

ORDINANCE NO. 2013 - 11

1  
2 AN ORDINANCE OF BROWARD COUNTY, FLORIDA, ADOPTING A  
3 SMALL SCALE AMENDMENT TO THE BROWARD COUNTY  
4 COMPREHENSIVE PLAN; AMENDING THE 1989 BROWARD COUNTY  
5 LAND USE PLAN MAP IN THE CITY OF POMPANO BEACH;  
6 PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN  
7 EFFECTIVE DATE.

8 (Sponsored by the Board of County Commissioners)

9 WHEREAS, Broward County adopted the 1989 Broward County Comprehensive  
10 Plan on March 1, 1989; and

11 WHEREAS, the Department of Economic Opportunity has found the Broward  
12 County Comprehensive Plan in compliance with the Community Planning Act; and

13 WHEREAS, Broward County now wishes to propose an amendment to the Plan;  
14 and

15 WHEREAS, the Planning Council, as the local planning agency for the Broward  
16 County Land Use Plan, held its hearings on December 6, 2012, and January 24, 2013,  
17 with due public notice; and

18 WHEREAS, the Board of County Commissioners held an adoption public hearing  
19 on February 26, 2013, at 2:00 p.m. [complying with the notice requirements specified in  
20 Subsection 163.3184(11), Florida Statutes], at which public comment was accepted and  
21 considered; and

22 WHEREAS, the Board of County Commissioners after due consideration of all  
23 matters hereby finds that the following amendment to the 1989 Broward County  
24 Comprehensive Plan is consistent with the State Plan, Regional Plan, and the Broward  
County Comprehensive Plan; complies with the requirements of the Community

Approved BCC 2/26/13, #5  
Submitted By Planning Council  
RETURN TO DOCUMENT CONTROL

13

1 Planning Act; and is in the best interests of the health, safety, and welfare of the  
2 residents of Broward County; and

3 WHEREAS, the proposed amendment constitutes a Broward County permitted  
4 small scale development amendment to the Broward County Comprehensive Plan  
5 pursuant to Subsection 163.3187(1), Florida Statutes.

6 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
7 BROWARD COUNTY, FLORIDA:

8 Section 1. The 1989 Broward County Land Use Plan Map is hereby amended  
9 by amendment PC 12-4 in the City of Pompano Beach, set forth in Exhibit A, attached  
10 hereto and incorporated herein.

11 Section 2. SEVERABILITY.

12 If any section, sentence, clause or phrase of this Ordinance is held to be invalid  
13 or unconstitutional by any court of competent jurisdiction, then said holding shall in no  
14 way affect the validity of the remaining portions of this Ordinance.

15 Section 3. EFFECTIVE DATE.

16 1. The effective date of the plan amendment set forth in this Ordinance shall  
17 be the latter of:

18 (a) Thirty-one (31) days after the adoption of this Ordinance;

19 (b) The date a final order is issued by the Department of Economic  
20 Opportunity or the Administration Commission finding the amendment to be in  
21 compliance; or

22 (c) If a Declaration of Restrictive Covenants is applicable, as per Exhibit B,  
23 the date the Declaration of Restrictive Covenants is recorded in the Public Records of  
24 Broward County.

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2. This Ordinance shall become effective as provided by law.

ENACTED February 26, 2013

FILED WITH THE DEPARTMENT OF STATE March 6, 2013

EFFECTIVE March 6, 2013

MA/gmb  
01/15/13  
#13-401.01  
PC12-4 CityofPompanoBeach.smallscaleord



**SECTION I**  
**AMENDMENT REPORT**  
**BROWARD COUNTY LAND USE PLAN**  
**PROPOSED AMENDMENT PC 12-4**  
**(POMPANO BEACH)**

**RECOMMENDATIONS/ACTIONS**

**DATE**

**I. Planning Council Staff Recommendation**

**November 27, 2012**

Planning Council staff finds that the proposed amendment is generally consistent with the goals, objectives and policies of the Broward County Land Use Plan. Therefore, it is recommended that the proposed amendment to the Broward County Land Use Plan be approved.

**Update: January 15, 2013:** Planning Council staff recommendation of approval recognizes the applicant's voluntary commitment regarding the provision of age-restricted affordable housing. It is also recommended that any approval be conditioned on the execution of a legally enforceable mechanism regarding the voluntary commitments offered by the applicant.

**II. Planning Council First Public Hearing Recommendation**

**December 6, 2012**

Approval per Planning Council staff recommendation. (Vote of the board; Unanimous: 14-0; Bascombe, Bocard, Castro, DuBose, Good, Graham, Gunzburger, Hobby, Long, Mack, Reinstein, Steffens, Stermer and Fisher)

**III. Planning Council Second Public Hearing Recommendation**

**January 24, 2013**

Approval per Planning Council staff recommendation. (Vote of the board; Unanimous: 18-0; Bascombe, Bocard, Case, de Jesus, DuBose, Fisher, Good, Graham, Hobby, Kiar, Lazarow, Long, Mack, Reinstein, Ryan, Steffens, Stermer and Castro)

**IV. County Commission Final Action**

**February 26, 2013**

Approved per Planning Council recommendation.

**SECTION II**  
**AMENDMENT REPORT**  
**PROPOSED AMENDMENT PC 12-4**

**INTRODUCTION AND APPLICANT'S RATIONALE**

- I. Municipality: Pompano Beach
- II. County Commission District: District 2
- III. Site Characteristics
  - A. Size: Approximately 8.7 acres
  - B. Location: In Section 35, Township 48 South, Range 42 East; generally located on the east side of Northwest 6 Avenue, between Northwest 10 Street and Northwest 15 Street.
  - C. Existing Uses: Religious institution and vacant
- IV. Broward County Land Use Plan (BCLUP) Designations
  - A. Current Designations: 4.5 acres of Medium (16) Residential  
2.5 acres of Commercial  
1.7 acres of Low-Medium (10) Residential
  - B. Proposed Designation: Irregular (29) Residential
  - C. Estimated Net Effect: Reduction of 2.5 acres of commercial use  
Addition of 163 dwelling units [89 dwelling units currently permitted by the Broward County Land Use Plan]
- V. Existing Uses and BCLUP Designations Adjacent to the Amendment Site
  - A. Existing Uses:
    - North: Multi-family residential
    - East: Multi-family residential
    - South: Single-family residential and vacant
    - West: Educational facility

**INTRODUCTION AND APPLICANT’S RATIONALE (continued)**

V. Existing Uses and BCLUP Designations Adjacent to the Amendment Site (continued)

- B. *Planned Uses:*
  - North:* Commercial and Medium (16) Residential
  - East:* Medium (16) Residential
  - South:* Medium (16) Residential and Low-Medium (10) Residential
  - West:* Community Facilities and Commercial

VI. Applicant/Petitioner

- A. *Applicant:* Archdiocese of Miami – St. Joseph Haitian Church
- B. *Agent:* Suzanne A. Dockerty, Esq.
- C. *Property Owner:* Archdiocese of Miami – St. Joseph Haitian Church

VII. Recommendation of Local Governing Body:

The City of Pompano Beach recommends approval. The City adopted the corresponding local amendment October 23, 2012.

VIII. Applicant’s Rationale

The applicant states: “The applicant requests the Land Use Plan Amendment to allow development of up to 252 residential units (29 units per acre) for low income seniors.

Both the Broward County Land Use Plan (1.00.00) and the City of Pompano Beach Comprehensive Plan (01.15.05) have stated goals of providing convenient and affordable housing opportunities to all segments of the population, including seniors.

The Applicant has done market analysis in the geographic area where the project will be located. The research supports a strong demand for affordable senior housing. The County’s Comprehensive Plan data indicate senior housing needs of 11,122 households and only 402 existing. The City’s Plan data indicate senior housing needs of 402 and none existing. The research findings compare this proposed development, plus all similar projects constructed in the County since 1999, and calculated the unmet need rate of 4.2 to 6.7 percent. The inventory of affordable housing for seniors within the market total 20 projects with 2,613 units. The average current occupancy was 100% with wait lists averaging 140 residents, or 2.4 years. Based on this survey data, the need is significantly outpacing demand.”

**EXHIBIT B**

A draft Declaration of Restrictive Covenants has been filed and is required to be approved by the appropriate attorneys, and executed and recorded by the applicant.



Prepared by and return to:  
Suzanne A. Dockerty, Esquire  
J. Patrick Fitzgerald & Associates, P.A.  
110 Merrick Way, Suite 3B  
Coral Gables, Florida 33134

**AFFORDABLE HOUSING AND AGE RESTRICTED COVENANT**

**KNOW ALL BY THESE PRESENTS** that The Most Reverend Thomas G. Wenski, Archbishop of the Archdiocese of Miami, his successors in office, a corporation sole, with an address at 9401 Biscayne Boulevard, Miami Shores, Florida 33138 (the "Owner") hereby makes, declares and imposes on the land herein described, these covenants running with the title to the land, which shall be binding on the Owner, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them:

**WHEREAS**, Owner holds the fee simple title to the land in Broward County, Florida, described in Exhibit "A," attached hereto and made a part of hereof, hereinafter called the "Property".

**WHEREAS**, Owner has filed a Rezoning Application with the City of Pompano Beach, Florida (the "City") and a Small Scale Land Use Plan Amendment Application with the City and with Broward County, Florida (the "County") to allow development of up to a 251 unit residential apartment for low income seniors; and

**WHEREAS**, Owner currently has a church and ancillary uses on the Property which will remain active; and

**WHEREAS**, in order to assure the City and the County that the representations made to them by the Owner in the Rezoning Application and the Small Scale Land Use Plan Amendment Applications will be abided by, the Owner, its successors and assigns, freely, voluntarily and without duress, makes the following Covenant covering and running with the Property:

**WHEREAS**, Owner is also submitting this Covenant to obtain approval for the grant of exemptions of impact fees for roads, fire, police, parks and schools that may be eligible and applicable.

**NOW, THEREFORE**, in consideration of the covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, applicant, its successors and assigns, does hereby covenant and agree as follows:

- 1: General. Owner agrees to develop the Property with up to a 251 unit residential apartment for the low income occupants and restrict occupancy for those with one person

being 62 years of age and older, in a manner not inconsistent with federal, state and local regulations.

2. Covenant Running With the Land. This Covenant shall constitute covenant running with the land and shall be recorded in the Public Records of Broward County, Florida, and shall remain in full force and effect and shall be binding upon applicant and its successors and assigns until such time as the same is modified or released or as otherwise provided in this Covenant.
3. Amendments. This Covenant runs in favor of and for the benefit of the City and County. This Covenant shall not be modified, amended, or released as to any portion of the Property except by written instrument, executed by the then owner(s) of the portion of the Property affected by such modification, amendment, or release and approved in writing by the City and County. Any modification, amendment, or release of this Covenant shall be recorded in the Public Records of Broward County, Florida
4. Governing Law. This Covenant shall be governed by and construed in accordance with the laws of the State of Florida, both as to substantive rights and those governing remedies.
5. Notice. Any notice required to be given herein shall be given by personal delivery or by certified U.S. mail or overnight express delivery at the address specified above.
6. Severability. If any provision of this Covenant shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

[Signature Pages Directly Follow]

Signed, witnessed, executed and acknowledged on this 29 day of June 2012.

Witnesses

By: [Signature]  
Print Name: Janet Brancato

By: [Signature]  
The Most Reverend Thomas G. Wenski,  
Archbishop of the Archdiocese of Miami, his  
successors in office, a corporation sole

By: [Signature]  
Print Name: Rev. Alvaro Pinzon

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me the 29 day of June, 2012  
by the Most Reverend Thomas G. Wenski, Archbishop of the Archdiocese of Miami, his  
successors in office, a corporation sole

Notary Public

[Signature]  
Print Name: Janeth McPherson Arguello

My Commission Expires:



Janeth McPherson-Arguello  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE095931  
Expires 5/20/2015

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

The Plat of "St. Joseph Haitian Catholic Mission" as recorded in Plat Book 142 at Page 5, of the Public Records of Broward County, Florida,

THE SAME BEING DESCRIBED AS FOLLOWS:

A parcel of land in the South 1/2 of the Northeast 1/4 of the Northwest 1/4 of Section 35, Township 48 South, Range 42 East, said parcel being more particularly described as follows:

Commencing at the intersection of the North line of said South 1/2 of the Northeast 1/4 of the Northwest 1/4 of Section 35, with the Easterly Right of Way Line of N. W. 6<sup>th</sup> Avenue; thence run South 0 degrees 48 minutes 19 seconds East (on an assumed bearing) 221.92 feet along said Easterly Right of Way line to the Point of Beginning; thence run North 89 degrees 50 minutes 35 seconds East 829.59 feet along a line parallel with the South line of the Northeast 1/4 of the Northwest 1/4 of Section 35; thence run South 0 degrees 17 minutes 59 seconds West 442.42 feet along the West line of the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of the Northwest 1/4, to an intersection with said South line of the Northeast 1/4 of the Northwest 1/4 of said Section 35; thence run South 89 degrees 50 minutes 35 seconds West 821.06 feet along said South line, to an intersection with said East Right of Way line of N. W. 6<sup>th</sup> Avenue; thence run North 0 degrees 48 minutes 19 seconds West 442.42 feet along said East Right of Way line, to the Point of Beginning.

Said lands situate in the City of Pompano Beach, Broward County, Florida, and containing 8.382 Acres, more or less.

STATE OF FLORIDA )  
 ) SS  
COUNTY OF BROWARD )

I, Bertha Henry, County Administrator, in and for Broward County, Florida, and ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Ordinance 2013-11 as the same appears of record in the minutes of said Board of County Commissioners held on the 26<sup>th</sup> day of February, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 7<sup>th</sup> day of March, 2013.

Bertha Henry  
COUNTY ADMINISTRATOR

  
Deputy Clerk

