

RESOLUTION No. 2008-136-823-Z-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY BHI ELLINGTON, LLC, FOR PROPERTY GENERALLY LOCATED AT 701 NORTHWEST 214<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, TO PERMIT A BANNER SIGN TO BE ERECTED ON SAID PROPERTY IN ACCORDANCE WITH SECTION XIII(D)(10) OF THE SIGN CODE; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, BHI Ellington, LLC ("Applicant"), has applied for a permit to erect a banner sign on property located at 701 Northwest 214<sup>th</sup> Street, more particularly described on Exhibit "A" attached hereto ("Property"); in accordance with Section XIII(D)(10) of the Sign Code, and

WHEREAS, the City Staff has reviewed the application and is recommending a denial of the Applicant's application, and

WHEREAS, the City Council has reviewed the Staff report, as well as heard the testimony of the applicant and/or his representatives, and

WHEREAS, the City Council also considered the testimony of the City's Planning & Zoning staff, and the Staff Report attached hereto as Exhibit "B," incorporated herein by reference,

WHEREAS, the City Council held a public hearing on this request on July 2, 2008,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the application submitted by BHI Ellington, LLC, to permit a banner sign to be erected on said property in accordance with Section XIII(D)(10) of the Sign Code.

Section 3. CONDITIONS: The approval granted herein is subject to the following conditions:

a. That the Applicant submit GPS Reports to the City upon the City's request; and

b. That the Approval granted herein shall automatically expire on July 2, 2009. However, this expiration period may be extended by the City Manager for an additional six (6) month period, upon good cause being shown.

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ZONING MEETING HELD ON JULY 2, 2008.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert  
SECONDED BY: Councilman Williams

**VOTE:** 6-0

Mayor Shirley Gibson	<u>X</u> (Yes)	___ (No)
Vice Mayor Barbara Watson	<u>X</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	___ (Yes)	___ (No) (out of town)
Councilman Aaron Campbell	<u>X</u> (Yes)	___ (No)
Councilman Oliver Gilbert, III	<u>X</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	<u>X</u> (Yes)	___ (No)
Councilman André Williams	<u>X</u> (Yes)	___ (No)

SKD/teh  
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# City of Miami Gardens

1515NW 167<sup>th</sup> Street, Suite 200  
Miami Gardens, Florida 33169



Mayor Shirley Gibson  
Vice Mayor Barbara Watson  
Councilman Gilbert Oliver III  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell Jr.  
Councilwoman Sharon Pritchett  
Councilman André Williams

## Agenda Cover Page – BHI Ellington LLC – Banner Real Estate Sign SV-2008-0001

Date: July 2, 2008

Fiscal Impact: No  Yes

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes  No  Advertising requirement: Yes  No

Sponsor Name/Department: Development Services Director via City Manager

Public hearing

Ordinance

1st Reading

Quasi-Judicial

Resolution

2nd Reading

### RESOLUTION No. 2008-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY BHI ELLINGTON, LLC, FOR PROPERTY GENERALLY LOCATED AT 701 N.W. 214, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, TO ALLOW A REAL ESTATE BANNER SIGN IN ACCORDANCE WITH SECTION XIII(D)(10) OF THE CITY'S SIGN REGULATION AS ADOPTED BY ORDINANCE NO. 2008-04- 140 PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

This item was deferred at the request of the applicant from the June 4, 2008 meeting.

### ATTACHMENTS:

**RESOLUTION**

**EXHIBIT "A" LEGAL DESCRIPTION**

**EXHIBIT "B" STAFF RECOMMENDATION**

## **EXHIBIT “A” LEGAL DESCRIPTION**

**EXHIBIT “A”  
LEGAL DESCRIPTION**

MIAMI TURF SECTION “A” AS RECORDED IN PLAT BOOK 96-46 LOT 1 BLOCK 1 AND  
30 FEET OF N.W. 214 STREET LYING AND ADJUSTED CLOSED PER R-1091-92

**EXHIBIT “B”**  
**STAFF RECOMMENDATION**

**EXHIBIT “B”**  
**STAFF RECOMMENDATION**

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**APPLICATION INFORMATION:**

Applicant: BHI Ellington LLC  
Application No: SV-2008-000001  
Location: 701 N.W. 214th Street  
Property Size: 137,833 sq. ft.  
Future Land Use: Neighborhood  
Existing Zoning: RU-4, Apartment District  
Requested Action: To allow a real estate banner sign in accordance with Section XIII(D)(10) of the City’s Sign Code

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**RECOMMENDATION:**

Recommend denial of the Resolution.

**REVIEW AND ANALYSIS**

**Neighborhood Land Use Characteristics**

<b>Property</b>	<b>Zoning</b>	<b>Existing Use</b>	<b>Future Land Use</b>
Site	RU-4, Apartments	Apartment Building	Neighborhood
North	N.W. 215 Street, Broward County	Single Family Residences	Low Residential (Broward County)
South	RU-4, Apartments	Apartment Building	Neighborhood
East	RU-4, Apartments	Vacant	Neighborhood
West	PAD, Planned Area Development	Townhouses	Neighborhood

The subject property is located on the south side of N.W. 215<sup>th</sup> Street, at the southwest corner of N.W. 7<sup>th</sup> Avenue.

**Project Information/Background**

1. The subject property is one(1) of three (3), seven (7) story multi-family residential buildings known as the Somervale Apartments, now being marketed as condominiums known as The Ellington.

2. The applicant is requesting to keep two (2) existing real estate banner signs approximately 16.0' wide by 35.0' (560 square feet) located on the east and west elevations of the buildings advertising the price and type of units.
3. In accordance with Section XIII(D)(10) of the City's Sign Code, banners to be used as real estate signs require public hearing approval.

### **Code Enforcement Information**

1. The real estate banner signs are existing and the applicant was been cited by Code Enforcement on December 7, 2007 for erecting and maintaining prohibited banner signs. The citation went before the Special Masters on March 12, 2008, and was granted a ninety (90) day period in which to comply with Code, or seek a zoning approval. Due to the deferral from the June 4, 2008 City Council Zoning meeting the citation was deferred from the June 11, 2008 Special Masters.
2. For the citation to be abated, public hearing approval of the real estate banners must be first granted, if approval is not granted, the banner signs would have to be removed.
3. Site inspection has revealed that in addition to the real estate banner signs, there are two approximately forty four (44) square foot real estate signs with exposure on N.W. 215 Street; an approximately twenty four (24) square foot real estate sign at the southwest corner of the intersection of N.W. 215 Street and N.W. 7 Avenue, and another approximately twenty four (24) square foot sign along N.W. 7 Avenue. Also identified was one (1) hand held sign in the right-of-way of N.W. 215 Street at the intersection of N.W. 7 Avenue, and two (2) additional hand held signs in the right-of-way of N.W. 215 Street in the intersection at N.W. 2<sup>nd</sup> Avenue. Further inspections identified, on several occasions, a vehicle sales sign traveling on N.W. 183 Street and parked at the Chevron gas station at the northeast corner of N.W. 183 Street and N.W. 2<sup>nd</sup> Avenue, at traveling along N.W. 27 Avenue and parked at the Carol Mart. Both the hand held signs and the vehicle signs are prohibited signs under the City Sign Regulations. The applicant has not been issued a Code citation for these violations. (Pictures attached)

### **Sign Code Review and Analysis**

In evaluating this application the following Sections of the Sign Code were considered:

Section III, which states;

#### **III. PURPOSE AND INTENT**

*These sign regulations and requirements are the minimum requirements to promote the public health, safety, comfort, good order, appearance, morals and general welfare, and to protect the character of residential, business and industrial areas throughout the City, and to conserve the taxable value of land and buildings and to protect the character and maintain the stability of residential, business, and industrial areas within the city and to promote the orderly and beneficial development of such areas. The display of signs should*

*be appropriate to the land, building or use they identify and be adequate, but not excessive, for the intended purpose of identification or advertisement.*

*Unless otherwise prescribed herein, signs placed on land or on a building for the purpose of message display, identification or for advertising a use conducted thereon or therein shall be deemed to be accessory and incidental to subject land, building or use. With respect to signs advertising business uses, these regulations are specifically intended to avoid excessive competition and clutter among sign displays in the demand for public attention.*

And Section XIII (D), which states;

- D. Real Estate Signs (Non-residential and Mix-Use Developments).** *A maximum of one (1) sign per lot frontage on a right-of-way, except that Properties with a lot frontage of five-hundred (500) linear feet or more are allowed a maximum of two (2) signs per lot frontage on right-of-way.*
- 1. Size.** *Real Estate signs shall not exceed six (6) square feet when affixed to a window or building façade, and forty-four (44) square feet for freestanding real estate signs. The support structure of the freestanding sign shall not be counted towards the area of the sign.*
  - 2. Setback.** *Freestanding real estate signs shall setback a minimum of ten (10) feet from all property lines.*
  - 3. Height.** *Real estate signs shall be a maximum height of eight (8) feet.*
  - 4. Spacing.** *Real Estate signs shall be spaced a minimum of two-hundred fifty (250) feet apart when located on the same property, and spaced a minimum of one hundred (100) feet from real estate signs on other property. Real estate signs shall be spaced a minimum of five (5) feet from any other sign on the property.*
  - 5. Location.** *Freestanding real estate signs shall only be placed in landscaped areas of the property, and shall not be located in the sight distance triangle, and shall be placed at either a 45 degree or 90 degree angle to the right-of-way.*
  - 6. Maintenance.** *Real estate signs shall be maintained in good condition and readable and shall not be faded or weathered, and shall be replaced every twelve (12) months.*
  - 7. Copy.** *Sign copy shall only contain necessary copy directly related to the real estate activity/transaction for the property of which the sign is located. Advertising of products or services other than the real estate shall be prohibited.*
  - 8. Duration.** *Real Estate signs shall be permitted up to one (1) year from approval, and may be extended for an additional period at the discretion of the Director, providing just cause and reason is provided by the applicant. Real*

*estate signs shall be removed within fifteen (15) days after the sale or transaction of the property.*

**9. Permit.** *A sign permit shall be required.*

**10. Exception.** *A banner used as a real estate sign shall require public hearing approval.*

In the analysis of the above noted sign regulations as it applies to real estate signs, the subject property would be permitted, due to its location on four (4) rights-of-way, and the amount of street frontage up to two (2) real estate sign per street frontage each of 44 square feet in size. The existing regulations would allow two (2) 44 square feet signs on N.W. 215 Street and two (2) forty four (44) square feet signs on N.W. 7 Avenue; the two (2) most heavily traveled streets that offer the same exposure as the requested real estate banners. The existing real estate banner signs are each 560 square feet in size.

Careful site inspections were made to evaluate the proposed banner signs and their visibility in relationship to elevations of roadway. The requested banners do not offer significant exposure to the heavily traveled streets of N.W. 215<sup>th</sup> Street or N.W. 7<sup>th</sup> Avenue over what the already permitted two (2) forty four (44) square foot signs offer. The attached pictures show the signs' location as viewed from the roadways. Two existing, approximately forty four (44) square foot, real estate signs provide prominent exposure on N.W. 215 Street; an approximately twenty four (24) square foot real estate sign at the southwest corner of the intersection of N.W. 215 Street and N.W. 7 Avenue, and another approximately twenty four (24) square foot sign along N.W. 7 Avenue offer adequate exposure from both N.W. 215 Street and N.W. 7 Avenue. In summary, the real estate signage permitted by the Code and existing on the site is effective and appropriate in identifying the real estate "for sale" advertisement.

With consideration given to the Purpose and Intent of the Sign Regulations as noted above, the statement "*The display of signs should be appropriate to the land, building or use they identify and be adequate, but not excessive, for the intended purpose of identification or advertisement.*" most appropriately states the concerns with the requested banner real estate signs. The proposed banner signs are deemed excessive; the permitted signage for real estate sales is adequate for the intended advertisement and identification of sales at the property in question. Further, the banner signs do not offer additional exposure to rights-of-way or travelers that already permitted signage offers, the banner signs are considered to be excessive in nature and thus, are not appropriate for this development.

**Conclusion:** The requested real estate banner signs do not meet and are otherwise inconsistent with the basic purpose and intent City's Sign Regulations. To reiterate, the Code states, "*The display of signs should be appropriate to the land, building or use they identify and be adequate, but not excessive, for the intended purpose of identification or advertisement.*" Again, as described and documented in this report, the proposed banner signs are excessive in relation to real estate signs already allowed by the Code; and therefore inappropriate for the purpose of advertisement.

**Anticipated Facilities Impact**

The subject application pertains to signage and, as such, will not create any additional impact upon the existing urban services and facilities.

**Public Notification/Comments**

In accordance with the zoning code, notification of the applicant's requests was mailed to property owners within a 500 foot radius of the subject site to provide them an opportunity to comment on the application. No comments were received from property owners within that radius. (See Mailed Notice Radius Map, attached).

Attachments:

- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- Submitted Plans
- Photographs
- Code Enforcement Information
- Transmittal to the Applicant