

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 12**

PH: Z14-096 (15-4-CZ12-3)

June 9, 2015

Item No. A

Recommendation Summary	
Commission District	8
Applicant	Children's Resource Fund, Inc.
Summary of Requests	The applicant is seeking approval of a private school use on the subject property with grades kindergarten through 6. Additionally, the applicant seeks to modify a previously approved resolution and declaration of restrictions to establish the aforementioned private school on the subject property, to increase the hours of operation for a previously approved nursery and kindergarten, and permit an existing detached sign to setback less than required from property lines.
Location	8571 SW 112 Street, Miami-Dade County, Florida.
Property Size	2.08 Acres
Existing Zoning	EU-1; Estates 1 Family 1 Acre Gross
Existing Land Use	Daycare/private school
2020-2030 CDMP Land Use Designation	Estate Density Residential (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(7) Generalized Modification Standards, Section 33-311(A)(3), Standards For Special Exceptions, Unusual Uses and New Uses, Section 33-311(A)(4)(b) Non-Use Variance <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval with conditions, subject to the Board's acceptance of the proffered covenant.

This item was deferred from the April 14, 2015 Community Zoning Appeals Board (CZAB) #12 meeting to allow for a request to be properly advertised.

REQUESTS:

- (1) SPECIAL EXCEPTION to permit a private school.
- (2) MODIFICATION of plans approved pursuant to Resolution #5-ZAB-306-94 passed and adopted by the Zoning Appeals Board, last modified by Resolution #CZAB12-8-07, passed and adopted by Community Zoning Appeals Board #12, reading as follows:

FROM: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Classroom Addition for Children's Center,' as prepared by Cohen, Freedman, Encinosa & Assoc. Architects, PA, dated stamped received July 03, 2006 consisting of five sheets."

TO: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Classroom Addition for Children's Center,' as prepared by Cohen, Freedman, Encinosa & Assoc. Architects, PA, Sheet A-00, dated stamped received 1/6/15 and the remaining 5 sheets dated stamped received 8/20/14 for a total of 6 sheets".

- (3) MODIFICATION of Condition #7 of Resolution #4ZAB-217-90, passed and adopted by the Zoning Appeals Board last modified by Resolution #CZAB12-8-07, passed and adopted by Community Zoning Appeals Board #12, reading as follows:

FROM: "7. Instructions will be limited to nursery and preschool age students".

TO: "7. The instructions will include nursery, preschool and elementary (grades K through 6 grade) age students."

- (4) MODIFICATION of Condition #5 of Resolution #Z-161-82, passed and adopted by the Board of County Commissioners, last modified by Resolution 5-ZAB-306-94, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "5. That the uses be conducted on the premises Monday through Saturday from 8:00 a.m. to 6:00 p.m."

TO: "5. That the uses be conducted on the premises Monday through Saturday from 7:30 a.m. to 6:00 p.m."

- (5) MODIFICATION of portions of Paragraph 3 of a Declaration of Restrictions, recorded in Official Records Book 16537 Pages 691 through 705, last modified by a Modification of a Declaration of Restrictions recorded at Official Records Book 16537 Page 69, as modified by the Modification of a Declaration of Restrictions recorded at Official Records Book 22264, Page 0054, recorded in Official Records Book 25669, Pages 3897-3900, reading as follows:

FROM: "3c. The use will be conducted on the premises Monday through Saturday from 8:00 AM to 6:00 PM."

"3d. Instruction will be limited to nursery and preschool age students."

"The Owner acknowledges that, because of the residential character of the neighborhood, it shall not seek approval: (i) to increase the size or height of the building, except as shown on the Plans; (ii) to increase the number of students, teachers, vehicles, parking spaces, except as shown on the Application and the Plans; (iii) to change the age group of the students; or (iv) to operate on Sundays or after 6:00p.m. To the extent permitted by the applicable zoning district regulations, nothing in this Declaration shall be interpreted to prohibit the Owner from holding parent/teacher meetings in the evenings."

TO: "3c. The use will be conducted on the premises Monday through Saturday from 7:30 AM to 6:00 PM."

"3d. The instruction will include nursery, preschool and elementary (grades K through 6 grade) age students."

The Owner acknowledges that, because of the residential character of the neighborhood, it shall not seek approval: (i) to increase the size or height of the building, except as shown on the Plans; (ii) to increase the number of

students, teachers, vehicles, parking spaces, except as shown on the Application and the Plans; or (iii) to operate on Sundays or after 6:00p.m. To the extent permitted by the applicable zoning district regulations, nothing in this Declaration shall be interpreted to prohibit the Owner from holding parent/teacher meetings in the evenings."

- (6) MODIFICATION of Paragraph #1 of a Declaration of Restrictions recorded in Official Records Book 16537 Pages 691 through 705, last modified by a Modification of a Declaration of Restrictions recorded at official records Book 16537, Page 691, as modified by the Modification of Declaration of Restrictions recorded at Official Records Book 22264, Pages 0054 as recorded in Official Records Book 25649, pages 3897-3900, reading as follows:

FROM: "1. Substantial Compliance with Plans. "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Classroom Addition for Children's Center,' as prepared by Cohen, Freedman, Encinosa & Assoc. Architects, P.A., dated stamped received 7/3/06 and consisting of five (5) sheets."

TO: "1. Substantial Compliance with Plans. "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Classroom Addition for Children's Center,' as prepared by Cohen, Freedman, Encinosa & Assoc. Architects, PA, Sheet A-00, dated stamped received 1/6/15 and the remaining 5 sheets dated stamped received 8/20/14 for a total of 6 sheets".

The purpose of requests #2 through #6 is to submit a revised site plan showing a new covered canopy play area, to increase the grades from K through 6th grade and to increase the hours of operation for a previously approved nursery and kindergarten.

- (7) NON-USE VARIANCE to permit an existing detached sign setback 4.6' from the rights-of-way for both SW 87th Avenue and SW 112 Street (15' required for both).

The aforementioned plans are on file and may be examined in the Department of Regulatory and Economic Resources. Plans may be modified at public hearing.

PROJECT HISTORY & DESCRIPTION:

On June 9, 1982, the subject property was part of a zoning hearing that requested a special exception to permit a private school with grades kindergarten through 8. Said request was approved by the Zoning Appeals Board with conditions pursuant to Resolution 4-ZAB-190-82 but was appealed to the Board of County Commissioners who sustained the decision of the Zoning Appeals Board to approve the request pursuant to Resolution No. Z-161-82. In 1990, the property was once again the subject of a public hearing requesting an unusual use to permit a day nursery and preschool in conjunction with a special exception to permit the expansion of an existing building and modification of conditions for new hours of operation, limiting the school age of children, additional teachers and teacher assistants, and additional vehicles to serve the facility. These requests were sought to amend the conditions existing on the site relative to the private school use to coincide with the proposed and anticipated day nursery/preschool use. Said requests were approved pursuant to Resolution 4-ZAB-217-90. In 1999, non-use variances to permit a larger monument sign and to permit a second sign on the subject property were sought and approved by Community Zoning Appeals Board-12 (CZAB-12), pursuant to Resolution No. CZAB12-24-99.

In 2001, the Children's Resources Fund, Inc. applied for a public hearing requesting a modification of a condition of a previous resolution to increase the number of children for the school and to modify a Declaration of Restrictions to extend hours of the day care service for additional school children. A non-use variance to permit less classroom area than required was also requested as part of the hearing. The requests were approved on a modified basis with conditions, pursuant to Resolution No. CZAB12-7-01. In 2007, pursuant to Resolution No. CZAB12-8-07, several requests were approved to modify previously approved plans, conditions and a Declaration of Restrictive Covenants which allowed for the physical expansion of a previously approved school and increased the number of teachers and classrooms and students. The applicant was also approved to permit new construction to encroach into setbacks.

The subject 2.08-acre, EU-1 zoned lot is located at 8571 SW 112 Street and is currently used as a daycare/private school from infant to pre-k grade. There is a church to the north of the subject property, a Montessori School to the south, a single-family residence to the east and a vacant parcel to the west. The existing buildings on the subject site are all one story in height and maintain the single-family residential scale commonly found in the estate density area surrounding the subject property. Further, the school property is located at the intersection of a section line road (SW 87 Avenue) and a half-section line road (SW 112 Street). **Staff notes that the applicant is not requesting an increase in the number of students, which was approved for a maximum of 104 students on the subject property.**

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	EU-1; Children's Resources Fund School	Estate Density Residential, 1 to 2.5 dua
North	EU-1; church	Estate Density Residential, 1 to 2.5 dua
South	EU-1; Montessori School	Estate Density Residential, 1 to 2.5 dua
East	EU-1; single-family residence	Estate Density Residential, 1 to 2.5 dua
West	EU-S; vacant property	Estate Density Residential, 1 to 2.5 dua

NEIGHBORHOOD CHARACTER:

The subject property is located on the northeast corner of SW 87 Avenue (Galloway Road) and SW 112 Street (Killian Drive). The area surrounding the subject property is developed with single-family homes and institutional uses such as schools and houses of worship.

SUMMARY OF IMPACT:

The approval of this application will provide the members of the existing daycare and the community with a new private school including grades kindergarten through 6. However, since the proposed use will be located in the existing buildings, no new visual impacts will be created on the surrounding neighborhood. Further, staff opines that approval of the proposal will not create a negative impact on traffic on the abutting roadways based on the memorandum from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the subject property for **Estate Density Residential** use. *The Estate Density Residential land use designation falls within the Residential Communities category that also permits neighborhood and community services including **schools**, parks, houses of worship, day care centers, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of the Comprehensive Development Master Plan (CDMP) and compatible with the neighborhood.* Staff notes that the criteria to evaluate compatibility among proximate land uses is outlined in the CDMP Land Use Element, **Policy LU-4A**, among which are *access, traffic, parking, height, bulk scale of architectural elements, buffering, and landscaping as applicable.*

The applicant proposes to utilize the existing buildings on the subject site for a new private school with grades kindergarten through 6, while modifying the starting time from 8 am to 7:30 am. Additionally, the applicant seeks approval of a detached sign setback less than required from the west and south property lines. Staff opines that the proposed use would not generate additional traffic for the surrounding area, and the use is compatible with the area given that: the bulk and scale of the structures are similar to the abutting residential developments; does not exceed the maximum height requirement for this residential zoning designation; provides adequate access to the property, and exceeds the minimum parking requirements. Therefore, staff opines that approval of the proposed use is **compatible** with the surrounding neighborhood, in accordance with Policy LU-4A criteria.

Staff also opines that the proposed private school use would be adequately buffered by the existing landscaping elements which include the required street and lot trees and hedges. Staff further opines that approval of same would not create any new visual impacts on the surrounding properties or on passersby along the abutting area roadways. Additionally, staff opines that the overall design of the existing buildings and location provide for a cohesive campus for the proposed private school because the façade and scale were previously designed to match that of the existing surrounding residential community. For these reasons, staff is of the opinion that the approval of the proposed private school use is **compatible** with the area based on the criteria described in the CDMP Land Use Element **Policy LU-4A** and **consistent** with the CDMP Land Use Element interpretative text for the **Residential Communities**, and the CDMP Land Use Plan map designation for the subject property.

ZONING ANALYSIS:

When request #1, to permit a private school with grades kindergarten through 6 on the property is reviewed under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New Uses, staff opines that the approval of this request would be **compatible** with the surrounding residential community. Staff opines that based on memoranda from the Division of Environmental Resource Management (DERM) of the Department of Regulatory and Economic Resources (RER), the Miami-Dade Fire Rescue Department (MDFRD) and the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources, approval with conditions of the request would not generate or result in excessive traffic or burden public facilities. Staff notes that all existing and new buildings being proposed are and would be one story in height to maintain the single-family residential scale commonly found in the estate density area surrounding the subject property. Staff further notes that the property is surrounded by other institutional uses such as a Montessori School to the south and houses of worship to the north and southwest. The private school is an existing lawful non-residential use in an estate density land use category and its expansion to include grades kindergarten through 6, designed with the same architectural scale as the surrounding community and with landscaping buffers to lessen any adverse impacts on

adjacent residential uses, is in keeping with other similar uses in the immediate area and **compatible** with the neighborhood. **Therefore, staff recommends approval with conditions of request #1, under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New uses.**

When requests #2 through #6, to modify conditions of a prior resolution and declaration of restrictions to allow the applicant to have elementary grades students along with the previously approved nursery and preschool age students, and increase the hours of operation for a previously approved nursery & kindergarten, are analyzed under Section 33-311(A)(7), **General Modification Standards**, staff opines that approval of the same would be **compatible** with the surrounding neighborhood. Staff notes that the existing buildings on the subject property will be used for the proposed private school use and therefore will not create any new visual impact to the surrounding area. Again, staff notes that the buildings footprints are not changing to accommodate the proposed grade levels. The existing project incorporates abundant landscaping in the form of trees and hedges to buffer adjacent land uses from any aural or visual impacts generated by the proposed grade levels increase on the surrounding area. Staff further notes that approval of this application will not increase the number of students, which is approved for a maximum of 104 students on the subject property. Additionally, the applicant has submitted a revised covenant that restricts the development of the subject property to the submitted plans, new hours of operation and maintains all the prior restrictions that are not modified with this application.

Staff opines that the existing parking and traffic configuration for the drop off and pick up of the existing students provides a controlled and orderly parking situation that benefits the esthetic character of the site and of the surrounding area. Staff further opines that the proposed 30-minute increase in the hours of operation from 8:00 am to 7:30 am will not detrimentally impact the surrounding area. Moreover, the memoranda submitted by the Departments concerned with reviewing this application do not object to the proposed application. The Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER) memorandum states that the application will not generate any new additional daily peak hour trips, will not exceed the acceptable level of service of the surrounding roadways and meets the traffic concurrency criteria for an Initial Development Order.

The Division of Environmental Resources Management (DERM) of the RER indicates that the approval with conditions of the aforementioned request will not have an unfavorable impact on the environmental resources of the County. Additionally, the memorandum from the Miami-Dade Fire Rescue Department does not indicate that the proposed facilities will have a negative impact on fire rescue services in the area. Based on the aforementioned, staff opines that the proposed private school use will not generate excessive noise or traffic, provoke excessive overcrowding of people, tend to provoke a nuisance, and would be **compatible** with the surrounding residential area. **Therefore, staff recommends approval with conditions of requests #2 through #6, subject to the Board's acceptance of the proffered covenant under Section 33-311(A)(7) Generalized Modification Standards.**

When request #7, to permit an existing detached sign setback 4.6' (15' required) from the SW 87th Avenue (west) property line and SW 112 Street (south) property line, is analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff opines that approval with conditions of this request would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations. Staff notes that in order to mitigate any visual impact generated from the existing detached sign, the landscape plan depicts ample landscaping along the aforementioned property lines in the general area where the sign is located. Staff further notes that the detached sign is setback 4.6' from the said property lines which, in staff's opinion, is sufficient to mitigate any visual impacts along an existing 80' wide section line right-of-way (SW

87 Avenue) and an existing 70' wide half-section line right-of-way (SW 112 Street). As such, staff opines that approval of request #7 will not have a negative visual impact on the surrounding area. Staff further notes that the Platting and Traffic Review Section of the RER does not object to the approval of this request. Staff further opines the requested non-use variance will have minimal impact on the surrounding area, provides curb appeal to the subject property and would be compatible with same. **As such, staff recommends approval with conditions of request #7 under Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.**

ACCESS, CIRCULATION AND PARKING: N/A.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION: Approval with conditions, subject to the Board's acceptance of the proffered covenant.

CONDITIONS FOR APPROVAL:

1. That all the conditions of Resolution #4ZAB-217-90, last modified by Resolution #CZAB12-8-07 remain in full force and effect, except as herein modified.
2. That all other paragraphs of Declaration of Restrictions, recorded in Official Records Book 22264, Pages 0054 thru 0058 remain in full force and effect except as herein modified.
3. That all other paragraphs of Declaration of Restrictions, recorded in Official Records Book 16537 Pages 691 through 705, last modified by a Modification of a Declaration of Restrictions recorded at official records Book 16537, Page 691, as modified by the Modification of Declaration of Restrictions recorded at Official Records Book 22264, Pages 0054 as recorded in Official Records Book 25649, pages 3897-3900 remain in full force and effect except as herein modified.
4. That the applicant obtain a Certificate of Use from and promptly renew the same annually with the Department of Regulatory and Economic Resources, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
5. That the school gates be opened at least 45 minutes prior to the arrival and dismissal times.
6. That at the time of Certificate of Use renewal and each subsequent renewal, the owner shall submit to the Department of Regulatory and Economic Resources a letter from the principal of the school detailing the number of students and the grade levels that are currently enrolled in said facility.
7. That no outside speakers other than in connection with emergency systems shall be permitted on the property.
8. That the waste pick-up for the school shall be performed by a private commercial entity and shall be limited to pick-up between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except during arrival and dismissal times.

9. That night activities and/or special events shall be limited to twelve (12) events per year and shall end no later than 10:00 PM.
10. That the outside lighting shall be permitted with the proper shielding according to Miami-Dade County Code.

ES:MW:NN:EJ:JV



Nathan Kogon, AICP, Assistant Director
Development Services Division
Miami-Dade County
Regulatory and Economic Resources Department

now

ZONING RECOMMENDATION ADDENDUM

Children's Resource Fund, Inc.
Z14-096

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Division of Environmental Resources Management (RER)	No objection
Platting and Traffic Review Section (RER)	No objection
Parks, Recreation & Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Schools	No objection
*Subject to conditions in their memorandum.	

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

Estate Density (Pg. I-31)	<i>The Adopted 2020 and 2030 Land Use Plan designates the subject property as being within the Urban Development Boundary for Estate Density Residential. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre.</i>
Residential Communities (Pg. I-26)	<i>The areas designated Residential Communities permit housing types ranging from detached single-family to attached multifamily buildings, as well as different constructions systems. Also permitted in residential Communities are neighborhood and community services including schools, parks, houses of worship, day care centers, group housing facilities, and utility facilities only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The character of the "neighborhood" reflects the intensity and design of developments mix of land uses, and their relationship.</i>
Land Use Element LU-4A (Pg. I-11)	<i>When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.</i>

PERTINENT ZONING REQUIREMENTS/STANDARDS

33-311(A)(3) Special exceptions, unusual and new uses	<i>Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development. For purposes of public hearing, a site plan shall be considered one (1) special exception, and upon approval of a site plan by the Community Zoning Appeals Board and/or the Board of County Commissioners, all non-use variances incorporated within and reflected upon the site plan shall be considered a part thereof, and official approval of the site plan shall constitute approval of all such non-use variances, unless otherwise so moved by the approving board.</i>
--	---

ZONING RECOMMENDATION ADDENDUM

Children's Resource Fund, Inc.
Z14-096

Section 33-311(A)(7) Generalized Modification Standards.	<i>The Board shall hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.</i>
33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations	<i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.</i>