RESOLUTION No. 2010-105-1287-Z-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY ACCELERATED LEARNING SOLUTIONS, INC., FOR THE PROPERTY LOCATED AT 4500 N.W. 183RD STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, FOR A WAIVER OF SECTION 9-20(7)(A) OF THE CITY OF MIAMI GARDENS LAND DEVELOPMENT REGULATIONS REQUIRING RECREATION/PLAY AREAS FOR A SENIOR HIGH SCHOOL; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Accelerated Learning Solutions, Inc. ("ALS") is proposing to operate a charter high school in the property known as the "Miami Gardens Shopping Plaza" located at the southeast corner of N.W. 47th Avenue and N.W. 183rd Street, and

WHEREAS, the Applicant is requesting a waiver of the requirements for a recreation/play area on the basis that the high school is a technology-based school with a four (4) hour school work day, which does not warrant the need for a recreation/play area, and

WHEREAS, the City's Planning and Zoning staff recommends approval of the Application subject to certain conditions, and

WHEREAS, the City Council considered the testimony of the Applicant, if any, and

WHEREAS, the City Council also considered the testimony of the City's Planning and Zoning staff, and the staff report is attached hereto as Exhibit "B" and is incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by the Applicant, Accelerated Learning Solutions, Inc. for a waiver of Section 9-20(7)(A) of the City of Miami Gardens Land Development Regulations requiring a recreation/play area for a senior high school.

Section 3. DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens hereby approves the Declaration of Restrictive Covenants attached hereto as Exhibit "C."

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON JUNE 2, 2010.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

Resolution No. 2010-105-1287-Z-95

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert
SECOND BY: Councilman Bratton

VOTE: 5-1

Mayor Shirley Gibson	___(Yes)	___(No) (not present)
Vice Mayor Aaron Campbell, Jr.	_X_(Yes)	___(No)
Councilman Melvin L. Bratton	_X_(Yes)	___(No)
Councilman Oliver Gilbert, III	_X_(Yes)	___(No)
Councilwoman Barbara Watson	_X_(Yes)	___(No)
Councilwoman Sharon Pritchett	____(Yes)	_X_(No)
Councilman André Williams	_X_(Yes)	___(No)

1515 N.W. 167TH STREET, BUILDING 5 SUITE 200
MIAMI GARDENS, FLORIDA 33169

City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	June 2, 2010		**Item Type:**	**Resolution**	**Ordinance**		**Other**	
				X				
Fiscal Impact:	**Yes**	**No**	**Ordinance Reading:**		**1st Reading**		**2nd Reading**	
		X	**Public Hearing:**		**Yes**	**No**	**Yes**	**No**
					X			
Funding Source:			**Advertising Requirement:**		**Yes**		**No**	
					X			
Contract/P.O. Required:	**Yes**	**No**	**RFP/RFQ/Bid #:**					
Sponsor Name	City Manager		**Department:**		Planning and Zoning			

Short Title:

RESOLUTION No. 2010-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY ACCELERATED LEARNING SOLUTIONS, INC., FOR THE PROPERTY LOCATED AT 4500 N.W. 183RD STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, FOR A WAIVER OF SECTION 9-20(7)(A) OF THE CITY OF MIAMI GARDENS LAND DEVELOPMENT REGULATIONS REQUIRING RECREATION/PLAY AREAS FOR A SENIOR HIGH SCHOOL; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

The applicant, Ruden McClosky representing Accelerated Learning Solutions (ALS), are proposing a charter high school in the property known as the Miami Gardens Shopping Plaza located at southeast corner of N.W. 47th Avenue and N.W. 183 Street. The request is to waive the requirement of the recreation/play area on the basis that the propose operation of the school

as a technology based, four (4) hour school day does not warrant the need for recreation/play area. The request for the waiver has been concluded to be consistent with the City's Comprehensive Development Master Plan and maintains the basic intent and purpose of the City's Land Development Regulations.

Proposed Action:

Staff recommends approval of the Resolution subject to the following conditions:

1. That the operation of the charter school be limited to a maximum of 150 students at any one time, with class time for any one group of students not to exceed 4.0 hours.
2. That the minimum age of the students shall be 16 years of age.
3. That any drop off or pick up of students shall occur in area specifically designed for drop-off and pick-up, and such area shall not impede, interfere, or create a hazard for the general traffic circulation of the shopping center.
4. That the applicant proffer a Declaration of Restrictive Covenants containing, but not limited to, the conditions contained herein.

Attachment:

RESOLUTION
EXHIBIT "A" LEGAL DESCRIPTION
EXHIBIT "C" DECLARATION OF RESTRICTIVE COVENANTS
EXHIBIT "B" STAFF RECOMMENDATION

STAFF RECOMMENDATION
PH-2010-000049 Ruden McClosky

APPLICATION INFORMATION

Applicant: Ruden McClosky
Property Location: 4500 N.W. 183 Street
Property Size: 11.52 acres
Future Land Use: Commercial
Existing Zoning: NC, Neighborhood Commercial
Requested Action(s):

1. A waiver of the required recreation/play area for a high school as set forth in section 9-20 (7)(A) of the City of Miami Gardens Land Development Regulations

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RECOMMENDATION:

Recommend approval of the Resolution subject to the following conditions:

1. That the operation of the charter school be limited to a maximum of 150 students at any one time, with class time for any one group of students not to exceed 4.0 hours.
2. That the minimum age of the students shall be 16 years of age.
3. That any drop off or pick up of students shall occur in area specifically designed for drop-off and pick-up, and such area shall not impede, interfere, or create a hazard for the general traffic circulation of the shopping center.
4. That the applicant proffer a Declaration of Restrictive Covenants containing, but not limited to, the conditions contained herein.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Future Land Use Designation	Zoning Classification	Existing Use
Site	Neighborhood	NC, Neighborhood Commercial District	Shopping Center
North	Neighborhood	NC, Neighborhood Commercial District	Multi-family apartments
South	Neighborhood	R-1, Single-Family Residential District	Single-Family Dwelling
East	Neighborhood	R-1, Single-Family Residential District	Church
West	Miami-Dade County Commercial	Miami-Dade County BU-1	Commercial

The subject property is an 11.52 acre shopping center located at the southeast corner of N.W. 47 Avenue and N.W. 183 Street. To the north is an existing apartment complex, to the east are two

churches, to the south is developed with single family residences, and to the west is developed with commercial uses that are in unincorporated Miami-Dade County.

Project Summary/Background

- The applicant is leasing a 10,000 square feet space in the shopping center for a proposed charter high school for students aged 16 to 21 years.
- The charter school will be operated by Accelerated Learning Solutions (ALS) which currently operates several similar charter schools throughout Florida.
- The proposed operation of school is for two class sessions, the first from 7:30am to 11:30am, and the second from 11:30am to 3:30pm with up to 150 students for each session. There may be a third session from 4:00pm to 8:00pm for a maximum enrollment of 450 students.
- ALS states that the charter school is intended to educate students who are having difficulties with their education options and offers a technology-based education that allows students to attend four (4) hour classes while managing other responsibilities they may have.
- The request to waive the requirement of recreation and open space is based on the shortened school session of four (4) hours a day, the older age of the students, and the technology-based education, which in combination, does not warrant or demand the need for recreation/play area as a typical high school.
- Based on the proposed enrollment the school would require approximately 1.5 acres of recreation/play area for a high school which usually would consists of ball courts, and sports fields to accommodate the physical education curriculum.

Zoning History

There are no relevant zoning actions taken previously that impact the request.

Consistency with City of Miami Gardens Comprehensive Development Master Plan

The subject property is designated Neighborhood on the Future Land Use Map of the Future Land Use Element of the City of Miami Gardens Comprehensive Development Master Plan (CDMP).

Policy 2.2.1: *Public and Semi-Public Uses, In General* states:

- *"Public and semi-public uses include facilities such as elementary, middle, and high schools, parks, houses of worship, hospitals, and utilities."*

Conclusion: The requested waiver of the recreation/play area to allow the establishment of the high school does not impact policies of the CDMP and is consistent with same.

Zoning Review and Analysis

In accordance to the Article II of the City's Land Development Regulations states:

Section 2-80. Granting of variances and waiver states:

"(H) Criteria for granting variances. Upon appeal or direct application in specific cases to hear and grant applications for non-use variances and waivers of this chapter, when authorized, the

Zoning Appeals Board may grant approval, approval with conditions of the application upon showing by the applicant that the non-use variance or waiver maintains the basic intent and purpose of the zoning, subdivision and other regulations set forth in this chapter, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of hardship to the land is required."

In reviewing the request to waive the requirement of the recreation/play area for the proposed high school consideration was given to the proposed operation and intent of the school. The proposed school operation with short four (4) hour class sessions with a maximum number of students is intended to provide students a technology-based education and does not offer a physical education curriculum. The purpose and intent of the required recreation/play area is to provide the necessary ball courts and field areas where a physical education curriculum is offered, which typically is provided in full time schools where the school day can extend 6 to 8 hours. With conditions imposed to maintain the stated purpose and intent of the school in order to protect the general welfare of the public, the waiver of the recreation/play area will otherwise be compatible with the surrounding land uses and would not be detrimental to the community.

Conclusion -The approval of the request with conditions maintains the basic intent and purpose of the zoning regulations.

Anticipated Facilities Impact

The subject application pertains to an existing shopping center and will not create additional impact upon the existing public services and facilities.

Public Notification/Comments

In accordance with the Land Development Regulations, two (2) notifications of the applicant's requests were mailed to property owners within a 500 foot radius of the subject site to provide them an opportunity to comment on the application. No comments were received from property owners within that radius. (See Mailed Notice Radius Map, attached).

Attachments:

- Public Hearing Checklist
- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- Submitted Plans and Survey
- Transmittal Notice

PUBLIC HEARING CHECKLIST

EXHIBIT "A"
LEGAL DESCRIPTION

THE WEST 263.94 FEET OF THAT PORTION OF TRACT A, ROYAL DAIRY FARMS ADDITION, LYING NORTH OF THE PROJECTION EASTERLY OF THE SOUTH LINE OF AND HEREINBELOW REFERRED TO AS TRACT 15, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 40, AT PAGE 83, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND TRACTS 15 AND 16, MIAMI GARDENS SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 96, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.