

RESOLUTION NO. 06-438Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A CONDITIONAL USE AND SITE PLAN FILED IN ACCORDANCE WITH SECTION 33-18 AND DIVISIONS 3.3 AND 3.4 OF THE TOWN CODE FOR APPROVAL OF A CHARTER SCHOOL CONSISTING OF 6TH THROUGH 12TH GRADE WITH A MAXIMUM OF 1,124 STUDENTS IN THE IU-C DISTRICT; TO PROVIDE FOR DEVELOPMENT IN ACCORDANCE WITH THE APPROVED SITE PLAN FOR PROPERTY LOCATED AT 5875 N.W. 163RD STREET, MIAMI LAKES, FLORIDA); PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 33-18 and Divisions 3.3 of the Town of Miami Lakes (the “Town”) Land Development Code (“LDC”), Mater Academy Inc. (the “Applicant”) has applied to the Town for approval of a conditional use (the “Conditional Use”) to permit a charter school consisting of 6th through 12th grade with a maximum of 1,124 students, (the “School”); and

WHEREAS, the Applicant proposes to operate the School on a 10.79 acre parcel with an existing two-story building of approximately 148,000 square feet and a one story building of approximately 6,166 square feet located at 5875 N.W 163rd Street, Miami Lakes, Florida (the “Property”) as legally described in Exhibit “A” hereto and attached by this reference; and

WHEREAS, pursuant to Policy 9.2.1 of the Town’s Comprehensive Plan schools may be located in all land use designations shown on the Future Land Use Map and the future land use designation under the Town’s Comprehensive Plan for the Property is Industrial and Office (IO); and

WHEREAS, the Property is zoned Industrial District Conditional (IU-C) on the Town’s official Zoning Map; and

WHEREAS, Pursuant to Policy 9.2.1 of the Town's Comprehensive Plan and Section 33-18 of the Town Code a school is permitted in the IU-C zoning district after having received approval from the Town Council after a duly noticed public hearing; and

WHEREAS, the Property is subject to prior approvals for an unusual use as set forth in Miami-Dade County Resolution No. 4-ZAB-289-81 for a heliport and variances for a day care center as set forth in Miami-Dade County Resolution No. Z-140-93; (the "MDC Resolutions"), a copy of which is attached as Exhibit "B" hereto and attached by reference; and

WHEREAS, pursuant to Division 3.4 of the Town Code the Applicant has requested approval of a Site Plan to permit the School and to provide for development in accordance with the newly approved Site Plan; and

WHEREAS, in accordance with division 3.9 of the LDC proper notice has been mailed to the appropriate property owners of record, the public hearing on the Conditional Use and Site Plan has been noticed for Tuesday, March 21, 2006 at 7:00 p.m. at Miami Lakes Middle School, 6425 Miami Lakeway North, Miami Lakes, FL 33014; and all interested parties have had the opportunity to address their comments to the Town Council; and

WHEREAS, Town Staff, has reviewed the Application and recommended denial of the Application, as set forth in the Staff Report dated March 21, 2006 and continued on April 18, 2006 and continued on May 16, 2006, and recommended modified approval on June 20, 2006 as per revised site plan attached hereto as Exhibit "C" and incorporated by reference (the "Staff Report"); and

WHEREAS, the Town Council finds approval of the revised site plan, attached as Exhibit "C" is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Findings.

(a) **Conditional Use.** In accordance with Division 3.3 of the LDC, the Town Council finds that the Applicant meets the criteria in Division 3.3(c), which are as follows:

1. Land Use Compatibility; and
2. Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use; and
3. Compliance with the Comprehensive Plan and Land Development Code; and
4. Proper Use of Mitigative Techniques; and
5. Hazardous Waste.

(b) **Site Plan.** In accordance with Division 3.4 of the LDC, the Town Council finds that the Applicant meets the criteria in Division 3.4(i), which are as follows:

1. The Site Plan is consistent with the Comprehensive Plan and the purpose of the zoning district in which it is located.
2. The Site Plan is in conformance with all applicable regulations of the zoning district in which it is located.
3. The Site Plan is in conformance with the Town requirements including the design and construction of streets utility facilities and other essential services.
4. The Site Plan is consistent with good design standards in respect to all external relationships, including, but not limited to:
 - a. Relationship to adjoining properties.
 - b. Internal circulation, both vehicular and pedestrian.
 - c. Disposition of open space, use of screening or buffering and preservation of existing natural features, including trees.
 - d. Building arrangements both between buildings in the proposed development and those adjoining the site.

5. The Site Plan is in conformance with the Town policy in respect to sufficiency of ownership, guarantee for completion of all required improvements and the guarantee for continued maintenance.

(c) **Physical and Review Standards.** In accordance with Section 33-18(c) of the LDC, the Town Council finds that the Applicant meets the Review Standards specified in Sections 33-151.19(a) through (m) of the Town Code.

Section 3. Approval/Denial.

The Town Council subject to the conditions set forth in Section 4 below, approves the Application consisting of:

- (1) The Conditional Use requesting approval of a School on the Property consisting of 6th through 12th grade limited to 1,124 students; and
- (2) The Site Plan dated June 1, 2006, entitled "Lakes Academy," prepared by Civica with sheets A-1 through A-6 and LA-1 through LA-2A (the "Site Plan").

Section 4. Conditions of Approval.

The Application is approved subject to the following conditions, which shall be binding up the Applicant, its successors, assigns and/or grantees:

1. That in the approval of the Site Plan, the same be in accordance with that submitted for the hearing entitled "Lakes Academy K-12", prepared by Civica, dated revised 6-01-06 on sheet A-1 through A-6 and LA-1 through LA-2A, and C1 through C7, provided that pedestrian connections be extended to ensure proper pedestrian connections to perimeter transit stops and to the subject school building prior to Certificate of Occupancy, and to meet with the Planning and Zoning Director's Approval.
2. That the use be established and maintained in accordance with the approved Site Plan.
3. That the use shall be restricted to a maximum number of 1,124 Jr. and Sr. High school students for grades 6th through 12th grade, with school enrollment limited at all times to a ratio of Town of Miami Lakes residents to non-resident student which shall be at least 80% resident student. The Applicant shall provide proof of compliance within 30 days of the beginning of the school year, no later than within 10 days of the beginning of the school year to meet with the approval of the Town Manager. The Town shall review and audit the compliance report at the Applicant's expense. The Applicant shall provide a deposit to initiate the audit and ensure compliance with the authorized maximum student enrollment numbers and resident student ratios as provided herein. The Applicant shall submit said compliance report on a monthly basis and shall provide notice to the Town of any newly enrolled students within 30 days of enrollment.

4. That the hours of operation be between 7:00 A.M. and 6:30 P.M. Any school activities and/or events outside of these operational hours shall require a special event permit from the Town of Miami Lakes, except for those "after hours" events that are typical student meetings; including parent-teacher meetings, educator and student workshops, graduation ceremonies for all grade levels, school open houses, seasonal and holiday programs, academic fairs, banquets, general club meetings (year book staff, etc), and returning from field trips. Student parking shall be restricted to seniors maintaining a minimum grade point average of 3.5 or better. All FHSAA sanctioned outdoor sporting events shall take place at off site locations.
5. That the use may be conducted on the premises on weekdays only, Monday through Friday inclusive, with the exception of typical student meetings as described in condition 4 herein. Any other school activities and/or events held outside of these operational hours shall require a special event permit from the Town.
6. That the Applicant shall comply with all Town Code requirements pertaining to lighting, noise, odors and other nuisances found in Sections 21-28, 33-4, and 33-4.1 of the Town Code. The Applicant shall abide by these requirements in such a manner as to not adversely impact the surrounding properties.
7. That the Applicant shall continuously maintain all fencing and landscaping material on the site.
8. That except as modified by the Town through a resolution approving the proposed conditional use and site plan, all the non-conflicting conditions of Resolution Z-140-93 with respect to the previously approved daycare use, and Resolution 4-ZAB-289-81 for a previously approved heliport shall remain in full force and effect except as herein modified, and as may be modified by any zoning resolution applicable to the subject property.
9. That as delineated in the correspondence of the Miami Dade County Aviation letter dated February 2, 2006 referenced in the Florida State Statutes, Chapter 333.03 no school structures or areas of mass assembly shall be permitted inside the State defined restrictive zones for the Opa Locka Airport.
10. That the site drainage deficiencies in connection with the subject private road designated along N.W 58th Avenue be corrected by the Applicant to meet with the approval of the Town Engineer, and that the Applicant provide Town of Miami Lakes off-duty police officers, at the Applicant's expense, at the intersection of N.W. 59th Avenue with NW 165th Terrace and NW 163rd Street to facilitate vehicular movement during school commencement and dismissal of each school day.
11. That the northern access point along the private road at N.W. 58th Avenue be limited to a right-in/ right-out movement or documentation shall be provided that allows usage of the eastern half of the aforementioned private road.

12. That the Applicant shall obtain a Certificate of Use and Occupancy and promptly renew the same annually, upon compliance with all terms and conditions, with the same subject to cancellation upon violation of any of the conditions.
13. That the perimeter improvements, including but not limited to (i) traffic control devices, (ii) signal timing modifications at Red Road, (iii) roadway improvements, and (iv) traffic signs, signals and markings be submitted to and, if applicable, subject to the approval of Miami-Dade County Public Works prior to the issuance of any Building Permit.
14. That the auto stacking and Outdoor Recreation Play Area be maintained by the Applicant in areas other than those identified as the No School Zone as delineated in the Miami-Dade County Aviation Department (MDAD) Letter dated February 3, 2006 and pursuant to Section 333.03 (2) (d), Florida Statutes, and that additional Outdoor Recreation Play Area be provided to meet with School Requirements (33.151.18) off-site prior to the issuance of a Certificate of Occupancy. The right to use the offsite facilities must be assured in an enforceable manner by the recording of a covenant in a form approvable for execution, to meet with the approval of the Town Attorney and Town Manager. In lieu of providing additional offsite Outdoor Recreation Play Area, the Applicant may set aside a minimum of 9,000 square feet within the main building for an indoor fitness and wellness center which shall include locker rooms, bathrooms, dance studio, aerobics areas, and other sport, fitness and recreation fitness elements.
15. That the Applicant shall provide the proposed recreation space and playgrounds completely enclosed by a concrete wall or fence in compliance with Section 33-12 Fences and Safety Barriers, to be so erected as to make the wall or fence that is not climbable and impenetrable, prior to Certificate of Use or Occupancy.
16. That, if the charter school facility is constructed, but fails to begin operation and/or the charter school fails after establishment, the property owner within 36 months shall cause:
 - (A) the facility to be in full compliance with all zoning regulations applicable to property on which the charter school is located and allowing a use other than the charter school use; or
 - (B) the operation of the charter school facility to be transferred to another charter school operator or the School Board, approved through applicable processes of the Miami-Dade County School Board; or
 - (C) the charter school facility to be converted to an allowable use within the zoning district, provided said allowable use has first been authorized through the issuance of the appropriate permits; or
 - (D) authorization to be obtained at public hearing to convert the charter school facility to a use not otherwise allowable within the zoning district.

17. The Applicant shall record this Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before a permit is issued for the school.
18. The Applicant shall obtain a building permit and all requisite inspections within one (1) year of the date of this approval. If a permit is not obtained or an extension granted within the prescribed time limit then this approval shall become null and void.

Section 5. Appeal.

In accordance with Division 3.10 of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.

Section 6. Violation of Conditions.

Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of the approval granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town before they may commence construction or operation, and that the foregoing approvals in this Resolution may be revoked by the Town Council at any time upon a determination that the Applicant is in non-compliance with the Town Code.

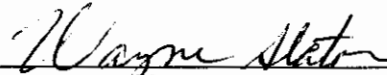
Section 7. Effective Date.

This Resolution shall take effect thirty (30) days following the date it is filed with the Town Clerk. If during that time frame, the decision of the Town Council is appealed as provided in the Land Development Code and the Florida Rules of Appellate Procedure, the appeal shall stay the effectiveness of this Resolution until said appeal is resolved by a court of competent jurisdiction.

The foregoing Resolution was moved by Michael Pizzi and seconded by Nancy Simon, and upon being put to a vote the motion carried with each Council Member voting as follows:

Mayor Wayne Slaton	yes
Vice Mayor Robert Meador	absent
Councilmember Roberto Alonso	yes
Councilmember Mary Collins	no
Councilmember Dorothy Cook	no
Councilmember Michael Pizzi	yes
Councilmember Nancy Simon	yes

PASSED AND ADOPTED this 20th day of June, 2006.



Wayne Slaton
MAYOR

ATTEST:



DEBRA EASTMAN, MMC TOWN CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR USE ONLY BY THE
TOWN OF MIAMI LAKES:



WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.A.