

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-3-08

WHEREAS, **JULIO C. MOLINA** applied to Community Zoning Appeals Board 14 for the following:

(1) AU to EU-1

REQUEST #1 ON PARCEL "A"

(2) MODIFICATION of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998."

TO: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06."

FROM: "9. That the operator of the facility must be the owner of the property and permanently reside on the property."

TO: "9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility."

REQUEST #2 ON PARCEL "B"

The purpose of request #2 is to submit a revised site plan showing less property for the previously approved home for the aged and to remove the condition that the owner be the operator of the facility and reside on the site permanently; to allow staffing of the site by others than the owner.

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).

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: PARCEL "A" : Tract "A" , THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A" and less the east 330' thereof. AND: PARCEL " B": The east 330' of Tract "A", THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A".

LOCATION: 29100 S.W. 172 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 14 was advertised and held, as required by law, 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, and

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 14 that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97 on Parcel "B " (Item #2), 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 should be approved, and that the requested district boundary change to EU-1 on Parcel "A" (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 said application was denied in part by Resolution No. CZAB14-28-07, and

WHEREAS, **JULIO C. MOLINA** appealed the decision of Community Zoning Appeals Board 14 to the Board of County Commissioners for the following:

- (1) AU to EU-1

REQUEST #1 ON PARCEL "A"

- (2) MODIFICATION of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998."

TO: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06."

FROM: "9. That the operator of the facility must be the owner of the property and permanently reside on the property."

TO: "9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility."

REQUEST #2 ON PARCEL "B"

The purpose of request #2 is to submit a revised site plan showing less property for the previously approved home for the aged and to remove the condition that the owner be the operator of the facility and reside on the site permanently; to allow staffing of the site by others than the owner.

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).

The aforementioned plans are on file and may be examined in the Zoning Department. Plans may be modified at public hearing.

SUBJECT PROPERTY: PARCEL "A" : Tract "A" , THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A" and less the east 330' thereof. AND: PARCEL " B": The east 330' of Tract "A", THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A".

LOCATION: 29100 S.W. 172 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 Manuel G. Vera & Associates, dated 02-02-06, last revised 06-30-06 and dated stamped received May 25, 2007 (hereinafter referred to as the "Site Plan"), said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement. Tract A of the Site Plan has been previously approved as a home for the aged and may continue to be operated as such, however, if said use is terminated, Tract A may be developed in accordance with EU-1 zoning regulations including the use of SUR's if the owner desire.
2. That prior to final plat approval, owner shall purchase and submit to Miami-Dade County Severable Use Rights (SURs) to develop the Property in accordance with the Site Plan.
3. That the existing home for the aged located on Tract A of the Site Plan shall be staffed with at least one caregiver 24 hours a day.

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 14 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. CZAB14-28-07 and that the appeal should be approved, and that the decision of Community Zoning Appeals Board 14 should be overruled, and

WHEREAS, it is the opinion of the Board that the requested district boundary change to EU-1 on Parcel A (Item #1) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board on Parcel B (Item #2) would be compatible with the

1. That all the conditions of Resolution No. 5-ZAB-201-97 remain in full force and effect except as herein modified.
2. That the owner provide full time staffing for the care of the residents 24 hours a day, 7 days a week at the home for the aged on Parcel "B".

BE IT FURTHER RESOLVED that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board on Parcel B (Item #2), shall read as follows:

2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06.
9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility.

BE IT FURTHER RESOLVED that Item #2 be and the same is hereby denied without prejudice under Section 33-311(A)(17).

BE IT FURTHER RESOLVED that Resolution No. CZAB14-28-07 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 24th 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. 07-9-CZ14-1
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HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By **KAY SULLIVAN**
Deputy Clerk


THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 31ST DAY OF JANUARY, 2008.

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-3-08 adopted by said Board of County Commissioners at its meeting held on the 24th day of January, 2008.

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



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

SEAL

