

ORDINANCE NO. 1136 – 2023

AN ORDINANCE OF THE CITY OF MIAMI SPRINGS, FLORIDA, APPROVING A REZONING FROM P-2 CHURCH USE TO R-1B SINGLE FAMILY RESIDENTIAL OF A CERTAIN ±0.22 ACRE PARCEL OF LAND LOCATED AT THE INTERSECTION OF ESPLANADE DRIVE AND HIBISCUS DRIVE AT HYPOTHETICAL 425 ESPLANADE DRIVE (FOLIO NO. 05-3119-020-0015); PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, R & J Portfolio LLC (the "Applicant") is requesting a rezoning from P-2 Church Use to R-1B Single Family Residential for a ± 0.22-acre parcel of the property generally located at the intersection of Esplanade Drive and Hibiscus Drive at hypothetical 425 S. Esplanade Drive (the "Property"), as legally described in **Exhibit "A"** attached hereto (the "Legal Description"); and

WHEREAS, after careful review and deliberation, City Staff has determined that the proposed rezoning is in compliance with the City's Comprehensive Plan and Land Development Code, as set forth in the City Staff's Report and Recommendations, which is attached hereto and incorporated herein as **Exhibit "B"** (the "Staff Report"); and

WHEREAS, on October 2, 2023, the City's Zoning and Planning Board held a duly advertised public hearing to make a recommendation of [approval/denial] to the City Council; and

WHEREAS, the City Council has been designated as the Local Planning Agency ("LPA") for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, pursuant to Section 163.3174(4), Florida Statutes, the City Council, sitting as the LPA, held a duly advertised public hearing on October 9, 2023, and recommended [approval/denial] of the rezoning; and

WHEREAS, on October 9, 2023, during the City Council Meeting, the City Council conducted a duly advertised public hearing for first reading of the Ordinance, considered all comments received concerning the rezoning as required by State laws and local ordinances; and

WHEREAS, on October 23, 2023, during the City Council Meeting, the City Council conducted a duly advertised public hearing for second reading (adoption) of the Ordinance, considered all comments received concerning the rezoning as required by State laws and local ordinances and recommended [approval/denial] of the rezoning; and

WHEREAS, after reviewing the Local Planning Agency's recommendation, the recommendation of City Staff, and comments from the public, the City Council finds,

based upon competent substantial evidence, that the proposed rezoning of the Property on the City's Zoning Map is in compliance with and consistent with Florida law, the City's Comprehensive Plan, and the City's Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, THAT:

Section 1. Recitals. That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Approval of Rezoning. That the City Council hereby approves rezoning of the Property P-2 Church Use to R-1B Single Family Residential.

Section 3. Authorization. That the City Manager, by and through the Director of Zoning and Planning, is authorized to make the necessary changes to the City's Zoning Map to reflect the rezoning approved in Section 2, above.

Section 4. Recording. The City, or the Applicant if so requested by the City Clerk, shall record this Ordinance at the Applicant's sole expense in the Public Records of Miami-Dade County, Florida.

Section 5. Effective Date. That this Ordinance shall take effect immediately upon adoption. However, the effective date of the rezoning adopted by this Ordinance shall be the effective date of the concurrent small-scale Comprehensive Plan amendment.

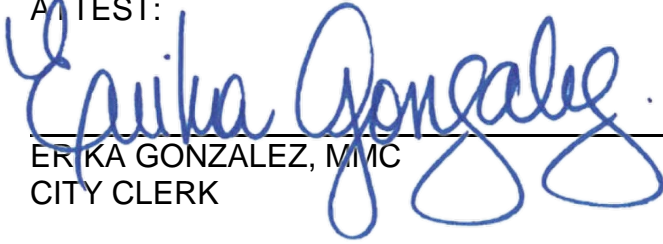
PASSED ON FIRST READING on the 9th day of October, 2023, on a motion made by Councilman Vazquez and seconded by Vice Mayor Bravo.

PASSED AND ADOPTED ON SECOND READING this 23rd day of October, 2023, on a motion made by Councilman Vazquez and seconded by Vice Mayor Bravo.
Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Jacky Bravo	<u>YES</u>
Councilman Jorge Santin	<u>YES</u>
Councilman Dr. Walter Fajet, Ph.D.	<u>YES</u>
Councilman Dr. Victor Vazquez, Ph.D.	<u>YES</u>
Mayor Maria Puente Mitchell	<u>YES</u>


MARIA PUENTE MITCHELL
MAYOR

ATTEST:


ERIKA GONZALEZ, MMC
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:

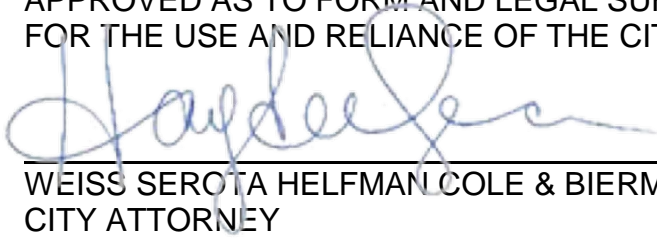

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

EXHIBIT A

LEGAL DESCRIPTION

Tract "A" of "MIAMI Springs Baptist Church", a subdivision according to the Plat thereof, as recorded in Plat Book 76, Page 71, of the Public Records of Miami-Dade County, Florida; Less and Except the Southwesterly 91.00 feet of said Tract "A" as conveyed in Warranty Deed recorded in Official records Book 32884, Page 3726.



City of Miami Springs

201 Westward Drive Miami Springs, FL 33166

Phone: (305) 805-5034 Fax: (305) 805-5036 Website: www.miamisprings-fl.gov

CITY OF MIAMI SPRINGS PLANNING DEPARTMENT

STAFF REPORT

TO Zoning and Planning Board

FROM Alex David, Director of Miami-Dade Office
Calvin, Giordano & Associates, Inc.
Planning Consultant

CC: Silvia Vargas; Antonio Augello
Calvin, Giordano & Associates, Inc.

DATE October 2, 2023

SUBJECT Rezone – 425 Esplanade Drive

Case No.	01-ZP-21 (Rezone)
Applicant(s)	R & J Portfolio LLC ("Applicant")
Address	Hypothetical 425 Esplanade Drive ("Property")
Folio Number(s)	05-3119-020-0015
Current Future Land Use	Religious Institutional
Current Zoning District	P-2

Property

The Property consists of an asphalt paved parking lot located at the SE corner of S. Esplanade Drive and Hibiscus Drive. The parcel is roughly square in shape and 9,746 square feet in size. The full legal description is the following:

Tract "A" of "MIAMI Springs Baptist Church", a subdivision according to the Plat thereof, as recorded in Plat Book 76, Page 71, of the Public Records of Miami-Dade County, Florida; Less and Except the Southwesterly 91.00 feet of said Tract "A" as conveyed in Warranty Deed recorded in Official records Book 32884, Page 3726.



Proposal

The Applicant is proposing a rezoning from P-2 ("Church Use") to R-1B ("Single Family Residential"). The Applicant is also requesting a Future Land Use Map amendment – from Religious Institutional to Single Family Residential – and a Replat to ultimately permit the construction of a single-family dwelling unit.

The current zoning district allows the following:

Sec. 150-091. - P-2 church use only.

- (A) *Uses permitted.* Any building used for church services, Sunday school instruction, or other activities directly connected with the normal operation of a church.
- (B) *Building height limits.* The maximum building height shall be 40 feet.
- (C) *Site.* The minimum building site shall be governed by the number of off-street parking spaces which the site will accommodate, in proportion to the size of the building, as provided by this chapter, and subject to the limitations as herein provided for front, rear, and side yard requirements.
- (D) *Front, side, and rear yard requirements.* No structure in this area shall be built closer than 30 feet to the exterior property lines of the minimum building site as herein required.
- (E) *Signs.* See Signs, [§ 150-030](#).

(F) *Parking standards and requirements.* See [§ 150-016](#).

The proposed zoning district would allow the following:

Sec. 150-042. R-1B district.

(A) Uses permitted.

(1) Single-family dwelling. In no case shall there be more than one main building on a lot.

(2) Accessory structures and uses incidental to the single-family dwelling when placed on the same lot or parcel of land and not used or operated commercially, including, private garages, children(s) playhouses, tool sheds, and workshops. Accessory structures and uses such as servant(s) quarters, guest houses, and any other type of dwelling or dwelling unit are prohibited. Accessory structures shall occupy not more than 15 percent of the area of the rear yard. Notwithstanding any other definition or provision contained within the Code of Ordinances to the contrary, the "total rear yard area" for the purposes of the calculations required for the determination of the percentage of rear yard occupancy shall include all areas of property on the site from the vertical walls of structure backward to the rear property line, regardless of whether any such wall is recessed behind the part of the structure from which the required rear yard setback is measured. Accessory structures and all constructed additions shall conform in design and character to that of the main building and be constructed in accordance with all other applicable provisions of City Ordinances. All additions constructed onto existing single-family residences shall conform to the minimum habitable space provisions set forth in the South Florida Building Code. The placement and location of all such accessory structures in rear yards of properties shall provide a separation of at least ten feet from the main building, from other accessory structures and from utility sheds, and shall not be located closer to the side yard boundary line than the required side yard setback for the main building, nor closer than five feet to the rear yard boundary line of the property. Each single-family residential homesite may contain a maximum of two accessory structures, so long as such structures comply with the foregoing construction and location limitations and restrictions. Single-family residential homesites that already maintain a utility shed thereon may only contain one accessory structure which meets the construction and location limitations and restrictions previously set forth herein.

(a) Minimum rear yard setback: Five feet.

(b) Minimum side yard setback: 10% of lot width. No less than five feet for interior lot lines and no less than 15 feet for corner lot lines.

(c) Minimum distance separation from main residence: 10 feet.

(d) Maximum number of accessory structures: Two.

(e) Maximum rear yard lot coverage: 15%.

(3) Signs. See Signs, § 150-030.

(B) Building height limit. The maximum building height of main buildings shall be two stories which shall not exceed 30 feet. For accessory structures, the roof tie beam shall not exceed ten feet in height, and the roof height shall not exceed 15 feet. Notwithstanding the foregoing, the Board of Adjustment and City Council can approve additional heights for structures when the additional heights are for architectural design features which do not constitute living space and which are not inconsistent with the character of the surrounding neighborhood. Any application for approval pursuant to this provision shall

not be considered a variance, but an exceptional approval by the Board and City Council.

(C) Building site area required. The minimum building site area shall be one lot or parcel of land 10,000 square feet in area for each single-family dwelling. The parcel shall have a minimum average width of at least 75 feet. (For exemptions for undersized legal non-conforming lots see § 150-092(C)).

(D) Front yard required. There shall be a front yard of a depth of not less than 30 feet, unless the average depth of the front yard of the contiguous lot or lots is either greater or less than 30 feet, in which case the front yard shall be the average depth of the front yard of the contiguous lot or lots. In case there is no dwelling on the block, the depth of the front yard shall be a minimum of 30 feet. The maximum depth of the front yard permitted shall be not more than 50 percent of the depth of the lot or building site.

(E) Side yard requirements.

(1) Side yards required for one-story buildings. The width of the required side yards for one-story buildings shall each be ten percent of the average width of the lot, but in no case shall each side yard be less than five feet in width. Side yards adjacent to streets shall be not less than 15 feet. Side yards shall be measured from the closest point of the structure to the side lot line, on a bearing parallel to the front lot line, at ground level.

(2) Continuation of a legal non-conforming setback.

(a) A legal non-conforming setback may be continued horizontally as long as the provided setback is no less than 50% of the required setback.

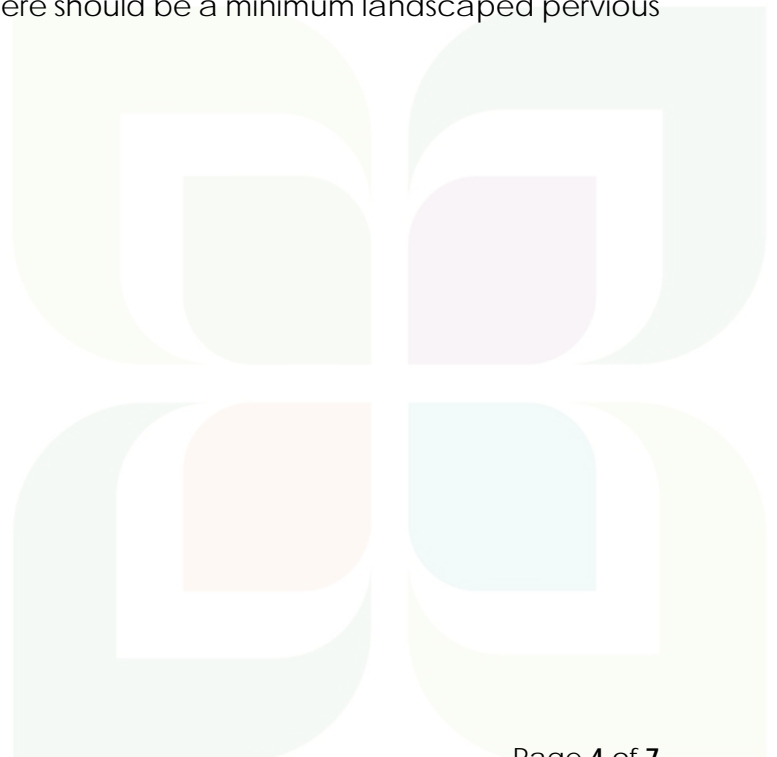
(b) A legal non-conforming setback may be continued vertically as long as the provided setback is no less than 50% of the required setback.

(F) Rear yard required. There shall be a rear yard not less than 25 feet in depth.

(G) Floor area requirements. The minimum floor areas of dwellings in this district shall be 1,500 square feet.

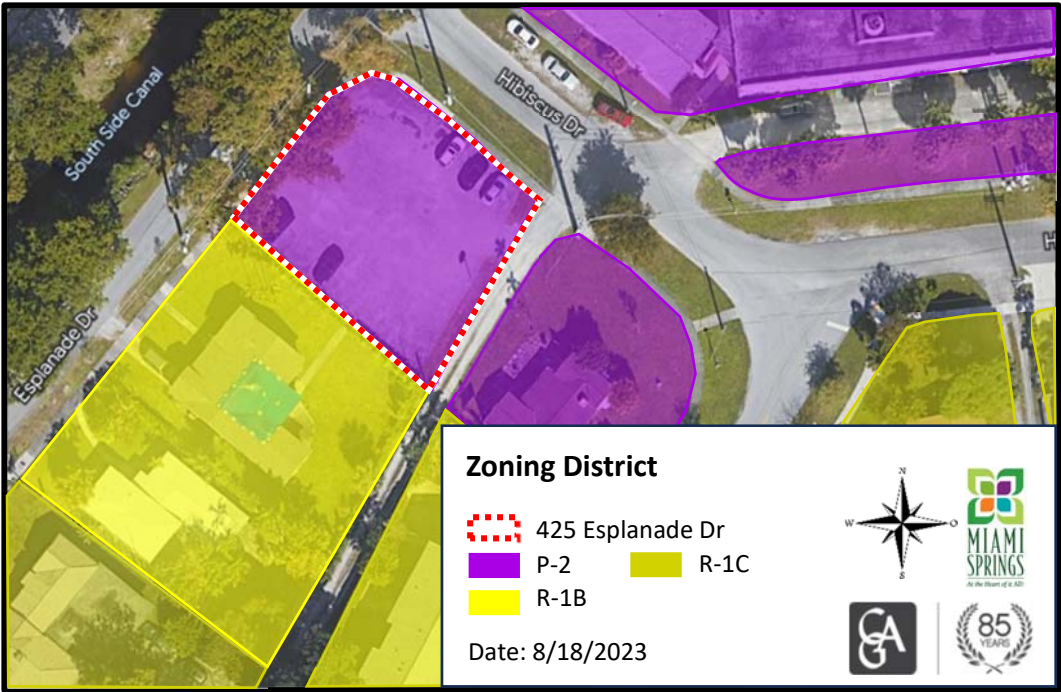
(H) Maximum lot coverage. There should be a maximum lot coverage of 40%.

(I) Minimum landscaped pervious area. There should be a minimum landscaped pervious area of 30%.

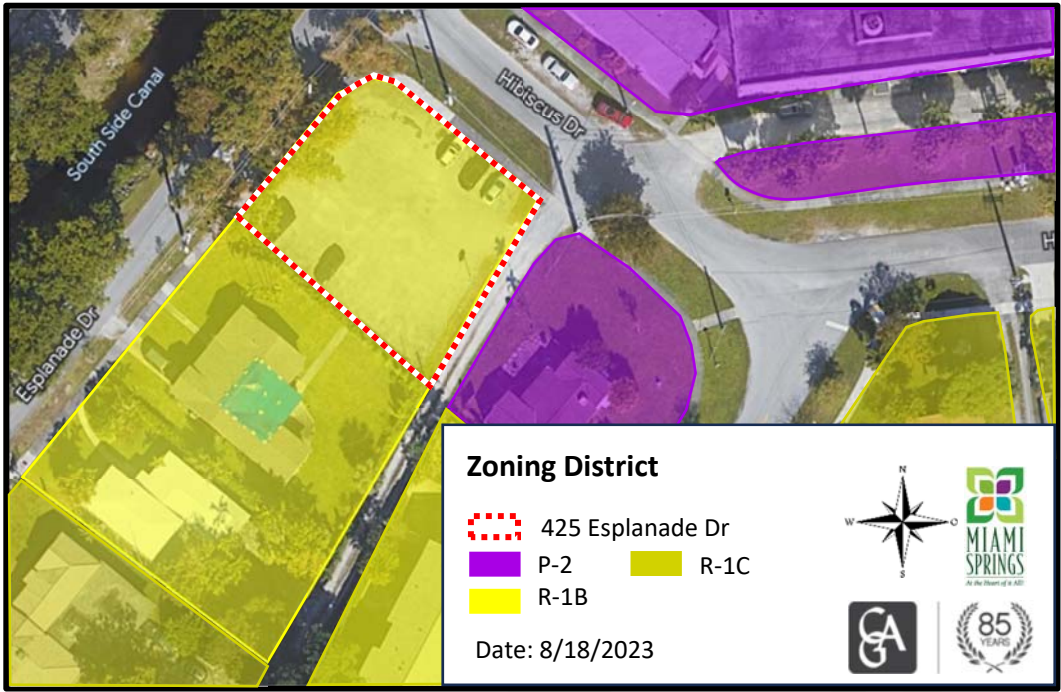


Zoning Map

From:



To:



Process/Notices

Pursuant to *Sec. 150-104. – Petition for zoning change*, any change or modification in the classification or regulation would require a public hearing with the Zoning and Planning Board with a written consent or the objection of not less than 20 percent of the property owners, exclusive of the petitioner, within a 500-foot radius in all directions from all property lines. Although the Code requires written consent or objection, the Code provision is inconsistent with case law which does not permit the rezoning to be reliant upon consent or objection of neighbors. Accordingly, notice of the application will be sent, but consent/objection of neighbors will not be obtained. Additionally, mailed notice shall be sent to electors of City based on the most current voter registration list, pursuant to Sec. 1.04(3)(c) of City Charter.

Posted notice at Public Buildings shall be available for two (2) weeks prior to date of first newspaper publication at City Hall, Recreation Center Gymnasium, The Field House, and any other building designated by Council, pursuant to Sec. 1.04(3)(c) of City Charter.

Advertised notice shall be available ten (10) days prior to the Local Planning Agency (LPA) and Ordinance 1st Reading in *Daily Business Review*, and a courtesy notice in *the Gazette*. Ten (10) days prior to the 2nd Reading, advertised notice in *Daily Business Review*, and a courtesy notice in *the Gazette*, shall also be required.

The review process would require the Applicant to prove the proposed use is consistent with the goals, objectives, and policies of the City, compatible with the character and purpose of the surrounding zoning designations, and would not create unfavorable conditions that could affect the public health, safety, and welfare of the City and its residents.

History

In 1962, the Property was incorporated into Tract "A" of "Miami Springs Baptist Church" and used as a parking lot. In 2018 and 2020, Tract "A" was conveyed by two deeds, resulting in the division of Tract A into two parcels: Parcel 1, 9,746 square feet in size with the asphalt parking lot (the Property), and Parcel 2, 10,685 square feet in size, with a single-family residence. The existing house on Parcel 2 was originally used as a residence for the Church's Pastor, and was sold by the Church in 2018 to Christopher Anderson and Rosario Molina, keeping the same use. By subdividing Tract A via deeds and without going through the proper subdivision requirements, an illegal subdivision was created, which prevents both properties from obtaining building permits.

In 2018, Parcel 2 located at 427 Esplanade Drive was re-designated from Religious Institution to Single Family Residential on the City's FLUM and rezoned from P-2, Church Use to R-1B by Ordinances 1103-2018 and 1104-2018, respectively. At the time, the City was the applicant on behalf of the Miami Springs Baptist Church. When the 2018 ordinances were adopted, the staff report supporting the ordinances explained that "The

Church also owns [hypothetical 425 Esplanade]. That parcel is 9,746 square feet in size, and contains an asphalt paved parking lot. The zoning on this parcel is P-2, Church Use, and the Future Land Use Map category is Religious Institution, and will remain as such.”

In 2020, the Church sold the parking lot Property to R & J Portfolio LLC, but the plat, zoning, and FLUM designations were not amended at that time. The applicant now wishes to replat, rezone, and redesignate the Property on the FLUM with the ultimate goal of building a single-family home.

Recommendations

Staff has reviewed the Rezoning for conformance and finds it complies with the City Code. If rezoned to R-1B the permitted single-family use would be less intensive than those which would be allowed under P-2 (Church Use). Staff therefore recommends **approval** of the rezoning application since (i) it is consistent with the goals, objectives, and policies of the City’s Comprehensive Plan; (ii) it is compatible with the character and purpose of the surrounding zoning designations and existing uses; (iii) the Property is suitable for the permitted uses in the proposed zoning district; (iv) the proposed use will not adversely affect the development of the general neighborhood or district; (v) will not generate unfavorable vehicular traffic, circulation problems, or parking demands; (vi) will not create unfavorable environmental impacts or dangerous hazards; and (vii) will not be contrary to the public health, safety, and welfare of the City and its residents.

Attachments

Additionally, the following documents are attached to this report as reference to the Application.

1. Letter of Intent
2. Hearing Application
3. Notice of Public Hearing
4. Proof of Notice – 500-foot radius
5. Proof of Notice - Electors
6. Property Appraiser – Folio
7. Deed – Parcel 1 of Tract A
8. DRAFT Ordinance