

Approved: \_\_\_\_\_ Mayor

Veto: \_\_\_\_\_

Override: \_\_\_\_\_

**RESOLUTION NO. Z-1-08**

*WHEREAS, MERRINECK ESTATES L. L. C. & MEDICO INTERNATIONAL REALTY*

**HOLDINGS L. L. C.** applied to Community Zoning Appeals Board 12 for the following:

- (1) RU-5A to RU-5
- (2) DELETION of a Declaration of Restrictions recorded in Official Record Book 12486, Pages 842-847.

The purpose of request #2 is to remove a restriction requiring the property to be used only as an architect's office, florist, sod and nursery business and to allow the development of the site in accordance with the proposed zoning.

- (3) Applicant is requesting to permit parking within 25' of an official right-of-way (none permitted).

Upon a demonstration that the applicable standards have been satisfied, approval of request #2 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing) and approval of request #3 may be considered under §33-311 (A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Galloway Medical Pavilion," as prepared by Bellon, Milanese, Architects and Planners, dated stamped received 5/9/07 and consisting of 6 sheets.

SUBJECT PROPERTY: PARCEL "A": Tract 33 of DADE COUNTY DEVELOPMENT CO. SUBDIVISION, Plat book 1, Page 84 in Section 33, Township 54 South, Range 40 East, less the south 450' and less the right-of-way, Official Record Book 9451, Page 1178. AND: PARCEL "B": The north 111' of the south 450' of Tract 33 of DADE COUNTY DEVELOPMENT CO. SUBDIVISION, Plat book 1, Page 84 in Section 33, Township 54 South, Range 40 East, Plat book 1, Page 84.

LOCATION: 7600 and 7650 S.W. 87 Avenue, Miami-Dade County, Florida, and

*WHEREAS*, a public hearing of Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 12 that the requested district

boundary change to RU-5 (Item #1), and the requests to delete a Declaration of Restrictions recorded in Official Record Book 12486, Pages 842-847 (Item #2), and to permit parking within 25' of an official right-of-way (Item #3) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and said application was denied by Resolution No. CZAB12-23-07, and

**WHEREAS, MERRINECK ESTATES L. L. C. & MEDICO INTERNATIONAL REALTY HOLDINGS L. L. C.** appealed the decision of Community Zoning Appeals Board 12 to the Board of County Commissioners for the following:

- (1) RU-5A to RU-5
- (2) DELETION of a Declaration of Restrictions recorded in Official Record Book 12486, Pages 842-847, only as it applies to the subject property.

The purpose of request #2 is to remove a restriction requiring the property to be used only as an architect's office, florist, sod and nursery business and to allow the development of the site in accordance with the proposed zoning.

- (3) Applicants are requesting to permit parking within 25' of an official right-of-way (none permitted).

THE APPLICANTS HAVE REVISED THE REQUESTS AS FOLLOWS:

IN THE ALTERNATIVE TO REQUESTS #1 AND #3, THE FOLLOWING:

- (4) Applicants are requesting to permit a building height of 29' (24' permitted).

AND WITH EITHER REQUESTS #1 AND #3 OR #4, THE FOLLOWING:

- (5) Applicants are requesting to waive the zoning regulations requiring a 5' high masonry wall, or wood fence along the E/ly 50' of the interior side (south) property line.
- (6) Applicants are requesting to waive the landscape regulations requiring a 5' wide landscape buffer and 6' high wall, fence or hedge between dissimilar land uses along the E/ly 50' of the interior side (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of request #2 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing) and approval of requests #3 - #6 may be considered under §33-311 (A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Galloway Medical Pavilion," as prepared by Bellon, Milanes, Architects and Planners, Sheets "SP-1" and "LP-1" dated stamped received 12/4/07 and "SP-2," "A1.0," "A2.0" and "A3.0" dated stamped received 5/9/07 and consisting of 6 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: PARCEL "A" : Tract 33 of DADE COUNTY DEVELOPMENT CO. SUBDIVISION, Plat book 1, Page 84 in Section 33, Township 54 South, Range 40 East, less the south 450' and less the right-of-way, Official Record Book 9451, Page 1178. AND: PARCEL "B" : The north 111' of the south 450' of Tract 33 of DADE COUNTY DEVELOPMENT CO. SUBDIVISION, Plat book 1, Page 84 in Section 33, Township 54 South, Range 40 East, Plat book 1, Page 84.

LOCATION: 7600 and 7650 S.W. 87 Avenue, Miami-Dade County, Florida, and

*WHEREAS*, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Bellon Milanes Architects Planners entitled, "Galloway Medical Pavillon SW 76<sup>th</sup> Street, 87<sup>th</sup> Avenue," dated received the 4<sup>th</sup> day of December, 2007, pages SP-1, LP-1 and A-3.0, and dated received the 9<sup>th</sup> day of May, 2007, pages SP-2, A-1.0 and A-2.0, as same may be modified by Paragraphs (2) and (3) herein, said plans consisting of a total of 6 sheets and being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement.
2. That the plans described in Paragraph (1) above show two entrances to the Property along SW 87 Avenue, which require approval from the Florida Department of Transportation (FDOT). Owner shall apply for approval from FDOT to allow both entrances as shown.
3. That in the event that the FDOT denies the request, then said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Bellon Milanes Architects Planners entitled, "Galloway Medical Pavillon SW 76<sup>th</sup> Street, 87 Avenue," dated received the 19<sup>th</sup> day of December, 2007, pages SP-1 and LP-1, dated received the 4<sup>th</sup> day of December, 2007, page A-3.0, and dated received the 9<sup>th</sup> day of May, 2007, pages SP-2, A-1.0 and A-2.0, said plans consisting of a total of 6 sheets and being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement.

*WHEREAS*, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

*WHEREAS*, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 12 and after having given an opportunity for interested parties to be heard, it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB12-23-07, and that the appeal should be approved, and that the decision of Community Zoning Appeals Board 12 should be overruled, and

*WHEREAS*, it is the opinion of the Board that the requested deletion of a Declaration of Restrictions recorded in Official Record Book 12486, Pages 842-847, only as it applies to the subject property (Item #2), and the requests to permit a building height of 29' (Item #4), to waive the zoning regulations requiring a 5' high masonry wall, or wood fence along the E/ly 50' of the interior side (south) property line (Item #5), and to waive the landscape regulations requiring a 5' wide landscape buffer and 6' high wall, fence or hedge between dissimilar land uses along the E/ly 50' of the interior side (south) property line (Item #6) would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and that the requested district boundary change to RU-5 (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the request to permit parking within 25' of an official right-of-way (Item #3) would not be in harmony

with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and

*WHEREAS*, a motion to grant the appeal and overrule the decision of Community Zoning Appeals Board 12, accept the proffered Declaration of Restrictions, approve Items #2, 4, 5, and 6, and deny Items #1 and 3 without prejudice was offered by Commissioner Carlos A. Gimmenez, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	aye
Audrey M. Edmonson	aye	Dorrin D. Rolle	aye
Carlos A. Gimmenez	aye	Natacha Seijas	absent
Sally A. Heyman	absent	Katy Sorenson	aye
Barbara J. Jordan	aye	Rebecca Sosa	absent
Joe A. Martinez	absent	Sen. Javier D. Souto	aye
		Bruno A. Barreiro	aye

*NOW THEREFORE BE IT RESOLVED* by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby approved and that the decision of Community Zoning Appeals Board 12 is overruled.

*BE IT FURTHER RESOLVED* that the requested deletion of a Declaration of Restrictions recorded in Official Record Book 12486, Pages 842-847, only as it applies to the subject property (Item #2), and the requests to permit a building height of 29' (Item #4), to waive the zoning regulations requiring a 5' high masonry wall, or wood fence along the E/ly 50' of the interior side (south) property line (Item #5), and to waive the landscape regulations requiring a 5' wide landscape buffer and 6' high wall, fence or hedge between dissimilar land uses along the E/ly 50' of the interior side (south) property line (Item #6) be and the same are hereby approved, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Use; said plan to include, but not be limited to,

location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Galloway Medical Pavilion," as prepared by Bellon, Milanes, Architects and Planners, sheets SP-1, LP-1 & A3.0 dated stamped received 12/4/07 and the remaining sheets dated stamped received 5/9/07, for a total of 6 sheets, subject to F.D.O.T. approval of the proposed one-way southern driveway along SW 87 Avenue. In the event F.D.O.T. approval is not granted for the proposed one-way southern driveway along SW 87 Avenue, the same be substantially in accordance with that submitted for the hearing entitled "G alloway Medical Pavilion," as prepared by Bellon Milanes, Architects and Planners, sheets SP-1 & LP-1 dated stamped received 12/19/07, sheet A-3.0 dated stamped received 12/4/07, and the remaining sheets dated stamped received 5/9/07, for a total of 6 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicants comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained within this report.
5. That the applicants obtain a Certificate of Use from the Department of Planning and Zoning upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
6. That ingress/egress access to the site on SW 76 Street be prohibited.
7. That a height variance for a roofline shall be capped at twenty-nine (29) feet.
8. That the applicants provide additional landscaping along SW 76<sup>th</sup> Street to include a 48 inch high chain link fence with hedges in the form of either a Cocoplum or Green Buttonwood hedge on both sides of the fence within the swale area to serve as a deterrent from parking in the swale area.

*BE IT FURTHER RESOLVED* that the requested district boundary change to RU-5

(Item #1) be and the same is hereby denied without prejudice.

*BE IT FURTHER RESOLVED* that the request to permit parking within 25' of an official right-of-way (Item #3) be and the same is here denied without prejudice.

*BE IT FURTHER RESOLVED* that Resolution No. CZAB12-23-07 is hereby null and void.

*BE IT FURTHER RESOLVED* that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

***THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED*** this 24<sup>th</sup> day of January, 2008, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 07-7-CZ12-3  
ej

HARVEY RUVIN, Clerk  
Board of County Commissioners  
Miami-Dade County, Florida

By **RAY SULLIVAN**  
Deputy Clerk

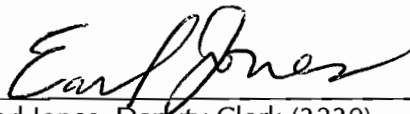
**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 31<sup>ST</sup> DAY OF JANUARY, 2007.**

**STATE OF FLORIDA**

**COUNTY OF MIAMI-DADE**

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-1-08 adopted by said Board of County Commissioners at its meeting held on the 24<sup>th</sup> day of January, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 31<sup>st</sup> day of January, 2008.



Earl Jones, Deputy Clerk (3230)  
Miami-Dade County Department of Planning and Zoning

**SEAL**

