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RESOLUTION NO. 09-96

ZONING APPLICATION VPB-09-0_

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF THE VILLAGE OF PALMETTO BAY REQUESTING ZONING APPROVAL PURSUANT TO SECTION 33-303 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE, TO ALLOW FOR SIGNAGE ASSOCIATED WITH THE 2007 APPROVAL OF A PUBLIC FACILITY PUBLIC USE AT THE PROPERTY KNOWN AS 17641 OLD CUTLER ROAD FOR A PUBLIC LIBRARY AND PUBLIC PARK; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007, the applicant made applications pursuant to Section 33-303 of the Miami-Dade County Code, as adopted by the Village for the ability to use the site for a public facility – for a Public Library and the Ludovici Park; and,

WHEREAS, the original application neglected to address permanent signage for the library and park; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at The Deering Estate on November 19, 2009; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application to modify the public facility use application to include signage is consistent with the Village of Palmetto Bay’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 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 applications was held on November 19, 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.

1. The applicants are the Village of Palmetto Bay, 8950 SW 152nd Street, Palmetto Bay, Florida 33157; and 17777 Old Cutler Road LLC, d/b/a Palmetto Bay Village Center.. The property that is the subject of this zoning resolution is located at 17641 Old Cutler Road and the northern most 2.1 acres of 17777 Old Cutler Road, received a public facility use designation in 2007. the northern most 2.1 acres of 17777 Old Cutler Road LLC’s parcel contains an access and parking easement agreement in favor of the Village’s Library, and contains the median area in

1 which the proposed government use sign (joint use signage) would be located. The applicants,
2 pursuant to section 33-303 of the Miami-Dade County Code, is seeking to modify the 2007
3 government use facility application to include signage for the public library, public park, and the
4 Palmetto Bay Village Center, along the northern entry to the Palmetto Bay Village Center, which
5 entryway is the vehicular access point to the Village's library and park.
6

7 2. The property bears the following legal description of:

8 A portion of tract "A" of "Burger King Work Headquarters" according to the
9 plat thereof as recorded in plat book 127 at page 86 of the public records of
10 Miami-Dade County, Florida, more particularly described as follows:

11 Commence at the intersection of S.W. 176th Street and Old Cutler Road, said
12 point being the beginning of a curve to the right, of which the radius point lies
13 N64°41'14"W, a radial distance of 2,864.93 feet; thence Southwesterly along the
14 arc, through a central angle of 02°48'48", a distance of 140.67 feet to a point of
15 tangency; thence S28°07'34"W for a distance of 249.44 feet along the centerline
16 of Old Cutler Road; thence run N87°39'08"E for a distance of 40.61 feet to a
17 point on the easterly right-of-way line of Old Cutler Road, said point being the
18 point of beginning; then continue N87°38'29"E for a distance of 399.14 feet
19 along the South boundary line of Track 2 (plat book 1 – page 1); thence
20 S28°07'34"W for a distance of 366.42 feet; thence N61°52'26"W for a distance of
21 344.00 feet said point being coincident to a point on the easterly right- of-way of
22 Old Cutler Road; thence along the easterly right-of-way line of Old Cutler Road
23 N28°07'34"E for a distance of 164.00 feet to the point of beginning.

24 Containing 91,282.64 square feet or 2.10 acres, more or less.

25
26 3. The Village Council adopts the portions of the cover sheet to, and the Village
27 recommendation, entitled Introduction, Zoning Hearings History, Comprehensive Plan, and
28 Neighborhood Characteristics as its findings of fact.
29

30 Section 3. Conclusions of law.
31

32 1. The Village Council adopts the portions of the Village recommendation, entitled
33 Pertinent Requirements/Standards, section 33-303, Miami-Dade County Code; the Analysis, and
34 Recommendations contained in the staff report as the Village Council's conclusions of law.
35

36 2. Pursuant to the procedure provided under section 33-303, the Village may amend
37 the established governmental facility use for the underlying location, without regard to the zoning
38 or use classification of any particular site or location.
39

40 3. A governmental facility is defined to include, but is not limited to: public parks,
41 playgrounds and buildings, and structures supplementary and incidental to such uses; public
42 libraries; public buildings and centers; art galleries and convention halls. Signage may be
43 provided as part of the government facility. However, the original application did not provide
44 signage for the library or park. Within the easement area, the Palmetto Bay Village Center has a
45 permitted and existing sign. That sign is recommended for removal and replacement. The

1 attached plans reflect the proposed joint use signage. Due to the Village's easement agreement,
2 the Village is entitled to place a sign within the northern entry way to the Palmetto Bay Village
3 Center. Through the government facility use process, the Village approved the signage proposed,
4 including the joint use portion of same.
5

6 4. The Village Council may only authorize the erection, construction and operation
7 of the governmental facility(ies) by resolution following public hearing. The public hearing shall
8 be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a
9 newspaper of general circulation in Miami-Dade County, which publication shall include the time
10 and place of hearing before the Village Council.
11

12 5. A courtesy notice containing general information as to the date, time, and place of
13 the hearing, the property location and general nature of the application may be mailed to the
14 property owners of record, within a radius of 300 feet of the property described in the
15 application, or such greater distance as the Community Development Director may prescribe;
16 provided, however, that failure to mail or receive such courtesy notice shall not affect any action
17 or proceeding taken hereunder.
18

19 6. To provide additional notice to the public, the property shall be posted by a sign
20 or signs indicating the action desired and the time and place of the public hearing thereon. Failure
21 to post such property shall not affect any action taken hereunder.
22

- 23 7. At the public hearing the Village Council shall consider, among other factors:
24 a. the type of function involved, the public need therefore;
25 b. the existing land use pattern in the area;
26 c. alternative locations for the facility; and
27 d. the nature of the impact of the facility on the surrounding property.
28

29 After considering these factors, the Village Council shall take such action as is necessary to
30 provide for and protect the public health, safety and welfare of the citizens and residents of the
31 Village.
32

33 Section 4. Order.
34

35 a. The site plan shall be submitted to, and meet with the approval of, the Director,
36 after consultation with the Village Manager, upon the submittal of an application for a building
37 permit; said plan to include among other things, but not be limited thereto, location of the
38 proposed sign, landscaping, etc.
39

40 b. In the approval of the plan, the plan shall be substantially in accordance with that
41 submitted for the hearing, and as attached hereto. Except as may be specified by any zoning
42 resolution applicable to the subject property, any future additions on the property which conform
43 to Zoning Code requirements will not require further public hearing action.
44

45 c. The use shall be established and maintained in accordance with the approved
46 plan.
47

1 d. The Mayor and Village Council accepted the Planning & Zoning Directors
2 updated memorandum dated November 18, 2009, in which the copy for the sign was modified to
3 reflect the following language "The Edward and Arlene Feller Community Room and
4 Amphitheater at Ludovici Park." ON November 2, 2008, the Mayor and Council, via Resolution
5 no.: 09-95 had officially renamed the community room and amphitheater and therefore, the copy
6 for the signage of the site was modified accordingly.

7
8 e. The Mayor and Council requested the co-applicant, the Palmetto Bay Village
9 Center (PBVC) to place LED lighting and investigate the possibility of Solar lighting for the co-
10 located signage. The manager of the PBVC agreed to the condition.

11
12 f. This is a final order.

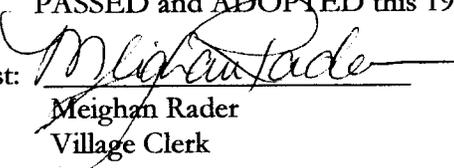
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14 Section 5. Record.

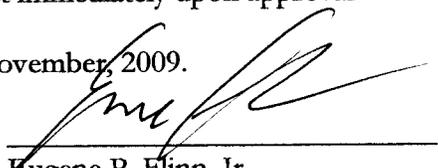
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16 The record shall consist of the notice of hearing, the applications, documents submitted
17 by the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
18 Planning and Zoning in connection with the applications, the Village recommendation and
19 attached cover sheet and documents, the testimony of sworn witnesses and documents presented
20 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be
21 maintained by the Village Clerk.

22
23 Section 6. This resolution shall take effect immediately upon approval.

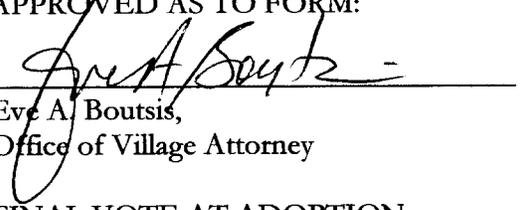
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25 PASSED and ADOPTED this 19th day of November, 2009.

26
27 Attest:

28 
29 Meighan Rader
30 Village Clerk

31 
32 Eugene P. Flinn, Jr.
33 Mayor

34 APPROVED AS TO FORM:

35 
36 Eve A. Boutsis,
37 Office of Village Attorney

38 FINAL VOTE AT ADOPTION:

39 Council Member Ed Feller YES
40
41 Council Member Howard Tendrich YES
42
43 Council Member Shelley Stanczyk YES
44
45 Vice-Mayor Brian W. Pariser YES
46
47 Mayor Eugene P. Flinn, Jr. YES