

Application No. 6

Commission District 2 Community Council 8

APPLICATION SUMMARY

Applicant/Representative: Imperial Management, LLC/ Jeffrey Bercow, Esq. and Michael J. Marrero, Esq.

Location: Southwest corner of NW 32 Avenue and NW 79 Street

Total Acreage: 37.0 Gross Acres (37.0 Net Acres)

Current Land Use Plan Map Designation: Business and Office and Community Urban Center

Requested Change: Release/delete previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated on Page I-74.2 of the CDMP; and proffer a new Declaration of Restrictions for consideration by the Board of County Commissioners

Amendment Type: Standard

Existing Zoning/Site Condition: BU-2 (Special Business)/vacant

RECOMMENDATIONS

Staff: **ADOPT WITH ACCEPTANCE OF PROFFERED DECLARATION OF RESTRICTIONS AND TRANSMIT** (February 25, 2010)

North Central Community Council: **TO BE DETERMINED** (March 23, 2010)

Planning Advisory Board (PAB) acting as Local Planning Agency: **TO BE DETERMINED** (April 5, 2010)

Board of County Commissioners: **TO BE DETERMINED** (May 5, 2009)

Final Action of Planning Advisory Board: **TO BE DETERMINED**

Final Action of Board of County Commissioners: **TO BE DETERMINED**

The Staff recommends **ADOPT with acceptance of proffered covenant AND TRANSMIT** the proposed standard amendment to release, delete and replace previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated in the Restrictions Table on Page I-74.2 of the CDMP is based on the Staff Conclusions and Principal Reasons for Recommendations summarized below:

Principal Reasons for Recommendations:

1. The Miami-Dade County Board of County Commissioners on October 4, 2006 adopted by Ordinance No. 06-139 Application No. 7 of the October 2005 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP), and accepted a proffered declaration of restrictions limiting development for an approximately 37 gross acre site at the southwest corner of theoretical NW 78 Street and NW 32 Avenue. The CDMP amendment redesignated 34.58 gross acres of a 37.072-acre property from "Industrial and Office" to "Business and Office" on the Adopted 2015-2025 Land Use Plan (LUP) map and amended Page I-74.2 of a table that is entitled "Restrictions Accepted by the Board of County Commissioners in Association with the Land Use Plan Map Amendments" in the Land Use Element of the CDMP. The remaining 2.492 acres of the property were already designated as "Business and Office" on the LUP map. The application was approved in anticipation that a Wal-Mart Superstore could be built on the site and provide jobs to the residents of the area.

The current applicant, Imperial Management, LLC, is requesting that the previously proffered and accepted CDMP declaration of restrictions or covenant recorded on October 30, 2006 be released, deleted from the table in the Land Use Element and replaced with another CDMP covenant. The existing CDMP covenant prohibits residential use and includes at a minimum on the site a single retail use of at least 100,000 square feet of floor area. This covenant was proffered to provide assurances that a big box retail operation, such as a Wal-Mart, would occur on site as well as other commercial activities. The applicant's representative submitted on January 28, 2010 a draft covenant that would eliminate the requirement for a single retail use of at least 100,000 square feet of floor area and would remove the prohibition for residential uses. Instead, the new covenant allows up to a maximum of 1200 residential units on the site or a mixture of both non-residential and residential uses.

The Department supports the request to release and delete the recorded covenant and replace it with one allowing residential uses because it would allow for mixed-use development that would be more supportive of public transit than a shopping center with a large surface parking lot. The application site has good access to Metrorail and Metrobus services since it is located in the premium rail transit corridor between the Northside (adjacent to the east) and Tri-Rail (1200' to the west) Metrorail stations, and about 1/3 mile from Tri-Rail and Amtrak stations to the west as well. During the morning and evening peak periods on week days, Metrorail provides service every 7.5 minutes to Hialeah, Civic Center, Downtown Miami and Dadeland. Metrobus Route L, which connects the application site to Hialeah and Miami Beach, has 12-minute headways on weekdays during peak periods and midday and 15-minute headways on Saturdays. Metrobus Route 32, which connects the application site to Miami Gardens, Opa-locka and the Omni Bus Terminal, and Metrobus Route 79 Street Max, which connects the Northside Metrorail Station to Miami Beach, have 24-minute headways during peak periods on weekdays.

2. The removal of the no residential development provision from the covenant governing development of the property would be consistent with the two designated Community Urban Centers (CUCs) on the LUP map that are focused on the Northside and Tri-Rail Metrorail Stations. CUCs should be planned and designed to serve a local community, and have as their focus the mass transit stop in their center. Mixed commercial, office and residential uses should be located near the core, where commuters and residents can easily access them from the transit stop and local residential blocks. The densities and intensities of development located within designated CUCs and around rail rapid transit stations should be no more than 125 dwelling units per gross acre and the average Floor Area Ratio (FAR) should be greater than 1.5 in the core and not less than 0.5 in the edge of the urban center. Non-residential intensities are generally measured as FARs, which for a particular property is the square footage of the floor area of buildings (not counting parking structures) divided by the net land area of the parcel.

An example of how the CUC concept could be applied to the subject property is if the draft North Central Urban Area District (NCUAD) is adopted. This draft zoning district is primarily based on the North Central Charrette Area Plan, which was accepted by the BCC in 2004 (Resolution 497-04).

The draft NCUAD contains several proposed regulating plans that could affect the application site. The Land Use Regulating Plan designates the northern portion of the site along NW 79 Street for Mixed Use Main Street and the southern portion for Mixed-Use Corridor. Mixed Use Main Street allows for free standing buildings with commercial, office or institutional uses and mixed-use multi-story buildings with residential uses on the upper floors and commercial, office or institutional uses on the ground floor. Mixed-Use Corridor allows for free standing buildings with commercial, office or institutional uses and buildings with a mixture of residential and nonresidential uses.

The other regulating plans address residential density, height of buildings, the sub-districts of the urban center, designated open space and streets. The Density Regulating Plan designates the northeastern portion of the site adjacent to Northside MetroRail Station for a maximum of 125 units per acre, the central and southeastern portions for a maximum of 90 units per acre and the western portion for a maximum of 60 units per acre. The applicant is limiting the residential development to a maximum of 1200 dwellings or 32.4 units per gross acre, which would be consistent with the NCUAD Density Regulating Plan. None of these regulating plans would apply to properties located in the proposed NCUAD until an application for a district boundary change to NCUAD has been heard and approved.

3. When the first CDMP application was reviewed in February 2006, the development potential for the site was 585,097 sq. ft of commercial space or 2,014 multi-family dwelling units on a 34.58 gross acre parcel. The analysis at that time showed that the application site had no historic or environmental resources and that the solid waste, water and wastewater capacities were all sufficient to handle the impacts of the development potential. However, there were concerns in 2006 with public schools and fire and rescue services. After the Initial Recommendations Report for the October 2005 Cycle was published in February 2006, representatives of Wal-Mart submitted a covenant prohibiting residential development on the property. The current proposal of a maximum of 1200 dwelling units on a 37-acre site was evaluated using the current level of service (LOS) standard for public school facilities, which is 100% utilization of Florida Inventory of School Houses (FISH) with relocatable classrooms. This LOS would be met

for the 1200 dwelling units if adjacent concurrency service areas for elementary schools are considered. Miami-Dade Fire and Rescue Department has a concern with the potential maximum residential development on the property because 1200 dwelling units would generate 336 alarms, which would be a severe impact to fire and rescue services.

4. All roadways adjacent to and in the vicinity of the Application site are projected to operate within acceptable peak period level of service conditions. Two development scenarios were analyzed. Scenario 1 assumed that the application site was developed with retail space (644,888 sq. ft.), and Scenario 2 assumed that the application site was developed with multi-family apartments (1,200 units). The traffic concurrency analysis indicates that with either scenario NW 79 Street, between NW 27 and NW 37 Avenues and from NW 37 to NW 47 Avenues, would operate at LOS C and D, respectively; and NW 32 Avenue, between NW 79 and NW 54 Streets, would operate at LOS C, with the impacts of Application No. 6. With either scenario, these roadways are projected to meet the adopted LOS E+50% standard applicable to those roadways. Furthermore, the subject application is located within the County's Urban Infill Area, a Transportation Concurrency Exception Area (TCEA), which is an area where a proposed development will not be denied a concurrency approval for transportation facilities provided that the development is consistent with the adopted CDMP and meets the criteria established in the Concurrency Management Program of the Capital Improvements Element.

STAFF ANALYSIS

Land Use and Zoning History

The Miami-Dade County Board of County Commissioners on October 4, 2006 adopted by Ordinance No. 06-139 Application No. 7 of the October 2005 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP) and accepted a proffered declaration of restrictions limiting development for a 34.58 gross acre site at the southwest corner of theoretical NW 78 Street and NW 32 Avenue. The CDMP amendment redesignated 34.58 gross acres of a 37.072-acre property from "Industrial and Office" to "Business and Office" on the Land Use Plan (LUP). The remaining 2.492 acres of the property were already designated as "Business and Office" on the LUP. The October 2005 Cycle applicant, Wal-Mart Stores East, L.P., wanted to purchase the property to build a Wal-Mart Superstore.

Zoning actions to implement the land use changes that the BCC adopted on October 4, 2006 have occurred. Community Zoning Appeals Board No. 8 adopted Resolution No. CZAB8-36-07 on September 19, 2007 that changed the zoning on 37.59 acres from BU-1 (Neighborhood Business District), BU-2 (Special Business District) and IU-1 (Light Industry District) to BU-2 and granted a non-use variance to permit a covered walkway with a setback of 0 feet from the east property line along NW 32 Avenue. The applicant, MLIP L.L.C., proffered a zoning declaration of restrictions or covenant that was accepted. This covenant, which was recorded on October 26, 2007, runs with the land for a period of 30 years and is extended automatically for successive periods of 10 years. The restrictions include (1) the property shall be developed substantially in accordance with the site plan entitled "Wal-Mart Supercenter" that was prepared by Creech Eng., Inc.; (2) no automobile service station use shall be located on the "Future Lease Lot" as depicted in site plan; (3) the owner shall except for condition No. 7 comply with the Memorandum dated July 25, 2007 from the Executive Council of the Development Impact Committee (DIC) to Community Council Appeals Board No. 8; (4) the owner shall make provisions for transit pullout bays; (5) the owner shall comply with the water conservation recommendations of Miami-Dade Water and Sewer Department and use pervious concrete in paving 20% of the parking spaces; (6) the owner shall use environmentally sensitive practices in building the Wal-Mart Supercenter; (7) the owner shall install, utilize and maintain a shopping cart containment system which impedes the ability to remove shopping carts from the property; (8) the owner shall use drought landscaping and native species in the parking lot and in a landscape buffer adjacent to the parking lot and along NW 32 Avenue; and (9) the owner will design the Wal-Mart Supercenter with a provision for a temporary generator hookup. The DIC reviews certain zoning actions that require a public hearing and which also could have a substantial impact on the health, safety, and welfare of County residents because of their magnitude, location or character. The DIC Memorandum dated July 25, 2007 for the property contained many of the above conditions.

The application site has been the location for several prior zoning actions. The BCC in 1956 rezoned with conditions a portion of the property from RU-4A (a district with 50 dwelling units/net acre or 75 hotel/motel units per net acre) and AU (Agricultural District) to IU-1. The BCC in 1960 approved a special permit to allow a barber shop in an agricultural district. The Zoning Appeals Board in 1964 and 1969 approved non-use variances of the frontage. The BCC approved with conditions in 1977 a special exception of spacing requirements for a proposed beer and wine bar and non-use variance of setback requirements. The Community Zoning Appeals Board No. 8 adopted Resolution No. CZAB8-1-03 on January 3, 2003, which rezoned 25.03 acres of the site from BU-1, AU and IU-1 to IU-1.

CDMP Declarations of Restrictions

The current applicant, Imperial Management, LLC, is requesting that the previously proffered and accepted CDMP declaration of restrictions or covenant recorded on October 30, 2006 and described be released, deleted and replaced by another CDMP covenant. The proffered and accepted covenant prohibits residential use and includes at a minimum a single retail use of at least 100,000 square feet on the site. This covenant was proffered to provide assurance to the County that a big box retail operation, such as a Wal-Mart, would occur on site as well as other commercial activities (See Appendix F). The applicant's representative submitted on January 28, 2010 a draft covenant (See Appendix F) that would provide more flexibility in developing commercial development on the property and allow residential development to a maximum of 1200 units.

Supply and Demand

Residential Land Analysis

The application site is located within Minor Statistical Area 4.2, hereafter is known as the Analysis Area. The combined vacant land for single-family and multi-family residential development in the Analysis Area in 2010 was estimated to have a capacity for about 3,664 dwelling units, with about 40 percent of these units intended as single-family. The annual average residential demand in this Analysis Area is projected to decrease from 96 units per year in the 2010-2015 period to 902 units in the 2020-2025 period. An analysis of the residential capacity by type of dwelling units shows depletion for single-family units to occur by 2019 and for multi-family type beyond 2025 (See Table below).

**Residential Land Supply/Demand Analysis
2010 to 2025: Application No. 6**

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 2010	1,482	2,182	3,664
DEMAND 2010-2015	70	26	96
CAPACITY IN 2015	1,132	2,052	3,184
DEMAND 2015-2020	213	78	291
CAPACITY IN 2020	0	1,662	1,729
DEMAND 2020-2025	660	242	902
CAPACITY IN 2025	0	452	0
DEPLETION YEAR	2019	2025+	2021

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, 2010.

Fire and Rescue Services

Although fire and rescue service is presently adequate in the vicinity of the subject application site, build-out of the property will result in a severe impact. The current designation of "Business and Office" on the adopted Land Use Plan map combined with the restrictions in the recorded covenant could result in a 644,688 square foot retail center, which could generate approximately 200 annual alarms. The draft covenant would allow a maximum of 1200 residential units, which could generate approximately 336 annual alarms.

Public Schools

On July 17, 2009, the County's Educational Plan Amendment and Interlocal Agreement adopting a level of service (LOS) standard for public school facilities (school concurrency) was found in compliance by the State of Florida Department of Community Affairs. The proposed LOS standard for public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) with relocatable classrooms. The County's land use applications will be reviewed based on this LOS standard and based on projected planned facilities in the Miami-Dade County Facilities Five-Year Work Plan. This review is an initial cursory review and no concurrency reservation is required at this stage.

Concurrency Service Area Schools

CSA id	Facility Name	Available Capacity	Seats Required	LOS Met	Source Type
0521	Broadmoor Elementary	223	247	No	Current CSA
5861	Dr. HW Mack/W Little River Elementary	252	247	Yes	Adjacent CSA
1681	Lillie C. Evans Elementary	518	247	Yes	Adjacent CSA
6391	Madison Middle	344	114	Yes	Current CSA
7251	Miami Central Senior	1977	155	Yes	Current CSA

Source: Miami-Dade County Department of Planning and Zoning, 2010
Miami-Dade County Public Schools, 2009

Students generated by this application will attend those schools identified in the above table. If this application site were developed for residential use, the potential student population of the schools serving the application would be increased by an additional 308 students. Two hundred and forty-seven (247) students will attend Dr. HW Mack/West Little River Elementary, where there are two hundred and fifty-two (252) seats available or Lillie C. Evans Elementary, where there are three hundred forty-four (344) seats available; one hundred and fourteen (114) students will attend Madison Middle, there are three hundred and forty-four (344) seats available; and one hundred and fifty-five (155) students will attend Miami Central Senior High, there are one thousand nine hundred and seventy-seven (1977) seats available.

Roadways

The property subject of this CDMP Amendment application is located on the south side of NW 79 Street (SR 934) between theoretical NW 35 Avenue and NW 32 Avenue, inside the County's Urban Infill Area (UDB). The applicant is requesting the release of the Declaration of Restriction proffered in connection with Application No. 7 of the October 2005 CDMP Amendment cycle. The proffered a covenant restricts the development of any residential uses on the property and

requires that retail development include at least one single use of at least 100,000 square feet. The adopted October 2005 CDMP Amendment Application No. 7 sought to change the land use designation of the property on the Adopted 2015-2025 Land Use Plan Map from "Industrial and Office" to "Business and Office." The current application does not seek any land use change designation, but rather the release of the Declaration of Restrictions.

The existing arterial roadway network serving this application includes the following east-west arterials: NW 95, NW 87, NW 79, and NW 62 Streets. North-south arterials include NW 42 (LeJeune Rd./SR 953), NW 37, NW 32, NW 27 (SR 9), NW 22, and NW 17 Avenues. These corridors provide accessibility to the application site and other parts of the County.

The Department of Planning and Zoning, in cooperation with the County's Public Works Department and the Metropolitan Planning Organization, performed a short-term and a long-term traffic impact analyses for the October 2005 CDMP Amendment Application No. 7 to determine the impact the requested land use change would have on the roadways adjacent to and in the vicinity of the Application site. The traffic impact analyses were based on the potential maximum commercial and residential development that could occur under the requested "Business and Office" land use designation (pp. B-29 through B-39 of the *Initial Recommendations Report of the October 2005 Applications to Amend the Comprehensive Development Master Plan* (February 2006)). The traffic impact analyses showed that all roadways adjacent to and in the vicinity of the Application site were projected to operate within acceptable peak period level of service conditions.

The two development scenarios were analyzed. Scenario 1 assumed the application site developed with retail space (585,097 sq. ft.), and Scenario 2 assumed the application site developed with multi-family apartments (2014 units). The traffic concurrency analysis indicated that NW 79 Street, between NW 27 and NW 37 Avenues and from NW 37 to NW 47 Avenues, and NW 32 Avenue, between NW 103 and NW 62 Streets, would operate at LOS C, E and C, respectively, without the impacts of Application 7. With Scenario 1 (commercial use) the roadways LOS conditions were projected to deteriorate to LOS D, E+17.5% and E+4%, respectively; and with Scenario 2 the LOS conditions were projected to deteriorate to LOS D, E+10% and D, respectively. However, these roadways would still operate within the adopted LOS E+50% standard applicable to those roadways.

As indicated above, the applicant has also submitted along with the current application a new Declaration of Restriction limiting residential development on the application site to no more than 1,200 dwelling units. This declaration of restrictions shall constitute a covenant running with the land if the current application were approved.

Most of the Application site is located within the boundaries of a designated Community Urban Center (CUC) and along the Metrorail, an extraordinary transit service. The densities and intensities of development located within designated CUCs and around rail rapid transit stations should be no more than 125 dwelling units per gross acres and the average Floor Area Ratio (FAR) should be greater than 1.5 in the core and not less than 0.5 in the edge of the urban center. The new application site covers 37 acres, 2.42 more acres than the October 2005 Application No. 7 (34.58 acres). It should be pointed out that the 2.42 acres are also designated Business and Office on the Adopted 2015-2025 Land Use Plan Map.

Trip Generation

A new traffic impact analysis was performed to compare the impacts of the potential maximum commercial development (644,688 sq. ft. of retail space) and residential development (2,014 multi-family dwelling units) that could occur on the Application site. The table below presents the estimated number of PM peak hour trips that would be generated by the retail and residential developments analyzed during the October 2005 CDMP cycle and the PM peak hour trips that would be generated by the potential maximum retail and residential developments analyzed for current CDMP Amendment application.

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

Application Number	Current Land Use Designation Assumed Uses For October 2005 CDMP Amendment/ Estimated No. Of Trips	Current Land Use Designation Assumed Use For Requested CDMP Amendment/ Estimated No. Of Trips	Trip Difference Between Assumed Uses for October 2005 CDMP Amendment and Requested October 2009 CDMP Application
6	Business and Office (Retail use ¹ : 585,097 sq. ft.) 1,542 trips	Business & Office Retail use ¹ : 644,688 sq. ft. 1,658	+ 116
6	Business and Office Residential use ¹ : 2,014 Apartments 1,125 trips	Business & Office Residential use ¹ : 1,200 Apartments 678	- 447

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003; Miami-Dade County Public Works Department, February 2010.

Notes: ¹ Under the current Business and Office Land Use designation, residential development may be authorized at a density up to one density higher than the LUP-designated density of adjacent or adjoining residentially designated area on the same side of the abutting principal roadway, or up to the density of any such existing residential development, or zoning if the adjacent or adjoining land is undeveloped, whichever is higher. Moreover, the application site is located within the boundaries of a Community Urban Center. The maximum residential development (2,014 units) analyzed is estimated to generate approximately 1,125 PM peak hour trips, while the proposed 1,200 multifamily development is estimated to generate 678 PM peak hour trips, 447 less PM peak hour trips than the maximum potential residential development that may be allowed under the current Business and Office land use designation.

In summary, the 644,688 sq. ft. commercial development analyzed for the current CDMP Application No. 7 would generate approximately 116 more PM peak hour trips than the 585,097 sq. ft. commercial development analyzed for the October 2005 CDMP Application No. 6. On the other hand, the 1,200 apartments would generate approximately 447 less PM peak hour trips than the 2,014 apartments analyzed in 2005.

Traffic Concurrency Evaluation

A recent evaluation of peak period traffic concurrency conditions as of February 2010, which considers reserved trips from approved development not yet constructed and programmed roadway capacity improvements, indicates that all monitored roadways adjacent to and in the vicinity of the Application site are projected to operate within acceptable peak period LOS conditions. See Concurrency Traffic Analysis table below.

Application Impacts

The two development scenarios were analyzed. Scenario 1 assumed that the application site was developed with retail space (644,888 sq. ft.), and Scenario 2 assumed that the application site was developed with multi-family apartments (1,200 units). The traffic concurrency analysis indicates that NW 79 Street, between NW 27 and NW 37 Avenues and from NW 37 to NW 47 Avenues, would operate at LOS C and D, respectively; and NW 32 Avenue, between NW 79 and NW 54 Streets, would operate at LOS C, with the impacts of Application 6. These roadways are projected to operate above the adopted LOS E+50% standard applicable to those roadways.

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 use (644,688 sq. ft. Retail)												
9426	NW 32 Ave.	NW 119 Street to NW 103 Street	4 DV	E+50%	3,975	2,111	B	60	E	431	2,602	E (08)
9424	NW 32 Ave.	NW 79 Street to NW 54 Street	4 DV	E+50%	5,595	2,067	B	113	B	444	2,624	C (08)
F-537	NW 79 St./SR 934	NW 47 Ave. to NW 37 Ave.	4 DV	E+50%	4,905	1,494	C	17	C	328	1,839	C (08)
F-538	NW 79 St. /SR 934	NW 37 Ave. to NW 27 Ave.	4 DV	E+50%	4,680	1,782	D	91	D	455	2,328	D (08)
Scenario 2: Business and Office with Residential Development (1,200 Multifamily dwelling units)												
9426	NW 32 Ave.	NW 119 Street to NW 103 Street	4 DV	E+50%	3,975	2,111	E	60	E	176	2,347	E (08)
9424	NW 32 Ave.	NW 79 Street to NW 54 Street	4 DV	E+50%	5,595	2,067	B	113	B	182	2,362	C (08)
F-537	NW 79 St./SR 934	NW 47 Ave. to NW 37 Ave.	4 DV	E+50%	4,905	1,494	C	17	C	134	1,645	C (08)
F-538	NW 79 St. /SR 934	NW 37 Ave. to NW 27 Ave.	4 DV	E+50%	4,680	1,782	D	91	D	186	2,059	D (08)

Source: Compiled by Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department and Florida Department of Transportation, January 2010.

Notes: DV= Divided Roadway

*County adopted roadway level of service standard applicable to the roadway segment: E +50% (150% capacity) for roadways serviced with extraordinary transit such as the Metrorail.

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

Scenario 1 assumes maximum potential commercial development (644,688 sq. ft. of retail space) on the application site under the requested "Business and Office" land use designation.

Scenario 2 assumes residential development (1,200 apartments) on the application site as proposed by the applicant in the Declaration of Restrictions.

Transit

Existing Conditions

The area within Application 6 is served by Metrobus Routes L, 27, 32, 42, 79/79 Street MAX, 97/27 Avenue MAX and by Metrorail at the Northside station across the street from the Application site. The table below shows the existing service frequency in summary form.

Miami - Dade Transit Service Summary
October 2009 Amendment Application # 6

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		
L	12	12	15	60	15	20	0.0	F
27	15	15	24	60	20	30	0.5	F
32	24	30	30	N/A	40	60	0.0	F
42	15	30	60	N/A	30	30	0.5	F
79/79 Street MAX	24	N/A	N/A	N/A	N/A	N/A	0.0	E / F
97/27 Avenue MAX	20	40	N/A	N/A	N/A	N/A	0.5	E / F
Metrorail	7½	15	30	N/A	30	30	0.0	

Source: 2010 Transit Development Plan, Miami-Dade Transit, December 2009.

Notes: L means Metrobus local route service
F means Metrobus feeder service to Metrorail
E means Metrobus Express or Limited-Stop service

Future Conditions

Transit improvements to the existing Metrobus service, such as realignment and a revamping of the existing limited-stop route, are being planned for the next ten years as noted in the 2019 Recommended Service Plan within the 2009 Transit Development Plan. The table below shows the Metrobus service improvements programmed for the existing routes serving this application.

Metrobus Recommended Service Improvements
October 2009 Amendment Application # 6

Route(s)	Improvement Description
L	No planned improvements.
27	No planned improvements.
32	No planned improvements.
42	Extend route to serve the Miami Intermodal Center.
79/79 Street MAX	No planned improvements.
97/27 Avenue MAX	Transform route into 27 Avenue Rapid Bus.
27th Avenue Rapid Bus	This route would provide limited-stop service along NW 27th Avenue between the Broward/Miami-Dade county line and the MLK Metrorail station.

The projected bus service improvements for these routes are estimated to cost approximately \$63,008 in annual operating costs and a one-time capital cost of \$39,634 for a total cost of

\$102,642. These costs only reflect the percentage of improvements that are located within the Application area.

Major Transit Projects

Regarding future transit projects within this area, a rail extension to the Miami-Dade/Broward county line from the existing Dr. Martin Luther King, Jr. Metrorail station is being planned, by Miami-Dade Transit, as part of the People's Transportation Plan Rapid Transit Improvements. It consists of a 9.5 mile corridor along NW 27th Avenue north of NW 79th Street.

In addition, the South Florida East Coast Corridor is being studied by FDOT District 4 and their consultants. This study is a regional effort that includes Broward and Palm Beach counties and extends 85 miles from downtown Miami to Jupiter. Within Miami-Dade County the study area runs from downtown Miami to the Broward County line (13.6 miles) along the FEC Railroad/Biscayne Boulevard corridor. Currently, the project is evaluating station locations throughout the corridor.

Application Impacts

A preliminary analysis performed in Traffic Analysis Zones (TAZ) 414 where the application is requested indicates that, if granted, the expected transit impact produced by this application is minimal and can be absorbed by the scheduled improvements to transit in the area.

Consistency Review with CDMP Goals, Objectives, Policies, Concepts and Guidelines

All CDMP amendment applications are evaluated for consistency with pertinent CDMP Objectives, Policies, Land Use Plan Concepts and other Plan provisions. The specific objectives, policies and Land Use Plan Concepts that materially apply to the requested amendment are indicated below in summary following the specific item. For the specific language see the Adopted Components Comprehensive Development Master Plan, October 2006 Edition, as amended through May, 2009.

The following CDMP goals, objectives, policies, concepts and guidelines will be enhanced if the proposed covenant change is approved:

- Objective LU-7. Miami-Dade County shall require all new development and redevelopment in existing and planned transit corridors and urban centers to be planned and designed to promote transit-oriented development (TOD), and transit use, which mixes residential, retail, office, open space and public uses in a pedestrian-friendly environment that promotes the use of rapid transit services.
- Policy LU-7A. Through its various planning, regulatory and development activities, Miami-Dade County shall encourage development of a wide variety of residential and non-residential land uses and activities in nodes around rapid transit stations to produce short trips, minimize transfers, attract transit ridership, and promote travel patterns on the transit line that are balanced directionally and temporally to promote transit operational and financial efficiencies. Land uses that may be approved around transit stations shall include housing, shopping and offices in moderate to high densities and intensities, complemented by compatible entertainment, cultural uses and human

services in varying mixes. The particular uses that are approved in a given station area should, a) respect the character of the nearby community, b) strive to serve the needs of the community for housing and services, and, c) promote a balance in the range of existing and planned land uses along the subject transit line. Rapid transit station sites and their vicinity shall be developed as "urban centers" as provided in this plan element under the heading Urban Centers.

- Policy LU-7F. Residential development around rail rapid transit stations should have a minimum density of 15 dwelling units per acre (15 du/ac) within 1/4 mile walking distance from the stations and 20 du/ac or higher within 700 feet of the station, and a minimum of 10 du/ac between 1/4 and 1/2 mile walking distance from the station. Business and office development intensities around rail stations should produce at least 75 employees per acre within 1/4 mile walking distance from the station, 100 employees per acre within 700 feet, and minimum of 50 employees per acre between 1/4 and 1/2 mile walking distance from the station. Where existing and planned urban services and facilities are adequate to accommodate this development as indicated by the minimum level-of-service standards and other policies adopted in this Plan, and where permitted by applicable federal and State laws and regulations, these densities and intensities shall be required in all subsequent development approvals. Where services and facilities are currently or projected to be inadequate, or where required by Policy LU-7A, development may be approved at lower density or intensity provided that the development plan, including any parcel plan, can accommodate, and will not impede, future densification and intensification that will conform with this policy.
- Policy LU-10A. Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or underdeveloped urban areas, high intensity activity centers, mass transit supportive development, and mixed-use projects to promote energy conservation.

APPENDICES

Appendix A Map Series

Appendix B Amendment Application

Appendix C Miami-Dade County Public Schools Analysis

Appendix D Applicant's Traffic Study

Appendix E Applicant's Economic Analysis

Appendix F Fiscal Impact Analysis

Appendix G Declaration of Restrictions

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

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APPENDIX A

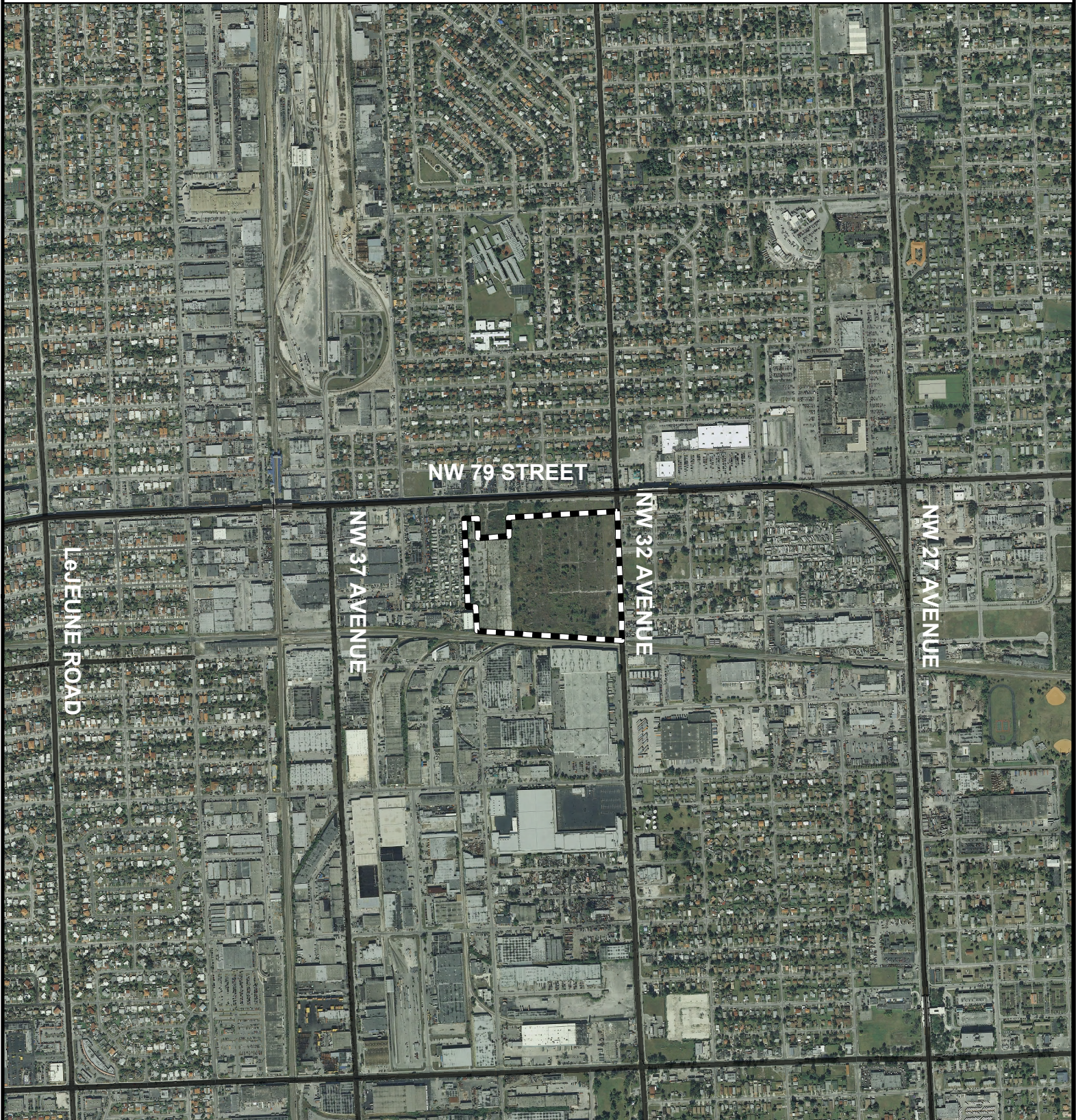
Map Series

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

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APPLICATION NO. 6

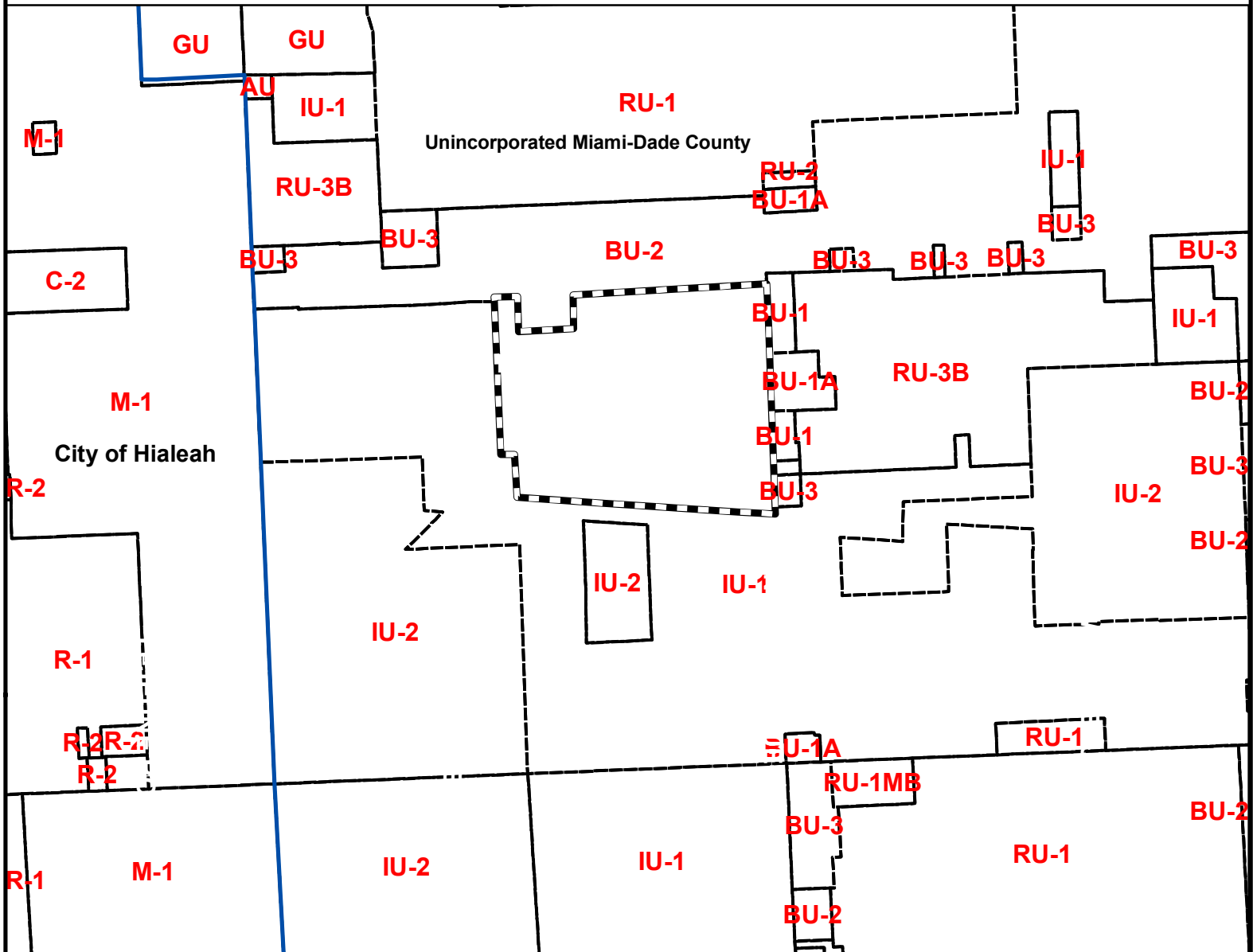
AERIAL PHOTO



APPLICATION AREA



APPLICATION NO. 6 ZONING MAP



APPLICATION AREA

ZONING DISTRICTS

Unincorporated Miami-Dade County

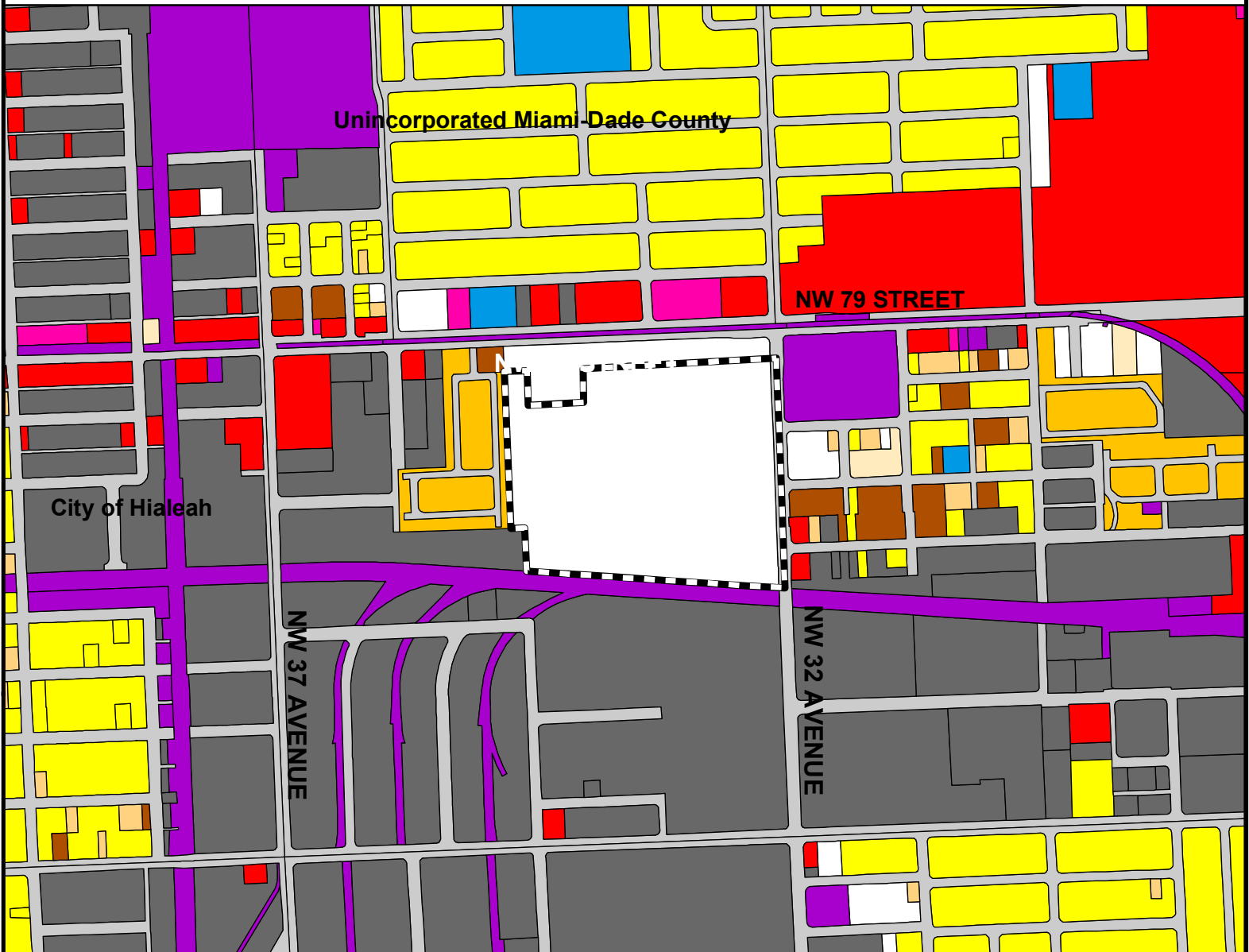
GU	INTERIM
AU	AGRICULTURAL
BU-3	LIBERAL BUSINESS
IU-1	INDUSTRIAL (LIGHT MANUFACTURING)
IU-2	INDUSTRIAL (HEAVY MANUFACTURING)
RU-1	SINGLE FAMILY RESIDENTIAL (7,500 sq. ft. net)
RU-2	TWO FAMILY RESIDENTIAL (7,500 sq. ft. net)
RU-1M(b)	MODIFIED SINGLE FAMILY RESIDENTIAL
RU-3B	BUNGALOW COURT

City of Hialeah

M-1	INDUSTRIAL
C-2	LIBERAL RETAIL COMMERCIAL
R-1	ONE FAMILY RESIDENTIAL
R-2	ONE AND TWO FAMILY RESIDENTIAL



APPLICATION NO. 6 EXISTING LAND USE



APPLICATION AREA

EXISTING LAND USES



SINGLE FAMILY



TWO FAMILY



MULTI FAMILY



MOBILE HOME PARK



SALES AND SERVICES



OFFICE BUILDING



OTHER INDUSTRIAL INTENSIVE



PUBLIC SCHOOLS



HOUSES OF WORSHIP



GOVERNMENT



RAILROADS - TERMINALS



PARKING GARAGES

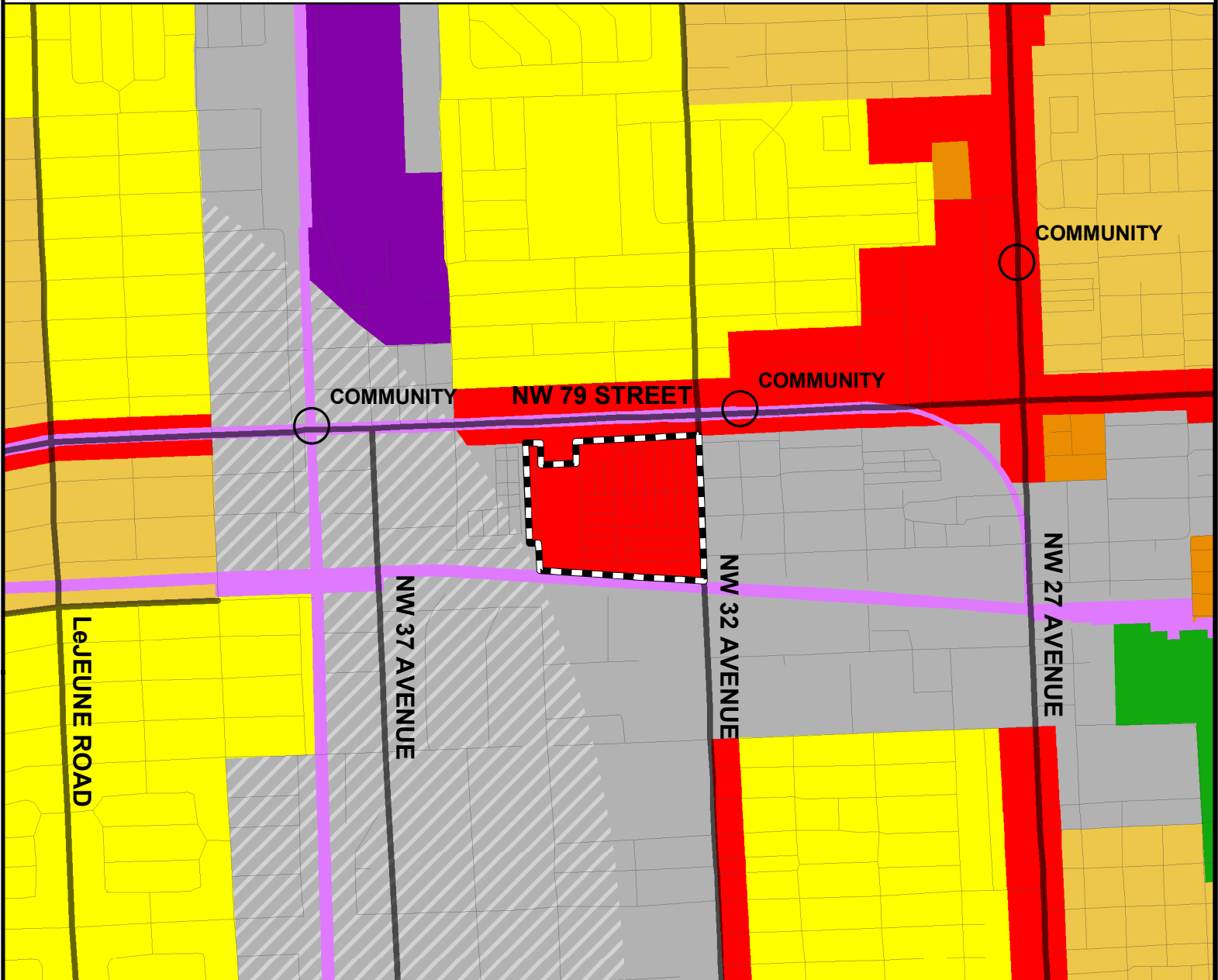


VACANT



APPLICATION NO. 6

CDMP LAND USE



APPLICATION AREA

CDMP LAND USE

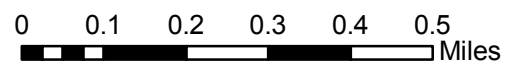
- LOW DENSITY RESIDENTIAL (2.5 - 6 DU/AC)
- LOW-MEDIUM DENSITY RESIDENTIAL (6 - 13 DU/AC)
- MEDIUM DENSITY RESIDENTIAL (13 - 25 DU/AC)
- INDUSTRIAL AND OFFICE
- RESTRICTED INDUSTRIAL AND OFFICE
- BUSINESS AND OFFICE
- PARKS AND RECREATION
- TRANSPORTATION (ROW, RAIL, METRORAIL, ETC.)
- TERMINALS

STREETS

- EXPRESSWAYS
- MAJOR ROADWAYS (3 OR MORE LANES)
- MINOR ROADWAYS (2 LANES)
- STREET

URBAN CENTERS

- COMMUNITY



APPENDIX B

Amendment Application

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AMENDMENT REQUEST
TO THE
LAND USE ELEMENT/LAND USE PLAN MAP
OCTOBER 2009-2010 AMENDMENT CYCLE
MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN

2009 NOV -2 P 3 24
PLANNING & ZONING
POLITICIAN PLANNING SECT

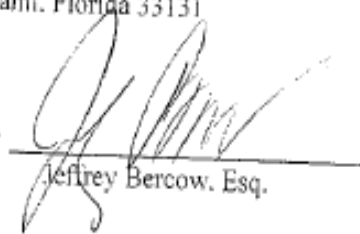
1. APPLICANT

Imperial Management, LLC
15800 NW 48th Avenue
Miami Gardens, Florida 33014

2. APPLICANT'S REPRESENTATIVES

Jeffrey Bercow, Esq.
Michael J. Marrero, Esq.
Bercow & Radell, P.A.
200 South Biscayne Boulevard
Suite 850
Miami, Florida 33131

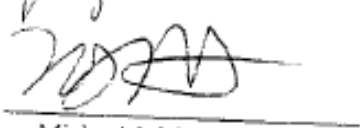
By:



Jeffrey Bercow, Esq.

Date: October 30, 2009

By:



Michael J. Marrero, Esq.

Date: October 30, 2009

3. DESCRIPTION OF REQUESTED CHANGES

A. The request is for the release of the Declaration of Restrictions (Official Records Book 25052 / Page 2263) proffered in connection with Application No. 7 from the October 2005 Cycle.

B. Description of the Subject Property

The subject property (the "Property") is an approximately 37 acre parcel of land located on the south side of N.W. 79 Street between theoretical NW 35 Avenue and NW 32 Avenue and identified by Miami-Dade County Folio Nos. 30-3109-034-0010 and 30-3109-000-0290.

C. Gross Acreage

Application area: 37 net acres

Acreage owned by Applicant: 37 net acres.

D. Requested Change

- 1) The Applicant requests the release of the Declaration of Restrictions (Official Records Book 25052 / Page 2263) proffered in connection with Application No. 7 from the October 2005 Cycle. See attached CDMP Covenant.
- 2) The Applicant requests the removal of the Declaration of Restrictions proffered in connection with Application No. 7 from the text of the Land Use Element (Page I-74.2).
- 3) If this CDMP amendment application is adopted by the Board of County Commissioners, and a proffered covenant is accepted as a condition of such approval, then the Applicant requests that the covenant be added to the text of the CDMP Land Use Element, specifically to the table contained therein and entitled "Restrictions accepted by Board of County Commissioners in association with Land Use Plan Amendments." The covenant will be submitted to Miami-Dade County in accordance with the timelines adopted by the Department of Planning and Zoning.

4. REASONS FOR AMENDMENT

Property. The Property is an approximately 37 acre parcel of land located on the south side of N.W. 79 Street between theoretical NW 35 Avenue and NW 32nd Avenue, and identified by Miami-Dade County Folio Nos. 30-3109-034-0010 and 30-3109-000-0290. The Property is currently vacant. However, it was the subject of a previous CDMP application and zoning approvals that would have permitted, and were intended to allow for the development of, a Wal-Mart Supercenter along with associated retail uses. To the north of the Property across N.W. 79 Street is a mix of retail and industrial uses as well as a church. The Northside Metrorail Station is east of the Property across NW 32nd Avenue, as well as a mixture of commercial and residential uses. There are several industries uses located south of the Property. To the west, there are industrial uses and a mobile home park. The continued use of the Property under the Business and Office designation will be compatible with the area.

Land Supply. The Property is currently designated "Business and Office" on the Future Land Use Map and this application does not seek any change to that designation. Therefore, there will be no change to the commercial land supply upon the approval of this request.

History of CDMP Approvals. The property was the subject of Application No. 7 from the October 2005 CDMP Amendment Cycle. That request changed the land use designation of the property on the Future Land Use Map from "Business and Office" and "Industrial and Office" to "Business and Office". This change was approved in anticipation of a Wal-Mart Supercenter being built on the

property. During the land use amendment process, the Owner proffered a covenant which restricts the development of any residential uses on the property, as well as requires that retail development include at least one single retail use of at least 100,000 square feet. Following the redesignation, Wal-Mart obtained the zoning approvals required and had spent a considerable amount of time in the site plan approval process. However, at the last stage of the process, Wal-Mart decided against the development of the property and terminated the purchase contract.

Wal-Mart's termination of the contract has posed a significant obstacle to the future development of these vacant parcels. The restrictions imposed in the covenant, which were included specifically because Wal-Mart was involved, have limited any retail uses on the property to include a significant big box retailer of over 100,000 square feet. Today, this large and prominent property remains undeveloped. Although the Owner has been approached by a number of entities with potential development opportunities, these have not materialized due to the restrictions in the covenant, as well as the change in the national economic climate.

Consistency with the CDMP. The redevelopment of commercial property on NW 79 Street provides exactly the type of community enhancement which is contemplated in the CDMP. Policy LU-1C of the CDMP's Land Use Element states that the "County shall give priority to infill development on vacant sites in currently urbanized areas, and redevelopment of substandard or underdeveloped environmentally suitable areas contiguous to existing urban development where all necessary urban services and facilities are projected to have capacity to accommodate additional demand". This is further evidenced by CDMP Land Use Element Policy LU-1M, which provides for incentive credits for the redevelopment of urban areas.

According to CDMP Land Use Element Policy LU-1G, "[b]usiness 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." A commercial development on the Property would provide the kind of commercial neighborhood design specifically contemplated by the CDMP. Furthermore, the accessibility of several different roadways and mass transit lines to the Property provide an ideal location for commercial development consistent with the Business and Office designation.

Community Urban Center. It is important to note that the Property is located between two community urban centers as designated by the LUP Map. According to CDMP Land Use Element Policy LU-1A, "[h]igh intensity, well-designed urban centers shall be facilitated by Miami-Dade County at locations having high countywide multimodal accessibility". Pursuant to page I-46 of the CDMP, "[u]ses in Urban Centers may include retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, moderate to high density residential uses, and well planned public spaces." These uses are particularly consistent with the Business and Office CDMP designation, which allows for retail, wholesale, personal and professional services, commercial and professional offices, among other uses. The development of the Property as a unified community-serving retail project would be compatible with the pattern of development encouraged for Urban Centers within the County.

Roadways and Transit. Pursuant to the Land Use Element Policy LU-1B, major centers of activity, including regional shopping centers and other concentrations of significant employment "shall be sited on the basis of metropolitan-scale considerations of locations with good countywide, multi-

modal accessibility". With the proposed development of a retail project, the Property could be included in a major center of activity. There is more than sufficient access already present and more to be provided. Study Area B is bounded on the east by I-95, the Tri-Rail line on the west, on the south by the Airport Expressway (SR-112), and on the north by the Little River Canal and NW 95 Street.

North Central Enterprise Zone. The Property is located within the North Central Enterprise Zone. Enterprise Zones are designated areas within the County that are recognized as economically distressed. The County's Enterprise Zone program incorporates incentives to encourage development within these distressed areas. Policy LU-1J of the Land Use Element requires the County to employ the Enterprise Zone program as a tool to "expand the economy in locally distressed areas." The removal of the covenant restriction of the Property and the subsequent development of the Property with commercial development will bring investment to a long-ignored area and create much-needed jobs. This will be directly supportive of the goals of the Enterprise Zone program and CDMP Land Use Element Policy LU-1J.

Other Planning Considerations. Since this application does not propose any change to the Future Land Use Map, there is no impact on the availability of infrastructure; nor will there be any impact on environmental or historical resources to the Property and the surrounding areas.

5. ADDITIONAL MATERIAL SUBMITTED

1. Declaration of Restrictions
2. Aerial Photograph
3. Section Map

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

LOCATION MAP FOR APPLICATION TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN

APPLICANT

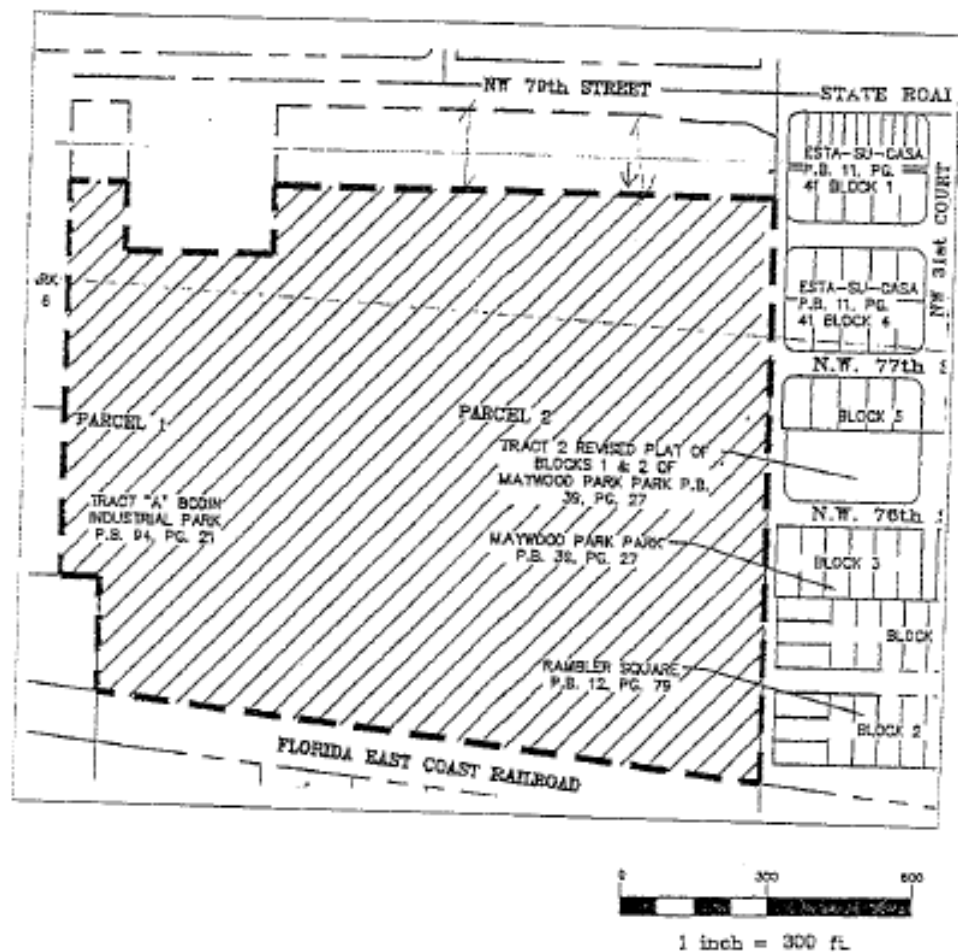
Imperial Management, LLC
15800 NW 48th Avenue
Miami Gardens, Florida 33014

REPRESENTATIVES

Jeffrey Bercow, Esq. and Michael Marrero, Esq.
Bercow Radell & Fernandez, P.A.
200 South Biscayne Boulevard, Suite 850
Miami, Florida 33131
(305) 374-5300

DESCRIPTION OF SUBJECT AREA

The subject property is an approximately 37 acre parcel of land located on the south side of N.W. 79 Street between theoretical NW 35 Avenue and NW 32 Avenue and identified by Miami-Dade County Folio Nos. 30-3109-034-0010 and 30-3109-000-0290.



DISCLOSURE OF INTEREST

This form or a facsimile must be filed by all applicants having an ownership interest in any real property covered by an application to amend the Land Use Plan map. Submit this form with your application. Attach additional sheets where necessary.

APPLICANT (S) NAME AND ADDRESS:

APPLICANT A: Imperial Management, LLC
15800 NW 48th Avenue
Miami Gardens, FL 33014

Use the above alphabetical designation for applicants in completing Sections 2 and 3, below.

2. **PROPERTY DESCRIPTION:** Provide the following information for all properties in the application area in which the applicant has an interest. Complete information must be provided for each parcel.

<u>APPLICANT</u>	<u>OWNER OF RECORD</u>	<u>FOLIO NUMBER</u>	<u>SIZE IN ACRES</u>
A Imperial Management, LLC	same	30-3109-034-0010	9 acres
B Imperial Management, LLC	same	30-3109-000-0330	28 acres

3. For each applicant, check the appropriate column to indicate the nature of the applicant's interest in the property identified in 2., above.

<u>APPLICANT</u>	<u>OWNER</u>	<u>LESSEE</u>	<u>CONTRACTOR FOR PURCHASE</u>	<u>OTHER (Attach Explanation)</u>
A	X			
B	X			

4. **DISCLOSURE OF APPLICANT'S INTEREST:** Complete all appropriate sections and indicate N/A for each section that is not applicable.

- a. If the applicant is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

<u>INDIVIDUAL'S NAME AND ADDRESS</u>	<u>PERCENTAGE OF INTEREST</u>
N/A	

- b. If the applicant is a CORPORATION, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: where the principal officers or stockholders, consist of another corporation (S), trustee(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.

individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

CORPORATION NAME: Imperial Management, LLC

NAME, ADDRESS, AND OFFICE (if applicable)	PERCENTAGE OF STOCK
Marcos Lapciuc 15800 NW 48 Avenue, Miami Gardens, FL 33014	19.19%
Tania Lapciuc same	5.95%
Isaac Lapciuc same	1.67%
Yair Lapciuc same	14.19%
1995 Israel Lapciuc Revocable Living Trust same	38%
Tania Lapciuc Revocable Living Trust same	21%
Total	100%

- c. If the applicant is a TRUSTEE, list the trustee's name, the name beneficiaries of the trust, and the percentage of interest held by each. [Note: where the beneficiary/beneficiaries consist of corporation(s), partnership(s), or other similar entities, further disclosure shall be required which discloses the identity of the individual (s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

TRUSTEES

NAME: N/A

BENEFICIARY'S NAME AND ADDRESS	PERCENTAGE OF INTEREST
<u>N/A</u>	

- d. If the applicant is a PARTNERSHIP or LIMITED PARTNERSHIP, list the name of the partnership, the name and address of the principals of the partnership, including general and limited partners and the percentage of interest held by each partner. [Note: where the partner (s) consist of another partnership(s), corporation (s) trust (s) or other similar entities, further disclosure shall be required which discloses the identity of the individual (s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

PARTNERSHIP NAME: _____

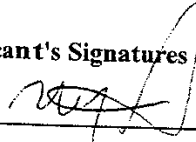
NAME AND ADDRESS OF PARTNERS	PERCENT AGE OF INTEREST
<u>N/A</u>	

- e. If the applicant is party to a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and behalf.

Applicant's Signatures and Printed Names



Marcos Lapciuc

Sworn to and subscribed before me
this 2 day of November, 2009.

Notary Public, State of Florida at Large (SEAL)
My Commission Expires: 7/20/2013



Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country; or pension funds or pension trusts of more than five thousand (5,000) ownership interests; any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests including all interests at each level of ownership, and no one pension or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust; or of any entity, the ownership interest of which are held in a partnership, corporation or trust consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.

APPENDIX C

Miami-Dade County Public Schools Analysis

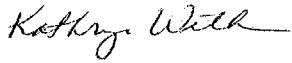
The Applicant submitted an “Analysis Development Impact on Educational Facilities,” dated January 26, 2010, and is contained herein.

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K. WILBUR CONSULTING, INC.
15805 S. W. 153 Avenue
Miami, Florida 33187
(305) 333-2851

January 26, 2010

The following ***Analysis Development Impact on Education of Facilities*** for the Imperial Management, LLC Amendment Request to the Land Use Element/Land Use Map has been prepared by K. Wilbur Consulting, Inc.



Dr. Kathryn Wilbur, CEO
K. Wilbur Consulting, Inc.

Analysis of Development Impact on Educational Facilities

Imperial Management, LLC

Amendment Request to the Land Use Element/Land Use Plan Map

October 2009-2010 Amendment Cycle

Miami-Dade County Comprehensive Development Master Plan

Release of the Declaration of Restrictions (Official Records Book 25052/Page

2263) proffered in connection with Application No. 7 from the October 2005 Cycle

for 37 Net Acres located on the south side of N.W. 79th Street between theoretical

N.W. 35th Avenue and N.W. 32nd Avenue

The proposed release of the Declaration of Restrictions will allow a development of up to 2014 multifamily residential units with the following estimated student impact:

Units	Total Students*	Elementary	Middle	Senior
Proposed 2014 multifamily residential units	866	398	208	260

*Public School Students per Unit by Type of Structure by Minor Statistical Area (Census 2000), Miami-Dade County Department of Planning and Zoning, April 15, 2004. The student generation rate used in this analysis (.43) is calculated by dividing the total number of students in multifamily units by the total number of multifamily residential units within MSA 4.2.

Executive Summary – Results of Analysis

The proposed multifamily development is estimated to generate a total of 866 students. The schools within a 2-mile radius of the application area are largely under-utilized and have sufficient available capacity to accommodate the 398 elementary, 208 middle, and 260 senior high students to be generated by the development. Specifically:

Elementary schools within 2-mile radius -	3264 total available student stations
Middle schools within 2-mile radius -	792 total available student stations
Senior high schools within 2-mile radius -	2261 total available student stations

Summary

- **Capacity of MDCPS Schools Serving the Application Area (see Table 1)**
 - The **elementary, middle, and senior high schools** serving the application area **are currently under-utilized** (i.e., operating at less than 100% of both total and permanent FISH capacity).
 - There is currently an **excess of permanent and total student stations** in the schools serving the application area. The number of available student stations are as follows:
 - a. Elementary - 223 permanent student stations; 223 total student stations
 - b. Middle - 102 permanent student stations; 344 total student stations
 - c. Senior - 102 permanent student stations; 152 total student stations

- **Capacity of Other Area MDCPS Schools (see Table 2)**
 - Schools within 2 miles of the application property.
 - All other area schools are operating **at less than the current LOS** standard adopted by MDCPS (100% utilization of total FISH capacity).
 - There is an **excess of total student stations** (permanent and temporary) in the other area schools as follows:
 - a. Elementary - 3041 total student stations
 - b. Middle - 448 total student stations
 - c. Senior - 2109 total student stations

- **Area MDCPS Schools can absorb the possible impacts of the development**

	Capacity (Total)		
	Elementary	Middle	Senior
Schools Serving the Application Area	223	344	152
Other Area Schools	3041	448	2109
Total Existing Area Capacity	3264	792	2261
Less Possible Developmental Impacts	(398)	(208)	(260)
Excess Capacity After Development	2866	584	2001

Table 1. Analysis of Existing Area Schools - Schools Serving the Application Area

Schools Serving the Application Area	October FTE 2009 Membership*/ with development	FISH Design Capacity* Permanent/ Temporary**		% Util Total**/ Permanent/ with development		# Over/Under FISH Design Capacity Total**/Permanent (existing)					
						Elem.		Middle		Senior	
						Total	Perm	Total	Perm	Total	Perm
Broadmoor Elementary	485	708	0	69%	69%	223	223				
	883			125%	125%						
Madison Middle	657	759	242	66%	87%			344	102		
	865			86%	114%						
Miami Springs Senior	1945	2047	50	93%	95%					152	102
	2205			105%	108%						
Total Area Schools						223	223	344	102	152	102

* Capacity numbers from the MDCPS Adopted Five-Year Facilities Work Program, September 2009. Enrollment numbers as published by MDCPS and State for October 2009 FTE.

** Pursuant to the MDCPS Adopted Five-Year Facilities Work Program, September 2009, all relocatable classrooms will be eliminated by 2013-14

Table 2. Analysis of Existing Area Schools – Other Area Schools

Other Area Schools (within 2 miles)	October FTE 2009 Membership	FISH Design Capacity Total	% Util. Total	# Over/Under FISH Design Capacity Total		
				Elem.	Middle	Senior
Drew Elementary	339	680	50%	341		
Earlington Heights El.	537	674	80%	137		
Lillie C. Evans El.	398	916	43%	518		
Flamingo El.	860	884	97%	24		
Hialeah El.	835	976	86%	141		
Liberty City El.	200	638	31%	438		
Lorah Park El.	423	546	77%	123		
Miami Park El.	510	884	58%	374		
North Hialeah El.	646	834	77%	188		
Olinda El.	397	468	85%	71		
Poinciana Park El.	443	814	54%	371		
South Hialeah El.	1211	1274	95%	63		
Dr. Henry W. Mack/ West Little River El.	376	628	60%	252		
Drew Middle	560	1008	56%		448	
Hialeah Senior	3170	3467	91%			297
Miami Central Sr.	1652	3464	48%			1812
Total Other Area Schools				3041	448	2109

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APPENDIX D

Applicant's Traffic Study

The applicant submitted a traffic study report prepared by Traft Tech Engineering, Inc., dated February 25, 2010. The traffic study is herein included.

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February 25, 2010

Mr. Michael J. Marrero, Esq.
Becow, Radell & Fernandez P.A.
Zoning, Land Use and Environmental Law
200 S. Biscayne Boulevard, Suite 850
Miami, Florida 33131

Re: **Imperial Management – Traffic Impact Analysis**

Dear Mr. Marrero:

Per your request, Traf Tech Engineering, Inc. conducted a traffic impact analysis associated with a 33.58-acre parcel located on the south side of NW 79th Street between NW 32nd Avenue and theoretical NW 35th Avenue in Miami-Dade County, Florida. Figure 1 on the following page depicts the location of the parcel and the adjacent transportation network near the site.

The trip generation comparison analysis was performed using the trip generation equations/rates published in the Institute of Transportation Engineer's (ITE) *Trip Generation* manual (8th Edition). The trip generation comparison analysis was undertaken for daily, AM peak hour, and PM peak hour conditions. The analysis was based on the following assumptions:

EXISTING LAND USE

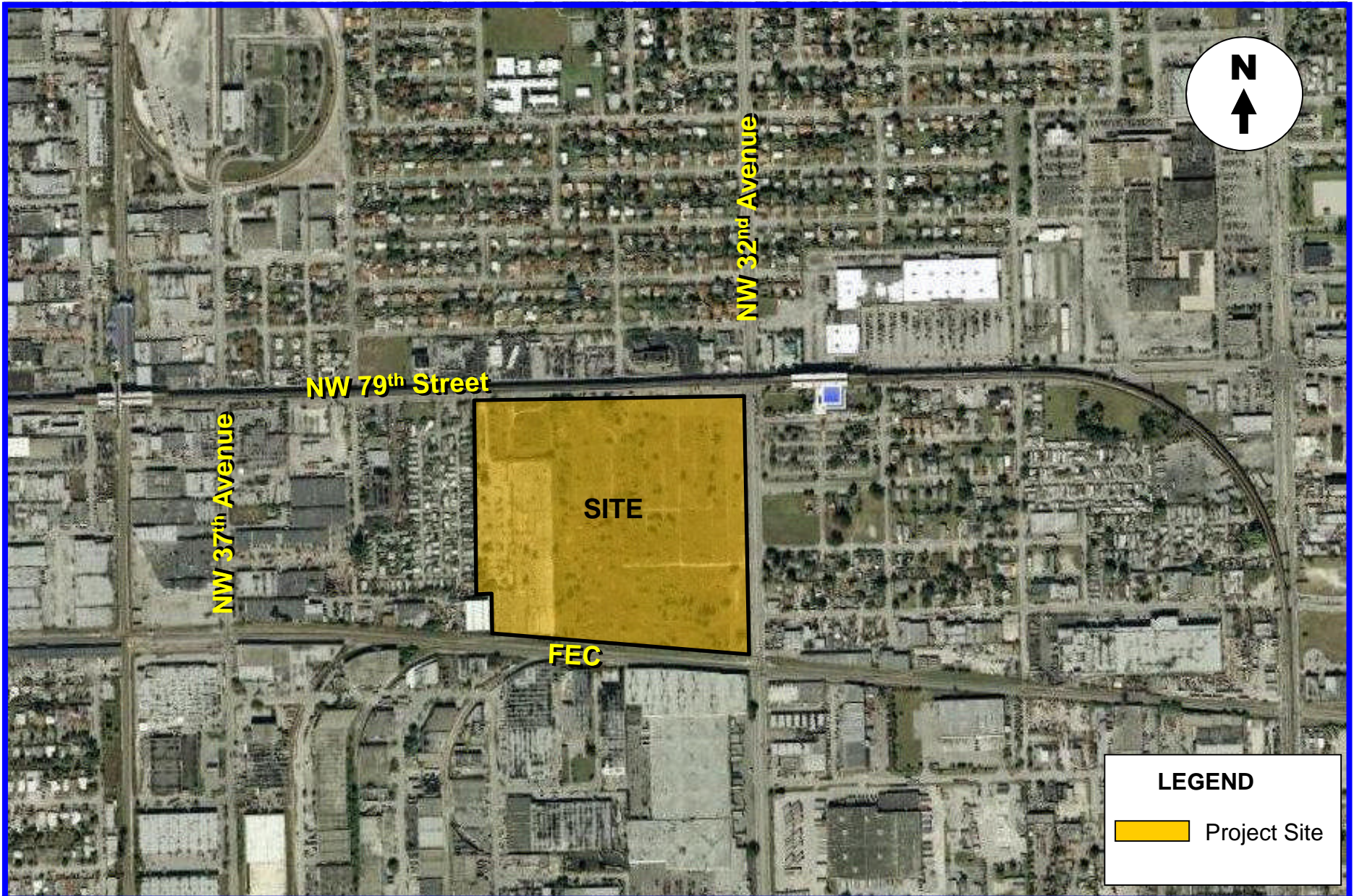
- Commercial Use (585,098¹ square feet)
- Current covenant restricts residential use and requires that at least one commercial tenant be 100,000 square feet in size, or more. However, for trip generation purposes, the sizes of individual tenants are not important (the total allowed square footage determines the overall trips associated with the existing use including the current covenant).

PROPOSED LAND USES

- Residential (not to exceed 1,200 units with Declaration of Restriction), or
- Commercial Use (585,098 square feet), or
- Commercial (292,549 square feet) and residential (1,007 units)

According to ITE's *Trip Generation* manual (8th Edition), the trip generation equations/rates used for the existing and proposed land uses are:

¹ Assumed 40% FAR.



APARTMENT (ITE Land Use 220)

Daily Trip Generation

$$T = 6.06 (X) + 123.56$$

Where T = number of daily trips

X = number of dwelling units

AM Peak Hour

$$T = 0.49 (X) + 3.73 \text{ (20\% inbound and 80\% outbound)}$$

Where T = number of AM peak hour trips

X = number of dwelling units

PM Peak Hour

$$T = 0.55 (X) + 17.65 \text{ (65\% inbound and 35\% outbound)}$$

Where T = number of PM peak hour trips

X = number of dwelling units

SHOPPING CENTER (ITE Land Use 820)

Daily Trip Generation

$$\ln(T) = 0.65 \ln(X) + 5.83$$

Where T = number of daily trips

X = 1,000 square feet of gross leasable area

AM Peak Hour

$$\ln(T) = 0.59 \ln(X) + 2.32 \text{ (61\% inbound and 39\% outbound)}$$

Where T = number of AM peak hour trips

X = 1,000 square feet of gross leasable area

PM Peak Hour

$$\ln(T) = 0.67 \ln(X) + 3.37 \text{ (49\% inbound and 51\% outbound)}$$

Where T = number of PM peak hour trips

X = 1,000 square feet of gross leasable area

Using the above-listed equations from the ITE document, a trip generation comparison analysis was undertaken between the existing and proposed land uses. (Only the residential units and the mixed-use development scenarios were included in the proposed use since a comparison between commercial versus commercial will yield no net change in trips). The results of the trip generation comparison analysis between the existing (commercial) and proposed (residential) uses are documented in Table 1a on the following page. Table 1b compares the trips between the existing (commercial) and proposed (mixed-use) uses.

TABLE 1a Trip Generation Comparison Analysis (Option A) Imperial Management				
		Number of Trips		
Land Use	Size	Daily	AM Peak	PM Peak
EXISTING LAND USE				
Commercial	585,098 sq.ft.	21,411	437	2,078
PROPOSED LAND USE				
Residential	1,200 units	7,396	592	678
Difference	-	-14,015	+155	-1,400

Source: ITE Trip Generation Manual (8th Edition)

TABLE 1b Trip Generation Comparison Analysis (Option B) Imperial Management				
		Number of Trips		
Land Use	Size	Daily	AM Peak	PM Peak
EXISTING LAND USE				
Commercial	585,098 sq.ft.	21,411	437	2,078
PROPOSED LAND USES				
Residential	1,007 units	6,226	497	572
Commercial	292,549 sq.ft.	13,645	290	1,306
Subtotal	-	19,871	787	1,878
Internal Trips (7%)		-1,391	-55	-131
Total		18,480	732	1,747
Difference	-	-2,931	+295	-331

Source: ITE Trip Generation Manual (8th Edition)

As indicated in Table 1a, the proposed land-use change for Option A (commercial versus residential) is projected to generate approximately 14,015 less daily trips, approximately 155 new AM peak hour trips, and approximately 1,400 less trips during the typical afternoon peak period, when compared against the existing land use. Table 1b indicates that the mixed-use option generates approximately 2,931 less daily trips, approximately 295 new AM peak hour trips, and approximately 331 less trips during the typical afternoon peak period than the existing land use.

Additionally, a review of the traffic concurrency stations located in the vicinity of the subject project indicate that ample roadway capacity is available in order to absorb the AM peak hour traffic impacts generated by either option associated with the proposed

land-use change. Table 2 below presents the traffic concurrency situation of the nearby count stations.

TABLE 2 RESERVE CAPACITY Imperial Management				
Station No.	Location	Peak Hour Capacity²	Peak Hour Trips³	Available Peak Hour Capacity⁴
F-537	NW 79 th St E. of NW 42 nd Ave	4,905	1,511	3,394
F-538	NW 79 th St W. of NW 27 th Ave	4,680	1,873	2,807
9424	NW 32 nd Avenue S. of NW 79 th St	5,595	2,180	3,415
9426	NW 32 nd Avenue S. of NW 119 th St	3,975	2,171	1,804

Source: Miami-Dade County and FDOT (November 30, 2009)

In summary, the proposed land-use change associated with the Imperial Management site is projected to generate less daily and PM peak hour trips than the existing land use. During the AM peak hour, the proposed land uses generate more trips. However, ample roadway capacity is available near the project site in order to absorb the additional AM peak hour traffic impacts generated by the proposed land-use change.

Please give me a call if you have any questions.

Sincerely,

TRAF TECH ENGINEERING, INC.

Joaquin E. Vargas, P.E.
Senior Transportation Engineer

² Maximum level of service capacity.

³ Existing traffic volumes plus peak hour trips associated with approved, but not built, developments.

⁴ Total peak hour trips minus peak hour capacity (reserved trips).

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APPENDIX E

Applicant's Economic Analysis

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Miami Economic Associates, Inc.

January 27, 2010

Mr. Marc C. Laferrier
Director
Department of Planning & Zoning
Miami-Dade County
Miami, Florida

**Re: CDMP Application No. 6
October 2009 CDMP Amendment Cycle**

Dear Mr. LaFerrier:

Miami Economic Associates, Inc. (MEAI) has performed an analysis to evaluate whether the subject application to amend to the Miami-Dade County Comprehensive Development Plan (CDMP) is justified from an economic perspective. The application, which has been filed on behalf of Imperial Management, LLC, relates to a 37 acre parcel located on the south side of N.W. 79th Street, west of N.W. 32nd Avenue. Its intent is to release the property from a covenant recorded in 2005 that precludes the development of residential use on the property and requires that retail use include at least a single retailer of at least 100,000 square feet.

The property identified above was the subject of Application No. 7 during the October 2005 CDMP Amendment Cycle, which when adopted by the Board of County Commission, re-designated its use from Industrial and Office to Business and Office subject to the covenant just described. That covenant reflected the anticipation that a Wal-Mart Supercenter would be constructed on the property; however, since the time that the re-designation of the parcel occurred and the covenant recorded, Wal-Mart decided to not to proceed with development of its proposed Supercenter and did not acquire it.

Under the application now pending, the property would continue to be designated for Business and Office Use on the Future Land Use Map with the result that there would be no change in the commercial land supply either within the portion of the County in which the subject property is located, MSA 4.2, or countywide. Removal of the restrictive covenant would, however, provide for greater flexibility in how the property is ultimately developed, increasing the number of retailers that could potentially be attracted to it to a wider range of big box outlets and national and regional merchants and opening the possibility for residential units to be built on it or portions thereof.

Summary of Findings

The materials that follow summarize the results of MEAI's analysis:

- As indicated above, approval of the currently pending application will not change the supply of commercial land. In a report prepared by MEAI with respect to the 2005 CDMP Application, we supported the request to re-designate the use of the subject property from Industrial and Office to Business and Office for several reasons that we still consider to be valid:
 - While MSA 4.2 has a supply of vacant commercial land that will likely not be depleted within the 15-year planning horizon, the vacant commercially-designated land available, exclusive of the subject property, is generally comprised of small, scattered sites that would not be able to accommodate big box retailers or retail projects that are of a scale likely to attract most national and/or regional chains including supermarkets and major pharmacies. Survey of the retailers active in the area continues to reveal a dearth of national and/or regional chains and few value-oriented shopping opportunities of the type provided by many big box retailers. A 37-acre site provides the opportunity to redress this deficiency.
 - Designation of the site for Business and Office is symbiotic with the near-by transit facilities. This view, expressed by MEAI with respect to the 2005 Application, was then supported both in writing by the then County Director of Transit and in person by a member of the Transit Department before the Board of County Commissioners. Removal of the convenient may, in fact, promote increased synergy between retail use on the property and transit because it will likely result in the inclusion of a number of smaller tenants within the retail mix. MEAI believes that the patrons of these merchants are likely to be more inclined to use transit than those who would have patronized a Wal-Mart Supercenter. Experience has shown that the latter are preponderantly oriented to automobile travel. Obviously, the removal of covenant's prohibition of residential use on the property would also allow for development symbiotic with transit.
 - As discussed in a 2005 analysis, access to jobs is critical issue for the residents of the portion of Miami-Dade County in which the subject property is located. Development of all or portions of the site with retail uses would create from 20 to 25 jobs per acre so used. To the extent that office use, which is allowable under the Business and Office designation, is also included in a prospective development program, the yield of new jobs per acre would be greater. Development of residential use on-site would produce construction employment but few, if any, permanent jobs. It would, however, address other critical issues including the need for more residential units within the current Urban Development Boundary as well as an improved housing stock within MSA 4.2.
 - Development of the subject property would result in the generation of a significantly higher level of ad valorem taxes than are currently being provided to Miami-Dade County by it in its vacant state as well as potential significant non-ad valorem revenues such as franchise fees, utility taxes and occupational license fees. In the current fiscal year, less than \$65,000 will be paid to Miami-Dade County in ad valorem taxes for this property including approximately \$32,000 to the Countywide General Fund, \$13,300 to the Unincorporated Municipal Service Area and \$10,700 to the Fire District for operations. No non-ad valorem revenues are being generated. Development of the subject property will also provide the Miami-Dade County Public School District and the Children's Fund with increased ad valorem revenues.

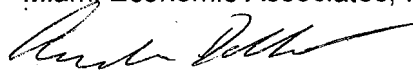
- As stated above, the covenant that the pending application seeks to remove from the subject property was proffered at the time the 2005 application was being considered in anticipation of the subject property being developed with a Wal-Mart Supercenter. However, since Wal-Mart decided not to undertake the construction of its proposed facility, efforts to market the subject property have been hampered by the covenant, with both the prohibition on residential use and the requirement that retail development include a single retailer of not less than 100,000 feet proving problematic to generating interest in its development. As a result, it has remained vacant, thereby failing to:
 - Increase the retail opportunities of area residents particularly with respect to access to national and regional chains and value-oriented shopping;
 - Supplement transit ridership;
 - Provide new job opportunities; and
 - Increase revenues for Miami-Dade County, the Children's Fund and the Miami-Dade Public School District.

Particularly problematic in this regard has been the requirement that retail development on site include a single retailer of at least 100,000 square feet. MEAI has identified only a handful of retailers active in Miami-Dade County at this time, exclusive of the department stores that anchor regional malls, operating stores of 100,000 square feet or more. One of these few is Wal-Mart. In contrast, there are substantial number of national and regional merchants, including the major supermarket and pharmacy chains, as well big box retailers that operate stores that range in size between 10,000 and 60,000 square feet. Accordingly, removal of the covenant would provide a level of flexibility that will likely be required to bring a project to fruition on the subject property.

Conclusion

Based on the findings set forth above, MEAI believes that removal of the covenant recorded in 2005 would be beneficial to the Miami-Dade County and its residents from the perspective of economic considerations.

Sincerely,
Miami Economic Associates, Inc.



Andrew Dolkart
President

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APPENDIX F

Fiscal Impact Analysis

Not applicable for this Application

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APPENDIX G

Declaration of Restrictions

- On October 4, 2006, the Miami-Dade County Board of County Commissioners adopted by Ordinance No. 06-139 Application No. 7 of the October 2005 Cycle of applications to amend the CDMP, and accepted a proffered Declaration of Restrictions limiting development for the subject property.
- The Applicant submitted to DP&Z a Declaration of Restrictions on or prior to January 28, 2010, the deadline for submitting Declaration of Restrictions, to be considered in this Initial Recommendations Report as a replacement covenant.

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CFN 2006R1163333
DR Bk 25052 Pgs 2263 - 2273; (11pgs)
RECORDED 10/30/2006 10:57:16
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

A/11

This instrument was prepared under
the supervision of:

Name: Augusto E. Maxwell, Esq.
Address: Akerman Senterfitt & Eidson
One Southeast Third Avenue, 28th Floor
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned (the "Owner"), holds the fee simple title to that certain parcel of land that is legally described on Exhibit "A" to this Declaration (the "Property"); and

WHEREAS, an application has been filed to amend the Comprehensive Development Master Plan ("CDMP") of Miami-Dade County with the Planning and Zoning Department (the "Planning and Zoning Department"), which application is officially designated as CDMP Application No. 7 (October 2005 Cycle) (the "Application"), seeking to re-designate the land use designation on the Property from "Industrial and Office" to "Business and Office."

NOW, THEREFORE, in order to assure the Miami-Dade County Board of County Commissioners (the "Board of County Commissioners") that the representations made by the Owner during consideration of the Application shall be binding commitments to be performed by

{M2371988;1}

the Owner, its successors and assigns, freely, voluntarily and without duress, the Owner makes the following Declaration of Restrictions covering and running with the Property:

1. **Restrictions on the Use and Development of the Property.** Notwithstanding the Land Use Plan map designation of the Property of "Business and Office," residential uses shall not be permitted on the Property. Furthermore, to the extent that the Property is developed for retail uses, the development of the Property shall, at a minimum, include a single retail use of at least one hundred thousand (100,000) square feet.
2. **Miscellaneous.**
 - A. **Covenant Running with the Land.** This Declaration shall constitute a covenant running with the land and may be recorded, at the Owners' expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns, including the Applicant, until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, the then owner(s) of the real property and for the public welfare.
 - B. **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 that 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

{M2371988;1}

recorded in the public records agreeing to change the covenant in whole, or in part, provided that the Declaration 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 then owner(s) of the Property, provided that the same is also approved by the Board of County Commissioners. Any such modification or release shall be subject to the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans, and 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 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 or releases of this Declaration shall be subject to Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans 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

{M2371988;1}

does not adopt such ordinances, subject to Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans and by the provisions for the adoption of zoning district boundary changes. Should this Declaration 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, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

E. **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

{M2371988;1}

inspections or grant any approvals, until such time as this Declaration is complied with.

- F. **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.
- G. **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.
- H. **Severability.** Invalidity of any one of these covenants, by judgment of Court, shall not affect any of the other provisions that shall remain in full force and effect.
- I. **Recordation and Effective Date.** This Declaration shall be filed of record, at the Owners' expense, in the public records of Miami-Dade County, Florida, following adoption by the Miami-Dade County Board of County Commissioners of an ordinance approving the Application and the expiration of any applicable appeal period. This Declaration shall become affective immediately upon recordation. Notwithstanding the previous

(M2371988,1)

sentence, if any appeal is filed, and the disposition of such appeal does not result in final approval of the Application, then this Declaration shall be null and void and of no further effect. Upon the disposition of such appeal that does not result in final approval of the Application, 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 acknowledging that this Declaration is null and void and of no further effect.

- J. Acceptance of Declaration of Restrictive Covenants. The Owner acknowledges that approval of the Application and acceptance of the Declaration of Restrictions does not entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part.

[signature pages follow]

IN WITNESS WHEREOF, I have executed this Declaration of Restrictions as of this 2nd day of

September, 2006.

The foregoing instrument was acknowledged before me by Marcos Lapciuc, as Manager on behalf of MLIP, L.L.C., a Florida limited liability company, for the purposes stated herein. He is personally known to me or has produced FLID as identification. Witness my signature and official seal this 22 day of September, 2006, in the County and State aforesaid.

My Commission Expires:

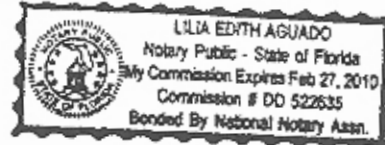
Feb 27, 2010

Lilia E. Aguado

Notary Public - State of Florida

Lilia E. AGUADO

Printed Name



{M2371988;1}

EXHIBIT "A"

Legal Description

PARCEL 1:

TRACT A, OF BODIN INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF, AS
RECORDED IN PLAT BOOK 94, PAGE 21 OF THE PUBLIC RECORDS OF MIAMI-DADE
COUNTY, FLORIDA. Folio 30-3109-034-0010

{M2371988;1}

PARCEL 2:

That portion of the East three-quarters (E 3/4) of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, lying Northeasterly of the Right-of-Way of Florida East Coast Railway Co.,

TOGETHER WITH:

That portion of the Northeast one-quarter (NE 1/4) of the Southeast one-quarter (SE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, lying Northeasterly of the Right-of-Way of Florida East Coast Railway Co.

LESS:

1. The North 50 feet of the East three-quarters (E 3/4) of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, comprising the right-of-way for N.W. 73rd Street as evidenced by the recording of deeds in Deed Book 572, Page 317; Deed Book 1558, Page 18; Deed Book 2043, Page 438; Deed Book 2043, Page 410; and Deed Book 2043, Page 412;
2. The East 35 feet of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, comprising the right-of-way for N.W. 32nd Avenue as evidenced by those deeds recorded in Official Records Book 10665, Page 2174; and Official Records Book 10770, Page 111;
3. The South 70.00 feet of the North 120.00 feet of the East 35.00 feet of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, Miami-Dade County, Florida; and

The external area formed by a 25.00 foot radius arc concave to the Southwest, tangent to the South line of the North 50.00 feet of the Southwest one-quarter (SW 1/4) of Section 9, Township 53 South, Range 41 East, Miami-Dade County, Florida, and tangent to the West line of the East 35.00 feet of the Southwest one-quarter (SW 1/4) of said Section 9, also known as Parcel No. 28 in that Eminent Domain proceeding under Case Number 78-17885, in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida;

4. A portion of the East one-half (E 1/2) of the Northeast one-quarter (NE 1/4) of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 33 South, Range 41 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of the Southeast one-quarter (SE 1/4) of said Section 9, thence South 87° 35' 20" West, along the North line of the Southwest one-quarter (SW 1/4) of said Section 9 for a distance of 276.00 feet; thence South 02° 21' 40" East, for a distance of 50.00 feet to an intersection with a line that is 50.00 feet South of and parallel with the North line of the Southwest one-quarter (SW 1/4) of said Section 9, said intersection being the POINT OF BEGINNING of the herein described portion; thence South 87° 07' 25" East, for a distance of 120.50 feet; thence North 01° 10' 20" East, for a distance of 95.77 feet to the beginning of a curve concave to the Southwest having a radius of 25.00 feet and to which beginning a radial line bears North 02° 12' 40" West; thence Easterly, Southeastery and Southerly 39.34 feet along the arc of said curve through a central angle of 90° 09' 02" to a point of tangency with a line that is 25.00 feet East of and parallel with the East line of the Southwest one-quarter (SW 1/4) of said Section 9 and to which point of tangency a radial line bears North 87° 47' 22" East; thence North 02° 12' 39" West, along said East line for a distance of 11.00 feet to the beginning of a curve concave to the Southwest having a radius of 25.00 feet and to which beginning a radial line bears North 87° 47' 22" East; thence Northerly, Northwesternly and Westerly 39.34 feet along the arc of said curve through a central angle of 90° 09' 02"; thence on a tangent bearing of North 87° 35' 20" East, for a distance of 215.00 feet to the POINT OF BEGINNING, as evidenced by the recording of that Warranty Deed in Official Records Book 11308, Page 1170, and

5. The East 35 feet of the Northeast one-quarter (NE 1/4) of the Southeast one-quarter (SE 1/4) of the Southwest one-quarter (SW 1/4) of Section 9, Township 33 South, Range 41 East, comprising the right-of-way for N.W. 34th Avenue, lying Northeastly of the Right-of-Way of Florida East Coast Railway Co., as evidenced by that deed recorded under Clerk's File Number KB-126348.

Folio 30-3109-000-0290

OB
OCEAN BANK

VIA FAX (305) 592-0144

September 22, 2006

Precision Trading Corp.
1430 NW 88th Avenue
Miami, FL 33172
Attn: Lilia Aguado

RE:	OUR ACCOUNT NO.	: 101-119-354-63
	SUBJECT	: MLIP, LLC
	DESCRIPTION	: Pay off Letter

Dear Ms. Aguado:

The loan of reference has been paid in full and we are preparing an original duplicate of the corresponding Satisfaction of Mortgage and UCC-3.

Should you have any questions, please contact Smith Bocaille at (305) 569-5191.

Sincerely:



Terina Weiss,
Assistant Vice President Real Estate

/s/lt

OCEAN BANK - 780 N.W. 42nd Avenue - Miami, Florida 33126
Real Estate Department - 4th Floor, Suite 413 - Fax (305) 569-5450

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October '09 cycle
Application 6

This instrument was prepared by:

Name: Michael J. Marrero, Esq.

Address: Bercow Radell & Fernandez, P.A.
200 S. Biscayne Boulevard, Suite 850
Miami, FL 33131

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to approximately 37 acres of land in Miami-Dade County, Florida, described in Exhibit "A," attached to this Declaration (the "Property"), which statement as to title is supported by the attorney's opinions attached to this Declaration as Exhibit "B";

WHEREAS, the Property is the subject of a Comprehensive Development Master Plan ("CDMP") Amendment Application No. 6 of the October 2009 Amendment Cycle;

WHEREAS, the Owner has sought a Land Use Plan amendment to release the existing Declaration of Restrictions, recorded in the public records of Miami- Dade County, OR 25052, Page 2263 and proffered in conjunction with Amendment No. 7 from the October 2005 CDMP Amendment Cycle;

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

Limitation on Density. Residential density on the Property shall be limited to no more than 1,200 dwelling units.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be

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binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

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

(Space reserved for Clerk)

apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

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

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

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

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

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if

(Space reserved for Clerk)

any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

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

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

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

[Execution Pages Follow]

APPENDIX H

Photos of Application Site and Surroundings

No photos of the Application area were taken

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