

**CITY OF DORAL, FLORIDA
CITY COUNCIL**

RESOLUTION Z04-28

Hearing No. 04-7-DOR-2(04-124)

Corporate Park of Miami - Appeal of Miami-Dade County's Administrative Decision

ORDER

HEARING NO. 04-07-DOR-2(04-124)

Hearing No. 04-07-DOR-2(04-124) was presented to the City Council of the City of Doral on September 22, 2004 and October 27, 2004. On those dates, the City Council received testimony and evidence related to an Appeal by the Corporate Park of Miami (referred to hereinafter as the "Appellant") from the Appellant and from Palmetto West Park, LC and Palmetto West Park Condominium Association, Inc. (referred to hereinafter as the "Appellee"), City staff, expert witnesses and affected persons. The City Council heard arguments and observed the candor and demeanor of witnesses.

Finding of Facts:

(1) On December 30, 2002, the Director of the Miami-Dade County Department of Planning and Zoning, along with the Miami-Dade County Public Works Department, approved Building Permit No. 2003023511 which allows the construction of a second driveway on the north side of Appellee's property immediately adjacent to an existing two-way access driveway that provides access to the Appellant's property.

(2) Prior to the approval of this driveway, Appellee's property was operating with an existing two-way driveway located on the south side of Appellee's property.

(3) The Permit issued to Appellee permitted Appellee to build a two-way signalized driveway within 5 feet of the property line immediately abutting Appellant's property and 7.5 feet from Appellant's driveway.

(4) The City of Doral was incorporated subsequent to the Permit being issued on June 24, 2003. Shortly following its incorporation, the City of Doral adopted the Land Development Regulations and Codes of Miami-Dade County.

(5) Subsequent to the City's incorporation, Appellant filed an Appeal with Miami-Dade County contesting the issuance of Building Permit 2003023511.

(6) Upon receipt of the Appeal, the County sent the Appeal to the City of Doral as the City had incorporated and, based on the fact that the property is wholly located within the City of Doral. Miami-Dade County concluded that the Appeal was within the City of Doral's jurisdiction.

(7) Consistent with the Master Interlocal Agreement, all Planning and Zoning services, including all administrative site plan reviews, administration adjustments, zoning hearings and processing of all Comprehensive Plan Amendment submittals were transferred from the County to the City of Doral on September 6, 2004.

(8) Expert witnesses for the Appellee and the City of Doral testified that standard R12.2 of the Miami-Dade Public Works Department Manual requires any new driveway be at least 20 feet away from the nearest existing driveway. In addition, testimony from the experts which was found credible by the City Council, established that the Appellant's driveway created a higher potential for vehicular and pedestrian crashes than a standard driveway configuration.

(9) Miami-Dade County noticed the hearings to be heard by the City of Doral and informed the City of Doral staff that jurisdiction of the Appeal was with the City of Doral. This matter was originally noticed for July 28, 2004. However, at the request of Appellee it was continued until the next regularly scheduled Planning and Zoning Board meeting of September 22, 2004. At that time, both Appellant and Appellee presented evidence, including expert witnesses at a public hearing. The matter was continued until October 27, 2004, whereby City staff gave a presentation and the City Council heard argument from both parties.

Conclusion and Order

(1) After deliberating on the evidence presented by the Appellant, Appellee, their representatives, affected persons, expert witnesses, and the recommendation of staff, the City Council hereby finds that the construction of this driveway by Appellee within 7.5 feet from an already existing driveway creates an unsafe and hazardous condition for pedestrian and vehicular traffic. Based on the evidence presented, Miami-Dade County staff was not provided complete and accurate information, and that their assessment did not take into account how truck traffic would affect pedestrian and vehicular safety. The City Council finds that Permit No. 2003023511 was mistakenly issued and the construction authorized by the Permit did not comport with the requirements of R12.2 of the Miami-Dade Public Works Department Manual or well established traffic engineering practices. As a result, Permit No. 2003023511 is hereby revoked and Appellee's property shall be put back into compliance by removal of the offending driveway. This Order is done in order to protect the health, safety and welfare of the citizens of the City of Doral.

(2) The public record, including sworn testimony and evidence established before the City Council on September 22, 2004 and October 27, 2004, through Appellant, Appellee, their representatives, affected persons, expert witnesses and City staff is hereby incorporated by reference and made a part hereof. This evidence includes the staff report from the Community Development Director to the City Manager.

DONE AND ORDERED on this 10th day of November, 2004, in Doral, Florida.

CITY OF DORAL, FLORIDA

ATTEST:


JUAN CARLOS BERMUDEZ, MAYOR


SHEILA PAUL, CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY