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RESOLUTION NO. 07-12

ZONING APPLICATION 06-12-VPB-1 (05-329)

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF SINFIN HOMES & INVESTMENTS, INC. FOR REZONING FROM AU (AGRICULTURAL) TO RU-1 (RESIDENTIAL) (PROPERTY LOCATED AT NORTHEAST CORNER OF SW 94 AVENUE & SW 174 STREET) FOR ALTERNATIVE SITE DEVELOPMENT ORDER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant sought a district boundary change; and,

WHEREAS, a district boundary change request is subject to quasi-judicial hearing procedures; and,

WHEREAS, the village council, as the zoning authority for the Village of Palmetto Bay held the quasi-judicial hearing at Southwood Middle School on December 11, 2006, and continued the hearing to the January 22, 2007 village council zoning meeting; and,

WHEREAS, the applicant initially made application for district boundary change from AU, Agricultural District, to RU-1, Single Family Residential District, and RU-2, Two Family Residential District, and,

WHEREAS, during the initial hearing on December 11, 2006, the applicant provided two alternative requests for district boundary changes: (1) a district boundary change from AU to RU-1 and RU-2; or alternatively, (2) a district boundary change from AU to RU-1; and,

WHEREAS, each application enclosed a proposed plat of the proposed lots, with the first application providing for 22 housing units, consisting of 11 twin homes on the RU-2 parcel; and 6 single family homes to be located on the RU-1 parcel (a total of 28 residences); and,

WHEREAS, under the second proposal, the applicant requested to rezone the entire area to RU-1, single family, and to provide 22 platted lots for single family residences; and,

WHEREAS, the applicant, during the December 11, 2006 hearing withdrew its initial request and proceeding with a district boundary change from AU to RU-1 (with a request for 22 platted lots); and,

WHEREAS, the hearing was continued to the January 22nd village zoning hearing; and,

WHEREAS, the applicant provided a proposed third proposed district boundary change request from AU to RU-1, with 21 platted lots; and,

WHEREAS, the village council rejected the third proposal; and,

1
2 WHEREAS, the mayor and village council finds, based on substantial competent
3 evidence in the record, that the application for district boundary change to RU-1, single family
4 residential, is consistent with the Land Use Plan Map of the Village of Palmetto Bay
5 comprehensive plan, in that the comprehensive plan Future Land Use Map designates the
6 applicant's parcel for Low Density Residential, which permits a minimum of 2.5 to a maximum
7 of 6.0 dwelling units per acre, for a minimum of 14 units and a maximum of 28 units for the site,
8 with the incorporated required dedicated right-of-way.; and,
9

10 WHEREAS, based on the foregoing finding, the mayor and village council determined to
11 grant the application request under option (2), for a district boundary change from AU to RU-1,
12 with modifications, requiring 19 platted lots versus 22 platted lots.
13

14 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
15 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
16

17 Section 1. A hearing on the present application was held on December 11, 2006, and
18 continued on January 22, 2007 in accordance with ordinance. no. 02-03, entitled "Quasi-judicial
19 hearing procedures." Pursuant to the hearing, the village council makes the following findings of
20 fact, conclusions of law and order.
21

22 Section 2. Findings of fact.
23

24 1. The applicant is Sinfin Homes and Investments, Inc. The property is vacant
25 agriculturally (AU) zoned land located on the northeast corner of SW 94 Avenue and SW 174
26 Street consisting of 5.64 gross acres.
27

28 2. Prior to hearing testimony, the village council made any and all disclosures of any
29 site visits, or any communications received (written, telephone, in person, or email) from anyone
30 (whether the applicant, applicant's representatives, or the community at large); and whether after
31 those communications whether each council person could be objective relating to the pending
32 application. The disclosures were not challenged by the applicant. The disclosures were in
33 compliance with the village's quasi-judicial hearing procedures. This disclosure took place both
34 during the initial hearing on December 11th, and prior to the continued hearing of January 22,
35 2007.
36

37 3. The applicant initially made application for district boundary change from AU,
38 Agricultural District, to RU-1, Single Family Residential District, and RU-2, Two Family
39 Residential District.
40

41 4. During the initial hearing on December 11, 2006, the applicant provided two
42 alternative requests for district boundary changes: (1) a district boundary change from AU to
43 RU-1 and RU-2; or alternatively, (2) a district boundary change from AU to RU-1.
44

45 5. Each application by Sinfin Homes and Investments, Inc. enclosed a proposed plat
46 of the proposed lots, with the first application providing for 22 housing units, consisting of 11

1 twin homes on the RU-2 parcel; and 6 single family homes to be located on the RU-1 parcel (a
2 total of 28 residences). Under the second proposal, the applicant requested to rezone the entire
3 area to RU-1, single family, and to provide 22 platted lots for single family residences.
4

5 6. The applicant, during the December 11, 2006 hearing specifically withdrew its
6 initial request and proceeding with a district boundary change from AU to RU-1 (with a request
7 for 22 platted lots). Based upon the withdrawal of the first proposal, that item was no longer to
8 be considered by the village council.
9

10 7. The village staff provided evidence and the applicant presented his request.
11 Applicant did not present expert testimony during the hearing. The village Community
12 Development Director, the village's planning and zoning expert provided testimony regarding
13 the village's comprehensive plan and application of the village's zoning code.
14

15 8. The Community Development Director, Ms. Arleen Weintraub, indicated that a
16 request for a district boundary change to RU-1, single family residential, is consistent with the
17 Land Use Plan Map of the Village of Palmetto Bay comprehensive plan, in that the
18 comprehensive plan Future Land Use Map designates the applicant's parcel for Low Density
19 Residential, which permits a minimum of 2.5 to a maximum of 6.0 dwelling units per acre, for a
20 minimum of 14 units and a maximum of 28 units, with the incorporated required dedicated right-
21 of-way, for a site the size of the applicant's.
22

23 9. The village council opened the public hearing portion of the meeting and allowed
24 residents, after being placed under oath, to testify regarding the applicant's district boundary
25 change to RU-1 request.
26

27 10. Mr. Glen Lurie testified that he lives a couple of doors down from the subject site
28 and that the adjacent land is designated EU-M, and that he was concerned that there would be a
29 disparity on the street as there would be three homes on the property if approved as RU-1 with
30 22 platted lots; versus two homes across the street in the EU-M zoning district.
31

32 11. Ms. Santiago Bell testified that she was concerned regarding the transition from
33 EU-M to RU-1, and the density and intensity of use of the RU-1 proposed site as compared to
34 the EU-M site adjacent thereto.
35

36 12. Mr. Wray Abercrombie indicated that he lives adjacent to the site and that the
37 character of the neighborhood would change due to the intensity of use from extensively platted
38 land at the RU-1 site.
39

40 13. The mayor closed the public hearing.
41

42 14. The hearing item for a district boundary change was continued to the January 22nd
43 village zoning hearing.
44

45 15. During the January 22 zoning hearing, which was a continuation of the original
application, the applicant provided a proposed third proposed district boundary change request

1 from AU to RU-1, with 21 platted lots. The village council rejected the third proposal. The
2 applicant never objected to the village's decision to not accept the third proposal.
3

4 16. The village council found that the area where the applicant's property was located
5 was a "transitional are." As the property across the street provided much larger lots, the council
6 found that a district boundary change to RU-1 would be compatible; however, as the RU-1
7 zoning district can require 14 lots, and no more than 28 lots, the village council was of the
8 opinion that the RU-1 zoning could be approved at 19 platted lots.
9

10 17. The village council found that the criteria of 33-311 were met, provided the
11 approval contains the outlined conditions as presented by the village council and staff.
12

13 18. The village council conditioned the approval upon requiring proper drainage of
14 each platted lot, required the installation of sidewalks, compliance with the Florida Building
15 Code and Village/Miami-Dade County code, as applicable, submittal of a landscape plan as part
16 of the building permit application, which plan shall be reviewed and approved by the Village's
17 Directors of the Department of Community Development and Public Works , installation of
18 street lights, dedication of right-of-way, and a covenant running with the land restricting the
19 development of the site to 19 platted lots,
20

21 19. The number of lots permitted under the village's comprehensive plan provides for
22 a minimum of 14 platted lots at the 5.64 acre vacant lot and a maximum of 28 platted lots. Based
23 upon the testimony of the community, the knowledge of the village council of the community,
24 the environment, the transitional area aspects of the applicant's parcel, and it being adjacent to
25 EU-M to the South, the Village council concluded 19 platted lots associated with the district
26 boundary change was compatible with the community, the comprehensive plan, the environment,
27 to public facilities, etc.
28

29 Section 3. Conclusions of law.
30

31 1. The village council adopts the portions of the county recommendation, entitled
32 Introduction; Comprehensive Development Master Plan; Gross Residential Density;
33 Neighborhood Characteristics; Site and Building; Pertinent Requirements/Standards; and
34 Community Director's Analysis in the Village of Palmetto Bay Recommendation, found at 7(a)
35 as its conclusions of law. However, the final determination and recommendation of the village
36 council is partially based upon the Diane O'Quinn Williams, Miami-Dade County Director of
37 Planning and Zoning (pages 4-7) and Ms. Arleen Weintraub's recommendation (pages 7a and
38 7b) as it relates to compatibility of the RU-1 district. The number of lots permitted under the
39 village's comprehensive plan provides for a minimum of 14 platted lots at the 5.64 acre vacant
40 lot and a maximum of 28 platted lots. Based upon the testimony of the community, the
41 knowledge of the village council of the community, the environment, the transitional area
42 aspects of the applicant's parcel, and it being adjacent to EU-M to the South, the Village council
43 concluded 19 platted lots associated with the district boundary change was compatible with the
44 community, the comprehensive plan, the environment, to public facilities, etc.
45

1 2. The village council further concludes that the application for district boundary
2 change is consistent with the Village's Comprehensive Plan Future Land Use Map and
3 compatible with the area, which consists of RU-2 zoning to the west and RU-1 to the north and
4 east.; and EU-M to the south.
5

6 Section 4. Order.

7 The village council accepts the county and staff recommendation to approve the
8 application for a district boundary (zone) change from AU to RU-1, with conditions (as modified
9 by the village council:
10

11 (1) Any development of the site shall be required to maintain proper drainage on site
12 or through proper drainage systems for each platted lot;

13 (2) The development shall provide and install sidewalks;

14 (3) All development shall comply with the Florida Building Code and Village/Miami-
15 Dade County code, as applicable;

16 (4) Applicant shall submit a landscape plan as part of the building permit application,
17 which plan shall be reviewed and approved by the Village's Directors of the Department of
18 Community Development and Public Works;

19 (5) Applicant shall install street lights, in compliance with the requirements of the
20 Village's Directors of the Department of Community Development and Public Works;

21 (6) Applicant shall be required to dedicate the necessary rights-of-way; and

22 (7) Applicant shall execute a covenant running with the land restricting the
23 development of the site to 19 platted lots, with the number of parcels fronting SW 174 Street to
24 be five and the parcels facing SW 174 Terrace to be reduced from 16 to 14 (7 parcels each,
25 facing SW 174 Terrace).
26

27 Section 5. Record.

28
29 The record shall consist of the notice of hearing, the application for a district boundary
30 change from AU to RU-1, at 22 platted lots; , documents submitted by the applicant and the
31 applicant's representatives to the Miami-Dade County Department of Planning and Zoning in
32 connection with the RU-1, 22 platted lot application, the December 11th, 2006 county and village
33 recommendation and attached cover sheet and attachments to the recommendation, the testimony
34 of any sworn witnesses, and the tape and minutes of the hearing. The applicant did not request
35 for submittal into the record of any additional documents. The village council rejected the "third"
36 submittal by applicant at the January 22, 2007 continued hearing of the proposed third district
37 boundary change from AU to RU-1, for 21 platted lots. No other documents were submitted into
38 the record by applicant. The record shall be maintained by the village clerk.
39

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

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2 PASSED and ADOPTED this 22nd day of January, 2007 (executed 2/7/2007).
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5 Attest:

6 Meighan Rader
7 Meighan Rader
8 Village Clerk
9

Eugene P. Flinn, Jr.
Eugene P. Flinn, Jr.
Mayor

10 APPROVED AS TO FORM:
11

12 Eve A. Boutsis
13 Eve A. Boutsis,
14 Village Attorney
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17

18
19 FINAL VOTE AT ADOPTION:
20

21 Council Member Ed Feller YES
22
23 Council Member Paul Neidhart YES
24
25 Council Member Shelley Stanczyk NO
26
27 Vice-Mayor Linda Robinson YES
28
29 Mayor Eugene P. Flinn, Jr. NO
30
31