

# Application No. 9

## Commission District 11 Community Council 11

### APPLICATION SUMMARY

Applicant/Representative: West Kendall Baptist Church Inc./ Jeffrey Bercow, Esq. And Graham Penn, Esq.

Location: East Side of Hammocks Blvd. Approximately 360 feet north of SW 88 Street (Kendall Drive)

Total Acreage: 1.02 Gross Acres ( $\pm$  0.97 Net Acres)

Current Land Use Plan Map Designation: Parks and Recreation

Requested Land Use Plan Map Designation: Office/Residential

Amendment Type: Small-Scale

Existing Zoning/Site Condition: GU – Interim / Vacant

### RECOMMENDATIONS

Staff: **ADOPT** (August 25, 2006)

West Kendall Community Council: **ADOPT** with acceptance of proffered covenant (September 20, 2006)

Planning Advisory Board (PAB) acting as Local Planning Agency: **ADOPT** with acceptance of proffered covenant (October 16, 2006)

**Final Action of Board of County Commissioners:** **ADOPTED WITH CHANGE AS SMALL SCALE AMENDMENT** by including a 2.01-acre expansion along the east side of Hammocks Blvd to SW 88 Street, for a total of 3.03 gross acres, and with acceptance of proffered covenant. (November 20, 2006)

Staff recommends: **ADOPTION** of the proposed small-scale Land Use Plan Map amendment based on the Staff Conclusions located at the end of this report and summarized below:

- The proposed redesignation of the application site to “Office Residential”, which is adjacent to the church and across the road from Target, would be compatible with both these non-residential uses. This redesignation will also provide a transition between these non-residential uses and the adjacent residential developments of the Lago del Ray Condominium complex to the east and Kendall Green town homes to the northwest.
- Development of office space on this site will help accommodate the County’s projected economic growth.
- In general, adequate public services exist for the application site. However, development of the site will require the extension of both water and sewer lines.
- The proposed land use designation of Office/Residential on the Land Use Plan map can be supportive of transit ridership.
- The application site has limited impact on environmental or historic resources

## **STAFF ANALYSIS**

### **Location and Land Use**

The application site is located on the east side of Hammocks Boulevard (SW 150 Avenue), which is a dead-end road located off of North Kendall Drive. The current Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designation is Parks and Recreation. The application site is currently an overgrown vacant lot containing an abandoned car and random debris (See Appendix G - photos). It is one of a few remaining parcels of the Kendale Lakes West golf course, which was abandoned in the mid 1980's. The current zoning designation is GU (Interim), where uses depend on the character of the neighborhood; otherwise EU-2 (Estate - 1 unit per 5 Acres Gross) is applied.

### **Adjacent Land Use and Zoning**

Properties surrounding the site are designated on the LUP map as: Parks and Recreation to the north; Institutions, Utilities, and Communications to the south; Business and Office to the west; and, Low-Medium Density Residential (5 to 13 DU/Ac) to the east and northeast. Directly west of the application site is a Target retail store that is zoned BU-1A (Business Limited). The West Kendall Baptist Church is located directly south and is zoned GU. A vacant lot, located directly north, and apartments, located east and northeast, are both zoned RU-4L (Limited Apartment House - 23 units/net acre). Northwest of the site is the Kendall Green townhomes zoned RU-3M (Modified Apartment House - 35.9 units/net acre). Further south across N Kendall Drive is the Hammocks subdivision with RU-1 (Single Family Residential 75,000 square feet net) and RU-TH (Townhouse - 8.5 Units/net acre).

### **Land Use and Zoning History**

This application site is a portion of the abandoned Kendale Lakes West Golf Course. The establishment of this private golf course was an integral element in the overall plan of development for Kendale Lakes West. Higher density zoning of the surrounding residential area was approved by the County when the golf course site was created and reserved for 99 years in a 1972 covenant to provide this multi-family community with needed open space. For a while this course operated as the Kendale Lakes Executive Golf Course. The clubhouse burned down in 1984 and the private golf course deteriorated, eventually closed and was considered a source of blight to the surrounding neighborhoods.

Two previous CDMP amendments resulted in portions of the golf course being redesignated from "Parks and Recreation" to other land use categories. During the October 1991-1992 CDMP Amendment Cycle, the portion of the golf course fronting on Kendall Drive and west of Hammocks Boulevard, the site of the current Target store and Longhorn Steakhouse, was redesignated to "Business and Office. The applicant at that time proffered a covenant, accepted by the County, stating that most of the golf course

property would be restored to playable condition and offered to the County for golf course use. The applicant also stated that the driving range site would be offered to the YMCA or County for a recreational facility. The golf course was restored and offered to the County, but the County declined to accept the property. The stated offer to convey the driving range site to the YMCA or County was not committed by covenant and did not occur. During the October 2001 – 2002 CDMP Amendment Cycle, the portion of the golf course that was to be conveyed to the County or the YMCA was redesignated to Low-Medium Density Residential (5 to 13 DU/Ac) and is now developed as the Kendall Green town homes.

Unless a release or modification is granted, the original 1972 zoning covenant providing for the golf course continues to limit the uses on the property. This covenant was enacted for 99 years (until approximately March 15, 2071) and can be released or revised only with written consent of 75 percent of the owners of parcels located within 150 feet of the golf course property.

The development of "Office/Residential" use on this application site will require a release from the owners of property within 150 feet of the former golf course. A prior release was obtained for the subject property but it was for a church and similar uses. The consent of the neighbors was conditional. The 1993 petition for the release stated, "c) Development of the southeasterly 10.2 acres shall be limited to a church or similar places of worship (the "Church Development") and any ancillary uses thereto, including school...". The applicant's attorney has indicated that at time of zoning that they will obtain a release from adjacent property owners for office development on the site.

## **Supply and Demand**

### Commercial Land Analysis

The Study Area (MSA 6.1 and 6.2) for Application No. 9 contained 384.9 acres of vacant land zoned for commercial uses in 2006. In addition, there were 1,010.2 acres of in-use commercial land. The average annual absorption rate projected for the 2003-2025 period is 27.29 acres per year. At the projected rate of absorption, the study area will deplete its supply of commercially zoned and designated land by the year 2020.

Analysis of the Trade Area, a 1.5-mile radius around the proposed project, for Application No. 9 shows that there are 255.5 acres in existing commercial uses and 149.7 acres of vacant commercially zoned or designated land. Within this trade area there are several large parcels of vacant land located to the west along SW 88 Street.

Projected Absorption of Land for Commercial Uses  
Indicated Year of Depletion and Related Data  
Analysis Area Application 9

Analysis Area MSA	Vacant Commercial Land 2006 (Acres)	Commercial Acres in Use 2006	Annual Absorption Rate 2003-2025 (Acres)	Projected Year of Depletion	Total Commercial Acres per Thousand Persons	
					2015	2025
6.1	89.4	511.5	14.21	2012	2.8	2.7
6.2	295.5	498.7	13.08	2025+	4.5	4.5
<b>Total</b>	<b>384.9</b>	<b>1,010.2</b>	<b>27.29</b>	<b>2020</b>	<b>3.6</b>	<b>3.5</b>

Source: Miami-Dade Department of Planning & Zoning, Planning Division, Research Section, July 2006.

**Environmental Considerations**

The following information pertains to the environmental conditions of the application site. All YES entries are further described below.

**Flood Protection**

County Flood Criteria (NGVD)	+8.80 Ft
Stormwater Management	5-year storm
Drainage Basin	C-102
Federal Flood Zone	X
Hurricane Evacuation Zone	NO

**Biological Conditions**

Wetlands Permits Required	NO
Native Wetland Communities	NO
Specimen Trees	YES
Natural Forest Communities	NO
Endangered Species Habitat	NO

**Other Considerations**

Within Wellfield Protection Area	YES
Archaeological/Historical Resources	NO

**Specimen Trees**

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees at this location. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application.

## Wellfield Protection Area

The subject property is located within the West wellfield protection area, and as such subject to the lands use regulations contained in the Code. Section 24-43(5) of the Code prohibits the approval of any building permits, certificates of use and occupancy, municipal occupational licenses, platting actions or zoning actions for any nonresidential land use which generates, uses, handles, disposes of, discharges or stores hazardous materials on property located within the basic wellfield protection area of any public utility potable water supply well or within the Northwest Wellfield protection area, or the West Wellfield interim protection area.

## **Water and Sewer**

Water is provided to the site by an existing 12-inch water main located along Hammocks Boulevard. The source of water is the Miami-Dade Water and Sewer Department's (MDWASD) Alexander Orr Water Treatment Plant, which has a remaining available rated treatment plant capacity of 14.5 million gallons per day. The estimated potential water demand from this application is 5,000 gallons per day. Therefore, the water treatment plant has sufficient capacity to serve this application.

The estimated water flow figures generated above are used solely for the purpose of evaluating the impact of the proposed potential development on the level of service (LOS) of that water treatment facility serving the site and are not used for water supply planning purposes. If this application is approved, the change in land use will not result in an increased demand for water supply above that projected by the County's Water and Sewer Department through the year 2025 utilizing population projections approved by the County and the South Florida Water Management District. MDWASD is currently assembling alternative water supply projects that will be used to meet the future water supply demand of Miami-Dade County. It is anticipated that these projects will be identified and adopted into the CDMP 10-Year Water Supply Plan by March 2008.

Sanitary sewer is provided by an existing 8-inch gravity main located along Hammocks Boulevard. All impacted pump stations are operating within their mandated criteria. Treatment is provided at the South District Treatment Plant, which has a remaining available design capacity of approximately 17.2 million gallons per day. The estimated potential sewage flow demand on this application is 5,000 gallons per day. Therefore, the wastewater treatment plant has sufficient capacity to serve this application.

## **Solid Waste**

This application lies within the Department of Solid Waste Management's (DSWM) waste service area for garbage and trash collections. The closest DSWM facility serving Application No. 9 is the Sunset Kendall Trash and Recycling Center (8000 SW 107 Avenue), which is approximately 5 miles away. The impact on collection services is minimal.

## **Parks**

The nearest park site to Application No. 9 is Olympic Park, a Neighborhood Park of 7 acres, which is located at 8601 SW 152 Avenue, less than 1 mile south of the application site. Application No. 9 is located within Park Benefit District 2 (PBD 2), which has a surplus capacity of 639.57 acres when measured by the County concurrency level-of-services standard. The impact of Application No. 9 will increase the potential population in PBD 2 by 67. Approval of this application would decrease available reserve capacity by .18 acre to 639.39 acres.

## **Public Schools**

The applicant has proffered a covenant restricting the use of the property from residential development. Therefore, if approved, Application No. 9 will have no impact on public school services.

## **Roadways**

### Existing Conditions

Access to the application site is via SW 150 Avenue (an extension of Hammocks Boulevard), a two-lane roadway facility north of SW 88 Street. SW 88 Street (Kendall Drive/SR 94), a four-lane divided roadway, provides connection to other major corridors such as Krome Avenue (SR 997), the Homestead Extension of Florida's Turnpike (HEFT/SR 821), the Palmetto Expressway (SR 826), and US 1, which provides accessibility to other portions of the county.

The Traffic Impact Analysis table shows the current operating Level of Service (LOS) traffic conditions on SW 88 Street and Hammocks Boulevard in the vicinity of the application site. The roadway segment of Hammocks Boulevard is operating at LOS C, above the adopted LOS D standard. The roadway segment of SW 88 Street between SW 152 and SW 127 Avenue is operating at LOS E+6%, above the adopted LOS E+20% standard, and the segment from SW 152 and SW167 Avenue is operating at LOS E+63%, below the adopted LOS E+20% standard. However, The County's adopted 2007 Transportation Improvement Program (TIP) lists under the Private Sector Section the widening from four to six lanes of SW 88 Street from SW 150 Avenue to SW 167 Avenue. The developers of Kendall Town Center and Kendall Commons, located south of SW 88 Street between SW 157 Avenue and SW 172 Avenue, have already submitted the corresponding bonding documentation for the construction of the roadway capacity improvement. Once this improvement is completed, the operating conditions for this roadway segment will improve to LOS E+15%, above the adopted LOS E+20% standard.

The LOS is represented by one of the letters "A" through "F", with "A" generally representing the most favorable driving conditions and "F" representing the least favorable.

Programmed Road Capacity Improvements  
Fiscal Years 2007-2011

Roadway	From	To	Type of Improvement	Fiscal Year
Kendall Drive (SR 94)	SW 162 Avenue	SW 157 Avenue	Widen to 6 Lanes	Private Developer
Kendall Drive (SR 94)	SW 157 Avenue	SW 150 Avenue	Widen to 6 Lanes	Private Developer
Kendall Drive (SR 94)	SW 162 Avenue	SW 167 Avenue	4 to 6 Lanes	Private Developer
SW 157 Avenue	SW 94 Street	SW 96 Street	New Construction: SB lane	Private Developer

Source: Miami-Dade Transportation Improvement Program 2007-2011, Metropolitan Planning Organization, June 2007

Traffic Concurrency Evaluation

An evaluation of peak-period traffic concurrency conditions as of June 22, 2006, which considers reserved trips from approved developments not yet constructed and programmed roadway capacity improvements, indicates that the concurrency level of service (E+63%) for SW 88 Street from SW 167 Avenue to SW 152 Avenue will exceed the adopted LOS E+20% standard applicable to the roadway segment. However, as noted above, widening of this segment from four to six lanes will result in an improvement of the LOS to level E+15%, above the adopted LOS E+20% standard.

Application Impact

The table below identifies the estimated number of PM peak hour trips to be generated by the proposed development under the requested land use designation (Office/Residential) and compares them to the trips estimated to be generated by the potential development that could occur under the current CDMP land use designation (Parks and Recreation). Application No. 9, if developed with office space, would generate approximately 37 more PM peak hour trips than under the current CDMP land use designation.

Application Number	Estimated Peak Hour Trip Generation By Current CDMP and Requested Use Designations		
	Assumed Use For Current CDMP Designation/ Estimated No. Of Trips	Assumed Use For Requested CDMP Designation/ Estimated No. Of Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use Designation
9 (Scenario 1)	Park & Recreation - (Vacant)  0	Office/Residential - 21,126 sq. ft. Office  37	+ 37

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003.

CDMP Amendment Application No. 9 (Office)  
 Traffic Impact Analysis on Roadways Serving the Amendment Site  
 Roadway Lanes, Existing and Concurrency Peak Period Operating Level of Service (LOS)

Sta. Num.	Roadway	Location/Link	Num. Lanes	Adopted LOS Std.*	Peak Hour Cap.	Peak Hour Vol.	Existing LOS	Approved D.O's Trips	Conc. LOS W/ Amend.	Amend. Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
9178	Hammocks Blvd.	SW 88 St to SW 104 St	4 DV	D	2360	732	C	74	C	1	807	C (04)
1080	SW 88 St/ Kendall Dr.	SW 152 Ave. to SW 127 Ave.	6 DV	E+20%	5904	3822	D	1397	E+6%	33	5252	E+7% (04)
2529	SW 88 St/ Kendall Dr.	SW 152 Ave to SW 167 Ave.	4 (6) <sup>1</sup>	E+20%	4220	1412	B	4444	E+63% (E+15%) <sup>1</sup>	3	6872	E+63% (04) (E+15%) <sup>1</sup>

Source: Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department and Florida Department of Transportation, July 2006.

Notes: DV= Divided Roadway, UD= Undivided Roadway, LA Limited Access

\*County adopted roadway level of service standard applicable to the roadway segment

<sup>1</sup> When this roadway segment is widened from 4 to 6 lanes with median by the developers of Kendall Town Center and Kendall Commons, the LOS will improve to LOS E+15%, below the adopted LOS E+20%. The North Kendall improvements shall be completed and open to the public 25 months after improvement is bonded or secured by appropriate instruments. The developers of Kendall Commons and Kendall Town Center have submitted cash performance bonds.

The traffic concurrency analyses indicate that SW 88 Street, from SW 152 Avenue to SW 167 Avenue, will operate at LOS E+63% with and without the application's impact, thus violating the adopted LOS E+20% standard. However, as stated above the capacity improvement programmed for SW 88 Street from SW 150 Avenue to SW 157 Avenue will help alleviate traffic congestion on this roadway segment and improve the existing and concurrency LOS that are projected to operate at LOS E+15%, above the adopted LOS E+20% standard.

## Transit

### Existing Service

Three Metrobus routes, Routes 88, 104, and 288 (Kendall KAT), service the application site. The table below shows the existing service frequency for these routes in summary form.

Metrobus Route Service						
Route	Peak	Headways (in minutes)			Stop Locations	Type of Service
		Off-Peak	Saturday	Sun		
88	30	60	60	60	SW 88 St and Hammocks Blvd.	L/F - Dadeland North Station
288	12	n/a	n/a	n/a	SW 88 St and SW 152 Ave*	F - Dadeland North Station
104	30	30	30	30	SW 88 St and Hammocks Blvd.	L/F - Dadeland North Station

Source: 2006 Transit Development Program, Miami-Dade Transit, May 2006.

Notes: \* Distance from application site is slightly more than a quarter mile, but less than a half-mile.

L means local service route

F means feeder service to Metrorail

### Future Conditions

Miami-Dade Transit (MDT) has plans to straighten Route 88 and extend it westward to the future West Kendall Terminal, located at approximately SW 88 Street and SW 167 Avenue, and eliminate the 142 Avenue branch. Also, Routes 104 and 288 (Kendall KAT) will be extended to the future West Kendall Bus Terminal.

In addition, MDT is proposing to create new routes in the Kendall area. The Route 80 Street MAX, will be a limited stop, weekday transit service between the future Kendall Town Center and the Metrorail Dadeland North station during the morning and evening peak hours. The Kendall Circulator is a newly planned weekday only route operating from SW 133 Avenue to SW 152 Avenue on SW 96 Street and Hammocks Boulevard to the south and SW 80/82 Streets to the north. The West Kendall Crosstown is another a

newly planned route that will operate seven days a week from the future West Dade Bus Terminal to Coral Reef Drive along SW 137, 147, 152, 157, and 162 Avenues.

### **Other Planning Considerations**

The adopted Land Use Plan map designates the application site as Parks and Recreation, which unless otherwise restricted, when given this designation on privately owned land, may be developed for a use or density comparable to, and compatible with, surrounding development providing that such development is consistent with the goals, objectives and policies of the CDMP.

The applicant has proffered a covenant restricting the use of the property from residential development. (See Appendix F - Proposed Declaration of Restrictions).

### **STAFF CONCLUSIONS**

The Department of Planning and Zoning recommends **ADOPTION** of the proposed small-scale Land Use Plan (map) amendment to redesignate the subject property from "Parks and Recreation" to "Office/Residential" based on the following considerations:

1. The application site is not at an activity node as defined by Guideline No. 4 of the CDMP "Guidelines of Urban Form", which states that the intersections of two section-line roadways should be planned to serve as activity nodes for the surrounding residential communities. Section-line roads are the arterial roadways connecting neighborhoods in Miami-Dade County. When commercial uses are warranted, the CDMP Land Use Element text states that commercial uses should be located within these activity nodes.

However, the application site is approximately 360 feet north of the intersection of two major roadways, North Kendall Drive and Hammocks Boulevard. While North Kendall Drive is a section-line road, Hammocks Boulevard is not. Hammocks Boulevard does serve as the principal entry way to the Hammocks neighborhood to the south.

This intersection does serve as a focal point for the West Kendall Lakes and Hammocks neighborhoods with two large non-residential uses, West Kendall Baptist Church and a major discount retailer, Target, on the northeast and northwest corners, respectively. The proposed redesignation of the application site to "Office Residential", which is adjacent to the church and across the road from Target, would be compatible with both these non-residential uses. This redesignation will also provide a transition between these non-residential uses and the adjacent residential developments of the Lago del Ray Condominium complex to the east and Kendall Green town homes to the northwest.

The current conditions on the subject property are detrimental to the adjacent residential developments. The properties are overgrown with tall grasses and the exotic invasive Brazilian Pepper. Where the site is accessible to vehicles, it has been used for illegal dumping of trash and broken down automobiles (see Appendix G for photos).

2. This application site is a portion of the abandoned Kendale Lakes West Golf Course. The establishment of this private golf course was an integral element in the overall plan of development for Kendale Lakes West Area. Higher density zoning of the surrounding residential area was approved by the County when the golf course site was created and reserved for 99 years in a 1972 covenant to provide this multi-family community with needed open space.

Unless a release or modification is granted, the original zoning covenant providing for the golf course continues to limit the uses on the property. This covenant was enacted for 99 years (until approximately March 15, 2071) and can be released or revised only with written consent of 75 percent of the owners of parcels located within 150 feet of the golf course property.

The development of "Office/Residential" use on this application site will require a release from the owners of property within 150 feet of the former golf course. A prior release was obtained on the subject property but it was for a church and similar uses. The consent of the neighbors was conditional. The 1993 petition for the release stated, "c) Development of the southeasterly 10.2 acres shall be limited to a church or similar places of worship (the "Church Development") and any ancillary uses thereto, including school..." The applicant's attorney has indicated that at time of zoning that they will obtain a release from adjacent property owners for office development on the site.

With the proposed change in the CDMP LUP map, 61% of the former golf course will remain as open space. Thus, substantial open space is still being preserved for this community.

3. Development of office space on this site will help accommodate the County's projected economic growth. The application site is specifically located within Minor Statistical Area (MSA) 6.1 just north of the border of MSA 6.2. When considering a study area of both MSA 6.1 and 6.2, the average annual absorption rate projected for the 2003-2025 period is 27.29 acres per year. At this projected rate of absorption, the study area will deplete its supply of commercially zoned and designated land by the year 2020. When considering MSA 6.1 only, the supply of commercially zoned and designated land is expected to be depleted by the year 2012.

4. In general, adequate public services exist for the application site. However, development of the site will require the extension of both water and sewer lines.
5. The CDMP encourages transit-oriented development that is located within a ¼ mile of a bus stop for a route, which has a headway of 20 minutes during peak periods. Metrobus Route 288, which stops near the application site at SW 152 Avenue and SW 88 Street, does operate at this frequency during peak periods. The proposed land use designation of Office/Residential on the Land Use Plan map can be supportive of transit ridership.
6. The application site has limited impact on environmental or historic resources. The site is subject to tree and wellfield protection regulations.

#### **Consistency Review With CDMP Goals, Objectives, Policies, Concepts and Guidelines**

The following CDMP Goals, Objectives, policies, concepts and guidelines will be furthered if the proposed designation were approved:

- Policy LU-4A: Factors to evaluate compatibility among proximate land uses.
- Policy LU-4B: Uses protected from encroachment by residential uses.
- Policy LU-4C: Neighborhoods protected from disrupted or degrading.
- Policy LU-4D: Potentially incompatible uses permitted with design.
- Policy LU-8E: CDMP Applications amendments evaluated for i) Satisfy deficiency projected population; iii) Compatible with abutting and nearby land uses and protect the character of established neighborhoods; v) Promotes transit ridership
- Policy LU-1G: Business at nodes major roadway intersections, not necessarily by location at the intersection
- LU-8B: Retail and offices reflect distribution of residential population

The following CDMP goals, objectives, policies, concepts and guidelines will be impeded if the proposed designation were approved:

- Guidelines for Urban Form No. 4: Intersections of section line roads shall serve as focal points of activity



# APPENDICES

Appendix A Map Series

Appendix B Amendment Application

Appendix C Miami-Dade County Public Schools Analysis

Appendix D Applicant's Traffic Study

Appendix E Fiscal Impact Analysis

Appendix F Proposed Declaration of Restrictions

Appendix G Photos of Site and Surroundings (from site visit)

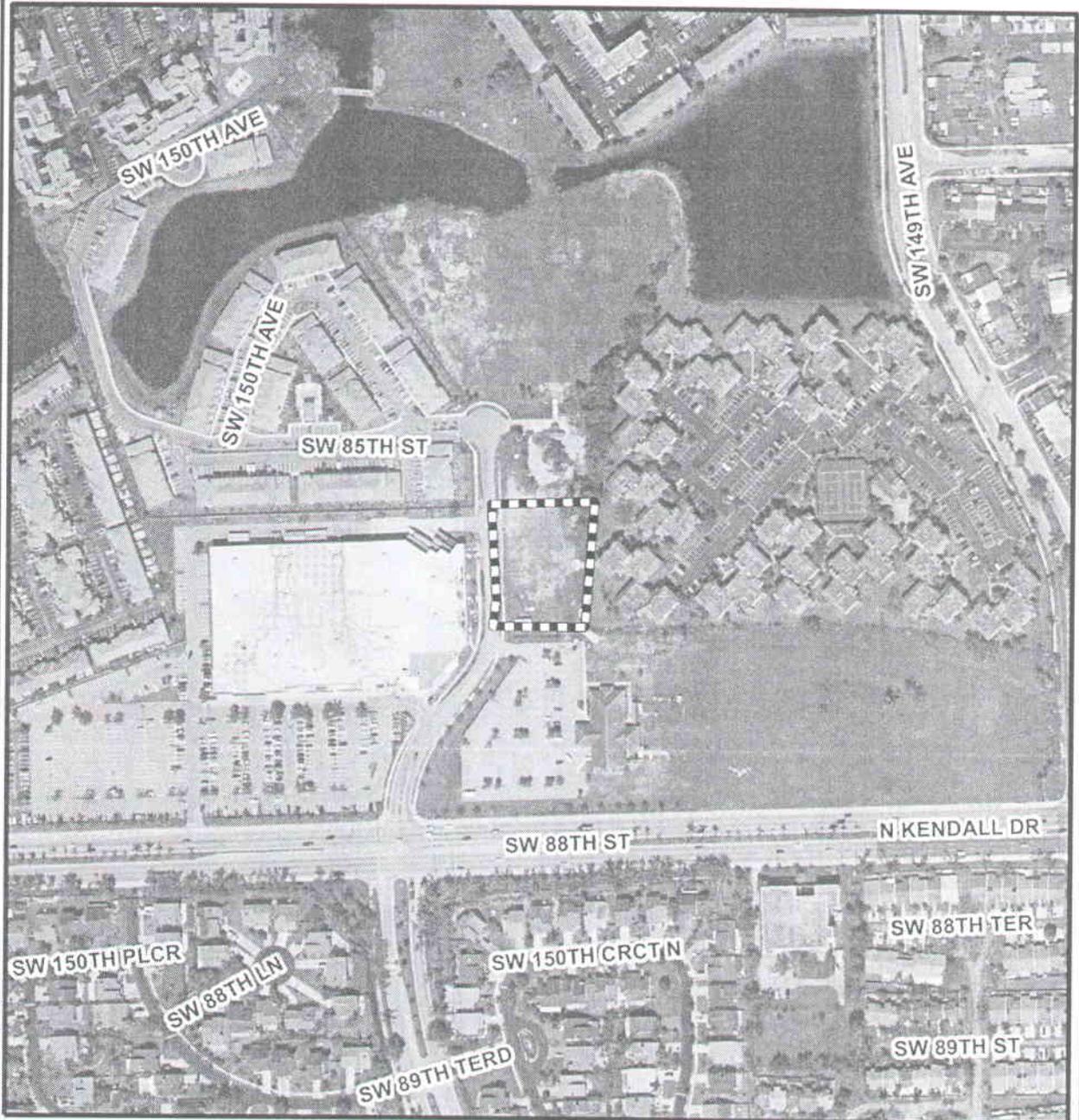


# APPENDIX A

## Map Series



AERIAL PHOTO: APPLICATION NO. 9



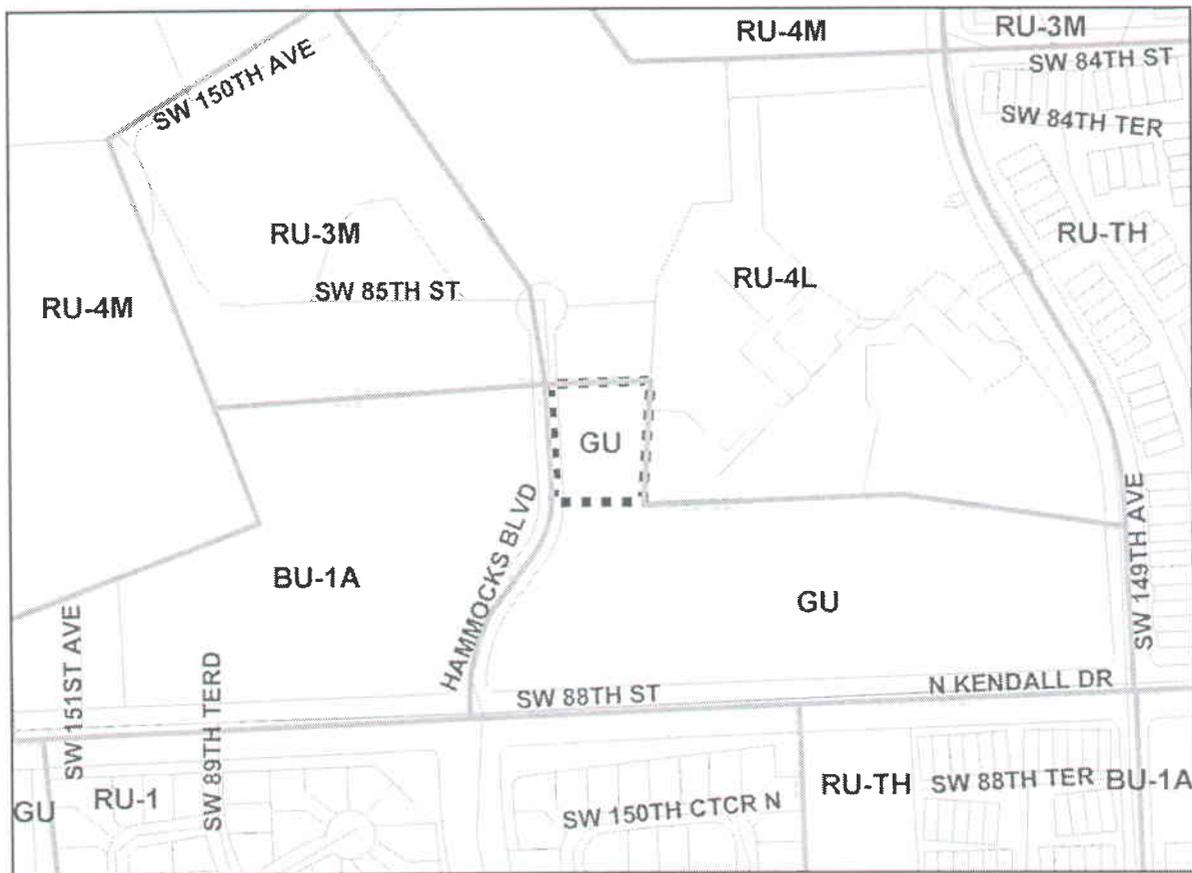
APPLICATION AREA

2006 AERIAL



SOURCE: MIAMI-DADE COUNTY, DEPARTMENT OF PLANNING AND ZONING, JULY 2006

APPLICATION NO. 9  
CURRENT ZONING MAP



APPLICATION AREA

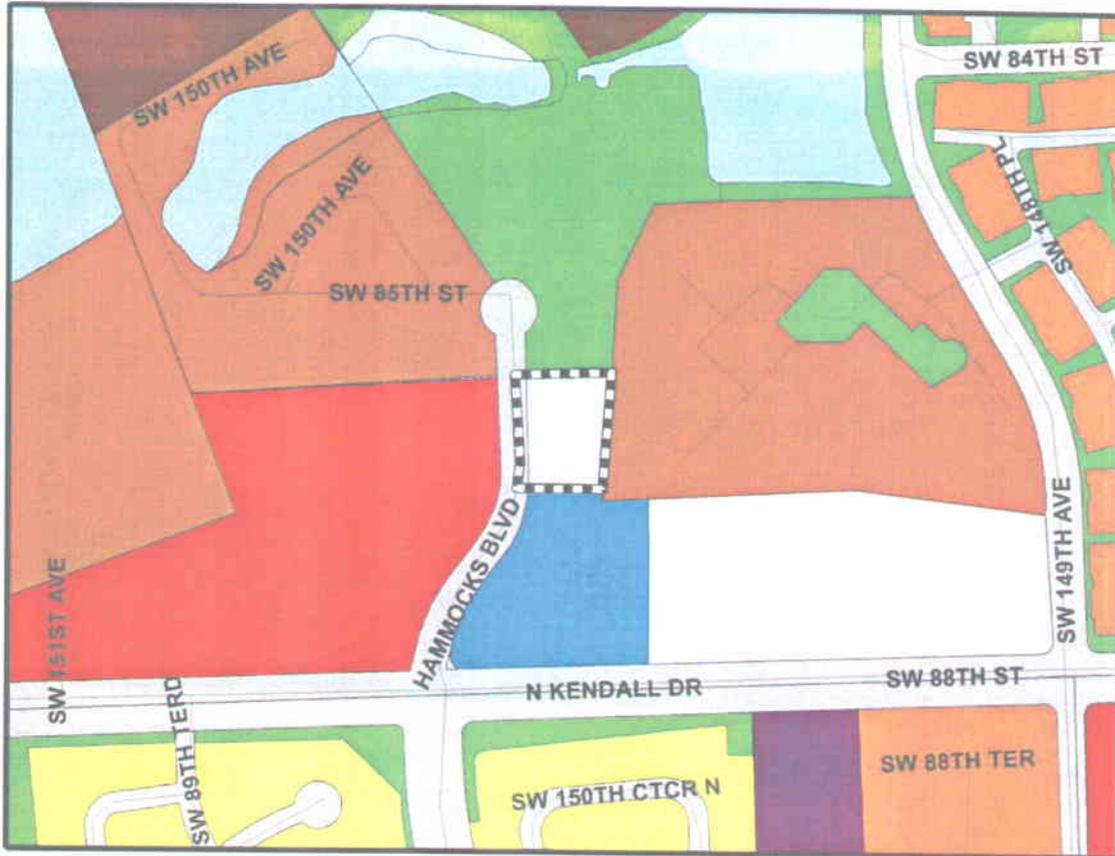
MIAMI-DADE ZONING DISTRICTS

- GU INTERIM - USES DEPEND ON CHARACTER OF NEIGHBORHOOD, OTHERWISE EU-2 STANDARDS APPLY
- RU-1 SINGLE FAMILY RESIDENTIAL 7,500 SQ. FT. NET
- RU-TH TOWNHOUSE - 8.5 UNITS / NET ACRE
- RU-3M MINIMUM APARTMENT HOUSE 12.9 UNITS / NET ACRE
- RU-4L LIMITED APARTMENTS HOUSE 23 UNITS / NET ACRE
- RU-4M MODIFIED APARTMENT HOUSE 35.9 UNITS / NET ACRE
- BU-1A BUSINESS - LIMITED



SOURCE: MIAMI-DADE COUNTY, DEPARTMENT OF PLANNING AND ZONING, JULY 2006

**APPLICATION NO. 9  
EXISTING LAND USE**



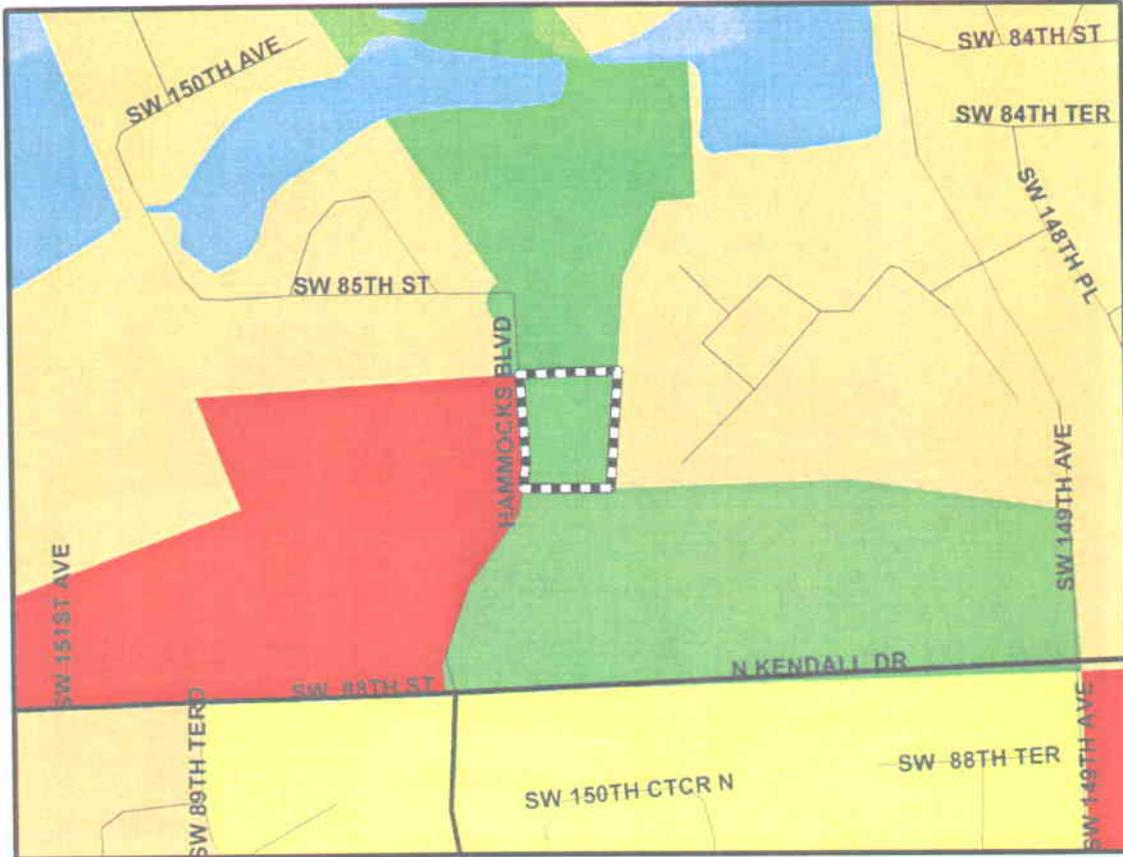
**LEGEND**

-  APPLICATION AREA
- EXISTING LAND USE**
-  SINGLE-FAMILY
-  TOWNHOUSES
-  LOW-DENSITY MULTI-FAMILY
-  HIGH-DENSITY MULTI-FAMILY
-  COMMERCIAL, SHOPPING CENTERS, STADIA
-  INSTITUTIONAL
-  COMMUNICATIONS, UTILITIES, TERMINALS
-  STREETS, ROADS, EXPRESSWAYS, RAMPS
-  PARKS, PRESERVES, CONSERVATION AREAS
-  VACANT UNPROTECTED
-  INLAND WATERS



SOURCE: MIAMI-DADE COUNTY, DEPARTMENT OF PLANNING AND ZONING, JULY 2006

**APPLICATION NO. 9  
CDMP LAND USE PLAN**



**LEGEND**



APPLICATION AREA

**CDMP LAND USE**

RESIDENTIAL COMMUNITIES

-  LOW DENSITY RESIDENTIAL (LDR) 2.5 TO 6 DU/AC
-  LOW-MEDIUM DENSITY RESIDENTIAL (LMDR) 6 TO 13 DU/AC

-  BUSINESS AND OFFICE
-  PARKS AND RECREATION

 WATER

 MAJOR ROADWAYS (3 OR MORE LANES)

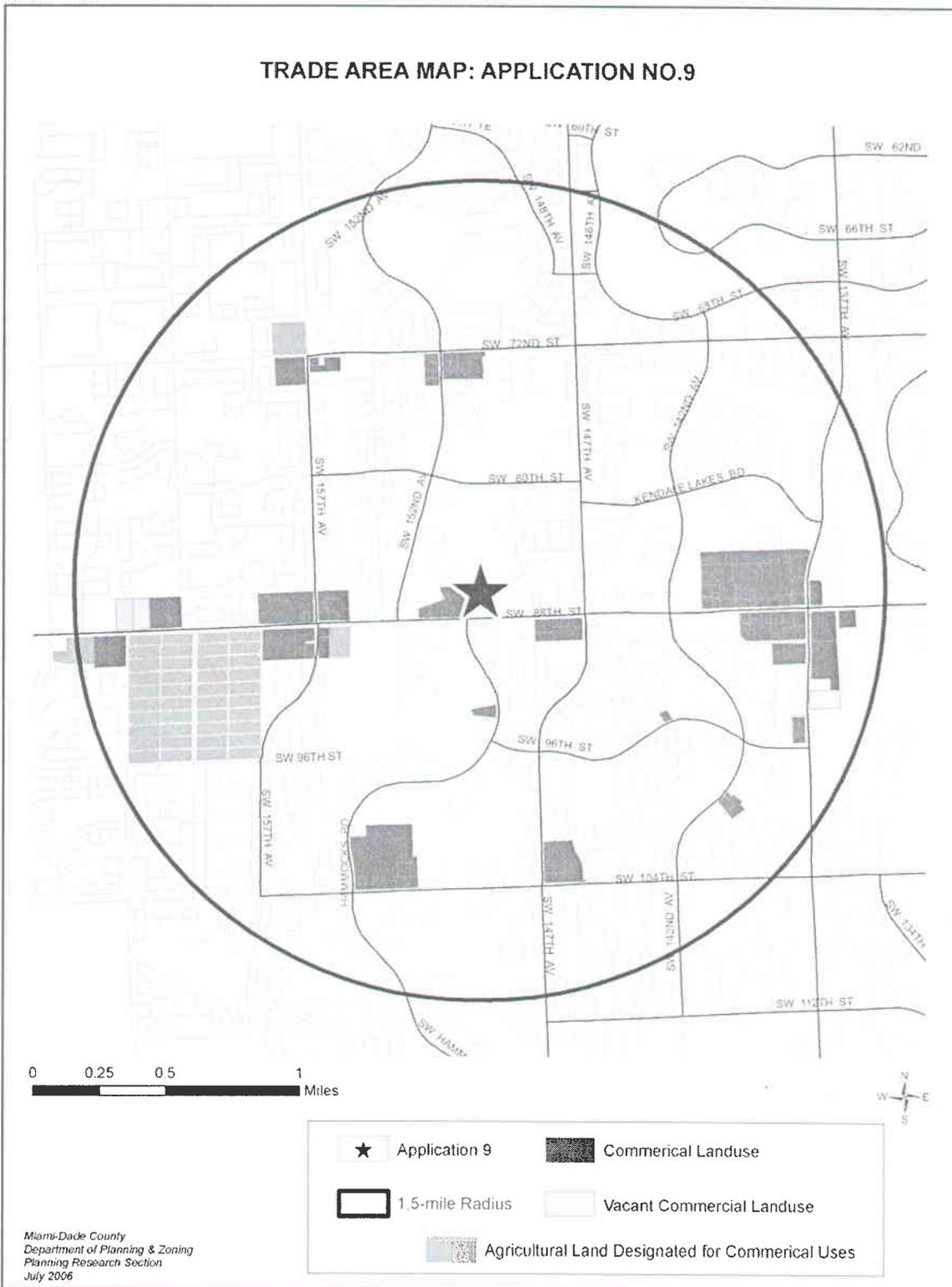
NOTE: This figure is a graphic representation drawn at a different scale than the Official Adopted 2016 and 2026 Land Use Plan (LUP) map, which was adopted at a scale of one inch to a mile. The LUP map with subsequent adopted amendments, governs where this figure differs.



SOURCE: MIAMI-DADE COUNTY, DEPARTMENT OF PLANNING AND ZONING, AUGUST 2006



# TRADE AREA MAP: APPLICATION NO.9





# APPENDIX B

## Amendment Application



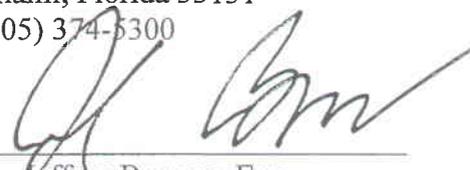
SMALL-SCALE AMENDMENT REQUEST  
TO THE  
LAND USE ELEMENT/LAND USE PLAN MAP  
APRIL 2006-2007 AMENDMENT CYCLE  
MIAMI-DADE COUNTY  
COMPREHENSIVE DEVELOPMENT MASTER PLAN

1. APPLICANT

West Kendall Baptist Church, Inc.  
14955 S.W. 88 Street  
Miami Florida 33196

2. APPLICANT'S REPRESENTATIVES

Jeffrey Bercow, Esq.  
Graham Penn, Esq.  
Bercow & Radell, P.A.  
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(305) 374-5300

By:  Date: May 1, 2006  
Jeffrey Bercow, Esq.

By:  Date: May 1, 2006  
Graham Penn, Esq.

3. DESCRIPTION OF REQUESTED CHANGES

An amendment to the Comprehensive Development Master Plan Land Use Plan Map is requested.

- A. A change to the Land Use Element, Land Use Plan Map (item A. 1 in the fee schedule) is requested.
- B. Description of Application Area

The Property consists of 0.97 acres located in Section 32, Township 54 South, Range 39 East. The Property is located north of the northeast corner of S.W. 88 Street and S.W. 151 Avenue. To the south of the Property are the West Kendall Baptist Church parking lot and church buildings. To the west of the Property across S.W. 151 Avenue is an

existing Target store and Longhorn Steakhouse restaurant. To the north of the Property is a small (0.67 acre) parcel that has been dedicated to Miami-Dade County for a senior center. To the east of the Property is a multi-family residential development.

#### C. Acreage

Application area: 0.97 acres.

Acreage owned by Applicant: 0.97 acres.

#### D. Requested Changes

- 1) It is requested that the application area be redesignated on the Land Use Plan Map from Parks and Recreation to Office/Residential.
- 2) It is requested that this application be processed as a small-scale amendment under the expedited procedures.

#### 4. REASONS FOR AMENDMENT

The application area (the "Property") is currently designated for Parks and Recreation use, despite being a portion of a parcel owned and operated by West Kendall Baptist Church (the "Church") as a religious use. The Property's Comprehensive Development Master Plan ("CDMP") designation is a product of the Property's zoning history. The Property was originally intended to be a part of a much larger development known as Kendale Lakes West. The Kendale Lakes West development was approved in 1969 and consisted of 410 acres lying between S.W. 88 Street and S.W. 72 Street, east and west of S.W. 152 Avenue. The Property was originally intended to be a part of a recreational amenity for residents of the Kendale Lakes West development. To that end, the developer of Kendale Lakes West recorded a declaration of restrictive covenants that restricted the use of the Property and the surrounding parcels to a golf course, country club or recreational facility. The Property also remained within the Interim (GU) zoning district. The Property's CDMP designation reflected its zoning history.

Unfortunately, the recreational use of the golf course and driving range was abandoned in the 1980s and the Property lay vacant. Recognizing that the recreational uses were no longer viable, the Board of County Commissioner approved the release of two parcels from the restrictions of the golf course covenant in 1993. These two properties include the commercial development now occupied by Target and Longhorn Steakhouse, and the West Kendall Baptist Church parcel of which the Property is a part.

The Property has thereafter served as excess open space on the West Kendall Baptist Church parcel. The church now intends to develop the Property with a medical office building. In order to accomplish this plan, the Church requests the re-designation of the Property from Parks and Recreation to the Office/Residential category.

The change in the Property's LUP map designation from Parks and Recreation to Business and Office would help alleviate, albeit in a minor way, the current commercial depletion rate for Minor Statistical Area (MSA) 6.1. The MSA is currently estimated to run out of available commercial land in 2014, one year before the target date of 2015. (Initial Recommendations, October 2005 Applications to Amend the CDMP, Page 2-22). It is also estimated that MSA 6.1 will retain a rate of commercial land per thousand persons at less than half the County average through 2025. (Initial Recommendations, October 2005 Applications to Amend the CDMP, Page 2-22). The re-designation of the Property will also not result in a reduction of available parcels for Parks and Recreation use since the Property has long been approved for use as part of a religious institution.

The proposed use of the Property is a medical office use. As part of the Church's religious outreach work, the Church plans to devote a portion of the planned building to a medical clinic serving the poor. The location of the Property makes it ideal for the proposed small-scale office use. Access to and from the Property from Kendall Drive will be through the signalized intersection at S.W. 151 Avenue. The Property will be surrounded on three sides by a parking lot, the Target retail use across S.W. 151 Avenue and a planned senior center use. As the CDMP Land Use Element recognizes, small-scale office uses are compatible with residential communities and the small size of the Property will ensure that there will be no significant impacts on the surrounding residential uses. (CDMP, Page I-29).

To ensure that the use of the Property is compatible with the surrounding area, the Church will be submitting a Declaration of Restrictive Covenants excluding uses that would have a negative impact on the nearby residential developments. The covenant will ensure that the development of the Property will be compatible with the surrounding religious, commercial and residential uses.

**5. ADDITIONAL MATERIAL SUBMITTED**

- 1) Section Map with Application Area Indicated
- 2) 8 1/2 X 11 sheet showing Application Area Location
- 3) Aerial Photograph
- 4) Legal Description

The Church reserves the right to supplement the application with additional documentation within the time permitted by the Code of Miami-Dade County.

**6. COMPLETE DISCLOSURE FORMS: See attached.**

## LEGAL DESCRIPTION

A PORTION OF TRACT "C" OF "BENSON LAKES" AS RECORDED IN PLAT BOOK 147 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA more particularly described as follows:

Beginning at the Northwest corner of said Tract "C" runs  $N 87^{\circ} 41' 53" E$  along the north line of said Tract "C" for a distance of 187.72 Ft., thence runs  $S 4^{\circ} 30' 00" W$  for a distance of 245.53 Ft., thence run  $S 87^{\circ} 41' 53" W$  for a distance of 161.25 Ft to a point lying in a circular curve concave to the Northwest, said point lying in the westerly line of Tract "C", where the radius to this point bears  $S 83^{\circ} 22' 40" E$  from the center of the curve; thence run northerly along the arc of said curve having for its elements a Radius of 215 Ft and a central angle of  $8^{\circ} 55' 27"$  for an arc distance of 33.49 Ft to a point of tangency; thence runs  $N 2^{\circ} 18' 07" W$  along the westerly line of Tract "C" for a distance of 210.45 Ft to the Point of Beginning.

Containing 0.97 Acres  $\pm$

Used Bearings are taken from Recorded Plat and refer to an assumed Meridian

April 28-2006

101 16

TRACT 7

TRACT 2

TR A

TR D  
(147-17)

TRACT 9

TR A  
(17)

TR E  
(147-17)

TR C  
(147-17)

FLOW

55'

HAMMOCKS BLVD

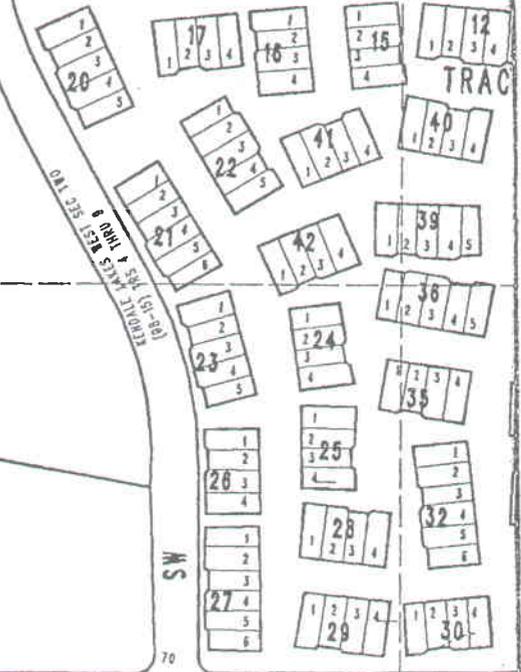
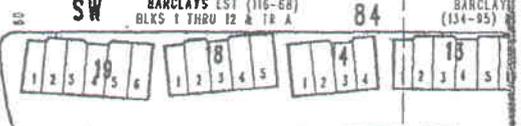
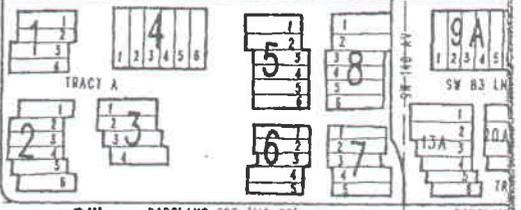
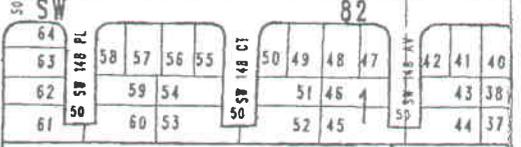
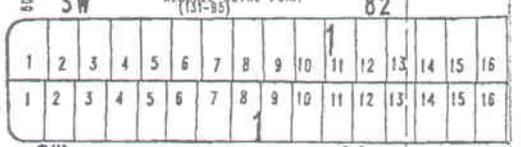
KENDALL ROYAL SUB  
(106-137) BLKS 1 THRU 3

AV

SPRING VALLEY

148

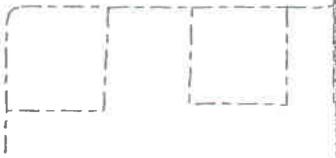
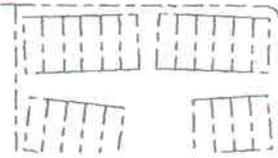
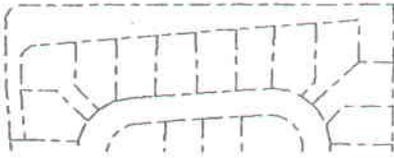
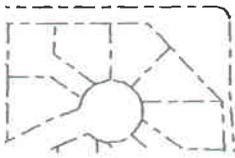
70



LAVES  
1 TRS A THRU E

52 AJ BENDLE SUB (1-30)

(NORTH KENDALL DR)

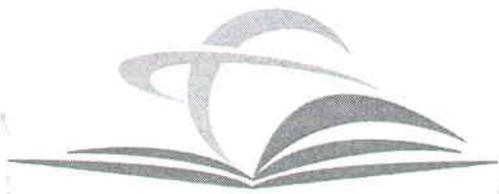




# **APPENDIX C**

## **Miami-Dade County Public Schools Analysis**





**Miami-Dade County Public Schools**  
giving our students the world

**Superintendent of Schools**  
Rudolph F. Crew, Ed.D.

**Chief Facilities Officer**  
Rose Diamond

**Planning Officer**  
Ana Rijo-Conde, AICP

July 10, 2006

**Miami-Dade County School Board**  
Agustin J. Barrera, Chair  
Perla Tabares Hantman, Vice Chair  
Frank J. Bolaños  
Evelyn Langlieb Greer  
Dr. Robert B. Ingram  
Dr. Martin Karp  
Ana Rivas Logan  
Dr. Marta Pérez  
Dr. Solomon C. Stinson

Ms. Diane O'Quinn-Williams, Director  
Miami-Dade County  
Department of Planning and Zoning  
Zoning Evaluation Section  
111 NW 1 Street, Suite 1110  
Miami, Florida 33128

RECEIVED  
JUL 12 2006  
MIAMI-DADE COUNTY  
DIRECTOR'S OFFICE  
DEPT. OF PLANNING & ZONING

**Re: Land Use Amendments  
April 2006 Cycle  
(Applications No. 1-16)**

RECEIVED  
JUL 19 2006  
MIAMI-DADE COUNTY  
DEPT. OF PLANNING & ZONING  
ZONING EVALUATION SECTION

Dear Ms. O'Quinn-Williams:

Pursuant to the state-mandated and School Board approved Interlocal Agreement, local government, the development community and the School Board are to collaborate on the options to address the impact of proposed residential development on public schools where the proposed development would result in an increase in the schools' FISH % utilization (permanent and relocatable), in excess of 115%. This figure is to be considered only as a review threshold and shall not be construed to obligate the governing agency to deny a development.

Attached please find the School District's (District) review analysis of potential impact generated by the above referenced applications. Please note that land use amendments 6, 10 and 16 will not generate additional student impact to the District; and the schools impacted by land use amendments 2 and 3 do not meet the review threshold. However, land use amendments proposed in applications 1, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 will generate an additional student impact to the District (see attached analyses).

Please note that some of the impacted school facilities for Amendments 1, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 meet the referenced review threshold. As such, it is our recommendation that dialogue between the District and the applicants take place as it relates specifically to public schools in the affected area that meet the review threshold. The District will keep the County apprised if such dialogue takes place with respective applicants.

Ms. Diane O'Quinn-Williams  
July 10, 2006  
Page Two

Also, attached is a list of approved Charter School Facilities which may provide relief on a countywide basis.

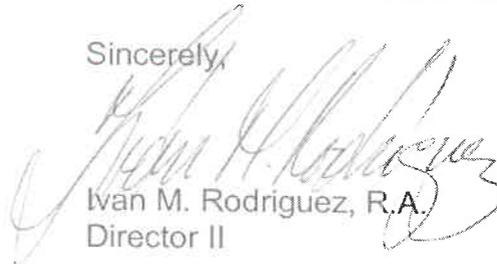
Additionally, pursuant to Miami-Dade County's Educational Facilities Impact Fee Ordinance, the proposed developments, if approved, will be required to pay educational facilities impact fees (impact fees) based on the following formula:

New residential unit square footage X .90 (Square Footage Fee) +  
\$600.00 (Base Fee) + 2% administrative fee = Educational Facilities  
Impact fee

In accordance with the Agreement, this letter and attached information should not be construed as commentary on the merits of the pending land use amendment applications. Rather it is an attempt to provide relevant information to the Planning Advisory Board, Community Councils and Miami-Dade County Board of County Commissioners on public schools that will likely serve the proposed developments and meet the referenced threshold.

As always, thank you for your consideration and continued partnership in our mutual goal to enhance the quality of life for the residents of our community.

Sincerely,



Ivan M. Rodriguez, R.A.  
Director II

IMR:ir  
L001  
Attachments

cc: Ms. Ana Rijo-Conde  
Mr. Fernando Albuerne  
Mr. Michael A. Levine  
Ms. Vivian Villaamil  
Ms. Patricia Good  
Ms. Helen Brown

## SCHOOL IMPACT REVIEW ANALYSIS

July 5, 2006

**APPLICATION:** No. 9, West Kendall Baptist Church, Inc.

**REQUEST:** Change Land Use from Parks and Recreation to Office/Residential

**ACRES:** + 1.02 acres

**LOCATION:** Approximately 14955 SW 88 Street  
(East side of Hammocks Blvd. approximately 360 feet north of SW 88 Street (Kendall Drive); North of the West Kendall Baptist Church's parking lot)

**MSA/  
MULTIPLIER:** 6.1 / .48 Multifamily

<b>NUMBER OF UNITS:</b>	<b>Proposed Land Use</b>	<b>Existing Land Use</b>
25 additional units	25 Multifamily	0 units

**ESTIMATED STUDENT POPULATION:** 12

**ELEMENTARY:** 6

**MIDDLE:** 3

**SENIOR HIGH:** 3

### SCHOOLS SERVING AREA OF APPLICATION

**ELEMENTARY:** Kendale Lakes Elementary – 10693 SW 93 Street

**MIDDLE:** Howard Doolin Middle – 6401 SW 152 Avenue

**SENIOR:** Felix Varela Senior High – 15255 SW 96 Street

All schools are located in Regional Center V and VI.

\*Based on Census 2000 information provided by Miami-Dade County Department of Planning and Zoning.

The following population and facility capacity data are as reported by the Office of Information Technology, as of October 2005:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS	% UTILIZATION FISH DESIGN CAPACITY PERMANENT AND RELCOATABLE	CUMULATIVE STUDENTS**
Kendale Lakes Elementary	569	706	81%	36	77%	600
	575 *		81%		77%	
Howard Doolin Middle	1,076	1,031	104%	79	97%	1,191
	1,079 *		105%		97%	
Felix Varela Senior High	4,175	2,888	145%	0	145%	4,322
	4,178 *		145%		145%	

\*Student population increase as a result of the proposed development

\*\*Estimated number of students (cumulative) based on zoning/land use log (2001- present) and assuming all approved developments are built; also assumes none of the prior cumulative students are figured in current population.

Notes:

- 1) Figures above reflect the impact of the class size amendment.
- 2) Pursuant to the Interlocal Agreement, Felix Varela Senior High School meets the review threshold.

**PLANNED RELIEF SCHOOLS IN THE AREA**  
(Information included in proposed 5-Year Capital Plan, 2005-2009, dated April 2005)

**Projects in Planning, Design or Construction**

<u>School</u>	<u>Status</u>	<u>Projected Occupancy Date</u>
State School "M-1" (Cristina Eve / Hoover / Kendale Lakes Elementary schools relief) (826 student stations)	Planning	2008 School Opening
State School "UU1" (Paul Bell / WR Thomas / Howard Doolin Middle schools relief) (1,660 student stations)	Design	2007 School Opening
State School "HHH-1" (Varela / Sunset / Southridge Senior High schools relief) (2,858 student stations)	Planning	2010 School Opening

**Proposed Relief Schools**

<u>School</u>	<u>Funding year</u>
N/A	

Estimated Permanent Elementary Seats (Current and Proposed in 5-Year Plan)	1,532
Estimated Permanent Middle Seats (Current and Proposed in 5-Year Plan)	2,691
Estimated Permanent Senior High Seats (Current and Proposed in 5-Year Plan)	5,380

Note: Some of the proposed schools will add relief to more than one school and new seats will be assigned based on projected need.

**OPERATING COSTS:** Accounting to Financial Affairs, the average cost for K-12 grade students amounts to \$6,549 per student. The total annual operating cost for additional students residing in this development, if approved, would total \$2,239,758.

**OPERATING COSTS:** Accounting to Financial Affairs, the average cost for K-12 grade students amounts to \$6,549 per student. The total annual operating cost for additional students residing in this development, if approved, would total \$78,588.

**CAPITAL COSTS:** Based on the State's July 2006 student station cost factors\*, capital costs for the estimated additional students to be generated by the proposed development are:

ELEMENTARY	Does not meet review threshold
MIDDLE	Does not meet review threshold
SENIOR HIGH	3 x 25,366 = \$76,098
<b>Total Potential Capital Cost</b>	<b>\$76,098</b>

\*Based on Information provided by the Florida Department of Education, Office of Educational Facilities Budgeting. Cost per student station does not include land cost.



# **APPENDIX D**

## **Applicant's Traffic Study**

**Not required for a small-scale amendment**



**APPENDIX E**

**Fiscal Impact Analysis**



## **FISCAL IMPACTS ON INFRASTRUCTURE AND SERVICES**

On October 23, 2001, the Board of County Commissioners adopted Ordinance 01-163 requiring the review procedures for amendments to the Comprehensive Development Master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of Application No. 9 to amend the Comprehensive Development Master Plan (CDMP) from county departments and agencies responsible for supplying and maintaining infrastructure and services relevant to the CDMP. The evaluation estimates the incremental and cumulative impact the costs of the required infrastructure and service, and the extent to which the costs will be borne by the property owners or will require general taxpayer support and includes an estimate of that support.

The agencies used various methodologies to make their calculations. The agencies rely on a variety of sources for revenue, such as, property taxes, impact fees, connection fees, user fees, gas taxes, taxing districts, general fund contribution, federal and state grants; federal funds, etc. Certain variables, such as property use, location, number of dwelling units, and type of units were considered by the service agencies in developing their cost estimates

### **Solid Waste Services**

#### **Concurrency**

Since the DSWM assesses capacity system-wide based, in part, on existing waste delivery commitments from both the private and public sectors, it is not possible to make determinations concerning the adequacy of solid waste disposal facilities relative to each individual application. Instead, the DSWM issues a periodic assessment of the County's status in terms of 'concurrency' – that is, the ability to maintain a minimum of five (5) years of waste disposal capacity system-wide. The County is committed to maintaining this level in compliance with Chapter 163, Part II F.S. and currently exceeds that standard by nearly four (4) years.

#### **Residential Collection and Disposal Service**

The incremental cost of adding a residential unit to the DSWM Service Area, which includes the disposal cost of waste, is offset by the annual fee charges to the user. Currently, that fee is \$399 per residential unit. For a residential dumpster, the current fee is \$308. The average residential unit currently generates approximately 3.0 tons of waste annually, which includes garbage, trash and recycled waste.

As reported in March 2005 to the State of Florida, Department of Environmental Protection, for the fiscal year ending September 30, 2004, the full cost per unit of providing waste Collection Service was \$370 including disposal and other Collections services such as, illegal dumping clean-up and code enforcement. .

### **Waste Disposal Capacity and Service**

The incremental and cumulative cost of providing disposal capacity for DSWM Collections, private haulers and municipalities are paid for by the users. The DSWM charges a disposal tipping fee at a contract rate of \$53.65 per ton to DSWM Collections and to those private haulers and municipalities with long term disposal agreements with the Department. For non-contract haulers, the rate is \$70.75. These rates adjust annually with the Consumer Price Index, South. In addition, the DSWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is targeted to ensure capacity in operations. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail and wholesale customers of the County's Water and Sewer Department.

### **Water and Sewer**

The Miami-Dade County Water and Sewer Department provides for the majority of water and sewer service throughout the county. The cost estimates provided herein are preliminary and final project costs will vary from these estimates. The final costs for the project and resulting feasibility will depend on actual labor and material costs, competitive market conditions, final project scope implementation schedule, continuity of personnel and other variable factors. Assuming Application No. 9 is built as an office complex (the applicant has proffered a covenant restricting the development of residential use), the fees paid by the developer would be \$2,937 for water impact fee, \$11,831 for sewer impact fee, \$1,300 per unit for connection fee, and \$1,697 for annual operating and maintenance costs based on approved figures through September 30, 2005.

### **Flood Protection**

The Department of Environmental Resources Management (DERM) is restricted to the enforcement of current stormwater management and disposal regulations. These regulations require that all new development provide full on-site retention of the stormwater runoff generated by the development. The drainage systems serving new developments are not allowed to impact existing or proposed public stormwater disposal systems, or to impact adjacent properties. The County is not responsible of providing flood protection to private properties, although it is the County's responsibility to ensure and verify that said protection has been incorporated in the plans for each proposed development.

The above noted determinations are predicated upon the provisions of Chapter 46, Section 4611.1 of the South Florida Building Code; Section 24-58.3(G) of the Code of Miami-Dade County, Florida; Chapter 40E-40 Florida Administrative Code, Basis of Review South Florida Water Management District (SFWMD); and Section D4 Part 2 of the Public Works Manual of Miami-Dade County. All these legal provisions emphasize

the requirement for full on-site retention of stormwater as a post development condition for all proposed commercial, industrial, and residential subdivisions.

Additionally, DERM staff notes that new development, within the urbanized area of the County, is assessed a stormwater utility fee. This fee commensurate with the percentage of impervious area of each parcel of land, and is assessed pursuant to the requirements of Section 24-61, Article IV, of the Code of Miami-Dade County. Finally, according to the same Code Section, the proceedings may only be utilized for the maintenance and improvement of public storm drainage systems.

Based upon the above noted considerations, it is the opinion of DERM that Ordinance No. 01-163 will not change, reverse, or affect these factual requirements.

### **Public Schools**

Application proffered a covenant prohibiting residential development. Thus no school impact should occur.

# APPENDIX F

## Proposed Declaration of Restrictions



This instrument was prepared by:

Name: Graham Penn, Esq.

Address: Bercow & Radell, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned Owner holds the fee simple title to a parcel of land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion, and

*WHEREAS*, the Property is the Application Area of Comprehensive Development Master Plan ("CDMP") Amendment Application No. 9 of the April 2006 Amendment Cycle;

*WHEREAS*, the Owner has sought to change the designation of the Property from "Parks and Recreation" to "Office/Residential;"

*NOW THEREFORE*, in order to assure the Miami-Dade County (the "County") that the representations made by the Owner during the consideration of the Application will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

**Development Limits.** The Property shall not be developed with residential units.

**Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and its heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and its heirs, successors and assigns,

(Space reserved for Clerk)

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acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

**Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

**Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may, from time to time, govern amendments to Comprehensive Plans (hereinafter "Chapter 163"). Such modification or release shall also be subject to the provisions governing amendments to the CDMP as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulations governing modifications to the CDMP. In the event that the Property is incorporated within a new municipality that amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications or releases of this Declaration shall be subject to Chapter 163 and the provisions of such ordinances as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Chapter 163 and the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his

(Space reserved for Clerk)

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or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

**Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

**Authorization for Miami-Dade County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

**Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

**Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

**Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

**Recordation and Effective Date.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval

(Space reserved for Clerk)

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of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

**Acceptance of Declaration.** The Owner acknowledges that acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners retains its full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

**Owner.** The term Owner shall include all heirs, assigns, and successors in interest.

[Execution Pages Follow]

# APPENDIX G

## Photos of Application Site and Surroundings





View looking east towards the site on Hammocks Boulevard.

