

RESOLUTION No. 2006-27-373-Z-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND CITY NATIONAL BANK OF FLORIDA AS TRUSTEE UNDER LAND TRUST NO. 2400-5110-00 ("CITY NATIONAL"); AND APPROVING THE APPLICATION OF CITY NATIONAL FOR A SPECIAL EXCEPTION TO PERMIT THE CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL DEVELOPMENT ON TWO (2) BU-1A ZONED TRACTS ON PROPERTY MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; APPROVING A WAIVER OF THE PROVISION OF THE ZONING CODE REQUIRING THAT A SIX (6) FOOT DECORATIVE MASONRY WALL BE INSTALLED ON THE PROPERTY; APPROVING A NON-USE VARIANCE OF HEIGHT REQUIREMENTS TO PERMIT AN EIGHT (8') FOOT HIGH WALL BETWEEN THE PROPOSED DEVELOPMENT AND THE ADJACENT AUTOMOTIVE SERVICE STATION; APPROVING AN UNUSUAL USE TO PERMIT TWO (2) ENTRANCE FEATURES INCLUDING A FOUR (4') FOOT HIGH DECORATIVE WALL ON EACH SIDE OF THE ENTRANCE DRIVES OF THE PROPOSED DEVELOPMENT; PROVIDING FOR CONDITIONS; PROVIDING FOR A DECLARATION OF RESTRICTIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, City National Bank of Florida As Trustee Under Land Trust No. 2400-5110-00 ("Applicant") owns certain property located at the Southwest corner of 207th Street and Northwest 27th Avenue, more particularly described on Exhibit "A" attached hereto, ("Property"), and

WHEREAS, the Property is zoned BU-1A, Limited Business District, and

WHEREAS, on December 13, 2005, the City Council heard an application submitted by the Applicant for the following matters:

- 1) A special exception to permit the construction of a multi-family residential development on two (2) BU-1A zoned tracts (the westerly half of Tract of 33 and Tract 34), and
- 2) A waiver of Zoning Regulations requiring the erection of a six-foot high masonry wall between the commercially zoned Tract 34 and the residentially zoned Tract, and
- 3) A non-use variance of height requirements to permit an eight-foot (8') high wall between the proposed development and the adjacent automotive service station (maximum 6' permitted), and
- 4) An unusual use to permit two (2) entrance features, to wit. a four-foot (4') high decorative wall located on each side of the entrance drives of the proposed development with identification signs depicting "The Commons" with landscaping, and

WHEREAS, the City's Planning and Zoning staff has made a determination that

the application is consistent with the Comprehensive Development Master Plan, and

WHEREAS, the Staff Report attached hereto as Exhibit "B," is incorporated herein by reference, and

WHEREAS, at the public hearing held on December 13, 2005, the City Council considered the testimony of the Applicant, the public and the City's Planning and Zoning staff, and denied the Application, and

WHEREAS, on January 6, 2006, the Applicant filed a Notice of Appeal seeking a reversal of the City's Council's December 13, 2005, decision, and

WHEREAS, An appellate case is pending before the Circuit Court in and for Miami-Dade County (Case No 06-012 AP), and

WHEREAS, the Applicant has submitted a settlement proposal to the City Council to resolve the issues in the pending lawsuit, and

WHEREAS, the City Council finds that the settlement proposal that has been offered by the Applicant will alleviate some of the impacts that the Applicant's proposed development will have on the neighboring properties, and

WHEREAS, the City Council would like to accept the settlement proposal, as outlined in the Declaration of Restrictions attached hereto as Exhibit "C."

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. ACCEPTANCE OF SETTLEMENT PROPOSAL: The City Council of the City of Miami Gardens hereby accepts the Settlement Proposal outlined in the Declaration of Restrictions attached hereto as Exhibit "C" and incorporated by reference.

Section 3. APPROVAL: In accordance with the Settlement Proposal, the City Council of the City of Miami Gardens, hereby approves the Application and grants the following:

- a. A Special Exception to permit the construction of a multi-family residential development on two (2) BU-1A zoned tracts (the westerly half of Tract 33 and Tract 34).
- b. A Waiver of Zoning Regulations requiring the erection of a six-foot high masonry wall between the commercially zoned Tract 34 and the residentially zoned Tract 35.
- c. A Non-Use Variance of Height Requirements to permit an eight-foot high wall between the proposed development and the adjacent automotive service station (maximum 6' permitted).
- d. An Unusual Use to permit two (2) Entrance Features, to wit: a four-foot high decorative wall located on each side of the entrance drives of the proposed development with identification signs depicting "The Commons" with landscaping.

Section 4. CONDITION: The Applicant's request and the City's acceptance of the Settlement Proposal is approved subject to the following conditions:

- 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

- b. That in the approval of the plan, the same be substantially in accordance with the plans submitted for the hearing, consisting of the following sheets: Site Plan entitled, " The Commons, A Condominium Townhouse Community City of Miami Gardens, Florida" as prepared by HRalan Design Services, Inc., dated 10/14/05; consisting of 18 sheets.
- c. That the Declaration of Restrictions attached hereto as Exhibit "A" is executed by the Applicant and recorded in the Public Records of Miami-Dade County

Section 5. 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 ITS ZONING MEETING HELD ON APRIL 5, 2006.


 SHIRLEY GIBSON, MAYOR

ATTEST:


 Ronetta Taylor, CMC, City Clerk

Prepared by SONJA KNIGHTON DICKENS, ESQ.
 City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY: Councilman Watson
 SECONDED BY: Councilman Harvard

VOTE: 6-1

Mayor Shirley Gibson	<u>x</u> (Yes)	<u> </u> (No)
Vice Mayor Oscar Braynon, II	<u>x</u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u>x</u> (Yes)	<u> </u> (No)
Councilman Aaron Campbell	<u>x</u> (Yes)	<u> </u> (No)
Councilman Ulysses Harvard	<u>x</u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u>x</u> (No)
Councilwoman Barbara Watson	<u>x</u> (Yes)	<u> </u> (No)

EXHIBIT A

LEGAL DESCRIPTION:

Tracts 33, 34 and 35, EVERGLADES SUGAR AND LAND SUBDIVISION, according to the plat thereof as recorded in Plat Book 2 at Page 75 of the Public Records of Miami-Dade County, Florida.

**CUT-OUT PARCEL
PARCEL "A"**

The West 450 feet of the East 625 feet of Tracts 33, 34 and 35, as measured at right angles to the East boundary of said Tracts, lying in Section 33, Township 51 South, Range 41 East, of the EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION, as recorded in Plat Book 2, Page 75, of the Public Records of Miami-Dade County, Florida, LESS the north 35 feet of said Tract 33 dedicated for road purposes and LESS that portion of said Tract 35 lying Southerly of the North right-of-way boundary of Snake Creek Canal (C-9).

LESS AND EXCEPT:

A portion of Tract 33 of EVERGLADES SUGAR AND LAND COMPANY'S SUBDIVISION, of Section 33, Township 51 South, Range 41 East, Miami-Dade County, Florida, according to the Plat thereof, recorded in Plat Book 2, Page 75, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the point of intersection of the South line of the North 35.00 feet of said Tract 33 with the West line of the East 175.00 feet of said Tract 33; thence run South $87^{\circ}49'27''$ West along the South line of the North 35.00 feet of said Tract 33 for a distance of 312.47 feet to the point of cusp, said point of cusp also being the point of curvature of a circular curve concave to the Southwest; thence run Southeasterly, along the arc of said circular curve concave to the Southwest, having a radius of 545.00 feet, through a central angle of $23^{\circ}49'03''$, for an arc distance of 226.55 feet to a point of reverse curvature with the arc of a circular curve to the left; thence run Southeasterly, along the arc of said circular curve to the left, having a radius of 614.80 feet, through a central angle of $05^{\circ}42'21''$, for an arc distance of 61.23 feet to a point of reverse curvature with the arc of a circular curve to the right; thence run Southeasterly, along the arc of said circular curve to the right, having a radius of 50.00 feet, through a central angle of $72^{\circ}16'26''$, for an arc distance of 63.07 feet to a point of tangency with the West line of the East 175.00 feet of said Tract 33; thence run North $01^{\circ}47'25''$ West, along the West line of the East 175.00 feet of said Tract 33 for a distance of 53.53 feet; thence run North $01^{\circ}47'34''$ West, continuing along the West line of the East 175.00 feet of said Tract 33 for a distance of 62.64 feet to a point on the South line of the North 35.00 feet of said Tract 33 and the Point of Beginning. Subject to that portion thereof previously dedicated to the public, which lies within the external area formed by a 25.00 foot radius arc, concave to the Southwest, tangent to a line which is

175.00 feet West of and parallel to the East line of the Southeast Quarter of said Section 33, and tangent to a line which is 35.00 feet South of and parallel to the North line of said Tract 33.

LESS AND EXCEPT:

Tract "A" of 27th Avenue racetrack according to the plat thereof as recorded in Plat Book 160 at Page 34 of the Public Records of Miami-Dade County, Florida, also known as:

A portion of Tracts 33 and 34, EVERGLADES SUGAR AND LAND COMPANY'S SUBDIVISION, of Section 33, Township 51 South, Range 41 East, according to the Plat thereof, as recorded in Plat Book 2, Page 75, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the East Quarter corner of said Section 33; thence run South $87^{\circ}49'27''$ West along the north line of the Southeast Quarter of said Section 33 and the north line of said Tract 33 for a distance of 405.00 feet; thence run South $01^{\circ}47'25''$ East for a distance of 41.27 feet to the Point of Beginning and a point on the South right-of-way line of N.W. 207th Street as recorded in Official Records Book 17813, Page 4115, and Official Records Book 15868, Page 2851, Miami-Dade County records, said point being on the arc of a curve concave to the South (a radial line through said point bears South $06^{\circ}31'24''$ West) having a radius of 545.00 feet and a central angle of $15^{\circ}07'06''$; thence Easterly along the arc of said curve, also being the South right-of-way line of N.W. 207th Street, a distance of 143.81 feet to the beginning of a reverse curve concave Northerly, having a radius of 614.80 feet and a central angle of $05^{\circ}42'21''$; thence continue along the arc of said curve a distance of 61.23 feet to the beginning of a reverse curve concave to the Southwest having a radius of 50.00 feet and central angle of $72^{\circ}16'26''$; thence continue along the arc of said curve a distance of 63.07 feet to a point on the West right-of-way line of N.W. 27th Avenue; thence run South $01^{\circ}47'25''$ East along the West right-of-way line of N.W. 27th Avenue for a distance of 237.70 feet; thence run South $87^{\circ}49'27''$ West along a line that is 388.87 feet South of and parallel to the North line of the Southeast Quarter of said Section 33 for a distance of 230.00 feet; thence run North $01^{\circ}47'25''$ West along a line that is 330.00 feet West of and parallel to the East line of the Southeast Quarter of said Section 33 for a distance of 347.61 feet to the Point of Beginning.