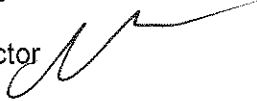




**CITY OF DANIA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

DATE: December 11, 2012
TO: Robert Baldwin, City Manager
FROM: Marc LaFerrier, AICP, Director 
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 (SECOND 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

The subject property is located on the north side of Griffin Road, immediately north of the applicant's daycare facility, Learn and Smile. Both properties are located immediately west of the Hess gasoline station. The applicant has owned the day care business 2005. The facility currently has approximately 60 children. However, the applicant has represented, through a revised letter of intent, that the subject property will have no association with the existing day care facility.

REZONING

The applicant is requesting to rezone the property from RS-6000 to C-2. The C-2 designation would be consistent with the other two (2) properties on the block, which both front on Griffin Road. The subject property fronts on SW 42 Terrace.

Any business that may locate on the property will have to follow all City regulations including, but not limited to, obtaining a Business Tax Receipt and provide required parking, as identified in Chapter 28 of the City's Code of Ordinance.

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.

CITY COMMISSION PREVIOUS ACTION

On November 27 the City Commission heard this item on first reading.

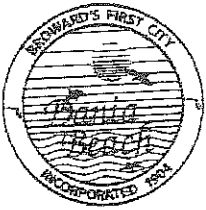
On August 14, 2012, August 28, 2012, September 11, 2012 and October 23, 2012 the City Commission continued this item at staff's request.

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 that would result in an expansion of the existing day care facility, provided the applicant addresses the parking prior to final approval of the rezoning and flex request. At the time of the Planning and Zoning Board hearing, the applicant agreed 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 since withdrawn that offer.

STAFF RECOMMENDATION

Approve.



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

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

(SEE APPLICATION TYPE SCHEDULE ON PAGES 3 & 4)

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 42nd 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

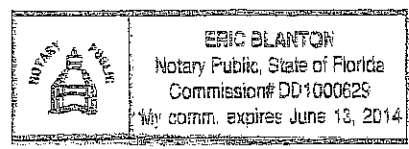
By: [Signature]
(Owner / Agent signature*)

BEFORE ME THIS 22nd 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).

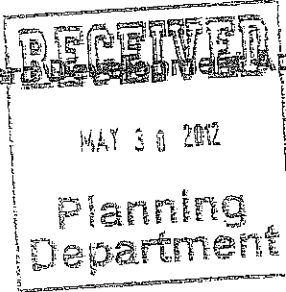
NO APPLICATION WILL BE AUTOMATICALLY SCHEDULED FOR A MEETING.

ALL APPLICATIONS MUST BE DETERMINED COMPLETE BY STAFF BEFORE PROCESSING OCCURS.



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.: RF-32-12

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 42nd Terrace, Dania FL 33314

Lot(s): _____ Block: _____ Subdivision: _____

Recorded Plat Name: _____

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

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

Address of Applicant: 4233 Griffin Rd.

Business Telephone: 9547928211 Home: _____ Fax: _____

E-mail address: learnandsmile@yahoo.com

Name of Property Owner: BATIA DAMAN

Address of Property Owner: 4233 Griffin Rd.

Business Telephone: 9547928211 Home: _____ Fax: _____

Explanation of Request: _____
 For Plats please provide proposed Plat Name for Variances 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: _____

Flex

\$4000 plus \$100 per acre of portion of Acreage
\$2500 Rezoning - from? to?
 Res Commercial?

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

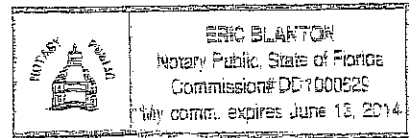
By: [Signature]
(Owner / Agent signature*)

BEFORE ME THIS 22nd DAY OF May, 2012

By: Bathia Dawan
(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 503-020-70-504-0

*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.

Batia Dayan

4760 SW 42 Terrace

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,

I am requesting to change the zoning of 4760 SW Terrace, Dania, FL 33314 from residential to commercial C-2. **The following property is the only residential lot on a Commercial block and is separated by a main street by all residential properties. 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.**

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.

Sincerely,

Batia Dayan

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.

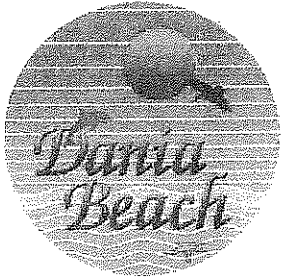
d. that substantial reasons exist why the property cannot be used in accordance with the existing zoning;

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

It is the only residential property on a commercial C-2 block.



City of Dania Beach FLORIDA

October 2, 2012

Learn and Smile Day Care
Batia Dayan
4233 Griffin Road
Dania Beach, FL 33314

Re: Rezoning (RZ-31-12) and Assignment of Flex (AF-32-12).

Dear Ms. Dayan:

On May 30, 2012 you submitted an application to the City of Dania Beach for a rezoning and assignment of flex for the property located at 4760 SW 42 Terrace in Dania Beach.

The application request has now been continued by the City Commission three (3) times, on August 14, 2012, August 28, 2012 and September 11, 2012 to allow you the opportunity to address the existing non-conforming status of the property by providing the required parking as determined by the City's Code of Ordinances. During this time the Community Development staff have met with you and your architect on numerous occasions in an effort to provide any assistance possible in resolving your issue.

At this time we are requesting you to notify us how you would like to proceed. Based on our review of your project several resolutions, which we discussed with you, that would allow you to address the non-conforming status of your property:

1. Provide all required parking spaces, as required by the City's Code of Ordinances, Chapter 28, Section 265-50, on site; or
2. Provide all required parking spaces through a combination of on site parking and an off-site parking agreement. The off-site parking agreement will have to follow all of the regulations identified in the City's Code of Ordinances, Chapter 28, Section 265-80 which requires any such agreement to be in perpetuity and to be recording in the Broward County Public Records; or
3. Propose alternative parking standards as provided for in the City's Code of Ordinance, Chapter 28, Section 265-60. Any proposed alternative parking standard must be reviewed and recommended by City staff and approved by the City Commission; or

"Broward's First City"

4. Request a parking variance, in combination with one of the options described above, to waive the least number of spaces necessary to be consistent with the City's Code of Ordinances, Chapter 28, Section 265-50. Hardship and vehicle/pedestrian circulation will be examined with the variance request. This option may include additional conditions.

In addition, it has been observed by Public Services and the Broward Sheriff's Office that the current parking and traffic circulation conditions at the existing facility are often a traffic hazard and unsafe. Therefore, we are asking that you proceed with resolving the non-conforming status of the property concurrently with the request to rezone and assign flex to the property.

We need a response from you let us know how you would like to proceed in writing on or before October 15, 2012. In you need additional time, please identify such a request in writing as well. If no response is provided, we will proceed with the public hearing in front of the City Commission on October 23, 2012 with a recommendation of denial.

As always, please feel free to contact me at (954) 924-6805, extension 3643.

Sincerely,



Marc LaFerrier, AICP
Community Development Division Director

CC: File

Lajoie, Corinne

From: Graham, Randy [Randy_Graham@sheriff.org]

Sent: Thursday, September 06, 2012 1:38 PM

To: Lajoie, Corinne

Subject: RE: daycare expansion

I just back from 3 weeks vacation so I'm not sure if this is to late or not. The parking or crossing in the street is a real safety concern for me on this.

From: Lajoie, Corinne [mailto:cchurch@ci.dania-beach.fl.us]

Sent: Thursday, August 16, 2012 12:51 PM

To: Navarro, Ronnie; Graham, Randy; 'Randy_Graham_@sheriff.org'

Subject: daycare expansion

Importance: High

The Learn and Smile daycare on Griffin Road, just west of the Hess gas station, is wanting to expand to the property to the north (shown below in read). I have concerns as they day care only has 6 parking spaces and it appears the majority of the parking occurs in the swale along SW 42 Terrace, as you can see in the aerial below.

The Zoning Code allows them to utilize an shared parking agreement with a neighboring property, which the applicant is currently trying to pursue, but I am not totally comfortable with that either, as it will require parents and children to cross SW 42 Terrace to gain access to the day care.

Please provide your comments on this matter ASAP as I have to get my staff report to the City Manager tomorrow.

Thanks.



Corinne Lajoie, AICP, LEED Green Associate



Lajoie, Corinne

From: Bell, Connie [Connie_Bell@sheriff.org]
Sent: Friday, August 17, 2012 11:01 AM
To: Lajoie, Corinne
Subject: RE: daycare expansion

Good Morning Corinne, as per our conversation, the parking situation at the Learn and Smile day care center is horrendous. The parents of the students have no safe parking solution when dropping off or picking up there children daily.

Detective Connie Y. Bell

**Crime Prevention Unit
Broward Sheriff Office
Dania Beach, Florida
(954) 518-0159**



Pride in Service with Integrity

Connie_Bell@sheriff.org

Please note that Florida has a broad public records law, and that all correspondence sent to me via email may be subject to disclosure.

From: Lajoie, Corinne [mailto:cchurch@ci.dania-beach.fl.us]
Sent: Friday, August 17, 2012 10:48 AM
To: Bell, Connie
Subject: FW: daycare expansion
Importance: High

Hello, as I mentioned in the voice mail message I left for you, I need your recommendation regarding traffic circulation and parking on this site.

8/17/2012



City of Dania Beach

Department of Public Services

100 West Dania Beach Blvd · Dania Beach, FL 33004 · (954) 924-3741 · (954) 923-1109 (Fax)

MEMORANDUM

TO: Marc LaFerrier, AICP
Community Development Director

FROM: Ronnie S. Navarro, P.E.,
City Engineer

DATE: October 3, 2012

SUBJECT: Proposed Learn and Smile Expansion



Based on the above picture, the existing facility is in dire need of adequate parking. Available parking on site is not adequate to meet current demand. Parking on the swale and allowing children to walk alongside the travelway is dangerous and unsafe for both pedestrians and motorists and should therefore be discouraged.

Public Services Department has no objection with the planned expansion as long as parking concerns are adequately addressed. Off-street parking facilities should meet present and future requirements as mandated by the City's code of ordinances.

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.

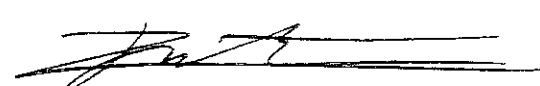
In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.


Signed, sealed and delivered in our presence:

US IL 043 LLC, a Florida limited liability company



Printed Name: Bernard Feldman
Witness

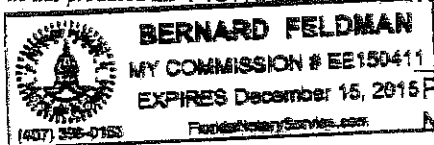
By:  (Seal)
Charles C. Bitton, Manager
P.O. Address: 4841 Pembroke Road, Hollywood, FL 33021

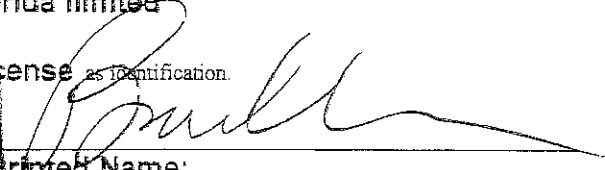

Printed Name: Danna Bitton
Witness

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