

RESOLUTION NO. 05-94

ZONING APPLICATION 05-9-VPB1/04-96

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING THE APPLICATION OF AN DEALERSHIP HOLDING CORP. FOR A SPECIAL EXCEPTION TO MODIFY PREVIOUSLY APPROVED PLANS FOR A USED AUTOMOBILE DEALERSHIP TO INCLUDE A NEW AND USED AUTOMOBILE DEALERSHIP AND AN ACCOMPANYING REPAIR FACILITY; AND AN APPLICATION TO MODIFY THE DELCARATION OF RESTRICTIONS ASSOCIATED WITH THE PREVIOUSLY APPROVED SITE PLANS TO ALLOW FOR NEW CAR SALES AT THE SITE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made application for a special exception to permit the modification of previously approved plans in order to expand from simply a used automobile dealership to a new and used automobile dealership and repair facility, as described in the Miami-Dade Department of Planning and Zoning Recommendation to the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, the applicant also sought to modify two conditions from a previously filed declaration of restrictions tied to a prior site plan; in order to modify the restrictions to specifically provide for new car sales at the site; and

WHEREAS, the village council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on September 12, 2005, which was deferred and a final quasi-judicial hearing on the application was held on November 14, 2005, at Southwood Middle School, 16301 SW 80 Avenue; and,

WHEREAS, the mayor and village council finds, based on substantial competent evidence in the record, that the application is not consistent with the present and future development of the surrounding area; and,

WHEREAS, based on the foregoing finding, the mayor and village council determined to deny the application, as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A final hearing on the present application was held on November 14, 2005, in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to the hearing, the village council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicant is AN Dealership Holding Corp. The property is located at 17305 South Dixie Highway, Village of Palmetto Bay, Miami-Dade County, Florida.
2. The applicant had requested approval of the following:
 - a) SPECIAL EXCEPTIONS to permit a new car sales agency with accessory used car sales and a repair facility in connection with a previously used car agency.
 - b) MODIFICATION of Condition #2 of Resolution Z-64-96, passed and adopted by the Board of County Commissioners and reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Auto Nation,' as prepared by E.D.S.A. & B & A Architects, dated stamped received 3/8/96 and consisting of 17 sheets; also 'Auto Nation U. S. A.,' as prepared by Chandler Signs, Inc., dated stamped received 4/10/96, except as herein modified."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Maroone Nissan of Kendall,' as prepared by Pavlik Design Team,' consisting of 7 pages, dated last revised 6/17/05 and landscape plans prepared by Rosenberg Gardner Design consisting of four pages, dated last revised 6/15/05."
 - c) MODIFICATION of Paragraph I and Conditions "A" and "B" of Paragraph II of Declaration of Restrictions recorded in Official Record Book 17240 at Pages 0320 through 0328 and reading as follows:

FROM: "I. Controlling Site Plan. The Property, if developed for the purposes set forth in the Application, will be developed substantially in accordance with the plans previously submitted to Dade County, entitled 'AUTONATION USA,' as prepared by Edward D. Stone, Jr. and Associates and Bermello, Ajamil & Partners, Inc., dated stamped received March 8, 1996 and consisting of 17 pages (the 'Plans'), said Plans being on file with Dade County and by reference made a part of this Declaration."

TO: "I. Controlling Site Plan. The Property will be developed for the purposes set forth in the Application, and will be developed substantially in accordance with the plans entitled 'Maroone Nissan of Kendall,' as prepared by Pavlik Design Team,' consisting of 7 pages, dated last revised 6/17/05 and landscape plans prepared by Rosenberg Gardner Design consisting of four pages, dated last revised 6/15/05. Said plans being on file with Miami-Dade County and by reference made a part of this Declaration."

FROM: "IIA. Use Restrictions. Notwithstanding the BU-3 zoning classification of the Property, the development and use of

the Property will be limited to a pre-owned automobile dealership, including accessory uses thereto, for any and all uses permitted under, and in accordance with, the BU-2 zoning district regulations of the Dade County Code, as currently in effect or as may be amended from time to time.

TO: "IIA. Use Restrictions. Notwithstanding the BU-3 zoning classification of the property, the development and use of the property will be limited to a new and used automobile dealership with repair facility including accessory uses thereto, for any and all uses permitted under, and in accordance with, the BU-2 zoning district regulations of the Code, as currently in effect or as may be amended from time to time.

FROM: "IIB. In connection with the use of the property as a pre-owned automobile dealership, the following restrictions shall limit the use of the property:

1. No stringer lights, pennants, mobile or stationary visual devices, except as permitted under point of sale sign regulations, or as approved at public hearing, shall be used or displayed.
2. Outdoor lights for the off-street parking areas and vehicle storage areas shall be no higher than fourteen feet (14' above grade when located within twenty feet (20') of the property zoned residential.
3. No outdoor loudspeakers shall be used.
4. No vehicle test drives shall be conducted on any residential, local traffic streets."

TO: "IIB. In connection with the use of the property as a new and used automobile dealership with repair facility, the following restrictions shall limit the use of the property:

1. No stringer lights, pennants, mobile or stationary visual devices, except as permitted under point of sale sign regulations, or as approved at public hearing, shall be used or displayed.
2. Outdoor lights for the off-street parking areas and vehicle storage areas shall be no higher than fourteen feet (14') above grade when located within twenty feet (20') of the property zoned residential.
3. No outdoor loudspeakers shall be used.
4. No vehicle test drives shall be conducted on any residential, local traffic streets."

The purpose of these requests is to permit the applicant to submit revised plans showing a new & used car dealership including a new repair facility building.

3. The village council adopts certain portions of the County and Village recommendation package: the Zoning Hearings History, Comprehensive Development Master Plan (CDMP), Neighborhood Characteristics, Site and

Buildings, Pertinent Requirements/ Standards; and Neighborhood Services as its findings of fact. The village council does not adopt the remainder of the county and village memorandum.

4. The mayor and village council specifically found traffic and noise to be a problem and incompatible with the surrounding community. Additionally, the council found that the site plan did not conform to the village's Planning Charette for Frango/US 1 Commercial Island; and Comprehensive Plan as to mixed use, pedestrian access, and vegetation.

Section 3. Conclusions of law.

The village council concludes that the application for a special exception to permit the modification of previously approved site plan to now allow a new and used automobile dealership and associated repair facility is inconsistent with the Planning Charrette for the Franjo Triangle/U.S. 1 Commercial Island for the present and future development of the area.

Section 4. Order.

1. The application for a special exception to permit the modification of previously approved site plan to allow for both a new and a used automobile dealership with an associated repair facility is denied without prejudice.
2. The application to modify two conditions of the declaration of restrictions filed with the Miami-Dade County recording office, which declaration was filed in conjunction with the original site plans is denied without prejudice. The village council found that the addition of new sales to the site would be incompatible with the Franjo /US 1 Commercial Island Planning Charette and village Comprehensive Plan.
3. The application is denied on the basis that the applicant did not submit evidence to carry its burden of proof on the applications presented.
4. This is a final order.

Section 5. Record.

The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicant's representatives to the Miami-Dade County Department of Planning and Zoning in connection with the applications, the county recommendation and attached cover sheet and documents, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing, and the audio recording and minutes of the hearing. The record shall be maintained by the village clerk.

