

<div><h1>Application No. 4</h1><div>Commission District 11      Community Council 11</div></div>
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## APPLICATION SUMMARY

Applicant/Representative:	Ferro Investment Group II, LLC/Miguel Diaz De la Portilla, Esq., Becker and Poliakoff
Location:	Southeast corner SW 167 Avenue and SW 104 Street
Total Acreage:	±9.9 Gross Acres (±8.38 Net Acres)
Current Land Use Plan Map Designation:	Agriculture
Requested Land Use Plan Map Designation:	1. Business and Office 2. Expand Urban Development Boundary (UDB) to include subject property
Amendment Type:	Standard
Existing Zoning, Use and Site Condition:	GU (Interim District); Also zoned AU (Agricultural District on a small western strip portion of the site). Site has agricultural exemption.

## RECOMMENDATIONS

Initial Staff Recommendation	<b>DENY AND DO NOT TRANSMIT</b> (August 25, 2009)
West Kendall Community Council:	<b>TRANSMIT WITH NO RECOMMENDATION</b> (September 22, 2009)
Planning Advisory Board (PAB) acting as Local Planning Agency:	<b>TRANSMIT WITH NO RECOMMENDATION and With Acceptance Of Proffered Covenant</b> (October 5, 2009)
Board of County Commissioners:	<b>TRANSMIT WITH NO RECOMMENDATION and With Acceptance Of Proffered Covenant</b> (November 4, 2009)
Revised Staff Recommendation	<b>DENY</b> (March 15, 2010)
Final Recommendation of PAB acting as Local Planning Agency:	<b>TO BE DETERMINED</b> (March 22, 2010)
Final Action of Board of County Commissioners:	<b>TO BE DETERMINED</b> (April 7, 2010)

## **Revised Staff Recommendation (March 15, 2010)**

Based on the reasoning in the Initial Recommendation, staff recommends **DENIAL** for the proposed Land Use Plan Map amendment to redesignate the application site from “Agriculture” to “Business and Office” and expand the 2015 Urban Development Boundary (UDB) on the adopted 2015-2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) to include the subject property based on the following:

1. The reasons stated in the initial recommendations for denial of the application are still valid. The requested expansion of UDB in this area of the County appears to be premature at this time. At the levels of Minor Statistical Area, tier and the countywide, there is an adequate supply vacant commercial land. Thus, no need exists at this time for the application. While the application site is located inside the 2025 Urban Expansion Area (UEA), it does not mean the application site needs to be redesignated to an urban use at this time. The Urban Expansion Area is the area where current projections indicate that further urban development beyond the 2015 UDB is likely to be warranted sometime between the year 2015 and 2025.

The request to expand the UDB in order to accommodate the subject property would result in an intrusion into agricultural land since the subject property is bordered on three sides by farmland. The application site has agricultural value since it is located in an area of large contiguous farmable tracts which can increase its value for agricultural uses. A “Business and Office” designation would be incompatible with the adjacent agricultural land. Approving the site would create a pocket of land designated as “Agriculture” between two areas designated for urban development. This result would be tantamount to leapfrogging of agricultural land, which is not conducive to good urban services planning.

## **New Information**

Since the BCC transmittal public hearing on November 4, 2009, the Department of Planning and Zoning has received additional information regarding Application No. 4 in the Florida Department of Community Affairs (DCA) “Objections, Recommendations, and Comments Report,” (ORC), that was issued on March 5, 2010. DCA identified several reasons for objecting to Application No. 4 in the ORC report. The requested amendment does not demonstrate that there is a need for the proposed future land use change and urban development boundary expansion as required by Policy LU-8F. The amendment exhibits multiple indicators of urban sprawl, which collectively reflect a failure to discourage the proliferation of urban sprawl. These indicators included the following: no demonstrated justification to expand the UDB exists due to an adequate supply of vacant commercial and residential land; the proposed expansion of the UDB would create an urban protrusion into an existing agriculture area; the amendment site and the surrounding land to the south, east, and west comprise an large rural area that is actively farmed; adjacent agricultural lands are not protected due to the proposed urban protrusion; and the proposed amendment discourages infill development or redevelopment by permitting growth to occur beyond the current UDB. Application No. 4 is not supported by adequate data and analysis to demonstrate that adverse impacts to natural resources in the West Wellfield protection area will not occur. Therefore, Application No. 4 does not demonstrate that the property is suitable for the proposed uses. The proposed amendment results in the loss of viable agricultural land that is actively farmed and is located in an area of large contiguous farmable tracts. Application no. 4 is internally inconsistent with several provisions of the CDMP

including Land Use Concept No.14, Guidelines for Urban Form No. 4, Objective WS-1 and Policies LU-1G, LU-1O, LU-8C, LU-8E, LU-8F and LU-8G.

#### **Initial Staff Recommendations (August 25, 2009)**

In the Initial Staff Recommendations Report published on August 25, 2009, the staff recommended: **DENY AND DO NOT TRANSMIT** of the proposed standard amendment to redesignate the application site from “Agriculture” to “Business and Office” and expand the 2015 UDB on the LUP map to include the subject property based on the following considerations:

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#### **Principal Reasons for Recommendations**

1. This amendment cycle is the third time that an application to amend the Comprehensive Development Master Plan (CDMP) has been filed to move the UDB (Urban Development Boundary) and change the land use designation on the subject property. The previous two times resulted in withdrawals of the application by the applicant prior to the scheduled public hearing date at which the Board of County Commissioners (Board) would have taken final action on the application.

In the April 2005 Cycle of Applications to amend the CDMP, Application No. 13 requested that the subject property as part of a 81.61-acre parcel be redesignated on the adopted 2015 and 2025 LUP map from “Agriculture” to “Low Density Residential Communities” and include the parcel within the UDB. After careful review of CDMP Goals, Objectives, and Policies, staff determined that the application did not meet the requirements for expanding the UDB as stated in Policy LU-8F of the Land Use Element of the CDMP and was inconsistent with LU-8G(ii) concerning areas that should be avoided when considering areas for addition to the UDB. The application was withdrawn following a “denial” that was recommended by DP&Z, the affected Community Council and the Planning Advisory Board (PAB). The withdrawal was by letter dated February 23, 2006 that was prior to the final hearing of the PAB.

In the April 2007 Cycle of Applications to amend the CDMP, this subject site was the Part B portion (10 gross acres) of the 94.84-acre Application No. 9, which was a request to redesignate the property from “Agriculture” to “Business and Office” in order to potentially develop a maximum of 174,240 square feet of retail space or 130 town houses. Part A of that application involved a request to redesignate an adjacent 84.84-acre parcel on the adopted LUP map from “Agriculture” to “Low Density Residential.” The applicant withdrew that application at the Board’s scheduled final public hearing on April 24, 2008. DP&Z’s initial and revised recommendations were a denial of the application. Also, the PAB recommended denial. The Florida Department of Community Affairs (DCA) raised objections to the application because of the application’s lack of adequate planning for potable water, internal inconsistency with the County’s CDMP, failure to implement school concurrency and impact on transportation facilities.

The current April 2009 CDMP application is a repeat of Part B of the April 2007 Application. The applicant is again requesting that a 10-acre property on the southeast corner of SW 167 Avenue and SW 104 Street be redesignated from “Agriculture” to “Business and Office” on the adopted 2015 and 2025 LUP map and that the 2015 Urban Development Boundary be expanded to include the parcel. No conditions of the site have changed since the April 2007 CDMP application cycle to warrant the approval of

the site for an increased development intensity and density and for inclusion in the UDB. The requested expansion of UDB in this area of the County appears to be premature at this time.

2. Policy LU-8G in the Land Use Element of the CDMP states, "The adequacy of non-residential land supplies shall be determined on the basis of land supplies in sub-areas of the county appropriate to the type of use, as well as countywide supply within the UDB. The adequacy of land supplies for neighborhood and community-oriented businesses and office uses shall be determined on the basis of localized sub-area geography such as Census Tracts, Minor Statistical Areas (MSAs), and combinations thereof. Tiers, Half-Tiers, and combinations thereof shall be considered along with the countywide supply when evaluating the adequacy of land supplies for regional commercial and industrial activities." The application site is located in MSA 6.2, which does not show any deficiency of commercially designated land. At the projected rate of absorption, reflecting the past rate of commercial uses, this MSA will deplete its supply of commercially zoned land beyond the year 2025. Also at the tier level and the countywide level, there is an adequate supply vacant commercial land. The depletion year for the South-Central tier is 2020 and the depletion year for the County is beyond the year 2025. Therefore, to grant the applicant's request to move the UDB to include the subject property and enable expansion of commercial development in the application site would be premature at this time.

A redesignation of the subject property from "Agriculture" to "Business and Office" could result in residential development. If there is no adjacent or adjoining residential use existing, zoned or designated on the same side of the roadway, the maximum allowable residential density for the "Business and Office" land use category will be that which exists or which this plan allows across the nearest roadway. Since all the land adjacent to the subject property on the south side of SW 104 Street is designated as "Agriculture," any residential development resulting from the redesignation of the property to "Business and Office" would reflect the residential development allowed on the north side of SW 104 Street, which is Low Density Residential (2.5 to 6 dwelling units per gross acre).

Based on policy, no need exists to move the UDB boundary for residential use at this time. Policy 8G of the Land Use Element states that "The Urban Development Boundary (UDB) should contain developable land having capacity to sustain projected countywide residential demand for a period of 10 years after adoption of the most recent Evaluation and Appraisal Report (EAR) plus a 5-year surplus (a total 15-year Countywide supply beyond the date of EAR adoption)." The remaining residential capacity of vacant land within the current UDB is projected to be depleted in the year 2018. The most recent EAR was adopted in 2003. Thus, the standard of a total 15-year Countywide supply beyond the date of the most recent EAR adoption has been met.

3. According to Policy LU-8G, agriculturally designated areas shall be avoided when considering lands to add to the UDB, after demonstrating that a need exists as required in Policy LU-8F of the Land Use Element of the CDMP. The property is designated "Agriculture" and is not reasonably contiguous to the UDB except to the north. Approving the site would create a pocket of land designated as "Agriculture" between two areas designated for urban development. This result would be tantamount to leapfrogging of agricultural land, which is not conducive to good urban services planning.

Regarding the agricultural issue, the application states "the proximity of the Property to surrounding residential and educational uses minimizes any potential agricultural value

of the Property.” In addition, the applicant states “the Property’s proximity to existing development, and surrounding conditions, make any agricultural use unviable”. The response of the County’s Agricultural Manager is the following:

“While it may be true that in certain instances, proximity of development can reduce the value of land for agricultural purposes, this parcel is in an area of large contiguous farmable tracts which can increase its value for agricultural uses. It is my opinion that if the property’s proximity to existing development made it unviable for agricultural use, the property would not be actively farmed as it currently is.”

4. A reason given in the application to support this request is that the subject property is located inside the Urban Expansion Area (UEA), which is a “clear indication that the County has already envisioned that the Property will be included within the urban zone.” While the application site is located inside the 2025 UEA, it does not mean the application site needs to be redesignated to an urban use at this time. The UEA is comprised of that area located between the 2015 UDB and the 2025 UEA Boundary. The Urban Expansion Area is the area where current projections indicate that further urban development beyond the 2015 UDB is likely to be warranted some time between the year 2015 and 2025. It has not been demonstrated that expansion of the UDB in this application area is warranted at this time.
5. Policy LU-8E of the Land Use Element of the Comprehensive Development Master Plan (CDMP) requires amendments to the Adopted 2015 Land Use Plan (LUP) map to be evaluated according to factors such as, the proposed development’s ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County, impacts to County services, compatibility with abutting and nearby land uses, impacts to environmental and historical resources, and the extent to which the proposed CDMP land use would promote transit ridership and pedestrianism. As stated above in Reason No. 2, no need exists for the application site to accommodate projected economic growth. Public services are generally adequate except for long-term impacts to the roadway network. A future traffic impact analysis, performed by the Metropolitan Planning Organization (MPO), indicates that a number of roadways are projected to exceed, with and without the application’s impacts, their adopted LOS standards by 2025. The request to expand the UDB in order to accommodate the subject property would result in an intrusion into agricultural land since the subject property is bordered on three sides by farmland. A “Business and Office” designation would be incompatible with the adjacent agricultural land.

The subject site does not contain any wetlands and does not contain or impact any historical or environmental resources. However, there are some environmental restrictions on developing the site. To manage stormwater and drainage, and protect any flooding on the site DERM would require an on-site retention/detention system adequately designed to contain the run-off generated by a 5-year storm event approved through its surface water management permit. The application contains some specimen tree resources; therefore, the applicant will be required to obtain a Miami-Dade County Tree Removal Permit prior to the removal or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code.

The application site lies within the West Wellfield protection area. According to Section 24-43(5) of the County Code, non-residential uses, which generate, use, handle, dispose of, discharge or store hazardous waste (usually permissible in “Business and Office” designated areas) are prohibited in the wellfield protection area.

6. According to the application, "Approval of this application would promote the distribution of neighborhood or community serving retail sales uses and professional offices, to reflect spatial distribution of the residential population which, in essence, surrounds the subject Property. The proposed development would provide the surrounding area with an opportunity to procure goods and services, and potentially employment, in close proximity to their residence."

Staff disagrees with this assessment. The applicant is incorrect in that the residential population in the area does not surround the application site. Farm fields not homes occupy the areas to the west and south. The nearest housing to the east is almost ½ mile from the application site in the Christina at the Hammocks Subdivision. The only housing near the site is located to the north and northeast in the Forest Lakes Estates and the Forest Lakes Country Gardens subdivisions.

Commercial nodes should be located in the center of their market areas and not at the edge. For example, this area is served by two neighborhood shopping centers located within a mile of the application site, the Shoppes of Paradise Lakes Shopping Center at SW 167 Avenue and SW 88 Street with a Publix Supermarket as the anchor and the Hammocks Town Center at Hammocks Boulevard and SW 104 Street with a Publix Supermarket and the West Kendall Regional Library as the anchors. The Hammocks Town Center is completely surrounded by urban development and the Shoppes of Paradise Lakes is nearly surrounded.

Regarding job opportunities, there already exist within a mile of the site along North Kendall Drive (SW 88 Street) several existing and proposed commercial developments. The largest project is the proposed Kendall Town Center at SW 162 Avenue and SW 88 Street, a multiple-use development with a significant amount of space for commercial (750,000 square feet of retail, a movie theater complex and 145 hotel rooms), office (350,000 square feet) and institutional uses (hospital and civic). Another nearby employment center is the Kendall-Tamiami Executive Airport, which is surrounded on the east, south and north by land designated for industrial and commercial uses.

7. Institutional uses such as schools are allowed by the CDMP text in the "Business and Office" land use category. However, the subject property lies within the No School Zone as indicated in the Airport Zoning Ordinance for Tamiami-Kendall Executive Airport. New educational facilities (including day care facilities but excluding aviation schools) are not permitted in this zone.
8. The requested "Business and Office" designation on the application site does not appear to meet the criteria for an activity node, where if warranted commercial development can occur at the intersection of two section line roads. The reason why intersections of section-line roads are generally the location for activity nodes is because section-line roads provide the roadway network for through traffic. However, the roadway network is incomplete at this location because SW 167 Avenue does not extend south of south of SW 104 Street and SW 104 Street extends only a short distance beyond the intersection point with SW 167 Avenue. Thus, through traffic does not pass through this intersection. Therefore, it does not qualify as an activity node at this time.