance issues are complied with. However, this development went a step farther by the execution of a Restrictive Covenant, which would ensure there were no issues of concern; by inviting any neighbor from the neighborhood as well as the City's Code Enforcement Department to come in and inspect to make sure all maintenance issues are being complied with. He identified some of the items listed in the Restrictive Covenant as: requirement that the exterior of the complex must be painted no less than every six years; an irrigation system has to be maintained throughout the life of the development; the landscaping has to be maintained throughout the life of the development; no excess parking on the rights-of-way allowed; garages can not be enclosed and made into rooms; no derelict or abandoned vehicles allowed on the property; the common areas/front lawns must be cut every two weeks by the homeowners association; graffiti must be removed within seven days; pot holes must be repaired within 14 days; damage to perimeter wall must be repaired within 45 days; only barrel tiles will be allowed on the roof; the units can not be rented and must be owner occupied at all times.

Attorney Holland said the amenities of this development include a cabana, a meeting room, and a barbeque area. The selling prices for the townhomes will range from \$180,000-\$215,000. All

the restrictions mentioned must be posted at all times at the entrance gate and the pool cabana.

Mayor Gibson opened the floor for the public hearing.

William Henry Thomas, 1360 NW 175th Terrace, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He said he wanted his community to stay a single family residential community.

John Miles, 1260 NW 172nd Street, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He expressed concern with the enforcement of the Restrictive Covenant.

Ann Zanakis, 16920 NW 14th Avenue, Miami Gardens, Florida appeared before the City Council in opposition to this request. She cited traffic issues as her main concern for opposing this item.

Elsie Jones Ferguson, 1350 NW 173rd Terrace, Miami Gardens, Florida, appeared before the City Council in opposition to this request. She questioned who is going to enforce the Covenant once the development has been completed.

Ronald Colson, 1361 NW 171st Street, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He said he did not want his community separated and divided. He opined townhomes might be great for another community. He said he was not pleased that the City Council overrode the residents' concerns. He suggested bringing businesses into the community to address the needs of the area.

Tony Lawrence, 17110 NW 14th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He concurred with the comments made by previous speakers. He further expressed concern with the City Council turning a deaf ear to what the residents wanted.

Elder Leggette, 17601 NW 10th Court, Miami Gardens, Florida, appeared before the City Council in opposition to this request. He said he could tell by looking at the Council members that they have already made up their minds about this item. He told the Council members they were wrong in their decision.

Attorney Holland was provided an opportunity for rebuttal. He said there has never been a misrepresentation about the number of units to be built on this site. That number has always been 52. The Restrictive Covenant is a legal binding document enforceable by the City of Miami Gardens. Potential homeowners, if they decide to buy one of the townhomes will have no choice but to agree to the guidelines outlined in the Restrictive Covenant. He referenced the requirement for barrel tile roofs and said there is no effort to be disrespectful to this community. He emphasized that everything that was done here was done as an attempt to make sure this development went in with the utmost respect to the community. This is a top quality project as it relates to the legal restrictions

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placed on the development.

Mr. Colson reappeared before the City Council and said it did not matter how good a project Attorney Holland's client was constructing, the point is the residents do not want this project in their neighborhood. He further conveyed his disappointment with the elected officials for not adhering to the residents' concerns. He said he would rather see single family homes and if that is not possible more businesses, which is what this community needs.

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

Moved by Councilwoman Watson, seconded by Councilman Campbell to adopt this ordinance.

Councilwoman Pritchett stated, In our community there are many perceptions about our elected government. Some are of the opinion government has lost touch with the residents, with the City of Miami Gardens. She opined the residents have a wait and see attitude where they just want to wait and see how our City government will evolve. Residents of the Scott Lake area appeared before this zoning body, their City government on July 6, 2005, expressing their concerns regarding the proposed development on NW 170th Terrace and 14th Avenue. It was obvious at that meeting that many left the meeting feeling their quality of life issues were not addressed, their voices not heard, their concerns not considered, their questions not answered. The mandate of the residents, the stakeholders in the City of Miami Gardens should always take precedence over a potential short lived economic gain that does not benefit the majority of the residents, this City's stakeholders. It is apparent again tonight these same residents, these stakeholders have spoken and expressed not wanting this kind of development in their area.

Councilwoman Pritchett stated she listened to the residents, these stakeholders and have heard the residents, these stakeholders in the City of Miami Gardens. She said when it is time to vote she plans to vote no.

Councilwoman Watson asked Attorney Dickens what were the legal ramifications if this application is denied by Council.

Attorney Dickens said the property owner would have the right to appeal Council's decision to the Circuit Court.

Vice Mayor Braynon asked staff for its recommendation.

Jay Marder, Development Services Director appeared before the City Council in response to Vice Mayor Braynon's question. He said this application is consistent with the Comprehensive Plan. It is a good infill process and supports the City's policies of filling in vacant areas.

Attorney Dickens advised that Attorney Holland had offered an additional restriction to the Restrictive Covenant which provides that the property shall be owner occupied. That matter should be addressed first, prior to consideration of the ordinance, if that is the Council's pleasure. She suggested a motion to amend the Declaration of Restrictions to include the language which prohibits the rental of the property and that at all times the property shall be owner occupied.

Moved by Councilwoman Watson, seconded by Councilman Campbell to amend the Declaration of Restrictions to provide that the property shall be at all times owner occupied and property owners are prohibited from renting their property.

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

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

Vice Mayor Braynon said many of the concerns raised by the residents during the times this item has been under consideration have been addressed by the developer. He said the only impasse is that people don't want this development in their community.

There being no further discussion, the motion to adopt this ordinance passed and carried by a 5-1 vote.

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

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

RESOLUTION NO. 2005-112-289-Z-34

- 8A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF CARLOS AND JEWEL BARROW, FOR A NON-USE SETBACK VARIANCE FOR

PROPERTY LOCATED AT 1041 NORTHWEST 203RD 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)

Jay Marder, Development Services Director explained this application is for a non-use setback variance on a single-family residence. It is to provide for an addition to that residence. It is very similar to other building in the immediate area. Staff recommends approval.

Carlos Barrow, 1041 NW 203rd Street, Miami Gardens, Florida, appeared before the City Council to solicit approval of this application.

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

Councilwoman Pritchett thanked Mr. Barrow for trying to help the City of Miami Gardens be the kind of City we all can be proud of.

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

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

RESOLUTION NO. 2005-113-290-Z-35

- 8B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF ALICIO AND MARTA GONZALEZ, FOR TWO (2) NON-USE SETBACK VARIANCES FOR PROPERTY LOCATED AT 4430 NORTHWEST 207TH DRIVE, 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)**

Mr. Coleman conveyed staff's recommendation of approval of this application based upon the single-family homes in the area.

Alicio and Marta Gonzales, 4430 NW 207th Drive, Miami Gardens, Florida, appeared before the City Council soliciting approval of their application.

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

Councilwoman Pritchett asked whether the landscape element would be provided for during the building permit process.

Mr. Coleman confirmed that the landscape requirement would be addressed at that time.

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

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

RESOLUTION NO. 2005-114-291-Z-36

- 8C) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF GERTRUDE STEPHENS FOR THREE (3) NON-USE SETBACK VARIANCES FOR PROPERTY LOCATED AT 2480 NORTHWEST 153RD 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)**

Mr. Marder explained this application is the result of a Code Enforcement Action. The applicant is trying to correct the infraction. Staff is recommending approval with conditions that all permits be secured and repairs made within a six month period.

Gertrude Stephens, 2480 NW 153rd Street, Miami Gardens, Florida, appeared before the City Council to solicit approval of this application.

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

Attorney Dickens recommended the following amendment to Section 3 of the resolution: 1) The existing carport addition remains an open structure, and allows for onsite drainage; six (6) foot

Opaque wall or wooden fence erected along the south property line so as to preclude horizontal vision and protect the privacy of the adjoining property.

Moved by Councilman Campbell, seconded by Vice Mayor Braynon to amend the resolution as prescribe by Attorney Dickens. There being no further discussion on the amendment, the motion passed and carried by a 6-0 vote.

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

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

RESOLUTION NO. 2005-115-292-Z-37

8D) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF REGENIA AND DORETTA A. RIVERS, FOR FOUR (4) NON-USE SETBACK VARIANCES FOR PROPERTY LOCATED AT 3810 NORTHWEST 172ND TERRACE, 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)

Mr. Marder explained the applicant must secure all necessary building permits, and complete all necessary modifications within six months. Staff recommends approval.

Regenia Rivers, 3810 NW 172nd Terrace, Miami Gardens, Florida, appeared before the City Council to solicit approval of this request. She explained she had purchased the property in 2001. After the purchase, she found out the rear addition which was completed prior to the purchase was done without permits.

Moved by Vice Mayor Braynon, seconded by Councilwoman Pritchett to approve this item.

Jester Bailey, 3831 NW 172nd Terrace, Miami Gardens, Florida, appeared before the City Council in opposition to this application.

Attorney Dickens clarified, this application is to permit a variance from the setback requirements for the rear property and accessory structure.

Councilman Campbell commented this is an existing condition. The structure is already in existence.

Mr. Marder further explained, before this area incorporated Miami-Dade County Code Enforcement Division did not do an adequate job of ensuring that everybody got proper building permits. The City now has a lot of situations similar to this where people built additions without permits.

Mayor Gibson further explained that this structure was built prior to Ms. Rivers purchasing the property, which means that Mr. Bailey's previous neighbor built the addition without the proper building permit, which they should have gotten. Once Ms. Rivers found out the addition was an illegal structure she attempted to rectify the infraction, which is what she is doing now.

Mr. Bailey thanked Mayor Gibson for this explanation. He said because an investigation has been done, he can now live with the application.

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

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

8E) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF MINGO AFFILIATE SERVICES, INC. FOR AN UNUSUAL USE PERMIT TO PERMIT A DAY CARE CENTER AND FOR CERTAIN NON-USE VARIANCES FOR PROPERTY LOCATED AT 17620 NORTHWEST 17TH AVENUE; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Mr. Marder explained this application is for an Unusual Use for a Day Care Center. A Non-Use Variance of classroom size requirements to permit a classroom area of 884 square feet where a minimum of 1,050 is required. A Non-Use Variance of Parking Regulations to permit parking

within 25 feet of an official right-of-way; and a Non-use Variance of Landscaping Regulations to permit a landscape buffer along NW 17th Avenue, varying from 0 feet to 6 feet (minimum 7 feet is required). Staff recommends denial of the Unusual Use to permit the day care center, as well as the ancillary non-use variances as requested based on the Comprehensive Plan Policy. The proposed day care use is designated Low Density and does not meet the criteria of being located in an activity node, transitional area or an area that is transitional to higher density or intensity land uses. In addition, the building is located very close to the street and therefore it would be difficult to contain the pick-up and drop-off site.

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

Mayor Gibson opened the floor for the public hearing.

Timothy C. Mingo, 4560 NE 5th Place, Ft. Lauderdale, Florida, appeared before the City Council to solicit approval of this application. He shared he had purchased this property with the intent to fulfill the dream of his mother and sisters, and his goal of owning a business. All necessary improvements required by Miami-Dade County have been made to the property. Mr. Mingo conveyed his willingness to address any issues of concern in order to fulfill the dream.

John Bannick, 13755 NW 3rd Avenue, Miami, Florida, appeared before the City Council in support of this application. He said there are other day care centers in this area with the same similarities as this application.

Cynthia Powell, 14146 SW 31st Street, Miramar, Florida, appeared before the City Council in support of this application. She shared her professional background, qualifications and the steps she has taken to become an effective director of this facility.

Bridget Chew, 2734 NW 202nd Terrace, Miami Gardens, Florida, appeared before the City Council in support of this application. She shared her professional and educational qualifications, which have prepared her to be a part of this facility's faculty.

Gail Wilson, 3855 NW 170th Street, Miami Gardens, Florida, appeared before the City Council in support of this application. She said there is a need for this quality day care facility within this community.

Sharon Frazier Stephens, 145 NE 193rd Street, Miami, Florida, appeared before the City Council in support of this application.

Norman Hepburn, 17640 NW 17th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this application. He said there already exist within a one mile radius seven day care centers. He further shared this day care center, if approved would be located right outside his bedroom window. He questioned the hours of operations and stated the approval of this

day care center would create a hardship for him and affect his quality of life.

Wayne Douthett, 17727 NW 18th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this application. He said there are enough successful day care centers in this area to accommodate the needs of the community. He encouraged the City Council to keep this area residential only.

Hugh Dodd, 17125 NW 19th Avenue, Miami Gardens, Florida, appeared before the City Council in opposition to this application. He said there are enough day care centers in this community.

Mr. Mingo was afforded an opportunity for rebuttal. He said this has been a two year process and was perplexed because he had documentation from prior officials (Miami-Dade County) approving these plans.

Mr. Coleman stated any plans received based on the construction and the layout of the site can be approved. However, that is not approving the application in its entirety. One has to make sure the plans meet the applicable requirements.

Mr. Mingo said throughout this two year process he has been very candid and willing to follow the law in order to get this day care center approved. He said he understood the concerns raised by the residents, and is willing to address those concerns.

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

Vice Mayor Braynon asked if this property was located across the street from Scott Lake Park.

Mr. Coleman in response to Vice Mayor Braynon's question said, Yes it is. The utilization of the park and the traffic situation (e.g. dropping off and picking up at day care center) were the things considered when this application was reviewed. It was determined that a day care center was not consistent with the land use in that area.

Councilman Bratton referenced the Public Facilities Impact report more specifically the Water and Sewer, which states, The North Miami Beach Public Utilities Wastewater Collection System Map indicates that the site is connected to central water but not central sewer service. The proposed day care center, if it were to be approved, would need to connect to the nearest sewer line, which is located approximately five hundred feet south on NW 175th Street. He asked who would incur this cost.

Mr. Coleman said the applicant would incur the cost.

Councilman Campbell said there were a number of individuals who spoke tonight in favor of this applicant however, none of those speakers lives in this particular area. The individuals who live in the area spoke in opposition to this application. He placed emphasis on the importance of everyone understanding if the Council members denied this item, they were not denying children. If the application is denied it is because this is an inappropriate use of the property. He opined parking is going to be a real issue and stated this is not an appropriate use of this property.

Councilwoman Watson conveyed her belief that children need to have a quality education. However, more importantly is the concern for children safety. Staff report reflects there would be cars stacking into the streets, when parents were loading and unloading their children, which raises a concern for safety. She suggested that Mr. Mingo meet with staff to explore other options for this property.

Councilwoman Pritchett referenced staff report, more specifically the language the applicant show the conversion of the existing single-family residence to a day care center that will accommodate a maximum of forty children. The requested non-use variance of classroom area requirements attests to the fact that sufficient classroom space does not exist to provide usable space for instruction and general care of the number of children required. Accordingly, the existing structure can accommodate twenty-five children. She said stat law requires a certain amount of square footage. The City has to adhere to those mandates. She said she was not sure legally, the City could allow someone to operate outside of the law. She further shared that she had visited the site and had parked at Scott Lake Park, which is across the street from the subject property. She shared that she was unable to back out into the street because of the heavy traffic. She said this traffic situation concerns her when children are involved. She said based upon staff's recommendation and her personal experience, this location might not be the appropriate place to have a day care center. She conveyed her support of the other Council members who have expressed their concerns about the safety issues. She encouraged the applicant to find another site, because the Council did not want to discourage anyone from following their dream.

There being no further discussion, the motion to approve this item failed by a 0-6 vote.

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

Mr. Mingo conveyed concern with not receiving the Certified Letter outlining staff's recommendations.

Mr. Marder said the letter was sent out a few weeks prior to the hearing.

Mayor Gibson asked Mr. Mingo to schedule an appointment with staff to discuss this issue.

Attorney Dickens clarified that whether Mr. Mingo received the Certified Letter outlining staff's recommendations has no bearing on what occurred at tonight's meeting.

9. RESOLUTION(S)

RESOLUTION NO. 2005-116-293

- 9A) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT A HIGHWAY BEAUTIFICATION GRANT, AND TO ENTER INTO A HIGHWAY BEAUTIFICATION COUNCIL GRANT, LANDSCAPE CONSTRUCTION AND MAINTENANCE MEMORANDUM OF AGREEMENT, WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR A MATCH OF FUNDS; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Manager Crew explained the mitigating factors involved with this item. This grant application has a very good chance of being approved. The FY 2005/06 budget has \$500,000 appropriate for beautification of NW 27th Avenue. This grant would increase that amount to \$800,000.00.

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

Attorney Dickens explained the City Manager placed this item on the Zoning Agenda due the Grant deadline. She opined Manager Crew wanted a level of comfort when submitting the application therefore, he placed this item on the Zoning agenda to meet the deadline. The item would have normally been on the regular agenda.

Manager Crew explained that FDOT wants prior approval from the Council before applying for a grant. Normally this item would have gone on the August Agenda, but the Council was in recess for the month of August. The matching funds would come from the Transportation Fund.

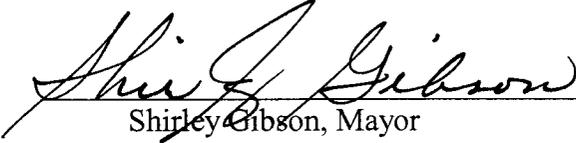
There being no further discussion, the motion to approve passed and carried by a 6-0 vote.

Councilwoman Watson: Yes

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

9. ADJOURNMENT:

There being no further business to come before this Body, the meeting adjourned at 10:29 p.m.


Shirley Gibson, Mayor

Attest:


Ronetta Taylor, CMC, City Clerk