

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

RESOLUTION NO. 2013-15

ZONING APPLICATION VPB-12-008

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; GRANTING THE APPLICATION OF SMORGASBORD MANAGEMENT CO., AND THE FALLS PRESCHOOL, LLC, LOCATED AT 14875 SOUTH DIXIE HWY; APPROVING THE REQUEST TO ESTABLISH A DAY CARE FACILITY ON A PROPERTY ZONED B-1; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Applicants, Smorgasbord Management Co., And The Falls Preschool, LLC, made an application to establish a day care facility on a property zoned B-1, in compliance with the currently enacted version of Section 30-110, of the Village's Land Development Code, for the property located at 14875 South Dixie Highway, Palmetto Bay, as described in the Village of Palmetto Bay Department of Planning and Zoning Recommendation, which is attached to this resolution; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Village Hall, 9705 East Hibiscus Street on February 25, 2013; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application is consistent with the Village of Palmetto Bay 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 public hearing on the present applications was held on February 25, 2013, in accordance with the Village's "Quasi-judicial hearing procedures." Pursuant to the testimony and evidence presented during the hearing, the Village Council makes the following findings of fact, conclusions of law and final order.

1 Section 2. Findings of fact.

2 1. The requested site plan modification is consistent with the Village's Comprehensive
3 Plan, specifically Goal 1, of the Future Land Use Element (FLUE); and Policy 2A.1.1
4 relating to the level of service of Village Roads.
5

6 2. The Smorgasbord Management Company and The Falls Preschool, LLC
7 (Applicants) requested to establish and operate a child day care facility on a property zoned
8 B-1 (Limited Business District). The site consists of two (2) units A & B. In 2011, unit A
9 was established as a new restaurant, Fuddruckers, with a total of square footage of
10 approximately 7,643. The day care facility is to be located in Unit B, which unit is located at
11 the back portion of the building and is approximately 9,268 square feet. Child care facilities
12 are permitted in B-1 subject to a public hearing pursuant to Division 30-110 of the Village's
13 Land Development Code. The project includes ten (10) classrooms, an administrative
14 office, and common areas. The day care is to be limited to children from three (3) months to
15 four (4) years of age, with a total maximum enrollment of 138 children. The staffing level is
16 proposed at fifteen (15) staff persons. The day care will operate during the hours of 8:00
17 a.m. through 6:00 p.m. At the time the project was advertised for public hearing the
18 application was for 145 students with fifteen (15) staff members. Subsequently, the
19 Applicants amended the request to reflect 138 students and 15 staff members.
20

21 3. The Village Council accepted the findings of Village Staff as it relates to compliance
22 with the following provisions of the Village's Code: Section 30-110.3 through .30-110.7.
23

24 4. The Village adopts and incorporates by reference the Planning & Zoning
25 Department staff report, which expert report is considered competent substantial evidence.
26

27 5. No one spoke in opposition to the applicants' requests.
28

29 6. The applicant and the Village agreed upon all modifications to the proposed
30 conditions, which modifications are reflected in the below conditions under the section
31 entitled Order.
32

33 7. The Village Council had not substantive disclosures regarding ex parte
34 communications and the applicant raised no objections as to the form or content of any
35 disclosures by the Council.
36

37 Section 3. Conclusions of law.
38

39 The site plan modification for the specific use is reviewed pursuant to Section 30-110.3
40 through 30-100.7 of the Village of Palmetto Bay's Code of Ordinances, with conditions.
41
42
43

1 Section 4. Order.

2 The Village Council approves the establishment of the day care use, with conditions,
3 pursuant to Sections 30-30.5 and 30-110 of the Village's Land Development Code, the following
4 plans entitled "Kids Learning Adventure, 14875 S. Dixie Hwy, Palmetto Bay, FL, 33156" consisting
5 of eight (8) sheets as prepared by Gershen Associates, P.A., dated stamped received January 15,
6 2013; as amended by plans dated stamped received January 29, 2013, indicating revised maximum
7 number of students from 145 to 138, vehicular stacking, circulation and adjacent zoning
8 information:
9

10 1. The Applicants shall comply with the requirements of all other applicable
11 departments/agencies as part of the Village of Palmetto Bay building permit submittal
12 process.
13

14 2. The Applicants shall comply with the requirements of Chapter 24 of the Code of
15 Miami-Dade County.
16

17 3. As a condition of approval, the Applicants shall agree not to have a student mix that
18 requires more than 15 staff members and at no time shall exceed 138 children. This
19 provision shall run with the land, and be applicable to all users of the school campus, but
20 non-school users shall be liable for their own actions or omissions. The Council directs the
21 Village Attorney to work with the Applicant and incorporate these conditions into a
22 covenant that will be recorded in the public records of Miami-Dade County.
23

24 4. The Applicants shall provide a student enrollment to the Department of Planning
25 and Zoning annually, by the 4th Monday each January while the use continues. Failure to do
26 so shall result in revocation of the use.
27

28 5. The Applicants shall comply with the recommendations as per Miami-Dade County
29 Public Works Traffic Engineering Division (TED) except for that portion requiring
30 exclusive designation of parking spaces to the applicant, and the Village of Palmetto Bay's
31 Traffic Consultant attached hereto as Exhibit A
32

33 6. 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 applicants' representatives to the Village of Palmetto Bay Department of
38 Planning and Zoning in connection with the applications, the county recommendation and attached
39 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
40 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
41 the Village Clerk.
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
27

PASSED and ADOPTED this 25th day of February, 2013.

Attest: Meighan Alexander
Meighan Alexander
Village Clerk

Shelley Stanczyk
Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Patrick Fiore YES
- Council Member Tim Schaffer YES
- Council Member Joan Lindsay YES
- Vice-Mayor John DuBois YES
- Mayor Shelley Stanczyk YES