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RESOLUTION NO. 2010-13

ZONING APPLICATION 09-009

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF VAN ORSDEL FOR THE PROPERTY LOCATED AT 16475 SOUTH DIXIE HIGHWAY, RELATING TO A VARIANCE REQUEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for a district boundary change which was heard and adopted during the December 14, 2009 and January 25, 2010 zoning meetings, and simultaneously requested a non-use variance of setbacks as described in the 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 entire application at the Deering Estate on January 25, 2010; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a non-use variance 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 applications was held on December 14, 2009, in conjunction with the first reading of the district boundary change ordinance request by the applicant to rezone the property from BU-1A and AU to B-2, in accordance with the Village's "Quasi-judicial hearing procedures" ordinance. The Ordinance on the district boundary change proceeded to second reading and the district boundary change was approved at the January 25, 2010 hearing. The decision of the Mayor and Village Council as to the non-use variance is contingent upon the approval of the District Boundary Request. Approval of the District Boundary Change allows for the consideration of the non-use variance request. Pursuant to the January 25, 2010, hearing on the non-use variance request (decided after the ordinance relating to the district boundary change), the Village Council makes the following findings of fact, conclusions of law and issues the following order:

1 Section 2. Findings of fact.

2 Pursuant to Sections 33-311(F) and 33-311(4)(b) and (c), Miami-Dade County Code, the applicant
3 is requesting a district boundary change from BU-1A and AU under the County Code to B-2, under
4 the Village's Land Development Code, in conjunction with a non-use variance of parking setback
5 requirement from the north and south interior property line to setback 3.5' where 5' is required on a
6 property zoned B-2. The non-use variance request may only be approved after the district boundary
7 approval.

8
9 On November 8, 1984, the Board of County Commissioners pursuant to zoning resolution Z-236-
10 84 approved the applicants request with conditions for a district boundary change from Agriculture
11 (AU) to Limited Business District (BU-1A) in conjunction with a use variance to permit automobile
12 sales in a BU-1A zone as would be permitted in BU-3 and a waiver of a required 5' decorative
13 masonry wall where a business lot abuts an AU or GU zoned property. Only a portion of the parcel
14 was re-zoned to BU-1A. The remaining portion of the parcel remained AU. It is unclear from the
15 record why only a portion of the entire parcel was rezoned. The AU parcel was not used for
16 agricultural purposes. In fact, previously the parcel was used for a BMX, non-motorized bicycle
17 course.

18
19 On October 23, 1980, the Board of County Commissioners pursuant to zoning resolution Z-255-80
20 concurred with the Zoning Appeals Board and approved the applicant's request, with conditions for
21 an unusual use to permit a recreational facility to wit: a BMX, non-motorized bicycle course and
22 dismissed from the agenda the applicants request of a special exception to permit night lighting for
23 the proposed non-motorized bicycle course. The item was brought before the Board of County
24 Commissioners as a result of an appeal of the decision by Zoning Appeals Board.

25
26 On August 27, 1980, the Metropolitan Dade County Zoning Appeals Board pursuant to resolution
27 4-ZAB-333-80 approved the applicants request with conditions for an unusual use to permit a
28 recreational facility to wit: a BMX, non-motorized bicycle course in-conjunction with a special
29 exception to permit night lighting for the proposed, non-motorized bicycle course.

30
31 On January 25, 2009, the Mayor and Village Council approved the district boundary change for the
32 property from BU-1A and AU, as approved under the County Code, to B-2, under the Village's
33 Land Development Code, effective December 31, 2009.

34
35 The adopted 2005 Village of Palmetto Bay Comprehensive Plan, Future Land Use Map (FLUM)
36 designates the site as Business Office (BO). The BO category accommodates a full range of sales
37 and service activities including retail, wholesale, personal and professional services, commercial and
38 professional offices, hotels, medical office, and commercial banking establishments.

39
40 The applicant is seeking to construct a three-story, office building adjacent to Perrine Wayside Dog
41 Park to the north and Dadeland Dodge Dealership to the south. The site is a long, narrow irregular
42 parcel. In an effort to minimize the visual impact from the height of the proposed structure to the
43 adjacent residential neighborhood to the east the applicant has allocated all required parking on the

1 ground level of which approximately two-third of the required parking is situated directly beneath
2 the office building. As a result of the modified parking layout, the parking plan encroaches 3.5' into
3 the setback where 5' is required. The site plan, floor plans and elevations include the parking layout
4 which is the subject of this zoning resolution.
5

6 The request, if approved, will allow the applicant to provide additional commercial services to the
7 community. Staff notes that the proposed B-2 zoning district allows all the permitted uses within B-
8 1 such as automobile service stations, bait and tackle shops, banks including drive-in teller service,
9 coffee house, office buildings, spa and health clubs and other uses indicated in the Zoning Code.
10

11 The proposed use will be compatible with the surrounding area and will provide additional services
12 to the community and surrounding neighborhood and will be consistent with the Comprehensive
13 Plan.
14

15 The Department of Public Works has no objections to this application. However, the applicant will
16 have to comply with all conditions as set forth in their memorandum pertaining to this application
17 dated November 5th 2009. The Department of Parks and Recreation has no objection and concurs
18 with the conditions as prepared by the Department of Public Works dated November 5, 2009.
19

20 Section 3. Conclusions of law.

21 The variance request pursuant to Section 33-311 (A)(4)(b) is in keeping with the development
22 pattern sought for the area in that it is compatible with the surrounding zoning and land use
23 regulations. As there is no actual hardship, The criteria of the alternative non-use variance provisions
24 of Section 33-311 (A)(4)(c) are not met.
25

26 Section 4. Order.

27 Conditioned upon the approval of the district boundary change to B-2 under the Village's Land
28 Development Code, the applicant shall receive the non-use variance of setback requirements
29 pursuant to Section 33-311(A)(4)(b). The non-use variance will allow the applicant to provide
30 additional commercial services for the community. Due to the irregular parcel and the proposed
31 design parking layout, The Mayor and Village Council finds that the setback variance request is in
32 keeping with the basic intent and purpose of the zoning and land use regulations. As such approval
33 of this application is in character with the surrounding uses, and would be consistent with the
34 Village's Comprehensive Plan.
35

36 The application for the non-use variance is approved pursuant to section 33-311(F) and 33-
37 311(A)(4)(b) to allow construction of the plans entitled "Donald Van Orsdel," 16475 South Dixie
38 Hwy, Palmetto Bay, FL 33157 as prepared by Tong Group, consisting of four (4) sheets dated
39 October 15, 2009, with the following conditions:
40

41 1. The applicant is to comply with the requirements of all other applicable
42 departments/agencies as part of the Village of Palmetto Bay building permit submittal process.

- 1
2 2. The application must meet the minimum requirements of Chapter 24 of the Code of Miami-
3 Dade County.
4
- 5 3. The applicant shall relocate all existing trees affected by the proposed office building on site.
6 If the relocated trees not survive the applicant shall be required to replace the trees in compliance
7 with DERM and Village requirements.
8
- 9 4. The applicant shall incorporate energy and water efficient fixtures as part of the structure
10 and shall be noted on the submitted plans.
11
- 12 5. The applicant shall use LED lighting to reduce the electrical energy consumption. The
13 submitted plans must note compliance with this provision.
14
- 15 6. The outdoor lighting should be energy efficient and shielded so that all glare is
16 confined within the boundaries of the site.
17
- 18 7. The applicant shall provide a space for the collection and storage of recyclables. This
19 provision provides convenient access to recycling facilities and encourages building occupants to
20 utilize the County's recycling programs to their fullest. Projects shall comply with the minimum solid
21 waste and recyclables storage requirements. Applicant shall demonstrate collection and storage
22 area(s) on submitted plans.
23
- 24 8. The applicant shall provide roof location and install conduit from the electrical room for
25 future Photovoltaic System (PV) installation. A minimum of 300 sq. ft. or larger of roof area in a
26 south or west direction shall be dedicated and clear of vent pipes and other obstructions to allow for
27 the installation of a future PV system. The submitted plans must note compliance with this
28 provision.
29
- 30 9. The applicant shall provide a Construction Air Quality Management Plan on the
31 construction drawings that, at a minimum, includes protecting ducts during construction and
32 changing the filters and vacuuming ducts prior to occupancy. The submitted plans must note
33 compliance with this provision.
34
- 35 10. The applicant shall use interior paints and wood finishes with low volatile organic compound
36 levels that do not exceed 50 grams per liter flat, or 150 grams per liter non-flat. This shall be noted
37 on the approved plans.
38
- 39 11. The applicant shall install energy star appliances. This shall be noted on the approved plans.
40
- 41 12. The applicant shall work with the Art-in-Public-Places Advisory Board in addressing its Art
42 in Public Places requirement as required by Division 30-160, of the Village's Code of Ordinances
43

1 13. A construction and Maintenance of Traffic (MOT) Plan shall be provided to the Building
2 Department and Public Works for approval.

3
4 14. The applicant shall comply with the Village's demolition and construction fencing ordinance.

5
6 15. Failure to substantially complete construction within 24 months of this development
7 approval shall result in the non-use variance and zoning resolution be void or seek extension prior
8 to the expiration of the 24-month period.

9
10 16. If the construction is anticipated to exceed 24 months, the applicant shall provide the village
11 a proposed construction timetable to be approved by the Village Council.

12
13 17. The district boundary change ordinance relating to rezoning of the property from AU and
14 BU-1A to B-2 under the Village's Land Development Code shall not be affected by condition
15 number 15. The rezoning shall be vested.

16
17 18. The applicant shall comply with all Village Codes and Ordinances

18
19 19. Service and delivery vehicles, including solid waste pick-up, shall be restricted to Monday
20 through Saturday, between the hours of 7:00am and 7:00pm

21
22 This is a final order.

23
24 Section 5. Record.

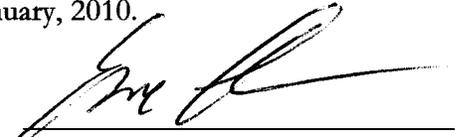
25 The record shall consist of the notice of hearing, the applications, documents submitted by
26 the applicant and the applicant's representatives to the Village's Department of Planning and Zoning
27 in connection with the applications, the Department's recommendation and attached cover sheet
28 and documents, the testimony of sworn witnesses and documents presented at the quasi-judicial
29 hearing, and the tape and minutes of the hearing. The record shall be maintained by the Village
30 Clerk.

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

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PASSED and ADOPTED this 25 day of January, 2010.

Attest: 
Meighan 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 YES
- Council Member Howard Tendrich YES
- Council Member Shelley Stanczyk YES
- Vice-Mayor Brian W. Pariser YES
- Mayor Eugene P. Flinn, Jr. YES