

RESOLUTION No. 2007-140-647-Z-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A PETITION BY ANTIOCH MISSIONARY BAPTIST CHURCH OF CAROL CITY, LOCATED AT 21311 NORTHWEST 34TH AVENUE, FOR A SPECIAL EXCEPTION TO ALLOW THE EXPANSION OF A CHURCH TO INCLUDE A FAMILY LIFE CENTER; APPROVING A MODIFICATION TO CONDITION 2 OF RESOLUTION NO. 5-ZAB-191-95 AND CONDITION 2 OF RESOLUTION NO. 5-ZAB-345-95 TO CHANGE THE ARCHITECTURAL PLANS; APPROVING AN UNUSUAL USE TO ALLOW A DAY CARE CENTER IN THE RU-1 DISTRICT; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE TO ALLOW A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 5.0' FROM A RIGHT-OF-WAY WHERE 25.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE ALLOWING A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 5.0' FROM AN ABUTTING LOT UNDER DIFFERENT OWNERSHIP WHERE 50.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE TO ALLOW A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 10.0' FROM AN EXISTING RESIDENTIAL BUILDING WHERE 75.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(7) TO ALLOW PARKING FOR A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 4.0' FROM PROPERTY UNDER DIFFERENT OWNERSHIP ZONED RU WHERE 25.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-124 OF THE CODE TO ALLOW 264 PARKING SPACES WHERE 340 PARKING SPACES ARE REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-52 OF THE CODE TO ALLOW A CHURCH BUILDING 48.6' HIGH WHERE 35.0' MAXIMUM HEIGHT IS PERMITTED IN THE RU-1 ZONING DISTRICT; PROVIDING FOR CONDITIONS; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Antioch Missionary Baptist Church of Carol City ("Applicant"), owns certain property located at 21311 Northwest 34th Avenue, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, the Applicant seeks the following approvals:

1. A special exception to allow the expansion of a church to include a family life center;

2. A modification to Condition 2 of Resolution No. 5-ZAB-191-95 and

Condition No. 2 of Resolution 5-ZAB-191-95 states:

"That in the approval of the plan, that same be substantially in accordance with the submitted for the hearing entitled "Antioch Missionary Church", as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, "Parking Lot Plan", as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to comply with all signage requirements."

Condition No. 2 of Resolution 5-ZAB-345-95 states:

"That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Antioch Missionary Baptist Church", as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, "Parking Lot Plan", as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to extend the hedge around the entirety of the parking area which is south of N.W. 213 street, except for the area to be used for an ingress/egress drive.

Both conditions noted above are being modified to state as follows:

Condition 2 of Resolution No. 5-ZAB-345-95 as follows:

Submitted Plans: That the plans submitted for building permit, and/or Certificate of Use and Occupancy, be substantially in compliance with that submitted for the public hearing and consisting of the following: Plans labeled "New Family Life Center-Zoning Document" as prepared by KDI Architecture, Inc. consisting of sheets A-2.01, A-2.02, A-2.03, A-3.01, A3-.02 dated 3/7/07, and sheets A-2.04, A-2.05 dated received 07/06/07.

3. An unusual use to permit a day care center in the RU-1 Zoning District;
4. A non-use variance of Section 33-17(1) of the Code to allow a building for public assemblage to be located 5.0' from a right-of-way where 25.0' is required;

5. A non-use variance of Section 33-17(1) of the Code allowing a building for public assemblage to be located 5.0' from an abutting lot under different ownership where 50.0' is required;
6. A non-use variance of Section 33-17(1) of the Code to allow a building for public assemblage to be located 10.0' from an existing residential building where 75.0' is required;
7. A non-use variance of Section 33-17(7) of the Code to allow parking for a building for public assemblage to be located 4.0' from property under different ownership zoned RU where 25.0' is required;
8. A non-use variance of Section 33-124 of the Code to allow 264 parking spaces where 340 parking spaces are required in the RU-1 Zoning District;
9. A non-use variance of Section 33-52 of the Code to allow a church building to be 48.6' high where a 35.0' maximum height is permitted in the RU-1 Zoning District,

WHEREAS, the City Council held a public hearing on the application on October 3, 2007, and

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

WHEREAS, the City's Planning & 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 & Zoning staff, and the Staff Report attached hereto as Exhibit "B," 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 as follows:

1. A special exception to allow the expansion of a church to include a family life center;
2. A modification to Condition 2 of Resolution No. 5-ZAB-191-95 and Condition 2 of Resolution No. 5-ZAB-345-95 as follows:

Condition No. 2 of Resolution 5-ZAB-191-95 states:

"That in the approval of the plan, that same be substantially in accordance with the submitted for the hearing entitled "Antioch Missionary Church", as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, "Parking Lot Plan", as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to comply with all signage requirements."

Condition No. 2 of Resolution 5-ZAB-345-95 states:

"That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Antioch Missionary Baptist Church", as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, "Parking Lot Plan", as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to extend the hedge around the entirety of the parking area which is south of N.W. 213 street, except for the area to be used for an ingress/egress drive.

Both conditions noted above are being modified to state as follows:

Submitted Plans: That the plans submitted for building permit, and/or Certificate of Use and Occupancy, be substantially in compliance with that submitted for the public hearing and consisting of the following: Plans labeled "New Family Life Center-Zoning Document" as prepared by KDI Architecture, Inc. consisting of sheets A-2.01, A-2.02, A-2.03, A-3.01, A3-.02 dated 3/7/07, and sheets A-2.04, A-2.05 dated received 07/06/07.

3. An unusual use to permit a day care center in the RU-1 Zoning District;
4. A non-use variance of Section 33-17(1) of the Code to allow a building for public assemblage to be located 5.0' from a right-of-way where 25.0' is required;
5. A non-use variance of Section 33-17(1) of the Code allowing a building for public assemblage to be located 5.0' from an abutting lot under different ownership where 50.0' is required;
6. A non-use variance of Section 33-17(1) of the Code to allow a building for public assemblage to be located 10.0' from an existing residential building where 75.0' is required;
7. A non-use variance of Section 33-17(7) of the Code to allow parking for a building for public assemblage to be located 4.0' from property under different ownership zoned RU where 25.0' is required;
8. A non-use variance of Section 33-124 of the Code to allow 264 parking spaces where 340 parking spaces are required in the RU-1 Zoning District;
9. A non-use variance of Section 33-52 of the Code to allow a church building to be 48.6' high where a 35.0' maximum height is permitted in the RU-1 Zoning District,

Section 3. DECLARATION OF RESTRICTIONS/CONDITIONS: The approval granted herein is conditioned upon the execution and recordation of a Declaration of Restrictive Covenants in the form shown on Exhibit "C" attached hereto within sixty (60) days of this approval. If the Declaration is not recorded within this time frame, the approval granted herein shall be deemed null and void.

Section 4. 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 OCTOBER 3, 2007.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Braynon
SECONDED BY: Vice Mayor Watson

VOTE: 4-2

Mayor Shirley Gibson	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Vice Mayor Barbara Watson	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman Melvin L. Bratton	<input type="checkbox"/>	(Yes)	<input checked="" type="checkbox"/>	(No)
Councilman Oscar Braynon, II	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman Aaron Campbell	<input type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Sharon Pritchett	<input type="checkbox"/>	(Yes)	<input checked="" type="checkbox"/>	(No)
Councilman André Williams	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)

SKD/teh
266272_1.DOC

City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor, Barbara Watson
Councilman Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams

Agenda Cover Page –Antioch Missionary Baptist Church

Date: Oct. 3, 2007

Fiscal Impact: No Yes

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes No Advertising requirement: Yes No

Sponsor Name/Department: Development Services Director
via City Manager

Public hearing

Ordinance

1st Reading

Quasi-Judicial

Resolution

2nd Reading

RESOLUTION No. 2007-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A PETITION BY ANTIOCH MISSIONARY BAPTIST CHURCH OF CAROL CITY, LOCATED AT 21311 NORTHWEST 34TH AVENUE, FOR A SPECIAL EXCEPTION TO ALLOW THE EXPANSION OF A CHURCH TO INCLUDE A FAMILY LIFE CENTER; APPROVING A MODIFICATION TO CONDITION 2 OF RESOLUTION NO. 5-ZAB-191-95 AND CONDITION 2 OF RESOLUTION NO. 5-ZAB-345-95 TO CHANGE THE ARCHITECTURAL PLANS; APPROVING AN UNUSUAL USE TO ALLOW A DAY CARE CENTER IN THE RU-1 DISTRICT; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE TO ALLOW A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 5.0' FROM A RIGHT-OF-WAY WHERE 25.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE ALLOWING A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 5.0' FROM AN ABUTTING LOT UNDER DIFFERENT OWNERSHIP WHERE 50.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(1) OF THE CODE TO ALLOW A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 10.0' FROM AN EXISTING RESIDENTIAL BUILDING WHERE 75.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-17(7) TO ALLOW PARKING FOR A BUILDING FOR PUBLIC ASSEMBLAGE TO BE LOCATED 4.0' FROM PROPERTY UNDER DIFFERENT OWNERSHIP ZONED RU WHERE 25.0' IS REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-124 OF THE CODE TO ALLOW 264 PARKING SPACES WHERE 340 PARKING SPACES ARE REQUIRED; GRANTING A NON-USE VARIANCE OF SECTION 33-52 OF THE CODE TO ALLOW A CHURCH BUILDING 48.6' HIGH WHERE 35.0' MAXIMUM HEIGHT IS PERMITTED IN THE RU-1 ZONING DISTRICT; PROVIDING FOR CONDITIONS; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

**9-A) RESOLUTION
PUBLIC HEARING
ANTIOCH MISSIONARY
BAPTIST CHURCH/CAROL CITY**

ATTACHMENTS:

RESOLUTION

EXHIBIT "A" LEGAL DESCRIPTION

EXHIBIT "C" DECLARATION OF RESTRICTIVE COVENANT

EXHIBIT "B" STAFF RECOMMENDATION

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION

LOTS 3,4,5,8,9,10 AND 11, IN BLOCK 10 OF "LIBERTY GARDENS" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, AT PAGE 96, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA

And;

LIBERTY GARDEN PB 46-96 LOTS 8 & 9 BLK 7 LOT SIZE 160 X 106 OR 16361-3527
0494 1 F/A/U 30-1133-005-1000.

33 51 41.365 AC LIBERTY GARDENS PB 46-96 LOTS 5 & 12 BLK 7 OR 15918-3525 0593
1 OR 19741-1431 0601 1 F/A/U 30-1133-005-0970.

33 51 41. 18 AC LIBERTY GARDENS PB 46-96 LOT 14 BLK 7 SIZE 75 X 106 OR 16536-
0721-0694 1 F/A/U 30-1133-005-1050.

33 51 41.18 AC LIBERTY GARDENS PB 46-96 LOT 15 BLK 10 LOT SIZE 75 X 106 OR
20807 – 4562 1102 6 F/A/U 30-1133-005-1530.

33 51 41 LIBERTY GARDENS PB 46-96 LOTS 3 & 5 AND LOTS 11 THRU 14 BLK 15
LOT SIZE 47,700 SQUARE FEET OR 16572-0349-16631-0255-19256.

EXHIBIT "C"
DECLARATION OF RESTRICTIVE COVENANTS



CFN 2008R0243758
 DR Bk 26285 Pgs 4917 - 4924† (8pgs)
 RECORDED 03/25/2008 11:26:40
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk

Address:

City of Miami Gardens
 1515-200 N.W. 167th Street
 Miami Gardens, Florida 33169

This Instrument Prepared by:

Sonja K. Dickens, Esquire
 Arnstein & Lehr, LLP
 200 East Las Olas Blvd., Suite 1700
 Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIONS

WHEREAS, Antioch Missionary Baptist Church of Carol City ("Applicant") owns certain property located at 21311 Northwest 34th Avenue, more particularly described on Exhibit "A," attached hereto, and

WHEREAS, the Applicant filed an Application with the City of Miami Gardens for:

1. A special exception to allow the expansion of a church to include a family life center;
2. A modification to Condition 2 of Resolution No. 5-ZAB-191-95 and Condition 2 of Resolution No. 5-ZAB-345-95 as follows:

Condition No. 2 of Resolution 5-ZAB-191-95 states:

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9. A non-use variance of Section 33-52 of the Code to allow a church building to be 48.6' high where a 35.0' maximum height is permitted in the RU-1 Zoning District,

IN ORDER TO ASSURE the City of Miami Gardens that the representations made by the Applicant will be abided by, the Applicant, subject only to conditions

contained herein, freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

1. **Site Plan**. That the plans submitted for building permit, and/or Certificate of Use and Occupancy, be substantially in compliance with that submitted for the public hearing and consisting of the following: plans labeled "New Family Life Center-Zoning Document" as prepared by KDI Architecture, Inc., consisting of sheets A-2.01, A-2.02, A-2.03, A-3.01, A-3.02 dated 3/7/07, and sheets A-2.04, A02.05 dated received 7/6/07.
2. **Irrigate Landscape**. All landscaped areas on site shall be provided with an in-ground irrigation system, which shall be installed, operated and maintained to service the property.
3. **Unity of Title**. Applicant shall file a Unity of Title to be recorded in the public records of Miami-Dade County, executed on a form meeting the approval of the City Attorney and Director of Development Services ("Director") unifying all property as depicted on the plans prior to issuance of building permits on the property.
4. **Landscape Plan**. Applicant shall submit a detailed landscape plan, meeting the approval of the Director prior to issuance of building permit.
5. **Construction and Maintenance Agreement**. Applicant shall provide a Construction and Maintenance Agreement and a shall bond, meeting the approval of the Public Works Director for all off-site improvements, sidewalk improvements, landscaping, right-of-way modifications, and for other work as the Director of Public Works may deem necessary.
6. **Sidewalks**. Applicant shall install, construct at its sole expense sidewalks as depicted on sheet A-2.04 of the submitted plans, such construction and installation shall meet the approval of the Director of Public Works.
7. **Permits and Approvals**. The applicant shall obtain all permits and approvals from the Building Department and all applicable agencies having authority for any improvements, modifications, or alterations to the right-of-way to install and construct the proposed round-about as depicted on sheet A-2.04 of the submitted plans.
8. **Paving, Drainage, Water and Sewer Plans**. Applicant shall submit paving and drainage plans, and water and sewer plans, meeting the approval of the Director of Public Works prior to issuance of building permit.
9. **Lighting Plan**. Applicant shall submit a lighting plan, depicting details of the lighting fixtures, and a photometric plan meeting the approval of the Director prior to the issuance of building permit.
10. **Day Care Center**. The day care center shall be limited to a maximum of eighty

(80) children age three (3) years old to five (5) years old at any one time, and shall only operate Monday to Friday between 7:00 a.m. to 6:00 p.m.

11. **Family Life Center.** The Family Life Center shall only operate Monday to Friday between 8:00 a.m. to 6:00 p.m. and Saturday between 9:00 a.m. to 6:00 p.m.

12. **Construction Phasing.** Applicant shall submit a construction phasing plan, indicating, but not limited to, the phasing of the construction, location of material storage areas, construction staging areas, delivery areas, construction trailers, and location of parking for workers. Such plan shall meet with the approval of the Development Services Director prior to issuance of building permits.

13. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

14. **Covenant Running With The Land.** This Declaration on the part of the Applicant shall constitute a covenant running with the land and shall remain in full force and effect and be binding upon the Applicant, and his heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

15. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming from the date this Declaration is recorded. This Declaration shall be in effect for a period of thirty (30) years from the date of recordation in the public records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be modified, amended or released as to the Property or any portion thereof by a written instrument executed by the then Applicant(s) of the Property, and applicable mortgagees, if any, provided that same is approved by the City Council after public hearing. In such event, the Mayor or City Manager shall execute a written instrument suitable for recordation acknowledging such modification, amendment or release.

16. **Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including jointers of all mortgagees, if any, provided that the same is also approved by the City, or other procedure permitted under the City's Code, whichever by law has jurisdiction over such matters, after public hearing.

17. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition

to costs and disbursements allowed by law, such sum as the Court may judge to be reasonable for attorney fees. This enforcement provision shall be in addition to any other remedies available at law or in equity. Jurisdiction shall be proper in Miami-Dade County.

18. **Authorization for Miami Gardens to Withhold Permits and Inspections.** In the event the terms of this Declaration are not complied with, in addition to any other remedies available, the City is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.

19. **Executed Copy to be provided to the City. Executed Copy to be provided to the City Clerk.** The Applicant shall be fully responsible for providing to the City Clerk an original and fully executed copy of the Declaration of Restrictions within thirty (30) days of the approval of this request by the City Council, unless an appeal is filed or otherwise the Director, for good cause shown, grants a time extension. If this is not accomplished, the approval shall become null and void. If circumstances prevent the Applicant from complying with this timeframe condition, the Applicant may request, in writing, an extension of said thirty-day timeframe in writing to the Development Services Director, who is authorized to take such action upon the request to approve, disapprove or approve with conditions such request.

20. **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

21. **Recording.** The City, at Applicant's expense following the approval of the same by the City of Miami Gardens, shall file this Declaration of record in the Public Records of Miami-Dade County, Florida.

22. **Acceptance of Declaration.** Applicant acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle Applicant to a favorable recommendation or approval of any application, zoning or otherwise, and the City Council retains its full power and authority to deny each such application in whole or in part, and to decline to accept any conveyance.

23. **Applicant.** The term Applicant shall include the Applicant, and its heirs, successors and assigns.

24. **Waiver.** Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge such party from its obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to

be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.

25. **Severability**. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

26. **Entire Agreement**. This Agreement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement and exhibits supersede any prior correspondence, memoranda or agreements in total hereto.

27. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, Applicant has executed this Declaration.

[Signature]
Print Name: BENTON A. ADAM

[Signature]
Print Name: LYNN C. CARRINGTON

[Signature]
Print Name: NEAL D. WILLIAMS

[Signature]
Print Name: ALEXANDER HILLS

BY ITS
PRESIDENT
[Signature]
Signature
MARK JACKSON
Print Name
11/30/07
Date

ACCEPTANCE

The City of Miami Gardens, hereby accepts this Declaration of Restrictions hereby made by Antioch Missionary Baptist Church.

Attest:
[Signature]
City Clerk

CITY OF MIAMI GARDENS, FLORIDA
By: [Signature]
Mayor Shirley S. Gibson

Date: November 30, 2007

Applicant: Antioch Missionary Church

LEGAL DESCRIPTION

**EXHIBIT "A"
LEGAL DESCRIPTION**

LOTS 3,4,5,6,8,9,10,11,12, AND 13, IN BLOCK 10 OF "LIBERTY GARDENS"
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, AT
PAGE 96, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA

And;

LIBERTY GARDEN PB 46-96 LOTS 8 & 9 BLK 7 LOT SIZE 160 X 106 OR
16361-3527 0494 1 F/A/U 30-1133-005-1000.

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3525 0593 1 OR 19741-1431 0601 1 F/A/U 30-1133-005-0970.

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OR 16536-0721-0694 1 F/A/U 30-1133-005-1050.

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33 51 41 LIBERTY GARDENS PB 46-96 LOTS 3 & 5 AND LOTS 11 THRU 14
BLK 15 LOT SIZE 47,700 SQUARE FEET OR 16572-0349-16631-0255-19256.

EXHIBIT "B"
STAFF RECOMMENDATION

EXHIBIT "B"
STAFF RECOMMEDATION

APPLICATION INFORMATION:

Applicant: Antioch Missionary Baptist Church of Carol City
Agent: Buffy A, Bulter, Harlan E. Woodward
Location: Generally located at 21311 NW 34 Ave. and 3330 NW 213 Terr.
Land Area: 161,120 square feet (3.7 acres)
Future Land Use: Neighborhood
Existing Zoning: RU-1 Single Family Residential District
Requested Action(s):

1. A special exception to allow the expansion of a church to include a family life center.
2. Approving a modification to Condition 2 Resolution no. 5-ZAB-191-95 and Condition 2 Resolution no. 5-ZAB-345-95.
3. Approving a unusual use to allow a day care center in the RU-1 district.
4. Granting a non-use variance of Section 33-17 (1) of the Code to allow a building for public assemblage to be located 5.0' from a right-of-way where 25.0' is required.
5. Granting a non-use variance of Section 33-17(1) of the Code allowing a building for public assemblage to be located 5.0' from an abutting lot under different ownership where 50.0' is required.
6. Granting a non-use variance of Section 33-17(1) of the Code to allow a building for public assemblage to be located 10.0' from an existing residential building where 75.0' is required.
7. Granting a non-use variance of Section 33-17(7) of the Code to allow parking for a building for public assemblage to be located 4.0' from property under different ownership zoned RU where 25.0 is required.
8. Granting a non-use variance of section 33- 124 of the Code to allow 264 parking spaces where 340 parking spaces are required; in the RU-1 zoning district.
9. Non-Use variance of Section 33-52 of the Code to allow a church building 48.6' high where 35.0' maximum height is permitted; in the RU-1 zoning district;

RECOMMENDATION:

Recommend approval of the requested actions subject to the following conditions:

1. **Submitted Plans**:: That the plans submitted for building permit, and/or Certificate of Use and Occupancy, be substantially in compliance with that submitted for the public hearing and consisting of the following: Plans labeled “New Family Life Center-Zoning Document” as prepared by KDI Architecture, Inc. consisting of sheets A-2.01, A-2.02, A-2.03, A-3.01, A3-.02 dated 3/7/07, and sheets A-2.04, A-2.05 dated received 07/06/07.
2. **Irrigate Landscape**: All landscaped areas on site shall be provided with an in-ground irrigation system which shall be installed, operated and maintained to service the property.
3. Except as modified herein, all conditions of previously approved Resolutions shall remain in full force and effect.
4. Applicant shall file a Unity of Title, executed on form meeting the approval of the City Attorney, and recorded in the public records of Miami-Dade County, and meeting the approval of the Director unifying all property as depicted on the plans prior to issuance of building permit on the property.
5. Applicant shall submit a detailed landscape plan, meeting the approval of the Director prior to issuance of building permit.
6. Applicant shall provide a Construction and Maintenance Agreement and shall bond, meeting the approval of the Public Works Director for all off-site improvements, sidewalk improvements, landscaping, right-of-way modifications, and for other work as the Director may deem necessary.
7. Applicant shall install, construct at its sole expense sidewalks as depicted on sheet A-2.04 of the submitted plans, such construction and installation shall meet the approval of the Director of Public Works.
8. The applicant shall obtain all permits and approvals from Building Department and all applicable agencies having authority for any improvements, modifications, or alterations to the right-of-way to install and construct the proposed round-about as depicted on sheet A-2.04 of the submitted plans.
9. Applicant shall submit paving and drainage plans, and water and sewer plans, meeting the approval of the Public Works Department prior to issuance of building permit.
10. Applicant shall submit a lighting plan, depicting details of the lighting fixtures, and an photometric plan meeting the approval of the Director prior to the issuance of building permit.
11. The day care center shall be limited to a maximum of eighty (80) children age three (3) years old to five (5) years old at any one time, and shall only operate Monday to Friday between 8:00am to 6:00pm.
12. The Family Life Center shall only operate Monday to Friday between 8:00am to 6:00pm and Saturday between 9:00am to 2:00pm.

PLEASE NOTE THAT THE PROPOSED FAMILY LIFE CENTER BUILDINGS ARE ALL UNDER ONE ROOFED AREA. IT MAY APPEAR FROM THE SITE PLAN SHEET A-2.04 THAT THERE ARE SEVERAL STAND ALONE BUILDINGS, BUT THE BUILDINGS ARE ALL UNDER ONE ROOF THAT IS INTENDED TO BE A “GREEN BUILDING” TYPE OF ROOF WITH GRASS AND TREES. SEE ROOF PLAN SHEET A-2.03.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning	Existing Use	Future Land Use
Site	RU-1 Single Family Residential	Church	Neighborhood
North	RU-1 Single Family Residential	Single family home	Neighborhood
South	RU-1 Single Family Residential	Single family home	Neighborhood
East	RU-1 Single Family Residential	Single family home	Neighborhood
West	RU-1 Single Family Residential	Single family home	Neighborhood

Zoning History

There are three (3) previous resolutions on the subject property. Resolution 4-ZAB-369-73, adopted 9th day of July, 1973 granted the approval of the first expansion of the church by special exception and with associated variances, subject to conditions. Resolution 5-ZAB-191-95, adopted the 1st day of May, 1995 approved a second expansion of the church with associated variances, subject to conditions. Resolution 5-ZAB-345-95 adopted 6th day of September, 1995 approved further expansion of the church with associated variances, subject to conditions.

The requested modifications to the previous resolutions are as follows:

Condition No. 2 of Resolution 5-ZAB-191-95 states:

“That in the approval of the plan, that same be substantially in accordance with the submitted for the hearing entitled “Antioch Missionary Church”, as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, “Parking Lot Plan”, as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to comply with all signage requirements.”

Condition No. 2 of Resolution 5-ZAB-345-95 states:

“That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled “Antioch Missionary Baptist Church”, as prepared by Bryan and Associate, consisting of all 11 sheets, dated stamped received October 7, 1994, “Parking Lot Plan”, as prepared by Marshall Beilin & Assoc., dated revised 3-24-95, except as herein modified to extend the hedge around the entirety of the parking area which is south of N.W. 213 street, except for the area to be used for an ingress/egress drive.

Both conditions noted above are being modified to state as follows:

Submitted Plans:: That the plans submitted for building permit, and/or Certificate of Use and Occupancy, be substantially in compliance with that submitted for the public hearing and consisting of the following: Plans labeled “New Family Life Center-Zoning Document” as prepared by KDI Architecture, Inc. consisting of sheets A-2.01, A-2.02, A-2.03, A-3.01, A3-02 dated 3/7/07, and sheets A-2.04, A-2.05 dated received 07/06/07.

The subject properties do not have any outstanding Code Enforcement violations.

Consistency with Comprehensive Development Master Plan

The subject parcel 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. The Neighborhood land use designation is intended for low to medium density residential development with supporting commercial and office uses.

CONCLUSION: The proposed expansion of the church to include the Family Life Center and daycare will offer services to further support the low density residential community in the area while not being intrusive or incompatible with the surrounding neighborhood.

Consistency with Neighborhood Plans/Studies

There are no adopted neighborhood plans or studies for the area of the subject property.

Consistency with Section 33-311(3) Criteria for granting Special Exception

Section 33-311(A)(3) Special Exceptions (for all applications other than public charter schools) unusual and new uses criteria, according to which the Council may approve an application for a special exception and/or unusual use upon showing that it would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, or other such facilities which have been constructed or which are planned and budgeted for construction; is accessible by private or public roads, streets or highways; and would not provoke excessive overcrowding or concentration of people or population, when considering the compatibility of the applied-for exception or use with such area and its development.

Consistent with the above criteria the applicant has among providing other improvements including landscaping, will be constructing sidewalks on the surrounding blocks of the church to improve accessibility and enhance the livability of the residential neighborhood.

CONCLUSION: The requested special exception to permit an expansion of the church to allow the Family Life Center and daycare will not result in excessive noise and traffic or cause undue burden on public facilities. The proposed Family Life Center and daycare center will operate during certain hours and days as to not to conflict with the general assembly and activities of the church, and there is adequate access to the property from all directions by public rights-of-way that will not provoke excessive overcrowding or concentration of people incompatible with the residential development in the area, and the provision of sidewalks on surrounding residential blocks improves pedestrian accessibility in safe and livable manner.

Consistency with Section 33-311(A)(4)(b) and (c)/Criteria for granting Non-Use Variances

Section 33-311(A)(4)(b) and (c) states:

(b) *Non-use variances from other than airport regulations.* Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from

the terms of the zoning and subdivision regulations, the Board (following a public hearing) may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, 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 unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

(c) *Alternative non-use variance standard.* Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

The proposed variances associated with the expansion of the church to include the Family Life Center and daycare center are similar in nature to variance requested historically for the expansion of the church. The encroachment variances of setbacks and spacing requirements, though appear significant in nature, are applicable to certain portions of the buildings and do not reflect the overall design objectives of the building to provide a architecturally compatible building with unenclosed walkways and spacious plaza areas. The parking areas are proposed on vacant lots and will be adequately screened with landscaping minimizing impacts on the adjacent residential properties.

The parking variance requested is a result of the total required parking spaces for all uses on the properties at any one time. The justification for supporting the parking variance stems from the conditions imposed on the operational hours of the Family Life Center and the daycare center which does not conflict with the general assembly times of the primary church activities. There is adequate parking to accommodate either the general assembly or the Family Life Center and daycare at any one time providing the uses are not operating simultaneously.

The requested variance to allow the building to be of a height of 48.6' is consistent with the previously approved 54.0' height of the main church building, and the visual and intrusive impacts of the height is minimized with the landscaping and architectural design of the building.

CONCLUSION: The applicant's request for a non-use variance does not affect adjacent uses in an adverse manner. In light of these findings, when considering the proposed project in relation to the present and future development of the area concerned, the above requests for a special exception and a non-use variance does not create any burden on the existing, planned or budgeted public infrastructures, is not detrimental to and is compatible with the area. Therefore, the

applicant's requests are consistent with the above-noted conditions established in Section 33-311(A)(4)(b) and (c) of the City's Zoning Code for granting the non-use variance(s).

ADDITIONAL INFORMATION

Anticipated Facilities Impact

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

Public Water: The site is already connected to central water services through Miami-Dade County's Water and Sewer Department (WASD).

Wastewater Disposal: The site is already connected to central water services through Miami-Dade County's Water and Sewer Department (WASD).

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type systems. Drainage must be provided for the 5-year storm event with full on-site retention of a 25-year/3-day storm. Pollution control devices shall be required at all drainage inlet structures. Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County. Additionally, a Surface Water Management General Permit from DERM shall be required for the construction and operation of the required surface water management.

Traffic Circulation:

The applicant has submitted a traffic study, "Antioch Church Addition, Traffic Study" as prepared by David Plummer and Associates, Inc. dated December 2006, DPA Project #06163. The executive summary states "The results of the analysis show that the project will no affect the LOS of the analyzed intersections. Furthermore, the project is no expected to cause a delay in the neighborhood street system".

Transportation Concurrency Management Areas - The CDMP establishes 4 (four) Transportation Concurrency Management Areas (TCMA) within the City of Miami Gardens. Per the CDMP's Transportation Element Objective 1.9, the TCMA maintains requires maintenance of an area wide Level of Service for transportation. The project is located in TCMA # 2 which includes area generally to the north of Palmetto Expressway to the northern City corporate limits.

Public Notification/Comments

Notification of the applicant's requests was mailed to property owners within a 500 feet of the subject site to provide them an opportunity to comment on the application if they so choose. No comments were received from any of the property owners within that radius.

This recommendation to approve the Applicant's request and to accept the proffered declaration of restrictions does not constitute a final development order; one or more concurrency determinations will subsequently be required.