

# Application No. 2

**Commission District 10**

**Community Council 10**

## APPLICATION SUMMARY

Applicant/Representative:	SunTrust Bank/Jeffrey Bercow, Esq. & Graham Penn, Esq. Bercow Radell & Fernandez, P.A. 200 South Biscayne Blvd, Ste. 850 Miami, Florida 33131
Location:	8300 Bird Road (Southwest corner of Bird Road and SW 83 Avenue)
Total Acreage:	4.73 Gross Acres, 4.07 Net Acres
Current Land Use Plan Map Designation:	"Business and Office" (2.43 gross acres) and "Low-Density Residential" (2.5 to 6 DU/Gross Acre; 2.3 gross acres)
Requested Land Use Plan Map Designation:	"Business and Office"
Other Requested Change:	Add to Land Use Element a proposed Declaration of Restrictions limiting residential development to a maximum of 10 dwelling units per gross acre
Amendment Type:	Small-scale
Existing Zoning/Site Conditions;	BU-1A (Limited Business) and RU-1 (Single Family Residential)/Existing SunTrust Bank building and a detached drive-through building

## RECOMMENDATIONS

Staff:	<b>ADOPT AS A SMALL-SCALE AMENDMENT WITH ACCEPTANCE OF THE PROFFERED DECLARATION OF RESTRICTIONS</b> (February 25, 2011)
Westchester Community Council:	<b>TO BE DETERMINED</b> (March 9, 2011)
Planning Advisory Board (PAB) acting as Local Planning Agency:	<b>TO BE DETERMINED</b> (April 25, 2011)
Board of County Commissioners (Small-Scale Final Action) :	<b>TO BE DETERMINED</b> (May 18, 2011)
Final Recommendation of PAB acting as Local Planning Agency (if transmitted):	<b>TO BE DETERMINED</b> (September 2011)
Final Action of Board of County Commissioners (if transmitted):	<b>TO BE DETERMINED</b> (October 2011)

Staff recommends **ADOPT AS A SMALL-SCALE AMENDMENT WITH ACCEPTANCE OF THE PROFFERED DECLARATION OF RESTRICTIONS** the proposed small-scale Land Use Plan (LUP) map amendment to redesignate from “Business and Office” (2.43 gross acres) and “Low Density Residential” (2.5 to 6 dwelling units per gross acre; 2.3 gross acres) to “Business and Office” on the Adopted 2015-2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) based on the staff analysis as summarized in the Principal Reasons for Recommendations below:

1. Policy LU-8E of the Land Use Element of the CDMP requires applications requesting amendments to the LUP map to be evaluated according to factors such as, the proposed development’s ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County, impacts to County services, compatibility with abutting and nearby land uses, impacts to environmental and historical resources, and the extent to which the proposed CDMP land use would promote transit ridership and pedestrianism.

*Need:* The application site is located within Minor Statistical Area (MSA 5.4) contains 578 acres of in-use commercial land and 13.5 acres of available land zoned or designated for business uses. The annual absorption rate is 1.39 acres per year, of which the commercial supply of land would be depleted in the year 2020. The proposed redesignation could increase the commercial land supply in this MSA. The analysis of the Trade Area, 1.5 miles around the proposed project, for Application 2 shows that there are 286.55 acres in existing commercial uses and 13.21 acres of vacant commercially zoned or designated land. Most of the vacant parcels are located to the north along SW 24 Street. (See Appendix A – Trade Area Map).

*Public Facilities and Services:* Maximum development on the application site, under the proposed “Business and Office” CDMP land use category, would not cause the level of services for public facilities and services to violate their adopted level of service standards (see Staff Analysis below).

*Compatibility:* The proposed LUP map amendment would be compatible with existing business uses along Bird Road. The proposed land use change could be compatible with adjacent residential areas to the south and southeast with structures in good condition if at time of zoning or site plan review measures are taken to insure compatibility. Policy LU-4C states that “Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.” Policy LU-4D states that potentially incompatible uses shall be permitted on sites only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements. To be consistent with these policies, measures addressing the concerns identified in Policy LU-4C will need to be considered at the time of zoning and site plan review.

*Environmental and Historical Resources:* There are no archaeological or historical resources on the application area and the proposed redesignation would have minimal environmental impacts. The application site is located within the average day time-travel of the Alexander Orr/Snapper Creek/ Southwest Wellfield Complex. Hazardous wastes shall not be used, generated, handled, discharged, disposed of or store on the subject property. Air quality management requirements of the Department of Environmental

Resources Management (DERM) regarding asbestos should be followed during demolition and redevelopment activities.

*Transit Ridership and Pedestrianism:* Policy LU-8E(v) in the Land Use Element states that for proposed land uses, "If located in a planned Urban Center, or within 1/4 mile of an existing or planned transit station, exclusive busway stop, transit center, or standard or express bus stop served by peak period headways of 20 or fewer minutes, would be a use that promotes transit ridership and pedestrianism." The application site is located adjacent to a standard bus stop served by Metrobus Route 40 with peak period (AM/PM) headways of 15 minutes. In addition, business, office and residential uses are activities that are supportive of public transportation. Therefore, the proposed amendment is one that promotes transit ridership and pedestrianism.

2. The proposed redesignation would be consistent with the Bird Road Corridor Study (January 2010), which was adopted by the Board of County Commissioners on April 6, 2010 (Resolution R-356-10). The study identifies the entire application site as being located within the Commercial Corridor Sub-Area, which consist of parcels and blocks directly on Bird Road. The Urban Design Recommendations section of this Study contains a figure on development intensities that recommends medium intensity on the northern portion of the application site and medium-low intensity on the southern portion. Intensity for non-residential development is measured by floor area ratio (FAR), which is calculated by dividing the building square footage (not counting parking structures) by the net lot area of the parcel. Medium intensity development would have a maximum FAR of 1.5, which could result in 309,058 square feet of floor area on the application site. The Urban Design Recommendations section also states that building heights should decrease as development moves away from Bird Road, tapering down in order to transition into the existing residential neighborhoods and limit differences in heights.
3. The applicant has requested that the application site of 4.73 gross acres be treated as a small-scale application, which allows the land use change to undergo an expedited review. Thus, staff has reviewed as the application as a small-scale application. State law requires that the subject property, as a small-scale amendment, not exceed a maximum density of 10 dwelling units per gross acre. Based on provisions in the Land Use Element, redesignating this property to "Business and Office" on the LUP map could allow up to 13 dwelling units per gross acre. To address this concern the applicant has submitted a declaration of restrictions or covenant limiting any potential residential development to a maximum of 10 DU/Ac (47 DU's).

# STAFF ANALYSIS

## Background

The applicant is requesting a redesignation of the entire site (4.73 gross acres) from the current designations of “Business and Office” (2.43 gross acres) and “Low Density Residential Communities” (2.3 gross acres) on the Adopted 2015-2025 Land Use Plan (LUP) map to “Business and Office” in order to allow the entire site to be redeveloped for a single unified commercial development. The applicant asserts that the application site is currently underutilized with a floor area ratio (FAR) of 0.15. The FAR is a measure of non-residential development intensity that is calculated by dividing the building square footage (not counting parking structures) by the net lot area of the parcel.

### Declaration of Restrictions

The applicant has submitted a draft Declaration of Restrictions (covenant) to limit residential development to no more than 10 dwelling units per acre. The “Business and Office” land use designation would allow residential development up to 13 dwelling units per gross acre (du/ac) on the subject property unless modified by a covenant running with the land. A provision in the Land Use Element of the CDMP regarding land designated as “Business and Office” allows a one density category increase above the density allowed on adjacent residentially designated parcels if the properties are located on the same side of a major roadway. This provision applies to the application site since it borders a residential subdivision that is designated as “Low Density Residential Communities” on the LUP map, which allows 2.5 to 6 dwelling units per gross acre. Thus, the property could be developed at the next density category, “Low-Medium Density Communities” (6 to 13 du/ac).

## Application Site

### Location

The 4.73-gross acre application site is located at the southwest corner of Bird Road/SW 40 Street and SW 83 Avenue (8300 Bird Road) in the Westchester neighborhood in Unincorporated Miami-Dade County. The site is located one block west of Tropical Park, a major recreational facility, and slightly more than ½ mile west of the interchange of Bird Road with Palmetto Expressway.

### Existing Land Use

The application site is currently occupied by a single-story, approximately 27,000-sq. ft. SunTrust Bank building that was constructed in 1962 and a free-standing two-story drive-through teller building. The remainder of the site is comprised of a surface parking lot interspersed with large shade trees.

### Land Use Plan Map Designations

The 4.73-gross acre property is currently designated “Business and Office” (2.43 gross acres) and “Low Density Residential” (2.3 gross acres) on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP).

### Zoning

Most of the application site is currently zoned BU-1A (Business-Limited District), which allows all which allows retail and service convenience facilities that satisfy the essential and frequent needs of the adjacent neighborhood(s), specialized commercial and service facilities/activities which may serve several neighborhoods plus residential uses if approved at a public hearing. In

addition, there is a 100-foot wide strip of land along SW 83 Avenue that is zoned RU-1 (Single Family Residential District; 7,500 square feet of net lot area). Permitted uses in the RU-1 zone include single-family residential, workforce housing, municipal and private recreation facilities, and group homes and daycare centers with conditions.

#### Zoning History

Miami-Dade County zoning districts and zoning code regulations were first created in 1938. Available records show that on December 17, 1959, the Board of County Commissioners adopted Resolution No. 4340 which approved a zoning change from BU-2 (Special Business) and GU (Interim) to BU-2 on the subject property with conditions. The Metropolitan Dade County Zoning Appeals Board adopted on June 20, 1962 Resolution No. 2-ZAB-359-62, which approved a point-of-sale sign with a variance of size and setback requirements. A zoning application was filed in 1967 by the Director of the Building and Zoning Department to rezone a property that included the southern portion of the subject property from BU-2 to RU-1 in order to reduce conflicts with adjacent residential properties. However, the request was denied without prejudice (Resolution 3-ZAB-424-67). The Zoning Appeals Board on December 11, 1968, adopted Resolution No. 4-ZAB-89-68 which approved an Unusual Use to permit non-commercial parking on RU-1 (Single-Family Residential) zoned property with conditions related to the plot plan. On February 6, 1969, the Board of County Commissioners reaffirmed in Resolution Z-27-69 the Zoning Appeals Board's approval and adoption of Resolution No. 4-ZAB-89-68, which was appealed by the Directors of the Planning and the Building and Zoning Departments with additional conditions regarding the plot plan including a 15-foot landscaped setback along SW 83 Avenue. The Zoning Appeals Board adopted on February 7, 1972 Resolution No. 4-ZAB-80-72, which approved a variance of setback requirements to permit a 70-ft x 92-ft addition on the south side of the existing building with the setback being 20-ft. (31-ft. required) from the east property line, and to modify Condition No. 1 of Resolution No. Z-27-69 (February 6, 1969) concerning the layout of parking areas, entrances and exits in accordance with the plan rendered by Carl H. Blohm and Associates for Guaranty Bank of Miami dated October 6, 1971. The Board of County Commissioners adopted on March 25, 1977 Resolution Z-83-77, which rezoned a 14.04-acre parcel on the south side of Bird Road that included a large portion of the subject property, from BU-2 to BU-1A. This application was filed by the Directors of Planning and Building and Zoning Departments pursuant to the Tropical Park Area Study that was accepted and adopted by the Board of County Commissioners on October 28, 1976 (Ordinance 76-96).

In June 2007, Miami-Dade Code Enforcement issued one citation on the application site for "failure to provide emergency lights." The citation has since been resolved.

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

##### Existing Land Use

The application site is located on Bird Road/SW 40 Street, a roadway with extensive strip commercial development that is generally more intense than the existing office use on the subject property with a FAR of 0.15. Located to the north and northwest of the application site across Bird Road are two small commercial strip shopping centers with FARs of 0.32 and 0.40 that include businesses such as the El Floridita restaurant, Cash America Pawn, Strictly Aquariums, a Dollar Store. Free-standing businesses to the north include Total Bank with a FAR of 0.10 and a Pueblito restaurant. Another strip shopping center, Avila Plaza, with a FAR 0.33 is located to the northeast. To the east of the site on the southeast corner of Bird Road and SW is another strip shopping center with a FAR of 0.27 that contains a USMC Recruiting Center and a Mattress Store, and a free-standing Subway restaurant. East of the site along SW 83

Avenue is the three-story office building of Granada Insurance Company, which has a FAR of 0.75. Immediately adjacent to the site on the west is the Bird 84 Shopping Plaza with a FAR of 0.44 that contains a Dunkin' Donuts restaurant, a Bingo Hall, a Body Plex Gym, Beatty Animal Clinic, Lucky Oriental Market and other retail and service activities. To the south along SW 41 Terrace and to the southeast along SW 83 Avenue and SW 41 Street are single-family detached homes in good condition that primarily built in the 1950s in the Gottlieb Subdivision.

#### Land Use Plan Map Designations

The land area immediately north, northeast and northwest of the application site is designated "Business and Office" on the Land Use Plan map. Land to the immediate south, southeast and southwest of the subject property is designated "Low Density Residential" (2.5 to 6 DU/Gross Acre).

#### Zoning Designations

The application site is surrounded by property in business and residential zoning districts. The land area immediately north of the application site is zoned BU-2 (Special Business District). Permitted uses in the BU-2 zone include parking garages, hospitals, hotels and motels, department stores, office parks and regional shopping centers. The land to the northeast and west is zoned BU-1A and the land to the immediate southeast and south is designated RU-1.

#### **Other Planning Considerations**

The application site is located within the "Bird Road Corridor Study" area, which was the result of a series of public community events held between December 2007 and April 2010. The study was approved by the BCC in April 2010 through Resolution R-356-10. The study focuses on the four-mile long section of Bird Road from the Palmetto Expressway to the Florida Turnpike, which is mainly fronted by commercial, residential and civic uses. In addition, the study examines the adjacent areas north and south of the corridor between SW 32 Street and SW 48 Street, respectively. The study area falls in the southern portion of the Westchester community.

The purpose of the study was to develop a community driven long-term vision for future development along the corridor and to propose specific recommendations for this major arterial roadway. The community's vision intends to enhance the existing conditions along the corridor by establishing a distinct character for the study area, encouraging pedestrian activity, allowing for effective land utilization and encouraging ease of circulation for both vehicles and pedestrians. The Bird Road Corridor Study as well as the 2010 Draft Evaluation and Appraisal Report on the County's Comprehensive Development Master Plan recommend establishing a Community Urban Center (CUC) at the east boundary of the study area, next to the Palmetto Expressway. The application site is located adjacent to the proposed CUC ½-mile radius. The study specifically recommends that redevelopment in this area creates visual interest, enhances the pedestrian environment and establishes a human scale by fronting buildings to the road, bringing them close to the sidewalk and placing parking to the rear or side of them. The Bird Road Corridor Study recommends that new development on the application site has the potential to accommodate medium intensity development along the corridor, while decreasing to medium-low intensity towards the rear of the site in order to create a transition into the existing residential neighborhood. Additionally, the study recommends new development along the corridor accommodate for a mix of uses.

## Supply and Demand

The application site is located within Minor Statistical Area 5.4 (MSA 5.4). In 2010, MSA 5.4 contained 578 acres of in-use commercial uses and an additional 13.5 acres of vacant land zoned or designated for business uses. The annual average absorption rate for the 2010-2030 period is 1.39 acres per year. At the projected rate of absorption, reflecting the past rate of commercial uses, MSA 5.4 will deplete its supply of commercially zoned or designated land in the year 2020 (see table below). Approval of the application would add ±4.7 acres (approximately 3 years supply) to the commercial land supply which would bring the depletion year for commercial development within the MSA to year 2023.

Projected Absorption of Land for Commercial Uses  
Indicated Year of Depletion and Related Data  
Application No. 2 Analysis Area

Analysis Area MSA 5.4	Vacant Commercial Land 2010 (Acres)	Commercial Acres in Use 2010	Annual Absorption Rate 2010-2030 (Acres)	Projected Year of Depletion	Total Commercial Acres per Thousand Persons	
					2020	2030
Total	13.5	578.0	1.39	2020	5.6	5.6

Source: Miami-Dade Department of Planning & Zoning, Planning Research Section, February 2011.

## Analysis of the Trade Area

Analysis of the Trade Area, 1.5 miles around the proposed project, for Application No. 2 shows that there are 286.55 acres in existing commercial uses and 13.21 acres of vacant commercially zoned or designated land (see table below). Most of the vacant parcels are located to the north of the application area along SW 24 Street. (See Trade Area Map in Appendix A: Map Series.)

Trade Area Analysis			
Application	Trade Area Radius	Vacant Commercial Land (Acres)	Commercial Acres in Use 2010
2	1.5	13.21	286.55

Source: Miami-Dade Department of Planning & Zoning, Planning Research Section, February 2011.

## Environmental Conditions

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

### **Flood Protection**

County Flood Criteria (NGVD)	+8.5 Feet
Stormwater Management	Surface Water Management Permit
Drainage Basin	C-4
Federal Flood Zone	AH; 100-year floodplain
Hurricane Evacuation Zone	NO

### **Biological Conditions**

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

### **Other Considerations**

Within Wellfield Protection Area	YES
Archaeological/Historical Resources	NO
Hazardous Waste	NO

### **Drainage and Flood Protection**

The application site lies within Flood Zone AH, where the base flood elevation is 11.0 feet NGVD, according to the Federal Flood Insurance Rate Maps (FIRM) for Miami-Dade County. According to the County's flood criteria, the site shall be filled to a minimum elevation of 8.5 feet and requires an additional 8 inches for residential and 4 inches for commercial structures. However, if the County flood elevation is less than the base flood elevation established by the FIRM maps, the higher elevation will be used.

According to Miami-Dade Department of Environmental Resources Management (DERM), all stormwater shall be retained on-site utilizing a properly designed seepage or infiltration drainage system for compliance with stormwater quality requirements. Furthermore, to comply with stormwater quantity requirements designed to prevent flooding of adjacent properties, the site grading and development shall provide for the full on-site retention of the 25-year/3-day storm event and shall also comply with the requirements of Section 11C of Miami-Dade County Code, and all State and Federal criteria.

### **Specimen Trees**

The application site may contain specimen-sized trees (trunk diameter 18 inches or greater). Section 24-49 of the Miami-Dade County Code provides for the preservation and protection of tree resources; therefore, the applicant is required to obtain a Miami-Dade County Tree Removal Permit prior to the removal or relocation of any identified specimen-sized trees.

### **Wellfield Protection Area**

The application site is within the average day travel-time contour of the Alexander Orr/Snapper Creek/Southwest Wellfield complex. Consequently, development of the application site shall be in accordance with Section 24.43 of the Miami-Dade County Code.



## Water and Sewer

### Water Supply

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

Effective January 11, 2011, Miami-Dade Water and Sewer Department (WASD) implemented a Water Supply Certification Program to assure water supply is available to all users as required by Policy CIE-5D and WS-2C of the County's Comprehensive Development Master Plan and in accordance with the permitted withdrawal capacity in the WASD 20-year Water Use Permit. All new construction, addition, renovation or changes in use resulting in an increase in water consumption will require a Water Certification Letter. This certification letter is issued at the time an Agreement, Verification Form or Ordinance Letter is offered; or during the Plat process prior to the final development order. At such time, the project will be evaluated for water supply availability and a water supply reservation will be made.

The assessment of available water supply, as it relates to comprehensive plan amendments, is difficult given that there is no specific timing of the development. Therefore, to determine if adequate water supply will be available for the proposed development, an assumption of 3 years for project completion from when final comprehensive plan amendment approval is made. For this small-scale project, the year 2014 will be used as project completion date. This timeframe allows for rezoning of the property, platting of property, permitting, and construction. Additionally, 3 years is the timeframe for which concurrency is applied.

Estimated Water Demand By Land Use Scenario				
Development Scenario	Use (Maximum Allowed)	Quantity (Units or Square Feet)	Water Demand Multiplier (Section 24-43.1 Miami-Dade Code)	Projected Water Demand (gpd)
Current Use				
1	Commercial	26,859 sq.ft.	10 gal/100 sq.ft.	2,685
Proposed Use				
2	Commercial	70,916 sq.ft.	10 gal/100 sq.ft.	7,092

Source: Miami-Dade Water and Sewer Department, January 2011

Based on the above table, the maximum water demand for the current use is estimated at 2,685 gpd. Under the requested "Business and Office" proposed use, the maximum water demand that would be generated by the commercial development that could be built is estimated at 7,092 gpd. This represents an increase of 4,407 gpd above the water demand generated under the current use on the application site. A Water Supply Certification Letter will be required at the time of development, of which the proposed project will be evaluated for water supply availability and a water supply reservation will be made.

### Potable Water

The application site is located in the Miami-Dade Water and Sewer Department retail service area and the Alexander-Orr Water Treatment Plant will provide potable water supply. At this time, there are no programmed or planned improvements/projects adjacent to and/or in close proximity to the application site. At the present time there is adequate treatment and water supply capacity for this application.

The County's adopted level of service (LOS) standard for water treatment is based on a regional treatment system. This system is comprised of the Hialeah-Preston and Alexander Orr Water Treatment Plants. The LOS requires that the regional treatment system operate with a rated maximum daily capacity of no less than 2 percent above the maximum daily flow for the preceding year, and an average daily capacity 2 percent above the average daily system demand for the preceding 5 years. Based on the 12-month average (period ending 11-30-10) data provided by DERM, the regional treatment system has a DERM rated treatment capacity of 439.7 million gallons per day (mgd) and a maximum plant production of 345.8 mgd. As a result, the regional system has approximately 94 mgd or 21.4% of treatment plant capacity remaining. Additionally, the system has a 12-month average demand (for period ending 11-30-10) of 314.43 mgd, which is well within 2 percent of the system's 402.3 mgd permitted annual average withdrawal, and therefore meets the LOS standard for water treatment facilities.

Potable water service is provided by an existing 12-inch water main that lies on SW 83 Avenue just south of SW 40 Street. Any public water main extension within the property shall be 12-inches minimum diameter and extend south along SW 83 Avenue to the most southeastern corner of the application site. If two or more fire hydrants are to be connected to a public water main extension within the property, the water system shall be looped with two points of connection.

### Wastewater Facilities

The County's adopted LOS standard for wastewater treatment and disposal requires that the regional wastewater treatment and disposal system, consisting of North, Central, and South Districts Wastewater Treatment Plants, operate with a capacity that is two percent above the average daily per capita flow for the preceding five years and a physical capacity of no less than the annual average daily sewer flow. The wastewater effluent must also meet all applicable federal, state, and county standards and all treatment plants must maintain the capacity to treat peak flows without overflow. The regional wastewater treatment system has a design capacity of 368 million gallons per day (mgd) and a 12-month average (period ending 11-30-10) of 283.9 mgd. This represents approximately 78.9% of the regional system's design capacity. Therefore, the wastewater treatment system has 21.1% or 77.69 mgd of capacity remaining.

The wastewater flows for this application will be transmitted to the South District Wastewater Treatment Plant (SDWWTP) for treatment and disposal. A private pump station will be required, which the developer shall connect to an existing 8-inch sanitary sewer force main along SW 83 Avenue and extend a new, 8-inch minimum sanitary sewer force main to the property. Currently, the South District Wastewater Treatment Plant has sufficient capacity to treat current sewage flows and the additional flows that would be generated by the application, if approved.

### **Solid Waste**

The application site is located inside the Department of Solid Waste Management (DSWM) waste service area for garbage and trash collections. The DSWM provides collection services to residential units, while permitted haulers are hired by most commercial and multi-family

establishments. Private haulers purchase permits and vehicle decals to be allowed to haul solid waste on County roads. Commercial and multi-family establishments are required by Chapter 15 of the County Code to provide for a recycling program and the DSWM is proactively enforcing this law. The adopted LOS standard for the County Solid Waste Management System is to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. As of FY 2010-2011, the DSWM is in compliance with this standard. The DSWM issues a periodic assessment of the County's status in terms of 'concurrency' that is, the ability to maintain the adopted LOS system wide. The DSWM does not actively compete for non-residential waste collection. Thus the DSWM has no objection to the proposed changes.

## **Parks**

The adopted level of service standard for recreation open space requires 2.75 acres of local recreation open space per 1,000 permanent residents in unincorporated areas of Miami-Dade County; and adds that the County must provide open space of five acres or larger within three miles from a residential area. The subject application site is in Park Benefit District 2 (PBD-2), which has a surplus capacity of 475.26 acres of parkland when measured by the County's concurrency LOS standard for recreation open space. The "County Local Parks" table below indicates that several local parks are within a 2-mile radius of the application site.

County Local Parks  
Within a 2-Mile Radius of Application Site

Park Name	Acreage	Classification
Humble Mini Park	0.50	Mini-Park
Brothers To The Rescue Memorial Park	5.70	Single Purpose Park
Banyan Park	3.14	Neighborhood Park
Rockway Park	2.52	Community Park
Miller Drive Park	4.07	Community Park
Blue Lakes Park	6.00	Neighborhood Park
Sunkist Park	0.77	Neighborhood Park
Francisco Human Rights Park	3.78	Mini-Park
Coral Villas Park	0.37	Mini-Park

Source: Miami-Dade Parks and Recreation Department, January 2011

Under the requested "Business and Office" designation and as proposed through the proffered covenant, residential development on the application site would be restricted to 10 dwelling units per acre. Accordingly, the site could be developed with a maximum of 47 single-family units, which would generate a demand for 0.37 acres of additional local park area, which is well within the surplus capacity of 475.26 acres for PBD-2. Alternatively the site could be developed with a total of 70,916 square feet of retail, which would not generate an impact to parks.

## **Fire and Rescue Services**

Miami-Dade County Fire Rescue (MDFR) Station No. 3, located at 3911 SW 82 Avenue, currently serves the application site. This station is equipped with an Advanced Life Support (ALS) Engine and Rescue unit, and is staffed with seven firefighters/ paramedics.

According to the MDFR, the average travel time to incidents in the vicinity of the application site is approximately 4 minutes and 52 seconds. National industry standards require the assembly of 15 to 17 firefighter's on-scene within 8 minutes at 90-percent of all incidents. Thus, the response time for incidents within the vicinity of the application site is in compliance with national industry performance objectives. The current CDMP designation allows a potential development that will generate a total of 14 annual alarms. Under the requested CDMP designation, potential development is anticipated to generate a total of 76 annual alarms, a net impact of 62 annual alarms. According to MDFR, this will result in a moderate impact to existing fire rescue services. Fire rescue service is adequate in the general application area.

The required fire flow for the proposed CDMP designation is as follows: Business uses 3,000 gallons per minute (GPM). Fire hydrants shall be spaced a minimum of 300-feet apart, and each fire hydrant shall deliver no less than 1,500 GPM.

## 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 have been 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. This review was conducted by Miami-Dade County Department of Planning and Zoning.

Students generated by this application will attend those schools identified in the "Concurrency Service Area (CSA) Schools" table below. If the subject application site were developed for residential use, the student population of the schools serving the application site would be increased by an additional 14 students. Seven (7) students would attend Emerson Elementary, which has a net capacity of 173 students; three (3) students would attend Glades Middle, which has a net capacity of -286 students; and three (3) students would attend Southwest Miami Senior High, which has a net capacity of 93 students. Given that Glades Middle School has no remaining capacity, those students would attend Palmetto Middle School, which has a net available capacity of 218 students.

Concurrency Service Area (CSA) Schools					
CSA Id	Facility Name	Net Available Capacity	Seats Required	LOS Met	Source Type
1641	Emerson Elementary	173	7	Yes	Current CSA
6211	Glades Middle	-286	3	No	Current CSA
6701	Palmetto Middle	218	3	Yes	Adjacent CSA
7251	Southwest Miami Senior High	1,977	3	Yes	Current CSA

Source: Miami-Dade County Department of Planning and Zoning, January 2011  
Miami-Dade County Public Schools, January 2011

Based on the potential school capacity needs of this application and the present school capacity in the applicable CSA, the schools serving this area have sufficient capacity available to serve this application area.

## **Roadways**

### Existing Conditions

Primary access to the subject site is from SW 40 Street/Bird Road (SR 976), a six-lane divided arterial, which provides connections to other major corridors such as the Palmetto Expressway (SR 826) and NW 87 Avenue (SR 973), NW 107 Avenue (SR 985), and the Homestead Extension of the Florida Turnpike (SR 821). The Palmetto and the HEFT provide access to other areas of the County.

Traffic conditions are evaluated by the roadway Level of Service (LOS), which is represented by one of the letters "A" through "F", with "A" generally representing the most favorable driving conditions and "F" representing the least favorable. Current traffic conditions on SW 40 Street, between SW 97 and SW 87 Avenues and from SW 87 Avenue to the Palmetto Expressway, are acceptable at Level of Service (LOS) D and E, respectively, which are above the adopted LOS E+20% standard applicable to these roadway segments. Traffic conditions on SW 87 Avenue, between SW 24 and SW 40 Streets and from SW 40 Street to SW 56 Street, are at LOS C and B, respectively, which are above the adopted LOS D standard applicable for these roadway segments. See Traffic Impact Analysis table below.

### Short-Term Traffic Evaluation

An Evaluation of peak-period traffic conditions as of January 7, 2011 of SW 24 Street, SW 40 Street, SW 56 Street, and SW 87 Avenue using the County's Traffic Concurrency Management System, does not predict any substantial changes in the LOS of the subject roadways with the impact of the application, if approved. The Traffic Concurrency Management System considers reserved trips from approved developments not yet constructed, any roadway capacity improvements programmed in the first three years of the 2011 Transportation Improvement Program (TIP), and the PM peak hour trips estimated to be generated by the application under the requested CDMP LUP map designation. There is no roadway capacity improvement programmed for the subject roadways in the County's 2011 TIP in fiscal years 2011-2013.

### Application Impact

The "Estimated Peak Hour Trip Generation" Table below identifies the estimated number of PM peak hour trips expected to be generated by the potential development that could occur under the requested CDMP land use designation, and compares them to the number of trips that would be generated by the potential development that could occur under the current CDMP land use designation.

Two development scenarios were analyzed for traffic impact under the requested CDMP land use designation (Business and Office). Scenario 1 assumes the application site developed with commercial use only (70,916 sq. ft. shopping center) and Scenario 2 assumes the application site is developed with residential use only, limited by a covenant proffered by the applicant to 10 dwelling units per acre (47 single-family attached units). Scenario 1 would generate approximately 298 more PM peak hour trips than the current CDMP land use designation. In contrast, Scenario 2 shows if the site were developed with residential use (47 apartments) it would generate less PM peak hour trips than the current CDMP designation. It should be pointed out that the subject property is improved with a 26,859 sq. ft. office building currently occupied by SunTrust Bank; thus, the estimated trip difference between the requested CDMP land use designation and the current use are approximately 298 (Scenario 1). The estimated trip difference for Scenario 2 is negative (see the table below).

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

Scenario	Current Land Use Designation/ Existing & Assumed Development/ Estimated Trips	Requested Land Use Designation/ Assumed Development/ Estimated Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use Designation
	"Business & Office" and "Low Density Resid. (2.5 to 6 DUs/Acre)" <sup>1</sup>	"Business & Office"	
1	26,859 sq. ft. Office Bldg. <sup>2</sup> 76	70,916 sq. ft. Retail <sup>5</sup> 374	+298
2	13 Single-family detached <sup>3</sup> & 31 Single-family attached <sup>4</sup> 40	47 Single-family attached <sup>6</sup> 32	- 8

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003; Miami-Dade County Department of Planning and Zoning and Public Works Department, January 31, 2011.

Notes: <sup>1</sup> Business and Office (+ 2.43 gross acres; + 2.04 net acres); Low Density Residential (+ 2.3 gross acres); Most of the Property is zoned BU-1A and small strips along SW 83 Avenue is zoned RU-1.

<sup>2</sup> Application site is improved with 26,859 sq. ft. office building currently occupied by Suntrust Bank.

<sup>3</sup> Includes 13 single-family detached dwelling units that could be developed on the 2.3-gross acre parcel currently designated "Low-Density Residential.

<sup>4</sup> Residential development may be authorized to occur in the "Business and Office" land use category at density up to one density higher than the LUP-designated density of the 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.

<sup>5</sup> Application site may be developed with a 70,916 sq. ft. shopping center under the requested "Business and Office" land use designation. Retail trips were adjusted for pass-by trips (max. 25% of project's external trips).

<sup>6</sup> Applicant proffered a declaration of restrictions limiting residential development on the application site to 10 dwelling units per gross acre.

CDMP Amendment Application No. 2  
Traffic Impact Analysis on Roadways Serving the Amendment Site  
Roadway Lanes, Existing and Concurrency Peak Period Operating Level of Service (LOS)

Roadway	Location/Link	Number Lanes	Adopted LOS Std.*	Peak Hour Capacity	Peak Hour Volume	Existing LOS	Approved D.O's Trips	Amend. Peak Hour Trips	Total Trips With Amend.	Short-Term LOS with Amend.
<b>Scenario 1: Commercial Development Under the Requested "Business and Office" Land Use Designation</b>										
SW 40 Street/Bird Road (SR 976)	SW 97 Ave. to SW 87 Ave.	6 DV	E+20%	6,180	3,775	D	74	30	3,887	D (09)
SW 40 Street/Bird Road (SR 976)	SW 87 Ave. to SR 826	6 DV	E+20%	5,616	4,576	E	30	114	4,720	E+1% (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 24 St. to SW 40 St.	4 DV	E	3,400	2,134	C	57	20	2,211	C (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 40 St. to SW 56 St.	4 DV	E	3,560	2,028	B	10	33	2,050	B (09)
SW 24 Street/Coral Way	SW 97 Ave. to SW 87 Ave.	4 DV	E+20%	4,500	3,354	D	39	19	3,412	E (09)
SW 24 Street/Coral Way	SW 87 Ave. to SR 826	6 DV	E+20%	6,408	3,870	D	117	35	4,022	D (09)
SW 56 Street/Miller Drive	SW 97 Ave. to SW 87 Ave.	4 DV	D	2,990	2,646	D	7	19	2,672	D (09)
SW 56 Street/Miller Drive	SW 87 Ave. to SR 826	4 DV	D	3,160	2,827	C	17	19	2,863	D (09)
<b>Scenario 2: Residential Development Under the Requested "Business and Office" land Use Designation</b>										
SW 40 Street/Bird Road (SR 976)	SW 97 Ave. to SW 87 Ave.	6 DV	E+20%	6,180	3,775	D	74	4	3,853	D (09)
SW 40 Street/Bird Road (SR 976)	SW 87 Ave. to SR 826	6 DV	E+20%	5,616	4,576	E	30	13	4,619	E (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 24 St. to SW 40 St.	4 DV	E	3,400	2,134	C	57	2	2,193	C (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 40 St. to SW 56 St.	4 DV	E	3,560	2,028	B	10	3	2,041	B (09)
SW 24 Street/Coral Way	SW 97 Ave. to SW 87 Ave.	4 DV	E+20%	4,500	3,354	D	39	2	3,395	D (09)
SW 24 Street/Coral Way	SW 87 Ave. to SR 826	6 DV	E+20%	6,408	3,870	D	117	4	3,991	D (09)
SW 56 Street/Miller Drive	SW 97 Ave. to SW 87 Ave.	4 DV	D	2,990	2,646	D	7	2	2,655	D (09)
SW 56 Street/Miller Drive	SW 87 Ave. to SR 826	4 DV	D	3,160	2,827	C	17	2	2,846	C (09)
<b>Scenario 3: Mixed Use Development Under the Requested Land Use Designation</b>										
SW 40 Street/Bird Road (SR 976)	SW 97 Ave. to SW 87 Ave.	6 DV	E+20%	6,180	3,775	D	74	62	3,911	D (09)
SW 40 Street/Bird Road (SR 976)	SW 87 Ave. to SR 826	6 DV	E+20%	5,616	4,576	E	30	186	4,792	E+2% (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 24 St. to SW 40 St.	4 DV	E	3,400	2,134	C	57	32	2,223	C (09)
SW 87 Ave/Galloway Rd (SR 973)	SW 40 St. to SW 56 St.	4 DV	E	3,560	2,028	B	10	56	2,094	B (09)
SW 24 Street/Coral Way	SW 97 Ave. to SW 87 Ave.	4 DV	E+20%	4,500	3,354	D	39	32	3,425	E (09)
SW 24 Street/Coral Way	SW 87 Ave. to SR 826	6 DV	E+20%	6,408	3,870	D	117	58	4,045	D (09)
SW 56 Street/Miller Drive	SW 97 Ave. to SW 87 Ave.	4 DV	D	2,990	2,646	D	7	32	2,685	D (09)
SW 56 Street/Miller Drive	SW 87 Ave. to SR 826	4 DV	D	3,160	2,827	C	17	31	2,875	C (09)

Source: Miami-Dade County Public Works Department, January 2011.

Notes: DV= Divided Roadway; E+20% = 120% of LOS E with express bus service within the area between the Urban Development Area (UDB) and the Urban Infill Area (UIA).

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

( ) Year traffic count was updated or LOS Revised.

## Transit

### Existing Service

Application No. 2 and neighboring areas are served by Metrobus Route 40. The table below shows the existing service frequency in summary form.

Metrobus Routes Service						
Route	Headways (in minutes)				Proximity to Bus Route (Miles)	Type of Service
	AM/PM Peak	Off-Peak	Sat	Sun		
40	15	30	60	60	0.0	F

Source: 2010 Transit Development program, Miami-Dade Transit, September 2010.

Note: F means feeder service to Metrorail.

### Future Conditions

Transit improvements to the existing Metrobus service, such as alignment extensions and headway improvements, are being planned for the next ten years as noted in the 2020 Recommended Service Plan within the 2010 Transit Development Plan. However, for Route 40 there are no planned improvements shown for the next 10 years. Additionally, there are no transit plans to improve the Bird Road Corridor at this site location.

### Major Transit Projects

No major transit improvements are planned for the next ten years as noted in the draft 2010 TDP for the existing system in the vicinity of the application area.

### Application Impacts

A preliminary analysis was performed in the Traffic Analysis Zone (TAZ) 994 where the application is located. If the application is approved the expected transit impact produced by this application is minimal and can be absorbed by the current transit service in the area.

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

The following CDMP goals, objectives, policies, concepts and guidelines will be enhanced if the proposed CDMP land use amendment is approved:

- LU-1C. Miami-Dade County shall give priority to infill development on vacant sites in currently urbanized areas, and redevelopment of substandard or underdeveloped environmentally suitable urban areas contiguous to existing urban development where all necessary urban services and facilities are projected to have capacity to accommodate additional demand.
- LU-4D. Uses which are supportive but potentially incompatible shall be permitted on sites within functional neighborhoods, communities or districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements.
- LU-7C. On all streets served by Metrobus and all arterial or collector streets designated in the Mass Transit Subelement as year 2015 or 2025 potential service areas,



- i) New non-residential buildings and substantial alterations<sup>1</sup> of existing non- residential buildings, and residential buildings wherever practical, shall provide at least one full-time building entrance that is recognizable and accessible from the street and is comparably as close to the street and/or bus stop as it is to the primary parking lot; and
- ii) New residential and non-residential developments, subdivisions and replats shall provide for buildings that front the transit street, or provide streets or pedestrian connections that intersect with the transit street in close proximity to bus stops not more than 700 feet apart and, as appropriate, shall provide for new bus stops and/or pullouts.

LU-7D. Redevelopment of property within one-half mile of existing or planned mass transit stations and bus routes shall not cause an increase in walking distances from nearby areas to the transit services and shall, wherever practical, be done in a manner that reduces walking distances and is comfortable and attractive to pedestrians.

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

LU-8E. Applications requesting amendments to the CDMP Land Use Plan map shall be evaluated to consider consistency with the Goals, Objectives and Policies of all Elements, other timely issues, and in particular the extent to which the proposal, if approved, would:

- i) Satisfy a deficiency in the Plan map to accommodate projected population or economic growth of the County;
- ii) Enhance or impede provision of services at or above adopted LOS Standards;
- iii) Be compatible with abutting and nearby land uses and protect the character of established neighborhoods; and
- iv) Enhance or degrade environmental or historical resources, features or systems of County significance; and
- v) If located in a planned Urban Center, or within 1/4 mile of an existing or planned transit station, exclusive busway stop, transit center, or standard or express bus stop served by peak period headways of 20 or fewer minutes, would be a use that promotes transit ridership and pedestrianism as indicated in the policies under Objective LU-7, herein.

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.

Guidelines for Urban Form No. 11: Allocate suitable and sufficient sites for industrial and business districts to accommodate future employment needs.

Guidelines for Urban Form No. 13: Avoid excessive scattering of industrial or commercial employment locations.

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<sup>1</sup> Substantial alteration, as the term is used in this section, shall mean repair, modification, reconstruction, addition to, or other change to a building during any ten-year period which exceeds 50 per cent of the fair market value of the building.

CIE-3. CDMP land use decisions will be made in the context of available fiscal resources such that scheduling and providing capital facilities for new development will not degrade adopted service levels.

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

LU-1G. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots.

LU-4C. Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.

# APPENDICES

Appendix A: Map Series

Appendix B: Amendment Application

Appendix C: Miami-Dade County School Board Analysis

Appendix D: Fiscal Impact Analysis

Appendix E: Proposed Declaration of Restrictions

Appendix F: Photos of Site and Surroundings

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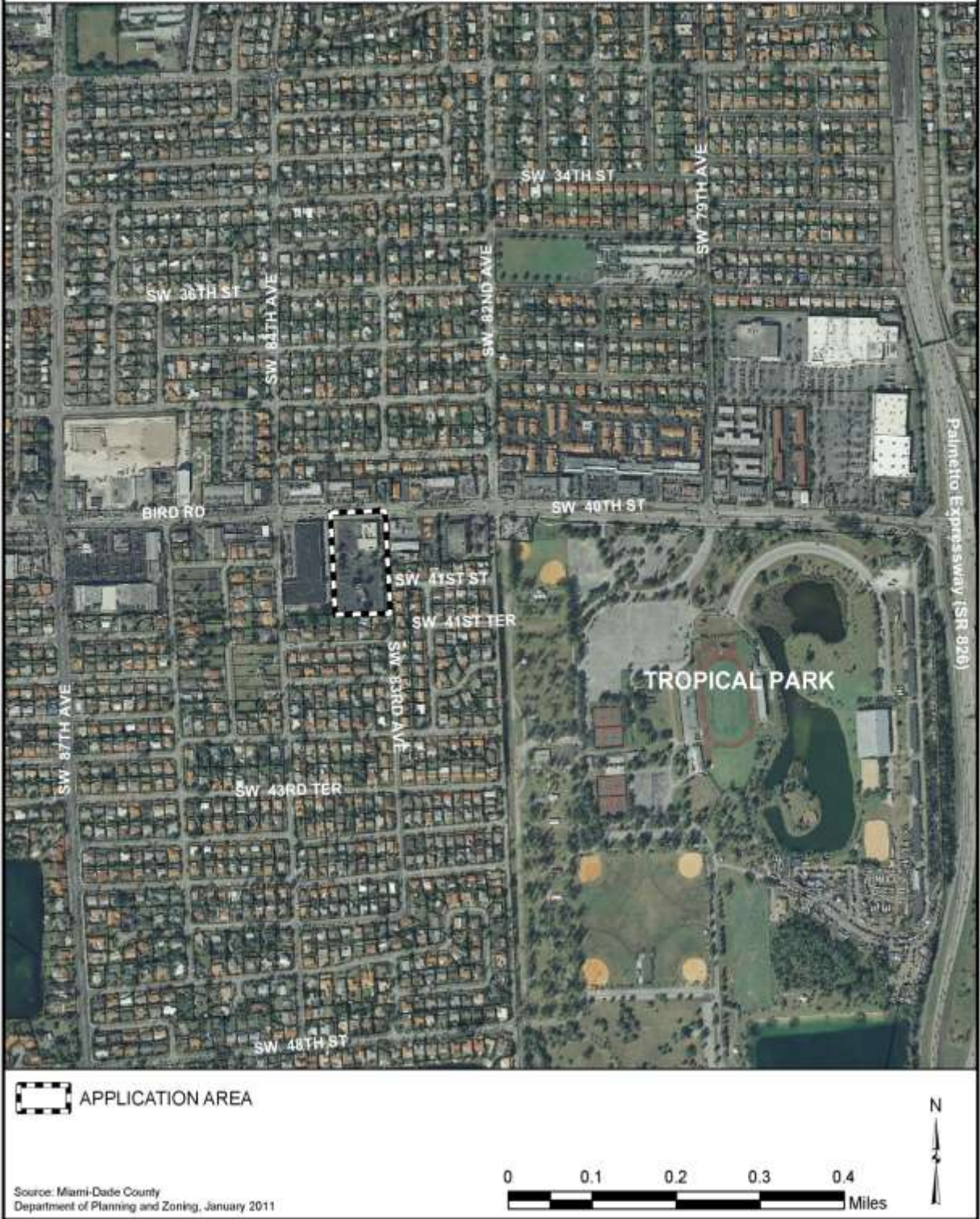
# **APPENDIX A**

## **Map Series**

- Aerial Photo
- Current Zoning Map
- Existing Land Use Map
- CDMP Land Use Map
- Proposed CDMP Land Use Map
- Trade Area Map

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# APPLICATION NO. 2 AERIAL PHOTO



## APPLICATION NO. 2 CURRENT ZONING

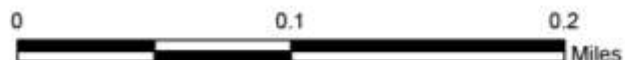


APPLICATION AREA

Source: Miami-Dade County  
Department of Planning and Zoning, January 2011

### ZONING DISTRICTS

GU	INTERIM
RU-1	SINGLE-FAMILY (7,500 sq. ft. net)
RU-2	TWO-FAMILY (7,500 sq. ft. net)
RU-3B	BUNGALOW COURT (10,000 sq. ft. net)
RU-4M	MODIFIED APARTMENT HOUSE (35.9 units/net acre)
RU-5A	SEMI-PROFESSIONAL OFFICE (10,000 sq. ft. net)
BU-1A	LIMITED BUSINESS DISTRICT
BU-2	SPECIAL BUSINESS DISTRICT
BU-3	LIBERAL BUSINESS DISTRICT















## APPLICATION NO. 2 EXISTING LAND USE



 APPLICATION AREA

Source: Miami-Dade County  
Department of Planning and Zoning, January 2011

### EXISTING LAND USES

 SINGLE FAMILY RESIDENTIAL	 HOUSES OF WORSHIP
 TWO-FAMILY RESIDENTIAL (DUPLEXES)	 GOVERNMENT/ PUBLIC ADMIN.
 MULTI-FAMILY (< 25 DU/GROSS ACRE)	 VACANT
 TOWNHOUSES	
 SALES AND SERVICES	
 OFFICE BUILDING	
 RECREATIONAL FACILITIES	



## APPLICATION NO. 2 CURRENT CDMP LAND USE



Source: Miami-Dade County  
Department of Planning and Zoning, January 2011

APPLICATION AREA

### CDMP LAND USES

- LOW DENSITY (2.5 - 6 DU/AC)
- LOW-MEDIUM DENSITY (6 - 13 DU/AC)
- MEDIUM DENSITY (13 - 25 DU/AC)
- MEDIUM HIGH DENSITY (25 - 60 DU/AC)
- RESTRICTED INDUSTRIAL AND OFFICE
- BUSINESS AND OFFICE
- PARKS AND RECREATION
- WATER
- TRANSPORTATION

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

0 0.2 0.4 0.8 Miles



## APPLICATION NO. 2 PROPOSED CDMP LAND USE



Source: Miami-Dade County  
Department of Planning and Zoning, January 2011

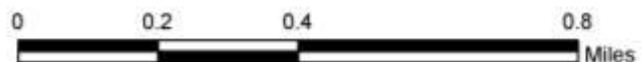


APPLICATION AREA

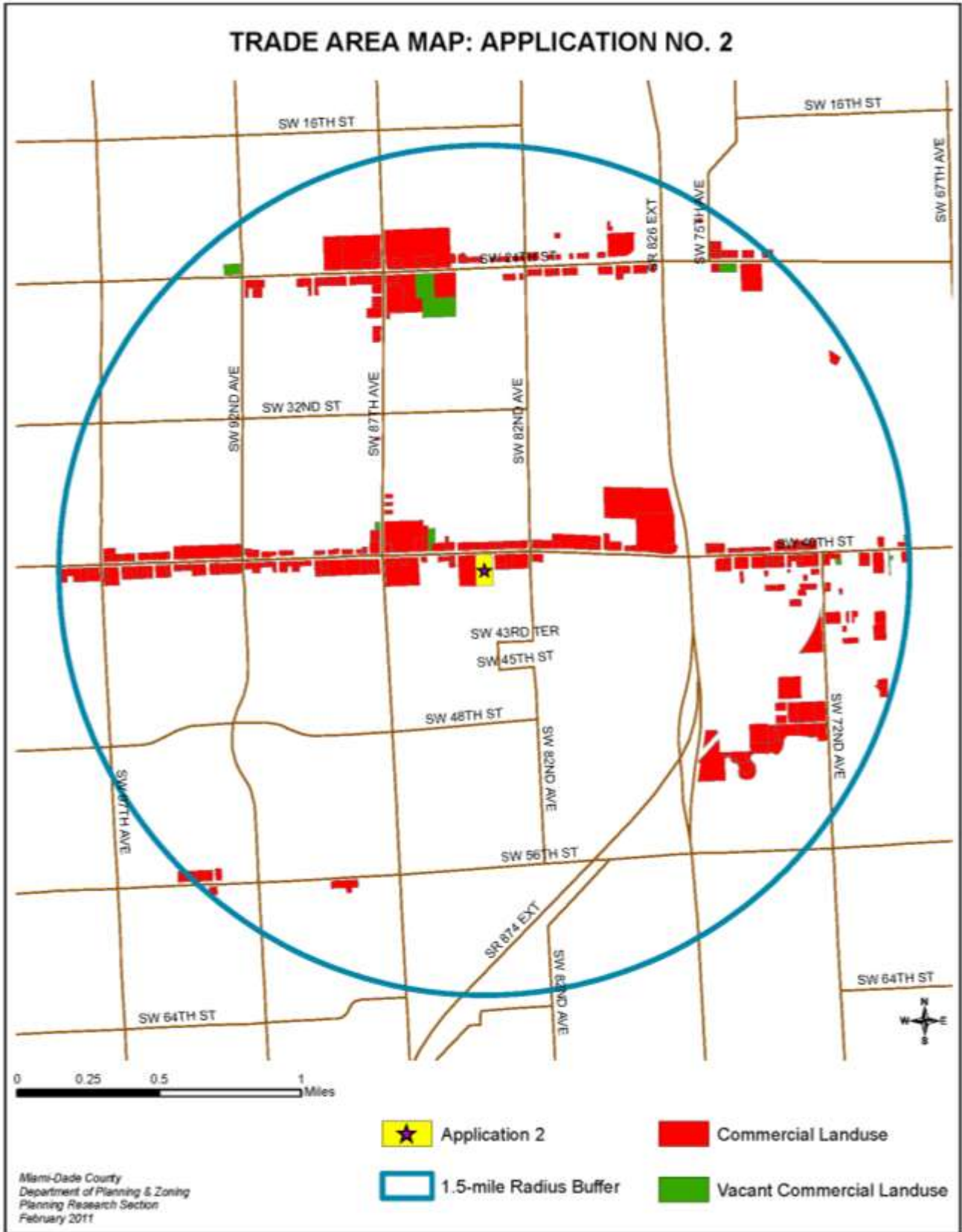
### CDMP LAND USES

- LOW DENSITY (2.5 - 6 DU/AC)
- LOW-MEDIUM DENSITY (6 - 13 DU/AC)
- MEDIUM DENSITY (13 - 25 DU/AC)
- MEDIUM HIGH DENSITY (25 - 60 DU/AC)
- RESTRICTED INDUSTRIAL AND OFFICE
- BUSINESS AND OFFICE
- PARKS AND RECREATION
- WATER
- TRANSPORTATION

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







# **APPENDIX B**

## **Amendment Application**

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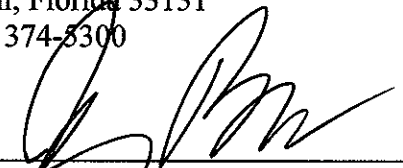
**SMALL-SCALE AMENDMENT REQUEST TO THE  
LAND USE ELEMENT/LAND USE PLAN MAP  
OCTOBER 2010-2011 AMENDMENT CYCLE  
MIAMI-DADE COUNTY  
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

**1. APPLICANT**


SunTrust Bank  
303 Peachtree Street, N.E.  
Atlanta, GA 30308

**2. APPLICANT'S REPRESENTATIVES**

Jeffrey Bercow, Esq.  
Graham Penn, Esq.  
Bercow Radell & Fernandez, P.A.  
200 South Biscayne Boulevard  
Suite 850  
Miami, Florida 33131  
(305) 374-8300

By:   
Jeffrey Bercow, Esq.

Date: November 1, 2010

By:   
Graham Penn, Esq.

Date: November 1, 2010

**3. DESCRIPTION OF REQUESTED CHANGES**

A revision to the Comprehensive Development Master Plan ("CDMP") Land Use Plan map is requested:

- A. A change to the Land Use Element, Land Use Plan Map (Item A.1 in the fee schedule) is requested.

## B. Description of Application Area

The Application Area consists of 4.73 gross acres (4.07 net acres) located at 8300 Bird Road in Section 22, Township 54, Range 40 in unincorporated Miami-Dade County. See attached Sketch.

## C. Acreage

Application Area: 4.73 gross acres (4.07 net acres).

Acreage owned by Applicant: 4.07 net acres.

## D. Requested Changes

- 1) The applicant requests an amendment to the Land Use Plan Map to change the designation of the application area from "Business and Office and Low-Density Residential" to "Business and Office."
- 2) The applicant requests that the application be processed under the expedited "small scale" amendment process.

## 4. REASONS FOR AMENDMENT

Description of Application Area. The application area, consisting of 4.07 net acres, is located at the southeast corner of Bird Road and S.W. 83 Avenue (8300 Bird Road). The application area is currently developed with a single story commercial building of approximately 27,000 square feet and accessory bank "drive thru" structure on the southern edge of the area. The existing structure was constructed in 1962. The area surrounding the application area is a mix of older commercial uses to the north, west and northeast and low density residential uses to the south and east.

The approximate northern half of the Application Area is currently designated for Business and Office use. The approximate southern half of the Application Area is currently designated for Low-Density Residential use. The vast majority of the Application Area is zoned for Limited Business (BU-1A) use, while a narrow strip on the southeast portion of the Application Area is zoned for Single Family Residential (RU-1) use.

Development History. The application area's development history is fairly typical for the surrounding neighborhood. In 1959, the Application Area was rezoned to allow a commercial development of the property. Utilizing a common technique of the 1950s and 1960s, the Board of County Commissioners required the east one hundred (100) feet of the approximately 285 southern feet of the Application Area to remain zoned for residential uses (RU-1) to act as a buffer for the low density residential uses to the south, east, and southeast of the Application Area. This rather crude tool has since generally been replaced in modern zoning practice by site plan controls.



Subsequent to the initial zoning action, the applicant's predecessor in interest obtained zoning approvals to permit the use of the RU-1 zoned portion of the Application Area for parking serving the commercial use, subject to additional restrictions. The RU-1 zoned portion has thereafter functioned as part of the commercial development of the Application Area. The existing development of the Application Area consists of a underutilization of the site, with a Floor Area Ratio of just .15.

Upon the adoption of the County's modern CDMP the Future Land Use Plan Map designations for the Application Area followed the existing zoning line as applied to the RU-1 zoned land and also designated the southern portion of the land for Low Density Residential use despite its commercial use and zoning.

Redevelopment Proposed. The applicant now plans on redeveloping the Application Area with a single unified commercial development. In order to realize a reasonable modern commercial development of the land, it will be necessary to unify the Application Area's Future Land Use Plan Map designations to the Business and Office category. The approval of the Application would permit the redevelopment of a site that has functioned as a commercial property for over forty years, despite its mixed Land Use Plan Map designations.

Consistency of Request. The instant application is consistent with multiple provisions of the CDMP Land Use Element.

Need for Commercial Land (Policy LU-8E). According to the Planning Department's analysis in the Draft 2010 Evaluation and Appraisal Report, there is a need for additional commercial land in Minor Statistical Area 5.4 ("MSA 5.4"). The MSA has 13.5 acres of vacant commercial land, which is expected to be exhausted by 2020, and is located in the Planning Tier with the smallest amount of commercial land supply in the County. Therefore, there is a recognized need for additional commercial land in this area. The approval of the instant application will assist in increasing that supply, especially in that it will allow the redevelopment of the Application Area with a modern commercial use that can more efficiently utilize the land.

The instant application is also consistent with the remaining standards of LU-8E. Based on a review of the available records, it appears that adequate infrastructure capacity will exist to support a redevelopment of the Application Area. The commercial use of the Application Area is compatible with the surrounding neighborhood (and has been for over forty years). Finally, the redevelopment of the Application Area would not impact environmental or historic resources. The instant application therefore is consistent with all of the requirements of Policy LU-8E for a Land Use Plan Map revision.

Redevelopment of Existing Urban Sites and Infill Development (Policies LU-1C, LU-1S, LU-10A). The CDMP Land Use Element encourages the redevelopment of "underdeveloped" sites contiguous to existing urban development and urban infill development. The approval of the instant application would be consistent with those Policies.

Guidelines for Urban Form. The Land Use Element text would typically require commercial uses to be located at “Activity Nodes” located at the intersection of section line roadways. However, the Land Use Element recognizes that the “general pattern of use, intensity and infrastructure which exists in an established neighborhood” would permit an exception to this development pattern (Land Use Element, pg. I-26). The pattern of development in the immediate surrounding area includes a commercial strip of varying depth running along the length of Bird Road. The CDMP expressly recognizes the existing pattern of “strip” commercial development along the Bird Road corridor. Given that the Application Area is an existing long-standing commercial site, the formal extension of the Business and Office designation to the entire parcel is consistent with the interpretative language of the Land Use Element.

Limit on Residential Development. The applicant has no immediate plans to seek residential development of the Application Area. In order to assure the County that the approval of the instant application would not lead to the development of a significant number of residential units, while still leaving room for future flexibility, the applicant is submitting a draft “Declaration of Restrictions” providing that any residential development on the Application Area shall not exceed ten (10) units per gross acre.

**5. ADDITIONAL MATERIAL SUBMITTED**

- 1) Draft Declaration of Restrictions
- 2) Aerial Photograph/Section Map
- 3) Reduced Survey

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

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

## 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.

### 1. APPLICANT (S) NAME AND ADDRESS:

APPLICANT A: SunTrust Bank

APPLICANT B:

APPLICANT C:

APPLICANT D:

APPLICANT E:

APPLICANT F:

APPLICANT G:

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.

	APPLICANT	OWNER OF RECORD	FOLIO NUMBER	SIZE IN ACRES
A	SunTrust Bank	SunTrust Bank	30-4022-010-0060	4.07

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

APPLICANT	OWNER	LESSEE	CONTRACTOR FOR PURCHASE	OTHER (Attach Explanation)
A	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 individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

CORPORATION NAME: SunTrust Bank

<u>NAME, ADDRESS, AND OFFICE ( if applicable)</u>	<u>PERCENTAGE OF STOCK</u>
SunTrust Banks, Inc., A Publicly Traded Corporation	100%
303 Peachtree Street, N.E.	
Atlanta, GA 30308	

- c. If the applicant is a TRUSTEE, list the trustee's name, the name and address of the 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


- 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:** N/A

NAME AND ADDRESS OF PARTNERS

PERCENTAGE OF  
INTEREST


- 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 required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

NAME AND ADDRESS

PERCENTAGE OF  
INTEREST

N/A

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers if a corporation, partnership, or trust.

5. **DISCLOSURE OF OWNER'S INTEREST:** Complete only if an entity other than the applicant is the owner of record as shown on 2.a., above.
- a. If the owner is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

INDIVIDUAL'S NAME AND ADDRESS

PERCENTAGE OF  
INTEREST

N/A

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

**CORPORATION NAME:** Same As Above

<u>NAME, ADDRESS, AND OFFICE (if applicable)</u>	<u>PERCENTAGE OF STOCK</u>

- c. If the owner is a TRUSTEE, and list the trustee's name, the name and address of the beneficiaries of the trust and the percentage of interest held by each. [Note: where the beneficiary/beneficiaries consist of corporation(s), another trust(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].

**TRUSTEE'S NAME:** N/A

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

- d. If the owner 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. [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** N/A  
**NAME:** \_\_\_\_\_

NAME AND ADDRESS OF PARTNERS

PERCENTAGE OF  
OWNERSHIP

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- e. If the owner 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 required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

NAME, ADDRESS, AND OFFICE (if applicable)

PERCENTAGE OF  
INTEREST

N/A

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Date of Contract: \_\_\_\_\_



If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

N/A

For any changes of ownership or changes in contract for purchase subsequent to the date of the application, but prior to the date of the final public hearing, a supplemental disclosure of interest shall be filed.

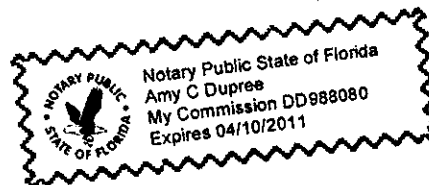
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and behalf.

Applicant's Signatures and Printed Names

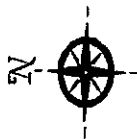
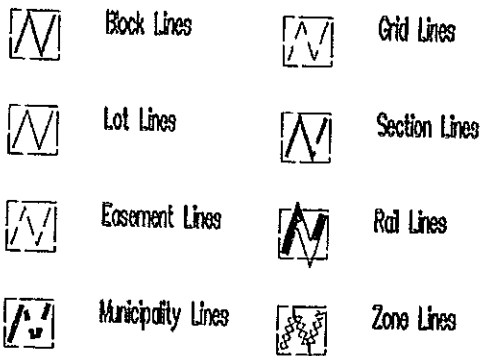
Kevin M. Pomet  
Kevin Pomet  
First Vice President  
SunTrust Bank - Corporate Real Estate

Sworn to and subscribed before me  
this 27<sup>th</sup> day of October, 20 10.

Notary Public, State of Florida at Large (SEAL)  
My Commission Expires:



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.



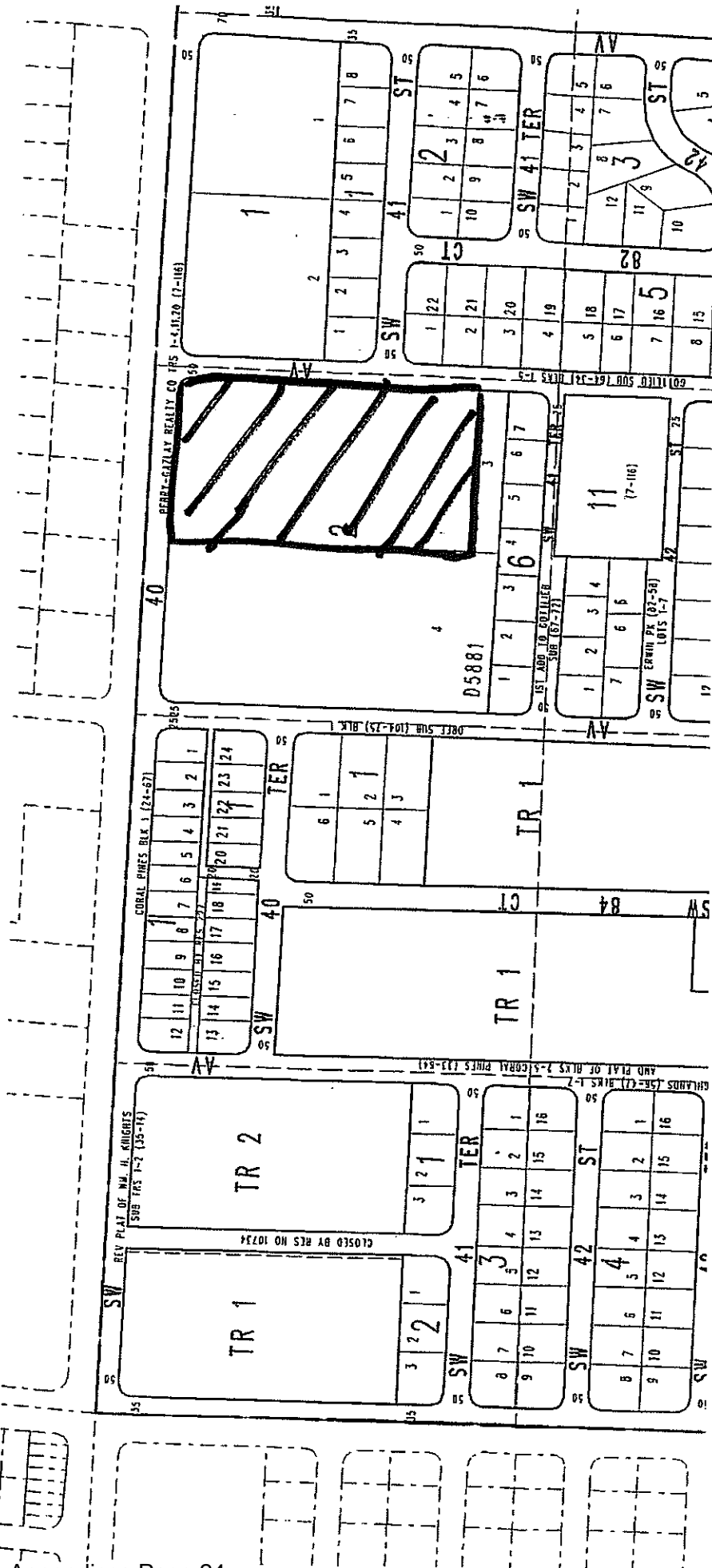
Scale: 1" = 300'

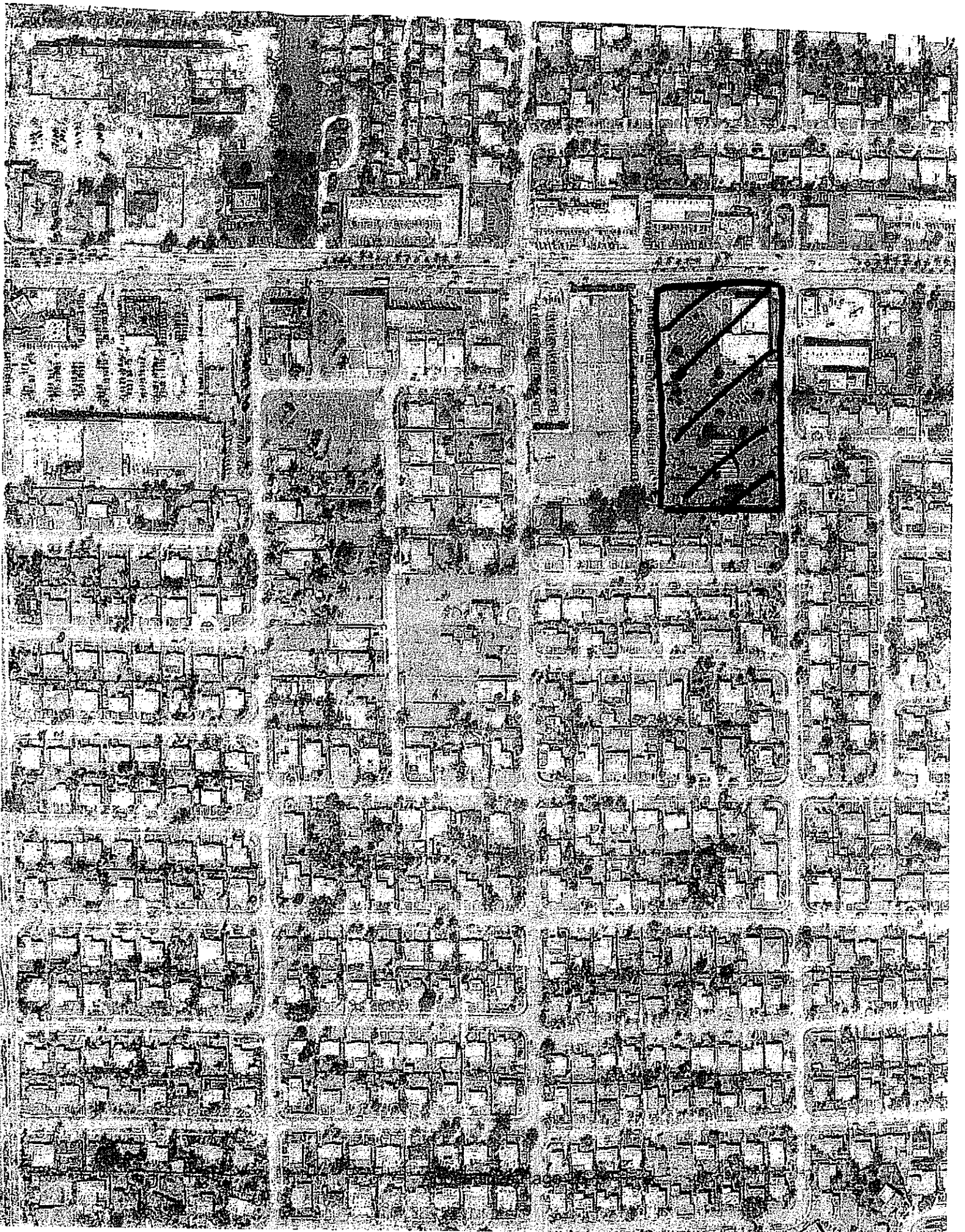
#### NOTE:

The portion of this map which lies within the limits of a Municipality is not updated regularly and may be incomplete or contain errors.

#### NOTICE

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# **APPENDIX C**

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

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# Miami-Dade County Public Schools

*giving our students the world*

Superintendent of Schools  
Alberto M. Carvalho

Miami-Dade County School Board  
Perla Tabares Hantman, Chair  
Dr. Lawrence S. Feldman, Vice Chair  
Dr. Dorothy Bendross-Mindingall  
Carlos L. Curbelo  
Renier Diaz de la Portilla  
Dr. Wilbert "Tee" Holloway  
Dr. Martin Karp  
Dr. Marta Pérez  
Raquel A. Regalado

January 31, 2011

**VIA ELECTRONIC MAIL**

Graham Penn, Esquire  
Bercow Radell & Fernandez, P.A., c/o  
SunTrust Bank  
200 S. Biscayne Boulevard, Suite 850  
Miami, Florida 33131

**RE: PUBLIC SCHOOL CONCURRENCY PRELIMINARY ANALYSIS  
SUNTRUST BANK – OCTOBER 2010 - APPLICATION No. 2 (LAND USE)  
LOCATED AT 8300 BIRD ROAD  
PH3011011900003 – Folio No. 3040220100060**

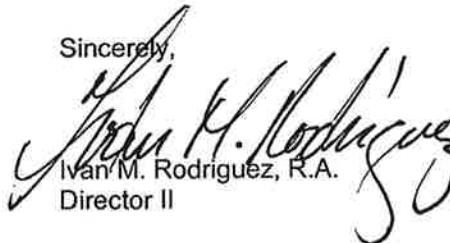
Dear Mr. Penn:

Pursuant to State Statutes and the Interlocal Agreements for Public School Facility Planning in Miami-Dade County, the above-referenced application was reviewed for compliance with Public School Concurrency. Accordingly, attached please find the School District's Preliminary Concurrency Analysis (Schools Planning Level Review).

As noted in the Preliminary Concurrency Analysis (Schools Planning Level Review), the requested land use would yield a maximum residential density of 47 single family attached units, which generates 14 students; 7 elementary, 3 middle and 4 senior high students. **At this time, the schools serving the area have sufficient capacity available to serve the application.** However, a final determination of Public School Concurrency and capacity reservation will only be made at the time of approval of final plat, site plan or functional equivalent. **As such, this analysis does not constitute a Public School Concurrency approval.**

Should you have any questions, please feel free to contact me at 305-995-4501.

Sincerely,



Ivan M. Rodriguez, R.A.  
Director II

IMR:mo  
L264

Enclosure

cc: Ms. Ana Rijo-Conde, AICP  
Ms. Vivian G. Villaamil  
Miami-Dade County  
School Concurrency Master File

*Facilities Planning, Design and Sustainability*

Ana Rijo-Conde, AICP, Eco-Sustainability Officer • 1450 N.E. 2nd Ave. • Suite 525 • Miami, FL 33132  
305-995-7285 • 305-995-4760 (FAX) • [arjco@madeschools.net](mailto:arjco@madeschools.net)

Appendices Page 29



## Concurrency Management System (CMS)

Miami Dade County Public Schools

### Miami-Dade County Public Schools

#### Concurrency Management System Preliminary Concurrency Analysis

MDCPS Application Number: PH3011011900003 Local Government (LG): Miami-Dade  
Date Application Received: 1/19/2011 10:35:02 AM LG Application Number: October 2010 - Application #2  
Type of Application: Public Hearing Sub Type: Land Use  
Applicant's Name: Sun Trust Bank  
Address/Location: SW 83 Avenue & 20 Street  
Master Folio Number: 3040220100060  
Additional Folio Number(s):

PROPOSED # OF UNITS 47  
SINGLE-FAMILY DETACHED UNITS: 0  
SINGLE-FAMILY ATTACHED UNITS: 47  
MULTIFAMILY UNITS: 0

#### CONCURRENCY SERVICE AREA SCHOOLS

CSA Id	Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
1641	EMERSON ELEMENTARY	173	7	7	YES	Current CSA
6211	GLADES MIDDLE	-286	3	0	NO	Current CSA
6211	GLADES MIDDLE	0	3	0	NO	Current CSA Five Year Plan
7741	SOUTHWEST MIAMI SENIOR HIGH	93	4	4	YES	Current CSA

#### ADJACENT SERVICE AREA SCHOOLS

6701	PALMETTO MIDDLE	218	3	3	YES	Adjacent CSA
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\*An Impact reduction of 15.3% included for charter and magnet schools (Schools of Choice).

MDCPS has conducted a preliminary public school concurrency review of this application; please see results above. A final determination of public school concurrency and capacity reservation will be made at the time of approval of plat, site plan or functional equivalent. **THIS ANALYSIS DOES NOT CONSTITUTE PUBLIC SCHOOL CONCURRENCY APPROVAL.**

1450 NE 2 Avenue, Room 525, Miami, Florida 33132 / 305-995-7634 / 305-995-4760 fax /  
concurrency@dadeschools.net



# **APPENDIX D**

## **Fiscal Impact Analysis**

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## **Fiscal Impact Analysis**

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 01-163 requiring the review procedures for amendments to the Comprehensive Development master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of Application No. 2 of the October 2010 Cycle of Applications to amend the CDMP from county departments and agencies responsible for supplying and maintaining infrastructure and services relevant to the CDMP. The evaluation estimates the incremental and cumulative costs of the required infrastructure and service, and the extent to which the costs will be borne by the property owners or will require general taxpayer support and includes an estimate of that support.

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

### **Solid Waste Services**

#### Residential Collection and Disposal Service

The incremental cost of adding a residential unit to the DSWM Service Area, which includes the disposal cost of waste, is offset by the annual fee charged to the user. Currently, that fee is \$439 per residential unit. As of September 30, 2010, the average residential unit generated 2.27 tons of waste, which includes garbage, trash and recycled waste. This value is consistent with the average 2.28 tons reported annually for the April 2010 CDMP applications. As reported to the State of Florida, Department of Environmental Protection, for Fiscal Year 2008-2009, the full cost per unit of providing waste collection service was \$451.

#### Non-Residential Collection and Disposal Service

The DSWM does not actively compete for non-residential waste collection at this time to include; commercial, business, and office, and industrial services.

#### Waste Disposal Capacity and Service

The incremental and cumulative cost of providing disposal capacity for DSWM Collections, municipalities and other haulers are paid for by the users. For FY 2010 - 2011, the DSWM charges at a contract rate of \$60.30 per ton to DSWM Collections and to those private haulers and municipalities with long term disposal agreements with the Department. For non-contract haulers, the rate is \$79.50 per ton in FY 2010 - 2011. These rates adjust annually with the Consumer Price Index, South Region. In addition, the DSWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is targeted to ensure capacity in operations. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail customers of the County's Water and Sewer Department

### **Water and Sewer**

The Miami-Dade County Water and Sewer Department provides for the majority of water and sewer service throughout the county. The cost estimates provided herein are preliminary and final project costs will vary from these estimates. The final costs for the project and resulting feasibility will depend on actual labor and material costs, competitive market conditions, final project scope implementation schedule, continuity of personnel and other variable factors. The

water impact fee was calculated at a rate of \$1.39 per gallon per day (gpd), and the sewer impact fee was calculated at a rate of \$5.60 per gpd. The annual operations and maintenance cost was based on \$1.3785 per 1,000 gallons for the water and \$1.5708 per 1,000 gallons for the sewer. The connection fee was based on providing a 1-inch service line and meter. Assuming the subject site is developed with 94,954 square feet of retail space, the fees paid by the developer would be \$13,335 for water impact fee, \$53,723 for sewer impact fee, and \$1,300 per unit for connection fee. Annual operating and maintenance cost, based on approved figures through September 30, 2009, is estimated at \$10,327. Additionally, the estimated cost of constructing the required 12-inch potable water main, 8-inch sanitary sewer force main, and the private sewer pump station is \$470,137.

### **Flood Protection**

The Department of Environmental Resource Management (DERM) is restricted to the enforcement of current stormwater management and disposal regulations. These regulations require that all new development provide full on-site retention of the stormwater runoff generated by the development. The drainage systems serving new developments are not allowed to impact existing or proposed public stormwater disposal systems, or to impact adjacent properties. The County is not responsible for providing flood protection to private properties, although it is the County's responsibility to ensure and verify that said protection has been incorporated in the plans for each proposed development. The above noted determinations are predicated upon the provisions of Chapter 46, Section 4611.1 of the South Florida Building Code; Section 24-58.3(G) of the Code of Miami-Dade County, Florida; Chapter 40E-40 Florida Administrative Code, Basis of Review South Florida Water Management District (SFWMD); and Section D4 Part 2 of the Public Works Manual of Miami-Dade County. All these legal provisions emphasize the requirement for full on-site retention of stormwater as a post development condition for all proposed commercial, industrial, and residential subdivisions.

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

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

### **Public Schools**

The proposed amendment could result in 14 additional students. The average cost for K-12 grade students amounts to \$6,549 per student. The total annual operating cost for additional students residing in this development, if approved, would total \$91,686. Since there is sufficient concurrency capacity to accommodate the additional students, there are no capital costs. If at time of issuing a development order and reserving student stations for the development, pursuant to the school concurrency, there is not sufficient capacity, the capital costs will be addressed at that time.

### **Fire Rescue**

Data from Miami-Dade County Fire and Rescue Department is pending.

# **APPENDIX E**

## **Proposed Declaration of Restrictions**

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This instrument was prepared by:

Name: Graham Penn, Esq.

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

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**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned Owner holds the fee simple title to the land in Miami-Dade County Florida, described in Exhibit "A," attached to this Declaration (the "Property"), which is supported by the submitted attorney's opinion;

*WHEREAS*, the Property is the subject of Comprehensive Development Master Plan ("CDMP") Amendment Application No. X of the October 2010 Amendment Cycle;

*WHEREAS*, the Owner has sought a Land Use Plan amendment to change the designation of the Property from "Business and Office" and "Low Density Residential" to "Business and Office."

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

**Development Limitations.** In the event that the Property is developed for residential purposes, the maximum residential density shall not exceed ten (10) units per gross acre.

**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 the Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These 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

**(Space reserved for Clerk)**

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Miami-Dade County and the public welfare. The Owner, and its 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 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



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

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

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

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

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

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

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

**(Space reserved for Clerk)**

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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 F**

## **Photos of Site and Surroundings**

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View of east façade from SW 83 Av



View of north façade from SW 40 St/Bird Road



View of west façade from SunTrust parking lot



View of east façade from SW 40 St and SW 83 Av



View of south façade from SunTrust Parking Lot



View of drive-thru windows from SunTrust parking lot

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