

RESOLUTION NO. 04-56

ZONING APPLICATION 04-7-VPB-1 (02-115)

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF ARCHBISHOP JOHN C. FAVALORA (7500 S.W. 152 STREET) FOR UNUSUAL USE AND ALTERNATIVE SITE DEVELOPMENT ORDER FOR DAY CARE CENTER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for unusual use and alternative site development order, 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 village council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the applications at Southwood Middle School on July 12, 2004; and,

WHEREAS, the mayor and village council finds, based on substantial competent evidence in the record, that the applications for unusual use and alternative site development order is consistent with the Miami-Dade County comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the mayor and village council determined to grant the applications, 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 applications was held on July 12, 2004 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 ARCHBISHOP JOHN C. FAVALORA. The property is a religious facility, zoned EU-1 & EU-M; church, located at 7500 S.W. 152 Street.
2. The applicant has three requests:
 - a. Unusual use to permit a day nursery;
 - b. Modification of Condition #2 of Resolution 5ZAB-245-97, passed and adopted by the Zoning Appeals Board, as it applies to the subject property:

FROM: "2. That in approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'St. Richards Catholic Church,' as prepared by Ben Lopez & Assoc., Inc., and dated received 6-4-97, and revised 7-9-97, and consisting of (1) sheet."

TO: "2. That in approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Day Care Center for: St. Richards Catholic Church,' as prepared by Ben Lopez & Assoc., Inc., Architects, consisting of 3 sheets, Sheet A-1, dated last revised 1/29/04, Sheet A-2 dated 4/2/02 and Sheet L-1 dated 5/7/02."

The purpose of request #2 is to permit the applicant to submit revised site plans indicating the new day care center.
 - c. Applicant is requesting to permit the existing religious facility setback 49.47' (50' required) from the interior (east) property line.
3. The village council adopts the portions of the cover sheet to, and the county recommendation, entitled Zoning Hearings History, Comprehensive Development Master Plan (CDMP), Neighborhood Characteristics, Site and Buildings and Neighborhood Services as its findings of fact.

Section 3. Conclusions of law.

1. The village council adopts the portions of the county recommendation, entitled Pertinent Requirements/Standards and Analysis as its conclusions of law.

2. The village council further concludes that the applications for unusual use and for alternative site development order are consistent with the Miami-Dade County comprehensive plan.

Section 4. Order.

1. The applications for unusual use and for alternative site development order is granted as follows and subject to the conditions contained herein:
 - a. Approval with conditions of Request #1, modified approval of Request #2 with conditions under Section 33-311(A)(7) to allow plans entitled “‘Day Care Center for: St. Richards Catholic Church,’ as prepared by Ben Lopez & Assoc., Inc., Architects, consisting of 3 sheets, Sheet A-1, dated last revised 1/29/04, Sheet A-2 dated 4/2/02 and Sheet L-1 dated 5/7/02” and to include a row of trees, planted 25’ on center along the east property line, approval with conditions of Request #3 under Section 33-311(A)(4)(b), and denial without prejudice of Request #3 under Section 33-311(A)(4)(c).

CONDITIONS:

- i. That the use be established and maintained in accordance with the approved plan under Resolution RZAB-245-97.
- ii. That the applicant submit to the village Community Development Director and Miami-Dade County for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
- iii. That the use be made to conform to the requirements and/or recommendations of the Miami-Dade County Fire Department, the Miami-Dade County Department of Public Health, and the State of Florida Department of Children and Families (Child Care Licensing Unit).
- iv. That the use shall be restricted to a maximum number of 166 children, ages 3 to 4.
- v. That the applicant obtain a Certificate of Use from, and promptly renew the same annually with, the Department, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
- vi. That the applicant complies with all applicable conditions and requirements of the Department of Environmental Resources Management (DERM).
- vii. That the applicant complies with all applicable conditions and requirements of the Public Works Department.

- viii. That the hours of operation shall be between ~~7:30~~ 7:00 a.m. and ~~6:30~~ 7:00 p.m.
- ix. That the use may be conducted on the premises on weekdays only, Monday through Friday inclusive.
- x. That all conditions of Resolution 5ZAB-245-97 shall remain in full force and effect, except as herein modified.
- xi. That the required trees along the east property line be installed prior to the issuance of a Certificate of Use.
- xii. That approval be subject to installation of additional landscape buffering on the south and entire east side of property.
- xiii. That approval be subject to restricting public access to be solely from 152 Street.
- xiv. That any change either in number of children, size of school and level of educational instruction require 50% of the neighbors within 500 feet of the school to approve by petition prior to coming before Council.

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 tape and minutes of the hearing. The record shall be maintained by the village clerk.

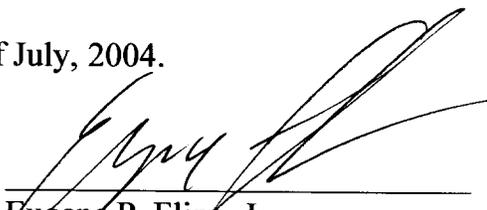
Section 6. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this 12th day of July, 2004.

Attest:



Meighan Pier
Village Clerk



Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:



Eve A. Boutsis,
Office of the Village Attorney

FINAL VOTE AT ADOPTION:

Mayor Eugene P. Flinn, Jr.	<u>YES</u>
Vice-Mayor Linda Robinson	<u>YES</u>
Council Member Ed Feller	<u>YES</u>
Council Member Paul Neidhart	<u>YES</u>
Council Member John Breder	<u>NO</u>

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