

ORDINANCE NO. 2009-27-199

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY JPM CENTRE OF MIAMI GARDENS DRIVE, FOR THE REZONING OF PROPERTY GENERALLY LOCATED AT NORTHEAST CORNER OF NORTHWEST 183 STREET AND NORTHWEST 42ND AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM RU-4M, MODIFIED APARTMENT HOUSE, AND BU-1, BUSINESS NEIGHBORHOOD, TO BU-1A, BUSINESS LIMITED; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE

WHEREAS, JPM Centre of Miami Gardens Drive ("Applicant") owns certain property generally located at the Northeast corner of Northwest 183 Street and Northwest 42nd Avenue, more particularly described in Exhibit "A" attached hereto ("Property"), and

WHEREAS, the Applicant seeks an approval for a rezoning from RU-4M, Modified Apartment House, and BU-1, Business Neighborhood, to BU-1A Business Limited, and

WHEREAS, the City Council held a public hearing on the Application on September 2, 2009, and

WHEREAS, the City's Planning and Zoning staff has made a determination that the Application is consistent with the Comprehensive Development Master Plan, and

WHEREAS, the City's Planning and Zoning staff recommends approval of the Application, 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 attached hereto as Exhibit "B," incorporated herein by reference,

NOW, THEREFORE, BE IT ORDAINED 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 Ordinance.

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by the Applicant for the rezoning of property generally located at the Northeast corner of Northwest 183rd Street and Northwest 42nd Avenue, more particularly described in Exhibit "A" attached hereto for a rezoning from RU-4M, Modified Apartment House, and BU-1, Business Neighborhood to BU-1A, Business Limited.

Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

Ordinance No. 2009-27-199

PASSED ON FIRST READING ON THE 2nd DAY OF SEPTEMBER 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 7TH DAY OF
OCTOBER, 2009.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: Danny Crew, City Manager

Moved by: Vice Mayor Gilbert
Second by: Councilwoman Watson

Ordinance No. 2009-27-199

VOTE: 7-0

Mayor Shirley Gibson	<u> x </u> (Yes)	<u> </u> (No)
Vice Mayor Oliver Gilbert, III	<u> x </u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u> x </u> (Yes)	<u> </u> (No)
Councilman Aaron Campbell Jr.	<u> x </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> x </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> x </u> (Yes)	<u> </u> (No)
Councilwoman Barbara Watson	<u> x </u> (Yes)	<u> </u> (No)



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

**City of Miami Gardens
 Agenda Cover Memo – Zoning
 JPM Centre at Miami Gardens Drive PH-2009-000031**

Council Meeting Date:	Zoning Meeting 10/07/09	Item Type:	Resolution	Ordinance	Declaration	
				X	n/a	
Fiscal Impact:	Yes	No	Ordinance Reading:	1 st Reading	2 nd Reading	
						X
		X	Public Hearing:	Yes	No	Yes
			X			
Sponsor Name: City Manager	Department: Planning and Zoning	Advertising Requirement:	Yes	No		
			X			

Short Title:

ORDINANCE No. 2009-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY JPM CENTRE OF MIAMI GARDENS DRIVE, FOR THE REZONING OF PROPERTY GENERALLY LOCATED AT NORTHEAST CORNER OF NORTHWEST 183 STREET AND NORTHWEST 42ND AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM RU-4M, MODIFIED APARTMENT HOUSE, AND BU-1, BUSINESS NEIGHBORHOOD, TO BU-1A, BUSINESS LIMITED; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE

Staff Summary:

At the first reading of this Ordinance on September 2nd, 2009, the City Council voted 6-0 in favor of adoption.

The applicant, JPM Centre of Miami Gardens Drive is requesting a rezoning of an 11.80 acre parcel of land located just east of N.W. 42nd Avenue on the north side of N.W. 183rd Street adjacent

**ITEM 9-B) ORDINANCE
 SECOND READING/PUBLIC HEARING
 Approving the application of
 JPM Centre of Miami Gardens Dr.**

to the current location of the JPM church. The request for rezoning from RU-4M and BU-1 to BU-1A will allow the development of a new approximately 100,000 square feet, 3000 seat auditorium, a 20,000 square feet natatorium and gymnasium, 21 dormitory units and 9 multi-family units. The project is labeled as a Community Enrichment Center, for the purpose of housing and accommodating persons transitioning out of foster care and to provide housing for persons at risk as needed in the community. The request for approval of the development plans has been made under a separate application by the applicant.

Recommendation:

Recommend approval of the Ordinance to rezone from RU-4M and BU-1 to BU-1A.

Attachments:

ORDINANCE
EXHIBIT "A" LEGAL DESCRIPTION
EXHIBIT "B" STAFF RECOMMENDATION

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel "A": A portion of tract 121 Miami Gardens subdivision of section 5, township 52 south, range 41 east, as recorded in plat book 2, at page 96 of the public records of Dade County, Florida, being more particularly described as follows: Commence at the SW corner of the SE one-quarter (1/4) of said section 5, thence north 00 degrees 00 minutes 12 seconds west along the west line of the said SE one-quarter (1/4) ½ for 585.58 feet; thence north 89 degrees 57 minutes 21 seconds east for 50.00 feet to the point of beginning of a parcel hereinafter described; thence continued north 89 degrees 57 minutes 21 seconds east for 181.25 feet; thence south 00 degrees 02 minutes 41 seconds east for 212.25 feet, thence south 89 degrees 57 minutes 19 seconds west for 21.40 feet; thence south 00 degrees 00 minutes 12 seconds east for 173.28 feet; thence south 89 degrees 56 minutes 23 seconds west for 160.00 feet; thence north 00 degrees 00 minutes 12 seconds west, along a line 50 feet east of and parallel to the said west line of the said SE one-quarter (1/4) of section 5 for 385.57 feet to the point of beginning.

Together With: Folio #: 34-2105-001-0550

Portion of tracts 122-123 and 124 of Miami Gardens according to the plat thereof, as recorded in plat book 2 at page 96 of the public records of Miami-Dade County Florida, more particularly described as follows: Beginning 50 feet north and 645.61 feet east of the SW corner of the SE ¼ of the section, east 414 feet, north 535.29 feet, west 414 feet, south 536.77 feet, to the point of beginning.

Together With: Tract "A" of El Dorado Plaza, according to the plat thereof, recorded in plate book 99, at page 88 of the public records of Dade County Florida less and except:

A portion of tract "A" of the plat of El Dorado Plaza, as recorded in plat book 99, page 88 of the public records of Dade County, Florida, lying in the SE one-quarter (SE1/4) of section 5, township 52 south, range 41 east, Dade County, Florida and being more particularly described as follows:

Begin at the SW corner of said tract "A" of the plat of El Dorado Plaza; thence run N02°43'50"W, along the west line of said tract "A" a distance of 3.360 meters (11.02 feet) to the intersection with the north line of the south 3.360 meter (11.02 feet) of said tract "A" thence run N87°12'50"E along said north line a distance of 60.331 meters (197.94 feet); thence run S80°09'36"E a distance of 15.372 meters (50.43 feet) to the intersection with the south line of said tract "A" and the north right-of-way line of Miami Gardens Drive (N.W. 183rd Street/State Road 860) as shown on the Florida Department of Transportation right of way maps for section 87503-2608, as recorded in road plat book 101 at page 95 of the public records of Dade County, Florida; thence run S87°12'50"W along last described line a distance of 75.334 meters of (247.16 feet) to the west line of said tract "A" and the point of beginning.

STAFF RECOMMENDATION
 PH-2009-000031 JPM Centre of Miami Gardens Drive

APPLICATION INFORMATION

Applicant: JPM Centre of Miami Gardens Drive
 Property Location: 4055 N.W. 183rd Street
 Property Size: 11.80 acres
 Current Use: Existing Church Facilities and Unimproved Land
 Future Land Use: Neighborhood
 Existing Zoning: RU-4M, Modified Apartment House District, BU-1, Business Neighborhood
 Requested Action(s):
 1. A REZONING from RU-4M, Modified Apartment House, and BU-1, Business Neighborhood to BU-1A, Business Limited

RECOMMENDATION:

Recommend approval of the Ordinance.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Future Land Use Designation	Zoning Classification	Existing Use
Site	Neighborhood	BU-1, Business Neighborhood, RU-4M, Modified Apartment	Church and Unimproved
North	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwellings
South	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwellings
East	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwellings
West	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwellings

The subject property is developed with the existing JPM church on the west portion and the east portion is vacant and unimproved. The abutting and adjacent properties are developed with single family residential except for a small outparcel at the NE corner of N.W. 183rd Street and N.W. 42nd Avenue developed with a gasoline station.

Project Summary/Background/Zoning History

- The applicant has plans to develop a 3000 seat auditorium, natatorium, gymnasium, and three (3) residential housing buildings with nine (9) units to house young males, twelve

(12) units to house young females, and twelve (12) units to house the elderly, for a total of thirty-three (33) units.

- The applicant has explained that the housing is to accommodate persons transitioning out of foster care, and to provide housing for persons at risk as may be needed in the community.
- The development will straddle the existing JPM site and will mainly be developed on the approximately 5.1 acre tract of land granted by Miami-Dade County to JPM for this development.
- The applicant has to first obtain a rezoning of the property to BU-1A in order to bring the entire property under one zoning classification which will allow the development as planned.

Consistency with City of Miami Gardens Comprehensive Development Master Plan

The subject property is designated Neighborhood on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens.

Policy 1.2 The “Neighborhood” Land Use Designation states:

“The Neighborhood land use designation applies to areas intended for low and medium density residential development with supporting commercial and office uses. The designation of Neighborhood is specifically intended to protect single family homes from encroachment or intrusion from incompatible uses.”

And:

Policy 1.2.1 states:

“Uses consistent with the Neighborhood land use designation shall primarily include low and low medium density residential uses. Medium and medium high densities, suburban commercial and office, and mixed-use planned uses may be permitted subject to the performance criteria set forth in this Plan.”

Policy 2.1.2 (c) Medium Density Residential states the performance criteria as follows:

- *“Medium Density Residential uses may occur in both Neighborhood and Commerce land use designations.”*

The subject property is designated Neighborhood.

- *“Medium density developments shall have direct access to at least one major roadway classified as a Collector or higher.”*

The subject property has direct access to N.W. 183rd Street designated as a Collector roadway.

- *“Medium Density Residential densities shall range from 16 to 25 dwelling units per gross acre.”*

The proposed overall density is 2.8 dwelling units per acre spread over the entire 11.80 acre property due to the low number of total units (33), however, in isolation of the area in which residential uses will occur the density is in range of 16 to a maximum of 25 dwelling units per acre.

- *“The housing types included in this category shall range from townhouses to low to medium rise apartments with surrounding open space.”*

The proposed housing types are dormitories and multi-family residential buildings three (3) stories in height.

- *“Medium Density Residential development often serves as a transitional land use between Low Density Residential and other more intensive uses.”*

The medium density residential with a density of 2.7 units per acre is transitional to the single family residential neighborhoods abutting the property which have a greater density per acre.

- *“Medium Density Residential should generally be limited up to an average height of three (3) stories in the Neighborhood areas and up to an average height of four (4) stories in the Commerce Areas.”*

The proposed buildings are three (3) stories in height.

- *“Adequate separation and buffer treatment shall be provided to protect adjacent single family residential uses.”*

The development plans for the property will require a 6.0' high CBS wall abutting all residentially zoned property and will require a minimum of 17.0% landscaped open space with heavy landscaping in order to provide adequate separation and buffer treatment from adjacent single family residential uses.

The proposed auditorium, natatorium and gymnasium building uses could be considered Public and Semi-Public uses in the CDMP.

Objective 2.2 Performance Criteria for Public and Semi-Public Uses states:

The Land Development Regulations/Zoning Code shall include performance criteria to ensure that public and semi-public uses, such as utilities, schools, parks, and other similar uses, occur in a manner that benefit the City residents and minimizes impacts on adjacent properties.

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

“Public and semi-public uses and facilities include a range of unusual and special activities that shall be specifically identified and regulated through the City’s land development regulations.

- *Public/Semi-public uses are allowed in any of the future land use categories, subject to intensity, buffering, and location standards.*
- *The development intensity of public/semi-public uses shall not exceed a maximum of 0.5 floor area ratio.*
- *Public and semi-public uses include facilities such as elementary, middle, high schools, parks, houses of worship, hospitals, and utilities.”*

Conclusion: After consideration of the above policies the proposed rezoning to BU-1A with the proposed development of elderly housing, dormitories, auditorium, natatorium, and gymnasium are consistent uses with the Objectives and Policies of the CDMP in the Neighborhood

designation. It is also noted that the site has direct access and frontage on Miami Gardens Drive, an existing six lane arterial roadway with bus transit service.

Zoning Review and Analysis

Section 33-311(A)(8) of the Zoning Code states that the City Council has the authority to:

“Hear and grant or deny applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis except where the Board of County Commissioners has direct jurisdiction.”

Section 33-311 (F) adds that, in evaluating an application for a district boundary changes, the Council shall take into consideration, among other factors:

“Detriments or benefits shall not be denied consideration on the grounds that they are indirect, intangible or not readily quantifiable. In evaluating the application, among other factors related to the general welfare, whether, and the extent to which:

(1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for (Miami Gardens), Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;

(2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of (Miami Gardens) , including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

(3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of (Miami Gardens) , Florida;

(4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;

(5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.”

In reviewing the rezoning request consideration is given to the density and building heights permitted under the current zoning designation of RU-4M, and BU-1 versus the development plans proposed for the property. Under current zoning approximately 5.1 acres are zoned RU-4M allowing a 35.9 units per acre density for a total of 185 units with building heights of up to nine (9) stories or 100 feet. The BU-1 portion allows residential development at up to 50% of the allowable floor area with density capped as regulated by the CDMP, which in this case is up to a maximum of 25 units per acre for a total of 167 units with over 100,000 square feet of commercial and retail development. Overall, the site could be developed with up to 352 dwelling units with additional commercial and retail development of over 100,000 square feet. The rezoning to BU-1A would with the proposed development plans is for 30 residential units with a total 156,500 square feet of other uses i.e.

auditorium, natatorium, gymnasium, and existing church which overall is at an intensity far less than would be permitted under the existing zoning.

In addition, consideration is given to the location of the property on a major intersection of N.W. 183rd Street and N.W. 42nd Avenue both major arterial roadways adequate for commercial development consistent with the proposed BU-1A zoning. With adequate buffering and separation commercial development or development consistent with the BU-1A zoning will have minimal intrusive impacts on the residential neighborhoods abutting to the north and east. A traffic analysis of the proposed use has concluded the use will not have any significant impacts on travel on the roadways or with access to the property.

Conclusion: Based on the above considerations, the rezoning to BU-1A would not be detrimental to the area and does not negatively impact any environmental or natural resources of the City. In addition, the rezoning would not place any undue burden on or have any adverse impacts on public infrastructures, including roads and streets, and therefore in consistent with the intent and purpose of the Zoning Code.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.

Water, Sewer, Drainage: Water, sewer, and drainage plans will be reviewed by the City's Public Works Department and will have to be permitted accordingly.

Traffic Circulation: A Traffic Impact Study was performed by the Richard Garcia and Associates (see attached) and was reviewed by the City's Traffic consultant and was found that development would not have any significant impact on the adjacent roadways. The Traffic Impact Study has been recommended for approval by the City's Traffic consultant (see attached).

Public Notification/Comments

In accordance with the zoning code, notification of the applicant's requests was mailed to property owners within a ½ mile 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
- Traffic Impact Study
- City's Traffic Impact Study Review
- Transmittal Notice