

<h1>Application No. 8</h1> <p>Commission District 10    Community Council 10</p>
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## APPLICATION SUMMARY

Applicant/Representative:	Fontainebleau Lakes, LLC/Felix M. Larsarte, Esq.
Location:	North side of Flagler Street between theoretical NW 90 and NW 94 Avenues
Total Acreage:	<u>±</u> 41.0 Gross Acres ( <u>±</u> 39.0 Net Acres)
Current Land Use Plan Map Designation:	Parcel A (23 acres) Medium Density Residential and Parcel B (18 acres) Parks and Recreation
Requested Land Use Plan Map Designation:	Business and Office (41.0 Gross acres)
Amendment Type:	Standard Land Use Plan Map
Existing Zoning/Site Condition:	4U-4M (Parcel A) & GU (Parcel B); both parcels are currently vacant

## RECOMMENDATIONS

Staff:	<b>DENY AND DO NOT TRANSMIT</b> (August 25, 2008)
Westchester Community Council (CC10):	<b>TO BE DETERMINED</b> (September 23, 2008)
Planning Advisory Board (PAB) acting as Local Planning Agency:	<b>TO BE DETERMINED</b> (October 6, 2008)
Board of County Commissioners:	<b>TO BE DETERMINED</b> (November 6, 2008)
Final Recommendation of PAB acting as Local Planning Agency:	<b>TO BE DETERMINED</b>
Final Action of Board of County Commissioners:	<b>TO BE DETERMINED</b>

Staff recommends: **DENY AND DO NOT TRANSMIT** the proposed standard amendment application to redesignate the 23-acre parcel from "Medium Density Residential (13-25 dwelling units per gross acre - du/ac)" and the 18-acre parcel from "Parks and Recreation" to "Business and Office" on the Adopted 2015 and 2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Staff analysis is summarized in the Principal Reasons for Recommendations below.

**Principal Reasons for Recommendations:**

1. The 41-acre application site is located within the boundaries of the April 2004 CDMP Amendment Application No. 3 that covered 152.28 gross acres of the East Course of Fontainebleau Golf Course. This golf course was originally developed by Trafalgar Developers, Ltd. to serve as the open space for the surrounding residential community. Application No. 3, which was adopted on May 9, 2005, resulted in 57.895 gross acres being redesignated as "Medium Density Residential Communities" and approximately 94.385 gross acres designated as "Park and Recreation". These land use changes allowed approximately 62 percent of the original golf course site to remain as open space to serve the residents of the Fontainebleau Park area.

A major concern of staff of the Department of Planning and Zoning (DP&Z) has been the preservation of open space and recreational facilities for the residents of Fontainebleau Park area. The Department recognizes the need to maintain green space for the residents of the area, especially those living in multi-family structures. This application, by redesignating 18 acres from "Parks and Recreation" to "Business and Office" on the Adopted 2015 and 2025 LUP map of the CDMP, will reduce the open space from 94 acres to 76 acres, or approximately to 50 percent of the 152 acres of the former golf course. The proposed application will further reduce the amount of open space on the former golf course site from 62 to 50 percent. With regard to the redevelopment of a former golf course serving a residential community, the Land Use Element of the of the CDMP on page I-51 states that "...The development plan for such land (1) shall provide for development compatible with adjacent development; (2) shall provide by restrictive covenant that not less than two-thirds of the land subject to the new development plan (or such other proportion deemed appropriate by the Board of County Commissioners and/or appropriate Community Zoning Appeals Board but in no event less than 50 percent of such land) shall be maintained as Park, Recreational or open space for use by residents or other residents or users of the entire development for which the open space had originally been provided."

2. The proposed development conflicts with the existing covenant on the property. A declaration of restrictions or covenant was accepted with the April 2004 Application that stated that the approximately 152-acre property would be developed in substantial conformity with the conceptual site plan entitled "Fontainebleau East Shoma Development" prepared by Pascual Perez Kiliddjian & Associates and dated April 7, 2005, and limits the number of residential units to a maximum of 1,176. According to this covenant, the conceptual site plan merely sets forth the total number and types of residential units proposed for the property and the location of certain green or buffered areas. The covenant was executed on May 6, 2005 and recorded in Book 23413 of the County Public Records Pages 1136 through 1142 on May 26, 2005. If the application is adopted, this subject covenant will need to be revised as well as the conceptual site plan and the maximum number of dwelling units to be developed on the property. In addition,

the revised covenant will need to be accepted by the Board of County Commissioners (BCC) at the adoption hearing.

On August 18, 2008, the applicant submitted a proposed covenant that restricts the development of the 41-acre application site to 240,000 square feet (sq. ft.) of retail space under the requested "Business and Office" land use designation. A commercial development with a floor area of 240,000 sq. ft. usually requires an area of 15 or less acres. The covenant also restricts the height of development to 45 feet and commits to maintaining a pedestrian pathway that will be properly lit and landscaped between the commercial development and the existing residential areas. The covenant, however, does not identify which residential areas will be directly served by the pathway or who will be building or funding it. The covenant also prohibits residential and office developments on the 41 acres and further restricts the uses on the property to those permitted under the BU-1A (Limited Business) Zoning District, which allows retail and service activities. In addition, the covenant excludes certain BU-1A uses such as donated goods center; automobile light truck sales and service stations; billiard and pool rooms; motorcycle sales and repairs; lawn mower, retail sales and service centers; open air theater; skating rinks; and rental trucks. The proposed covenant references two documents, the "Conceptual Site Plan" or bubble site plan for "West Flagler Commercial Development" prepared by Leo A. Daly, and a document on Water Conservation and Alternative Water Supplies, which have not yet been submitted.

3. One of the reasons for the Department's support of April 2004 Cycle Application No. 3 to amend the CDMP, was based on the development of additional housing on the 152-acre site which would help accommodate the County's projected population growth. However, the approval of the new application and acceptance of the proposed covenant, which prohibits residential development, would result in a net loss of approximately 467 dwelling units.
4. The requested "Business and Office" designation for the application site is inconsistent with the Guidelines for Urban Form established in the CDMP because the location of the application site does not qualify for an activity node. Guideline No. 4 requires that "Intersections of section line roads shall serve as focal points of activity, referred to as Activity nodes. Activity nodes shall be occupied by any non-residential components of neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes..." The application site is poorly configured and not properly located for a commercial development. The application site is not located at the intersection of two-section line roads, but rather on the north side of a half-section roadway, West Flagler Street, between theoretical NW 90 and NW 94 Avenues. This location is approximately midway between the two nearest north-south section line roads, NW 87 and 97 Avenues. Approval of this site for "Business and Office" will only promote commercial strip along West Flagler Street and in an area that where there is plenty commercial development to serve the needs of the residential population. The poor configuration of the site actually "sandwiches" the proposed commercial development between residential developments and replaces existing and planned open space with commercial development and activity. Thereby making the application incompatible with the surrounding area.
5. The application does not satisfy a deficiency in the Plan map to accommodate projected population or economic growth of the County as required by Land Use Element Policy

LU-8E. No need exists for additional commercial development in the application area. A surplus of commercial land exists in the analysis area (over 2,180 acres are currently in use and 352 acres are vacant in Minor Statistical Areas (MSA) 3.2 and 5.4). The average annual absorption rate projected for the 2008-2025 period is 18.39 acres per year. At the projected rate of absorption, the commercially zoned and designated land in the area is projected to be depleted beyond the year 2025. Approval of the application site as requested would reduce the supply of residential land and increase the commercial capacity that is already in excess in the area.

The Application site is located on West Flagler Street between theoretical NW 90 and NW 94 Avenues in an area that already contains extensive shopping facilities. Many businesses, including three malls (Mall of Americas, International Mall and Dolphin Mall), Wal-Mart, and other big-box establishments, already exist within 1/2 to 3 miles from the application site. Along West Flagler Street between Palmetto Expressway and NW 114 Avenues are such shopping centers as the Mall of the Americas with a Home Depot and a 14-screen movie theater, the 82nd Plaza Shopping Center, Flagler Park Plaza, La Roma Shopping Center, Park Hill Plaza Shopping Center, Plaza del Rey Shopping Center, El Camino de Oriente Shopping Center, and Flagler Square Shopping Center. These shopping centers have gas stations, medical offices, banks, repair shops, hair saloons, neighborhood pharmacy stores, music, dry cleaners, fast food restaurants and dining establishments such as Olive Garden, Outback, Pizza Hut, Piccadilly and Los Ranchos.

6. The application site has compatibility issues. The proposed commercial development is not compatible with adjacent residential developments to the west (Castillian Club Condominium) and north (Bleau Grotto, Fountains, Parkview and Parkside Condominiums). Currently, the open space for the Fontainebleau area south of Fontainebleau Boulevard extends around the cluster of condominiums north of the application site from west of Bleau Grotto Condominium to east of Parkside Condominium. The proposed commercial development in the middle of this open space network would be disruptive to the neighborhood. One of the reasons for the Department's support of Application No. 3 in April 2004 Cycle of Applications to amend the CDMP, was that the 2004 application would allow the continuous network of open spaces that was created by the former golf course to remain in the neighborhood.
7. The odd shape (similar in shape to a shoe) is not an efficient configuration for business development. The shape of the site provides no roadway exposure for any business that would locate in the western or eastern ends of the property and would result in poor on-site traffic circulation.
8. The nearby roadway system and other public facilities and services will be impacted by the approval of this application. Several roadway segments in the vicinity of the application site are projected to fail (LOS F) without the application impact and to further deteriorate with the approval of the application. The applicant submitted a traffic impact analysis in support of the application. The transportation consultant's concurrency analysis also shows that the roadway segment of NW 87 Avenue, between SR 836 and W Flagler Street, will deteriorate from LOS E to LOS F, with the application's impact. And the future (2015) traffic impact analysis indicates that Fontainebleau Boulevard between NW 107 Avenue and Park Boulevard, W Flagler Street between NW 87 Avenue and SR 826, NW 97 between NW 12 Street and Fontainebleau Blvd. and from W Flagler

Street to SW 8 Street, SR 826 between SR 836 and SW 8 Street, and Park Boulevard between Fontainebleau Boulevard and NW 87 Avenue are projected to operate at LOS F, below their adopted LOS standards. The transportation consultant concludes that the application does not impact any roadway shown to operate below its adopted LOS standard with trips in excess of five percent of the roadway service capacity. However, the five percent rule applies only to development of regional impact (DRI), and the proposed commercial development is 240,000 sq. ft. For a development to be a DRI it should be 400,000 or more sq. ft. in size.

9. Except for fire service, the application has minimal or no impacts to public services. With regard to Fire and Rescue service, the current CDMP designation would allow a land use development that will generate a total of 131 annual alarms. Under the requested "Business and Office" land use designation, the potential development would generate approximately 690 annual alarms, which amounts to 559 additional alarms beyond the current estimate. The Miami-Dade County Fire and Rescue Service (MDFR) indicates that this will result in a severe impact to the existing fire rescue service system.
10. The application site does not impact historical or archaeological resources on the subject property and has limited impact to environmental resources. Environmental issues impacting the site include a minimum elevation of 7.0 feet to prevent flooding of structures, drainage, specimen trees and hazardous waste.

## STAFF ANALYSIS

### Introduction/Background

This application is a request to redesignate a combined total of 41 gross acres of land located on the north side of West Flagler Street between theoretical NW 90 and 94 Avenues in unincorporated Miami-Dade County, from "Medium Density Residential" (23 acres), which allows from 13 to 25 dwelling units per gross acre (du/ac) and "Parks and Recreation" (18 acres) to "Business and Office".

The application site was a portion of the subject site for Application No. 9 in the April 2003 Application Cycle to amend the CDMP. This referenced application, which was denied for transmittal to the Department of Community Affairs (DCA), was a request to redesignate approximately 148.46 gross acres from "Parks and Recreation" to "Medium Density Residential" land use category. The denial was by Resolution No. R-1258-03 approved by the Board of County Commissioners (Board) on November 5, 2003.

Also, this application was a portion of the subject site for Application No. 3 of the April 2004 Application Cycle to amend the CDMP. This referenced application was "adopted with change and with acceptance of a proffered covenant" by the Board by Ordinance No. 05-92 on May 9, 2005. The "changes" to the 152-gross-acre application included a designation of 24.749-acre (Parcels B and C in the conceptual site plan for Fontainebleau East) on the frontage of West Flagler Street and 33.1451 acres (Parcel A) along the south side of State Road 836 (Dolphin Expressway) as "Medium Density Residential" and along Fontainebleau Boulevard and a total of 37.66 gross acres that is situated along and east of Florida Power and Light Company (FPL) easement for a transmission line as "Parks and Recreation. The Declaration of Restrictions (covenant), which was voluntarily tendered by the applicant and accepted by the Board, limited the residential development on the site to 1,176 dwelling units.

For this current application, the applicant submitted a traffic study dated June 25, 2008 and prepared by Kimley-Horn and Associates, Inc and a draft covenant dated July 28, 2008 to support the application. These two documents were submitted on time before the Department's deadline of July 28, 2008 for the April 2008 amendment cycle, and have been considered by staff in the assessment and analysis of the application.

Since this application involves a conversion of some areas that are currently designated and restricted to open space and recreation uses by a restrictive covenant running with the subject property, it would be essential to clarify the provisions of the designation with respect to any proposal to convert any portion of it to other land uses.

The "Parks and Recreation" land use category states in part:

"Most of the designated privately owned land either possesses outstanding environmental qualities and unique potential for public recreation, or is a golf course included within a large scale development. Unless otherwise restricted, the privately owned land designated as Parks and Recreation may be developed for a use or a density comparable to, and compatible with, surrounding development providing that such development is consistent with the goals, objectives and policies of the CDMP. Except as consistent with the provisions below, however, this allowance does not apply to land designated Parks and Recreation that was set aside for park recreation or open

space use as a part of, or as a basis for approving the density or other aspect of, a residential development or other is otherwise subject to a restrictive covenant accepted by a public entity.”

“The long term use of golf courses or other private recreation or open space on privately owned land designated as Park and Recreation may be previously limited by deed restriction or restrictive covenant. A new development plan governing such land set-aside for park, recreation or open space use (restricted lands) may be approved at public hearing by the Board of County Commissioners or the applicable zoning board only if the following is demonstrated: (1) that the restricted land is subject to a restrictive covenant relating to development served by the open space, that such restrictive covenant continues to limit the use of the land to open space, and that this limitation in the restrictive covenant may be modified only with the written consent of adjacent or proximate property owners or a prescribed percentage thereof; (2) that the required written consents of the adjacent or proximate property owners have been obtained; and (3) that the proposed development will replace park or recreation land or open space that has fallen into prolonged disuse or disrepair to the detriment of the surrounding neighborhood. The development plan for such land (1) shall provide for development compatible with adjacent development; (2) shall provide by restrictive covenant that not less than two-thirds of the land subject to the new development plan (or such other proportion deemed appropriate by the Board of County Commissioners and/or appropriate Community Zoning Appeals Board but in no event less than 50 percent of such land) shall be maintained as Park, Recreational or open space for use by residents or other residents or users of the entire development for which the open space had originally been provided; (3) shall provide a financial means of assuring such maintenance, by homeowner’s association, special tax district or other comparable means approved at public hearing or by the Director of the Department of Planning and Zoning or successor agency; and (4) shall provide that the residential density of the portion of the Park and Recreation-designated land eligible for development shall not exceed either the gross existing density of the development in connection with which the park-designated land was originally set aside, or the gross density of all the ownership parcels immediately abutting the entire the park-designated land whichever is lower. An approval pursuant to this provision may allow the gross density of the combined new and existing development, and its existing zoning, to exceed the maximum otherwise allowed by the LUP map, but only to the extent necessary to enable reuse of the park designated land in accordance with this provision. Nothing herein shall be construed to permit development of property subject to a restrictive covenant accepted by the country or other public entity without compliance with the terms that covenant including, but not limited to, those terms governing modification or amendment thereof.”

## **Application Site**

The application site encompasses approximately 41.0 gross acres located on the north side of West Flagler Street between theoretical NW 90 and 94 Avenues in the Westchester Community Council area of the County. The site is currently accessible from West Flagler Street and contains several new Shoma Homes type townhouses. (See Appendix A: Map Series). Besides Application No. 3 of the April 2004 Amendment Cycle, which this subject site was part of as noted above, several CDMP amendments involving certain parcels approximately 1 mile from the application site have occurred pre-dating Year 2000. The nearest recent CDMP plan

amendments in the immediate vicinity of the application site was Application No. 1- Parcel No. 62 of the October 2004-05 Amendment Cycle. This amendment redesignated a 39-acre parcel at the corner of NW 107 Avenue and West Flagler Street between NW 107 and NW 105 Place from "Office/Residential" to "Institutions, Utilities and Communications" (previously Institutional and Public Facility in the October 2004 Cycle EAR-based Amendment Cycle).

The applicant is requesting a redesignation on the subject property from "Medium Density Residential" (23 acres), which allows from 13 to 25 dwelling units per gross acre (du/ac) and "Parks and Recreation" (18 acres) to "Business and Office". Under the current designations with an existing restrictive covenant, which limits the density to 20.31 du/gross acre, the property could potentially be developed with 467 multifamily units on the 23 gross acres and none on the 18 acres. Under the proposed designation of "Business and Office", the entire 41-acre site could potentially be developed with 832 multifamily dwelling units based on the density allowed in the existing covenant or 679,536 square feet (sf) of retail commercial use or 849,420 sf of office development. However, the applicant is proffering a restrictive covenant to limit the development of the site to 240,000 sf of retail commercial with no residential or office development.

The current zoning of the application site is (1) RU-4M (Modified Apartment House District) on the 23 acres, which normally allows up to 35.9 units/net acre but is limited by existing covenant to 20.31 units/net acre), and (2) GU (Agricultural) on the 18 acres, which normally allows only one residential home per 5 gross acres but is limited by the existing covenant to recreational use only and no dwelling units.

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

The adopted Land Use Plan map of the CDMP shows that the areas surrounding the application site to the east, southeast, southwest and west are "Medium Density Residential". The eastern portion is currently zoned RU-4 (High Density Apartment House District at 50 dwelling units per net acre) and the southeastern portion is zoned RU-4L (Limited Apartment House District at 23 dwelling units per net acre). The southwestern area is zoned RU-4M (Modified Apartment House District at 35.9 dwelling units per net acre) while the western portion is zoned GU Interim District with basic underlying EU-2 standard of one single family per five acre Estate District).

The area directly south of the site along West Flagler is designated "Office/Residential" and zoned RU-4M, BU-2 (Special Business District), west of SW 92 Avenue, AU (Agricultural District with one residence per 5 gross acres) east of SW 92 Avenue and RU-4L further east of SW 92 Avenue. Northwest and northeast areas are designated "Parks and Recreation" and the area directly north of the site is an elongated strip of land also designated "Parks and Recreation" connecting the recreational and open space areas northeast and northwest of the property. These areas are currently zone GU on the Zoning map. The existing development pattern in all directions from the application site and beyond the recreation and open space areas are all medium density residential communities, except some office development directly south of the property across West Flagler Street. These areas to the north, east and south, primarily consists of Shoma Homes multi-family and town homes (the Fontainebleau Lakes development), which are under construction and being sold to the public. These areas are largely zoned RU-4, which normally allows 50 units/net acre but have been rezoned for densities lower than the zoning would allow. Directly west of the property is also designated Medium Density Residential with GU zoning district.

Generally, the application site as a portion of the Fontainebleau development in the April 2004 Amendment Cycle (Application No. 3), is surrounded by the multi-family residential communities including the San Marcos, Rio Apartments and Birchwood Apartments and certain office developments east of the site. The area inside the golf course, which forms a circle, contains a shopping center, multi-family housing including Abor Lake Apartments, Parkwood Apartments, and Parkview Townhomes. West of the site are a school and multi-family housing including the Fountain Blue Milton and Blue Fountain Apartments. To the south across West Flagler Street of the overall site are multi-family residential housing, Florida Power and Light (FPL) company offices. To the north of the overall site is the Park Hill Plaza shopping center and multi-family East Park housing units. North of and beyond the overall site are the Dolphin Expressway (SR 836) and commercial and industrial land uses zoned IU-C (Conditional Industrial District).

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

In June 1955 (Resolution No.R-8483), Parcel A of the application site underwent some district boundary adjustments and related rezoning including rezoning from AU (Agricultural District: 1du/5acres) to EU-1 (single-family one acre estate district), RU-1 (single family residential District: 7,500 sf), etc. In July of 1969 (Resolution No. 4-208-69), the Board approved the construction of an unusual use for a golf course with specific conditions, which addressed the type of layout, egresses, signs, drainage, entrances features, landscaping, etc. Other conditions required for the golf course to be platted simultaneously with residential lots and be maintained perpetually as a golf course, and that a formal restrictive covenant running with the land be recorded to ensure that the golf course is perpetually maintained. In June of 1969 (Resolution No. 4-ZAB-325-69), the Board approved more district boundary changes and various variances on parcels within the application site, which were determined to be in harmony with the general purpose and intent of the regulations and further conform to the requirements and intent of the Zoning Procedure Ordinance. Further in November of 1969 (Resolution No. 4-329-69), the Board corrected a clerical error, which inadvertently omitted the duration of required restrictive covenant and plat restriction and stated it to be 30 years.

Recently in March 2006 (Resolution No. CZAB 10-21-06), following the adoption of an amendment to the CDMP Land Use Plan map (Application No. 9 of the April 2004 Cycle), the County's Zoning Appeal Board 10, approved a rezoning of the of Parcel A of the this application site from GU (Interim) to RU-4M (Modified Apartment House District – 25.9 units/net acre) but with a proffered covenant, which has restrictions that are more restrictive than the applicable zoning regulation. The proffered covenant accepted for the overall site for Application No. 3 of the April 2004 Cycle, of which the current site is a part, limited residential development to 1,176 units. However, the Zoning Appeal Board 10 approved the rezoning that further limited the development of the overall site to 1,122 units.

### **Current Declaration of Restrictions**

There is a draft Declaration of Restrictions or covenant for this application in which the applicant is proposing the development of the site to “not exceed a total of 240,000 sf of retail space under the proposed Business and Office land use designation”. The covenant does not permit residential development on the subject property as well as some specific uses (listed in the covenant) that are allowed under BU-1A zoning district. The covenant further limits the

development to a maximum height of 45 feet. However, it does not exclude those uses that are allowed under the BU-1A District such as schools, offices, banks, hardware stores, museum, restaurants, etc. The proposal in the application of “a mixed-use development with an office and retail community/style center component” is not clarified or clearly reflected in the proposed covenant.

## Supply and Demand

### Residential Land Analysis

Vacant Residential land in the Analysis Area for Application No. 8 (Minor Statistical Areas 3.2 and 5.4) in 2008 is estimated to have a capacity for about 8,421 dwelling units, of which about 69 percent is for multi-family type units. The annual average demand is projected to increase from 710 units per year in the 2008-2010 period to 1,332 units per year in the 2020-2025 period. An analysis of the residential capacity, without differentiating by type of units, shows absorption occurring in the year 2015 (See Table below). Land for single-family type units is projected to be absorbed by the year 2011. The supply of multi-family land is projected to be depleted by 2019.

Residential Land Supply/Demand Analysis  
2008 to 2025

ANALYSIS DONE SEPARATELY FOR EACH TYPE, I.E. NO SHIFTING OF DEMAND BETWEEN SINGLE & MULTI-FAMILY TYPE	STRUCTURE TYPE		
	SINGLE-FAMILY	MULTIFAMILY	BOTH TYPES
CAPACITY IN 2008	1,901	6,520	8,421
DEMAND 2007-2010	371	339	710
CAPACITY IN 2010	1,159	5,842	7,001
DEMAND 2010-2015	709	633	1,342
CAPACITY IN 2015	0	2,677	291
DEMAND 2015-2020	706	609	1,315
CAPACITY IN 2020	0	0	0
DEMAND 2020-2025	719	613	1,332
CAPACITY IN 2025	0	0	0
<b>DEPLETION YEAR</b>	<b>2011</b>	<b>2019</b>	<b>2015</b>

Residential capacity is expressed in terms of housing units.

Housing demand is an annual average figure based on proposed population projections.

Source: Miami-Dade Department of Planning and Zoning, Planning Research Section, August 2008.

### Commercial Land Analysis

The Study Area for Application No. 8 contained 352.4 acres of vacant land zoned for commercial uses in July 2008. In addition, there were 2,180.1 acres of in-use commercial land. The average annual absorption rate projected for the 2008-2025 period is 18.39 acres per year. At the projected rate of absorption, the study area will deplete its supply of commercially zoned and designated land beyond the year 2025 (See Table 8B).

Table 8B  
 Projected Absorption of Land for Commercial Uses  
 Indicated Year of Depletion and Related Data  
 Analysis Area Application 8

Analysis Area MSA	Vacant Commercial Land 2008 (Acres)	Commercial Acres in Use 2008	Annual Absorption Rate 2008-2025 (Acres)	Projected Year of Depletion	Total Commercial Acres Per Thousand Persons	
					2015	2025
3.2	349.2	1,598.1	16.79	2025+	11.7	9.6
5.4	3.2	582.0	1.60	2010	5.6	5.5
<b>Total</b>	<b>352.4</b>	<b>2,180.1</b>	<b>18.39</b>	<b>2025+</b>	<b>9.4</b>	<b>8.2</b>

Source: Miami-Dade County Department of Planning & Zoning, Planning Division, Research Section, August 2008.

### Environmental Conditions

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

#### Flood Protection

County Flood Criteria, National Geodetic Vertical Datum (NGVD)	+7.0 feet
Stormwater Management Drainage Basin	Surface Water Management Permit C-4 (Tamiami) Canal
Federal Flood Zone	X Outside the 100-year floodplain
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	NO
Archaeological/Historical Resources	NO
Hazardous Waste	YES

#### Drainage and Flood Protection:

The application site lies within Flood Zone X, where the base flood elevation is undetermined as per the Federal Flood Insurance Rate Maps for Miami-Dade County (County). According to the County's flood criteria, the site shall be filled to a minimum elevation of 7.0 feet and requires an additional 8 inches for residential and 4 inches for commercial structures.

According to the Miami-Dade County Department of Environmental Resources Management (DERM), a retention/detention system adequately designed to contain the run-off generated by a 5-year storm event onsite is required for this application. Additionally, no off-site discharge of

stormwater is permitted. Due to the site's size and lot coverage potential, a Surface Water Management Permit must be obtained prior to any development of the site.

#### Specimen Trees:

DERM issued a Tree Removal permit for these properties to Fontainebleau Lakes LLC on December 4, 2006 that is scheduled to expire on December 4, 2008. This permit requires the preservation of specimen-sized trees (trunk diameter 18 inches or greater) previously identified by DERM in the West Developed Area, the East Developed Area, and the East Undeveloped Area. Prior to the scheduled expiration date of this permit, all approved tree removal or relocation, replanting, and final inspections must be completed. Also, two weeks' notice is required prior to DERM's final inspection. Section 24-49 of the Miami-Dade County Code (Code) requires a new Tree Removal Permit or an amendment to the existing Tree Removal Permit prior to the removal or relocation of any other tree on the application site.

#### Hazardous Waste

According to DERM, there are records of current arsenic contamination associated with the application site. Assessment and remediation activities have been completed and the groundwater is being monitored, through an approved monitoring-only program, to determine if closure is appropriate for this site.

### **Water and Sewer**

#### Water Supply

The Biscayne Aquifer is the primary water supply source for the millions of people living in South Florida. However, overuse of this aquifer has resulted in lowered water levels in the Everglades, which is inconsistent with the goals of the Comprehensive Everglades Restoration Project (CERP), which is designed to restore and preserve the water resources of the South Florida ecosystem, including the Everglades. In 2005, the South Florida Water Management District (SFWMD) promulgated new rules that prohibited withdrawals from the Biscayne Aquifer to accommodate future development. The SFWMD requires that all future development be linked to new water supply sources, either through alternative water supply or reuse projects.

On November 15, 2007, the Governing Board of the SFWMD approved Miami-Dade Water and Sewer Department's (WASD) 20-year water Consumptive Use Permit (CUP). WASD's implementation of a number of alternative water supply and reuse projects is an essential component of the CUP. As stated above, all future growth in County must rely on water from alternative sources or Biscayne water, which has been replenished by reused or reclaimed water. In April 2007, the Board of County Commissioners (Board) adopted alternative water supply and reuse projects into the Capital Improvements Element of the CDMP in the amount of \$1.6 billion dollars. This commitment by the Board fully funds the projects, which are outlined in SFWMD's Lower East Coast Regional Water Supply Plan and the County's CUP. A summary of these projects can be found under Objective WS-7 of the CDMP (Water Supply Facilities Workplan).

<b>Estimated Water Demand by Land Use Scenario</b>				
<b>Scenario</b>	<b>Use (Maximum Allowed)</b>	<b>Quantity (Units or Square Feet)</b>	<b>Water Demand Multiplier (Section 24-43.1 Miami-Dade Code)</b>	<b>Projected Water Demand (gpd)</b>
<b>CURRENT USE</b>				
1	MF Residential	467 units	200 gal/unit	93,400
<b>PROPOSED USE</b>				
1	Commercial	629,703 sf	10 gal/100 sf	62,970
2	MF Residential	2,460 units	200 gal/unit	492,000

Based on the above table, the maximum water demand for the current allowed uses is estimated at 93,400 gpd. Under proposed Scenario 2 the maximum water demand for a residential development is estimated at 492,000 gpd, an increase of 398,600 gpd. It should be noted that a covenant has been proffered by the applicant restricting this site to only commercial uses. Acceptance of the covenant for this site would reduce the maximum water demand to an estimated 62,970 gpd. This water demand is less than the water demand associated with the currently allowed development at the site.

The assessment of available water supply, as it relates to comprehensive plan amendments, is difficult given that there is no specific timing of the development. Therefore, to determine if adequate water supply will be available for the proposed amendment, an assumption of three years for project completion from final comprehensive plan amendment approval is made, for this project the year 2012 will be used. This timeframe allows for rezoning of the property, platting of property, permitting and construction. Additionally, this is the timeframe for which concurrency is applied.

Figure 5-1 (Alternative Water Supply and Wastewater Reuse Projects 2007-2030) of the Water and Sewer sub-element in the CDMP, indicates that the Phase 1 of the Hialeah Floridan Aquifer Reverse Osmosis (R.O.) Water Treatment Plant (WTP) will be completed in 2012. This project will yield 8.5 million gallons per day and will ensure adequate water supply for this proposed site. The Table 5-2 - Finished Water Demand by Source of the Water Supply Facilities Work Plan Support Document indicates that there will be no water deficit after the normal growth of the County is accommodated in the year 2012 or through the year 2030.

It should be noted that WASD is developing an allocation system to track water demands from platted and permitted development. This system will correspond to the system used by DERM to track sewer flows to pump stations and wastewater treatment facilities. The water allocation system requires all development within the WASD utility service area to obtain a letter from WASD stating that adequate water supply capacity is available for the proposed project prior to approval of development orders. WASD's water allocation system is anticipated to be operational in late 2008.

#### Potable Water

The County's adopted level of service (LOS) standard for water treatment requires that the regional treatment system operate with a rated maximum daily capacity of no less than 2 percent above the maximum daily flow for the preceding year, and an average daily capacity 2 percent above the average daily system demand for the preceding 5 years. The water treatment plant servicing the application site area is WASD's Alexander Orr Water Treatment Plant. Based on the 12-month data provided by DERM, the water treatment plant currently has a DERM rated treatment capacity of 214.7 million gallons per day (mgd) and a maximum plant

production of 196.2 mgd. As a result, this treatment plant has 18.5 mgd or 8.6% of treatment plant capacity remaining. Additionally, this plant has a 12-month average day demand of 159.1 mgd, which is well within 2 percent of the plant's 199.2 mgd permitted annual average withdrawal, and therefore meets the LOS standard for water treatment facilities.

Potable water service is provided by WASD through existing 16-inch and 12-inch water mains that abut the application site. Based on a maximum water demand development scenario, Scenario 2 as noted under Water Supply, it is estimated that this application site will have an estimated water demand of 492,000 gpd; 398,600 gpd above what is currently allowed at the site. If the application is approved, the increase in water demand could decrease the plant's capacity to 8.3% of the remaining design capacity and will not cause the adopted LOS standard to be exceeded. It should be noted that with acceptance of the proffered covenant the water demand is estimated to be 62,970 gpd; a water demand that is less than what the currently allowed development of the site would generate.

### Wastewater Facilities

The County's adopted LOS standard for wastewater treatment and disposal requires that the regional wastewater treatment and disposal system operate with a capacity that is two percent above the average daily per capita flow for the preceding five years and a physical capacity of no less than the annual average daily sewer flow. The wastewater effluent must also meet all applicable federal, state, and county standards and all treatment plants must maintain the capacity to treat peak flows without overflow. Ultimate disposal of sewage flows from the application site is the Central District Wastewater Treatment Facility, which has a design capacity of 143 mgd and an 12-month average flow (ending April 2008) of 115.0 mgd or 80.4% of the plant's design capacity.

Based upon the residential development scenario (discussed under the Water Supply section), it is estimated that this site will generate sewage flows of 492,000 gpd. These estimated flows will reduce the plant's capacity to 80.76% of the plant's design capacity and will not cause the adopted LOS standard to be exceeded. However, it should be noted that with acceptance of the proffered covenant the sewage flow generation is estimated to be 62,970 gpd; an estimated flow that is less than what the currently allowed development of the site would generate.

The closest available public sanitary sewer line to the application site is an existing 16-inch gravity main on the north side of the property. According to WASD, sewage flows from this site would be connected by private pump station to a 42-inch force main located along Flagler Street. All of the public pump stations potentially impacted by these sewage flows are currently operating within mandated criteria set forth in a Florida Department of Environmental Protection consent decree.

### **Solid Waste**

The application site is located inside the Department of Solid Waste Management (DSWM) waste service area for garbage and trash collections. The adopted LOS standard for the County Solid Waste Management System is to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. 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. Currently the County exceeds the minimum standard by two (2) years. A review of the application by the DSWM indicates that development of this site will have minimal impact on the current capacity and will not cause the LOS standard for solid waste to be exceeded.

The closest DSWM facility is the Snapper Creek Trash and Recycling Center located at 2200 SW 117th Avenue, approximately four miles from the application site. Under the DSWM’s current policy, only residential customers paying the annual waste collection fee and/or the Trash and Recycling Center fee are allowed the use of this type of facility. The DSWM has indicated that the request will have minimal impact on collection services and that the DSWM is capable of providing the necessary disposal service for this application.

### Parks

The LOS standard for the provision of recreation open space provides for 2.75 acres of local recreation open space per 1,000 permanent residents in unincorporated areas; and adds that the County must provide open space of five acres or larger within three miles from a residential area. This application is in Park Benefit District 1 (PBD1), which has a surplus capacity of 396 acres when measured by the County concurrency LOS standard for the unincorporated area of 2.75 acres of local recreation open space for 1,000 persons in Unincorporated Municipal Service Area (UMSA). The local parks within a two-mile radius of this application site are listed below.

County Local Parks Within a 2 Mile Radius of Application Area		
Name	Park Classification	Acreage
Banyan Estates Park	Neighborhood Park	3.14
Coral Estates Park	Community Park	5.15
Francisco Human Rights Park	Mini Park	3.78
Rockway Park	Community Park	2.52
Ruben Dario Park	Community Park	15.29
Sunset Heights Park	Mini-Park	.32
The Womens Park	Single Purpose Park	15.00
Westbrook Park	Neighborhood Park	2.45

Source: Miami Dade Parks and Recreation Department, July 2008

This application has the potential to increase population on site by 6,027 persons, 4,883 persons more than what the site could generate under its current designation, resulting in a need for an additional 13.43 acres, if approved. The applicant proffered a restrictive covenant, which would prohibit residential development at the site. If this covenant is accepted, no additional parkland will be required for this application site. The cumulative impact of all applications in PBD1 will increase the population by 13,644 and decrease the available reserve capacity by 37.52 acres.

The Park and Recreation Department (PARD) was working with the applicant for several years to secure a large area of the overall site for public parkland. That effort was triggered by the

approval of significant residential development on what was a golf course associated with earlier development approvals. The current application site includes area that was previously discussed as potential dedication for park and open space. Although the current application will decrease residential use, the uses will generate additional daytime population. PARD is very concerned that any future development proposals respect the understanding that there will be a continuous significant recreation open space on the prior golf course. PARD is also concerned that any proposed development be sited to enhance that open space and to provide meaningful access and linkages to residents.

PARD is committed to increasing available recreation open space and facilities in this area that is very dense and has spent considerable time and effort to work with the applicant to reach an agreement regarding the amount and configuration of open space that will be provided. Additionally, PARD recommends that any future development proposed for this site take the goals and principles of the County's Open Space System Master Plan into account.

### **Fire and Rescue Service**

Miami-Dade County Fire Rescue Station 48, Fontainebleau, located at 8825 Northwest 18th Terrace, currently serves the application site. This station is equipped with a 75' Advanced Life Support (ALS) Engine and a Rescue unit, and is continuously staffed with seven firefighters/paramedics. Planned Station 68, which will be located at Northwest 112<sup>th</sup> Avenue and Northwest 17<sup>th</sup> Street, is scheduled for completion in 2011.

According to 2007 Miami-Dade County Fire Rescue Department (MDFR) data, average travel time to incidents in the vicinity of the application site is approximately 7 minutes and 43 seconds for life threatening emergencies and 2 minutes and 34 seconds for structure fires. This average travel time is within an acceptable range for response times according to the National Fire Prevention Code.

The current CDMP designation allows a potential development that will generate a total of 131 annual alarms. Under the requested CDMP designation, potential development is anticipated to generate a total of 690 annual alarms. According to MDFR, this will result in a severe impact to existing fire rescue services. Under the MDFR evaluation system, 1 – 30 annual alarms would have minimal impact to Fire and Rescue services, 31 – 69 annual alarms would have a moderate impact, and 70+ annual alarms would have a severe impact.

A severe impact rating does not mean that Fire-Rescue cannot meet the demands with current staffing or equipment levels, it is only an indication of the average quantity of alarms expected from an application when built. If Fire-Rescue needs additional personnel or equipment to ensure level of service standards for fire protection are met, then that will be specifically mentioned in the analysis.

The required fire flow for the proposed CDMP designation is as follows: Business uses 3,000 gallons per minute (gpm) at 20 pounds per square inch (psi) residual on the system; Office uses is 1,500 gpm. Additionally, each fire hydrant shall deliver no less than 750 gpm. Fire flows in this area must meet the required pressures; however, testing of the water lines that will service this site will be performed at the development stage.

## Public Schools

Miami-Dade County anticipates adopting a concurrency level of service (LOS) standard for public school facilities in the near future. At the time of review of this application a concurrency LOS standard for public schools has not been adopted and in place. The evaluation of development based on a concurrency methodology may differ from the current method of assessing the development impact on public schools. The current methodology requires collaboration with the Miami-Dade County School Board if the proposed development results in an increase of FISH utilization in excess of 115% at any of the schools of impact. The evaluation of this application on the surrounding schools is presented below.

School	2007 Enrollment*		FISH Capacity**	% FISH Utilization	
	Current	With Application		Current	With Application
E.W.F. Stirrup Elementary	724	1,059	742	117%	134%
Ruben Dario Middle	878	1,032	1,177	75%	88%
Miami Coral Park Senior	3,616	3,825	4,110	88%	93%

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

Notes: 1) Figures above reflect the impact of the class size amendment.

2) Pursuant to the Interlocal Agreement, none of the schools meet the review threshold.

Students generated by this application will attend those schools identified in the above table. This table also identifies the school's enrollment as of October 2007, the school's Florida Inventory of School Houses (FISH) capacity, which includes permanent and relocatable student stations, and the school's FISH utilization percentage.

This application, if approved, will increase the potential student population of the schools serving the application site by an additional 698 students. 335 students will attend E.W.F. Stirrup Elementary, increasing the FISH utilization from 92% to 134%; 154 students will attend Ruben Dario Middle, increasing the FISH from 75% to 88%; and 209 students will attend Miami Coral Park Senior High, increasing the FISH utilization from 88% to 93%. One of the schools, elementary, will exceed the 115% FISH design capacity threshold set by the current Interlocal Agreement.

Currently there are no new schools being planned, designed or under construction for this application site.

If the covenant proposed for this application, which prohibits residential development on the property, is accepted, there would instead be reduced impacts on public school based on the current designation of the subject and approved development on the subject property.

## Roadways

Application No. 8 is a Standard Amendment Application, a 41.0 gross-acre site, located north of West Flagler Street between NW 97 Avenue and Fontainebleau Boulevard. Primary access to the Application site is from West Flagler Street, a six-lane divided arterial, which provides

access to other major north-south arterials. East-west expressways and arterials include the Dolphin Expressway, West Flagler Street and SW 8 Street (SR 90). North-south expressways and arterials include the Homestead Extension of the Florida Turnpike (HEFT), the Palmetto Expressway, and NW 107, NW 97 and NW 87 Avenues. All these roadways provide accessibility to other parts of the County. The HEFT (SR 821), the Dolphin Expressway (SR 836) and the Palmetto Expressway (SR 826) form part of Florida's Strategic Intermodal System (SIS) and also part of the Florida Intrastate Highway System (FIHS).

The Department of Planning and Zoning (DP&Z) in cooperation with the County's Public Works Department (PWD) and the Metropolitan Planning Organization (MPO) performed traffic impact analyses - concurrency and future (Year 2015) traffic impact analysis - to assess the impact that Application No. 8 would have on the adjacent roadway network. The analyses were based on two potential development scenarios that could occur under the requested "Business and Office" land use designation, commercial and residential uses. Residential development may be authorized to occur in the "Business and Office" land use category at a density up to one density category higher than the LUP-designated density of the adjacent or adjoining residentially designated area (CDMP Land Use Element, page I-42).

Study Area

The Study Area analyzed is bound by the Dolphin Expressway (SR 836) to the north, the Palmetto Expressway (SR 826) to east, Tamiami Trail/SW 8 Street (SR 90) to the south and SW 107 Avenue (SR 985) to the west.

Existing Conditions

The roadway operating conditions, levels of service (LOS), are represented by one of the letters "A" through "F", with "A" generally representing the most favorable driving conditions and "F" representing the least favorable.

The major roadways in the study area are currently operating at or above the adopted level of service standards during the peak period. See Existing Traffic Conditions Table below. However, some roadway segments are reported to be operating at their adopted LOS standards. These roadways are: NW 107 Avenue, between NW 12 Street and SR 836; the Palmetto Expressway, from SR 836 and SW 8 Street; NW 12 Street, from NW 87 Avenue to NW 72 Avenue; and SR 836, between NW 107 and NW 87 Avenue. All these roadway segments are currently operating at their adopted LOS D standard. All other roadways within the study area that are currently monitored show acceptable peak-period LOS conditions.

Existing Traffic Conditions				
Roadway Lanes and Peak Period Level of Service (LOS)				
Roadway	Location/Link	Lanes	LOS Std.	LOS
HEFT (SR 821)	SR 836 to SW 8 Street	6 LA	D	C (06)
NW 107 Ave	NW 12 Street to SR 836	6 DV	D	D (07)
	West Flagler Street to SR 836	6 DV	E	D (07)
	SW 8 Street to W. Flagler St.	4DV	E	D (07)
NW 97 Avenue	NW 25 Street to NW 12 Street	2 UD	D	C (07)
NW/SW 87 Avenue (SR 973)	SR 836 to West Flagler Street	6 DV	E	D (07)
	West Flagler Street to SW 8 Street	4 DV	E	D (07)
Palmetto Exp. (SR 826)	SR 836 to West Flagler Street	8 LA	D	D (06)
April 2008 Cycle	8-18			Application No. 8

	West Flagler Street to SW 8th Street	8 LA	D	D (06)
NW 12 Street	HEFT to NW 107 Avenue	6 DV	D	C (07)
	NW 107 Avenue to NW 87 Avenue	4DV	D	C (07)
	NW 87 Avenue to NW 72 Avenue	4DV	D	D (07)
SR-836/Dolphin Expressway	HEFT to NW 107 Avenue	6 LA	D	C (06)
	NW 107 Avenue to NW 87 Avenue	6 LA	D	D (06)
	NW 87 Avenue to SR 826	6 LA	D	C (06)
West Flagler Street	W 118 Avenue to W 114 Avenue	4 DV	E+20%	C (07)
	W 114 Avenue to W 107 Avenue	6 DV	E+20%	D (07)
	W 107 Avenue to W 97 Avenue	6 DV	E+20%	C (07)
	W 97 Avenue to W 87 Avenue	6 DV	E+20%	D (07)
	W 87 Avenue to SR 826	6 DV	E+20%	E (06)
SW 8 Street (SR 90)	HEFT to SW 107 Avenue	6DV	E	D (06)
	SW 107 Avenue to SW 87 Avenue	8 DV	E + 20%	B (06)
	SW 87 Avenue to SR 826	6DV	E + 20%	C (06)

Source: Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department; and Florida Department of Transportation, July 2008.

Note: ( ) in LOS column identifies year traffic count was updated or LOS traffic analysis revised  
 DV= Divided Roadway, UD= Undivided Roadway, LA= Limited Access  
 LOS Std. means the adopted minimum acceptable peak period Level of Service standard for all State and County roadways.

### Trip Generation

Two development scenarios were analyzed. Scenario 1 assumed the Application site developed with commercial use (a maximum of 679,536 sq. ft. shopping center); and Scenario 2 assumed the Application site developed with residential use (a maximum of 2,460 multifamily dwelling units). The estimated PM peak hour trips that could be generated by the potential development scenarios under the current and requested Land Use Plan map designations are presented in tabular form in the table below. If the application site were developed with commercial use (retail space) under the requested "Business and Office" land use designation, it would generate approximately 1,448 more PM peak hour trips than the development that could occur under the current CDMP designation. On the other hand, if the application site were developed with residential use (multifamily development) under the requested land use designation, it would generate approximately 1,096 more PM peak hour trips than the potential development under the current CDMP designation. See table below.

Estimated Peak Hour Trip Generation  
By Current and Requested CDMP Land Use Designations

Application No.	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 Use Designations
8 (Scenario 1)	Park & Recreation and Medium Density Residential (13 – 25 DUs/gross acre) (467 Multifamily Units)  275	Business & Office (679,036 sq. ft. retail space)/  1,723*	       +1,448
8 (Scenario 2)	Park & Recreation and Medium Density Residential (13 – 25 DUs/gross acre) (467 Multifamily Units)  275	Business & Office with Residential Development: Medium-High Density (25 – 60 DUs/ gross acre) (2,460 Multifamily units)  1,371	       1,096

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

\* Includes pass-by trips adjustment factor.

Traffic Concurrency Evaluation

The application site is located within the County's 2015 Urban Development Boundary (UDB). A recent evaluation of peak period traffic concurrency conditions as of July 8, 2008, which considers reserved trips from approved development not yet constructed and programmed roadway capacity improvements listed in the first three years of the County's 2009 Transportation Improvement Program (TIP), projects that the roadway segment of NW 87 Avenue, between SR 836 and W Flagler Street, will deteriorate from LOS D to LOS F with the impacts of each potential development scenario under the requested "Business and Office" land use designation, thus violating the adopted LOS E standard applicable to this roadway segment. The "Traffic Impact Analysis" Table below summarizes in tabular form the traffic concurrency analysis for each development scenario

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/o Amend.	Amendment Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
Scenario 1: Business and Office (Commercial Use)												
9156	W. Flagler Street	NW 107 Ave. to NW 97 Ave.	6 DV	EE	6672	3109	C	46	C	232	3387	C (07)
9154	W. Flagler Street	NW 97 Ave. to NW 87 Ave.	6 DV	EE	5748	4447	D	107	D	1081	5635	E+18% (07)
1141	W. Flagler Street	NW 87 Ave. to SR 826	6 DV	EE	5904	4775	E	233	E+2%	447	5455	E+11 (06)
9494	NW 97 Avenue	NW 25 St. to NW 12 Street	4 DV	D	2300	1333	C	47	C	130	1510	C (07)
	NW 97 Avenue	NW 12 St. to Fontainebleau Blvd.	4 DV	D	2270	1775	D	-	D	130	1905	D (07)
	NW 97 Avenue	Fontainebleau Blvd. to W Flagler St.	4 DV	D	2150	1997	D	-	D	114	2144	D (07)
9962	NW 97 Avenue	W Flagler St. to SW 8 Street	4 DV	D	2720	1752	D	-	D	147	1899	D (07)
	NW 92 Avenue	W Flagler St. to SW 8 Street	4 DV	D	NA	NA	-	-	-	149	-	NA
1211	NW 87 Ave./SR 973	SR 836 to W. Flagler Street	6 DV	SUMA (E)	4690	4170	D	365	E	367	4902	F (06)
44	NW 87 St (SR 973)	W Flagler St. to SW 8 Street	4 DV	SUMA (E)	3390	2812	C	156	C	149	3117	C (06)
Scenario 2: Business and Office with Residential Use (Residential)												
9156	W. Flagler Street	NW 107 Ave. to NW 97 Ave.	6 DV	EE	6672	3109	C	46	C	185	3340	C (07)
9154	W. Flagler Street	NW 97 Ave. to NW 87 Ave.	6 DV	EE	5748	4447	D	107	D	860	5414	E+13% (07)
1141	W. Flagler Street	NW 87 Ave. to SR 826	6 DV	EE	5904	4775	E	233	E+2%	356	5364	E+9% (06)
9494	NW 97 Avenue	NW 25 St. to NW 12 Street	4 DV	D	2300	1333	C	47	C	104	1484	C (07)
	NW 97 Avenue	NW 12 St. to Fontainebleau Blvd.	4 DV	D	2270	1775	D	-	D	104	1879	D (07)
	NW 97 Avenue	Fontainebleau Blvd. to W Flagler St.	4 DV	D	2150	1997	D	-	D	90	2087	D (07)
9962	NW 97 Avenue	W Flagler St. to SW 8 Street	4 DV	D	2720	1752	D	-	D	117	1869	D (07)
	NW 92 Avenue	W Flagler St. to SW 8 Street	4 DV	D	NA	NA	-	-	-	119	-	NA
1211	NW 87 Ave./SR 973	SR 836 to W. Flagler Street	6 DV	SUMA (E)	4690	4170	D	365	E	292	4827	F (06)
44	NW 87 St (SR 973)	W Flagler St. to SW 8 Street	4 DV	SUMA (E)	3390	2812	C	156	C	119	3087	C (06)

Source: Compiled by Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department and Florida Department of Transportation, July 2008.

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

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

E (100% capacity) on State Urban Minor Arterials (SUMA) between the UDB and UIA.

EE = 120% of capacity (LOS E), with extraordinary transit between Urban Development Boundary and Urban Infill Area.

E+20% = 120% of LOS E; 20 Minutes Transit Headway in Urban Infill Area, a designated transportation concurrency exception area.

() Indicates the year traffic count was updated and/or Level of Service revised

Scenario 1 assumes the application site developed with 679,036 sq. ft. of retail space under the requested "Business and Office" land use designation.

Scenario 2 assumes the application site developed with 2,460 multifamily dwelling units under the requested "Business and Office" land use designation.

Future Conditions

The 2009 Transportation Improvement Program does not list any roadway capacity improvements for the Study Area. However, the Miami-Dade Transportation Plan to the Year 2030 includes the following roadway improvements planned for the study area: the six-lane widening of NW 107 Avenue from W Flagler Street to SW 8 Street, the construction of a new four-lane bridge on SW 82 Avenue over the Tamiami Canal, the reconstruction of the SR 836/SR 826 interchange and widening to ten lanes of SR 836 from NW 87 Avenue to NW 57 Avenue, and the extension of NW 82 Avenue from NW 8 Street to NW 12 Street. See the “Planned Roadway Capacity Improvements” Table below.

Planned Roadway Capacity Improvements  
Year 2008 – 2015

Roadway	From	To	Type of Improvement	Priority
SR 826/SR 836	NW 87 Avenue	NW 57 Avenue	Widen interchange to 10 lanes	I
SR 836	HEFT	SR 836/SR 826 Interchange		I
SW 82 Avenue	SW 7 Street	SW 8 Street	Bridge over Tamiami Canal	I
NW 82 Avenue	NW 8 Street	NW 12 Street	New 4-lane roadway	II
SW 87 Avenue	South Dixie Hwy/US 1	SR 836	ITS (Includes CCTV, Roadway sensors, arterial dynamic message signs, wireless communication)	II
SW 107 Avenue	W Flagler Street	SW 8 Street	Widen 4 to 6 lanes	II

Source: Priority I and II Miami-Dade Transportation Plan to the Year 2030, Metropolitan Planning Organization for the Miami Urbanized Area, November 2004.

Notes: Priority I projects – Projects scheduled to be funded by 2009.

Priority II projects – Projects scheduled to be funded between 2010 and 2015.

Future traffic conditions were evaluated in the study area to determine the adequacy of the roadway network to meet the demand of the Amendment Application and the adopted LOS standards through the year 2015. The analysis indicates that some roadways are projected to operate below their adopted LOS standards, with and without the application’s traffic impact. The Table below lists those roadway segments within the Study Area and in the vicinity of the Application site that are projected to exceed by 2015 the adopted LOS standards. The Department’s traffic impact analysis identified several roadways that would be impacted by this Application. The table provides the impacts that each development scenario (Scenario 1 and Scenario 2) would have on the 2015 roadway network.

Although all roadway segments listed in the table are projected to exceed the adopted LOS standards by 2015, without the application’s impact, the following roadway segments will be further deteriorated by the impact of at least one of the two potential development scenarios:

- SW 107 Avenue, from W Flagler Street to SW 8 Street
- NW 97 Avenue, from NW 12 Street to Fontainebleau Blvd.
- NW 97 Avenue, from Fontainebleau Blvd. to W Flagler Street
- SW 97 Avenue, from W Flagler Street to SW 8 Street
- NW 87 Avenue, from SR 836 to Park Blvd.
- SR 836, from NW 87 Avenue to SR 826
- NW 12 Street, from NW 87 Avenue to NW 72 Avenue
- Fontainebleau Blvd., from NW 97 Avenue to W Flagler Street
- Park Blvd., from Fontainebleau Blvd. to NW 87 Avenue
- SW 8 Street, from SW 87 Avenue to SR 826.

2015 Volume-to-Capacity (V/C) Ratios  
Roadways Projected to Violate their Adopted Level of Service (LOS) Standards

Roadway Segment	No. of Lanes	Adopted LOS Standard <sup>1</sup>	V/C Ratio Without Amendment Application	Projected 2015 LOS W/O Applic.	V/C Ratio With Applic. No. 8 (Scenario 1)	Projected 2015 LOS W/ Scenario 1	V/C Ratio With Applic. No. 8 (Scenario 2)	Projected 2015 LOS W/ Scenario 2
HEFT (SR 821) from SR 836 to SW 8 Street	6 LA	D	0.94 – 1.52	F	0.94 - 1.52	F	0.94 - 1.51	F
NW 107 Ave. from SR 836 to Fontainebleau Blvd.	6 DV	E	1.38 – 1.44	F	1.39 – 1.45	F	1.40-1.46	F
SW 107 Ave. from W Flagler St. to SW 8 St.	6 DV	E	1.07 – 1.11	F	1.11 – 1.14	F	1.08-1.11	F
NW 97 Ave. from NW 12 St. to Fontainebleau Blvd.	4 DV	D	1.60	F	1.61	F	1.62	F
NW 97 Ave. from Fontainebleau Blvd. to W Flagler St.	4 DV	D	1.05	F	1.04	F	1.06	F
SW 97 Ave. from W Flagler Street to SW 8 Street	4 DV	D	1.25 – 1.33	F	1.19 – 1.27	F	1.26-1.34	F
NW 87 Ave. from SR 836 to Park Blvd.	6 DV	E	1.08 – 1.30	F	1.12 – 1.31	F	1.16-1.31	F
NW 87 Ave. from W. Flagler to SW 8 Street	4 DV	E	1.30 – 1.33	F	1.28 – 1.30	F	1.28-1.31	F
SR 826 from SR 836 to W Flagler Street	8 LA	D	1.40 – 1.58	F	1.41 – 1.57	F	1.41-1.58	F
SR 826 from W Flagler Street to SW 8 Street	8 LA	D	1.27 – 1.41	F	1.28 – 1.40	F	1.24-1.37	F
SR 836 from SR 821 to NW 107 Avenue	6 LA	D	1.04	F	1.05	F	1.02	F
SR 836 from NW 107 Ave. to NW 87 Ave.	6 LA	D	1.04 – 1.10	F	1.05 – 1.07	F	1.02-1.08	F
SR 836 from NW 87 Avenue to SR 826	10 LA	D	1.04 – 1.13	F	1.05 – 1.23	F	1.02-1.17	F
NW 12 St. from NW 87 Ave. to NW 72 Ave.	4 DV	D	0.86 – 1.63	D/F	0.86 – 1.68	D/F	0.83-1.62	D/F
NW 7 St. from NW 110 Ave. to NW 107 Ave.	4 DV	D	1.52	F	1.46	F	1.51	F
Fontainebleau Blvd. from NW 97 Ave to W. Flagler St.	4 DV	D	0.70 – 1.20	B/F	0.66 – 1.20	B/F	0.70-1.22	B/F
Park Blvd. from Fontainebleau Blvd. to NW 87 Ave.	4 DV	D	1.42	F	1.48	F	1.54	F
W. Flagler St. from Fontainebleau Blvd. to NW 87 Ave.	6 DV	E+20%	1.22	E+22%	1.21	E+21%	1.21	E+21%
W Flagler St. from NW 87 Ave. to SR 826	6 DV	E+20%	0.93 – 1.28	E/E+28%	0.90 – 1.24	D/E+24%	0.93-1.25	E/E+25%
SW 8 Street (SR 90) from SW 87 Ave. to SR 826	6 DV	E+20%	1.09 – 1.30	E+9%/E+28%	1.08 – 1.25	E+8%/E+25%	1.11-1.28	E+11%/E+28%

Source: Metropolitan Planning Organization & Gannett Fleming, Inc., July 2008.

Notes: <sup>1</sup>Based on roadway improvements in 2009 TIP and Priority I and II of the Year 2030 LRTP.

<sup>2</sup>V/C ratios obtained from the Florida Standard Urban Transportation Modeling Structure (FSUTMS) travel-demand forecasting model for Year 2015.

Scenario 1 assumes the application site developed with commercial use (670,036 sq. ft. shopping center)

Scenario 2 assumes the Application site developed with residential use (2,460 multi-family dwelling units)

### Application Impacts

The Trip Generation Table, above, identifies the estimated number of PM peak hour trips to be generated by the two potential development scenarios. If Application No. 8 were developed with a shopping center (679,036-sq. ft. of retail space), it would generate approximately 1,448 more PM peak hour trips than the residential development (467 dwelling units) that could occur under the current CDMP designation. If the application site were developed with residential use (2,460 multifamily dwelling units), it would generate approximately 1,096 more PM peak hour trips than the development under the current CDMP designation. Currently, no roadway segments in the immediate vicinity of the application site exceeds the adopted roadway LOS standard applicable to the roadways.

In analyzing potential trip distribution, it appears that the potential developments under the requested CDMP designation would adversely impact traffic on NW 87 Avenue in the vicinity of the Application site. If the Application site were developed with a shopping center (679,036 sq. ft. of retail space), the concurrency LOS of NW 87 Avenue, between SR 836 and West Flagler Street, would deteriorate from LOS E to LOS F (1.05); and if the Application site were developed with residential use (2,460 multifamily apartments), the concurrency LOS of NW 87 Avenue, between SR 836 and West Flagler Street, would deteriorate from LOS E to LOS F (1.03), below the adopted LOS E standard applicable to this roadway segment.

In the year 2015, as noted in the 2015 V/C Ratios Table above, segments of the HEFT, NW 107 Avenue, NW 97 Avenue, NW 87 Avenue, the Palmetto Expressway (SR 826), the Dolphin Expressway (SR 836), NW 12 Street, West Flagler Street, and SW 8 Street (SR 90), in the study area and in the vicinity of the Application site, are projected to operate at LOS F, with and without the amendment application. The operating conditions of Fontainebleau Blvd., from NW 97 Avenue to W Flagler Street, and Park Blvd will be adversely impacted by this application.

### Applicant's Traffic Impact Analysis

The applicant, Shoma Fontainebleau Lakes, LLC (the owners), proffered a Declaration of Restrictions limiting the proposed development of the property to a total of 240,000 square feet of retail space under the requested "Business and Office" land use designation, and restricting the uses permitted to non-residential uses. The applicant also submitted a Traffic Impact Analysis (TIA) report in support of the application. The report, which was prepared by Kimley-Horn and Associates, Inc., evaluated the transportation impacts resulting from the requested CDMP amendment based on a proposed development of 240,000 sq. ft of retail space. The report summarizes the findings of the traffic impact concurrency analysis and of the future (2015) conditions on the adjacent roadways and surrounding roadway network. The report concludes that some roadway segments are expected to operate below their adopted level of service (LOS) standards, with and without the application traffic impacts, but that the amendment application does not impact any roadway shown to operate below its adopted LOS standard with trips in excess of five percent of the roadway service capacity. It should be noted that the five percent rule applies to development of regional impact (DRI); the proposed development is not a DRI. The DRI threshold for retail development is 400,000 sq. ft.

Miami-Dade County Public Works Department (PWD) and Planning and Zoning (DP&Z) staff reviewed the report and had some issues regarding the concurrency analysis, which included the trip distribution and trips assignment. A revised Traffic Impact Analysis (July 29, 2008) was submitted. The traffic consultant's concurrency analysis also shows that the roadway segment of NW 87 Avenue, between SR 836 and W Flagler Street, will deteriorate from LOS E to LOS F, with the application's impact. The future (2015) traffic impact analysis indicates that Fontainebleau Boulevard between NW 107 Avenue and Park Boulevard, W Flagler Street

between NW 87 Avenue and SR 826, NW 97 between NW 12 Street and Fontainebleau Blvd. and from W Flagler Street to SW 8 Street, SR 826 between SR 836 and SW 8 Street, and Park Boulevard between Fontainebleau Blvd. and NW 87 Avenue are projected to operate at LOS F, below their adopted LOS standards. County staff reviewed the revised traffic impact analysis report, but still have some issues regarding the adopted LOS standards used in the analysis and the trip distribution. County staff is willing to meet with the Applicant and the transportation consultant in order to discuss the above referenced issues and the results of the analysis, and the conclusions of the report. A copy of the applicant's transportation analysis report is attached in Appendix D.

## Transit Service

### Existing Service

Application No. 8 and the area in the vicinity of the application site are served by Metrobus Routes 7, 11, 51/Flagler MAX and 87. The table below shows the existing service frequency in summary form.

**Metrobus Route Service Summary  
April 2008 Amendment Application # 8**

Route(s)	Service Headways (in minutes)						Proximity to Bus Route (miles)	Type of Service
	Peak (AM/PM)	Off-Peak (middays)	Evenings (after 8pm)	Overnight	Saturday	Sunday		
7	30	40	30	N/A	40	40	0.1	F
11	15	24	12	60	24	30	0.0	F
51/Flagler MAX	15	30	30	N/A	N/A	N/A	0.1	F / E
87	30	40	30	N/A	40	40	0.3	F

Notes: L means Metrobus local route service  
 F means Metrobus feeder service to Metrorail  
 E means Express Metrobus service

### Future Conditions

Transit improvements to the existing Metrobus service in the immediate area, such as improved headways, introduction of weekend service, extensions to the current routes and new service, are being planned for the next ten years as noted in the draft 2008 Transit Development Plan. Table Planned Transit Improvements Table below shows the Metrobus service improvements planned for the existing routes as well the new routes proposed for the area.

### Planned Transit Improvements

Route	Improvement Description
7	No planned Improvements.
11	Extend short trips to Dolphin Mall.
51/Flagler MAX	Introduce weekend service.
51/Flagler MAX	Route to be transformed to Flagler BRT
87	Improve peak headways from 30 to 20 minutes.
97 Avenue Crosstown	New route would operate on SW/NW 97 Avenue from Jackson South Hospital to the Palmetto Expressway Metrorail Station. Service would be also provided along the Busway and the route would also serve the Dolphin and Miami International Malls. Service would operate every 30 minutes daily.

Source: Draft 2008 Transit Development Program, Miami-Dade Transit.

#### Major Transit Projects

Regarding future transit projects within this area, a rail extension to west Miami-Dade from the future Miami Intermodal Center - currently under construction- is being studied, by Miami-Dade Transit, as part of the People's Transportation Plan Rapid Transit Improvements. It consists of a 10.1 to 13 mile corridor primarily along SW 8th Street (Tamiami Trail).

#### Application Impacts in the Traffic Analysis Zone

A preliminary analysis was performed in the Traffic Analysis Zone (TAZ) 809 where the application site is located. The analysis indicates that Application No. 8, if granted, would generate approximately 470 additional daily transit trips, which can be absorbed by the scheduled improvements to the existing Metrobus routes and the new bus route planned in the vicinity of the Application site. The area is well served by transit and the increase in transit trips resulting from this application does not warrant changes beyond those already planned for the area. However, the impact to transit of Application 8 in conjunction with the impact of Application 9 would warrant further analysis of the surrounding area since both applications are within a quarter to half a mile of each other.

The projected bus service improvements for these routes are estimated to cost approximately \$286,077 in annual operating cost and a one-time capital cost of \$284,687 for a total cost of \$570,764. These costs only reflect only the cost of that portion of route improvements within the Application area.

#### **Consistency with CDMP Goals, Objectives, Policies and Concepts:**

The proposed application will further the following goals, objectives, policies and concepts of the CDMP:

##### Land Use Element Policies:

- LU-8B. Distribution of neighborhood or community serving retail sales uses and personal and professional offices throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic, and physical considerations.

The proposed application will impede the following goals, objectives policies, guidelines and concepts of the CDMP.

- LU-1G Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.
- LU-1H The County should identify sites having good potential to serve as greenbelts, and should recommend retention and enhancement strategies, where warranted. Such greenbelts should be suggested on the basis of their ability to provided aesthetically pleasing urban spaces, recreational opportunities, or wildlife benefits. Considered sites should include canal, road or powerline right-of-way, or portions thereof, particularly where they could link other parklands, wildlife habitats, or other open spaces.
- LU-8F In part: The adequacy of non-residential land supplies shall be determined on the basis of land supplies in subareas of the County appropriate to the type of land use, as well as the Countywide supply within the Urban Development Boundary. The adequacy of land supplies for neighborhood- and community-oriented business and office uses shall be determined on the basis of localized subarea geography such as Census Tracts, Minor Statistical Areas, and combinations thereof.

#### Guidelines for Urban Form

- No. 4 Intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. Activity nodes shall be occupied by any nonresidential components of the neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes. In addition, of the various residential densities, which may be approved in a section through density averaging or on an individual site basis, the higher density residential uses should be located at or near the activity nodes.
- No. 6 Areas located along section line roads between transition areas are also authorized for eligible higher residential densities, public and semi-public uses. When section line roads are served by adequate mass transit, these areas are more suitable for office uses than such properties not served by adequate transit.

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# APPENDICES

Appendix A	Map Series
Appendix B	Amendment Applications
Appendix C	Miami-Dade County Public Schools Analysis
Appendix D	Applicant's Traffic Study
Appendix E	Fiscal Impact Analysis
Appendix F	Proposed Declarations of Restrictions
Appendix G	Photos of the Application Sites and Surroundings

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# APPENDIX A

## Map Series

- Aerial Photo
- Current Zoning Map
- Existing Land Use Map
- CDMP Land Use Map

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AERIAL PHOTO: APRIL 2008 CYCLE APPLICATION NO. 8



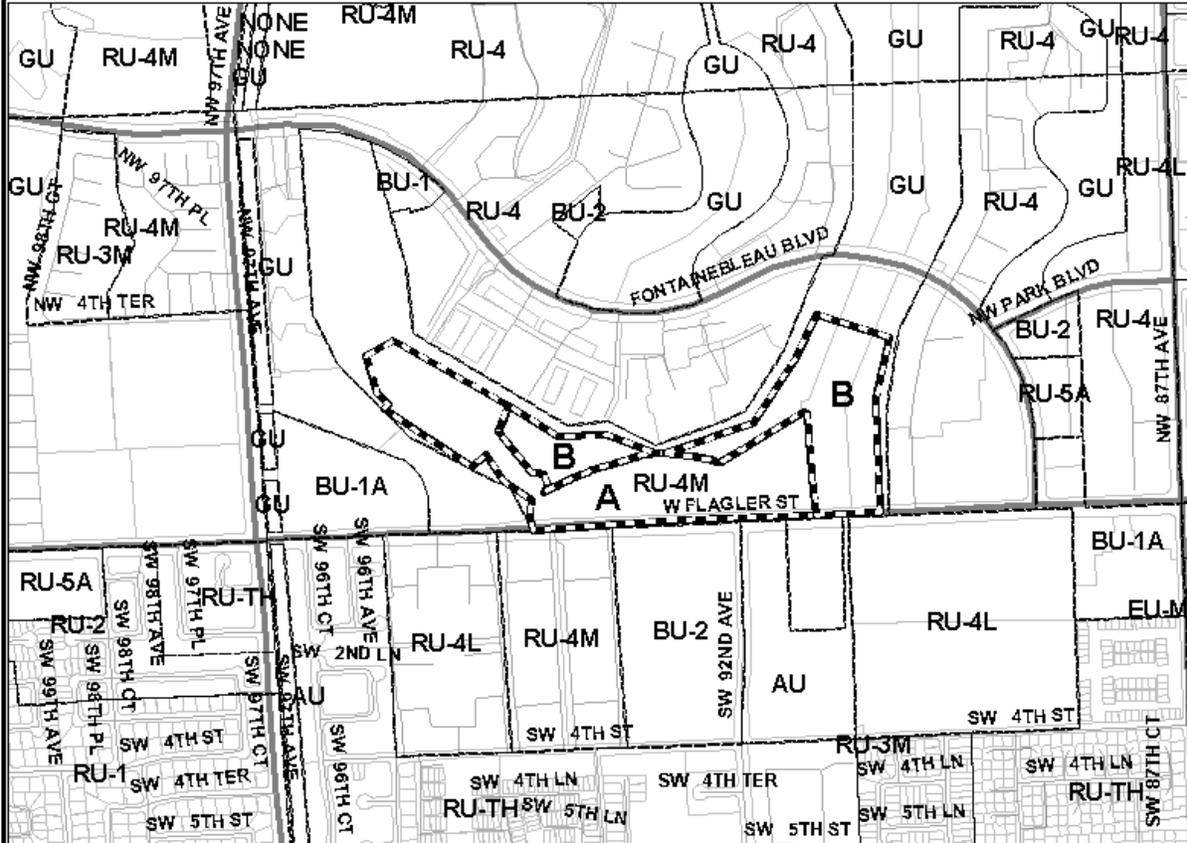
APPLICATION AREA



SOURCE MIAMI-DADE COUNTY, DEPARTMENT OF PLANNING AND ZONING, JUNE 2002



## APPLICATION NO. 8 CURRENT ZONING MAP



### Legend

 APPLICATION AREA

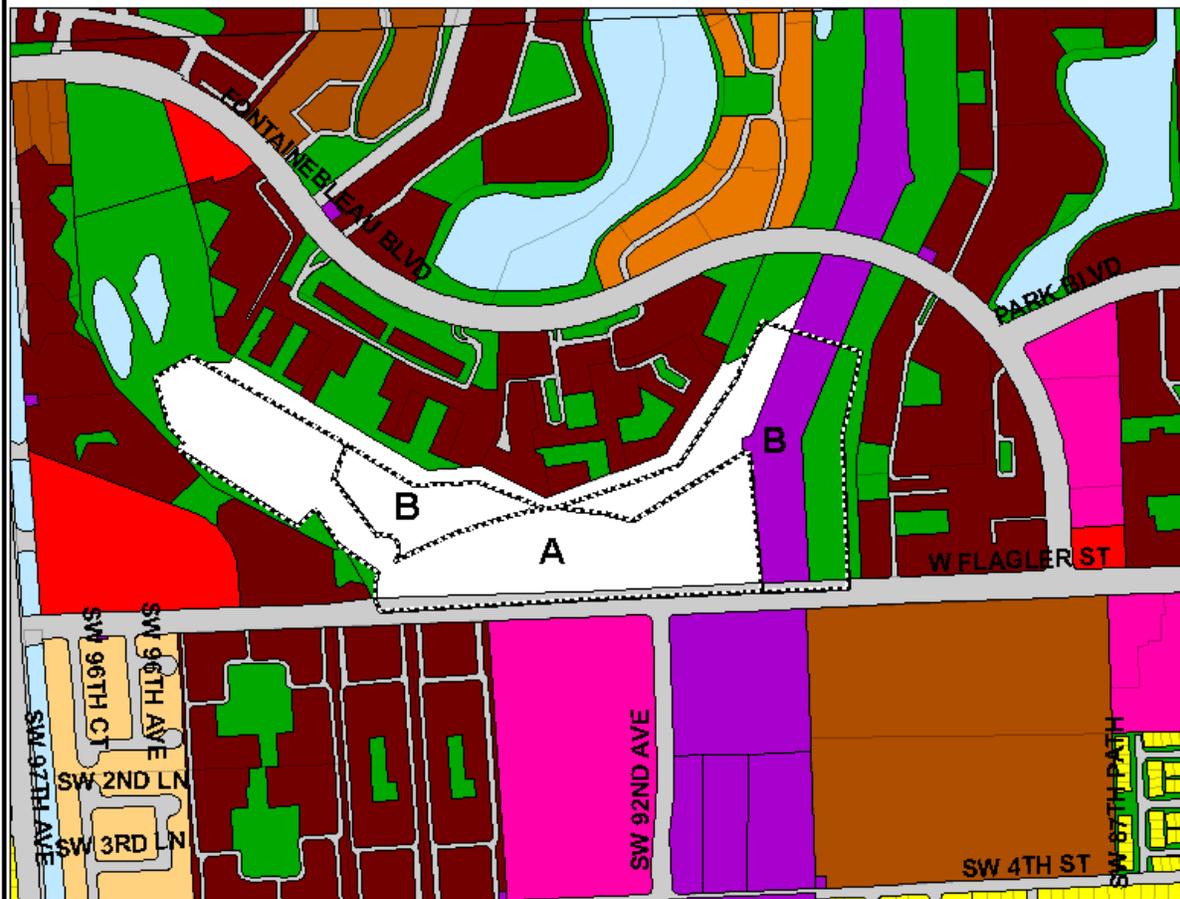
### ZONING DISTRICTS

- AU AGRICULTURAL
- GU INTERIM
- RU-3M MINIMUM APARTMENT HOUSE (12.9 DU/net acre)
- RU-4 HIGH DENSITY APARTMENT HOUSE (50 DU/net acre)
- RU-4L LIMITED APARTMENT HOUSE (23 DU/net acre)
- RU-4M MODIFIED APARTMENT HOUSE 35.9 DU/net acre)
- RU-TH TOWNHOUSE (8.5 DU/net acre)
- RU-5A SEMI-PROFESSIONAL OFFICE
- BU-1 NEIGHBORHOOD BUSINESS
- BU-1A LIMITED BUSINESS
- BU-2 SPECIAL BUSINESS



SOURCE: MIAMI-DADE COUNTY  
DEPARTMENT OF PLANNING AND ZONING, 2008

## APPLICATION NO. 8 EXISTING LAND USE



### LEGEND

 APPLICATION AREA

#### EXISTING LAND USE

-  SINGLE-FAMILY, HIGH DENSITY (OVER 5 DU/Gross Acre)
-  TWO-FAMILY (DUPLICES)
-  TOWNHOUSES
-  MULTI-FAMILY, LOW DENSITY (UNDER 2.5 DU/Gross Acre)
-  MULTI FAMILY, HIGH-DENSITY (OVER 2.5 DU/Gross Acre)
-  OFFICE
-  COMMERCIAL, SHOPPING CENTERS, STADIUMS
-  ELECTRIC POWER
-  STREETS, ROADS, EXPRESSWAYS, RAMPS

-  PRIVATE RECREATIONAL FACILITIES
-  VACANT, UNPROTECTED
-  INLAND WATERS



Source: Miami-Dade County  
Department of Planning and Zoning





# **APPENDIX B**

## **Amendment Application**

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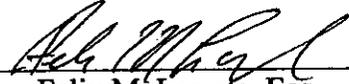
**APPLICATION FOR AN AMENDMENT TO THE  
LAND USE PLAN MAP  
OF THE MIAMI-DADE COUNTY  
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

1. APPLICANTS

Fontainebleau Lakes, LLC

2. APPLICANT'S REPRESENTATIVE

Felix M. Lasarte, Esq.  
The Lasarte Law Firm, LLP  
5835 Blue Lagoon Drive Suite 1000  
Miami, FL 33126  
(305) 269-7153  
(305) 269-7156 (fax)

By:   
Felix M. Lasarte, Esq.

Date 4/30/08

3. DESCRIPTION OF REQUESTED CHANGE

A. Change the Land Use Plan Map.

A change to the Land Use Element, Future Land Use Plan map is requested. The Applicant is requesting the redesignation of the subject property from "Medium Density Residential" and "Park and Recreation" to "Business and Office." The Applicant is also requesting modification of a Declaration of Restrictions submitted in connection with previous application to amend the Comprehensive Plan.

B. Description of Subject Area.

Subject property consists of approximately 41 +/- acres of land located in Section 04, Township 54, Range 40, in unincorporated Miami-Dade County. This subject area is located between theoretical SW 90<sup>th</sup> and 94<sup>th</sup> Avenues, north of West Flagler Street, as depicted on the location map accompanying the legal description provided herein.

C. Acreage.

Subject application area: 41+/- acres

A. "Medium Density Residential" to "Business and Office": 23+/- acres

B. "Parks and Recreation" to "Business and Office": 18+/- acres

Acreage owned by applicant: 272+/- acres (147 East Course and 125 West Course)

D. Requested Changes.

It is requested that subject property be re-designated on the Future Land Use Plan map from "Medium Density Residential" to "Business and Office" and amendment to a previously submitted Declaration of Restrictions.

4. REASONS FOR AMENDMENT

The Applicant is requesting a redesignation of the subject property from "Medium Density Residential" and "Park and Recreation" to "Business and Office." The subject property consists of approximately 41± acres, located in Section 04 of Township 54 South, Range 40 East. This subject property is located east of theoretical SW 94<sup>th</sup> Avenue, north of West Flagler Street and west of NW 90<sup>th</sup> Avenue. The subject property is in an area commonly known as "Fontainebleau". The Applicant is developing a residential development known as Fontainebleau Lakes which was approved by the Miami-Dade County Community Zoning Appeals Board 10 in 2006, which permitted the development of 1,836 units and created approximately 185 acres of park space. The Property does not include any of the area designated for the public school.

The Applicant seeks to develop the subject Property into a mixed use development with an office and retail community/lifestyle center component, and will proffer a Declaration of Restrictive Covenants restricting residential use on the Property. At some point in the future, the Applicant will provide a Conceptual Bubble Plan for staff's review.

The proposed modified development would serve the surrounding dense residential community and provide much needed services to its residents. In addition, the Property fronts a major section line roadway and with the recent development of the 97<sup>th</sup> Avenue Connection over the 836 expressway, it is only a short distance from the Florida Turnpike and State Road 836, which shall allow for the efficient delivery of public services with minimal impacts. Furthermore, the Applicant will provide a traffic study depicting the level of service and impacts of the proposed Amendment.

Based on the foregoing, the Applicant believes that there is a need to provide additional business services and office space to both the surrounding existing residential community, as well as to future residents within the vicinity of the Property resulting from the recent approvals in the area, and that the subject property is the appropriate location for this additional inventory.

Accordingly, approval of the requested Amendment would further the implementation of the following CDMP goals, objectives and policies:

**OBJECTIVE 1, OBJECTIVE 1C**

**LAND USE POLICY 4D:** Uses which are supportive but potentially incompatible shall be permitted on sites within functional neighborhoods, communities or districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements. (Business and Office/Commercial).

**LAND USE POLICY 8B:** Distribution of neighborhood or community serving retail sales uses and personal and professional offices throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic, and physical considerations. (Business and Office/Commercial).

**LAND USE OBJECTIVE 10:** Energy efficient development shall be accomplished through metropolitan land use patterns, site planning, landscaping, building design, and development of multi-modal transportation systems. (Energy Efficiency/Conservation).

**LAND USE POLICY 1E:** In conducting its planning, regulatory, capital improvements and intergovernmental coordination activities, Miami-Dade County shall seek to facilitate the planning of residential areas as neighborhoods which include recreational, educational and other public facilities, houses of worship, and safe and convenient circulation of automotive, pedestrian and bicycle traffic. (Mixed Use).

**LAND USE POLICY IH:** Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the county is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways. (urban Form).

5. ADDITIONAL MATERIAL SUBMITTED

Additional information will be supplied at a later date under separate cover.

6. COMPLETED DISCLOSURE FORMS

Attached as Exhibit "B"

Attachments: Legal Description - Exhibit "A"  
Disclosure of Interest Form - Exhibit "B"  
Location Map for Application - Exhibit "C"

LEGAL DESCRIPTION

**LEGAL DESCRIPTION: RETAIL TRACT**

A PORTION OF TRACTS 2, 4 AND 7 OF "FONTAINEBLEAU PARK SUBDIVISION SECTION ONE" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID TRACT 2; THENCE SOUTH 89°42'20" WEST ON THE SOUTH LINE OF SAID TRACT 2 AND ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET 1,694.70 FEET TO A POINT OF CUSP OF A CIRCULAR CURVE, CONCAVE NORTHWEST; THENCE NORTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89°41'00" AN ARC DISTANCE OF 39.13 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°00'00" EAST 26.74 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE EAST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 222.00 FEET AND A CENTRAL ANGLE OF 19°50'04" AN ARC DISTANCE OF 76.85 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE, CONCAVE WEST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 79°16'02" AN ARC DISTANCE OF 34.59 FEET TO A POINT OF TANGENCY; THENCE NORTH 59°25'58" WEST 138.09 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE NORTHEAST; THENCE NORTHWESTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 176.00 FEET AND A CENTRAL ANGLE OF 25°41'14" AN ARC DISTANCE OF 78.91 FEET TO A POINT OF TANGENCY; THENCE NORTH 33°44'44" WEST 181.42 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWEST; THENCE NORTHWESTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 24°12'12" AN ARC DISTANCE OF 8.45 FEET TO A POINT OF TANGENCY; THENCE NORTH 57°56'57" WEST 5.43 FEET; THENCE SOUTH 32°03'03" WEST 90.00 FEET; THENCE NORTH 57°56'57" WEST 536.00 FEET; THENCE NORTH 32°03'03" EAST 90.00 FEET; THENCE NORTH 57°56'57" WEST 103.56 FEET; THENCE NORTH 20°20'47" WEST 210.47 FEET; THENCE NORTH 69°39'18" EAST 192.12 FEET; THENCE SOUTH 57°56'57" EAST 1013.54 FEET; THENCE NORTH 87°21'53" EAST 326.70 FEET; THENCE SOUTH 61°07'08" EAST 326.23 FEET; THENCE NORTH 72°27'15" EAST 611.34 FEET; THENCE NORTH 34°51'44" EAST 466.87 FEET; THENCE NORTH 24°37'46" EAST 214.77 FEET; THENCE SOUTH 78°30'00" EAST 507.95 FEET; THENCE SOUTH 11°30'00" WEST 501.05 FEET; THENCE SOUTH 00°14'00" WEST 523.30 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED NORTH RIGHT-OF-WAY LINE, ALSO BEING SOUTH LINE OF SAID TRACT 4; THENCE SOUTH 89°42'20" WEST ON SAID NORTH RIGHT-OF-WAY LINE, SAID SOUTH LINE AND ON THE SOUTH LINE OF SAID TRACT 7 FOR 416.34 FEET TO THE POINT OF BEGINNING.  
CONTAINING 1,718,213 SQUARE FEET, 39.4447 ACRES.

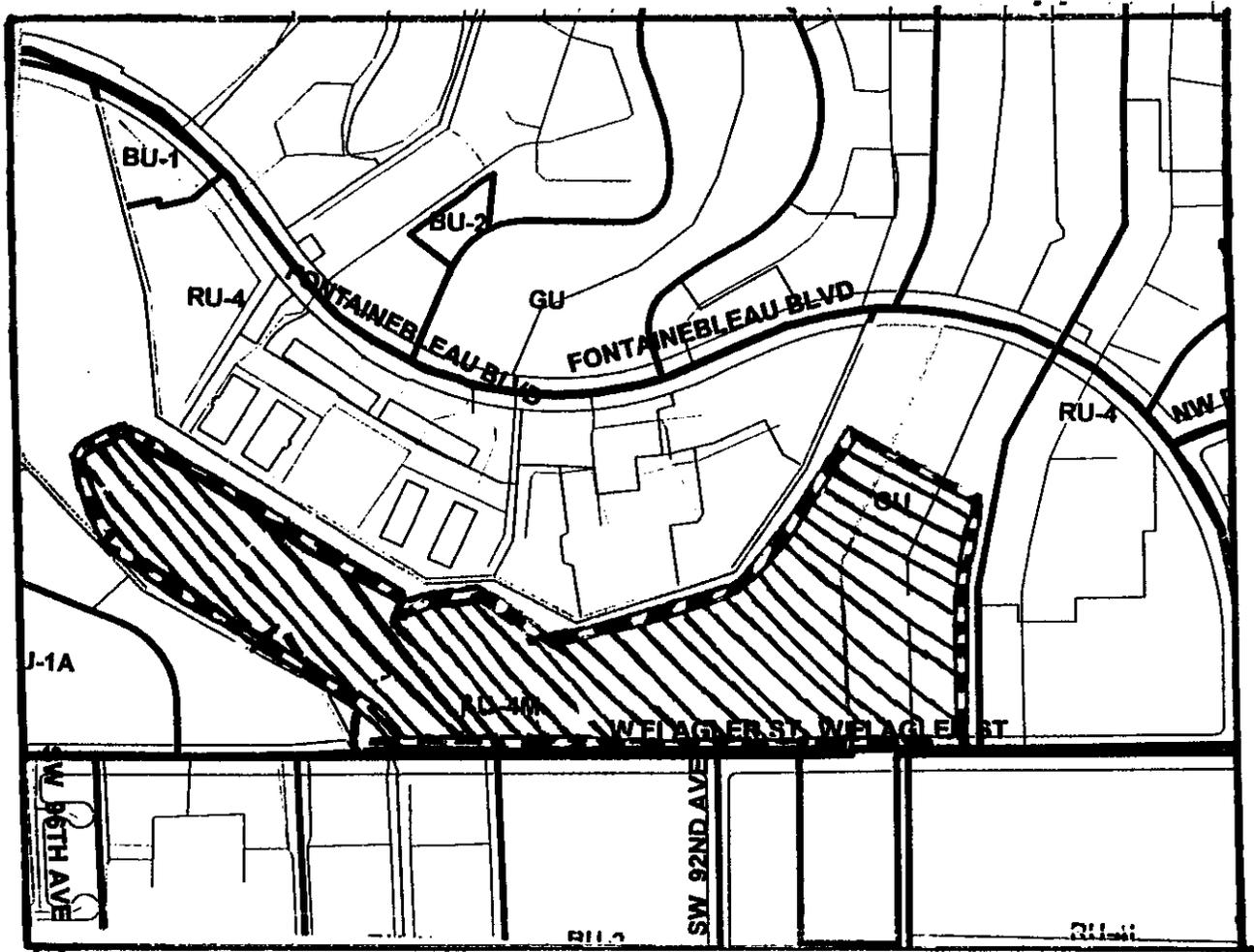


**LOCATION MAP FOR APPLICATION  
TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN**

**APPLICANT/REPRESENTATIVE**  
Fontainebleau Lakes, LLC. c/o Felix M. Lasarte, Esq.

**DESCRIPTION OF SUBJECT AREA**

Subject property consists of approximately 41 +/- acres of land located in Section 04, Township 54, Range 40, in unincorporated Miami-Dade County. This subject area is located between theoretical SW 90<sup>th</sup> and 94<sup>th</sup> Avenues, north of West Flagler Street,



-  Application Area
-  Area Owned by Applicant



# **APPENDIX C**

## **Miami-Dade County Public Schools Analysis** (Dated July 3, 2008)

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# Miami-Dade County Public Schools

*giving our students the world*

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

July 9, 2008

**Miami-Dade County School Board**

Agustin J. Barrera, Chair  
Perla Tabares Hantman, Vice Chair  
Renier Diaz de la Portilla  
Evelyn Langlieb Greer  
Dr. Wilbert "Tee" Holloway  
Dr. Martin Karp  
Ana Rivas Logan  
Dr. Marta Pérez  
Dr. Solomon C. Stinson

Mr. Marc C. LaFerrier, A.I.C.P., Director  
Department of Planning and Zoning  
Miami-Dade County  
111 NW 1 Street, 11<sup>th</sup> Floor  
Miami, Florida 33128

**Re: Land Use Amendments – April 2008 Cycle**

Dear Mr. LaFerrier:

Attached please find the School District's (District) review analysis of potential impact generated by the land use amendments proposed in applications 1, 2, 3, 4, 8, 9, 10, and 15 (A-D) which have been deemed to generate additional student impact to the District (see attached analyses). Please note that land use amendments 5, 6, 7, 12, 13 and 14 do not have any residential development and therefore they will not impact the schools serving the area.

Of the applications with residential components, applications 1, 8, 9, and 15D, meet the established review threshold and as such, it is our recommendation that dialogue between the District and the applicants take place as it relates specifically to affected public schools. The District will keep the County apprised if such dialogue takes place with respective applicants.

The text amendment request included in application No. 11 (Amendment to Policy EDU-2C of the Comprehensive Development Master Plan (CDMP) Land Use Element Text), is puzzling. Current Policy does not contain any language related to public school concurrency or any reference to "an adopted LOS standard of a CSA", therefore there is nothing to amend. This request is premature at best. Additionally, when Public School Concurrency is adopted by the County, any changes to its components (such as mitigation options) must be approved by the County, the School Board and the non-exempt local governments; amendments cannot be adopted unilaterally.

Lastly, please note that all residential applications may be subject to school concurrency requirements, at time of Final Subdivision, Site Plan (or functional equivalent), if school concurrency is in effect.

*Facilities Planning*

Ana Rijo-Conde, AICP, Planning Officer • 1450 N.E. 2nd Avenue, Suite 525 • Miami, Florida 33132  
305-995-7285 • FAX 305-995-4760 • [arijo@dadeschools.net](mailto:arijo@dadeschools.net)

Mr. Marc C. LaFerrier  
July 9, 2008  
Page 2

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:cse  
L-005  
Attachment

cc: Ms. Ana Rijo-Conde  
Mr. Fernando Albuerne  
Ms. Vivian G. Villaamil  
Ms. Corina Esquijarosa  
Ms. Paula Church  
Ms. Helen Brown

## SCHOOL IMPACT REVIEW ANALYSIS

July 3, 2008

**APPLICATION:** No. 8, Fontainebleau Lakes, LLC

**REQUEST:** Change Land Use from Medium Density Residential (13 to 25 dua) (23 acres) and Parks and Recreation (18 acres) to Business and Office.

**ACRES:** 41 gross acres

**LOCATION:** North side of West Flagler Street between theoretical NW 90 Avenue and NW 94 Avenue

**MSA/  
MULTIPLIER:** 3.2 / .35 Multi-Family

		<b>Proposed Land Use</b>	<b>Existing Land Use</b>
<b>NUMBER OF UNITS:</b>	1,993 additional units*	2,460 MF	467 MF

**ESTIMATED STUDENT POPULATION:** 698 additional students\*

**ELEMENTARY:** 335

**MIDDLE:** 154

**SENIOR HIGH:** 209

### SCHOOLS SERVING AREA OF APPLICATION

**ELEMENTARY:** E. W. F. Stirrup Elementary – 330 NW 97 Avenue

**MIDDLE:** Ruben Dario Middle – 350 NW 97 Avenue

**SENIOR:** Miami Coral Park Senior High – 8865 SW 16 Street

All schools are located in South Central Regional Center.

\*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 Services, as of October 2007:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS	% UTILIZATION FISH DESIGN CAPACITY PERMANENT AND RELOCATABLE
E.W. F. Stirrup Elementary	724	749	97%	40	92%
	1,059 *		141%		134%
Ruben Dario Middle	878	1,019	86%	158	75%
	1,032 *		101%		88%
Coral Park Senior High	3,616	3,492	104%	618	88%
	3,825 *		110%		93%

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

Notes:

- 1) Figures above reflect the impact of the class size amendment.
- 2) Pursuant to the Interlocal Agreement, E. W. F. Stirrup meets the review threshold.

### PLANNED RELIEF SCHOOLS

<u>School</u>	<u>Status</u>	<u>Projected Occupancy Date</u>
N/A		

**OPERATING COSTS:** According 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 \$4,571,202.

**CAPITAL COSTS:** Based on the State's July 2008 student station cost factors\*, capital costs for the estimated additional students to be generated by the proposed development are:

ELEMENTARY	335 x \$19,188 = \$15,849,288
MIDDLE	DOES NOT MEET THRESHOLD
SENIOR HIGH	DOES NOT MEET THRESHOLD
<b>Total Potential Capital Cost</b>	<b>\$15,849,288</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**

The applicant submitted a traffic study report prepared by Kimley-Horn and Associates, Inc dated June 25, 2008 and revised on July 29 and August 25, 2008. A summary of the report is herein included.

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## **EXECUTIVE SUMMARY**

This traffic analysis assessed the impacts of a proposed land use plan amendment for a 41-acre site located to the north of Flagler Street between SW 97<sup>th</sup> Avenue and SW 87<sup>th</sup> Avenue in unincorporated Miami-Dade County, Florida. The amendment site's current land use designation in Miami-Dade County's CDMP is "Medium Density Residential" for 23 acres and "Parks and Recreation" for the remaining 18 acres. The amendment site's proposed land use designation is "Office and Business." The analysis included the generation, distribution and assignment of trips resulting from the land use plan amendment and the assessment of traffic impacts under concurrency conditions and future (2015) conditions.

Results of the traffic analysis demonstrate that some roadway segments are expected to operate below their adopted level of service standards. However, the proposed land use plan amendment does not assign trips in excess of five percent (5%) to any roadway segments shown to operate below their adopted level of service standards. Therefore, the proposed land use plan amendment will not have an adverse impact on any roadway segments shown to operate below their adopted level of service standard and is consistent with the standards defined in Miami-Dade County's CDMP.

In addition, the amendment will not generate a notable increase in trips during the AM peak hour, as retail uses generate less traffic during the morning hours. Therefore, the amendment will have a negligible traffic impact during the AM peak hour. Also, the scale of retail envisioned for the project will primarily attract trips from the local area in close proximity to the amendment site. Therefore, the land use plan amendment may serve to reduce trip lengths required for area residents to satisfy shopping and service needs, by shifting the destination of shopping trips closer to the origins of the trips at nearby residences. Accordingly, the land use plan amendment will have relatively minor impacts on the area's transportation infrastructure.

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# **APPENDIX E**

## **Fiscal Impact Analysis**

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

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 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. 8 to amend the 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 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 use various methodologies for 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 on a system-wide basis, in part, on existing waste delivery commitments from both the private and public sectors, it is not possible or necessary 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 the minimum standard by two (2) years.

#### Residential Collection and Disposal Service

The annual fee charged to the user offsets the incremental cost of adding a residential unit to the DSWM Service Area, which includes the disposal cost of waste. Currently, that fee is \$439 per residential unit. For a residential dumpster account, the current fee is \$339. The average residential unit currently generates 2.4 tons of waste annually, which includes garbage, trash, and recycled waste. As reported in March 2008 to the State of Florida, Department of Environmental Protection, for the fiscal year ending September 30, 2007, the full cost per unit of providing waste Collection Service was \$449 including disposal and other Collections services such as illegal dumping clean-up and code enforcement.

#### Waste Disposal Capacity and Service

The users pay for the incremental and cumulative cost of providing disposal capacity for DSWM Collections, municipalities, and other haulers. For FY 07-08, the DSWM charged a disposal-tipping fee at a contract rate of \$57.56 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 \$75.89 per ton. These rates adjust annually with the Consumer Price Index, South Region. 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 customers of the County's Water and Sewer Department and the municipal water and sewer departments.

### **Water and Sewer**

The source of water is from the WASD's Alexander Orr Water Treatment Plant (WTP).

### **Flood Protection**

The Department of Environmental Resource 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 for 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.

### **Fire Rescue**

Information Pending

### **Public Schools**

Application No. 8, if proposed covenant is not accepted, will result in 698 additional students. 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 \$4,571,202. Based on the State's October 2007 student station cost factors, capital costs for the estimated additional students to be generated by the proposed development are:

School	Number of Additional Students	Capital Costs	Total
W.W.F. Stirrup Elementary	335	\$19,188	\$15,849,288
Reuben Dario Middle	0*	\$0*	\$0*
Coral Park Senior High	0*	\$0*	\$0*

**Total Potential Capital Cost: \*** **\$15,849,288**

\* Does not meet threshold

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# APPENDIX F

## Existing and Proposed Declaration of Restrictions

- Existing Covenant on the subject property executed on May 6, 2005 in herein included.
- Proposed Covenant: Latest version of the proposed covenant received on August 18, 2008, is also herein included.

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Fountainbleau Park  
April 2004 cycle



CFN 2005R0539838  
OR Bk 23413 Pgs 1136 - 11421 (7pgs)  
RECORDED 05/26/2005 10:03:13  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:  
Stanley B. Price, Esq.  
Blizim Sunberg Boena Price & Axelrod LLP  
200 South Biscayne Boulevard, Suite 2500  
Miami, FL 33131

A/23

(Space reserved for Clerk)

**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned, Carolyn A. Sakolsky, as Trustee ("Owner") holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property"; and

*WHEREAS*, in April 2004, the Owner filed an application (the "Application"), as part the April 2004 Comprehensive Development Master Plan ("CDMP") Amendment Cycle, to amend the Property's designation on the CDMP Future Land Use Plan Map of Miami-Dade County from Parks and Recreation and Medium Density Residential to Medium Density Residential, and that Application has been designated as "Application 3" for that cycle of CDMP amendment applications.

*NOW THEREFORE*, in consideration of the premises, and subject to the approval of the Application, and in order to assure the Miami-Dade County ("County") Board of County Commissioners ("County Commission") that the representations made by the Owner concerning the type and manner of development and the number of units to be developed on the Property in the future will be adhered to notwithstanding the permitted uses and densities under said zoning district regulations and land use classification, and to assure the County Commission that this voluntary restriction will be followed by the Owner, and its successors and assigns, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions ("Declaration") covering and running with the Property:

- (1) **Conceptual Site Plan**. Subject to approval through the zoning process, the Property will be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Pascual Perez Kiliddjian & Associates, signed and sealed the 7<sup>th</sup> day of April, 2005 ("Conceptual Site Plan"). Owner has filed an application to rezone the Property to

MIAMI 817468.13 7331719528

4-54-40

7

(1.1) Addressing  
Traffic Impacts  
on N. W. 87th  
Avenue.

Prior to rezoning  
of the Property,  
the Owner shall  
forward the  
proposed (2)  
Site plan, any  
traffic studies  
and proposals to  
address (3)  
traffic impacts  
of the <sup>Zoning</sup> Application,  
and, in particular,  
the potential for  
adverse  
impacts on  
N.W. 87th  
Avenue.

*[Handwritten signature]*  
(5)

allow for development of the Property ("Zoning Application"). The final site plan submitted in connection with the Zoning Application for the Property shall be in substantial conformity with the Conceptual Site Plan. The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property. The Owner acknowledges that the future rezoning and development of the Property shall require one or more detailed site plan approvals by the County which will determine, among other things, the exact type of units, location, distribution, orientation and other requirements for compliance with all applicable zoning, fire and public works review standards.

**Number of Units.** Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of one thousand one hundred seventy-six (1,176) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

**Educational Facility.** Owner recognizes that redevelopment of the Property may impact the educational facilities currently being served by the area surrounding the Property. Prior to final zoning approval, Owner, at its option, shall either 1) mitigate the impact on educational facilities of the proposed development by either securing the availability of an educational facility (charter or public school) located within three miles from the Property, or 2) have reached an agreement with the Miami-Dade County Public Schools addressing the impact on educational facilities in a manner acceptable to the Miami-Dade County Public Schools or 3) submit for review and approval to the Director of the Department of Planning and Zoning ("Director") a plan to mitigate the impacts on educational facilities in a manner acceptable to the Director. Nothing contained herein shall relieve the Owner of negotiating with the Miami-Dade County School District consistent with the Interlocal Agreement between Dade County and the School Board of Dade County, Florida relating to Educational Facilities Impact Fee Monies, as amended, and as amended in the future from time to time.

**Effectiveness of Declaration.** This Declaration shall become final and shall be recorded in the Public Records of Miami-Dade County after final approval by the County Commission of the application.

**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 their heirs, successors and assigns until such time as the same is modified or released. These

MIAMI 817468.13 7331719528

**Declaration of Restrictions**

**Page 3**

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. Owner, and their heirs, successors, and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

(6) **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, or, in accordance with paragraph 7 below, and provided that the Declaration has first been modified or released by Miami-Dade County as provided under the following paragraph.

(7) **Modification, Amendment, Release.** This Declaration may be modified, amended, or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the County Commission of Miami-Dade County or such other successor governmental body having jurisdiction over the Property.

Any such modification or release shall also be subject to the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Any such modification or release shall also be subject to Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade Comprehensive Plan. Notwithstanding the previous sentence, in the event that the Property is incorporated into a new municipality which amends, modifies, or declines to adopt the provisions of Section 2.116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to the provisions of such ordinance 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, by the provisions for the adoption of zoning district boundary changes together with the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive office for the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument of effectuating and acknowledging such modification, amendment or release.

MIAMI 817468.13 7331719528

**Declaration of Restrictions**

**Page 4**

In the event that there is a recorded homeowners or condominium association covering any portion of the Property, said association may (in lieu of the signature or consent of the individual members or owners), on behalf of its members and in accordance with its articles of incorporation and bylaws, consent to any proposed modification, amendment, or release by a written instrument executed by the homeowners or condominium association. Any consent made pursuant to a vote of the homeowners or condominium association shall be evidenced by a written resolution of the homeowners or condominium association and a certification executed by the secretary of the homeowners or condominium association's board of directors affirming that the vote complied with the articles of incorporation and the bylaws of the association.

Any modification, amendment, or release of this Declaration will require the consent of all the then owner(s) of the Property which will be evidenced by either a written resolution of a homeowners and/or condominium association and/or a written instrument(s) executed by individual property owner(s). In the event that one or several of the owners of the Property are not members of a recorded association, their consent to any modification, amendment, or release, is required, along with the consent of the recorded association(s), and must be evidenced by an executed written instrument.

- (8) **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any provision of this Declaration. This Declaration, and the acceptance hereof by Miami-Dade County, is not intended and should not be construed to confer any rights on any third parties. The prevailing party in 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 its attorney, at trial and appeal, or any other levels. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.
- (9) **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.
- (10) **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.
- (11) **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and

MIAMI 817468.13 7331719528

**Declaration of Restrictions**

**Page 5**

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.

- (12) **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.
- (13) **Acceptance of Declaration.** 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 County Commission and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance.
- (14) **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.
- (15) **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 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.

**[SIGNATURE PAGE FOLLOWS]**

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EXHIBIT "A"

LEGAL DESCRIPTION

TRACTS 1, 2, 3, 4, & 7 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90 PAGE 58 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST; THENCE RUN N89°58'50"E, ALONG THE NORTH LINE OF SAID SECTION 4 (ALSO BEING THE SOUTH LINE OF GOVERNMENT LOT 1) FOR A DISTANCE OF 85.08 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREAFTER TO BE DESCRIBED; THENCE CONTINUE N89°58'50"E ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 38.58 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF TRACT "F" BLUE FONTAINE TRACT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 78, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S08°57'20"E ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 7.83 FEET TO A POINT; THENCE RUN S02°08'50"E, ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 58.87 FEET TO THE SOUTHWEST CORNER OF SAID TRACT F (SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD AS SHOWN ON PLAT OF "FONTAINEBLEAU BOULEVARD PARK AND PARK BOULEVARD", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, AT PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S89°48'20"W, ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 38.02 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE FOR CANAL AS SHOWN ON PLAT OF "BLUE FONTAINE REPLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N02°08'50"W, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL FOR A DISTANCE OF 88.00 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 4 (SAID POINT ALSO BEING THE POINT OF BEGINNING). SAID DESCRIBED PARCEL OF LAND LYING AND BEING SITUATED IN MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF GOVERNMENT LOT 4 BETWEEN TOWNSHIP 53 AND 54 SOUTH, RANGE 40 EAST, AS FOLLOWS: BEGIN 1488.20 FEET WEST OF THE SOUTHEAST CORNER OF GOVERNMENT LOT 4, THEN NORTH 1038.22 FEET; THENCE WEST 180.03 FEET; THENCE SOUTH 1046.85 FEET, THEN EAST 180.09 FEET TO THE POINT OF BEGINNING.

CONTAINING: 147.09 ACRES± (NET)  
182.28 (GROSS)



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Apr. '08 cycle  
Application 8

This instrument was prepared by:  
Name: Felix M. Lasarte, Esq.  
Address: The Lasarte Law Firm  
5835 Blue Lagoon Drive, Suite 100  
Miami, Florida 33126

2008 AUG 18 A 11: 11

PLANNING & ZONING  
METROPOLITAN PLANNING SECT

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned, Shoma Fontainbleau Lakes, LLC (the "Owners"), hold the fee simple title to that certain parcel of land (hereinafter the "Property") located in Miami-Dade County, which is legally described as follows:

**See Exhibit "A"**

*WHEREAS*, the Owners have applied for an Amendment to the Miami-Dade County Comprehensive Development Master Plan that is pending as Application No. 8 in the April 2008 Cycle (the "Application");

*WHEREAS*, the Application seeks to re-designate the Property from "Medium Density Residential" and "Park and Recreation" to "Business and Office" on the Miami-Dade County Comprehensive Development Master Plan Future Land Use Plan Map ("LUP");

*NOW, THEREFORE, IN ORDER TO ASSURE* Miami-Dade County, Florida (the "County") that the representations made by the Owners during its consideration of the Application will be abided by, the Owners freely, voluntarily, and without duress, make the following Declaration of Restrictions covering and running with the Property:

(1) **Water Conservation Requirements.** In an effort to conserve water, the Owner hereby agrees to develop the Property and construct the proposed development units in accordance with the recommendations set forth by the Miami-Dade County Advisory Committee

on Water Conservation and Alternative Water Supplies, a copy of which is attached to this Declaration as Exhibit "B".

(2) **Conceptual Site Plan.** Subject to approval through the zoning process, the Property will be developed in substantial conformity with the conceptual (bubble) site plan entitled "West Flagler Commercial Development," prepared by Leo A. Daly, signed and sealed the \_\_\_\_ day of \_\_\_\_\_, 2008 ("Conceptual Site Plan"). Owner intends to submit an application to rezone the Property to allow for the development of the Property ("Zoning Application"). The final site plan submitted in connection with the Zoning Application for the Property shall be in substantial conformity with the Conceptual Site Plan. The Conceptual Site Plan merely sets forth the maximum number of square feet of the proposed buildings and the maximum height of those buildings, but it is not intended to show the exact location and orientation of the buildings, parking areas or other design features to be located on the Property. The Owner acknowledges that the future rezoning and development of the Property shall require one or more detailed site plan approvals by the County which will determine, among other things, the exact location of the buildings, size of the buildings, height of the buildings, facade of the buildings, elevation of the buildings, distribution of the buildings, orientation of the buildings, and other requirements for compliance with all applicable zoning, fire and public works review standards.

(3) **Square Footage.** The proposed development of the Property shall not exceed a total of 240,000 square feet of retail space under the proposed "Business and Office" land use designation.

(4) **Prohibited Uses.** Residential and Office uses shall be prohibited on the Property.

(5) **Permitted Uses.** The uses on the Property shall be limited to those uses permitted under the BU-1(A) zoning category. Notwithstanding any possible rezoning, the following BU-1(A) uses shall not be permitted:

- a. Donated Goods Center;
- b. Automobile Light Truck Sales;
- c. Automobile Service Station;
- d. Billiard and Pool rooms;
- e. Motorcycle Sales and Repairs;
- f. Lawn Mower, Retail Sales and Service Centers;
- g. Open Air Theater;
- h. Skating Rinks;
- i. Rental Trucks;

(6) **Maximum Height.** The maximum height permitted for the development of the Property shall be forty five (45) feet.

(7) **Pedestrian Connectivity.** The Owner shall maintain a pedestrian pathway which will be properly lit and landscaped in between the proposed commercial and existing residential areas in order to assure pedestrian connectivity throughout the proposed public park.

(8) **Miscellaneous:**

A. **Covenant Running with the Land.** This Declaration of Restrictions on the part of Owner shall constitute a covenant running with the land and shall be recorded by the Owner, 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 Owner and their heirs, successors, and assigns until such time as the same is modified or released with the approval of the County. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.

**B. Term.** This Declaration of Restrictions 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 that this Declaration of Restrictions 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 in the public records agreeing to change the covenant in whole, or in part, provided that the Declaration of Restrictions has first been modified or released by Miami-Dade County.

**C. 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 fee simple owner(s) of the Property, provided that the same is also approved by the Board of County Commissioners. Any such modification, amendment 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 which may, from time to time, govern amendments to comprehensive plans (hereinafter "Chapter 163"). Such modification, amendment or release shall also be subject to the provisions governing amendments to comprehensive plans as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade comprehensive plan. Notwithstanding anything in this paragraph, in the event that the Property is incorporated within a new municipality which amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications, amendments or releases of this Declaration of Restrictions 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 by the provisions for the adoption of zoning district

boundary changes. Should this Declaration of Restrictions be so modified, amended or released, 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 effectuating and acknowledging such modification, amendment or release.

**D. Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, the covenants. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

**E. 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.

**F. 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.

**G. Recording.** This Declaration of Restrictions shall be filed of record in the public records of Miami-Dade County, Florida at the cost of Owner's following the adoption of the Application. This Declaration of Restrictions 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 of Restrictions 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

**Declaration of Restrictions**

**Page 6**

of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration of Restrictions is null and void and of no further effect.

[Execution Pages to Follow]

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_ day of \_\_\_\_\_, 2008.

WITNESSES:

**Shoma Fontainbleau Lakes, LLC** a  
Florida corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name: Masoud Shojaee

Title: President

**STATE OF FLORIDA**                    )  
  ) ss:  
**COUNTY OF MIAMI-DADE**         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by Masoud Shojaee, President of Shoma Fontainbleau Lakes, LLC. Who is personally known to me or produced \_\_\_\_\_ (type of identification) as identification.

NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of  
Notary Public)

My Commission Expires:

**Exhibit "A"**

**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION: RETAIL TRACT**

A PORTION OF TRACTS 2, 4 AND 7 OF "FONTAINEBLEAU PARK SUBDIVISION SECTION ONE" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID TRACT 2; THENCE SOUTH 89°42'20" WEST ON THE SOUTH LINE OF SAID TRACT 2 AND ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET 1,694.70 FEET TO A POINT OF CUSP OF A CIRCULAR CURVE, CONCAVE NORTHWEST; THENCE NORTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89°41'00" AN ARC DISTANCE OF 39.13 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°00'00" EAST 26.74 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE EAST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 222.00 FEET AND A CENTRAL ANGLE OF 19°50'04" AN ARC DISTANCE OF 76.85 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE, CONCAVE WEST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 79°16'02" AN ARC DISTANCE OF 34.59 FEET TO A POINT OF TANGENCY; THENCE NORTH 59°25'58" WEST 138.09 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE NORTHEAST; THENCE NORTHWESTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 176.00 FEET AND A CENTRAL ANGLE OF 25°41'14" AN ARC DISTANCE OF 78.91 FEET TO A POINT OF TANGENCY; THENCE NORTH 33°44'44" WEST 181.42 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWEST; THENCE NORTHWESTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 24°12'12" AN ARC DISTANCE OF 8.45 FEET TO A POINT OF TANGENCY; THENCE NORTH 57°56'57" WEST 5.43 FEET; THENCE SOUTH 32°03'03" WEST 90.00 FEET; THENCE NORTH 57°56'57" WEST 536.00 FEET; THENCE NORTH 32°03'03" EAST 90.00 FEET; THENCE NORTH 57°56'57" WEST 103.56 FEET; THENCE NORTH 20°20'47" WEST 210.47 FEET; THENCE NORTH 69°39'18" EAST 192.12 FEET; THENCE SOUTH 57°56'57" EAST 1013.54 FEET; THENCE NORTH 87°21'53" EAST 326.70 FEET; THENCE SOUTH 61°07'08" EAST 326.23 FEET; THENCE NORTH 72°27'15" EAST 611.34 FEET; THENCE NORTH 34°51'44" EAST 466.87 FEET; THENCE NORTH 24°37'46" EAST 214.77 FEET; THENCE SOUTH 78°30'00" EAST 507.95 FEET; THENCE SOUTH 11°30'00" WEST 501.05 FEET; THENCE SOUTH 00°14'00" WEST 523.30 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED NORTH RIGHT-OF-WAY LINE, ALSO BEING SOUTH LINE OF SAID TRACT 4; THENCE SOUTH 89°42'20" WEST ON SAID NORTH RIGHT-OF-WAY LINE, SAID SOUTH LINE AND ON THE SOUTH LINE OF SAID TRACT 7 FOR 416.34 FEET TO THE POINT OF BEGINNING.  
CONTAINING 1,718,213 SQUARE FEET, 39.4447 ACRES.

**Ezeala, Dickson I. (DP&Z)**

---

**From:** Jorge Navarro [jorge@lasartelaw.com]  
**Sent:** Monday, August 18, 2008 10:47 AM  
**To:** Ezeala, Dickson I. (DP&Z)  
**Cc:** Akulin Kaufman, Lynne (DP&Z); Woerner, Mark (DP&Z); Moore, Patrick (DP&Z)  
**Subject:** RE: Application No. 8 / April 2008 CDMP / Declaration of Restrictive Covenants

I apologize for the typo, attached please find the revised covenant stating that the maximum square footage of retail permitted on the Property is limited to 240,000 square feet. We have overincluded the amount of land necessary for the construction of the proposed retail development in order to allow the developer to design a better product. The development will allocate green space and open areas and will incorporate fountains and plazas along with pedestrian connectivity to the Park Area abutting the Property. Because of the minimal frontage along Fontainebleau boulevard and the irregular shape of the parcel, the Applicant intends to design a layout that can be accommodated with the least impact to the surrounding area along the North side of the Property. There will be no big box type of commercial uses, the commercial uses will be neighborhood servicing retail such as restaurants, dry cleaners, ect.

If you have any questions or concerns please contact our office.

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**From:** Ezeala, Dickson I. (DP&Z) [mailto:ezealad@miamidade.gov]  
**Sent:** Friday, August 15, 2008 5:19 PM  
**To:** Jorge Navarro  
**Cc:** Akulin Kaufman, Lynne (DP&Z); Woerner, Mark (DP&Z); Moore, Patrick (DP&Z)  
**Subject:** RE: Application No. 8 / April 2008 CDMP / Declaration of Restrictive Covenants

Ok but the revised covenant now states 24,000 square feet instead of 240,000 square feet. Is this a typo? Do you plan to build a hotel or motel on the site since the covenant does not address them. What kind of commercial do you need 41 acres.....big box type of commercial such as Wal-Mart? Please respond.  
Thank you.

Dickson I. Ezeala, Principal Planner  
Miami-Dade County Department of Planning & Zoning  
305-375-2835 ext. 97587; Fax 305-375-1091  
[www.miamidade.gov](http://www.miamidade.gov)  
*"Delivering Excellence Every Day"*

-----Original Message-----

**From:** Jorge Navarro [mailto:jorge@lasartelaw.com]  
**Sent:** Thursday, August 14, 2008 2:52 PM  
**To:** Ezeala, Dickson I. (DP&Z)  
**Cc:** Akulin Kaufman, Lynne (DP&Z); Woerner, Mark (DP&Z); Moore, Patrick (DP&Z)  
**Subject:** Application No. 8 / April 2008 CDMP / Declaration of Restrictive Covenants

I have reviewed your comments and have revised the Covenant (please see attached) as follows:

- we have restricted the proposed development to a maximum of 240,000 square feet, no office or residential uses shall be permitted

I would also like to clarify the residential development inquiry as to the 575 dwelling units which were approved on the East Course. The current CDMP application includes only Parcels B and C on the East Course and will result in the elimination of 352 dwelling units from the 575 dwelling units approved by CZAB 10 on March 28th, 2006. The remaining 223 dwelling units will continue to be developed as approved on Parcel A along the North of the Property. We shall revise the prior zoning covenant to include this reduction of 352 dwelling units from both the 575 dwelling units approved on the East Course and the 1176 units approved for the entire Fontainbleau development site.

I hope this clarifies your concerns. If you have any further questions or concerns please contact me.

Sincerely,

Jorge

Jorge Navarro  
Zoning Specialist  
The Lasarte Law Firm  
5335 Blue Lagoon Drive, Suite 100  
Miami, Florida 33126  
Main: 305-269-7153  
Fax: 305-269-7156

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# **APPENDIX G**

## **Photos of the Application Site and Surroundings**

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Portion of Subject Property



Portion of Subject Property



FPL Office Complex South of the Subject Site Across West Flagler Street



FPL Power Station (next to the FPL Office) also South of the Subject Site  
Across West Flagler Street



Residential Condominiums south of Site Across West Flagler Street  
With Transit stops on both sides of Street



Temporary Sales Office for the Fountaineblue Lakes Shoma Homes Development  
on the Subject Site



Residential Condominiums Northeast of the Subject Site



One of the Shopping Centers along West Flagler Street serving the Subject Site



One of the Shopping Centers along West Flagler Street serving the Subject Property

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