

RESOLUTION NO. 2004-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, DENYING THE APPLICATION OF GUSTAVO BORGE AND ALEYDA BORGE, OWNERS, AND STAND ART, LLC, PETITIONER; TO REZONE VACANT PARCELS IDENTIFIED AS PARCEL I.D. NUMBERS 504026000301 AND 504026000222, GENERALLY LOCATED ON THE SOUTH SIDE OF GRIFFIN ROAD BETWEEN SW 126th AVENUE AND 128th AVENUE, FROM RE, RURAL ESTATES DISTRICT, TO CF, COMMUNITY FACILITIES DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council has created a new Community Facility zoning district which provides for uses such as schools, daycare facilities, and houses of worship, as a permitted use on parcels that have satisfied certain criteria; and

WHEREAS, Gustavo Borge and Aleyda Borge, owners, and Stand Art, LLC, petitioner, have sought to rezone the property generally located on the South side of Griffin Road between SW 126th Avenue and SW 128th Avenue, from RE, Rural Estates District, to the CF, Community Facility designation; and

WHEREAS, this vacant 1.344 acre parcel is surrounded primarily by residential uses; and

WHEREAS, after reviewing the applicable rezoning criteria and the Staff Report, the Town Council has determined that the applicant has failed to demonstrate by competent substantial evidence that the rezoning criteria have been satisfied and therefore, the Town Council has voted unanimously that the property should not be rezoned;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA THAT:

Section 1. The foregoing "WHEREAS" clauses are true and correct and hereby ratified and confirmed by the Town Council.

Section 2. That following an extensive review of the staff report, all written and oral evidence received during the public hearing, the criteria set-forth in the Town Code, and the standards set-forth in both state and federal law, the Town Council


hereby denies the rezoning of the aforementioned property from RE, Rural Estates District, to the CF, Community Facility designation.

Section 3. That in furtherance of the Staff Report, which is attached hereto and incorporated herein by reference as Exhibit "A", the Town Council has unanimously determined that the owner and petitioner have failed to demonstrate by competent substantial evidence that the rezoning criteria have been satisfied.

Section 4. That the appropriate Town officials are hereby authorized and directed to execute the necessary documents to effectuate this Resolution.

Section 5. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 11th day of December 2003.



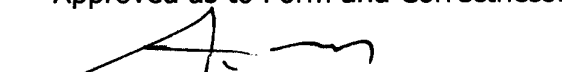
Mecca Fink, Mayor

Attest:



Shari Canada, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney

**TOWN OF SOUTHWEST RANCHES
AGENDA REPORT**

- DATE:** December 1, 2003
- SUBJECT:** Rezoning Application RZ-004-03
- ADDRESS:** Vacant land generally described as a portion of the southeast one-quarter (1/4) of Section 26, Township 50 South, Range 40 East
- LOCATION:** Generally located on the south side of Griffin Road between SW 126 Avenue and SW 128 Avenue
- ZONING:** RE, Rural Estate
- OWNERS:** Gustavo Borge and Aleyda Borge
- PETITIONER:** Stand Art, LLC
- REQUEST:** To rezone FROM: RE, Rural Estate, TO: CF, Community Facility
- EXHIBITS:** Staff report, aerial photograph, traffic analysis, conceptual site plan, and letter from petitioner

BACKGROUND

The subject site is located on the south side of Griffin Road between SW 126 Avenue and SW 128 Avenue. The entire site contains approximately 1.34 acres, and is currently vacant. Surrounding land uses to the west and south are residential. One private, residentially-zoned lot abuts the site to the east before the municipality of Cooper City begins. Griffin Road forms the north edge of the site.

The petitioner has contracted to purchase the subject site and is requesting a rezoning to CF, Community Facility District. He has indicated that he intends to construct a daycare center. The petitioner originally indicated that a 6,000 square foot facility was proposed for the subject site. The proposed facility has since been modified to approximately 5,300 square feet. The petitioner has provided a conceptual site plan showing the proposed layout on the site.

The site meets all of the physical requirements for the Community Facility district, including parcel size, location, and distance separation.

EXHIBIT A

ANALYSIS

Consideration of a rezoning request must be in conjunction with the criteria contained in Section 39-28 of the Code. These include consideration of testimony by the applicant, the public and the staff report, as well as the following criteria enumerated in the Code:

1. *Whether there exists an error or ambiguity which must be corrected.*

The subject site's zoning has been in place for a number of years. The adopted Town of Southwest Ranches' Comprehensive Plan and Future Land Use Plan Map, which has received its provisional certification, maintains the existing land use designations of the subject site and surrounding properties. Therefore, the proposed rezoning is not required to correct an error or ambiguity.

2. *Whether there exists changed or changing conditions which make approval of the request appropriate.*

The Community Facility district was intended for application only to properties with access to and frontage along five arterial and collector roads, including Griffin Road. Because Griffin Road is being widened, it may be considered a changing condition that makes the approval of the request appropriate.

3. *Whether the request is consistent with the goals, objectives, policies, and intent of the Comprehensive Plan.*

Part II-G, Subsection VIII (D) of the adopted Comprehensive Plan and Future Land Use Plan Map allows Community Facilities as a permitted use within the Rural Estate land use areas. Therefore, staff finds the subject rezoning application can be considered generally consistent with goals, objectives, policies, and intent of the adopted Comprehensive Plan and the Future Land Use Plan Map.

4. *Whether the request is consistent with the densities, intensities, and general uses set forth in the Comprehensive Plan and the Land Use Element Map.*

Part II-G, Subsection VIII (D) of the adopted Comprehensive Plan and Future Land Use Plan Map limits the size of Community Facilities to five (5) acres. The subject site, at 1.34 acres, falls well within the plot size requirements, and is generally consistent with densities, intensities, and general uses set forth in the adopted Comprehensive Plan and the Future Land Use Plan Map.

5. *Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.*

The subject property does not contain any areas designated by Broward County or the State of Florida as "natural resource areas" or "environmentally critical areas." As a result, this criterion is not applicable.

6. ***Whether the request will place an undue burden on existing infrastructure and whether capacity exists for any projected increase that may be generated.***

According to the analysis provided by the applicant's traffic engineer, Calvin Giordano & Associates, Inc., capacity on Griffin Road already exceeds acceptable levels; consequently, any additional development places a burden upon the existing infrastructure. Data collected by Calvin Giordano indicated that Griffin Road is currently operating at Level of Service F during the PM peak hour, which exceeds the acceptable level of service volume by approximately 45 percent. It should be noted, that Griffin Road is proposed to be widened, potentially alleviating some of the traffic congestion, although these improvements have not been completed.

Utilities are not currently available to the site and would have to be extended east from either City of Sunrise lines, which end at approximately SW 136 Avenue, or west from Cooper City, which is providing service to a new retail shopping plaza that is being developed on the southwest corner of Griffin and Flamingo Roads, located within Cooper City boundaries. Jim Molaschi of Cooper City has indicated that an agreement might be reached allowing the applicant access to Cooper City utilities. However, since the lines from either municipality would have to cross other private properties, utility connections might not be easily accomplished. There is sufficient capacity available, however, from both of these utility providers.

7. ***Whether the permitted uses in the requested rezoning are compatible with existing and proposed uses in the general vicinity; except, however, nonconforming uses of neighboring lands, structures, or buildings shall not be considered as support for approval of any request.***

The Community Facility district allows services and facilities that serve the Southwest Ranches community or meet the needs of a particular neighborhood. Because the Community Facility district permits several land uses, the request for rezoning must be evaluated using the most intense use relative to each aspect of compatibility being evaluated. For the purposes of evaluating a rezoning without the benefit of a binding site plan, compatibility can be categorized into physical (building mass and height), and external (noise, odors, etc. and traffic) characteristics.

Physical characteristics: A 1.34-acre Community Facility district in the proposed location will permit a structure that covers approximately 11,400 square feet of the plot, equivalent to 20 percent of the plot area. Such a structure might be slightly larger than any residential structure within the corridor. The structure can be 35 feet in height, consistent with the maximum permitted height within the adjacent residential zoning districts. At maximum development, this would allow a two-story structure that incorporates ground-level parking. Given the size of such a structure on the subject site, there may be some potential for physical incompatibility. This incompatibility can be mitigated, at least partially, through sensitive site design and perimeter landscaping; however, there is no means of enforcing or guaranteeing such site treatment at this time.

External characteristics: None of the uses permitted within the Community Facility district are inherently incompatible with residential and agricultural uses per se. Certain uses, however, could generate traffic, noise or lighting spillover at levels that might be incompatible with residential uses. Although noise and lighting can be successfully addressed through careful site planning, the impact of increased traffic on neighborhood compatibility cannot be fully addressed through site planning alone, should the rezoned site be developed at maximum capacity.

Because of concerns about traffic impact, staff requested a traffic analysis from the applicant, which was reviewed by staff. The is attached to this report and is summarized as follows:

| ZONING | USE | SIZE | DAILY TRIPS |
|-----------------------|--------------------|----------------|--------------------|
| RE - Existing "as-is" | Commercial Nursery | 13,400 sq. ft. | 523 |
| CF - Unrestricted | Library | 22,888 sq. ft. | 1,306 |
| CF - Proposed use | Child Daycare | 5,300 sq. ft. | 419 |

The staff analysis compares the amount of traffic that can be generated under the most intense use of the current zoning (commercial nursery); the most intense use of the proposed rezoning (library); and, the traffic that would be generated should the property be developed under the proposed use (child daycare at 5,300 square feet). The traffic analysis shows that use of the site as a maximum 22,888 square foot library has far more traffic impact than can be anticipated by the current permitted use of a 13,400 square foot commercial nursery. Note that these generation rates have been calculated using the ITE Trip Generation Rates, which is the standard and generally accepted method of calculating traffic generation.

STAFF RECOMMENDATION

Staff recommends **DENIAL** of the requested rezoning, **WITH A FINDING** that, due to the amount of potential traffic generated, the proposed rezoning may be incompatible with Part II-A, Goal 1, of the adopted Comprehensive Plan, which mandates the preservation of the Town’s rural lifestyle.

TOWN OF SOUTHWEST RANCHES
GRIFFIN ROAD DAY CARE
RZ-004-03



SCALE: 1" = ± 395'

Professional Planning, Zoning
and Land Use Consulting Services



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