

**CITY OF MIAMI GARDENS
REGULAR ZONING MINUTES
FEBRUARY 1, 2006**

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, February 1, 2006, beginning at 7:08 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, Ulysses Harvard and Sharon Pritchett.

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

2. INVOCATION: Invocation delivered by Councilman Aaron Campbell Jr.

3. PLEDGE OF ALLEGIANCE: Recited in unison.

4. APPROVAL OF MINUTES:

4A. Zoning Meeting – January 4, 2006

Moved by Vice Mayor Braynon, seconded by Councilman Harvard to approve the minutes, with necessary corrections if any. This motion passed and carried by a 7-0 vote.

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

Moved by Vice Mayor Braynon, seconded by Councilwoman Watson to amend the official agenda to move Item 10A to be heard before Item 6A. This motion passed and carried by a 7-0 vote.

Moved by Vice Mayor Braynon, seconded by Councilman Campbell to approve the official agenda with the amendment. This motion passed and carried by a 7-0 vote. The agenda was renumbered accordingly.

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

Robert Coleman, Zoning Administrator read into the record the procedure to be followed during this Quasi Judicial Proceeding.

6. PRESENTATIONS

6A. Proposed Town Center Master Plan Revision and Proposed Regulating Ordinance

Gianno Feoli appeared before the City Council and provided a power point presentation on the City's proposed Town Center Master Plan revision and proposed regulating ordinance. He recounted because of the existence of Miami Gardens Drive and NW 27th Avenue, the Town Center District has been divided into four sub-districts, each relating to that intersection, with the future metro rail station. Sub-District One is predominately where the future city hall and office uses will be located; Sub-District Two is the commercial district and would be located on the southeast quadrant; Sub-District Three, which is the town square district and Sub-District Four is the area where the highest density would be located. If one visits City Hall via Metro Rail that individual would only have to cross one major roadway to get to their destination as opposed to having to cross two. This is a revised plan however, the Town Square remains the same as previously presented. Sub-District One, which is predominately office use is located along the 27th Avenue corridor. Angle parking has been provided for Sub-District Two, which is the commercial district.

Mr. Feoli said staff along with members of the City Council had visited Del Rey Beach, Boca Raton and Coral Gables to look at similar developments.

Mr. Feoli walked the Council and audience through the elements of the Comprehensive Development Master Plan. He explained the Town Square is divided into quads; a residential quad, commercial quad, a mixed use quad and a transportation quad. The residential quad is predominately made up of townhomes and apartments for a total of 577 units, with more than adequate surface parking. The commercial quad is predominately mixed use retail and mixed use office, with 22 residential units and adequate parking. The mixed use quad will have the largest concentration of mixed use with retail, office and apartments. The transportation quad, which is the area adjacent to the Metro Rail has 50/50 square footage of retail and commercial. In terms of density, Sub-District One has zero; Sub-District Two has zero; Sub-District Three is approximately 27.5 units per acre but overall and; Sub-District Four is 50 units per acre. In the lower densities, nothing lower than two-stories is being envisioned. In the civic area, which is a higher density nothing more than five stories is being envisioned.

Mr. Feoli said in terms of building heights, the height is determined by the frontage of the building. In the Town Center District which is the largest part eight-story height is envisioned. This is directly adjacent to the Metro Rail Station. Directly to the north as high as 12 stories is envisioned to accommodate residential use.

Councilman Harvard asked for clarification purposes where the boundaries of the proposed Town Center District were.

Mr. Feoli said from the east to west the boundaries would be from the Job Corps site to the back of the properties aligned along NW 27th Avenue. From north to south the boundaries would be from NW 179th Street up to the police station.

Vice Mayor Braynon asked whether an educational facility would be included in this Town Center District.

Mr. Feoli shared one of the things addressed was the attempt to keep the City block size so that it could be aggregated, therefore flexibility is lent to add a school element if desired.

Councilman Bratton pointed out that he could not find the total number for the apartments.

Mr. Feoli said this information is not in the Regulations Plan as a total because this establishes the perimeters for construction. The total is approximately 1,600 units.

Councilman Bratton asked about the total number of townhomes as well as the total number of apartments.

Mr. Feoli said there are approximately 600 townhouses. The rest are apartments, which could be either rentals or condos. It would all depend on the developer.

Councilman Bratton expressed concern with the population growth potential and the size of the district especially as it related to Seat Four.

Manager Crew said the Council would ultimately have to look at what it wants and envisions for its downtown area. Whatever is in this plan serves as a guide for developers. This Plan doesn't say whether buildings are going to be three or five story buildings. This Plan is only a concept. What will be the determining factor is the market and the developers that want to come in and build within this framework.

Vice Mayor Braynon asked if a developer were to buy a piece of property as soon as the moratorium has expired how tied into this Plan would that developer be.

Manager Crew explained part of this would be for Council to ultimately adopt zoning regulations that would overlay over the basic zoning. Those zoning overlays would remove certain things or add certain things.

Vice Mayor Braynon asked how far along is the City in the Town Center District process, as well as with plans for the Zoning Overlay Ordinance.

Mr. Feoli said the regulation plan provided with the package of information is the first phase of a zoning ordinance. This provides perimeters and a restrictive code for a developer.

Vice Mayor Braynon commented this is the first version of the zoning overlay and what he would call the final step in this exercise. He inquired about the next step in the process as it relates to the zoning.

Mr. Marder said the first step would be to take a look at the plan which is more or less revised with the height and guidelines, and then take it through the process as a document. When a developer comes in he/she will know there are certain setbacks to be complied with. He said the downtown urban look is becoming a more acceptable way to develop.

Mr. Feoli said it is not only the urban look it is also all of the amenities and architectural criteria e.g. landscape, street furnishings, and high grade quality materials.

Mr. Marder said the Plan provides a lot of choices for the developer.

Manager Crew said the City of Del Rey Beach is a prime example of a city that has gone through a tremendous redevelopment transformation. Del Rey's transformation started in 1984, and has emerged as one of the most desirable cities in South Florida.

Vice Mayor Braynon questioned whether those properties already existing within the Town Center District would be required to get their properties rezoned in order to comply with the zoning overlay ordinance or would those properties be grandfathered in.

Mr. Marder said those properties would have to be evaluated as to the type of development and whether it meets the goals of the Town Center District.

Attorney Dickens addressed the question raised by Vice Mayor Braynon as it relates to an existing use and what would happen to a piece of property if that use is no longer permitted. She said the property is grandfathered in. However, in some instances the matter would come to the City Council in order to make a determination on whether or not that use based upon the Plan is consistent. In some cases the uses disappear because they are no longer viable in the area with all the new development going on.

Vice Mayor Braynon conveyed his rationale for asking these questions. He said he just wanted it to be clear because there may be some misconceptions that the City is doing this Plan so that it can acquire those properties. He said he wanted to make it clear that is not what this is about. This exercise is about making sure whoever purchases these properties build something that the Council and the City want to see built in the center of the City. This is not about the City exercising Eminent Domain powers.

After there were no other questions or comments Mr. Feoli was thanked for providing this very informative presentation.

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

ORDINANCE NO. 2006-05-86

7A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY IVAN AND W. VASHTI SPENCER, TO REZONE CERTAIN PROPERTY

LOCATED AT 19080 N.W. 32ND AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM AU (AGRICULTURAL) TO RU-1M(A) (MODIFIED SINGLE-FAMILY RESIDENTIAL); 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 AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (1st Reading – January 4, 2006)

Mr. Marder said staff had looked at the education element of this seven unit sub-division. The School Board had recommended denial of this project because the applicant had not offered to mitigate the school's impact fees. As a result of that staff added an additional condition that the applicant would be required to provide a Covenant to the School Board to mitigate that impact. Staff also addressed the concern about the maintenance of the road. Staff looked at similar projects and in those cases homeowner associations have been established as well as Special Taxing Districts so that if there is a problem, the City has the ability to come in and expend funds to make the necessary improvements.

Vashti and Ivan Spencer appeared before the City Council to solicit approval of their application.

Colette Satchell, 1345 NE 180th Street, North Miami Beach, Florida, appeared before the City Council as representative for the applicants. She indicated that the applicants have seen many changes in the surrounding neighborhood since purchasing the property. Of all the projects to be considered this one seems to be the best. This project is proposing to have a private road. The applicants have agreed to have the homeowner association maintain the road.

Ms. Satchell indicated that when her clients met with the School Board they had an option as to whether to pay and mitigate any impact fees. Her clients decided to not pay this impact fee because the project consists of only seven single family homes. Her clients also agreed to keep the homes at a certain income bracket. She said if a requirement of getting this item approved it so pay the mitigating fee then her clients are willing to do that.

Mayor Gibson opened the floor for the public hearing.

Dorothy Simmons, 18722 NW 31st Avenue, Miami Gardens, Florida, appeared before the City Council in support of this project.

Ossie Mae Conley, a representative with Miami-Dade County Building Permit Department appeared before the City Council to solicit the Council's support of this request.

Barbara Bergandi, 20940 NW Miami Court, Miami Gardens, Florida, appeared before the City Council in opposition to this request.

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

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

Councilman Bratton asked for clarification of Special Taxing District as outlined in Section iv of staff's report.

Manager Crew said there have been some problems with having homeowner associations take care of the streets. A similar situation has occurred with Vista Verde in that when that homeowner association disappeared there was nothing in place to take care of the drainage problems. One of the techniques often used by Miami-Dade County and is being recommended in this case is the establishment of a Special Taxing District in name only, and only existing on the books. That way, if and when the homeowner association does break down and the road starts to go into disrepair the Council has the legal ability to activate that Special Taxing District and make the repairs.

Councilman Bratton asked once that Special Taxing District is created would the homeowners pay for it.

Manager Crew replied, yes sir. However, there may not be any use for it for years, if ever. If the homeowners pay their dues to the homeowner's association as they are required to do and the road gets repaired, the Special Taxing District stays dormant on the books.

Councilman Bratton questioned the composition of the homeowner's association especially with the small number of homes being proposed. He said after the necessary board of directors there would be no member left to attend the meetings.

Manager Crew said under the law a homeowner's association can have as few members as eight.

Councilman Bratton questioned what the homeowner association dues would cover. He asked if a fee has been established.

Manager Crew said the fees would be used for the upkeep of the road and driveway. The amount of fees to be paid would be up to the homeowner's association.

Councilman Bratton further expressed concern that most of the homes in this immediate area have circular driveways however, this particular project will have drive in and drive out driveways. He said there is a school zone with double lines on NW 32nd Avenue and questioned whether this was a safety hazard.

Mr. Marder said the traffic on these streets is very minimum.

Councilman Campbell pointed out that the same conditions already exist on the north side of that intersection.

Mr. Marder said he would rather have the access on NW 32nd Avenue rather than 191st Street.

Councilman Bratton expressed concern with putting a heavy burden on the homeowner association.

Manager Crew opined there would be no more of a burden on the homeowners that what would be required to repair their own driveway.

Mr. Coleman the City's Zoning Administrator, in response to Councilman Bratton's concern said the Code does not prohibit backing out into the street in a residential zone. The code however prohibits backing out into the street in a commercial zone.

Councilman Bratton conveyed that he had a problem with the two homes being built that faced NW 32nd Avenue.

Councilwoman Watson asked whether it was possible for the two homes fronting 32nd Avenue to have a circular driveway, given the size of the lots.

Ms. Satchell said those lots are 75 feet wide therefore a circular driveway is possible, however it is better to not change the plans. The driveways are set as far back from the curb as possible.

Mayor Gibson questioned what the physical distance of a 25 foot road would look like. She asked Benjamin Eissen, to come forward to clarify.

Mr. Benjamin Eissen a certified engineer with the State of Florida appeared before the City Council and stated normally in a two or four lane radius you would have the use of the road on each side. As set by the state and the county 12.5 feet is a standard in residential areas. Twelve and a half on each side would be twenty-five feet. He referenced the Special Taxing District issue and shared the Town of Miami Lakes has a policy the City might want to consider, which is having the Special Taxing District commence at the same time the homeowner moves in. That would ensure the amount the homeowner has to pay would be very minimum on a monthly basis.

Councilwoman Pritchett asked for the definition of "private road".

Manager Crew said a "private road" is not owned by the government, and is owned by the property owners. Essentially it is a driveway.

Councilwoman Pritchett questioned if this is not a road then why is it being identified that way as opposed to being identified as a street or driveway. She further referenced the language on page 4 of staff's recommendation as "the City Council will adopt a resolution whereby the involved homeowners dedicate this road as an ingress-egress easement to the City of Miami Gardens, which will entail a waiver of their rights as well as full access and use of said road by the general population". She opined that does not constitute a private road. She also asked what if the homeowners did not want to dedicate this road and allow full access to the general population.

Mr. Marder said the road is not a road in the sense that 32nd Avenue or 191st Street is. That is a dedicated public street. This is something less than that and is basically an easement. In this case would be owned by the homeowner and taxes will be paid on it. Therefore this road is somewhere in between. There is public access to it. In order to have the Special Taxing District it would have to be open. That is the way Special Taxing Districts were established in this county, for this type of purpose. Miami-Dade County has done this before in a similar circumstance therefore the City is taking their lead in this particular instance.

Councilwoman Pritchett said if her memory is correct the reason this area was incorporated was so that it could do things differently than Miami-Dade County. She referenced the Covenant Agreement with Miami-Dade County Public Schools and said a few months prior the City of Miami Gardens held a workshop where a representative from Miami-Dade County Public Schools was present. That representative cautioned the Council about approving anything that involved a Covenant with the Miami-Dade County Public Schools and that Covenant was not provided. Once again this evening the Council is being asked to approve an item without a Covenant in hand.

Councilwoman Pritchett placed emphasis on the overcrowded situation at Carol City Middle and High Schools, which are located within the City of Miami Gardens. She opined it is very important to get an understanding of what those mitigators would be to ensure those schools impacted would allow the children to be safe, and allow the children to actually go to schools where they can learn, and not be overcrowded. None of that is before this Council and yet the Council is being asked to approve an application that does not satisfactory address not only these concerns but others that have been addressed by the Council.

Councilwoman Pritchett concurred with Councilman Bratton's concerns about the safety of the children, the future generation. She opined these are concerns that have not been thus far adequately addressed to give a measure of assurance this application would indeed be something that is going to ensure the quality of life for all the stakeholders within the City of Miami Gardens.

Councilwoman Bratton for clarification purposed asked Mr. Marder if the homeowners would pay taxes on the road as well as having a Special Taxing District. He asked if this was double jeopardy.

Mr. Marder opined that it was not double jeopardy. This would be an easement with certain

dedications.

Councilman Bratton questioned whether this Special Taxing District would create a Pandora's Box for other homeowner groups.

Manager Crew said the Special Taxing District could not be used.

Councilman Bratton clarified there are existing residential areas that have road problems that need to be repaired and the homeowner association is inactive; would this open a Pandora's Box for those homeowner associations to apply for a Special Taxing District.

Manager Crew said if the homeowner association had applied for it before hand it would be available to them when needed. For example, if Vista Verde had established a Special Taxing District in the beginning it could have been activated and the problems in that complex could have been addressed.

Councilman Bratton asked whether the applicants have an alternate plan if this request was not approved.

Ms. Satchell in response to Councilman Bratton's question stated this is the only plan the applicants have.

Attorney Dickens said if the Council is inclined to approve this request, there needs to be some amendments made to the ordinance because there are two new additions to the Declaration.

Councilwoman Watson asked for clarification purposes if the applicants were willing to pay the mitigating fee.

Ms. Satchell affirmed the applicants are willing to pay the fee.

Councilwoman Watson asked if Number 5 of staff's recommendation could be amended to state that this would not go forward until the City has proof of that mitigation payment.

Attorney Dickens stated for clarification purposes that Councilwoman Watson wanted to make this contingent upon before any permits are issued for any purpose that the actual payment be made and proof of that payment be submitted to the City's staff.

Councilwoman Watson said there is correct however, she still has concerns about the private road issue.

Attorney Dickens apologized and stated this is the first time she has looked at this issue and did not know it was included in this application. She said anything you start taxing people for a street that is used by the public there is a problem because by law it is not permitted. She said she is also a

little unclear because she is not sure if it is a private road or a driveway. She said there are existing codes that deal with driveways and if this is a driveway she did not know why it was being dealt with in this venue. If this is a road, the City Manager has a point that perhaps the City should look into a Special Taxing District. She said however she has not looked into Miami-Dade County's Code requirements for that. Typically when a Special Taxing District is formed there is a referendum of the registered voters in that affected area.

Vice Mayor Braynon said it sounds like there may need to be some more legal clarification and this item might need to be deferred. Secondly he asked staff if there was any reason the Council was still getting applications that did not have the School Board's letter attached.

Manager Crew said that has to do with the School Board's time frame. He said it makes no sense to hold an application up for four or five months because they can't get a letter from the School Board. Therefore, staff recommends that the application be passed subject to receipt of that letter.

Please note Vice Mayor Braynon left the meeting at 8:51 p.m.

Attorney Dickens suggested revising the condition to say the home owners are to maintain the road and that the developer makes it a condition as a deed restriction on the deeds that are conveyed to the property owners.

Councilman Campbell suggested changing the language in Condition #3 from 25-foot private road to access driveway for the five homeowners that live on that block.

Ms. Satchell recounted as a compromise the developer agreed to provide a private road. She explained that typically lots are required to front on public roads. However because of the dimensions of these lots that is not possible. Therefore the developer is providing a private road as a compromise, which the developer agrees to install and the homeowners maintain. It is an easement because public access to the road must be given for emergency vehicles however, it is not a road that would provide access to local traffic because there is no outlet.

Councilwoman Pritchett pointed out pursuant to a letter from Miami-Dade County Public Schools, dated August 8, 2005, the applicant is willing to pay \$13,020.00; however the total cost would be \$32,745.00. She questioned how the developer would be able to mitigate since they did say they would be willing to enter into a Covenant to mitigate that cost.

Mr. Marder referenced the Total Potential Capital Cost of \$56,829.00. He said the \$13,020 would be subtracted from that amount, which leaves a remainder of \$43,809.00. That amount spread out between the seven units would be approximately \$6,000.00, which would be added to the sale price of the home.

Moved by Councilman Campbell and second by Mayor Gibson to amend the Declaration of Restrictions by Deleting No. 3, and change the numbering and wording for No. 4 and 5 as follows:

(4) That a Special Taxing District be established that allows the City to take over the access driveway maintenance if deemed necessary by the City, prior to any property in the proposed development being sold. (5) That all mitigation impact fees be paid to the School Board prior to any permits being issued, by the City.

Councilwoman Pritchett commented for clarification purposes that before the permitting process is started the applicant must show receipt of mitigation payment to the school board.

Attorney Dickens said that is correct.

Councilman Harvard asked whether the applicants would be able to provide documentation they have paid rather than having to wait for the School Board to send the information.

Mr. Coleman said the applicants will be provided with a receipt of their payment, which will serve as proof of their payment.

Councilwoman Watson asked what entity would have jurisdiction over the Special Taxing District and the recipient of the funds.

Attorney Dickens said she was not sure of the establishment procedures because tonight is her first time seeing this document. She opined she was pretty sure the City of Miami Gardens would collect the funds because it is a Special Taxing District established in the City.

Councilman Bratton asked who would be applying for this Special Taxing District.

Manager Crew said the current property owners, which in this case are the Spencers would have to make application for the Special Taxing District.

There being no further discussion the motion to amend the Declaration of Restriction passed and carried by a 5-1 vote.

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

There being no further discussion, the motion on the ordinance as a whole, passed and carried by a 5-1 vote.

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

8. FIRST READING (ORDINANCE):

There were none.

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

- 9A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION OF CIMA CORPORATION, INC., FOR A NON-USE VARIANCE TO PERMIT A TEN-STORY OFFICE BUILDING WITH A HEIGHT OF 120 FEET (MAXIMUM OF TWO STORIES OR 35 FEET PERMITTED); APPROVING A NON USE VARIANCE OF FLOOR AREA RATIO TO PERMIT A PROPOSED TEN-STORY OFFICE BUILDING WITH A FLOOR AREA RATIO OF 2.13(.60 PERMITTED); PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (Deferred from January 4, 2006)**

Mr. Marder said this is an application to construct an urban style building at the southeast corner of NW 27th Avenue and 167th Street. The applicant is requesting a Non-Use Variance of Height Requirements to permit a proposed ten story office building with height of 120 feet or ten (10) stories where maximum 35 feet or two stories is permitted. The applicant is also requesting a Non-Use Variance of Floor Area Ration (FAR) requirements to permit a proposed ten story office building with a FAR of 2.13 where .60 is permitted. There are two lots included in this proposal. The existing zoning is RU-5, which provides for office development. This 35,000 square foot building would allow for three levels of parking.

Mr. Marder said the area is currently somewhat suburban oriented and has one to two story buildings. There are some duplex homes adjacent to this site. With the planning and what is going on in this very important intersection (future metro rail) staff feels this is a reasonable and compatible use for the future redevelopment of the area. This is an urban swale building that provides for transit and development for people to walk from the proposed metro rail station to this propose project. The traffic generated is less or a minimum based on the accuracy of the freeway adjacent to the site. Staff recommends approval of this application.

Mayor Gibson explained even though this item is sponsored by the City Manager she asked the applicant to come forward to present his/her request to the City Council. She conveyed if there is any convincing to do, she wanted the applicant to do that. She opined staff should make its

recommendation and let the applicant come up and discuss their item.

Manager Crew explained that the item has to be introduced by staff as part of the record.

Mayor Gibson conveyed her understanding of that procedure. She said however, if she has a problem with what the applicant has said, and staff had recommended approval, she would then ask staff how they got to that recommendation. At that point, staff needs to be able to explain how that favorable recommendation or why staff was not recommending approval.

Attorney Dickens explained the staff report is made a part of the resolution by reference. The City Manager is correct in that the item has to be introduced by staff.

Oscar Benitez, an Architect with a business address at 9400 West Flagler Street, Miami, Florida, appeared before the Council representing the applicant. He explained when this application was submitted there were no drawings nor did the applicant have verbal or written explanation as to what would be good for this property. He opined maybe that is where the conclusion was drawn by staff however the applicant thinks the property can be useful.

Mayor Gibson opened the floor for the public hearing.

Benjamin Eissen, with a business address at 4715 NW 167th Street, Miami Gardens, Florida, appeared before the City Council and questioned whether this land belonged to Miami-Dade County. He further asked did staff not consider using this as part of the City's Comprehensive Development Master Plan to indicate what should be built there as well as to acquire the land from Miami-Dade County.

Robert Coleman, Zoning Administration said the property in question was private property and not owned by Miami-Dade County.

Mayor Gibson further described the exact location of this particular property and indicated this property was not a part of the North Dade Regional Health Center, which is owned by Miami-Dade County.

Mr. Eissen expressed concern with putting a ten story building on less than one acre of land. He opined landscaping would be a challenge. He further suggested a signature building, something that the City wanted and was uniquely designed and constructed. He expressed concern for the adverse affect this ten story building would have on the adjacent single family one story homes.

Mr. Benitez said it is not uncommon to build ten stories or greater on properties this size or smaller. It is challenging to do the landscaping however, that is part of the design. He said the applicant needs to get approval from the City in order to submit drawings and specifications. As far as this being a signature building, that again would be addressed during the design phase.

Willie Dykes, 3460 NW 205th Street, Miami Gardens, Florida, appeared before the City Council to ask what is this building going to be used for.

Mayor Gibson said this would be an office building.

Mr. Eissen reappeared before the City Council and stated given that what is being presented this would be an extremely difficult project to construct with adequate landscaping. He said the size of the building would also encroach on the adjacent property owners.

Mayor Gibson shared that from what she read the applicant has agreed to do landscaping on the back side of the property, as well as mitigate issues with the neighbors on the back and side. In addition with the landscaping required by the City, the applicant must come up to that standard.

Mayor Gibson shared that she was at a session on the New Urbanism Concept. At that session there was a discussion about the Palmetto Expressway. A recommendation was made to make those side streets even smaller than they are. This would provide a different scale and slow down the traffic. More landscaping would be possible because the roadway has been minimized.

Ossie Mae Conley, a representative with Miami-Dade County Building Permit Department appeared before the City Council to outline the building process and shared all the issues being discussed will be taken care of during the site plan and building permit processes.

Judy Barr, 15930 NW 17th Place, Miami Gardens, Florida, appeared before the City Council to convey her understanding that in certain areas buildings can be constructed with higher heights. However, that would also depend upon the use and the vision of this City at that time. She said having some experience in building and planning, strategically right now she did not see this building as being the only skyscraper in the City of Miami Gardens. Yet it is just too early; too premature. She said she was just not ready to make that right turn from 27th Avenue on to 167th Street and be confronted by a ten story building.

Hugh Dodd, 17135 NW 19th Avenue, Miami Gardens, Florida, appeared before the City Council to question whether narrowing 167th Street would become more hazardous.

Mayor Gibson explained the concept would be to decrease the lane, which is currently a one way street. As part of the New Urbanism Plan decreasing roads and making them more pedestrian friendly for people if they lived along 167th traveling east, they would be more inclined to get out and walk because this would minimize the road, slow the traffic down and provide more landscaping.

Mr. Dodd asked if the Council and staff had given any thought about having to wake up in the mornings with a ten story building as their view.

After there were 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.

Councilwoman Watson referenced the Letter of Intent, which was a part of this packet. She said throughout this application not a word was mentioned about lot coverage, as well as the shadowing of the building. She then referenced page three of the resolution which indicated there are to be some conditions however none are listed.

Attorney Dickens said the conditions can be found on page 2 of the Staff Report, and would be incorporated into the resolution. She related one other condition was mentioned which she has not seen as of yet.

Mr. Coleman said a Landscape Covenant would be added.

Attorney Dickens said the resolution would need to be amended to add those conditions.

Councilwoman Watson said the lot coverage and the FAR have not been discussed.

Mr. Marder said essentially Lot Coverage and FAR are the same thing.

Councilwoman Watson conveyed her disagreement with that explanation and shared in a residential development, a house is allotted to be built on 35% of the lot coverage. The FAR is the actual square footage of that house.

Mr. Benitez said this is a commercial building which is different from a resident therefore when you take the total square footage of the building the FAR, which is the floor area ration, is increased.

Councilwoman Watson asked if that is the case why in the Letter of Intent would a distinction be made between Lot Coverage and FAR.

Attorney Dickens said staff needs to answer the question as to whether the applicant needed a variance for lot coverage.

Mr. Marder said he understands the Letter of Intent referenced two different terms. However, in his view it is essentially the same thing "how much building is going to cover the lot". The correct wording should have been lot coverage/floor area ratio instead of lot coverage and floor area ratio because it is the amount of building that is going to cover the land.

Councilwoman Watson asked if the applicant needed a variance for lot coverage.

Manager Crew said a variance was needed for the floor area ratio, which is the same as the lot

coverage.

Councilwoman Pritchett asked whether the applicant had met with the affected residents in this area. She said she did not see any indication in the documentation provided to confirm this had occurred.

Mr. Benitez indicated that he did not speak with any of the residents in this immediate area and did not know there had been a request made to do so.

Councilwoman Pritchett referenced staff's report more particularly the language "City Council Action – Based upon staff's recommendation to the applicant to communicate with property owners in the immediate area, the applicant requested that the application be deferred from January 4, 2006 to February 1, 2006".

Guillermo Soldavini, President of CIMA Corporation appeared before the City Council and stated that he had spoken with a few residents in the area on last week about the proposed project. Those he had spoken with had no problem with the project.

Councilwoman Pritchett thanked Mr. Soldavini for this information. She pointed out that even though Mr. Soldavini said he had spoken to residents and they had no problems with this proposal there were several individuals in tonight's audiences that had expressed concern with the project.

Councilwoman Pritchett asked if a workshop on the New Urbanism was scheduled so that residents could understand this concept and if so when was this workshop held.

Mr. Marder said the City had some good participation during the workshops, even Mr. Dodd had attended at least one of those sessions. The workshop series was advertised as well. There was also very good participation of the various groups that were formed to talk about the Town Center and what they wanted to see in the area. Staff continues to make that information available. In addition, the Council went on a Sense of Place Tour to see this process first hand. There has been quite a bit of discussion publicly on New Urbanism.

Councilwoman Pritchett said this is the second application this evening where there has not been a Covenant or some document has been missing. She conveyed, we as a Council take zoning meetings very serious. Not to have all of the information in advance of this particular Council, sitting in the Zoning Board capacity is really a disservice, not only to the stakeholders but to the Council members as well. The Council members make it habit to visit the sites, read all the information and to come to the meeting and not have pertinent and relevant document available for the Council in order to deliberate and make their decision is a disservice to all.

Councilman Bratton questioned whether staff had a check list.

Manager Crew said he did not know what documentation Councilwoman Pritchett was

referring to.

Councilwoman Pritchett said the Landscape Covenant was not included and a resolution granting a non-use variance. Also on the previous application something was missing. She shared that she has expressed this concern to the City Manager on more than one occasion. She opined perhaps a check list would be beneficial.

Manager Crew said staff would devise a check list to be utilized from this point forward.

Councilman Bratton asked about off-street parking.

Mr. Benitez said the parking would be provided on site.

Councilman Bratton asked once the parking garage is full where would a person visiting this office building park.

Mr. Benitez said the required parking as per the square footage of the building is being provided on site.

Councilman Bratton asked about drainage.

Mr. Benitez said the water would have to be retained on the property.

Councilman Harvard asked whether Mr. Soldavini had spoken with anyone at the North Dade Regional Medical Center as well as the adjacent property owners.

Mr. Soldaini said he had only spoken with some residents within the radius provided by staff.

Mayor Gibson asked if outside lighting was being proposed.

Mr. Benitez said the lighting would have to be provided according to Code and must be retained on site.

Mr. Coleman said the building's light can not be cast onto adjacent properties. In addition the off-street parking referred to in staff's recommendations is the parking garage.

Mayor Gibson asked if the property would have a fence or wall erected around it.

Mr. Benitez said a perimeter wall would be erected around the property. The wall is designed as part of the parking lot. In addition, the landscaping would create a buffer between the building and the adjacent property owners.

Mayor Gibson asked if the landscaping on the south side of the building would be located on

the outside or inside of the wall.

Mr. Benitez said the landscape would be on the outside between the wall and the street.

Councilwoman Pritchett asked Mr. Eissen if this was possible to do.

Mr. Eissen said this is the reason why the applicant is asking for a variance. He opined it would be very difficult for the developer to do anything to make this building more attractive.

Mayor Gibson asked for clarification purposes whether the wall would be constructed on the property line.

Mr. Benitez said the wall would be constructed on the property line, with approximately twelve feet of green space.

Mayor Gibson conveyed that twelve to fifteen feet of green space is a lot of space.

Mr. Eissen said for a single story building twelve to fifteen feet of green space would be a lot. However, for the size of the parking lot that would be placed here; the parking lot is oversized.

Mayor Gibson inquired about the landscape plan and the type of landscape material that would be required to go on this site.

Mr. Coleman said the applicant has to meet every criteria in Miami-Dade County's Landscape Code, which the City adopted. In addition, the Zoning Code requires having trees a certain height as well as scrubs.

Mr. Eissen stated that he was really concerned because the building is too tall.

Mr. Benitez conveyed his understanding that this project is going to be a challenge. When the landscaping and building are designed they will have to comply with all the requirements of the state and local codes.

At the conclusion of this discussion, it was moved by Councilwoman Watson moved, second by Councilman Campbell to amend the resolution to include: (a) That a site plan be submitted to, and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, the location of structure(s), the type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details. Additionally, architectural features, the style and facade of the proposed building, its parking structure, and the site's landscape, shall be subject to review and final approval by the City. The City reserves the right to recommend and require additional architectural and landscape elements as may be necessary to insure that the proposed building meets the City's expectations for quality. (b) That in the approval

of the site plan, the same be substantially in accordance with the plans submitted for the hearing entitled "Proposed Variance Project: CIMA CORP." prepared by Oscar R. Benitez Architect, dated September 9, 2005, and consisting of the following sheets: Landscape Plan, Sheet L1.01; Existing/Demo Site Plan, Sheet D1.1; Site plan, Sheet A-1.1; Floor Plan, Sheet A-2.1; Elevations, Sheet A-3.1. (c) That a landscaped sidewalk be constructed on the north side of the site (NW 167th Street) from NW 27th Avenue to NW 25th Avenue. (d) That a sidewalk be constructed on the south side of the site (NW 166th Street) from NW 27th Avenue to, and including, the site. (e) That the southeast quadrant of the Palmetto Expressway and NW 27th Avenue interchange be landscaped in accordance with high quality design principles or that an equivalent contribution of not less than \$120,000 for said project be made to the Keep Miami Gardens Beautiful Program at the City's option.

There being no further discussion on the amendment, the motion **failed by a 3-3 vote.**

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

Councilwoman Watson asked whether this item could be deferred.

Attorney Dickens said the item can be deferred but as to the amendments, the motion to incorporate those into the resolution failed. There is a motion pending on the actual item, which has to be taken to a vote.

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

The motion to defer this item passed and carried by a 5-1 vote.

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

Councilwoman Watson amended her motion to defer this item until the March 1, 2006, Zoning meeting. This motion was seconded by Councilman Campbell. The motion passed and carried by a 5-1 vote.

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

RESOLUTION NO. 2006-12-358-Z-45

9B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING RESOLUTION NO. 3284 APPROVED BY THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, TO DELETE CONDITION NO. 2, TO PERMIT A BUILDING TO BE SET BACK LESS THAN 100 FEET FROM STATE ROAD 7; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

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

Lynn Riley, a representative with the State of Florida Department of Transportation appeared before the City Council to solicit the Council support of this item. She recounted that in 1959 this zoning was approved with five conditions, one of which was that the property had to have a 100 feet setback from the roadway to the building. Now that the Department of Transportation is expanding the road the building setback between the building and the road decreased to about 81 feet, which is in violation of the previously approved resolution.

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

Councilwoman Watson stated that she did not see anywhere in the documentation provided that the State of Florida Department was given the right to represent the clients of County Square Mall/Block Buster Video. She opined the Council needs to be sure it is listening to the right party.

Ms. Riley stated the owner of the property is out of state and because this is a non-issue they decided they did not want to come. The property owner had to sign and notarize the application. The State does not have the right to submit on behalf of the property owner. A settlement has already been made with the property owner and Blockbuster separately. As a condition of the settlement, the State has to make the necessary adjustments.

Councilwoman Watson placed emphasis on the importance of the Council knowing upfront that a ***“taking”*** was involved.

Mr. Coleman conveyed his assurance that would not happen again.

Councilwoman Pritchett pointed out that the Letter of Intent was not signed or dated by anyone.

Ms. Riley stated that in other counties and municipalities it is not required to sign the Letter of Intent.

Attorney Dickens said what needs to be signed is the application however, the Letter of Intent is a part of the application.

Councilwoman Pritchett opined the letter did not have a date on it therefore it did not provide her with a sufficient comfort level because this document could have been written at any time.

Mayor Gibson pointed out that the date appears at the bottom of the second page of the letter.

Councilwoman Pritchett opined it would have been nice if this date was on the front of the letter where it would have been seen.

At the conclusion of this discussion, the motion to approve passed and carried by a 4-1 vote.

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

10) **RESOLUTION(S):**

RESOLUTION NO. 2006-13-359

10A) **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING RESOLUTION NO. 2005-36-213 WHICH APPROVED A PLAT FOR CVS AT HONEY HILL TO CHANGE TO THE OWNER OF THE PROPERTY FROM YWCA OF GREATER MIAMI AND DADE COUNTY TO CVS 5697 PL, LLC; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Moved by Councilwoman Watson, second by Councilman Harvard to approve this item.

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

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

RESOLUTION NO. 2006-14-360

10B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A FINAL PLAT FOR WALDEN PARK TRACT 'I' - PORTOFINO GARDENS, 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)

Moved by Councilman Harvard, second by Councilwoman Watson to approve this item.

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

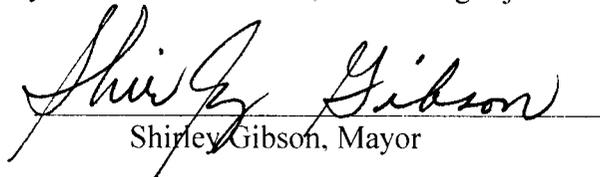
Councilwoman Pritchett:	No
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Vice Mayor Braynon:	Not present
Councilman Campbell:	Yes
Councilman Harvard:	Yes
Mayor Gibson:	Yes

~~10. PRESENTATION:~~

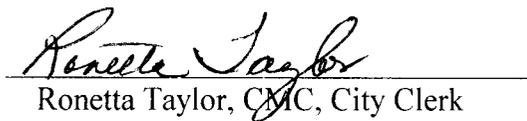
~~10A) —~~

11. ADJOURNMENT:

There being no further business to come before this Body, and upon a motion being duly made by Councilman Bratton and seconded by Councilman Harvard, the meeting adjourned at 10:30 p.m.


 Shirley Gibson, Mayor

Attest:


 Ronetta Taylor, CMC, City Clerk