

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

RESOLUTION NO. 09-91

ZONING APPLICATION [VPB-09-007]

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF SOUTH FLORIDA EDUCATIONAL FEDERAL CREDIT UNION FOR A NON-USE VARIANCE OF SIGN REGULATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant submitted an application for a non-use variance of sign regulations, as described in the Village of Palmetto Bay's Department of Planning and Zoning Recommendation, which is attached to this resolution; and,

WHEREAS, the Village Council conducted a quasi-judicial hearing on the application at the Deering Estate Visitor Center on October 14, 2009; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a non-use variance of sign regulations is consistent with the Village's 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 application was held on October 14 2009, in accordance with the Village's "Quasi-judicial hearing procedures" Ordinance. Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

Pursuant to Sections 33-311(4)(b) and (c), Miami-Dade County Code, the applicant, South Florida Educational Federal Credit Union, applied for a non-use variance of sign regulations to allow two building identification signs (17' x 7' / 119 sq. ft) where one is permitted on a property zoned Mixed-Use Corridor (MC), located within the FT&I zoning district, at 17500 South Dixie Hwy. The property is situated in the northeast corner of SW 97th Avenue and South Dixie Hwy. The applicant is seeking an additional building identification façade.

Consistency with the Comprehensive Plan: The adopted 2005 Village of Palmetto Bay Comprehensive Plan, Future Land Use Map (FLUM) designates the site as MC. The MC category accommodates a full range of sales and service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, hospitals, theaters, medical building, entertainment and cultural facilities and commercial banking establishments. These uses

1 may occur in self contained centers, campus parks and municipal center business districts. The
2 specific range and intensity of uses appropriate in MC areas vary by location as a function of such
3 factors as availability of public services, roadway access and neighborhood compatibility. Specific
4 limitations may be imposed on uses on MC where necessary to protect environmental resources
5 include well field.

6
7 The applicant is constructing a three (3) story, mixed-use (office-banking) structure which is
8 currently under construction. The site plan and elevations include the proposed building
9 identification signs which are the subject of the hearing request. The site is an irregular pie shaped
10 parcel consisting of 22,672 sq.ft. While the development complies with section 30-50.18 entitled
11 “_6 General Requirements” of the FT&I District, including building placement, design parameters,
12 setbacks, and height requirements, the applicant sought to install two (2) building identification signs
13 where one (1) is permitted per section 30-90.17(n) “Sign Regulations”. This section states that only
14 one building identification signs with an area of up to 150 sq.ft. is allowed in the MC core sub-
15 district. The applicant seeks an additional building identification sign (17' x 7'/119 sq.ft.) to be
16 placed on the west façade facing SW 97th Avenue in conjunction with a permitted (17' x 7'/119
17 sq.ft.) building identification sign facing South Dixie Hwy.

18
19 The applicant’s architect, Bruce Arthur of WHA Design, Inc., spoke in favor of the request. The
20 public hearing was opened and no persons spoke regarding the application.

21
22 The MC zoning district is typically characterized by the construction of mixed-use structures ranging
23 from three (3) to eight (8) stories in height which would allow the project to maximize the use of the
24 total land parcel. The reduction in setback requirements enables the buildings to be close to the
25 sidewalks creating a pedestrian friendly environment.

26
27 **Section 3. Conclusions of law.**

28 In evaluating an application for a Non-Use Variance of Setback Regulations, the Village Council
29 should take into consideration the requirements set forth in Section 33-311(A)(4)(b) Non-Use
30 Variance Standard, or the alternative Section 33-311 (A)(4)(c) Alternative Non-Use Variance
31 Standard, of the Miami-Dade County Code.

32
33 The non-use variance standard requirements in Section 33-311 (A)(4)(b), Miami-Dade County Code,
34 indicates that upon appeal or direct application in specific cases to hear and grant applications for
35 non-use variances from the terms of the zoning and subdivision regulations, the Council (following
36 a public hearing) may grant a non-use variance upon demonstration by the applicant that the non-
37 use variance request maintains the basic intent and purpose of the zoning, subdivision and other
38 land use regulations, which is to protect the general welfare of the public, particularly as it affects the
39 stability and appearance of the community and provided that the variance will be otherwise
40 compatible with the surrounding land uses and would not be detrimental to the community. No
41 showing of unnecessary hardship to the land is required. For the purpose of this subsection of the
42 Code, the term “non-use variance” involves matters such as setback lines, frontage requirements,

1 subdivision regulations, height limitations, lot size restrictions, yard requirements, and other
2 variances which have no relation to change of use of the property in question.

3
4 The alternative non-use variance standard in Section 33-311(A)(4)(c), Miami-Dade County Code,
5 requires that the variance will not be contrary to the public interest, where owing to special
6 conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so
7 the spirit of the regulations shall be observed and substantial justice done; provided, that the non-
8 use variance will be in harmony with the general purpose and intent of the regulation, and that the
9 same is the minimum non-use variance that will permit the reasonable use of the premises.

10
11 The variance request pursuant to Section 33-311(A)(4)(b) is in keeping with the development pattern
12 sought for the area in that it is compatible with the surrounding zoning and land use regulations.
13 The Mayor and Village Council approve the non-use variance requests as it will allow the applicant
14 to provide an additional building identification sign for the mixed-use development currently under
15 construction. Due to the irregular pie-shaped parcel and the proposed design layout for the two (2)
16 signs, the application is found to be in keeping with the basic intent and purpose of the zoning and
17 land use regulations. As such, approval of the application is in character with the surrounding land
18 uses and is consistent with the Village's Comprehensive Plan. As there is no actual hardship, the
19 criteria of the alternative non-use variance provisions of Section 33-311(A)(4)(c) are not met.

20
21 **Section 4.** Order.

22 The plans entitled South Florida Educational Federal Credit Union: public hearing/sign variance
23 submittal, 17500 South Dixie Hwy, Miami Florida 33157, as prepared by WHA Design, Inc.,
24 consisting of three (3) sheets dated September 1, 2009, are approved with the following conditions:
25

- 26 1. The applicant is to comply with the requirements of all other applicable
27 departments/agencies as part of the Village of Palmetto Bay building permit
28 submittal and review process.
29 2. No other advertising or monument signs shall be permitted. Additional signs or
30 modification of the signs shall require public hearing. Applicant's representative
31 agreed to the condition.
32 3. Applicant is to maintain the signs and not allow the signs to deteriorate.
33 4. This is a final order.
34

35 **Section 5.** Record.

36 The record shall consist of the notice of hearing, the applications, documents submitted by
37 the applicant and the applicant's representatives to the Village's Department of Planning and Zoning
38 in connection with the applications, the county recommendation and attached cover sheet and
39 documents, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing,
40 and the tape and minutes of the hearing. The record shall be maintained by the Village Clerk.
41

42
43 **Section 6.** This resolution shall take effect immediately upon approval.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PASSED and ADOPTED this 14th day of October, 2009.

Attest: Meighan Rader
Meighan Rader
Village Clerk

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

APPROVED AS TO FORM:

Eve A. Boutsis
Eve A. Boutsis,
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Ed Feller Absent
- Council Member Howard Tendrich YES
- Council Member Shelley Stanczyk YES
- Vice-Mayor Brian W. Pariser YES
- Mayor Eugene P. Flinn, Jr. YES