

## FROM THE COURTS

# Justice Jackson Charts Her Course in Criminal Cases

by Marcia Coyle

In her two opinions since joining the U.S. Supreme Court, Justice Ketanji Brown Jackson, with a likely ally in Justice Sonia Sotomayor, appears to have signaled that problems in death penalty and other criminal cases are where she will raise her voice to hold her own and other courts accountable.

Jackson, joined by Sotomayor, issued her second written dissent in the capital case, *Johnson v. Missouri*, on Wednesday, a day after the justices denied review. Kevin Johnson, who was 19 when he killed a police officer whom he blamed for the death of his younger brother, was executed Tuesday night.

Jackson's first opinion was Nov. 7, again a dissent from a denial of review in a capital case, *Chinn v. Shoop*. Sotomayor joined that dissent as well. And on the same day, Jackson joined Sotomayor's written dissent in *Anthony v. Louisiana*, a non-death penalty case involving prosecutorial misconduct in a sex trafficking case.

"I'm not surprised by Justice Jackson's actions," said sentencing law scholar Douglas Berman of Ohio State University Moritz College of Law. "I've been expecting her, like Justice Sotomayor has done as she has grown into her role, not to let any criminal case where she sees injustice pass by."

Some parallels between Jackson and Sotomayor were evident from their professional experiences and the way in which they answered questions about their judicial philosophies during their Senate confirmation hearings.

Both justices were trial court judges, experienced in criminal trials and sentencing. In fact, they are the only former trial judges on the high court. And, during Jackson's Senate confirmation hearings, she, like Sotomayor, repeatedly stressed that she would decide cases by applying the law to the facts. Both justices also served on circuit courts, although Sotomayor for a much longer period of time.

During Supreme Court arguments, they are laser focused on the trial record and lower court judges' findings of facts, and they will question attorneys closely on those findings.

"The fact that she served as a district court judge and a circuit judge gives her both an extra bit of perspective on the importance of details and a kind of disinclination to show deference for deference's sake whatever the record may be," Berman said of Jackson.

In *Chinn*, her first dissenting opinion, Jackson accused the U.S. Court of Appeals for the Sixth Circuit of applying the wrong test to determine whether records suppressed by the prosecution in Davel Chinn's trial were "material," that



DIEGO M. RADZINSCHI

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is, whether they would have changed the trial's outcome.

"Because Chinn's life is on the line, and given the substantial likelihood that the suppressed records would have changed the outcome at trial based on the Ohio courts' own representations, I would summarily reverse to ensure that the Sixth Circuit conducts its materiality analysis under the proper standard."

And in Wednesday's *Johnson v. Missouri*, she said the Missouri Supreme Court refused to comply with its own state law providing a three-step process for reviewing the integrity of a conviction. That refusal or erroneous interpretation, Jackson wrote, amounted to a federal due process violation.

"In short, a State cannot provide a process for postconviction review (like that outlined in §547.031) and then arbitrarily refuse to follow the prescribed procedures," Jackson wrote. "In any event, it appears that much of the evidence that could have been presented at the nonexistent hearing was new evidence relating to the trial prosecutor's racially biased practices and racially insensitive remarks."

The apparent alliance between Jackson and Sotomayor also may be strategic as well as ideological. From the beginning of her term on the high court, Sotomayor has been willing to be the sole dissenter from denials of relief in death penalty cases as well as in unconstitutional prison conditions and qualified immunity cases. But now the burden is shared and two voices are stronger than one, particularly in a 6-3 conservative majority court.

**Marcia Coyle covers the U.S. Supreme Court. Contact her at [mcoyle@alm.com](mailto:mcoyle@alm.com). On Twitter: @MarciaCoyle.**



## CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **COUNCIL MEETING** on **December 21, 2022, beginning at 10:00 AM** to consider the proposed master development agreement and site plan for Bridge Point Doral Distribution Center. The meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

The City of Doral proposes to adopt the following Resolution:

### RESOLUTION No. 22-

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE MASTER DEVELOPMENT AGREEMENT AND SITE PLAN FOR BRIDGE POINT DORAL DISTRIBUTION CENTER FOR ±165 ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF DORAL BOULEVARD/NW 41 STREET AND NW 107 AVENUE, PURSUANT TO SECTION 53-184(F) OF THE CITY'S LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE**

**HEARING NO.:** 22-12-DOR-01

**APPLICANT:** Bridge Point Doral 2700, LLC (the "Applicant")

**PROJECT NAME:** Bridge Point Doral Distribution Center

**PROPERTY OWNER:** Doral Farms, LLC and Bridge Point Doral 2700, LLC

**LOCATION:** Southwest corner of the intersection of Doral Boulevard and NW 107 Avenue

**FOLIO NUMBER:** 35-3030-000-0020

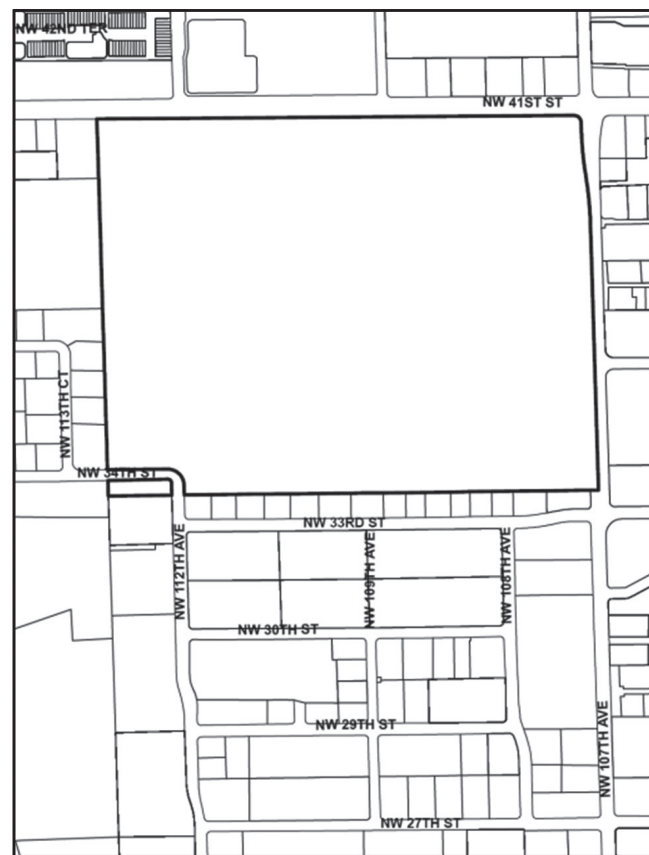
**SIZE OF PROPERTY:** ±165 acres for the distribution center site plan including stormwater retention facilities. The total property size, including the northern portion of the property designated Office Residential and Business and not included in the distribution center site plan, is ±175 acres.

**FUTURE LAND USE MAP DESIGNATION:** Restricted Industrial (west portion) and Industrial (east portion). The northern portion of the property is designated Office Residential and Business.

**ZONING DESIGNATION:** Industrial-Restrictive District (west portion), Industrial District (east portion), and General Use District (north portion).

**REQUEST:** The Applicant proposes a master development agreement and site plan comprising of six warehouse and distribution buildings totaling approximately 2,647,575 square feet in floor area. The warehouse and distribution center is proposed to be constructed on ±145 acres of the overall Property, on the areas zoned Industrial (I) and Industrial Restrictive (I-R). An additional approximately 20 acres of the Property along Doral Boulevard/NW 41 Street, zoned General Use (GU), is proposed to be improved with stormwater retention facilities. The remaining approximately 10 acres of the Property at the northeast corner along Doral Boulevard/NW 41 Street will be addressed separately.

### Location Map



Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL. The application file may be examined at the City of Doral Planning and Zoning Department located at 8401 NW 53 Terrace, Doral, FL 33166.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC  
City Clerk  
City of Doral