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ORDINANCE NO. 2012-10

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, AMENDING CHAPTER 3, RELATING TO PERMITTED USES TO ALLOW DAY CARE/SCHOOL USE IN THE "A" ZONING DISTRICT ON PROPERTIES WITH PUBLIC FACILITY FUTURE LAND USE MAP (FLUM) DESIGNATION; AND TO ALLOW PUBLIC FACILITIES WITHIN THE "D" DISTRICT, EXCLUSIVE OF ANY SCHOOL USE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Biscayne Park Comprehensive Plan was amended in 2010 to create Policy 2.7, which provides that areas designated "Public Facilities" on the Future Land Use Map may also allow a school use; and,

WHEREAS, the Village's land development code (zoning code) has yet to be amended to allow the school use within any district; and,

WHEREAS, an application was filed by the Church of the Resurrection (Property Owner) and Biscayne Park School & Early Learning Center (Possible Tenant) to amend the permitted use schedule within the "A" residential zoning district, on the property that is designated "Public Facilities" on the Village's Future Land Use Map and Element; and,

WHEREAS, pursuant to section 13.3 of the Village's Land Development Code, the Planning & Zoning Board acts as the Village's "Land Planning Agency" as authorized under section 163.3174, Florida Statutes, and is to review the application for the text amendment as provided under the criteria of 15.4.4 and 15.4.5; and,

WHEREAS, pursuant to 45.4.4, the Planning & Zoning Board, as the Land Planning Agency (LPA), must hold a public hearing consistent with state law, the hearing must be advertised, the Board must present its analysis of the proposed decision; present a summary of any applicable reports by other agencies; permit any affected person or affected local government to submit written recommendations and comments before or during the hearing; and permit a reasonable opportunity for interested persons to make oral statements; and,

WHEREAS, the LPA held two hearings, the first on September 18, 2012 and a second on January 7, 2013; and,

WHEREAS, the LPA during the January 7, 2013 voted to recommend approval of the text amendment, if modified to reflect a "Preschool use" rather than "day care/school use"; and,

WHEREAS, The Village staff and the LPA recommend the modification, the ordinance has been advertised and cannot be modified without Village Commission approval; and,

WHEREAS, the Village desires to amend 3.3.2 relating to permitted uses to include day care/school use; and, now, therefore:

BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The Village of Biscayne Park Land Development Code at Chapter 3, section 3.3 is here by amended as follows:

* * *

3.3 - Uses allowed.

* * *

3.3.2 Allowable uses within each residential sector.

(a) The following uses are allowed in sectors A, B, and C in the established residential land use district. All other uses are prohibited:

- (1) Residential;
- (2) Public open space and outdoor recreational; and
- (3) Public facility/service.

(b) The following uses are allowed in sector D. All other uses are prohibited:

- (1) Community residential home;
- (2) Public open space;
- (3) Temporary parking (unpaved surface);
- (4) Public facility/service, except preschool use, which use is equivalent to a "day nursery" as defined under the Miami-Dade County Code, section 33-151

(c) Refer to Table A for the regulations applicable to each residential sector.

(d) Within the A sector, the properties with a future land use designation of public facilities shall be entitled to have a day care or school use, consistent with Policy 2.7.1 of the Comprehensive Plan, and consistent with Chapter 33-151, Miami Dade County Code, based upon Miami-Dade County Home Rule Authority.

* * *

Section 3. Effect and Adoption of Ordinance. The adoption of this Ordinance shall be the final adjudication of the issues presented unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty calendar days from the date of this assessment.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Repeal of Conflicting Provisions. To the extent any provisions of the Code conflict with this Chapter, those provisions are repealed in its entirety.

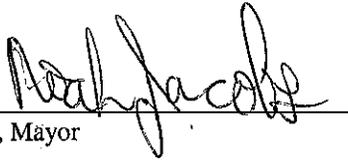
Section 6. Effective Date. This Ordinance shall be effective upon adoption.

The foregoing Ordinance was offered by Commissioner Anderson, who moved its adoption. The motion was seconded by Mayor Jacobs and upon being put to a vote, the vote was as follows:

PASSED AND ADOPTED UPON FIRST READING: February 5, 2013

PASSED AND ADOPTED UPON SECOND READING: March 5, 2013

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Noah Jacobs, Mayor



Maria C. Camara, Village Clerk

Approved as to form:



Village Attorney

**The foregoing ordinance upon being put to a vote,
the vote was as follows:**

Mayor Jacobs: Yes
Vice Mayor Ross: Yes
Commissioner Anderson: Yes
Commissioner Cooper: Yes
Commissioner Watts: Yes