



**CITY OF DANIA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**DATE:** August 14, 2012

**TO:** Robert Baldwin, City Manager

**VIA:** Marc LaFerrier, AICP, Director

**FROM:** Corinne Lajoie, AICP, LEED Green Associate, Principal Planner *CL Lajoie*

**SUBJECT:** **RZ-31-12/AF-32-12:** The applicant, Batia Dayan, on behalf of 4760 LLC., is requesting a rezoning and assignment of flex for the property located at 4760 SW 42 Terrace (FIRST READING).

**REZONING**

To rezone the property from Residential (RS-6000) to Commercial (C-2).

**ASSIGNMENT OF FLEX**

To assign the property flex, changing the land use designation from Low (5) Residential to Commercial.

**PROPERTY INFORMATION:**

**ZONING:** Residential (RS-6000)  
**FUTURE LAND USE:** Low (5) Residential  
**OVERLAY:** Westside Master Plan, Sub Area 1: Griffin Road West

The subject property is located on the north side of Griffin Road, immediately north of the applications daycare facility Learn and Smile. Both properties are located immediately west of the Hess gasoline station property. The applicant has owned the day care business 2005. The facility currently has between 50-60 children.

**REZONING**

The applicant is requesting to rezone the property from RS-6000 to C-2 to allow for expansion of the existing daycare business, immediately south of the property. The applicant has indicated that her existing facility is has reached its maximum capacity and would like to expand by locating office space at the subject property. She anticipates utilizing the property as an enrichment center to include a library, art and science center and an administrative office. The current zoning of RS-6000 prohibits any such expansion.

The property is located on a block with three parcels, the largest of which is the Hess gasoline station. The existing daycare facility was granted a parking variance by the City Commission on May 11, 2010 for the expansion of the facility, which has not yet been constructed. Today vehicles park on the swale along SW 42 Terrace.

The Zoning Code requires 1 parking space for each 150 square feet for a daycare facility. The existing facility requires 16 parking spaces, 6 exist today. Rezoning the property for the

use of the daycare will require an additional eight (8) parking spaces. Staff has identified the ability to locate four (4) parking spaces on site, which would require a variance to waive the 4 remaining parking spaces required. The applicant intends to make this request to be heard at the same time as second reading of the rezoning request, for approval by the City Commission.

Section 645-40(B) of the City Code allows the City Commission to approve the rezoning request subject to stipulations volunteered from the applicant that restricts the uses or standards to which the property can be developed. Staff has requested the applicant to record a restrictive covenant in the Broward County Public Record restricting the use of the property to day care and unify both properties through a unity of title. The applicant has agreed, as it is her intent to operate both properties as one day care facility.

#### **ASSIGNMENT OF FLEX**

The Future Land Use designation of the property is currently Low (5) Residential. In order to change the zoning to a commercial use, the underlying land use designation must be compatible. The applicant is requesting the assignment of 0.1 acres of Residential to Commercial flexibility assigned to the property, allowing it to be used for commercial uses.

The property is located in Flex Zone 81, which has a total of 56.6 acres of Residential to Commercial Flex available.

#### **WESTSIDE MASTER PLAN**

This property is located in the Westside Master Plan (WMP) study area in Sub Area 1; Griffin Road West. The WMP calls for a deepening of commercial properties along Griffin Road to allow expansion of non-residential uses in the area. Therefore, this request is consistent with the WMP.

#### **PLANNING AND ZONING BOARD RECOMMENDATION**

On July 18, 2012 the Planning and Zoning Board, sitting as the Local Planning Agency, recommended approval of the request, provided the applicant addresses the parking prior to final approval of the rezoning and flex request.

#### **STAFF RECOMMENDATION**

Approval provided the following:

1. applicant provide a site plan providing the required parking; and
2. applicant voluntarily agrees to record a restrictive covenant in the Broward County Public Record restricting the use of the property to day care and unify both properties through a unity of title.



City of Dania Beach, Florida  
 Department of Community Development  
 Planning and Zoning Division  
 (954) 924-6805 X3643  
 (954) 922-2687 Fax

Standard Development Application



- Administrative Variance
- Land Use Amendment
- Plat
- Rezoning
- Site Plan
- Special Exception
- Variance
- Other: Assignment of Flex (SEE APPLICATION TYPE SCHEDULE ON PAGES 3 & 4)

Date Rec'd: 5/30/2012  
 Petition No.: RZ-31-12

**THIS APPLICATION WILL NOT BE ACCEPTED UNTIL IT IS COMPLETE AND SUBMITTED WITH ALL NECESSARY DOCUMENTS.** Refer to the application type at the top of this form and "Required Documentation" checklist to determine the supplemental documents required with each application. For after the fact applications, the responsible contractor of record shall be present at the board hearing. Their failure to attend may impact upon the disposition of your application. As always, the applicant or their authorized legal agent must be present at all meetings. All projects must also obtain a building permit from the City Building Division. For more information please reference the **Dania Beach Land Development Code Part 6, Development Review Procedures and Requirements.**

Location Address: 4760 SW 42<sup>nd</sup> Terrace, Dania FL 33314

Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Recorded Plat Name: \_\_\_\_\_

Folio Number(s): 5047-25-01-0622 Legal Description: \_\_\_\_\_

Applicant/Consultant/Legal Representative (circle one) BATIA DAYAN

Address of Applicant: 4233 Griffin Rd.

Business Telephone: 9547928211 Home: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: learnandsmile@yahoo.com

Name of Property Owner: BATIA DAYAN

Address of Property Owner: 4233 Griffin Rd.

Business Telephone: 9547928211 Home: \_\_\_\_\_ Fax: \_\_\_\_\_

**Explanation of Request:** \_\_\_\_\_  
 For **Plats** please provide proposed **Plat Name** for **Variations** please attach **Criteria Statement** as per **Section 625.40 of the Land Development Code.**

Prop. Net Acreage: \_\_\_\_\_ Gross Acreage: \_\_\_\_\_ Prop. Square Footage: \_\_\_\_\_

Existing Use: \_\_\_\_\_ Proposed Use: \_\_\_\_\_

Is property owned individually, by a corporation, association, or a joint venture? Corporation

**AUTHORIZED REPRESENTATIVE**

I/we are fully aware of the request being made to the City of Dania Beach. If I/We are unable to be present, I/we hereby authorize \_\_\_\_\_ (individual/firm) to represent me/us in all matters related to this application. I/we hereby acknowledge that the applicable fee was established to offset administrative costs and is not refundable.

I/we are fully aware that all approvals automatically expire within 12 months of City of Dania Beach Planning and Zoning Board or City Commission approval, or pursuant to the expiration timeframe listed in Part 6 of the Dania Beach Land Development Code.

STATE OF FLORIDA  
COUNTY OF BROWARD  
The foregoing instrument  
was acknowledged

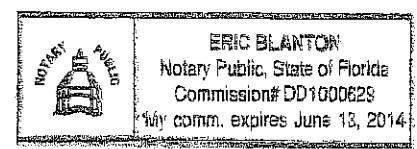
By: [Signature]  
(Owner / Agent signature\*)

BEFORE ME THIS 22<sup>nd</sup> DAY OF May, 2012

By: Bathia Dayan  
(Print name of person acknowledging)

\_\_\_\_\_  
(Joint owner signature if applicable)

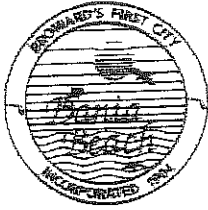
Notary [Signature]  
(Signature of Notary Public - State of Florida)



Personally known \_\_\_\_\_ or Produced Identification   
Type of identification produced: \_\_\_\_\_ or Drivers License D500-060-70-604-0

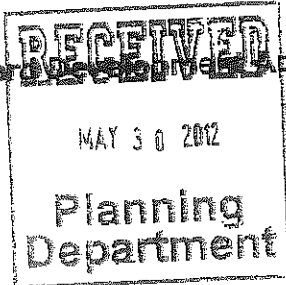
\*If joint ownership, both parties must sign. If partnership, corporation or association, an authorized officer must sign on behalf of the group. A notarized letter of authorization from the owner of record must accompany the application if an authorized agent signs for the owner(s).

**NO APPLICATION WILL BE AUTOMATICALLY SCHEDULED FOR A MEETING.  
ALL APPLICATIONS MUST BE DETERMINED COMPLETE BY STAFF  
BEFORE PROCESSING OCCURS.**



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 Department of Community Development  
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Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Recorded Plat Name: \_\_\_\_\_

Folio Number(s): 5041-25-01-0632 Legal Description: \_\_\_\_\_

Applicant/Consultant/Legal Representative (circle one) BATIA DAYAN

Address of Applicant: 4233 Griffin Rd.

Business Telephone: 9547928211 Home: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: learnandsmile@yahoo.com

Name of Property Owner: BATIA DAYAN

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Prop. Net Acreage: \_\_\_\_\_ Gross Acreage: \_\_\_\_\_ Prop. Square Footage: \_\_\_\_\_

Existing Use: \_\_\_\_\_ Proposed Use: \_\_\_\_\_

*Flex*

*\$4000 plus \$100 per acre for Portion of Acre  
 \$2500 Rezoning - from ? to ?  
 Res Commercial?*

Is property owned individually, by a corporation, association, or a joint venture? Corporation

AUTHORIZED REPRESENTATIVE

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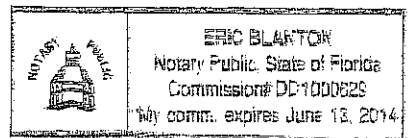
STATE OF FLORIDA  
COUNTY OF BROWARD  
The foregoing instrument  
was acknowledged

By: [Signature]  
(Owner / Agent signature\*)

BEFORE ME THIS 22<sup>nd</sup> DAY OF May, 2012

By: Bathia Davan  
(Print name of person acknowledging) (Joint owner signature if applicable)

Notary [Signature]  
(Signature of Notary Public - State of Florida)



Personally known \_\_\_\_\_ or Produced Identification   
Type of identification produced: \_\_\_\_\_ or Drivers License D 500-060-70-604-0

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BEFORE PROCESSING OCCURS.**

Batia Dayan  
4233 Griffin Road  
Dania, FL 33314



To: City of Dania Beach

From: Batia Dayan

RE: ARTICLE 645. REZONING                      4760 SW 42 Terrace , Dania, FL 33314

To whom it may concern,

The above location is situated directly behind our existing Learn and Smile Preschool. As an educator and children advocate I have dedicated my profession to create a preschool which meets the needs of our diverse populations and in return will enhance our community .My goal is to utilize the above location as an enrichment center for an early childhood setting such as a library center, an art center and a science center where children will be encouraged to explore and develop their social and academic skills. In addition, I would like to create a small setting for my office and a place for professional development workshops.

In return, the transition of the existing location from residential to commercial will be a great value to our community which will ensure a comprehensive preschool program to meet the needs of our diverse community and invite prospective families.

Sincerely,

Batia Dayan, M.S. Ed.

Learn and Smile Preschool

Director

Batia Dayan

4233 Griffin Road

Dania, FL 33314

To: City of Dania Beach

From: Batia Dayan

RE: ARTICLE 645. REZONING                      4760 SW 42 Terrace , Dania, FL 33314

Sec. 645-40. Review criteria; City commission action.

A. Application for a rezoning shall be reviewed in accordance with the following criteria:

(1)The request is consistent with the city's comprehensive plan;

**It is not consistent. The comprehensive plan is residential which cuts across existing commercial development. The entire block is commercial**

(2)The request is consistent with all applicable redevelopment plans, corridor plans, neighborhood plans, and master plans approved by the city commission;

**There are no current plans for this area. However, the west side master plan envisions a widening of the commercial property along Griffin Road.**

(3)The request would not give privileges not generally extended to similarly situation property in the area, or result in an isolated district unrelated to adjacent or nearby district;

a. The request furthers the city's adopted community Redevelopment Plan,

**a. Not applicable**

b. An error or ambiguity must be corrected;

**b. The following property is the only residential lot on a Commercial block and is separated by a main street by all residential properties.**

c. that there exists changed or changing conditions which make approval of the request appropriated;

**c. The change of zoning from Residential to Commercial will result in the proper zoning of the property and will conclude in the entire block being Commercial.**

d. that substantial reasons exist why the property cannot be used in accordance with the existing zoning;

**d. The current zoning of the property is residential, holding the property back from gaining full potential which will increase the overall value and revenue to the city.**



e. that the rezoning is appropriate for the orderly development of the city and is compatible with existing adjacent land use, and planned adjacent land uses

The above described land is situated behind our existing preschool where both back yards can be shared and connected.

The land is situated on the same block of a preschool and a gas station.

On the North side of the land is a gas station.

On the South side of the land is a restaurant.

The land is situated on a corner and is separated by a main road from all residential housing.



This Document Prepared By and Return to:  
Bernard Feldman  
Hollywood Title Services LLC  
5650 Stirling Road  
Hollywood Florida 33021  
954-929-9990

Parcel ID Number: 504125010622

# Warranty Deed

This Indenture, Made this 28th day of February, 2012 A.D., Between  
US IL 043 LLC, a Florida limited liability company

of the County of Broward, State of Florida, grantor, and  
4760 LLC, a Florida limited liability company

whose address is: 4760 SW 42nd Terrace, Dania Fl 33314

of the County of \_\_\_\_\_, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

TEN DOLLARS (\$10) DOLLARS,

and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Broward State of Florida to wit:

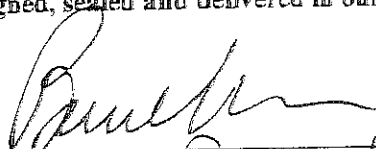
The North 66 feet of the West 65 feet of the East 315 feet of the South 241 feet of the South 1/2 of tract 32 of Newman's Survey in Section 25, Township 50 South, Range 41 East, according to the Plat (Continued on Attached)

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

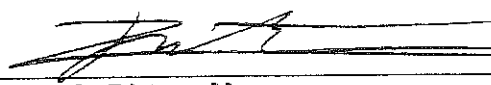
In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


US IL 043 LLC, a Florida limited liability company



Printed Name: Bernard Feldman  
Witness

By:  (Seal)

Charles C. Bitton, Manager  
P.O. Address: 4841 Pembroke Road, Hollywood, FL 33021

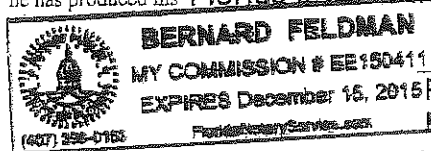


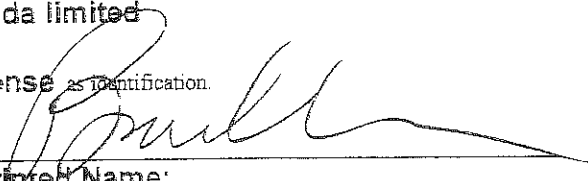
Printed Name: Danna Bitton  
Witness

STATE OF Florida  
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 28th day of February, 2012 by Charles C. Bitton, Manager of US IL 043 LLC, a Florida limited liability company

he is personally known to me or he has produced his Florida driver's license as identification.



  
Printed Name: \_\_\_\_\_  
Notary Public

My Commission Expires:

Warranty Deed - Page 2

Parcel ID Number: 504125010622

thereof, as recorded in Plat Book 2, Page 26, of the Public Records of Broward County, Florida, all lying and being in Broward County, Florida.

4760 SW 42nd Terrace, Davie, Florida 33314