

Ten Years Too Late?

Written by Mark Sell, BT Contributor
May 2018

Unintended consequences from planning documents wreak havoc



When people don't get the word, expect to pay a price -- maybe a big one.

On the morning of April 26, Marc Yvanes of 875 NE 130th St. was ready to extract the biggest price possible from the City of North Miami. Two days earlier, the North Miami City Council voted 3-2 to allow a six-story condo building on the 1.1-acre, oak-shaded lot at 840 NE 130th St.

"After the meeting, I was disappointed in myself for allowing this level of corruption," said Yvanes, age 43, a special-events producer who bought his house in 2006. "I should have been out of this city years ago rather than put up with these thieves dressed in suits. This was a total free-for-all for everything the developer wants and nothing the citizens want."

Yvanes has plenty of company. All but one household reached by canvassers in a five-square-block area opposed the project. Only one, two blocks away, indicated support.

The area, zoned residential and just a block west of W. Dixie Highway, calls for 67 units and 92 parking spaces, developed by OZ and BF LLC, which bought the property in July 2017 and invested \$900,000 in the expectation of building.

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Mayor Smith Joseph and Councilmen Philippe Bien-Aime and Alix Desulme voted for it, and Councilman Scott Galvin and Vice Mayor Carol Keys, who represents the district, voted against.

But this story goes beyond that vote, as it has many sides.

It reveals a saga of miscommunication, of a developer's right to build, of unintended consequences when urban planning theory meets practice and hits people where they live, and of angry neighbors galvanizing into a movement that could affect the shape of next year's municipal election.

Four of five council seats, including the termed-out mayor's, are up for grabs, and three candidates have already filed. Only Keys's seat is immune.

It is also a story about the effectiveness of knocking on doors in an online world; of the power of lobbies, money, and a city's fear of lawsuits. And, if the April 24 city council meeting is any indication, it is a story of arrogance from the dais.

This shaded neighborhood of tidy houses built largely in the late 1940s is much like many others in the great residential sweep from El Portal through Miami Shores, Biscayne Park, and North Miami to the Enchanted Forest neighborhood north of 135th Street. Some people have lived there 50 years or more. It is also dotted with angry signs: "Vote NO to proposed 860 development! #NOT IN OUR NEIGHBORHOOD." Or: "Vote NO to 70 apartments plus 100 parking spaces. Keep us residential!"

Yet the council narrowly approved the project, under some pressure from the city manager and city attorney, who asserted that the developer was acting within bounds of the city's zoning plan. This came after two long, heated meetings of the city planning commission in December, and on March 14, a three-hour-plus marathon that inspired the council to put an effective moratorium on new development to give staff time to review zoning regulations, only to rescind it April 10 (it was not on the agenda). Then, on April 24, the project popped right up again.

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Yvanes and others who consider the process suspect vow to fight with numbers. “It’s time for us to band together,” he says, “and see what the hell these guys are talking about and let them know there’ll be hell to pay if they don’t respect the neighborhood.”

One immediate source of trouble is a section buried in the city’s 667-page Comprehensive Plan, approved by the city council in 2007 and revised last year, known as a Neighborhood Redevelopment Overlay (NRO).

It covers a jagged, roughly triangular area, perhaps a little better than a square mile, surrounding downtown North Miami, extending from roughly 123rd Street to 135th Street. The idea is to permit higher density in single-family areas near the city’s center to promote more vital neighborhoods. The plan allocates as many as 2500 units for the NRO zone, which went largely undeveloped in the Great Recession and its aftermath. Now projects are springing back.

At the April 24 meeting, two prominent lawyers squared off. For the developer: state Rep. Joe Geller, a litigator and development lawyer. Geller presented a petition with more than 250 names supporting the project, and asked supporters to stand. Councilwoman Carol Keys read Geller’s petition on the dais and found almost none of the people live near the project neighborhood.

Representing residents: activist and neighborhood zoning lawyer Tucker Gibbs, who presented about 75 names, nearly all residents in the immediate neighborhood. Mayor Smith Joseph gave Gibbs two minutes, cut him off, and foreclosed public comment, riling the residents.

“The council members said their hands are tied,” Gibbs related after the meeting. “Their hands aren’t tied. That’s just a convenient excuse. They can make the change.” Gibbs and the affected neighbors say the development violates at least three of the ten principles in the city’s Land Development Regulations: to avoid adverse impact on adjacent properties; to enhance the community character; and to ensure compatibility with adjacent uses.

Planning Commissioner Bob Pechon was moved to side with the residents. “I missed this,” Pechon admits. “I was completely caught off guard. This shows a disrespect for the residential neighborhood. They were caught off guard. The NRO has three problems: it’s too big, one size does not fit all, and there is no respect paid to the people of the underlying zoning districts. In

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residential areas, people said: 'I've been here 50 years. What about me?' Whether intended or not, the effect of this is to drive out single-family residents."

North Miami native John Lasseter operates his business, Lasseter Plumbing, founded 1932, from a 1947-vintage Lasseter family home right next door to Yvanes, and lives in nearby unincorporated Biscayne Gardens.

Lasseter, age 56, talks of leaving South Florida, exasperated by density. "I used to walk through that field to school," Lasseter says. "You know what a blivet is? It's ten pounds of crap in a five-pound bag. It doesn't fit."

Next up, at NE 9th Avenue and 124th Street, also in the NRO: 175 apartments, a 70-unit assisted living facility, ground-floor retail, and a 149-car parking garage. There, too, neighbors are organizing, knocking on doors.

"This is an interesting moment for the city," Pechon says. "If we continue down this road, it's going to cost the city money. I'm not anti-development, but we need a system that respects residents. We need to get this right, or this is going to happen every time one of these developments comes up."

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