

RESOLUTION NO. 06-106

ZONING APPLICATION 06-10-VPB-1/05-352

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING WITHOUT PREJUDICE THE APPLICATION OF HEMISPHERE ENTERPRISES L.L.C. FOR ZONING CHANGE FROM AU, AGRICULTURAL DISTRICT, TO RU-1, SINGLE-FAMILY RESIDENTIAL DISTRICT (SW CORNER OF SW 168 STREET & SW 90 AVENUE); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made application for a zoning change from AU, Agricultural District, to RU-1, Single-Family Residential, 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 sought to re-zone the subject 3.15-acre vacant property located at the southwest corner of S.W. 168 Street and S.W. 90 Avenue, in accordance with the site plan attached as hand-written page 19, amending the site plan to construct ten (10) single-family units, rather than twelve (12) single-family units; and

WHEREAS, the village council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on October 16, 2006, 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 hearing on the present application was held on October 16, 2006, 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 Hemisphere Enterprises, L.L.C. The property is located at the southwest corner of S.W. 168 Street and S.W. 90 Avenue, Village of Palmetto Bay, Miami-Dade County, Florida.
2. The applicant had requested approval to change the zoning on the property from AU, Agricultural District, to RU-1, Single-Family Residential and requested the ability to construct 12 single-family units on the 3.15-acre site. During the hearing, the applicant's attorney verified that he inspected the community and that he agreed with Village staff recommendation that 10 units would be more reflective of the surrounding community. The applicant, indicated additionally, that perhaps a lesser number of lots would be in order.
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 adopted the analysis of staff that the Comprehensive plan adopted by the village required a residential density between 2.5 as a minimum, and 6.0 as the maximum, per gross acre. The village council agreed that the area in question is a transitional parcel and based upon the overwhelming area around the parcel in question being EU-M, that the parcel in question is more appropriate for EU-M zoning. The village council does not adopt the remainder of the county and village memorandum.
4. The village council heard testimony from staff, the community and the applicant that the parcel in question is located in an area, that could be considered transitional, in that it borders a future land use designated area for 2.5 residences per acres; that the parcel is surrounded on several sides by EU-M properties, and that the parcels to the West that are zoned RU-1, single family residences, are not in character with the remainder of the properties surrounding the parcel in question. The village council heard no testimony that the rezoning would serve a public benefit warranting the granting of the rezoning application.
5. The village council adopts the testimony from the community as to the incompatibility of rezoning the AU parcel to RU-1 zoning for the subject parcel, as the parcel is surrounding on several sides by EU-M zoned parcels.

Section 3. Conclusions of law.

The village council concludes that the application for change of zoning from AU, Agricultural District, to RU-1, Single-Family Residential is inconsistent with the with the present and future development trend of the surrounding areas, as the parcel in question is located in a transitional location, on S.W. 168th Street and S.W. 90th Avenue.

Section 4. Order.

1. The application to change the zoning on the property from AU, Agricultural District, To RU-1, Single -Family Residential District is denied, without prejudice.
2. The application is denied on the basis that the applicant did not submit evidence to carry its burden of proof on the applications presented.
3. This is a final order.

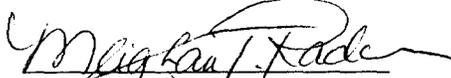
Section 5. Record.

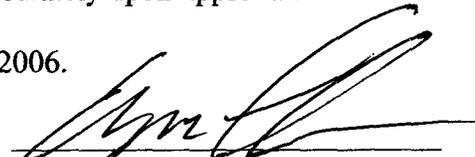
The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicant's representatives to the Miami-Dade County Department of Planning and Zoning in connection with the applications, the county recommendation and attached cover sheet and documents, 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.

Section 6. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this 16th day of October, 2006.

Attest:


 Meighan J. Rader
 Village Clerk


 Eugene P. Flinn, Jr.
 Mayor

APPROVED AS TO FORM:


 Eve A. Boutsis,
 Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>Yes</u>
Council Member Paul Neidhart	<u>Yes</u>
Council Member Shelley Stanczyk	<u>Yes</u>
Vice-Mayor Linda Robinson	<u>Yes</u>
Mayor Eugene P. Flinn, Jr.	<u>Yes</u>